ITEM 8.6
3/6/18

Carolyn Purdy

From: Robert Adelman <rob@metalogosinc.com>
Sent: Monday, February 26, 2018 8:43 AM
To: Michelle Irace; Jeffrey Taylor
Cc: Mireya Turner; Robert Massarelli
Subject: CEQA, ordinance issues follow up
Attachments: Lake County Regional Hub Presentation.pdf; Ltr to LC BOS 2-12-18.pdf; LC Ordinance CEQA Analysis 2-22-18.pdf; BOS_letter_22-feb-2018.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi,

It was nice meeting you both at the site inspection. Here is some follow up information.

Check here:

https://www.lakecountyeconomicdevelopment.com/

For the Economic Impact Report. See attached for:

o The Lake County Regional Feed Stock Hub presentation.

o A redlined copy of the Lake County Cannabis Ordinance with suggest changes for consistency with state law.

o A memo on the CEQA and management plan issues.

o Recent letter to BOS.

Some observations:

Lake County management staff should looking at this issues, not from the perspective of how much regulation can we throw at this in order to protect the public's interest, but, rather, how can we streamline the proposed cannabis ordinance, reasonably protect the public's interest, and how can we manage Lake County staff resources in the most time efficient and cost effective manner?

Specifically:

By understanding and not duplicating requirements that the State is already obligated to do.
By understanding and following the State's lead and actions under CEQA.
By eliminating the layers of management plans that are already required by the State.
By eliminating the layers of management plans that that can be incorporated into the Zoning Ordinance as specific performance standards that all land users including cannabis cultivators have to comply with.
By eliminating the layers of management plans where it can be identified there are existing provisions of County ordinances that already address the issues (like the grading ordinance, the storm water management ordinance, and the building code).

By using the existing major use permit process to implement project-specific mitigation, instead of a priori one-size-fits-all management plans.

I would welcome feedback on any of the above.

Regards,

Rob

County of Lake Regional Cultivation Hub

A Strategic Development Plan for the County of Lake and Loud Pack, Inc.

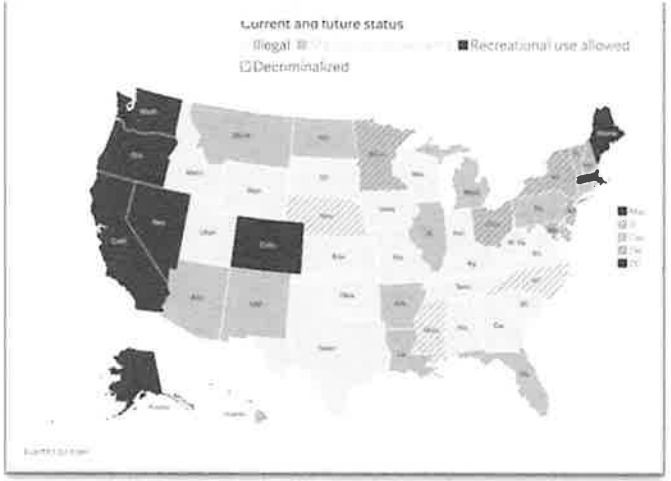
Medical and Adult-Use Cannabis Cultivation Hub

Wine in the USA: A Model for Cannabis

- In 1975, the U.S. wine industry was still small and exclusive.
- In 1976, the "Judgement of Paris" changed America's perception of wine.
    - This was an article published in Time magazine about French judges choosing a Cabernet Sauvignon and a Chardonnay from Napa Valley as superior to the best from their mother country in a blind tasting in Paris.
- Now, the U.S. Wine Industry generates approximately $60 billion in sales.
- The cannabis industry will parallel the wine industry in that cultivators will generate bulk raw material for out of county processing facilities – just like vineyards growing grapes that go to the grape crusher.

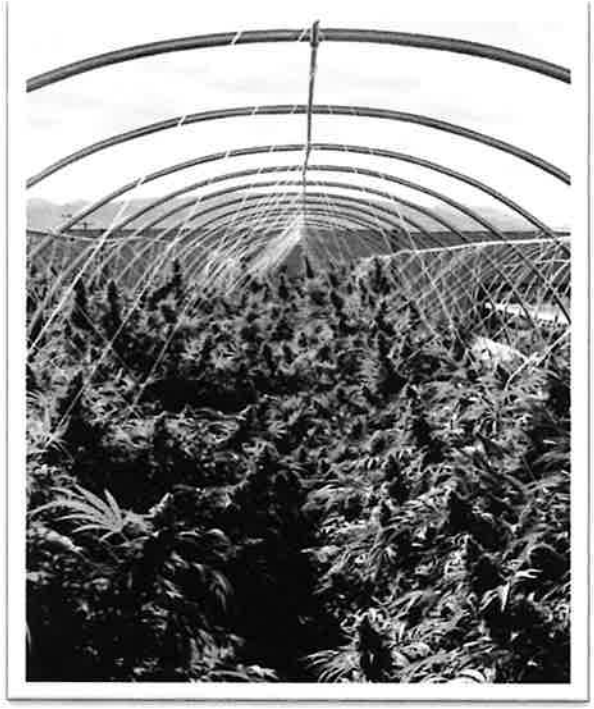
Cannabis Market in the USA

- Today, 29 U.S. states plus D.C. and Puerto Rico have legalized the sale of cannabis for medical purposes.
- Nine of those states -- Alaska, California, Colorado, Maine, Massachusetts, Nevada, Oregon, Vermont and Washington -- have passed ballot measures regulating the production and sale of cannabis to all adults.
  - This is known as the "adult-use" market.
- In January 2018, California began sales of adult-use cannabis.
- California's cannabis market is projected to become a $5.1 billion industry by 2019.
- Overall, U.S. marijuana sales grew 30% in 2016, according to data from Arcview Market Research. Arcview forecasts cannabis sales will grow at a compound rate of 25%, from $6.7 billion in 2016 to $20.2 billion by 2021.
- CNBC reported earlier this year that the number of jobs in the legal cannabis industry could surpass that of the nation's manufacturing industry by 2020.



Biomass: Bulk Feed Stock for Manufacturing

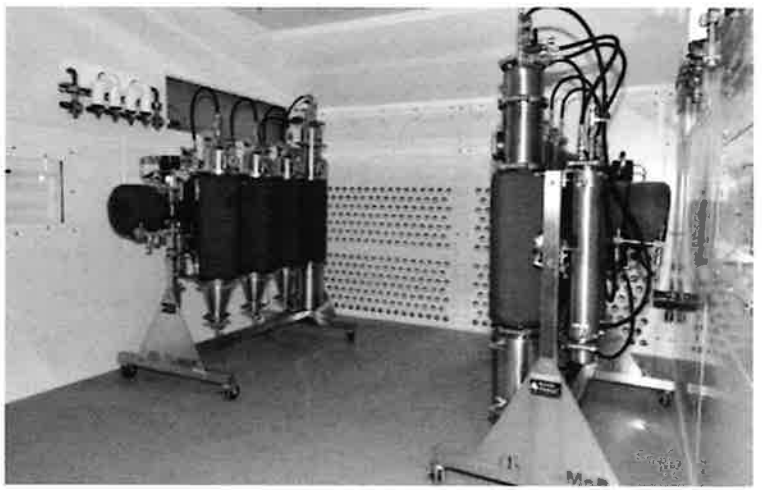
- Consumers are moving away from smoking cannabis -- the market is shifting towards concentrated cannabis infused products.
- Cannabis infused products are manufactured with extracted oil from bulk raw material.
- Biomass farms generate wholesale feed stock. No trimming or processing in Lake County. All feed stock is transported to a manufacturing facility at harvest.
- Once the Lake County's regional feed stock hub is operating to capacity, manufacturing can be moved to Lake County, creating additional economic activity.



"Biomass" is the term used to refer to low cost, high-yield, whole cured plant, which can be used for oil extraction.

Loud Pack Manufacturing Facility

900 Cherry Avenue, Greenfield, CA 93927

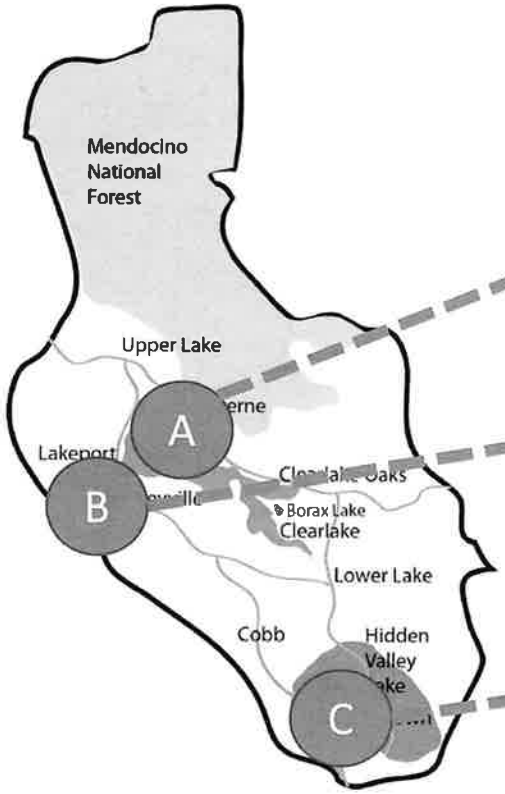


County of Lake

- The time is now to secure a footprint into the economy of this booming industry.
- Lake County is ideally positioned to be a net export county to supply manufacturing facilities with wholesale feed stock.
- Relatively inexpensive land, perfect climate for cannabis, and local cultivation talent are a winning hand.
- Lake County has a once in a generation chance to become a leader in bulk outdoor cannabis production, much like Napa for wine grapes.
- See the Lake County Economic Impact Study at www.LakeCountyEconomicDevelopment.com

Properties in the County of Lake

- Proposed biomass farms are located in ideal locations: on remote, isolated, fallow land that is not currently producing income and has little opportunity for other traditional commercial crops.



40 Springs Ranch
4590 Bartlett Springs Road
Nice, CA 95464

Benmore Valley Ranch
3290 Benmore Valley Road
Lakeport, CA 95453

Paradise Valley Ranch
26233 Jerusalem Grade Road
Middletown, CA 95457

Properties in the County of Lake

County of Lake Total Tax Revenue

Loud Pack's County of Lake Regional Distribution Hub

10 Year Tax Revenue Projection*

Year	Fiscal Year	Paradise Valley	Benmore	40 Springs	County of Lake Tax Revenue
0	2018	$191,664.00	$143,748.00	$95,832.00	**$433,262.00**
1	2019	$287,496.00	$287,496.00	$287,496.00	**$864,507.00**
2	2020	$479,160.00	$383,328.00	$383,328.00	**$1,247,836.00**
3	2021	$670,824.00	$479,160.00	$383,328.00	**$1,535,333.00**
4	2022	$766,656.00	$622,908.00	$383,328.00	**$1,774,914.00**
5	2023	$958,320.00	$622,908.00	$383,328.00	**$1,966,579.00**
6	2024	$1,293,732.00	$718,740.00	$479,160.00	**$2,493,656.00**
7	2025	$1,677,060.00	$958,320.00	$718,740.00	**$3,356,145.00**
8	2026	$1,916,640.00	$1,437,480.00	$718,740.00	**$4,074,886.00**
9	2027	$1,916,640.00	$1,916,640.00	$718,740.00	**$4,554,047.00**

10 YEAR TOTAL TAX REVENUE GENERATED FOR THE COUNTY OF LAKE: $22,301,165.00

** these projections only show direct tax revenue created -- they do not include secondary tax revenue*

Paradise Valley Ranch

Paradise Valley Ranch

4590 Bartlett Springs Road, Nice, California 95464

Property Description	
Total Size	835 Acres
Parcels	27
Yearly Harvests	1
Tax ($/SF)	$1.00
Tax ($/Acre)	43,560
Allowance*	10%

Plan Year	Fiscal Year	Cultivation (Acres)	Cultivation (SF)	County of Lake Tax Revenue
0	2018	4	174,240	$191,664.00
1	2019	6	261,360	$287,496.00
2	2020	10	435,600	$479,160.00
3	2021	14	609,840	$670,824.00
4	2022	16	696,960	$766,656.00
5	2023	20	871,200	$958,320.00
6	2024	27	1,176,120	$1,293,732.00
7	2025	35	1,524,600	$1,677,060.00
8	2026	40	1,742,400	$1,916,640.00
9	2027	40	1,742,400	$1,916,640.00

TOTAL TAX REVENUE GENERATED OVER 10 YEARS	**$10,158,192.00**

**allowance accounts for the supporting space for cultivation activities*

Benmore Valley Ranch

Benmore Valley Ranch

3290 Benmore Valley Road, Lakeport, CA 95453

Property Description	
Total Size	850 Acres
Parcels	13
Yearly Harvests	1
Tax ($/SF)	$1.00
Tax ($/Acre)	43,560
Allowance	10%

Plan Year	Fiscal Year	Cultivation (Acres)	Cultivation (SF)	County of Lake Tax Revenue
0	2018	3	130,680	$143,748.00
1	2019	6	261,360	$287,496.00
2	2020	8	348,480	$383,328.00
3	2021	10	435,600	$479,160.00
4	2022	13	566,280	$622,908.00
5	2023	13	566,280	$622,908.00
6	2024	15	653,400	$718,740.00
7	2025	20	871,200	$958,320.00
8	2026	30	1,306,800	$1,437,480.00
9	2027	40	1,742,400	$1,916,640.00

TOTAL TAX REVENUE GENERATED OVER 10 YEARS	**$7,570,728.00**

**allowance accounts for the supporting space for cultivation activities*

40 Springs Ranch

40 Springs Ranch

4590 Bartlett Springs Road, Nice, California 95464

Property Description	
Total Size	850 Acres
Parcels	8
Yearly Harvests	1
Tax ($/SF)	$1.00
Tax ($/Acre)	43,560
Allowance	10%

Plan Year	Fiscal Year	Cultivation (Acres)	Cultivation (SF)	County of Lake Tax Revenue
0	2018	2	87,120	$95,832.00
1	2019	6	261,360	$287,496.00
2	2020	8	348,480	$383,328.00
3	2021	8	348,480	$383,328.00
4	2022	8	348,480	$383,328.00
5	2023	8	348,480	$383,328.00
6	2024	10	435,600	$479,160.00
7	2025	15	653,400	$718,740.00
8	2026	15	653,400	$718,740.00
9	2027	15	653,400	$718,740.00

TOTAL TAX REVENUE GENERATED OVER 10 YEARS	**$4,552,020.00**

**allowance accounts for the supporting space for cultivation activities*

Community Impact

- As part of the Strategic Development Plan for the County of Lake, Loud Pack remains committed to support community outreach and enforcement programs.
- Loud Pack has woven itself into the fabric of the City of Greenfield community by providing resources to strengthen the community.
- Areas of Support:
  - Increased enforcement to eliminate illegal operations.
  - Drug addiction rehabilitation programs.
  - Youth diversion programs.
  - Scholarships and sponsorships.

Loud Pack, Inc.

- Loud Pack, Inc. is a vertically integrated cannabis consumer-packaged goods company based in California.
    - Loud Pack's strategy is modeled after The Coca-Cola Company's – they're focused on establishing a wide distribution network and introducing a variety of brands that appeal to a broad audience.
- The company owns and operates a state-of-the-art, 50,000 SF manufacturing facility in Greenfield, CA – the largest of it's kind in the entirety of California.
- Their flagship brands, KingPen and LoudPack Extracts, are some of the most sought after brands in the market, having received numerous awards in their respective categories.
    - KingPen is the most awarded vape pen cartridge in the history of the High Time Cannabis Cup.
- Loud Pack distributes to over 800 dispensaries and has a sales team dedicated to expanding growth.
- Loud Pack's executives are industry leaders with institutional experience in the fields of consumer-packed goods, marketing, and supply chain management.

LOUDPACK

New Rise Capital

- New Rise Capital ("NRC"), based out of New York City, has been formed by successful real estate developers with over 50 years of combined experience. Founded by Benjamin Shaoul and Marc Ravner, Principals of Magnum Real Estate Group, and Justin Ehrlich, Principal of VE Equities and Churchill Holdings, the team has completed over $10B of successful development. They currently manage a portfolio with over $4B in combined assets.
- NRC has spent the past 3 years working in the cannabis industry and understanding the various markets across the United States and Canada. They have been awarded a number cannabis-specific licenses in California and recently completed one of the most state-of-the-art facilities in the world. NRC has bridged the gap between cannabis operators and construction professionals such as architects and engineers to create a blueprint for the development of cannabis facilities that will ensure efficient, safe, and profitable operations. Further, NRC advises and manages business development for one of the largest cannabis consumer products companies in California.

HARRISON
TEMBLADOR
HUNGERFORD
& JOHNSON

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NATURAL RESOURCES

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February 12, 2018

Mr. Jim Steel, Chair
And Members of the Board of Supervisors
County of Lake
255 North Forbes Street
Lakeport, CA 95453

Re: February 13, 2018 Meeting, Agenda Item 1
Cannabis Zoning Ordinance Text Amendment

Members of the Board of Supervisors:

This firm was engaged to review the Draft Cannabis Cultivation Ordinance (Zoning Text Amendment AM 18-01) ("Draft Ordinance"). We were asked to review primarily for consistency with the state Medicinal and Adult-Use Cannabis Regulation and Safety Act (Bus. & Prof. Code § 26000 et seq. ["MAUCRSA"]) and the state emergency cannabis regulations, as well as for consistency with general Planning and Zoning Law principles. In this regard, attached to this letter is a "redline" version of the Draft Ordinance (as it was "reformatted" on February 5, 2018) that contains suggested edits and explanatory comments.

Although the attached document contains all our suggested revisions and comments, we would like to highlight a few comments here:

1. **Legal Effect of Ordinance**: The current draft asserts that the Ordinance cannot form the basis of a legal defense against criminal prosecution for a person engagement in cannabis cultivation. In fact, compliance with the County's Ordinance would serve as a defense in a criminal action related to that question. In this regard, the County's Ordinance, once adopted, will have the effect of legalizing certain personal use and commercial cannabis activities in compliance with state law.

2. **Definition of "Cannabis Applicant"**: The current definition would treat property owners who merely lease land to a cultivator the same as the cultivator, regardless of whether the property owner has any ownership in or control over the cultivator. This definition conflicts with state law and most other jurisdictions' cannabis ordinances, which differentiate between a property owner who merely leases land and a property owner that is engaged in cultivation. We have suggested instead that the County use a definition similar to that which is set out in the state emergency regulations: Cannabis Applicant

"means an owner of the applicant entity applying for a cannabis permit under this Article." (See 8 C.C.R. § 8000(b).)

3. **Number of Permits Any One Person May Hold.** The Draft Ordinance limits the number of permits (major or minor) that any one person may hold to four. Several jurisdictions have imposed similar limits. Humboldt County, for example, originally adopted such a limitation, but has deleted that limit in its pending draft revised ordinance because of the fact that state law does not impose such a limit. We suggest that the County delete this limit in order to be consistent with state law (MAUCRSA and the emergency regulations).

