

**ORDINANCE NO. 315-816.EXT(A1)**

**AN URGENCY ORDINANCE OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF TRINITY  
ENACTING SECTION 32(O) OF THE  
ZONING ORDINANCE NO. 315 TO CREATE COMMERCIAL MARIJUANA  
CULTIVATION REGULATION**

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

**SECTION I.** This Urgency Ordinance is adopted pursuant to California Constitution, Article XI, Section 7, and Government Code Section 65858 and Government Code Section 25123.

This Urgency Ordinance is necessary for the immediate preservation of the public peace, health and safety by balancing the needs of medical patients and their caregivers with the needs of the community to be protected from public safety and nuisance issues associated with the cultivation of cannabis. Due to the passage of the Medical Marijuana Regulation and Safety Act (MMRSA) and the Adult Use of Marijuana Act (AUMA) in California, there is a concern that if left unregulated, there will be a substantial increase of marijuana activity in the County. This Application process is necessary to provide for additional enforcement capability by the County and limit further degradation of the environment.

**SECTION II. Purpose.**

The Board of Supervisors of the County of Trinity hereby States the Purposes of the Urgency Ordinance are as follows:

- (1) The needs of medical patients and their caregivers for enhanced access to medical marijuana;
- (2) The needs of the neighbors and communities to be protected from public safety and nuisance impacts;
- (3) The need to limit harmful environmental impacts that are sometimes associated with marijuana cultivation; and
- (4) The need to create an orderly process for legal marijuana business.

Nothing in this Chapter shall be construed to:

- (1) Allow persons to engage in conduct that endangers others or causes a public nuisance as defined herein;
- (2) Allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal under California State law; or
- (3) Allow any additional activity that would create significant impacts to the environment.

**SECTION III. Findings and Declarations**

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

- (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").
- (2) The intent of Proposition 215 was to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where 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. The Act 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 marijuana for non-medical purposes.”

- (3) The intent of AUMA is to allow the legal use of marijuana 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.
- (4) Local governments in California may restrict or completely ban commercial marijuana activities, except deliveries and transportation through local jurisdiction.
- (5) 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, enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects and to allow local governing bodies to adopt and enforce rules and regulations consistent with SB 420.
- (6) 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.
- (7) The right of qualified patients and their primary caregivers under State law to cultivate marijuana plants for medical purposes does not confer upon them the right to create or maintain a public nuisance.
- (8) Marijuana 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.
- (9) The strong smell of marijuana 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.
- (10) In recent years there has been an increased number of marijuana related incidents of burglary, robbery and armed robbery; some including acts of violence resulting in injury or death.
- (11) Marijuana 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.
- (12) The County also revised the definition of legal parcel for the purpose of this Chapter, from defining an unlimited number of contiguous parcels under common ownership or control as one parcel eligible for a single exemption, to defining any portion of a parcel with a separate Assessor’s Parcel number as a separate parcel, resulting in an individual owner of multiple contiguous parcels.
- (13) 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 medical or commercial reasons.
- (14) The State Water Resources Control Board (“SWRCB”), the North Coast Regional Water Quality Control Board (“NCRWQCB”) and the State Department of Fish and Wildlife (“SDFW”) have documented a dramatic increase in the number of marijuana 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, temporary human occupancy without proper sanitary or waste disposal facilities, and threaten the survival of endangered fish species. In addition, the actions of some marijuana 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.

