

## **ORDINANCE NO. NS-1203.130**

### **AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA REPEALING AND REENACTING DIVISION C13 OF THE ORDINANCE CODE OF THE COUNTY OF SANTA CLARA RELATING TO WILLIAMSON ACT CONTRACTS AND FARMLAND SECURITY ZONES**

#### **Summary**

The ordinance adds provisions governing Farmland Security Zones, clarifies eligibility and qualifying uses of land for Williamson Act contracts, clarifies review procedures for compatible use determinations, and makes minor language changes for consistency.

#### **THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:**

SECTION 1. Division C13 of the Ordinance Code of the County of Santa Clara relating to Land Preservation Contracts is hereby repealed in its entirety and reenacted to read as follows:

#### **DIVISION C13**

#### **LAND PRESERVATION CONTRACTS**

#### **CHAPTER I. WILLIAMSON ACT CONTRACTS**

#### **ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS**

##### **Sec. C13-1. Purpose.**

This Division sets forth the requirements for county agricultural preserves and contracts pursuant to the California Land Conservation Act of 1965 (“Williamson Act”), Government Code section 51200 et seq.

##### **Sec. C13-2. Definitions.**

The following definitions apply to this Chapter:

- (a) All definitions in the Williamson Act, including but not limited to those in Government Code section 51201.
- (b) *Contract* means a land conservation contract pursuant to the Williamson Act.
- (c) *Contracted land* means real property restricted by a land conservation contract

pursuant to the Williamson Act and this Chapter.

**Sec. C13-3. Relationship to other laws.**

If there is any irreconcilable conflict between any provision of this Chapter and any federal or state law, the federal or state law prevails. Any provision of this Chapter that is more stringent than federal or state law is intended to supplement, not conflict with, federal or state law and to apply unless a court of law conclusively determines that the provision is preempted.

**ARTICLE 2. AGRICULTURAL PRESERVES**

**Sec. C13-4. Purpose and authority.**

This Article sets forth the procedural and substantive requirements for establishing, disestablishing, and altering the county agricultural preserves pursuant to Government Code sections 51230 through 51239. The county agricultural preserves define the boundaries of those areas within the county that contain lands eligible for consideration for contracts pursuant to the Williamson Act. The establishment, disestablishment, or alteration of an agricultural preserve is a legislative act that requires approval by resolution of the Board of Supervisors.

**Sec. C13-5. Criteria for establishing, disestablishing, or altering agricultural preserves.**

All of the following criteria apply to the establishment, disestablishment, or alteration of an agricultural preserve, whether initiated by the County or a land owner:

- (a) Each agricultural preserve shall contain at least 100 contiguous acres of land unless the Board of Supervisors finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area and that such preserve is consistent with the County general plan and zoning ordinance.
- (b) The use of any land within an agricultural preserve shall be restricted by zoning that is compatible with the agricultural use of the lands within the preserve that are subject to contracts. Such zoning restrictions include appropriate minimum parcel sizes consistent with the Williamson Act and this Chapter.
- (c) No agricultural preserve may be disestablished or altered to remove land from the agricultural preserve if removal of the land would cause or contribute to the premature or unnecessary conversion of agricultural land to urban uses or to significant encroachment of incompatible land uses into the immediate vicinity of contracted land.
- (d) All agricultural preserves shall comply with the County general plan and zoning ordinance.

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**Sec. C13-6. Land owner proposals to establish, disestablish, or alter an agricultural preserve.**

- (a) A land owner whose property is devoted to agricultural use but is not within an established agricultural preserve may apply to have the property included in a new or existing agricultural preserve. To initiate this process, the land owner shall file an application prepared by the County for that purpose with the Clerk of the Board of Supervisors.
- (b) A land owner whose property is included in an agricultural preserve and who wishes to have that property excluded from an agricultural preserve may apply to disestablish or alter the boundaries of the agricultural preserve in which the property is located to exclude the property. To initiate this process, the land owner shall file an application prepared by the County for this purpose with the Clerk of the Board of Supervisors.
- (c) Any application submitted pursuant to this section shall be accompanied by payment of all applicable fees established by resolution of the Board of Supervisors.
- (d) Within 30 days of receiving a complete application, the Planning Office will prepare a report for the Board of Supervisors analyzing whether the proposal meets the requirements of the Williamson Act and this Chapter and will file this report with the Clerk of the Board of Supervisors. Upon receipt of the report from the Planning Office, the Clerk will set the application for public hearing.
- (e) No application submitted pursuant to this section will be approved by the Board of Supervisors unless it meets all of the criteria in section C13-5.