4. **Employee Background Checks**: The Draft Ordinance currently requires all employees of a cultivator to submit to a background check by the County Sherriff's Department, and authorizes the Sherriff's Department to evaluate whether an individual's criminal background renders that person unsuited to employment. This provision is inconsistent with state law (MAUCRSA and emergency regulations), which does not require a background check for employees. This provision also exposes the County to liability for interfering with private employment, and places a significant administrative burden on the County. We suggest that this provision be deleted altogether.

5. **Background Clearance for County Permit**: Similarly, the Draft Ordinance requires permit applicants to submit to a background check, again by the County Sherriff's Department. The state already requires these same measures for license applicants. (See, e.g., Bus. & Prof. Code § 26051.5; 8 C.C.R. § 8102.) The state can and will deny a license application based on the same criminal convictions provided for in the Draft Ordinance. As the Draft Ordinance already provides, both a County permit and a state license is required to cultivate, so even if the County were to issue a local permit, an unqualified applicant would still be unable to cultivate after being denied a state license. Further, this provision places land use authority with the Sherriff's Department (i.e., the power to deny a land use application), authority that the Sherriff's Department does not possess under law and is not equipped to exercise (potential Planning and Zoning Law, Permit Streamlining Act, and CEQA implications and so forth). We suggest that this provision be deleted altogether.

6. **Pre-Application Regional Water Quality Control Board Enrollment**: The Draft Ordinance requires a "person interested in applying" for a cannabis use permit to first enroll in the Central Valley Regional Water Quality Control Board or State Water Board water quality protection programs. This provision is confusing and unnecessary. The provision requires enrollment "as of the effective date" of the Draft Ordinance, which suggests that a potential applicant must enroll a prospective cultivation site to be in

compliance with an ordinance that is not yet effective. This creates a retroactivity problem.

Second, the State Water Board adopted its Cannabis General Order in October 2017 (WQ 2017-0023-DWQ), which supersedes the Central Valley RWQCB's prior order. The Cannabis General Order requires online enrollment as a condition to state licensure. Enrollment requires information regarding the cultivation site that would be developed during the County application review and approval process. For this reason, enrollment is appropriate as a permit condition of approval, but not as a prerequisite to application for a new cultivation site.

7. **Residency Requirement**: The Draft Ordinance appears to assign performance standard "points" based on whether the applicant has lived full-time in Lake County for the past five years. The current residency requirement contained in MAUCRSA (as established in Proposition 64) is set to sunset on December 31, 2019. Other jurisdictions, including Humboldt County, do not have residency requirements. We suggest removing this provision.

8. **Preapplication Minimum Score Requirement**: The Draft Ordinance requires a potential applicant to achieve a "minimum score of 75%" on the preapplication performance standards requirements as a condition to submitting an application. This requirement presents a potential conflict with the state Permit Streamlining Act, as well as with due process and property rights principles. In short, the County cannot prevent an applicant from submitting an application; the County can, however, deem an application incomplete with reference to specific inadequacies, which is the correct process under state law. (See Gov. Code § 65490 et seq.) We suggest deleting this provision altogether.

9. **Air Quality Permitting**: The Draft Ordinance requires all cannabis permittees to obtain an "Air Quality Management Plan", Authority to Construction ("ATC") and Permit to Operate ("PTO") from the Lake County Air Quality Management District ("Air District"). These provisions are problematic for a number of reasons. First, the LCAQMD Rules do not contain provisions related to a generic "air quality management plan", nor do the LCAQMD Rules contain provisions that would specify the contents and standards of such an AQMP. Further, even if LCAQMD had rules in place for such a plan, LCAQMD would need to approve the plan after the County had approved the underlying permit; otherwise, LCAQMD would potentially become the CEQA lead agency.

Second, an ATC is required only for stationary sources for which an ATC/PTO is required under the LCAQMD Rules. It is highly unlikely that any cultivation operation would involve such a stationary source. Similarly, a PTO would apply only to stationary sources after construction pursuant to an ATC. If anything, these provisions would need to include an "if applicable" qualification. Finally, ATC requirements do not apply to any mobile equipment that may be used at a cultivation operation. That type of equipment is permitted under CARB's PERP program. We suggest deleting these provisions as shown in the attached revised draft.

Thank you for your consideration of the above comments and continued work on the Draft Ordinance. Should you have any questions concerning the matters discussed herein, please do not hesitate to contact me by telephone at (916) 382-4377, or by e-mail at bjohnson@hthjlaw.com.

Very truly yours,
HARRISON, TEMBLADOR, HUNGERFORD & JOHNSON

By
Bradley Johnson

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFO
RNIA

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 21, ARTICLE 27 OF THE LAKE COUNTY CODEPERTAINING TO CANNABIS CULTIVATION

WHEREAS, In 2015, the Legislature enacted Assembly Bill 243, Assembly Bill 266 and Senate Bill 643 collectively as the Medical Marijuana Regulation and Safety Act (MMRSA), later changed to Medical Cannabis Regulation and Safety Act (MCRSA); and

WHEREAS, the intent of MCRSA was to provide a regulatory structure for the cultivation, manufacture, testing, distribution, and sale of medical cannabis to support the voter approved Propositions 215 (1996) and Senate Bill (SB) 420 (2004) regarding medical cannabis usage by patients; and

WHEREAS, in 2016, voters approved Proposition 64, The Adult Use of Marijuana Act (AUMA), allowing adults 21 years and older to possess up to one ounce of cannabis and cultivate up to six plants for personal use, and regulate and tax the production, manufacture, and sale of cannabis for adult use; and

WHEREAS, in June 2017, the California State Legislature passed a budget trailer bill, SB 94 (Chapter 27), that integrated MCRSA with AUMA to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), set out in Division 10 of the Business and Professions Code (§ 26000 et seq.). Under MAUCRSA, a single regulatory system governs the medical and adult use commercial cannabis activities in California; and

WHEREAS, the Health and Safety Code, Section 11362.2 allows cities and counties to enact and enforce reasonable regulations to reasonably regulate the cultivation, harvest, drying, processing, transportation, purchase, possession, smoking, ingesting, obtaining and giving away of cannabis for adult use, including concentrated cannabis and cannabis products; and

WHEREAS, the Health and Safety Code, Section 11362.2 allows for cities and counties to completely prohibit persons from engaging in the above listed actions and conduct outdoors upon the grounds of a private residence house, apartment unit, mobile home, or similar dwelling); until such time as the California Attorney General determines that nonmedical use of cannabis is lawful in the State of California under federal law; and

WHEREAS, the Business and Professions Code, Section 26200, allows for cities and counties to adopt and enforce local ordinances reasonable regulations governing the cultivation, harvest, drying, processing, transportation, distribution, and sale of cannabis for medical use on a commercial basis; and

WHEREAS, the Business and Professions Code, Section 26200, allows for cities and counties to completely prohibit the establishment or operation of one or more types of commercial medical cannabis businesses within the local jurisdiction; and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies cannabis as a

Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, cannabis. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of marijuana for medical purposes; and

WHEREAS, the County's geographic and climatic conditions, along with the sparse population in many areas of the County provide conditions that are favorable to outdoor cannabis cultivation, and the County has experienced a significant increase in the number of people in the County cultivating large amounts of cannabis. Cannabis growers can achieve a high per-plant yield because of the County's favorable growing conditions. With the use of custom soils and fertilizers, it is not uncommon for plants to grow up to 12 feet in height, six feet in diameter and produce between two (2) to seven (7) pounds of dried bud. Many if these seasonal growers are unfamiliar with local and state regulations aimed at protecting the environment and are causing significant damage to area watersheds. Soils, fertilizers and pesticides are commonly left behind as sites are abandoned for the winter; and

~~WHEREAS, Senate Bill 94 (MAUCRSA) creates a comprehensive state licensing system for the commercial cultivation, manufacture, transport, testing, distribution, retail sale and delivery of medical and adult-use cannabis. A local permit for the activity is required in order to obtain a state license; and~~

WHEREAS, the unregulated cultivation of cannabis in the unincorporated area of Lake County can adversely affect the health, safety, and well-being of the County's ~~, its~~ residents and environment. Comprehensive civil regulation of premises used for cannabis cultivation is proper and necessary to avoid the risks of violent criminal activity, degradation of the natural environment, malodorous smells, undesired impacts to neighboring parcels, and indoor electrical fire hazards that may result from unregulated cannabis cultivation, and that are especially significant if the amount of cannabis cultivated on a single premises is not regulated; and

WHEREAS, cultivation and sales of cannabis at locations or premises in close proximity of schools, churches, parks, child care centers, or youth oriented facilities creates unique risks that the cannabis plants and products may be observed by juveniles, and therefore be especially vulnerable to theft for recreational consumption by juveniles. Further, the potential for criminal activities associated with cannabis cultivation in such locations poses heightened risks that juveniles will be involved or endangered; therefore, cultivation and sales of any amount of cannabis in such locations or premises is especially hazardous to public safety and welfare, and to the protection of minors; and

WHEREAS, according to law enforcement officials, the amount of cannabis cultivated in Lake County has increased significantly with each growing season and is increasingly occurring in residential areas, in close proximity to residences, and on vacant, unsupervised and unsecured properties. During the last three years, Lake County has experienced an ongoing large number of complaints regarding the odor, threats to public safety and other nuisances that unregulated cannabis cultivation sites can create; and

WHEREAS, the unregulated use of pest managements, pesticides and fertilizers has the potential to contaminate or otherwise damage adjacent property and waterways. This poses a threat not only to the users of the cannabis, but to consumers of agricultural crops grown in proximity to cannabis; and

WHEREAS, the cultivation of cannabis has the potential for increased crime, intimidation and threats. As cannabis plants mature, certain varieties produce a strong odor which creates an attractive

Commented [A1]: The comprehensive MAUCRSA regulatory system and local permit requirement are different concepts. Not all activities under MAUCRSA require a local permit. To avoid confusion, we deleted this paragraph and added clarifying text above.

nuisance by alerting people to the location of valuable cannabis plants; this creates an increased risk of crimes including burglary, trespassing, robbery and armed robbery; and

WHEREAS, Lake County has experienced a significant increase in reported home invasion robberies, and it is believed that more incidents go unreported due to the criminal nature of many cultivation operations; and

WHEREAS, Indoor cultivation of cannabis often results in excessive use of electricity which may overload standard electrical systems creating an unreasonable risk of fire. This cultivation, as well as the illegal manufacturing of cannabis with the use of volatile chemicals has caused extensive damage to homes, as well as pose a serious public health and safety threat; and

WHEREAS, As recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Cannabis Grown for Medical Use, the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, Standards are necessary to protect adjacent property owners and residents; and to limit incompatible uses on residential, agricultural and commercial lots and protect the public safety and welfare.

THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

Section 1: Purpose and Intent

A. It is the purpose of this ordinance to implement State law by providing a means for regulating the personal/caregiver cultivation, and commercial cultivation of medicinal and adult use cannabis in a manner that is consistent with State law and which balances the needs of medical and recreational consumers of cannabis and promotes the health, safety and welfare of the residents and businesses within the unincorporated territory of the County of Lake. This ordinance is intended to be consistent with Assembly Bill 133, Assembly Bill 243, Assembly Bill 266, Senate Bill 643, Senate Bill 94 and Proposition 64, and toward that end, is not intended to prohibit persons from individually, collectively, or cooperatively exercising any right otherwise granted by State law. Rather, the intent and purpose of this ordinance is to establish reasonable regulations upon the manner in which cannabis may be cultivated in order to protect the public peace, health, safety, welfare and environment in Lake County and that is in conformance with the provisions of California Business and Professions Code, Health and Safety Code, and other provisions of state law. It is also the intent of the Board of Supervisors that nothing in this Article shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance.

~~B. Nothing in this Ordinance shall be construed to allow any activity relating to the cultivation of cannabis otherwise illegal under State or federal law. No provision of this Ordinance shall be deemed a defense or immunity to any action brought against any person by the Lake County District Attorney, the Attorney General of the State of California, or the United States of America.~~

~~C.~~B. Nothing in this Ordinance is intended, nor shall it be construed, to exempt the personal/caregiver and commercial cultivation of medicinal and adult use cannabis from compliance with all other applicable provisions of the Lake County Code.

~~D.~~C. Nothing in this ordinance is intended, nor shall it be construed, to exempt the personal/caregiver and commercial cultivation of medicinal and adult use cannabis from any and all applicable local and state construction, grading, electrical, plumbing, land use, water rights, waste water discharge, streambed alterations, or any other environmental, building, or land use standards or permitting

Commented [A2]: MAUCRSA is codified at Business and Professions Code section 26000 et seq. – it is no longer confined solely to the Health and Safety Code.

Commented [A3]: This Ordinance, consistent with state law, expressly legalizes cannabis cultivation and related activities within the County notwithstanding the fact that such activities remain illegal under federal law. Second, compliance with this Ordinance, along with compliance with MAUCRSA< can be a defense or immunity against certain actions brought by state law enforcement agencies to the extent such actions relate to state-regulated activities. Of course, compliance with this Ordinance and/or state law may not be a defense or immunity against federal law enforcement action. Regardless, the County does not need to wade into this issue here.

requirements.

Section 2: Applicability

The provisions of this Article shall be applicable to all persons and businesses described herein whether the activities described herein were established before or after the effective date of this Section.

Section 3: Qualified Patients, Primary Caregiver, and Adult Personal Use Cannabis Cultivation

Subsection (z) of Section 27.3 of Chapter 21 of the Lake County Code is hereby added and shall read as follows:

(z) Adult Personal Use, Qualified Patient, and Primary Caregiver Cannabis Cultivation

1. Definitions

i. Adult Use: Includes personal use, possession and cultivation of cannabis by adults 21 years of age and older that occurs in compliance with Health and Safety Code Sections 11362.1 and 11362.2, as may be amended, except that nothing in this chapter shall be construed to authorize any activity that is prohibited by Health and Safety Code Sections 11362.3 through 11362.45, inclusive, or by any other state or local law.

ii. Cannabis: All parts of the plant *Cannabis sativa* (Linnaeus), *Cannabis indica*, or *Cannabis ruderalis*, or any hybrid thereof, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

iii. Cannabis cultivation: Any activity involving the germinating, cloning, seed production, planting, growing, and harvesting of cannabis plants and the on-site drying, curing, grading, or trimming of cannabis plants.

iv. Cannabis Indoor cultivation: The cultivation of cannabis using light deprivation and/or artificial lighting below a rate of 25 watts per square foot.

v. Cannabis Mixed-Light Cultivation: The cultivation of cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below a rate of 25 watts per square foot.

vi. Cannabis Outdoor Cultivation: Cultivation of cannabis without the use of light deprivation and/or artificial lighting in the canopy area. Supplemental low intensity lighting is permissible only to maintain immature plants as a source of propagation. For the purpose of this section, cultivation within a greenhouse or "hoop-house" without supplemental light are considered outdoor cultivation.

vii. Day care center: Has the same meaning as in Section 1596.76 of the California Health and Safety Code.

viii. Enforcement Official: As used in this Article, shall mean the Lake County Sheriff, Community Development Director, Chief Building Official, Environmental Health Director, or any other official authorized to enforce local, state or federal laws.

ix. Fence: means a wall or a barrier connected by boards, masonry, rails, panels, wire or any other materials approved by the Community Development Department for the purpose of enclosing space or separating parcels of land. The term "fence" does not include retaining walls, plastic, tarp, bamboo coverings, corrugated metal, or other materials not designed or manufactured for use as a fence.

x. Greenhouse (Cannabis): An outdoor structure, heated or unheated, constructed primarily of glass, 6 mil film, polycarbonate, or other rigid translucent material, which is devoted to the cultivation of cannabis.

xi. Grow Room – The area designated in a principal structure where the cultivation and processing of cannabis for personal, qualified patient, or primary caregiver use occurs.

xii. Hoop-house: An unheated outdoor enclosure used for the purpose of growing and/or for protecting seedlings and plants from cold weather but not containing any mechanical or electrical systems or storage of any items. Typically a Hoop-house is of semi-circular design made of, but not limited to, piping or other material covered with translucent material.

xiii. Immature cannabis plants: A cannabis plant that is not flowering.

xiv. Indoor: means within a fully enclosed and secure structure that complies with the California Building Standards Code (Title 24 California Code of Regulations), as adopted by the County of Lake, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as standard 2" × 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials.

xv. Physician's recommendation: A recommendation by a physician and surgeon that authorizes a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

xvi. Premises: The designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one applicant.

xvii. Primary caregiver: The same meaning as California Health and Safety Code Section 11362.7 (d).

xviii. Qualified patient: The same meaning as California Health and Safety Code Section 11362.7 (f), and whose primary place of residence is within Lake County.

xix. School: For the purpose of the cannabis regulations, school means any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

xx. Youth center: The same meaning as in Section 11353.1.e.2 of the Health and Safety Code.

2. Adult Use, Qualified Patient, and Primary Caregiver Cannabis Cultivation

i. **Development Standards and Restrictions**

(a) The cultivation of cannabis for non-commercial, personal medicinal or adult use is an accessory use to an existing, legal, permitted residential structure on a legal lot of record occupied by the qualified patient, primary caregiver, or the adult using the cannabis

Commented [A4]: This clarifies this provison's applicabilty.

grown on-site.

(b) On a lot of record on a lot of record five (5) acres or less than five (5) acres in size, the cultivation of cannabis shall be conducted in a detached accessory building, i.e. a shed or greenhouse, a grow room that is located in the principal structure, or a greenhouse with mixed light. Hoop-houses are not allowed. The area of the accessory building or grow room shall not exceed 100 square feet in size regardless of the number of adults, qualified patients, or primary caregivers living in the residence. For adult use cultivation, the number of accessory buildings or row rooms is limited to one (1) regardless of the number of adults residing in the residence. For qualified patients and primary caregivers' more than one accessory building or grow room is allowed but cannot exceed the number of qualified patients.

(c) On a lot of record greater than five acres in size outside community growth boundaries, the cultivation of cannabis shall be conducted either in a detached accessory building, i.e. a shed or greenhouse, a grow room that is located in the principal structure, a greenhouse with mixed-light, or an outdoor fenced area. For adult use cultivation, the area of the accessory building, indoor grow room or outdoor cultivation area shall not exceed 100 square feet in size regardless of the number of adults living in the residence. For qualified patients and primary caregivers' more than one accessory building, grow room, or individual outdoor cultivation area 100 square feet in size is allowed but cannot exceed the number of qualified patients. Hoop-houses are not allowed. For lots of record that are both within and outside a community growth boundary, such outdoor cultivation is only allowed on that portion outside the community growth boundary and which exceeds five acres in size.

