

August 31, 2023

To: Andrew Amelung cc: Cannabis@LakeCounty.gov

Thank you for the opportunity to review:

IS 23-13 AGRICULTURE-EXEMPT & TEMPORARY CANNABIS PROCESSING STRUCTURES ORDINANCE

Cannabis Processing

Up until now, the focus and discussions of the proposed ordinance included temporary storage and drying due to difficulties getting PG&E electric hookups. It did not include processing, which was considered a Factory Occupancy. In fact, the attached discussion (pg 4) between the LCCA, Farm Bureau and Fire Protection District subcommittee details this and provides direction on storage and drying - only.

The Initial Study now includes - and is centered around - processing. Section 3.2 Environmental Setting details declining market prices and continued illegal cannabis grows forcing legal cannabis operators to conduct code violations as they can not afford to build their processing facilities. It appears to now allow temporary structures - including small 20 ft storage containers - to be used as work facilities, without initial feedback or discussion from appropriate agencies.

Could you please clarify this?

Cumulative Effects

We would like to see an analysis of cumulative effects in the County of the installation and demolition of Temporary Structures during the proposed 60 day period per year for a max of three years.

The current recommendation increases the AG-exempt and temporary structure square footage from 5% to 10% of the canopy area. According to the most recent Cannabis Spreadsheet distributed from CDD, approved outdoor cannabis canopy totals roughly 17,500,000 square feet; 10% of this would be 1,750,000 square feet - or potentially thousands of structures.

This does not include an additional 16,500,000 SF of cannabis projects currently undergoing CEQA and Planning Commission review.

The Initial Study states the structures will be removed after 60 days, but it does not say where they will be removed to. Off-site? Another part of the property?

Please include a discussion on the estimated number of structures, impact of moving them in and out, estimated number of generators, and the cumulative effects.

Generator Usage

4.3b: Air Quality and 4.8a Greenhouse Gas Emissions.

"... generators that are less than 50 hp do not typically require permits from CARB however can only be used for emergency use as defined in CARB regulations or limited use considered to be less than 80 hours per year."

Does this mean the County will require all generators used be at least 50 hp, and if not, would there be a

program to monitor hour usage.

Additionally, a number of approved Cannabis COUs - which have gone through the public process - specifically prohibited the use of generators as part of the mitigations. How are these affected?

Aesthetics

Tents should be neutral in color - white wedding tents, etc., should not be allowed.

I look forward to seeing your answers to these comments.

Holly Harris, Clearlake Oaks

Ag & Drying Structures Recommendations from the Lake County Cannabis Alliance

December 8, 2022

To: Lake County Cannabis Task Force

From: Jennifer Smith, Lake County Cannabis Alliance

Timeline: As the Task Force considers the following recommendations, we would like to emphasize the importance of getting clarity about cultivation and drying structures as close to the beginning of 2023 as possible, in order to align Lake County's policies with new changes in State law, and to set operators up for success in the coming year.

Farmers begin planning next year's season now, and lead time is required to:

- Modify your farm plan based on regulations
- Update site plans with the County and the State, as needed
- Invest in and build infrastructure
- Order clones and prepare the soil for planting
- Hire & train staff

We have addressed the proposed topics in three distinct sections: Ag Exempt Buildings, Agricultural Hoops for Cultivation Only, and Temporary Drying Structures, as each has unique regulations and applications.

1) Ag Exempt Buildings

Action Already Taken – The task Force voted on the following recommendations:

- a) No change to the current ag-exempt structure definition
- b) No electrical allowed on ag-exempt buildings
- c) Cannabis operators shall be allowed to utilize ag-exempt qualifying structures based on and in line with current definitions

With the understanding that processing shall not occur in these buildings, as it is not a permitted use.

2) Agricultural Hoops for Cultivation Only

The following recommendations seek to align Lake County regulations with new State regulations regarding the use of hoops in Outdoor Cultivation with the goal of BOS adoption before the end of 2022.

- a) Ag Exempt Hoops for Cultivation

Currently, Cannabis Cultivation is not considered an Ag Exempt process as defined in the Exempt Agricultural Building Permit Application. Cultivation is considered a process and an Ag Exempt

building shall not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged. Impact mitigation fees will be paid for all permanent hoop houses, and an operational permit will be required for all temporary hoop houses with fines in place for any hoop house not removed by the end of the temporary operational period.

