

ORDINANCE NO. 2024 - 1241

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH ADDING CHAPTER 8 TO DIVISION 9 OF THE UKIAH CITY CODE ENTITLED "AGRICULTURE" AND AN ARTICLE 1 TO DIVISION 9, CHAPTER 8 ENTITLED "AGRICULTURAL OPERATIONS AND THE RIGHT TO FARM".

The City Council of the City of Ukiah hereby ordains as follows:

SECTION ONE. FINDINGS

1. It is the policy of the City of Ukiah to implement new approaches to local agriculture and strengthen existing City policies regarding preservation and enhancement of regional working lands; and
2. In order to conserve and protect the continued viability of agricultural operations, it is the intention of the City to limit the circumstances under which agricultural operations may be deemed to constitute a nuisance, consistent with the California Agricultural Protection Act (Civil Code § 3482.5); and
3. The proposed ordinance is consistent with the following provisions of the Environment and Sustainability Element and the Agriculture Element of the City of Ukiah's General Plan and would fulfill a General Plan Implementation Program calling for the adoption of a right-to-farm ordinance:
 - Goal ENV-1: Preserve open space land for the commercial agricultural and productive uses, the protection and use of natural resources, the enjoyment of scenic beauty and recreation, protection of tribal resources, and the protection from natural hazards.
 - Goal AG-1: To preserve and strengthen agricultural uses in and around Ukiah that influence the regional economy.
 - Policy AG-1.1 Reduce Agricultural/Urban Conflict
 - Policy AG-1.2 Preserve Agricultural Lands.
 - Implementation Program 8.3 (B) Right to Farm: The City shall adopt a right-to-farm ordinance to ensure appropriate disclosure of agricultural activities both within and adjacent to the City of Ukiah.

SECTION TWO.

A new Chapter 8, entitled "AGRICULTURE" shall be added Division 9 of the Ukiah City Code.

SECTION THREE.

A new Article 1, entitled "AGRICULTURAL OPERATIONS AND THE RIGHT TO FARM" shall be added to Division 9, Chapter 8 of the Ukiah City Code and shall read as follows:

ARTICLE 1 AGRICULTURAL OPERATIONS AND THE RIGHT TO FARM

§9750 PURPOSE AND INTENT.

A. It is declared a statement of policy of this City to preserve and protect existing agricultural operations consistent with Section 8.1 of the Ukiah 2040 General Plan, within the incorporated City. Further, it is the purpose of this Article to declare farming operations not to be a nuisance and to recognize persons' and/or entities' right to farm. To conserve and protect the continued viability of agricultural operations, it is the intention of the City to limit the circumstances under which agricultural operations may be deemed to constitute a nuisance, consistent with the California Agricultural Protection Act, codified at Civil Code Section 3482.5.

B. The City has determined that the use of real property for agricultural operations in the city limits of Ukiah, or such lands that may be annexed into the incorporated City boundaries, is a priority use, and those inconveniences or discomforts arising from legally established agricultural activities or operations, as defined by this Code or state law, shall not be or become a nuisance.

C. As urban development occurs within the City, residential, commercial and industrial land uses will locate adjacent to pre-existing agricultural activities. As a result, agricultural operations may become the subject of nuisance complaints or litigation, and could be pressured to cease or curtail operations, or may be discouraged from making improvements. It is the intent of this Article to reduce the premature conversion of existing agricultural resources by clarifying the circumstances under which an agricultural operation may be considered a nuisance. This Article is not in any way modifying or abridging state law as set out in California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agriculture Code, Division 7 of the Water Code, or any other applicable provisions of state law relative to a nuisance. Instead, it is to be utilized only in the interpretation and enforcement of the provisions of this Article and City regulations.

D. These provisions are not intended to prohibit the conversion of agricultural operations to other uses allowed by the Ukiah 2040 General Plan.

§9751 DEFINITIONS

The meaning and construction of words and phrases defined in this Article shall apply, except where the context clearly indicates a different meaning or construction.

A. "Agricultural activity, operation or facility" (herein collectively referred to as "agricultural operations") shall mean, but not be limited to, cultivation and tillage of soil (including typical fallow periods), the production, irrigation, cultivation, growing, harvesting, processing and storing of any agricultural commodity, including viticulture, horticulture, agriculture, the raising of livestock, dairying, fish, poultry, and commercial practices performed as incident to or in conjunction with such agricultural operation, including preparation for market, delivery to storage or market, or to carriers or transport to market.

