



## **Memorandum from Department of Agriculture/Planning and Building Department**

**Date:** April 21, 2023

**To:** Planning Commission (Agenda Date: April 27, 2023)

**From:** LeeAnne Mila, Agricultural Commissioner/Sealer of Weights & Measures  
Rob Peters, Deputy Director of Planning

**Subject:** **Proposed Title 130 – Zoning Ordinance Amendments for the Ranch Marketing and Winery Ordinances (OR23-0001)**

### **STAFF RECOMMENDATION**

Agricultural Department and Planning and Building Department, Planning Division, recommend the Planning Commission:

1. Recommend the Board of Supervisors approve the California Environmental Quality Act (CEQA) Addendum to the Targeted General Plan Amendment & Zoning Ordinance Update (TGPA-ZOU) Final Environmental Impact Report (FEIR) consistent with Sections 15162 and 15164 of the CEQA Guidelines (Attachment A); and
2. Recommend the Board of Supervisors approve the proposed amendments to the Zoning Ordinance, incorporating additional changes recommended by the Planning Zoning Ordinance of the El Dorado County Code (Attachment B) based on the findings as presented by staff.

### **PURPOSE**

The purpose of the proposed amendments to Title 130 (Zoning Ordinance) for Section 130.40.260 – Ranch Marketing (Ranch Marketing Ordinance) and Section 130.40.400 – Wineries (Winery Ordinance) is to bring forward recommendations to the Board of Supervisors (Board) to address longstanding land use conflicts between Ranch Marketing and Winery operations and neighboring properties resulting mainly from special events, specifically amplified music. The proposed amendments are also intended to provide additional clarity for Ranch Marketing or Winery operators, the public, County staff, and County decision makers on how to interpret the Ranch Marketing and Winery Ordinances by addressing areas of ambiguity and ensuring consistency. Lastly, the proposed amendments seek to improve compliance with Ranch

Marketing and Winery Ordinances through enhanced activity tracking and enforcement.

Staff is presenting for the Planning Commission's consideration proposed amendments to the Ranch Marketing and Winery Ordinances, along with associated conforming amendments, consistent with the recommendations from the Board Ranch Marketing/Winery Ad Hoc Committee (Board Ad Hoc) and Agricultural Commission (Ag. Commission) Ranch Marketing/Winery Ad Hoc Committee (Ag. Commission Ad Hoc). The proposed amendments also incorporate some response to public comments received, as well as recommendations from the Ad Hoc Committees, Ag. Commission, and the Planning Commission (March 09, 2023).

### **DISCUSSION / BACKGROUND**

On December 15, 2015, the Board adopted Ordinance No. 5030 that established a comprehensive update to the Zoning Ordinance. This update included revisions to Section 130.40.260 – Ranch Marketing and Section 130.40.400 – Wineries that authorized certain special events to occur by right. On September 1, 2020, the Board adopted Ordinance No. 5127, amending Section 130.40.260.H – Ranch Marketing Provisions for Agricultural Grazing Lands (Large Animal), to allow ranch marketing activities to occur on land zoned Planned Agricultural and Limited Agricultural when done in compliance with all applicable provisions and standards.

The timeline for the process to amend Ranch Marketing and the Winery Ordinance:

**September 2021** – Ad Hoc Committees created by the Ag. Commission and the Board. Members: Agricultural Commissioners Bolster, Bacchi and Walker. Supervisors Parlin (District IV) and Thomas (District III).

**January 17, 2023** – Public Workshop with the Board Ad Hoc and the Ag. Commission Ad Hoc

**February 08, 2023** – Ag. Commission Public Meeting

**March 09, 2023** – Planning Commission Public Meeting

Recommendations were made by the Ag. Commission and incorporated into the item brought forward to the Planning Commission. At the March 09<sup>th</sup> Planning Commission hearing, staff was encouraged to reach out to growers, grower's organizations, and members of the public in advance of returning to the Planning Commission on April 27<sup>th</sup>, 2023.

#### **Public Outreach:**

Since the March 9, 2023 Planning Commission hearing, staff has met with over 50 individuals (many of them multiple times) from the general public, growers, grower's organizations, and farmers coordinating groups. Staff also participated in Supervisor District III's Community Chat. The purpose of these discussions was to address as many concerns as possible in advance of the next Planning Commission hearing.

These outreach efforts included meetings with:

- Apple Hill Growers Association
- El Dorado Winery Association
- Farm Trails
- El Dorado County Farm Bureau
- El Dorado Wine Grape Growers
- Fairplay Winery Association
- Individual Rural Homeowners
- El Dorado Christmas Tree Grower

The latest revisions are based on Planning Commission recommendations and public inputs received at the above referenced meetings.

