Department of Cannabis Control
CALIFORNIA

# NOTICE of EXEMPTION from CEQA
## CALIFORNIA DEPARTMENT OF CANNABIS CONTROL

P.O. BOX 419106, RANCHO CORDOVA, CA 95741-9106

PHONE: (844) 612-2322

Email: LICENSING@CANNABIS.CA.GOV

To: Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, CA 95812-3044

From: Department of Cannabis Control
Cultivation Licensing Branch
P.O. Box 419106
Rancho Cordova, CA 95741-9106

Project Title: D&R Enterprises LLC

Project Location: The Project is located at 411 N Meadow Lane in Trinity County (APN

County: Trinity

Project Description:
The Department of Cannabis Control, pursuant to authority granted under Business and Procession Code Division 10, Chapter 2, Section 26012, approved a Cannabis [ACTIVITY] License.

The Project consists of 9,864 sf of existing mature Adult-Use-Small Mixed-Light Tier 1cultivation comprised of four 30'x110' and one 30'x100' greenhouses in a premise area measuring 336,226 sf, with reconfiguration of support buildings totaling 1,600 sf. Water for the project is provided from two onsite wells. Two onsite septic systems serve the Project's wastewater needs. The area

Project Activities:

The Project will consist of Commercial Cannabis Cultivation.

Exemption Status:

- ☐ Ministerial [PRC, Sec. 21080(b)(1); CCR, Sec. 15268]
- ☐ Declared Emergency [PRC, Sec. 21080(b)(3); CCR, Sec.15269(a)]
- ☐ Emergency Project [PRC, Sec. 21080(b)(4); CCR, Sec.15269(b)(c)]
- ☐ Categorical Exemption: [Class 1 Categorical Exemption Cal. Code Regs,. Title 14, §15301]
- ☒ Statutory Exemptions: [CCR, Section 15183]
- ☐ General Rule [CCR, Sec. 15061(b)(3)]

Reasons Why Project is Exempt:

The Department of Cannabis Control has determined that the project is consistent with the local jurisdiction community plan and/or zoning designations. CEQA mandates that project is consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified and shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. The project activity fits within the parameters included in CEQA Guidelines Section 15183 and the activity does not require additional CEQA analysis.

This is to certify that the final environmental document, comments and responses, and the record of project approval are available to the public at the following location:

Department of Cannabis Control
Cultivation Licensing Branch
P.O. Box 419106
Rancho Cordova, CA 95741-9106

| Jacob Schmitz | Environmental Scientist | 916-251-4625 |
|---|---|---|
| Contact Name | Contact Title | Phone # |

Schmitz, Jacob@Cannabis

Digitally signed by Schmitz, Jacob@Cannabis
Date: 2023.06.23 13:47:56 -07'00'

TO BE COMPLETED BY OPR ONLY

**RESOLUTION NO. 2020-103**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY (1) ADOPTING FINDINGS OF FACT AND A STATEMENT OF OVERRIDING CONSIDERATIONS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; (2) ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM; AND (3) CERTIFYING THE ENVIRONMENTAL IMPACT REPORT CONCERNING THE COUNTY'S COMMERCIAL CANNABIS PROGRAM**

**WHEREAS,** the County published a Notice of Preparation of an Environmental Impact under the California Environmental Quality Act ("CEQA") regarding the County's Commercial Cannabis Program ("Cannabis Program") on December 21, 2018.

**WHEREAS,** on January 16, 2019, the County held a scoping meeting to elicit public input and comment regarding the preparation of the intended environmental impact report for the Program.

**WHEREAS,** following the preparation of a Draft Environmental Impact Report ("DEIR") regarding the Program, the County published Notice of Availability of the DEIR on May 29, 2019.

**WHEREAS,** on September 26, 2019, the Planning Commission held a workshop to receive public input regarding the DEIR.

**WHEREAS,** on November 19, 2019 and February 11, 2020, the Board of Supervisors held special meetings to receive further public input regarding the DEIR.

**WHEREAS,** a Final Environmental Impact Report ("FEIR") has been prepared, which includes written responses to all comments received during the formal comment period on the DEIR.

**WHEREAS,** a public hearing was held before the Planning Commission on November 19, 2020 to consider whether the Planning Commission should recommend certification of the FEIR.

**WHEREAS,** following the close of the public hearing, the Planning Commission continued the proposed certification of the FEIR and adoption of the Ordinance for further consideration and deliberation at a special meeting on December 3, 2020.