- i) Align local regulations with the new State of California definition of outdoor cultivation which allows for the use of hoop houses without artificial light.
- ii) Materials: Allow for the use of removable light frame plastic or metal frames to support agricultural best practices and reduce plastic waste/environmental impact. Language mirroring Santa Cruz County's language on hoop houses is recommended, as they allow comparable cultivation operations and a long history of berry hoop cultivation:

Agricultural shade structures less than 12 feet in height are constructed of light frame materials and covered with shade cloth or clear, flexible plastic with no significant associated electrical, plumbing, or mechanical equipment, other than irrigation equipment.

We agree with the materials being proposed and to mirror the language found in Santa Cruz County for hoop houses.

Hoop buildings being utilized for cultivation would require appropriate permitting (minor/major). Any structure where cultivation or processing occurs cannot be classified as an ag exempt structure.

There are guidelines in place already and in use for ag exempt cultivation hoops. This discussion is regarding cultivation hoops only.

iii) Fire Safety:

Roads:

- (a) Compliance with 4290 Road Standards
- (b) Require an access road around the entire cultivation site
- (c) For access within the cultivation area, consider requiring a 10 foot row every 150 feet instead of large spacing between every hoop row for efficient farm design and access.

Would like to discuss in person/zoom meeting proposed idea for hoop house spacing. Have another solution that may benefit everyone involved. I have attached a PDF copy of my proposed idea for review. My proposal is that you have a minimum of 3 feet spacing in between hoop houses, per the fire code this is the minimum corridor width. Each area of the cultivation area or area where hoop houses will be placed shall be considered a "structure." In the sense that the 3 feet spacing between the hoop houses will serve as the exit access corridors, the maximum travel distance from any one point of a structure to an exit is 100 feet per the California Fire Code.

Egress corridors must end in a 4290 approved road for access and evacuation. As long as the maximum travel distance is not exceeded, and 3 feet of clear unobstructed space is maintained between hoop houses, then hoop house configuration can be approved. If egress exceeds 100 feet or space between hoop houses is less than 3 feet approval will not be granted. If at anytime one of this exit pathways has anything blocking it fines may be issued as well as a stop work order. In the PDF I have attached (not to scale) I have made each hoop house 20 feet by 90 feet with 3 feet spacing in between and a 4290 compliant road around each cultivation area.

Access to water:

(d) Dedicated water source for fire prevention and suppression

(e) Compliance with NFPA flow rate standards

Agree with the Fire Safety Standards being proposed. Water supply must be accessible by Fire Department Personnel, in the event that this is a large project, multiple standpipes/hydrants may be required throughout the area to allow for adequate access. Appendix B, Appendix BB, Appendix C, and Appendix CC of the Current Edition of the California Fire Code addresses Fire Flow Requirements for Buildings as well as Fire Hydrant Locations and Distribution respectively. Would also like to require the installation of a Knox Box for Fire Department access if any part of the premise is going to be locked as stated in Section 506 of the California Fire Code.

b) Allow Temporary Hoops with pathway to Permanent/Seasonally Recurring Ag Structures:

- i) Enable a pathway for people to convert temporary hoops to permanent permitted structures via over the counter Temporary Permit
- ii) Require that any and all power/electrical used in Temporary Ag. Structures be sourced from a permitted power source.

Notes: For some operations, power is necessary for cooling fans, as is standard agricultural practice for other crops. Allow the use of permitted, compliant generators or small solar for a transitional period of 2 -3 years for Temporary Ag Structures to allow setup and installation of grid-tied power.

- iii) Restrict the use of permitted, compliant generators for a transitional period of 2-3 years for Temporary Ag Structures to allow setup of grid-tied power or small solar or other off-grid solutions.

Notes: A transitional period is essential due to delays in getting PGE power drops. It is recommended to mirror the DCC requirements for generators which are found (in part) in section 16306 of the DCC Regulations.

Open to discussing how to proceed with a pathway to convert temporary hoops to permanent permitted structure. Quality of materials to be upgraded to metal from PVC, fire resistant materials, etc.

Power/Electrical, currently as of the 2019 California Fire Code the use of portable generators is not defined. However, with the upcoming 2022 California Fire Code that goes into effect on

January 1, 2023 Portable as well as Stationary Generators are addressed. All portable power sources will be in compliance with Chapter 12 of the 2022 California Fire Code or the current code edition in effect, as well as any other codes or standards that address this. Agree that this is for a temporary use and that this will be only until grid-tied power can be achieved. The California Building Code and the California Electrical Code will be consulted as well as any other applicable codes and standards for the installation of wiring or installation of generators. Adequate clearance will be provided around the generator as determined by the fire code official having jurisdiction. Generators will be subject to being on plans in an approved location and will be required to remain in that location, moving of generator from approved locations will result in fines as determined by the fire code official. Operational permits may be required for the use of generators in lieu of permanent power due to the increased hazard.

