



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

STAFF REPORT

TO: **AGRICULTURAL ADVISORY COMMITTEE**

HEARING DATE: March 26, 2024

RE: Consideration of Ordinance amendments related to industrial hemp production

GENERAL INFORMATION

In contrast to the County’s rigorous regulations pertaining to cannabis, there are currently no land use regulations for industrial hemp – the County treats hemp production as a permitted activity much like other agricultural products. These ordinance revisions are being proposed to make it more explicit that large-scale hemp production activities should be included into the Right to Farm ordinance, as well as made a permitted use in the Agricultural (A) District.

STAFF RECOMMENDATION

Staff recommends that your Committee review the ordinance amendments and recommend they be adopted by both the Planning Commission and the Board of Supervisors.

STAFF ANALYSIS

Introduction

Hemp as an agricultural product has increased significantly in the past decade, and consumers are using hemp products for health, beauty as well as other household and industrial uses. The crop is not regulated in the same way as cannabis, and the County has permitted hemp production in the same way it has permitted other agricultural products. Cannabis has an entirely different regulatory framework that is not the subject of this report.

As a relative newcomer to the County, hemp producers are seeking the same protections afforded other crops through the Farming Rights ordinance (§6.28), and seek to place future hemp agricultural operations under the same regulatory framework as other agricultural products.

Farming Rights Ordinance - The County adopted the current Farming Rights Ordinance in the year 2000 to create formal definitions for farming operations as well as a nuisance mediation process, using the Agricultural Advisory Committee as a mediation forum to resolve disputes. These disputes can arise from time to time between agricultural and nonagricultural property owners over issues related to noise, odors, dust, chemicals, smoke and hours of operation. Over the past 10 years there have been 2-3 instances where the mediation role of the Committee was used. The full Farming Rights ordinance is attached herein.

Zoning Ordinance The changes proposed in the zoning ordinance are written to provide certainty to future hemp producers that the activity of growing and processing industrial hemp will be a permitted use, and to ensure that when a facility begins operations, in combination with the Farming Rights language, the business has equal protections as other legal crops in the County. Including the explicit reference to hemp production is prudent given it is a newly introduced crop in Alameda County, closely related to cannabis, and giving it permitted use status will support existing operations in the County as well as new businesses.

Section 17.06.030 is being amended to allow hemp processing on parcels of 100 acres or more, thereby limiting the activity to large scale operations in the more remote parts of the County. The Committee may want to consider prohibiting hemp operations in the South Livermore plan (A-CA zone) as has been the case for cannabis, as there are parcels greater than 100 acres located in the plan area. The Committee may also want to consider allowing hemp production on smaller parcels as it's likely there may be smaller producers also entering the market.

Section 17.06.050 amendments are related to accessory structures for agricultural operations, whereby a hemp producer can construct accessory buildings to support the overall operation such as administrative offices and maintenance buildings. Floor area and building envelope limitations as required by the East County Area Plan will still apply in these cases.

RECOMMENDATION

Staff recommends the Agricultural Advisory Committee review the ordinance changes, take public comment and recommend the amendments be approved by the Planning Commission and Board of Supervisors.

ATTACHMENTS

- Attachment A – Draft Ordinance amending sections 6.28.010, 17.06.030, 17.06.050
- Attachment B – Current Farming Rights Ordinance and Zoning Ordinance (chapter 17.06)

PREPARED BY: Albert Lopez, Planning Director

ORDINANCE NO. O-2024-_____

**AN ORDINANCE TO AMEND CHAPTER 6.28 OF THE ALAMEDA COUNTY
GENERAL ORDINANCE CODE TO DEFINE HEMP CULTIVATION AS AN
AGRICULTURAL OPERATION, AND TO AMEND CHAPTER 17.06 OF THE
ALAMEDA COUNTY GENERAL ORDINANCE CODE RELATED TO HEMP
CULTIVATION AND ACCESSORY USES THEREOF**

WHEREAS, one of the basic objectives of the County's Zoning regulations is to allow for economic growth while also promoting the public health, safety and welfare; and

WHEREAS, the use of hemp for a variety of industrial and consumer-based products continues to increase with a projected market growth of 7-15% between 2022 and 2030; and

WHEREAS, pursuant to 6.28.020 of the County Administrative Code, the Board of Supervisors has adopted policies and made findings to support commercially viable agricultural land that exists within the county, and that it is in the public interest to enhance and encourage economically viable agricultural operations; and

WHEREAS, the County will continue to support hemp production by amending the Farming Rights ordinance to place hemp production in equal standing as other crops and agriculture operations; and

WHEREAS, the Agriculture Improvement Act of 2018 (2018 Farm Bill), effective January 1, 2019, removed hemp from Schedule I of the federal Controlled Substances Act. Thus, hemp is no longer federally regulated as a controlled substance; and

WHEREAS, the State of California's regulatory plan for hemp production has been approved by the U.S. Department of Agriculture; and

WHEREAS, the proposed amendments to the Alameda County General Ordinance Code have been reviewed in accordance with the provisions of the California Environmental Quality Act (CEQA) and the proposed amendments have been found to be exempt as it can be seen with certainty that there is no possibility that the proposed amendments will have a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3).

