

## 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 request an interpretation of the Guidelines governing the administration of the Williamson Act Contract and Open Space Easement Agreement. The Contract/Agreement holder shall bear the 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 and Director of DPD. Decisions of the Committee may be appealed to the Board of Supervisors by filing with Clerk to the Board within 15 days of the decision and payment of appeal fee.
  3. Third and final level of Review: Board of Supervisors.

##### **Reports**

DPD will maintain up-to-date Williamson Act Contract and Open Space Easement Agreement program information on its website, including participant parcel maps, program statistics, and analysis.

##### **Public Education**

The public education will focus on engaging key organizations and stakeholders and take advantage of new media channels and outreach methods (i.e. social media, online platforms, and multi-cultural outreach) to best promote the program to the audiences who will benefit from it and achieve alignment with the Santa Clara County Valley Agricultural Plan (Ag Plan) DPD and the Consumer and Environmental Protection Agency (CEPA) will coordinate these efforts. All forms, information

documents and outreach materials shall be made available in other languages as needed and will be reviewed for ease of use by intended audience.

## **Compliance Monitoring**

### **A. Agricultural Preserve Questionnaire and Verifying Agricultural Production (Williamson Act Contract holders only)**

1. DPD and CEPA staff shall continue to review and revise the non-Assessor portion of the Agricultural Preserve Questionnaire to ensure the information requested is useful to the County, relevant to determining if the agricultural operations meet Williamson Act requirements, and clear for respondents to complete.
2. Assessor shall continue to make the make Agricultural Preserve Questionnaire available online and include a link to the Questionnaire on the Assessor's Office main webpage.
3. The Office of the Assessor shall mail the Questionnaire to the mailing address of the owner or other person identified on the Assessor's roll as responsible for payment of the parcel's property taxes annually no later than December 31. For the purpose of verification, the Assessor shall keep a record of to whom the Questionnaire was sent, and the date mailed.
  - a. Assessor shall ensure that the Agricultural Preserve Questionnaire advises landowners of the landowner's obligation to complete and return the Questionnaire to the County by April 10<sup>th</sup>, annually.
  - b. The Questionnaire shall provide for a signature acknowledgment by the landowner that the information provided under oath on the Questionnaire, is complete, true and correct.
4. The Assessor shall share the nonconfidential information on each submitted Questionnaire with Agricultural Commissioner staff within one week of receipt. The Agricultural Commissioner will verify that a parcel meets minimum agricultural production required by the Williamson Act contract and provide a list of participants who did not submit the required annual Questionnaire to the Office of the Assessor by May 1, annually.
5. The Assessor's Office will send a warning notification to all Williamson Act parcel owners who have not submitted the Questionnaire by the April 10 deadline that they have 60 days to submit or they may be subject to nonrenewal. This notification will go out no later than May 15 annually.

6. The Assessor's Office will promptly provide any additional Questionnaires received after the April 10 due date to the Agricultural Commissioner. The Agricultural Commissioner will make every reasonable attempt to reach out within 30 days to the remaining non-compliant parcel owners to assist them with completing the Questionnaire or determine if the parcel should be placed into nonrenewal status.
7. The Agricultural Commissioner will present recommended parcels for nonrenewal to a review board consisting of staff from the Agricultural Commissioner, DPD, and County Counsel. The review board will submit a list of parcels recommended for nonrenewal parcels to the Directors of DPD and CEPA for approval by August 31<sup>st</sup>, annually.
8. The Agricultural Commissioner will provide, within one week of Directors' approval, the Clerk of the Board with the approved list of parcels for the Clerk to issue nonrenewal notices.

## **B. Proposed Development**

Lands subject to Williamson Act contracts or Open Space Easements are identified in maps and other sources maintained by DPD to identify the restrictions imposed on these lands. A Compatible Use Determination is required prior to acceptance of any land development applications involving these lands and shall be processed in accordance with the "Guidelines for Commercial Land Use Development on Restricted Lands."

