



CITY OF LAKEPORT COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

DATE: November 8, 2017

FILE NO: ZC 16-02 /CE 16-14

APPLICANT: City of Lakeport
225 Park Avenue
Lakeport, CA 95453

LOCATION: Citywide

GENERAL PLAN: Residential, High Density Residential & Resort Residential

ZONING: R-1, Low Density Residential; R-2, Medium Density Residential; R-3, High Density Residential; & R-5, Resort/High Density Residential

STAFF CONTACT: Kevin M. Ingram, Community Development Director
Daniel D. Chance, Associate Planner

REQUESTED ACTION: Per the adopted minute order of the Planning Commission on February 8, 2017, Community Development Department (CDD) Staff has prepared a draft ordinance that includes amendments to the Lakeport Zoning Ordinance Chapter 17.38 concerning the regulation of Medical Marijuana Cultivation to include cultivation of cannabis for personal use. The amendments reflect recommendations of the Planning Commission on February 8, 2017 and October 11, 2017.

Amendments reflect state regulations associated with the recent passage of Proposition 64, the Adult Use of Marijuana Act (AMUA) in 2016, the 2015 passage of the Medical Marijuana Regulation and Safety Act (MMRSA); and SB 94 adopted in June of 2017 developing regulations for the personal use and cultivation of cannabis. (This amendment is limited to the procedures associated with the cultivation of cannabis for non-commercial use. It does not include commercial cannabis cultivation, processing or retail sales).

GENERAL PLAN AND ZONING DISTRICT: Affected properties are designated Residential, High Density Residential and Resort Residential according to the City of Lakeport General Plan Land Use Map and R-1, Low Density Residential; R-2, Medium Density Residential; R-3, High Density Residential and R-5, Resort/High Density Residential zoning districts according to the City Zoning Map. Adoption of this amendment would not allow personal cannabis cultivation in the commercial and industrial land use designations. Adoption of the amendment to Chapter 17.38 would allow personal

cannabis cultivation in those residential districts, and is consistent with the intent of the General Plan and Zoning Ordinance.

BACKGROUND/DISCUSSION: In response to the adoption of AUMA by the California voters and recent amendments made by the State Legislature, commonly referred to as SB 94, the City of Lakeport formed a Working Group consisting of two City Council Members, the City Manager, the City Attorney, the Police Chief, and the Community Development Director to begin to formulate regulations pertaining to both personal cannabis cultivation and commercial cannabis uses. The proposed Zoning Ordinance amendments presented as a part of this staff report are limited to personal cannabis cultivation regulations. Issues pertaining to commercial cannabis related used are a separate action item.

The legalization of marijuana for recreational use, and particularly the allowance for the possession of six or less marijuana plants under AMUA, changes the use from a criminal activity (Police) to a land use activity (Community Development Department), and requires a review of the City's existing ordinance which currently only permits the cultivation of marijuana for prescribed medical use.

On February 8, 2017, the Planning Commission reviewed recommendations from the City's Cannabis Working Group for possible amendments related to the cultivation of cannabis for non-commercial, personal use on residential parcels. During that discussion the Planning Commission made the determination that the existing medical marijuana regulations are working well and have generated very little in the way of compliance related issues and complaints. As a result the Planning Commission made the recommendation that efforts be made to incorporate personal cultivation of cannabis into the existing framework already provided for medical marijuana cultivation as best possible.

Following the February 8, 2017 hearing, Staff provided the Planning Commission's recommendation to the Working Group and made revisions to Chapter 17.38 based on the recommendations of the Planning Commission. These revisions were presented to the Planning Commission on October 11, 2017 at which time the Planning Commission made several additional recommended changes. These changes are shown in red of the revised draft ordinance (Attachment 1) and include the following:

- *Amending Definitions Section (17.38.030) to be consistent with State terminology*
- *Amending Development and Operations Standards to allow cultivation within greenhouses meeting specified design criteria (17.38.050.F.10)*
- *Revising allowed zoning districts to include permitted mixed use—residential units in commercial zoning districts (17.38.040.A).*
- *Removal of 'consumption' related provisions (17.38.040.F).*

In addition to the revisions recommended by the Planning Commission on October 11, 2017, the City Attorney noted that Section 17.38.040.B of the draft ordinance which prohibits cannabis cultivation within 300 feet of schools, parks and daycare centers is inconsistent with the provisions of Proposition 64 and SB 94. Specifically, per California Health and Safety Code Section 11362.2(b)(2), the City cannot prohibit personal cultivation at a private residence even if it's within 300 feet, so long as the cannabis is "fully enclosed and secure." As such staff has removed Section 17.38.040.B from the

draft ordinance and in addition removed the terms 'Child care center' and 'School' from the definitions section as well.

ZONE CHANGE (TEXT AMENDMENTS) FINDINGS: Section 17.32.010 spells out specific criteria and findings necessary for the approval of Zone Changes, including text amendments. The required four (4) findings for Zone Changes are outlined in the table below:

**Zoning Amendment Criteria
(17.32.010 (B))**

1. The proposed amendment is in the public's interest.
2. The proposed amendment is consistent with the Lakeport General Plan.
3. The proposed amendment will not be detrimental to the community's health, safety, and welfare.
4. The proposed amendment complies with the California Environmental Quality Act.

This project does not involve the rezoning of any lands or a change in permitted uses. Proposed amendments pertain to permit processing procedures only. Staff analysis of each individual finding criteria is as follows:

1. *The proposed Zone Change text amendment is in the public's interest.*

Staff Analysis: As noted in the background/discussion section above, the revision to the Medical Marijuana Cultivation Ordinance to include personal use cultivation reflects State laws with Proposition 64 and SB 94 that allowed cultivation of up to six plants for personal use.

The amendment to allow personal use cultivation incorporates those same regulations originally adopted for medical marijuana cultivation. Those original regulations required all cultivation be located in the rear, fenced in yard within a detached structure. Those regulations were originally established to limit potential impacts on neighboring properties. Over the past four years, it has been determined that the regulations have met the health and safety requirements, as set forth by the Medical Marijuana Cultivation Ordinance, and would remain the same with this proposed zoning amendment which allows personal use cultivation of cannabis. This proposed amendment adopts procedures for personal use cannabis cultivation consistent with the new State regulations associated with cannabis, while minimizing the impacts on the general public.

2. *The proposed Zone Change text amendment is consistent and compatible with the entire General Plan and any implementation programs that may be affected.*

Staff Analysis: The objective of the Land Use Development Element of the General Plan is to preserve and enhance existing residential neighborhoods (LU-1) and facilitate safe, quiet residential neighborhoods free of natural and manmade hazards (LU-1.4). The revision to the Medical Marijuana Cultivation Ordinance to include personal use cultivation reflects State laws with Proposition 64 and SB 94 that allowed cultivation of up to six plants for personal use.

The regulation requires all cannabis cultivation be located in the rear, fenced in yard within a detached structure, similar to what was adopted with the Medical Marijuana Cultivation Ordinance. Those regulations were established to limit potential impacts on neighboring properties. A key component of the proposed Zoning Ordinance revision is to eliminate the potential of outdoor cannabis grows in residential neighborhoods, but still allow cannabis cultivation located in detached enclosed structures. The amendment to allow cannabis cultivation for personal use is consistent with Objective LU 1 and Policy LU 1.4 of the Land Use Element of the General Plan, respectively.

3. *The potential impacts of the proposed Zone Change text amendment have been assessed and have been determined not to be detrimental to the public health, safety, and welfare.*

Staff Analysis: Proposed revisions to the text of the Zoning Ordinance does not involve the rezoning of any lands or the change in permitted land uses and thus will not result in any detrimental impacts to public health, safety or welfare.

4. *The proposed Zone Change text amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act.*

Staff Analysis: The proposed revision to the Zoning Ordinance is not a “project” as defined by the California Environmental Quality Act (CEQA). “Project” does not include “general policy and procedure making” or “[o]rganizations or administrative activities of governments that will not result in direct or indirect physical changes in the environment” pursuant to CEQA Guidelines § 15378(b).