The Board of Supervisors of the County of Alameda, State of California, ordains as follows:

Section I

6.28.010 - Definitions.

Section 6.28.010 of Chapter 6.28 of Title 6 of the Alameda County Ordinance Code is amended to add the following definition, with additional language underlined as follows:

"Agricultural operation" means and includes, but is not limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, floriculture, hemp, timber or apiculture, the raising of livestock, fur bearing animals, fish or poultry, and any commercial agricultural practices performed as incidental to or in conjunction with such operations, including carriers for transportation to market, consistent with all county regulations.

Section II

17.06.030 - Permitted uses.

Section 17.06.030 of Chapter 17.06 of Title 17 of the Alameda County Ordinance Code is amended to add the following section L to the list of permitted uses, underlined as follows:

L. Hemp processing on parcels over 100 acres

Section III

17.06.050 - Accessory uses.

Section 17.06.050 of Chapter 17.06 of Title 17 of the Alameda County Ordinance Code is amended, with additional language underlined as follows:

(F) Administrative office, maintenance building, when accessory to a principal use permitted by Section 17.06.030(L) and Section 17.06.040(O).

Section IV

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be

published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the _____ day of _____, by the following called vote:

AYES:
NOES:
EXCUSED:

PRESIDENT OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA

Anika Campbell-Belton, Clerk
Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Melanie S. O'Brien
Deputy County Counsel

Chapter 6.28 FARMING RIGHTS

Sections:

6.28.010 Definitions.

"Agricultural land" means all that real property within the unincorporated boundaries of Alameda County currently zoned in the "A" (agricultural) zoning district or with combining district "L" (limited agricultural) or in another zoning district and may be used for agricultural operations as defined herein.

"Agricultural operation" means and includes, but is not limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting and processing of any agricultural commodity, including viticulture, horticulture, floriculture, timber or apiculture, the raising of livestock, fur bearing animals, fish or poultry, and any commercial agricultural practices performed as incidental to or in conjunction with such operations, including carriers for transportation to market, consistent with all county regulations.

(Ord. 2000-61 § 1 (part): prior gen. code §§ 3-310.0, 3-310.1)

6.28.020 Findings and policy.

- A. The board of supervisors finds that commercially viable agricultural land exists within the county, and that it is in the public interest to enhance and encourage economically viable agricultural operations within the county. The board of supervisors also finds that residential and commercial development adjacent to certain agricultural lands often leads to restrictions on agricultural operations to the detriment of the adjacent agricultural uses and the economic viability of the county's agricultural industry as a whole.
- B. The purposes of this chapter are to promote public health, safety and welfare and to support and encourage continued agricultural operations in the county. This chapter is not to be construed as in any way modifying or abridging state law as set forth 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 provisions of state law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provision of this chapter and implementing regulations and provide a forum to discuss and resolve disputes to avoid litigation.
- C. This chapter is to promote a good neighbor policy between agricultural and nonagricultural property owners by providing owners of property adjacent to or near agriculture operations a forum to discuss problems resulting from agricultural operations including, but not limited to, the noises, odors, dust, chemicals, smoke and hours of operation that may accompany agricultural operations. It is intended that, through a discussion forum, property owners will understand the impact of living adjacent to or near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas and agricultural operations.

(Ord. 2000-61 § 1 (part): prior gen. code §§ 3-311.0—3-311.2)

6.28.030 Nuisance.

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 the neglect 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 any navigable lake, stream, river, canal or basin or any public park, square, street or highway.

(Ord. 2000-61 § 1 (part): prior gen. code § 3-312.0)

6.28.040 Resolution of disputes.

Should any dispute arise regarding any inconvenience or discomforts occasioned by agricultural operations, including, but not limited to, noises, odors, fumes, dust, the operations of machinery of any kind during any twenty-four (24) hour period (including aircraft), the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides, the parties may submit the dispute to the Alameda County agricultural advisory committee created by the county board of supervisors in an attempt to resolve the matter prior to filing any court action as set forth below.

(Ord. 2000-61 § 1 (part): prior gen. code § 3-312.1)

6.28.050 Role of agricultural advisory committee.

In the event a dispute arises between an owner of an agricultural operation and a resident (or residents) in or about the locality thereof as to whether a particular agricultural operation constitutes a nuisance, an interested party shall submit a written request to the agricultural advisory committee to act as a mediator in such dispute. The agricultural advisory committee may decline any such request to consider or issue an advisory opinion or establish a subcommittee that would meet in a closed door session to mediate the dispute. The subcommittee shall consist of five agricultural advisory committee members: two ex-officio members and three voting members.