**Sec. C13-7. Notice and hearing requirements.**

- (a) A noticed public hearing will be held before any final action is taken to establish, disestablish, or alter the boundary of any agricultural preserve.
- (b) Notice of the public hearing to establish, disestablish, or alter an agricultural preserve will be provided in compliance with all of the following:
  - (1) By publication pursuant to Government Code section 6061;
  - (2) By written, mailed notice at least two weeks prior to the hearing to the Local Agency Formation Commission;
  - (3) By written, mailed notice at least two weeks prior to the hearing to any city within one mile of the exterior boundaries of the agricultural preserve proposed to be established, disestablished, or altered;
  - (4) By written, mailed notice to the applicant; and
  - (5) If land is to be removed from an agricultural preserve, by written notice sent by

certified mail to each owner of contracted land within one mile of the exterior boundary of the land to be removed.

**Sec. C13-8. Recording revised agricultural preserve map.**

Whenever an agricultural preserve is established, disestablished, or altered, the Clerk of the Board of Supervisors will file the adopted resolution and map showing all of the county agricultural preserves, as revised, with the Clerk-Recorder.

**ARTICLE 3. CONTRACTS**

**Sec. C13-9. Purpose and authority.**

This Article sets forth requirements for contracts between land owners and the County pursuant to the Williamson Act. This Chapter is intended to supplement any other applicable state and local laws, ordinances, regulations, and guidelines.

**Part 1. Applications for Contracts**

**Sec. C13-10. Application process and fees.**

- (a) A land owner whose property is devoted to agricultural use and is within an agricultural preserve may file an application for a contract with the Clerk of the Board of Supervisors on a form prepared by the County. An application shall be accompanied by all of the following:
  - (1) All applicable fees as established by resolution of the Board of Supervisors; and
  - (2) A completed contract in a form prepared by County Counsel with notarized signatures of all land owners and all required attachments.
- (b) The County may request additional information from the land owner during the application review process to facilitate a thorough and timely review of the application.
- (c) Applications to simultaneously rescind a contract and reenter into a new contract pursuant to the Williamson Act shall be processed in the same manner as applications for new contracts. Applications to simultaneously rescind a contract and enter into an Open-Space Easement Agreement pursuant to chapter II of this Division shall be processed as an application for an Open-Space Easement Agreement pursuant to chapter II. Applications to simultaneously rescind a contract and enter into a Farmland Security Zone contract pursuant to chapter III of this Division shall be processed as an application for a Farmland Security Zone contract pursuant to chapter III.

**Sec. C13-11. Report to Board of Supervisors.**

- (a) Upon receipt of an application for a contract, the Clerk of the Board of Supervisors will transmit a copy of the completed application to the Planning Office, County Surveyor,

Agricultural Commissioner, Office of the Assessor, and Office of the County Counsel.

- (b) Within 60 days of receiving a complete application, the Planning Office will prepare a report to the Board of Supervisors. The Office of the Assessor, County Surveyor, and County Counsel will provide the Planning Office with any relevant information to assist with preparation of the report. The report will contain an analysis of whether the land meets the criteria for a contract in the Williamson Act, this Chapter, and any other local ordinances and guidelines.

**Sec. C13-12. Criteria for evaluating contract applications.**

- (a) No application for a Williamson Act contract will be approved unless all of the following criteria are met:
  - (1) All parcels proposed for inclusion in the contract are devoted to an agricultural use that meets one of the definitions of commercial agriculture in the *Guidelines for Williamson Act and Farmland Security Zone Programs* adopted by the Board of Supervisors; and
  - (2) There are no existing or permitted uses or development on the land that would significantly displace or interfere with the agricultural use of the land.
- (b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

**Sec. C13-13. Recording of contracts.**

The Clerk of the Board of Supervisors shall record any executed contract with the Clerk-Recorder within 20 days after the Board of Supervisors executes the contract and no later than December 31 of the calendar year in which it was executed.

