

<p style="text-align: center;">TRINITY COUNTY PLANNING COMMISSION STAFF REPORT</p>

DATE: June 5, 2020

PLANNER: Kim Hunter, Director of Building and Planning

APPLICANT: Trinity County

LOCATION: Countywide

STAFF RECOMMENDATION: At this time, staff is seeking direction regarding the proposed ordinance but is not recommending that the Planning Commission take action on the draft ordinance at this time. Adequate time must be provided for the public to review the draft and fully public participate in the ordinance development and adoption process which has been limited by COVID-19 in the last three months.

Therefore, staff recommends that the Planning Commission:

1. Receives a staff presentation;
2. Conducts a public hearing to receive public comments;
3. Provides direction to staff; and
4. Continues this item to either the July 9, 2020 meeting or a date uncertain.

PROJECT BACKGROUND: The proposed draft Cannabis Retail Storefront ordinance proposes to establish regulations for the storefront retail sales of Cannabis products in Trinity County. Further information on the draft retail ordinance will be presented at the Planning Commission meeting.

PUBLIC COMMENTS: No public comment has been received at this time.

ATTACHMENTS:

1. Draft Retail Storefront Ordinance

Attachment 1

ORDINANCE NO. 315-XXX

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF TRINITY
ESTABLISHING TRINITY COUNTY CODE SECTION 17.43G
REGARDING CANNABIS STOREFRONT RETAIL**

The Board of Supervisors of the County of Trinity, State of California, ordains as follows:

Section I: Findings and Declarations:

- A. 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 Cannabis 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 Cannabis for medical purposes upon the recommendation of a physician are not thereby subject to criminal prosecution or sanction.
- B. 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 Cannabis through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420.
- C. 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 Cannabis 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.
- D. Previous landmark Cannabis 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 and manufacture Cannabis; with some seeking to capitalize on ambiguities in the law while others lack an awareness of community and environmental consciousness.
- E. 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.

- F. In the absence of a formal regulatory framework, Cannabis businesses are less likely to learn of, or implement, guidelines that are protective of the public peace health, safety and the environment.
- G. 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.
- H. 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.
- I. This ordinance provides regulations and control over Cannabis, and prevents the potential introduction of dangerous products and practices within the County.

Section II: Cannabis Storefront Retail

The County hereby enacts the following as Trinity County Code Section 17.43G entitled Cannabis Storefront Retail.

17.43G.010 - Definitions

"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.

"Storefront Retail" means a licensed retailer selling adult-use recreational cannabis or cannabis products to the end user or customer. A Cannabis Storefront Retailer does not include the following uses; (1) a clinic pursuant to Chapter 1 of Division 2 of the Health and Safety Code; (2) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; and (3) a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

"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.

"Youth-oriented facility" means public park, 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.

17.43G.020 – Allowable Zoning

Storefront Retail premises are only allowed in the following zones where commercial activities are allowed:

- A. Highway Commercial (HC)
- B. Retail Commercial (C-1)

- C. General Commercial (C-2)
- D. Heavy Commercial (C-3)

17.43G.030 – Regulations

Cannabis Storefront Retailers shall comply with all of the following regulations:

- A. Storefront Retail businesses shall comply with the following:
 - 1. Sales must only take place between 6:00 a.m. and 10:00 p.m. Pacific Time.
 - 2. All Cannabis goods must be placed in an opaque exit package prior to leaving the premises.
 - 3. Storefront Retail Licensees cannot package or label Cannabis goods.
 - 4. Storefront Retail Licensees cannot accept, possess, or sell Cannabis goods if they are not packaged as they will be sold at final sale.
 - 5. Sales are limited to Cannabis goods only.
- B. Storefront Retail Licensees must allow access to any facilities, and allow access to records if requested by the County, its officers, or agents, and allow inspections from the County or its officers to verify compliance with all relevant rules, regulations and conditions.
- C. Storefront Retail Licensees must indemnify, defend, and hold the County harmless from any and all claims and proceedings relating to the approval of the license or relating to any damage to property or persons stemming from the commercial Cannabis activity.
- D. Storefront Retail Licensees must obtain a valid and fully executed commercial Cannabis Storefront Retail license from the County and State prior to commencing operations and must maintain such license in good standing in order to continue operations.
- E. Storefront Retail Licensees and property owners who lease property to a Cannabis Storefront Retail business must ensure 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. Property owners who fail 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 subject to suspension or revocation of their Storefront Retail license, as well as personal liability for required enforcement.
- F. No Cannabis or Cannabis products on the site of a Retail Business shall be visible from outside the licensed premises.
- G. Storefront Retail premises and activities are not allowed within five hundred (500) feet of a youth-oriented facility, school, church, or residential treatment facility as defined herein. In addition, Storefront Retail facilities and activities are not allowed within five hundred (500) feet from an authorized school bus stop, unless a variance is obtained.