The agricultural advisory committee may request technical assistance from county agencies, departments, private industry, or the general public in the course of investigating and evaluating any dispute.

(Ord. 2000-61 § 1 (part): prior gen. code § 3-312.2)

6.28.060 Procedures.

- A. Any dispute between the parties shall be submitted to the agricultural advisory committee within thirty (30) days of the date of the occurrence of the particular activity giving rise to the dispute or of the date party became aware of the occurrence.
- B. The parties to a dispute recognize the value and importance of full discussion and complete presentation and agreement concerning all pertinent facts in order to eliminate any misunderstandings. The parties will cooperate in the exchange of pertinent information concerning the controversy.
- C. The dispute shall be presented to the committee by written request of one of the parties within the time limits specified. Thereafter the committee may investigate the facts of the dispute, but must, within thirty (30) days, hold a public meeting to consider the merits of the matter and within twenty (20) days of the meeting must render a written decision as described in Section 6.28.050 to the parties. At the time of the meeting both parties shall have an opportunity to present what each considers to be pertinent facts and witnesses. If the dispute request is declined, the agricultural advisory committee will inform the parties of their right to pursue other courses of action. In the event that the dispute is referred to a subcommittee for mediation, the subcommittee shall report to the agricultural advisory committee the result of any such

mediation. This matter may be continued from time to time as determined by the agricultural advisory committee.

- D. The decision of the committee or subcommittee shall not be binding and without prejudice to the parties who present the dispute to any other governmental agency or body should the parties not consent to the decision of the committee.

(Ord. 2000-61 § 1 (part): prior gen. code § 3-312.3)

6.28.070 Right to farm restrictions.

- A. As a condition of approval of a discretionary development permit, including, but not limited to tentative subdivision and parcel maps, use permits and rezoning, pre-zoning and planned developments, relating to property located within two thousand (2,000) feet of agricultural land, agricultural operations or agricultural processing facilities or operations, every transferor of such property shall, upon transfer, insert the restriction recited below in the deed or other instrument transferring any right, title or interest in the property to a transferee.

RIGHT TO FARM RESTRICTION

Alameda County permits operation of properly conducted agricultural operations within the County.

You are hereby notified that the property you are acquiring an interest in is located within 2,000 feet of agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agriculture or agricultural processing facilities operations. Discomfort and inconvenience may include, but is not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents and/or the operation of machinery (including aircraft) during any 24-hour period.

One or more of the inconveniences described above may occur as a result of agricultural operations which are in compliance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector.

Lawful ground rig or aerial application of pesticides, herbicides, fungicides, rodenticides and fertilizers occurs in farming operations. Should you be concerned about spraying, you may contact the Alameda County Agricultural Commissioner.

The Alameda County Right to Farm Ordinance does not exempt farmers, agricultural processors or others from compliance with the law. Should a farmer, agricultural processor or other person not comply with appropriate state, federal or local laws, legal recourse may be possible by, among other ways, contacting the appropriate agency.

- B. This right to farm restriction shall be included in all subsequent deeds and leases for this property until such time as the property is not located within two thousand (2,000) feet of agricultural land or agricultural operations as defined by Section 6.28.010.
- C. The failure to include the restriction required by this section in any deed or other instrument shall not invalidate any transfer.

(Ord. 2000-61 § 1 (part))

6.28.080 Notification to transferees.

- A. Pursuant to Section 1102.6a of the California Civil Code, it is intended by Section 6.28.080 to require disclosures in addition to those disclosures required by Section 1102.6 of the California Civil Code.
- B. Every transferor of property subject to the requirements of Section 6.28.070 shall, upon transfer, also provide to any transferee the notice of right to farm recited below in writing. The notice of right to farm may be contained in any form of agreement or contract; however, the notice need be given only once in any transaction. The transferor shall acknowledge delivery of the notice and the transferee shall acknowledge receipt of the notice.

NOTICE OF RIGHT TO FARM

Alameda County permits operation of properly conducted agricultural operations within the County.

You are hereby notified that the property you are acquiring an interest in is located within 2,000 feet of agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facilities operations. Discomfort and inconvenience may include, but is not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents and/or the operation of machinery (including aircraft) during any 24-hour period. Should any dispute arise regarding any inconvenience or discomforts from an agricultural operations the parties may submit the dispute, within 30 days of the date of the occurrence, to the Alameda County Agricultural Committee created by the Board of Supervisors.

One or more of the inconveniences described above may occur as a result of agricultural operations which are in compliance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector.

