

# County of Santa Clara Williamson Act Program

## GUIDELINE FOR GENERAL ADMINISTRATION, MONITORING AND ENFORCEMENT OF WILLIAMSON ACT CONTRACTS AND OPEN SPACE EASEMENT AGREEMENTS

### GENERAL ADMINISTRATION

#### Interpretation of Guidelines

- A. In order to address unusual circumstances and geographic conditions, a Contract/Agreement holder may file for an interpretation of the Guidelines governing the administration of the Williamson Act Contract and Open Space Easement Agreement. The Contract/Agreement holder shall bear burden of proving case facts.
- B. Guideline Interpretation and Appeal Process
  1. First level of Review: Review Committee comprised of the Deputy Agricultural Commissioner, Planning Manager with the Department of Planning and Development (DPD), and the DPD Williamson Act/ Open Space Easement program coordinator. Committee decision may be appealed by filing with DPD.
  2. Second level of Review: Review Committee comprised of the Agricultural Commissioner, Director of DPD . Decisions of the Committee may be appealed by filing with Clerk to the Board.
  3. Third and final level of Review: Board of Supervisors.

#### Reports

Each August, an annual report containing Williamson Act Contract and Open Space Easement Agreement programs information, statistics and any/all interpretation and implementation decisions shall be prepared by the DPD staff and forwarded to the Board of Supervisors.

#### Monitoring

##### A. Public Education

1. Each spring, DPD staff shall formally contact realty association(s) and offer to make a presentation to realtors regarding the County of Santa Clara's Williamson Act and Open Space Easement programs and program requirements.

2. DPD staff shall periodically review and revise the pamphlet prepared to advise prospective buyers of contracted properties, and other interested parties, of Williamson Act Contract and Open Space Easement Agreement requirements. The pamphlet will be made available through realtors, realty associations in Santa Clara County, at the DPD public counter at the County Government Center and on the County web site. Copies will also be made available to the Santa Clara County Farm Bureau.

**B. Agricultural Preserve Questionnaire (Williamson Act Contract holders only)**

1. DPD and Agriculture and Environmental management (AEM) staff shall review and revise the non-Assessor portion of the Agricultural Preserve Questionnaire to make the information useful to the County and relevant to agricultural operation.
2. Assessor shall continue to make the make Agricultural Preserve Questionnaire available online.
3. Assessor shall ensure that the Agricultural Preserve Questionnaire advises landowners of the owner's obligation to complete and return the Questionnaire to the County by a specified date.
4. Questionnaire shall provide for a signature acknowledgment by the landowner that the information provided under oath on the Questionnaire, is complete, true and correct.
5. For the purpose of verification, Assessor shall keep a record of to whom Agricultural Preserve Questionnaire was sent and the date mailed.
6. If County does not receive said questionnaire on or before April 10, DPD will notify landowner that the documentation must be submitted within 60 days or the County may file notice of non-renewal, and will be subject to a late filing fee.
7. DPD and AEM staff shall review the questionnaire and verify information to determine continuing eligibility of property (see "Parcel Audit"). If there is substantive change on the property, the County may non-renew subject property, and will describe the change in the nonrenewal notice.

**C. Property Disclosure Report**

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

**D. Proposed Development**

Restricted lands are flagged in the DPD database to alert planners of Williamson Act/Open Space Easement applicability. A Compatible Use Determination is required prior to acceptance of any land development applications involving restricted lands.

**E. Parcel Audit**

DPD and AEM staff shall review each response to the non-Assessor portion of the Agricultural preserve Questionnaire and shall follow-up as necessary to ensure contract compliance. Review may consist of the analysis of GIS aerial photographs, the AEM database, and other relevant documents including federal tax schedules, to determine if land uses comply with restrictions.

A Williamson Act program goal shall be to audit every contracted parcel at least once every seven years.

**F. Permission to Enter to Inspect Property**

1. Owner shall grant County and County's officers, employees, contractors and agents permission to enter and inspect the subject property during normal business hours (Monday through Friday, 8:00am to 5:00pm) to monitor compliance. Prior to seeking entry, County shall give owner at least 48 hours written notice of the inspection date, who is coming and reason for site visit. County will make a reasonable attempt to accommodate the schedule of the landowner.

**G. Staffing**

DPD and AEM staff shall be augmented and trained as necessary to carry out monitoring and enforcement procedures on behalf of County.

**Nonrenewal**

A. A contract holder may nonrenew a contract at any time by notifying the County in writing. The nonrenewal notice shall include the name of the property owner, street address and Assessor's Parcel Number for the parcel under contract. Notification shall be sent to the County as follows:

Office of the Clerk of the Board of Supervisors  
ATTN: Williamson Act Program  
70 West Hedding Street, 10<sup>th</sup> Floor  
San Jose, CA 95110

- B. The county may nonrenew a contract for any reason including but not limited to failure to meet the requirement that the contracted parcel be devoted to the production of agricultural commodities, or failure to return the required annual Agricultural Preserve Questionnaire by April 10th.
- C. County recognizes that there are situations where substandard sized parcels held in common ownership and operated as a single business entity, whether or not such parcels are contiguous, may meet Williamson Act requirements. In this light, prior to initiating the nonrenewal process, the County will identify such parcels to determine if the aggregate parcels meet Williamson Act requirements. If the land is in compliance with all state and local requirements, no action will be taken. If the contract is not in compliance, the land will be non-renewed.
- D. In order to initiate nonrenewal for the next calendar year, an owner must submit a notice of nonrenewal to the Clerk of the Board by October 1.**
- E. Procedures for Nonrenewal:**
  - 1. Any notice of nonrenewal (or withdrawal of such notice) shall be recorded within 20 days of receipt, and the contract holder will be notified within 30 days of such recordation.
  - 2. If the County initiates nonrenewal, pertinent information regarding the resulting tax increase and right to protest (including information about 3 year delay of tax increase) may be obtained by contacting the County Assessor's Office at (408) 299- 5500.
  - 3. Property owner has 60 days from the date on the notice of nonrenewal to protest the nonrenewal in writing by submitting the following:
    - a. Proof that there is an existing commercial farm business on the parcel and the contracted land is in commercial agricultural production based on criteria adopted by the Board of Supervisors.
    - b. Where the existing farm operation is located on substandard parcels, the owner(s) must enter into and submit a copy of a recorded Joint Management Agreement for the life of the Williamson Act contract that formally establishes a joint farming operation on the aggregate parcels.
  - 4. County sends property owner acknowledgement that written has been received.

5. Planning and Development staff, in conjunction with the Agricultural Commissioner, reviews documentation provided by the property owner(s) and makes a final determination.
6. When applicable, County files and records withdrawal of notice of nonrenewal prior to end of calendar year.

## **FEES**

Fees shall be charged in accordance with a Resolution adopted by the Board of Supervisors.

**Full cost recovery shall be sought in all fees imposed.**

## **ENFORCEMENT**

### **Material Breach of Williamson Act Contracts**

If the County acquires knowledge of a “material breach” of a Williamson Act contract, DPD staff, in consultation with County Counsel will comply with the mandates in Gov. Code Section 51250.