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS:

Finding 5: The project is categorically exempt of the California Environmental Quality Act. The proposed revisions to the Lakeport Zoning Ordinance are categorically exempt from CEQA pursuant to CEQA Guidelines §15378(b)1 as the issuance of said permits will not result in the modification of any land uses or density pursuant to CEQA Guidelines §15378(b)1.

CONCLUSION, RECOMMENDATION, AND CONDITIONS: Based on the information provided by the public and Planning Commission, a finding is made that the amendments to the Lakeport Municipal Code Section 17.38 (Medical Marijuana Cultivation) to rename Section 17.38 (Personal Use Cannabis Cultivation). The proposed amendments reflect the State regulations Prop 64 and SB 94, concerning personal use cannabis cultivation and well as medical marijuana cultivation in the City of Lakeport. The proposed project has been determined to be exempt from the provisions of the California Environmental Quality Act according to Section 15378(b)1 of the 2016 CEQA guidelines. This section exempts small projects.

SAMPLE MOTIONS

Categorical Exemption:

Move that the Planning Commission find that the proposed Zone Change text amendment (ZC 16-02) is not a project as defined by the California Environmental Quality Act per CEQA Guidelines Section 15061(b)(3) and is categorically exempt from the California Environmental Quality Act pursuant to CEQA.

Zone Change:

Move that the Planning Commission recommend that the City Council approve a Lakeport Zoning Ordinance text amendment (ZC 16-02) consisting of the following:

- Amendments to Chapter 17.38, Personal Cannabis Cultivation
- Amending Section 17.04.030 of the R-1 Zoning District permitting personal cannabis cultivation as permitted use.
- Amending Section 17.05.030 of the R-2 Zoning District permitting personal cannabis cultivation as permitted use.
- Amending Section 17.06.030 of the R-3 Zoning District permitting personal cannabis cultivation as permitted use.
- Amending Section 17.07.030 of the R-5 Zoning District permitting personal cannabis cultivation as permitted use.

As applied for by the City of Lakeport, subject to the findings listed in the staff report dated November 8, 2017.

Attachment 1:	Proposed Zoning Ordinance Revisions to Chapter 17.38
Attachment 2:	Existing Chapter 17.38, Medical Marijuana Cultivation
Attachment 3:	Proposed Zoning Ordinance Revision to Chapter 17.04 (R-1)
Attachment 4:	Proposed Zoning Ordinance Revision to Chapter 17.05 (R-2)
Attachment 5:	Proposed Zoning Ordinance Revision to Chapter 17.06 (R-3)
Attachment 6:	Proposed Zoning Ordinance Revision to Chapter 17.07 (R-5)

Attachment 1:

Proposed Zoning Ordinance Revisions to Chapter 17.38

Chapter 17.38 CANNABIS CULTIVATION

Sections:

17.38.010 Intent.

17.38.020 Applicability.

17.38.030 Definitions.

17.38.040 Regulation of location.

17.38.050 Development and operational standards.

17.38.060 Enforcement.

17.38.070 Liability.

17.38.010 Intent.

A. The city council of the city of Lakeport, pursuant to this chapter, hereby intends to regulate the personal cultivation of cannabis, including but not limited to regulations as to location of the cultivation, size of the area used for cultivation, and the use of fencing or other screening and security structures, and in furtherance of the public necessity, convenience and general welfare.

B. This chapter is established to regulate personal cannabis cultivation in a manner that mitigates potential impacts on surrounding properties and persons, and that is in conformance with the provisions of the Compassionate Use Act of 1996 (Proposition 215) and the Adult Use of Marijuana Act (Proposition 64).

C. It is the intent of the city of Lakeport to enforce the provisions of this chapter primarily on the basis of legitimate and verified complaints received from the public related to nuisance conditions and/or other public safety issues.

17.38.020 Applicability.

The provisions of this chapter shall apply to all persons described herein whether the activities described herein were established before or after the effective date of this chapter. Chapter [17.36](#), Nonconforming Uses, Structures, and Lots, shall not apply to preexisting land or building uses inconsistent with the provisions of this chapter. (Ord. 889 §1(part), 2013)

17.38.030 Definitions.

“Cannabis,” or “marijuana,” shall include the definition of “cannabis” as set forth in Business and Professions Code section 26001, subdivision (f), and Health and Safety Code section 11018, as each may be amended from time to time, and shall be used interchangeably and shall mean all parts of the plant Cannabis sativa linnaeus, Cannabis indica, or Cannabis ruderalis, whether for a medical purpose or

a non-medical purpose, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. This includes the separated resin, whether crude or purified, obtained from marijuana. This definition does not mean “industrial hemp” as defined by California Food and Agricultural Code section 81000, as may be amended, or California Health and Safety Code section 11018.5, as may be amended.

“Canopy” means the total combined canopy area for all locations on a property where cannabis/ medical marijuana is being cultivated, including indoor areas, as measured by the horizontal extent of the plant or combination of plants at the widest point and measured in a straight line.

~~“Child care center” means any licensed child care center, daycare center, or childcare home, or any preschool.~~

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis and/or marijuana.

“Detached, fully enclosed and secure structure” is a building completely detached from a residence that complies with the California Building Standards Code, as adopted by the city, or if exempt from the permit requirements of the California Building Standards Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, is secure against unauthorized entry, and is accessible only through one or more lockable doors.

“Indoors” means within a fully enclosed and secure structure.

“Medical cannabis,” or “medical marijuana” means cannabis or marijuana that has been recommended by a licensed physician in strict accordance with Health and Safety Code Sections 11362.5 through 11362.9, inclusive, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program.

“Outdoor” means any location within the city that is not within a fully enclosed and secure structure.

~~“Qualified primary caregiver” shall have the same definition as Health and Safety Code Section [11362.7\(d\)](#), as may be amended.~~

“Qualified patient” shall have the same definition as Health and Safety Code Sections [11362.7\(c\)](#) and (f), as may be amended.

“Rear yard” is the rear open space portion of any premises, whether fenced or unfenced.

“Residential structure” is any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking and sanitation on a premises or legal parcel located within a residential or agricultural-residential zoning district.

~~“School” means an institution of learning **providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center** for persons under twenty-one years of age, whether public or private, offering regular course of instruction including, without limitation, a kindergarten, elementary school, middle or junior high school, or senior high school.~~

“Solid ~~fence~~” means a fence constructed of substantial material (such as wood) that prevents viewing the contents from one side to the other. “Solid ~~fence~~” does not include tarpaulins, cloth material, scrap material, bushes, or hedgerows.

17.38.040 Regulation of location.

A. Cannabis cultivation shall be prohibited on any parcel within the city except as an accessory use to a legally established residential structure within a legal accessory structure on a legal parcel within the R-1, R-2, R-3, R-5 and UR zoning districts **as well as permitted mixed use—residential units.**

~~B. No cannabis cultivation is permitted within three hundred feet of any school, child care center, park or playground. The distance between any cannabis cultivation and any school, child care center, park or playground shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall of the detached accessory structure in which the cannabis cultivation is occurring to the closest property line where the other building or activity is conducted.~~

~~BC.~~ Except as provided in subsection D of this section, cannabis cultivation may be undertaken only by person(s) who occupy the residential structure on the parcel proposed for cultivation as their primary residence.

~~CD.~~ A **qualified** primary caregiver, as defined, may undertake cultivation of medical cannabis on behalf of his/her qualified patient(s), but only on a parcel containing the primary caregiver’s or qualified patient’s primary residence.

~~DE.~~ Cultivation shall only be permitted in a detached, fully enclosed and secure accessory structure and ~~the cultivation area, including~~ the plant canopy, shall be limited to 80 square feet per parcel or residence, whichever is less, or ~~four (4)~~ **six (6)** plants. The cultivated cannabis may not be sold to any other person or organization.

