



ORDINANCE NO. 2499

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

AN ORDINANCE AMENDING ARTICLE 1 OF CHAPTER XIV OF THE NEVADA COUNTY LAND USE AND DEVELOPMENT CODE PERTAINING TO AGRICULTURAL LANDS AND OPERATIONS RIGHT TO FARM SECTIONS.

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

SECTION I:

1. The County of Nevada recognizes the statewide policy to protect and encourage Agriculture. Sections 3482.5 and 3482.6 of the California Civil Code and Chapter XIV of the Nevada County Land Use and Development Code protect certain, pre-existing agricultural production and processing operations ("agricultural operation") from nuisance claims.
2. It is the declared policy of this County to enhance and encourage agricultural operations within the County. It is also the intent of this County to provide to the residents of this County proper notification of the County's recognition and support through this Article of those persons' and/or entities' right to farm.
3. Where non-agricultural land uses, especially residential development, extend into agricultural areas or exist side by side, agricultural operations have often become the subject of nuisance complaints. As a result, agricultural operations are sometimes forced to cease or curtail operations and many others are discouraged from making investments in farm improvements to the detriment of adjacent agricultural uses and economic viability of the County's agricultural industry as a whole.
4. It is the purpose and intent of this Article to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance.
5. This Article is not to be construed as in any way modifying or abridging State law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, Division 7 of the Water Code or any other applicable provision of State law relative to nuisances, but rather is only to be utilized in the interpretation and enforcement of the provisions of this Code and of County regulations.
6. The further purpose of this Article is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence. Such concerns may include, but are not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas. At the same time, recognizing that agriculture and its neighbors must operate in mutual respect and cooperation, the purpose of this Article is to

ensure respect by agricultural operations, by requiring them to be conducted in accordance with proper and accepted agricultural customs and standards.

SECTION II:

Article 1 of Chapter XIV of the Nevada County Land Use and Development Code is hereby amended to read as shown in Exhibit A attached hereto and incorporated herein by this reference.

SECTION III:

This Article is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15305, Minor Alterations in Land Use Limitations.

SECTION IV:

If any provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid 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 V:

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 16th day of Dec., 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 and the Sierra Sun, newspapers 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 16th day of November, 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

11/16/2021 cc: GIS*
Union*
Sierra Sun*
COB*
CoCo*
QC*
Ag Comm*

‘Exhibit A’

Land Use and Development Code Chapter XIV- Article 1

Sec. L-XIV 1.1 Definitions.

- A. **AGRICULTURAL LAND** shall mean and include all those land areas of Nevada County now used for agricultural operations or upon which agricultural operations may be established in the future in conformity with applicable zoning regulations.
- B. **AGRICULTURAL OPERATION** shall mean and include, but not be limited to, cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including production of timber, trees, shrubs, flowers, herbs and all other plants, viticulture, horticulture, apiculture, the raising of livestock and horses, fur-bearing animals and all other kinds of animal husbandry, the culture of breeding of poultry, fish, marine life, mollusca, all other types of animal or plant life, and commercial practices performed as incident to or in conjunction with such agricultural operations, including agritourism, selling, processing, packing, preparation for market, delivery to storage or market or to carriers for transportation to market.

Sec. L-XIV 1.2 Nuisance.

No agricultural activity, operation, or facility or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, public or private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance when it began.

Sec. L-XIV 1.3 Disclosure.

Upon any transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or residential stock cooperative improved with dwelling units, the transferor shall require that a disclosure statement containing substantially the following language is provided to, and a written acknowledgement thereof is signed by, the prospective buyer by inclusion in the disclosure form required by Article 1.5 of Chapter 2 of Title 4 of the California Civil Code, commencing with Section 1102:

NEVADA COUNTY RIGHT TO FARM NOTICE

Nevada County permits operation of properly conducted agricultural operations within the County. If the property you are purchasing is located near agricultural lands or operations or included within an area zoned for agricultural purposes, you may be subject to inconveniences or discomfort arising from such operations. Such discomfort or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, agritourism, traffic, operation of machinery during any time of the day or night, storage and disposal of manure, and the ground or aerial application of spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. One or more of the inconveniences described may occur as a result of any agricultural operation which is in conformance with existing laws and regulations and accepted customs and standards. Nevada County has determined in the Nevada County Right to Farm Ordinance that inconvenience or discomfort arising from a properly conducted agricultural operation on agricultural land will not be considered a nuisance for purposes of the Nevada County Code and that residents or users nearby property should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector. For more information about the Nevada County Right to Farm Ordinance see Article 1 of Chapter XIV of the Nevada County Land Use and Development Code or contact the Nevada County Agricultural Commissioner's Office.

The County elects to require this additional disclosure under the authority of California Civil Code Section 1102.6 et. seq., and failure to comply therewith is subject to the same remedies as other violations of the State disclosure statutes.

Sec. L-XIV 1.4 Resolution of Disputes

- A. A party who believes in good faith that an agricultural operation (described in Section L-XIV 1.1) is causing inconvenience or discomfort to him or her shall notify the operator in writing of such concerns. The submission of said notification should be accompanied by personal discussions, if

‘Exhibit A’

possible, to enable the claimant and the operator to attempt to reach a mutually agreeable reconciliation.

- B. If both parties are unable to reach a mutually agreeable reconciliation as set forth above, then the parties may notify the county agricultural commissioner as set forth below in an attempt to resolve the matter:
1. The aggrieved party shall notify the agricultural party and the county agricultural commissioner within thirty days of the occurrence of the agricultural operation giving rise to the controversy.
 2. Within fifteen days after receiving the complaint, the county agricultural commissioner shall set a meeting with the affected parties and shall attempt to mediate the dispute.
 3. If the dispute cannot be successfully mediated by the county agricultural commissioner, then both parties may agree to enter into an arbitration agreement providing for an arbitration proceeding in accordance with Title 9 (commencing with Section 1280) of Part III of the Code of Civil Procedure. The expense of such arbitration shall be the responsibility of the affected parties.

Sec. L-XIV 1.5 Noncompliance with this article.

No transfer subject to this article shall be invalidated solely because of the failure of any person to comply with the provisions of this article- see Civil Code 1102.13.