**WHEREAS,** at its December 3, 2020 special meeting, the Planning Commission recommended that the Board of Supervisors certify the FEIR with modifications that it specified in Planning Commission Resolution PC-2020-13, which the Board of Supervisors has reviewed and considered.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors finds, in accordance with Sections 15090 and 15091 of the California Environmental Quality Act ("CEQA) Guidelines (California Code of Regulations, Title 14, Chapter 3) that:

1. The FEIR and DEIR were prepared and completed in compliance with CEQA and the CEQA Guidelines;
2. The Board of Supervisors has fully reviewed and considered the FEIR and DEIR; and
3. The FEIR and DEIR reflect the independent judgment and analysis of the County, as the lead agency for the CEQA project being considered.

**BE IT FURTHER RESOLVED** that the Board of Supervisors adopts the CEQA Findings of Fact and Statements of Overriding Considerations for the Cannabis Program attached in Attachment A.

**BE IT FURTHER RESOLVED** that the Board of Supervisors adopts the Mitigation and Monitoring Program for the Program attached in Attachment B.

**BE IT FURTHER RESOLVED** that the Environmental Impact Report for the Cannabis Program is hereby certified pursuant to CEQA.

**DULY PASSED AND ADOPTED** this 21st day of December, 2020 by the Board of Supervisors of the County of Trinity by motion, second (Brown/Morris), and the following vote:

| | |
|---|---|
| AYES: | Supervisors Brown, Morris, Groves, Fenley and Chadwick |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |
| RECUSE: | None |

Bobbi Chadwick

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

ATTEST:

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

By: Emma Pinto
Deputy

# ORDINANCE NO. 315-823

## AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TRINITY AMENDING ZONING ORDINANCE NO. 315 CREATING SECTION 28: COMMERCIAL CANNABIS CULTIVATION REGULATIONS

**Section I:** The Board of Supervisors of the County of Trinity, State of California, hereby finds and declares as follows:

(1) WHEREAS, 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").

(2) WHEREAS, the intent of Proposition 215 was to ensure that seriously ill Californians have the right to obtain and use Cannabis for medicinal purposes where medicinal 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 medicinal purposes upon the recommendation of a physician are not thereby subject to criminal prosecution or sanction. The Compassionate Use Act of 1996 further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of Cannabis for non-medicinal purposes."

(3) WHEREAS, 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 Compassionate Use Act of 1996, enhance the access of patients and caregivers to medicinal Cannabis through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420.

(4) WHEREAS, 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, manufacture, distribution, transportation, testing and dispensing of medicinal Cannabis on a commercial basis, but implementing regulations have yet to be written and state licenses will not be available until 2018. In addition, on June 27, 2016 MMRSA was amended by SB 837.

(5) WHEREAS, previous landmark Cannabis legislation, including the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, have precipitated a "green rush" where individuals have moved to Trinity County to grow Cannabis; some seeking to capitalize on ambiguities in the law, while others lack an awareness of community and environmental consciousness.

(6) WHEREAS, since the adoption of MMRSA, numerous sources, including law enforcement, elected officials, county administrators, neighbors and Cannabis 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.

(7) WHEREAS, on November 8, 2016, voters approved the Adult Use of Marijuana Act (AUMA) to allow recreational use of Cannabis by adults over the age of 21.

(8) WHEREAS, the intent of AUMA is to allow the legal use of Cannabis for persons over the age of 21. AUMA provides that California residents are entitled to cultivate up to 6 plants indoors and for personal use.

(9) WHEREAS, on June 27, 2017, the State adopted SB 94, the Medicinal and Adult-Use Cannabis 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; and (2) Adult-use cannabis and adult-use cannabis products for adults 21 years of age and over.

(10) WHEREAS, local governments in California may restrict or completely ban commercial Cannabis activities, except deliveries and transportation through local jurisdiction.

(11) WHEREAS, the Medical Marijuana Program Act defines "primary caregiver" as an individual who is designated by a qualified patient or person with an identification card, and who has consistently assumed responsibility for the housing, health or safety of that patient or person.

(12) WHEREAS, the right of qualified patients and their primary caregivers under State law to cultivate Cannabis plants for medicinal purposes does not confer upon them the right to create or maintain a public nuisance.