**Part 2. Use and Development of Contracted Lands**

**Sec. C13-14. General provisions.**

The use and development of all contracted land shall at all times comply with the Williamson Act, this Chapter, the terms of the Williamson Act contract, and any other applicable state and local laws, regulations, ordinance, and guidelines.

**Sec. C13-15. Compatible uses and development.**

- (a) All use or development of any contracted land shall comply with Government Code section 51238.1 and all of the following criteria:
  - (1) Agricultural use shall be the primary use of contracted land before any other use or development is allowed.

- (2) The proposed use or development is compatible with and will not significantly compromise the long-term productive agricultural capability of any contracted land within the agricultural preserve, including the land upon which the use or development is proposed to occur;
- (3) The proposed use or development will not significantly displace or impair current or reasonably foreseeable agricultural operations on the land upon which the use or development is proposed to occur. A use or development that significantly displaces agricultural operations on the land upon which the use or development is proposed to occur may, in the County's discretion, be deemed compatible if the uses or development relate directly to the production of commercial agricultural products on that parcel or nearby parcels (e.g., harvesting, processing, or shipping of locally produced commercial agricultural products).
- (4) The proposed use or development will not substantially interfere with the agricultural use of the land upon which the use or development is proposed to occur;
- (5) The portion of the parcel to remain in agricultural use shall be capable of sustaining a commercially viable agricultural use;
- (6) The proposed use or development will not hinder or impair agricultural operations in the area by significantly increasing the permanent or temporary human population of the area;
- (7) The proposed use or development does not constitute a residential subdivision; and
- (8) The proposed use or development complies with all other federal, state, and local laws, regulations, ordinances, and guidelines, including the County general plan, this Code, and the *Guidelines for Williamson Act and Farmland Security Zone Programs* adopted by the Board of Supervisors.

**Sec. C13-16. Compatible use determinations.**

- (a) Prior to undertaking any development or use on contracted land, the land owner shall apply for and obtain a compatible use determination from the County. The land owner shall file an application with the Planning Office on a form prepared for this purpose together with an application fee in an amount established by resolution of the Board of Supervisors.
- (b) Staff from the Planning Office and Agricultural Commissioner's Office shall collectively review and determine whether the proposed use or development is compatible with the contract for the property, the Williamson Act, this Chapter, and any adopted guidelines.
- (c) Any interested person may appeal the staff determination made pursuant to subsection (b)

to a review committee comprised of the Agricultural Commissioner and the Director of Planning and Development. Any such appeal shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.

- (d) Any interested person may appeal the review committee determination made pursuant to subsection (c) to the Board of Supervisors, which shall hear and decide the matter de novo and approve, disapprove, or modify the review committee's determination. Any such appeal shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors. Notice of the hearing shall be provided in conformance with section C13-7(b).

### **Part 3. Contract Termination**

#### **Sec. C13-17. General provisions.**

A contract may only be terminated in a manner consistent with state law and this Chapter.

#### **Sec. C13-18. Contract nonrenewal.**

- (a) If either the land owner or the County desires in any year not to renew a contract, or portion of a contract, the nonrenewing party shall serve written notice of nonrenewal of the contract upon the other party before the annual renewal date of the contract. A notice of nonrenewal served by the land owner shall be addressed to the Clerk of the Board of Supervisors, shall be filed with or postmarked at least 90 days prior to the annual renewal date of the contract, and shall identify the parcels to be nonrenewed by Assessor's parcel number. A notice of nonrenewal served by the County shall be mailed to the address shown on the latest assessment roll for the property, and shall be postmarked at least 60 days prior to the annual renewal date of the contract.
- (b) If no notice of nonrenewal is filed in compliance with the deadlines in subsection (a), the contract will be automatically renewed for another year.
- (c) If a notice of nonrenewal is filed after the applicable deadline in subsection (a), the notice will be deemed to apply to the next annual renewal period.
- (d) If a land owner objects to a contract nonrenewal initiated by the County applicable to the owner's land, the owner may file a written protest with the County by December 1 of the calendar year in which the notice of nonrenewal was served. The Board of Supervisors may, in its discretion, withdraw the notice of nonrenewal at any time prior to the contract's annual renewal date.
- (e) During November of each calendar year, the Clerk of the Board of Supervisors will provide a report to the Board of Supervisors identifying all nonrenewal requests received from land owners pursuant to subsection (a).

