

**2014 UPDATED  
YOLO COUNTY CODE**

**TITLE 8 LAND DEVELOPMENT**

**CHAPTER 2: ZONING REGULATIONS**

**Article 4: Special Agricultural Regulations**

**Sec. 8-2.401 Clarksburg Agricultural District Overlay Zone**

**(a) Purpose.**

The Clarksburg Agricultural District overlay zone (CAD) is a set of zone regulations that overlays the existing base zoning on those parcels designated as Agriculture within the Clarksburg Area Plan, as reflected in the 2030 Countywide General Plan. The CAD overlay zone is intended to enhance and promote the distinctive agricultural and recreational character of the Clarksburg area, by streamlining regulations and providing greater flexibility that allows farms the ability to produce and market agricultural products, as well as provide agricultural tourism services.

The CAD overlay zone is intended to work concurrently with Williamson Act contracts (where applicable), the Natural Heritage Program, the Land Use and Resource Management Plan of the Delta Protection Commission, and the policies of the Delta Stewardship Council.

**(b) Table of Clarksburg Agricultural Permit Requirements**

The following Table 8-2.401 identifies certain Use Types, as well as specific examples of uses that are allowed by right, by non-discretionary Site Plan Review, and by conditional Use Permit, as well as those uses that are not allowed, on agricultural zoned parcels within the CAD overlay zone. The table does not include a list of all the allowed or conditionally permitted uses in the Clarksburg agricultural zones. The table only includes those uses for which the zoning regulations are different than for the agricultural base zones in the other parts of the unincorporated county.

**(c) Specific Use Requirements or Performance Standards**

**(1) Parking**

- (i)** Permanent parking spaces, either of gravel or other permeable surface, shall be provided for all sales, gift, handicraft and food service areas. Paved handicapped spaces shall be provided as required.

**Table 8-2.401**

**Allowed Land Uses and Permit Requirements  
for Certain Uses in the Clarksburg Agricultural Zones**

<p><b>A = Allowed use, subject to zoning clearance*</b>  <b>SP = Site Plan Review</b>  <b>UP(m) = Minor Use Permit required</b>  <b>UP(M) = Major Use Permit required</b></p>	<p><b>Land Use Permit Required in the Clarksburg Agricultural District (CAD) Overlay Zone</b></p>	<p><b>Specific Use Requirements or Performance Standards</b></p>
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**AGRICULTURAL COMMERCIAL AND RURAL RECREATIONAL USES**

Visitor information and interpretive displays or kiosks, less than 120 square feet in roof area	A	One per parcel
Picnic areas	A	
Public or private horse riding or hiking trails	A	
Permanent public bathrooms	SP	
Farm supply, feed store (up to 2,000 square feet)	SP	
Farm supply, feed store (over 2,000 square feet)	UP(m)	
Bed and breakfast (up to 6 beds, less than 12 events per year)	A	See Sec. 8-2.306(l)
Bed and breakfast (6 to 10 beds, and/or up to 18 events per year)	SP	
Bed and breakfast (11 to 20 beds, and/or over 18 events per year)	UP(m)	
Special event facilities, up to 18 events per year	SP	See Sec. 8-2.306(k)
Special event facilities, more than 18 events/year	UP(m)	
Stand-alone wine tasting room (under 2,000 square feet)	SP	
Stand-alone wine tasting room (over 2,000 square feet)	UP(m)	
Small winery (under 100,000 cases/year)	SP	
Medium winery (100,000 to 1,000,000 cases/year)	UP(m)	
Large winery (over 1,000,000 cases/year)	UP(M)	
Petting zoos, hay and tractor rides, hay bale mazes, and similar related rural recreational uses	SP	Excluding exotic animals
Yolo Stores, gift shops, arts and crafts sales (under 1,000 square feet)	A	Must be ancillary to the primary agricultural use
Yolo Stores, gift shops, arts and crafts sales (over 1,000 square feet)	SP	
Restaurants, bakeries, commercial kitchens, catering facilities, and culinary classes	UP(m)	
Museums, botanical gardens, tours of historic features, and similar uses	SP	
Commercial fisheries and stock ponds (more than 150 visitors per day)	UP(m)	
Campgrounds	UP(m)	See Sec. 8-2.306(p)
Recreational vehicle parks	UP(m)	Ancillary to primary agricultural use

\*An “allowed use” does not require a land use permit, but is still subject to permit requirements of other Yolo County divisions such as Building, Environmental Health, and Public Works.

