

Sec. 8-2.404 Agricultural Conservation and Mitigation Program

(a) Purpose

- (1) The purpose of this section is to implement the agricultural land conservation policies contained in the Yolo County General Plan with a program designed to permanently protect agricultural land located within the unincorporated area.

(b) Definitions

Agricultural land or farmland

Those land areas of unincorporated Yolo County, regardless of current zoning, that are either currently used for agricultural purposes or that are substantially undeveloped and capable of agricultural production. Land that is determined to be incapable of supporting the production of agricultural commodities is excluded from this definition and does not require agricultural mitigation under this section. Any such determination shall be made by the deciding authority on a permit (or other) application in consultation with the Agricultural Commissioner, whose recommendation shall be given substantial weight unless unsupported by evidence.

Agricultural mitigation land

Agricultural land encumbered by a farmland conservation easement.

Agricultural use

Those principal, accessory, and conditional uses and structures defined in Section [8-2.304](#) of this title, excluding “covered habitat mitigation projects” as defined in Section [8-2.307](#) of this title but including other projects involving restoration or conversion to habitat, so long as the restoration or conversion is incidental to or ancillary to the agricultural uses on the parcel, and excluding medium-sized, large, and very large solar energy systems, which are subject to Sections [8-2.1104](#) and [8-2.1105](#) of this title unless the approving authority reasonably determines the project will be implemented in a manner that does not substantially diminish the agricultural productive capacity of the project site, and including permits issued for surface mining, which are subject to Section [10-5.525](#) of Title 10.

Farmland conservation easement

An easement encumbering agricultural land for the purpose of restricting its use to agricultural activities.

Predominantly non-agricultural use

Any use not defined or listed as a principal, accessory, and conditional use allowed in the agricultural zones, as defined and listed in Sections [8-2.303](#) and [8-2.304](#). Predominantly non-agricultural use specifically does not include the restoration or conversion to habitat, so long as the restoration or conversion is incidental to or ancillary to the agricultural uses on the parcel, but the definition does include “covered habitat mitigation projects” as defined in Section [8-2.307](#) of this title.

Prime farmland

Prime farmland shall generally mean farmland that meets the criteria applied by the Farmland Mapping and Monitoring Program of the United States Department of

Agriculture. Farmland shall also be considered prime farmland for purposes of this section if it meets the definition of "prime agricultural land" in Government Code Section 51201. Additionally, land that is not currently in production shall also be considered prime farmland under this section if, in the reasonable judgment of the approving authority, it would be considered prime farmland under either of the foregoing definitions if it was in active production.

Qualifying entity

A nonprofit public benefit 501(c)(3) corporation or other entity eligible to hold a conservation easement for mitigation purposes under California law, including but not limited to Government Code Sections 65965-65968, operating in Yolo County for the purpose of conserving and protecting land in its natural, rural or agricultural condition. The County will consider the following criteria when considering a proposed agricultural conservation entity for these purposes, and when monitoring the performance of qualifying entities over time:

- (1) Whether the proposed entity is a non-profit organization or other entity eligible to hold a conservation easement for mitigation purposes under California law that is either based locally, is statewide, or is a regional branch of a national non-profit organization whose principal purpose is holding and administering agricultural conservation easements for the purposes of conserving and maintaining lands in agricultural production;
- (2) Whether the entity has a long-term proven and established record for holding and administering easements for the purposes of conserving and maintaining lands in agricultural production;
- (3) Whether the entity has a history of holding and administering easements in Yolo County for the foregoing purposes;
- (4) Whether the entity has adopted the Land Trust Alliance's "Standards and Practices" and is operating in compliance with those Standards and Practices; and
- (5) Any other information that the County finds relevant under the circumstances.

A local public agency may be an easement co-holder if that agency was the lead agency during the environmental review process or if otherwise authorized by the Board of Supervisors to co-hold a conservation easement. The County also favors that applicants transfer easement rights directly or indirectly (i.e., through a transaction involving a third party) to the qualifying entity in accordance with that entity's procedures. The County retains the discretion to determine whether the proposed agricultural conservation entity identified by the applicant has met the criteria delineated above. Qualifying entities may be approved by the Board of Supervisors from time to time in its reasonable discretion in accordance with this section.

Small project

A development project that is less than twenty (20) acres in size. A small project does not include one phase or portion of a larger project greater than twenty (20) acres that is subject to a master, specific, or overall development plan approved by the County.

(c) Mitigation requirements

- (1) Agricultural mitigation shall be required for conversion or change from agricultural use to a predominantly non-agricultural use prior to, or concurrent with, approval of a zone change from agricultural to urban zoning, permit, or other discretionary or ministerial approval by the County.

Except as provided in subsection (d)(2) below, relating to adjustment factors, for projects that convert prime farmland, a minimum of three (3) acres of agricultural land shall be preserved in the locations specified in subsection (d)(1) for each acre of agricultural land changed to a predominantly non-agricultural use or zoning classification (3:1 ratio). For projects that convert non-prime farmland, a minimum of two (2) acres of agricultural land shall be preserved in the locations specified in subsection (d)(1) for each acre of land changed to a predominantly non-agricultural use or zoning classification (2:1) ratio. Projects that convert a mix of prime and non-prime lands shall mitigate at a blended ratio that reflects for the percentage mix of converted prime and non-prime lands within project site boundaries.

