

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

ORDINANCE NO. \_\_\_\_\_

AN INTERIM URGENCY ORDINANCE IMPLEMENTING A TEMPORARY  
MORATORIUM ON THE ISSUANCE OF EARLY ACTIVATION PERMITS FOR  
CANNABIS CULTIVATION

WHEREAS, an Interim Urgency Ordinance Imposing a Temporary Prohibition (Moratorium) on the Issuance of Early Activation Permits for Land Use Project Within the Unincorporated Area of the County of Lake was adopted on July 27, 2021; and

WHEREAS, that Urgency Ordinance was determined to be necessary to address a significant backlog of applications for early activation permits and to ensure that thorough consideration was given to the narrowly-prescribed circumstances pursuant to which such permits may be issued; and

WHEREAS, on August 31, 2021, that Urgency Ordinance was extended for an additional ten (10) months and fifteen (15) days on the basis that the extension of the Ordinance continued to be necessary to address the backlog of early activation applications and to complete the necessary studies and reports to fully evaluate and support contemplated zoning ordinance amendments; and

WHEREAS, that Urgency Ordinance lapsed on July 24, 2022; and

WHEREAS, when a prior interim ordinance expires, California Government Code section 65858, subdivision (f) allows a jurisdiction to adopt another interim ordinance provided the new interim ordinance is adopted to protect public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence or set of circumstances that led to the adoption of the prior interim ordinance; and

WHEREAS, the circumstances which exist presently are different from the set of circumstances that led to the adoption of the above-described ordinance: The Board of Supervisors took action in June of 2022 to approve the creation of a task force of interested stakeholders, community members and County governmental entities to develop a new County zoning ordinance to address commercial cannabis permitting activities, regulation, and enforcement; and

WHEREAS, said task force will consider all commercial cannabis permitting activities in Lake County in a comprehensive manner and will consider the means by which the permitting and regulatory processes for such activities may be streamlined and/or made more effective, which will likely result in significant modifications to the Zoning Ordinance; and

WHEREAS, if early activation permits are allowed to continue to be issued before the task force has the opportunity to consider the efficacy of the early activation permitting process and whether it is compatible with the overarching changes contemplated in the entire commercial cannabis permitting and regulatory scheme, it will create a threat to public health, safety, and

welfare in that it could result in the development of projects that will be in conflict with the task force's recommended amendments to the County Zoning Ordinance; and

WHEREAS, that threat to public health, safety, and welfare should the Community Development Department continue to accept applications for temporary early activation permits is further exemplified by the likelihood that, because the demands on staff resources for the processing of such permits is so considerable, it will significantly slow the processing of all other land use permits and it will deprive the Department of providing meaningful assistance to the above-described task force, thereby creating an obstacle to these Zoning Ordinance improvements; and

WHEREAS, Government Code section 25131 expressly authorizes the Board of Supervisors to adopt an urgency ordinance immediately upon introduction and Government Code section 25123 makes such an urgency ordinance effective immediately.

NOW THEREFORE, THE LAKE COUNTY BOARD OF SUPERVISORS ORDAINS AS FOLLOWS:

Section One: Findings. The Board of Supervisors of the County of Lake finds that:

- a. The above recitals are true and correct and are incorporated herein as if set forth in full and that these recitals are relied upon by this Board for its adoption of this Ordinance.
- b. There exists a current and immediate threat to the public health, safety, and welfare of County residents if early activation permits continue to be issued during that period of review by the task force and prior to its recommendations to this Board.

Section Two: Definitions.

- a. "Early Activation Permit" means a permit issued pursuant to section 21-27.4 of the Lake County Zoning Ordinance and section 21-27.13(at)(2)(i)c of the Zoning Ordinance.
- b. "Deemed Accepted" for purposes of Section Three hereinbelow means that an application for an early activation permit which has been submitted to the Community Development Department prior to the effective date of this Ordinance, or was submitted during a period of time when no County prohibition as to said submittal was in effect, will be processed according to all existing zoning and environmental requirements presently in place. However, no application for an early activation permit shall be deemed accepted if said application does not strictly meet the Zoning Ordinance requirements for early activation permits. Any application for an early activation permit which does not meet each and every requirement of section 21-27.4 of the Zoning Ordinance shall be summarily rejected.

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### Section Three: Prohibited Activities.

Effective upon the adoption of this Urgency Ordinance, applications for early activations permits will no longer be accepted by the Community Development Department. Only applications which are deemed accepted according to the definition in Section Two(b) hereinabove shall continue to be processed and early activation permits may be granted only if the Community Development Department determines, in its discretion, that doing so is consistent with all federal, state, and local law requirements.

### Section Four: Environmental Review.

This Ordinance is not a “project” within the meaning of Public Resources Code Section 21065 and CEQA Guidelines Section 15378 because the temporary moratorium imposed here does not have the potential of resulting in a direct physical change to the environment or reasonably foreseeable indirect physical change in the environment. Even if the adoption of the moratorium were a project, it would be categorically exempt from CEQA under CEQA Guidelines section 15308 because the moratorium is adopted for the County to adopt an improved regulatory process for the protection of the environment through the assistance of the above-described task force and there are no unusual circumstances under CEQA Guidelines Section 15300.2, and under the “common sense” exemption in CEQA Guidelines Section 15061(b)(3) because there is no possibility that adoption of this temporary moratorium would have a significant effect on the environment.

### Section Five. Severability.

If any section, subsection, sentence, clause, phrase of this Ordinance is for any reason held invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

### Section Six. Conflicting Laws.

For the term of this Ordinance, as set forth in Section Nine hereinbelow, the provisions of this Ordinance shall govern. The provisions of this Ordinance shall prevail in the event that they are in conflict with the provisions of any other County ordinance, resolution, or policy.

### Section Seven. Effective Date.

This Urgency Ordinance shall take effect immediately upon its adoption by a four-fifths vote of this Board. This Ordinance shall continue in effect for forty-five (45) days from the date of its adoption and shall thereafter be of no further force and effect unless otherwise extended pursuant to Government Code section 65858.

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Section Eight. Report.

Ten (10) days prior to the expiration of this Interim Urgency Ordinance or any extension thereof, the Community Development Department shall issue a written report describing the measures taken, or recommending measures, to alleviate the condition which led to the adoption of this interim Urgency Ordinance.

The foregoing Ordinance was introduced before the Board of Supervisors and passed by the following vote on the 26<sup>th</sup> days of July, 2022.

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

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Chair, Board of Supervisors

ATTEST:     SUSAN PARKER  
                 Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

ANITA L. GRANT

County Counsel

By: \_\_\_\_\_