- (f) The Clerk of the Board of Supervisors will record all notices of nonrenewal with the Clerk-Recorder within 20 days of serving or receiving a notice of nonrenewal.
- (g) The Board of Supervisors may delegate its authority to send and withdraw notices of nonrenewal to any County official, department, or employee.

**Sec. C13-19. Contract cancellation.**

Any petition to cancel a land conservation contract shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition shall be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The petition will be processed in accordance with the Williamson Act.

**Part 4. Contract Compliance and Enforcement**

**Sec. C13-20. Annual agricultural preserve questionnaire.**

By December 31 of each year, the Office of the Assessor mails an agricultural preserve questionnaire to the mailing address of the owner or other person identified on the Assessor's roll as responsible for the payment of property taxes for the parcel. Each owner of contracted land shall return the completed questionnaire to the Office of the Assessor by the following April 10. The Office of the Assessor will provide a copy of the non-confidential information on each returned questionnaire, and a list of parcels for which no questionnaire was returned, to the Planning Office. Those properties for which a completed questionnaire was not returned may be subject to an investigation by the Planning Office and/or Agricultural Commissioner regarding whether the parcel is in compliance with the contract, the Williamson Act, and other state and local laws, regulations, ordinances and guidelines. A land owner who fails to return the completed questionnaire by the April 10 deadline may be charged an investigation fee in an amount established by resolution of the Board of Supervisors.

**Sec. C13-21. Audits and inspections.**

- (a) The County may audit any contracted land for compliance with the contract, the Williamson Act, and other state and local laws, regulations, ordinances, and guidelines. Such audits may include reviewing available documentation such as aerial photographs and agricultural preserve questionnaires and contacting the land owner or manager to obtain additional information or documentation.
- (b) 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 land owner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 am to 5:00 pm).

#### **Sec. C13-22. Material breaches of contract.**

The County will fulfill its enforcement responsibilities for material breaches of contracts as defined in the Williamson Act pursuant to Government Code section 51250.

#### **Sec. C13-23. Judicial relief.**

- (a) In addition to any other remedies provided by state law or this Chapter, including but not limited to Government Code sections 51250 and 51251, if the County determines that a contract has been or is being violated, the Office of the County Counsel may bring an action on behalf of the County in a court of law for an appropriate remedy.
- (b) If a court determines that a contract was violated, in addition to any other relief granted by the court, the court may order the land owner to reimburse the County for its costs, including but not limited to staff time and attorneys' fees, associated with investigating the violation and bringing the enforcement action.
- (c) Nothing in this Chapter is intended to limit a court's ability to grant any relief or issue any order that it deems appropriate in its discretion, including but not limited to specific performance or injunctive or equitable relief.

### **Part 5. Fees**

#### **Sec. C13-24. Fees.**

The Board of Supervisors may adopt by resolution any fees necessary to ensure that the County recovers its costs associated with administering and enforcing the Williamson Act and contracts executed thereunder. Such fees shall not exceed the amount reasonably necessary to recover the cost of providing the product or service or the cost of enforcing any law or ordinance for which the fee is levied. The fee may reflect the average cost of providing any product or service or enforcing any law or ordinance.

### **Part 6. Disclosure Requirements**

#### **Sec. C13-25. Real estate transfer disclosure statement.**

Pursuant to Civil Code section 1102.6a, prior to any transfer of contracted land by sale, exchange, installment land sale contract (as defined in Civil Code section 2985), lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or real property or residential stock cooperative, improved with or consistent of not less than one nor more than four dwelling units, the transferor shall provide the following disclosure: "The real property that is the subject of this transaction is subject to a contract pursuant to the California Land Conservation Act of 1965 ("Williamson Act"), Government Code section 51200 et seq., which requires that the land be devoted to agricultural use and imposes restrictions on the use and development of the land." This disclosure shall be provided on a form substantially similar to that provided in Civil Code section 1102.6a or section B29-4 of this Code. The transferor shall

ensure that the transferee signs the disclosure prior to completing the transfer.

**Secs. C13-26—C13-29. Reserved.**

**CHAPTER II. OPEN SPACE EASEMENT AGREEMENTS**

**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS**

**Sec. C13-30. Purpose.**

This Division sets forth requirements for open space easement agreements pursuant to the Open-Space Easement Act of 1974, Government Code section 51070 et seq.