(13) WHEREAS, Cannabis plants, whether grown indoors or outdoors, especially as they mature prior to harvest, may produce a distinctive odor that may be detectable far beyond property boundaries.

(14) WHEREAS, the strong smell of Cannabis has been deemed a nuisance and can alert persons to the location of the valuable plants, creating a risk of burglary, robbery and armed robbery.

(15) WHEREAS, in recent years there has been an increased number of Cannabis related incidents of burglary, robbery and armed robbery; some including acts of violence resulting in injury or death.

(16) WHEREAS, Cannabis that is grown indoors may require excessive use of electricity which may overload standard electrical systems creating an unreasonable risk of fire. If indoor grow lighting systems are powered by diesel generators, improper maintenance of the generators and fuel lines and the improper storage and disposal of diesel fuel and waste oil may create an unreasonable risk of fire and pollution.

(17) WHEREAS, the County revised the definition of legal parcel for the purpose of this Ordinance, from defining an unlimited number of contiguous parcels under common ownership or control as one parcel eligible for a single exemption, to a parcel with a distinct and separate Assessor's Parcel Number. Where contiguous legal parcels are under identical ownership by an individual or an entity, such legal parcels shall be counted as a single parcel for purposes of this Ordinance.

(18) WHEREAS, Trinity County's geographic and climatic conditions, low population density, availability of resource lands previously utilized for forestry and grazing and history and reputation as a Cannabis producing region have attracted a steady influx of individuals for the purpose of participating in Cannabis activity, whether for medicinal or commercial reasons.

(19) WHEREAS, the State Water Resources Control Board ("SWRCB"), the North Coast Regional Water Quality Control Board ("NCRWQCB") and the California Department of Fish and Wildlife ("CDFW") have documented a dramatic increase in the number of Cannabis cultivation sites, corresponding increases in impacts to water supply and water quality, including the discharge of sediments, pesticides, fertilizers, petroleum hydrocarbons, trash and human waste. These impacts result from the widespread unpermitted, unmitigated and unregulated impacts of

land grading, road development, vegetation removal, timber clearance, erosion of disturbed surfaces and stream banks, stream diversion for irrigation and temporary human occupancy without proper sanitary or waste disposal facilities, and threaten the survival of endangered fish species. In addition, the actions of some Cannabis growers, either directly or through irresponsible practices, result in the killing of wildlife, including further endangering other threatened species such as the Pacific Fisher and Coho Salmon.

(20) WHEREAS, California Regional Water Control Board, North Coast Region Order #2015-0023 (Waiver of Waste Discharge Requirements and General Water Quality Certification for Discharges of Waste Resulting from Cannabis Cultivation and Associated Activities or Operations with Similar Environmental Effects in the North Coast Region) was passed on August 13, 2015. The purpose of this order is to provide a water quality structure to prevent and/or address poor water quality conditions and adverse impacts to water resources associated with cannabis cultivation on private land.

(21) WHEREAS, Trinity County is negatively impacted and vulnerable to numerous large-scale, trespass commercial Cannabis cultivation operations on public and private lands, yet law enforcement consistently estimates that each year they eradicate only a small fraction of these operations.

(22) WHEREAS, effective enforcement is further hampered by conflicting local, state and federal laws which create ambiguity in determining which Cannabis cultivation operations are legal or not, and whether those that are non-compliant ought to be subject to civil or criminal enforcement.

(23) WHEREAS, in the absence of a formal local regulatory framework, Cannabis cultivators 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 Cannabis cultivators from those who threaten the public peace, health, safety and the environment.

(24) WHEREAS, the County finds, that in the absence of a formal regulatory framework, the negative impacts frequently associated with Cannabis cultivation 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.

(25) WHEREAS, the County's five primary population centers are Lewiston, Hayfork, Weaverville, Coffee Creek Volunteer Fire District and Trinity Center Community Services District, which contain more densely populated residential areas. The reduction of grows in these areas by the absolute prohibition of cannabis cultivation in certain portions of these population centers, unless the applicant for a County license has enrolled with the SWRCB by dates specified in Section 5(a)(v), will result in: (1) greater compliance by those cultivators who have stated that they intend to abide by the environmental controls of this Ordinance; and (2) greater protection of the residents of those areas, which encompass approximately half of the total population of the County, from the nuisances caused by irresponsible cultivation of Cannabis in populated areas.

(26) WHEREAS, the County intends to limit the number of licenses issued to larger grows in order to prevent environmental degradation and due to anticipated limitation by the State.