- (15) 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.
- (16) Trinity County is negatively impacted and vulnerable to numerous large-scale, trespass commercial marijuana cultivation operations on public and private lands, yet law enforcement consistently estimates that each year they eradicate only a small fraction of these operations.
- (17) Effective enforcement is further hampered by conflicting local, state and federal laws which create ambiguity in determining which marijuana cultivation operations are legal or not, and whether those that are non-compliant ought to be subject to civil or criminal enforcement.
- (18) 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 medical marijuana 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.
- (19) Previous landmark marijuana legislation, including the Compassionate Use Act and the Medical Marijuana Program Act, have precipitated a "green rush" where individuals have moved to Trinity County to grow marijuana; some seeking to capitalize on ambiguities in the law, while others lack an awareness of community and environmental consciousness.
- (20) 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.
- (21) On November 8, 2016, voters approved AUMA to allow recreational use of marijuana by adults over the age of 21.
- (22) In the absence of a formal regulatory framework, marijuana 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 marijuana cultivators from those who threaten the public peace, health, safety and the environment.
- (23) The County finds that in the absence of a formal regulatory framework the negative impacts frequently associated with marijuana 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.
- (24) The County also has limited funding to provide code enforcement to limit harmful environmental impacts associated with marijuana cultivation. This Urgency Ordinance is intended to promote voluntary compliance with environmental regulations, which will allow the County to focus its code enforcement efforts on those other legal parcels where marijuana cultivation is causing the most significant degradation of the environment.
- (25) The County's two primary population centers are Hayfork and Weaverville, which contain more densely populated residential areas. The reduction of grows in these areas by the absolute prohibition of cannabis cultivation, unless the applicant for a County license has enrolled with the SWRCB by December 31, 2016, 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.

**SECTION IV.** In order to protect the public health, safety and welfare of the residents of the County of Trinity from a current and immediate threat, the County hereby enacts the following section 32(o) of the Trinity County Zoning Ordinance No. 315, as follows:

Sections:

- (1) Definitions
- (2) Application
- (3) Application Registration Requirements
- (4) Registration Phases
- (5) Limitation on Location to Cultivate Marijuana
- (6) Performance Standards for Commercial Cultivation of Marijuana
- (7) Denial/Rescission of Application
- (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 marijuana 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 marijuana 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) "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.
- (g) "Cultivation Area" means the sum of the area(s) of cannabis cultivation as measured around the perimeter of each discrete area of cannabis cultivation on single Legal Parcel, as defined herein, or as defined by the State Department of Food and Agriculture.
- (h) "Designated Area" means the area identified for potential cannabis cultivation.
- (i) "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.
- (j) "Indoors" means within a fully enclosed and secure structure.

- (k) "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 Chapter.
- (l) "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.
- (m) "Mixed Light" means a combination of natural and supplemental artificial lighting used for vegetative growth, at a maximum threshold to be determined by the California State Department of Food and Agriculture.
- (n) "Medical Marijuana" "Medical marijuana" means marijuana or marijuana plant used for medical purposes in accordance with California Health and Safety Code Sections 11362.7 et seq.
- (o) "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.
- (p) "Primary Caregiver" means a "primary caregiver" as defined in Health and Safety Code section 11362.7(d).
- (q) "Proof of Enrollment" shall mean Proof of Order number from the NCRWQCB.
- (r) "Proof of Residency" shall mean proof of residing in Trinity County for a period one year prior to application.
- (s) "Planning Department" means the Trinity County Planning Department, or department or agency that is designated by the Trinity County Planning Director.
- (t) "Qualified patient" means a "qualified patient" as defined in Health and Safety Code section 11362.7(f).
- (u) "Residential Treatment Facility" means a facility providing for treatment of drug and alcohol dependency.
- (v) "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.
- (w) "Summary Abatement" means the removal of an immediate threat to the public health or safety.
- (x) "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 must include a lockable gate.
- (y) "Variance" is defined as Trinity County Ordinance 315 section 31.
- (z) "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 marijuana plants within the guidelines of this chapter and state law. After receipt of a license, Applicants who cultivate pursuant to guidelines of this chapter 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 the cultivated square footage provisions in Type I and Type II of MMRSA and/or as defined by the State Department of Food and Agriculture.
- (b) Accepted applications shall be entitled to priority processing for future license applications. Acceptance for renewal of licenses shall begin February 1, 2017. 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 issuance of Water Board Permit.

