

County of Santa Clara
Department of Planning and Development



24-4411

DATE: March 12, 2024 (Item No. 14)
TO: Board of Supervisors
FROM: Jacqueline R. Onciano, Director, Dept. of Planning and Development
Joseph Deviney, Agricultural Commissioner/Sealer of Weights and Measures
SUBJECT: Update to Williamson Act Program and Implementation of Farmland Security Zone Program

RECOMMENDED ACTION

Consider recommendations relating to proposed updates to the Williamson Act program and implementation of the Farmland Security Zone program. California Environmental Quality Act (CEQA): Separately and independently exempt from CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines. Location: Countywide. File No. PLN20-09-CWP. (Department of Planning and Development/Consumer and Environmental Protection Agency)

Possible action:

- a. Introduce and preliminarily adopt Ordinance No. NS-1203.130, an Ordinance of the Board of Supervisors of the County of Santa Clara repealing and reenacting Division C13 of the Ordinance Code of the County of Santa Clara relating to Williamson Act contracts and Farmland Security Zones.
- b. Approve consolidated and revised program guidelines for administering the Williamson Act and Farmland Security Zone programs effective on the effective date of Ordinance No. NS-1203.130.

COMMITTEE RECOMMENDATIONS

On November 19, 2020 (Item No. 11) and on August 18, 2022 (Item No. 5), the Housing, Land Use, Environment, and Transportation (HLUET) Committee reviewed the proposed modifications and received reports of proposed updates. The composition of HLUET has since changed; the Planning and Development Department recently briefed the current Chair (and new member) of HLUET on the proposed changes and project history.

FISCAL IMPLICATIONS

Enabled by the California legislature, Williamson Act and Farmland Security Zone programs are the most cost-effective voluntary incentives for agricultural preservation. **Packet Pg. 41** local

jurisdictions. Properties enrolled in such programs receive a reduced property tax assessment, which results in reduced revenue to the County General Fund and other public entities that receive property tax revenues.

Implementation of Farmland Security Zone Program

Adoption of a Farmland Security Zone (FSZ) program would allow property owners to enroll in FSZ contracts, which expand upon the Williamson Act program and offer greater tax benefits in exchange for a longer contract term, thereby reducing their property tax rate and the resulting property tax revenue received by the County. A property restricted by an FSZ contract is valued for property assessment purposes at 65% of its Williamson Act valuation, or 65% of its Proposition 13 valuation, whichever is lower. Therefore, in most cases, enrollment in an FSZ contract would result in a 35% reduction on the existing property tax valuation.

If all currently enrolled Williamson Act properties that are eligible to upgrade to an FSZ contract did so, the anticipated net decrease in property taxes would be approximately \$177,427 annually. Administration expects that a small percentage of eligible parcels will choose to enroll in an FSZ contract. It is estimated that if five eligible Williamson Act properties per year chose to enroll in an FSZ contract, the net loss in revenue would be approximately \$3,285 in the first year and slightly more each year thereafter.

The minimum initial term for an FSZ contract is 20 years, as compared to the 10-year term of a Williamson Act contract. FSZ contracts are automatically renewed each year for an additional year unless the property owner or County provides notice of contract renewal, which is the same as Williamson Act contracts.

The Board would need to authorize each individual FSZ contract and could consider any fiscal impacts of the specific contract at that time.

Update to Williamson Act Program

The proposed updates to the Williamson Act program, specifically the definitions of commercial agricultural production, could result in new properties choosing to enroll in the program. General Fund impact, if any, is projected to be minimal. It is difficult to anticipate how many new properties would enroll and what the associated costs would be. As an example, averaged across all current Williamson Act costs and property values, five new contracts per year would result in approximately \$25,170 of annual net loss in revenue.

Based on the proposed changes, the parcels most likely to enroll would be far smaller than average in size and therefore result in a lower net cost per contract.

The Board would need to authorize each individual Williamson Act contract and could consider any fiscal ramifications of the specific contract at that time.

Update to Compatible Use Determination Process

The streamlining of the Compatible Use Determination process discussed in this report would result in a reduction of staff time expended on the Williamson Act program and a reduced fee for property owners, approximately \$500 less per application; on average, staff receive three of these applications per year.

REASONS FOR RECOMMENDATION

The Department of Planning and Development (Department), in coordination with the Agricultural Commissioner's Office, proposes amendments to the Ordinance Code (refer to Attachment A) and an update to the administrative guidelines to implement the Williamson Act and Farmland Security Zone programs (refer to Attachment B). The proposed amendments and updates have been developed to further the goal of preserving Santa Clara Valley's agricultural lands and viability for regional resilience.

As delineated in the 2018 Santa Clara Valley Agricultural Plan (Ag Plan), the preservation of County farms and rangeland directly accrues public benefits in the form of natural infrastructure and ecosystem services, including carbon sequestration, groundwater recharge, wildfire mitigation, sprawl prevention, and reduction of greenhouse gas emissions.

The introduction of a Farmland Security Zone (FSZ) program would offer property owners greater benefits in exchange for an increased commitment to preservation. The proposed changes to the Williamson Act program aim to revitalize this longstanding preservation tool by improving program criteria and application processes. Together, such amendments will ensure the continued relevance of the County's most cost-effective voluntary incentives for agricultural preservation. In summary, the proposed amendments will:

1. Expand agricultural property owner options through the creation of an FSZ program, which builds upon the Williamson Act and offers greater tax benefits in exchange for a longer contract term;
2. Broaden eligibility for commercial agricultural properties to enroll in a Williamson Act or FSZ contract; and,
3. Streamline the process of receiving a Compatible Use Determination (CUD), which is necessary prior to any development, agricultural or otherwise, on a property under a Williamson Act or FSZ contract.

As an implementation measure of the Ag Plan, the Board directed County staff and County Counsel to prepare, for consideration by the Board, proposed amendments to the County's Ordinance Code to establish a Farmland Security Zone Program in unincorporated Santa Clara County and to prepare Administrative Guidelines to implement and administer the

Ordinance (Item No. 20, Legislative File No. 93381). Additional information regarding the FSZ program is available in Legislative File No. 93095 under Item No.5.

In addition to implementing the Board’s direction for the establishment of an FSZ program, staff has prepared updates to the County’s Williamson Act program for Board consideration, namely through the program’s administrative guidelines. The proposed updates are the result of years of outreach to the agricultural community, in a collaborative effort between the Department and the Agricultural Commissioner’s Office to improve this program. Such amendments would unify multiple guideline documents into one document, update the classification of commercial agriculture definitions, and streamline the process for CUD applications. The three sets of proposed changes are discussed in further detail below.

Implementation of Farmland Security Zone Program

The Planning Department is proposing amendments to the County Code to establish a process for the creation of FSZs and related contracts. An FSZ is an area created within an agricultural preserve by a legislative body upon the request by a landowner or group of landowners. To be eligible for an FSZ contract, the land must be designated on the Important Farmland Series maps as either prime farmland, farmland of statewide importance, unique farmland, or farmland of local importance. If the proposed area is not designated on the Important Farmland Series maps, the land shall qualify if it is predominantly prime agricultural land.

FSZ contracts offer landowners greater property tax reductions compared to the Williamson Act. Land restricted by an FSZ contract is valued for property assessment purposes at 65% of its Williamson Act valuation, or 65% of its Proposition 13 valuation, whichever is lower. Therefore, in most cases, enrollment in an FSZ contract would result in a 35% reduction on the existing property tax valuation. The FSZ contract enforceably restricts land to an agricultural use for a minimum initial term of 20 years. Like a Williamson Act contract, FSZ contracts self-renew annually, which means the contract is automatically renewed each year for an additional year, unless either party files a “notice of nonrenewal.” The FSZ process is entirely voluntary for both the landowner and the County. The proposed amendments to the County Code establish an FSZ application and process for approval, administration, and oversight that is aligned with the procedures used for Williamson Act contracts.

Modifications to Commercial Agricultural Use Definitions

All properties enrolled in the Williamson Act or FSZ programs are required to be devoted to commercial agricultural production. The Board has maintained an administrative guideline (*Guideline for Commercial Agricultural Use*) defining “commercial agricultural production” for contracted lands in unincorporated Santa Clara County. The current guideline has not been updated since 2011.

The proposed modifications would restructure the existing commercial agricultural use definitions

by delineating a set of requirements for three general forms of commercial agriculture: cultivation, grazing/livestock, and timber. This change would incorporate a table that is easier to interpret, replacing a list of seven specific categories of agricultural operations, as shown in Attachment C – *Proposed Changes to Commercial Agriculture Definitions*. Property owners would also be given increased flexibility on how they meet the definition of commercial agriculture.

Importantly, the revisions would also eliminate the current County requirement that, to newly enroll in the Williamson Act, a parcel of prime agricultural land must be at least 10 acres in size and a parcel of non-prime agricultural land must be at least 40 acres in size. Under the enacting State legislation for the Williamson Act program, parcels that are a minimum of 10 acres for prime agricultural land and 40 acres for non-prime agricultural land are presumed categorically to be suitable for commercial agricultural use, but there is no requirement to use such standards. The proposed revisions to the definition of commercial agriculture adopt new standards to ensure that the proposed property is supportive of a variety of forms of commercial agriculture.

Attachment C is a summary table comparing the current definitions to the proposed definitions. These new definitions incorporate three modifications to update thresholds and standards to reflect current agricultural conditions in the County:

1. Minimum revenue requirements would be updated from the values established in 2011;
2. Minimum acreage requirements would be modified to allow new, commercially viable farms on properties under 10 acres to enroll; and,
3. A minimum revenue requirement would also apply to properties with grazing operations.

Modifications to Compatible Use Determination Process

The Williamson Act Compatible Use Determination (CUD) is issued by the County for proposed development on Williamson Act contracted lands to ensure the onsite commercial production of agricultural commodities is maintained, and that the proposed development is compatible and incidental to the primary commercial agricultural use (Santa Clara County Code, § C13-15). The CUD process would also apply to lands enrolled in the proposed FSZ program. Under the proposed modifications to the CUD process, all development applications for contracted lands must satisfy the compatibility principles in the County Ordinance Code (Sec. C13-15) and the Williamson Act (Government Code section 51238.1). The proposed modifications replace two specific lists of uses deemed to be compatible in addition to requiring that the use satisfy compatibility principles. Over time these lists of uses have become outdated and misaligned with those in our Zoning Ordinance.

Currently, a property owner must apply for a CUD and pay a fee of \$1,150.

review process, which takes, on average, approximately one to three months to complete. Historically, the CUD process has required that an onsite audit of commercial agricultural activity be conducted *only* when development is proposed, and *every* time development is proposed. This approach has proven problematic because several properties without development proposals have fallen out of compliance, while others in good standing have been required to repeatedly apply for CUDs for each new agricultural structure necessary to their commercial agricultural operation.

Related updates to the program guidelines were approved by the Board on January 28, 2020, (Item No. 27, Legislative File No. 99850) to establish a more robust annual questionnaire process for verification of commercial agricultural use and contract compliance. The new annual verification process is more consistent and reliable and as necessary, can involve contracted lands being audited through site visits and otherwise. With this shift in verification, it is duplicative and no longer necessary that the County require additional auditing of commercial agricultural activity for each time that a development application is submitted.

The proposed modifications would build upon the 2020 amendments and streamline the CUD review using the Planning Clearance application process and the Board-adopted fee of \$519. This would significantly reduce the required staff time involved in processing CUD applications as well as costs to the applicant, making these programs (Williamson Act and FSZ) more efficient and cost-effective to administer.

Attachment D – *CUD Flow Charts* summarizes the current and proposed CUD processes.

Overlap with Open Space Easement Contracts

The program guidelines used for the Williamson Act have historically also referenced the implementation of the Open Space Easement (OSE) program. The proposed amendments and consolidation of these guidelines include the elimination of references to the OSE contracts to avoid any confusion and eliminate redundancies. Although OSE contracts are like Williamson Act and FSZ contracts in certain ways, the County’s OSE program uses entirely different eligibility criteria and standards for evaluating compatible uses, which can be found in Santa Clara County Code, § C13-15 and other existing County guidance documents that have been adopted by the Board (i.e., *Guideline for Policies Governing the Exchange of an Existing Williamson Act Contract for an Open Space Easement* and *Open Space Easement Compatible Use Determination Development Handbook*). Administration has determined that the limited references to OSE contracts in the guidelines being amended and consolidated are duplicative and unnecessary for the continued implementation of the OSE program.

Public Outreach and Stakeholder Feedback

Over the course of many years, the proposed changes were conceived and developed in collaboration with a variety of stakeholders from the County’s diverse a

community and presented to groups like the Santa Clara County Farm Bureau. Staff from the Department and the Agricultural Commissioner’s Office have interviewed representatives of different sectors of the agricultural economy that could take advantage of the Williamson Act and FSZ programs, from ranchers to specialty crop producers to timber operators. The result of such outreach and stakeholder engagement is a set of proposed amendments designed to maximize the ongoing relevance and applicability of the program while minimizing potential for misuse.

California Environmental Quality Act (CEQA)

The Department evaluated the proposed amendments and determined that the subject amendments are exempt from CEQA review pursuant to Sections 15307 and 15308 of the CEQA Guidelines. Separately and independently, the project would be exempt under Section 15307, which exempts actions by regulatory agencies for protection of natural resources, as well as under Section 15308, which exempts actions by regulatory agencies for protection of the environment. The proposed update to the Williamson Act program and implementation of the FSZ program would help to protect and preserve the farmland of Santa Clara County.

CHILD IMPACT

The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT

The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS

Updating and improving the administrative guidelines for the Williamson Act program and adopting the FSZ program will help to preserve and encourage the long-term viability of agriculture and agricultural lands in unincorporated Santa Clara County, recognizing the vital contributions they make to regional resilience and quality of life. These public benefits include natural infrastructure and ecosystem services like carbon sequestration, groundwater recharge, wildfire mitigation, sprawl prevention, and reduction of greenhouse gas emissions, among others.

BACKGROUND

The Williamson Act is a State-authorized agricultural land protection program in which local governments may elect to participate. The program preserves agricultural lands by incentivizing commercial agricultural operations on private property and discouraging development or conversion to non-agricultural uses.

Property owners may voluntarily contract with the County to restrict their land to agricultural and compatible uses. In return, parcel owners receive property tax assessments at a rate that reflects the property's value with the contract restrictions as defined by Revenue & Taxation Code § 423.3 of the California Revenue and Taxation Code et seq., with property tax assessments for contracted land based upon general income as opposed to potential market value of the property. Contract restrictions are enforced through a rolling ten-year contract term, which is renewed annually unless the parcel owner or the County files a notice of nonrenewal.

The Board-adopted Ag Plan identified the Williamson Act as a critical incentive to support and retain agricultural operations. The County has seen more than 20,000 acres of farmland lost to development since the 1980s. Streamlining and refining the Williamson Act program is essential for the preservation of agriculture in unincorporated Santa Clara County.

Starting with development of the Ag Plan, Staff has conducted significant research and outreach on how best to improve the County's Williamson Act program. Over the intervening years, the proposed changes have been refined several times as a result of outreach. The proposed changes aim to find a balance appropriate for a diversity of commodities, without opening the door to misuse of the program. In conducting outreach and developing the proposed changes, the Department worked closely with the Agricultural Commissioner's staff as well as the County's University of California Cooperative Extension (UCCE) agricultural advisors. Staff conferred with representatives of diverse sectors within the agricultural community (e.g., ranching, wineries, field crops, Asian vegetables, etc.) and drafted the proposed changes with an aim to accommodate the full gamut of agricultural operations and parcel types in the County.

2006 Revisions to Williamson Act Program

In 2002, the California Department of Finance, on behalf of the California Department of Conservation (DOC), completed an audit of the County's compliance with the Williamson Act. The audit found the County to be generally in compliance with the Williamson Act. In the State's opinion, however, allowing the subdivision and lot line adjustment of Williamson Act lands, which facilitated the conversion of such land to rural ranchettes, was not consistent with the intent of the Williamson Act.

As a result of the State audit, revisions to the County's Williamson Act administrative policies and guidelines were adopted by the Board on March 14, 2006 (Agenda item #51).

The guidelines were revised to both (1) provide clarification/interpretation of existing contract language, so that County staff and landowners have more definitive guidance regarding what constitutes contract compliance and when/what type of compatible use

development is allowed; and (2) to ensure that the County's administration and enforcement of its Williamson Act program is consistent with State law, including amendments that have been enacted since the existing contracts were approved.

The revisions currently being proposed further clarify and refine the process by which County staff and landowners may determine contract compliance, while also streamlining the compatible use determination process and expanding the eligible types of commercial agricultural operations allowed on contracted lands.

CONSEQUENCES OF NEGATIVE ACTION

If the Board does not take action on the proposed amendments, the County would not update the Williamson Act program or implement the Farmland Security Zone program. Should the Board wish to pursue a different approach, Administration would incorporate Board feedback and bring an amended proposal to the Board for review.

STEPS FOLLOWING APPROVAL

Upon processing, the Clerk of the Board will notify Michael Meehan and Joanna Wilk in the Department of Planning and Development and provide electronic documents with final signatures and adoption dates for inclusion in the Planning Division files. The proposed Ordinance Code amendments would take effect 30 days from the date of Board approval and the Guidelines would take effect upon the effective date of the Ordinance.

ATTACHMENTS:

- Attachment A1 Division C13 Amendments (clean)
- Attachment A2 Division C13 Amendments (redline)
- Attachment B1 Guidelines for Williamson Act + FSZ Contracts (clean)
- Attachment B2 Guidelines for Williamson Act + FSZ Contracts (redline)
- Attachment C Commercial Ag Definition
- Attachment D CUD Flow Charts

ORDINANCE NO. NS-1203.130

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF SANTA CLARA REPEALING AND
REENACTING DIVISION C13 OF THE ORDINANCE
CODE OF THE COUNTY OF SANTA CLARA RELATING
TO WILLIAMSON ACT CONTRACTS AND FARMLAND
SECURITY ZONES**

Summary

The ordinance adds provisions governing Farmland Security Zones, clarifies eligibility and qualifying uses of land for Williamson Act contracts, clarifies review procedures for compatible use determinations, and makes minor language changes for consistency.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1. Division C13 of the Ordinance Code of the County of Santa Clara relating to Land Preservation Contracts is hereby repealed in its entirety and reenacted to read as follows:

DIVISION C13

LAND PRESERVATION CONTRACTS

CHAPTER I. WILLIAMSON ACT CONTRACTS

ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS

Sec. C13-1. Purpose.