(d) No outdoor cultivation outside of a greenhouse shall be located within 1,000 feet of:

a. any public or private school, grades 1 through 12,

b. a developed park containing playground equipment,

c. a drug or alcohol rehabilitation facility,

d. a child care facility or nursery school, church or youth-oriented facility catering to or providing services primarily intended for minors.

The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school, park, rehabilitation facility, child care facility, nursery school, or youth-oriented facility, to the closest property line of the lot of record on which the cannabis cultivation site is located.

(e) Cannabis plant limitations

a. Qualified Patient and Primary Caregiver: No more than six (6) mature cannabis plants or twelve (12) immature cannabis plants per qualified patient may be planted, cultivated, harvested, dried, or processed at any one time.

b. Personal Adult Use: No more than six (6) cannabis plants per residence on a lot of record may be planted, cultivated, harvested, dried, or processed at any one time.

(f) Protection of Minors: Cannabis cultivation areas shall not be accessible to juveniles who are not qualified patients or primary caregivers residing on the lot of record. The entrance to a shed, "grow room", greenhouse, or outdoor area shall be locked to prevent access by minors.

(g) The processing of cannabis includes the drying of cannabis and manufacturing that only

utilizes processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(h) The living plants and any cannabis produced by the plants in excess of 28.5 grams shall be kept within the private residence or in a locked space, and not visible by normal unaided vision from a public place.

(i) Indoor cultivation and mixed light cultivation lighting shall not exceed 1,200 watts and shall conform to all applicable electrical codes. Outdoor cultivation areas, other than a greenhouse with mixed light shall not have any supplemental lighting.

(j) A greenhouse with mixed light shall have the ability to enclose the greenhouse at night to prevent the transmission of light beyond the greenhouse.

(k) A grow room shall only occur within a legal structure that meets the definition of Indoor and complies with all applicable provisions of the County's General Plan, Zoning Ordinance, and California Building Code.

(l) Single family dwelling, duplex, or triplex accessory use

Any accessory structure, i.e. a shed or greenhouse, used for cultivation and processing of cannabis on a lot of record zoned for single family or a lot of record zoned for two or multi-family with a single residential structure, duplex, or triplex as the primary structure shall:

a. Be located on the same lot of record as the residence occupied by the qualified patient, primary caregiver, or the adult using the cannabis grown.

b. Be located in an area which is fully enclosed by an opaque (not transparent or translucent) fence at least six (6) feet in height,

c. Be secure against unauthorized entry and accessible only through lockable doors.

d. Be equipped with an odor-control filtration and ventilation system(s) adequate to prevent cannabis plant odors from exiting the interior of the structure.

e. Be painted in similar colors to the primary residence.

f. Comply with the base zoning setbacks.

g. A greenhouse shall be a prefabricated structure constructed for nursery or agricultural purposes which has a frame constructed of metal and the panels must be polycarbonate or other similar material which is no less than four (4) millimeters thick. The walls shall be opaque so that a person cannot see inside the greenhouse. Hoop-houses are prohibited.

h. Obtain a building permit before construction.

i. Not exceed 100 square feet.

j. Not create an odor, humidity or mold problem on the premises or on adjacent premises.

k. The ventilation and filtration system, along with any plumbing improvements, shall be installed with valid electrical and plumbing permits issued and inspected by the Lake County Building and Safety Division prior to commencing cultivation within the allowable structure.

l. Cultivation within any detached accessory structure that does not meet the definition of Indoor or within a greenhouse shall be considered outdoor cultivation.

m. The number of accessory structures shall not exceed the number of qualified patients living in the single family, duplex, or triplex residential units. Only one accessory structure may be allowed on a lot of record with a single family, duplex, or triplex residential units for adult personal cannabis use regardless of the number of adults living in the residential units.

(m) Apartment or manufactured home park building accessory use

Any accessory structure, i.e. a shed or greenhouse, used for cultivation of cannabis on a lot of record zoned for multi-family with an apartment building or a manufactured home park shall:

a. Obtain a zoning permit and building permit before construction.

b. Be located on the same lot of record as the residence occupied by the qualified patient, primary care giver, or the adult using the cannabis grown.

c. Be located in an area which is fully enclosed by an opaque (not transparent or translucent) fence at least six (6) feet in height,

d. Be secure against unauthorized entry and accessible only through lockable doors. If the accessory use is designed as a cultivation area or grow room, each such area shall have a separate entry and lock.

e. Be equipped with an odor-control filtration and ventilation system(s) adequate to prevent cannabis plant odors from exiting the interior of the structure.

f. Be painted in similar colors to the primary residence.

g. Comply with the base zoning setbacks.

h. A greenhouse shall be a prefabricated structure constructed for nursery or agricultural purposes which has a frame constructed of metal and the panels must be polycarbonate or other similar material which is no less than four (4) millimeters thick. The walls shall be opaque so that a person cannot see inside the greenhouse. Hoop-houses are prohibited.

i. Not exceed 100 square feet per separate cultivation area or grow room.

j. Not create humidity or mold problem on the premises or on adjacent premises.

k. The ventilation and filtration system, along with any plumbing improvements, shall be installed with valid electrical and plumbing permits issued and inspected by the Lake County Building and Safety Division prior to commencing cultivation within the allowable structure.

l. If a greenhouse is used, it shall have opaque walls so that a person cannot see inside the greenhouse.

m. The number of rooms for the cultivation and processing of cannabis in and/or group of, accessory structures cannot exceed the total number of residential units on the lot of record.

n. An adult tenant, qualified patient, or primary caregiver shall not use, rent, or lease more than one cultivation area or grow room for the cultivation of processing of cannabis at a time.

o. The owner of the apartment building or manufactured home park shall maintain records of which tenant used, rented, or leased which room in the accessory structure.

p. Each room for the cultivation and processing of cannabis shall have an individual water and electrical usage meter.

q. The zoning permit shall include an annual compliance monitoring inspection. Included in the inspection shall be an inspection of the tenant use, rental, or lease records and the water and electrical records for each grow room.

r. Outdoor cultivation is prohibited. Cultivation within any detached accessory structure that does not meet the definition of indoor or within a greenhouse shall be considered outdoor cultivation.

s. If the premises is rented or leased, written approval shall be obtained from the property owner(s), containing the property owner(s) notarized signature that authorizes the tenant or lessee to cultivate medicinal cannabis at the site. A copy of the written approval shall be maintained by the tenant or lessee and made available for review by enforcement officials upon request. Written approvals shall be renewed annually.

t. Cultivation of cannabis is an accessory use to an existing residential structure occupied by the qualified patient, primary caregiver, or the adult using the cannabis grown. Only residents of the mobile home park or their primary caregiver may cultivate cannabis.

u. Protection of Minors: Cannabis cultivation areas shall not be accessible to juveniles who are not qualified patients or primary caregivers. The entrance to a shed, "grow room", greenhouse, or outdoor area shall be locked to prevent access by minors.

v. The processing of cannabis to make a concentrated cannabis extract using a volatile solvent is prohibited.

w. Indoor cultivation shall occur only within a legal structure that meets the definition of indoor and complies with all applicable provisions of the County's General Plan, Zoning Ordinance, and California Building Code.

(n) Access Standards

a. All site where a cannabis related activity is permitted shall have access to a public road or a recorded easement that allows for, but not limited to, delivery trucks, emergency vehicles, sheriff and other law enforcement officers, and government employees who are responsible for inspection or enforcement actions. Driveway encroachments onto County-maintained roadways shall be constructed to current County standards and shall be constructed with a permit obtained from the Department of Public Works.

b. All driveways shall be constructed and maintained so as to prevent road surface and fill material from discharging to any surface water body

c. The design of all access to and driveways providing access to the site where the cannabis related activity that is permitted shall be sufficient to be used by all emergency vehicles and shall be approved by the applicable fire district.

d. Gates shall not be constructed across driveways or access roads that are used by neighboring properties or the general public. Gates constructed across public access easements are subject to removal per State Street and Highway Codes.

ii. Permits required

(a) Cannabis indoor cultivation:

a. Any detached accessory building used for cannabis indoor cultivation shall obtain a zoning permit and, if applicable, all required building permits.

b. Any cultivation area that is located in the principal structure shall obtain, if applicable, all required building permits.

(b) Cannabis outdoor cultivation: An outdoor cultivation site or structure shall obtain a zoning permit and, if applicable, all required building permits.

(c) Cannabis mixed-light cultivation: Any detached accessory building used for cannabis mixed-light cultivation shall obtain a zoning permit and, if applicable, all required building permits.

iii. Duration of Permit:

(a) Adult Use: For the life of the accessory building used for cannabis cultivation or indoor cultivation area that is located in the principal structure or outdoor cultivation area. If the cannabis cultivation use is discontinued for more than six months, the zoning permit is automatically expired.

(b) Qualified Patient and Qualified Caregiver: Zoning permit shall be renewed annually.

Section 4. Commercial Cannabis Cultivation

Subsection (at) of Section 27.13 of Chapter 21 of the Lake County Code is hereby added and shall read as follows:

(at) Commercial Cannabis Cultivation

1. Definitions

i. Bureau: The State of California Bureau of Cannabis Control within the Department of Consumer Affairs.

ii. CalCannabis Cultivation Licensing division: The CalCannabis Cultivation Licensing division within the State of California Department of Food and Agriculture.

ii.iii. Cannabis: All parts of the plant *Cannabis sativa* (Linnaeus), *Cannabis indica*, or *Cannabis ruderalis*, or any hybrid thereof, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

~~iii.~~ Cannabis Applicant: An owner of the applicant entity applying for a cannabis permit under this Article, ~~includes the following:~~

~~iv.~~

~~v. Owner or owners of the proposed premises, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the premises.~~

Commented [A5]: CalCannabis Cultivation Licensing is responsible for issuing state cultivation licenses. The Bureau, defined above, is responsible for issuing licenses for retailers, distributors, microbusinesses and testing labs.

~~vi. If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed premises.~~

~~vii.~~iv. ~~If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.~~

~~viii.~~v. Cannabis Canopy: The designated area(s) at a licensed premises, except nurseries, that will contain mature plants at any point in time, as follows: (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries; (2) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, garden benches, hedgerows, fencing, garden beds, or garden plots; and (3) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

~~ix.~~vi. Cannabis Cooperative Associations: Any cannabis cooperative that is organized pursuant to Chapter 22 (commencing with Section 26229) of Division 10 of the California Business and Professions Code. An association shall be deemed incorporated pursuant to that chapter, or organized pursuant to that chapter and shall be deemed a cultivator of a cannabis product within the meaning of that chapter, if it is functioning under, or is subject to, the provisions of that chapter, irrespective of whether it was originally incorporated pursuant to those provisions or was incorporated under other provisions.

~~x.~~vii. Cannabis cultivation: Any activity involving the germinating, cloning, seed production, planting, growing, and harvesting of cannabis plants and the on-site drying, curing, grading, or trimming of cannabis plants.

~~xi. Cannabis cultivation area: The area of a cannabis cultivation site in square feet.~~

~~xii.~~viii. Cannabis cultivation site: A location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

~~xiii.~~ix. Commercial cannabis activity: includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes as provided for in this Article.

~~xiv.~~x. Commercial cannabis cultivation: includes the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, or that does all or any combination of those activities and possessing an M – Type 1, A – Type 1, M – Type 1A, A – Type 1A, M – Type 1B, A – Type 1B, M – Type 1C, A – Type 1C, M – Type 2, A – Type 2, M – Type 2A, A – Type 2A, M – Type 2B, A – Type 2B, M – Type 3, A – Type 3, M – Type 3A, A – Type 3A, M – Type 3B, A – Type 3B, M-Type 4, or A-Type 4 license.

~~xv.~~xi. Cannabis Indoor cultivation: The cultivation of cannabis using light deprivation and/or artificial lighting below a rate of 25 watts per square foot. Cultivation within a greenhouse or 'hoop-house" not using light deprivation and/or artificial lighting, shall not be considered indoor cultivation.

~~xvi.~~xii. Cannabis Cultivation ~~Licenses~~Categories

(a) M - Type 1: "specialty outdoor": Outdoor cultivation for medicinal cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

Commented [A6]: This definition would treat property owners who merely lease land to a cultivator the same as the cultivator, regardless of whether or not the property owner actually has any ownership in or control over the cultivator. This definition conflicts with state law and most other jurisdictions' cannabis ordinances, which differentiate between a property owner who merely leases land and a property owner that is actually engaged in cultivation. A revised definition that is consistent with state law is provided below.

We added in a definition that is consistent with the definition under state law – see 8 CCR 8000(b).

Commented [A7]: The state is considering revising this definition to clarify that aisles, spaces between plants, and non-producing working areas are not included in the cannabis canopy because such areas are not actually under a cannabis canopy. (See 8 CCR 8000(f).)

Solutions to this problem have included assigning a set number of square feet to each plant under cultivation (such as 36 s/f) and measuring the dimensions of each specific pot or raised bed in which a plant is being cultivated. Alternatively, this definition could be revised to clearly state that "cannabis canopy" does not include aisles, spaces between plants, and other working areas not under cannabis canopy.

Commented [A8]: This definition repeats the same concept as "cannabis canopy" above and is not needed. This definition does not appear in the state regulations. (See 8 CCR 8000.)

Commented [A9]: This clarifying text is consistent with state law. (See 8 CCR 8000(g).)

Commented [A10]: It makes sense to define categories of cultivation activities in the same way as under MAUCRSA and the state regulations. However, given that the County is not issuing "licenses", this information is better titled as a "category" or similar term. We incorporated this change in subdivision (iv)(a) and (b) below, relating to minor/major use permit applicability.

(b) A - Type 1: "specialty outdoor": Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(c) M - Type 1A: "specialty indoor": Indoor cultivation for medicinal cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot between 501 and 5,000 square feet of total canopy size on one premises.

(d) A - Type 1A: "specialty indoor": Indoor cultivation for adult use cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot between 501 and 5,000 square feet of total canopy size on one premises.

(e) M - Type 1B: "specialty mixed-light": Cultivation for medicinal cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below a rate of 25 watts per square foot of between 2,501 and 5,000 square feet of total canopy size on one premises.

(f) A - Type 1B: "specialty mixed-light": Cultivation for adult use cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below a rate of 25 watts per square foot of between 2,501 and 5,000 square feet of total canopy size on one premises.

(g) M - Type 1C: "specialty cottage": Cultivation for medicinal cannabis of 2,500 square feet or less of total canopy size for mixed-light cultivation using light deprivation and/or artificial lighting below a rate of 25 watts per square foot, up to 25 mature plants for outdoor cultivation without the use of light deprivation and/or artificial lighting in the canopy area at any point in time, or 500 square feet or less of total canopy size for indoor cultivation within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot, on one premises.

(h) A - Type 1C: "specialty cottage": Cultivation for adult use cannabis of 2,500 square feet or less of total canopy size for mixed-light cultivation using light deprivation and/or artificial lighting below a rate of 25 watts per square foot, up to 25 mature plants for outdoor cultivation without the use of light deprivation and/or artificial lighting in the canopy area at any point in time, or 500 square feet or less of total canopy size for indoor cultivation within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot, on one premises.

(i) M - Type 2: "small outdoor": Outdoor cultivation for medicinal cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(j) A - Type 2: "small outdoor": Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(k) M - Type 2A: "small indoor": Indoor cultivation for medicinal cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot between 5,001 and

10,000 square feet, inclusive, of total canopy size on one premises.

(l) A - Type 2A: "small indoor"" indoor cultivation for adult use cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(m) M - Type 2B: "small mixed-light": Cultivation for medicinal cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below a rate of 25 watts per square foot between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(n) A - Type 2B: "small mixed-light": Cultivation for adult use cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below a rate of 25 watts per square foot between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(o) M - Type 3: "outdoor": Outdoor cultivation for medicinal cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size on one premises.

(p) A - Type 3: "outdoor": Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size on one premises.

(q) M - Type 3A: "indoor": Indoor cultivation for medicinal cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises.

(r) A - Type 3A: "indoor": Indoor cultivation for adult use cannabis within a permanent structure using exclusively artificial light or within any type of structure using artificial light at a rate above twenty-five watts per square foot between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises.

(s) M - Type 3B: "mixed-light": Cultivation for medicinal cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below a rate of 25 watts per square foot between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises.

(t) A - Type 3B: "mixed-light": Cultivation for adult use cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below a rate of 25 watts per square foot between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises.

(u) M – Type 4: "nursery": Cultivation of medicinal cannabis solely as a nursery.

(v) A – Type 4: "nursery": Cultivation of adult use cannabis solely as a nursery.

~~xvii.~~xiii. Cannabis Mixed-Light Cultivation: The cultivation of cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or artificial lighting below a rate of 25 watts per square foot.

~~xviii.~~xiv. _____Cannabis Nursery: A site that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

~~xix.~~xv. Cannabis Outdoor Cultivation: Cultivation of cannabis without the use of light deprivation and/or artificial lighting in the canopy area. Supplemental low intensity lighting is permissible only to maintain immature plants as a source of propagation. For the purpose of this section, cultivation within a greenhouse or "hoop-house" without supplemental light are considered outdoor cultivation.

~~xx.~~xvi. Cannabis product: Cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

~~xxi.~~xvii. Day care center: Has the same meaning as in Section 1596.76 of the California Health and Safety Code.

xviii. Design Professional: For the purpose of developing site plans, a design professional shall mean any licensed land surveyor or civil engineer licensed prior to 1982 in the State of California.

xix. Enforcement Official: As used in this Article, shall mean the Lake County Sheriff, Community Development Director, Chief Building Official, Environmental Health Director, or any other official authorized to enforce local, state or federal laws.

xx. Fence: A wall or a barrier connected by boards, masonry, rails, panels, wire or any other materials approved by the Community Development Department for the purpose of enclosing space or separating parcels of land. The term "fence" does not include retaining walls, plastic, tarp, bamboo coverings, corrugated metal, or other materials not designed or manufactured for use as a fence.

xxi. Greenhouse (Cannabis): An outdoor structure, heated or unheated, constructed primarily of glass, 6 mil film, polycarbonate, or other rigid translucent material, which is devoted to the cultivation of cannabis.

xxii. Grow Room – The area designated in a principal structure where the cultivation and processing of cannabis for personal, qualified patient, or primary caregiver use occurs.

xxiii. Hazardous Material - Hazardous material means a material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment or as defined in Health and Safety Code 25501.

xxiv. Hazardous Waste - hazardous waste means a waste that meets any of the criteria for the identification of a hazardous waste adopted by the department pursuant to Health and Safety Code Section 25141

xxv. Hazardous Waste Generator: A generator is any person, by site, whose act or process produces hazardous waste identified or listed in Chapter 11 of the hazardous waste regulations or whose act first causes a hazardous waste to become subject to regulation

i. Larger Quantity Generator: Generators of 1,000 kg or more of hazardous waste per month, excluding universal wastes, and/or more than 1 kg of acutely or extremely hazardous per month.

ii. Small Quantity Generator: Generators of less than 1,000 kg of hazardous waste per month, excluding universal wastes, and/or 1kg or less of acutely or extremely hazardous waste per month

xxvi. Hoop-house: An unheated outdoor enclosure used for the purpose of growing and/or for protecting seedlings and plants from cold weather but not containing any mechanical or electrical systems or storage of any items. Typically, a Hoop-house is of semi-circular design made of, but not limited to, piping or other material covered with translucent material.

xxvii. Immature cannabis plant: A cannabis plant that is not flowering.

xxviii. Indoor: Within a fully enclosed and secure structure that complies with the California Building Standards Code (Title 24 California Code of Regulations), as adopted by the County of Lake, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as standard 2" × 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials.

xxix. License: A California state license issued pursuant to Business and Professions Code Section 26000 et seq., including both an A-license and an M-license, as well as a testing laboratory license.