**Table 8-2.401 (cont.)**

**Allowed Land Uses and Permit Requirements  
for Certain Uses in the Clarksburg Agricultural Zones**

<b>A = Allowed use, subject to zoning clearance*</b> <b>SP = Site Plan Review</b> <b>UP(m) = Minor Use Permit required</b> <b>UP(M) = Major Use Permit required</b>	<b>Land Use Permit Required in the Clarksburg Agricultural District (CAD) Overlay Zone</b>	<b>Specific Use Requirements or Performance Standards</b>
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Commercial marinas	UP(M)	
Lodges and centers for conferences, education, or training	UP(M)	

**RESIDENTIAL USES**

Third home on a single parcel	SP	Must conform with siting criteria in Sec. 8-2.402
Fourth or more home on a single parcel	UP(m)	

**ALL OTHER USES**

For all other uses not listed in this table, see Tables 8-2.304(a), (b), (c), (d), and (e)
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- (ii) Parking for special events, weddings, marketing promotional events, and similar functions may utilize temporary, overflow parking areas. Limitations on the number of guests may be based on availability of off-street parking. Overflow parking areas may be of dirt, decomposed granite, gravel or other permeable surface, provided that the parking area is fire safe.
  - (iii) On-street parking shall not be permitted.
- (2) Access
- (i) Access to any tourist or sales facility shall be connected directly to a public road, except as allowed under (ii), below.
  - (ii) Where a facility is located on a private road, access shall be subject to the review and approval of the Director and local Fire District.
  - (iii) Where improvements to a County road are required, alternative standards (e.g. reduced widths, surfacing, striping, signage, etc.) may be allowed subject to the approval of the Director and local Fire District.
- (3) Signs
- (i) One agricultural sign not to exceed 40 square-feet may be allowed at the entryway to the site. Agricultural signs may be double-sided, but shall not exceed 10 feet in height.

- (ii) Entryways (pilasters, gates, etc.) and on-site signs may be located within the front yard setback, upon approval of a building permit. Entries and signs may not be located within any part of the County right-of-way.

**(d) Other Conditions**

- (1) Outdoor events are limited to the hours of 9 AM to 10 PM.
- (2) Farm stay and bed and breakfast inns shall comply with all CCDEH (California Conference of Directors of Environmental Health) guidelines and CURFFL (California Uniform Retail Food Facilities Law) requirements.
- (3) Pools and spas used by guests must meet all Building, and Health and Safety Code requirements.
- (4) Exterior lighting shall be shielded and directed in such a manner as to not directly shine into adjoining residences.
- (5) Where applicable, subject to the approval of the Environmental Health Director, portable toilets and related facilities may be used instead of permanent systems for events.

**(e) Wildlife friendly practices**

The following practices are encouraged for farmers within the Agricultural District:

- (1) Establishing native shrub hedgerows and/or tree rows along field borders, roadsides, and rural driveways.
- (2) Protecting remnant valley oak trees.
- (3) Restoring field margins (filter strips), ponds, and woodlands in non-farmed areas.
- (4) Using native species and grassland restoration in marginal areas.
- (5) Managing and maintaining irrigation and drainage canals to provide habitat, support native species, and serve as wildlife movement corridors.
- (6) Managing winter stubble to provide foraging habitat.
- (7) Widening watercourses, including the use of setback levees.

**(f) Agricultural Home Site Parcels**

A Lot Line Adjustment may be approved to create an agricultural home site parcel in the CAD overlay zone on two or more contiguous parcels under common ownership if the Lot Line Adjustment complies with all of the following requirements:

- (1) All of the affected parcels shall have an Agriculture (AG) land use designation in the General Plan and the agricultural home site parcel shall be rezoned to Agricultural Residential (A-R). No other general plan and zoning designations shall qualify.
- (2) All of the affected parcels shall have adequate potential for suitable water supply and sewage disposal and shall comply with the development standards set forth in Section 8-2.403(e) of this Chapter.
- (3) The Lot Line Adjustment will result in an agricultural home site parcel that is at least 2.5 acres in size, with a maximum area of 4.0 acres. The home site parcel shall be designed to be as small as possible, while meeting all other County requirements. The remainder (non-home site) parcel(s) shall meet the minimum parcel requirements in the A-N zone.
- (4) A note shall be included on the deed creating the agricultural home site parcel indicating that the agricultural home site parcel is in an area of agricultural production and may be subject to agricultural nuisances in the form of noise, light, spraying, odors or other conditions associated with productive agriculture. The note shall also acknowledge the County's Right-to-Farm Ordinance.
- (5) If the home site parcel is subject to a land conservation contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code), the home site parcel shall be excluded from the benefits of the land conservation contract after the Lot Line Adjustment and shall be removed from the contract either by nonrenewal or cancellation of the contract.

**(g) Fee Exemptions**

Farm worker housing shall be exempt from the payment of County Facilities and Services Authorization (FSA) fees. Farm worker housing shall also be exempt from the payment of any General Plan Cost Recovery (GPCR) fees.

**(h) Advisory Committee**

The Clarksburg Citizens Advisory Committee shall also act as the Agricultural District Advisory Committee, to advise the Planning Commission regarding the implementation of this Ordinance.

## **Sec. 8-2.402 Siting Development Standards for New Homes in Agricultural Zones**

### **(a) Purpose**

Agricultural preservation is a key component of the Yolo County General Plan, which includes policies set forth to protect existing farm operations and prime farmland from impacts related to the encroachment of urban uses. The expansion of rural home sites in the agricultural zones has contributed to an increase in residential uses unrelated to farm- or ranch-oriented residential use. In order to preserve the long-term agricultural resources of the County, standards have been developed to address residential uses in the agricultural areas. This section outlines development standards for the siting and size of new residential uses in the two main agricultural zones, the A-N (Agricultural Intensive) and A-X (Agricultural Extensive) zones, where agriculture, such as crop production and animal husbandry, is the primary use.