Lawful ground rig or aerial application of pesticides, herbicides, fungicides, rodenticides and fertilizers occurs in farming operations. Should you be concerned about spraying, you may contact the Alameda County Agricultural Commissioner.

Alameda County Right to Farm Ordinance does not exempt farmers, agricultural processors or others from compliance with law. Should a farmer, agricultural processor or other person not comply with appropriate state, federal or local laws, legal recourse may be possible by, among other ways, contacting the appropriate agency.

This notification is given in compliance with the Alameda County Code Section 6.28.080 By initialing below, you acknowledging receipt of this notification.

Transferor's Initials

Transferee's Initials

- C. The failure to give the notice required by this section shall not invalidate any transfer.
(Ord. 2000-61 § 1 (part))

Chapter 17.06 A DISTRICTS

Sections:

17.06.010 Agricultural districts—Intent.

Agricultural districts, hereinafter designated as A districts, are established to promote implementation of general plan land use proposals for agricultural and other nonurban uses, to conserve and protect existing agricultural uses, and to provide space for and encourage such uses in places where more intensive development is not desirable or necessary for the general welfare.

(Prior gen. code § 8-25.0)

17.06.020 Reserved.

Ord. No. 2010-71 , § 10, adopted December 21, 2010, repealed § 17.06.020, which pertained to map designation and derived from prior gen. code § 8-25.1.

17.06.030 Permitted uses.

The following principal uses are permitted in an A district:

- A. On a building site, one one-family dwelling or one-family mobilehome either constructed after September 15, 1971, and issued an insignia of approval by the California Department of Housing and Community Development and permanently located on a permanent foundation system, or constructed after July 15, 1976, and issued an insignia of approval by the U.S. Department of Housing and Urban Development and permanently located on a foundation system;
- B. Crop, vine or tree farm, truck garden, plant nursery, greenhouse, apiary, aviary, hatchery, horticulture;
- C. Raising or keeping of poultry, fowl, rabbits, sheep or goats or similar animals;
- D. Grazing, breeding or training of horses or cattle;
- E. Winery, microbrewery or olive oil mill:
 - 1. Includes accessory uses such as administrative offices, visitor centers, on-site tasting rooms, production and maintenance facilities, cooperage, and marketing activities, provided such uses are consistent with general plan policies and any other use permit limitations.
 - 2. The uses may include a visitor center: A day use facility which may include winery, microbrewery, or olive oil mill tours and on-site tasting, retail sales of wine, beer, or olive oil and related items, display of historical or educational items related to the wine region, or art, etc. not to exceed thirty (30) percent of the floor area of the production facility of the winery, microbrewery, or olive oil mill.
 - 3. Permanent kitchen facilities are not allowed.
 - 4. The sale of food, complementary food service, or provision of picnic facilities is limited to cold foods prepared off-site, such as but not limited to bread, cheese, crackers, sandwiches or salads, in conjunction with wine, beer, or olive oil tasting and sales, provided such food service remains incidental and subordinate to the tasting and sales.

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5. An administrative conditional use permit (ACUP) may be requested for one temporary mobile outdoor business as an accessory or incidental use to the winery, microbrewery or olive oil mill. The mobile outdoor business must adhere to county environmental health requirements.
 6. The design for the facilities for the accessory uses permitted by this section, including all signage, must balance, maintain and enhance the visual quality of the agricultural land.
 7. In addition to the provisions in subsections 1 through 7 above, microbrewery uses must comply with the following requirements:
 - a. Microbreweries are not allowed in the resource management (RM) land use designation as defined in the East County Area Plan.
 - b. Microbrewery visitor center hours are limited to a maximum of twenty-four (24) hours per week from Sunday through Saturday and shall close by 10:00 p.m.

Additional and extended hours may be obtained through a conditional use permit (CUP).
 - c. A minimum of fifteen (15) percent of the non-water ingredients used in the beer making process must be grown in Alameda County.
 - F. Fish hatcheries and rearing ponds;
 - G. Public or private riding or hiking trails;
 - H. One secondary dwelling unit per building site on parcels twenty-five (25) acres in size or larger that are zoned for not more than one dwelling and have one but no more than one dwelling unit on the parcel subject to the following requirements:
 1. The secondary dwelling unit shall be on the same building envelope as the primary unit;
 2. On parcels less than one hundred (100) acres, the secondary dwelling unit shall be no larger than two thousand (2,000) square feet in area; on parcels one hundred (100) acres or larger the secondary dwelling unit shall be no larger than two thousand five hundred (2,500) square feet in area;
 3. The secondary dwelling unit shall be subject to site development review pursuant to Section 17.54.210 et seq.; and
 4. The secondary dwelling unit shall be subject to and consistent with the provisions of the county policy on secondary dwelling units in agricultural and rural residential areas. Notwithstanding the requirements of Section 17.54.220(A), for secondary units on parcels that are less than one hundred (100) acres in size, the planning commission shall decide applications for site development review under this section, and a public hearing is required;
 - I. Occupancy of agricultural caretaker dwelling(s) subject to a site development review as provided in Section 17.06.090, when found by the planning director to be necessary to provide housing for the agricultural caretaker and his/her family;
 - J. Boarding stables and riding academies subject to the following requirements:
 1. The boarding stable shall be subject to site development review pursuant to Sections 17.6.90 and 17.54.210 et seq., except as follows:
 - a. The appropriate board of zoning adjustments shall decide applications for site development review under this section, and a public hearing is required;
 - b. Where the holder of an existing conditional use permit is found to be in compliance with all conditions of the existing conditional use permit, the planning director shall recommend approval of a site development review for the facility Alameda County Ordinance Code,

