

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

RESOLUTION ADOPTING RECOMMENDATIONS TO ADDRESS FIRE SAFE
REGULATIONS APPLICABLE TO OUTDOOR CANNABIS CULTIVATION AND OTHER
AGRICULTURAL ACTIVITIES

WHEREAS, Senate Bill 94 was enacted into law in 2017, establishing a single system of administration for cannabis laws in California and clarifying that local fire officials retain the authority to carry out fire and life safety requirements; and

WHEREAS, authorities having jurisdiction, such as local fire officials, are charged with safeguarding public safety by regulating the use of real property to protect against the exposure to fire and explosion hazards which may result from that use; and

WHEREAS, in addition to local regulation, Public Resources Code sections 4290 and 4291 provide for the implementation of minimum fire safety standards on certain real properties described in those code sections; and

WHEREAS, Public Resources Code section 4290 applies to the perimeters and access to all residential, commercial, and industrial building construction within state responsibility areas approved after January 1, 1991, and within lands classified and designated as very high fire hazard severity zones as defined in subdivision (i) of section 51177 of the Government Code after July 1, 2021; and

WHEREAS, Public Resources Code section 4291 applies to buildings and structures in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land covered with flammable material; and

WHEREAS, SRA (State Responsibility Area) Fire Safe Regulations, sections 1270, et seq., implement the requirements of Public Resource Code sections 4290 and extend the scope of those requirements to specified pre-development activities; and

WHEREAS, Section 1270.02 (a) of the SRA Fire Safe Regulations extend the application of Public Resources Code sections 4290 to all tentative and parcel maps or other developments approved after January 1, 1991 and to applications for building permits on parcels approved in pre-1991 parcel or tentative maps to the extent that conditions relating to the perimeters and access to the buildings were not imposed as part of the approval of the parcel or tentative maps; and

WHEREAS, pursuant to subdivision (c) of Section 1270.02 of the SRA Fire Safe Regulations affected activities include approval of new parcels, applications for a building permit for new construction, application for use permit, siting of manufactured homes, and road construction. Roads used solely for agriculture or mining use are exempt; and

WHEREAS, the CalCannabis Cultivation Licensing Division of the State Department of Food and Agriculture (CDFA), is responsible for the regulation of commercial cannabis cultivation in the State of California and that agency acknowledges that the word “commercial” refers to the nature of the cannabis production or operation as for-profit; and

WHEREAS, the CDFA, citing to Food and Agricultural Code sections 564 and 54004, nonetheless has deemed the cultivation of cannabis to be an agricultural activity; and

WHEREAS, Lake County’s local law is consistent with the interpretation of the State Department of Food and Agriculture in that Section 68.4 of (a) (14) of the Lake County Zoning Ordinance defines “agricultural use” as the tilling of soil, the raising of crops, horticulture, silviculture, viticulture, aviculture, aquaculture, apiculture, livestock grazing, the raising of small animals and poultry, domestic livestock farming, dairying, and animal husbandry; and

WHEREAS, despite the recognition of outdoor cannabis cultivation as an agricultural activity, it is nonetheless distinguished by both state law and the Lake County Zoning Ordinance from other types of agriculture because of the federal classification of cannabis as a Schedule I drug, the security concerns associated with a high value crop, and the unique characteristics of the cannabis cultivation operations which authorize licensing, permitting, and taxation of commercial cannabis cultivation; and

WHEREAS, outdoor cannabis cultivation operations have considerable similarity to all other agricultural operations presently ongoing in the State of California such that those similarities should be considered in devising appropriate fire safety measures; and

WHEREAS, the Board of Supervisors interprets existing state and County law regarding outdoor cannabis cultivation such that Public Resources Code sections 4290 and 4291 have no different and/or greater application to outdoor commercial cannabis cultivation operations than to any other agricultural activity; and

WHEREAS, the Board of Supervisors wishes to incorporate into its minor and major use permitting procedures, a protocol at the pre-application stage for a cannabis cultivation permit, whereby the County Fire Official and the County Fire Protection District within which said operation will be/is located will be invited to participate to discern, and to inform the permit applicant of, the applicable fire safety measures.

NOW, THEREFORE, BE IT RESOLVED that the County Board of Supervisors hereby finds and declares the following:

1. The Board of Supervisors acknowledges and agrees that the requirements of Public Resources Code section 4290 and the SRA Fire Safe Regulations implementing that code section are applicable to properties within the SRA containing residential, commercial, and industrial building construction, to all tentative and parcel maps or other developments approved after January 1, 1991 and to applications for building permits on a parcel approved in a pre-1991 parcel or tentative map to the extent that

conditions relating to the perimeters and access to the buildings were not imposed as part of the approval of the parcel or tentative map.

2. It is the recommendation of this Board to the County Fire Official and to all Fire Protection Districts in Lake County that outdoor cannabis cultivation be recognized as an agricultural activity in the application of Public Resources Code sections 4290 and 4291 and the SRA Fire Safe Regulations, subject to the same requirements imposed upon, and the exemptions allowed for, any other agricultural activity.
3. That this Board intends this Resolution to be applicable solely and only to outdoor commercial cannabis cultivation. This Resolution does not address and is not intended to address any other cannabis-related activity, process, and/or enterprise.
4. That the Lake County Community Development Department (CDD) include both the County Fire Official and the applicable County Fire Protection District as invitees to any pre-application meeting convened by the CDD relating to a commercial cannabis cultivation use permit. This will provide a forum to fully inform the permit applicant of any and all fire safety obligations at the earliest opportunity to do so.
5. That this Board intends only to extend these recommendations to the County Fire Official and to the County Fire Protection Districts, but in no way wishes to subvert or challenge the critical determinations made by them in establishing wildfire protections within an SRA. The Board recognizes and agrees that wildfire protections deserve the highest priority.
6. That this Board acknowledges that it is imperative as a matter of public health, safety, and welfare that Lake County emergency first responders have reasonable access to properties throughout the unincorporated area of the County.
7. That this Board directs County staff to develop comprehensive special road standards for all new agricultural uses/activities in the County, including outdoor cultivation of cannabis, to ensure reasonable access to emergency first responders. For purposes of these special road standards, no pre-existing lawful agricultural activity for which any and all required permits and licenses have been obtained shall be considered "new". Such pre-existing agricultural activity shall not be subject to the above-described special road standards.

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THIS RESOLUTION WAS PASSED AND ADOPTED by the Board of Supervisors of the County of Lake, State of California, at a regular meeting thereof on _____, 2019 by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

CHAIR, Board of Supervisors

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

By: _____

APPROVED AS TO FORM:

ANITA L. GRANT
County Counsel

By: _____