- (c) Any permitting required under the future land use ordinance will require enrollment in the NCRWQCB Order #2015-0023 and Applicant must have been compliant with this requirement during the provisional Application period to develop a record of environmental compliance.
- (d) This Application does not guarantee that the Applicant will be considered compliant with any future land use ordinance.
- (e) This Application does not give the Applicant any property rights, and it is not a license or a guarantee that a license will be issued. Application Registration will be used to apply for licensing under the permanent land use ordinance or for a variance if licensing under the ordinance is not possible. Application does not equate to Non-conforming entitlement under any future land use ordinance and the Application is non-transferrable.
- (f) Applicants are ensured that their applications will be considered prior to any new application under the future land use ordinance.
- (g) Use of marijuana is not recognized under Federal law and Trinity County does not grant any right to violate federal law.
- (h) Should the State begin issuing cannabis cultivation licenses under MMRSA and/or AUMA before a permanent cannabis cultivation ordinance has been enacted in Trinity County, a cultivator of cannabis who is an Applicant pursuant to this Chapter and who can otherwise demonstrate consistent compliance with this Chapter, the County Code and all other relevant laws and regulations, may request from the Planning Department a validation stamp on his/her registration certificate so that such document may be used as evidence of local compliance for the purposes of Business and Professions Code §19322(a)(2). The County does not intend any cannabis registration document or certificate without a validation stamp to suffice as adequate documentation of local compliance for the purpose of applying for a State license under Business and Professions Code §19322(a)(2).
- (i) Notwithstanding any other provision of this Chapter, should the State begin issuing cannabis cultivation licenses under MMRSA and/or AUMA before a permanent cannabis ordinance has been enacted in Trinity County, the cultivator must file a complete application for the appropriate state license with the appropriate State licensing authority on or before January 1, 2018. Issuance of a County license does not guarantee the issuance of a State license.
- (j) Notwithstanding any other provision of this Chapter, a person participating in the cultivation of cannabis who is licensed pursuant to this Chapter, but who applies for and is denied a State license before a permanent cannabis cultivation ordinance has been enacted in the County, must immediately cease all cannabis cultivation in violation of the personal grow ordinance within the County until he/she successfully obtains the proper State cultivation license(s) under MMRSA and/or AUMA

### **(3) Application Registration Requirements**

- (a) Within sixty (60) days of adoption of this ordinance any person or entity cultivating commercial marijuana within Trinity County may register with the Trinity County Planning Department. Registration shall be on a form provided by the Trinity County Planning Department and, at a minimum, shall require the name and mailing address of the registrant; the location address, Assessor's Parcel Number and site map of the cultivation location.
- (b) All Applicants will be required to comply and provide the following:

- i. Proof of intent to comply with all County setback requirements.
  - ii. Proof of enrollment in good standing with NCRWQCB Order #2015-0023.
  - iii. Identify their intended commercial cultivation license of MMRSA and/or AUMA:
    - 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 a 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 a mixed-light between a 5,001 and 10,000 sq. ft. Area.
    - 6. All other license Types: – Not allowed at this time by the County of Trinity.
  - iv. Apply for and obtain a BOE Seller’s permit.
  - v. Employ only persons who are at least twenty-one (21) years of age and comply with all applicable state 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. Registrant cannot have been convicted of serious felony conviction or Schedule I, II or III Felony, excluding a non-serious felony conviction for sale, transportation or cultivation of marijuana, except if the conviction is on public lands. Registrants will have to declare this under penalty of perjury as part of their Application forms.
  - vii. Verification of proof of residency in Trinity County for a period one year prior to application by providing 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. Proof of at least one of the criteria described in (3)(b)(viii) 1- 5:
    - 1. Documents of incorporation.
    - 2. Documents of taxes paid to the State Board of Equalization.
    - 3. Proof of contracts with dispensaries.
    - 4. Receipt of a BOE Seller’s permit.
    - 5. Employer Identification Number.
  - ix. As a condition of registering any cannabis cultivation site pursuant to this Chapter, the Registrant 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.
  - x. If using a permitted well, a copy of the Trinity County well permit must be provided.
- (c) Only one Application countywide may be submitted per person/entity or per legal parcel.

- (d) Applicants consent to compliance inspections as part of their Application and Registration. 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.
- (e) All documents/plans/monitoring/inspections filed as part of enrollment become part of the County Application.

**(4) Registration Phases**

- (a) The County will allow a total of 500 registrants to enroll in this Application Program, based on the sequence of their compliance with NCRWQCB Order #2015-0023 and as outlined below:
  - i. Phase I – Consists of persons or entities who have completed enrollment in the NCRWQCB Order #2015-0023 in reference to a Trinity County based operation by August 01, 2016.
  - ii. Phase II – Consists of persons or entities who have completed enrollment in the NCRWQCB Order #2015-0023 in reference to a Trinity County based operation by December 31, 2016.
  - iii. Phase III – Consists of persons or entities who have completed enrollment NCRWQCB Order #2015-0023 in reference to a Trinity County based operation by March 01, 2017.
- (b) The County shall determine completed enrollment by receipt of a Proof of Order number.