### **(b) Definitions**

#### **Ancillary home or dwelling**

A second residence used by a family member(s) or employee(s) of the farm or ranch operation. For purposes of complying with this section, if a manufactured home has been constructed or installed first on an agricultural parcel as the primary home, and a conventional “stick-built” home is then proposed to be built, the “stick-built” home may be considered the primary house and the manufactured house or residence may be considered the ancillary residence.

#### **Conventional “stick-built” home**

A traditional single family residence constructed on-site of lumber, not prefabricated materials.

#### **Farm worker housing**

Accommodations that are used solely for the purpose of providing cooking, sanitary, and sleeping facilities to house farm workers on a farm or ranch operation.

#### **Flag lot**

A lot whose general configuration is in the shape of an “L” or “T”, and which takes access from the road by means of a narrow strip which is part of the lot.

#### **Lot line, front**

In the case of an interior lot, the line separating the lot from the street right-of-way and, in the case of a corner lot, the shorter street frontage.

#### **Manufactured home**

A transportable prefabricated residential structure that has been partially or entirely constructed in a factory and then transported to the site for assembly. Manufactured homes include modular and mobile homes.

**Primary home or dwelling**

The first existing or proposed residence to be located on an agricultural parcel.

**Residential accessory uses**

Those uses customarily ancillary to the residential use of the property. Such structures or improvements may include, but are not limited to, decorative landscaping, garden greenhouses, pools, gardening sheds, detached garages or shops for personal storage and hobby work, carports, and artificial ponds not serving an agricultural use, but do not include long driveways to residence(s).

**Residential footprint or building envelope**

The area established for home site development, including ancillary uses. Such area may include a primary residence, an ancillary dwelling clustered with the primary home, any allowable accessory structures, and other improvements, such as driveway(s), landscaping, leach fields, etc. A residential footprint is assumed to be approximately two and one-half (2.5) acres per legal parcel. Domestic leach field areas, including any required replacement leach field area, must be contained within the building envelope.

**(c) Permits required**

A new primary or ancillary home in the agricultural zones is allowed “by right” with the issuance of a building permit, provided the home is located on a parcel that meets all of the development standards of this section. On agricultural parcels in the A-N and A-X zones, more than two dwelling units, as well as the legalization of existing units, may be permitted through the issuance of a Minor Use Permit, upon finding that the residential use is compatible and appurtenant with the principal agricultural use of the property.

**(d) Development standards**

The following standards have been established to minimize the impact of residential uses on agricultural operations and resources in the A-N and A-X Zones, without limiting the residential needs of farmers and ranchers or restricting agricultural activities. The intent of allowing residences in the agricultural areas is to provide dwellings for those directly involved in onsite farming activity, including agricultural employees, landowners, and their family members.

**(1) Residential footprint or building envelope**

Homes built on agricultural lands may include extensive residential accessory uses such as ancillary dwellings, parking areas, pools, detached garages or hobby shops, decorative landscaping, and gardening sheds/greenhouses that are included within the home site. To protect productive farmland and rangeland, home site development shall be contained within a residential footprint or building envelope, as follows:

- (i) All proposed home sites, including all ancillary or accessory uses, shall be situated in close proximity to the dwelling unit(s) within a designated residential footprint that is no larger than two and one-

half (2.5) acres. Residential accessory uses include detached garages for non-farm vehicles/storage, yards and other landscaping features, leach field areas, garden/storage sheds, swimming pools, etc., but do not include long driveways.

- (ii) Those parcels developed with farm worker housing are allowed an increased residential footprint of up to four (4) acres.
- (iii) Legal parcels containing 80 acres or more shall be exempt from the requirements of this section.

(2) Size of ancillary residence

The size of the primary dwelling unit is not regulated. The size of the ancillary residence is limited to 2,500 square feet or less, excluding garage space. For purposes of complying with this section, a manufactured home may be considered the ancillary unit even if it has been constructed or installed prior to the primary “stick-built” house.

(3) Siting of primary residences

The following development standards shall apply to new primary homes on parcels of 80 acres or less that are zoned A-N or A-X. These standards may be modified by the Planning Director according to the “exceptions” listed in Sec. 8-2.402(d)(5), below, or may be modified through the issuance of a variance by the Zoning Administrator or the Planning Commission upon adoption of findings.

- (i) To the extent feasible, all residences located on agriculturally-zoned property shall be located within the front portion of a legal parcel, and shall be sited to minimize the conversion of agricultural land and to minimize impacts to agricultural operations, including ground and aerial application of herbicides and pesticides.
- (ii) There is no maximum front yard setback for a new home on properties fronting along a County road.
- (iii) The minimum front yard setback from the front lot line shall be 20 feet or 50 feet from the centerline of a roadway, whichever is greater. Properties abutting a major arterial require a 30-foot front yard setback, as measured from the edge of right-of-way. The minimum back yard setback from the rear property line shall be 25 feet. The minimum side yard setback from the side property lines shall be 20 feet. However, these minimum setback requirements shall be increased to no less than 100 feet if adjacent agricultural operations require a larger setback to accommodate agricultural spraying.
- (iv) Front yard setbacks on flag lots shall be measured from the rear lot line of the forward lot. If a parcel has more than one lot line with



road frontage, the setback will be measured from one road frontage only, at the owner's choice.