~~F. Consumption of cannabis and/or medical cannabis is prohibited as follows:~~

~~(1) To smoke or ingest cannabis or cannabis products in a public place.~~

~~(2) To smoke cannabis or cannabis products in a location where smoking tobacco is prohibited.~~

~~(3) To smoke cannabis or cannabis products within 1,000 feet of a school, day care center, or youth center while children are present at the school, day care center, or youth center, except in or upon the grounds of a private residence and only if such smoking is not detectable by others on the grounds of the school, day care center, or youth center while children are present.~~

~~(4) To possess an open container or open package of cannabis or cannabis products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.~~

~~(5) To possess, smoke, or ingest cannabis or cannabis products in or upon the grounds of a school, day care center, or youth center while children are present.~~

~~(6) To manufacture concentrated cannabis using a volatile solvent.~~

~~(7) To smoke or ingest cannabis or cannabis products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.~~

~~(8) To smoke or ingest cannabis or cannabis products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.~~

EG. The use of a detached, fully enclosed and secure accessory structure for cultivation of cannabis shall not reduce the required parking required per Chapter [17.23](#).

FH. Outdoor cultivation shall be unlawful and a public nuisance for any person owning, leasing, occupying or having charge for possession of any parcel within any zoning district in the city.

GI. Indoor cultivation within a residential structure shall be unlawful and a public nuisance with regard to any person owning, leasing, occupying or having charge for possession of any parcel within any zoning district in the city.

17.38.050 Development and operational standards.

A. From a public right-of-way there shall be no exterior evidence of cannabis cultivation located inside a detached, fully enclosed and secure accessory structure.

B. Person(s) engaged in cultivation shall reside in the residence located on the parcel containing the detached, fully enclosed and secure accessory structure where the cannabis cultivation occurs, except as provided in subsection D of section 17.38.040.

C. Person(s) engaged in cultivation shall not cultivate cannabis in any other location within the city other than in the accessory structure located on the parcel containing his/her primary residence, except as provided in subsection D of section 17.38.040..

D. The qualifying residential structure located on the property containing the detached, fully enclosed and secure accessory structure in which cannabis is cultivated shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and shall not be used for cannabis cultivation.

E. Cannabis cultivation shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

F. Residential accessory structures used for cultivation shall meet the following criteria:

1. The structure shall be provided with a locking door or doors.
2. If a detached, fully enclosed, and secure structure is not feasible and the cultivation building is an unsecured structure then it shall additionally be surrounded by a secure solid six-foot-high fence located within ten feet of the unsecured structure and equipped with a lockable gate.
3. The structure shall be located in the rear yard portion of the lot and maintain a minimum of a ten-foot setback from the side and rear property lines and from any other building on the parcel.
4. Any accessory structure utilized for cultivation of cannabis shall be legally constructed with a building permit if it exceeds one hundred twenty square feet of size. No more than eighty square feet of floor area shall be used for the cultivation of cannabis. The plant canopy shall be contained within the eighty square feet of floor area. All electrical and plumbing fixtures shall be installed with a valid building permit from the city. Such building permits will only be issued to the owner of the property. If the resident is proposing to convert an existing accessory structure, or a portion of an existing structure, for cultivation of cannabis, an inspection will be required to ensure compliance with this chapter.
5. Cannabis cultivation lighting shall comply with the California Building, Electrical and Fire Codes as adopted by the city.

6. Flammable or volatile gas products or generators shall not be used within any detached structure used for the cultivation of cannabis.

7. Any detached, fully enclosed and secure structure used for the cultivation of cannabis must have a ventilation and filtration system installed that shall prevent nuisance cannabis plant odors from exiting the interior of the structure. If a permanent, built-in ventilation and filtration system is installed, it shall be subject to the issuance of a building permit, approval by the building official and must be installed prior to commencing cultivation within the detached, fully enclosed and secure structure.

8. Accessory structures utilized for cultivation shall be ventilated with odor control filters, and shall not create an odor, humidity or mold problem on the subject property or adjacent properties.

9. Other activities may occur within a detached fully enclosed and secure accessory structure where cannabis is cultivated; provided, that the cultivation area within the structure, including the plant canopy, does not exceed eighty square feet of floor area; and further provided, that the cultivation area is segregated from all other building uses by permitted walls and all other conditions of this chapter are satisfied.

10. As an alternative to the requirement set forth in 17.38.050.F subsections (1) through (8) above, the cultivation of cannabis may occur in a prefabricated greenhouse structure constructed for nursery or agricultural purpose which does not include any service systems and which has a canopy which does not exceed eighty (80) square feet. Said structure shall be located in an area which is fully enclosed by an opaque fence at least six (6) feet in height. The structure must also meet all applicable permit requirements and shall be secure against unauthorized entry and accessible only through one or more lockable doors. The frame must be constructed of metal and the panels must be polycarbonate or other similar material which is no less than four (4) mm thick. In the alternative, the structure may be a chain-link or wire mesh type greenhouse which is overlaid with a one-piece cover made of polyethylene laminate fabric or other similar materials which is no less than eight (8) ml thick. The structure shall be equipped with an odor control filtration and ventilation system(s) adequate to prevent cannabis plant odors from exiting the interior of the structure.

G. Nothing in this chapter shall be construed as a limitation on the city's authority to abate any nuisance which may exist from the planting, growing, harvesting, drying, processing or storage of cannabis plants or any part thereof from any location, indoor or outdoor, including from within a detached, fully enclosed and secure structure.

17.38.060 Enforcement.

A. Right of Entry. Persons designated by resolution as code enforcement officers of the city are authorized to enter upon and inspect private properties to ensure compliance with the provisions of this chapter. Reasonable advance notice of any such entry and inspection shall be provided and, before entry, consent shall be obtained in writing from the owner or other person in lawful possession of the property. If consent cannot for any reason be obtained, an inspection warrant shall be obtained from a court of law prior to any such entry and inspection. In those cases where consent is denied, the city may seek to recover the costs it incurs in obtaining a warrant from the property owner and/or person in lawful possession of the property.

B. Public Nuisance. The maintaining, cultivating or growing of cannabis upon private property within the city, unless in full compliance with the provisions of this chapter, is declared to be a public nuisance as defined in Section [370](#) of the Penal Code, Section 3480 of the Civil Code and Chapter [8.22](#) of the Lakeport Municipal Code.

C. Citable Offense. Every person who, in violation of the provisions of this chapter, maintains, permits or allows cannabis to be grown upon his or her property or premises, and every person occupying, renting or leasing the property or premises of another who maintains, permits or allows cannabis to be grown thereon in violation of this chapter, is guilty of an infraction punishable as set forth in Section [1.08.010](#). After written notice is provided to any such person of such violation, the continued existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense.

D. Issuance of Citations. All persons designated by resolution as code enforcement officers of the city are authorized to issue citations to persons deemed to be in violation of the provisions of this chapter. Such citations shall be expeditiously processed through use of the administrative citation process or where appropriate through filing an infraction in the appropriate court of law.

E. Remedies Nonexclusive. The remedies provided herein shall not be the exclusive means of enforcing the provisions of this chapter nor the exclusive means available to the city to address problems associated with the cultivation of cannabis, whether for medical or other purposes. The city shall continue to have available to it the ability to pursue abatement of nuisances and other problems related to cannabis cultivation under Penal Code Sections [372](#) and [373a](#), [Civil Code Section 3491](#) and other applicable provisions of law. The city is also entitled to recover its abatement costs, including attorney fees if any, in the manner provided by the Lakeport Municipal Code.

17.38.070 Liability.

The provisions of this chapter shall not be construed to protect the record property owner(s) of a legal parcel associated with the cultivation of cannabis, his or her lessees, tenants, and other participants in the cultivation of cannabis, and/or members of collectives and/or cooperatives associated with the cultivation of cannabis, from prosecution pursuant to any laws that may prohibit the cultivation, sale, and/or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of cannabis remain violations of federal law as of the date of adoption of the ordinance creating this chapter and this chapter is not intended to, and does not, protect any of the above described persons from arrest or prosecution under those federal laws. The record property owner(s) of a legal parcel associated with the cultivation of cannabis, his or her lessees, tenants, and other participants in the cultivation of cannabis, and/or members of collectives and/or cooperatives associated with the cultivation of cannabis, assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from the cultivation of cannabis. Further, to the fullest extent permitted by law, any actions taken under the provisions of this chapter by any public officer or employee of the city or the city itself shall not become a personal liability of such person or the liability of the city.

