

1 AN URGENCY ORDINANCE ALLOWING TEMPORARY AND LIMITED REGISTRATION
2 OF CERTAIN COMMERCIAL ADULT USE CULTIVATION UNDER SPECIFIED
3 CONDITIONS DURING A MORATORIUM PERIOD

4 WHEREAS, pursuant to Government Code section 65858, to protect the public safety, health,
5 and welfare, the County may as an urgency measure adopt an interim ordinance prohibiting land
6 uses that may be in conflict with contemplated land use regulations that the County is studying or
7 considering or intends to study within a reasonable time; and

8 WHEREAS, pursuant to Government Code section 25123, the County may enact an
9 ordinance for the immediate preservation of the public peace, health, or safety, which contains a
10 declaration of the facts constituting the urgency and which shall be effective immediately; and

11 WHEREAS, while medical cannabis and adult use cannabis were previously governed in
12 California separately, a single regulatory scheme was created in June of 2017 when the Medical and
13 Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) was signed into law; and

14 WHEREAS, under MAUCRSA, licensing is necessary for all commercial cannabis activity in
15 California and, with very limited exception, all licenses under MAUCRSA will be either for medicinal or
16 adult use; and

17 WHEREAS, state licenses for both medical and adult use cannabis businesses will become
18 available in January of 2018 and will be regulated under MAUCRSA; and

19 WHEREAS, while the County presently has a local program to permit and regulate medical
20 cannabis cultivation, it presently does not permit adult use cannabis businesses to cultivate and/or in any
21 way operate in the County; and

22 WHEREAS, the County has made lengthy efforts to develop a local program to permit and
23 regulate adult use commercial cannabis, in November of this year, the State issued emergency
24 regulations governing the issuance of licenses to cultivators and retailers, all of which come just 45 days
25 before legal sales of marijuana in California may begin, and some of which constitute new and/or
26 changed requirements; and

27 WHEREAS, given the new and expansive nature of this industry, the County requires time to
28

1 review and consider the significance of these regulations as well as the significance of apparent gaps in
2 the regulations before it may reasonably move forward with a permanent ordinance governing medical
3 and adult use commercial marijuana; and

4 WHEREAS, pursuant to the requirements of MAUCRSA, a state license may be issued only if
5 the licensee's activity is permitted by its local government; and

6 WHEREAS, the County is presently working toward the implementation of a local program to
7 permit and regulate adult use cannabis, but has not yet developed the land use and other regulations to
8 put such a local program in place; and

9 WHEREAS, there exists in the County a limited number of persons who have obtained the
10 necessary written approvals from the State Water Resources Control Board and have been duly
11 certified by the County Community Development Department as required by Ordinance Number ____
12 and may be eligible for Type 2 and 3 cultivation licenses from the State if an approval to cultivate for
13 adult use has been obtained from the County; and

14 WHEREAS, this Board finds that to allow said persons an interim adult use commercial
15 cultivation approval for the maximum limited period of the term of this Urgency Ordinance, with no
16 vested rights arising as a result and subject to immediate termination upon the termination of this
17 Ordinance shall not presently create a hindrance or obstruction to the development and implementation
18 of a permanent adult use commercial cultivation ordinance.

19 NOW THEREFORE, the Lake County Board of Supervisors hereby ordains as follows

20 SECTION ONE. Findings.

21 The Board of Supervisors hereby incorporates by reference herein the Recitals hereinabove and
22 additionally finds and declares the following:

23 This Ordinance is adopted as an urgency ordinance pursuant to the provisions of Government Code
24 sections 25123 and 25131 and as an interim zoning ordinance pursuant to the provisions of
25 Government Code section 65658 and shall be effective for a period of 45 days from its passage unless
26 and until extended pursuant to the terms of subdivision (a) of that code section. Based on the findings
27 set forth above in this section of the Ordinance, the Board of Supervisors finds and determines that the
28 adoption of this Ordinance as an urgency ordinance is necessary for the immediate preservation of the

public peace, health, safety, and welfare pursuant to the requirements of Government Code sections 25123, 25131, and 65858, and is necessary to provide additional time to consider the regulations issued by the State in November of this year so to consider and complete a permanent ordinance regulating medical and adult use commercial cannabis in the unincorporated areas of the County.