- (v) Where a private road provides access to a parcel(s), it shall be considered the same as a public right-of-way for purposes of determining setbacks. If access is via an easement across an adjoining parcel, setback measurements shall be taken from the point where the easement intersects with the subject parcel.
  - (vi) New homes shall be sited to retain existing natural features and avoid impacts to environmental resources to the extent feasible. Existing trees and vegetation and natural landforms shall be retained to the greatest feasible extent. Removal of trees with scenic or historic value shall be prohibited along scenic roadways. New homes shall be setback from watercourses, including "blue line" seasonal streams, a minimum of 100 feet. New homes shall be prohibited on or near the top of ridgelines where the Director determines it would adversely affect nearby views.
  - (vii) A 50-foot setback is required for all permanent improvements from the toe of any flood control levee.
  - (viii) Land uses proposed within 500 feet of the toe of any flood control levee shall be restricted (or prohibited) to the items listed below, unless site specific engineering evidence demonstrates an alternate action that would not jeopardize public health or safety:
    - A. Permanent unlined excavations shall be prohibited;
    - B. Large underground spaces (such as basements, cellars, swimming pools, etc) must be engineered to withstand the uplift forces of shallow groundwater;
    - C. Below-grade septic leach systems shall be prohibited;
    - D. Engineered specifications for buried utility conduits and wiring shall be required;
    - E. New water wells shall be prohibited;
    - F. New gas or oil wells shall be prohibited;
    - G. Engineered specifications for levee penetrations shall be required; and
    - H. Landscape root barriers within 50 feet of the toe shall be required.
- (4) Clustering and siting of ancillary residences

All ancillary residences in the agricultural zones shall be clustered adjacent to the existing primary residence in a configuration to minimize the conversion of agricultural land and to minimize impacts to agricultural operations, as follows:

- (i) The maximum separation between the primary and ancillary dwelling units on the same parcel shall be 250 feet, as measured from the nearest part of the primary dwelling. The siting of the ancillary dwelling shall meet the setback requirements of

subsection (3), above, unless a modification of the setbacks is approved by the Planning Director in order to minimize agricultural impacts.

- (ii) Any new agricultural residence may be clustered in proximity to an existing residence(s) on an adjacent lot, if the clustering of the housing units will facilitate the protection of agricultural land. In such circumstances, the side lot setbacks for the residences on adjacent lots may be reduced accordingly, so long as placement of any new residence does not interfere with spraying operations or other agricultural operations.
- (iii) Placement of new residential structures shall comply with all applicable building and fire codes.

(5) Exceptions

The Planning Director may modify the setback and other development standards of this section if any one of the following exceptions applies to the specific characteristics of the parcel. A Site Plan Review approval shall be required prior to issuance of any building permit for a new agricultural residence that is subject to any of the following exceptions:

- (i) Portions of the property that have poor soils or are not farmable are more suitable for home site development and support a modification of standards.
- (ii) Clustering of an agricultural residence with agricultural buildings and uses is required for efficiency or security of agricultural operations.
- (iii) The location of easements for utilities, steep slopes, significant stands of trees, or watercourses with riparian setbacks supports a modification of standards.
- (iv) The location of a floodplain, areas of localized flooding, or other hazardous area on a portion of the parcel supports a modification of standards.
- (v) The location of existing agricultural industrial processing operations, or proximate oil and gas well operations, supports a modification of standards.
- (vi) The lack of water availability or the inability to site a leach field or other related sewerage facility supports a modification of standards.

(6) Right to Farm

Construction of a new agricultural residence shall require recordation of a deed acknowledging the County's Right-to-Farm Ordinance, prior to building permit issuance.

(7) Variances

In cases other than those included as "exceptions" in (5), above, where other individual characteristics of the property may warrant further or significant deviation from the required development standards of this section, variances to the standards may be considered by the Zoning Administrator or Planning Commission based upon adoption of findings, including a finding that the variance is needed to further the principle of limiting the impact on agricultural land and operations through the appropriate siting of residential structures and ancillary uses.

## **Sec. 8-2.403 Clustered Agricultural Housing for Antiquated Subdivisions**

(a) Purpose

The General Plan includes policies to preserve agriculturally zoned lands in Yolo County and to maintain and enhance the farm economy. This Section implements those policies by allowing the voluntary concentration of existing agricultural home sites for an antiquated subdivision and/or Certificate of Compliance that recognizes a series of contiguous small legal lots in an agricultural zone, the adjustment (or Parcel Map if more than four parcels are involved) may be necessary to cluster small home site parcels of 2.5 to 4.0 acres in one area to reduce impacts to agricultural operations, while merging the remainder farmland into large tracts that can be permanently protected for future agricultural use. This reduces the potential for small and medium sized parcels, an associated rural residential development that tend to interrupt more efficient and economically feasible patterns of farming.

This Section establishes a set of regulations that allows for and encourages clustering of home sites for agricultural family members and for farm workers on smaller parcels than allowed by the current zoning, while ensuring the long-term preservation of adjoining agricultural resources in larger parcels that benefit from economies of scale. This clustering regulation provides an alternative to existing patterns of legal parcels, many of which were created prior to modern zoning and planning standards, that can lead to the development of fragmented farming.

