



AGENDA
NOTICE AND CALL OF SPECIAL JOINT MEETING
OF THE LAKEPORT CITY COUNCIL
AND THE
LAKEPORT PLANNING COMMISSION

Tuesday, October 3, 2017

5:00 p.m.

City Council Chambers, 225 Park Street, Lakeport, California 95453

TO THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF LAKEPORT:

NOTICE IS HEREBY GIVEN that a Special Joint Meeting of the Lakeport City Council and the Lakeport Planning Commission is hereby called to be held on **Tuesday, October 3, 2017, at 5:00 p.m.** in the Council Chambers located at 225 Park Street, Lakeport, California, for the purpose of discussing and acting on the following:

COMMERCIAL CANNABIS
WORKSHOP:

A joint workshop with the Planning Commission to review possible amendments to the Lakeport Zoning Ordinance (LMC, Chapter 17) concerning the development of procedures for the allowance of commercial cannabis uses within the City of Lakeport.

Dated: September 29, 2017

Hilary Britton, Deputy City Clerk



CITY OF LAKEPORT

CITY COUNCIL/PLANNING COMMISSION

MEMORANDUM

RE: Discussion on Amending Chapter 17.28 Performance Standards, Chapter 17.11 Service Commercial (C-3), Chapter 17.13 Industrial (I), and Chapter 17.37 Definitions of the Zoning Ordinance to address Commercial Cannabis in the City of Lakeport

MEETING DATE: 10/3/2017

SUBMITTED BY: Daniel Chance, Associate Planner

PURPOSE OF REPORT: Information only Discussion Commission Action

WHAT IS BEING ASKED OF THE CITY COUNCIL AND PLANNING COMMISSION:

Discuss and review possible amendments to the Lakeport Zoning Ordinance to allow the following:

- Chapter 17.28 performance standards that would establish regulations and criteria for the various commercial cannabis uses.
- Chapter 17.11 Service Commercial (C-3) that would allow the various commercial cannabis uses with a Use Permit or a Zoning Permit.
- Chapter 17.13 Industrial (I) that would allow the various commercial cannabis uses with a Use Permit or a Zoning Permit.
- Chapter 17.37 Definitions that would define the various commercial cannabis uses.

Amendments under consideration reflect state regulations associated with the recent passage of Proposition 64, Adult Marijuana Use Act (AMUA) and regulations associated with the passage of SB 94, Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) on June 27, 2017 that established regulations and licensing for commercial cannabis in the State of California. Issues concerning personal cannabis cultivation are being pursued through a separate ordinance process.

BACKGROUND/DISCUSSION:

In response to the adoption of AUMA and MAUCRSA, commonly referred to as Proposition 64 and SB 94 respectfully, the City of Lakeport is beginning to look at potential revisions to the Lakeport Municipal Code as it pertains to commercial cannabis: cultivation, retail sales, processing/manufacturing and licensing/taxation. Permitting commercial cannabis uses would require amending the City's ordinance.

Under SB 94, the State developed a regulatory structure for licensing the various uses associated with commercial cannabis. Local jurisdictions may opt out of allowing any commercial cannabis uses or they may pass their own regulations providing additional elements of local control. However, in accordance with SB 94, cities that wish to allow some or all commercial cannabis uses must have their local regulations in place by January 1, 2018. Given the upcoming deadline, the City formed a Working Group consisting of two City Council Members, the City Manager, the City Attorney, the Police Chief, and the Community Development Director reviewed possible amendments to the City's Municipal Code. The Working Group developed a preliminary set of possible development standards addressing various commercial cannabis uses and forwarded there

recommendations to the Planning Commission for their review and input. Additionally, the Working Group developed a matrix (Attachment B) based on the commercial cannabis licensing types the State adopted, which identifies potential commercial zoning designations in the City of Lakeport where such uses are proposed to occur. The State licensing includes the following:

- Cannabis Cultivation: Type 1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B. That would address indoor, outdoor, and mixed light for cannabis cultivation, as well as various size of operations.
- Cannabis Nursery: Type 4. Cannabis nursery.
- Manufacturing: Type 6 & 7. Manufacturing (Type 6) and manufacturing with solvents (Type 7).
- Testing: Type 8. Cannabis testing.
- Dispensary General: Type 10 & 10A. Retail sales of cannabis.
- Distribution: Type 11. The transportation and storage of cannabis.
- Microbusiness: Type 12. Use that would allow smaller cultivation, manufacturing and retail.