NOW THEREFORE be it resolved that the Board of Supervisors of the County of Trinity ordains as follows:

The County hereby enacts the following as Section 28 of the Trinity County Zoning Ordinance No. 315:

Sections:
(1) Definitions
(2) Application
(3) Application Requirements
(4) Registration Phases
(5) Limitation on Location to Cultivate Cannabis
(6) Performance Standards for Commercial Cultivation of Cannabis
(7) Denial/Revocation of License
(8) Enforcement
(9) Fees

**(1) Definitions:**
As used herein the following definitions shall apply:

(a) "Active Building Permit" means holding a valid Trinity County Building Permit and is compliant with all Trinity County Building Department requirements for building.

(b) "Agricultural Commissioner" or "Agricultural Commissioner's Office" means the Trinity County Agricultural Commissioner's Office or the authorized representatives thereof.

(c) "Area" is the measurement of Cannabis plant growth in square feet as defined by the California Department of Food and Agriculture. As of December 21, 2016, the Area is defined as canopy area, but it is subject to change. All changes by California Department of Food and Agriculture are automatically incorporated herein.

(d) "Attorney General's Guidelines" means Guidelines for the Security and Non-Diversion of Cannabis Grown for Medical Use issued by the Attorney General in August 2008.

(e) "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

(f) "Commercial Cannabis" means any commercial Cannabis activity allowed under MMRSA, AUMA and/or MAUCRSA (SB 94), as limited by the allowable licenses below, as may be amended from time to time, and all uses permitted under any subsequent enacted State law pertaining to the same or similar use for recreational Cannabis. Prior to January 1, 2018, the Cannabis shall be for medicinal Cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215) found at Section 11362.5 of the Health and Safety Code.

(g) "Cultivation" means the planting, growing, harvesting, drying or processing of Cannabis plants or any part thereof.

(h) "Designated Area" means the hoophouse, greenhouse, and/or outdoor area(s) identified for Cannabis cultivation.

(i) "Legal Parcel" means a parcel with a distinct and separate Assessor's Parcel Number. Where contiguous legal parcels are under identical ownership by an individual or an entity, such legal parcels shall be counted as a single parcel for purposes of this Ordinance.

(j) "Marijuana" and "Cannabis" are used interchangeably and means any plant of the genus Cannabis, as defined by section 11018 of the Health and Safety Code.

(k) "Fully Enclosed and Secure Structure" means a space within a building or other structure, excluding greenhouses, which has a complete roof enclosure supported by connecting

walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening and which is accessible only through one or more lockable doors and inaccessible to minors.

(l) "Mixed Light" means a combination of natural and supplemental artificial lighting used for immature plant growth (vegetative growth before flowering), at a maximum threshold to be determined by the California Department of Food and Agriculture.

(m) "Medical Cannabis" means Cannabis or Cannabis plant used for medicinal purposes in accordance with California Health and Safety Code Sections 11362.7 et seq.

(n) "Outdoors" or "Outdoor Cultivation" means cultivation in any location or by any means that is not "indoors" within a fully enclosed and secure structure as defined herein.

(o) "Primary Caregiver" means a "primary caregiver" as defined in Health and Safety Code section 11362.7(d).

(p) "Proof of Enrollment" shall mean Proof of Order number in good standing from the NCRWQCB or the State Water Resource Quality Control Board.

(q) "Proof of Residency" shall mean proof of residing in Trinity County for a period of one year prior to application.

(r) "Planning Department" means the Trinity County Planning Department, or department or agency that is designated by the Trinity County Planning Director.

(s) "Qualified patient" means a "qualified patient" as defined in Health and Safety Code section 11362.7(f).

(t) "Residential Treatment Facility" means a facility providing for treatment of drug and alcohol dependency.

(u) "School" means an institution of learning for minors, whether public or private (excluding homeschools), 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.

(v) "Summary Abatement" means the removal of an immediate threat to the public health or safety.

(w) "Wildlife Exclusionary Fencing" means fencing designed and installed to prevent the entry of wildlife into the enclosed area, such as cyclone or field game fencing a minimum of six feet high measured from grade. This shall include a lockable gate. Wildlife Exclusionary Fencing is not required for Type 1C "specialty cottage" licenses.

(x) "Variance" is defined as Trinity County Ordinance 315 section 31.