**Sec. C13-31. Definitions**

The following definitions apply to this Chapter:

- (a) All definitions in the Open-Space Easement Act of 1974 and definitions referenced therein.
- (b) Agreement means an open space easement agreement pursuant to the Open-Space Easement Act of 1974.
- (c) Restricted land means real property restricted by an open space easement agreement pursuant to the Open-Space Easement Act of 1974 and this Chapter.

**Sec. C13-32. Relationship to other laws.**

If there is any irreconcilable conflict between any provision of this Chapter and any federal or state law, the federal or state law prevails. Any provision of this Chapter that is more stringent than federal or state law is intended to supplement, not conflict with, federal or state law and to apply unless a court of law conclusively determines that the provision is preempted.

**ARTICLE 2. AGREEMENTS**

**Sec. C13-33. Purpose and authority.**

This Article sets requirements for agreements between land owners and the County pursuant to the Open-Space Easement Act of 1974. This Chapter is intended to supplement any other applicable state and local laws, ordinances, regulations, and guidelines.

**Part 1. Applications for Agreements**

**Sec. C13-34. Application process and fees.**

- (a) A land owner whose property constitutes open-space land as defined in Government Code sections 51075(a) and 65560 may file an application for an agreement with the

Clerk of the Board of Supervisors on a form prepared by the County. An application shall be accompanied by all of the following:

- (1) All applicable fees as established by resolution of the Board of Supervisors; and
  - (2) A completed agreement in a form prepared by County Counsel with notarized signatures of all land owners and all required attachments.
- (b) The County may request additional information from the land owner during the application review process to facilitate a thorough and timely review of the application.
- (c) Applications to simultaneously rescind a Williamson Act contract and enter into an agreement pursuant to this Chapter will be processed in the same manner as applications for unrestricted land.

**Sec. C13-35. Report to Board of Supervisors.**

- (a) Upon receipt of an application for an agreement, the Clerk of the Board of Supervisors will transmit a copy of the completed application to the Planning Office, County Surveyor, Office of the Assessor, and Office of the County Counsel.
- (b) Within 60 days of receiving a complete application, the Planning Office will prepare a report to the Board of Supervisors. The Office of the Assessor, County Surveyor, and Office of the County Counsel will provide the Planning Office with any relevant information to assist with preparation of the report. The report will contain an analysis of whether the land meets the criteria for an agreement in the Open-Space Easement Act of 1974, this Chapter, and any other applicable County ordinances and guidelines, including whether the agreement is consistent with the County General Plan.

**Sec. C13-36. Criteria for evaluating applications for agreements.**

- (a) No application for an agreement will be approved unless all of the following criteria are met:
- (1) The land proposed for inclusion in the agreement is at least 20 acres in size;
  - (2) All parcels proposed for inclusion in the agreement are devoted to open space;
  - (3) There are no other existing or permitted uses or development on the land that would significantly impair the open-space value of the land; and
  - (4) The Board makes the required findings in Government Code section 51084.
- (b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.

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### **Sec. C13-37. Recording of agreements.**

The Clerk of the Board of Supervisors shall record any executed agreement with the Clerk-Recorder within 20 days after the Board of Supervisors executes the agreement and no later than December 31 of the calendar year in which it was executed.

## **Part 2. Use and Development of Land Subject to an Agreement**

### **Sec. C13-38. General provisions.**

The use and development of all restricted land shall at all times comply with the Open-Space Easement Act of 1974, this Chapter, the terms of the agreement, and any other applicable state or local laws, regulations, ordinances and guidelines.

### **Sec. C13-39. Compatible uses and development.**

- (a) All use or development of any restricted land shall comply with all of the following criteria:
  - (1) The proposed use or development effectively preserves for public use or enjoyment the natural or scenic character of the land;
  - (2) The proposed use or development does not significantly impair the open-space character of the land;
  - (3) The proposed use or development is not a subdivision; and
  - (4) The proposed use or development complies with all other federal, state and local laws, regulations, ordinances and guidelines, including the County general plan and this Code.
- (b) The following uses and development have been determined by the Board of Supervisors to be compatible with the open-space use of restricted land if all of the criteria in subsection (a) are met:
  - (1) Residential:
    - a. "Residence, Single-Family," as defined in section 2.10.030 of the Zoning Ordinance.
    - b. "Residential Accessory" Structures and Uses" as defined in section 2.10.030 of the Zoning Ordinance.
    - c. "Agricultural Employee Housing" as defined in section 2.10.030 of the Zoning Ordinance.
  - (2) Open space accessory uses related to the maintenance, enjoyment or operation of

the open space use of the land, including:

- a. Storage and maintenance facilities.
- b. Restrooms.
- c. Trail markers.
- d. Informational displays.