Title 17, Zoning Ordinance with no new conditions except as allowed by the county policy for equine facilities in the A (agricultural) district, to the appropriate board of zoning adjustments;

- c. The planning director may modify the requirements of Section 17.54.230 consistent with the provisions of the county policy of equine facilities in the A (agricultural) district; and specifically may waive the requirement that the site plan be prepared by licensed civil engineer, land surveyor, architect, landscape architect, or a registered building designer;
- 2. The boarding stable shall be subject to and consistent with the provisions of the county policy for equine facilities in the A (agricultural) district;
- 3. Site development reviews under this section shall not have an expiration date. However, they shall be subject to a periodic review for compliance with conditions of approval of the site development review and with relevant county ordinances, including all water quality rules and regulations. Such reviews shall occur every five years at minimum, or as needed to ensure compliance;
- 4. Any changes in the scope of the boarding stable operation shall require a modification to the site development review;
- 5. Site development review approval under this section shall not be construed to confer upon a boarding stable any exemption from any health, nuisance, or public safety ordinances or their subsequent enforcement or confer any other unique privileges upon a stable;
- K. Agricultural employee housing consisting of not more than thirty-six (36) beds in a group quarters or twelve (12) units or spaces designed for use by a single family or household subject to a site development review as described provided in Sections 17.06.090 (Agricultural districts—Site development review—When required), 17.60.100 (Agricultural districts—Agricultural employee housing), and 17.54.210 (Site development review).

(Ord. 2004-55 § 1; Ord. 2003-47 § 1; Ord. 99-2 § 1; Ord. 93-33 § 2 (part); prior gen. code § 8-25.2)

(Ord. No. 2010-71 , § 11, 12-21-10; Ord. No. 2012-58 , § 4, 4-10-12; Ord. No. 2019-10 , § 2, 4-23-19)

17.06.035 Conditional uses—Planning commission.

The following are conditional uses and shall be permitted in an A district only if approved by the planning commission, sitting as a board of zoning adjustments, as provided in Sections 17.54.135 and 17.06.010.

- A. Sanitary landfill not to include processing salvaged material;
- B. Flight strip;
- C. Cemetery;
- D. Composting facility.

(Ord. 2000-53 § 1 (part); Ord. 99-26 § 1 (part))

17.06.040 Conditional uses—Board of zoning adjustments.

In addition to the uses listed in Sections 17.52.480 and 17.52.580, the following are conditional uses and shall be permitted in an A district only if approved by the board of zoning adjustments, as provided in Sections 17.54.130 and 17.06.010:

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- A. Outdoor recreation facility;
 - B. Animal hospital, kennel;
 - C. Killing and dressing of livestock, except when accessory as specified in Section 17.06.050;
 - D. Public or private hunting of wildlife or fishing, and public or private hunting clubs and accessory structures;
 - E. Packing house for fruit or vegetables, but not including a cannery, or a plant for food processing or freezing;
 - F. Flight strip when accessory or incidental to a permitted or conditional use;
 - G. Hog ranch;
 - H. Drilling for and removal of oil, gas or other hydrocarbon substances;
 - I. Radio and television transmission facilities;
 - J. Public utility building or uses, excluding such uses as a business office, storage garage, repair shop or corporation yard;
 - K. Administrative offices accessory to the principal use on the premises including activities by the same occupancy which are not related to the principal use providing such activities not so related are accessory to the administrative office activity;
 - L. Administrative support and service facilities of a public regional recreation district;
 - M. Privately owned wind-electric generators;
 - N. Remote testing facility;
 - O. Winery, microbrewery, or olive oil mill related uses, except in the resource management (RM) land use designation as defined in the east county area plan.
 - P. Agricultural employee housing for thirty-seven (37) or more beds in group quarters or thirteen (13) units or spaces designed for use by a single-family or household;
 - Q. Cannabis retailer, subject to and in compliance with Chapter 6.108 of this code;
 - R. Cannabis cultivation and associated cannabis distribution, subject to and in compliance with Chapter 6.106 of this code and Section 17.52.585 of this title;
 - S. Combined cannabis operation, subject to and in compliance with Chapter 6.109 of this code and Section 17.52.585 of this title;
 - T. Cannabis testing laboratory, subject to and in compliance with Section 17.52.586 of this title; and
 - U. Soil importing in accordance with Chapter 17.66.

