

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA
RESOLUTION NO. 2019-124

RESOLUTION ADOPTING RECOMMENDATIONS TO ADDRESS FIRE SAFE
REGULATIONS APPLICABLE TO OUTDOOR CANNABIS CULTIVATION

WHEREAS, Senate Bill 94 was enacted into law in 2017, establishing a single system of administration for cannabis laws in California and clarifying that local fire officials retain the authority to carry out fire and life safety requirements; and

WHEREAS, authorities having jurisdiction, such as local fire officials, are charged with safeguarding public safety by regulating the use of real property to protect against the exposure to fire and explosion hazards which may result from that use; and

WHEREAS, in addition to local regulation, Public Resources Code sections 4290 and 4291 provide for the implementation of minimum fire safety standards on certain real properties described in those code sections; and

WHEREAS, Public Resources Code section 4290 applies to the perimeters and access to all residential, commercial, and industrial building construction within state responsibility areas approved after January 1, 1991, and within lands classified and designated as very high fire hazard severity zones as defined in subdivision (i) of section 51177 of the Government Code after July 1, 2021; and

WHEREAS, Public Resources Code section 4291 applies to buildings and structures in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land covered with flammable material; and

WHEREAS, SRA (State Responsibility Area) Fire Safe Regulations, sections 1270, et seq., implement the requirements of Public Resource Code sections 4290 and extend the scope of those requirements to specified pre-development activities; and

WHEREAS, Section 1270.02 (a) of the SRA Fire Safe Regulations extend the application of Public Resources Code sections 4290 to all tentative and parcel maps or other developments approved after January 1, 1991 and to applications for building permits on parcels approved in pre-1991 parcel or tentative maps to the extent that conditions relating to the perimeters and access to the buildings were not imposed as part of the approval of the parcel or tentative maps; and

WHEREAS, pursuant to subdivision (c) of Section 1270.02 of the SRA Fire Safe Regulations affected activities include approval of new parcels, applications for a building permit for new construction, application for use permit, siting of manufactured homes, and road construction. Roads used solely for agriculture or mining use are exempt; and

WHEREAS, the CalCannabis Cultivation Licensing Division of the State Department of Food and Agriculture (CDFA), is responsible for the regulation of commercial cannabis cultivation in the State of California and that agency acknowledges that the word “commercial” refers to the nature of the cannabis production or operation as for-profit; and

WHEREAS, the CDFA, citing to Food and Agricultural Code sections 564 and 54004, nonetheless has deemed the cultivation of cannabis to be an agricultural activity; and

WHEREAS, Lake County's local law is consistent with the interpretation of the State Department of Food and Agriculture in that Section 68.4 of (a) (14) of the Lake County Zoning Ordinance defines "agricultural use" as the tilling of soil, the raising of crops, horticulture, silviculture, viticulture, aviculture, aquaculture, apiculture, livestock grazing, the raising of small animals and poultry, domestic livestock farming, dairying, and animal husbandry; and

WHEREAS, despite the recognition of outdoor cannabis cultivation as an agricultural activity, it is nonetheless distinguished by both state law and the Lake County Zoning Ordinance from other types of agriculture because of the federal classification of cannabis as a Schedule I drug, the security concerns associated with a high value crop, and the unique characteristics of the cannabis cultivation operations which authorize licensing, permitting, and taxation of commercial cannabis cultivation; and

WHEREAS, outdoor cannabis cultivation operations have considerable similarity to all other agricultural operations presently ongoing in the State of California such that those similarities should be considered in devising appropriate fire safety measures; and

WHEREAS, the Board of Supervisors interprets existing state and County law regarding outdoor cannabis cultivation such that Public Resources Code sections 4290 and 4291 have no different and/or greater application to outdoor commercial cannabis cultivation operations than to any other agricultural activity; and

WHEREAS, the Board of Supervisors wishes to incorporate into its minor and major use permitting procedures, a protocol at the pre-application stage for a cannabis cultivation permit, whereby the County Fire Official and the County Fire Protection District within which said operation will be/is located will be invited to participate to discern, and to inform the permit applicant of, the applicable fire safety measures.

NOW, THEREFORE, BE IT RESOLVED that the County Board of Supervisors hereby finds and declares the following:

1. The Board of Supervisors acknowledges and agrees that the requirements of Public Resources Code section 4290 and the SRA Fire Safe Regulations implementing that code section are applicable to properties within the SRA containing residential, commercial, and industrial building construction, to all tentative and parcel maps or other developments approved after January 1, 1991 and to applications for building permits on a parcel approved in a pre-1991 parcel or tentative map to the extent that conditions relating to the perimeters and access to the buildings were not imposed as part of the approval of the parcel or tentative map.
2. It is the recommendation of this Board to the County Fire Official and to all Fire Protection Districts in Lake County that outdoor cannabis cultivation be recognized as an agricultural activity in the application of Public Resources Code sections 4290 and 4291 and the SRA Fire Safe Regulations, subject to the same requirements imposed upon, and the exemptions allowed for, any other agricultural activity.