Attachment 2:

Existing Chapter 17.38 Medical Marijuana Cultivation

Chapter 17.38 MEDICAL MARIJUANA CULTIVATION

Sections:

- 17.38.010 Legislative findings.**
- 17.38.020 Intent.**
- 17.38.030 Applicability.**
- 17.38.040 Definitions.**
- 17.38.050 Regulation of location.**
- 17.38.060 Development and operational standards.**
- 17.38.070 Enforcement.**
- 17.38.080 Liability.**

17.38.010 Legislative findings.

The city council finds as follows:

- A. In 1996, the voters of the state of California approved Proposition 215 which was codified as California Health and Safety Code Section [11362.5](#) and entitled "The Compassionate Use Act of 1996" ("the Compassionate Use Act" or "CUA").
- B. The intent of the Compassionate Use Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes.
- C. On January 1, 2004, Senate Bill 420, codified as California Health and Safety Code Section [11362.7](#) et seq. and entitled "The Medical Marijuana Program," ("MMP") became effective to clarify the scope of the Compassionate Use Act.
- D. California Health and Safety Code Section [11362.83](#) expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420.
- E. The city of Lakeport has adopted a zoning ordinance identified as Title [17](#) (Zoning) of the city of Lakeport Municipal Code.
- F. Prior to the enactment of this chapter, there were no regulations addressing cultivation of medical marijuana in the zoning ordinance.

G. The city of Lakeport with a population of 4,622 (January 1, 2012) is a small town with a high percentage of nonowner-occupied residential units. Landlords have complained of damage caused by unauthorized cultivation activities in their rental properties.

H. The city of Lakeport police department, city residents and other public entities have reported adverse impacts from medical marijuana cultivation, including disagreeable odors, increased risk of burglary and other property crimes, and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes.

I. The creation of persistent strong odors as marijuana plants mature and flower is offensive to many people and creates an attractive nuisance, alerting persons to the location of valuable marijuana plants and creating an increased risk of crime.

J. The indoor cultivation of substantial amounts of marijuana also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation.

K. Children are particularly vulnerable to the effects of marijuana use, and the presence of marijuana plants has proven to be an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children including schools, child care centers, parks, and other similar locations.

L. The city council finds and determines that the enactment of this chapter is exempt from environmental review pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3) in that there is nothing in this chapter or its implementation that could have a foreseeable significant effect on the environment. (Ord. 889 §1(part), 2013)

17.38.020 Intent.

A. The city council of the city of Lakeport, pursuant to this chapter, hereby intends to regulate the cultivation of marijuana for medical purposes, including but not limited to regulations as to location of the cultivation, size of the area used for cultivation, and the use of fencing or other screening and security structures, to accommodate the needs of qualified patients and their caregivers, and in furtherance of the public necessity, convenience and general welfare. Nothing in this chapter shall be construed to authorize any use, possession, cultivation, or distribution of marijuana for nonmedical purposes.

B. This chapter is established to regulate medical marijuana cultivation in a manner that mitigates potential impacts on surrounding properties and persons, and that is in conformance with the provisions of California Health and Safety Code Sections [11362.5](#) through [11362.83](#).

C. It is the intent of the city of Lakeport to enforce the provisions of this chapter primarily on the basis of legitimate and verified complaints received from the public related to nuisance conditions and/or other public safety issues. (Ord. 889 §1(part), 2013)

17.38.030 Applicability.

The provisions of this chapter shall apply to all persons and businesses described herein whether the activities described herein were established before or after the effective date of this chapter. Chapter [17.36](#), Nonconforming Uses, Structures, and Lots, shall not apply to preexisting land or building uses inconsistent with the provisions of this chapter. (Ord. 889 §1(part), 2013)

17.38.040 Definitions.

"Canopy" means the total combined canopy area for all locations on a property where medical marijuana is being cultivated, including indoor areas, as measured by the horizontal extent of the plant or combination of plants at the widest point and measured in a straight line.

"Child care center" means any licensed child care center, daycare center, or childcare home, or any preschool.

"Cultivation" means the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof for medical use consistent with the Compassionate Use Act (Health and Safety Code Section [11362.5](#)) or the Medical Marijuana Program Act (Health and Safety Code Section [11362.7](#) et seq.).

"Detached, fully enclosed and secure structure" is a building completely detached from a residence that complies with the city of Lakeport building and zoning codes and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and is secure against unauthorized entry, and is accessible only through one or more lockable doors.

"Indoors" means within a fully enclosed and secure structure.

"Marijuana" shall have the same meaning as that set forth in California Health and Safety Code Section [11018](#).

"Medical marijuana" means medical marijuana that has been recommended by a licensed physician in strict accordance with California Health and Safety Code Sections [11362.5](#) through [11362.83](#), inclusive, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program.

"Outdoor" means any location within the city that is not within a fully enclosed and secure structure.

"Primary caregiver" shall have the same definition as California Health and Safety Code Section [11362.7\(d\)](#), as may be amended.

"Qualified patient" shall have the same definition as California Health and Safety Code Sections [11362.7\(c\)](#) and (f), as may be amended.

"Rear yard" is the rear open space portion of any premises, whether fenced or unfenced.

"Residential structure" is any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking and sanitation on a premises or legal parcel located within a residential or agricultural-residential zoning district.

"School" means an institution of learning for persons under twenty-one years of age, whether public or private, offering regular course of instruction including, without limitation, a kindergarten, elementary school, middle or junior high school, or senior high school.

"Solid fence" means a fence constructed of substantial material (such as wood) that prevents viewing the contents from one side to the other. (Ord. 889 §1(part), 2013)

17.38.050 Regulation of location.

A. Medical Marijuana cultivation shall be prohibited on any parcel within the incorporated area of the city of Lakeport except as an accessory use to a legally established residence within a legal accessory structure on a legal parcel within the R-1, R-2, R-3, R-5 and UR zoning districts.

B. No medical marijuana cultivation is permitted within three hundred feet of any school, child care center, park or playground. The distance between any marijuana cultivation and any school, child care center, park or playground shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall of the detached accessory building in which the marijuana cultivation is occurring to the closest property line where the other building or activity is conducted.

C. Except as provided in subsection D of this section, Medical Marijuana cultivation may be undertaken only by a qualified patient who must occupy the residence on the parcel proposed for cultivation as their primary residence.

D. A qualified primary caregiver, as defined, may undertake cultivation of medical marijuana on behalf of his/her qualified patient(s), but only in a detached, fully enclosed and secure accessory structure located on a parcel containing the primary caregiver's or qualified patient's primary residence.

E. Cultivation shall only be permitted in a detached, fully enclosed and secure accessory structure and said cultivation area, including the plant canopy, shall be limited to 80 square feet per parcel or residence, whichever is less. The cultivated marijuana may be used only by the qualified patient and not distributed, sold, given or transferred in any way to any other person or organization.

F. The use of a detached, fully enclosed and secure accessory structure for cultivation of medical marijuana shall not reduce the required parking required per Chapter [17.23](#).

G. Outdoor cultivation shall be unlawful and a public nuisance for any person owning, leasing, occupying or having charge for possession of any parcel within any zoning district in the city of Lakeport.

H. Indoor cultivation within a residence shall be unlawful and a public nuisance with regard to any person owning, leasing, occupying or having charge for possession of any parcel within any zoning district in the city of Lakeport. (Ord. 889 §1(part), 2013)

17.38.060 Development and operational standards.

A. From a public right-of-way there shall be no exterior evidence of medical marijuana cultivation located inside a detached, fully enclosed and secure accessory structure.