3) Temporary Drying Structures for Cannabis Processing

Allow the use of Tents, Containers, and Hoop Houses for Temporary Drying Structures. Various structures will be best suited for different parcels and allowing a variety of options will ensure compliance and safety.

Allow the use of temporary drying structures for Cannabis. Do not approve temporary structures for processing. Drying would be considered a Storage Occupancy, any processing of Cannabis becomes a Factory Occupancy and would have different requirements in the California Fire Code. Drying and Processing to be two separate structures, if processing to occur in the same structure as drying then the more strict hazard will be applied. In this case it would be a Factory Occupancy and a permanent structure would be required.

Processing should not occur in a temporary structure. Temporary structures are to be utilized for drying only.

The state definition of Processing is below. These structures are specifically for DRYING. All other steps will need to occur in appropriately designated and permitted structures.

ab) "Process," "Processing," and "Processes" means all activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of nonmanufactured cannabis products.

a) Hoop Houses

- i) Hoops are structurally very similar to tents and will generally have a smaller environmental impact than shipping containers and also allow for more versatility in terms of temporary placement and design. Many cannabis parcels have unique geography and therefore require nuanced farm design.
- ii) Require that the structure is made of removable light frame plastic or metal as defined above:

Agricultural shade structures less than 12 feet in height constructed of light frame materials and covered with shade cloth or clear, flexible plastic

- iii) Maximum height 12', Maximum width 20', maximum length of 100', and a maximum total square footage per hoop of 2,000 square feet.
- iv) 36" wide path of travel to each exit with a minimum of 2 exits, one at each end.

b) Tents

- i) Allow the use of general purpose tents as temporary drying structures defined as: a shelter consisting of heavy fire-resistant canvas material draped over and attached to a frame of poles
- ii) Height no greater than 16 feet

c) Shipping Containers

- i) Restrict the use of Temporary Shipping Containers for drying purposes to one calendar year, and require a Permanent County Permit (issued or in progress) or removal after that date. The current zoning ordinance allows for the permanent placement of commercial shipping or cargo containers on properties so long as the containers meet County regulations.

d) Power Supply

- i) Require that any and all power/electrical used in a Temporary Drying Structure be sourced from a permitted power source.
- ii) Restrict the use of permitted, compliant generators for a transitional period of 2-3 years for Temporary Drying Structures to allow setup of grid-tied power or small solar or other off-grid solutions.

Notes: A transitional period is essential due to delays in getting PGE power drops. It is recommended to mirror the DCC requirements for generators which are found (in part) in section 16306 of the DCC Regulations.

- iii) Restrict permitted electrical installations to 200 amps per Temporary Drying Structure.

See Generators as discussed earlier in this document.

Discuss the feasibility of utilizing a storage container as a "temporary structure". Concern over how temporary these would be.

Goal is to transition from temporary dry facilities to permanent within (2) years. Depending upon the cultivation style, drying occurs 1-2 times per year.

e) Setbacks:

- i) Temporary Drying Structures shall have a fifty (50) foot setback from a proper line regardless of the size of the parcel
 - ii) Temporary Drying Structures shall have a forty (40) foot setback from a primary residence.
 - iii) Temporary Drying Structures shall have a ten (10) foot setback from all other structures
 - iv) Temporary Drying structures shall not be attached to an already existing structure or building not designated "Agricultural Exempt"
- f) Size: Limit the total square footage of drying structures to 10% of the parcel size. (This is the standard calculation for drying/processing space needed for agriculture operations.)

10%? Of 10 acres would be 1 acre, etc. Too large.

Believe this to be a typo and we would be able to work with 10% of canopy with an ability for exemptions.

- g) Penalties: Violation of the temporary ag structure ordinance shall be a civil violation subject to fines.
- h) Allow review and permitting of ag-exempt and temporary structures concurrently with cannabis permit approval to ensure operational compliance.

Fire Districts:

- Fire Extinguishers will be required in accordance with Section 1204.10 of the current edition of the California Fire Code for portable generators, as well as in accordance with Chapter 9 of the current edition of the California Fire Code as required.
- Would like to request a site plan be posted or made available to responding personnel in the event of an emergency.

Additional Questions for Task Force Discussion:

- Will any of the proposed changes require additional CEQA/environmental review?
 - Will there be fuel storage on site for generators and other equipment requiring fuel? How and where will this be stored, secondary containment, etc.
- Which department shall issue permits for Temporary Ag structures?
- Could the Agricultural Hoops section qualify for an Urgency Ordinance based on 1) changes to state law and 2) Fire Safety concerns – legal question

- Is Cannabis considered an agricultural product or a commercial product?
 - Per the state and county code, it is an agricultural product.