3. That this Board intends this Resolution to be applicable solely and only to outdoor commercial cannabis cultivation. This Resolution does not address and is not intended to address any other cannabis-related activity, process, and/or enterprise.
4. That the Lake County Community Development Department (CDD) include both the County Fire Official and the applicable County Fire Protection District as invitees to any pre-application meeting convened by the CDD relating to a commercial cannabis cultivation use permit. This will provide a forum to fully inform the permit applicant of any and all fire safety obligations at the earliest opportunity to do so.
5. That this Board intends only to extend these recommendations to the County Fire Official and to the County Fire Protection Districts, but in no way wishes to subvert or challenge the critical determinations made by them in establishing wildfire protections within an SRA. The Board recognizes and agrees that wildfire protections deserve the highest priority.
6. That this Board acknowledges that it is imperative as a matter of public health, safety, and welfare that Lake County emergency first responders have reasonable access to properties throughout the unincorporated area of the County.
7. That this Board directs County staff to develop comprehensive special road standards for outdoor cultivation of cannabis to ensure reasonable access to emergency first responders.

THIS RESOLUTION WAS PASSED AND ADOPTED by the Board of Supervisors of the County of Lake, State of California, at a regular meeting thereof on August 27, 2019 by the following vote:

AYES: Supervisors Simon, Sabatier, Crandell, Brown and Scott

NOES: None

ABSENT OR NOT VOTING: None


 CHAIR, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON
 Clerk of the
 Board of Supervisors

APPROVED AS TO FORM:

ANITA L. GRANT
 County Counsel

By: 

By: 



1 **BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA**

2 **ORDINANCE NO. 3132**

3 AN ORDINANCE AMENDING CHAPTER 5, SECTION 6 OF THE LAKE COUNTY CODE,
4 ADDING SECTION 6.25 RELATING TO PERMITTING TEMPORARY HOOP STRUCTURES
5 FOR COMMERCIAL CANNABIS

6 **WHEREAS**, California Business and Professions Code §26051.5(a)(8) states that all cannabis
7 cultivators are required to apply to the state as an agricultural employer, and California Business and
8 Professions Code §26060(a)(1) states that cannabis is an agricultural product giving Lake County
9 Cannabis Cultivators the ability to apply for Agriculture-Exempt Structures under the Lake County
10 Ordinance; and

11 **WHEREAS**, the Board of Supervisors desires to add Section 6.25 to Chapter 5, of the Lake County
12 Ordinance to allow for permitting of temporary hoop structures for commercial cannabis; and

13 **WHEREAS**, the 2022 California Building Code, Title 24, Part 2, Section 104.1 authorizes the
14 building official to render interpretations of this code and adopt policies and procedures in order to
15 clarify the application of its provisions, in compliance with the intent and purpose of the code; and

16 **WHEREAS**, the 2022 California Building Code, Title 24, Part 2, Section 105.2(10) allows for
17 exemption from permit requirements for shade cloth structures constructed for nursery or agricultural
18 purposes, not including service systems; and

19 **WHEREAS**, in furtherance of that intention, this Board has presented the adopted Resolution of
20 Intention (RES) 2022-122 and draft amendments of the Lake County Code to the Lake County
21 Cannabis Ordinance Task Force, the Lake County Agriculture Advisory Board, and Planning
22 Commission for a recommendation of approval, approval with conditions or modifications, or denial
23 of said amendments; and

24 **WHEREAS**, RES 2022-122 was reviewed by the Cannabis Ordinance Task Force, with
25 recommendations approved at their meeting on January 23, 2023; the Agriculture Advisory Board for
26 discussion and recommendations on February 27, 2023, and the Planning Commission for
27 consideration and recommendation, in a noticed public hearing on April 13, 2023, and their
28 recommendations are incorporated into the amendments below.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE
 DOES ORDAIN AS FOLLOWS:**

Section One:

 Subsection 6.25 is hereby added to Chapter 5, Section 6, of the Lake County Code to read as follows:

 “6.25 Temporary Hoop Structures for Commercial Cannabis

 An Exempt Agricultural Building Permit for Temporary Hoop Structure(s) greater than five
 feet in height for Commercial Cannabis may be issued with the approval of the Agriculture
 Commissioner, and Community Development Director, and subject to the following
 requirements:

 1. Permit

 a. An Exempt Agricultural Building Permit is applied for by the property owner or
 authorized agent with the following:

 i. Complete Exempt Agricultural Building Permit Application;