B. The qualified patient or primary caregiver shall reside in the residence located on the parcel containing the detached, fully enclosed and secure accessory structure where the medical marijuana cultivation occurs.

C. The qualified patient or primary caregiver shall not cultivate medical marijuana in any other location within the incorporated city of Lakeport other than in the accessory structure located on the parcel containing his/her primary residence.

D. The qualifying residence located on the property containing the detached, fully enclosed and secure accessory structure in which medical marijuana is cultivated shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and shall not be used for medical marijuana cultivation.

E. Medical marijuana cultivation shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

F. Residential accessory structures used for cultivation shall meet the following criteria:

1. The structure shall be provided with a locking door or doors.

2. If a secure structure is not feasible and the cultivation building is an unsecured structure then it shall additionally be surrounded by a secure solid six-foot-high fence located within ten feet of the unsecured structure and equipped with a lockable gate.
3. The structure shall be located in the rear yard portion of the lot and maintain a minimum of a ten-foot setback from the side and rear property lines and from any other building on the parcel.
4. Any accessory structure utilized for cultivation of marijuana shall be legally constructed with a building permit if it exceeds one hundred twenty square feet of size. No more than eighty square feet of floor area shall be used for the cultivation of marijuana. The plant canopy shall be contained within the eighty square feet of floor area. All electrical and plumbing fixtures shall be installed with a valid building permit from the city. Such building permits will only be issued to the owner of the property. If the resident is proposing to convert an existing accessory structure, or a portion of an existing structure, for cultivation of marijuana, an inspection will be required to ensure compliance with this chapter.
5. Medical marijuana cultivation lighting shall comply with the California Building, Electrical and Fire Codes as adopted by the city.
6. Flammable or volatile gas products or generators shall not be used within any detached structure used for the cultivation of medical marijuana.
7. Any detached, fully enclosed and secure structure used for the cultivation of medical marijuana must have a ventilation and filtration system installed that shall prevent nuisance marijuana plant odors from exiting the interior of the structure. If a permanent, built-in ventilation and filtration system is installed, it shall be subject to the issuance of a building permit, approval by the building official and must be installed prior to commencing cultivation within the detached, fully enclosed and secure structure.
8. Accessory structures utilized for cultivation shall be ventilated with odor control filters, and shall not create an odor, humidity or mold problem on the subject property or adjacent properties.
9. Other activities may occur within a detached fully enclosed and secure accessory structure where medical marijuana is cultivated; provided, that the cultivation area within the structure, including the plant canopy, does not exceed eighty square feet of floor area; and further provided, that the cultivation area is segregated from all other building uses by permitted walls and all other conditions of this chapter are satisfied.

G. Wherever medical marijuana is grown, a copy of a current and valid state-issued medical marijuana card or a current and valid physician's recommendation for medical marijuana must be kept available to immediately present to officers of the city and law enforcement officers upon request.

H. Nothing in this chapter shall be construed as a limitation on the city's authority to abate any nuisance which may exist from the planting, growing, harvesting, drying, processing or storage of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a detached, fully enclosed and secure structure. (Ord. 889 §1(part), 2013)

17.38.070 Enforcement.

A. Right of Entry. Persons designated by resolution as code enforcement officers of the city are authorized to enter upon and inspect private properties to ensure compliance with the provisions of this chapter. Reasonable advance notice of any such entry and inspection shall be provided and, before entry, consent shall be obtained in writing from the owner or other person in lawful possession of the property. If consent cannot for any reason be obtained, an inspection warrant shall be obtained from a court of law prior to any such entry and inspection. In those cases where consent is denied, the city may seek to recover the costs it incurs in obtaining a warrant from the property owner and/or person in lawful possession of the property.

B. Public Nuisance. The maintaining, cultivating or growing of marijuana upon private property within the city of Lakeport, unless in full compliance with the provisions of this chapter, is declared to be a public nuisance as defined in Section [370](#) of the California Penal Code and Chapter [8.22](#) of the Lakeport Municipal Code.

C. Citable Offense. Every person who, in violation of the provisions of this chapter, maintains, permits or allows marijuana to be grown upon his or her property or premises, and every person occupying, renting or leasing the property or premises of another who maintains, permits or allows marijuana to be grown thereon in violation of this chapter, is guilty of an infraction punishable as set forth in Section [1.08.010](#). After written notice is provided to any such person of such violation, the continued existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense.

D. Issuance of Citations. All persons designated by resolution as code enforcement officers of the city are authorized to issue citations to persons deemed to be in violation of the provisions of this chapter. Such citations shall be expeditiously processed through use of the administrative citation process or where appropriate through filing an infraction in the appropriate court of law.

E. Remedies Nonexclusive. The remedies provided herein shall not be the exclusive means of enforcing the provisions of this chapter nor the exclusive means available to the city to address problems associated with the cultivation of marijuana, whether for medical or other purposes. The city shall continue to have available to it the ability to pursue abatement of nuisances and other problems related to marijuana cultivation under California Penal Code Sections [372](#) and [373a](#) and other applicable provisions of law. The city may also pursue the recovery of its abatement costs in the manner provided by the Lakeport Municipal Code. (Ord. 889 §1(part), 2013)

17.38.080 Liability.

The provisions of this chapter shall not be construed to protect the property owner(s) of record for each legal parcel associated with the cultivation of medical marijuana, lessees, tenants, and other participants in the cultivation of medical marijuana, and members of collectives and/or cooperatives associated with the cultivation of medical marijuana, from prosecution pursuant to any laws that may prohibit the cultivation, sale, and/or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of marijuana remain violations of federal law as of the date of adoption of the ordinance creating this chapter and this chapter is not intended to, and does not, protect any of the above described persons from arrest or prosecution under those federal laws. The property owner(s) of record for each legal parcel associated with the cultivation of medical marijuana, lessees, tenants, and other participants in the cultivation of medical marijuana, and members of collectives and/or cooperatives associated with the cultivation of medical marijuana, assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from the cultivation of marijuana. Further, to the fullest extent permitted by law, any actions taken under the provisions of this chapter by any public officer or employee of the city of Lakeport or city of Lakeport itself shall not become a personal liability of such person or the liability of the city of Lakeport. (Ord. 889 §1(part), 2013)

Attachment 3:

Proposed Zoning Ordinance Revision to Chapter 17.04 (R-1)

Chapter 17.04
REGULATIONS FOR LOW DENSITY RESIDENTIAL OR "R-1" DISTRICT

Sections:

17.04.010 Purpose.

17.04.020 Performance standards.

17.04.030 Uses permitted.

17.04.040 Uses permitted subject to a zoning permit.

17.04.050 Uses permitted subject to a use permit.

17.04.060 Development standards.

17.04.010 Purpose.

To establish areas for individual residential dwelling units at an urban low density where the traditional neighborhood character of single-family units exist. The following regulations shall apply in all R-1 districts. (Ord. 796 Att. A (part), 1999)

17.04.020 Performance standards.

Uses permitted within this district shall be subject to the performance standards set forth in Chapter [17.28](#). (Ord. 828 §1(part), 2004; Ord. 796 Att. A (part), 1999)

17.04.030 Uses permitted.

- A. One single-family dwelling or modular home.
- B. Residential accessory buildings, including site-built garages and carports.
- C. Private swimming pools, tennis courts, and similar recreational amenities.
- D. Small family nonresidential day care licensed for eight or fewer persons.
- E. Duplexes on a lot of at least twelve thousand square feet of land area.
- F. Garage and yard sales.
- G. One secondary accessory residential unit on a parcel with at least seven thousand five hundred square feet of land area subject to performance standards set forth in Chapter [17.28](#).
- H. One metal or fabric-covered carport. (Ord. 887 §1(D), 2013; Ord. 869 §1(A), (B), 2007; Ord. 821 §1(part), 2003; Ord. 796 Att. A (part), 1999)

I. Personal cannabis cultivation subject to the regulations as set forth in Section 17.38.

17.04.040 Uses permitted subject to a zoning permit.

- A. Home occupations.
- B. Agricultural uses including the keeping of livestock or animals.
- C. Docks, piers, and boat houses.
- D. Guest quarters.
- E. Temporary construction offices. (Ord. 821 §1(part), 2003; Ord. 796 Att. A (part), 1999)

17.04.050 Uses permitted subject to a use permit.

- A. Bed and breakfast inns.
- B. Rooming and boarding houses.
- C. Short-term rental of a residence to transient guests.
- D. Churches.
- E. Large family nonresidential day care centers.
- F. Public and private schools.
- G. Public utility facilities.
- H. Residential care home, large.
- I. Residential care facility.
- J. One secondary accessory residential unit on a parcel with less than seven thousand five hundred square feet of land area subject to performance standards set forth in Chapter [17.28](#). (Ord. 893 §3(1), 2014; Ord. 887 §1(E), 2013; Ord. 821 §1(part), 2003; Ord. 796 Att. A (part), 1999)

17.04.060 Development standards.

- A. Minimum Lot Size.
 - 1. Six thousand square feet for an interior lot.
 - 2. Six thousand five hundred square feet for a corner lot.