Commented [A11]: This change is consistent with state law (see B+P Code section 26001(y).)

xxx. Mature cannabis plant: A cannabis plant that is flowering.

xxxi. Medicinal cannabis: Also "medicinal cannabis product". Cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.

xxxii. Mixed-Light cultivation: Cultivation of mature cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure using light deprivation and/or one of the artificial lighting models described below: (1) "Mixed-light Tier 1" the use of artificial light at a rate of six watts per square foot or less; (2) "Mixed-light Tier 2" the use of artificial light at a rate above six and below or equal to twenty-five watts per square foot.

xxxiii. Organic Certification: Certified by an independent third-party organization as meeting the equivalent of State or federal organic standards.

xxxiv. Owner: Any of the following:

(a) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

(b) The chief executive officer of a nonprofit or other entity.

(c) A member of the board of directors of a nonprofit.

(d) An individual who will be participating in the direction, control, or management of the person applying for a license.

(e) A person who otherwise meets the definition of an "Owner" under the California Code of Regulations, Title 3, Division 8, Chapter 1, Article 1, Section 8101.

xxxv. Person: An individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and includes the plural as well as the singular.

xxxvi. Pest: Any of the following that is, or is liable to become, dangerous or detrimental to the agricultural or nonagricultural environment of the state: (1) Any insect, predatory animal,

rodent, nematode or weed; and (2) Any form of terrestrial, aquatic, or aerial plant or animal virus, fungus, bacteria, or other microorganism (except viruses, fungi, bacteria, or other microorganisms on or in living man or other living animals).

xxxvii. Pest Management: Shall have the same meaning as set forth in Article 1, Division 6, Section 6000 of the California Code of Regulations, and Article 1, Division 7, Section 12753 of the California Food and Agriculture Code.

xxxviii. Premises: The designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one applicant.

xxxix. School: For the purpose of cannabis regulation, school means any public or private school providing instruction in kindergarten or any grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

xl. ~~State license: A state license issued pursuant to the California Business and Professions Code.~~

xli. Youth center: The same meaning as in Section 11353.1.e.2 of the Health and Safety Code.

2. Development standards, general requirements, and restrictions

i. Development standards

Commented [A12]: "License" is already defined in subdivision (xxv) above, consistent with B+P Code section 26001(y). this

License	Minimum Lot Size (acres)	Setback from property line	Setback from off-site residences	Height Limitation	Number of Living Cannabis Plants	Number of Mature Cannabis Plants	Minimum fence height (feet)	Maximum fence height (feet)	Maximum canopy area (Sq. ft.)	Maximum cultivation area (sq. ft.)
Cannabis cultivation (greenhouse, mixed light, or indoors only) by a Qualified Patient on lot of record less than 5 acres in size	Base Zoning	Base Zoning	N/A	Base Zoning	6 mature, 12 immature per qualified patient	6 per qualified patient	6	8	N/A	100 per qualified patient
Cannabis cultivation by a Qualified Patient on lot of record more than 5 acres in size	5 outside of CGB	75	150	Base Zoning	6 mature, 12 immature per qualified patient	6 per qualified patient, 30 maximum	6	8	N/A	100 per qualified patient
Cannabis cultivation (greenhouse, mixed light, or indoors only) by a Primary Caregiver on lot of record less than 5 acres in size	base Zoning	Base Zoning	N/A	Base Zoning	6 mature, 12 immature per qualified patient, 30 mature and 30 immature maximum	6 per qualified patient, 30 maximum	6	8	N/A	100 per qualified patient, 500 maximum
Cannabis cultivation by a Primary Caregiver on lot of record more than 5 acres in size	5 outside of CGB	75	150	Base Zoning	6 mature, 12 immature per qualified patient, 30 mature and 60 immature maximum	N/A	6	8	N/A	100 per qualified patient, 500 maximum
Cannabis cultivation Outdoor not including greenhouse for personal adult use	5 outside of CGB	75	150	Base Zoning	6	6	6	8	N/A	100

Cannabis cultivation in a greenhouse, mixed light, or indoors for personal adult use	base Zoning	Base Zoning	N/A	Base Zoning	6	6	6	8	N/A	100
Cannabis cultivation in a duplex, triplex, or apartment building for personal adult use	Base Zoning	Base Zoning	N/A	Base Zoning	6	6	6	8	N/A	100
M – Type 1	20	100	200	Base Zoning	75	50	6	8	5,000	10,000
A – Type 1	20	100	200	Base Zoning	75	50	6	8	5,000	10,000
M – Type 1A	20	100	200	Base Zoning	N/A	N/A	6	8	5,000	10,000
A – Type 1A	20	100	200	Base Zoning	N/A	N/A	6	8	5,000	10,000
M – Type 1B	20	100	200	Base Zoning	N/A	N/A	6	8	5,000	10,000
A – Type 1B	20	100	200	Base Zoning	N/A	N/A	6	8	5,000	10,000
M – Type 1C mixed light	5	100	200	Base Zoning	N/A	N/A	6	8	2,500	5,000
M – Type 1C outdoor	5	100	200	Base Zoning	50	25	6	8	2,500	5,000
M – Type 1C indoor	5	100	200	Base Zoning	N/A	N/A	6	8	500	1,500
A – Type 1C Mixed light	5	100	200	Base Zoning	N/A	N/A	6	8	2,500	5,000
A – Type 1C outdoor	5	100	200	Base Zoning	50	25	6	8	2,500	5,000
A – Type 1C indoor	5	100	200	Base Zoning	N/A	N/A	6	8	500	1,500
M – Type 2	20	100	200	Base Zoning	N/A	N/A	6	8	10,000	20,000
A – Type 2	20	100	200	Base Zoning	N/A	N/A	6	8	10,000	20,000
M – Type 2A	20	100	200	Base Zoning	N/A	N/A	6	8	10,000	20,000
A – Type 2A	20	100	200	Base Zoning	N/A	N/A	6	8	10,000	20,000

M – Type 2B	20	100	200	Base Zoning	N/A	N/A	6	8	10,000	20,000
A – Type 2B	20	100	200	Base Zoning	N/A	N/A	6	8	10,000	20,000
M – Type 3	20	100	200	Base Zoning	N/A	N/A	6	8	43,560	65,000
A – Type 3	20	100	200	Base Zoning	N/A	N/A	6	8	43,560	65,000
M – Type 3A	20	100	200	Base Zoning	N/A	N/A	6	8	22,000	436,560
A – Type 3A	20	100	200	Base Zoning	N/A	N/A	6	8	22,000	43,560
M – Type 3B	20	100	200	Base Zoning	N/A	N/A	6	8	22,000	43,560
A – Type 3B	20	100	200	Base Zoning	N/A	N/A	6	8	22,000	43,560
M – Type 4	20	100	200	Base Zoning	N/A	N/A	6	8	22,000	43,560
A – Type 4	20	100	200	Base Zoning	N/A	N/A	6	8	22,000	43,560

An applicant may obtain any combination of Minor or Major Use Permits to comprise the total allowable canopy area on a legal lot.

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(a) The Zoning Administrator or Planning Commission may consider exceptions to the development standards because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the development standards of this sub-section are found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification. The Zoning Administrator or Planning Commission may impose such conditions as they deem necessary to secure the purposes of this sub-section and may require tangible guarantees or evidence that such conditions are being, or will be, complied with.

(b) Application for an exception shall be made in writing by the owner of the property; or lessee, with the written consent of the owner on a form prescribed by the Department. The application shall be accompanied by a fee in an amount to be set by the Board of Supervisors. A plan of the details of the variance requested, other pertinent information required by the Department and evidence showing 1) that the granting of the exception will not be contrary to the intent of this sub-section or to the public safety, health and welfare, and 2) that due to special conditions or exceptional characteristics of the property, or its location, the strict application of this sub-section would result in practical difficulties and unnecessary hardships; and deprives such property of privileges enjoyed by other properties in the vicinity and identical zoning district.

(c) A public hearing shall be held on any application for an exception. Notice of any public hearing shall be given as provided in Article 57.

(d) The Zoning Administrator or Planning Commission may only approve or conditionally approve an exception if all of the following findings are made:

a. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the development standards of this sub-section are found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;

b. That any exception granted is subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situate; and

c. That the granting of the exception is in accordance with the intent of this Chapter, is consistent with the General Plan and will not be detrimental to the public safety, health and welfare, or injurious to other properties in the vicinity.

ii. General Requirements

(a) State license and permits required.

A person or entity shall not ~~cultivate cannabis~~engage in the commercial cultivation of cannabis without first obtaining a Lake County minor or major use permit and a ~~state~~ license or licenses~~, such as from Department of Cannabis Control, Department of Food and Agriculture, Department of Pesticide Regulation, Department of Fish and Wildlife, The State Water Resources Control Board, Board of Forestry and Fire Protection, Central Valley or North Coast Regional Water Quality Control Board, Department of Public Health, and Department of Consumer Affairs, as appropriate~~.

Commented [A13]: These revisions are necessary to remain consistent with the definition of "license", as set out above and in state law (see B+P Code section 26001(y)). Also, not all of the agencies listed here are authorized to issue licenses under MAUCRSA, and so should be deleted. As revised, this provision makes clear that lawful cultivation requires both a County permit and a license issued by one of the state cannabis licensing agencies.

(b) Notification to the Bureau of Cannabis Control and/or CalCannabis Cultivation Licensing Division

The Department shall notify the Bureau of Cannabis Control and/or CalCannabis Cultivation Licensing Division upon revocation of any local license, permit, or authorization for a permittee to engage in commercial cannabis activity within the local jurisdiction.

(c) Records

a. An applicant shall keep accurate records of commercial cannabis activity.

b. All records related to commercial cannabis activity as defined by the state licensing authorities shall be maintained for a minimum of seven years.

c. The County may examine the books and records of an applicant and inspect the premises of a permittee when the County deems necessary to perform its duties under this division. All inspections shall be conducted during standard business hours of the permitted facility or at any other reasonable time.

d. Applicants shall keep records identified by the County on the premises of the location permitted. The County may make any examination of the records of any applicant. Applicants shall also provide and deliver copies of such documents to the County upon request.

e. An applicant, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the applicant pursuant to this section, has engaged in a violation of this article.

(d) Applicant

If the applicant is other than a natural person (including general partnerships of more than one individual natural person), the applicant must provide documentation regarding the nature of the entity and the names of the individual natural persons who manage, own or control the entity. The most common entities are corporations, limited liability companies (LLCs), limited partnerships (LPs), or trusts. These entities can be multi-layered and/or interlocking, e.g. a corporation can be owned by another corporation. If that is the case, documents for those other related entities are needed until the individual natural persons who manage, own or control the entities can be identified.

a. For Corporations:

1. Articles of Incorporation – file stamped by the state agency where incorporated.
2. If not a California Corporation, the registration filed to do business in California must be stamped by the CA Secretary of State.
3. A list of the officers and directors of the corporation (this could be a single person).
4. The agent for service of process and business office address in California.
5. A list of the shareholders of the corporation (again, it could be a single person and the same as the officer/director). If it is a large, publicly held corporation with many shareholders, contact County Counsel for direction.
6. If a non-profit mutual benefit corporation (common under pre-MMRSA practice for cannabis operations), a list of the members instead of the shareholders.
7. A resolution of the board of directors authorizing the individual who will sign

the application and other documents on behalf of the corporation to do so.

b. For Cannabis Cooperative Associations

1. Articles of Incorporation – file stamped by the state agency where incorporated.
2. A list of the officers and directors of the corporation.
3. The agent for service of process and business office address in California.
4. A list of the shareholders of the cooperative association. For the purpose of associations organized without shares of stock, the members shall be deemed to be "shareholders" as the term is used in the General Corporation Law.
5. By-laws
6. A resolution of the Board of Directors authorizing the individual who will sign the application and other documents on behalf of the corporation to do so.

c. For Limited Liability Companies:

1. Articles of Organization – file stamped by the state agency where formed if not a California LLC, or the registration to do business in California file stamped by the CA Secretary of State.
2. A list of the managing member or members of the company.
3. The agent for service of process and business office address in California.
4. A list of any other members of the company.
5. The application and other documents submitted on behalf of the LLC must be signed by a managing member.

d. For Limited Partnerships:

1. Certificate of Limited Partnership – file stamped by the state agency where filed.
2. If not a California LP, the registration to do business in California file must be stamped by the CA Secretary of State.
3. The identity of the General Partner or partners.
4. The agent for service of process and business office address in California.
5. A list of the limited partners of the LP.
6. The application and other documents submitted on behalf of the LP must be signed by a general partner.

e. For Trusts:

1. The Declaration of Trust or Statement of Trust.
2. The name and address of the Trustee or trustees.
3. A list of the names beneficiaries of the trust with a vested interest in the property held by the trust (check with County Counsel for explanation and details if needed).
4. The application and other documents submitted on behalf of the trust must be signed by a Trustee.

(e) Background Checks:

All employees shall undergo a background check by the Lake County Sheriff Department. An individual may fail the background check if employee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the sheriff determines that the applicant or permittee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the sheriff shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or permittee be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the sheriff shall include, but not be limited to, the following described in sub-section (b) Denial of Application below.

a. Application for Background Clearance for County Permit

1. An applicant for commercial cannabis cultivation permit shall do all of the following:

i. Require that each applicant electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

ii. The Sheriff's Office shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.

iii. The applicant will be responsible to pay any fee the Department of Justice charges that is set by the Department of Justice and sufficient to cover the reasonable cost of processing the requests described in this paragraph.

b. Denial of Application

1. The Sheriff's Office shall deny an application if the applicant does not qualify for permitting under this division.

2. The Sheriff's Office may deny the application for permitting or renewal of a County Permit if any of the following conditions apply:

i. Failure or inability to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.

ii. Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5 of the California Business and Professions Code, except as otherwise specified in this section and Section 26059.

iii. Failure to provide information required by the Sheriff's Office.

iv. The applicant, owner, or permitee has been convicted of an offense that is

Commented [A14]: This provision is inconsistent with state law, which does not require a background check for employees. This provision also exposes the County to liability for interfering with private employment, and is functionally impractical – does the County Sherriff have staff sufficient to perform these background checks in a timely manner? For these reasons and others, this provision should be deleted entirely.

substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the Sheriff or his/her designee determines that the applicant, owner, or permitee is otherwise suitable to be issued a permit, and granting the permit would not compromise public safety, the Sheriff or his/her designee shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or permitee to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the Sheriff shall include, but not be limited to, the following:

(a) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code which included the following:

a. Murder or voluntary manslaughter.

b. Mayhem.

c. Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

d. Sodomy as defined in subdivision (c) or (d) of Section 286.

e. Oral copulation as defined in subdivision (c) or (d) of Section 288a.

f. Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.

g. Any felony punishable by death or imprisonment in the state prison for life.

h. Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.

i. Any robbery.

j. Arson, in violation of subdivision (a) or (b) of Section 451.

k. Sexual penetration as defined in subdivision (a) or (j) of Section 289.

l. Attempted murder.

m. A violation of Section 18745, 18750, or 18755.

n. Kidnapping.

o. Assault with the intent to commit a specified felony, in violation of Section 220.

p. Continuous sexual abuse of a child, in violation of Section 288.5.

q. Carjacking, as defined in subdivision (a) of Section 215.

r. Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

s. Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22.

t. Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22.

u. Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

v. Any violation of Section 12022.53.

w. A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(b) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code which includes the following:

a. Murder or voluntary manslaughter

b. mayhem

c. rape

d. sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person

e. oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;

f. lewd or lascivious act on a child under 14 years of age;

g. any felony punishable by death or imprisonment in the state prison for life;

h. any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm;

i. attempted murder;

j. assault with intent to commit rape or robbery;

k. assault with a deadly weapon or instrument on a peace officer;

l. assault by a life prisoner on a non-inmate;

m. assault with a deadly weapon by an inmate;

n. arson;

o. exploding a destructive device or any explosive with intent to injure;

p. exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;

q. exploding a destructive device or any explosive with intent to murder;

r. any burglary of the first degree;

s. robbery or bank robbery;

t. kidnapping;

u. holding of a hostage by a person confined in a state prison;

v. attempt to commit a felony punishable by death or imprisonment in the state prison for life;

w. any felony in which the defendant personally used a dangerous or deadly weapon;

x. selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code;

y. (any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person;

z. grand theft involving a firearm;

aa. carjacking;

bb. any felony offense, which would also constitutes a felony violation of Section 186.22;

cc. assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220;

dd. throwing acid or flammable substances, in violation of Section 244;

ee. assault with a deadly weapon, firearm, machinegun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245;

ff. assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Section 245.2, 245.3, or 245.5;

gg. discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246;

hh. commission of rape or sexual penetration in concert with another person, in violation of Section 264.1;

ii. continuous sexual abuse of a child, in violation of Section 288.5;

jj. shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100;

kk. intimidation of victims or witnesses, in violation of Section 136.1;

ll. criminal threats, in violation of Section 422;

mm. any attempt to commit a crime listed in this subdivision other than an assault;

nn. any violation of Section 12022.53;

oo. a violation of subdivision (b) or (c) of Section 11418; and

pp. any conspiracy to commit an offense described in this subdivision.

(c) A felony conviction involving fraud, deceit, or embezzlement.

(d) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(e) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

v. Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a permit. Conviction for any controlled substance felony subsequent to permitting shall be grounds for revocation of a permit or denial of the renewal of a permit.

vi. The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

vii. The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing or permitting authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license or permit suspended or revoked under this division in the three years immediately preceding the date the application is filed with the Sheriff's Office.

viii. Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

ix. Any other condition specified in law.

(f) Qualifications for a Permit:

Commented [A15]: The state already requires these same measures for license applicants. (See, e.g., B+P Section 26051.5; 8 CCR 8102.) The state can and will deny a license application based on the same criminal convictions provided for in this provision. And, as this ordinance already provides, both a County permit and a state license is required to cultivate, so even if the County were to issue a local permit, an unqualified applicant would still be unable to cultivate after being denied a state license. Further, this provision places land use authority with the Sherriff (i.e., the power to deny a land use application), which is authority that the Sherriff does not possess under law and is likely not equipped to comply with (Planning and Zoning Law, Permit Streamlining Act implications, CEQA implications and so forth).

