



# County of Nevada

Nevada County Commercial Cannabis Cultivation  
Ordinance Environmental Impact Report

## **Commercial Cannabis Ordinance & Final Environmental Impact Report (EIR)**

**Nevada County Board of Supervisors**

**May 7, 2019**



# Purpose

- Review the Draft Ordinance and Final EIR
- Open Public Hearing and provide direction to staff on Draft Ordinance and Final EIR
- Obtain clear policy direction to create and present a finalized Urgency Cannabis Ordinance on May 14<sup>th</sup> for adoption. This will require a 4/5 vote.



# Presentation Overview

- **Project Background**
- **Project Process**
- **Project Description**
- **Environmental Impact Report**
- **Policy Discussion Items**
- **Recommendation**



# Project Background

- Board of Supervisors began gathering community input on April 11, 2017
  - Community Advisory Group (CAG) was formed
  - Community Meetings were held and community outreach from May 2017 to December 2017



# Project Background

- In January 2018 the Board reviewed CAG recommendations
- In May 2018 Board directed staff to proceed with Proposed Ordinance
- Draft EIR Released for Public Review January 11, 2019
- Final EIR Released on April 1, 2019
- April 11, 2019 Planning Commission review and recommendation



# Project Process



- Over 110 formal meetings with stakeholders since May 2018 board meeting
- Held 6 formal workshops over last 5 months
- Implemented permitting process based on interim ordinance in August 2018
- Implemented a temporary local authorization permit process in October 2018
- Managed EIR forward with consultant



# Project Process

- Built permitting and enforcement programs from the ground up
- Implemented a pre-application process based on draft ordinance on March 4, 2019
- Completed modifications to ordinance based on previous Board direction, EIR findings, and evolving state regulations





# Project Description

- Nevada County Commercial Cannabis Cultivation Ordinance for Medical Use
  - Intent and Scope:
    - To detail County regulations;
    - Introduce structure to cultivation;
    - Promote environmental health and safety;
    - Manage cultivation in unincorporated County land;
    - Define allowable cultivation areas and zones;
    - Reduce effects on residential neighborhoods; and
    - Provide a means of County oversight.



# Definitions:

- Indoor Cultivation – Cultivation using exclusively artificial light within a fully enclosed structure.
- Mixed-light Cultivation – Cultivation in an accessory structure using light deprivation and artificial light.
- Outdoor Cultivation – Cultivation that is not indoor or mixed-light with no artificial light.





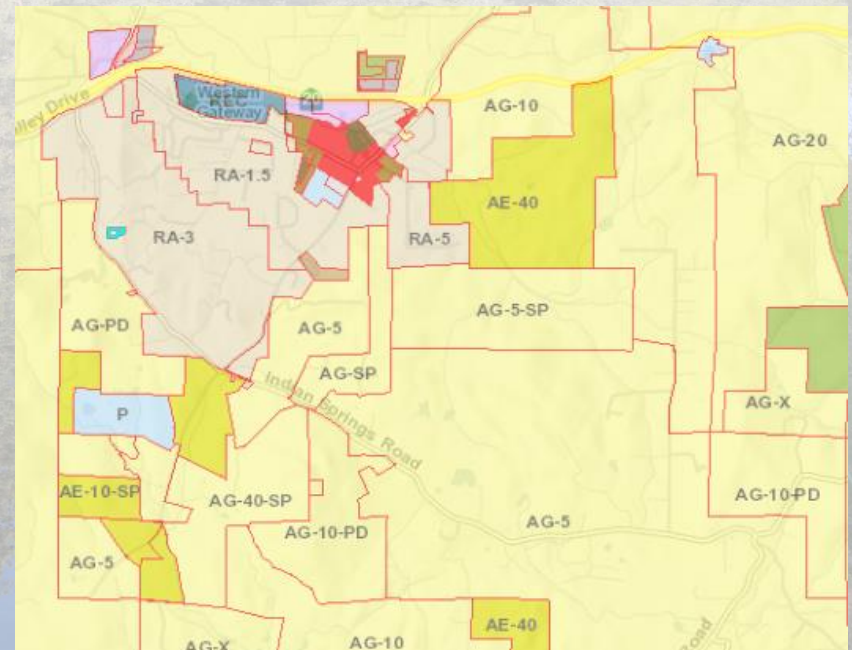
# Zoning Classifications:

## Personal Use Cultivation

- R-1 (Single Family)
- R-2 (Medium Density)
- R-3 (High Density)
- R-A (Residential Agriculture)
- General Agriculture (AG)
- Agriculture Exclusive (AE)
- Forest (FR); and
- Timber Production Zone (TPZ)

## Commercial Cultivation

- Agriculture Exclusive (AE)
- General Agricultural (AG)
- Forest (FR)





# Table 1: Cannabis Cultivation for Personal Use

Zoning	Parcel Acreage	Cultivation Method		
		<i>Indoor</i>	<i>Mixed-Light</i>	<i>Outdoor</i>
<b>R1</b> <b>R2</b> <b>R3</b>  <b>RA (Residential Designation)</b>	Parcel of Any Size	Maximum of six plants, mature or immature.	Cultivation is Prohibited	Cultivation is Prohibited
<b>R-A (Rural and Estate Designation)</b>	5.00 Acres or greater	Maximum of Six Plants, mature or immature		
<b>AG</b> <b>AE</b> <b>FR</b> <b>TPZ</b>	1.99 or less	Maximum of Six Plants, mature or immature	Cultivation is Prohibited	Cultivation is Prohibited
	Parcels 2.00 acres or greater	Maximum of Six Plants, mature or immature		

Source: Nevada County, 2018

Abbreviations: R-1 (Single Family); R-2 (Medium Density); R-3 (High Density); R-A (Residential Agriculture); AG (General Agriculture), AE (Agriculture Exclusive), FR (Forest), TPZ (Timber Production Zone).



# Table 2: Cannabis Cultivation for Commercial Use

Zone	Parcel acre	Cultivation Method		
		Indoor	Mixed-Light	Outdoor
R1 R2 R3 RA (Regardless of Zone Designation)	Parcel of Any acreage	Commercial Cultivation is Prohibited		
AG AE FR	2.0 acres or less	Commercial Cultivation is Prohibited		
	Parcels 2.00 acres to 4.99 acre	Maximum of 500 sf canopy	Commercial Cultivation is Prohibited	
	Parcels 5.00 acres to 9.99 acres	Up to a maximum of 2,500 sf of canopy for any method or combination thereof.		
	Parcels 10.00 acres to 19.99 acres	Up to a maximum of 5,000 sf of canopy for any method or combination thereof.		
	Parcels 20 acres or greater	Up to a maximum of 10,000 sf of canopy for any method or combination thereof.		

Source: Nevada County, 2018

Abbreviations: R-1 (Single Family); R-2 (Medium Density); R-3 (High Density); R-A (Residential Agriculture); AG (General Agriculture), AE (Agriculture Exclusive), FR (Forest), TPZ (Timber Production Zone).



# Cultivation Area Requirements

- Adequate Site Security
- Not adversely affect health, safety, welfare
- Conform to applicable codes (building, fire, plumbing, electrical, etc)
- Conform to Hazardous Materials regulations
- Not visible from public right of ways
- Conform to all applicable County Ordinances (noise thresholds, lighting, etc)
- Be legal owner of parcel
- Obtain required permits
- Permitted wastewater disposal system
- Indoor Odor control



# Accessory Structure Requirements

- Structures must be permitted and meet setbacks. (*Typical ag exemptions allowed*)
- Permanent electrical source
- Odor control for indoor cultivation
- Fully enclosed for indoor cultivation



# Support Areas

- Defined as: “an area associated with immature plants, drying, curing, grading, trimming, rolling, storing, packaging, and labeling of non-manufactured cannabis products and/or supplies necessary for Cannabis Cultivation, and Immature Plant Areas.”
- Limited to 25% of permitted canopy area



# Required Permits

- Cannabis Cultivation Permit – For commercial cultivation with canopy sizes up to 2,500 sf for indoor, mixed-light, or outdoor; or
- Administrative Development Permit – For commercial cultivation with canopy sizes between 2,501 to 10,000 sf for indoor, mixed-light, or outdoor; and
- Annual Cannabis Permit – For the individual or entity engaging in the commercial cannabis activity or non-remuneration cultivation and must be renewed annually



# Application Submittal Requirements

- Detailed Site Plan
  - Canopy area and support areas
  - Environmental Resources
    - Biological Resources, oaks, farmlands, watercourses, etc.
- Biological pre-screening information
- Cultural Resources Report
- Water, sewer and electrical sources
- Notes on Plans
  - Compliance with Air Quality requirements
  - Archaeological discovery
- Security Plan
- Light Control Plan
- Secondary Access information





# Setbacks

- Canopy Areas and Support areas including structures
  - 100 feet from property lines
  - 1,000 feet from sensitive sites
    - School, church, park, Child or Day Care Center or youth-oriented facility
    - Setback can be reduced to 300 feet from a State or Federal Park if park area is unimproved and inaccessible



# Variances/Setback Easements

- Variance
  - Limited to 40% reduction in setback
  - Requires a minimum of 60 feet
  - Sec. L-II 5.7 Variance Findings apply
    - In addition to an additional odor finding
- Setback Easement
  - Limited to a 40% reduction
  - Requires a minimum of 60 feet on cultivator site



# Violations and Abatement

- Ordinance contains procedures for citations, fines and/or abatement
  - Cannabis Compliance Division
  - Annual inspections
  - Annual renewal of ACP
- Enforcement Approach
  - Proactive & reactive
  - Collaboration with Sheriff's Office
  - Compliance approach with permitted sites
  - Enforcement approach with illegal sites





# Environmental Impact Report

- Draft EIR released January 11, 2019
- Circulated for 45 days until February 25, 2019
- Comments received
  - 26 Agencies and Individuals
  - Over 1,000 comments
- Final EIR released on April 1, 2019
  - Responses to all Comments
  - Errata/Revised Draft EIR





# Resources Analyzed

- Aesthetics
- Agriculture and Forestry
- Air Quality and Greenhouse Gasses
- Biological Resources
- Cultural and Tribal Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology, Water Quality, and Water Supply
- Land Use
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation and Traffic
- Utilities and Service Systems
- Energy



# Impact Analysis

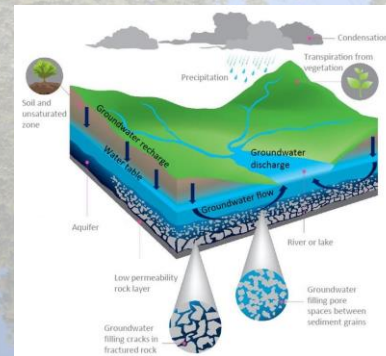
- Implement County Land Use and Development Code to reduce or avoid impacts
- Mitigation Measures amend NCCO to reduce impacts on:
  - Aesthetics;
  - Air Quality;
  - Biological Resources;
  - Cultural Resources





# Significant and Unavoidable Impacts

- Agricultural Resources
- Air Quality/Odors
- Groundwater Supplies
- Land Use – Conflicts with Truckee SOI
- Transportation and Traffic
- Energy Use





# Mitigation Measures

(Partial List)

- MM AES-2 Lighting Control Plan
- MM AG-1 Farmland Resources
- MM AIR-2 Prohibit Burning of Cannabis
- MM BIO-1 Generator Noise
- MM BIO-2 Biological Resource Pre-Screening
- MM CUL-1 Records Search



# Significant and Unavoidable Cumulative Impacts

- Aesthetics
- Agriculture
- Air Quality
- Biological Resources
- Land Use
- Utilities
- Energy



# Overriding Considerations

- Provision for a regulated and viable cannabis Industry
- Expansion of medical cannabis
- Reduction of nuisance activities related to commercial cannabis.
- Protection of residential and sensitive populations
- Protection of Sensitive Resources
- Provision of an enforcement mechanism



# Draft Ordinance

- Changes have been made to the draft ordinance to incorporate the mitigation measures and issues raised from the Environmental Impact Report
  - Nursery Definition
  - Industrial Hemp
  - Immature Plants



# Planning Commission Recommendations

- Consider options for permit Bond requirements
- Work with Cannabis Alliance regarding maximum number of parties with financial interest
- Support Area Size
- Different requirements for non-remuneration
- Low impact grading included in transition period
- Recommend adoption via urgency ordinance
- Existing Accessory Structures
- Setbacks for parcels  $\geq 20$  acres



# Policy Discussion Overview

- Overview of Decision Points
- Review Options
- Open Public Comment
- Reconvene for Discussion/Direction





# Policy Discussion Items



# Certificate of Deposit/Bond

- Certificate of Deposit (\$5,000) required for restoration for environmental damage
- Required prior to cannabis land use permit issuance



# Certificate of Deposit/Bond

## Options:

- Keep Cert. of Deposit as a requirement
- Change to a bond structure (*Surety Bond*)
- Option for either CD or a bond
- Remove CD & bonding requirements entirely



# Financial Interest

- Original May 1, 2018 ordinance no person/entity shall have a financial interest in more than 3 commercial cannabis businesses and/or enterprises in the County
- Current ordinance allows up to 8 based on discussions with stakeholders



# Financial Interest

## Options:

- Keep ordinance the same allowing 8 parties with financial interest
- Change allowed number back to 3
- Remove this requirement entirely



# Support Area(s)

- Defined as: “an area associated with immature plants, drying, curing, grading, trimming, rolling, storing, packaging, and labeling of non-manufactured cannabis products and/or supplies necessary for Cannabis Cultivation, and Immature Plant Areas.”
- Limited to 25% of permitted canopy area



# Support Area(s)

## Options:

- Keep allowance at 25% as analyzed in the EIR
- Allow new support area of 25% and an additional 50% in existing structures (*total 75%*)
- Amend the definition of Support Area(s)



# Non-Remuneration

- Non-remuneration activities shall comply with all commercial cannabis permitting requirements of the ordinance
- May 1, 2018: Board discussed possibility of reducing fees for non-remuneration permits



# Non-Remuneration

## Options:

- Keep ordinance the same
- Create a reduced fee schedule specific to these permit types
- Continue to work with stakeholders to refine the procedures and return to Board



# Transition Period

- Currently allowed for structures, grading, and improvements that are in violation, not a health/safety issue, and not associated to the commercial cannabis cultivation activities.
- Allows 2 year cure period with this section expiring 2 years from ordinance adoption



# Transition Period

## Options:

- Keep ordinance the same
- Allow and define “low impact” grading in the transition period for outdoor cultivation sites



# Existing Permitted Accessory Structures

- Ordinance currently requires all accessory structures to meet 100 foot setback
- Options currently available:
  - Setback Easement
  - Setback Variance
  - Lot Line Adjustment
  - Lot Merger



# Existing Permitted Accessory Structures

## Options:

- Keep ordinance the same based on current options
- Develop different setback standards for existing permitted accessory structures



# Setbacks for Larger Parcels

- Current Ordinance requires 100 foot setback for parcels of 20 acres or greater.
- Discussion included increasing the setback to 300 feet and/or ensuring the cannabis use areas are closer to the onsite house than the neighboring house
  - No consensus from Planning Commission



# Setbacks for Larger Parcels

## Options:

- Keep ordinance the same
- Develop different setback standards for parcels 20 acres or greater with specific residence requirements



# Recommendation

- Open Public Hearing and provide direction to staff on Draft Ordinance and Final EIR
- Continue meeting to May 14, 2019 for Final action to:
  - Certify Final EIR (EIR18-0001, SCH#2018082023)
  - Adopt Ordinance Text Amendment (ORD18-2) to Chapter II of the Nevada County Land Use and Development Code adding Section L-II 3.30 Commercial Cannabis Cultivation Ordinance



# Decision Points

- **CD/Bonding:** Allow option for CD or Bond to be used
- **Financial Interest:** Keep at 8 as suggested by stakeholders with a co-op exclusion
- **Support Areas:** Allow 90% area
- **Non-Remuneration:** Keep as is, return with reduced fee structure in June, and continue work with stakeholders



# Decision Points

- **Transition Period:** Allow “low impact” grading to be included in the transition period
- **Existing Building Setbacks:** Allow variance down to 30ft with buildings permitted by May 1, 2019
- **Setbacks for Larger Parcels:** Keep as currently worded
- **State/Federal Park Setbacks:** Add outdoor to 300ft allowance



# Recommendation

- Continue meeting to May 14, 2019 for Final action to:
  - Certify Final EIR (EIR18-0001, SCH#2018082023)
  - Adopt Ordinance Text Amendment (ORD18-2) to Chapter II of the Nevada County Land Use and Development Code adding Section L-II 3.30 Commercial Cannabis Cultivation Ordinance





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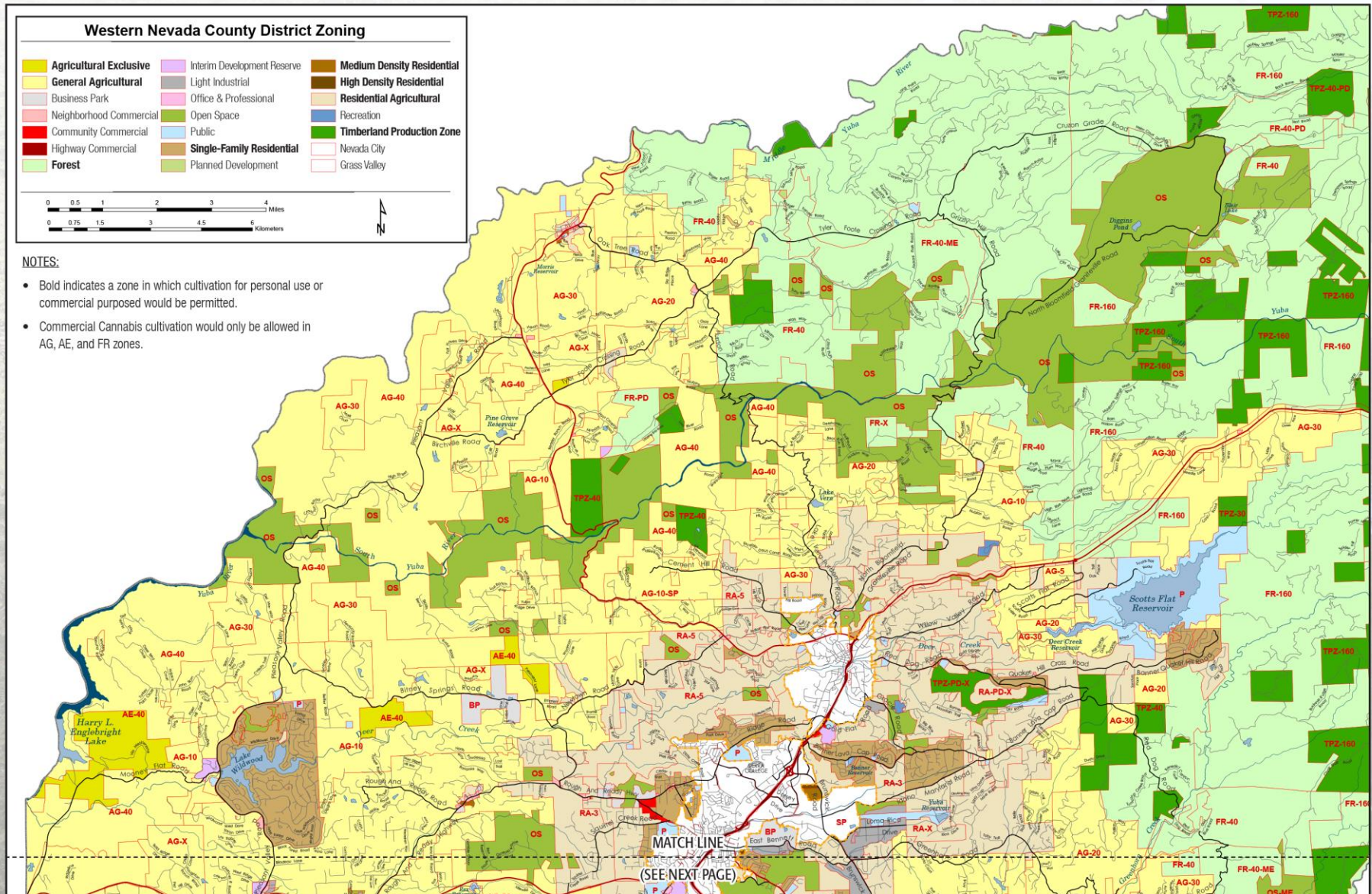