- (2) The following uses and activities shall be exempt from, and are not covered by, the Agricultural Conservation and Mitigation Program:
- (i) Affordable housing projects, where a majority of the units are affordable to very low or low income households, as defined in Title 8, Chapter 8 of the Yolo County Code (Inclusionary Housing Requirements);
 - (ii) Public uses such as parks, schools, cultural institutions, and other public agency facilities and infrastructure that do not generate revenue. The applicability of this exemption to public facilities and infrastructure that generate revenue shall be evaluated by the approving authority on a case-by-case basis. The approving authority may partly or entirely deny the exemption if the approving authority determines the additional cost of complying with this program does not jeopardize project feasibility and no other circumstances warrant application of the exemption;
 - (iii) Gravel mining projects regulated under Title 10, [Chapters 3-5](#) of the Yolo County Code, pending completion of a comprehensive update of the gravel mining program (anticipated in January 2017); and
 - (iv) Projects covered by an approved specific plan which includes an agricultural mitigation program.
- (3) The following uses and activities shall provide mitigation at a 1:1 ratio in compliance with all other requirements of this Agricultural Conservation and Mitigation Program:
- (i) If not covered by the exemption for approved specific plans, the pending application for the Dunnigan Specific Plan, if deemed complete within (1) two (2) years of the effective date of the ordinance adding this subsection, and (2) not later substantially revised, as determined by the Board of Supervisors in its reasonable discretion;

- (ii) Applications deemed complete prior to the effective date of the ordinance modifying the mitigation ratio.

(d) Agricultural Mitigation Implementation

Agricultural mitigation required by this section shall be implemented as follows:

- (1) Location, Generally. Mitigation lands shall be located within two (2) miles of sphere of influence of a city or within two (2) miles of the General Plan urban growth boundary of the town of Esparto ("Esparto Urban Growth Boundary"). Mitigation may also occur in any other area designated by the Board of Supervisors based on substantial evidence demonstrating that the parcel at issue consists predominantly of prime farmland and/or is subject to conversion to non-agricultural use in the foreseeable future. Any such designation shall be made by resolution and shall specify whether the designated area is a priority conservation area subject to a 1:1 mitigation ratio. For all other designated areas, the resolution shall specify the mitigation ratio for any mitigation occurring in the covered area, which may exceed the applicable base ratio.
- (2) Adjustment Factors. The following adjustment factors shall be applied, where relevant, to modify the base ratio:
 - (i) Priority Conservation Areas. Mitigation occurring within a priority conservation area shall occur at a reduced 1:1 ratio unless otherwise specified below. The following areas shall be deemed priority conservation areas for purposes of this section:
 - (A) Parcels partly or entirely within one-quarter (0.25) mile of the sphere of influence of a city or the Esparto Urban Growth Boundary, or, for projects that convert primarily non-prime farmland, one (1) mile of the sphere of influence of a city or the Esparto Urban Growth Boundary. For the purposes of this subsection, the word "primarily" shall mean greater than fifty (50) percent.
 - (B) Parcels lying partly or entirely within the area bounded by County Roads 98 and 102 on the west and east, respectively, and by County Roads 29 and 27 on the north and south, respectively. For mitigation of impacts to prime farmland, the ratio shall be 2:1 within this area.
- (3) Other Factors
 - (i) If the area to be converted is twenty (20) acres or more in size, subject to the exception in (iii), below, by granting, in perpetuity, a farmland conservation easement to a qualifying entity with the County as a third party beneficiary, together with the provision of funds sufficient to compensate for all administrative costs incurred by the qualifying entity and the County as well as funds needed to establish an endowment to provide for monitoring, enforcement, and all other services necessary to

ensure that the conservation purposes of the easement or other restriction are maintained in perpetuity.

- (ii) If the area to be converted is a small project less than twenty (20) acres in size, by granting a farmland conservation easement as described in subsection (i), above, or payment of the in-lieu fee established by the County to purchase a farmland conservation easement consistent with the provisions of this section; and the payment of fees in an amount established by the County to compensate for all administrative costs incurred by the County inclusive of endowment funds for the purposes set forth in subsection (i), above. The in-lieu fee, paid to the County, shall be used for agricultural mitigation purposes only (i.e. purchases of conservation easements and related transaction and administrative costs).
- (iii) If Yolo County or a qualifying entity establishes a local farmland mitigation bank and sufficient credits are available at a total cost not exceeding the in lieu fee (and all related transactional and similar costs), small projects shall satisfy their farmland mitigation requirement by purchasing credits from the mitigation bank in a quantity sufficient to discharge the mitigation obligations of the project under this section. Other local projects converting twenty (20) or more acres of farmland may also purchase credits to discharge their farmland mitigation requirements, in lieu of providing an easement under subsection (i), above.