(Ord. 2004-55 § 2; Ord. 2002-60 § 1 (part); Ord. 2000-53 § 1 (part); Ord. 99-26 § 1 (part); Ord. 94-40 § 1; Ord. 3-33 § 2 (part); prior gen. code § 8-25.3)

(Ord. No. 2010-71 , § 12, 12-21-10; Ord. No. 2012-58 , § 5, 4-10-12; Ord. No. 2017-35 , § 2, 9-12-17; Ord. No. 2018-23 , § 2, 5-8-18; Ord. No. 2018-24 , § 2, 5-8-18; Ord. No. 2019-10 , § 2, 4-23-19; Ord. No. 2019-23 , § 2, 6-18-19; Ord. No. 2019-43 , § 2, 10-15-19)

17.06.050 Accessory uses.

When located in an A district, and subordinate to a lawful use, the following accessory uses, in addition to those normally accessory to a dwelling are permitted:

- A. Farm buildings, including stable, barn, pen, corral, or coop;
- B. Building or room for packing or handling products raised on the premises;
- C. Killing and dressing of poultry, rabbits and other small livestock raised on the premises, but not including an abattoir for sheep, cattle or hogs;
- D. Stand for the sale at retail of items produced or raised on the premises having a ground coverage not in excess of four hundred (400) square feet;
- E. Accessory business signs not exceeding an aggregate area of twenty (20) square feet; having no moving parts or illumination;
- F. Administrative office, maintenance building, when accessory to a principal use permitted by Section 17.06.040(O).

(Prior gen. code § 8-25.4)

17.06.060 Building site.

Every use in an A district shall be on a building site having an area not less than one hundred (100) acres.

(Prior gen. code § 8-25.5)

17.06.070 Yards.

The yard requirements in an A district are as follows, subject to the general provisions of Section 17.52.330:

- A. Depth of front yard: not less than thirty (30) feet;
- B. Depth of rear yards: not less than ten feet;
- C. Width of side yards: not less than ten feet.

(Prior gen. code § 8-25.6)

17.06.080 Signs.

No sign in an A district shall be illuminated. No more than two sale or lease signs shall be placed on any lot, and no such sign shall have an area in excess of twenty-four (24) square feet, except in conformance with Sections 17.52.460 and 17.52.470 (Subdivision). In other respects, Section 17.52.020 shall control.

(Prior gen. code § 8-25.7)

17.06.090 Site development review—When required.

Site development review pursuant to Section 17.54.210 shall be required for:

- A. Every new dwelling or addition to existing dwelling exceeding five hundred (500) square feet or thirty (30) feet in height hereafter placed on a parcel in the A district;

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- B. Agricultural caretakers dwelling(s), when found by the planning director to be necessary to provide housing for the agricultural caretaker and his/her/their family(ies); subject to the following provisions:
1. Initial site development review shall include submittal of required applications and materials and completion of an agricultural caretaker dwelling report, signed by the property owner.
 2. The agricultural caretaker dwelling report submitted under subsection (B)(1) above shall include a description of the agricultural use on the site, a description of the commercial/economic viability of the agricultural use, a discussion of the personnel necessary to implement or oversee the agricultural use, and a description of the proposed agricultural dwelling and/or housing. If the agricultural use is intended primarily for private interest rather than commercial viability, or if the dwelling unit is intended for a use not otherwise related directly to commercially viable agriculture on the site, such as onsite security, the report shall provide this information.
 3. Site development review approval shall normally be issued for a period of five years, except in instances where it is found by the planning director that a demonstrable need for more stringent controls (e.g., history of non-compliance with county codes, public health/safety issues, community concerns) is necessary.
 4. The planning director may extend initial site development review for additional five-year periods of time at the end of each preceding five-year period, subject to review and approval, of an updated agricultural caretaker dwelling report, signed by the property owner.
 5. During the effective period of the site development review, any changes relating to the information contained in the agricultural caretaker dwelling report (including changes to the dwelling unit itself, changes in maximum occupancy requirements, and/or changes in the size/nature/scope of the agricultural use being served by the presence of the caretaker onsite) shall be reported to the planning department, and shall be subject to the same procedures and regulations as those applicable to the initial application.
 6. The planning director shall have the discretion to disapprove the initial and/or subsequent site development review and agricultural caretaker dwelling report if found that compliance with the requirements and intent set forth in this title is exercised unlawfully or contrary to any condition or limitation of its issuance.
 7. The planning director may, at his/her discretion, hold a public hearing regarding an initial or subsequent site development review application.
 8. The approval of a site development review for an agricultural caretaker dwelling of any kind on any parcel, regardless of the existing legal building site status of the parcel, shall not be construed to establish upon that same, or any adjacent or commonly-owned parcel, building site status.
 9. The agricultural caretaker dwelling is intended to remain only as long as necessary to support either onsite security or the primary agriculture use on the site, and when the need for this support terminates the dwelling must be completely removed or converted to another legal use.
 10. Violations of this section shall be subject to enforcement, penalties and abatement under Chapters 17.58 and 17.59 of this title.
- C. Boarding stables and riding academies subject to the provisions of Section 17.06.030(J) of this chapter; and
- D. Agricultural employee housing subject to the provisions of Section 17.06.095 of this chapter.