To: Supervisor Chair Pyska, Supervisors Crandell, Sabatier, Simon and Green.

Re: BOS Agenda Item on 9/19/23 Item 6.8 at 10:30 A.M. Draft Ordinance on Cannabis AG-Exempt and Temporary Structures

We have several questions on the proposed draft ordinance, as the CEQA Initial Study is somewhat different than the discussions held in the Cannabis Task Force, Planning Commission and prior Board of Supervisor meetings.

1) Cannabis Processing

Up until now, the focus and discussions of the proposed ordinance included temporary storage and drying due to difficulties getting PG&E electric hookups. It did not include processing, which was considered a Factory Occupancy. All previous documents referred to "drying structures."

The Initial Study repeatedly includes storage, drying AND processing. Section 3.2 Environmental Setting (pgs 10-13) details declining market prices and continued illegal cannabis grows have forced legal cannabis operators to conduct code violations as they can not afford to build their processing facilities. It appears to now allow temporary structures to be used as work facilities.

- Could you please clarify this? If storage and drying only, could the word "processing" be removed from the draft ordinance to avoid confusion.
- If it now includes processing (Factory Occupancy) is this something that the Fire Protection District and County Building Department have come to an agreement on?

2) AG-Exempt Structures

The Draft Ordinance title includes the words "Agriculture-Exempt" but this entire section appears to have been removed. Could you please explain if this is included or not.

3) Allowable Projects

The Initial Study states that only approved projects that have included drying plans will be allowed to use temporary drying structures, and these would be located within the approved cultivation area. But the draft Ordinance, Section Two: 6.25,A1-b states that applicants with approved cannabis cultivation permits are eligible, and does not qualify the location.

- Please clarify which projects are eligible, and where the temporary structures would be located.

4) Temporary Usage

The Initial Study was based around temporary usage of 60 days per year for a max of 3 years; it also referenced a requirement for a temporary building permit accompanied by a demolition permit; once the 60 days had expired the structure(s) would be removed immediately. These include (pgs 15 & 16):

- Containers shall be temporarily allowed for a maximum of 60 days out of the calendar year and the permit shall only be approved no more than three times.
- Once the 60 days has expired the structure(s) shall be removed immediately.

The draft Ordinance puts no limitation on shipping container usage, changing removal to after 3 years, while the section on Storage Tents has no criteria except refers to shipping containers having a max of 60 days for two years.

- As this is different than the criteria used in the CEQA document, and California Code considers temporary to be a max of 180 days per year, please clarify time periods, length of times and whether a demolition permit would be required.

5) Generator Usage

- Based on California requirements, are we correct in assuming that only 50HP and larger generators are allowed?
- There are no time limitations stated for generators. Are they allowed unlimited usage 24 hours per day, 7 days per week for three years?
- A number of currently approved cannabis projects have Conditions of Use that prohibit the use of generators except for emergencies. How would the draft ordinance affect the COUs?

6) Items Omitted from the Initial Study Project Description

Besides the changes to temporary usage timelines, Section 3.3 Project Description on pages 12-16 of the Initial Study details the list of recommendations culminating with the April 18, 2023 Board of Supervisors meeting on Temporary Hoop Structures.

The following recommendations are listed in the Initial Study, but are not included in the draft Ordinance, or have differing criteria. These include:

- Containers should have a 100 foot setback from property lines (rather than 50 feet in the draft ordinance. Pg 14. Should this also include tents?)
- Require conformance to California Public Resources Code Section 4290 and 4291, as pertaining to Agricultural Standards, for temporary drying structures (per RES 2019-124). (Missing, pgs 15 & 16)
- Require the conveyance of the project site plan to the responsible fire district before commencement of project operations. Physically locate the site plans on site in a Knox Box or other area where they may be easily accessed, viewed, and advise the Fire Districts of the on-site Site Plan's location. (Missing, pgs 15 & 16)

6) Additional Questions and Requests:

- Would it be necessary for Surety Bonds?
- From a public perspective we would also appreciate if tent color be limited to neutrals (not white wedding tents as we have seen in the past.)

As there appear to be a number of discrepancies, we are requesting the county relook at the document. Possibly some of the same language could be copied from the Temporary Hoop Structures Ordinance, which had many of the same criteria but is much more thorough in details.

Thank you for the opportunity to make comments,

Holly Harris/Chuck Lamb - Clearlake Oaks residents