However, the purpose of the new policies and regulations is not to provide new opportunities for all existing ag landowners to apply to create new ranchette lots through Lot Line Adjustment or subdivision, but to address the infrequent occasions when multiple lots are recognized as legal by the County and a Lot Line Adjustment will accomplish better site planning.

**(b) Definitions**

**Antiquated subdivision**

"Antiquated subdivisions" are generally defined as those subdivisions laid out on "plats" or maps filed with a county or city either prior to 1893, the year that California's first Subdivision Map Act was adopted, or prior to 1929, when the Map Act began to regulate the design and improvement of subdivisions. Many antiquated subdivision maps were drawn without regard to topography or consideration of fundamental access, safety, and development issues. Neither California law nor policy supports widespread recognition of the lots shown on antiquated maps. The State Subdivision Map Act recognizes past subdivisions of land in only limited circumstances through the Certificate of Compliance process, set forth in Government Code section 66499.35. Yolo County does not recognize subdivision maps recorded prior to 1929 unless individual lots have been conveyed legally to different owners or have otherwise been recognized as legal by the County through the Certificate of Compliance process.

**Clustered agricultural housing project**

"Clustered agricultural housing project" shall mean a Lot Line Adjustment (or Parcel Map if more than four parcels are involved) application involving two or more agricultural parcels recognized as legal parcels by the County within an antiquated subdivision or other small lot configuration, that are proposed to be reconfigured to create legal parcels including a remainder agricultural parcel and adjoining small lot home sites, that meet all requirements of this Section.

**Remainder agricultural parcel**

Concurrent with the Lot Line Adjustment (or Parcel Map if more than four parcels are involved) of qualifying agricultural lands to create one or more clustered housing parcels not to exceed four (4) acres each, the remaining large agricultural parcel(s) are the "remainder agricultural parcel." The "remainder agricultural production parcel" shall be no less than 50 percent in size of the total acreage included in the application, prior to adjustment or subdivision and shall be more than 20 acres in size.

**Small legal lots**

For the purposes of this ordinance, small legal lots are defined as parcels that are twenty acres or less and larger than five acres in size.

**(c) Lands eligible for clustering**

- (1) This Section applies to lands located in the Agricultural Intensive (A-N) or Agricultural Extensive (A-X) zones, which meet the criteria listed in (2) and (3), below.
- (2) Subject to subsection (3), below, contiguous parcels are eligible for clustering if:
  - i. The parcels are included in an antiquated subdivision where individual lots have been recognized as legal by the County and/or include a series of small lots that have been recognized as legal

- lots by the County through a Certificate of Compliance process;  
and
  - ii. A majority of the legal parcels included in the application is smaller than 30 acres each.
- (3) Parcels are not eligible for clustering if any of the following criteria apply:
- i. The legal parcel(s) are located within an adopted city Sphere of Influence, Urban Limit Line, or Growth Boundary, unless the City or other affected agency does not object to the proposal; or
  - ii. The legal parcel(s) are subject to an existing agricultural, habitat, or other type of conservation easement that restricts use of the land; or
  - iii. The legal parcel(s) are less than five (5) acres in size and are occupied with an existing home.

**(d) Permits required**

- (1) All clustered agricultural housing applications shall be accompanied by a rezoning application for the proposed housing parcels; and a Lot Line Adjustment (or Parcel Map if more than four parcels are involved). The rezoning application shall include a request to rezone the newly created small lots from A-N or A-X to the Agricultural Residential (A-R) zone. The Tentative Parcel or Subdivision Map shall include the remainder agricultural production parcel as a designated parcel of the Map, not as a “remainder parcel” as the term is used in section 66424.6 of the State Subdivision Map Act.
- (2) If the parcel(s) to be adjusted or subdivided for clustering are under an active Williamson Act contract, the following applications must be filed concurrently with the applications for clustering: a Williamson Act Contract Cancellation for the portion of the land to be subdivided into smaller 2.5 to 4.0-acre lots; and an agreement to retain the remainder agricultural production parcel under a Williamson Act contract.

**(e) Application content**

The application for a clustered agricultural housing project shall include, but not be limited to, the following:

- (1) A written explanation by the applicant, accompanied by technical studies, as needed, to prove compliance with all the development standards specified in subsection (f) below;
- (2) All required application materials for a Lot Line Adjustment (or Parcel Map if more than four parcels are involved), Rezoning, and Williamson Act cancellation (where appropriate);
- (3) Detailed description of, or a draft, conservation easement for the remainder agricultural production parcel, that complies with Section 8-2.404; and

- (4) Submittal of a hydrogeologic report that demonstrates there are adequate water resources to support the home sites and continued agricultural production, unless the Planning or Environmental Health Director has determined that evidence has shown that no water resource limitations exist in the vicinity of the project site.

