



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Telephone 707/263-2221 FAX 707/263-2225

Item 3

May 28, 2020

STAFF REPORT

TO: Honorable Members of the Planning Commission

FROM: Scott DeLeon, Community Development Interim Director
Tocarra Nicole Thomas, *AICP*, *CQIA* Community Development Deputy Director
Mark Roberts, Community Development Department Principal Planner
Michelle Irace, Community Development Department Senior Planner

DATE: May 28, 2020

RE: **Discussion of Text Amendments to Article 27SEC. 21-27 USES GENERALLY PERMITTED (at) Commercial Cannabis Cultivation: (Ord. No. 3084, 05/21/2019)**
Proposed Amendments to Zoning Ordinance (**AM 20-02**)
Categorical Exemption (**CE 20-15**)

ATTACHMENTS:

1. Article 27
2. Board of Supervisor Agenda Item Cannabis Revision 5-5-2020
3. Maps of Proposed Changes

EXECUTIVE SUMMARY

These proposed zoning text amendments to Article 27 for the commercial cultivation of cannabis are being brought to the Planning Commission after initial review by the Board of Supervisors on May 5, 2020. Staff is recommending the general discussion of the following text amendment changes to Article 27 by the Planning Commission's with final recommendations being brought before the Board of Supervisors for Approval. Additionally, final proposed changes will be brought to the Planning Commission for consideration of approval at a later date. These proposed changes are categorically exempt from CEQA analysis per section XXX since this is a general discussion, and, each individual permit for the cultivation of cannabis undergoes a rigorous CEQA analysis.

Proposed Changes:

1. Reduce lot sizes throughout the license types to serve as an economic development incubation for microbusinesses throughout the County
2. Include language to instruct applicants to obtain all required state licenses or demonstrate proof of enrollment in the State Licensing process prior to obtaining Early Activation of the Use Permit

3. Include language which expressly prohibits Use Permit holders from holding Cannabis and Hemp permits concurrently
4. Include language to increase Administrative fines for violations of conditions of Early Activation/Use Permit
5. Streamline the permit process by developing an exception to the pre-application meeting requirement

Previous Actions/Discussion

During the May 5, 2020 Board of Supervisors meeting the proposed text amendment changes were brought before the Board of Supervisors for a First Reading and discussion. The Board of Supervisors directed staff to bring the proposed changes to the Planning Commission for review and discussion prior to the Board of Supervisors Second Reading. Additionally, the Board of Supervisors approved adding the following regulatory changes to Article 27

- Type 8 Cannabis Testing Laboratory to Planned Development Commercial District
- Applicants should not be approved to receive a permit until electronic finger print images are submitted to the Department of Justice, Lake County Sherriff Department, or the Lake County Community Development Department has been approved by the DOJ or Lake County Sherriff's Office
- Due to the nature of Agricultural Work the employee may be permitted to work temporarily upon submitting background information; if there are any employees who have failed the background checks their employment must be terminated immediately

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. The activity in question here is a text amendment which will not have any effect on the environment, and falls within the common sense exemption as this is a general discussion of the proposed text amendment. Furthermore, each individual Use Permit application undergoes a rigorous CEQA analysis for potential environmental implications and are brought before the Planning Commission for discussion and approval. Therefore, staff feels that these proposed text amendments are categorically exempt from CEQA analysis.

Recommend the Board of Supervisors determine the project to be categorically exempt from CEQA pursuant to Section 15061(b)(3) the CEQA Guidelines.

DISCUSSION OF PROPOSED CHANGES

1. Change the lot sizes for the following license types to enhance the potential for development of additional microbusiness activities, which in turn allows for the county to collect Measure C and Measure K taxes.

| Reduction of Lot Sizes Throughout License Types | | |
|--|--|---|
| Licensee Type | Current | Proposed |
| Type 1 – outdoor- | Maximum 5,000 sq. ft. | Unlimited Canopy |
| Type 1A - indoor | <ul style="list-style-type: none">• Maximum 5,000 sq. ft.• 5 Acre Minimum | <ul style="list-style-type: none">• Unlimited Canopy• 2 Acre Minimum |
| Type 1C - outdoor | Maximum 2,500 sq. ft. | Unlimited Canopy |
| Type 2A - indoor | 20 Acre Minimum | 2 Acre Minimum |
| Type 3A - indoor – | 20 Acre Minimum | 2 acre minimum. |