(3) Agricultural accessory uses that support the agricultural use of the land, including:

- a. Agricultural Accessory Structures and Uses as defined in section 2.10.040 of the Zoning Ordinance.
- b. “Agricultural Processing - Small Scale” as defined in section 2.10.040 of the Zoning Ordinance.
- c. “Agricultural Sales - Limited” as defined in section 2.10.040 of the Zoning Ordinance.
- d. “Agriculturally-Related Entertainment and Commercial Uses” as defined in section 2.10.040 of the Zoning Ordinance.

(4) Recreational uses, including:

- a. “Hunting and Fishing Preserves” as defined in section 2.10.040 of the Zoning Ordinance.
- b. Public or private riding or hiking trails.
- c. Public or private stables and boarding of horses or other livestock.
- d. “Camps & Retreats” as defined in section 2.10.040 of the Zoning Ordinance.

(5) “Utilities - Minor” as defined in section 2.10.040 of the Zoning Ordinance.

(6) Miscellaneous:

- a. A “Bed and Breakfast Inn” as defined in section 2.10.040 of the Zoning Ordinance.

#### **Sec. C13-40. Compatible use determinations.**

- (a) Prior to undertaking any development or use on restricted land, the land owner shall apply for and obtain a compatible use determination from the County. The land owner

shall file an application with the Planning Office on a form prepared for this purpose together with an application fee in an amount established by resolution of the Board of Supervisors.

- (b) Staff from the Planning Office will determine whether the proposed use or development is compatible with the agreement for the property, the Open-Space Easement Act of 1974, this Chapter, and any adopted guidelines.
- (c) Any interested person may appeal the staff determination made pursuant to subsection (b) to the Director of Planning and Development. Any such appeal shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors.
- (d) Any interested person may appeal the determination made pursuant to subsection (c) to the Board of Supervisors, which will review the Planning Office's determination de novo. Any such appeal shall be filed within 15 days of the decision and be accompanied by payment of a fee in an amount established by resolution of the Board of Supervisors. Notice of the hearing shall be provided in conformance with section C13-7(b).

### **Part 3. Agreement Termination**

#### **Sec. C13-41. General provisions.**

An agreement may only be terminated in a manner consistent with state law and this Chapter.

#### **Sec. C13-42. Agreement nonrenewal.**

- (a) If either the land owner or the County desires in any year not to renew an agreement, the nonrenewing party shall serve written notice of nonrenewal of the agreement upon the other party before the annual renewal date of the agreement. A notice of nonrenewal served by the land owner shall be addressed to the Clerk of the Board of Supervisors and be filed with or postmarked at least 90 days prior to the annual renewal date of the contract. A notice of nonrenewal served by the land owner shall be addressed to the Clerk of the Board of Supervisors, shall be filed with or postmarked at least 90 days prior to the annual renewal date of the agreement, and shall identify the parcels to be nonrenewed by Assessor's parcel number. A notice of nonrenewal served by the County shall be mailed to the address shown on the latest assessment roll for the property, and shall be postmarked at least 60 days prior to the annual renewal date of the agreement.
- (b) If no notice of nonrenewal is filed in compliance with the deadlines in subsection (a), the contact will be automatically renewed for another year.
- (c) If a notice of nonrenewal is filed after the applicable deadline in subsection (a), the notice will be deemed to apply to the next annual renewal period.

