

Item No. 6
September 28, 2017



TRINITY COUNTY

Board of Supervisors

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Marijuana Permanent Ordinance Ad Hoc Committee

AD HOC STAFF REPORT

TO: Planning Commission
FROM: Marijuana Permanent Ordinance Ad Hoc Committee
DATE: September 28, 2017
RE: Manufacturing Ordinance

Through public and private meetings, the *Ad hoc* Committee has learned that the manufacturing of local Cannabis products is a high priority for members of the public.

Due to the release of SB 94 review of those regulations by the *Ad hoc* Committee were needed and further anticipates emergency regulations by the State by the end of the year if not sooner.

In response to the interest to allow Cannabis manufacturing and review of State Law, the *Ad hoc* Committee is interested in creating land use regulations for the following Cannabis Manufacturing licenses.

1. Non-volatile Cannabis manufacturing facilities (requiring a Level 1 Type 6 State License) Which may be permitted in the following C2, C3, Industrial and Rural Residential (R10) or Agricultural Industrial zoning districts.
2. Volatile Cannabis Manufacturing process or substances (requiring a Level 2 Type 7 State License) may be permitted in C3 and Industrial zoning districts.

Both require a Use Permit.

RECOMMENDATION: Discuss item and direct Staff to further review for future Planning Commission meeting.

00010573.1

KEITH GROVES
DISTRICT 1

JUDY MORRIS
DISTRICT 2

BOBBI CHADWICK
DISTRICT 3

BILL BURTON
DISTRICT 4

JOHN FENLEY
DISTRICT 5

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY
COUNTY CODE ALLOWING FOR MANUFACTURING OF CANNABIS**

The Board of Supervisors of the County of Trinity hereby finds and declares the following:

Section 1: Finding and Declarations:

- (1) The voters of the State of California approved Proposition 215 (codified as Health and Safety Code section 11362.5 and entitled "The Compassionate Use Act of 1996"). The intent of Proposition 215 was to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, and to ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not thereby subject to criminal prosecution or sanction.
- (2) The State enacted SB 420 in 2004, known as the Medical Marijuana Program Act (codified as Health and Safety Code section 11362.7 et seq.), to clarify the scope of The Compassionate Use Act of 1996, facilitate the prompt identification of qualified patients and primary caregivers, avoid unnecessary arrest and prosecution of these individuals, provide needed guidance to law enforcement officers, promote uniform and consistent application of the Act, and enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420.
- (3) On September 11, 2015, the State enacted the Medical Marijuana Regulation and Safety Act (MMRSA), which took effect January 1, 2016, and which mandated a comprehensive state licensure and regulatory framework for cultivation, manufacturing, distribution, transportation, testing, and dispensing of medical marijuana on a commercial basis, but implementing regulations have yet to be written and state licenses will not be available until 2018. MMRSA was amended by SB 837.
- (4) Previous landmark marijuana legislation, including the Compassionate Use Act and the Medical Marijuana Program Act, have precipitated a "green rush" with individuals moving to Trinity County to grow marijuana; with some seeking to capitalize on ambiguities in the law, while others lack an awareness of community and environmental consciousness.
- (5) Since the adoption of MMRSA, numerous sources, including law enforcement, elected officials, County administrators, neighbors and marijuana cultivators have reported numerous inquiries from individuals and entities, both from within and without Trinity County, who seek to expand their current cultivation operations, or start new ones.
- (6) Regulation and Safety Act (MAUCRSA), which established a comprehensive system to control and regulate the cultivation, distribution, transport, storage,

manufacturing, processing, and sale of both of the following: (1) Medicinal Cannabis and medicinal Cannabis products for patients with valid physician's recommendations; (2) Adult-use Cannabis and adult-use Cannabis products for adults 21 years of age and over.

