



Memorandum from Department of Agriculture/Planning and Building Department

Date: 11/21/2024

From: LeeAnne Mila, Agricultural Commissioner

Subject: Proposed Ranch Marketing and Winery Ordinance Updates. Summary of Changes Recommended by the Agricultural Commission and Planning Commission.

Purpose:

The purpose of this memo is to provide the Board of Supervisors with an overview of additional amendments to the Ranch Marketing Ordinance and Winery Ordinance (Legistar Attachment C) that resulted from Agricultural Commission and Planning Commission feedback provided after the proposed changes were brought forward and Resolution 166-2024 (Legistar Attachment G) was adopted by the Board of Supervisors earlier this year.

The proposed amendments include but are not limited to:

- 1) Require an annual administrative permit, to be processed by the Agricultural Department, to hold special events under the Ranch Marketing Ordinance or the Winery Ordinance;
- 2) Reduce the special events authorized by the Ranch Marketing Ordinance or Winery Ordinance to 12 per year, unless authorized by a special use permit or temporary use permit;
- 3) Create a process that an operator of a ranch marketing area or winery owner to hold an additional 2 special events per year, up to a maximum of 24 special events a year, for every confirmed additional 5 acres of crop cultivated;
- 4) Eliminate the requirement for a winery owner or the operator of the ranch marketing area to keep and provide to the County a complaint log during special events;
- 5) Establish a real estate disclosure requirement for agricultural properties related to ranch marketing;

- 6) Provide that contiguous properties under common ownership can be included for purposes of determining the acreage cultivated for qualifying for ranch marketing activities under the Ranch Marketing Ordinance or special events under the Winery Ordinance; and
- 7) Other necessary or convenient changes to accomplish those goals and to promote economic development while ensuring agricultural production remains the primary use or function of the property.

Overview:

Proposed amendments to the Ranch Marketing and Winery Ordinances were reviewed by the Agricultural Commission on August 14, 2024, the Planning Commission on September 12, 2024, and the Board of Supervisors on September 24, 2024 as part of a 1-year review provided by the Agricultural Department. At the September Board of Supervisors meeting Resolution of Intention 166-2024 was approved directing the Agricultural Department and the Planning Department to amend the Zoning Ordinance as identified above.

The proposed amendments were brought to the Agricultural Commission on October 21st, 2024. The Agricultural Commission unanimously voted to approve the amendments with the following recommendations:

- 1) Change the Definition of Commercial Vineyard. The change would allow acreage on contiguous parcels under common ownership to be counted towards the ability to qualify for marketing and special events. This change was requested to be consistent with the change to the Ranch Marketing Ordinance. Staff is recommending the following changes to be consistent with this recommendation:

Winery Ordinance: Section 130.40.400.C:

C. Definitions. As used in this Section, the terms below will mean the following:

Agricultural Commissioner means the County Agricultural Commissioner.

Commercial Vineyard means a minimum of five acres of wine grapes are planted and are capable of producing a commercial crop. Five acres shall mean a planting of wine grapes spanning an area of at least 217,800 square feet and consisting of a minimum of 2,200 grape vines that are properly maintained to produce a commercial crop. The Agricultural Commissioner may, when calculating acreage under this paragraph, include wine grapes planted on contiguous property under common ownership. The operator of the commercial vineyard area may demonstrate the vineyard area is under common ownership by providing proof that the operator is the record title holder of the land or by providing a notarized lease agreement with the record title holder of the land. This paragraph does not modify the minimum lot size requirement in Subsection B (Applicability), above.

- 2) It was recommended by the Commission to bring a 1-year review of the ordinance performance after the changes to the Agricultural Commission, the Planning Commission, and the Board of Supervisors. Staff Believes a longer review process is necessary, due to the one year implementation.

Additionally, during the meeting Commissioner Mansfield asked whether substantiated violations that occurred before the effective date of the proposed changes would be included when determining whether the County would revoke any associated permit and prohibit the person from applying for a new permit under the Suspension for Repeat Violations sections in the Winery Ordinance and the Ranch Marketing Ordinance. Under the existing language of the Ordinance as amended by the Board last year, the County was authorized to suspend the ability of a Winery Owner or operator of Ranch Marketing Area to hold special events if that person had three substantiated violations occurring on separate dates of those Ordinances within an 18-month period. Staff discussed this issue and is recommending that the Enforcement Sections are amended to clarify that substantiated violations that occurred prior to implementation of these proposed changes would count for purposes of this section. Here is the relevant language:

Winery Ordinance: Section 130.40.400.J.4:

