

County of Santa Clara Williamson Act Program

GUIDELINE FOR COMMERCIAL AGRICULTURAL USE

Intent

Williamson Act contracts in Santa Clara County are intended to promote agricultural productivity and economic viability and to preserve agricultural land from premature and unnecessary conversion to urban uses. These guidelines are used to verify the presence of commercial agriculture on contracted parcels.

To be eligible to participate or continue participation in the County's Williamson Act program, the land in question must be "devoted to production of agricultural commodities". (This requirement is discussed below). When development is proposed on contracted land(s), two additional pre-conditions are applied: 1) each contracted parcel must meet a minimum percentage of land in agricultural production; and 2) the proposed development must be "compatible" with and "incidental" to the agricultural use of the parcel. (See Guideline for Compatible Use Development)

Agricultural Commodity

Contracted land shall be devoted to the commercial production of agricultural commodities, as defined, for sale in wholesale or direct marketing channels. Agricultural commodities shall mean an unprocessed product of farms, ranches, production nurseries and forests.

Agricultural commodities include fruits, nuts and vegetables; grains, such as wheat, barley, oats, and corn; legumes, such as field beans and peas; animal feed and forage crops, such as grain hay and alfalfa; rangeland and pasture for livestock production; seed crops; fiber and oilseed crops, such as safflower and sunflower; plant products used to produce biofuels; nursery stock such as Christmas trees, ornamentals, and cut flowers; trees grown for lumber and wood products; turf grown for sod; livestock for consumption, such as cattle, sheep and swine (except horses); and poultry, such as chickens, ostriches, and emus. The boarding, training or occasional sale of horses is not considered a commercial agricultural use or an agricultural commodity.

Minimum Parcel Size

Government Code Section 51222 establishes a presumption that parcels of agricultural land are large enough to sustain their agricultural use if the land is at least 10 acres in size in the case of prime agricultural land, or at least 40 acres in size for non-prime land. Parcels not meeting these sizes are considered "substandard".

In most cases, establishing and sustaining commercial agricultural production on substandard-sized parcels is particularly challenging. Therefore, applications for new Williamson Act contracts are limited to properties that meet the statutory minimum size presumption (10 acres prime / 40 acres non-prime).

In Santa Clara County, the distinction between prime and non-prime land will be based upon soil resource quality, with prime lands being those that qualify for a rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.

Joint Management Agreement

Where an existing farm business operates on multiple substandard-sized parcels, the property owners may choose to enter into a Joint Management Agreement to formalize the joint farming operation on aggregate substandard-sized parcels. A recorded Joint Management Agreement may allow substandard-sized parcels that together total at least 10 acres prime / 40 acres non-prime to remain enrolled in the Williamson Act rather than be nonrenewed.

When development is proposed on a substandard-sized parcel under a Joint Management Agreement, the individual parcel must meet the conditions for commercial agricultural production for substandard-sized parcels. *Joint Management Agreements do not exempt substandard-sized parcels from having to individually meet the criteria of the "Guideline for Commercial Agricultural Use" and the "Guideline for Compatible Use Development on Restricted Lands" when development is proposed.*

Commercial Agricultural Production

Contracted land shall be devoted to the commercial production of agricultural commodities, as defined, for sale in wholesale or direct marketing channels. Crop lands temporarily fallowed or grazing lands temporarily unused through rotational grazing may be considered as being in agricultural production if the applicant demonstrates such practice is a typical and appropriate agricultural management strategy. For livestock production, land that is fenced and available for grazing will be considered as being in agricultural production, even though grazing may only occur on a seasonal basis. In all cases, commercial agriculture must be the primary use of the land.

Any other uses or development of contracted lands must be compatible with and ancillary to the use of the land for the commercial production of agricultural commodities. Other compatible uses may include, but are not limited to, agricultural processing, horse stabling and training facilities, barns and other farm storage buildings.

To be considered as "devoted to the commercial production of agricultural commodities", the contracted parcel(s) must meet at least one of the following conditions:

- 1) The property¹ is at least 10 acres of prime land, at least 60% of the property is being used for commercial agriculture² and the owner substantiates revenue³ from commercial agriculture on at least 60% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
- 2) The property is at least 40 acres of non-prime land, at least 60% of the property is being used for commercial agriculture and the owner substantiates revenue from commercial agriculture on at least 60% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
- 3) The property is less than 10 acres of prime land, at least 75% of the property is being used for commercial agriculture and the owner substantiates that the property generated at least \$3,500⁴ in annual revenue from commercial agriculture on at least 75% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
- 4) The property is less than 40 acres of non-prime land, at least 75% of the property is being used for commercial agriculture and the owner substantiates that the property generated at least \$2,000 in annual revenue from commercial agriculture on at least 75% of the property in 3 of the past 5 years using federal income tax documents filed in those years; or,
- 5) The property is prime land and generated annual revenue from sales of agricultural commodities in 3 of the past 5 years of at least \$1,000 per acre or \$10,000, whichever is **greater**⁵; or,
- 6) The property is non-prime land and generated annual revenue from sales of agricultural commodities in 3 of the past 5 years of at least \$250 per acre or \$10,000, whichever is **greater**⁵; or,
- 7) The property is at least 40 acres in size and produces timber or other forest products under an active Non-Industrial Timber Management Plan, an active Timber Harvest Plan, or a Timber Harvest Plan that was filed and executed within the last 15 years.

Income from sales of agricultural commodities or rent of land used for commercial production of agricultural commodities shall be the only sources of income used to calculate annual revenue. Estimated gross income generated through grazing activities may be limited to an estimate of the annual carrying capacity of the land multiplied by livestock value. Revenue from other compatible uses or ancillary uses of the land shall not be included in the revenue calculation.

Annual revenue will be validated by affidavit on a form provided by the County and with tax forms or other verifiable documents substantiating the annual revenue generated by the commercial agricultural use of the property.

¹ "Property" as used in #1 - #6 includes lands held in common ownership.

² The Agricultural Commissioner shall consider exceptions to the land coverage standards stated in #1 - #4 when there are natural land features present, such as streams or rock outcroppings, which the owner demonstrates are not conducive to the commercial agricultural uses appropriate for the property or where government-imposed restrictions prohibit use of portions of the land for agricultural purposes. Agriculture must be the primary use of the land; if more than 50% of the property is not conducive to commercial agricultural uses, which are appropriate for the property, the property may be subject to non-renewal.

Developed land within fenced properties shall be excluded from the calculation of land considered to be in agricultural use. Developed land is land encumbered with buildings or structures for Compatible Uses, as defined.

³ "Revenue" as used in #1 - #6 refers to gross agricultural income generated by the property. The Agricultural Commissioner may consider income projections from future sales of agricultural commodities on property currently planted with trees, vines, bushes, or crops which will not bear fruits or nuts until 2 or more years after planting. A minimum revenue is not indicated in #1 and #2 as these parcels meet the statutory presumption for size established by Government Code Section 51222.

⁴ Monetary values indicated in #3 - #6 will be reviewed every 3 years and may be adjusted to account for inflation in an amount determined by the HLUET Committee.

⁵ To propose compatible use development using #5 or #6, at least 50% of the parcel must be used for commercial agriculture to ensure that any development is incidental to the agricultural use.