- (7) In the absence of a formal regulatory framework, marijuana manufacturers are less likely to learn of, or implement, guidelines that are protective of the public peace, health, safety and the environment; while law enforcement has been deprived of a clear means of distinguishing legally compliant marijuana cultivators from those who threaten the public peace, health, safety and the environment.
- (8) The County finds that in the absence of a formal regulatory framework, the negative impacts frequently associated with marijuana manufacturing are expected to increase, resulting in an unregulated, unstudied and potentially significant negative impact on the environment and upon the public peace, health and safety.
- (9) It is the purpose and intent of this Chapter to protect the health, safety, and general welfare of the residents and businesses within Trinity County and comply with state law and federal guidelines.
- (10) It is the intent of the County of Trinity to have a strong and effective regulatory and enforcement system with regard to Cannabis that addresses threats to public safety, health and other law enforcement interests through robust controls and procedures that are effective in practice.
- (11) This ordinance provides regulations and control over manufacturing of Cannabis, and prevents the potential introduction of dangerous product and practices within the County.

Section 2:

The County hereby enacts the following as section _____ of the Trinity County Zoning Ordinance No. 315:

Cannabis Manufacturing

A. Applicability: Non-volatile Cannabis manufacturing facilities (requiring a Level 1 Type 6 state license) may be permitted in the Commercial (C2 and C3), Industrial (I), Rural Residential (R10) or Agricultural Industrial ("AG") zoning districts when combined with a Cannabis cultivation permit, subject to a Use Permit in each case. Cannabis manufacturing facilities involving volatile processes or substances (requiring a Level 2 Type 7 state license) shall only be permitted in the C3 and I zoning district with a Use Permit in each case.

B. Regulations: Cannabis manufacturing shall comply with all of the following regulations:

1. Cannabis manufacturing facilities shall be located only in zones that specifically provide for this use. The facility shall not be on prime Agricultural Soil,

as determined by the Planning Director or his/her designee.

2. Cannabis manufacturing facilities within one thousand (1,000) feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein or within the distance established by the State from authorized school bus stop.

3. The Director of the Trinity County Environmental Health or his/her designee is the appropriate authority to determine if manufacturing operations are "volatile."

4. All Cannabis manufacturing operations shall ensure that Cannabis is obtained from permitted and licensed cultivation sources and shall implement best practices to ensure that all manufactured Cannabis products are properly stored, labeled, transported, and inspected prior to distribution at a legally permitted and licensed dispensary. Cannabis manufacturing operations shall purchase 75% of its Cannabis from Trinity County sources.

5. Security plan shall be developed, which is compliant with California State Enforcement Rules, and approved by the Trinity County Board of Supervisors, or its designee, and must be sufficient to restrict access to only those intended, and to deter trespass and theft of Cannabis or Cannabis products shall be provided and maintained.

6. Detailed Operating Site Plan must be prepared and provided to Trinity County.

7. Fire plans must be prepared and approved by the local Fire Protection District. For Type 7 licenses, all building structures must have operational automatic fire sprinklers.

8. Any employees of a Cannabis manufacturing facility operating potentially hazardous equipment shall be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible Cannabis products or ingredients shall be trained on proper food safety practices.

9. Any license holder of a manufacturing license shall not have been convicted of serious felony or Schedule I, II or III Felony, excluding a non-serious felony conviction for sale, transportation or cultivation of Cannabis, except if the conviction is on public lands. Applicants will have to declare this under penalty of perjury on one of the application forms.

10. For Type 7 licenses, the following additional requirements must be met:

- i. Extractions must be in closed loop system as defined and prescribed by State of California.
- ii. Waste water shall be disposed of into an adequate sewage system, as prescribed Trinity County Health Department and pursuant to California State regulations.
- iii. The facility must be setback a minimum of 200 feet from all adjacent Property Lines.

C. Required Findings: A Use Permit for Cannabis manufacturing shall not be granted by the appropriate authority unless all of the following findings are made based on substantial evidence:

1. The manufacturing facility, as proposed, will comply with all of the requirements of the State and County for the Cannabis manufacturing. This includes, but is not limited to, product safety, edible standards, timelines, packaging and labeling requirements.

