

Solano County

*675 Texas Street
Fairfield, California 94533
www.solanocounty.com*



Agenda - Final

Thursday, January 5, 2017

7:00 PM

Board of Supervisors Chambers

Planning Commission

Any person wishing to address any item listed on the Agenda may do so by submitting a Speaker Card to the Clerk before the Commission considers the specific item. Cards are available at the entrance to the meeting chambers. Please limit your comments to five (5) minutes. For items not listed on the Agenda, please see "Items From the Public".

All actions of the Solano County Planning Commission can be appealed to the Board of Supervisors in writing within 10 days of the decision to be appealed. The fee for appeal is \$150.

Any person wishing to review the application(s) and accompanying information may do so at the Solano County Department of Resource Management, Planning Division, 675 Texas Street, Suite 5500, Fairfield, CA. Non-confidential materials related to an item on this Agenda submitted to the Commission after distribution of the agenda packet are available for public inspection during normal business hours and on our website at www.solanocounty.com under Departments, Resource Management, Boards and Commissions.

The County of Solano does not discriminate against persons with disabilities and is an accessible facility. If you wish to attend this meeting and you will require assistance in order to participate, please contact Kristine Sowards, Department of Resource Management at (707) 784-6765 at least 24 hours in advance of the event to make reasonable arrangements to ensure accessibility to this meeting.

AGENDA

CALL TO ORDER

SALUTE TO THE FLAG

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF THE MINUTES

[PC 17-001](#) November 17, 2016 PC Minutes

Attachments: [draft minutes](#)

ITEMS FROM THE PUBLIC:

This is your opportunity to address the Commission on a matter not heard on the Agenda, but it must be within the subject matter jurisdiction of the Commission. Please submit a Speaker Card before the first speaker is called and limit your comments to five

minutes. Items from the public will be taken under consideration without discussion by the Commission and may be referred to staff.

REGULAR CALENDAR

- 1 [PC 17-002](#) Study session to obtain public testimony on the draft Noise Ordinance for the unincorporated area of Solano County
Attachments: [A - Draft Noise Ordinance](#)
 [B - Chapter 2.2 Agricultural Lands and Operations](#)
 [C - Noise Survey Locations](#)
 [D - Short-Term Noise Survey Results](#)

- 2 [PC 17-003](#) Study session to obtain public testimony on possible Tourist Home and Tourist House regulations for the unincorporated area of Solano County
Attachments: [A - Williamson Act Rules and Regs Final 5-11-12](#)

ANNOUNCEMENTS AND REPORTS

ADJOURN

To the Planning Commission meeting of January 19, 2017 at 7:00 P.M., Board Chambers, 675 Texas Street, Fairfield, CA



Solano County

675 Texas Street
Fairfield, California 94533
www.solanocounty.com

Agenda Submittal

Agenda #: **Status:** PC Minutes
Type: PC-Document **Department:** Planning Commission
File #: PC 17-001 **Contact:**
Agenda date: 1/5/2017 **Final action:**
Title: November 17, 2016 PC Minutes

Governing body:

District:

Attachments: [draft minutes](#)

Date	Ver.	Action By	Action	Result
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MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of November 17, 2016

The regular meeting of the Solano County Planning Commission was held in the Solano County Administration Center, Board of Supervisors' Chambers (1st floor), 675 Texas Street, Fairfield, California.

PRESENT: Commissioners Walker, Hollingsworth, Castellblanch, and Chairperson Cayler

EXCUSED: Commissioner Rhoads-Poston

STAFF PRESENT: Bill Emlen, Director; Mike Yankovich, Planning Program Manager; Jim Leland, Principal Planner; Karen Avery, Senior Planner; Jim Laughlin, Deputy County Counsel; Davina Smith, Deputy County Counsel and Kristine Sowards, Planning Commission Clerk

Chairperson Cayler called the meeting to order at 7:00 p.m. with a salute to the flag. Roll call was taken and a quorum was present.

Approval of the Agenda

The Agenda was approved with no additions or deletions.

Approval of the Minutes

The minutes of the regular meeting of September 15, 2016 were approved as prepared.

Items from the Public

There was no one from the public wishing to speak.

Regular Calendar

Item No. 1

PUBLIC HEARING to consider an appeal of the Director of Resource Management's determination (LUD-16-01-Bubbling Well) that a pet crematorium is not a permitted use in the Exclusive Agricultural (A-40) Zoning District. (Project Planner: Jim Leland)

Jim Leland provided a detailed yet concise summary of staff's written report. The report explained that Chapter 28 of the County Code establishes a variety of Zoning Districts which apply to lands within the unincorporated county. For each of these zoning districts, the Regulations provide a table that lists a variety of land uses and identifies whether the land use is allowed by right, authorized upon issuance of a permit, or prohibited within the district.

When a property owner applies for a land use permit, the application must identify the type of land use being proposed and describe various details about the proposed use. If the type of land use being proposed does not exactly match one of the types of land uses listed in the table for the zoning district, the Director must determine whether the proposed use is substantially similar to one of the listed land uses. If the Director determines that the proposed land use is substantially similar to a use listed in the table, then the Department will process the application as if it were for that listed use, applying the same development standards as are applicable to the listed use. If the Director determines that the proposed use is not substantially similar to any of the uses listed in the table for the zoning district, then the proposed use is a land use that is prohibited in the zoning district. The applicant may appeal the Director's determination to the Planning Commission. The Commission may either uphold the Director's determination or make a new determination that the proposed use is in fact substantially similar to one of the uses in the table. The Commission's determination then becomes the governing determination.