**Enforcement:**

Due to concerns expressed during recent public outreach efforts, the language has been changed to read:

If an operator of a ranch marketing area has received three substantiated violations or more occurring on separate dates related to a violation of Subsection 130.44.102.C (“Special Events Generally”) within any eighteen (18) month period, then the County may suspend the ability of that ranch marketing area to be used to hold special events authorized by this Chapter for six (6) months after the date of the last violation. Any subsequent substantiated violation of this paragraph will extend that six (6) month period for an additional six (6) months. The County may enforce any violation of this paragraph as a public nuisance and may take all reasonable actions consistent with law to abate that public nuisance, including injunctive relief. For purposes of this paragraph, substantiated violation means the operator of the ranch marketing area received a Notice and Order under Chapter 8.03 and either did not contest such violation or filed a timely appeal and the violation in the Notice and Order was upheld by the administrative hearing officer. A substantiated violation does not include a complaint that did not result in a sustained violation, nor does it include a violation that led to a Notice and Order that was withdrawn by both parties due to compliance.

**Dining Facilities:**

A footnote was added to Table 130.44.104.1 to clarify when certain dining facilities are allowed by right or require a discretionary permit.

**Agricultural Commissioner:**

At the March 9 meeting, Commissioner Payne expressed concern that the reference to Commissioner may be confusing. Staff reviewed other provisions of the Zoning Ordinance that referenced the Agricultural Commissioner and found that the Zoning Ordinance normally refers to that office as “Agricultural Commissioner” as opposed to “Commissioner.” For consistency, “Agricultural Commissioner” is referenced throughout in order to stay consistent with the other references within the Zoning Ordinance.

**Director:**

A definition for Director was added in Ranch Marketing for clarification.

**Nonprofits:**

Staff received comments on whether we would consider other categories of nonprofits, and were specifically requested to add nonprofits organized under Internal Revenue Code section 501(c)(6). Staff added nonprofits organized 501(c)(6) was added within the categories of nonprofits that fall within the charitable events allowances.

**Agricultural Department review of Administrative Permits:**

Concerns were identified by grower’s groups about the administrative permit process for Ranch Marketing activities. To streamline the review and approval of Ranch Marketing administrative permits, the Ag. Department will be the approving authority. Various conforming changes to provisions of the Zoning Ordinance have been added to identify the Agricultural Commissioner as the review authority of original jurisdiction for administrative permits with appeals going to the Ag Commission, and ultimately to the Board.

**Room Rental:**

Concerns were addressed about the parameters surrounding this newly proposed event type. Clarifying language was added to further define the parameters, including limitations for no more than 1 room rental event a day during normal business hours. Staff also added a definition for “indoors” in response to a concern raised by Commissioner Nevis during the March 9 meeting.

**Advance Notice:**

Concerns were identified regarding last minute events and the advance notice requirement. An exceptions process was added to the 14-day notification process to address these concerns. Staff received comments that it was confusing to define a special event to be between 1-250. Commissioner Vegna requested it read, instead, up to 250. Staff agrees with that recommendation and the proposed ordinance now reads as up to 250.

**Concerts:**

In the draft of the proposed Ordinance for the March 9 meeting, staff had initially suggested changing the language governing when a concert requires a Conditional Use Permit for consistency with other provisions of the County Ordinance Code. Commissioner Nevis had suggested that staff return to the language that required a Conditional Use Permit for concerts in which music is the primary attraction. Staff has adopted that recommendation. Staff also received comments from members of the committee that the definition of concert would not include performances by a disc jockey. Staff revised the definition of concerts or other outdoor amplified music or voice as follows:

*Concerts or other outdoor amplified music or voice* means any musical outdoor performance, including the playing of recorded music, in which sound amplification devices are used by one or more performers, including, but not limited to, concerts, music festivals, performance by a disc jockey, or any other musical performance.

**Facility Rental Events:**

Staff has received comments on that there is not a clear distinction between facility rental events and special events in the Winery Ordinance. Staff had initially suggested removing language in the Winery Ordinance that stated facility rental events are events for hire. In response to this concern, staff has taken out that change and now the language states that a facility rental event is a type of special event in which the winery owner is compensated for use of the facility.

## **NEXT STEPS**

The Planning Commission's recommendations for the proposed Ranch Marketing and Winery Ordinance Amendments to the Zoning Ordinance will be forwarded to the Board for consideration. The Board hearing to consider the proposed amendments is anticipated to be held in June 2023. At that time, the Board will hold a public hearing to receive public comments, consider the Planning Commission's recommendations for the CEQA Addendum to the TGPA-ZOU FEIR, and take formal action on the proposed Ranch Marketing Ordinance and Winery Ordinance amendments.