

## Item No. 6

### AMENDMENT TO ZONING ORDINANCE ALLOWING FOR COMMERCIAL CANNABIS MICROBUSINESS LICENSES

Trinity County Cannabis Ad Hoc Committee

Report to Planning Commission

Re: Cannabis Microbusiness Ordinance

March 1, 2018

The Ad Hoc Committee recommends that the Planning Commission review and discuss the following items within the proposed Microbusiness Ordinance.

#### **Overview**

Microbusiness Licensees must engage in at least 3 of the 4 following commercial cannabis activities: Cultivation (less than 10,000 square feet), manufacturing (Type 6), distribution and retail.

#### **Proposed Microbusiness Ordinance**

The proposed ordinance requires that a licensee obtain a cultivation license and then may choose any of the following cannabis activities listed above. In addition, a Type 9 (Non-storefront) retail license is only allowed within the Microbusiness license at this time. Type 9 proposed ordinance will be heard directly by the Board of Supervisors. Overall potential retail licensing will be discussed at a later date.

#### **Microbusiness Licenses Subject to Existing Ordinances**

In an attempt to streamline the license process the Trinity County Home Occupations and Cottage Industry zoning code is provided within the ordinance (Ord. No. 315-628). It provides for an applicant to either receive a Directors Use Permit if eligible through the "Minor" provisions within the ordinance. Or a CUP is required based on the "Major" provisions of the ordinance.

#### **Additional Discussion Points**

**Seasonal Employees** - In the proposed Microbusiness Ordinance, an exception under the "Minor" provision has been added to expand for seasonal employees up to six weeks. The thought was that the home based business would require extra help at different times of the season or business cycle.

**Limitations on 3<sup>rd</sup> Party Distribution:** Also included are limitations per license of what a Microbusiness licensee can distribute, manufacturer or retail from a 3<sup>rd</sup> party.

**ORDINANCE NO. \_\_\_\_\_**  
**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY ALLOWING FOR COMMERCIAL CANNABIS MICROBUSINESS LICENSES**

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

**Section 1: 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 11362.7et 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 Cannabis through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB420.
- 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 individual 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 product and practices within the County.

**Section 2: Application**

The County hereby enacts the following as Section \_\_\_\_\_ of the Trinity County Zoning Ordinance No.315: Cannabis Microbusiness

**1. Definitions:**

- A. “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.
- B. “Microbusiness” is defined as the cultivation of Cannabis on an area of less than 10,000 square feet and to act as a licensed Cannabis distributor, and/or manufacturer, and/or retailer, provided such permitted complies with all requirements imposed on cultivators, distributors, manufactures and retailers by the County and State to extend the permittee engages in such actives.
- C. "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.
- D. “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.

**2. Regulations:** Cannabis microbusinesses shall comply with all of the following regulations:

- A. An applicant for a microbusiness license must identify one of the following license application types:
  - i. Adult-Use (A-License)

- ii. Medicinal (M-License)
- B. An applicant for a microbusiness license must be licensed under the County’s cultivation license and cultivating on an area less than 10,000 sq. ft. The applicant will maintain their cultivation license number and the microbusiness license will continue to count towards the total of five hundred and thirty (530) licenses allowed within the County.
- C. An applicant for a microbusiness license must be licensed with the County for cultivation and engaging in at least two (2) of the following commercial cannabis activities:
  - i. Manufacturing (Type 6 - Manufacturer Type N or P)
  - ii. Distribution (Type 11 and 13)
  - iii. Retail (Type 9 - Non-Storefront Retail)
- D. An applicant for a microbusiness license who qualifies as a minor home occupation under the Home Occupation and Cottage Industry provisions of Trinity County Ordinance 315-628 must obtain a Director’s Use Permit from the Trinity County Planning Department. All other applicants must obtain a Conditional Use Permit from the Trinity County Planning Department.
  - A. Licensee operating under Minor Home Occupation and Cottage Industry provisions of Trinity County Ordinance 315-628 may utilize seasonal help for a period of six weeks or less every calendar year.