- (d) If a land owner objects to an agreement nonrenewal initiated by the County applicable to the owner's land, the owner may file a written protest with the County by December 1 of the calendar year in which the notice of nonrenewal was served. The Board of Supervisors may, in its discretion, withdraw the notice of nonrenewal at any time prior to the agreement's annual renewal date.
- (e) During November of each calendar year, the Clerk of the Board of Supervisors will provide a report to the Board of Supervisors identifying all nonrenewal requests received pursuant to subsection (a).
- (f) The Clerk of the Board of Supervisors will record all notices of nonrenewal with the Clerk-Recorder within 20 days of serving or receiving a notice of nonrenewal.
- (g) The Board of Supervisors may delegate its authority to send and withdraw notices of nonrenewal to any County official, department, or employee.

**Sec. C13-43. Agreement abandonment.**

Any petition to abandon an agreement shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition shall be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The petition will be processed in accordance with the Open-Space Easement Act of 1974.

**Part 4. Agreement Compliance and Enforcement**

**Sec. C13-44. Audits and inspections.**

- (a) The County may audit any restricted land for compliance with the agreement, the Open-Space Easement Act of 1974, and other state and local laws, regulations, ordinances and guidelines. Such audits may include reviewing available documentation such as aerial photographs and contacting the land owner or manager to obtain additional information or documentation.
- (b) If the County has probable cause to suspect that restricted 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 land owner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.).

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**Sec. C13-45. Judicial relief.**

- (a) In addition to any other remedies provided by state law or this Chapter, including but not limited to Government Code section 51086, if the County determines that an agreement has been or is being violated, the Office of the County Counsel may bring an action on behalf of the County in a court of law for an appropriate remedy.
- (b) If a court determines that an agreement was violated, in addition to any other relief granted by the court, the court may order the land owner to reimburse the County for its costs, including but not limited to staff time and attorneys' fees, associated with investigating the violation and bringing the enforcement action.
- (c) Nothing in this Chapter is intended to limit a court's ability to grant any relief or issue any order that it deems appropriate in its discretion, including but not limited to specific performance or injunctive or equitable relief.

**Part 5. Fees**

**Sec. C13-46. Fees.**

The Board of Supervisors may adopt by resolution any fees necessary to ensure that the County recovers its costs associated with administering and enforcing the Open-Space Easement Act of 1974 and agreements executed thereunder. Such fees shall not exceed the amount reasonably necessary to recover the cost of providing the product or service or the cost of enforcing any law or ordinance for which the fee is levied. The fee may reflect the average cost of providing any product or service or enforcing any law or ordinance.

**Part 6. Disclosure Requirements**

**Sec. C13-47. Real estate transfer disclosure statement.**

Pursuant to Civil Code section 1102.6a, prior to any transfer of restricted land by sale, exchange, installment land sale contract (as defined in Civil Code section 2985), lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, or real property or residential stock cooperative, improved with or consistent of not less than one nor more than four dwelling units, the transferor shall provide the following disclosure: "The real property that is the subject of this transaction is subject to an open space easement agreement pursuant to the Open-Space Easement Act of 1974, Government Code section 51070 et seq., which requires that the land be devoted to open space and imposes restrictions on the use and development of the land." This disclosure shall be provided on a form substantially similar to that provided in Civil Code section 1102.6a or section B29-4 of this Code. The transferor shall ensure that the transferee signs the disclosure prior to completing the transfer.

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## CHAPTER III. FARMLAND SECURITY ZONE CONTRACTS

### ARTICLE 1. GENERAL PROVISIONS

#### **Sec. C13-48. Purpose.**

This Chapter sets forth requirements for farmland security zone contracts pursuant to Government Code section 51296 *et seq.* In enacting this Chapter III, the Board of Supervisors declares its support to expand options available to landowners for the preservation of agricultural lands and to encourage the creation of longer-term voluntary enforceable restrictions within agricultural preserves.

#### **Sec. C13-49. Land Qualification.**

- (a) Except as otherwise provided in subsection (b), farmland security zone contracts shall only apply to land that is designated on the Important Farmland Series maps, on file with the Department of Planning and Development and prepared pursuant to Government Code section 65570, as predominantly one or more of the following:
  - 1. Prime farmland;
  - 2. Farmland of statewide significance;
  - 3. Unique farmland; or
  - 4. Farmland of local importance.
- (b) If the proposed farmland security zone is an area that is not designated on the Important Farmland Series maps, the land shall qualify if it is predominately prime agricultural land, as defined in Government Code section 51201(c).