Suspension for Repeat Violations. If a winery owner has received three substantiated violations or more occurring on separate dates related to a violation of Subsection E.3 (Special Events) within any eighteen (18) month period then the County shall revoke any associated administrative permit that authorized the winery owner to hold special events, and that person will be ineligible to submit an application for an administrative permit to hold special events for six (6) months after the date of the last violation. For purposes of determining whether a substantiated violation occurred within the eighteen (18) month period, that period is calculated from the date of violation and not the date that the Notice and Order is substantiated and includes any violation that occurred on a date after the effective date of Ordinance No. 5177 and before the effective date of the Ordinance amending this Subsection. 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 winery owner received a Notice and Order under Chapter 9.02 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 substantiated violation, nor does it include a violation that led to a Notice and Order that was withdrawn by both parties due to compliance.

Ranch Marketing: Section 130.44.108.D

Suspension for Repeat Violations. 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 shall revoke any associated administrative permit that authorized the operator to hold special events, and that person will be ineligible to submit an application for an administrative permit to hold special events for six (6) months after the date of the last violation. For purposes of determining whether a substantiated violation occurred within an eighteen (18) month period, that period is calculated from the date of violation and not the date that the Notice and Order is substantiated and includes any violation that occurred on a date after the effective date of Ordinance No. 5177 and before the effective date of the Ordinance amending this Subsection. 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 9.02 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 substantiated violation, nor does it include a violation that led to a Notice and Order that was withdrawn by both parties due to compliance.

The proposed amendments were brought to the Planning Commission on November 14, 2024. The Planning Commission voted to approve the amendments with the following recommendations:

- 1) The Board of Supervisors adopt a one-year implementation period to address bookings made prior to adoption. Staff has updated the ordinance to allow a one year implementation process.

Winery Ordinance: Section 130.40.400.E.3.b.3:

3. Notwithstanding the maximum special events described in E.3.a (Number Allowed) above, the winery owner may, in its application, state that it submitted to the Agricultural Commissioner Advance Notice of at least 1 special event between January 2024 and October 2024 in compliance with Subsection E.3.h (Advance Notice), below. The Agricultural Commissioner shall verify whether County records confirm that the owner provided advance notice as required by this paragraph and report the final number of eligible special events on the approved administrative permit. If the winery owner qualifies under this paragraph, then the owner is limited to the following number of special events per calendar year:
 - a. For the 2025 Calendar Year: 18 special events.
 - b. For the 2026 Calendar Year, and every year thereafter: 12 events

Ranch Marketing: Section 130.44.102.C.3:

3. Notwithstanding the maximum special events described in C.2. (Number Allowed) above, the operator of the ranch marketing area may, in its application, state that it submitted to the Agricultural Commissioner Advance Notice of at least 1 special event between January 2024 and October 2024 in compliance with Subsection C.6 (Advance Notice). The Agricultural Commissioner shall verify whether County records confirm that the operator provided advance notice consistent with this paragraph and report the final number of eligible special events on the approved administrative permit. If the operator of the ranch marketing area qualifies under this paragraph, then the operator is limited to the following number of special events per calendar year:
 - a. For the 2025 Calendar Year: 18 special events.
 - b. For the 2026 Calendar Year, and every year thereafter: 12 events

- 2.) The ordinance returns to the Planning Commission one year from implementation. Staff believes that a longer review is necessary due to the one-year implementation process.
- 3.) Consider whether amplification levels should be adjusted and if lack of amplification should affect the maximum number of events. Staff will continue to review sound issues as it relates to special events.

CEQA:

In 2015, the Board of Supervisors certified the Final Environmental Impact Report (Final EIR) (State Clearinghouse No. 2012052074) for the El Dorado County (County) Targeted General Plan Amendments & Zoning Ordinance Update (TGPA-ZOU) Project. Under CEQA Guidelines section 15164, the County must prepare an addendum to a previously certified Environmental Impact Report (EIR) if some changes or additions are necessary but none of the conditions described in CEQA Guidelines section 15162 that require the preparation of a subsequent EIR have occurred.

After a review, staff determined that a CEQA Addendum is the appropriate level of environmental review for the amendments to the Ranch Marketing and Winery Ordinances because the amendments would not result in any new or more severe impacts than those previously analyzed in the 2015 TGPA-ZOU Project EIR. The CEQA Addendum, together with the 2015 TGPA-ZOU Project EIR, will be utilized by the County as the environmental compliance for the Title 130 Zoning Ordinance Amendments in accordance with Sections 15162 and 15164 of the CEQA Guidelines.

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