This Division sets forth the requirements for county agricultural preserves and contracts pursuant to the California Land Conservation Act of 1965 (“Williamson Act”), Government Code section 51200 et seq.

Sec. C13-2. Definitions.

The following definitions apply to this Chapter:

- (a) All definitions in the Williamson Act, including but not limited to those in Government Code section 51201.
- (b) *Contract* means a land conservation contract pursuant to the Williamson Act.
- (c) *Contracted land* means real property restricted by a land conservation contract

pursuant to the Williamson Act and this Chapter.

Sec. C13-3. Relationship to other laws.

If there is any irreconcilable conflict between any provision of this Chapter and any federal or state law, the federal or state law prevails. Any provision of this Chapter that is more stringent than federal or state law is intended to supplement, not conflict with, federal or state law and to apply unless a court of law conclusively determines that the provision is preempted.

ARTICLE 2. AGRICULTURAL PRESERVES

Sec. C13-4. Purpose and authority.

This Article sets forth the procedural and substantive requirements for establishing, disestablishing, and altering the county agricultural preserves pursuant to Government Code sections 51230 through 51239. The county agricultural preserves define the boundaries of those areas within the county that contain lands eligible for consideration for contracts pursuant to the Williamson Act. The establishment, disestablishment, or alteration of an agricultural preserve is a legislative act that requires approval by resolution of the Board of Supervisors.

Sec. C13-5. Criteria for establishing, disestablishing, or altering agricultural preserves.

All of the following criteria apply to the establishment, disestablishment, or alteration of an agricultural preserve, whether initiated by the County or a land owner:

- (a) Each agricultural preserve shall contain at least 100 contiguous acres of land unless the Board of Supervisors finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area and that such preserve is consistent with the County general plan and zoning ordinance.
- (b) The use of any land within an agricultural preserve shall be restricted by zoning that is compatible with the agricultural use of the lands within the preserve that are subject to contracts. Such zoning restrictions include appropriate minimum parcel sizes consistent with the Williamson Act and this Chapter.
- (c) No agricultural preserve may be disestablished or altered to remove land from the agricultural preserve if removal of the land would cause or contribute to the premature or unnecessary conversion of agricultural land to urban uses or to significant encroachment of incompatible land uses into the immediate vicinity of contracted land.
- (d) All agricultural preserves shall comply with the County general plan and zoning ordinance.

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Sec. C13-6. Land owner proposals to establish, disestablish, or alter an agricultural preserve.

- (a) A land owner whose property is devoted to agricultural use but is not within an established agricultural preserve may apply to have the property included in a new or existing agricultural preserve. To initiate this process, the land owner shall file an application prepared by the County for that purpose with the Clerk of the Board of Supervisors.
- (b) A land owner whose property is included in an agricultural preserve and who wishes to have that property excluded from an agricultural preserve may apply to disestablish or alter the boundaries of the agricultural preserve in which the property is located to exclude the property. To initiate this process, the land owner shall file an application prepared by the County for this purpose with the Clerk of the Board of Supervisors.
- (c) Any application submitted pursuant to this section shall be accompanied by payment of all applicable fees established by resolution of the Board of Supervisors.
- (d) Within 30 days of receiving a complete application, the Planning Office will prepare a report for the Board of Supervisors analyzing whether the proposal meets the requirements of the Williamson Act and this Chapter and will file this report with the Clerk of the Board of Supervisors. Upon receipt of the report from the Planning Office, the Clerk will set the application for public hearing.
- (e) No application submitted pursuant to this section will be approved by the Board of Supervisors unless it meets all of the criteria in section C13-5.

Sec. C13-7. Notice and hearing requirements.

- (a) A noticed public hearing will be held before any final action is taken to establish, disestablish, or alter the boundary of any agricultural preserve.
- (b) Notice of the public hearing to establish, disestablish, or alter an agricultural preserve will be provided in compliance with all of the following:
 - (1) By publication pursuant to Government Code section 6061;
 - (2) By written, mailed notice at least two weeks prior to the hearing to the Local Agency Formation Commission;
 - (3) By written, mailed notice at least two weeks prior to the hearing to any city within one mile of the exterior boundaries of the agricultural preserve proposed to be established, disestablished, or altered;
 - (4) By written, mailed notice to the applicant; and
 - (5) If land is to be removed from an agricultural preserve, by written notice sent by

certified mail to each owner of contracted land within one mile of the exterior boundary of the land to be removed.

Sec. C13-8. Recording revised agricultural preserve map.

Whenever an agricultural preserve is established, disestablished, or altered, the Clerk of the Board of Supervisors will file the adopted resolution and map showing all of the county agricultural preserves, as revised, with the Clerk-Recorder.

ARTICLE 3. CONTRACTS

Sec. C13-9. Purpose and authority.

This Article sets forth requirements for contracts between land owners and the County pursuant to the Williamson Act. This Chapter is intended to supplement any other applicable state and local laws, ordinances, regulations, and guidelines.

Part 1. Applications for Contracts

Sec. C13-10. Application process and fees.

- (a) A land owner whose property is devoted to agricultural use and is within an agricultural preserve may file an application for a contract with the Clerk of the Board of Supervisors on a form prepared by the County. An application shall be accompanied by all of the following:
 - (1) All applicable fees as established by resolution of the Board of Supervisors; and
 - (2) A completed contract in a form prepared by County Counsel with notarized signatures of all land owners and all required attachments.
- (b) The County may request additional information from the land owner during the application review process to facilitate a thorough and timely review of the application.
- (c) Applications to simultaneously rescind a contract and reenter into a new contract pursuant to the Williamson Act shall be processed in the same manner as applications for new contracts. Applications to simultaneously rescind a contract and enter into an Open-Space Easement Agreement pursuant to chapter II of this Division shall be processed as an application for an Open-Space Easement Agreement pursuant to chapter II. Applications to simultaneously rescind a contract and enter into a Farmland Security Zone contract pursuant to chapter III of this Division shall be processed as an application for a Farmland Security Zone contract pursuant to chapter III.

Sec. C13-11. Report to Board of Supervisors.

- (a) Upon receipt of an application for a contract, the Clerk of the Board of Supervisors will transmit a copy of the completed application to the Planning Office, County Surveyor,

Agricultural Commissioner, Office of the Assessor, and Office of the County Counsel.

- (b) Within 60 days of receiving a complete application, the Planning Office will prepare a report to the Board of Supervisors. The Office of the Assessor, County Surveyor, and County Counsel will provide the Planning Office with any relevant information to assist with preparation of the report. The report will contain an analysis of whether the land meets the criteria for a contract in the Williamson Act, this Chapter, and any other local ordinances and guidelines.

Sec. C13-12. Criteria for evaluating contract applications.

- (a) No application for a Williamson Act contract will be approved unless all of the following criteria are met:
 - (1) All parcels proposed for inclusion in the contract are devoted to an agricultural use that meets one of the definitions of commercial agriculture in the *Guidelines for Williamson Act and Farmland Security Zone Programs* adopted by the Board of Supervisors; and
 - (2) There are no existing or permitted uses or development on the land that would significantly displace or interfere with the agricultural use of the land.
- (b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

Sec. C13-13. Recording of contracts.

The Clerk of the Board of Supervisors shall record any executed contract with the Clerk-Recorder within 20 days after the Board of Supervisors executes the contract and no later than December 31 of the calendar year in which it was executed.

Part 2. Use and Development of Contracted Lands

Sec. C13-14. General provisions.

The use and development of all contracted land shall at all times comply with the Williamson Act, this Chapter, the terms of the Williamson Act contract, and any other applicable state and local laws, regulations, ordinance, and guidelines.

Sec. C13-15. Compatible uses and development.

- (a) All use or development of any contracted land shall comply with Government Code section 51238.1 and all of the following criteria:
 - (1) Agricultural use shall be the primary use of contracted land before any other use or development is allowed.

- (2) The proposed use or development is compatible with and will not significantly compromise the long-term productive agricultural capability of any contracted land within the agricultural preserve, including the land upon which the use or development is proposed to occur;
- (3) The proposed use or development will not significantly displace or impair current or reasonably foreseeable agricultural operations on the land upon which the use or development is proposed to occur. A use or development that significantly displaces agricultural operations on the land upon which the use or development is proposed to occur may, in the County's discretion, be deemed compatible if the uses or development relate directly to the production of commercial agricultural products on that parcel or nearby parcels (e.g., harvesting, processing, or shipping of locally produced commercial agricultural products).
- (4) The proposed use or development will not substantially interfere with the agricultural use of the land upon which the use or development is proposed to occur;
- (5) The portion of the parcel to remain in agricultural use shall be capable of sustaining a commercially viable agricultural use;
- (6) The proposed use or development will not hinder or impair agricultural operations in the area by significantly increasing the permanent or temporary human population of the area;
- (7) The proposed use or development does not constitute a residential subdivision; and
- (8) The proposed use or development complies with all other federal, state, and local laws, regulations, ordinances, and guidelines, including the County general plan, this Code, and the *Guidelines for Williamson Act and Farmland Security Zone Programs* adopted by the Board of Supervisors.

Sec. C13-16. Compatible use determinations.

- (a) Prior to undertaking any development or use on contracted land, the land owner shall apply for and obtain a compatible use determination from the County. The land owner shall file an application with the Planning Office on a form prepared for this purpose together with an application fee in an amount established by resolution of the Board of Supervisors.
- (b) Staff from the Planning Office and Agricultural Commissioner's Office shall collectively review and determine whether the proposed use or development is compatible with the contract for the property, the Williamson Act, this Chapter, and any adopted guidelines.
- (c) Any interested person may appeal the staff determination made pursuant to subsection (b)

to a review committee comprised of the Agricultural Commissioner and the Director of Planning and Development. Any such appeal shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.

- (d) Any interested person may appeal the review committee determination made pursuant to subsection (c) to the Board of Supervisors, which shall hear and decide the matter de novo and approve, disapprove, or modify the review committee's determination. Any such appeal shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors. Notice of the hearing shall be provided in conformance with section C13-7(b).

Part 3. Contract Termination

Sec. C13-17. General provisions.

A contract may only be terminated in a manner consistent with state law and this Chapter.

Sec. C13-18. Contract nonrenewal.

- (a) If either the land owner or the County desires in any year not to renew a contract, or portion of a contract, the nonrenewing party shall serve written notice of nonrenewal of the contract upon the other party before the annual renewal date of the contract. A notice of nonrenewal served by the land owner shall be addressed to the Clerk of the Board of Supervisors, shall be filed with or postmarked at least 90 days prior to the annual renewal date of the contract, and shall identify the parcels to be nonrenewed by Assessor's parcel number. A notice of nonrenewal served by the County shall be mailed to the address shown on the latest assessment roll for the property, and shall be postmarked at least 60 days prior to the annual renewal date of the contract.
- (b) If no notice of nonrenewal is filed in compliance with the deadlines in subsection (a), the contract will be automatically renewed for another year.
- (c) If a notice of nonrenewal is filed after the applicable deadline in subsection (a), the notice will be deemed to apply to the next annual renewal period.
- (d) If a land owner objects to a contract nonrenewal initiated by the County applicable to the owner's land, the owner may file a written protest with the County by December 1 of the calendar year in which the notice of nonrenewal was served. The Board of Supervisors may, in its discretion, withdraw the notice of nonrenewal at any time prior to the contract's annual renewal date.
- (e) During November of each calendar year, the Clerk of the Board of Supervisors will provide a report to the Board of Supervisors identifying all nonrenewal requests received from land owners pursuant to subsection (a).

- (f) The Clerk of the Board of Supervisors will record all notices of nonrenewal with the Clerk-Recorder within 20 days of serving or receiving a notice of nonrenewal.
- (g) The Board of Supervisors may delegate its authority to send and withdraw notices of nonrenewal to any County official, department, or employee.

Sec. C13-19. Contract cancellation.

Any petition to cancel a land conservation contract shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition shall be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The petition will be processed in accordance with the Williamson Act.

Part 4. Contract Compliance and Enforcement

Sec. C13-20. Annual agricultural preserve questionnaire.

By December 31 of each year, the Office of the Assessor mails an agricultural preserve questionnaire to the mailing address of the owner or other person identified on the Assessor's roll as responsible for the payment of property taxes for the parcel. Each owner of contracted land shall return the completed questionnaire to the Office of the Assessor by the following April 10. The Office of the Assessor will provide a copy of the non-confidential information on each returned questionnaire, and a list of parcels for which no questionnaire was returned, to the Planning Office. Those properties for which a completed questionnaire was not returned may be subject to an investigation by the Planning Office and/or Agricultural Commissioner regarding whether the parcel is in compliance with the contract, the Williamson Act, and other state and local laws, regulations, ordinances and guidelines. A land owner who fails to return the completed questionnaire by the April 10 deadline may be charged an investigation fee in an amount established by resolution of the Board of Supervisors.

Sec. C13-21. Audits and inspections.

- (a) The County may audit any contracted land for compliance with the contract, the Williamson Act, and other state and local laws, regulations, ordinances, and guidelines. Such audits may include reviewing available documentation such as aerial photographs and agricultural preserve questionnaires and contacting the land owner or manager to obtain additional information or documentation.
- (b) If the County has probable cause to suspect that contracted land is not in compliance, it may contact the land owner to arrange for an inspection of the property by the County's officers, employees, contractors, or agents. The County shall give the land owner at least 48 hours' written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County will make a reasonable attempt to accommodate the land owner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 am to 5:00 pm).

Sec. C13-22. Material breaches of contract.

The County will fulfill its enforcement responsibilities for material breaches of contracts as defined in the Williamson Act pursuant to Government Code section 51250.

Sec. C13-23. Judicial relief.

- (a) In addition to any other remedies provided by state law or this Chapter, including but not limited to Government Code sections 51250 and 51251, if the County determines that a contract has been or is being violated, the Office of the County Counsel may bring an action on behalf of the County in a court of law for an appropriate remedy.
- (b) If a court determines that a contract was violated, in addition to any other relief granted by the court, the court may order the land owner to reimburse the County for its costs, including but not limited to staff time and attorneys’ fees, associated with investigating the violation and bringing the enforcement action.
- (c) Nothing in this Chapter is intended to limit a court’s ability to grant any relief or issue any order that it deems appropriate in its discretion, including but not limited to specific performance or injunctive or equitable relief.

Part 5. Fees

Sec. C13-24. Fees.

The Board of Supervisors may adopt by resolution any fees necessary to ensure that the County recovers its costs associated with administering and enforcing the Williamson Act and contracts executed thereunder. Such fees shall not exceed the amount reasonably necessary to recover the cost of providing the product or service or the cost of enforcing any law or ordinance for which the fee is levied. The fee may reflect the average cost of providing any product or service or enforcing any law or ordinance.

Part 6. Disclosure Requirements

Sec. C13-25. Real estate transfer disclosure statement.

Pursuant to Civil Code section 1102.6a, prior to any transfer of contracted land by sale, exchange, installment land sale contract (as defined in Civil Code section 2985), lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or real property or residential stock cooperative, improved with or consistent of not less than one nor more than four dwelling units, the transferor shall provide the following disclosure: “The real property that is the subject of this transaction is subject to a contract pursuant to the California Land Conservation Act of 1965 (“Williamson Act”), Government Code section 51200 et seq., which requires that the land be devoted to agricultural use and imposes restrictions on the use and development of the land.” This disclosure shall be provided on a form substantially similar to that provided in Civil Code section 1102.6a or section B29-4 of this Code. The transferor shall

ensure that the transferee signs the disclosure prior to completing the transfer.

Secs. C13-26—C13-29. Reserved.

CHAPTER II. OPEN SPACE EASEMENT AGREEMENTS

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

Sec. C13-30. Purpose.

This Division sets forth requirements for open space easement agreements pursuant to the Open-Space Easement Act of 1974, Government Code section 51070 et seq.

Sec. C13-31. Definitions

The following definitions apply to this Chapter:

- (a) All definitions in the Open-Space Easement Act of 1974 and definitions referenced therein.
- (b) Agreement means an open space easement agreement pursuant to the Open-Space Easement Act of 1974.
- (c) Restricted land means real property restricted by an open space easement agreement pursuant to the Open-Space Easement Act of 1974 and this Chapter.

Sec. C13-32. Relationship to other laws.

If there is any irreconcilable conflict between any provision of this Chapter and any federal or state law, the federal or state law prevails. Any provision of this Chapter that is more stringent than federal or state law is intended to supplement, not conflict with, federal or state law and to apply unless a court of law conclusively determines that the provision is preempted.

ARTICLE 2. AGREEMENTS

Sec. C13-33. Purpose and authority.

This Article sets requirements for agreements between land owners and the County pursuant to the Open-Space Easement Act of 1974. This Chapter is intended to supplement any other applicable state and local laws, ordinances, regulations, and guidelines.

Part 1. Applications for Agreements

Sec. C13-34. Application process and fees.

- (a) A land owner whose property constitutes open-space land as defined in Government Code sections 51075(a) and 65560 may file an application for an agreement with the

Clerk of the Board of Supervisors on a form prepared by the County. An application shall be accompanied by all of the following:

- (1) All applicable fees as established by resolution of the Board of Supervisors; and
 - (2) A completed agreement in a form prepared by County Counsel with notarized signatures of all land owners and all required attachments.
- (b) The County may request additional information from the land owner during the application review process to facilitate a thorough and timely review of the application.
- (c) Applications to simultaneously rescind a Williamson Act contract and enter into an agreement pursuant to this Chapter will be processed in the same manner as applications for unrestricted land.

Sec. C13-35. Report to Board of Supervisors.