(y) "Youth-Oriented Facility" means public park, school, authorized bus stop or 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) Application**

(a) Approval of a license grants provisional permission to cultivate Cannabis plants within the guidelines of this Ordinance and State law. After receipt of a license, applicants who cultivate pursuant to guidelines of this ordinance and applicable State law will be exempt from the plant count restrictions in the existing Trinity County personal grow Ordinance (Zoning Ordinance No. 315-797). Instead, applicants will be subject to the cultivated

square footage provisions in Type 1, 1B, 1C and Type 2, 2B and Type 3 defined by this Ordinance.

(b) Applications accepted under the Urgency Ordinance shall be entitled to priority processing for future licensing. Acceptance for renewal of licenses shall begin February 1 of each year. Annual licenses shall run from April 1 through March 31. Renewal priority is in the following order: (1) Date of issuance of County License; (2) Date of acceptance of application; (3) Date of NCRWQCB or SWRCB waste discharge identification (WDID) number.

(c) Any licensing required under this Ordinance will require enrollment as dictated by the SWRCB in the NCRWQCB Order #2015-0023 or in the SWRCB's Order regulating discharge requirements for discharges of waste associated with Cannabis cultivation activities. Applicant shall have been compliant with this requirement during the application period covered by the Urgency Ordinance to develop a record of environmental compliance.

(d) Application for a license pursuant to this Ordinance does not give the applicant any property rights, and it is not a license or a guarantee that a license shall be issued. Application does not equate to non-conforming entitlement and the application is only transferrable under the conditions in 3(e).

(e) Licensees and applicants recognized under the Urgency Ordinance are ensured that their licenses and applications will retain their status and be prioritized consistent with the Urgency Ordinance.

(f) Use of Cannabis is not recognized under Federal law and Trinity County does not grant any right to violate Federal law.

(g) Should the State begin issuing Cannabis cultivation licenses under MAUCRSA, MMRSA and/or AUMA, an applicant or licensee pursuant to this Ordinance and who can otherwise demonstrate consistent compliance with this Ordinance, Trinity County Code and all other relevant laws and regulations, shall be provided a provisional license that may be used as evidence of local compliance for the purposes of Business and Professions Code §19322(a)(2). Receipt of a provisional license shall suffice as adequate documentation of local compliance for the purpose of applying for a State license under Business and Professions Code §19322(a)(2).

(h) Licensees and applicants recognized pursuant to this Ordinance shall file a complete application for the appropriate State license with the appropriate State licensing authority on or before January 1, 2018, or within 90 days of the State licensing taking effect. Issuance of a County license does not guarantee the issuance of a State license.

(i) Notwithstanding any other provision of this Ordinance, a person participating in the cultivation of Cannabis who is licensed pursuant to this Ordinance, but who applies for and is denied a State license, shall immediately cease all Cannabis cultivation in violation of the personal grow Ordinance (Zoning Ordinance No. 315-797) within the County until he/she successfully obtains the proper State cultivation license(s) under MAUCRSA, MMRSA and/or AUMA.

**(3) Application Requirements**

(a) All Applicants will be required to comply and provide the following:

i. Proof of intent to comply with all County setback requirements.

ii. Designate whether the license is intended for commercial adult-use Cannabis activity ("A") or for commercial medicinal Cannabis activity ("M") for the following license types:
   1. Type 1 "specialty outdoor" – for outdoor cultivation up to a 5,000 sq. ft. Area or up to 50 mature plants.
   2. Type 1B "specialty mixed light" – for cultivation using mixed light up to a 5,000 sq. ft. Area.
   3. Type 1C "specialty cottage" – for cultivation using mixed-light up to a 2,500 sq. ft. Area, or up to 25 mature plants for outdoor cultivation, or 500 sq. ft. or less of total canopy size for indoor cultivation, on one premise.
   4. Type 2 "outdoor" – for outdoor cultivation up to a 10,000 sq. ft. Area.
   5. Type 2B "mixed light" – for cultivation using mixed-light between a 5,001 and 10,000 sq. ft. Area.
   6. Type 3 "medium outdoor" – for outdoor cultivation between 10,001 sq. ft. and one (1) acre (43,560 sq. ft.).
   7. All other license types are not allowed at this time by the County of Trinity, unless adopted by the County in subsequent Ordinance or Ordinances.

iii. Proof of enrollment in good standing with NCRWQCB Order #2015-0023 or the SWRCB.

iv. Apply for and obtain a Board Of Equalization Seller's permit.