**(5) Limitation on Location to Cultivate Marijuana.**

- (a) Application will not be allowed for cultivation of marijuana 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 five hundred (500) feet of an authorized school bus stop.
  - ii. In any location where marijuana plants are visible from the public right of way. Organic or landscape screening may be used to mitigate upon approval of the Planning Department.
  - iii. A legal parcel without a permitted/legal housing structure, or without an active building permit.
  - iv. 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.
  - v. Timber Production Zones (TPZ) with the exception made for qualified Phase I Applicants.
  - vi. Residential 1 (R1), Residential 2 (R2), or Residential 3 (R3) Zones.
  - vii. Within the legal boundaries of the Trinity County Waterworks District #1 in the Hayfork Valley, and the Weaverville Water District, and within the following area of the Lewiston Community Services District, Mt. Diablo Meridian, Township 33N, Range 8W, Sections 17, 18, 19, 20, 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 is made for applicants who have submitted an application for enrollment in NCRWQCB Order #2015-0023 by December 31, 2016 for the Trinity County



Waterworks District #1 and the Weaverville Water District and January 15, 2017 for the Lewiston Community Services District.

- (b) Designated Area shall not exceed 150% of the Area for the license type unless otherwise approved by the Planning Director. Cultivation will not be allowed within 350 feet of a residential structure on any adjoining parcels. Applications for a variance from this provision will be considered by the Trinity County Planning Commission.

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

- (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 marijuana plants in excess of the limitations imposed by this section or personal grow section.
- (b) The cultivation of marijuana shall not exceed the noise level standards as set forth in the County General Plan: 55db from 7:00 a.m. – 7:00 p.m. and 50db 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 must comply with all State Laws regarding surface water, including but not limited to, water used for the cultivation of marijuana needs to be sourced on-site from a permitted well or diversion. If using a permitted well, a copy of the Trinity County well permit must be provided. The cultivation of marijuana shall not utilize water that has been or is illegally diverted from any stream, creek, river or water source. If water is hauled it must be for emergencies, as defined as a sudden, unexpected occurrence, and a bill of sale must be kept on file from a Water District or legal water source.
- (d) The cultivation of marijuana shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water. If property has more than a 35% slope, the Registrant will need to apply for Tier 2 of the NCRWQCB Order #2015-0023.
- (e) All marijuana grown outdoors must be contained within Wildlife Exclusionary Fencing that fully encloses the immediate garden area. The fence must include a lockable gate that is locked at all times when a qualified patient or caregiver is not in the immediate 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.
- (f) All buildings where marijuana is cultivated or stored shall be properly secured to prevent unauthorized entry.
- (g) Any fuel, fertilizer, pesticide, fungicide, rodenticide, herbicide or other substance toxic to wildlife, children or pets, must 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 and the California Department of Pesticide Regulation.
- (h) Hazardous materials and wastes from agricultural businesses are regulated by the Trinity County Environmental Health Division, that administers the Hazardous Materials program as one of the Certified Unified Program Agencies (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 marijuana 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 commercialmarijuana 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 from 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. The cultivation of marijuana must comply with Cal Fire, Fish and Wildlife 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.
- (n) Applicant must 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.
- (o) The use of gas products such as, but not limited to, butane is prohibited, consistent with Zoning Ordinance No. 315-797.
- (p) 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 marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building.
- (q) All provisions of this Chapter shall apply regardless of whether the activities existed or occurred prior to the adoption of this Chapter.

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

- (a) Applicant's Application shall be denied or the approval of License rescinded if the County becomes aware that:
  - i. The Applicant/Registrant has provided materially false documents or testimony; or
  - ii. The Applicant has not complied fully with the provisions of this Chapter, including any of the requirements of NCRWQCB Order #2015-002 ; or
  - iii. The operation as proposed by the Registrant, if permitted, would not have complied 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) Registrant 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 Chapter 8.90.130 of the Trinity County Municipal Code.

