



Guidelines for Williamson Act and Farmland Security Zone Programs

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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.