A farmland mitigation bank must be approved by the Board of Supervisors for local (i.e., within Yolo County) mitigation needs based upon a determination that it satisfies all of the farmland mitigation requirements of this section. Landowners and project applicants that conserve more farmland than necessary to satisfy their mitigation obligations may seek approval of a farmland mitigation bank through an application process to be developed by the Planning, Public Works, and Environmental Services Department.

- (iv) Agricultural mitigation shall be completed as a condition of approval prior to the acceptance of a final parcel or subdivision map, or prior to the issuance of any building permit or other final approval for development projects that do not involve a map.

(e) Eligible lands

Land shall meet all of the following criteria in sections (1) through (6), below, to qualify as agricultural mitigation:

- (1) Agricultural conservation easements resulting from this program shall be acquired from willing sellers only;
- (2) The property is of adequate size, configuration and location to be viable for continued agricultural use;

- (3) The equivalent class of soil, based on the revised Storie index or NRCS soil survey maps, for the agricultural mitigation land shall be comparable to, or better than, the land which is converted;
- (4) The land shall have an adequate water supply to maintain the purposes of the easement, i.e., to irrigate farmland if the converted farmland is irrigated or capable of irrigation. The water supply shall be sufficient to support ongoing agricultural uses;
- (5) The mitigation land shall be located within the County of Yolo in a location identified for mitigation in accordance with this section;
- (6) It is the intent of this program to work in a coordinated fashion with the habitat conservation objectives of the Yolo Habitat Conservancy joint powers agency and the developing Habitat Conservation Plan/Natural Communities Conservation Plan. The mitigation land may not overlap with existing habitat conservation easement areas; the intent is to not allow "stacking" of easements, except for habitat conservation easements protecting riparian corridors, raptor nesting habitat, wildlife-friendly hedgerows, or other restored or enhanced habitat areas so long as such areas do not exceed five percent (5%) of the total area of any particular agricultural conservation easement.

(f) Ineligible lands

A property is ineligible to serve as agricultural mitigation land if any of the circumstances below apply:

- (1) The property is currently encumbered by a conservation, flood, or other type of easement or deed restriction that legally or practicably prevents converting the property to a nonagricultural use; or
- (2) The property is currently under public ownership and will remain so in the future, except to the extent it is included within a mitigation bank that may subsequently be established by the County or other public agency; or
- (3) The property is subject to physical conditions that legally or practicably prevent converting the property to a nonagricultural use.

(g) Minimum conservation requirements

The following minimum requirements shall be incorporated into all conservation easements recorded to satisfy the requirements of this mitigation program. Nothing in this subsection is intended to prevent the inclusion of requirements that require a higher level of performance from the parties to a conservation easement or other instrument to ensure that the goals of this mitigation program are achieved.

- (1) It is the intent of the County to transfer most, if not all, of the easements that are received from this program to a qualifying entity, as defined above, for the purpose of monitoring compliance with easement terms and taking any necessary enforcement and related actions. Estimated costs of any such transfer

may be recovered from the applicant at the time of easement acceptance by the County.

- (2) All farmland conservation easements shall be acceptable to County Counsel and the qualifying entity that will receive the easement, and signed by all owners with an interest in the mitigation land.
- (3) The instrument shall prohibit any uses or activities which substantially impair or diminish the agricultural productivity of the mitigation land, except for the restoration or conversion to habitat uses of up to five percent (5%) of the total easement land, or that are otherwise inconsistent with the conservation purposes of this mitigation program. The instrument shall protect the existing water rights and retain them with the agricultural mitigation land; however, the instrument shall not preclude the limited transfer of water rights on a temporary basis (i.e., not to exceed two (2) years in any ten (10) year period) to other agricultural uses within the County, so long as sufficient water remains available to continue reasonable and customary agricultural use of the mitigation land.
- (4) The instrument shall prohibit the presence, construction, or reconstruction of homes or other non-agricultural uses except within a development envelope designated in an exhibit accompanying the easement. Any such development envelope(s) shall not count toward the acreage totals of the conservation easement for mitigation purposes. The easement shall specify that ancillary uses must be clearly subordinate to the primary agricultural use.
- (5) Conservation easements held by a qualifying entity shall name the County as a third party beneficiary with full enforcement rights.
- (6) Interests in agricultural mitigation land shall be held in trust by a qualifying entity and/or the County in perpetuity. The qualifying entity or the County shall not sell, lease, or convey any interest in agricultural mitigation land which it shall acquire except in accordance with the terms of the conservation easement.
- (7) The conservation easement can only be terminated by judicial proceedings. Termination shall not be effective until the proceeds from the sale of the public's interest in the agricultural mitigation land is received and used or otherwise dedicated to acquire interests in other agricultural mitigation land in Yolo County, as approved by the County and provided in this chapter.
- (8) If any qualifying entity owning an interest in agricultural mitigation land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall pass to the County or other qualifying entity as acceptable and approved by the County.

(Ord. 1445, eff. August 14, 2014; as amended by Ord. 1456, eff. August 27, 2015)