- (a) Upon receipt of an application for an agreement, the Clerk of the Board of Supervisors will transmit a copy of the completed application to the Planning Office, County Surveyor, Office of the Assessor, and Office of the County Counsel.
- (b) Within 60 days of receiving a complete application, the Planning Office will prepare a report to the Board of Supervisors. The Office of the Assessor, County Surveyor, and Office of the County Counsel will provide the Planning Office with any relevant information to assist with preparation of the report. The report will contain an analysis of whether the land meets the criteria for an agreement in the Open-Space Easement Act of 1974, this Chapter, and any other applicable County ordinances and guidelines, including whether the agreement is consistent with the County General Plan.

Sec. C13-36. Criteria for evaluating applications for agreements.

- (a) No application for an agreement will be approved unless all of the following criteria are met:
- (1) The land proposed for inclusion in the agreement is at least 20 acres in size;
 - (2) All parcels proposed for inclusion in the agreement are devoted to open space;
 - (3) There are no other existing or permitted uses or development on the land that would significantly impair the open-space value of the land; and
 - (4) The Board makes the required findings in Government Code section 51084.
- (b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

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Sec. C13-37. Recording of agreements.

The Clerk of the Board of Supervisors shall record any executed agreement with the Clerk-Recorder within 20 days after the Board of Supervisors executes the agreement and no later than December 31 of the calendar year in which it was executed.

Part 2. Use and Development of Land Subject to an Agreement

Sec. C13-38. General provisions.

The use and development of all restricted land shall at all times comply with the Open-Space Easement Act of 1974, this Chapter, the terms of the agreement, and any other applicable state or local laws, regulations, ordinances and guidelines.

Sec. C13-39. Compatible uses and development.

- (a) All use or development of any restricted land shall comply with all of the following criteria:
 - (1) The proposed use or development effectively preserves for public use or enjoyment the natural or scenic character of the land;
 - (2) The proposed use or development does not significantly impair the open-space character of the land;
 - (3) The proposed use or development is not a subdivision; and
 - (4) The proposed use or development complies with all other federal, state and local laws, regulations, ordinances and guidelines, including the County general plan and this Code.

- (b) The following uses and development have been determined by the Board of Supervisors to be compatible with the open-space use of restricted land if all of the criteria in subsection (a) are met:
 - (1) Residential:
 - a. “Residence, Single-Family,” as defined in section 2.10.030 of the Zoning Ordinance.
 - b. “Residential Accessory” Structures and Uses” as defined in section 2.10.030 of the Zoning Ordinance.
 - c. “Agricultural Employee Housing” as defined in section 2.10.030 of the Zoning Ordinance.
 - (2) Open space accessory uses related to the maintenance, enjoyment or operation of

the open space use of the land, including:

- a. Storage and maintenance facilities.
 - b. Restrooms.
 - c. Trail markers.
 - d. Informational displays.
- (3) Agricultural accessory uses that support the agricultural use of the land, including:
- a. Agricultural Accessory Structures and Uses as defined in section 2.10.040 of the Zoning Ordinance.
 - b. “Agricultural Processing - Small Scale” as defined in section 2.10.040 of the Zoning Ordinance.
 - c. “Agricultural Sales - Limited” as defined in section 2.10.040 of the Zoning Ordinance.
 - d. “Agriculturally-Related Entertainment and Commercial Uses” as defined in section 2.10.040 of the Zoning Ordinance.
- (4) Recreational uses, including:
- a. “Hunting and Fishing Preserves” as defined in section 2.10.040 of the Zoning Ordinance.
 - b. Public or private riding or hiking trails.
 - c. Public or private stables and boarding of horses or other livestock.
 - d. “Camps & Retreats” as defined in section 2.10.040 of the Zoning Ordinance.
- (5) “Utilities - Minor” as defined in section 2.10.040 of the Zoning Ordinance.
- (6) Miscellaneous:
- a. A “Bed and Breakfast Inn” as defined in section 2.10.040 of the Zoning Ordinance.

Sec. C13-40. Compatible use determinations.

- (a) Prior to undertaking any development or use on restricted land, the land owner shall apply for and obtain a compatible use determination from the County. The land owner

shall file an application with the Planning Office on a form prepared for this purpose together with an application fee in an amount established by resolution of the Board of Supervisors.

- (b) Staff from the Planning Office will determine whether the proposed use or development is compatible with the agreement for the property, the Open-Space Easement Act of 1974, this Chapter, and any adopted guidelines.
- (c) Any interested person may appeal the staff determination made pursuant to subsection (b) to the Director of Planning and Development. Any such appeal shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.
- (d) Any interested person may appeal the determination made pursuant to subsection (c) to the Board of Supervisors, which will review the Planning Office's determination de novo. Any such appeal shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors. Notice of the hearing shall be provided in conformance with section C13-7(b).

Part 3. Agreement Termination

Sec. C13-41. General provisions.

An agreement may only be terminated in a manner consistent with state law and this Chapter.

Sec. C13-42. Agreement nonrenewal.

- (a) If either the land owner or the County desires in any year not to renew an agreement, the nonrenewing party shall serve written notice of nonrenewal of the agreement upon the other party before the annual renewal date of the agreement. A notice of nonrenewal served by the land owner shall be addressed to the Clerk of the Board of Supervisors and be filed with or postmarked at least 90 days prior to the annual renewal date of the contract. A notice of nonrenewal served by the land owner shall be addressed to the Clerk of the Board of Supervisors, shall be filed with or postmarked at least 90 days prior to the annual renewal date of the agreement, and shall identify the parcels to be nonrenewed by Assessor's parcel number. A notice of nonrenewal served by the County shall be mailed to the address shown on the latest assessment roll for the property, and shall be postmarked at least 60 days prior to the annual renewal date of the agreement.
- (b) If no notice of nonrenewal is filed in compliance with the deadlines in subsection (a), the contact will be automatically renewed for another year.
- (c) If a notice of nonrenewal is filed after the applicable deadline in subsection (a), the notice will be deemed to apply to the next annual renewal period.

- (d) If a land owner objects to an agreement nonrenewal initiated by the County applicable to the owner's land, the owner may file a written protest with the County by December 1 of the calendar year in which the notice of nonrenewal was served. The Board of Supervisors may, in its discretion, withdraw the notice of nonrenewal at any time prior to the agreement's annual renewal date.
- (e) During November of each calendar year, the Clerk of the Board of Supervisors will provide a report to the Board of Supervisors identifying all nonrenewal requests received pursuant to subsection (a).
- (f) The Clerk of the Board of Supervisors will record all notices of nonrenewal with the Clerk-Recorder within 20 days of serving or receiving a notice of nonrenewal.
- (g) The Board of Supervisors may delegate its authority to send and withdraw notices of nonrenewal to any County official, department, or employee.

Sec. C13-43. Agreement abandonment.

Any petition to abandon an agreement shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition shall be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The petition will be processed in accordance with the Open-Space Easement Act of 1974.

Part 4. Agreement Compliance and Enforcement

Sec. C13-44. Audits and inspections.

- (a) The County may audit any restricted land for compliance with the agreement, the Open-Space Easement Act of 1974, and other state and local laws, regulations, ordinances and guidelines. Such audits may include reviewing available documentation such as aerial photographs and contacting the land owner or manager to obtain additional information or documentation.
- (b) If the County has probable cause to suspect that restricted land is not in compliance, it may contact the land owner to arrange for an inspection of the property by the County's officers, employees, contractors or agents. The County shall give the land owner at least 48 hours' written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County will make a reasonable attempt to accommodate the land owner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.).

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Sec. C13-45. Judicial relief.

- (a) In addition to any other remedies provided by state law or this Chapter, including but not limited to Government Code section 51086, if the County determines that an agreement has been or is being violated, the Office of the County Counsel may bring an action on behalf of the County in a court of law for an appropriate remedy.
- (b) If a court determines that an agreement was violated, in addition to any other relief granted by the court, the court may order the land owner to reimburse the County for its costs, including but not limited to staff time and attorneys' fees, associated with investigating the violation and bringing the enforcement action.
- (c) Nothing in this Chapter is intended to limit a court's ability to grant any relief or issue any order that it deems appropriate in its discretion, including but not limited to specific performance or injunctive or equitable relief.

Part 5. Fees

Sec. C13-46. Fees.

The Board of Supervisors may adopt by resolution any fees necessary to ensure that the County recovers its costs associated with administering and enforcing the Open-Space Easement Act of 1974 and agreements executed thereunder. Such fees shall not exceed the amount reasonably necessary to recover the cost of providing the product or service or the cost of enforcing any law or ordinance for which the fee is levied. The fee may reflect the average cost of providing any product or service or enforcing any law or ordinance.

Part 6. Disclosure Requirements

Sec. C13-47. Real estate transfer disclosure statement.

Pursuant to Civil Code section 1102.6a, prior to any transfer of restricted land by sale, exchange, installment land sale contract (as defined in Civil Code section 2985), lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or real property or residential stock cooperative, improved with or consistent of not less than one nor more than four dwelling units, the transferor shall provide the following disclosure: "The real property that is the subject of this transaction is subject to an open space easement agreement pursuant to the Open-Space Easement Act of 1974, Government Code section 51070 et seq., which requires that the land be devoted to open space and imposes restrictions on the use and development of the land." This disclosure shall be provided on a form substantially similar to that provided in Civil Code section 1102.6a or section B29-4 of this Code. The transferor shall ensure that the transferee signs the disclosure prior to completing the transfer.

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CHAPTER III. FARMLAND SECURITY ZONE CONTRACTS

ARTICLE 1. GENERAL PROVISIONS

Sec. C13-48. Purpose.

This Chapter sets forth requirements for farmland security zone contracts pursuant to Government Code section 51296 *et seq.* In enacting this Chapter III, the Board of Supervisors declares its support to expand options available to landowners for the preservation of agricultural lands and to encourage the creation of longer-term voluntary enforceable restrictions within agricultural preserves.

Sec. C13-49. Land Qualification.

- (a) Except as otherwise provided in subsection (b), farmland security zone contracts shall only apply to land that is designated on the Important Farmland Series maps, on file with the Department of Planning and Development and prepared pursuant to Government Code section 65570, as predominantly one or more of the following:
1. Prime farmland;
 2. Farmland of statewide significance;
 3. Unique farmland; or
 4. Farmland of local importance.
- (b) If the proposed farmland security zone is an area that is not designated on the Important Farmland Series maps, the land shall qualify if it is predominately prime agricultural land, as defined in Government Code section 51201(c).

Sec. C13-50. Application and fees for Farmland Security Zone Contract.

A landowner or group of landowners may apply to the Clerk of the Board of Supervisors on a form prepared by the County to rescind a Williamson Act contract or contracts entered into pursuant to chapter I in order to simultaneously place the land subject to that contract or those contracts under a new contract designating the property as a farmland security zone. A landowner or group of landowners may also apply to the Clerk of the Board of Supervisors to create a farmland security zone for the purpose of directly entering into a farmland security zone contract pursuant to this section. An application shall be accompanied by all applicable fees as established by resolution of the Board of Supervisors and a completed farmland security zone contract in a form prepared by County Counsel with notarized signatures of all landowners and all required attachments.

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Sec. C13-51. Creation of Farmland Security Zone.

- (a) Prior to entering into a farmland security zone contract, the Board of Supervisors shall create a farmland security zone, pursuant to the requirements of section C13-7 and Government Code section 51230 and all of the following:
 - (1) No land shall be included in a farmland security zone unless expressly requested by the landowner;
 - (2) No land located within a city's sphere of influence shall be included within a farmland security zone, unless the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere of influence; and,
 - (3) If more than one landowner requests the creation of a farmland security zone and the parcels are contiguous, the County shall place those parcels in the same farmland security zone.
- (b) Upon termination of a farmland security zone contract, the farmland security zone designation for the parcel(s) shall simultaneously be terminated.

Sec. C13-52. Criteria for evaluating Farmland Security Zone contract applications and recordation of a contract.

- (a) No application for a Farmland Security Zone contract shall be approved by the Board of Supervisors unless all of the following criteria are met:
 - (1) The land is included within a farmland security zone as created by the Board of Supervisors in accordance with section C13-51;
 - (2) The land meets the qualification requirements of section C13-49; and
 - (3) All parcels proposed for inclusion in the farmland security zone contract are devoted to agricultural use.
- (b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.
- (c) The Clerk of the Board of Supervisors shall record any executed contract with the Clerk-Recorder within 20 days after the Board of Supervisors executes the contract and no later than December 31 of the calendar year in which it was executed.

Sec. C13-53. General provisions.

- (a) The term of a farmland security zone contract shall be for an initial term of no less than twenty (20) years. Each contract shall provide that on the anniversary date of the contract or on another annual date as specified by the contract, one year shall be added

automatically to the initial term of the contract unless a notice of nonrenewal is given pursuant to section C13-18.

- (b) The use and development of all contracted land shall at all times comply with Government Code section 51200 *et seq.*, this Chapter, the terms of the farmland security zone contract, and other applicable state and local laws, regulations, ordinances, and guidelines, including the *Guidelines for Williamson Act and Farmland Security Zone Programs* adopted by the Board of Supervisors. If there is any conflict between these sources of authority, state law shall prevail.
- (c) The land subject to a farmland security zone contract shall be eligible for property tax valuation pursuant to Government Code section 51296.2.

Sec. C13-54. Compatible uses and development.

Prior to undertaking any development or use on contracted land, the landowner shall apply for and obtain a compatible use determination from the County pursuant to the requirements of sections C13-14 through C13-16, and subject to the requirements of Government Code section 51296.7.

Sec. C13-55. Contract nonrenewal.

The procedures set forth in section C13-18 shall govern the nonrenewal of any farmland security zone contract.

Sec. C13-56. Contract cancellation.

Any petition to cancel a farmland security zone contract shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The cancellation of a farmland security zone contract shall be processed in accordance with Government Code section 51297.

Sec. C13-57. Contract compliance and enforcement.

The procedures established in sections C13-20 to C13-23 shall govern compliance and enforcement of farmland security zone contracts.

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Sec. C13-58. Real estate transfer disclosure statement.

The real estate disclosure requirements established in section C13-25 shall apply to land subject to a farmland security zone contract.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

SUSAN ELLENBERG, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:

CURTIS BOONE
Acting Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Cristina Stella

CRISTINA STELLA
Deputy County Counsel

2990635

ORDINANCE NO. NS-1203.130

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF SANTA CLARA REPEALING AND
REENACTING DIVISION C13 OF THE ORDINANCE
CODE OF THE COUNTY OF SANTA CLARA RELATING
TO WILLIAMSON ACT CONTRACTS AND FARMLAND
SECURITY ZONES**

Summary

The ordinance adds provisions governing Farmland Security Zones, clarifies eligibility and qualifying uses of land for Williamson Act contracts, clarifies review procedures for compatible use determinations, and makes minor language changes for consistency.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1. Division C13 of the Ordinance Code of the County of Santa Clara relating to Land Preservation Contracts is hereby repealed in its entirety and reenacted to read as follows (this shows a comparison version of the repealed version and new version with additions in underline; deletions in ~~strike through~~):

DIVISION C13

LAND PRESERVATION CONTRACTS

CHAPTER I. WILLIAMSON ACT CONTRACTS

ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS

Sec. C13-1. Purpose.

This ~~d~~Division sets forth the requirements for county agricultural preserves and contracts pursuant to the California Land Conservation Act of 1965 (“Williamson Act”), Government Code ~~§section~~ 51200 et seq.

Sec. C13-2. Definitions.

The following definitions apply to this ~~e~~Chapter:

- (a) All definitions in the Williamson Act, including but not limited to those in Government Code ~~§section~~ 51201.

- (b) *Contract* means a land conservation contract pursuant to the Williamson Act.
- (c) *Contracted land* means real property restricted by a land conservation contract pursuant to the Williamson Act and this eChapter.

Sec. C13-3. Relationship to other laws.

If there is any irreconcilable conflict between any provision of this eChapter and any federal or state law, the federal or state law prevails. Any provision of this eChapter that is more stringent than federal or state law is intended to supplement, not conflict with, federal or state law and to apply unless a court of law conclusively determines that the provision is preempted.

ARTICLE 2. AGRICULTURAL PRESERVES

Sec. C13-4. Purpose and authority.

This aArticle sets forth the procedural and substantive requirements for establishing, disestablishing, and altering the county agricultural preserves pursuant to Government Code §§sections 51230 through 51239. The county agricultural preserves define the boundaries of those areas within the county that contain lands eligible for consideration for contracts pursuant to the Williamson Act. The establishment, disestablishment, or alteration of an agricultural preserve is a legislative act that requires approval by resolution of the Board of Supervisors.

Sec. C13-5. Criteria for establishing, disestablishing, or altering agricultural preserves.

All of the following criteria apply to the establishment, disestablishment, or alteration of an agricultural preserve, whether initiated by the County or a land owner:

- (a) Each agricultural preserve mustshall contain at least 100 contiguous acres of land unless the Board of Supervisors finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area and that such preserve is consistent with the County general plan and zoning ordinance.
- (b) The use of any land within an agricultural preserve mustshall be restricted by zoning that is compatible with the agricultural use of the lands within the preserve that are subject to contracts. Such zoning restrictions include appropriate minimum parcel sizes consistent with the Williamson Act and this eChapter.
- (c) No agricultural preserve may be disestablished or altered to remove land from the agricultural preserve if removal of the land would cause or contribute to the premature or unnecessary conversion of agricultural land to urban uses or to significant encroachment of incompatible land uses into the immediate vicinity of contracted land.
- (d) All agricultural preserves mustshall comply with the County general plan and zoning ordinance.

Sec. C13-6. Land owner proposals to establish, disestablish, or alter an agricultural preserve.