This provision accordingly places a needless cost and administrative burden on the County. This entire provision should be deleted.

The County may deny a permit or the renewal of a permit if any of the following conditions apply:

a. Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, in-stream flow, water quality, and fish and wildlife, following issuance of a notice of violation and opportunity to correct, pursuant to Article 61.

b. The applicant has failed to provide information required by the County of Lake or the State licensing authority, following issuance of a notice of violation and opportunity to correct, pursuant to Article 61.

~~c. The applicant, owner, or permittee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the Lake County Sheriff finds that the applicant, owner, or permittee is otherwise suitable to be issued a permit, and granting the permit would not compromise public safety, the Lake County Sheriff shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or permittee to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the Lake County sheriff shall include, but not be limited to, the following:~~

~~1. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.~~

~~2. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.~~

~~3. A felony conviction involving fraud, deceit, or embezzlement.~~

~~4. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.~~

~~5. A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.~~

~~6. Except as provided in subsections d and e of Paragraph c, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a permit. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.~~

~~d. The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medicinal cannabis pursuant to Section 11362.7 of the Health and Safety Code.~~

~~e. The applicant or any of its officers, directors, or owners has been subject to fines or~~

~~penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.~~

~~f. The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial medicinal cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.~~

~~g.~~c. Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(g) Property Owner's Approval:

If the property where the cannabis activity is to be located is not owned by the applicant, written approval shall be obtained from the property owner(s), containing the property owner(s) notarized signature that authorizes the tenant or lessee to cultivate cannabis at the site. A copy of the written approval shall be maintained by the tenant or lessee and made available for review by enforcement officials upon request. Written approvals shall be renewed annually.

(h) Limitations on the number of permits:

The Board of Supervisors may establish by resolution a maximum number of new permits for each license type to be issued annually.

(i) Permitted activities:

The following uses in connection with the cultivation of cannabis:

a. Cultivation of cannabis

b. Cannabis processing such as drying, curing, grading, packaging, and~~or~~ trimming

c. Accessory uses related to the planting, growing, harvesting, drying, curing, grading, or the trimming of cannabis

(j) Operating Hours:

Deliveries and pick-ups are restricted as follows:

a. Monday through Saturday: 9:00 a.m. - 7:00 p.m.

b. Sunday: 12:00 p.m. - 5:00 p.m.

(k) Track and Trace:

All permittees shall comply with the State of California Track and Trace requirements

(l) Weights and Measures

All permittees shall comply with the State of California Weights and Measures requirements found in the Food and Agriculture Code.

(m) Access Standards

a. All site where a cannabis related activity is permitted shall have access to a public road or a recorded easement that allows for, but not limited to, delivery trucks, emergency vehicles, sheriff and other law enforcement officers, and government employees who are responsible for inspection or enforcement actions. Driveway encroachments onto County-maintained roadways shall be constructed to current

Commented [A16]: The state will already perform this function. See comment above.

Commented [A17]: This provision appears cut from state law and is not applicable here.

County standards and shall be constructed with a permit obtained from the Department of Public Works.

b. All driveways shall be constructed and maintained so as to prevent road surface and fill material from discharging to any surface water body

c. The design of all access to and driveways providing access to the site where the cannabis related activity that is permitted shall be sufficient to be used by all emergency vehicles and shall be approved by the applicable fire district.

d. Gates shall not be constructed across driveways or access roads that are used by neighboring properties or the general public. Gates constructed across public access easements are subject to removal per State Street and Highway Codes.

iii. Prohibited Activities

(a) Tree Removal

The removal of any commercial tree species as defined by the California Code of Regulations section 895.1, Commercial Species for the Coast Forest District and Northern Forest District, and the removal of any true oak species (*Quercus* species) or Tan Oak (*Notholithocarpus* spices.) for the purpose of developing a cannabis cultivation site is prohibited. This prohibition shall not include the pruning of any such tree species for the health of the tree or the removal of such trees if necessary for safety or disease concerns.

(b) Water use

The utilization of water that has been or is illegally diverted from any lake, spring, wetland, stream, creek, or river is prohibited.

(c) Odor

Cannabis related permits shall not propagate objectionable odors which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or that endanger the comfort, repose, health, or safety of any of those persons or the public.

The applicant shall prepare an odor abatement plan that includes (but is not limited to):

a. Designating an individual(s) who is/are responsible for responding to odor complaints 24 hours per day/seven (7) days a week, including holidays.

b. Providing property owners and residents of property within a 1,000 foot radius of the cannabis facility, with the contact information of the individual responsible for responding to odor complaints.

c. Policies and procedures describing the actions to be taken when an odor complaint is received, including the training provided to the responsible party on how to respond to an odor complaint.

d. The description of potential mitigation methods to be implemented for reducing odors, including add-on air pollution control equipment.

e. Contingency measures to mitigate/cutail order and other emissions in the event the methods described above are inadequate to fully prevent offsite nusance conditions.

(d) Electrical Generators

The indoor or mixed-light cultivation of cannabis shall not rely on a personal gasoline, diesel, propane, or similar fuels, powered generator as a primary source of power and shall only aloe properly permitted (when applicable) generators for temporary use in the event of a power outage or emergency that is beyond the permittee's control.

(e) Lights

All lights used for cannabis related permits including indoor or mixed light cultivation of cannabis shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process. Artificial light shall be completely shielded between sunset and sunrise.

Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the lot of record upon which they are placed.

(f) Pest Management

The use any pest management that has been banned for use in the state is prohibited.

iv. Protection of Minors

(a) No permittee shall:

a. Sell, transfer or give cannabis or cannabis products to persons under 21 years of age

b. Allow any person under 21 years of age into the cultivation area

c. Employ or retain persons under 21 years of age.

(b) Cannabis cultivation shall not be located within 1,000 feet of any public or private school providing instruction in kindergarten or any grades 1 through 12, developed park containing playground equipment, drug or alcohol rehabilitation facility, licensed child care facility or nursery school, church or youth-oriented facility such as any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or if the individuals who regularly patronize, congregate or assemble at the establishment are predominately minors. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot of record on which the cannabis cultivation site is located.

v. Commercial Cannabis Cultivation Exclusion Areas

Commercial cannabis cultivation is prohibited in the following areas:

(a) Within any of the following that is in existence at the time the permit is issued:

a. Community Growth Boundary as described in the Lake County General Plan,

b. SOS combining district,

c. Public lands,

d. A water service sphere of influence,

e. An incorporated city sphere of influence,

f. Any public or private school, grades 1 through 12,

g. A developed park containing playground equipment,

h. A drug or alcohol rehabilitation facility, or

i. A licensed child care facility or nursery school, church or youth-oriented facility catering to or providing services primarily intended for minors.

(b) Within 1,000 feet of the following that is in existence at the time the permit is issued:

a. Any public or private school, grades 1 through 12,

b. A developed park containing playground equipment,

c. A drug or alcohol rehabilitation facility, or

d. A licensed child care or daycare facility or nursery school, church or youth-oriented facility catering to or providing services primarily intended for minors.

e. A Community Growth Boundary as described in the Lake County General Plan,

f. A water service sphere of influence,

g. Tribal Rancherias,

h. Incorporated city sphere of influence

The distance specified in this section shall be the horizontal distance measured in a straight line from a Community Growth Boundary, a water service or incorporated city sphere of influence, or the boundary of a Tribal Rancherias.

1. Permitting process

i. Permits

(a) The are four different permit types for the commercial cultivation of cannabis:

a. Minor Use Permit for legal, non-conforming, and Article 72 compliant cultivation site

b. Minor Use Permit: A Minor Use Permit shall be required for the following Cannabis Cultivation Categories: M – Type 1, A – Type 1, M – Type 1A, A – Type 1A, M – Type 1B, A – Type 1B, M – Type 1C, A – Type 1C, M – Type 2, A – Type 2, M – Type 2A, A – Type 2A, M – Type 2B, A – Type 2B, M – Type 4, or A – Type 4 licenses

c. Major Use Permit: A Major Use Permit shall be required for the following Cannabis Cultivation Categories: M – Type 3, A – Type 3, M – Type 3A, A – Type 3A, M – Type 3B, or A – Type 3B licenses

d. Minor Use Permit for early activation

The number of minor and major use permits for commercial cannabis cultivation that one person ~~(or related business entity defined as having 20% of more ownership)~~ may hold is limited to four.

(b) Minor Use Permit for Commercial cannabis cultivation, Article 72 compliant

The following requirements shall be met:

a. A person who holds a Conditional Certificate of Recognition of Compliance may apply for a legal non-conforming minor use permit for an M – Type 1, A – Type 1, M – Type 1A, A – Type 1A, M – Type 1B, A – Type 1B, M – Type 1C, or A – Type 1C license.

b. A minor use permit application shall be submitted to the Department.

c. All fees as established by the Board of Supervisors shall be paid at the time of

Commented [A18]: This is already defined in subdivision (xxx) and (xxxi) above. Repetition creates confusion.

Commented [A19]: A number of jurisdictions have imposed limits on the number of commercial cannabis cultivation permits a single person (as defined) may hold. Humboldt County, for example, originally adopted such a limitation, but has deleted that limit in its draft revised ordinance because of the fact that state law does not impose such a limit. To be clear, state law does not impose a limit on the number of licenses a single person may hold.

application submittal.

d. In addition to the requirements of Article 55, the following additional information shall be provided:

1. The legal business name of the applicant entity.
2. The license type, pursuant to the California Department of Food and Agriculture cannabis cultivation program regulations, for which the applicant is applying and whether the application is for an M-license or A-license;
3. A list of all the types, including the license numbers of valid licenses, from the department and other cannabis licensing authorities that the applicant already holds;
4. The physical address of the premises;
5. The mailing address of the applicant;
6. A designated responsible party, who shall also be an owner, with legal authority to bind the applicant entity, and the primary contact for the application. The following information shall be provided for the designated responsible party: full legal name, title, mailing address, primary contact phone number, email address, and a copy of the owner's government-issued identification. Acceptable forms of identification are a document issued by a federal, state, county, or municipal government, including, but not limited to, a driver's license, that contains the name, date of birth, physical description, and picture of the individual;
7. An individual or entity serving as agent for service of process for the applicant. The following information shall be provided for the agent for service of process: full legal name, mailing address, primary contact phone number, and email address;
8. A complete list of every owner of the applicant entity. Each individual owner named shall submit the following information:
    1) Full legal name;
    2) Title within the applicant entity;
    3) Date of birth;
    4) Social security number or individual taxpayer identification number;
    5) Home address;
    6) Primary phone number;
    7) Email address;
    8) Date ownership interest in the applicant entity was acquired;
    9) Percentage of the ownership interest held in the applicant entity by the owner;
    10) A list of all the valid licenses, including license type(s) and license number(s), from the department and other cannabis licensing authorities that the owner is listed as either an owner or financial interest holder;
    11) A copy of their government-issued identification. Acceptable forms of

identification are a document issued by a federal, state, county, or municipal government, including that includes the name, date of birth, physical description, and picture of the person, such as a driver's license.

~~12) If applicable, a detailed description of criminal convictions. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Convictions dismissed under sections 1203.4, 1203.4a and 1203.41 of the Penal Code or equivalent non-California law shall be disclosed. Juvenile adjudications and traffic infractions do not need to be included. For each conviction, all of the following shall be provided:~~

~~(a) The date of conviction;~~

~~(b) Date(s) of incarceration, if applicable;~~

~~(c) Date(s) of probation, if applicable;~~

~~(d) Date(s) of parole, if applicable;~~

~~(e) A detailed description of the offense for which the owner was convicted; and~~

~~(f) A statement of rehabilitation for each conviction. The statement of rehabilitation is to be written by the owner and may contain evidence that the owner would like the department to consider that demonstrates the owner's fitness for licensure. Supporting evidence may be attached to the statement of rehabilitation and may include, but is not limited to, a certificate of rehabilitation under section 4852.01 of the Penal Code, dated letters of reference from employers, instructors, or professional counselors that contain valid contact information for the individual providing the reference.~~

Commented [A20]: See above comments related to background checks.

9. For applicants that are a cannabis cooperative as defined by division 10, chapter 22 (commencing with section 26220) of the Business and Professions Code, identification of all members.
10. Evidence that the applicant entity has the legal right to occupy and use the proposed location.
11. The site plan shall include:
    1) The existing canopy area(s), including aggregate square footage if the canopy areas are noncontiguous;
    2) Area(s) outside of the canopy where only immature plants shall be maintained, if applicable;
    3) Designated pesticide and other agricultural chemical storage area(s);
    4) Designated processing area(s) if the applicant will process on site;
    5) Designated packaging area(s) if the applicant will package products on site;
    6) Designated composting area(s) if the applicant will compost cannabis waste on site;
    7) Designated secured area(s) for cannabis waste if different than subsection (f) above;

8) Designated area(s) for harvested cannabis storage;

9) The boundaries of the cannabis cultivation site;

10) The cannabis cultivation area;

11) The location of the fully enclosed solid fence and all entry points and a description of the fence and locks on all gates; and

12) An aerial showing the lot of record boundaries and the boundaries of the area 1,000 feet from the edge of all property lines. Any public or private school, grades 1 through 12, developed park containing playground equipment, drug or alcohol rehabilitation facility, child care facility or nursery school, or church or youth-oriented facility catering to or providing services primarily intended for minors within 1,250 feet of the property shall be identified. All residential structures within 250 feet of the property shall be identified.

e. The Director may request additional information that would assist the Department in its review of the application.

f. The Director may approve, approve with conditions, or deny the legal non-conforming use permit application.

g. The legal non-conforming minor use permit shall be valid for two years from the date of issuance and cannot be extended or renewed.

h. The cannabis cultivation site cannot be expanded nor can the number of mature cannabis plants exceed 48 mature or 72 immature cannabis plants.

i. Annual Inspection of the cultivation site is required and the applicant shall pay the fee established by resolution of the Board of Supervisors for that inspection.

(c) Minor and Minor Use Permit for Commercial cannabis cultivation

~~a. A person interested in applying for a cannabis cultivation use permit shall be enroll with the applicable Regional Water Quality Control Board or State Water Resources Control Board for water quality protection programs as of the effective date of this ordinance or written verification from the appropriate board that enrollment is not necessary.~~

~~b.~~a. The applicant shall schedule and pay the fee for a pre-application conference with the Department prior to the submittal of an application for a use permit. Questions regarding a specific application will only be addressed at a pre-application conference. Prior to the pre-application conference, the applicant shall provide the department:

1) Prior to the pre-application conference, the applicant shall provide the department:

2) A map showing the lot of record showing where the cultivation site is located and the Assessor's Parcel Number (APN) for the lot of record.

3) Sketch of the proposed cultivation site including the location of the canopy area, full cultivation site, access, existing structures on the lot of record, any water bodies and/or water courses,

4) A statement as to which State license the applicant intends to submit an

Commented [A21]: This provision is confusing and unnecessary. The provision requires enrollment "as of the effective date" of this ordinance, which suggests that a potential applicant must enroll a prospective cultivation site to be in compliance with an ordinance that is not yet effective. This creates a retroactivity problem.

Second, the State Water Board adopted its Cannabis General Order in October 2017 (WQ 2017-0023-DWQ), which supersedes the Central Valley RWQCB's prior order. The Cannabis General Order requires online enrollment as a condition to state licensure. Enrollment requires information regarding the cultivation site that would be developed during the County application review and approval process. For this reason, enrollment is appropriate as a permit condition approval, but not as a prerequisite to application for a new cultivation site.

application.

5) Responses to the following performance standards questions:

(a) Has the applicant applied to the CalCannabis Cultivation Licensing division ~~Bureau of Cannabis Control~~ for a cultivation license, if the application relates to an existing cultivation site?

(b) Has the applicant, if a single individual, or 51 % of the applicants lived full time in Lake County for the past 5 years?

(c) Is the cultivation site located outside a floodplain?

(d) Do all aspects of the project not require a grading permit?

(e) Does the applicant have a legal, on-site source of water?

(f) Does the applicant agree to monitor water use and share the data with the County?

(g) Does the applicant agree to make water source available to Cal Fire for firefighting?

(h) Has the applicant conducted a cultural/archeological survey of the property?

(i) Does the applicant agree to monitor energy use and share the data with the County?

(j) Does the applicant agree to monitor vegetative waste generation and share the data with the County?

(k) Does the applicant agree to monitor solid waste generation and share the data with the County?

(l) Does the applicant agree to monitor water quality of storm water runoff and share the data with the County?

(m) Any questions that the applicant may have regarding the permitting process or what is required for the submittal.

~~c.~~b. At the pre-application conference the Department will provide:

1) A determination of the legal lot of record status or request additional information to make such determination. The lot of record where the cultivation site is located is required to be a legal lot of record.

2) A determination of current compliance with Chapters 5, 13, 17, 21, 23, 26, 29 or 30 of the Lake County Code. Compliance with these chapters is required to submit an application.

3) A determination of the performance standards score based on the response to the performance standards questions. A minimum score of 75% is required to submit an application.

4) A response to the questions submitted with the pre-application conference application.

5) An outline of the information required for the application.

~~d.~~c. Permit application supplemental information

Commented [A22]: The Bureau of Cannabis Control does not issue cultivation licenses.

An applicant for a new cultivation permit that did not receive a Letter of Authorization under Article 72 cannot apply for a state license before receiving a County permit.

Commented [A23]: Suggest removing. The current residency requirement contained in Proposition 64 is set to sunset on December 31, 2019. Other jurisdictions, including Humboldt County, do not have residency requirements.

Commented [A24]: This requirement is unclear – what aspects of what activity must be shown to be in compliance with what specific provisions of the County Code? Not every provision of each of these codes applies to cannabis cultivation.

Commented [A25]: This presents a potential conflict with the state Permit Streamlining Act. The County cannot prevent an applicant from submitting an application; the County can, however, deem an application incomplete. (See Gov. Code section 65490 et seq.)

The use permit application, in addition to the requirements of Article 55, the following additional information shall be provided:

1) The legal business name of the applicant entity.
2) The license type, pursuant to the California Department of Food and Agriculture cannabis cultivation program regulations, for which the applicant is applying and whether the application is for an M-license or A-license;
3) A list of all the types, including the license numbers of valid licenses, from the department and other cannabis licensing authorities that the applicant already holds;
4) The physical address of the premises;
5) The mailing address of the applicant;
6) A designated responsible party, who shall also be an owner, with legal authority to bind the applicant entity, and the primary contact for the application. The following information shall be provided for the designated responsible party: full legal name, title, mailing address, primary contact phone number, email address, and a copy of the owner's government-issued identification. Acceptable forms of identification are a document issued by a federal, state, county, or municipal government, including, but not limited to, a driver's license, that contains the name, date of birth, physical description, and picture of the individual;
7) An individual or entity serving as agent for service of process for the applicant. The following information shall be provided for the agent for service of process: full legal name, mailing address, primary contact phone number, and email address;
8) A complete list of every owner of the applicant entity. Each individual owner shall submit the following information:
    i. Full legal name;
    ii. Title within the applicant entity;
    iii. Date of birth;
    iv. Social security number or individual taxpayer identification number;
    v. Home address;
    vi. Primary phone number;
    vii. Email address;
    viii. Date ownership interest in the applicant entity was acquired;
    ix. Percentage of the ownership interest held in the applicant entity by the owner;
    x. A list of all the valid licenses, including license type(s) and license number(s), from the department and other cannabis licensing authorities that the owner is listed as either an owner or financial interest holder;

xi. A copy of their government-issued identification. Acceptable forms of identification are a document issued by a federal, state, county, or municipal government that includes the name, date of birth, physical description, and picture of the person, such as a driver's license.