17.43G.040 – Application

- A. A Cannabis business shall register and obtain a Cannabis Storefront Retail License from Trinity County prior to operation. The Applicant shall pay a non-refundable fee in an amount established by the Trinity County Board of Supervisors.
- B. A copy of the Cannabis Storefront Retail License shall always be displayed in a place visible to the public.
- C. A Cannabis Storefront Retail License shall be valid for one (1) year, unless sooner revoked. No license granted herein shall confer any vested right to any person or business for more

than the above-referenced period.

- D. A Cannabis Storefront Retail License shall not be issued to an individual or a business entity associated with an individual, who has violated California Health & Safety Code Section 11590 and its provisions.
- E. The Cannabis Storefront Retail License shall be issued to the specific person or persons listed on the License Application.
- F. A Cannabis Storefront Retail License is not transferable from person to person without completion of a new application.

17.43G.050 – Application Requirements

- A. The Planning Director or his/her designee will prepare Cannabis Storefront Retail License application forms and a related administrative policy. Each applicant interested in operating pursuant to this Chapter may submit an application together with a one-time non-refundable processing fee in an amount established by the Trinity County Board of Supervisors.
- B. The Planning Director or his/her designee shall determine whether each application received demonstrates compliance with the minimum requirements for a Cannabis Storefront Retail License. These requirements include:
 - 1. Application is filled out completely.
 - 2. Application fee is paid.
 - 3. The location indicated on the application meets the zoning criteria.
 - 4. A notarized signature from the property owner authorizing the location to be used for Cannabis Storefront Retail activity.
 - 5. Live Scan background check for the Business Owner(s)/Applicants(s) referenced on the application.
 - 6. There may be no change in the applicant/business owner from the one(s) listed on the Cannabis Storefront Retail License Application. The application must identify individual owner(s) as defined in the MCRSA 19320(b)(1. et. seq.) as may be amended.
 - 7. All other application documents required in the County’s application package instructions, the MCRSA, Proposition 64 and any other applicable regulations as they may be amended.
 - 8. Photographs of the exterior of the building including the entrances(s), exit(s), street frontage(s), and parking area(s).
 - 9. If the property is being rented, leased or purchased under contract, the lease agreement term and name of lessor or equivalent, shall be provided by a notarized signed affidavit of the property owner.
 - 10. The name and address of the applicant’s current Agent for Service of Process.
 - 11. A copy of the applicant’s Board of Equalization Seller’s Permit.
 - 12. A copy of the Cannabis Storefront Retail Operating Standards containing a statement dated and signed by the Business Owner stating that under penalty of perjury that they read, understand and shall ensure compliance with the aforementioned operating standards.
 - 13. A floorplan identifying ingress/egress, customer check in, waiting area, restroom

facilities, retail product area, and product storage area.

14. Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
15. Release of Trinity County from all liability associated with the Cannabis Storefront Retail business. Such a release includes indemnifying Trinity County for claims, damages and injuries that may arise as a result of the Cannabis Storefront Retail business.
16. If the Cannabis Storefront Retail premises is located on a parcel that has a zoning overlay district of "Special Treatment" then the applicant must also submit, with associated separate fees, a Director's Use Permit application for review and approval by the Architectural Review Committee to ensure compliance with Ord. No. 315-800, Res. No. 2013-20 and any other related Historical Legislation.