- (a) A land owner whose property is devoted to agricultural use but is not within an established agricultural preserve may apply to have the property included in a new or existing agricultural preserve. To initiate this process, the land owner ~~must~~shall file an application prepared by the County for that purpose with the Clerk of the Board of Supervisors.
- (b) A land owner whose property is included in an agricultural preserve and who wishes to have that property excluded from an agricultural preserve may apply to disestablish or alter the boundaries of the agricultural preserve in which the property is located to exclude the property. To initiate this process, the land owner ~~must~~shall file an application prepared by the County for this purpose with the Clerk of the Board of Supervisors.
- (c) Any application submitted pursuant to this section ~~must~~shall be accompanied by payment of all applicable fees established by resolution of the Board of Supervisors.
- (d) Within 30 days of receiving a complete application, the Planning Office will prepare a report for the Board of Supervisors analyzing whether the proposal meets the requirements of the Williamson Act and this ~~e~~Chapter and will file this report with the Clerk of the Board of Supervisors. Upon receipt of the report from the Planning Office, the Clerk will set the application for public hearing.
- (e) No application submitted pursuant to this section will be approved by the Board of Supervisors unless it meets all of the criteria in section C13-5.

Sec. C13-7. Notice and hearing requirements.

- (a) A noticed public hearing will be held before any final action is taken to establish, disestablish, or alter the boundary of any agricultural preserve.
- (b) Notice of the public hearing to establish, disestablish, or alter an agricultural preserve will be provided in compliance with all of the following:
 - (1) By publication pursuant to Government Code ~~§~~section 6061;
 - (2) By written, mailed notice at least two weeks prior to the hearing to the Local Agency Formation Commission;
 - (3) By written, mailed notice at least two weeks prior to the hearing to any city within one mile of the exterior boundaries of the agricultural preserve proposed to be established, disestablished, or altered;
 - (4) By written, mailed notice to the applicant; and
 - (5) If land is to be removed from an agricultural preserve, by written notice sent by

certified mail to each owner of contracted land within one mile of the exterior boundary of the land to be removed.

Sec. C13-8. Recording revised agricultural preserve map.

Whenever an agricultural preserve is established, disestablished, or altered, the Clerk of the Board of Supervisors will file the adopted resolution and map showing all of the county agricultural preserves, as revised, with the Clerk-Recorder.

ARTICLE 3. CONTRACTS

Sec. C13-9. Purpose and authority.

This ~~a~~Article sets forth requirements for contracts between land owners and the County pursuant to the Williamson Act. This ~~e~~Chapter is intended to supplement any other applicable state and local laws, ordinances, regulations, and guidelines.

Part 1. Applications for Contracts

Sec. C13-10. Application process and fees.

- (a) A land owner whose property is devoted to agricultural use and is within an agricultural preserve may file an application for a contract with the Clerk of the Board of Supervisors on a form prepared by the County. An application ~~must~~shall be accompanied by all of the following:
 - (1) All applicable fees as established by resolution of the Board of Supervisors; and
 - (2) A completed contract in a form prepared by County Counsel with notarized signatures of all land owners and all required attachments.
- (b) The County may request additional information from the land owner during the application review process to facilitate a thorough and timely review of the application.
- (c) Applications to simultaneously rescind a contract and reenter into a new contract pursuant to the Williamson Act ~~will~~shall be processed in the same manner as applications for new contracts. Applications to simultaneously rescind a contract and enter into an Open-Space Easement Agreement pursuant to chapter II of this ~~d~~Division shall be processed as an application for an Open-Space Easement Agreement pursuant to chapter II. Applications to simultaneously rescind a contract and enter into a Farmland Security Zone contract pursuant to chapter III of this Division shall be processed as an application for a Farmland Security Zone contract pursuant to chapter III.

Sec. C13-11. Report to Board of Supervisors.

- (a) Upon receipt of an application for a contract, the Clerk of the Board of Supervisors will transmit a copy of the completed application to the Planning Office, County Surveyor,

Agricultural Commissioner, Office of the Assessor, and Office of the County Counsel.

- (b) Within 60 days of receiving a complete application, the Planning Office will prepare a report to the Board of Supervisors. The Office of the Assessor, County Surveyor, and County Counsel will provide the Planning Office with any relevant information to assist with preparation of the report. The report will contain an analysis of whether the land meets the criteria for a contract in the Williamson Act, this eChapter, and any other local ordinances and guidelines.

Sec. C13-12. Criteria for evaluating contract applications.

- (a) No application for a Williamson Act contract will be approved unless all of the following criteria are met:

~~(1) — The property proposed for inclusion in the contract is at least ten acres in size in the case of prime agricultural land, and 40 acres in size in the case of nonprime agricultural land;~~

~~(2)~~(1) All parcels proposed for inclusion in the contract are devoted to an agricultural use that meets one of the definitions of commercial agriculture in the Guidelines for Williamson Act and Farmland Security Zone Programs adopted by the Board of Supervisors; and

~~(3)~~(2) There are no existing or permitted uses or development on the land that would significantly displace or interfere with the agricultural use of the land.

- (b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

Sec. C13-13. Recording of contracts.

The Clerk of the Board of Supervisors ~~must~~shall record any executed contract with the Clerk-Recorder within 20 days after the Board of Supervisors executes the contract and no later than December 31 of the calendar year in which it was executed.

Part 2. Use and Development of Contracted Lands

Sec. C13-14. General provisions.

The use and development of all contracted land ~~must~~shall at all times comply with the Williamson Act, this eChapter, the terms of the Williamson Act contract, and any other applicable state and local laws, regulations, ordinance, and guidelines.

Sec. C13-15. Compatible uses and development.

- (a) All use or development of any contracted land ~~must~~shall comply with Government Code section 51238.1 and all of the following criteria:

- (1) ~~Contracted~~ Agricultural use shall be the primary use of contracted land ~~must be devoted to agricultural use~~ before any other use or development is allowed.
- (2) The proposed use or development is compatible with and will not significantly compromise the long-term productive agricultural capability of any contracted land within the agricultural preserve, including the land upon which the use or development is proposed to occur;
- (3) The proposed use or development will not significantly displace or impair current or reasonably foreseeable agricultural operations on the land upon which the use or development is proposed to occur. A use or development that significantly displaces agricultural operations on the land upon which the use or development is proposed to occur may, in the County's discretion, be deemed compatible if the uses or development relate directly to the production of commercial agricultural products on that parcel or nearby parcels (e.g., harvesting, processing, or shipping of locally produced commercial agricultural products).
- (4) The proposed use or development will not substantially interfere with the agricultural use of the land upon which the use or development is proposed to occur;
- (5) The portion of the parcel to remain in agricultural use ~~must~~ shall be capable of sustaining a commercially viable agricultural use;
- (6) The proposed use or development will not hinder or impair agricultural operations in the area by significantly increasing the permanent or temporary human population of the area;
- (7) The proposed use or development does not constitute a residential subdivision; and
- (8) The proposed use or development complies with all other federal, state, and local laws, regulations, ordinances, and guidelines, including the County general plan ~~and~~ this Code, ~~and~~ the Guidelines for Williamson Act and Farmland Security Zone Programs adopted by the Board of Supervisors.

~~(b) — With respect to contracts executed prior to January 1, 2006, the following uses and development have been determined by the Board of Supervisors to be presumptively compatible with agricultural use of contracted land if all of the criteria in subsection (a) are also met:~~

~~(1) — Residential uses incidental to the agricultural use of the land, including:~~

~~a. — Single family homes for the property owner or lessee, which includes stockholders in family corporations, beneficiaries of family trusts and estates, owners of undivided partial interests in the fee, and joint tenants.~~

- ~~b. — Dwellings for persons employed in the agricultural use of land or structures used to provide educational experiences or day-care facilities for their children, provided the use is nonprofit and not open to the general public.~~
 - ~~c. — Temporary farm labor camps incidental and necessary to the gathering of the crops grown on the land.~~
 - ~~d. — Residential care facilities for persons actively participating in agriculture as a prime component of their training or recreation.~~
 - ~~e. — Facilities to be used as bed and breakfast inns with a maximum of six guest rooms, kitchen and dining facilities for guests and small private events, all of which are totally contained within the existing residential structure.~~
- ~~(2) — Accessory structures necessary and incidental to the agricultural use of the land, including:~~
- ~~a. — Facilities for the drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced, but not including slaughterhouses, fertilizer yards, bone yards, or plants for the reduction of animal or vegetable matter.~~
 - ~~b. — Stands or shelters for the sale of agricultural commodities produced on the land.~~
 - ~~c. — Farmer's markets, including an agricultural stand where agricultural commodities grown, raised or produced off the premises are offered for sale to the general public by the operator of the stand.~~
 - ~~d. — Limited sales of agricultural supplies, including hay, seed, veterinary supplies and horse tack. The sale of farm equipment or horse trailers as specifically excluded.~~
 - ~~e. — Aircraft landing strips.~~
 - ~~f. — Storage and maintenance facilities for trucks used exclusively for hauling agricultural produce, which must include produce grown on the property, as long as the remainder of the property can sustain an agricultural use.~~
 - ~~g. — Temporary wood recycling operations.~~
- ~~(3) — The maintenance of land in its natural state for the purpose of preserving open space for recreation or plant or animal preserves, or the holding of nonproducing land for future agricultural use or future mineral extraction.~~

~~(4) — Recreational uses:~~

- ~~a. — Public or private fishing or hunting of wildlife, including structures associated with hunting or fishing clubs.~~
- ~~b. — Public or private rifle and pistol practice ranges, trap or skeet fields, archery ranges, golf driving ranges or other similar uses.~~
- ~~c. — Public or private riding or hiking trails.~~
- ~~d. — Riding academies, stables, and boarding of horses or other livestock.~~
- ~~e. — Large animal clinics primarily for horses or other livestock, including associated stables and pasture. (Small animal hospitals and kennels are excluded.)~~

~~(5) — Utilities, resource extraction, and waste disposal facilities:~~

- ~~a. — The erection, construction, alteration or maintenance of gas, electric, water, or communication utility facilities; small scale facilities testing electronic products for electromagnetic emissions under applicable Federal Communications Commission regulations; radio, television or microwave antennas; and transmitters and related facilities.~~
- ~~b. — Oil and gas well drilling, including the installation and use of such equipment, structures and facilities as are necessary or convenient for oil and gas drilling and producing operations customarily required or incidental to usual oil field practice, including the initial separation of oil, gas and water, and the storage, handling, recycling and transportation of such oil, gas and water from the premises.~~
- ~~c. — Surface mining operations which have an approved land rehabilitation plan which returns the land to an agricultural or open space use upon completion.~~
- ~~d. — Sanitary landfills which have a land rehabilitation plan which returns the land to an agricultural or open space use upon completion.~~

~~(6) — Educational, cultural, and religious facilities:~~

- ~~a. — Churches, including accessory structures, as long as such use does not substantially interfere with the primary agricultural use of the land within the preserve.~~
- ~~b. — Educational and cultural uses not located on prime agricultural soils which do not require major road improvements, and where traffic to and from the subject use location does not hinder or impair the agricultural operations~~

~~in the surrounding area. At least three-quarters of the parcel must remain in agricultural or open space uses, and the maximum coverage of the site where the educational and cultural uses are to occur is limited to 20 acres.~~

~~c. Seasonal and occasional social receptions at existing facilities and immediate surrounding grounds, which do not displace or interfere with agricultural and open space use of the parcel or any adjacent parcel.~~

~~(e) With respect to contracts executed on or after January 1, 2006, the following uses and development have been determined by the Board of Supervisors to be presumptively compatible with agricultural use of contracted land if all of the criteria in subsection (a) are also met:~~

~~(1) Residential:~~

~~a. "Residence, Single Family," as defined in § 2.10.030 of the Zoning Ordinance.~~

~~b. "Secondary Dwelling" as defined in § 2.10.030 of the Zoning Ordinance.~~

~~c. "Agricultural Employee Housing" as defined in § 2.10.030 of the Zoning Ordinance.~~

~~(2) Agricultural accessory uses that support the agricultural use of the land, including:~~

~~a. "Agricultural processing" as defined in § 2.10.040 of the Zoning Ordinance.~~

~~b. "Agricultural sales" as defined in § 2.10.040 of the Zoning Ordinance.~~

~~c. "Wineries" as defined in § 2.10.040 of the Zoning Ordinance.~~

~~d. "Aircraft landing strips—private," as defined in § 2.10.040 of the Zoning Ordinance, that are limited to the private use of the owner of the property or agricultural use of land with the agricultural preserve.~~

~~e. Storage and maintenance facilities for trucks and equipment used exclusively for tending, harvesting or hauling agricultural commodities at least some of which are grown on the property.~~

~~(3) Recreational uses, including:~~

~~a. Public or private fishing or hunting of wildlife.~~

~~b. Public or private riding or hiking trails.~~

~~c. Public or private stables and boarding of horses or other livestock.~~

~~(4) Utilities, including:~~

~~a. "Utilities, Minor" as defined in § 2.10.040 of the Zoning Ordinance.~~

~~b. "Antennas Commercial" as defined in § 2.10.040 of the Zoning Ordinance.~~

~~(5) Resource Extraction:~~

~~a. "Oil and Gas Extraction" as defined in § 2.10.040 of the Zoning Ordinance.~~

~~b. "Surface Mining," as defined in § 2.10.040 of the Zoning Ordinance, so long as mining and associated activities are not visible from the public right of way or other public lands and do not involve open pit quarrying.~~

~~(6) Miscellaneous:~~

~~a. Facilities for agricultural education and preservation that are not located on prime agricultural land and do not require major road improvements, and where traffic to and from the facility does not hinder or impair the agricultural operations in the surrounding area.~~

~~b. A "Bed and Breakfast Inn," as defined in § 2.10.040 of the Zoning Ordinance, within a residential structure that existed when the land was first restricted by contract.~~

Sec. C13-16. Compatible use determinations.

- (a) Prior to undertaking any development or use on contracted land, the land owner ~~must~~shall apply for and obtain a compatible use determination from the County. The land owner ~~must~~shall file an application with the Planning Office on a form prepared for this purpose together with an application fee in an amount established by resolution of the Board of Supervisors.
- (b) Staff from the Planning Office and Agricultural Commissioner's Office ~~will~~shall collectively review and determine whether the proposed use or development is compatible with the contract for the property, the Williamson Act, this ~~e~~Chapter, and any adopted guidelines.
- (c) Any interested person may appeal the staff determination made pursuant to subsection (b) to a review committee comprised of the Agricultural Commissioner and the Director of Planning and Development ~~Services~~. Any such appeal ~~must~~shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.
- (d) Any interested person may appeal the review committee determination made pursuant to

subsection (c) to the Board of Supervisors-, which shall hear and decide the matter de novo and approve, disapprove, or modify the review committee's determination. Any such appeal mustshall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors. Notice of the hearing shall be provided in conformance with section C13-7(b).

Part 3. Contract Termination

Sec. C13-17. General provisions.

A contract may only be terminated in a manner consistent with state law and this eChapter.

Sec. C13-18. Contract nonrenewal.

- (a) If either the land owner or the County desires in any year not to renew a contract, or portion of a contract, the nonrenewing party mustshall serve written notice of nonrenewal of the contract upon the other party before the annual renewal date of the contract. A notice of nonrenewal served by the land owner mustshall be addressed to the Clerk of the Board of Supervisors, mustshall be filed with or postmarked at least 90 days prior to the annual renewal date of the contract, and mustshall identify the parcels to be nonrenewed by Assessor's parcel number. A notice of nonrenewal served by the County willshall be mailed to the address shown on the latest assessment roll for the property, and mustshall be postmarked at least 60 days prior to the annual renewal date of the contract.
- (b) If no notice of nonrenewal is filed in compliance with the deadlines in subsection (a), the contract will be automatically renewed for another year.
- (c) If a notice of nonrenewal is filed after the applicable deadline in subsection (a), the notice will be deemed to apply to the next annual renewal period.
- (d) If a land owner objects to a contract nonrenewal initiated by the County applicable to the owner's land, the owner may file a written protest with the County- by December 1 of the calendar year in which the notice of nonrenewal was served. The Board of Supervisors may, in its discretion, withdraw the notice of nonrenewal at any time prior to the contract's annual renewal date.
- (e) During November of each calendar year, the Clerk of the Board of Supervisors will provide a report to the Board of Supervisors identifying all nonrenewal requests received from land owners pursuant to subsection (a).
- (f) The Clerk of the Board of Supervisors will record all notices of nonrenewal with the Clerk-Recorder within 20 days of serving or receiving a notice of nonrenewal.
- (g) The Board of Supervisors may delegate its authority to send and withdraw notices of nonrenewal to any County official, department, or employee.

Sec. C13-19. Contract cancellation.

Any petition to cancel a land conservation contract ~~must~~shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition ~~must~~shall be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The petition will be processed in accordance with the Williamson Act.

Part 4. Contract Compliance and Enforcement

Sec. C13-20. Annual agricultural preserve questionnaire.

By December 31 of each year, the Office of the Assessor mails an agricultural preserve questionnaire to the mailing address of the owner or other person identified on the Assessor's roll as responsible for the payment of property taxes for the parcel. Each owner of contracted land shall return the completed questionnaire to the Office of the Assessor by the following April 10. The Office of the Assessor will provide a copy of the non-confidential information on each returned questionnaire, and a list of parcels for which no questionnaire was returned, to the Planning Office. Those properties for which a completed questionnaire was not returned may be subject to an investigation by the Planning Office and/or Agricultural Commissioner regarding whether the parcel is in compliance with the contract, the Williamson Act, and other state and local laws, regulations, ordinances and guidelines. A land owner who fails to return the completed questionnaire by the April 10 deadline may be charged an investigation fee in an amount established by resolution of the Board of Supervisors.

Sec. C13-21. Audits and inspections.

- (a) The County may audit any contracted land for compliance with the contract, the Williamson Act, and other state and local laws, regulations, ordinances, and guidelines. Such audits may include reviewing available documentation such as aerial photographs and agricultural preserve questionnaires and contacting the land owner or manager to obtain additional information or documentation.
- (b) If the County has probable cause to suspect that contracted land is not in compliance, it may contact the land owner to arrange for an inspection of the property by the County's officers, employees, contractors, or agents. The County shall give the land owner at least 48 hours' written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County will make a reasonable attempt to accommodate the land owner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 am to 5:00 pm).

Sec. C13-22. Material breaches of contract.

The County will fulfill its enforcement responsibilities for material breaches of contracts as defined in the Williamson Act pursuant to Government Code ~~§section~~ 51250.