(Ord. 2004-55 § 3; Ord. O-2003-47 § 1)

(Ord. No. 2012-58 , § 6, 4-10-12)

17.06.095 Agricultural districts—Agricultural employee housing.

Agricultural employee housing is subject to site development review pursuant to Sections 17.06.060 (Agricultural Districts—Site Development Review—When Required) and 17.54.210 (Site Development Review) et seq. and to the following provisions:

- A. The site development review shall include submittal of required applications and materials including an agricultural employee housing report, signed by the property owner.
- B. The agricultural employee housing report submitted under subsection A above shall include the following information:
 - 1. Entity responsible for housing maintenance and up-keep;
 - 2. Description of whether the housing will be used on a permanent, temporary, and/or seasonal basis;
 - 3. Total number of people to be housed on-site at any one time;
 - 4. Description of the housing, including whether the structures will be permanent and/or temporary, intended as units for families, one person, or several persons, and cost of the units and utilities to the agricultural employees;
 - 5. Location(s) where the agricultural employees will work;
 - 6. There must be adequate water and sewer available to service the development, as determined by the department of environmental health;
 - 7. The housing must be located off prime and productive agricultural land, or on the parcel where no other alternatives exist on site, on the least viable portion of the parcel;
 - 8. The development shall incorporate proper erosion and drainage controls; and
 - 9. Parking shall be provided in accordance with Section 17.52.910 (Parking spaces required—Residential buildings).
- C. Site development review approval shall normally be issued for a period of five years, except in instances where it is found by the planning director that a demonstrable need for more stringent controls (e.g., history of non-compliance with county codes, public health/safety issues, community concerns) is necessary.
- D. The planning director may extend the initial site development review for additional five-year periods of time at the end of each preceding five-year period, subject to review and approval, of an updated agricultural employee housing report, signed by the property owner.
- E. During the effective period of the site development review, any changes relating to the information contained in the agricultural employee housing report (including changes to the dwelling unit itself, and changes in maximum occupancy requirements) shall be reported to the planning department, and shall be subject to the same procedures and regulations as those applicable to the initial application.
- F. The planning director shall have the discretion to disapprove the initial and/or subsequent site development review and agricultural employee housing report if found that compliance with the requirements and intent set forth in this title is exercised unlawfully or contrary to any condition or limitation of its issuance.

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- G. The planning director may, at his/her discretion, hold a public hearing regarding an initial or subsequent site development review application.
 - H. The approval of a site development review for an agricultural employee housing of any kind on any parcel, regardless of the existing legal building site status of the parcel, shall not be construed to establish upon that same, or any adjacent or commonly-owned parcel, building site status.
 - I. Violations of this section shall be subject to enforcement, penalties and abatement under Chapters 17.58 and 17.59 of this title.

(Ord. No. 2012-58 , § 7, 4-10-12)

Ord. No. 2012-58 , § 7, adopted April 10, 2012, set out provisions intended for use as § 17.06.100. For purposes of classification, and at the editor's discretion, these provisions have been included as § 17.06.095.

