

Trinity County Cannabis Ad Hoc Committee
Report to Planning Commission
regarding Cannabis Manufacturing and Zoning – 10.18.2017

Overview

As local governments who choose to develop a regulatory framework for the cannabis industry as allowed under Medical Marijuana Regulation and Safety Act (MMRSA) signed by the Governor in early fall of 2015 and Adult Recreation approved by the voters of California in November of 2016, law licenses have been developed to help regulate and control the various aspects of the cannabis industry.

In June of this year the California Legislation passed SB 94 (MAUCRSA) which repealed MCRSA and incorporated certain provisions of (MCRSA) into the licensing provisions of Prop 64 (AUMA) SB 94 combines rules for (MCRSA) and (AUMA) and now known as MAUCRSA, Medical and Adult-Use Cannabis Regulation and Safety Act.

Today's cannabis manufacturing activity as proposed in the various legislation and the initiative process, and more recently in SB 94, is not your grandfather's manufacturing for cannabis. Like cultivation in this new era many regulations await at both the local and State level for license holders.

As defined by SB 94

"Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product. In addition, *"Manufacturer"* means a licensee that conducts the production, preparation, propagation or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination or extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

Manufacturing Level 1 – for sites that manufacture cannabis products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 – M-Type 6 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

Manufacturing Level 2 – for sites that manufacture cannabis products using volatile solvents. A Manufacturing Level 2 M-Type 7 licensee shall only manufacture cannabis products for sale by a retailer with an M-Type 10 license.

"Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent, including carbon dioxide.

"Volatile solvent" means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. The state's examples of volatile solvents include, butane, hexane, propane, and ethanol. A Type 6 cannabis manufacturing licensee can only use nonvolatile solvents, but a Type 7 licensee can use both nonvolatile and volatile solvents in its extractions and infusions.

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Overall, only certain kinds of extractions are allowed for the manufacturing licensee. The state mandates the only cannabis manufacturing allowed is mechanical extraction, such as screens or presses; chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or food-grade glycerin; chemical extraction using a professional closed loop CO2 gas extraction systems; chemical extraction using a volatile solvent; and any other method authorized by the state. All chemical extractions must take place within a professional, closed-loop system, which also has its own state law requirements.

The rules also contain strict packaging and labeling requirements, require all personnel to be sufficiently trained, and mandate that the manufacturing licensee must ensure strict quality assurance processes and protocol, including for recalls and product complaints.

New Zoning Districts

Lastly, these new zoning districts are proposed for the following Cannabis Manufacturing Licenses:

Type 6 – Manufacturer Level 1 - C2, C3, Industrial, Agricultural Industrial and SUD (whose guidelines specifically identify parcels for industrial development).

Type 7 – Manufacturer Level 2 – C3, Industrial and SUD (whose guidelines specifically identify parcels for industrial development).

ORDINANCE NO. _____
AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY ALLOWING FOR MANUFACTURING OF CANNABIS

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

Section 1: Findings 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 11362.7et 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 SB420.
- (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. MMRSA was amended by SB 837. On June 27, 2017, the State enacted the Medicinal and Adult-Use Cannabis Regulation and Safety Act setting forth regulations for State licensure beginning in January, 2018.
- (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) Senate Bill 94 known as the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), 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; and (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: Application

The County hereby enacts the following as Section 28.5 of the Trinity County Zoning Ordinance No.315: Cannabis Manufacturing

A. Definitions:

- i. “Cannabis” and “Marijuana” are used interchangeably and mean any plant of the genus Cannabis, as defined by section 11018 of the Health and Safety Code.
- ii. “Manufacture” means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product. In addition, “*Manufacturer*” means a licensee that conducts the production, preparation, propagation or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination or extraction and chemical synthesis at a fixed location that

packages or repackages cannabis or cannabis products or labels or relabels its container.

- iii. "Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent, including carbon dioxide.
- iv. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any licensed preschool or child day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, excluding homeschools.
- v. "Volatile solvent" means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. The state's examples of volatile solvents include, butane, hexane, propane, and ethanol. A Type 6 cannabis manufacturing licensee can only use nonvolatile solvents, but a Type 7 licensee can use both nonvolatile and volatile solvents in its extractions and infusions.
- vi. "Youth-oriented facility" means public park, school authorized bus stop and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

B. Allowable Zoning Districts

1. Non-volatile Cannabis manufacturing facilities (requiring a Level 1 Type 6 State license) may be permitted in the following zoning districts subject to first obtaining a Conditional Use Permit:

General Commercial ("C2")

Heavy Commercial ("C3")

Industrial ("I")

Agricultural ("A")

Specific Unit Development ("SUD"), whose guidelines specifically identify parcels for industrial development.

2. Cannabis manufacturing facilities involving volatile processes or substances (requiring a Level 2 Type 7 State license) may be permitted in the following zoning districts subject to first obtaining a Conditional Use Permit:

Heavy Commercial ("C3")

Industrial ("I")

Specific Unit Development ("SUD"), whose guidelines specifically identify parcels for industrial development.

C. 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 shall not be allowed within one thousand (1,000) feet of a youth-oriented facility, school, church, or residential treatment facility as defined herein or within the distance established by the State from an 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 by the Applicant and submitted with application for the Conditional Use Permit.
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. Wastewater shall be disposed of in to an adequate sewage system, as prescribed by Trinity County Environmental Health Division and pursuant to California State regulations.
- iii. The facility must be setback a minimum of 200 feet from all adjacent property lines.
- iv. All building structures must have operational automatic fire sprinklers.

D. Required Findings:

A. A Conditional 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.

E. Required Conditions:

In addition to any other conditions and mitigation 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 due annually on March 1st and 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.

F. 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. Applicant or Licensee shall have the right to appeal any denials or rescissions as prescribed in Chapter 8.90.130 of the Trinity County 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:
MARGARETLONG

Clerk of the Board of Supervisors

By:
Deputy