



Legislation Text

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**Memorandum**

**Item #5**  
**9:25 AM**  
**February 25, 2021**

**STAFF REPORT**

**TO:** Lake County Planning Commission

**FROM:** Toccarra Nicole Thomas, *AICP, CQIA*, Deputy Director  
Community Development Department  
Scott De Leon, Director  
Community Development Department

**DATE:** February 25, 2021

**SUBJECT:** Discussion and Consideration for Approval of Text Amendments to Article 27SEC. 21-27 USES GENERALLY PERMITTED Commercial Cannabis Cultivation with a Resolution of Intention submitted to the Board of Supervisors: Proposed Amendments to Zoning Ordinance (AM 21-01) Categorical Exemption (CE 20-16)

**ATTACHMENTS:**

1. Ordinance Number 3101
2. Resolution Number 2020-184

**I. Executive Summary:**

On December 8, 2020 the Board of Supervisors approved ordinance 3101 updating Article 27 of the Zoning Ordinance to create Farmland Protection Zones. These changes were approved by the Board of Supervisors and went into effect on January 13, 2021.

After the adoption of these changes, it was determined that additional changes were needed to further clarify this amendment and the Board of Supervisors approved Resolution Number 2020-184 to initiate additional changes to the Zoning Ordinance. The additional changes are the inclusion of language to refine when and how the ordinance applies to existing cannabis permit applications, language to allow permit applications time to come into compliance with the Ordinance depending on when the applications were deemed complete, the addition of language to protect existing agricultural uses, and screening from Highways.

Staff recommends the discussion and consideration of Resolution of Intention Number 2020-184 as well as the addition of the following language: Grandfather, Sunset Clause, the clarification of outdoor screening language.

## **II. Previous Actions Farmland Protection Zone**

On December 15, 2020, the Board of Supervisors approved amending the Zoning Ordinance Article 27 with language to protect existing farmland via Ordinance 3101 which became effective January 14, 2021. These amendments provided language to protect existing farmland and are listed below:

1. Creation of Farmland Protection Zones to protect the four areas of agricultural land of high importance where it is not possible to cultivate outdoor cannabis within its borders or within 1,000 feet of its borders.
2. Inclusion of language to state that there is to be no outdoor cultivation occurring within the Farmland Protection zones since these areas are connected to a larger network (not isolated).
  - o Outdoor cultivation may not occur within 1,000 feet of these zones
  - o If a proposed cultivation is located within one mile of the Farmland Protection Zone, vegetation screening must be present.

## **Farmland Designation Sent to Planning Commission**

After the creation of the Farmland Protection Zones via Ordinance 3101, Resolution of Intention 2020-184 was approved by the Board of Supervisors to initiate additional changes to the Zoning Ordinance.

1. **These changes in Ordinance 3101 only impact prime farmland, unique farmland, farmland of local importance, and farmland of statewide importance that are outside of the Farmland Protection Zones.**
  - o The ordinance should be further amended to include language protecting **active** agricultural activity on parcels within any of these designations.
    - i. Farmland Designation covers the four farmland types which are **outside** of the Farmland Protection Zone and additional language should be included:
      1. Outdoor cultivation of cannabis shall not be less than **500** feet from a neighboring parcel with Farmland Designation (prime farmland, unique farmland, farmland of local importance, and farmland of statewide importance) from garden to garden if those parcels are actively engaged in agriculture not related to cannabis.
        - a. This does not include any parcels within the Farmland Protection Zone
2. **If outdoor cultivation of cannabis is less than one mile from Farmland Designation, vegetation screening is required.**
  - a. Vegetation screening shall consist of woody vegetation or trees that grow to no less than 20 feet tall.
  - b. Vegetation screening shall be between Farmland Designation and the permitted cannabis canopy area.
  - c. The species of *woody vegetation* or *trees* to be used may be chosen by the permit applicant but should be suited to localized soil and site conditions. Native plant species are encouraged as are plantings which will benefit local fauna. Plantings must be *perennial* and hardy in the local climate zone as specified in scientific literature or

garden catalogs.

- d. Vegetation screen shall be effective in preventing substantial drift and approved by the Agricultural Commissioner.
- e. Vegetation screen shall be maintained through the life of the cultivation use permit.

**3. Grandfather Language:**

- o Commercial Cannabis Cultivation Permit Applications that were deemed complete but have not received a Use Permit before or on December 15, 2020 would be excluded from the provisions of the Farmland Protection Zones for up to three years. After the three year period the cultivation activities would need to be brought into compliance with the ordinance.

**4. Sunset Language:**

- o Applications that were not deemed completed by December 15, 2020 have to update the application project description to meet the ordinance before the permit could continue processing.

**5. Outdoor cultivation screening along highways**

- o Outdoor cultivation within 500 feet of State Route 20, 29, 53, and 175 shall be hidden by vegetation as much as possible

**Staff recommends that the Planning Commission review and approve the language to the Zoning Ordinance Article 27.**

**6. ENVIRONMENTAL REVIEW**

Pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) projects “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” are exempt from CEQA. As the activity in question here is merely a text amendment which will not have any effect on the environment, it clearly falls within the common sense exemption. The adoption and implementation of the proposed Zoning Ordinance text amendment, therefore, is exempt from CEQA.

**7. RECOMMENDATIONS**

**Staff recommends that the Planning Commission take the following Actions:**

**A. Find that the proposed Text Amendment to the Lake County Zoning Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to § 15061(b)(3) of the CEQA Guidelines with the following findings:**

1. The proposed Zoning Ordinance Text Amendments is consistent with the Lake County General Plan and Zoning Ordinance.
2. The proposed Zoning Ordinance Text Amendments 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. Recommend that the Board of Supervisors approve the proposed Zoning Ordinance Text Amendments for the following reasons.**

1. The proposed Zoning Ordinance Text Amendments are consistent with the Lake County General Plan and Zoning Ordinance.
2. The proposed Zoning Ordinance Text Amendments would be consistent with agricultural uses in the described Land Use Zoning Districts above.
3. The proposed Zoning Ordinance Text Amendments will not result in any significant adverse environmental impacts, and the project is exempt from CEQA.

**SAMPLE MOTIONS:**

**Zoning Ordinance Text Amendment Approval**

1. I move that the Planning Commission find this Zoning Ordinance Text Amendment, AM 21-01 is Categorically Exempt (CE 21-01) from the California Environmental Quality Act (CEQA) Guidelines pursuant to 15061(b)(3).
2. I move that the Planning Commission recommend approval of the proposed Zoning Ordinance Text Amendment, AM 21-01 for the reasons listed in the staff report dated February 25, 2021
3. I move that the Planning Commission render its final decision on the proposed Ordinance text amendments within ten (10) days of said final decision, in the form of a Resolution of Intention to the Board of Supervisors recommending the formal adoption and approval of these Zoning Ordinance Text Amendments, AM 21-01 as outlined in the staff report dated February 25, 2021

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