B. Minimum Average Lot Width.

1. Sixty feet for an interior lot.
2. Sixty-five feet for a corner lot.
3. Lots on a cul-de-sac bulb or corner bulb (knuckle) may be thirty-five feet wide and shall be at least sixty feet wide at the midpoint line.

C. Minimum Lot Length. Eighty feet.

D. Maximum Length to Width Ratio. Three to one.

E. Maximum Lot Coverage. Forty percent. An increase in lot coverage of up to sixty percent will be permitted on pre-existing substandard lots.

F. Minimum Yards (Setbacks).

1. Front yard:

- a. Fifteen feet from lot line.
- b. Twenty feet from lot line to the carport or garage door opening.

2. Rear yard: ten feet from lot line.

3. Side yard: five feet from lot line, except ten feet on the street side on a corner lot.

4. Accessory structures: less than one hundred twenty square feet without utilities may be within one foot of the side or rear property line.

G. Maximum Height.

1. Principal structure: thirty-five feet.

2. Accessory structure: fifteen feet.

H. Parking. The following minimum parking requirements shall apply for residential uses:

1. One covered and one uncovered space per dwelling unit.
2. Covered spaces may be substituted for uncovered spaces.

- I. Signs. As provided in the sign ordinance.
- J. Minimum Residential Construction Standards. (see Chapter [17.28](#), Performance Standards).
 - 1. All dwelling units must be at least fifteen feet in width or diameter (excluding eaves) and at least seven hundred twenty square feet in gross floor area, except for secondary units which shall meet the standards set forth in Chapter [17.28](#).
 - 2. Modular homes shall be certified under the National Manufactured Home Construction and Safety Standards and shall be no older than ten years old from the time that a permit is issued for placement.
 - 3. All dwellings shall be attached to a permanent concrete foundation system pursuant to the Uniform Building Code. Dwellings in mobilehome parks/subdivisions may utilize alternative permanent foundation systems.
 - 4. All dwellings shall be designed so that exterior walls look like wood or masonry or stucco regardless of their actual composition.
 - 5. Dwelling siding shall extend to the ground level (wood excluded) except that when a solid concrete or masonry perimeter foundation is used, then siding need only extend one and one-half inch below the top of the foundation.
 - 6. The roofing materials shall be designed to look like composition roofing, tile, shakes, shingles, or tar and gravel; or architectural metal roof sheathing with factory applied color coatings.
 - 7. The slope of the main roof shall not be less than two inches of vertical rise for twelve inches of horizontal run.
 - 8. All dwellings shall have a perimeter roof eave not less than one foot measured from the vertical side of the home.
 - 9. Where any accessory structure is attached to the main structure, the eave requirement at the point of attachment may be waived.
 - 10.
 - a. Site-built detached or attached garages or carports shall be designed and constructed of similar design and materials as the main residential unit or structure.
 - b. One four-hundred-square-foot metal or one four-hundred-square-foot fabric-covered carport may be permitted per lot. Metal and fabric-covered carports shall comply with property setback

(yard) requirements. Metal and fabric-covered carports shall be properly maintained in good condition, cleaned, and repaired as necessary. Metal and fabric-covered carports shall be securely anchored with below grade tie downs. There shall be no electricity or utilities provided to metal and fabric-covered carports. Metal and fabric-covered carports are subject to the issuance of a building permit unless determined to be exempted by the building official. Metal carports shall be painted to match or complement the primary house color. (Ord. 869 §1(C), 2007; Ord. 856 §1(part), 2006; Ord. 821 §1(part), 2003; Ord. 796 Att. A(part), 1999)

Attachment 4:

Proposed Zoning Ordinance Revision to Chapter 17.05 (R-2)

Chapter 17.05
REGULATIONS FOR THE MEDIUM DENSITY RESIDENTIAL OR "R-2" DISTRICT

Sections:

17.05.010 Purpose.

17.05.020 Performance standards.

17.05.030 Uses permitted.

17.05.040 Uses permitted subject to a zoning permit.

17.05.050 Uses permitted subject to a use permit.

17.05.060 Development standards.

17.05.010 Purpose.

To establish areas for individual and multifamily residential dwelling units at low to medium densities with the amenities of a residential neighborhood. The following regulations shall apply in all R-2 districts. (Ord. 796 Att. A(part), 1999)

17.05.020 Performance standards.

Uses permitted within this district shall be subject to the performance standards set forth in Chapter [17.28](#) and, where required, architectural and design review. (Ord. 796 Att. A(part), 1999)

17.05.030 Uses permitted.

- A. One single-family dwelling or manufactured home.
- B. Two single-family dwellings subject to general plan density standards.
- C. Duplexes, triplexes, fourplexes, and condominiums in accordance with the development standards listed in Section [17.05.060](#).
- D. Residential accessory buildings.
- E. Small family nonresidential day care licensed for eight or fewer persons.
- F. Garage and yard sales.
- G. Public parks, playgrounds, and recreational facilities.
- H. One secondary accessory residential unit on a parcel with at least seven thousand five hundred square feet of land area subject to performance standards set forth in Chapter [17.28](#). (Ord. 887 §1(F), 2013; Ord. 821 §1(part), 2003; Ord. 796 Att. A(part), 1999)

I. Personal cannabis cultivation subject to the regulations as set forth in Section 17.38.

17.05.040 Uses permitted subject to a zoning permit.

Those uses permitted in the R-1 district with a zoning permit. (Ord. 796 Att. A(part), 1999)

17.05.050 Uses permitted subject to a use permit.

- A. Nursing and convalescent homes.
- B. Mobilehome parks.
- C. Building heights in excess of thirty-five feet.
- D. Those uses permitted in the R-1 district subject to a use permit.
- E. Residential care home, large.
- F. Residential care facility.
- G. One secondary accessory residential unit on a parcel with less than seven thousand five hundred square feet of land area subject to performance standards set forth in Chapter [17.28](#). (Ord. 893 §3(2), 2014; Ord. 887 §1(G), 2013; Ord. 821 §1(part), 2003; Ord. 796 Att. A(part), 1999)

17.05.060 Development standards.

- A. Maximum Permitted Density.
 - 1. Single-family dwelling: six thousand square feet per dwelling unit.
 - 2. Duplex, triplex, fourplex, or condominium projects: two thousand two hundred fifty square feet per dwelling unit.
- B. Minimum Lot Size.
 - 1. Six thousand square feet for an interior lot.
 - 2. Six thousand five hundred square feet for a corner lot.
- C. Minimum Lot Length. Eighty feet.
- D. Minimum Average Lot Width.
 - 1. Sixty feet for an interior lot.