B. "Agricultural land" shall mean all real property within the incorporated City boundaries currently used for agricultural operations, or annexed as an agricultural operation.

C. "Director" shall mean the Community Development Director for the City or his or her designated representative.

D. "Land use" shall mean the existing use of property.

E. "Nuisance" shall have the meaning ascribed to that term in California Civil Code Section 3479 and as may be amended. California Civil Code 3479 reads, in part, as follows: "Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the use of property, so as to interfere with the comfortable enjoyment of life or property.....is a nuisance".

F. "Transfer" shall mean, but is not limited to, the sale, exchange or lease of property.

§9752 PREEXISTING AGRICULTURAL OPERATIONS NOT A NUISANCE (RIGHT TO FARM).

A. No agricultural operation, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with the proper and accepted customs and standards as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality. The above shall be the case provided that the agricultural operation has been in operation for more than three (3) years.

B. Subsection A of this Section shall not apply whenever a nuisance results from the negligent or improper handling of any such agricultural operation by person(s) or entities responsible for such operations, and if the agricultural operation obstructs free passage or use in the customary manner of any navigable lake, river, bay, stream, canal, basin or any public park, square, street or highway. Nothing in this Article shall prevent anyone from complaining to any appropriate agency, or taking any other available remedy, concerning any unlawful or improper agricultural practice. Nothing in this Article shall protect the farm operator who is operating in an illegal manner or violating any applicable laws or regulations.

§9753 DISCLOSURE REQUIREMENTS.

A. No person shall transfer real property within the City limits until the following disclosure in the form required by Civil Code Section 1102.6a, subparagraph (b) is made in writing to the transferee and is signed by the transferee. The disclosure shall include a statement containing the following language:

The City of Ukiah recognizes and supports the right to farm property upon which agricultural activities may be legally operated, including but not limited to at any time, noise; lights, odors; fumes; dust; smoke; insects; the operation of machinery (including aircraft); the application of fertilizers, soil amendments, seeds, herbicides, and pesticides; the storage of livestock feed and other agricultural commodities; the storage, application and disposal of manure; and the processing, transport and storage of agricultural products. The City of Ukiah has determined that

inconveniences and discomforts associated with such agricultural operations and activities, conducted in a manner consistent with proper and accepted customs and standards, is not a nuisance.

- B. An owner of rental property within the City limits shall disclose the above in writing to a tenant prior to their rental of the property.
- C. Any transferor of property within the City limits shall insert the disclosure recited above in the deed transferring any right, title or interest in the property to the transferee.
- D. Prior to the issuance of a building permit for the construction of a residence or commercial building within the City limits, the property owner upon which the building is to be constructed shall file with the City a signed and dated acknowledgment of the disclosure set forth above.
- E. All discretionary development approvals administered by the City of Ukiah Community Development Department for lands adjacent to an agricultural operation shall include a reference to this Article. These discretionary development approvals shall include, but not be limited to, the approval of tentative and final maps for residential purposes. The reference to this Article shall make it incumbent upon the individual or entity requesting a discretionary development approval to make a good faith effort to coordinate with the adjacent agricultural operator cropping patterns, harvesting, applications of herbicides and pesticides, and hours of farming operations with the expressed intent to reduce or eliminate the potential conflicts between agricultural and urban land uses.

§9754 PENALTY - VIOLATION

Any violation of the requirements of this Article shall be handled as a civil matter between the parties affected and shall not be a misdemeanor or infraction.

SECTION THREE.

1. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Ukiah hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

2. EFFECTIVE DATE.


This Ordinance shall be published as required by law in a newspaper of general circulation in the City of Ukiah, and shall become effective thirty (30) days after its adoption.

Introduced by title only on August 7, 2024, by the following roll call vote:

AYES: Councilmembers Rodin, Orozco, Sher, Crane, and Mayor Duenas
NOES: None
ABSENT: None
ABSTAIN: None

Adopted on August 21, 2024, by the following roll call vote:

AYES: Councilmembers Rodin, Orozco, Sher, Crane, and Mayor Duenas
NOES: None
ABSENT: None
ABSTAIN: None


Josefina Duenas, Mayor

ATTEST:


Kristine Lawler, CMC/City Clerk