**(f) Development standards**

The design and development of a clustered agricultural housing project shall be consistent with the following standards:

- (1) Type of housing. The following types of housing are allowed in a clustered agricultural housing project: single family homes subject to any size limitations set by other Sections of this Chapter; duplexes; and farm worker housing projects consistent with State laws and other Sections of this Chapter.
- (2) Minimum size of the remainder agricultural production parcel. Following adjustment and rezoning to create the clustered agricultural housing project, the resulting remainder agricultural production parcel(s) shall be no less than 50 percent in size of the total lands prior to adjustment and shall be no less than 20 acres in size.
- (3) Merger of remaining substandard parcels. The adjustment (or Parcel Map if more than four parcels are involved) and rezoning approved to create the home site(s) or parcel(s) shall include the mandatory merger of any existing and remaining adjacent parcels under common ownership that are substandard in size, as defined by the underlying zoning district.
- (4) Number of parcels allowed. The number of parcels allowed through the approval of a Parcel Map (if more than four parcels are involved) under this Section must equal or be less than the number of legal parcels prior to the Parcel Map approval.
- (5) Number of homes allowed. The maximum number of homes allowed in a clustered agricultural housing project application shall be no more than one primary and one ancillary home on each parcel.
- (6) Home site or parcel size. A clustered agricultural housing site or parcel shall be a maximum of 2.5 acres, to accommodate a single family home, duplex, or small to medium-sized farm worker housing project. Larger parcel sizes may be required to accommodate agricultural buffers or farm worker housing project, with a maximum housing site or parcel size of four (4) acres.
- (7) Site design and avoidance of best prime farmland. Clustered agricultural housing shall be located and clustered to provide the maximum protection of the best prime productive agricultural land located both on- and off-site. Clustered agricultural housing should be located on land with the lowest agricultural viability, as documented by a Storie index rating, to the maximum feasible extent.

- (8) Parcel layout. The clustered agricultural housing parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other and located within a single cluster development area. A maximum of two clustered development areas may be approved if such a design reduces environmental impacts.
- (9) Housing development confined. Clustered agricultural housing development shall be confined to the newly adjusted parcel(s) boundaries. Housing development components include, but are not limited to, housing units, accessory structures, roadways and access drives, water and wastewater systems, agricultural buffers, drainage basins, and any other areas of the project site that may be removed from agricultural production to accommodate the proposed clustered housing project. Shared use of existing access roads or driveways, common or community water and wastewater treatment systems, storm water drainage, and other common infrastructure shall be encouraged and provided to the greatest feasible extent.
- (10) Second or Ancillary Units Allowed. Second or ancillary housing units may be allowed through issuance of a Use Permit on any small lots created through Lot Line Adjustment by this ordinance, if the second units meet environmental health and other standards set forth in the Yolo County Code and other applicable laws and regulations and are no more than 1,200 square feet in size, not counting the garage.
- (11) Access. Clustered developments in compliance with this Section shall be allowed only on properties with access to an existing paved, County or state maintained road. Home site parcels shall be located as close as possible to existing access roads, and significant new road or driveway development that takes farmland out of production shall be avoided to the extent feasible.
- (12) Interior Road and Utilities. Unless otherwise required by the County, all interior roads and utilities shall be privately-owned and maintained and the applicant shall demonstrate through draft Conditions, Covenants and Restrictions or other means that the project residents shall maintain all private roads and utilities for the life of the project at their own expense, without any financial support of the County.
- (13) Agricultural buffers. Residential building sites and access drives shall maintain a sufficient buffer separation from adjacent and on-site agricultural operations and exterior property lines, to reduce any significant land use compatibility impacts affecting on-site or off-site agricultural operations, including but not limited to trespass by persons or domestic animals, vandalism, and complaints about agricultural practices. The width of buffers shall be consistent with the agricultural buffer policies adopted in the General Plan. For larger residential lots, housing shall be set back a minimum of 300 feet from adjoining agricultural land, to the extent feasible. Where smaller lots are proposed, that rely upon common well and/or septic systems, residential setbacks may be reduced to a

minimum of 100 feet where buffering measures are incorporated, such as solid fencing, berms, dense landscaping, and/or other design features.

- (14) Visual resources. Roads and building sites shall be located to minimize site disturbance and visibility from public roads and viewing areas, to the extent feasible considering agricultural and environmental factors.
- (15) Habitat protection. Clustered agricultural housing development shall be located and designed to ensure maximum protection of sensitive habitats such as Swainson's hawk habitat and wetlands.

**(g) Conservation of remainder agricultural production parcel**

No clustered agricultural housing development shall be approved without an easement that assures the permanent conservation for agricultural use of at least one half of the remainder agricultural production parcel that is created as part of the project. The required conservation easement shall be maintained in perpetuity, and the terms and minimum requirements for the conservation easement recorded to satisfy the requirements of this provision shall be at least as stringent as those set forth in Section 8-2.404 of this Chapter. The conservation easement shall be recorded concurrently with the Lot Line Adjustment and Certificate of Compliance (or Parcel Map if more than four parcels are involved) for the project.



## **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)

## **Sec. 8-2.405 In-Lieu Agricultural Mitigation Fee**

### **(a) Purpose**

This Section establishes certain fees that, pursuant to Section 8-2.404, are required to be paid by new development that converts less than five (5) acres of agricultural lands to nonagricultural uses. The fees established by this Section are estimated to be equal to the cost of conserving one acre of agricultural land for every acre developed. Specifically, this Section establishes and sets forth regulations relating to the imposition, collection, and use of fees for the conservation of agricultural lands through purchase of conservation easements.

