

Trinity County - Analysis on License Stacking Policy

Trinity County's Cannabis ordinances have contained some interesting changes between their original drafting in 2017, through the most recent draft in 2019. The analysis below examines an applicant's ability to stack licenses and questions which version of the ordinance ought to be used as the basis of the analysis.

- Horizontal stacking of licenses could be defined as "the ability to be issued multiple cultivation license to an individual or corporation but limited to one license per parcel."
- Vertical stacking, a close relative of horizontal stacking, could be defined as "multiple licenses issued to an individual or corporation on a single parcel."

Horizontal and vertical stacking were expressly forbidden in the original 2017 version (315-823) of the cultivation ordinance and was removed without a public comment or official Board of Supervisors vote (315-843).

★ How did this **major** policy change happen?

For context, the County of Trinity established their current cannabis cultivation licensing program on October 3, 2017, under [ordinance 315-823 dated October 3, 2017](#). The ordinance has been amended four times:

1. [315-829 dated February 6, 2018](#)
2. [315-830 dated March 6, 2018](#)
3. [315-841 dated September 18, 2019](#)
4. [315-843 dated February 20, 2019](#)

When analyzing this ordinance subsections, the original ordinance 315-823 dated October 3, 2017 against the four ordinance amendments, inconsistencies begin to emerge that are outlined below:

[Ordinance No. 315-823 – October 3, 2017](#)

3.b. "Only one application countywide may be submitted per person/entity or per legal parcel." This policy forbids the stacking of licenses.

3.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."

[Ordinance No. 315-841 – September 18, 2018](#)

3.c is amended to include Self-Transport by right. "All licensed cultivators within Trinity County can Self-Transport their own product to licensed distributors and/or manufacturers as permitted by State law. Cultivators must obtain the appropriate State license permitting Self-Transport within ninety (90) days of receiving permission from the County. Cultivators must indicate on their Trinity County

application that they would like permission to Self Transport. If so designated in the application, there will be no additional fees."

No change to **3.b.**

315-823 3.c. is not addressed as being removed or relocated to another section... it is only overwritten by the new Self-Transport section. Does this remove the County's ability to conduct inspections per 315-823 3.c.?

[Ordinance No. 315-843 – February 20, 2019](#)

3.b. is now changed to read the original text of **315-823 3.c.** to permit inspections, "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."

3.c. remains Self-Transport as was amended in 315-841.

Findings

Our analysis identifies two key points with regard to the County of Trinity's commercial cannabis program. The first is an omission from the most current cultivation ordinance (315-843 - February 20, 2019) of language limiting both horizontal and vertical stacking of licenses, either per person/entity, or per legal parcel.

The specific language from Ordinance No. **315-823 3.b.** – October 3, 2017 regarding stacking of licenses reads, "Only one application countywide may be submitted per person/entity or per legal parcel." **This language is no longer part of the cultivation ordinance.**

Originally, we interpreted this analysis as allowing horizontal stacking, upon further review, it appears that **both horizontal and vertical stacking of licenses is now allowed.** Since the EIR Notice of Preparation (NoP) was issued on December 21, 2018 and is based on the "current ordinance" does that mean stacking should, or shouldn't be included in the EIR?

The second point concerns the timing of the Trinity County EIR NoP for the commercial cannabis program. The EIR NoP was issued on December 21, 2018, and therefore uses the "current ordinance" [Ordinance No. 315-841 – September 18, 2018](#), which does not contain language allowing the county to perform inspections for the cannabis program. If the EIR analysis does indeed rely on 315-841, does the EIR **analyse the ability of the program to exist without County inspections?**



Scott Watkins, MBA MPP
575 Main St. #3 Weaverville, CA 96093
530-953-5763
Buildaberg.com

*The information provided in this analysis does not, and is not intended to, constitute legal advice; instead, all information, content, and materials available in this analysis are for general informational purposes only. Readers of this analysis should contact their attorney to obtain advice with respect to any particular legal matter.