~~xii. If applicable, a detailed description of criminal convictions. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Convictions dismissed under sections 1203.4, 1203.4a and 1203.41 of the Penal Code or equivalent non-California law shall be disclosed. Juvenile adjudications and traffic infractions do not need to be included. For each conviction, all of the following shall be provided:~~

~~a. The date of conviction;~~

~~b. Date(s) of incarceration, if applicable;~~

~~c. Date(s) of probation, if applicable;~~

~~d. Date(s) of parole, if applicable;~~

~~e. A detailed description of the offense for which the owner was convicted; and~~

~~f. A statement of rehabilitation for each conviction. The statement of rehabilitation is to be written by the owner and may contain evidence that the owner would like the department to consider that demonstrates the owner's fitness for licensure. Supporting evidence may be attached to the statement of rehabilitation and may include, but is not limited to, a certificate of rehabilitation under section 4852.01 of the Penal Code, dated letters of reference from employers, instructors, or professional counselors that contain valid contact information for the individual providing the reference.~~

~~xiii.~~xii. For applicants that are a cannabis cooperative as defined by division 10, chapter 22 (commencing with section 26220) of the Business and Professions Code, identification of all members.

~~xiv.~~xiii. Evidence that the applicant entity has the legal right to occupy and use the proposed location.

~~xv.~~xiv. ~~Evidence of enrollment with the applicable Regional Water Quality Control Board or State Water Resources Control Board for water quality protection programs or written verification from the appropriate board that enrollment is not necessary;~~

~~xvi.~~xv. Evidence that the applicant has conducted a hazardous materials record search of the EnviroStor database for the proposed premises. If hazardous sites were encountered, the applicant shall provide documentation of protocols implemented to protect employee health and safety;

~~xvii.~~xvi. For indoor and mixed light license types, identification of all power sources for cultivation activities, including but not limited to, illumination, heating, cooling, and ventilation;

Commented [A26]: See above comments regarding background checks.

Commented [A27]: See comment above regarding State Water Board Cannabis General Order enrollment. Unless the application covers an existing cultivation site, an application would not include proof of enrollment. Enrollment would occur after issuance of the permit as a condition of approval.

~~xviii.~~xvii. Identification of all of the following applicable water sources used for cultivation activities and the applicable supplemental information for each source;

a. A retail water supplier;

b. A groundwater well;

c. A rainwater catchment system;

d. A diversion from a surface waterbody or an underground stream flowing in a known and definite channel;

~~xix.~~xviii. An attestation that the local fire department has been notified of the cultivation site if the applicant entity is an indoor license type;

9) Site Plan:

A site plan prepared by a design professional which is a graphic and written representation of the applicant's intended development including a cultivation plan shall be provided with the application. The Site Plan has three parts:

i. A graphic section consisting of maps, site plans, or drawings showing:

(a) Scale and north arrow.

(b) The graphic section shall be to scale.

(c) Location map.

(d) The assessor's parcel number(s).

(e) All boundaries of the entire lot of record where the permit is located.

(f) Lot of record dimensions and all setbacks.

(g) If phased, the intended phasing of development of the site.

(h) The existing site conditions including:

a. All natural features such as private drinking water well, spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool or ponds, wetland, significant rock outcroppings, slides and depressions; location and types of on-site trees; fish and wildlife resources, and general areas of historic or archaeological value.

b. Topography at contour intervals determined by the Director.

c. All existing structures including dimensions and existing use.

d. Location, dimensions and description of all easements located on the property.

(i) The locations and sizes by gross and net acreage, maximum gross square feet of all new structures and proposed uses and the approximate dimensions and location of structures. For each structure, the dimensions, entrances and exits, interior partitions,

walls, rooms, windows, and common or shared entryways.

(j) Enough information on land areas adjacent to the proposed permit district to indicate the relationship between the proposed use and existing and proposed adjacent areas, including existing residences.

(k) An aerial showing lot of record boundaries and the boundaries of the area 1,000 feet from the edge of all property lines. Any public or private school, grades 1 through 12, developed park containing playground equipment, drug or alcohol rehabilitation facility, child care facility or nursery school, or church or youth-oriented facility catering to or providing services primarily intended for minors within 1,250 feet of the property shall be identified. All residential structures within 250 feet of the property shall be identified.

(l) Location of roads and water crossings.

(m) If the applicant is proposing to use a diversion from a waterbody, groundwater well, or rain catchment system as a water source for cultivation, include the locations also provided as coordinates in either latitude and longitude or the California Coordinate System:

a. Sources of water used, including the location of waterbody diversion(s), pump location(s), and distribution system; and

b. Location, type, and capacity of each storage unit to be used for cultivation.

(n) Location and dimensions of storage areas for each use; location of all walls, hedges and fences; parking lot locations; lighting locations; and all proposed on-site sign locations.

(o) The existing and proposed circulation system including the location and dimensions of all off-street parking areas including but not limited to, aisles, parking spaces, service areas, loading areas, and points of access to public rights-of-way, and handicap parking facilities.

(p) The existing and proposed utility systems including sanitary sewers, storm sewers, and water, electric, cable and telephone lines. The location of any existing onsite wastewater system and all existing wells shall be identified.

(q) If applicable, a grading plan including location of all cuts and fills, quantity of materials to be moved including the quantity of materials to be removed or brought to the site, location and description of any trees to be removed, and proposed best management practices for water quality treatment.

(r) A stormwater management plan.

(s) The site plan shall not contain any highlighting.

ii. A written section which shall support the graphic representations and shall, at a minimum, include:

(a) A project description.

(b) The present zoning.

(c) A list and description of all uses shown on the site plan.

(d) A development schedule indicating the approximate date when construction of the project can be expected to begin and be completed for each phase of the project; including the permit phase.

(e) A statement of the applicant's proposal for solid waste disposal, vegetative waste disposal, storm water management, growing medium management, fish and wildlife protection, water resources protection, energy use, water use, Pest Management use, fertilizer use, property management, grading, organic farming, and protection of cultural resources.

(f) Quantitative data for the development including but not limited to: Gross and net acreage; the approximate dimensions and location of structures for each district or area; employee statistics; support services required; traffic generation data based on anticipated uses; parking and loading requirements; and outdoor storage requirements based on anticipated uses;

(g) Supplemental information, if applicable:

a. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights.

b. ~~Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast or Central Valley Regional Water Quality Board.~~

c. Streambed Alteration Permit obtained from the Department of Fish and Wildlife.

d. Copy of County of Lake well permit, state well permit, or well logs.

e. If the lot of record is zoned TPZ, or involves conversion of timberland, a copy of less-than-3-acre conversion exemption or timberland conversion permit, approved by CAL-FIRE. Alternately for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing the landowner has completed a civil or criminal process and/or entered into a negotiated settlement with CAL-FIRE.

f. Other pertinent information as required by the Director.

iii. A Management Plan section.

(a) The cultivation plan for M – Type 1, A – Type 1, M – Type 1A, A – Type 1A, M – Type 1B, A – Type 1B, M – Type 1C, A – Type 1C, M – Type 2, A – Type 2, M – Type 2A, A – Type 2A, M – Type 2B, A – Type 2B, M – Type 3, A – Type 3, M – Type 3A, A – Type 3A, M – Type 3B, or A – Type 3B, licenses shall include

Commented [A28]: See above comments regarding State Water Board Cannabis General Order enrollment.

all of the following:

a. A detailed site plan showing all boundaries and dimensions in feet of the following proposed areas to scale:

   1. Canopy area(s), including aggregate square footage if the canopy areas are noncontiguous;
   2. Area(s) outside of the canopy where only immature plants shall be maintained, if applicable;
   3. Designated pesticide and other agricultural chemical storage area(s);
   4. Designated packaging area(s) if the applicant will package products on site;
   5. Designated composting area(s) if the applicant will compost cannabis waste on site;
   6. Designated secured area(s) for cannabis waste if different than subsection (f) above;
   7. Designated area(s) for harvested cannabis storage;
   8. The boundaries of the cannabis cultivation site; and
   9. The cannabis cultivation area

b. For indoor and mixed-light license type applications, a lighting diagram with the following information shall be included:

   1. Location of all lights in the canopy area(s); and
   2. Maximum wattage, or wattage equivalent, of each light.

c. Management Plans

   The following management plans described in subsection 4 below:

   1. An Air Quality Management Plan.
   2. A Waste Management Plan.
   3. A Cultural Resources Management Plan.
   4. An Energy Management Plan.
   5. A Fertilizer Management Plan.
   6. Fish and Wildlife Management Plan.
   7. An Operations Manual.
   8. A Pest Management Plan.
   9. A Property Management Plan.
   10. A Water Resources Management Plan.
   11. A Security Plan.
   12. A Storm Water Management Plan.
   13. A Water Use Management Plan.

14. . The cultivation plan for nursery licenses (M – Type 4, or A – Type 4 licenses) shall include the following information:

a. A detailed premises diagram showing all boundaries and dimensions, in feet, of the following proposed areas to scale:

1. Area(s) which shall contain only immature plants;
2. Designated research and development area(s) which may contain mature plants;
3. Designated seed production area(s) which may contain mature plants;
4. Designated pesticide and other agricultural chemical storage area(s);
5. Designated composting area(s) if the applicant will compost cannabis waste on site; and
6. Designated secured area(s) for cannabis waste if different than subsection (e) above.

b. For indoor and mixed-light license type applications, a lighting diagram with the following information shall be included:

1. Location of all lights in the canopy area(s); and
2. Maximum wattage, or wattage equivalent, of each light.

c. Management Plans

The following management plans described in subsection 4 below:

1. An Air Quality Management Plan.
2. A Waste Management Plan.
3. A Cultural Resources Management Plan.
4. An Energy Management Plan.
5. A Fertilizer Management Plan.
6. Fish and Wildlife Management Plan.
7. An Operations Manual.
8. A Pest Management Plan.
9. A Property Management Plan.
10. A Water Resources Management Plan.
11. A Security Plan.
12. A Storm Water Management Plan.

d. 13. A Water Use Management Plan.The cultivation plan for processor licenses shall include a detailed premises diagram showing all boundaries and dimensions, in feet, of the following proposed areas:

1. Designated processing area(s);

2. Designated packaging area(s), if the applicant will package and label products on site;
3. Designated composting area(s) if the applicant will compost cannabis waste on site;
4. Designated secured area(s) for cannabis waste if different than subsection (c) above; and;
5. Designated area(s) for harvested cannabis storage.

(a) Minor and Major Use Permit required findings

In addition to the findings required for a minor use permit (Article 50.4) or major use permit (Article 51.4), the following findings shall be made:

a. The proposed use complies with all site standards described in Section 4.6.25
b. The applicant is qualified to make the application described in Section 4.3.14.E.
c. The application complies with the qualifications for a permit described in Section 4.3.14.F.

(b) Minor use permit for early activation

In addition to the requirements of Article 27.4, the following requirements apply:

a. The applicant shall be qualified to receive a permit pursuant to Subsection above.
b. The applicant shall be enrolled for coverage under the State Water Board Cannabis General Order, if applicable, in with the Water Quality Control Board
c. The applicant shall have a Conditional Certificate of Recognition of Compliance for compliance with Article 72.

(c) d. The applicant shall have filed an application for a minor or major use permit application, as appropriate, for the same project that has been determined to be complete by the Department. Commercial cannabis cultivation permit duration: not to exceed 10 years.

Commented [A29]: The State Water Board, as noted above, adopted its Cannabis General Order in October 2017 (WQ 2017-0023-DWQ), which supersedes the Central Valley RWQCB's prior order.

4. Management Plans

i. Air Quality Management Plan

(a) All cannabis permittees shall not degrade the County's air quality as determined by the Lake County Air Quality Management District (LCAQMD).

~~(b) All permittees shall prepare an Air Quality Management Plan to be approved by LCAQMD.~~

~~(c) Said plan shall identify any equipment or activity that which may cause, potentially cause, reduce, control or eliminate the issuance of air contaminants, including odors.~~

~~(d) All permittees shall implement the procedures as outlined in their Air Quality Management Plan as approved by LCAQMD. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.~~

~~(e) All cannabis permittees shall obtain an Authority to Construct permit pursuant to LCAQMD Rules and Regulations, to the construction of the facility.~~

~~(f) All cannabis permittees shall obtain Authority to Construct Permit pursuant to LCAQMD Rules and Regulations, if applicable, to operate any article, machine, equipment or other~~

~~contrivance which causes or may cause the issuance of an air contaminant.~~

~~(g) All permittees shall maintain an Authority to Construct or Permit to Operate for the life of the project, until the operation is closed and equipment is removed.~~

ii. Cultural Resources Management Plan

(a) All cannabis permittees shall protect the cultural, historical, archaeological, and paleontological resources on the lot of record where the permitted activity is located.

(b) All cannabis permittees shall consult with appropriate Tribe regarding the potential of such resources being located on the lot of record.

(c) Based on that consultation, the Department may require a cultural resource study of the property to determine the extent such resources exist on the lot of record.

(d) Based on that survey and in consultation with the appropriate Tribe, the Department may require the preparation of a Cultural Resources Management Plan. Said plan shall include:

a. A general description of the cultural, historical, archaeological, and paleontological resources which may be found on the property.

b. A map of the general areas that should be avoided during the construction and operations of the facility.

c. Detailed procedures on actions to take if such resources are found.

d. Describe the procedures to be followed if cultural, historical, archaeological, and paleontological resources are found on the property.

(e) All permittees shall implement the procedures as outlined in their Cultural Resources Management Plan as approved by the Planning Commission. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

iii. Energy Management Plan

(a) All cannabis permittees shall minimize energy usage.

(b) All permittees shall prepare an Energy Management Plan. Said plan shall:

a. Provide energy calculation as required by the California Building Code

b. Identify energy conservation measures to be taken and maintained **including providing proof of compliance with CCR Title 3, Division 8, Chapter 1, Section 8305 the Renewable Energy Requirements.**

c. If alternative energy sources are to be used, describe those sources and the amount of electricity that will be provided.

d. For indoor cannabis cultivation licensees, ensure that electrical power used for commercial cannabis activity shall be provided by any combination of the following: (1) On-grid power with 42 percent renewable source. (2) Onsite zero net energy renewable source providing 42 percent of power. (3) Purchase of carbon offsets for any portion of power above 58 percent not from renewable sources. (4) Demonstration that the equipment to be used would be 42 percent more energy efficient than standard equipment, using 2014 as the baseline year for such standard equipment.

Commented [A30]: These provisions are problematic for a number of reasons. First, the LCAQMD Rules do not contain provisions related to a generic "air quality management plan", nor do the LCAQMD Rules contain provisions that would specify the contents and standards of such an AQMP. Further, even if LCAQMD had rules in place for such a plan, LCAQMD would need to approve the plan after the County had approved the underlying permit; otherwise, LCAQMD would potentially become the CEQA lead agency.

Second, an ATC is required only for stationary sources for which an ATC/PTO is required under the LCAQMD Rules. It is highly unlikely that any cultivation operation would involve such a stationary source. Similarly, a PTO would apply only to stationary sources after construction pursuant to an ATC. If anything, these provisions would need to include an "if applicable" qualification.

Third, ATC requirements do not apply to any mobile equipment that may be used at a cultivation operation. That type of equipment is permitted under CARB's PERP program.

e. In addition to electrical use, describe what parameters will be monitored and the methodology of the monitoring program.

(c) All permittees shall implement the procedures as outlined in their Energy Management Plan as approved by the Planning Commission. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

iv. Fertilizer Management Plan

(a) Cultivation and nursery permittees shall comply with the following fertilizer application and storage protocols:

a. Comply with all fertilizer label directions;

b. Store fertilizers in a secure building or shed;

c. Contain any fertilizer spills and immediately clean up any spills;

d. Apply the minimum amount of product necessary;

e. Prevent offsite drift;

f. Do not spray directly to surface water or allow fertilizer product to drift to surface water. Spray only when wind is blowing away from surface water bodies;

g. Do not apply fertilizer when they may reach surface water or groundwater; and

h. The use of fertilizer shall not be located within 100 feet of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool. For purposes of determining the edge of Clear Lake, the setback shall be measured from the full lake level of 7.79 feet on the Rumsey Gauge.

(b) Permittee shall prepare a Fertilizer Management Plan to be approved by the Planning Commission. Said plan shall include:

a. Product name and fertilizer grade (s) of all fertilizers to be applied to cannabis during any stage of plant growth.

b. Proposed application rates.

c. A map of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool on the lot of record of land or within 100 feet of the lot of record and a 100 foot setback from any identified spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool.

d. Describe what parameters will be monitored and the methodology of the monitoring program.

(c) All permittees shall implement the procedures as outlined in their Fertilizer Management Plan. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

v. Fish and Wildlife Protection

(a) All commercial cannabis cultivators and cannabis nurseries shall minimize adverse impacts on fish and wildlife.

(b) All permittees shall prepare a Fish and Wildlife Management Plan to be approved by the Planning Commission. Said plan shall include:

a. A description of the fish and wildlife that are located on or utilize on a seasonal basis the lot of record where the permitted activity is located.

b. A description of the ecosystems found on the lot of record.

c. A description of the watershed in which the permitted activity is located.

d. Describe how the permittee will minimize adverse impacts on the fish and wildlife.

e. A map showing the location of any conservation easements or wildlife corridors proposed.

All permittees shall implement the procedures as outlined in their Fish and Wildlife Management Plan as approved by the Planning Commission. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

vi. Operations Manual

(a) The applicant shall prepare an Operations Manual which provides for the following:

i. Authorization for the County, its agents, and employees, to seek verification of the information contained within the development permit or use permit applications, the Operations Manual, and the Operating Standards at any time before or after development or use permits are issued; and

ii. A description of the staff screening processes, which shall include a requirement for criminal background checks; and

iii. The hours and days of the week when the facility will be open; and

iv. Text and graphic materials showing the site, floor plan and facilities. The material shall also show structures and land uses within a 1,000 foot radius; and

v. A description of the security measures located on the premises, including but not limited to, lighting, alarms, and automatic law enforcement notification, and how these will assure the safety of staff and clients and secure the cannabis against diversion for adult use purposes; and

vi. Description of measures taken to minimize or offset the carbon footprint from operational activities; and

vii. Description of chemicals stored, used and any effluent discharged as a result of operational activities; and

viii. Any other information as may be requested by the County, its employees, and/or by the Planning Commission.