Sec. C13-23. Judicial relief.

- (a) In addition to any other remedies provided by state law or this eChapter, including but not limited to Government Code §§sections 51250 and 51251, if the County determines that a contract has been or is being violated, the Office of the County Counsel may bring an action on behalf of the County in a court of law for an appropriate remedy.
- (b) If a court determines that a contract was violated, in addition to any other relief granted by the court, the court may order the land owner to reimburse the County for its costs, including but not limited to staff time and attorneys’ fees, associated with investigating the violation and bringing the enforcement action.
- (c) Nothing in this eChapter is intended to limit a court’s ability to grant any relief or issue any order that it deems appropriate in its discretion, including but not limited to specific performance or injunctive or equitable relief.

Part 5. Fees

Sec. C13-24. Fees.

The Board of Supervisors may adopt by resolution any fees necessary to ensure that the County recovers its costs associated with administering and enforcing the Williamson Act and contracts executed thereunder. Such fees shall not exceed the amount reasonably necessary to recover the cost of providing the product or service or the cost of enforcing any law or ordinance for which the fee is levied. The fee may reflect the average cost of providing any product or service or enforcing any law or ordinance.

Part 6. Disclosure Requirements

Sec. C13-25. Real estate transfer disclosure statement.

Pursuant to Civil Code §section 1102.6a, prior to any transfer of contracted land by sale, exchange, installment land sale contract (as defined in Civil Code §section 2985), lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or real property or residential stock cooperative, improved with or consistent of not less than one nor more than four dwelling units, the transferor shall provide the following disclosure: “The real property that is the subject of this transaction is subject to a contract pursuant to the California Land Conservation Act of 1965 (“Williamson Act”), Government Code §-section 51200 et seq., which requires that the land be devoted to agricultural use and imposes restrictions on the use and development of the land.” This disclosure shall be provided on a form substantially similar to that provided in Civil Code §section 1102.6a or section B29-4 of this Code. The transferor shall ensure that the transferee signs the disclosure prior to completing the transfer.

Secs. C13-26—C13-29. Reserved.

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CHAPTER II. OPEN SPACE EASEMENT AGREEMENTS

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

Sec. C13-30. Purpose.

This ~~e~~Division sets forth requirements for open space easement agreements pursuant to the Open-Space Easement Act of 1974, Government Code ~~§-section~~ 51070 et seq.

Sec. C13-31. Definitions

The following definitions apply to this ~~e~~Chapter:

- (a) All definitions in the Open-Space Easement Act of 1974 and definitions referenced therein.
- (b) Agreement means an open space easement agreement pursuant to the Open-Space Easement Act of 1974.
- (c) Restricted land means real property restricted by an open space easement agreement pursuant to the Open-Space Easement Act of 1974 and this ~~e~~Chapter.

Sec. C13-32. Relationship to other laws.

If there is any irreconcilable conflict between any provision of this ~~e~~Chapter and any federal or state law, the federal or state law prevails. Any provision of this ~~e~~Chapter that is more stringent than federal or state law is intended to supplement, not conflict with, federal or state law and to apply unless a court of law conclusively determines that the provision is preempted.

ARTICLE 2. AGREEMENTS

Sec. C13-33. Purpose and authority.

This ~~a~~Article sets requirements for agreements between land owners and the County pursuant to the Open-Space Easement Act of 1974. This ~~e~~Chapter is intended to supplement any other applicable state and local laws, ordinances, regulations, and guidelines.

Part 1. Applications for Agreements

Sec. C13-34. Application process and fees.

- (a) A land owner whose property constitutes open-space land as defined in Government Code ~~§§sections~~ 51075(a) and 65560 may file an application for an agreement with the Clerk of the Board of Supervisors on a form prepared by the County. An application ~~mustshall~~ be accompanied by all of the following:

- (1) All applicable fees as established by resolution of the Board of Supervisors; and

- (2) A completed agreement in a form prepared by County Counsel with notarized signatures of all land owners and all required attachments.
- (b) The County may request additional information from the land owner during the application review process to facilitate a thorough and timely review of the application.
- (c) Applications to simultaneously rescind a Williamson Act contract and enter into an agreement pursuant to this ~~e~~Chapter will be processed in the same manner as applications for unrestricted land.

Sec. C13-35. Report to Board of Supervisors.

- (a) Upon receipt of an application for an agreement, the Clerk of the Board of Supervisors will transmit a copy of the completed application to the Planning Office, County Surveyor, Office of the Assessor, and Office of the County Counsel.
- (b) Within 60 days of receiving a complete application, the Planning Office will prepare a report to the Board of Supervisors. The Office of the Assessor, County Surveyor, and Office of the County Counsel will provide the Planning Office with any relevant information to assist with preparation of the report. The report will contain an analysis of whether the land meets the criteria for an agreement in the Open-Space Easement Act of 1974, this ~~e~~Chapter, and any other applicable County ordinances and guidelines, including whether the agreement is consistent with the County General Plan.

Sec. C13-36. Criteria for evaluating applications for agreements.

- (a) No application for an agreement will be approved unless all of the following criteria are met:
 - (1) The land proposed for inclusion in the agreement is at least 20 acres in size;
 - (2) All parcels proposed for inclusion in the agreement are devoted to open-~~s~~pace;
 - (3) There are no other existing or permitted uses or development on the land that would significantly impair the open-space value of the land; and
 - (4) The Board makes the required findings in Government Code ~~§-section~~ 51084.
- (b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

Sec. C13-37. Recording of agreements.

The Clerk of the Board of Supervisors ~~must~~shall record any executed agreement with the Clerk-Recorder within 20 days after the Board of Supervisors executes the agreement and no later than December 31 of the calendar year in which it was executed.

Part 2. Use and Development of Land Subject to an Agreement

Sec. C13-38. General provisions.

The use and development of all restricted land ~~must~~shall at all times comply with the Open-Space Easement Act of 1974, this ~~e~~Chapter, the terms of the agreement, and any other applicable state or local laws, regulations, ordinances and guidelines.

Sec. C13-39. Compatible uses and development.

(a) All use or development of any restricted land ~~must~~shall comply with all of the following criteria:

- (1) The proposed use or development effectively preserves for public use or enjoyment the natural or scenic character of the land;
- (2) The proposed use or development does not significantly impair the open-space character of the land;
- (3) The proposed use or development is not a subdivision; and
- (4) The proposed use or development complies with all other federal, state and local laws, regulations, ordinances and guidelines, including the County general plan and this Code.

(b) The following uses and development have been determined by the Board of Supervisors to be ~~presumptively~~-compatible with the open-space use of restricted land if all of the criteria in subsection (a) are ~~also~~ met:

- (1) Residential:
 - a. “Residence, Single-Family,” as defined in ~~§~~section 2.10.030 of the Zoning Ordinance.
 - b. “Residential Accessory” Structures and Uses” as defined in ~~§~~section 2.10.030 of the Zoning Ordinance.
 - c. “Agricultural Employee Housing” as defined in ~~§~~section 2.10.030 of the Zoning Ordinance.
- (2) Open space accessory uses related to the maintenance, enjoyment or operation of the open space use of the land, including:
 - a. Storage and maintenance facilities.
 - b. Restrooms.

- c. Trail markers.
 - d. Informational displays.
- (23) Agricultural accessory uses that support the agricultural use of the land, including:
- a. Agricultural Accessory Structures and Uses as defined in §section 2.10.040 of the Zoning Ordinance.
 - b. “Agricultural Processing - Small Scale” as defined in §section 2.10.040 of the Zoning Ordinance.
 - c. “Agricultural Sales - Limited” as defined in §section 2.10.040 of the Zoning Ordinance.
 - d. “Agriculturally-Related Entertainment and Commercial Uses” as defined in §section 2.10.040 of the Zoning Ordinance.
- (34) Recreational uses, including:
- a. “Hunting and Fishing Preserves” as defined in §section 2.10.040 of the Zoning Ordinance.
 - b. Public or private riding or hiking trails.
 - c. Public or private stables and boarding of horses or other livestock.
 - d. “Camps & Retreats” as defined in §section 2.10.040 of the Zoning Ordinance.
- (5(4) “Utilities - Minor” as defined in §section 2.10.040 of the Zoning Ordinance.
- (56) Miscellaneous:
- a. A “Bed and Breakfast Inn” as defined in §section 2.10.040 of the Zoning Ordinance.

Sec. C13-40. Compatible use determinations.

- (a) Prior to undertaking any development or use on restricted land, the land owner ~~must~~shall apply for and obtain a compatible use determination from the County. The land owner ~~must~~shall file an application with the Planning Office on a form prepared for this purpose together with an application fee in an amount established by resolution of the Board of Supervisors.
- (b) Staff from the Planning Office will determine whether the proposed use or development is compatible with the agreement for the property, the Open-Space Easement Act of

1974, this eChapter, and any adopted guidelines.

- (c) Any interested person may appeal the staff determination made pursuant to subsection (b) to the Director of Planning and Development ~~Services~~. Any such appeal mustshall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.
- (d) Any interested person may appeal the determination made pursuant to subsection (c) to the Board of Supervisors, which will review the Planning Office's determination de novo. Any such appeal mustshall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors. Notice of the hearing shall be provided in conformance with section C13-7(b).

Part 3. Agreement Termination

Sec. C13-41. General provisions.

An agreement may only be terminated in a manner consistent with state law and this eChapter.

Sec. C13-42. Agreement nonrenewal.

- (a) If either the land owner or the County desires in any year not to renew an agreement, the nonrenewing party mustshall serve written notice of nonrenewal of the agreement upon the other party before the annual renewal date of the agreement. A notice of nonrenewal served by the land owner mustshall be addressed to the Clerk of the Board of Supervisors and be filed with or postmarked at least 90 days prior to the annual renewal date of the contract. A notice of nonrenewal served by the land owner mustshall be addressed to the Clerk of the Board of Supervisors, mustshall be filed with or postmarked at least 90 days prior to the annual renewal date of the agreement, and mustshall identify the parcels to be nonrenewed by Assessor's parcel number. A notice of nonrenewal served by the County willshall be mailed to the address shown on the latest assessment roll for the property, and mustshall be postmarked at least 60 days prior to the annual renewal date of the agreement.
- (b) If no notice of nonrenewal is filed in compliance with the deadlines in subsection (a), the contact will be automatically renewed for another year.
- (c) If a notice of nonrenewal is filed after the applicable deadline in subsection (a), the notice will be deemed to apply to the next annual renewal period.
- (d) If a land owner objects to an agreement nonrenewal initiated by the County applicable to the owner's land, the owner may file a written protest with the County by December 1 of the calendar year in which the notice of nonrenewal was served. The Board of Supervisors may, in its discretion, withdraw the notice of nonrenewal at any time prior to the agreement's annual renewal date.

- (e) During November of each calendar year, the Clerk of the Board of Supervisors will provide a report to the Board of Supervisors identifying all nonrenewal requests received pursuant to subsection (a).
- (f) The Clerk of the Board of Supervisors will record all notices of nonrenewal with the Clerk-Recorder within 20 days of serving or receiving a notice of nonrenewal.
- (g) The Board of Supervisors may delegate its authority to send and withdraw notices of nonrenewal to any County official, department, or employee.

Sec. C13-43. Agreement abandonment.

Any petition to abandon an agreement ~~must~~shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition ~~must~~shall be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The petition will be processed in accordance with the Open-Space Easement Act of 1974.

Part 4. Agreement Compliance and Enforcement

Sec. C13-44. Audits and inspections.

- (a) The County may audit any restricted land for compliance with the agreement, the Open-Space Easement Act of 1974, and other state and local laws, regulations, ordinances and guidelines. Such audits may include reviewing available documentation such as aerial photographs and contacting the land owner or manager to obtain additional information or documentation.
- (b) If the County has probable cause to suspect that restricted land is not in compliance, it may contact the land owner to arrange for an inspection of the property by the County’s officers, employees, contractors or agents. The County shall give the land owner at least 48 hours’ written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County will make a reasonable attempt to accommodate the land owner’s schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.).

Sec. C13-45. Judicial relief.

- (a) In addition to any other remedies provided by state law or this ~~e~~Chapter, including but not limited to Government Code ~~§-section~~ 51086, if the County determines that an agreement has been or is being violated, the Office of the County Counsel may bring an action on behalf of the County in a court of law for an appropriate remedy.
- (b) If a court determines that an agreement was violated, in addition to any other relief granted by the court, the court may order the land owner to reimburse the County for its

costs, including but not limited to staff time and attorneys' fees, associated with investigating the violation and bringing the enforcement action.

- (c) Nothing in this Chapter is intended to limit a court's ability to grant any relief or issue any order that it deems appropriate in its discretion, including but not limited to specific performance or injunctive or equitable relief.

Part 5. Fees

Sec. C13-46. Fees.

The Board of Supervisors may adopt by resolution any fees necessary to ensure that the County recovers its costs associated with administering and enforcing the Open-Space Easement Act of 1974 and agreements executed thereunder. Such fees shall not exceed the amount reasonably necessary to recover the cost of providing the product or service or the cost of enforcing any law or ordinance for which the fee is levied. The fee may reflect the average cost of providing any product or service or enforcing any law or ordinance.

Part 6. Disclosure Requirements

Sec. C13-47. Real estate transfer disclosure statement.

Pursuant to Civil Code [§-section 1102.6a](#), prior to any transfer of restricted land by sale, exchange, installment land sale contract (as defined in Civil Code [§section 2985](#)), lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or real property or residential stock cooperative, improved with or consistent of not less than one nor more than four dwelling units, the transferor shall provide the following disclosure: "The real property that is the subject of this transaction is subject to an open space easement agreement pursuant to the Open-Space Easement Act of 1974, Government Code [§section 51070 et seq.](#), which requires that the land be devoted to open space and imposes restrictions on the use and development of the land." This disclosure shall be provided on a form substantially similar to that provided in Civil Code [section§ 1102.6a](#) or section B29-4 of this Code. The transferor shall ensure that the transferee signs the disclosure prior to completing the transfer.

CHAPTER III. FARMLAND SECURITY ZONE CONTRACTS

ARTICLE 1. GENERAL PROVISIONS

Sec. C13-48. Purpose.

This Chapter sets forth requirements for farmland security zone contracts pursuant to Government Code section 51296 et seq. In enacting this Chapter III, the Board of Supervisors declares its support to expand options available to landowners for the preservation of agricultural lands and to encourage the creation of longer-term voluntary enforceable restrictions within agricultural preserves.

Sec. C13-49. Land Qualification.

- (a) Except as otherwise provided in subsection (b), farmland security zone contracts shall only apply to land that is designated on the Important Farmland Series maps, on file with the Department of Planning and Development and prepared pursuant to Government Code section 65570, as predominantly one or more of the following:
1. Prime farmland;
 2. Farmland of statewide significance;
 3. Unique farmland; or
 4. Farmland of local importance.
- (b) If the proposed farmland security zone is an area that is not designated on the Important Farmland Series maps, the land shall qualify if it is predominately prime agricultural land, as defined in Government Code section 51201(c).

Sec. C13-50. Application and fees for Farmland Security Zone Contract.

A landowner or group of landowners may apply to the Clerk of the Board of Supervisors on a form prepared by the County to rescind a Williamson Act contract or contracts entered into pursuant to chapter I in order to simultaneously place the land subject to that contract or those contracts under a new contract designating the property as a farmland security zone. A landowner or group of landowners may also apply to the Clerk of the Board of Supervisors to create a farmland security zone for the purpose of directly entering into a farmland security zone contract pursuant to this section. An application shall be accompanied by all applicable fees as established by resolution of the Board of Supervisors and a completed farmland security zone contract in a form prepared by County Counsel with notarized signatures of all landowners and all required attachments.

Sec. C13-51. Creation of Farmland Security Zone.

- (a) Prior to entering into a farmland security zone contract, the Board of Supervisors shall create a farmland security zone, pursuant to the requirements of section C13-7 and Government Code section 51230 and all of the following:
- (1) No land shall be included in a farmland security zone unless expressly requested by the landowner;
 - (2) No land located within a city's sphere of influence shall be included within a farmland security zone, unless the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere of influence; and,
 - (3) If more than one landowner requests the creation of a farmland security zone and

the parcels are contiguous, the County shall place those parcels in the same farmland security zone.

(b) Upon termination of a farmland security zone contract, the farmland security zone designation for the parcel(s) shall simultaneously be terminated.

Sec. C13-52. Criteria for evaluating Farmland Security Zone contract applications and recordation of a contract.

(a) No application for a Farmland Security Zone contract shall be approved by the Board of Supervisors unless all of the following criteria are met:

(1) The land is included within a farmland security zone as created by the Board of Supervisors in accordance with section C13-51;

(2) The land meets the qualification requirements of section C13-49; and

(3) All parcels proposed for inclusion in the farmland security zone contract are devoted to agricultural use.

(b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

(c) The Clerk of the Board of Supervisors shall record any executed contract with the Clerk-Recorder within 20 days after the Board of Supervisors executes the contract and no later than December 31 of the calendar year in which it was executed.

Sec. C13-53. General provisions.

(a) The term of a farmland security zone contract shall be for an initial term of no less than twenty (20) years. Each contract shall provide that on the anniversary date of the contract or on another annual date as specified by the contract, one year shall be added automatically to the initial term of the contract unless a notice of nonrenewal is given pursuant to section C13-18.

(b) The use and development of all contracted land shall at all times comply with Government Code section 51200 *et seq.*, this Chapter, the terms of the farmland security zone contract, and other applicable state and local laws, regulations, ordinances, and guidelines, including the *Guidelines for Williamson Act and Farmland Security Zone Programs* adopted by the Board of Supervisors. If there is any conflict between these sources of authority, state law shall prevail.

(c) The land subject to a farmland security zone contract shall be eligible for property tax valuation pursuant to Government Code section 51296.2.

Sec. C13-54. Compatible uses and development.

Prior to undertaking any development or use on contracted land, the landowner shall apply for and obtain a compatible use determination from the County pursuant to the requirements of sections C13-14 through C13-16, and subject to the requirements of Government Code section 51296.7.

Sec. C13-55. Contract nonrenewal.