- (e) Any and all Applicants, pursuant to this Chapter shall, without further notice, automatically terminate and be rendered invalid sixty (60) calendar days after a permanent cannabis cultivation ordinance takes effect in Trinity County, by which time all cannabis cultivation sites shall comply with the terms of such permanent ordinance.

**(8) Enforcement**

- (a) Violation of this Chapter constitutes a nuisance and is subject to fines and abatement pursuant to Chapters 8.64 and 8.90 of the Trinity County Municipal Code.
- (b) Summary Abatement
  - i. Notwithstanding any other provision of this Chapter, when any unlawful marijuana 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 Registrant 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 Chapter.
- (b) Such Fee shall fairly and proportionately generate sufficient revenue to cover the costs of administering, implementing and enforcing this Chapter.
- (c) The Cannabis Cultivation Program Fee is set at:
  - i. For 2016 Licenses:
    - (1) Type 1 MMRSA: \$2,000.00 plus \$1,000 towards the general plan update.
    - (2) Type 2 MMRSA: \$2,500.00 plus \$1,000 towards the general plan update.
  - ii. For Licenses After 2016:
    - (1) Type 1 and 1B MMRSA: \$4,000.00 plus \$1,000 towards the general plan update.
    - (2) Type 1C MMRSA: \$2,000.00 plus \$250 towards the general plan update.
    - (3) Type 2 and 2B MMRSA: \$5,000.00 plus \$1,000 towards the general plan update.
  - iii. Marijuana Variance Fee: \$751.
- (d) Fees shall be paid thereafter annually prior to March 1<sup>st</sup> of each year.
- (e) The above Fee amounts are not anticipated to fully cover the cost of administering this Chapter; however, within twelve months of adoption of this Urgency Ordinance, the County may conduct a fee study to determine the total cost of administering this Chapter.
  - 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 Chapter the County shall decrease the Fee by way of resolution and shall also reimburse Applicants their proportional share of any overpayment.

- (10) As a condition of Applying pursuant to this Chapter, 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.

**SECTION V.** This ordinance is an interim ordinance adopted as an urgency measure pursuant to Government Code section 65858, and it shall be of no further force and effect forty five (45) days from its date of adoption, unless it is extended by further action of the Board of Supervisors, pursuant to Section 65858.

**SECTION VI.** The County finds that this Chapter is not subject to the California Environmental Quality Act (CEQA) pursuant to sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

Further, this ordinance is an interim Urgency Ordinance and is exempt from CEQA pursuant to the provisions of Public Resources Code section 21080, subdivision (b)(4) and California Code of regulations, title 14, sections 15307 and 15308.

**SECTION VII.** The Board of Supervisors declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion of it, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions of it be declared invalid or unconstitutional. If for any reason any portion of this ordinance is declared invalid or unconstitutional, then all other provisions of it shall remain valid and enforceable.

Introduced at a special meeting of the Board of Supervisors held on the 30th day of August 2016, and passed and enacted this 30th day of August 2016, by the Board of Supervisors of the County of Trinity by motion, second (Morris/Fenley), and the following vote:

AYES:	Supervisors Fenley, Morris, Groves, Burton and Fisher
NOES:	None
ABSENT:	None
ABSTAIN:	None
RECUSE:	None

Introduced extension at a special meeting of the Board of Supervisors held on the 13th day of October 2016, and passed and extended this 13th day of October 2016, by the Board of Supervisors of the County of Trinity by motion, second (Morris/Fenley), and the following vote:

AYES:	Supervisors Fenley, Morris, Groves, Burton and Fisher
-------	---

NOES: None  
ABSENT: None  
ABSTAIN: None  
RECUSE: None

Adopt amendments at a special meeting of the Board of Supervisors held on the 21th day of December 2016, by the Board of Supervisors of the County of Trinity by motion, second (Fenley/Morris), and the following vote:

AYES: Supervisors Morris, Fenley, Groves and Fisher  
NOES: Supervisor Burton  
ABSENT: None  
ABSTAIN: None  
RECUSE: None

---

L. KARL FISHER, CHAIRMAN  
Board of Supervisors  
County of Trinity  
State of California

ATTEST:

MARGARET E. LONG  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy