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Setback rationale for Industrial Hemp in Agriculturally Zoned Lands
per the El Dorado County General Plan, Agriculture and Forestry Element

The draft for *An Ordinance Adopting A Pilot Program For The Cultivation Of Industrial Hemp* has setbacks as recommended by the appointed CEDAC/Ag Commission working group that created the Concept for the Pilot Program which was approved by the Board of Supervisors on Sept. 20th with direction to create an ordinance pursuant to it's recommendations.

There are no setbacks for Industrial Hemp on Agriculturally Zoned parcels for the following reasons:

1. Ag Zoned parcels have this designation because agriculture has been identified as the highest and best use for these lands in the General Plan.
2. This zoning is protected by the Right to Farm Ordinance:
130.40.290
Right To Farm
A. It is the policy of the county to conserve and protect agricultural land and to encourage agricultural operations within the county. Where nonagricultural land uses, including but not limited to residential development, extend into or are adjacent to areas of agricultural land, agricultural operations have become the subject of nuisance complaints. As a result, agricultural operations are sometimes forced to curtail or cease operations, and operators are discouraged from making investments in farm improvements to the detriment of the economic viability of the county's agricultural industry as a whole. It is the purpose and intent of this Section to reduce the loss to the county of its agricultural resources by limiting circumstances under which agricultural operations may be considered a nuisance.
3. El Dorado County does not impose a setback on agricultural crops on Ag Zoned lands.
4. Industrial Hemp is a Federally recognized agricultural commodity protected under Right to Farm and no different from existing El Dorado County crops.
5. Imposing a setback on a farmer in Ag Zoning for the reason of Odor being a nuisance to neighbors erodes fundamental protections for the entire agricultural industry, opening up the door for other normal side effects of farming on other crops to be defined as a nuisance. This puts Residential rights over Agricultural rights in non-RE zoned lands.
6. El Dorado County reenforces the rights of agriculture to be unencumbered in normal farming practices and be protected by neighbor complaints and actions in Ag zoning by requiring all real estate transactions to include the REAL ESTATE TRANSFER DISCLOSURE STATEMENT- AGRICULTURAL PROTECTIONS (attached page 2). This notifies people purchasing property adjacent to Ag zoning of the Right to Farm Ordinance and educates them on farming practices and crops not constituting actionable nuisances.
7. Crop production and farming is further protected in our General Plan by requiring a setback AGAINST Ag Parcels on the properties of neighbors so that incompatible uses do not occur. It is the responsibility of neighbors to observe setbacks on their own property of houses, pools, etc. from an Ag property line.

REAL ESTATE TRANSFER DISCLOSURE STATEMENT AGRICULTURAL PROTECTIONS

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF EL DORADO, STATE OF CALIFORNIA, DESCRIBED AS THIS STATEMENT IS A DISCLOSURE PROVIDED IN COMPLIANCE WITH CHAPTER 17.13 OF THE EL DORADO COUNTY ORDINANCE CODE, KNOWN AS THE RIGHT TO FARM ORDINANCE. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I SELLERS INFORMATION

The seller discloses the following information with the knowledge that even though this is not a warranty, prospective buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE DISCLOSURES MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF EL DORADO, AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S) IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

The County of El Dorado recognizes the statewide policy to protect and encourage Agriculture. Section 17.13.030 of Chapter 17.13 of the El Dorado County Code (*Nuisance*) states in substance that no present or future agricultural operation or any of its appurtenances conducted or maintained for commercial purposes and in a manner consistent with proper and accepted customs and standards of the agricultural industry on agricultural land shall become or be a nuisance, private or public, due to any changed condition of the use of adjacent land in or about the locality thereof; provided, that the provisions of this section shall not apply whenever a nuisance results from negligent or improper operation of any such agricultural operation and its appurtenances or if the agricultural activity or appurtenances obstruct the free passage or use in the customary manner of a navigable lake, stream, river, canal or basin or any public park, square, street or highway.

Intensive agricultural activity may take place on agricultural land. Therefore, if the property you are purchasing is in the vicinity of agricultural land, you may at times be subject to one or more inconveniences and/or discomfort arising from operations on the agricultural land. Such inconveniences may include (depending upon the type of agricultural operation) but are not necessarily limited to the following: noise, odors, fumes, dust, legal pesticide use, fertilizers, smoke, insects, farm personnel and truck traffic, visual impacts, night time lighting, operation of machinery, and the storage, warehousing and processing of agricultural products or other inconveniences or discomforts associated with the protected agricultural operations. For additional information pertaining to this disclosure and the Right to Farm Ordinance, or concerns with an agricultural operation, please contact the El Dorado County Agricultural Commissioner’s Office.

AGRICULTURAL SETBACKS

Pursuant to Section 17.06.150 of Chapter 17.06 of the El Dorado County Code, your property may be subject to special setbacks for agricultural protection from the adjoining agricultural properties, as measured from the property line. Non-compatible uses such as residential structures, nursing homes, public schools, playgrounds, swimming pools, ponds and churches may not be built or placed within the agricultural setbacks, if applicable. For further information regarding applicable setbacks or other zoning regulations, please contact the El Dorado County Developmental Services Department- Planning Services Division.

Seller certifies that the information herein is true and correct to the best of the Seller’s knowledge as of the date signed by the Seller.

Seller: Date:

Seller: Date:

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT

Seller: Date: Seller: Date:

Agent (Broker Representing Seller): By:

Agent (Broker Obtaining the Offer): By:

Buyer: Buyer:

(Associate Licensee or Broker-Signature)

(Associate Licensee or Broker-Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.