17.06.100 High-intensity oil and gas operations—Definition.

- A. For the purposes of this chapter, high-intensity oil and gas operations means any of the following uses:
 - 1. Well stimulation treatment — any treatment of a well designed to enhance oil or gas production or recovery by increasing the permeability of the formation. Well stimulation treatments include, but are not limited to, hydraulic fracturing treatments and acid well stimulation treatments, as defined in Title 14 California Code of Regulations Section 1761.
 - 2. Enhanced recovery wells — wells that are injected with brine, water, steam, polymers, carbon dioxide, or other gasses into oil-bearing formations to recover residual oil and in some limited applications natural gas. The injected fluid thins (decreases the viscosity) or displaces small amounts of extractable oil and gas, which is then available for recovery. Examples include waterflood injection that uses imported water, shallow well water or surface water and/or injects chemicals designed for well production increase (other than those found naturally in produced water or which are necessary for routine well maintenance or clarifier use), steamflood injection, and cyclic steam injection.
 - 3. Hydraulic fracturing or "fracking" — a well stimulation treatment that, in whole or in part, includes the pressurized injection of hydraulic fracturing fluid into an underground geologic formation in order to fracture the formation, thereby causing or enhancing the production of oil or gas from a well.
 - 4. Acid fracturing — a well stimulation treatment that, in whole or in part, includes pressurized injection of acid into an underground geologic formation in order to fracture the formation, thereby causing or enhancing the production of oil or gas from a well.
 - 5. Acid matrix stimulation treatment — an acid treatment conducted at pressures lower than the applied pressure necessary to fracture the underground geologic formation.
 - 6. Acid well stimulation treatment — a well stimulation treatment that uses, in whole or in part, the application of one or more acids to the well or underground geologic formation. The acid well stimulation treatment may be at any applied pressure and may be used in combination with hydraulic fracturing treatments or other well stimulation treatments. Acid well stimulation treatments include acid matrix stimulation treatments and acid fracturing treatments.
 - 7. Disposal or storage of the substances used in or the waste or byproducts of the uses listed above, including but not limited to hydraulic fracturing fluid, acid well stimulation fluid, well stimulation treatment fluid, flowback fluid, wastewater or produced water, other than storage associated with transportation through the county for disposal or storage outside of the county.
 - 8. Disposal or storage in pits or sumps of any wastewater or produced water that is a byproduct of the uses listed in Section 17.06.040(I).

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- B. High-Intensity oil and gas operations do not include produced water injection, storage tanks for produced water, and routine well cleaning and maintenance activities. Waterflood injection that does not use imported water, shallow well water or surface water and/or does not inject chemicals designed for well production increase (other than those found naturally in produced water or which are necessary for routine well maintenance or clarifier use) is excluded and does not constitute high-intensity oil and gas operations, as long the injection complies with all applicable state law and regulations.

(Ord. No. 2016-38 , § 1, 8-2-16)

17.06.110 High-intensity oil and gas operations—Prohibited use.

High-intensity oil and gas operations are prohibited in the unincorporated areas of the county. The development, construction, installation, or use of any facility, appurtenance, or above-ground equipment, whether temporary or permanent, mobile or fixed, accessory or principal, in support of high-intensity oil and gas operations is prohibited in the unincorporated areas of the county.

(Ord. No. 2016-38 , § 1, 8-2-16)

17.06.120 High-intensity oil and gas operations—Amortization period.

- A. Within one year of the effective date of this section, the owners and operators of any existing high-intensity oil and gas operations shall bring land uses into conformity with this chapter.
- B. The one-year amortization period permitted by subsection A may be extended on a case-by-case basis if the planning commission determines that a high-intensity oil and gas operations owner or operator has shown that one year is not a reasonable amortization period pursuant to state law and Section 17.06.140. Any extension may be only for the minimum length of time necessary to provide a reasonable amortization period.

(Ord. No. 2016-38 , § 1, 8-2-16)

17.06.130 High-intensity oil and gas operations—Consistent with state and federal law.

The provisions of Sections 17.06.100 through 17.06.120 shall not be applicable to the extent, but only to the extent, they would violate the constitution or laws of the United States or of the State of California.

In the event a property owner contends that application of these provisions effects an unconstitutional taking of property, the property owner may request, and the planning commission may grant, an exception to application of these provisions in accordance with Section 17.06.140.

(Ord. No. 2016-38 , § 1, 8-2-16)

17.06.140 High-intensity oil and gas operations—Nonconforming uses.

- A. A person claiming a vested right to uses prohibited by Sections 17.06.100 through 17.06.120 must apply to the county for a determination that the vested right exists. Notice of the hearing shall be made in accordance with the procedures provided by Section 17.54.830. The determination shall be made by the planning commission, following a public hearing. Upon a determination that the vested right exists, the use may continue subject to the sections of this title concerning nonconforming uses (Sections 17.52.610 through 17.52.730). The determination shall be appealable to the Board of Supervisors pursuant to Sections 17.54.670—17.54.710.

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- B. The applicant for any exemption shall submit as part of the application any and all evidentiary support reasonably available sufficient to establish the basis for the claim of exemption.
- C. A determination of exemption application shall be approved or conditionally approved only if the review authority first makes the following findings:
1. The applicant obtained prior to the effective date of this section, a vested right to conduct high-intensity oil and gas operations;
 2. Approving or conditionally approving the application is required because the applicant has shown that a one year amortization period is not a reasonable amortization period pursuant to state law; and
 3. The extension is no longer than the minimum length of time necessary to provide a reasonable amortization period.
- D. No enforcement action shall be taken against any owner or operator of an existing facility if an application for a determination of exemption has been filed in compliance with this section and the application has not expired, or final action to deny the application has not occurred.

(Ord. No. 2016-38 , § 1, 8-2-16)