v. Employ only persons who are at least twenty-one (21) years of age and comply with all applicable state and federal requirements relating to the payment of payroll taxes including federal and state income taxes and/or contributions for unemployment insurance and state worker's compensation and liability laws.

vi. Applicant cannot have been convicted of a 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.

vii. Verification of proof of residency in Trinity County for a period one year prior to application by providing a current California Driver's License or identification card, along with Trinity County Solid Waste bills, Utility District bills, or DMV registration, or other documentation deemed acceptable to show proof of residency in Trinity County as determined by the Planning Director.

viii. As a condition of registering any Cannabis cultivation site pursuant to this Ordinance, the applicant and, if different, the property owner shall execute an agreement to defend, indemnify and hold harmless the County of Trinity and its agents, officers, and employees from any claim, action, or proceeding brought against the County, its agencies, boards, Planning Commission or Board of Supervisors arising from the County's registration of the site. The indemnification shall apply to any damages, costs of suit, attorney fees or other expenses incurred by the County, its agents, officers and employees in connection with such action.

ix. If using a permitted well, a copy of the Trinity County well permit shall be provided.

x. At the time of renewal or application for the 2018/19 license cycle and after, the applicant shall designate on their application or renewal application whether they intend to cultivate for Adult or Medicinal use.

(b) Only one application countywide may be submitted per person/entity or per legal parcel.

(c) Applicants consent to compliance inspections as part of their application process. Inspections will be conducted by County officials during regular business hours Monday through Friday, 9:00 a.m. – 5:00 p.m., excluding holidays. Applicants are permitted to participate in the inspection verification or monitoring. If possible, Trinity County will attempt to give 24-hour notice of the inspection by posting the notice and/or telephoning the number listed on the application.

(d) All documents/plans/monitoring/inspections filed as part of enrollment become part of the County application.

(e) Ownership of a license may only be transferred under the following conditions:

i. A Licensee may transfer their license as part of the sale of the property for which the license has been issued. The new owner shall reapply, pay the application fee, and meet all requirements for the property in order for the license to transfer. All exceptions that apply to the original license shall transfer with the license.

ii. A Licensee may transfer their license to other property under their ownership. The Licensee shall reapply, pay the application fee, and meet all requirements for the new property in order for the license to transfer.

iii. Licenses cannot be transferred more than once in a calendar year.

**(4) Registration Phases**

(a) The County will allow a total of five hundred and thirty (530) licenses. Thirty (30) of those licenses shall be issued to property within Trinity County Waterworks District #1. Priority in the program shall be based on the following:

i. The County will honor all licenses, applications, interest cards, payments and the waiting list recognized under Ordinance No. 315-816.EXT(A2).

ii. For new applications, priority of consideration for a license in the application process will be based on the date of enrollment with NCRWQCB Order #2015-0023 or the SWRCB.

(b) The County shall determine completed Water Board enrollment by receipt of a Proof of Order number.

(c) The County will allow five (5) Type 3 licenses. These licenses shall be available to those who have already obtained a license pursuant to Ordinance No. 315-816 EXT(A2) and are seeking a Type 3 license for the property associated with the license issued pursuant to Ordinance No. 315-816 EXT(A2). Priority shall be given based on date of interest card for the commercial Cannabis program submitted to Trinity County. To be eligible, the applicant must:

i. Hold a 2016/17 license with Trinity County.

ii. Be applying for property that is 50 acres or more.

iii. Apply for and obtain a Use Permit.

**(5) Limitation on Location to Cultivate Cannabis**

(a) Applications will not be approved for cultivation of Cannabis in any amount or quantity, in the following areas:

i. 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 an authorized school bus stop.

ii. A legal parcel without a permitted/legal housing structure, or without an active building permit.

iii. Within the Trinity County jurisdiction of the Whiskeytown-Shasta-Trinity National Recreation Area and within the lease lots within the Ruth Lake Community Services District.

iv. Timber Production Zones (TPZ) with the exception made for qualified Phase I Applicants.

v. Residential 1 (R1), Residential 2 (R2), or Residential 3 (R3) Zones.

vi. 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, 13, 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:

- Weaverville Community Services District by December 31, 2016;
- Lewiston Community Services District by January 15, 2017;
- Trinity County Waterworks District #1 by December 31, 2017;
- Coffee Creek Volunteer Fire District and Trinity Center Community Services District by November 30, 2017.

vii. Designated Area shall not exceed 150% of the Area for the license type unless otherwise approved by the Planning Director or by the California Department of Food and Agriculture.

viii. For Type 1, 1B, 1C, 2, and 2B licenses, cultivation shall not be allowed within three hundred and fifty (350) feet of a residential structure on any adjoining parcels. For Type 3 licenses, cultivation shall not be allowed within five hundred (500) feet of an adjacent property line. Applications for a variance from this provision will be considered by the Trinity County Planning Commission. After obtaining an initial variance, the Planning Director can issue a Director's Use Permit for subsequent years after an inspection.

