



# **ORDINANCE No. \_\_\_\_\_**

## **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

### **AN ORDINANCE AMENDING CHAPTER II OF THE NEVADA COUNTY LAND USE AND DEVELOPMENT CODE, TABLES L-II 2.2.1.B AND 2.3.D OF ARTICLE 2 AND SECTION L-II 3.3 OF ARTICLE 3 TO ESTABLISH A DEFINITION AND PERMITTING STANDARDS FOR AGRITOURISM (ORD17-2)**

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

#### SECTION I:

Pursuant to Land Use and Development Code Section L-II 5.9.G, the Board of Supervisors hereby finds and determines as follows:

1. That the existing definitions for agricultural marketing in the County Land Use and Development Code Section L-II 3.3, specifically, field retail stands, farm stands, community supported agriculture, and certified farmers' markets do not provide for other similar activities for the marketing of a farm or ranch that are considered ancillary and accessory to the use of farm or ranch for growing or raising food and fiber; and
2. That allowing for additional opportunities to promote the activities of an active farm or ranch will further support the County's agricultural economy by providing marketing opportunities without significant time or financial expenditures necessary to obtain a discretionary land use entitlement; and
3. That the proposed definition of Agritourism will clearly outline what types of direct marketing activities and events are considered an accessory use to a working farm or ranch and what types of events and activities are not agritourism activities, such as concerts, weddings and other non-agricultural events; and
4. That the Agricultural Exclusive (AE), General Agriculture (AG), Forest (FR) and Residential Agricultural (RA) zoning districts are appropriate for agritourism events on working ranches and farms as these areas are typically more rural in nature; and
5. That excluding cannabis and cannabis projects in the County's definition of Agricultural Products will provide clarity regarding the types of products that can be promoted and potentially sold at field retail stands, farm stands and agritourism activities; and
6. That the proposed amendments to the zoning regulations are consistent with and furthers the goals, objectives, policies, and implementation measures of the General Plan and provisions of the Nevada County Land Use and Development Code Chapter II Zoning Regulations, specifically Chapter 16: Agriculture and those policies of the County General Plan focused on promoting and supporting a vibrant agricultural economy; and
7. That the existing health and safety standards that apply to other direct agricultural marketing activities will also apply to sites hosting agritourism activities; and

8. That the proposed addition of agritourism as an allowed agricultural accessory use will not change any standards necessary for the protection of agricultural lands nor will it conflict with agricultural zoning or existing agricultural uses in Nevada County; and
9. That the proposed amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, because the site development standards of the County's Zoning Code will ensure future projects conform to applicable regulations to ensure that the sites will be compatible with surrounding development. In addition, the specific standards of the ordinance will ensure that adequate infrastructure, including sewer, water, access and emergency services will be available to serve the sites at the time of development; and
10. That the proposed ordinance amendment will not result in the physical degradation of the environment, as reviewed by the Initial Study and Negative Declaration (EIS17-0009).

#### SECTION II:

Tables L-II 2.2.1.B and 2.3.D, "Allowable Uses and Permit Requirements" of Article 2 of Chapter II of the Land Use and Development Code of the County of Nevada, is hereby amended to read as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

#### SECTION III:

Section L-II 3.3 "Agricultural Uses" of Article 3 of Chapter II of the Land Use and Development Code of the County of Nevada, is hereby amended to read as set forth in Exhibit "B", attached hereto and incorporated herein by reference.

#### SECTION IV:

This Ordinance shall take effect and be in full force thirty (30) days from and after introduction, public hearing and adoption pursuant to Government Code section 25131, and it shall become operative on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in the Union, a newspaper of general circulation printed and published in the County of Nevada.