### **(b) In-Lieu Agricultural Mitigation Fee**

- (1) Section 8-2.404, the Agricultural Conservation and Mitigation Program, sets forth the details and requirements of the Program. The Program requires agricultural mitigation for the conversion or change from agricultural use to a predominantly non-agricultural use prior to, or concurrent with, approval of a permit or other land use entitlement or approval, including but not limited to zone change, by the County.
- (2) The Agricultural Conservation Easement Program specifies that development projects that result in the conversion of less than five (5)



acres of agricultural land shall be required to pay an in-lieu fee, based on a per acre calculation of the conversion amount.

- (3) The formula for determining the amount of the per-acre in-lieu fee to be paid shall be as follows, and as updated according to Subsection (5), below:

**Table 1  
In-Lieu Agricultural Mitigation Fee**

Cost Component	Per Acre Fee
Easement Acquisition Cost	\$8,400
Transaction Cost	\$420
Monitoring Endowment	\$880
Administrative Costs	\$280
Contingency	\$115
Total (rounded)	\$10,100

Source: Table 7, Yolo County Agricultural Mitigation Fee Analysis,  
Economic and Planning Systems, August 7, 2007

- (4) The fees collected pursuant to this ordinance shall be used to pay the costs associated with acquiring and maintaining agricultural conservation easements, including the specific costs identified in Table 1, above.
- (5) The In-Lieu Agricultural Mitigation Fee may be updated quarterly based on two separate indices. The non-acquisition related costs may be updated based on changes in the Consumer Price Index (CPI), a typical measure of inflation. The acquisition costs may be updated based on changes in the Office of Federal Housing Enterprise Oversight (OFHEO) housing price index for the Sacramento Metropolitan Statistical Area, which is proxy for land costs. This index is published four times a year, in early December, March, June, and September.

**(c) Payment of Fees**

For any development project subject to this ordinance, fees levied hereunder shall be paid to the County of Yolo prior to the acceptance of any final subdivision map, issuance of a conditional use permit or approval of a site plan, or issuance of building permit(s), or such other ministerial or discretionary approval that triggers the fee requirement, whichever occurs first. The Planning, Public Works and Environmental Services Department shall not accept any final subdivision map, issue any conditional use permit or approve any site plan, or issue any building permit(s) or any other ministerial or discretionary approval to any development subject to this ordinance without first receiving payment of the required fees from the applicant.

**(d) Accounting and Register of Payment**

- (1) The fees collected pursuant to this ordinance shall be placed by the Planning, Public Works and Environmental Services Department in a

separate interest bearing account for the In-Lieu Agricultural Fee Program, as further described in Subsection (f), below.

- (2) The Planning, Public Works and Environmental Services Department shall maintain a register for each account indicating the date of payment of each fee, the amount paid, Assessor's Parcel Number and the name of the payor.
- (3) Pursuant to Government Code section 66006(b)(1), within 180 days after the last day of each fiscal year, the Planning, Public Works and Environmental Services Department shall prepare an accounting of all fees paid into and withdrawn from the account during the prior fiscal year. This accounting shall include all of the information required by subdivision (b)(1) of section 66006, including but not limited to the source and amounts collected, the beginning and ending balance of the account, the interest earned during the prior fiscal year, the amounts expended from the account, and the projects for which such expenditures were made.

**(e) Independent Fee Calculations**

- (1) Following a request made by an affected party, if in the judgment of the Director of the Planning, Public Works and Environmental Services Department ("Director") none of the fee amounts set forth in the schedule in Table 1, above, appears to accurately correspond with the impacts resulting from issuance of the requested building permit (or certificate of occupancy if no building permit is required), the applicant shall provide to the Planning, Public Works and Environmental Services Department for its review and evaluation an independent fee calculation, prepared by a consultant approved by the Director. The independent fee calculation shall show the basis upon which it was made and shall include, at a minimum, the costs of recent easement transactions in Yolo County. The Director may require, as a condition of the issuance of the requested permit, payment of an alternative impact fee based on this calculation. With the independent fee calculation, the applicant shall pay to the Planning, Public Works and Environmental Services Department an administrative processing fee of seven hundred and sixty eight (\$768) dollars per calculation or such amount that may be set in the County's Master Fee Resolution in effect at the time the project is submitted.
- (2) While there is a presumption that the calculation set forth in the In-Lieu Agricultural Mitigation Fee study (as may be adjusted from time to time in accordance with this ordinance) is correct, the Director shall consider the documentation submitted by the applicant. The Director is not required to accept as true the facts contained in such documentation. If the Director reasonably deems the facts in such documentation to be inaccurate or not reliable, he or she may require the applicant to submit additional or different documentation or, alternatively, refuse to accept any further documentation and apply the formula set forth in Subsection (b), above, to the development at issue. The Director is authorized to adjust the fee on a case-by-case basis based on the independent fee calculations or the specific characteristics of the permit (or certificate of occupancy if no

building permit is required), provided the amount of the adjusted fee is consistent with the criteria set forth in Government Code section 66001(a)-(b) and other applicable legal requirements.