The Working Group added the following:

- Retail sales with on-site consumption.
- The others listed would fit into the state licensing listed above.

The primary focus of the Working Group aimed to balance the demand for commercial cannabis operations while at the same time limiting their visibility within the community and reducing potential negative impacts. The following list contains the principal recommendations made by the Working Group immediately followed by the comments and recommendations made by the Planning Commission during their review on September 20, 2017:

- *Prohibiting outdoor cultivation activities.*
 - The Planning Commission unanimously supported the prohibition of outdoor cultivation.
- *Limiting commercial cannabis activities to the "C-3", Service Commercial and "I", Industrial zoning districts.*
 - The Planning Commission supported allowing the bulk of commercial cannabis use types in the Service Commercial and Industrial zoning districts; however some Commissioners discussed the potential for cannabis dispensaries in the C-2, Major Retail, as well as cannabis testing in the PO, Professional Office zoning district
- *Require review and approval of an operations plan by the Lakeport Police Department prior to issuance of a development permit.*
 - The Planning Commission supported review and approval by the Lakeport Police Department, the Commissioners discussed the background review process in relationship the State licensing background review process. Staff recommended coordinating the background review process between the Lakeport Police Department and the State licensing requirements.
- *Controlling for potential odor impacts.*
 - The Planning Commission did not make any additional recommendations pertaining to potential impacts associated with odors from commercial cannabis activities.
- *Limiting retail sales of cannabis to delivery only; prohibiting storefront retail.*
 - The Planning Commission discussed the various alternatives to delivery only, which included allowing retail cannabis sales (dispensaries) in the C-2 (Major Retail) and CB (Central Business) zoning districts. With the 600-foot setback from the park, the Central Business may not be viable. The Commissioners discussed limiting the number of dispensaries in the City, as well as a possible evaluation process for the selection of potential retail operators.

The Planning Commission discussed not making formal recommendations at its September 20, 2017 public meeting and instead review the provided materials with the City Council on October 3rd. However, the Planning Commission did make the following recommendations:

- The Planning Commission recommended the City work at developing the appropriate taxation for the commercial cannabis businesses within the city.
- The Planning Commission recommended developing a process of requiring an administrative permit process similar to the ABC procedures for transferring ownership of a cannabis business.
- The Planning Commission recommended evaluating properties within the City's Sphere of Influence for cannabis businesses.
- Develop standards for a cannabis lounge and storefront retail in order to better evaluate that use.
- Develop standards for temporary uses / special events associated with cannabis.
- The Planning Commission recommended an annual inspection of all operators.
- Further analyze which types of uses should require a 600-foot setback. Staff review of SB 94 identifies the 600-foot setback is required from schools providing instruction in kindergarten or any grades 1-12, day care center or youth center, however it allows local jurisdictions to provide more specific criteria.
- Determine a procedure for the transferring of facility ownership. For instance, how to handle a situation when a new day care facility is located within that 600-foot setback.
- Consider developing scoring criteria for selection of potential commercial cannabis operations in the event that several applicants apply at the same time.
- The Planning Commission discussed the significance of the distribution licensing, with the potential of providing jobs and business. Staff added performance standards for distribution.

Following this public hearing and discussion, staff will prepare draft ordinance revisions concerning local commercial cannabis regulations and schedule a public hearing with the Planning Commission to review.

SUGGESTED MOTION:

- Attachments:**
1. Chapter 17.28 Commercial Cannabis
 2. Commercial Cannabis Zoning Matrix