**Exhibit A**

<b>Table L-II 2.2.1.B</b>			
<b>Single Family Districts Allowable Uses and Permit Requirements</b>			
* * * *			
<b>ALLOWABLE LAND USES (See Section L-II 1.4.D for Similar Uses)</b>	<b>RA</b>	<b>R1</b>	<b>L-II SECTIONS:</b>
* * * *			
<b>Agricultural, Resource, and Open Space Uses</b>			
Agricultural uses and structures including, but not limited to, equipment storage structures, packing facilities for products grown on-site, wholesale plant nurseries, private stables	A	NP	3.3
Agritourism Activities, Field Retail Stand and Farm Stand	Varies	NP	3.3
Animal keeping and raising	Varies		3.4
Certified Farmers' Markets	DP	NP	3.3
* * * *	A	A	3.3

<b>Table L-II 2.3.D</b>					
<b>Rural Districts Allowable Uses and Permit Requirements</b>					
* * * *					
<b>ALLOWABLE LAND USES (See Section L-II 1.4.D for Similar Uses)</b>	<b>AG</b>	<b>AE</b>	<b>FR</b>	<b>TPZ</b>	<b>L-II SECTIONS:</b>
* * * *					
<b>Agricultural, Resource, and Open Space Uses</b>					
* * * *					
Agricultural support uses and structures including, but not limited to, farm equipment sales and service, feed stores, feedlots, processing/slaughtering facilities, packing facilities for products grown off-site, custom farming services, and waste handling and disposal services	UP	UP	NP	NP	
Agricultural uses and structures including, but not limited to, equipment storage structures, packing facilities for products grown on-site, wholesale plant nurseries, private stables	A	A	A	A	3.3
Agritourism Activities, Field Retail Stand and Farm Stand	A	A	A	NP	3.3
* * * *					

## Exhibit B

### Sec. L-II 3.3 Agricultural Uses

- A. Purpose.** To encourage agriculture and to promote a strong and sustainable local agricultural economy.
- B. Definitions.**
1. **Agricultural Products** - For the purpose of this section, includes fresh fruits, vegetables, nuts, herbs, flowers, honey, poultry, fish, animal & animal products, hay and Christmas trees, but does not include plant nursery stock, live animals, cannabis or cannabis products, wine or wine products.
  2. **Agritourism**- The act of visiting a working farm or ranch, or any agricultural or horticultural operation for the purpose of involvement in the ancillary activities of the farm, ranch or agricultural operation that also adds to the economic vitality of the operation. Agritourism uses include, but are not limited to, marketing events, farm tours, facilities for the promotion of agricultural crops grown onsite, the sale of farm/ranch branded agricultural related merchandise, educational classes and lectures, U-pick produce, seasonal celebrations, and other gatherings, activities and uses found to be appurtenant to the agricultural business, but shall not include concerts and weddings, camping or other commercial activities/events that are not related to the promotion of the working farm, ranch or agricultural/horticultural operation.
  3. **Certified Farmers' Market (CFM)** (3 CCR § 1392.2) - A location approved by the County Agricultural Commissioner of that county where agricultural products are sold by producers or certified producers directly to consumers or to individuals, organizations, or entities that subsequently sell or distribute the products directly to end users. A certified farmers' market may only be operated by one or more certified producers, by a nonprofit organization, or by a local government agency.
  4. **Community Supported Agriculture (CSA)** - Consists of a relationship between an agricultural producer certified by the County Agricultural Commissioner and buyer intended to support and promote the Nevada County agricultural economy and provide citizens with access to Nevada County grown agricultural products through a pre-paid subscription where the subscription pick-up location may include either the host farm or an off-site location when permission is previously granted from the landowner and when the use is not otherwise prohibited by the County Zoning Ordinance.
  5. **Field Retail Stand** (FAC 47030) - Field retail stands are producer-owned and operated premises located at or near the point of production established in accordance with local ordinances and land use codes. Field retail stands are restricted to only selling fresh, farm-produced fruits, vegetables, nuts and shell eggs, grown by the producer on or near

the site. Field retail stands are exempt from standard wholesale size and pack requirements and are exempt from the California Health and Safety Code.