2. Sixty-five feet for a corner lot.
 3. Lots on a cul-de-sac bulb or corner bulb (knuckle) may be thirty-five feet wide and shall be at least sixty feet wide at the midpoint line.
- E. Maximum Length to Width Ratio. Three to one.
- F. Maximum Lot Coverage. Forty percent.
- G. Minimum Yards.
1. Front yard: fifteen feet from lot line, twenty feet required to carport or garage.
 2. Rear yard: ten feet for single-family dwellings and duplexes, and fifteen feet from the lot line for triplexes, fourplexes, and condominium projects.
 3. Side yard: five feet for single-family dwellings and duplexes, and ten feet for triplexes and fourplexes.
 4. Side yards adjacent to public right-of-way shall not be less than ten feet for all uses.
 5. Accessory structures: less than one hundred twenty feet without utilities may be within one foot of the side or rear property line.
- H. Maximum Height.
1. Principal structure: thirty-five feet.
 2. Accessory structure: fifteen feet.
- I. Building Separation, Open Space, and Landscaping.
1. Within the R-2 district, the placement of the principal structure shall conform to the following building separation standards:
 - a. When two or more buildings in the same project face each other, or are arranged around an open court, they shall be separated from each other a minimum of twenty feet.
 - b. For a building which faces the rear or side of another building, there shall be a separation of twenty feet.

- c. When the rear of the building faces the rear or side of another building, they shall be separated from each other a minimum of ten feet.
 - d. When the building's side faces the side of another building, they shall be separated from each other a minimum of ten feet. No entries shall be permitted between buildings placed side by side unless an additional ten feet of building separation is provided.
- 2. Where there are floors or stories in excess of one, the city may increase the building separation by as much as five feet for each story.
 - 3. For duplex, triplex, fourplex, and condominium, a landscaped, unified, and usable open recreational and leisure area, totaling at least three hundred square feet for each dwelling unit, shall be required in addition to that landscaping generally required of all developments. The areas shall be conveniently located and readily accessible to each dwelling unit.

The following areas shall not be considered as contributing to required recreational and leisure areas:

- a. Any required front or side yard.
 - b. Any area used for parking or vehicular circulation.
- J. Signs. As provided for in the sign ordinance.
- K. All dwelling units must be at least fifteen feet in width or diameter (excluding eaves) and, with the exception of single-family dwellings, shall contain the following minimum gross floor area, exclusive of parking areas, open porches, and patios:
- 1. Studio: four hundred fifty square feet;
 - 2. One-bedroom: six hundred fifty square feet;
 - 3. Two-bedroom: eight hundred square feet;
 - 4. For each additional bedroom in excess of two: one hundred square feet. (Ord. 856 §1(part), 2006; Ord. 828 §1(part), 2004; Ord. 821 §1(part), 2003; Ord. 796 Att. A (part), 1999)

Attachment 5:

Proposed Zoning Ordinance Revision to Chapter 17.06 (R-3)

Chapter 17.06
REGULATIONS FOR THE HIGH DENSITY RESIDENTIAL OR "R-3" DISTRICT

Sections:

17.06.010 Purpose.

17.06.020 Performance standards.

17.06.030 Uses permitted.

17.06.040 Uses permitted subject to a zoning permit.

17.06.050 Uses permitted subject to a use permit.

17.06.060 Development standards.

17.06.010 Purpose.

To establish areas for high density residential development allowing for living accommodations ranging from duplex units to apartment buildings and condominiums. The following regulations shall apply in all R-3 districts. (Ord. 796 Att. A (part), 1999)

17.06.020 Performance standards.

All uses permitted within this district shall be subject to the performance standards set forth in Chapter [17.28](#) and architectural and design review set forth in Chapter [17.27](#). (Ord. 796 Att. A(part), 1999)

17.06.030 Uses permitted.

- A. Duplexes, triplexes, fourplexes, apartment buildings, multifamily dwelling groups, and condominiums.
- B. Residential accessory uses and accessory structures.
- C. Private swimming pools, tennis courts, and similar recreational amenities.
- D. Small family nonresidential day care licensed for eight or fewer persons.
- E. Garage and yard sales.
- F. Public parks, playgrounds, and recreational facilities.
- G. Small scale offices serving the multifamily residential complex. (Ord. 893 §3(3), 2014; Ord. 821 §1(part), 2003; Ord. 796 Att. A(part), 1999)

H. Personal cannabis cultivation subject to the regulations as set forth in Section 17.38.

17.06.040 Uses permitted subject to a zoning permit.

Those uses permitted in the R-2 district subject to a zoning permit and the following use:

- A. Residential care home, large. (Ord. 893 §3(4), 2014; Ord. 796 Att. A(part), 1999)

17.06.050 Uses permitted subject to a use permit.

- A. Mobilehome parks.
- B. One single-family dwelling or manufactured home if it is to replace a previously existing dwelling.
- C. Those uses permitted in the R-2 district subject to a use permit.
- D. Bed and breakfast inns with food service and catering.
- E. Residential care facility. (Ord. 893 §3(5), 2014; Ord. 821 §1(part), 2003; Ord. 796 Att. A(part), 1999)

17.06.060 Development standards.

- A. Maximum Permitted Density.
 - 1. Duplex, triplex, fourplex, apartment, multifamily dwelling groups, and condominiums: one thousand five hundred square feet per dwelling unit.
 - 2. Senior multifamily dwellings: nine hundred seventy square feet per unit.
- B. Minimum Lot Size.
 - 1. Six thousand square feet for an interior lot.
 - 2. Six thousand five hundred square feet for a corner lot.
- C. Minimum Lot Length. Eighty feet.
- D. Minimum Average Lot Width.
 - 1. Sixty feet for an interior lot.
 - 2. Sixty-five feet for a corner lot.
 - 3. Lots on a cul-de-sac bulb or corner bulb (knuckle) may be thirty-five feet wide and shall be at least sixty feet wide at the midpoint line.
- E. Maximum Length to Width Ratio. Three to one.

F. Maximum Lot Coverage for Multifamily Dwelling Units.

1. One story dwelling: sixty percent.
2. Two story dwelling: fifty-five percent.
3. Three story dwelling: fifty percent.

G. Minimum Yards.

1. Front yard: fifteen feet from lot line, twenty feet required to carport/garage.
2. Rear yard: ten feet from the lot line for a duplex and fifteen feet from the lot line for other dwellings.
3. Side yard: five feet from the lot line for a duplex and ten feet from the lot line for other dwellings.
4. Accessory structures: less than one hundred twenty square feet without utilities may be within one foot of the side or rear property line.

H. Maximum Height.

1. Principal structure: thirty-five feet.

Height limit may be increased subject to obtaining a use permit.

2. Accessory structure: fifteen feet.

I. Building Separation, Open Space, and Landscaping.

1. The placement of buildings shall conform to the following building separation standards:
 - a. When two or more buildings in the same project face each other or are arranged around an open court, they shall be separated from each other a minimum of twenty feet.
 - b. For a building which faces the rear or side of another building, there shall be a separation of twenty feet.
 - c. When the rear of the building faces the rear or side of another building, they shall be separated from each other a minimum of ten feet.