Chapter 17.28

PERFORMANCE STANDARDS

17.28.010.FF. Commercial Cannabis

1. Purpose. The purpose of these regulations is to establish standards to ensure that the development of commercial cannabis (retail, cultivation, manufacturing, testing and distribution) does not adversely impact adjacent parcels or the surrounding neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses. These performance standards shall apply to all commercial cannabis activities in the City of Lakeport. A Zoning Permit or Use Permit (based on the Zoning District) shall be required for all types of commercial cannabis that meets the location, development, and/or operational standards of this section.
2. Standard Provisions for all Commercial Cannabis Uses.
 - a. All Commercial Cannabis uses shall have all appropriate State Licensing required prior to commencement of use.
 - b. No permittee shall sell cannabis or cannabis products to persons under 21 years of age; allow any person under 21 years of age on its premises; or employ or retain persons under 21 years of age. No permittee shall sell medicinal cannabis products to persons under 18 years of age unless with a parent or guardian.
 - c. No cannabis or cannabis product shall be smoked, ingested or otherwise consumed on the property.
 - d. All Commercial cannabis shall maintain a 600 foot distance from all properties containing schools, pre-schools, large family day care facilities, and parks.
 - e. All commercial cannabis shall obtain a Business License from the City
 - f. Commercial cannabis uses shall not be allowed as a Home Occupation.
 - g. Operations Plan. All applications shall provide an operations plan containing at a minimum the following items: General Project Information
 1. Site Plan providing both a graphic and written representation of the operator's intended development. The plan shall adhere to the general site plan standards contained in Section 17.**.** and shall include all structures, storage and circulation patterns of the site.
 2. Written project description containing:
 - a. General project description.

- b. A statement of present and proposed ownership.
 - c. A complete list of all individuals and entities with a financial interest in the operation.
 - d. A list and description of all uses shown in the provided site plan.
 3. Floor plan showing the locations of all proposed uses.
 4. Sign plan consistent with the provisions outlined in Section 17.52 of this code.
- ii. Security Provisions.
 1. Operations shall provide adequate security on the premises, including lighting, security cameras, security personnel and alarms, to ensure the safety of persons and to protect the premises from theft. Security camera footage shall be retained a minimum of 30 days.
 2. The plan shall include the name, phone number and email of community relations staff whom may be contacted at any time regarding operational problems associated with the commercial cannabis use.
 3. A current register of the names of all employees currently employed by the use shall be provided and maintained on site. Employee register and contact information shall be current and up-to-date at all times. Any changes made to the employee register shall be provided to the Lakeport Police Department within thirty (30) days.
 4. All employees either direct or via contract shall undergo a background check by the Lakeport Police Department. An individual may fail the background check if employee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the Police Chief determines that the applicant or permittee otherwise suitable to be issued a license and granting the license would not compromise public safety, the Police Chief shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or permittee be issued a license based on the evidence found through the review. In determining which offenses are substantially related to

qualifications, functions, or duties of the business or profession for which the application is made, the Police Chief shall include, but not be limited to, the following:

- a. A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
 - b. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
 - c. A serious felony conviction, as specified in subdivision (c) 1192.7 of the Penal Code.
 - d. A felony conviction involving fraud, deceit, or embezzlement.
5. Verification that the security provisions for the operation have been reviewed and approved by the Lakeport Police Department prior to the issuance of a development permit.
- iii. Public Health and Safety Provisions
1. Facility improvement plan demonstrating that the operation is compliant with all applicable public health and safety provisions of the International Building Code. Said provisions shall be reviewed and approved by the Lakeport Fire Department and Lakeport Building Division prior to the issuance of a development permit.
 2. Statement of proposed water usage.
 3. Wastewater disposal plan reviewed and approved by the Lakeport Utilities Division prior to the issuance of any development permit. Said plan shall include any specific designs for pre-treatment of waste prior to entering municipal sewer system. No waste containing hazardous materials or other containments shall be permitted to enter the Lakeport Municipal sewer system consistent with Chapter 13.20 of the Lakeport Municipal Code concerning "Sewer Use And Pretreatment".
 4. Solid waste disposal plan, including the management of cannabis related waste.
 5. Hazardous Materials Plan, all permittees shall prepare a Hazardous Waste Management Plan to be approved by Lake County Health Department.
 6. Odor Prevention Provisions

- a. No obnoxious odors or fumes shall be emitted beyond the operation limits that are perceptible by a reasonable person. Minimum design specifications should include odor absorbing ventilation and exhaust systems.
- h. All commercial cannabis operations shall submit an annual performance review report demonstrating compliance with required provisions of this section and all specific operating provisions and licensing required at the time of development approval. Failure to submit and annual report or failure to comply with required provisions will result in revocation of operating permit. The annual performance review report shall include inspection by City, If there are no violations of the permit or state license during the first two years, the inspection frequency may be reduced by the Community Development Director to not less than once every five years.
- i. Tag and Trace: All permittees shall comply with the State and California Tag and Trace requirements.
- j. The rights and privileges to conduct cannabis activities on a specific parcel do not attach to title to the property and are not conveyed with the lease or sale of the property. Accordingly, zoning or use permit may not be sold, assigned, leased or otherwise conveyed or transferred by the person or entity holding the zoning or use permit to any third party not named on the application without a modification of the zoning or use permit