The procedures set forth in section C13-18 shall govern the nonrenewal of any farmland security zone contract.

Sec. C13-56. Contract cancellation.

Any petition to cancel a farmland security zone contract shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The cancellation of a farmland security zone contract shall be processed in accordance with Government Code section 51297.

Sec. C13-57. Contract compliance and enforcement.

The procedures established in sections C13-20 to C13-23 shall govern compliance and enforcement of farmland security zone contracts.

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Sec. C13-58. Real estate transfer disclosure statement.

The real estate disclosure requirements established in section C13-25 shall apply to land subject to a farmland security zone contract.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

SUSAN ELLENBERG, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:

CURTIS BOONE
Acting Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

CRISTINA STELLA
Deputy County Counsel

2990636



Guidelines for Williamson Act and Farmland Security Zone Programs

PART I: GENERAL ADMINISTRATION

PART II: GUIDELINE FOR COMMERCIAL AGRICULTURAL USE

PART III: GUIDELINE FOR COMPATIBLE USE DEVELOPMENT ON RESTRICTED LANDS

PART I: GENERAL ADMINISTRATION

These Guidelines for Williamson Act and Farmland Security Zone Programs (“Guidelines”) pertain to two interrelated programs involving contracts between agricultural landowners and the County of Santa Clara: the Williamson Act and Farmland Security Zones (FSZ).

Throughout these Guidelines, contracts created under either the Williamson Act or an FSZ are referred to generally as “contracts”.

Interpretation of Guidelines

- A. In order to address unusual circumstances, a landowner under contract or agreement with the County through one of these three programs may request an interpretation of how these Guidelines pertain to the specifics of their property. The landowner shall bear the burden of proving case facts for purposes of the interpretation.

- B. Guideline Interpretation and Appeal Process
 1. First level of review: Review committee comprised of the Deputy Agricultural Commissioner, Deputy Director with the Department of Planning and Development (DPD), and the DPD program coordinator. The program coordinator is the County planner who manages the Williamson Act and FSZ programs. Committee decision may be appealed by filing an appeal with DPD within 15 days of the decision.

 2. Second level of review: Review committee comprised of the Agricultural Commissioner and Director of DPD. Decisions of the Committee may be appealed to the Board of Supervisors by filing an appeal with the Clerk of the Board within 15 days of the decision and by paying the appeal fee.

 3. Third and final level of review: Board of Supervisors, which shall hear and decide the matter de novo and approve, disapprove, or modify the review committee’s determination.

Reports

DPD will maintain and periodically update Williamson Act and Farmland Security Zone program information on its website, including participant parcel maps, program statistics, and analysis.

Public Education

The County will conduct public education on these programs and will focus on engaging key organizations and stakeholders, and take advantage of multiple outreach methods to reach a diversity of populations. The goal is to promote the program to the audiences who will benefit from it and achieve alignment with the Santa Clara County Valley Agricultural Plan (Ag Plan). DPD and the Consumer and Environmental Protection Agency (CEPA) will coordinate these efforts. All forms, information documents, and outreach materials shall be made available in multiple languages, as needed, and will be reviewed for ease of use by the intended audience.

Compliance Monitoring

Program compliance will be ensured through annual verification and monitoring. Program participants must complete an Agricultural Preserve Questionnaire on an annual basis. County staff will conduct regular audits to verify commercial agricultural production and to ensure that proposed development is compatible with agriculture.

A. Agricultural Preserve Questionnaire and Verifying Agricultural Production (Contract holders only)

1. DPD and CEPA staff shall continue to review and revise the non-Assessor portion of the Agricultural Preserve Questionnaire to ensure the information requested is useful to the County, relevant to determining if the agricultural operations meet Williamson Act or FSZ requirements, and clear to respondents.
2. Assessor shall continue to make the Agricultural Preserve Questionnaire available online and include a link to the Questionnaire on the Assessor's Office main webpage.
3. The Office of the Assessor shall mail the Questionnaire to the mailing address of the owner or other person identified on the Assessor's roll as responsible for payment of the parcel's property taxes annually, no later than December 31. For the purpose of verification, the Assessor shall keep a record of to whom the Questionnaire was sent, and the date mailed.
 - a. Assessor shall ensure that the Agricultural Preserve Questionnaire advises landowners of the landowner's obligation to complete and return the Questionnaire to the County by April 10, annually.

- b. The Questionnaire shall provide for a signature acknowledgment by the landowner that the information provided under oath on the Questionnaire is complete, true, and correct.
4. The Assessor shall share the nonconfidential information on each submitted Questionnaire with Agricultural Commissioner staff within one week of receipt. The Agricultural Commissioner will verify that a parcel meets minimum agricultural production required by the contract and the Office of the Assessor will provide a list of participants who did not submit the required annual Questionnaire by May 1, annually.
5. The Assessor's Office will send a warning notification to all contracted parcel owners who have not submitted the Questionnaire by the April 10 deadline that they have 60 days to submit or they may be subject to nonrenewal. This notification will go out no later than May 15, annually.
6. The Assessor's Office will promptly provide any additional Questionnaires received after the April 10 due date to the Agricultural Commissioner. The Agricultural Commissioner will make every reasonable attempt to reach out within 30 days to the remaining non-compliant parcel owners to assist them with completing the Questionnaire or determine if the parcel should be placed into nonrenewal status.
7. The Agricultural Commissioner will present recommended parcels for nonrenewal to a review board consisting of staff from the Agricultural Commissioner, DPD, and County Counsel's Office. The review board will submit a list of parcels recommended for nonrenewal to the Directors of DPD and CEPA for approval by August 31, annually.
8. The Agricultural Commissioner will provide the Clerk of the Board, within one week of Directors' approval, with the approved list of parcels for the Clerk to issue nonrenewal notices.

B. Proposed Development

Lands subject to contracts are identified in maps and other sources maintained by DPD to identify the restrictions imposed on these lands. A Compatible Use Determination is required prior to acceptance of any land development applications involving these lands and shall be processed in accordance with the below "Guidelines for Commercial Use Development on Restricted Lands."

C. Parcel Audit

DPD and CEPA staff shall review each response to the non-Assessor portion of the Agricultural Preserve Questionnaire and shall follow up as necessary to ensure contract compliance. Review may consist of the analysis of GIS, aerial photographs, the Agricultural Commissioner's database, and other relevant documents, including federal tax schedules, to determine if land uses comply with restrictions. The landowner or land manager may also be contacted to obtain additional information or documentation. A goal of this program is to audit every contracted parcel at least once every three years.

D. Permission to Enter to Inspect Property

If the County has probable cause to suspect that contracted land is not in compliance, it may contact the landowner to arrange for an inspection of the property by the County's officers, employees, contractors, or agents. The County shall give the landowner at least 48 hours' written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County will make a reasonable attempt to accommodate the landowner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 am to 5:00 pm).

Nonrenewal

- A. A contract holder may file for nonrenewal of a contract, or portion of a contract, at any time by notifying the County in writing. The nonrenewal notice shall include the name(s) and signature(s) of the property owners, and the street address(es) and Assessor's Parcel Number(s) for all parcel(s) to be nonrenewed. Notification shall be mailed or delivered to the County as follows:

Office of the Clerk of the Board of Supervisors
ATTN: Williamson Act Program
70 West Hedding Street, 10th Floor
San José, CA 95110

The contract holder may withdraw such notice of nonrenewal through the same process.

- B. The County may "nonrenew" a contract for any reason, including but not limited to failure to meet the requirement that the contracted parcel be devoted to the

production of agricultural commodities, or failure to return the required annual Agricultural Preserve Questionnaire by April 10.

C. To initiate nonrenewal for the next calendar year, an owner must submit a notice of nonrenewal to the Clerk of the Board by October 1. Any notices of nonrenewal received after October 1 will be processed for the calendar year *following* the next calendar year. An owner may also withdraw their notice of nonrenewal by October 1 of the same calendar year in which the notice was submitted.

D. Procedures for Nonrenewal:

1. Any notice of nonrenewal or withdrawal of such notice received by the County from a property owner by October 1 shall be recorded within 20 calendar days of receipt, and the property owner will be notified within 30 calendar days of such recordation.
2. If the County initiates nonrenewal, it shall notify the property owner by September 10. This notification shall include pertinent information regarding the resulting tax increase and right to protest (including information about a 3-year delay of tax increase). Any questions regarding property tax information should be directed to the County Assessor's Office at (408) 299-5500.
3. The property owner shall have 30 calendar days from the date on the County's notice of nonrenewal to protest the nonrenewal in writing by submitting proof that there is an existing commercial agricultural use on the parcel based on the criteria detailed below in Part II.
4. The County will send the property owner a written acknowledgement that written protest has been received.
5. A review board consisting of staff from the Agricultural Commissioner, DPD, and County Counsel's Office shall review all protest documentation provided by the property owner(s) and shall make a final determination, providing the landowner its decision by October 15. If the landowner wishes to appeal the decision, they shall file an appeal with the Clerk of the Board by November 15.
6. The Board of Supervisors shall hear and render a decision on any appeal of a nonrenewal protest in December.

7. If a landowner's nonrenewal protest is granted, the Clerk of the Board shall file and record a "withdrawal of notice of nonrenewal" by December 31.

Property Disclosure Report

County of Santa Clara Ordinance Code C13-25 and C13-58 require sellers to disclose that a property is restricted by a contract as part of any real estate transaction.

After the Office of the Assessor receives notice of a change of ownership on a contracted parcel, the Assessor will send to the new owner information describing the County's contract requirements; this information will be prepared by the DPD, CEPA, and the Office of the Assessor. The Office of the Assessor will notify the Agricultural Commissioner of all changes in ownership.

The Agricultural Commissioner will contact the new owner to explain the County's contract requirements, specifically the criteria for commercial agricultural use.

Joint Management Agreement

In some cases, contracted lands may have recorded a Joint Management Agreement for the purpose of formally establishing a joint agricultural operation on adjacent parcels. Such agreements were established to allow parcels that would have formerly been considered substandard in size to participate in the program. There are no longer standard or substandard size requirements for contracted lands. Existing Joint Management Agreements do not exempt contracted parcels from having to individually meet the requirements outlined in these Guidelines.

Material Breach of Contract

If the County acquires knowledge of a "material breach" of a contract, DPD and Agricultural Commissioner, in consultation with County Counsel, will comply with the mandates in Gov. Code § 51250 and County Ordinance Code C13-22.

Fees

Fees shall be charged in accordance with a Resolution adopted by the Board of Supervisors. Full cost recovery will be sought in fees imposed.

Staffing

DPD, Office of the Assessor, and CEPA staff shall be trained as necessary to carry out monitoring and enforcement procedures on behalf of the County.

PART II: GUIDELINE FOR COMMERCIAL AGRICULTURAL USE

Williamson Act and Farmland Security Zone contracts in Santa Clara County are intended to promote agricultural productivity and economic viability and to preserve agricultural land from premature and unnecessary conversion to urban uses. These guidelines are used to verify the presence of commercial agriculture on contracted parcels.

Agricultural Commodity

To be eligible to participate, or continue participation, in the County's Williamson Act or Farmland Security Zone programs, contracted land shall be **devoted to producing an agricultural commodity for commercial purposes**. Agricultural commodities shall mean an unprocessed product of farms, ranches, production nurseries, or forests.

Agricultural commodities include: fruits, nuts, and vegetables; grains, such as wheat, barley, oats, and corn; legumes, such as field beans and peas; animal feed and forage crops, such as grain hay and alfalfa; rangeland and pasture for livestock production; seed crops; fiber and oilseed crops, such as safflower and sunflower; plant products used to produce biofuels; nursery stock such as Christmas trees, ornamentals, and cut flowers; trees grown for lumber and wood products; turf grown for sod; livestock for consumption, such as cattle, sheep and swine (except horses); and poultry, such as chickens, ostriches, and emus. The boarding, training, or occasional sale of horses is not considered a commercial agricultural use or an agricultural commodity.

Commercial Agricultural Production

Land shall be considered devoted to producing an agricultural commodity for commercial purposes when it sustains an agricultural operation meeting the requirements delineated in Figure A, on the following page.

Crop lands temporarily fallowed or grazing lands temporarily unused through rotational grazing may be considered to be in agricultural production if the applicant demonstrates such practice is a typical and appropriate agricultural management strategy. For livestock production, land that is fenced and available for grazing will be considered to be in agricultural production, even though grazing may only occur on a seasonal basis. In all cases, commercial agriculture must be the primary use of the land.

The Agricultural Commissioner shall consider exceptions to the land coverage standard when there are natural land features present, such as streams and rock outcroppings, which the owner demonstrates are not conducive to commercial agricultural uses appropriate for the property or where government-imposed restrictions prohibit use of portions of the land for agricultural purposes.

FIGURE A: COMMERCIAL AG PRODUCTION REQUIREMENTS BY TYPE

Cultivation		Grazing & livestock	Timber
Row crops ¹	Field crops ²		
The property produces a specialty crop with a minimum annual revenue* of \$12,000 and the area under cultivation is either: A. At least 6 acres ; -OR- B. At least 60% of the parcel.	The property produces hay or field crops with a minimum annual revenue* of \$2,000 and the area under cultivation is either: A. At least 24 acres ; -OR- B. At least 60% of the parcel.	The property produces livestock through grazing or pasture, with a minimum annual revenue* of \$1,000 or \$20/acre whichever is greater, and the area that is fenced, available, and appropriate for grazing is either: A. At least 24 acres ; -OR- B. At least 60% of the parcel.	The property is at least 40 acres in size and produces timber or other forest products under an active Non-Industrial Timber Management Plan, an active Timber Harvest Plan, or a Timber Harvest Plan that was filed and executed within the last 15 years.

* Minimum annual revenue must be met in three of the past five years, using federal income tax documents filed in those years. Revenue refers to gross income generated by the agricultural use of the property. The Agricultural Commissioner may consider sales receipts when federal income tax documents are not available and may consider revenue projections from future sales of agricultural commodities on property currently planted with perennial crops which will not bear fruits or nuts until two or more years after planting. When minimum annual revenue is calculated per acre, the acreage of the entire parcel will be used, not only those acres being used for commercial agricultural production. Monetary values will be reviewed periodically and may be adjusted to account for inflation in an amount determined by the Board of Supervisors.

¹ "Row crops" includes fruits, nuts, vegetables, seed crops, and nursery crops, for the purposes of this table.

² "Field crops" includes hay, industrial hemp, and Christmas trees, for the purposes of this table.

As detailed in the following section (Part III), any other uses or development of contracted lands must be compatible with and ancillary to the use of the land for the commercial production of agricultural commodities. Other compatible uses may include, but are not limited to, agricultural processing, horse stabling and training facilities, barns, and other farm storage buildings.

Income from sales of agricultural commodities shall be the only source of income used to calculate annual revenue. Eligible income shall be accrued through an agricultural operation specific to the parcel under contract. Eligible income may be accrued by leaseholders managing an agricultural operation specific to the parcel under contract. Estimated gross income generated through grazing activities may be limited to an estimate of the annual carrying capacity of the land multiplied by livestock value. Revenue from other compatible uses or ancillary uses of the land shall not be included in the revenue calculation.

Annual revenue will be validated by affidavit on a form provided by the County and with tax forms or other verifiable documents substantiating the annual revenue generated by the commercial agricultural use of the property.

PART III: GUIDELINE FOR COMPATIBLE USE DEVELOPMENT ON RESTRICTED LANDS

These guidelines are used to evaluate proposed compatible use development on parcels restricted by contracts.

The issuance of a Compatible Use Determination is required for all properties restricted by a contract **before** any land use or building permit application is approved. The Compatible Use Determination requirements are required for any contracted property, including those in nonrenewal.

A Compatible Use Determination is required when proposed development consists of **more than 500 square feet in development area**. *Development area* is defined in § 1.30.030 of the Zoning Ordinance and applies to **any development of the land, including septic systems and imported grading material such as drain rock**.

When development is proposed on a contracted parcel, two conditions must be met: 1) the total development area on the parcel, including the proposed development, **shall not exceed a maximum area of 10% of the parcel or 5 acres, whichever is smaller**; and 2) the proposed development must be compatible with and incidental to the agricultural use of the parcel. (Both of these pre-conditions are discussed below.)

The County of Santa Clara will enforce the provisions of contracts when development is proposed on restricted lands. Contract enforcement is necessary to maintain the integrity of the program and to help ensure non-agricultural development does not result in a material breach of contract.

Compatible Use Development Restrictions

The presence of commercial agriculture is a pre-condition to the County considering a development application on land restricted by a contract. See "Guideline for Commercial Agricultural Use." Commercial agriculture must be the primary use of the land. Other uses or development must be compatible with and incidental to the use of the land for commercial production of agricultural commodities.

Owners proposing compatible use development must satisfy the compatibility principles in the County Ordinance Code (Sec. C13-15) and the Williamson Act (Government Code § 51238.1). Proposed development on contracted land must be both compatible with and incidental to the agricultural use of the parcel.

Determining whether a proposed development is compatible with and incidental to the agricultural use on the contracted parcel requires the owner to demonstrate compliance

with Government Code § 51238.1 and the following criteria, which are intended to supplement the County Ordinance Code (Sec. C13-15):

1. The owner must demonstrate that there is an existing commercial agricultural use on the parcel. See "Guideline for Commercial Agricultural Use".
2. The proposed development must be compatible with and not substantially interfere with the existing agricultural use on that particular parcel or any other property under Williamson Act contract.
3. The proposed development will not hinder or impair agricultural operations in the area by significantly increasing the permanent or temporary human population of the area.
4. The proposed development must not significantly displace or impair current or reasonably foreseeable agricultural operations on the parcel or any other property under Williamson Act contract.
5. The remaining portion of the parcel must be able to sustain the agricultural use.
6. The commercial agricultural use must continue to be the primary use of the land.

Whether the agricultural use would continue to be the primary use involves evaluating the amount/intensity of commercial agriculture on the parcel as compared to the size and scale of the proposed compatible use development.