- d. When the building's side faces the side of another building, they shall be separated from each other a minimum of ten feet.
 - i. No entries shall be permitted between buildings placed side by side, unless an additional ten feet of building separation is provided.
- 2. The building separation shall be increased five feet for each story in excess of one.
- 3. For residential developments of more than three dwelling units, a landscaped, unified, and usable open recreational and leisure area, totaling at least three hundred square feet for each dwelling unit, shall be required in addition to that landscaping generally required of all developments. The open areas shall be conveniently located and readily accessible to each dwelling unit. The following areas shall not be considered as contributing to required recreational and leisure areas:
 - a. Any required front or side yard.
 - b. Any area used for parking or vehicle circulation.
- J. Parking. See Chapter [17.23](#).
- K. Signs. As provided in the sign ordinance.
- L. All dwelling units must be at least fifteen feet in width or diameter (excluding eaves) and shall contain the following minimum gross floor area, exclusive of parking areas, open porches and patios:
 - 1. Studio: four hundred fifty square feet;
 - 2. One-bedroom: six hundred fifty square feet;
 - 3. Two-bedroom: eight hundred square feet;
 - 4. For each additional bedroom in excess of two: one hundred square feet. (Ord. 856 §1(part), 2006; Ord. 828 §1(part), 2004; Ord. 796 Att. A (part), 1999)

Attachment 6:

Proposed Zoning Ordinance Revision to Chapter 17.07 (R-5)

Chapter 17.07 REGULATIONS FOR RESORT/RESIDENTIAL OR "R-5" DISTRICT

Sections:

17.07.010 Purpose.

17.07.020 Performance standards.

17.07.030 Uses permitted.

17.07.040 Uses permitted subject to a zoning permit.

17.07.050 Uses permitted subject to a use permit.

17.07.060 Development standards.

17.07.070 Development criteria for resorts, hotels, motels, or mixed use projects.

17.07.010 Purpose.

To establish areas for a mixture of resort, residential, and lake-associated uses primarily along the shore of Clear Lake and other appropriate locations. This district is intended to allow for resort development including hotels and motels, limited retail uses consistent and compatible with lakefront recreational uses, and residential uses. The following regulations shall apply in all R-5 districts. (Ord. 796 Att. A(part), 1999)

17.07.020 Performance standards.

Uses permitted within this district shall be subject to the performance standards set forth in Chapter [17.28](#) and architectural and design review criteria set forth in Chapter [17.27](#). (Ord. 796 Att. A(part), 1999)

17.07.030 Uses permitted.

- A. Duplexes, triplexes, fourplexes, apartments, and condominiums.
- B. Resorts.
- C. Hotels and motels.
- D. Private swimming pools, tennis courts, and similar recreational amenities.
- E. Garage and yard sales.
- F. Public parks, playgrounds, and recreational facilities. (Ord. 796 Att. A(part), 1999)

G. Personal cannabis cultivation subject to the regulations as set forth in Section 17.38.

17.07.040 Uses permitted subject to a zoning permit.

Those uses permitted in the R-2 and R-3 zoning districts with a zoning permit. (Ord. 796 Att. A(part), 1999)

17.07.050 Uses permitted subject to a use permit.

- A. Restaurants.
- B. Food and beverage sales.
- C. Retail sales of lake-oriented and recreational merchandise, including limited food and beverage sales.
- D. Rental of lake-oriented recreational equipment.
- E. Mobilehome park, RV park, and campgrounds.
- F. Marinas.
- G. Boat storage facility and boat repair activity within a building.
- H. Those uses permitted in the R-2 and R-3 zoning districts with a use permit.
- I. Bed and breakfast inns with food service and catering.
- J. Residential care facility. (Ord. 893 §3(6), 2014; Ord. 821 §1(part), 2003; Ord. 796 Att. A (part), 1999)

17.07.060 Development standards.

- A. Maximum Permitted Density. Multifamily residential and condominium development: two thousand two hundred fifty square feet per dwelling unit.
- B. Minimum Lot Size.
 - 1. Six thousand square feet for an interior lot.
 - 2. Six thousand five hundred square feet for a corner lot.
- C. Minimum Lot Length. Eighty feet.
- D. Minimum Average Lot Width.
 - 1. Sixty feet for an interior lot.
 - 2. Sixty-five feet for a corner lot.
 - 3. Lots on a cul-de-sac bulb or corner bulb (knuckle) may be thirty-five feet wide and shall be at least sixty feet wide at the midpoint line.
- E. Maximum Length to Width Ratio. Three to one.

F. Maximum Lot Coverage.

1. One story structure: sixty percent.
2. Two story structure: fifty-five percent.
3. Three story structure: fifty percent.

G. Minimum Yards.

1. Multifamily dwellings and condominiums.
 - a. Front yard: fifteen feet from the front lot line, twenty feet required to garage/carport.
 - b. Rear yard: fifteen feet from the lot line.
 - c. Side yard: ten feet from the lot line.
 - d. Accessory structures: less than one hundred twenty square feet without utilities may be within one foot of the side or rear property lines.
2. All other uses permitted within the R-5 resort/residential district shall comply with the setbacks as determined through the architectural and design review process.

H. Maximum Height.

1. Principal structure: twenty-five feet, however, the structure cannot be higher than twenty-six feet above 12.79 on the Rumsey gauge (one thousand three hundred thirty-one feet above sea level). Height limit may be increased subject to obtaining a use permit.
2. Accessory structures: fifteen feet in height.

I. Building Separation, Open Space, and Landscaping. All multifamily residential uses and condominiums shall comply with the building separation, open space, and landscaping requirements set forth in Section [17.06.060\(H\)](#).

J. All dwelling units must be at least fifteen feet in width or diameter (excluding eaves) and shall contain the following minimum gross floor area, exclusive of parking areas, open porches and patios:

1. Studio: four hundred fifty square feet;

2. One-bedroom: six hundred fifty square feet;
3. Two-bedroom: eight hundred square feet;
4. For each additional bedroom in excess of two: one hundred square feet. (Ord. 856 §1(part), 2006; Ord. 796 Att. A (part), 1999)

17.07.070 Development criteria for resorts, hotels, motels, or mixed use projects.

- A. Plans Required. A plan of development shall be required for all uses listed in this section in accordance with the standards below.
- B. Pre-application. Prior to the preparation of an application for a plan of development, the applicant shall attend a pre-application meeting with the community development department staff to explain the purpose of the development plan, to review the project's consistency with the Lakeport general plan, to review the municipal code requirements, and to provide for a review of the applicant's conceptual design and development objectives.
- C. Application. An application shall be made on forms provided by the community development department and accompanied by all fees, information, and supplemental plans required.
- D. Plan of Development Criteria. The plan of development shall be a graphic and written representation of the applicant's intended development project including:
 1. A graphic drawing consisting of:
 - a. The entire plan development with drawings and agreed upon scale showing the entire proposed development and site;
 - b. The location and sizes of all proposed land uses;
 - c. An overlay of the City's general plan and zoning;
 - d. The location and approximate size of all areas to be reserved in open space or setbacks;
 - e. The preliminary on-site circulation pattern;
 - f. The type and location of proposed buildings and other site improvements;
 - g. The type and location of all proposed public facilities;

- h. The existing site conditions showing all topographic features such as natural drainage ways, streams, creeks, shorelines, vernal pools and ponds; significant rock outcroppings; topography; location and types of all on-site trees; areas of historic or archaeological impact or value; and existing development including roadways and structures;
 - i. Topography at a contour level determined by the size and complexity of the plan and existing surface conditions; and
 - j. Other information on land adjacent to the proposed project which will show the relationship between the proposed development and the areas adjacent to the site including land uses, parcel size, ownership patterns, mineral leaseholds, soil conditions, planning and zoning designations, densities, traffic circulation system, public facilities, major geotechnical features, and physiographic features such as lakes, streams, shorelines, drainage patterns, ridgelines, tree clusters, and other prominent natural features.
2. A written plan that shall support the graphic representation and shall, at a minimum, include:
- a. Project description including an indication of the present and proposed ownership;
 - b. A list and description of all uses shown on the proposed specific plan of development;
 - c. A development schedule indicating the approximate date when construction of the project can be expected to begin and be completed for each phase of the project including the permit phase;
 - d. A statement of the applicant's intent with regard to the future segregation and selling and/or leasing of all portions of the project including whether or not there is an intent to subdivide and sell lots either as condominiums or undeveloped lots;
 - e. A statement of the applicant's proposal for utilities and public services including sewer, water, general government, school, solid waste, power, cable TV, telephones, storm water runoff, and others.
 - f. Quantitative data about the development including, but not limited to, net and gross acreage, approximate dimension and location of structures, support services required, traffic generation, parking and loading requirements, outdoor storage requirements, and other applicable information; and

- g. Demographic information about the development including, but not limited to, estimates of the number of employees, their ages, skill levels, salaries and annual payroll, number of employees to be relocated, number of school age children, and other information as necessary. (Ord. 796 Att. A(part), 1999)