17.43G.060 – Operation Standards

- A. Interior and exterior locations of the Cannabis Storefront Retail business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on location premises. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet.
- B. Camera video recordings shall be maintained unaltered in a secure onsite location for a period of not less than ninety (90) days, and be available for inspection at any time. Trinity County law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the County or law enforcement may seek a warrant or court order for the recordings.
- C. A Cannabis Storefront Retail entity that remains inoperative for more than ninety (90) days from the date of receiving a license shall be deemed "abandoned" and the license shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the Trinity County Planning Director or his/her designee.
- D. The retail business shall establish and participate in a track and trace system for reporting the movement of commercial cannabis throughout the distribution chain. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.
- E. The retail business shall comply with all State regulations, including regarding testing, labeling and storage of all cannabis products.
- F. All electrical and plumbing must comply with State and local regulations.
- G. The retail business shall comply with all State insurance and security bond regulations.
- H. The Cannabis Storefront Retail business shall have a centrally-monitored fire and burglar alarm system which shall include all perimeter entry points and perimeter windows.
- I. The retail business shall meet all state deadlines for applying for a State license.
- J. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, tobacco or cannabis by patrons without prior written approval from the

County.

- K. The Cannabis Storefront Retail business shall comply with State Department of Health requirements pertaining to the use of a commercial kitchen for cannabis operations.
- L. There shall be at least one employee that does not handle cannabis products. This staff member is responsible for verifying the age of the consumer before entering the product area.
- M. If required by the State, at all times the cannabis storefront is open, the storefront shall provide at least one security guard who is licensed and possesses a valid Department of Consumer Affairs “security guard card”.
- N. No one under the age of 21 shall be allowed to enter the designated product area of the facility.
- O. All employees of the storefront must wear photo identification badges clearly identifying them as employees at all times while on duty. Badges must have frontal face picture, be at least 2” x 2” and of passport picture quality.
- P. The Cannabis Storefront Retail business shall maintain records at the location that accurately and truthfully document all of the following:
 - 1. The full name, address, and telephone number(s) of the owner, landlord, and/or lease of the location.
 - 2. The full name, address, and telephone number(s) of all the members who are engaged in the management of the storefront.
 - 3. All receipts of the storefront, including but not limited to: all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the retail business.
- Q. The above-mentioned records shall be maintained for a period of seven (7) years and shall be made available by the retail business to law enforcement and/or Code Enforcement Officials upon request.

17.43G.070 – Denial/Rescission of License:

- A. Applicant’s application shall be denied or the issuance of a license rescinded if Trinity County becomes aware of any of the following:
 - 1. The applicant has provided materially false documents or testimony.
 - 2. The operation as proposed if permitted, would not comply with all applicable laws including but not limited to the Building, Planning, Fire Safe and Health Codes of the County including the provisions of this Chapter and with all applicable laws including zoning and County ordinances.
- B. Applicant shall be given a minimum of seven (7) business days to correct any deficiencies prior to the issuance of a denial or rescission.
- C. Applicant or Licensee shall have the right to appeal any denials or rescissions as prescribed in Chapter 8.90.130 of Trinity County Code.

17.43G.080 – Inspection, Enforcement and Violations

County Code Enforcement Officials may enter and inspect the location of any Cannabis Storefront Retail business during normal business hours to ensure compliance with this chapter. In addition, law enforcement may enter and inspect the location of any Cannabis business and the recordings

and records maintained as required by this chapter.

Each day of operation shall constitute a separate violation of this section. Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Municipal Code. Additionally, any violation of this chapter shall constitute nuisance and violators shall be subject to injunctive relief, revocation of the business's Cannabis Storefront Retail License, disgorgement and payment to Trinity County of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees and any other relief or remedy available at law or equity. The County may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the cannabis business and persons related or associated with the Cannabis business.

17.43G.090 – Fees

All Cannabis Storefront Retail business operations shall pay applicable fees approved by the Board of Supervisors, which shall include the following:

- A. Application Fee. The business applicant shall submit a non-refundable one-time fee to cover the cost of processing an application for the commercial Cannabis Retail Storefront License.
- B. Annual License Fee. The Business Owner shall pay an annual license fee (“Annual License Fee”). The amount of the fee shall be set by the Trinity County Board of Supervisors by resolution and be supported by the estimated additional costs of enforcement and monitoring associated with the Cannabis Storefront Retail business operation. The Annual License Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date, and may be amended from time to time based upon actual costs.

17.43G.100 – Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The County hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section III: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in the Trinity Journal, a newspaper of general circulation published in the County of Trinity State of California.

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

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Trinity County Planning Commission
June 11, 2020
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NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

BOBBI CHADWICK, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:

RICHARD KUHNS, Psy.D
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:

Margaret E. Long, County Counsel