2. The manufacturing facility is not within one thousand (1,000) feet of a youth-oriented facility, a school, any church, or residential treatment facility as defined herein, or within the distance established by the State from authorized school bus stop

3. The manufacturing, as approved and conditioned, will not result in significant unavoidable impacts on the environment.

4. The manufacturing includes adequate quality control measures to ensure Cannabis manufactured at the site meets industry standards.

5. The manufacturing facility does not pose a significant threat to the public or to neighboring uses from explosion or from the release of harmful gases, liquids, or substances.

6. The manufacturing operations plan includes adequate measures that address the federal enforcement priorities for Cannabis activities including providing restrictions on access to minors, prohibiting use or possession of firearms at the premises, and ensuring that Cannabis and Cannabis products are obtained from and supplied only to other permitted licensed sources within the State.

D. Required Conditions: In addition to any other conditions and mitigation measures required by the appropriate authority, all of the following conditions shall

apply to all permits for Cannabis manufacturing:

1. The manufacturer shall allow access to the facility and access to records if requested by the County, its officers, or agents, and shall pay for an annual inspection and submit to inspections from the County or its officers to verify compliance with all relevant rules, regulations, and conditions.

2. The applicant for the manufacturing facility and the property owner shall indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the permit or relating to any damage to property or persons stemming from the commercial Cannabis activity.

3. Any person operating a Cannabis manufacturing facility shall obtain a valid and fully executed commercial Cannabis permit prior to commencing operations, and must maintain such permit in good standing in order to continue operations.

4. The property owner shall be responsible for ensuring that all commercial Cannabis activities at the site operate in good standing with permits and licenses required by the Trinity County Code and State law. Failure to take appropriate action to evict or otherwise remove operators who do not maintain permits or licenses in good standing with the County or State shall be grounds for the suspension or revocation of a Use Permit pursuant to this Chapter.

5. The manufacturing facilities and activities shall be maintained in accordance with the operating plans approved by the County.

6. The Cannabis Manufacturing Program Fee is set at:

- i. Type 6: \$3,000.00 plus \$1,000 towards the general plan update.
- ii. Type 7: \$5,000.00 plus \$1,000 towards the general plan update.
- iii. Fees shall be paid thereafter annually prior to March 1st of each year.
- iv. The above Fee amounts are not anticipated to fully cover the cost of administering this Ordinance; however, within twelve months of this Ordinance, the County may conduct a fee study to determine the total cost of administering this Ordinance.
- v. If, based on the results of the fee study, the fee needs to be increased; the County may increase the Fee by way of resolution for any new or renewal registrations.
- vi. If, based on the results of the fee study, the fee exceeds the cost of administering this Ordinance the County shall decrease the fee by way of resolution and shall also reimburse applicants their proportional share of any overpayment.

vii. Fees are yearly, and due by March 1st of each year.

E. Denial/Rescission of License:

1. Applicant's Application shall be denied or the issuance of a license rescinded if the Trinity County becomes aware that:
 - i. The Applicant has provided materially false documents or testimony; or
 - ii. The operation as proposed, if permitted, would not comply with all applicable laws, including, but not limited to, the Building, Planning, Housing, Fire, and Health Codes of the County, including the provisions of this Chapter and with all applicable laws including zoning and county ordinances.
 - iii. Applicant shall be given a minimum of seven (7) business days to correct any deficiencies prior to the issuance of a denial or rescission.
 - iv. Registrant shall have the right to appeal any denials or rescissions as prescribed in Chapter 8.90.130 of the Trinity County Municipal Code.

Section 3: CEQA Hold.

Introduced at a regular meeting of the Board of Supervisors held on the ___ day of _____, ___, and passed and enacted this ___ day of _____, ___ by the Board of Supervisors of the County of Trinity by motion, second (/), and the following vote:

AYES: Supervisors
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

John Fenley, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:
MARGARET LONG
Clerk of the Board of Supervisors

By: _____
Deputy