SECTION TWO. Prohibition.

Except as specified hereinbelow, in accordance with Government Code Section 65858, a moratorium against the cultivation, distribution, transport, storage, manufacturing, processing, and sale of adult use commercial cannabis in any unincorporated area of the County of Lake is hereby adopted for 45 days pending further review and consideration of the impacts of recent State-issued cannabis regulations upon the development and implementation of a permanent County ordinance addressing adult use commercial cannabis.

SECTION THREE. Limited and Temporary County Adult Use Commercial Cultivation Approval.

For up to a maximum number of _____ cultivator/applicants at any given time during the life of this Urgency Ordinance, all adult use cultivation, upon proof of having secured a permit with and/or written approval from the California Water Resources Control Board for the cultivation of cannabis, that have met all other applicable State and local law requirements, and are otherwise eligible to obtain and do obtain a Type 2 or Type 3 cultivation license from the State may receive a limited registration and approval from the County, by and through the Community Development Department, to cultivate adult use commercial marijuana for a temporary period of time under a Type 2 or Type 3 license, which limited County approval shall in no event exceed the term of this Urgency Ordinance.

SECTION FOUR. Limitations and Restrictions.

Said adult use cultivation is strictly limited to persons who solely obtain Type 2 (small outdoor cultivation) or Type 3 (medium outdoor cultivation) cultivation licenses, and have obtained no other cultivation licenses. Said cultivation is restricted to the following zoning districts:

_____ under the following terms and conditions _____. Said cultivation must occur on parcels no less than _____ acres in size. In no event shall the number of cultivators approved for adult use commercial cultivation pursuant to this Urgency Ordinance exceed _____ in

number at any one point in time.

SECTION FIVE. No Vested Rights Created or Implied.

1 This Urgency Ordinance does not create, directly or indirectly, or imply any right to claim any vested
2 right for cultivators. All registrations issued pursuant to this Ordinance shall automatically expire when
3 this Ordinance expires and/or is terminated or when a permanent ordinance is adopted, whichever
4 occurs sooner. Said limited registration shall be conditions upon the execution of a written
5 acknowledgment by the registrant that no vested rights as to the registrant and/or the permitted use of
6 the subject real property shall accrue as a result of the issuance of this limited registration. All
7 cultivators will be required to apply for and be granted a land use permit under the County's permanent
8 ordinance in order to cultivate.

SECTION FIVE. Compliance with California Environmental Quality Act.

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10 The Board of Supervisors finds that this ordinance is not subject to the California Environmental Quality
11 Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably
12 foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project
13 as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14,
14 Chapter 3, because it has no potential for resulting in physical change to the environment, directly or
15 indirectly; it prevents changes in the environment pending the completion of the contemplated Zoning
16 Ordinance review.

SECTION SIX. Severability.

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18 If any provision of this ordinance or the application thereof to any person or circumstance is
19 held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can
20 be given effect without the invalid provision or application, and to this end the provisions of this
21 ordinance are severable. The Board of Supervisors hereby declares that it would have adopted this
22 ordinance irrespective of the invalidity of any particular portion thereof.

SECTION SEVEN. Effective Date.

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24 This Urgency Ordinance shall take effect immediately, and shall be in effect for forty-five (45) days
25 from the date of adoption unless otherwise repealed or extended.

26 Within fifteen (15) days after adoption of the ordinance, the Clerk to the Board of
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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 passed by the Board of Supervisors on the 19th day of December, 2017, by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

CHAIR, Board of Supervisors

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

APPROVED AS TO FORM:
ANITA L. GRANT

By: _____
Deputy

By: _____