**(6) Performance Standards for Commercial Cultivation of Cannabis**

(a) It is declared to be unlawful for any person owning, leasing, occupying or having charge or possession of any parcel of land within any unincorporated area of the County to cause or allow such parcel of land to be used for the outdoor or indoor cultivation of Cannabis plants in excess of the limitations imposed by this section or personal grow section (Zoning Ordinance No. 315-797).

(b) The cultivation of Cannabis shall not exceed the noise level standards as set forth in the County General Plan: 55dBA from 7:00 a.m. – 7:00 p.m. and 50dBA from 7:00 p.m. – 7:00 a.m. measured at the property line, except that generators associated with a commercial grow are not to be used between 10:00 p.m. and 7:00 a.m.

(c) Applicants shall comply with all State laws, including SB 94, regarding surface water, including but not limited to, water used for the cultivation of Cannabis needs to be sourced on-site from a permitted well or diversion. If using a permitted well, a copy of the Trini-

ty County well permit shall be provided. The cultivation of Cannabis shall not utilize water that has been or is illegally diverted from any stream, creek, river or water source. If water is hauled it shall be for emergencies, as defined as a sudden, unexpected occurrence, and a bill of sale shall be kept on file from a Water District or legal water source.

(d) The cultivation of Cannabis shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water. If the designated area has more than a 35% slope, the applicant shall apply for Tier 2 cultivation under the NCRWQCB Order #2015-0023, or regulations established by the SWRCB.

(e) Cannabis grown outdoors shall be contained within Wildlife Exclusionary Fencing that fully encloses the Designated Area. The fence shall include a lockable gate that is locked at all times when the applicant, licensee or documented employee is not in the Designated Area. Said fence shall not violate any other Ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth, except shade cloth may be used on the inside of the fence. Wildlife Exclusionary Fencing is not required for 1C licenses, when there is a perimeter locked fence.

(f) All buildings where Cannabis is cultivated or stored shall be secured to prevent unauthorized entry.

(g) Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide or other substance toxic to wildlife, children or pets, shall be stored in a secured and locked structure or device. All uses of pesticide products shall be in compliance with State pesticide laws and regulations enforced by the County Agricultural Commissioner's Office, Trinity County Environmental Health and the California Department of Pesticide Regulation.

(h) Hazardous materials and wastes from agricultural businesses are regulated by Trinity County Environmental Health and the Department of Toxic Substances Control Trinity CUPA.

(i) Rodenticides that require a California Restricted Materials permit cannot be used, those that are designated as federally Restricted Use Products can only be used by a certified applicator.

(j) The following rodent repellents may be used in and around Cannabis cultivation sites consistent with the label: *Capsicum oleoresin*, Putrescent Whole Egg Solids and Garlic.

(k) Any person who is not the legal owner of a parcel and who is cultivating commercial Cannabis on such parcel shall provide written and notarized authorization from the legal owner of the parcel prior to commencing cultivation on such parcel.

(l) All lighting associated with the operation shall be downcast, shielded and/or screened to keep light form emanating off-site or into the sky.

(m) Those cultivations using artificial lighting for mixed-light cultivations shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

(n) The cultivation of Cannabis shall comply with Cal Fire and CDFW regulations and any other resource agency having jurisdiction, including all activity but not limited to; clearing of land, stream crossings, water diversions and riparian buffer zones.

(o) Applicant shall obtain coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2009-0009-DWQ) for construction projects (individual or part of a common development) that disturb one or more acres of land surface, specifically for new site preparation and development.

(p) The use of gas products such as, but not limited to, butane is prohibited, consistent with Zoning Ordinance No. 315-797.

(q) An Applicant shall not be denied a license for the following reasons:

i. The property has an unlicensed structure without plumbing or electricity, if the structure is less than 120 square floor feet.

ii. The property has an unoccupied out-building without plumbing or electricity, if the building was built prior to 2001.