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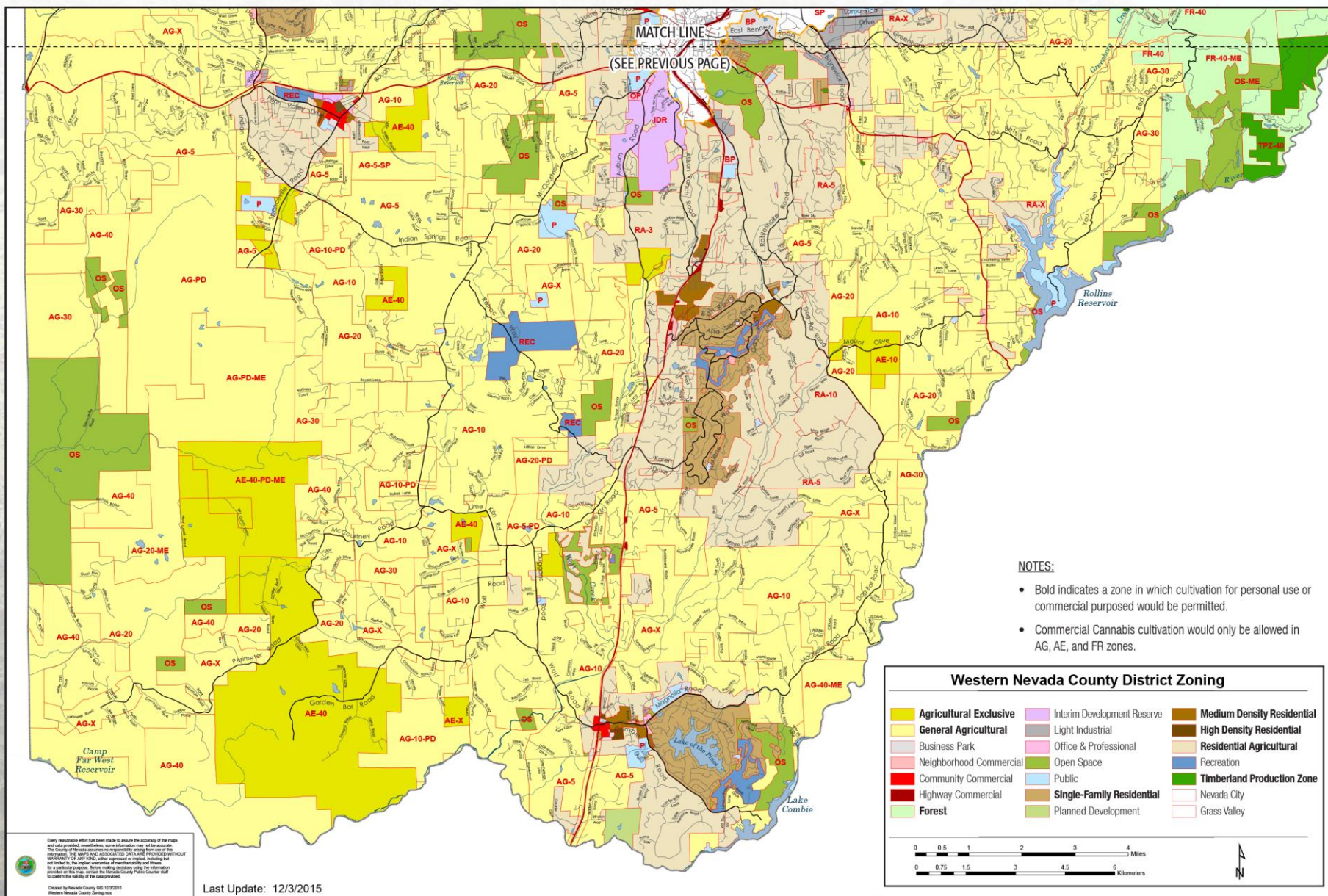


