

County of Santa Clara Williamson Act Program

**GUIDELINE FOR
POLICIES GOVERNING THE EXCHANGE OF
AN EXISTING WILLIAMSON ACT CONTRACT FOR AN
OPEN SPACE EASEMENT**

Definition of Open Space

Open space land that is subject to a Santa Clara County Open Space Easement is any parcel or area of land which is essentially unimproved and devoted to an open space use defined as any of the following:

- A. Open space for the preservation of natural resources, including but not limited to, the preservation of plant and animal life, including habitat for fish and wildlife species; rivers, streams, bays and estuaries; and banks of rivers and streams and watershed lands.
- B. Open space used for the managed production of resources including but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber.
- C. Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to rivers and streams; and areas which serve as links between major recreation and open space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.
- D. Open space for public health and safety, including but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, floodplains, watersheds, areas presenting high fire risks, areas required for the protection of water quality, water reservoirs, and areas required for the protection and enhancement of air quality.
- E. Open space for the protection of places, features and objects pertaining to Native American historical, cultural and sacred sites.

Easement Duration

Easement must be for a term of at least 15 years or in perpetuity. Like Williamson Act contracts, easements for a term of years automatically renew each year for an additional year unless notice of non-renewal is provided. The

only ways to terminate an easement for a term of years are through non-renewal or abandonment.

Required Easement Findings

The Board of Supervisors must find, by resolution, that preservation of the land as open space is:

- A. Consistent with the County of Santa Clara General Plan;
- B. A minimum of 20 acres; and
- C. In the best interest of the County of Santa Clara because of one or more of the following:
 - 1. Land is essentially unimproved and, if retained in its natural state, has either scenic value to the public, is valuable as a watershed or wildlife preserve, and the easement contains appropriate restrictions to ensure this;
 - 2. Is in the public interest because the land will either add to the amenities of living in neighboring urbanized areas or will help preserve the rural character of the area in which the land is located; and/or
 - 3. The public interest will otherwise be served consistent with the Open Space Easement Act of 1974 or Article XIII, Section 9 of the California Constitution.

Development Restrictions

Holder of easement must effectively preserve for public use or enjoyment the natural or scenic character of such open space land (*Source: Government Code Section 51075(d)*) and shall not carry out or allow any activity, use or action, which could impair the open space character of the land. **Easement does not require public access to open space land.**

Limitation of Uses

- A. Single-family Residential Uses and Residential Accessory Structures.
 - 1. Subdivision is prohibited.
- B. Accessory structures related to the maintenance, enjoyment or operation of the open space use, including but not limited to, storage and maintenance facilities, bathrooms, trail markers, and informational displays.
- C. Agricultural Uses related to the production of agricultural commodities
 - 1. Short-Term and Long-Term Agricultural Employee Housing, which is defined as dwellings occupied by employees primarily engaged in agricultural operations on land owned or rented by the agricultural

operator. Family members of such agricultural employees may also live in the same unit.

2. Agricultural Accessory Structures ancillary to and supporting on-site agricultural operations including barns and sheds, corrals, wells, compost storage, machinery storage, and small offices.
3. Small Scale Agricultural Processing, which is defined as the handling, processing, packing, packaging, storing, and shipping of agricultural commodities grown primarily in Santa Clara County and neighboring counties, not including processing of meat, poultry, or animal products. Use must be limited to 2,400 square feet or less of covered space devoted to processing activity.
4. Limited Agricultural Sales, which is defined as facilities for the retail sale of agricultural commodities grown predominately on-site or on other property within Santa Clara County and operated by a single proprietor on a seasonal basis. May include a stand or similar sales structure not exceeding 400 square feet in area. Includes operations where customers have access to growing areas and pick the product themselves, such as Christmas tree farms, pumpkin patches, and apple or other fruit picking.
5. Agriculturally-related Entertainment and Commercial Uses which are defined as visitor-oriented services, sales and attractions with an agricultural theme that are conducted in conjunction with on-site agricultural uses. Such uses include food and retail sales, tasting rooms, and reception facilities.

D. Recreational Uses

1. Hunting and Fishing Preserves, which are defined as natural or improved open space areas and related facilities specifically designated for hunting and fishing.
2. Public or private riding or hiking trails.
3. Riding stables, and boarding of horses or other livestock, including associated stables and pastures.
4. Camps and Retreats, which are defined as outdoor-oriented recreational, meeting, lodging, and associated facilities, which have a low population density, are a low intensity use, and which minimally alter the natural environment. Includes hostels, guest ranches, lodges, and educational and group retreats, but does not include tourist-oriented resorts or hotels or motels.
5. Bed and breakfast inns, which are defined as commercial establishments providing short-term overnight accommodations with a maximum of six (6) guest rooms, including kitchen and dining facilities for guests.

E. Utilities

1. The erection, construction, alteration or maintenance of gas, electric, water, alternative power production (such as windmills) or

communication utility facilities; and radio, television or microwave antennas, and transmitters and related facilities up to 35 feet in height.

Limitation of Development

Three types of easements are proposed with three different levels of development restrictions. The most restrictive easement will prohibit all development. A second type of easement will restrict the size of any proposed residence to 1,000 square feet and prohibit secondary dwellings. The third type of easement will not restrict the size of any proposed residence.

- A. For parcels between 20 and 39 acres:
 - 1. Total development of limited uses, including residential, restricted to 5% total coverage of parcel.
 - 2. 95% of the parcel must be maintained in open space use.

- B. For parcels between 40 and 99 acres:
 - 1. Single-family residential uses and residential accessory structures limited to 2 acres.
 - 2. Total development of limited uses, including residential, restricted to 5% total coverage of parcel.
 - 3. 95% of the parcel must be maintained in open space use.

- C. For parcels 100 acres and over:
 - 1. Total development of limited uses, including residential, restricted to 5 acres.
 - 2. Remainder of parcel must be maintained in open space use.

- D. Owners of parcels may choose a “no-development option”.

“Development” includes erecting or placing structures or objects on the land, grading, or otherwise altering the land for non-agricultural purposes.

“Development” does not include use of the land in its natural state for activities such as hunting, fishing, hiking, or outdoor games or sports.

For purposes of calculating the maximum permissible 5% development maximum (parcel coverage) of a parcel, the square footage of the footprint of all hardscape including residences, accessory structures and recreation facilities (i.e. tennis courts, swimming pools) shall be aggregated, with the exception the following:

- A. Sub-surface utility systems and facilities such as leachfields, leachlines and septic tanks shall be exempt from the five (5) percent maximum development Open Space Easement calculation;
- B. Roadways, driveways and required turn arounds serving the primary residence shall be exempt from the five (5) percent development maximum; and

- C. Landscaping (softscape) that is in keeping with the natural setting and that is composed of natural features and vegetation generally found in the area of land in question shall be exempt from the five (5) percent development maximum.

Siting Criteria for Development of Limited Uses

Development of limited uses, including roads and driveways, shall:

- A. Conform to all applicable goals and policies of the General Plan.
- B. Be subject to enhanced Design Review, focusing on:
 - 1. Maintenance of the open space in large, contiguous areas capable of serving the various purposes of such open space, including but not limited to recreation and trails, agriculture, viewshed protection, habitat preservation and wildlife corridors.
 - 2. Avoiding those noteworthy and most valuable natural features of the land, such as rock outcroppings, historic or archaeological sites, significant stands of mature trees, and riparian areas.
 - 3. Being located based on a consideration and balancing of factors as topography, visual impacts and conservation of natural resources and landscape features, while also minimizing the need for grading and earthwork to the maximum extent possible.
 - 4. Being clustered on the property to the maximum extent possible.