3. Commercial Cannabis Cultivation Standards. (Type 1A, 1B, 1C, 2A, 3A, & 4)

- a. Use type includes:
 - i. Cultivation of cannabis
 - ii. Cannabis nursery including the production of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, cultivation of cannabis for sale to licensed commercial cannabis cultivators and licensed retail establishments. No retail sales permitted.
 - iii. Cannabis processing such as drying, curing, grading, or trimming.
 - iv. Accessory uses related to the planting, growing, harvesting, drying, curing, grading, or the trimming of cannabis
- b. Specific Provisions:
 - i. All commercial cannabis cultivation operations shall not engage in the retail sale of any product goods or services. Only wholesale activities are permitted.

- ii. All cultivation activities shall take place indoors, out of sight of the general public. No greenhouses shall be allowed.
- iii. All cannabis cultivation, that includes processing such as drying, curing, grading, or trimming shall take place indoors.
- iv. The permittee shall use Best Management Practices to minimize water use with cannabis cultivation. This would include the use of low flow irrigation. The permit shall include a plan for water use associated with the cultivation
- v. If manufacturing of cannabis takes place on the site of the cannabis cultivation include section 4 (Manufacturing Standards).
- vi. The applicant shall prepare an Integrated Management Plan to be reviewed and approved by the Lake County Agricultural Commission for all chemical, biological and cultural methods to control or prevent the introduction of pests on the cultivation site.

4. Commercial Cannabis Manufacturing Standards. (Type 6 & 7)

- a. Use type includes: The production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.
- b. Specific Provisions:
 - i. Commercial cannabis manufacturing uses shall not conduct or engage in the retail sale of any product goods or services. Only wholesale activities are permitted.
 - ii. Licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents.
 - iii. All Commercial Cannabis Manufacturing shall take place indoors.
 - iv. The permittee shall use Best Management Practices to minimize water use with cannabis manufacturing.
 - v. The permittee shall provide a list to the Public Works director of all solvents, gasses and chemicals prior to commencement of use. No solvents, gasses and chemicals shall be allowed to enter the City's waste water system.
 - vi. Manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements: The system

uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

- vii. The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.
- viii. A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices
- ix. Receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility and meets the following:
 - 1. The California Fire Code.
 - 2. The National Fire Protection Association (NFPA) standards.
 - 3. International Building Code (IBC).
 - 4. The International Fire Code (IFC).

5. Commercial Cannabis Testing Standards. (Type 8)

- a. Use type includes:
 - i. Testing of cannabis and cannabis products.
 - ii. Businesses and research institutions engaged in the research of cannabis, cannabis products, or devices used for the medicinal use of cannabis products.
 - iii. Business offices related to cannabis.
 - iv. Accessory uses related to the testing of cannabis and cannabis products.
- b. Specific Provisions
 - i. Commercial cannabis testing operations shall not conduct or engage in the retail sale of any product goods or services.
 - ii. The permittee shall use Best Management Practices to minimize water use with cannabis testing.

6. Distribution of Commercial Cannabis (Type 11)

- a. Use type includes:
 - i. Businesses engaged in the distribution of commercial cannabis, cannabis products, or devices used for the medicinal use of cannabis products.

- ii. The procurement, sale, and transport of medicinal cannabis and 31 medicinal cannabis products between entities licensed pursuant to California Code.
 - iii. Transporting cannabis or cannabis products.
 - iv. Accessory uses related to the procurement, sale, and transport of cannabis and cannabis products between licensees. Conducting quality assurance review to ensure compliance with labeling and packing requirements.
 - v. Conducting quality assurance review to ensure compliance with labeling and packing requirements.
 - vi. Transporting cannabis or cannabis products. Accessory uses related to the procurement, sale, and transport of cannabis and cannabis products between licensees.
- b. Specific Provisions:
- i. A distributor permittee shall be bonded and insured at a minimum level established by the licensing authority.
 - ii. All cannabis distributor shall display a copy of the inspection receipt issued by the Lake County Sealer of Weights and Measures for all weighing and measuring devices.
 - iii. All cannabis and cannabis products held bought, and sold by a cannabis distributor shall be obtained from a legal source and shall have the state issued tag and trace information.