6. **Farm Stand (FAC 47050)** - Farm stands are field retail stands, that sell or offer for sale California agricultural products grown or produced by the producer, and also sell or offer for sale non-potentially hazardous prepackaged food products from an approved source or bottled water or soft drinks. Farm stands allow farmers to sell fresh produce and eggs grown on their farm as well as Processed Agricultural Products made with ingredients produced on or near the farm, thus enhancing their income and the local economy (FAC 47000(d)).

### C. Standards.

1. **Crop and tree farming.** In any district the use of land for crop and tree farming shall be allowed. Within those districts not intended for agriculture as a primary or secondary use, crop and tree farming shall be considered an interim use.
2. **Community Supported Agriculture.** Is an allowed use in any district where crop and tree farming is allowed. Pick-up locations shall be consistent with those outlined in the definitions above.
3. **Agritourism, Field Retail Stands and Farm Stands.** Agritourism activities and the sale of agricultural products from a field retail stand and/or a farm stand is an allowed use subject to building permit issuance and zoning compliance in the AE, AG, FR and RA zoning districts and the following standards:
  - a. Agritourism activities within the RA zoning district and Rural (RUR) General Plan Land Use Designation shall be limited to parcels of 3 acres or more in size. This minimum parcel size may be reduced subject to approval of a use permit.
  - b. Agritourism activities within the RA zoning district not within the RUR General Plan Land Use Designation shall be limited to parcels of 5 acres or more in size. This minimum parcel size may be reduced subject to approval of a use permit.
  - c. Field retail stands and farm stands, as well as the sale of agricultural products at agritourism events are subject to authorization by the County Agricultural Commissioner and may require a permit from the County Department of Environmental Health, if processed agricultural food products are being sold and/or sampling will occur.
  - d. The sale of agricultural products, shall comply with all applicable County, State and Federal laws and regulations pertaining to the direct marketing, handling, transport, and protection from contamination of food products including but not limited to Health and Safety Standards of the California Retail Food Code.

- e. A producer may sell products they grow out-of-county as long as it is no more than 1/3 of the volume sold as verified by the Agricultural Commissioner through submitted Certified Producers Certificates.
- f. Field retail stands and farm stands shall be limited to a total of 1,000 square feet on any one site and shall be limited to 10 producers.
- g. Mobile trailers may be used for the temporary sale of produce but must be located outside of any buildings, may not be placed in designated parking areas, and must be removed from the site at the end of each season.
- h. Field retail stands, farm stands and facilities used for agritourism activities shall meet the minimum requirements of the California Building Code for site accessibility and usability to persons with disabilities as determined by the County Building Official.
- i. Any structure used for a field retail stand, farm stand or agritourism activities shall meet the requirements of the California Fire Code regarding general fire safety.
- j. Field retail stands, farm stands and facilities used for agritourism activities shall meet the minimum requirements of the Nevada County Land Use and Development Code, the California Health and Safety Code and the California Retail Food Code.
- k. A field retail stand, farm stand or property used for agritoursim shall provide direct access to a publicly-maintained road or if the property does not have direct access to a publicly-maintained road, the applicant shall be required to form a new or join an existing road maintenance district (i.e., permanent road division, county service area, community service district). If a homeowners' or road association oversees the maintenance of the private road(s), participation in maintaining the road as defined by Section 845 of the California Civil Code is required.
- l. All parking shall be provided on site with adequate area for vehicles to enter and exit the site without backing into a road right-of-way or road.
- m. Driveways providing access shall meet County driveway standards. Any road improvements within the County right-of-way shall be subject to obtaining an encroachment permit from the County Department of Public Works.
- n. Field retail stand and farm stand hours of operation are limited to daylight hours. Agritourism activities shall cease at 10 p.m.
- o. Noise generated shall not exceed allowable noise limits established by LUDC Sec. L-II 4.1.7.