# Western Nevada County District Zoning (1 of 2)



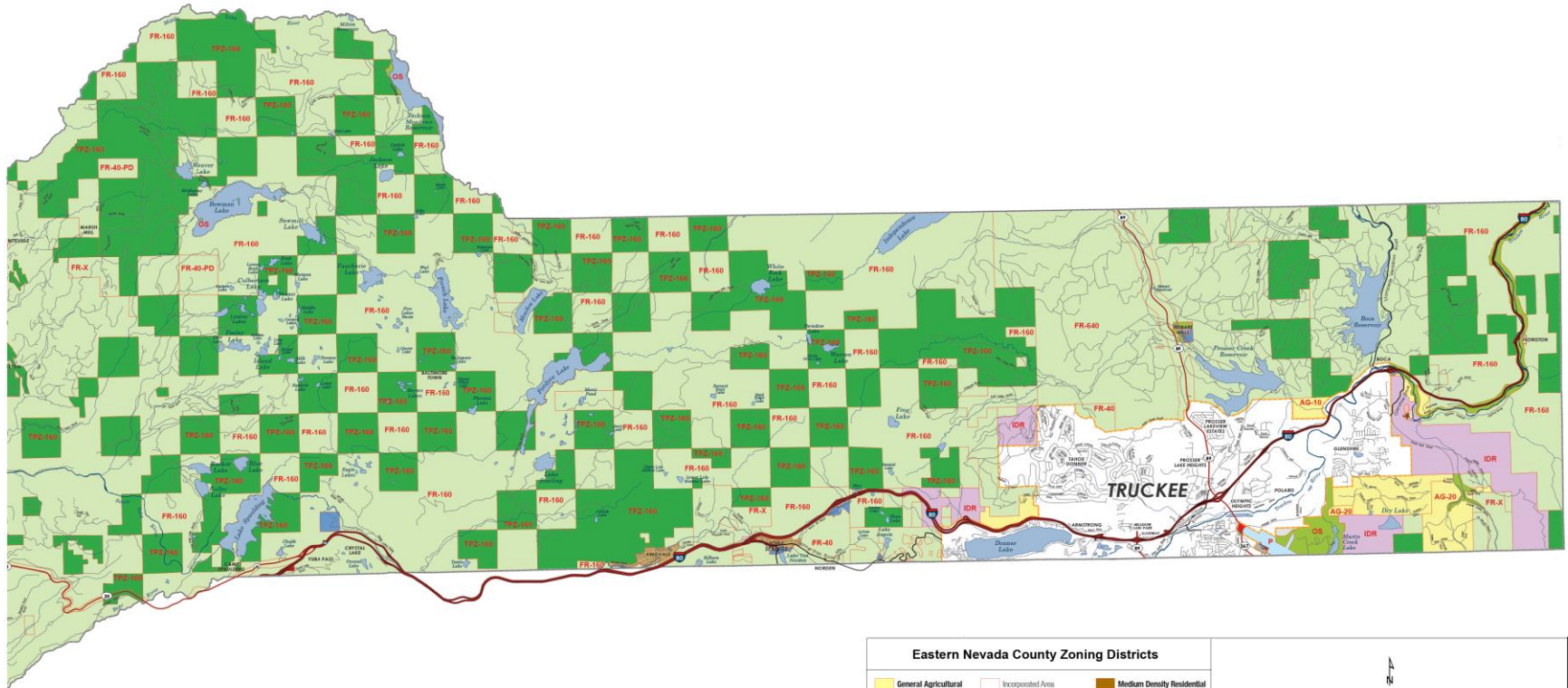


# Western Nevada County District Zoning (2 of 2)

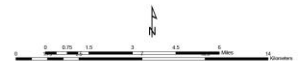




# Eastern Nevada County District Zoning



Eastern Nevada County Zoning Districts		
<span style="background-color: yellow;"> </span> General Agricultural	<span style="background-color: lightblue;"> </span> Incorporated Area	<span style="background-color: brown;"> </span> Medium Density Residential
<span style="background-color: lightgrey;"> </span> Business Park	<span style="background-color: pink;"> </span> Interim Development Reserve	<span style="background-color: darkbrown;"> </span> High Density Residential
<span style="background-color: lightcoral;"> </span> Neighborhood Commercial	<span style="background-color: lightgreen;"> </span> Light Industrial	<span style="background-color: tan;"> </span> Residential Agricultural
<span style="background-color: red;"> </span> Community Commercial	<span style="background-color: lightblue;"> </span> Open Space	<span style="background-color: blue;"> </span> Recreation
<span style="background-color: darkred;"> </span> Highway Commercial	<span style="background-color: lightblue;"> </span> Public	<span style="background-color: green;"> </span> Timberland Production Zone
<span style="background-color: lightgreen;"> </span> Forest	<span style="background-color: orange;"> </span> Single-Family Residential	



Last Update: 12/3/2015

## NOTES:

- Bold indicates a zone in which cultivation for personal use or commercial purposes would be permitted.
- Commercial Cannabis cultivation would only be allowed in AG, AE, and FR zones.