- Reducing the lot sizes will allow for additional properties to be candidates for cannabis cultivation, allowing for additional microbusiness/economic development opportunities.
- These proposed changes would allow for cannabis operations on approximately 892 additional parcels (2,997.5 acres) throughout the County. Staff believes that all of these potential impacts would be mitigated since all future projects proposed as a result of the ordinance would require discretionary review through the Use Permit process and will be analyzed for potential impacts on a project-by-project basis.
 - Land Use- Future cannabis projects could occur within the existing zoning districts but will require a Use Permit, in compliance with the Lake County Zoning Ordinance. As shown on the attached map of cultivation sites that would be allowed under the proposed Ordinance Amendment, the available 892 sites for cultivation are located in a variety of locations, both rural and more urban in nature near higher density town areas. The parcels are zoned to allow cannabis with approval of a Minor or Major Use Permit and no General Plan (GP) amendments would be required. Each project will be analyzed for consistency with the General Plan and Area Plans through the Use Permit process.
 - Water Quality/Utilities- Future cultivation projects have the potential to increase water demand and impact water quality. Most of the identified parcels are currently served by an existing onsite septic and well. Water demand for cultivation varies depending on whether the cultivator employs a water capture/reuse system and the size of the proposed grow. Each Applicant is required to submit a Property Management Plan and Erosion Control Plan that identifies Best Management Practices pertaining to water usage, erosion, and water quality. In accordance to the Lake County Zoning Ordinance 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. Site specific water usage and impacts to water quality will be analyzed on a project level basis through the Use Permit process.
 - Cultural/Tribal Cultural Resources- Future cannabis projects could impact historic and cultural resources by removing or altering the exterior appearance of such resources, and by discovering archeological resources during site

preparation activities. However, all future projects, including the remodeling of existing buildings and construction of new structures would require a Building Permit, and a Use Permit which would analyze impacts to these resources and require measures to mitigate impacts if necessary.

- Aesthetics/Visual- Some of the future indoor cannabis-related projects resulting from the proposed changes to the cannabis ordinance would be in existing buildings and should have no impact with respect to visual quality. However, under the proposed changes new buildings and cultivation sites could be constructed. Visual impacts would vary based on location and siting of the project site and operation. Some of the parcels are located in scenic areas containing Scenic Combining zoning districts, which could result in significant impacts to scenic resources and would need to have additional review during the application process to ensure that there are no negative impacts on the surrounding visual areas.
 - Air Quality- Future projects could result in the construction of new buildings and grading for cannabis operations. However, all projects would be required to obtain necessary air quality and grading permits from Lake County Air Quality Management District and comply with all local air quality standards. Cannabis plants naturally emit terpenes, a volatile organic compound (VOC), as they grow. Terpenes give cannabis its odor. Applicants are required to submit an Odor Control Plan describing mechanisms in place (i.e., distancing protocols, air filters and air scrubbers, etc.) to reduce odor.
 - **Staff proposes reducing lot sizes throughout the license types to serve as an economic development incubation for microbusinesses throughout the County.**
2. Include language to instruct proposed applicants to obtain all required state licenses or demonstrate proof of enrollment in the State Cannabis Licensing process prior to obtaining Use Permit
- The current Early Activation process by definition makes plants noncompliant with the State Licensing process; as the process allows for applicants to Early Activate the Use Permit if they obtain all licenses **after** Early Activation but **before** Use Permit approval. Any plants planted before obtaining a state license prevents those plants from being entered into the State track and trace program nor can those plants ever be included in the Metrix program. This is a timing issue and changing the language will bring Early Activations into compliance with the State Licensing process.
 - **Staff proposes to change the language in the ordinance to instruct applicants to demonstrate proof of the State License prior to the Early Activation of the Use Permit**
3. Due to the Cannabis and Hemp regulations, applicants are not allowed to hold both permits concurrently. This language is necessary to expressly state this in the ordinance.
- a. **Staff proposes including language to prohibit applicants from holding both permits concurrently and providing for penalties for applicants found to be in violation**

4. Include language to increase Administrative fines for violations of the zoning ordinance. Currently the fine for those who violate the conditions of the EA/Use Permit is only \$1,000 per plant per day.
 - a. Currently the penalty for violation is \$1,000 for the entire illegal operation regardless of the amount of plants, whether someone has six (6) plants, or 600. Increasing the fine to a “per plant, and per day” basis will provide a significant deterrent to illegal grow operations.
 - b. Staff proposes increasing the administrative fine for violating the permit**
5. Streamline the permit process. Currently the process to apply for a cannabis cultivation permit mandates that an applicant must undergo a pre-application meeting with staff for each individual application/project. The purpose of the pre-application meeting is to review the proposed project, land use compatibility, and to outline all required documents to ensure that an application will be successful when it is submitted for staff review. Staff has found that there tends to be several applicants who have successfully undergone the application process and have submitted several different applications for projects, and as a result have become well versed in the process.
 - a. Staff proposes an exception to streamline the permitting process by removing the pre-application meeting requirement if all of the following has occurred**
 - i. The applicant has successfully obtained a minimum of four Cannabis Cultivation Use Permits
 - ii. The applicant submits a fully complete application including all required documents
 - iii. The pre-application fee is rolled into the application fee fees are subject to change based on Use Permit Type.
 - iv. The applicant signs a document stating that they understand that submitting an incomplete application without undergoing the Pre-application meeting
 1. will significantly delay review and processing of the application
 2. they will pay an increased fee for additional review
 3. they will have to schedule their pre-application meeting based on staff availability
 4. The applicant will provide documentation of CEQA compliance

SUGGESTED MOTIONS

This is a discussion item only and no formal action is required from the Planning Commission at this time. Upon completion of this meeting, the Community Development Department staff will perform a full analysis of Article 27 of the Lake County Zoning Ordinance and bring back the full proposed Zoning Amendment Text for Planning Commission Review and Approval