

Yolo County Agricultural Conservation Easement Program

County Code Section 8-2.2416

1. Purpose.

(a) 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 planning area. (§ 4, Ord. 1372, eff. July 5, 2008)

2. Definitions.

(a) *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. (§ 4, Ord. 1372, eff. July 5, 2008)

(b) *Agricultural mitigation land.* Agricultural land encumbered by a farmland deed restriction, a farmland conservation easement or such other farmland conservation mechanism acceptable to the County. (§ 4, Ord. 1372, eff. July 5, 2008)

(c) *Agricultural use.* Those primary and accessory uses and structures defined in Sections 8-2.208, 8-2.208.3, 8-2.208.4, and those specific principal, accessory, and conditional uses listed in Sections 8-2.402, 8-2.403, 8-2.404, 8-2.404.5, 8-2.502, 8-2.503, 8-2.504, 8-2.504.5, 8-2.602, 8-2.603, 8-2.604, and 8-2.604.5 of the Yolo County Code, including 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, and excluding medium-sized, large, and very large solar energy systems, as defined in Section 8-2.2420 and 8-2.2421. (§ 4, Ord. 1372, eff. July 5, 2008, as amended by § 4, Ord. 1412, eff. November 20, 2011)

(d) *Farmland conservation easement.* The granting of an easement over agricultural land for the purpose of restricting its use to agricultural activities. (§ 4, Ord. 1372, eff. July 5, 2008)

(c) *Farmland deed restriction.* The creation of a deed restriction, covenant or condition which precludes the use of the agricultural land subject to the restriction for any nonagricultural purposes, use, operation or activity. The deed restriction shall provide that the land subject to the restriction will permanently remain agricultural land. (§ 4, Ord. 1372, eff. July 5, 2008)

(d) *Urban use.* Any use defined or listed as a principal, accessory, and conditional use allowed in the urban zones (Commercial, Residential, Industrial and other non-agricultural and non-open space zones), or found to be compatible with the urban zones, as defined in the Yolo County Code sections listed in Article 7 through Article 18, Article 20, Article 20.1, Article 21, Article 23.2, and Article 23.3. (§ 4, Ord. 1372, eff. July 5, 2008)

(e) *Qualifying entity.* A nonprofit public benefit 501(c)(3) corporation operating in Yolo County for the purpose of conserving and protecting land in its natural, rural or agricultural condition. The County favors the use of a local non-profit agricultural conservation entity, a statewide non-profit agricultural conservation entity or entities, or the regional branch of a nationally recognized non-profit agricultural conservation entity as the easement holder. The County will consider the following criteria when considering the non-profit agricultural conservation entity for these purposes, and when monitoring the performance of qualifying entities over time:

(1) Whether the entity is a non-profit organization 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. The County also favors that applicants transfer the easement rights or in lieu fees directly to the recognized non-profit agricultural conservation entity in accordance with that entity's procedures. The County retains the discretion to determine whether the agricultural conservation entity identified by the applicant and the local lead agency has met the criteria delineated above. Qualifying entities may be approved by the Board of Supervisors from time to time. (§ 4, Ord. 1372, eff. July 5, 2008)

(h) *Small project.* A development project that is less than five (5) acres in size. A small project does not include one phase or portion of a larger project greater than five (5) acres that is subject to master, specific, or overall development plan. (§ 4, Ord. 1372, eff. July 5, 2008)

3. Mitigation Requirements.

(a) Agricultural mitigation shall be required for conversion or change from agricultural use to an urban 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, or as allowed by 3(c), below. A minimum of one (1) acre of agricultural land shall be preserved for each acre of agricultural land changed to an urban use or zoning classification (1:1 ratio). Application for a zone change, permit, or other discretionary or ministerial approval shall include provisions for agricultural mitigation land. The following uses shall be exempt from this requirement:

affordable housing projects, where a majority of the units are affordable to very low or low income households, as defined in Title 8, Chapter 9 of the Yolo County Code (Inclusionary Housing Requirements); public uses such as parks, schools, and cultural institutions. Finally, also exempt are projects involving the conversion of land to urban use to the extent that agricultural mitigation was provided prior to the effective date of the ordinance that revised this subsection (a) to require mitigation for conversions to urban uses. (§ 4, Ord. 1372, eff. July 5, 2008)

(b) Agricultural mitigation requirements shall be satisfied as follows:

(1) If the area to be converted is five (5) acres or more in size, subject to the exception in (2), below, by granting, in perpetuity, a farmland conservation easement, a farmland deed restriction, or other farmland conservation mechanism to, or for the benefit of, the County and/or other qualifying entity approved by the County; and, the payment of fees sufficient to compensate for all administrative costs incurred by the County or easement holder inclusive of funds for the establishment of 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;