**(f) Establishment of In-Lieu Fee Account**

- (1) An interest-bearing account shall be established for the fees collected pursuant to this ordinance and shall be entitled "In-Lieu Agricultural Mitigation Fee Account". Impact fees shall be earmarked specifically and deposited in this account and shall be prudently invested in a manner consistent with the investment policies of the County. Funds withdrawn from this account shall be used in accordance with the provisions of this ordinance. Interest earned on impact fees shall be retained in the account and expended for the purpose for which the impact fees were collected.
- (2) On an annual basis, the Director shall provide a report to the Board of Supervisors on the account showing the source and amount of all moneys collected, earned, or received, and system improvements that were financed in whole or in part by impact fees. This report may be identical in format and content with the report or other document prepared pursuant to Subsection (d)(3), above, and Government Code Section 66006(b)(1).
- (3) In accordance with Government Code section 66001(d), for the fifth fiscal year following the first deposit of fees into the account and every five years thereafter, if some or all of the collected fees have not been expended, the Board of Supervisors shall make the findings set forth in Government Code Section 66001(d) or take other measures provided in Subdivisions (d) and (e) of Section 66001, including a refund of any unexpended moneys pursuant to Subsection (g), below.

**(g) Refunds**

- (1) Except where the Board of Supervisors has timely made the findings set forth in Government Code Section 66001(d), upon application of the property owner made pursuant to (3) through (5) of this subsection (g), the County shall refund that portion of any impact fee which has been on deposit over five years, whether committed or uncommitted. The refund shall be made to the then-current owner or owners of lots or units of the development project or projects, as reflected on the last equalized assessment roll.
- (2) The County may refund by direct payment, by offsetting the refund against other impact fees due for development projects by the owner on the same or other property, or otherwise by agreement with the owner. A person who receives a refund under this provision shall not commence construction of the land development for which the refund was made without repaying the required fees.
- (3) If the County fails to expend the fees within five years of payment, or where appropriate findings have been made, such other time periods

pursuant to Section 66000 et seq. of the Government Code, the current owner of the property for which impact fees have been paid may receive a refund of the remaining amount of the fee payment. In determining whether fees have been expended, impact fees shall be considered expended on a first in, first out basis.

- (4) The County shall notify potential claimants by first class mail deposited with the United States Postal Service at the last known address of such claimants.
- (5) Property owners seeking a refund of impact fees must submit a written request for a refund of the fees to the Director of Planning, Public Works and Environmental Services within one year of the date that the right to claim the refund arises or the date the notice described in Subsection (4) of this Section is given, whichever is later.
- (6) Any impact fees for which no application for a refund has been made within the one year period shall be retained by the County and expended on the appropriate purchases of easements.
- (7) Refunds of impact fees under this ordinance shall include any interest earned on the impact fees by the County.
- (8) When the County terminates the impact fee program established by this ordinance, all unexpended and unencumbered funds, including interest earned, shall be refunded pursuant to this ordinance. The County shall publish notice of the determination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of the claimants. All funds available for refund shall be retained for a period of one year after the second publication. At the end of one year, any remaining funds shall be retained by the County, but must be expended for the appropriate public facilities. This notice requirement shall not apply if there are not unexpended or unencumbered balances within the account.
- (9) The County shall also refund the impact fee paid plus interest to the current owner of property for which the impact fee had been paid if the development was never completed or occupied; provided, that if the County expended or encumbered the impact fee in good faith prior to the application for a refund, the Director may decline to provide the refund. If within a period of three years, the same or subsequent owner of the property proceeds with the same or substantially similar development, the owner can petition the Director for an offset against the fees previously paid to, and expended or encumbered by, the County. The petitioner shall provide receipts of impact fees previously paid for a development of the same or substantially similar nature on the same property or some portion thereof.

**(h) Use of Funds**

- (1) The fees collected pursuant to this ordinance may be spent for the conservation of agricultural lands through purchase of conservation easements, including any related administrative, monitoring, stewardship, and legal costs.
- (2) It is the intent of the County to transfer most, if not all, of the fees that are collected to a qualifying entity, that will purchase and maintain easements.
- (3) In-Lieu fees may be used to recoup costs for conservation easement purchases previously incurred by the County, provided the costs recouped by the County were incurred in connection with the Agricultural Conservation and Mitigation Program.
- (4) In the event that bonds or similar debt instruments are or have been issued for the advanced purchase of conservation easements, In-Lieu fees may be used to pay debt service on such bonds or similar debt instruments to the extent that purchases are consistent with the Agricultural Conservation and Mitigation Program and this Section.

**(i) Protests and Appeals**

Protests shall be filed in accordance with Sections 66020 and 66021 of the Government Code. At the time any fees are imposed pursuant to this ordinance, County staff shall provide the project applicant written notice of the imposition of the fees, a statement of the amount of the fees, and notification of the commencement of the ninety (90) day period for filing a protest under Government Code section 66020(d)(1).

**Sec. 8-2.406 Transfer of Development Rights Program (reserved)**

**Sec. 8-2.407 Williamson Act Land Use Contracts**

See "Yolo County Williamson Act Program and Guidelines," a separate document which is not a part of the County Code.