7. Commercial Cannabis Retail Delivery Standards. (Type 10 & 10A)

- a. Use type includes:
- i. Facility for the storage and operation of the delivery of cannabis, cannabis products or devices.
 - ii. Storefront retail is prohibited.
 - iii. The sale of ancillary products, including books, herbal supplements, and devices facilitating the consumption of cannabis.
 - iv. Accessory uses related to the delivery of cannabis, cannabis products, devices, and drug paraphernalia.
 - v. Microbusinesses shall be limited to retail delivery only
- b. Specific Provisions
- i. The retail sales of cannabis in the City of Lakeport shall be limited to home deliveries from a designated Commercial Cannabis Retail facility, with no on-site retail sales of cannabis shall be allowed.
 - ii. Commercial cannabis cultivation, manufacturing and testing are prohibited on the same premises.

- iii. Retail facility shall contain no window displays.
- iv. All cannabis transporters shall have all records identifying the originating location and terminus of the cannabis, as well as all corresponding licenses.
- v. Required employee registrar shall contain driver identification and license information. Vehicle information including license, year, make and model shall also be listed in the registrar.
- vi. Vehicles used in the delivery of cannabis shall have no signage and shall be un-marked.
- vii. The sale of ancillary products, including books, herbal supplements, and devices facilitating the consumption of cannabis shall occur in a manner consistent with this section, and in compliance with all State requirements.
- viii. The retailer shall maintain records in paper or electronic form of all cannabis retail sales and cannabis medicinal retail sales. The retailer shall maintain a copy of State License Identification cards for all medicinal cannabis sales.
- ix. Operating Hours. The maximum retail days and hours of operations shall be as follows:
 - 1. Monday through Saturday: 9:00 a.m. - 7:00 p.m.
 - 2. Sunday: 12:00 p.m. - 5:00 p.m.
- x. Medicinal cannabis products or devices shall only be sold to an individual possessing a valid medicinal marijuana card and over the age of 18 years of age unless with a parent or guardian.

c. Cannabis Lounges are prohibited.

**CITY OF LAKEPORT
CANNABIS REGULATION MATRIX**

P- Permitted Use
ZP- Zoning Permit
UP- Use Permit

ZONING										
	I	CB	C-3	C-2	C-1	PO	R-5	R-3	R-2	R-1
Type 1										
Type1A	ZP		ZP							
Type1B	ZP		ZP							
Type 1C	ZP		ZP							
Type 2										
Type 2A	UP		UP							
Type 2B	UP		UP							
Type 3										
Type 3A	UP									
Type 3B	UP		UP							
Type 4	UP		UP							
Type 6	UP		UP							
Type 7	UP		UP							
Type 8	ZP		ZP							
Type 10			UP							
Type 10A			ZP							
Type 11	ZP		ZP							
Type 12			ZP							
Home Cultivation/ Personanel Use							P	P	P	P
Dispensary										
Retail Sales										
Retail Sales w/ on Site Consumption										
Commercial Cultivation	ZP		ZP							
Commercial Cultivation w/ Retail	UP		UP							
Cannibis Processing	UP		UP							
Medical Cannabis Dispensary										

Type 1 - Cultivation specialty outdoor, up to 5,000 sq. ft. of canopy or 50 Plants
 Type 1A - Cultivation; Specialty indoor. Up to 5,000 sq. ft.
 Type 1B - Cultivation; Specialty mixed light. Using exclusively artifical lighting
 Type 1C - Specialty Cottage, Combo natural / artificial light, 2,500 sq. ft. or less canopy/ 25 plants
 Type 2 - Cultivation: outdoor up to 5,000 sq. ft.
 Type 2A - Cultivation; Indoor 5,001- 10.000 sq. ft.
 Type 2B - Cultivation; mixed light 5,001- 10.000 sq. ft.
 Type 3 - Cultivation; Outdoo 10,001 sq. ft. -1 Acre
 Type 3A - Cutivation: Indoor 10,001 - 22,000 sq. ft.
 Type 3B - Cutivation; Mixed light 10,001 - 22,000 sq. ft.
 Type 4 - Cultivation; Nursery, Indoor only
 Type 6 - Manufacturer 1 for products not using volatile solvents
 Type 7 - Manufacturer 2 for productucts using volatile solvents
 Type 8 - Testing
 Type 10 - Dispencary; General
 Type 10A - Dispencary; no more than three retail sites
 Type 11 - Distribution
 Type 12 - Microbusiness