#### **Sec. C13-50. Application and fees for Farmland Security Zone Contract.**

A landowner or group of landowners may apply to the Clerk of the Board of Supervisors on a form prepared by the County to rescind a Williamson Act contract or contracts entered into pursuant to chapter I in order to simultaneously place the land subject to that contract or those contracts under a new contract designating the property as a farmland security zone. A landowner or group of landowners may also apply to the Clerk of the Board of Supervisors to create a farmland security zone for the purpose of directly entering into a farmland security zone contract pursuant to this section. An application shall be accompanied by all applicable fees as established by resolution of the Board of Supervisors and a completed farmland security zone contract in a form prepared by County Counsel with notarized signatures of all landowners and all required attachments.

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**Sec. C13-51. Creation of Farmland Security Zone.**

- (a) Prior to entering into a farmland security zone contract, the Board of Supervisors shall create a farmland security zone, pursuant to the requirements of section C13-7 and Government Code section 51230 and all of the following:
  - (1) No land shall be included in a farmland security zone unless expressly requested by the landowner;
  - (2) No land located within a city's sphere of influence shall be included within a farmland security zone, unless the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere of influence; and,
  - (3) If more than one landowner requests the creation of a farmland security zone and the parcels are contiguous, the County shall place those parcels in the same farmland security zone.
- (b) Upon termination of a farmland security zone contract, the farmland security zone designation for the parcel(s) shall simultaneously be terminated.

**Sec. C13-52. Criteria for evaluating Farmland Security Zone contract applications and recordation of a contract.**

- (a) No application for a Farmland Security Zone contract shall be approved by the Board of Supervisors unless all of the following criteria are met:
  - (1) The land is included within a farmland security zone as created by the Board of Supervisors in accordance with section C13-51;
  - (2) The land meets the qualification requirements of section C13-49; and
  - (3) All parcels proposed for inclusion in the farmland security zone contract are devoted to agricultural use.
- (b) Even if all of the criteria in subsection (a) are met, the Board of Supervisors may, in its discretion, choose not to approve the application.
- (c) The Clerk of the Board of Supervisors shall record any executed contract with the Clerk-Recorder within 20 days after the Board of Supervisors executes the contract and no later than December 31 of the calendar year in which it was executed.

**Sec. C13-53. General provisions.**

- (a) The term of a farmland security zone contract shall be for an initial term of no less than twenty (20) years. Each contract shall provide that on the anniversary date of the contract or on another annual date as specified by the contract, one year shall be added

automatically to the initial term of the contract unless a notice of nonrenewal is given pursuant to section C13-18.

- (b) The use and development of all contracted land shall at all times comply with Government Code section 51200 *et seq.*, this Chapter, the terms of the farmland security zone contract, and other applicable state and local laws, regulations, ordinances, and guidelines, including the *Guidelines for Williamson Act and Farmland Security Zone Programs* adopted by the Board of Supervisors. If there is any conflict between these sources of authority, state law shall prevail.
- (c) The land subject to a farmland security zone contract shall be eligible for property tax valuation pursuant to Government Code section 51296.2.

**Sec. C13-54. Compatible uses and development.**

Prior to undertaking any development or use on contracted land, the landowner shall apply for and obtain a compatible use determination from the County pursuant to the requirements of sections C13-14 through C13-16, and subject to the requirements of Government Code section 51296.7.

**Sec. C13-55. Contract nonrenewal.**

The procedures set forth in section C13-18 shall govern the nonrenewal of any farmland security zone contract.

**Sec. C13-56. Contract cancellation.**

Any petition to cancel a farmland security zone contract shall be filed with the Clerk of the Board of Supervisors on a form prepared by the County for this purpose. The petition be accompanied by payment of an application fee in an amount established by resolution of the Board of Supervisors. The cancellation of a farmland security zone contract shall be processed in accordance with Government Code section 51297.

**Sec. C13-57. Contract compliance and enforcement.**

The procedures established in sections C13-20 to C13-23 shall govern compliance and enforcement of farmland security zone contracts.

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**Sec. C13-58. Real estate transfer disclosure statement.**

The real estate disclosure requirements established in section C13-25 shall apply to land subject to a farmland security zone contract.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
SUSAN ELLENBERG, President  
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.  
ATTEST:

\_\_\_\_\_  
CURTIS BOONE  
Acting Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
CRISTINA STELLA  
Deputy County Counsel

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