



ORDINANCE NO. 2489

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

AN ORDINANCE AMENDING ZONING REGULATIONS SECTIONS L-II 3.3 AND L-II 6.1 OF CHAPTER II OF THE NEVADA COUNTY LAND USE AND DEVELOPMENT CODE REGARDING INDUSTRIAL HEMP CULTIVATION

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

SECTION I:

Chapter II of the Nevada County Land Use and Development Code is hereby amended to read as shown in Exhibit A and B attached hereto and incorporated herein by this reference.

SECTION II:

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 zoning text amendments are intended to prohibit the cultivation of Industrial Hemp in all zoning districts.
2. That the proposed amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, and
3. The County finds that this Article is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

SECTION III:

If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION IV:

This Ordinance shall take effect and be in full force thirty (30) days from and after introduction and adoption, and it shall become operative on the 14th day of Feb. 2021, 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.

PASSED AND ADOPTED by a majority vote of the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 12th day of January, 2021, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Hardy Bullock.

Noes: None.

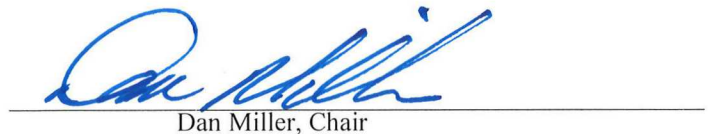
Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Dan Miller, Chair

1/12/2021 cc: GIS*
Union*
COB*
CoCo*
QC*
CDA*

EXHIBIT A

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)).

7. **Industrial Hemp** (FAC 81000)- “Industrial hemp” or “Hemp” means an agricultural product, whether growing or not, that is limited to types of the plant *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.

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. Crop and tree farming does not include the cultivation of Industrial Hemp.

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 agritourism 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. 2447, 3/13/18; Ord. 2427, 1/24/17; Ord. 2235)
6. **Industrial Hemp.** The cultivation of industrial hemp or hemp is prohibited in all zoning districts.

EXHIBIT B

Sec. L-II 6.1 Definitions

-I-

IMPLEMENT OF HUSBANDRY - A vehicle which is used exclusively in the conduct of agricultural operations and is not primarily designed for the transportation of persons or property on a highway.

IMPROVEMENT - Any structure, place, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

INDUSTRIAL - The manufacturing, production, processing, assembly, warehousing, distribution and servicing of products and materials.

INDUSTRIAL HEMP – INDUSTRIAL HEMP or HEMP, means an agricultural product whether growing or not, that is limited to types of the plant Cannabis sativa L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, the resin extracted from any part of the plant, cannabinoids, isomers, acids, salts, and salts of isomers, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.

INOPERATIVE VEHICLE - A vehicle which is physically incapable of working, functioning, or otherwise operating to produce its designed effect.

INTERMEDIATE CARE FACILITIES - Residential facilities providing primarily short-term in-patient nursing and health-related care as a principal use (see also Hospital).

N-

NAVIGABLE WATERS - Those parts of streams or other bodies of water, which, either in their natural or improved condition, are designated by State statute as navigable or are navigable, in fact, by small-craft recreational boats or pleasure craft during part of a year of normal flows, notwithstanding interruptions between the navigable parts of such streams or waters by falls, shallows, or rapids compelling land carriage. Free public passage over such waters up to the ordinary high water mark is guaranteed under the California Constitution and they are to be kept free of obstructions.

NON-DISTURBANCE BUFFER - An area set aside to be retained in its natural or undisturbed state.

NURSERY, PLANT - A facility for propagation and sale of horticultural or ornamental plant materials and related products, including:

NURSERY, RETAIL - A nursery offering products primarily to the general public, including the sale of items related to the nursery business. Such items may include, but are not limited to, the sale and storage of insecticides, herbicides, irrigation supplies and fertilizers. NURSERY, RETAIL does not include Industrial Hemp.

NURSERY, WHOLESALE - A nursery that offers products raised on the same site primarily for resale by other businesses. NURSERY, WHOLESALE does not include Industrial Hemp.