



## Legislation Text

File #: 19-475, Version: 1

### MEMORANDUM

**TO:** Board of Supervisors

**FROM:** Michalyn DelValle, Community Development Director  
Anita L. Grant, County Counsel  
Doug Gearhart, Air Pollution Control Officer

**DATE:** May 21, 2019

**SUBJECT:** (a) Public Hearing - Consideration of Ordinance Amendment, AM 19-02 to Amend Chapter 21 of the Lake County Zoning Ordinance to allow amendments to Article 27 pertaining to adult personal use, qualified patient and primary caregiver cultivation, commercial cannabis cultivation and to establish a permit process for microbusiness and amendments to Article 18 to allow retail sales of cannabis subject to obtaining a Major Use Permit and amend Article 19 allow retail sales of Cannabis as a permitted use; and (b) (Sitting as Lake County Air Quality Management District, Board of Directors) Discussion and Consideration of a Resolution Establishing a Temporary Deferral of the Collection of Fees for Processing Air Quality Management District Cannabis Cultivation Permits

### EXECUTIVE SUMMARY:

a) On April 2, 2019, staff received direction from the Board of Supervisors to move forward with the following amendments to Chapter 21 of the Lake County Code pertaining to streamlining the permit process for adult personal use, qualified patient and primary caregiver cultivation, commercial cannabis cultivation and to establish a permit process for microbusiness and amendments to Article 18 to allow retail sales of cannabis subject to obtaining a Major Use Permit and amend Article 19 allow retail sales of Cannabis as a permitted use.

On April 23, 2019 The Planning Commission approved the Resolution on Intent to amend the Lake County Zoning Ordinance (Exhibit B).

#### Adult personal use, qualified patient and primary caregiver cultivation

The Article proposes amendments that streamline the section. Nothing substantial was removed except for the applicable definitions are being relocated to Article 68.

#### Commercial cannabis cultivation

The following section are proposed for removal:

- Enforcement

- Variance
- Water sphere of influence from exclusion zone
- Minor use permit for legal nonconforming Article 72
- Early Activation as a separate permit type
- Remove the four permit types per applicant limitation
- Remove the four per parcel limitation as long as they meet density requirements
- Cultural resources
- Energy Usage
- Water Resources
  - Except keep mapping requirement and move to site plan
- Water Use Management Plan requirement to obtain approval from Water Resources
  - Requirement to be consistent with Model Water Efficiency Landscape ordinance

The following sections are proposed to be modified:

- Use of Co2 Enhancement
- Submittal of Elevations for proposed construction

Clustering subject to the following:

- All parcels qualify to apply for a permit
- Title is held identically on all parcels
- All required cultivation setbacks are maintained except that cultivation can cross interior property boundaries. All exterior setbacks from property lines must be maintained.
- A deed restriction or alternative is recorded on the parcels where the density had been transferred which prohibits commercial cannabis cultivation.
- Water Use Availability Analysis to be prepared by a qualified individual

Also removed is the requirement that the applicant needs to submit their renewal paperwork 180 days prior to expiration.

Staff recommends that all applicable definitions be moved to Article 68 where all other Zoning Ordinance definitions are located.

#### Type 6- Non- Volatile Manufacturing

The Planning Commission recommends that Type 6 Non Volatile Manufacturing be permitted with the RL and RR zoning districts.

#### Microbusiness

Addition of a permit process and definition of microbusiness.

A microbusiness may act in part or whole as a distributor, Type 6 Non- Volatile Cannabis Manufacturer and cultivator, on an area less than 10,000 square feet. An applicant for a microbusiness shall have all of the following Licenses:

- Type 13 Cannabis Distributor Transport Only, Self-Distribution License
- Type 1 and or 2 Commercial Cannabis Cultivation License
- Type 6 Non-Volatile Cannabis Manufacturing License

Definition of a Microbusiness is that it “May act in part or whole as a distributor, Type 6 manufacturer and cultivator, on an area less than 10,000 square feet that holds a Type 13 Cannabis Distributor Transport Only, Self-Distribution License, Type 1 and or 2 Commercial Cannabis Cultivation License and a Type 6 Non-Volatile Cannabis Manufacturing License”.

Staff recommends that since a microbusiness needs to hold a Type 13, Type 1 and or 2 and a Type 6 license that Microbusiness be permitted subject to obtaining a Major Use Permit in the RL, RR, APZ, A and TPZ zoning districts where those license currently can be permitted.

#### Local Commercial - Article 18

Staff recommends that Retail Sales of Cannabis be permitted in the Local Commercial zoning district subject to

obtaining a Major Use Permit. Similar uses subject to obtaining a Major Use Permit include bars.

Community Commercial - Article 19

Staff recommends that Retail Sales of Cannabis be permitted in the Community Commercial zoning district as a permitted use, subject to the standards required by Article 19. Retail sales of drugs and liquor is currently a permitted use.

**ENVIRONMENTAL ANALYSIS:**

Staff recommends that the Board of Supervisors finds that this action is exempt from CEQA pursuant to Business and Professions Code section 26055(h) for 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 where the discretionary review in any such law, ordinance, rule, or regulation includes any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code; and, under Section 15061(b)(3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.

**RECOMMENDATION:**

Staff recommends the Board of Supervisors take the following actions:

- A. Find that the proposed text amendment to the Zoning Ordinance is exempt from the California Environmental Quality Act pursuant to § 15061(b)(3) of the CEQA Guidelines with the following findings:
  1. The project is consistent with the Lake County General Plan and Zoning Ordinance.
  2. This project will not have a significant effect on the environment.
  3. The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
- B. Approve the proposed Zoning Ordinance text amendments for the following reasons.
  1. The proposed amendments are consistent the provisions of the Lake County General Plan and Zoning Ordinance.
  2. This proposed amendments are necessary to protect the health and safety and welfare of the County.
  3. Amendments to these Article will advance the goals of the County by supporting local and emerging businesses in the County.
  4. Amendments would allow for the streamlined processing of commercial cannabis operations.
  5. The project will not result in any significant adverse environmental impacts, and the project is exempt from CEQA.

**b) (Sitting as Lake County Air Quality Management District, Board of Directors)** Attached here for your Board's discussion and consideration is a draft resolution that establishes a temporary deferral of the collection of fees for processing Air Quality Management District Cannabis Cultivation permits.

As drafted, the resolution would defer collection of such fees until June 11, 2019, the date on which your Board will consider the Air Quality Management District's fee structure for cannabis cultivation permits.

If your Board wishes to adopt the resolution, it may be offered for passage.

**FISCAL IMPACT:**                      None  
Estimated Cost: N/A  
Amount Budgeted: N/A  
Additional Request: N/A  
Annual Cost (if planned for future years): N/A

**FISCAL IMPACT (Narrative):** Tax Revenue and the potential for new projects could increase.

**STAFFING IMPACT (if applicable):** N/A

**RECOMMENDED ACTION:**

(a) Sample Motions:

CEQA Exemption

I move that the Zoning Ordinance text amendment (AM 19-02) is exempt from CEQA Guidelines pursuant to §15061(b) (3).

Zoning Ordinance Text Amendment Approval

I move that the Board of Supervisors approve the Zoning Ordinance text amendment (AM 19-02) applied for by the County of Lake for the reasons listed in the memorandum dated May 7, 2019.

I move that the reading of the Ordinance be waived and be read in title only.

I offer the Ordinance and recommend that it be advanced to the next agenda for a second reading.

(b) Offer the resolution for passage.