**3. Required Conditions:**

In addition to any other conditions and mitigations that apply, Cannabis microbusinesses shall:

- A. Allow access to any facilities or any vehicles utilized in transportation, 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.
- B. 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.
- C. Obtain a valid and fully executed commercial Cannabis microbusiness license from the State prior to commencing operations, and must maintain such license in good standing in order to continue operations. All State required documents will be filed with the County of Trinity within 10 business days after State of California approval.
- D. 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 microbusiness license, as well as personal liability for required enforcement.
- E. Be limited to the following distribution amounts: in addition to the product that is grown pursuant to licensee’s Cannabis Cultivation License, the microbusiness can distribute the following amount of third party product:
  - i. Those with a Specialty Cottage licenses can distribute 125 lbs. of product.

- ii. Those with a Specialty Outdoor licenses can distribute 250 lbs. of product.
  - iii. Those with a Small Outdoor or Mixed-Light Tier 1 and 2 licenses can distribute 500 lbs. of product.
- F. Cannabis distributed from a third party shall be at least 75% from Trinity County sources.
- G. Only be located in zones where cultivation license are allows. Cannabis microbusiness licensees shall abide by the regulations established under Trinity County’s cultivation ordinance. The facility shall not be on prime Agricultural Soil, as determined by the Planning Director or his/her designee.
- i. Microbusiness licenses will not be allowed within the following areas:
    1. Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.
    2. Timber Production Zones (TPZ) with the exception made for qualified Phase I Applicants.
    3. Residential 1 (R1), Residential 2 (R2), or Residential 3 (R3) Zones.
    4. Within the legal boundaries of the Trinity County Waterworks District #1, Weaverville Community Services District, Coffee Creek Volunteer Fire District and Trinity Center Community Services District and within the following area of the Lewiston Community Services District: Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, and Mt. Diablo Meridian, Township 33N, Range 9W, Section 24, I3, which are in proximity to high density areas, and therefore, create a substantial risk of a public nuisance. An exception to this limitation is allowed for applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by the following dates:
      - a. Weaverville Community Services District by December 31, 2016;
      - b. Lewiston Community Services District by January 15, 2017;
      - c. Trinity County Waterworks District #1 by July 1, 2018;
      - d. Coffee Creek Volunteer Fire District and Trinity Center Community Services District by November 30, 2017.

- ii. The combination of a Microbusiness license and Manufacturing Type 7 activities within the same parcel/application are not allowed.
- I. For Microbusiness License engaging in manufacturing activities, submit all documents that were provided to the State as part of their application for a State license, including, but not limited to, a cite plan, a security plan, and a fire plan, to the Planning Department within 30 days of approval by the State.
- J. Pay a Cannabis Microbusiness Program Fee annually from the date of issuance.
  - i. The Cannabis Microbusiness Program Fee is set at:
    - 1. Microbusiness /Specialty Cottage: \$2,500 plus \$750 towards the General Plan update.
    - 2. Microbusiness/Specialty: \$6,000 plus \$1,000 towards the General Plan update.
    - 3. Microbusiness/Small: \$8,000 plus \$1,000 towards the General Plan update.
  - ii. The above fee amounts will be re-evaluated within eighteen months of the date of enacting this Ordinance, the County may conduct a fee study to determine the total cost of administering this Ordinance.
    - 1. 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.
    - 2. 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.
  - iii. When transitioning from a cultivation licenses to a microbusiness license the cultivation fees will be credited to the Microbusiness Program Fees, on a prorated basis, by the annual Cannabis Cultivation Program Fee paid to obtain a cultivation license.

**4. Denial/Rescission of License:**

- A. Applicant’s Application shall be denied or the issuance of a license rescinded if the Trinity County becomes aware of any of the following:
  - i. The applicant has provided materially false documents or testimony;
  - 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;
- 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 the Trinity County Code.

**Section 3: CEQA**

The County finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant Business and Professions Code section 26055(h) until July 1, 2019 because this Ordinance requires discretionary review for the individual licenses that are provided for within.

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

\_\_\_\_\_  
Keith Groves, CHAIRMAN  
Board of Supervisors  
County of Trinity  
State of California

ATTEST:  
Richard Kuhns

\_\_\_\_\_  
Clerk of the Board of Supervisors  
By:  
Deputy