(b) Applicants shall implement their policies and procedures as outlined in their Operations Manual as approved by the Zoning Hearing Officer or the Planning Commission. Any deviations from or changes in the Operations Manual must be conveyed to the Department in writing within thirty (30) days of the change.

vii. Pest Management Plan

(a) Cultivation and nursery permittees shall comply with the following pesticide application and storage protocols:

a. All pesticide applications must fully comply with the California Food and Agriculture Code, Division 6 Pest Control Operations and Division 7 Agriculture Chemical;

Chapter 1 – 3.6 and California Code of Regulations, Division 6 Pest Control Operations.

b. These pesticide laws and regulations include but are not limited to:

i. Comply with all pesticide label directions;

ii. Store chemicals in a secure building or shed to prevent access by wildlife;

iii. Contain any chemical leaks and immediately clean up any spills;

iv. Prevent offsite drift;

v. Do not apply pesticides when pollinators are present;

vi. Do not allow drift to flowering plants attractive to pollinators;

vii. Do not spray directly to surface water or allow pesticide product to drift to surface water. Spray only when wind is blowing away from surface water bodies;

viii. Do not apply pesticides when they may reach surface water or groundwater; and

ix. Only use properly labeled pesticides.

x. The use of pesticides shall not be located within 100 feet of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool. For purposes of determining the edge of Clear Lake, the setback shall be measured from the full lake level of 7.79 feet on the Rumsey Gauge.

(b) Permittee shall prepare an Integrated Pest Management Plan to be approved by the Planning Commission. Said plan shall include:

a. Product name and active ingredient(s) of all pesticides to be applied to cannabis during any stage of plant growth;

b. Integrated pest management protocols including chemical, biological and cultural methods the applicant anticipates using to control or prevent the introduction of pests on the cultivation site; and

c. A map of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool on the lot of record of land or within 100 feet of the lot of record and a 100 foot setback from any identified spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool.

(c) All permittees shall implement the procedures as outlined in their Integrated Pest Management Plan as approved by the Planning Commission. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

viii. Property Management Plan

(a) All permittees shall prepare a Property Management Plan. Said plan shall:

a. Identify and locate all existing uses on the property.

b. Identify and locate all proposed uses on the property.

c. Describe how all uses will be managed in the future.

(b) All permittees shall implement the procedures as outlined in their Property

Management Plan as approved by the Planning Commission. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

(c) Grounds.

The permittee shall establish and implement written procedures to ensure that the grounds of the premises controlled by the permittee are kept in a condition that prevents the contamination of components and cannabis products. The methods for adequate maintenance of the grounds shall include at minimum:

a. The proper storage of equipment, removal of litter and waste, and cutting of weeds or grass so that the premises shall not constitute an attractant, breeding place, or harborage for pests.

b. The proper maintenance of roads, yards, and parking lots so that these areas shall not constitute a source of contamination in areas where cannabis products are handled or transported.

c. The provision of adequate draining areas in order to prevent contamination by seepage, foot-borne filth, or the breeding of pests due to unsanitary conditions.

d. The provision and maintenance of waste treatment systems so as to prevent contamination in areas where cannabis products may be exposed to such a system's waste or waste by-products.

e. If the lot of record is bordered by grounds outside the applicant's control that are not maintained in the manner described in subsections (a) through (d) of this section, inspection, extermination, and other reasonable care shall be exercised within the lot of record in order to eliminate any pests, dirt, and/or filth that pose a source of cannabis product contamination.

ix. Security Management Plan

(a) Dogs: The use of dogs for security purposes is prohibited.

(b) Security Plan

The Applicant shall provide adequate security on the premises, as approved by the Sheriff and pursuant to this section, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft. The Security shall include at a minimum:

a. A description of the security measures to be taken to:

i. Prevent access to the cultivation site by unauthorized personnel and protect the physical safety of employees. This includes, but is not limited to:

(a) Establishing physical barriers to secure perimeter access and all points of entry (such as locking primary entrances with commercial-grade, non-residential door locks, or providing fencing around the grounds, driveway, and any secondary entrances including windows, roofs, or ventilation systems);

(b) Installing a security alarm system to notify and record incident(s) where physical barriers have been breached;

(c) Establishing an identification and sign-in/sign-out procedure for authorized

personnel, suppliers, and/or visitors;

(d) Maintaining the premises such that visibility and security monitoring of the premises is possible; and

(e) Establishing procedures for the investigation of suspicious activities.

ii. Prevent theft or loss of cannabis and cannabis products. This includes but is not limited to:

(a) Establishing an inventory system to track cannabis material and the personnel responsible for processing it throughout the cultivation process;

(b) Limiting access of personnel within the premises to those areas necessary to complete job duties, and to those time-frames specifically scheduled for completion of job duties;

(c) Supervising tasks or processes with high potential for diversion (including the loading and unloading of cannabis transportation vehicles); and

(d) Providing designated areas in which personnel may store and access personal items.

iii. Identification of emergency contact(s0 that is/are availae 24 hours/seven (7) days a week including holidays. The plan shall include the name, phone number and facsimile number or email address of an individual working on the retail premises, to whom notice of problems associated with the operation of the retail establishment can be provided. The retail establishment shall keep this information current at all times. The applicant shall make every good faith effort to encourage neighborhood residents to call this designated person to resolve operating problems, if any, before any calls or complaints are made to the County.

iv. The permitee shall maintain a record of all complaints and resolution of complaints and provide a tally and summary of issues the annual Performance Review Report.

v. A description of fences, location of access points, and how access is controlled.

vi. Video Surveillance.

(a) At a minimum, permitted premises shall have a complete digital video surveillance system with a minimum camera resolution of 1080 pixel. The video surveillance system shall be capable of recording all pre-determined surveillance areas in any lighting conditions.

(b) The video surveillance system shall be capable of supporting remote access by the permittee.

(c) To the extent reasonably possible, all video surveillance cameras shall be installed in a manner that prevents intentional obstruction, tampering with, and/or disabling.

(d) Areas that shall be recorded on the video surveillance system include, but are not limited to, the following:

(1) The perimeter of the cannabis cultivation site, cannabis nursery, cannabis manufacturing sites, cannabis testing laboratories, cannabis

retailers, delivery only, cannabis retailer, open to the public, and cannabis microbusiness.

(2) Areas where cannabis or cannabis products are weighed, packed, stored, quarantined, loaded and/or unloaded for transportation, prepared, or moved within the premises;

(3) Areas where cannabis is destroyed;

(4) Limited-access areas;

(5) Security rooms;

(6) Areas containing surveillance-system storage devices, in which case, at least one camera shall record the access points to such an area; and

(7) The interior and exterior of all entrances and exits to the cannabis cultivation sites, cannabis nursery, cannabis manufacturing sites, cannabis testing laboratories, cannabis retailers, delivery only, cannabis retailer, open to the public, and cannabis microbusiness including all buildings where cannabis or cannabis products are weighed, packed, stored, quarantined, loaded and/or unloaded for transportation, prepared, or moved within the premises.

(e) The surveillance system shall record continuously 24 hours per day and at a minimum of 30 frames per second.

(f) All exterior cameras shall be waterproof, I-66 minimum.

(g) All interior cameras shall be moisture proof.

(h) Cameras shall be color capable.

(i) Video management software shall be capable of integrating cameras with door alarms.

(j) Video recordings shall be digital.

(k) Thermal technology shall be use for perimeter fencing.

(l) All cameras shall include motion sensors that activates the camera when motion is detected.

(m) In areas with inadequate lighting for the cameras being used, sufficient lighting shall be provided to illuminate the camera's field of vision.

(n) All recording shall be located in secure rooms or areas of the premises in an access and environment-controlled environment which is separate from the room where the computer and monitoring equipment is located.

(o) All surveillance recordings shall be kept on the applicant's recording device or other approved location for a minimum of 30 days.

(p) All video surveillance recordings are subject to inspection by the Department and shall be copied and sent, or otherwise provided, to the Department upon request.

(q) The video recordings shall display the current date and time of recorded events. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards. The displayed date and time

shall not significantly obstruct the view of recorded images.

vii. Fences

(a) All commercial cannabis cultivation site shall be enclosed by a fence. The fence shall include, at a minimum, the following: Posts set into the ground. The posts may be steel tubing, timber or concrete and may be driven into the ground or set in concrete. End, corner or gate posts, commonly referred to as "terminal posts", must be set in concrete footing or otherwise anchored to prevent leaning under the tension of a stretched fence. Posts set between the terminal posts shall be set at intervals not to exceed 10 feet. A top horizontal rail is required between all posts. The fence shall be attached to the posts and top horizontal rail.

(b) No barbed wire, razor wire or similar design shall be used.

(c) On lots of records less than five acres, the fence shall be a fully enclosed solid fence so that the cannabis cultivation site is completely screened from public view. The Director may wave the solid fence requirement if the cultivation site is not visible to surrounding properties or the public.

(d) On lot of records five acres or greater in size, the cultivation area shall be screened from public view. Methods of screen may include, but is not limited to, topographic barriers, vegetation, or solid fences.

x. Storm Water Management Plan

(a) All permittees shall manage storm water runoff to protect downstream receiving water bodies from water quality degradation.

(b) All cultivation activities shall comply with the California State Water Board, the Central Valley Regional Water Quality Control Board, and the North Coast Region Water Quality Control Board orders, regulations, and procedures as appropriate.

(c) Outdoor cultivation, including any topsoil, Pest Managements, or fertilizers used for the cultivation cannabis shall not be located within 100 feet of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool. For purposes of determining the edge of Clear Lake, the setback shall be measured from the full lake level of 7.79 feet on the Rumsey Gauge.

(d) The illicit discharges of irrigation or storm water from the premises, as defined in Title 40 of the Code of Federal Regulations, Section 122.26, which could result in degradation of water quality of any water body is prohibited.

(e) All permittees shall prepare a Storm Water Management Plan based on the requirements of the California Regional Water Quality Control Board Central Valley Region or the California Regional Water Quality Control Board North Coast Region to be approved by the Lake County Water Resources Department. In addition to those requirements, the plan shall include:

a. Identification of any Lake County maintained drainage or conveyance system that the stormwater is discharged into and documentation that the stormwater discharge is in compliance with the design parameters of those structures.

b. Identification of any public roads and bridges that are downstream of the discharge point and documentation that the stormwater discharge is in compliance with the

Commented [A31]: This requirement would be very costly for larger outdoor cultivation properties. State law does not require video surveillance as set out in this draft. We recommend revising this provision to apply to indoor cultivation sites, and manufacturing, testing, storage, distribution, and retail facilities, once those facilities are permitted.

design parameters of any such bridges.

c. Documentation that the discharge of stormwater from the site will not increase the volume of water that historically has flow onto adjacent properties.

d. Documentation that the discharge of stormwater will not increase flood elevations downstream of the discharge point.

e. Documentation that the discharge of stormwater will not degrade water quality of any water body.

f. Documentation of compliance with the requirements of Chapter 29, Storm Water Management Ordinance of the Lake County Ordinance Code.

g. Describe the proposed grading of the property.

h. Describe the storm water management system.

i. Describe the best management practices (BMPs) that will be used during construction and those that will be used post-construction. Post-construction BMPs shall be maintained through the life of the permit.

j. Describe what parameters will be monitored and the methodology of the monitoring program.

(f) All permittees shall implement the procedures as outlined in their Storm Water Management Plan as approved by the Water Resource Department. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

xi. Waste Management Plan

(a) All permittees shall minimize the generation of waste and dispose of such waste properly, to prevent the release of hazardous waste into the environment, minimize the generation of cannabis vegetative waste and dispose of cannabis vegetative waste properly, and manage growing medium and dispose of growing medium properly.

(b) All permittees shall prepare a Waste Management Plan to be approved by Lake County Planning Commission. Said plan shall include the following components:

a. Solid Waste Management

The solid waste section of the Waste Management Plan shall:

i. Provide an estimate of the amount of solid waste that will be generated on an annual basis and daily during peak operational seaspns, broken down into the following categories:

1. Paper
2. Glass
3. Metal
4. Electronics
5. Plastic
6. Organics
7. Inerts
8. Household hazardous waste

9. Special waste, and

10. Mixed residue

ii. Describe how the permittee will minimize solid waste generation, including working with vendors to minimize packaging.

iii. Describe the waste collectin frequency and method.

iv. Describe how solid waste will be temporary stored prior to transport to a compost, recycling, or final disposal location.

v. Describe the composting, recycling, or final disposal location for each of the above categories of solid waste.

b. Hazardous Waste Management

The hazardous waste section of the Waste Management Plan shall include:

i. Hazard Analysis.

The applicant shall conduct a hazard analysis to identify or evaluate known or reasonably foreseeable hazards for each type of cannabis product produced at their facility in order to determine whether there exist any hazards requiring a preventive control. The hazard analysis shall include:

The identification of potential hazards, including:

a. Biological hazards, including microbiological hazards;

b. Chemical hazards, including radiological hazards, pesticide(s) contamination, solvent or other residue, natural toxins, decomposition, unapproved additives, or food allergens; and/or

c. Physical hazards, such as stone, glass, metal fragments, hair or insects.

The evaluation of the hazards identified in order to assess the severity of any illness or injury that may occur as a result of a given hazard, and the probability that the hazard will occur in the absence of preventive controls.

The hazard evaluation shall consider the effect of the following on the safety of the finished cannabis product for the intended consumer:

a. The sanitation conditions of the manufacturing premises;

b. The product formulation process;

c. The design, function and condition of the manufacturing facility and its equipment;

d. The ingredients and components used in a given cannabis product;

e. The operation's transportation and transfer practices;

f. The facility's manufacturing and processing procedures;

g. The facility's packaging and labeling activities;

h. The storage of components and/or the finished cannabis product;

i. The intended or reasonably foreseeable use of the finished cannabis product.

j. Any other relevant factors.

ii. Management Plan

The Property Management Plans shall:

a. Identify all Resource Conservation and Recovery Act (RCRA) and Non-RCRA hazardous waste and Universal wastes the volume of each.

b. Identify all containers and container management.

c. Describe storage locations and chemical segregation procedures.

d. Describe hazardous waste manifest and recordkeeping protocol.

e. Outline inspection procedures.

f. Identify emergency spill response procedures.

g. Describe staff responsibilities.

h. Describe the training program.

i. Describe the methodology on how the amount of hazardous materials and waste that is generated on the site, the amount that is recycled, and the amount and where hazardous materials and waste is disposed of, is measured.

j. A map of any private drinking water well, spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool on the lot of record or within 100 feet of the lot of record and a 100 foot setback from any identified private drinking water well, spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool. The map shall also include any public water supply well on the lot of record or within 200 feet of the lot of record and a 200 foot setback from any public water supply well.

k. Pursuant to the California Health and Safety Code, the use of hazardous materials shall be prohibited except for limited quantities of hazardous materials that are below State threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas.

l. The production of any Hazardous Waste as part of the cultivation process is prohibited.

c. Cannabis Vegetative Material Waste Management

The cannabis vegetative material waste management section of the Waste Management Plan shall: Provide an estimate of the type and amount of cannabis vegetative waste that will be generated on an annual basis.

a. Describe how the permittee will minimize cannabis vegetative waste generation.

b. Describe how solid waste will be disposed.

c. Describe the methodology on how the amount of cannabis vegetative waste that is generated on the site, the amount that is recycled, and the amount and where cannabis vegetative waste is disposed of is measured.

i. Cannabis waste shall not be sold.

d. Growing Medium Management

The growing medium management section of the Waste Management Plan shall:

a. Provide an estimate of the type and amount of new growing medium that will be used and amount of growing medium will be disposed of on an annual basis.

b. Describe how the permittee will minimize growing medium waste generation.

c. Describe any non-organic content in the growing medium used (such as vermiculite, silica gel, or other non-organic additives.

d. Describe how growing medium waste will be disposed.

e. Describe the methodology on how the amount of growing medium waste that is generated on the site, the amount that is recycled, and the amount and where growing medium waste is disposed of, is measured.

(c) All permittees shall implement the procedures as outlined in their Waste Management Plan as approved by the Planning Commission. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

xii. Water Resources Management Plan

(a) All commercial cannabis cultivation, cannabis nursery, cannabis manufactures, cannabis distributor, and cannabis microbusinesses shall minimize adverse impacts on surface and groundwater resources.

(b) All permittees shall prepare a Water Resources Management Plan to be approved by the Lake County Water Resources Department. Said plan shall:

a. A description of the surface and groundwater resources that are located on the lot of record where the permitted activity is located.

b. A description of the watershed in which the permitted activity is located.

c. A description of how the permittee will minimize adverse impacts on the surface and groundwater resources.

d. A description of what parameters will be measured and the methodology of how they will be measured.

e. A map of any spring, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool on the lot of record of land or within 200 feet of the lot of record.

f. A topographic map of the parcel where the permitted activity is located with contours no greater than five (5) feet

(c) All permittees shall implement the procedures as outlined in their Water Resources Management Plan as approved by the Planning Commission. Any deviations from or changes in the plan must be conveyed to the Department in writing within thirty (30) days of the change.

xiii. Water Use

(a) All permitted activities shall have a legal water source on the premises, and have all local, state, and federal permits required to utilize the water source. If the permitted activity utilizes a shared source of water from another site, such source shall be a legal source, have all local, state, and federal permit required to utilize the water source, and have a written agreement between the owner of the site where the source is located and the permitted activity agreeing to the use of the water source and all terms and conditions of that use.

(b) Permittee shall not engage in unlawful or unpermitted drawing of surface water.

(c) The use of water provided by a public water supply, unlawful water diversions, transported by a water hauler, bottled water, a water-vending machine, or a retail water facility is prohibited.

(d) Where a well is used, the well must be located on the premises. The production well shall have a meter to measure the amount of water pumped. The production wells shall have continuous water level monitors. The methodology of the monitoring program shall be described. A monitoring well of equal depth within the cone of influence of the production well may be substituted for the water level monitoring of the production well. The monitoring wells shall be constructed and monitoring begun at least three months prior to the use of the supply well. An applicant shall maintain a record of all data collected and shall provide a report of the data collected to the County annually.

(e) Water may be obtained from an adjacent parcel provided that documentation is provided that it is a legal source of water.

(f) Water may be supplied by a licensed retail water supplier, as defined in Section 13575 of the Water Code, on an emergency basis. The application shall notify the Department within 7 days of the emergency and provide the following information:

   a. A description of the emergency.

   b. Identification of the retail water supplier including license number.

   c. The volume of water supplied.

   d. Actions taken to prevent the emergency in the future.