(2) If the area to be converted is a small project less than five (5) acres in size, or if a complete application for the project requiring mitigation (regardless of size) was filed prior to May 6, 2008, by granting, a farmland conservation easement as described in (1), above, or payment of the in-lieu fee established by the County to purchase a farmland conservation easement, farmland deed restriction, or other farmland conservation mechanism 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 (b)(1), 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). If Yolo County or a qualifying entity establishes a farmland mitigation bank, farmland mitigation may be satisfied by the purchase of credits from the mitigation bank equivalent to the amount of the required in-lieu fees. The farmland mitigation bank must be approved by the Board of Supervisors to satisfy farmland mitigation requirements. (§ 4, Ord. 1372, eff. July 5, 2008)

(c) Agricultural mitigation (payment of an in-lieu fee or purchase of a conservation easement) 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. (§ 9, Ord. 1244, eff. February 3, 2000, as amended by § 4, Ord. 1372, eff. July 5, 2008)

4. Eligible Lands.

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

(a) Agricultural conservation easements resulting from this program shall be acquired from willing sellers only (§ 4, Ord. 1372, eff. July 5, 2008);

(b) The property is of adequate size, configuration and location to be viable for continued agricultural use (§ 4, Ord. 1372, eff. July 5, 2008);

(c) The Yolo County Land Evaluation and Site Assessment (LESA) model rating and equivalent class of soil for the agricultural mitigation land shall be comparable to, or better than, the land which is converted to an urban land or use (§ 4, Ord. 1372, eff. July 5, 2008);

(d) 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 (§ 4, Ord. 1372, eff. July 5, 2008);

(e) The mitigation land shall be located within the County of Yolo, within a two (2) mile radius of the land that is the subject of a conversion from agricultural to urban use or zoning classification. If the land within a two (2) mile radius is demonstrated to be unavailable to the reasonable satisfaction of the Director of the Planning and Public Works Department or his or her designee, lands outside the two (2) mile radius area but within a four (4) mile radius, or a greater distance if approved by the Board of Supervisors, may be used for the purpose of the agricultural mitigation provided that the land is of equal or better conservation easement market value to the land inside the two (2) mile radius area (i.e., the total cost or market value of purchasing the required conservation easement within the 4 mile radius is equal or greater than the total cost or market value of purchasing the easement within the 2 mile radius) (§ 4, Ord. 1372, eff. July 5, 2008);

(f) It is the intent of this program to work in a coordinated fashion with the habitat conservation objectives of the Yolo County Joint Powers Authority (JPA) habitat management program. The mitigation land may not overlap with existing habitat conservation easement areas; the intent is to not allow "stacking" of easements, except for riparian corridors which may be subject to agricultural and habitat easements that do not generally exceed 5% of the total area on any particular easement of agricultural mitigation land. (§ 9, Ord. 1244, eff. February 3, 2000, as amended by § 4, Ord. 1372, eff. July 5, 2008)

5. Ineligible Lands.

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

(a) 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 an urban use; or

(b) 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

(c) The property is subject to physical conditions that legally or practicably prevent converting the property to a nonagricultural use. (§ 4, Ord. 1372, eff. July 5, 2008)

6. Minimum Conservation Requirements.

The following minimum requirements shall be incorporated into all conservation easements or other instruments recorded to satisfy the requirements of this mitigation program. Nothing in this Section 6 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.

(a) 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.

(b) All farmland conservation easements, or other farmland conservation mechanisms shall be implemented through a legal instrument 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.

(c) 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 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 years in any ten-year period) to other agricultural uses within the County, so long as sufficient water remains available to continue agricultural use of the mitigation land.

(d) The instrument shall prohibit the presence of a home, except an existing home that has been present on the proposed easement for at least twenty-five (25) years, or construction of a comparable replacement for such a home.

(e) Instruments that convey an interest in the mitigation land to a qualifying entity, shall name the County as a third party beneficiary with full enforcement rights.

(f) Interests in agricultural mitigation land shall be held in trust by a qualifying entity and/or the County in perpetuity. Except as provided in subsection (g) of this section, the qualifying entity or the County shall not sell, lease, or convey any interest in agricultural mitigation land which it shall acquire.

(g) The conservation easement, or other conservation mechanism recorded pursuant to this program, 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.

(h) 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. (§ 9, Ord. 1244, eff. February 3, 2000, as amended by § 4, Ord. 1372, eff. July 5, 2008, and § 4, Ord. 1412, eff. November 20, 2011)