(r) Nothing in this section shall be construed as a limitation on the County's authority to abate any violation which may exist from the cultivation of Cannabis plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure structure.

(s) All Licensees shall enroll in the State's Track and Trace Program within 60 days of said program going into effect.

(t) All provisions of this Ordinance shall apply regardless of whether the activities existed or occurred prior to the adoption of this Ordinance.

(u) Environmental and animal friendly linings should be used when constructing water ponds on the property.

**(7) Denial/Revocation of License**

(a) Applicant shall be denied a license or the approval of a license shall be revoked if the County becomes aware that:

i. The applicant has provided materially false documents or testimony; or

ii. The applicant has not complied fully with the provisions of this Ordinance, including any of the requirements of NCRWQCB Order #2015-0023, SWRCB, or CDFW; or

iii. The operation as proposed by the applicant, if permitted, would not have complied with all applicable County and State laws, including, but not limited to; the Building, Planning, Housing, Fire and Health Codes of the County, including the provisions of this Ordinance and with all applicable laws including Zoning and County Ordinances.

(b) Applicant shall be given up to seven (7) business days to correct deficiencies prior to denying or revoking the license; if the deficiencies are deemed an immediate threat to environmental and/or public health and safety, they shall be corrected immediately.

(c) Applicant shall have the right to appeal any denials to the Planning Director. Any person dissatisfied with a decision of the Planning Director may appeal therefrom to the Planning Commission at any time within ten (10) working days after notice of the decision is given. Such appeal is taken by filing a notice of appeal with the Planning Director and paying the required appeal fee. Upon filing of a notice of appeal, the Planning Director shall within ten (10) days transmit to the Secretary of the Planning Commission all papers and documents on file with the Planning Director relating to the appeal and schedule the appeal for the Commission hearing.

(d) Registrant shall have the right to appeal any rescissions as prescribed in Ordinance 8.90.130 of the Trinity County Code.

**(8) Enforcement**

(a) Violation of this Ordinance constitutes a nuisance and is subject to fines and abatement pursuant to Ordinances 8.64 and 8.90 of the Trinity County Code.

(b) Summary Abatement.

i. Notwithstanding any other provision of this Chapter, when any unlawful Cannabis cultivation constitutes an immediate threat to the public health or safety, and where there is insufficient time to: (1) obtain an inspection warrant, and (2) comply with the abatement procedures set out in Chapter 8.64 of the Trinity County Code, to mitigate that threat; the Enforcement Official may direct any officer or employee of the County to summarily abate the nuisance.

ii. The County Enforcement Official shall make reasonable efforts to notify the owner and/or the alleged violator.

iii. The County may recover its costs for summarily abating the nuisance in the manner set forth in Chapter 8.64 and may include any costs on the property owner's tax bill.

**(9) Fees**

(a) The County shall collect from the applicant a regulatory Cannabis Cultivation Program Fee (hereinafter referred to as Fee) when an applicant applies for a registration of a Cannabis cultivation site with the Planning Department pursuant to this Ordinance.

(b) Such Fee shall fairly and proportionately generate sufficient revenue to cover the costs of administering, implementing and enforcing this Ordinance.

(c) The Cannabis Cultivation Program Fee is set at:

i. Type 1 and 1B MMRSA: $4,000 plus $1,000 toward the general plan update.

ii. Type 1C MMRSA: $2,000 plus $250 toward the general plan update.

iii. Type 2 and 2B MMRSA: $5,000 plus $1,000 toward the general plan update.

iv. Type 3 MMRSA: $8,000 plus $1,000 toward the general plan update

v. Cannabis Variance Fee: $751.

(d) Fees shall be paid thereafter annually prior to March 1st of each year.

(e) 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.

i. 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.

ii. 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.

**Section II:** 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.

**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 19th day of September, 2017, and passed and enacted this 3rd day of October, 2017, by the Board of Supervisors of the County of Trinity by motion, second (Morris/Groves), and the following vote:

| | |
|---|---|
| AYES: | Supervisors Groves, Morris, Chadwick and Fenley |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |
| RECUSE: | None |

JOHN FENLEY, CHAIRMAN
Board of Supervisors
County of Trinity
State of California

ATTEST:

MARGARET E. LONG
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM AND LEGAL EFFECT:

_____
Margaret Long, County Counsel