- ii. Detailed site plan, including proposed location of structure and all other structures and their uses, and/or cultivation areas on parcel;
 - iii. Detailed elevations of the proposed structures, including proposed anchoring.
 - iv. Project Description, including proposed dates of usage, not to exceed 180 days from date of issuance of permit, and plans for removal and storage of structures outside the use dates; and adherence to applicable State statutes, regulations, guidelines, and the Department of Cannabis Control (DCC) regulations for Temporary Hoop Structures for Cultivation, as amended.
- b. Concurrently with the Exempt Agricultural Building Permit Application, the Applicant shall submit a Demolition Permit Application, for removal of the temporary hoop structures no later than 180 days from the issuance date of both permits with payment of the applicable fees.
 - c. Applicants with an approved Cannabis Cultivation permit from the County of Lake are eligible to apply for an Exempt Agricultural Building Permit for Temporary Hoop Structures for Commercial Cannabis within the approved Cultivation Area.
 - d. Structure(s) shall comply with all Base Zoning District, and applicable Combining and Overlay District requirements of the Lake County Zoning Ordinance.
 - e. An applicant applying for an Exempt Agricultural Building Permit for Temporary Hoop Structures for Commercial Cannabis, as described in this Section, is responsible for obtaining any other necessary State and/or County permits and complying with all requirements of such permits, including, but not limited to, any local fire district permitting requirements for temporary structures.
 - f. An applicant applying for an Exempt Agricultural Building Permit for Temporary Hoop Structures for Commercial Cannabis, as described in this Section, shall obtain and provide to the Community Development Director proof of a current surety bond prior to issuance of permit.
 - i. Minimum requirement of five thousand dollars (\$5,000.00) for cultivation of less than 10 acres of canopy area.
 - ii. Minimum requirement of ten thousand dollars (\$10,000.00) for cultivation of equal to or more than 10 acres, and less than 25 acres of canopy area.
 - iii. Additional one thousand dollars (\$1,000.00) per acre of surety bonds for cultivation sites equal to or larger than 25 acres of canopy area.

2. Hoop Structure Design and Development Guidelines

- a. An Exempt Agricultural Building Permit for a Temporary Hoop Structure for Commercial Cannabis shall be issued subject to the following:
 - i. The structure is made entirely of PVC or tubing of similar weight, and a maximum of 10 mil plastic or shade cloth.
 - ii. Maximum height 12 feet, maximum width 20 feet, maximum length of 150 feet.
 - iii. There is a maximum of 75 feet from any point in the structure to an exit and a minimum of two exits one at each end.

- iv. There is a 36” wide path of travel to each exit.
- v. Nothing is supported by the structure other than the plastic cover or shade cloth.
- vi. Multiple structures have a three foot minimum fire separation distance between structures.
- vii. The structure must be no less than 50 feet from a dwelling.
- viii. There is no mechanical, electrical or heat producing equipment installed, or operating, in the structure.
- ix. Plumbing components are limited to irrigation piping and distribution.
- x. No CO2 enrichment is present.
- xi. Hoop structures are only allowed in connection with an allowable use or permitted use within the property’s base zoning district.
- xii. Both ends of every hoop structure need to be securely embedded a minimum of 12” into soil.
- xiii. Plastic or shade cloth shall be removed and properly stored or disposed of at any time hoop structures are not in use for the defined allowable use.
- xiv. Hoop structure(s) shall be removed when no longer being used for the defined allowable use, in compliance with the required Demolition Permit.”

Section Three:

The proposed ordinance is exempt under CEQA Guidelines section 15304. The addition of temporary structures can be deemed a Class 4 CEQA exemption which “consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes.” Section (e) of this CEQA exempt class allows for “minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sales of Christmas trees, etc.”

Section Four:

This ordinance shall take effect thirty (30) days after its adoption and before the expiration of fifteen days after its passage, the Clerk to the Board of Supervisors shall publish a summary of the ordinance with the names of those supervisors voting for and against the ordinance and the clerk shall post in the office of the Clerk to the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those supervisors voting for and against the ordinance.

The foregoing ordinance was introduced before the Board of Supervisors on the 9th day of May, 2023, and passed by the following vote on the 16th day of May, 2023.

AYES: Supervisors Simon, Sabatier, Crandell, Green, and Pyska

NOES: None

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ABSENT OR NOT VOTING:

COUNTY OF LAKE

Jessica Pyska
Jessica Pyska (May 17, 2023 12:32 PDT)
Chair, Board of Supervisors



ATTEST: SUSAN PARKER

Johanna DeLong
Johanna DeLong (May 17, 2023 13:00 PDT)
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

LLOYD GUINTIVANO