

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA
RESOLUTION NO. _____

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

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, local fire districts and local fire marshals/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 4291 and extend the scope of those requirements to specified pre-construction activities; and

WHEREAS, Section 1270.02 (a) of the SRA Fire Safe Regulations extend the application of Public Resources Code sections 4290 and 4291 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 1270.2 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 gravamen of all of the above referenced state laws and regulations is that the property to be regulated must contain residential, commercial, and/or industrial buildings construction, there must be an application for a building permit for the property, and/or there must be a parcel or tentative map or other development as to said property; and

WHEREAS 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, outdoor cannabis cultivation is distinguished by both state law and the Lake County Zoning Ordinance from other types of agriculture. This is due to the federal classification as a Schedule I drug, the security concerns associated with a high value crop, and the unique characteristics of the cannabis cultivation operations; and

WHEREAS, nonetheless, outdoor cannabis cultivation is allowed in Agriculture or “A” District in Lake County with either a minor or major use permit as applicable, and cannabis cultivation operations fall within the definition of “agricultural use” described hereinabove and have significant similarities to other agricultural operations such that those similarities should be considered in devising appropriate fire safety measures; and

WHEREAS, the Lake County Zoning Ordinance also allows outdoor cannabis cultivation in numerous other zoning districts as specified in Lake County Ordinance Number 3084 with either a minor or major use permit as applicable; and

WHEREAS, the Board of Supervisors interprets existing state and County law regarding cannabis cultivation such that Public Resources Code sections 4290 and 4291 have no application to outdoor commercial cannabis cultivation operations where no building or other structure is present on the property at which such operations are occurring; and

WHEREAS, it is the further interpretation of this Board that where buildings and/or other structures do exist, Public Resources Code sections 4290 and 4291 have no greater application to outdoor commercial cannabis cultivation operations occurring on property within zoning districts in which such operations are permitted than any other use permitted within said zones; 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. It is the determination and recommendation of the Board of Supervisors to the County Fire Official and to the County Fire Protection Districts that the requirements of Public Resources Code sections 4290 and 4291 and the SRA Fire Safe Regulations implementing those code sections 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. Whether a property is used for commercial cannabis cultivation or any other purpose, the conditions above must be present in order for Public Resources Code sections 4290 and 4291 and the SRA Fire Safe Regulations to apply.
2. In all cases where outdoor commercial cannabis cultivation occurs on property zoned as Agricultural which does contain a structure and/or is subject to a building permit application, tentative map, or parcel map as described hereinabove, it is the recommendation of this Board to the County Fire Official and to the County Fire Protection Districts that Public Resources Code sections 4290 and 4291 and the SRA Fire Safe Regulations implementing those code sections be applied in the same way as any other use allowed on land zoned as Agricultural. Further, that any exemptions applicable to other uses allowed on land zoned as Agricultural should be equally applicable to commercial cannabis cultivation grown in that zoning district. .
3. In all cases where outdoor commercial cannabis cultivation occurs on property which does contain a structure and/or is subject to a building permit application, tentative map, or parcel map as described hereinabove and where said cultivation is a permissible use within that zoning district, it is the recommendation of this Board to the County Fire Official and to the County Fire Protection Districts that Public Resources Code sections 4290 and 4291 and the SRA Fire Safe Regulations implementing those code sections, including any applicable exemptions, be applied in the same way as any other use permitted within such zoning district.
4. That this Board intends that its recommendations hereinabove apply only when outdoor commercial cannabis cultivation is the only commercial cannabis activity occurring on a property.
5. 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.
6. 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.

7. 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.

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 _____, 2019 by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

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: _____