(g) All permittees shall prepare a Water Use Management Plan to be approved by the Lake County Water Resources Department. Said plan shall:

   a. Identify the source of water, including location, capacity, and documentation that it is a legal source.

   b. Described the proposed irrigation system and methodology.

   c. Describe the amount of water projected to be used on a monthly basis for irrigation and separately for all other uses of water and the amount of water to be withdrawn from each source of water on a monthly basis.

   d. Provide calculations as to the efficiency of the irrigation system using the methodology of the Model Water Efficient Landscape Ordinance (California Code of Regulations, Title 23, Division2, Chapter 27).

   e. Describe the methodology that will be used to measure the amount of water used and the required monitoring.

5. Compliance monitoring

i. A compliance monitoring inspections of the cultivation site shall be conducted annually during growing season.

ii. Tpermittee shall pay the fee established by resolution of the Board of Supervisors prior to the inspection.

iii. If there are no violations of the permit or state license during the first five years, the inspection frequency may be reduced by the Director to not less than once every five years.

6. Annual Reports

i. Performance Review

(a) All cannabis permittees shall submit a "Performance Review Report" on an annual basis from their initial date of operation for review and approval by the Planning Commission. The Planning Commission may delegate review of the annual Performance Review Report to the Director at the time of the initial hearing or at any time thereafter. This annual "Performance Review Report" is intended to identify the effectiveness of the approved development permit, use permit, Operations Manual, Operating Standards, and conditions of approval, as well as the identification and implementation of additional procedures as deemed necessary. In the event the Planning Commission identifies problems with specific Performance Review Report that could potentially lead to revocation of the associated development or use permit, the Planning Commission may require the submittal of more frequent "Performance Review Reports."

(b) The premises shall be inspected by the Department on an annual basis, or less frequently if approved by the Director, to determine if the permittee is in compliance with its minor or Major use permit, Operating Standards, and Operations Manual. After payment of the compliance monitoring fees, a copy of the results from this inspection shall be given to the permittee for inclusion in their "Performance Review Report" to the Department. If, during such an inspection, the Department determines that the permittee is not in compliance with its minor or Major use permit, the Department shall clearly identify any such area or areas of noncompliance and the actions required to bring the area or areas into compliance, and specifying a reasonable time for the permittee to take the identified corrective actions, consistent with Article 61.

(c) Compliance monitoring fees pursuant to the County's adopted master fee schedule shall be paid by permittee and accompany the "Performance Review Report" for costs associated with the inspection and the review of the report by County staff.

(d) Non-compliance by permittee in allowing the inspection by the Department, or refusal to pay the required fees, or noncompliance in submitting the annual "Performance Review Report" for review by the Planning Commission shall be deemed grounds for a revocation of the development permit or use permit and subject the holder of the permit(s) to the penalties outlined in this Code.

1. Renewals

i. The following is required for permit renewal:

(a) An application for renewal shall be submitted to the Department at least 180 days prior to the annual anniversary. Failure to submit an application for renewal by that date will result in the expiration of the permit.

(b) Applications: Applicants shall complete an application form as prescribed by the

Commented [A32]: This provision is necessary to make clear that holders of a use permit (major or minor) have the same rights as other permit holders under Article 61 of the Lake County Zoning Ordinance.

Director and pay all fees as established by resolution by the Board of Supervisors.

(c) The following documentation in electronic format is required for application for renewal:

a. A copy of all licenses, permits, and conditions of such licenses or permits related to the project from state agencies as appropriate including, but not limited to the California Department of Food and Agriculture, Department of Pesticide Regulation, Department of Fish and Wildlife, The State Water Resources Control Board, Board of Forestry and Fire Protection, Central Valley or North Coast Regional Water Quality Control Board, and the Department of Public Health.

b. A copy of all reports provided the County and State agencies as determined by the Director.

c. A list of all employees on the premise during the past year ~~and a copy of the background checks certification for each.~~

d. Documentation that the applicant is still qualified to be an applicant.

e. Any proposed changes to the use permit or how the site will be operated.

f. Payment of all fees as established by resolution by the Board of Supervisors.

(d) The permit may be renewed if:

a. Where there are no changes to the use permit or how the site will be operated:

i. The original permit's approval findings, conditions, or environmental certification are still valid.

ii. There are no violations of the permit conditions or of state licenses or permits that the permittee did not timely correct.

iii. The applicant is qualified to apply for such a permit.

b. Where there are changes to the development or use permit or how the site will be operated:

i. Such changes do not change the findings of the original permit's approval findings, conditions, or environmental certification.

ii. There are no violations of the permit conditions or of state licenses or permits that the permittee did not timely correct.

iii. The applicant is qualified to apply for such a permit.

Commented [A33]: See above comments regarding background checks.

Section 5: Section 27.2, Table A Revisions

Section 27.2, Table A is amended by inserting the following at the bottom of the table:

Table A																					
	APZ	A	TPZ	RL	RR	SR	R1	R2	R3	C1	C2	C3	CR	CH	M1	M2	MP	PDR	PDC	W	U
(z) Adult Use Cultivation	●	●	●	●	●	●	●	●	●									●			
(z) Qualifying Patient Cultivation	●	●	●	●	●	●	●	●	●									●			
(z) Primary Caregiver Cultivation	●	●	●	●	●	●	●	●	●									●			

Section 6: Section 27.11, Table B Revisions

Section 27.11, Table B is amended by inserting the following at the bottom of the table:

Table B																					
	APZ	A	TPZ	RL	RR	SR	R1	R2	R3	C1	C2	C3	CR	CH	M1	M2	MP	PDR	PDC	W	U
(at) All versions of Type 1, 2, and 4 licenses	o	o	o	o	o	o															
(at) All versions of Type 3 licenses	●	●	●	●	●	●															

Section 7: Chapter 21, Article 41.18 is hereby repealed.

Section 8: All ordinances or resolutions in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section 9: Pursuant to Section 26055(h) of the Business and Professions Code, this ordinance is exempt from CEQA requirements.

Section 10: This ordinance shall take effect on the___day of_____, 2018 and within fifteen (15) days after adoption of the ordinance, 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_____day of _____, 2017, and passed by the following vote on the _____day of_____2018.

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Attest: Carol J. Huchingson
Clerk of the Board of Supervisors

APPROVED AS TO FORM:
ANITA L. GRANT

By:
Deputy

By:

HARRISON
TEMBLADOR
HUNGERFORD
& JOHNSON

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MEMORANDUM

ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL

FROM: Brad Johnson, Esq.

TO: Robert Adelman

RE: **CEQA Compliance**

DATE: February 22, 2018

Robert, you asked for an explanation of how the California Environmental Quality Act (Pub. Resources Code, § 21000 *et seq.* ["CEQA"]) applies to (1) Lake County's adoption of its local commercial cannabis ordinance; and (2) individual discretionary permits that Lake County may approve under its commercial cannabis ordinance. We also understand that some clarification may be helpful concerning the various "management plans" that the state requires for certain commercial cannabis activities, and whether and to what extent those management plans satisfy applicable CEQA requirements, and how those management plans interplay with similar management plans required under the County's draft ordinance. We address each question below.

1. CEQA Applicability to Lake County's Commercial Cannabis Ordinance

A local government's adoption of a land use ordinance may be subject to CEQA to the extent the ordinance has the potential to result in a direct physical change or a reasonably foreseeable indirect physical change in the environment. (Pub. Resources Code, § 21065; 14 C.C.R. § 15064; *Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786, 789, fn. 2; *see also Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2016) 4 Cal.App.5th 103.) The Medicinal and Adult-Use Cannabis Regulation and Safety Act (Bus. & Prof. Code, § 26000 et seq. [the "State Cannabis Act"]), however, expressly exempts local zoning ordinances that regulate commercial cannabis activities from CEQA review. The State Cannabis Act provides as follows:

> Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this

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> exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.

(Bus. & Prof. Code, § 26055(h).)

The above exemption applies if the local zoning ordinance meets two conditions. First, the local ordinance must require discretionary review and approval of permits, licenses or other authorizations to engage in commercial cannabis activity. CEQA defines a "discretionary" approval as one that "requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations." (14 C.C.R. § 15357.) Second, the local zoning ordinance must require CEQA review, where applicable, of individual projects considered under the ordinance.

In its current draft form, the proposed Lake County cannabis ordinance qualifies for the State Cannabis Act's CEQA exemption. (Bus. & Prof. Code, § 26055(h).) The County's draft ordinance provides for discretionary approval of commercial cannabis activities by requiring either a major use permit (review and approval process set out in Article 51 of the County Zoning Ordinance) or a minor use permit (review and approval process set out in Article 50 of the County Zoning Ordinance). Both permit types require "the exercise of judgment or deliberation", by either the Zoning Administrator, Planning Commission, or Board of Supervisors. (14 C.C.R. § 15357.) As discretionary approvals, both minor and major use permits are subject to CEQA.

2. CEQA Review of Individual Commercial Cannabis Projects

Individual commercial cannabis projects proposed under the County's commercial cannabis ordinance (once adopted) would require compliance with CEQA. (See Pub. Resources Code, § 21065; 14 C.C.R. § 15064; Bus. & Prof. Code, § 26055(h); Articles 50 and 51 of the Lake County Zoning Ordinance.) Further, emergency regulations adopted pursuant to the State Cannabis Act identify CEQA compliance as a required condition precedent to issuance of a state license. (3 C.C.R. § 8102(p).) In other words, an applicant for a state license must show that the local jurisdiction complied with CEQA (either by identifying an applicable exemption or by adopting a CEQA document) when it approved the applicant's underlying local permit.

The precise nature of CEQA compliance for any particular project, however, will depend on the specific activities proposed as part of that project. For example, some projects may be

exempt from CEQA under a categorical exemption, such as a Class 1 (Existing Facilities; 14 C.C.R. § 15301) or Class 4 exemption (Minor Alteration to Land; 14 C.C.R. § 15304). These exemptions apply particularly well to outdoor cultivation projects in established agricultural areas. This office has helped secure approval of a number of multi-acre cultivation projects outside of Lake County under the above exemptions.

Other proposed projects may require some degree of environmental review, which can be achieved via a Negative Declaration ("ND"), a Mitigated Negative Declaration ("MND"), or an Environmental Impact Report ("EIR"). In each case, the County (or County consultant, or applicant) must first prepare an initial study to determine the appropriate level of environmental review for the proposed project. (14 C.C.R. § 15063; *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170.) The County may then prepare a standalone ND, MND or EIR, or the County may "tier" off a previous CEQA document. (Pub. Resources Code, § 21094; 14 C.C.R. § 15152.) As you may know, the state recently adopted its Final Program EIR for commercial cannabis activities. This document was expressly prepared for use as a "first-level" document suitable for tiered use for subsequent individual projects.

3. Draft Ordinance "Management" Plans

The County's draft commercial cannabis ordinance requires each applicant to prepare a host of "management" plans, including an air quality management plan, a waste management plan, a cultural resources management plan, an energy management plan, a fertilizer management plan, and so forth. In all, the draft ordinance requires thirteen such plans. We understand that clarification may be helpful on two points related to these management plans.

First, the various management plans required under the draft ordinance do not comprise a CEQA analysis of the underlying project. While these management plans relate to potential environmental impact areas under CEQA, the plans do not analyze potential project impacts nor address possible mitigations. (*See, e.g., Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281, 286.) Rather, these plans would form part of the "project description" for a proposed project; in other words, these management plans would be part of the overall project subject to CEQA analysis. (14 C.C.R. § 15378; see *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1297.)

Second, some of the draft ordinance's management plans overlap with plans required by the state regulations, while other plans are in addition to those required by the state, as shown in the table below:

///

	Lake County Draft Ordinance Management Plans	CalCannabis Emergency Regulations Management Plans
1	Air Quality Management Plan	**Not required.**
2	Waste Management Plan	**Required.** State regulations require a "cultivation plan", which consists of several components, including a pest management plan, a cultivation plan, and a cannabis waste management plan. (3 CCR §§ 8106, 8108) The draft ordinance's Waste Management Plan requires far more information than the state requires, and is thus more onerous than state requirements.
3	Cultural Resources Management Plan	**Not required.**
4	Energy Management Plan	**Not required.**
5	Fertilizer Management Plan	**Not required.**
6	Fish and Wildlife Management Plan	**Not required.**
7	Operations Manual	**Not required.** State regulations require a "cultivation plan", which consists of several components, including a pest management plan, a cultivation plan, and a cannabis waste management plan. (3 CCR § 8106.)
8	Pest Management Plan	**Required.** State regulations require a "cultivation plan", which consists of several components, including a pest management plan, a cultivation plan, and a cannabis waste management plan. (3 CCR § 8106.)
9	Property Management Plan	**Not required.**
10	Water Resources Management Plan	**Not required.** State regulations require evidence of enrollment in the State Water Board General Order, or written verification that enrollment is not necessary. (3 CCR § 8102(n).) State regulations also require a CDFW LSAA, or written verification from CDFW that an LSAA is not required. (3 CCR § 8102(u).)
11	Security Plan	**Not required.**

	Lake County Draft Ordinance Management Plans	CalCannabis Emergency Regulations Management Plans
12	Storm Water Management Plan	**Not required.** State regulations require evidence of enrollment in the State Water Board General Order, or written verification that enrollment is not necessary. (3 CCR § 8102(n).)
13	Water Use Management Plan	**Required.** The state regulations require supplemental information for each water source identified by the applicant. (3 CCR § 8107.) Again, the draft ordinance imposes more onerous requirements than the state regulations.

As shown, ten of the County's draft ordinance management plans are not required by the state regulations. Of the draft ordinance's three management plans that are also required by the state regulations, two require much more information than the state counterparts. In this regard, the draft ordinance places more requirements on applicants and a heavier administrative burden on the County than state law requires.

The County should note that the State Cannabis Act authorizes local jurisdictions like Lake County to adopt their own local land use controls regulating commercial cannabis activities. (Bus. & Prof. Code, § 26200(a)(1).) Importantly, the State Cannabis Act also specifies that state standards, requirements and regulations are the minimum standards, and that local jurisdictions may establish additional standards, requirements and regulations. (Bus. & Prof. Code, § 26201.) The County, accordingly, is within its rights to require more and more exhaustive management plans than does the state. Any plans beyond those required by the state, however, will not be reviewed by the state for purposes of issuing state licenses. Such excess plans would be solely a function of local control and enforcement. In this regard, the County should tailor its management plan requirements to match those required by the state, so that an applicant may prepare a single set of plans for both the County and the state, and so that the County is not required to monitor and enforce compliance with a multitude of other plans that are not essential for state licensure.

We prepared the flow chart on the following page to illustrate the overall interaction between proposed Lake County permit requirements, state license requirements, and CEQA.

* * *

1 COUNTY PRE-APPLICATION CONFERENCE

Applicant submits:

- Parcel map
- Cultivation site plan
- License type description
- Responses to performance standard questions

2 APPLICANT SUBMITS COMPLETE PROJECT APPLICATION TO LAKE COUNTY

Application contains:

- Article 55 requirements
- Supplemental Information
- Site Plan
- Project Description
- Cultivation Plan
- Air Quality Management Plan
- Waste Management Plan
- Cultural Resources Management Plan
- Energy Management Plan
- Fertilizer Management Plan
- Fish and Wildlife Management Plan
- Operations Manual
- Pest Management Plan
- Property Management Plan
- Water Resources Management Plan
- Security Plan
- Storm Water Management Plan
- Water Use Management Plan

3 COUNTY COMPLETENESS DETERMINATION

County must determine if application is complete within 30 days of submittal or notify applicant of deficiencies. (Gov. Code, § 65943; 14 C.C.R. § 15060.)

4 COUNTY CEQA DETERMINATION

County must determine if the project (which is the entire action described in the application, including the management plans) is exempt from CEQA review, and if so, approve/deny the project within 60 days. (Gov. Code, § 65950; Pub. Resources Code, § 21080(b); 14 C.C.R. §§ 15061, 15260 et seq., 15300 et seq.)

If the project is not exempt from CEQA, the County (or applicant) must within 30 days prepare an initial study to determine whether to prepare a ND, MND, or EIR for the project. (Pub. Resources Code, §§ 21080.1, 21080.2, 21080.3; 14 C.C.R. §§ 15063, 15102.)

5 COUNTY APPROVAL / DENIAL

If the project is exempt from CEQA or the County adopts a ND or MND, the County must approve/disapprove the project within 60 days. (Gov. Code, § 65950.)

If the County certifies an EIR for the project, the County must approve/disapprove the project within 180 days. (Gov. Code, § 65950.)

6 APPLICANT APPLIES FOR STATE LICENSE

Once the County approves the project, the applicant may apply for a state license. (3 C.C.R. § 8102(p)(1).)

Application contains:

- General applicant information
- Proof of enrollment with State Water Board, or proof of inapplicability
- Proof of hazardous materials record search
- Proof of compliance with CEQA
- Property diagram
- Cultivation plan
- Water sources and supplemental information
- Proof of CDFW LSAA, or proof of inapplicability

7 STATE REVIEWS LICENSE APPLICATION

The state will review a complete application and will contact the County to verify that the County has issued a local permit for the proposed project. (3 C.C.R. § 8110.) The state's review is limited to the state-specific application requirements; the state does not review an application for completeness under the local standards. (3 C.C.R. § 8112.)

8 PROCESS COMPLETE

At the conclusion of this process, the applicant will have (1) a local permit that is subject to local conditions and enforcement; and (2) a state license that is subject to state conditions and enforcement.

Robert Adelman
Benmore Valley Road
Lakeport, CA 95453
22 February, 2017

County of Lake
Board of Supervisors
255 N. Forbes Street
Lakeport, CA 95453

Supervisors:

I am writing to comment on the issues that arose at the cannabis policy workshop on 15 February, 2018. For such complex issues, we need more than 2 minutes to give public input. Please consider this letter supplemental.

For the greenhouse on agricultural land issue, please see my letter dated 14 February, 2018. In addition, I would like to note that cross-contamination will not be mitigated by greenhouses. The best solution is the one proposed by the Farm Bureau where larger buffer spaces between cannabis and existing crops are required.

Supervisor Steele made some great points on efficiency -- not doing the work the state is already doing. Staffing is a huge problem for the county and efficiency starts with good policy. I recommend you look at 2 areas for improvement: CEQA and enforcement.

For CEQA, we should not be doing anything locally the state is handling. CEQA does not present as challenging a problem as it may appear, and I have attached a memorandum, dated 22 February, 2018, prepared by attorney Brad Johnson which addresses and clarifies Supervisor Steele's observations.

For enforcement, the sheriff's department is already overburdened and understaffed, as discussed at a recent board meeting. By having the background checks that the state is ALREADY requiring, done again, locally, is a waste of resources. You are tasking the sheriff with working on zoning permits instead of using resources to protect the community and reduce emergency response times. Please see the attached attorney memorandum dated 12 February, 2018. On page 31 there are comments, a recommendation, and a discussion of the state's responsibility.

With smart policy we can maximize the efficiency of the staff and pass the cost of the state regulations onto the state, where they belong.

Sincerely,

Robert Adelman

CC:

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