For all uses, cumulative existing and proposed compatible use development cannot exceed a maximum area of 10% of the parcel or 5 acres, whichever is smaller." The property's entire *development area*, as defined in § 1.30.030 of the Zoning Ordinance, shall be used for purposes of calculating this percentage. *Development area* includes **any development of the land, including septic systems and imported grading material such as drain rock.**

In addition to the requirements stated herein, development proposals must comply with all other legal requirements, including but not limited to applicable zoning code, grading, and building code requirements.

Siting Criteria for Compatible Use Development

For compatible uses requiring a discretionary permit, (i.e., *Use Permit, Special Permit, or Architecture and Site Approval*), development proposed on contracted parcels shall:

1. Conform to all applicable goals and policies of the General Plan.
2. Allow for ongoing commercial agriculture in the largest, most contiguous areas of the property.
3. Avoid soils designated *prime farmland* by the California Department of Conservation, to the maximum extent possible.
4. Be clustered on the property, to the maximum extent possible.

Lot Line Adjustments

Any contracted property proposing a lot line adjustment shall comply with the requirements of Zoning Ordinance § 5.55.060.



Guidelines for Williamson Act and Farmland Security Zone Programs

PART I: GENERAL ADMINISTRATION

PART II: GUIDELINE FOR COMMERCIAL AGRICULTURAL USE

PART III: GUIDELINE FOR COMPATIBLE USE DEVELOPMENT ON RESTRICTED LANDS

PART I: GENERAL ADMINISTRATION

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 3. Third and final level of review: Board of Supervisors, which shall hear and decide the matter de novo and approve, disapprove, or modify the review committee's determination.

Reports

DPD will maintain ~~up-to-date~~ and periodically update Williamson Act ~~Contract and Farmland Security Zone~~, and ~~Open Space Easement Agreement~~ program information on its website, including participant parcel maps, program statistics, and analysis.

Public Education

The County will conduct ~~The~~ public education on these programs and will focus on engaging key organizations and stakeholders, and take advantage of ~~multiple~~ new media channels and outreach methods (i.e. social media, online platforms, and multi-cultural outreach) to reach a diversity of populations. The goal is to ~~best~~ promote the program to the audiences who will benefit from it and achieve alignment with the Santa Clara County Valley Agricultural Plan (Ag Plan). DPD and the Consumer and Environmental Protection Agency (CEPA) will coordinate these efforts. All forms, information documents, and outreach materials shall be made available in ~~multiple~~ other languages, as needed, and will be reviewed for ease of use by ~~the~~ intended audience.

Compliance Monitoring

Program compliance will be ensured through annual verification and monitoring. Program participants must complete an Agricultural Preserve Questionnaire on an annual basis. County staff will conduct regular audits to verify commercial agricultural production and to ensure that proposed development is compatible with agriculture.

A. Agricultural Preserve Questionnaire and Verifying Agricultural Production (Williamson Act Contract holders only)

1. DPD and CEPA staff shall continue to review and revise the non-Assessor portion of the Agricultural Preserve Questionnaire to ensure the information requested is useful to the County, relevant to determining if the agricultural operations meet Williamson Act or FSZ requirements, and clear ~~for to~~ respondents to complete.
2. Assessor shall continue to make the ~~make~~ Agricultural Preserve Questionnaire available online and include a link to the Questionnaire on the Assessor's Office main webpage.

4.3._____The Office of the Assessor shall mail the Questionnaire to the mailing address of the owner or other person identified on the Assessor's roll as responsible for payment of the parcel's property taxes annually, no later than December 31. For the purpose of verification, the Assessor shall keep a record of to whom the Questionnaire was sent, and the date mailed.

- a. Assessor shall ensure that the Agricultural Preserve Questionnaire advises landowners of the landowner's obligation to complete and return the Questionnaire to the County by April 10th, annually.
- b. The Questionnaire shall provide for a signature acknowledgment by the landowner that the information provided under oath on the Questionnaire; is complete, true, and correct.

5.4._____The Assessor shall share the nonconfidential information on each submitted Questionnaire with Agricultural Commissioner staff within one week of receipt. The Agricultural Commissioner will verify that a parcel meets minimum agricultural production required by the ~~Williamson Act~~ contract and the Office of the Assessor will provide a list of participants who did not submit the required annual Questionnaire ~~to the Office of the Assessor~~ by May 1, annually.

6.5._____The Assessor's Office will send a warning notification to all ~~Williamson Act~~contracted parcel owners who have not submitted the Questionnaire by the April 10 deadline that they have 60 days to submit or they may be subject to nonrenewal. This notification will go out no later than May 15, annually.

7.6._____The Assessor's Office will promptly provide any additional Questionnaires received after the April 10 due date to the Agricultural Commissioner. The Agricultural Commissioner will make every reasonable attempt to reach out within 30 days to the remaining non-compliant parcel owners to assist them with completing the Questionnaire or determine if the parcel should be placed into nonrenewal status.

8.7._____The Agricultural Commissioner will present recommended parcels for nonrenewal to a review board consisting of staff from the Agricultural

Commissioner, DPD, and County Counsel's Office. The review board will submit a list of parcels recommended for nonrenewal parcels to the Directors of DPD and CEPA for approval by August 31, annually.

9:8. _____ The Agricultural Commissioner will provide, ~~within one week of Directors' approval,~~ the Clerk of the Board, within one week of Directors' approval, with the approved list of parcels for the Clerk to issue nonrenewal notices.

B. Proposed Development

Lands subject to ~~Williamson Act contracts or Open Space Easements~~ are identified in maps and other sources maintained by DPD to identify the restrictions imposed on these lands. A Compatible Use Determination is required prior to acceptance of any land development applications involving these lands and shall be processed in accordance with the below "Guidelines for Commercial ~~Land~~ Use Development on Restricted Lands."

C. Parcel Audit

DPD and CEPA staff shall review each response to the non-Assessor portion of the Agricultural Preserve Questionnaire and shall follow-up as necessary to ensure contract compliance. Review may consist of the analysis of GIS, aerial photographs, the Agricultural Commissioner's database, and other relevant documents, including federal tax schedules, to determine if land uses comply with restrictions. The landowner or land manager may also be contacted to obtain additional information or documentation. A ~~Williamson Act program goal of this program~~ is to audit every contracted parcel at least once every three years.

D. Permission to Enter to Inspect Property

If the County has probable cause to suspect that contracted land is not in compliance, it may contact the landowner to arrange for an inspection of the property by the County's officers, employees, contractors, or agents. The County shall give the landowner at least 48 hours' written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County will make a reasonable attempt to accommodate the landowner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00

am to 5:00 pm).

Nonrenewal

- A. A contract holder may file for nonrenewal of a contract, or portion of a contract, at any time by notifying the County in writing. The nonrenewal notice shall include the name(s) and signature(s) of the property owners, and the street address(es) and Assessor's Parcel Number(s) for all parcel(s) to be nonrenewed. Notification shall be mailed or delivered to the County as follows:

Office of the Clerk of the Board of Supervisors
ATTN: Williamson Act Program
70 West Hedding Street, 10th Floor
San José, CA 95110

The contract holder may withdraw such notice of nonrenewal through the same process.

- B. The County may "nonrenew" a contract for any reason, including but not limited to failure to meet the requirement that the contracted parcel be devoted to the production of agricultural commodities, or failure to return the required annual Agricultural Preserve Questionnaire by April 10th.

~~C. The County recognizes that contiguous substandard sized parcels (i.e., less than 40 acres of prime agricultural land or 40 acres of nonprime agricultural land) held in common ownership and operated as a single business entity may meet Williamson Act requirements. Prior to initiating the nonrenewal process for substandard sized parcels, the County will determine if the parcels in aggregate meet Williamson Act requirements. If the land is in compliance with all state and local requirements, no action will be taken. If the land is not in compliance, the contract will be non-renewed.~~

~~D.C. In order to~~ To initiate nonrenewal for the next calendar year, an owner must submit a notice of nonrenewal to the Clerk of the Board by October 1. Any notices of nonrenewal received after October 1 will be processed for the calendar year following the next calendar year. An owner may also withdraw their notice of nonrenewal by October 1 of the same calendar year in which the notice was submitted.

~~E.D.~~ Procedures for Nonrenewal:

~~2.1.~~ _____ -Any notice of nonrenewal (or withdrawal of such notice) received by the County from a property owner by October 1 shall be recorded within 20 calendar days of receipt, and the property owner will be notified within 30 calendar days of such recordation.

~~2.~~ If the County initiates nonrenewal, it shall notify the property owner by September 10. ~~as described in the Compliance Monitoring section above.~~ This notification shall include pertinent information regarding the resulting tax increase and right to protest (including information about a 3-year delay of tax increase). Any questions regarding property tax information should be directed to the County Assessor's Office at (408) 299-5500.

~~5.~~

~~5.~~ _____ The property owner shall have 30 calendar days from the date on the County's notice of nonrenewal to protest the nonrenewal in writing by submitting all of the following information:

~~e.3.~~ _____ p Proof that there is an existing commercial agricultural business use on the parcel and the contracted land is in commercial agricultural production based on the criteria adopted by the Board of Supervisors detailed below in Part II.

~~f.~~ _____ If the existing agricultural operation is located on substandard parcels, the owner(s) must submit a copy of a recorded Joint Management Agreement for the life of the Williamson Act contract that formally establishes a joint agricultural operation on the aggregate parcels.

~~3.4.~~ _____ The County will send the property owner a written acknowledgement that written protest has been received.

~~4.5.~~ _____ A review board consisting of staff from the Agricultural Commissioner, DPD, and County Counsel's Office. ~~The Williamson Act Review Board and County Counsel~~ shall review all protest documentation provided by the property owner(s) and shall make a final determination, providing. ~~The Review Board shall provide~~ the landowner its decision by

October 15. If the landowner wishes to appeal the decision, ~~it~~ they shall file an appeal with the Clerk of the Board by November 15.

6. The Board of Supervisors shall hear and render a decision on any appeal of a nonrenewal protest in December.
7. If a landowner's nonrenewal protest is granted, the Clerk of the Board shall file and record a "withdrawal of notice of nonrenewal" by December 31.

Property Disclosure Report

County of Santa Clara Ordinance Code C13-25 and C13-x58x requires sellers to disclose that a property is restricted by a ~~Williamson Act~~ contract as part of ~~the legal~~ any real estate transaction.

After the Office of the Assessor receives notice of a change of ownership on a contracted parcel, the Assessor will send to the new owner information describing the County's contract requirements; this information will be prepared by the DPD, CEPA, and the Office of the Assessor. The Office of the Assessor will notify the Agricultural Commissioner of all changes in ownership.

The Agricultural Commissioner will contact the new owner to explain the County's contract requirements, specifically the criteria for commercial agricultural use.

Joint Management Agreement

In some cases, contracted lands may have recorded a Joint Management Agreement for the purposes of formally establishing a joint agricultural operation on adjacent parcels. Such agreements were established to allow parcels that would have formerly been considered substandard in size to participate in the program. There are no longer standard or substandard size requirements for contracted lands. Existing Joint Management Agreements do not exempt contracted parcels from having to individually meet the requirements outlined in these Guidelines.

Material Breach of Williamson Act Contracts

If the County acquires knowledge of a “material breach” of a ~~Williamson Act~~ contract, DPD and Agricultural Commissioner, in consultation with County Counsel, will comply with the mandates in Gov. Code ~~Section~~ § 51250 and County Ordinance Code ~~section~~ C13-22.

Fees

Fees shall be charged in accordance with a Resolution adopted by the Board of Supervisors. Full cost recovery will be sought in fees imposed.

Staffing

DPD, Office of the Assessor, and CEPA staff shall be trained as necessary to carry out monitoring and enforcement procedures on behalf of the County.

PART II: GUIDELINE FOR COMMERCIAL AGRICULTURAL USE

Intent

Williamson Act and Farmland Security Zone contracts in Santa Clara County are intended to promote agricultural productivity and economic viability and to preserve agricultural land from premature and unnecessary conversion to urban uses. These guidelines are used to verify the presence of commercial agriculture on contracted parcels.

~~To be eligible to participate or continue participation in the County's Williamson Act program, the land in question must be "devoted to production of agricultural commodities". (This requirement is discussed below). When development is proposed on contracted land(s), two additional pre-conditions are applied: 1) each contracted parcel must meet a minimum percentage of land in agricultural production; and 2) the proposed development must be "compatible" with and "incidental" to the agricultural use of the parcel. (See Guideline for Compatible Use Development)~~

Agricultural Commodity

~~To be eligible to participate, or continue participation, in the County's Williamson Act or Farmland Security Zone programs, c~~Contracted land shall be **devoted to producing an agricultural commodity for commercial purposes**~~the commercial production of agricultural commodities~~, as defined, for sale in wholesale or direct marketing channels. Agricultural commodities shall mean an unprocessed product of farms, ranches, production nurseries, oand forests.

Agricultural commodities include: fruits, nuts, and vegetables; grains, such as wheat, barley, oats, and corn; legumes, such as field beans and peas; animal feed and forage crops, such as grain hay and alfalfa; rangeland and pasture for livestock production; seed crops; fiber and oilseed crops, such as safflower and sunflower; plant products used to produce biofuels; nursery stock such as Christmas trees, ornamentals, and cut flowers; trees grown for lumber and wood products; turf grown for sod; livestock for consumption, such as cattle, sheep and swine (except horses); and poultry, such as chickens, ostriches, and emus. The boarding, training, oor occasional sale of horses is not considered a commercial agricultural use or an agricultural commodity.

Minimum Parcel Size

~~Government Code Section 51222~~ establishes a presumption that parcels of agricultural land are large enough to sustain their agricultural use if the land is at least 10 acres in size in the case of prime agricultural land, or at least 40 acres in size for non-prime land. ~~Parcels not meeting these sizes are considered "substandard".~~

In most cases, establishing and sustaining commercial agricultural production on substandard-sized parcels is particularly challenging. Therefore, applications for new Williamson Act contracts are limited to properties that meet the statutory minimum-size presumption (10 acres prime / 40 acres non-prime). In Santa Clara County, the distinction between prime and non-prime land will be based upon soil resource quality, with prime lands being those that qualify for a rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.

Joint Management Agreement

Where an existing farm business operates on multiple substandard-sized parcels, the property owners may choose to enter into a Joint Management Agreement to formalize the joint farming operation on aggregate substandard-sized parcels. A recorded Joint Management Agreement may allow substandard-sized parcels that together total at least 10 acres prime / 40 acres non-prime to remain enrolled in the Williamson Act rather than be nonrenewed. When development is proposed on a substandard-sized parcel under a Joint Management Agreement, the individual parcel must meet the conditions for commercial agricultural production for substandard-sized parcels. Joint Management Agreements do not exempt substandard-sized parcels from having to individually meet the criteria of the "Guideline for Commercial Agricultural Use" and the "Guideline for Compatible Use Development on Restricted Lands" when development is proposed.

Commercial Agricultural Production

Land shall be considered devoted to producing an agricultural commodity for commercial purposes when it sustains an agricultural operation meeting the requirements delineated in Figure A, on the following page.

Contracted land shall be devoted to the commercial production of agricultural commodities, as defined, for sale in wholesale or direct marketing channels. Crop lands temporarily fallowed or grazing lands temporarily unused through rotational grazing may be considered to be as being in agricultural production if the applicant demonstrates such practice is a typical and appropriate agricultural management strategy. For livestock production, land that is fenced and available for grazing will be considered as being to be in agricultural production, even though grazing may only occur on a seasonal basis. In all cases, commercial agriculture must be the primary use of the land.

The Agricultural Commissioner shall consider exceptions to the land coverage standard when there are natural land features present, such as streams and rock outcroppings, which the owner demonstrates are not conducive to commercial agricultural uses

appropriate for the property or where government-imposed restrictions prohibit use of portions of the land for agricultural purposes.

FIGURE A: COMMERCIAL AG PRODUCTION REQUIREMENTS BY TYPE

Cultivation		Grazing & livestock	Timber
Row crops¹	Field crops²		
<p>The property produces a specialty crop with a minimum annual revenue* of \$12,000 and the area under cultivation is either:</p> <p>A. At least 6 acres;</p> <p>-OR-</p> <p>B. At least 60% of the parcel.</p>	<p>The property produces hay or field crops with a minimum annual revenue* of \$2,000 and the area under cultivation is either:</p> <p>A. At least 24 acres;</p> <p>-OR-</p> <p>B. At least 60% of the parcel.</p>	<p>The property produces livestock through grazing or pasture with a minimum annual revenue* of \$1,000 or \$20/acre whichever is greater, and the area that is fenced, available, and appropriate for grazing is either:</p> <p>A. At least 24 acres;</p> <p>-OR-</p> <p>B. At least 60% of the parcel.</p>	<p>The property is at least 40 acres in size and produces timber or other forest products under an active Non-Industrial Timber Management Plan, an active Timber Harvest Plan, or a Timber Harvest Plan that was filed and executed within the last 15 years.</p>

* Minimum annual revenue must be met in three of the past five years, using federal income tax documents filed in those years. Revenue refers to gross income generated by the agricultural use of the property. The Agricultural Commissioner may consider sales receipts when federal income tax documents are not available and may consider revenue projections from future sales of agricultural commodities on property currently planted with perennial crops which will not bear fruits or nuts until two or more years after planting. When minimum annual revenue is calculated per acre, the acreage of the entire parcel will be used, not only those acres being used for commercial agricultural production. Monetary values will be reviewed periodically and may be adjusted to account for inflation in an amount determined by the Board of Supervisors.

¹ "Row crops" includes fruits, nuts, vegetables, seed crops, and nursery crops, for the purposes of this table.

² "Field crops" includes hay, industrial hemp, and Christmas trees, for the purposes of this table.

As detailed in the following section (Part III), any other uses or development of contracted lands must be compatible with and ancillary to the use of the land for the commercial production of agricultural commodities. Other compatible uses may include, but are not limited to, agricultural processing, horse stabling and training facilities, barns, and other farm storage buildings.