- p. Signage shall be consistent with “Signs in Agricultural Districts” as shown in Section L-II 4.2.12.
4. **Farm Stands.** The sale of agricultural products from a farm stand may be allowed in the C1, C2, C3, CH, OP, M1, M2, BP, IDR, PD, P and REC districts subject to approval of an Administrative Development Permit for each site selling produce, providing that the farm stand satisfies those standards provided in LUDC Sec. L-II 3.3.C.3 and the following:
- a. Farm stands are prohibited in the TPZ, R1, R2, R3, and OS zoning districts.
  - b. Farm stands may be permitted for up to 3 years.
  - c. The Administrative Development Permit application for a farm stand shall include the following:
    - 1) A site plan of the proposed location, drawn to a recognized engineer’s scale, delineating the following information:
      - a) The location of any existing uses including structures, parking, driveways, and road rights-of-way.
      - b) The proposed location for the market and parking area for the market.
      - c) Location of sanitation facilities that will be used during operating hours.
      - d) Location of animal enclosures, if applicable.
5. **Certified Farmers’ Markets.** Certified farmers’ markets may be allowed within all zoning districts except those provided under standard 5.a below, subject to an Administrative Development Permit and an annual County Department of Environmental Health Food Permit, based on the following standards:
- a. Certified farmers’ markets are prohibited in the TPZ, R1, R2, R3, and OS Zoning districts.
  - b. This section authorizes the sale of agricultural products in accordance with California Food & Agriculture Code regulations governing certified farmers’ markets.
  - c. The sale of agricultural products at a certified farmers’ market shall comply with all applicable County, State and Federal laws and regulations pertaining to the direct marketing, handling, transport, protection from contamination, and

provisions for adequate sanitation facilities, including obtaining permit(s) issued by the County Department of Environmental Health pursuant to the California Health and Safety Code.

- d. Signage for certified farmers' markets shall be consistent with "Signs in Agricultural Districts" as shown in Section L-II 4.2.12, shall be temporary and removed at the close of the market each day.
- e. The additional sale of prepared foods, including baked goods and coffee, requires a separate Community Events Permit issued by the County Department of Environmental Health pursuant to the California Retail Food Code. A Community Event can occur adjacent to, but cannot be a part of, the certified farmers' market.
- f. Certified farmers' markets located within Residential or Rural Districts are limited to sites that are developed with an institutional or community support facility with established parking, including schools, churches and community centers.
- g. The market site must have direct access to a County maintained road and may not be located in any public right-of-way or roadway.
- h. Driveways providing access to market sites must meet County driveway standards. Any road improvements within the County right-of-way shall be subject to obtaining an encroachment permit from the County Department of Public Works.
- i. The certified farmers' market site must provide an adequate parking area for vehicles to enter and exit the site without backing into a road right-of-way or roadway. Parking shall be provided completely on the same site as the market. If operating during the business hours of an existing use, the market shall be limited to areas that do not interfere with required parking or parking lot circulation. In no case shall sellers set up within wheelchair-accessible parking stalls established on the site.
- j. Any structure used for a certified farmers' market shall meet the requirements of the California Fire Code regarding general fire safety.
- k. Certified farmers' markets shall occur no more than three consecutive days per week on any one site and may be permitted for up to 3 years.
- l. The Administrative Development Permit application for certified farmers' markets shall include the following:
  - 1) Written authorization from the property owner(s) on whose land the use is proposed.



- 2) A copy of the completed application for a certified farmers' market, signed by the Agricultural Commissioner or designee.
- 3) Certified farmers' markets proposing to utilize an improved parcel shall submit a market schedule and a facility schedule that demonstrates the market will not conflict with approved uses on the site.
- 4) A site plan of the proposed location, drawn to a recognized engineer's scale, delineating the following information:
  - a) The location of any existing uses including structures, parking, driveways, and road rights-of-way;
  - b) The proposed location for the market and parking area for the market.
  - c) Location of sanitation facilities that will be used during operating hours.
  - d) Location of animal enclosures, if applicable.
  - e) Certified and non-certified sections of the market. (Ord. 2427, 1/24/17; Ord. 2235)