## **C. Parcel Audit**

DPD and CEPA 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 Agricultural Commissioner's database, and other relevant documents including federal tax schedules, to determine if land uses comply with restrictions. The landowner or land manager may also be contacted to obtain additional information or documentation.

A Williamson Act program goal is to audit every contracted parcel every three years.

## **D. Permission to Enter to Inspect Property**

If the County has probable cause to suspect that contracted land is not in compliance, it may contact the land owner to arrange for an inspection of the property by the County's officers, employees, contractors or agents. The County shall give the land owner at least 48

hours' written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County will make a reasonable attempt to accommodate the landowner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 am to 5:00 pm).

## **Nonrenewal**

- A. A contract holder may file for nonrenewal of a contract, or portion of a contract, at any time by notifying the County in writing. The nonrenewal notice shall include the name(s) and signature(s) of the property owners, and the street address(es) and Assessor's Parcel Number(s) for all parcel(s) to be nonrenewed. Notification shall be mailed or delivered 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. The County recognizes that contiguous substandard sized parcels (i.e., less than 10 acres of prime agricultural land or 40 acres of nonprime agricultural land) held in common ownership and operated as a single business entity may meet Williamson Act requirements. Prior to initiating the nonrenewal process for substandard sized parcels, the County will determine if the parcels in aggregate meet Williamson Act requirements. If the land is in compliance with all state and local requirements, no action will be taken. If the land is not in compliance, the contract 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) received by the County from a property owner shall be recorded within 20 days of receipt, and the property owner will be notified within 30 days of such recordation.
  2. If the County initiates nonrenewal, it shall notify the property owner

as described in the Compliance Monitoring section above. This notification shall include pertinent information regarding the resulting tax increase and right to protest (including information about a 3-year delay of tax increase). Any questions regarding property tax information should be directed to the County Assessor's Office at (408) 299-5500.

3. The property owner shall have 30 days from the date on the County's notice of nonrenewal to protest the nonrenewal in writing by submitting all of the following information:
  - a. Proof that there is an existing commercial agricultural business on the parcel and the contracted land is in commercial agricultural production based on criteria adopted by the Board of Supervisors.
  - b. If the existing agricultural operation is located on substandard parcels, the owner(s) must submit a copy of a recorded Joint Management Agreement for the life of the Williamson Act contract that formally establishes a joint agricultural operation on the aggregate parcels.
4. The County will send the property owner a written acknowledgement that written protest has been received.
5. The Williamson Act Review Board and County Counsel shall review all protest documentation provided by the property owner(s) and shall make a final determination. The Review Board shall provide the landowner its decision by October 15. If the landowner wishes to appeal the decision, it shall file an appeal with the Clerk of the Board by November 15.
6. The Board of Supervisors shall hear and render a decision on any appeal of a nonrenewal protest in December.
7. If a landowner's nonrenewal protest is granted, the Clerk of the Board shall file and record a "withdrawal of notice of nonrenewal" by December 31.

### **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.

After the Office of the Assessor receives notice of a change of ownership on a contracted parcel, the Assessor will send to the new owner information describing the County's Williamson Act program and its requirements; this information will be prepared by the DPD, CEPA, and the Office of the Assessor. The Office of the Assessor will notify the Agricultural Commissioner of all changes in ownership.

The Agricultural Commissioner will contact the new owner to explain the County's Williamson Act program and its requirements.

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

If the County acquires knowledge of a "material breach" of a Williamson Act contract, DPD and Agricultural Commissioner, in consultation with County Counsel, will comply with the mandates in Gov. Code Section 51250 and County Ordinance Code section C13-22.

### **Fees**

Fees shall be charged in accordance with a Resolution adopted by the Board of Supervisors. Full cost recovery will be sought in fees imposed.

### **Staffing**

DPD, Assessor, and CEPA staff shall be trained as necessary to carry out monitoring and enforcement procedures on behalf of County.