To be considered as “devoted to the commercial production of agricultural commodities”, the contracted parcel(s) must meet at least one of the following conditions:

- 1)– The property³ is at least 10 acres of prime land, at least 60% of the property is being used for commercial agriculture⁴ and the owner substantiates revenue⁵ from commercial agriculture on at least 60% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
- 2)– The property is at least 40 acres of non-prime land, at least 60% of the property is being used for commercial agriculture² and the owner substantiates revenue from commercial agriculture on at least 60% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
- 3)– The property is less than 10 acres of prime land, at least 75% of the property is being used for commercial agriculture and the owner substantiates that the property generated at least \$3,500⁶ in annual revenue from commercial agriculture on at least 75% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,

³–“Property” as used in #1 - #6 includes lands held in common ownership.

⁴–The Agricultural Commissioner shall consider exceptions to the land coverage standards stated in #1 - #4 when there are natural land features present, such as streams or rock outcroppings, which the owner demonstrates are not conducive to the commercial agricultural uses appropriate for the property or where government-imposed restrictions prohibit use of portions of the land for agricultural purposes. Agriculture must be the primary use of the land; if more than 50% of the property is not conducive to commercial agricultural uses, which are appropriate for the property, the property may be subject to non-renewal.

Developed land within fenced properties shall be excluded from the calculation of land considered to be in agricultural use. Developed land is land encumbered with buildings or structures for Compatible Uses, as defined:

⁵–“Revenue” as used in #1 - #6 refers to gross agricultural income generated by the property. The Agricultural Commissioner may consider income projections from future sales of agricultural commodities on property currently planted with trees, vines, bushes, or crops which will not bear fruits or nuts until 2 or more years after planting. A minimum revenue is not indicated in #1 and #2 as these parcels meet the statutory presumption for size established by Government Code Section 51222.

⁶–Monetary values indicated in #3 - #6 will be reviewed every 3 years and may be adjusted to account for inflation in an amount determined by the HLUET Committee.

- 4) ~~The property is less than 40 acres of non-prime land, at least 75% of the property is being used for commercial agriculture and the owner substantiates that the property generated at least \$2,000 in annual revenue from commercial agriculture on at least 75% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,~~
- 5) ~~The property is prime land and generated annual revenue from sales of agricultural commodities in 3 of the past 5 years of at least \$1,000 per acre or \$10,000, whichever is **greater**⁷; or,~~
- 6) ~~The property is non-prime land and generated annual revenue from sales of agricultural commodities in 3 of the past 5 years of at least \$250 per acre or \$10,000, whichever is **greater**; or,~~
- 7) ~~The property is at least 40 acres in size and produces timber or other forest products under an active Non-Industrial Timber Management Plan, an active Timber Harvest Plan, or a Timber Harvest Plan that was filed and executed within the last 15 years.~~

Income from sales of agricultural commodities ~~or rent of land used for commercial production of agricultural commodities~~ shall be the only sources of income used to calculate annual revenue. Eligible income shall be accrued through an agricultural operation specific to the parcel under contract. Eligible income may be accrued by leaseholders managing an agricultural operation specific to the parcel under contract. Estimated gross income generated through grazing activities may be limited to an estimate of the annual carrying capacity of the land multiplied by livestock value. Revenue from other compatible uses or ancillary uses of the land shall not be included in the revenue calculation.

Annual revenue will be validated by affidavit on a form provided by the County and with tax forms or other verifiable documents substantiating the annual revenue generated by the commercial agricultural use of the property.

⁷To propose compatible use development using #5 or #6, at least 50% of the parcel must be used for commercial agriculture to ensure that any development is incidental to the agricultural use.

PART III: GUIDELINE FOR COMPATIBLE USE DEVELOPMENT ON RESTRICTED LANDS

Intent

~~Williamson Act contracts in Santa Clara County are intended to promote agricultural productivity and economic viability and to preserve agricultural land from premature and unnecessary conversion to urban uses. These guidelines are used to evaluate proposed compatible use development on parcels restricted by Williamson Act contracts.~~

The issuance of a Compatible Use Determination is required for all properties restricted by a contract **before** any land use or building permit application is approved. The Compatible Use Determination requirements are required for any contracted property, including those in nonrenewal.

A Compatible Use Determination is required when proposed development consists of **more than 500 square feet in development area**. *Development area* is defined in § 1.30.030 of the Zoning Ordinance and applies to **any development of the land, including septic systems and imported grading material such as drain rock.**

~~To be eligible to participate or continue participation in the County's Williamson Act program, the land in question must be "devoted to commercial production of agricultural commodities". (See "Guideline for Commercial Agricultural Use") When development is proposed on a contracted parcel, two conditions must be met: 1) -the total development area on the parcel, including the proposed development, **shall not exceed a maximum area of 10% of the parcel or 5 acres, whichever is smaller;** land(s), two additional preconditions are applied: 1) each contracted parcel must meet a minimum percentage of land in agricultural production; and 2) the proposed development must be "compatible" with and "incidental" to the agricultural use of the parcel. (Both of these pre-conditions are discussed below.):~~

~~Santa Clara County~~The County of Santa Clara will enforce the provisions of ~~Williamson Act~~ contracts when development is proposed on restricted lands. Contract enforcement is necessary to maintain the integrity of the ~~Williamson Act~~ program and to help ensure non-agricultural development does not result in a material breach of contract.

Compatible Use Development Restrictions

The presence of commercial agriculture is a pre-condition to the County considering a development application on land restricted by a ~~Williamson Act~~ contract. See "Guideline for Commercial Agricultural Use." Commercial agriculture must be the primary use of the land. Other uses or development must be compatible with and ~~ancillary~~incidental to the

use of the land for commercial production of agricultural commodities. Other compatible uses may include, but are not limited to, agricultural processing, horse stabling and training facilities, barns and other farm storage buildings. To meet the minimum requirement for the percentage of land that must be in agricultural production, each contracted parcel must meet at least one of the Approved by BOS 10/18/11 2 following:

- 1.—For standard⁸ properties comprising at least 10 acres of prime land or 40 acres of non-prime land, at least 60% of the property is being used for commercial agriculture and the owner substantiates revenue from commercial agriculture on at least 60% of the property in 3 of the past 5 years.
- 2.—For substandard⁹ properties comprised of less than 10 acres of prime land, at least 75% of the property is being used for commercial agriculture and the owner substantiates that the property generated at least \$3,500 in annual revenue from commercial agriculture on at least 75% of the property in 3 of the past 5 years.
- 3.—For substandard properties comprised of less than 40 acres of non-prime land, at least 75% of the property is being used for commercial agriculture and the owner substantiates that the property generated at least \$2,000 in annual revenue from commercial agriculture on at least 75% of the property in 3 of the past 5 years.
- 4.—For any parcels using condition 5 or 6 in the Guidelines for Commercial Agricultural Use to qualify as having a viable commercial agricultural use on the property, at least 50% of a parcel must be in use for commercial agriculture production before a permit may be issued for compatible use development.

The conditions for commercial agricultural production for substandard-sized parcels must be met for each individual parcel when development is proposed on a substandard-sized parcel under a Joint Management Agreement. Joint Management Agreements do not exempt substandard-sized parcels from having to individually meet the criteria of the "Guideline for Commercial Agricultural Use" and the "Guideline for Compatible Use Development on Restricted Lands" when development is proposed.

Crop lands temporarily fallowed or grazing lands temporarily unused through rotational grazing may be considered as being in agricultural production if the applicant demonstrates such practice is a typical and appropriate agricultural management strategy. For livestock production, land that is fenced and available for grazing will be

⁸—"Standard" lands/parcels are defined as prime lands of 10 or more acres in size and non-prime lands/parcels of 40 or more acres in size.

⁹—"Substandard" lands/parcels are defined as prime lands less than 10 acres in size and non-prime lands/parcels less than 40 acres in size. Approved by BOS 10/18/11

~~considered as being in agricultural production, even though grazing may only occur on a seasonal basis.~~

~~The Agricultural Commissioner shall consider exceptions to the land coverage standard when there are natural land features present, such as streams and rock outcroppings, which the owner demonstrates are not conducive to commercial agricultural uses appropriate for the property or where government-imposed restrictions prohibit use of portions of the land for agricultural purposes.~~

Owners proposing compatible use development must satisfy the compatibility principles in the County Ordinance Code (Sec. C13-15) and the Williamson Act (Government Code Section § 51238.1). Proposed development on contracted land must be both “compatible” with and “incidental” to the agricultural use of the parcel.

Determining whether a proposed ~~compatible use~~ development is compatible with and “incidental to” the agricultural use on the contracted parcel ~~involves several factors~~ requires the owner to demonstrate compliance with Government Code § 51238.1 and the following criteria, which are intended to supplement the County Ordinance Code (Sec. C13-15):

1. The owner must demonstrate that there is an existing commercial agricultural use on the parcel. See “Guideline for Commercial Agricultural Use”.
2. The proposed development must be compatible with and not substantially interfere with the existing agricultural use on that particular parcel or any other property under Williamson Act contract.
3. The proposed development will not hinder or impair agricultural operations in the area by significantly increasing the permanent or temporary human population of the area.
4. The proposed development must not significantly displace or impair current or reasonably foreseeable agricultural operations on the parcel or any other property under Williamson Act contract.
5. The remaining portion of the parcel must be able to sustain the agricultural use.
6. The commercial agricultural use must continue to be the primary use of the land.

Whether the agricultural use would continue to be the primary use involves evaluating the amount/intensity of commercial agriculture on the parcel as compared to the size and scale of the proposed compatible use development.

For all uses, cumulative existing and proposed compatible use development cannot exceed a maximum area of 10% of the parcel or 5 acres, whichever is smaller." A maximum of 10% of the parcel, not to exceed 5 acres, may cumulatively be devoted to existing and proposed compatible use development. The property's entire development area, as defined in § 1.30.030 of the Zoning Ordinance, shall be used for purposes of calculating this percentage. Development area includes any development of the land, including septic systems and imported grading material such as drain rock.†

~~"Development" includes erecting or placing structures or objects on the land, grading, or otherwise altering the land for non-agricultural purposes:~~

~~"Development" does not include use of the land in its natural state for activities such as hunting, fishing, hiking, or outdoor games or sports, or landscaping (softscape) that is in keeping with the natural setting and that is composed of natural features and vegetation generally found in the area of land in question, provided that these activities meet the compatibility criteria set forth above (e.g., do not significantly displace or impair current or reasonably foreseeable agricultural operations):~~

~~For purposes of calculating the maximum permissible 10% compatible use development of a parcel, the square footage of the footprints of all existing and proposed hardscape, including residences, associated improvements (e.g., barns, detached garages, sub-surface utility systems, roads, driveways, vehicle parking areas) and recreation facilities (e.g., tennis courts, swimming pools, decks, patios) shall be aggregated.~~

~~In addition to the requirements stated herein, development proposals must comply with all other legal requirements, including but not limited to applicable zoning code, grading, and building code requirements.~~

Siting Criteria for Compatible Use Development

~~€For compatible uses requiring a discretionary permit, (i.e., Use Permit, Special Permit, or Architecture and Site Approval), compatible use development proposed on contracted parcels shall:~~

- ~~1. Conform to all applicable goals and policies of the General Plan.~~
- ~~2. Allow for the maintenance of ongoing commercial agriculture in the largest, most contiguous areas capable for serving the various purposes of the Williamson Act of the property.~~
- ~~3. Avoid soils designated prime farmland by the California Department of Conservation, to the maximum extent possible those noteworthy and most~~

~~valuable agricultural and natural features of the land relating to agricultural capability.~~

3.

4. Be clustered on the property, to the maximum extent possible.

Lot Line Adjustments

Any contracted property proposing a lot line adjustment shall comply with the requirements of Zoning Ordinance § 5.55.060.

Attachment C – Proposed Changes to Commercial Agriculture Definitions

PROPOSED DEFINITIONS:

COMMERCIAL AG PRODUCTION REQUIREMENTS BY TYPE

Cultivation		Grazing & livestock	Timber
Row crops ¹	Field crops ²		
<p>The property produces a specialty crop with a minimum annual revenue* of \$12,000 and the area under cultivation is either:</p> <p>A. At least 6 acres;</p> <p style="text-align: center;">-OR-</p> <p>B. At least 60% of the parcel.</p>	<p>The property produces hay or field crops with a minimum annual revenue* of \$2,000 and the area under cultivation is either:</p> <p>A. At least 24 acres;</p> <p style="text-align: center;">-OR-</p> <p>B. At least 60% of the parcel.</p>	<p>The property produces livestock through grazing or pasture, with a minimum annual revenue* of \$1,000 or \$20/acre, whichever is greater, and the area that is fenced, available, and appropriate for grazing is either:</p> <p>A. At least 24 acres;</p> <p style="text-align: center;">-OR-</p> <p>B. At least 60% of the parcel</p>	<p>The property is at least 40 acres in size and produces timber or other forest products under an active Non-Industrial Timber Management Plan, an active Timber Harvest Plan, or a Timber Harvest Plan that was filed and executed within the last 15 years.</p>

* Minimum annual revenue must be met in 3 of the past 5 years, using federal income tax documents filed in those years. Revenue refers to gross income generated by the agricultural use of the property. The Agricultural Commissioner may consider sales receipts when federal income tax documents are not available and may consider revenue projections from future sales of agricultural commodities on property currently planted with trees, vines, bushes, or crops which will not bear fruits or nuts until 2 or more years after planting. When minimum annual revenue is calculated per acre, the acreage of the entire parcel will be used, not only those acres being used for commercial agricultural production.

¹ "Row crops" includes fruits, nuts, vegetables, seed crops, and nursery crops, for the purposes of this table.

² "Field crops" includes hay, industrial hemp, and Christmas trees, for the purposes of this table.

CURRENT DEFINITIONS:

1.) The property ¹ is at least 10 acres of prime land, at least 60% of the property is being used for commercial agriculture ² and the owner substantiates revenue ³ from commercial agriculture on at least 60% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
2.) The property is at least 40 acres of non-prime land, at least 60% of the property is being used for commercial agriculture and the owner substantiates revenue from commercial agriculture on at least 60% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
3.) The property is less than 10 acres of prime land, at least 75% of the property is being used for commercial agriculture and the owner substantiates that the property generated at least \$3,500 ⁴ in annual revenue from commercial agriculture on at least 75% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
4.) The property is less than 40 acres of non-prime land, at least 75% of the property is being used for commercial agriculture and the owner substantiates that the property generated at least \$2,000 in annual revenue from commercial agriculture on at least 75% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
5.) The property is prime land and generated annual revenue from sales of agricultural commodities in 3 of the past 5 years of at least \$1,000 per acre or \$10,000, whichever is greater ⁵ ; or,
6.) The property is non-prime land and generated annual revenue from sales of agricultural commodities in 3 of the past 5 years of at least \$250 per acre or \$10,000, whichever is greater ⁵ ; or,
7.) The property is at least 40 acres in size and produces timber or other forest products under an active Non-Industrial Timber Management Plan, an active Timber Harvest Plan, or a Timber Harvest Plan that was filed and executed within the last 15 years.

¹ "Property" as used in #1 - #6 includes lands held in common ownership.

² The Agricultural Commissioner shall consider exceptions to the land coverage standards stated in #1 - #4 when there are natural land features present, such as streams or rock outcroppings, which the owner demonstrates are not conducive to the commercial agricultural uses appropriate for the property or where government-imposed restrictions prohibit use of portions of the land for agricultural purposes. Agriculture must be the primary use of the land; if more than 50% of the property is not conducive to commercial agricultural uses, which are appropriate for the property, the property may be subject to non-renewal. Developed land within fenced properties shall be excluded from the calculation of land considered to be in agricultural use. Developed land is land encumbered with buildings or structures for Compatible Uses, as defined.

³ "Revenue" as used in #1 - #6 refers to gross agricultural income generated by the property. The Agricultural Commissioner may consider income projections from future sales of agricultural commodities on property currently planted with trees, vines, bushes, or crops which will not bear fruits or nuts until 2 or more years after planting. A minimum revenue is not indicated in #1 and #2 as these parcels meet the statutory presumption for size established by Government Code § 51222.

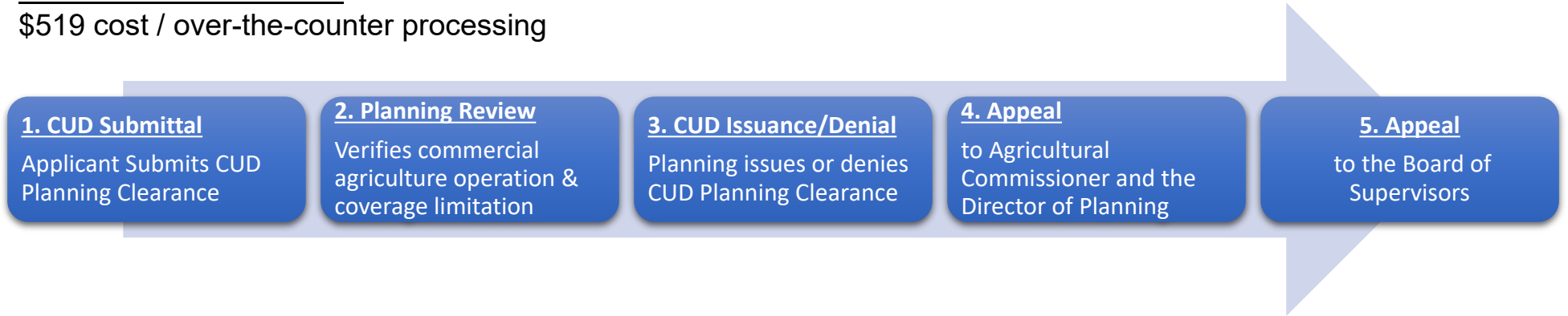
⁴ Monetary values indicated in #3 - #6 will be reviewed every 3 years and may be adjusted to account for inflation in an amount determined by the Housing, Land Use, Environment, and Transportation (HLUET) Committee.

⁵ To propose compatible use development using #5 or #6, at least 50% of the parcel must be used for commercial agriculture to ensure that any development is incidental to the agricultural use.

Attachment D – Compatible Use Determination (CUD) Flow Charts

PROPOSED PROCESS

\$519 cost / over-the-counter processing



CURRENT PROCESS

\$1,152 cost / one to three months processing