Cannon Partners owns land within the Exclusive Agricultural District and have indicated their desire to relocate the Bubbling Well pet crematorium from their site on Peabody Road in Fairfield to their site on North Gate Road. Staff indicated that a pet crematorium was not a permitted land use in the A-40 Zoning District. The Director of Resource Management issued his determination that a crematorium is a "general service" use and is permitted in the Commercial Service District, but a crematorium is not substantially similar to a slaughterhouse or any other land use listed in Table 28.21A for the Exclusive Agricultural District and is therefore a prohibited land use in that district.

The applicant initially advanced the argument that the proposed crematorium is allowed in the Exclusive Agricultural District as a "similar use" to a slaughterhouse. Pursuant to Table 28.21A, slaughterhouses are permissible in the Exclusive Agricultural District upon the issuance of a use permit. The Exclusive Agricultural District states in Section 28.21.11 Purpose of Agricultural Districts, that the "Board of Supervisors has determined that the promotion and preservation of agriculture is of vital interest to the county". A slaughterhouse is an agricultural use, listed under the Agricultural Heading and Animal Operations sub-heading in Table 28.21A. Slaughterhouses exist to kill or dress animals for the production of meat. Slaughterhouses are a part of the agricultural process of producing food or fiber. Crematoriums are not a part of an agricultural process which is engaged in the production of food or fiber.

Staff recommended that the Commission deny the appeal of Cannon Partners and uphold the Director's determination that a pet crematorium is not a permitted use within the Exclusive Agricultural District.

Commissioner Walker made a disclosure by stating that during this past year he had an occasion to use a third party vendor, a company called Lap of Love Veterinary Hospice, who came out and euthanized his dog at his home. That company contracted with Bubbling Well to provide him the cremains. Mr. Walker stated that there was no discount offered to him and he did not have any other relationship with Bubbling Well at this time.

Chairperson Cayler opened the public hearing.

Frank Andrews, 1107 Kentucky Street, Fairfield, stated that he is one of the owners of Canon Partners who are a landowner and developer in the Fairfield Train Station Specific Plan area, and also the owner of the property that is being discussed. Mr. Andrews said as part of that train station specific plan planning process, all of the existing uses in the Peabody Road area are required to be relocated. Canon Partners had made a commitment at the time that the plan was adopted that they would aid the businesses located there in their relocation because they are going to be replaced with high density residential housing, retail and commercial zoning. Mr. Andrews stated that they are recommending that Bubbling Well, because of the type of use it is, fits well in the location they are proposing. He disagreed with staff's position, stating that uses similar to Bubbling Well such as a concrete batch plant, veterinary hospital, kennel, and those types of things are allowable uses in an agricultural zone with a use permit. They believe geographically and the location itself next to the recycling facility is a very convenient and good location for this use. Mr. Andrews stated that Bubbling Well also provides services for agricultural uses, although predominately it is for non-agricultural use. He commented that kennels are allowed in an agricultural zone as well as other similar non-agricultural uses. Mr. Andrews stated that they are trying to fulfill their commitment they made to relocate the businesses that are being displaced in the Peabody Road area.

Jason Andrews, 1107 Kentucky Street, Fairfield, stated that they believe a pet crematorium has more in common with a veterinary hospital than it does with a muffler shop and that is why they believe it is similar to an agricultural use. He commented that Bubbling Well is a unique use and a use that is needed. He stated that the county allows on ag zoned land large animal hospitals or veterinary clinics, kennels, concrete and asphalt batch plants, slaughterhouses, transitional industrial commercial refuse disposal, incineration, recycling and surface mining. He said the proposed site has Class III soil with approximately 2 feet of clay on top of 20 feet of sandstone, and is located between a future business park and an existing concrete recycle yard. Mr. Andrews said they believe a pet crematorium falls somewhere between an asphalt batch plant or slaughterhouse and a veterinary clinic. He noted that veterinary clinics often have their own incinerators. Mr. Andrews stated they believe Bubbling Well has enough in common with agricultural uses to be an allowable use.

Dan Harberts, 2462 Atlas Peak, Napa, stated that he is the owner of Bubbling Well Pet Memorial Park. He said now that circumstances are changing he has to make the effort to plan for the future. He shared some background as to how his business was established in the early 1970s. He said in his 40+ years of service in this field there has been a dramatic shift in awareness and acknowledgment that animals of all types have considerably deeper emotional character and sensitivity than ever imagined. Mr. Harberts said he reviewed the table of allowable uses in the agricultural district and saw many animal related categories. The table shows slaughterhouses, kennels, and cattery as an allowable use. In addition, veterinary hospitals and clinics are considered an allowable commercial service use. Mr. Harberts said it makes sense to include the respectful and dignified after life care facility that is proposed in the A-40 zoning district where it really belongs. He said the county has determined the use should be zoned under general service uses which include such things as an auto repair garage, cabinet shop, copper smith shop, machine shop, and the like.

Mr. Harberts stated that for over 40 years his family has been providing valuable and indispensable services to pet owners, vet clinics and hospitals, pet emergency centers, the SPCA of Solano County, county animal control, and ranchers and farmers. He said as

sensitive and important issue the process of assisting pet owners and livestock owners can be, the location of these types of facilities can at times and over time as communities grow come into conflict with surrounding neighbors and land uses. Mr. Harberts stated that in his opinion this proposed location represents an ideal compatible long term private space for their necessary and unique business.

Commissioner Castellblanch inquired about the relocation. Mr. Harberts stated that his business is currently in a light industrially zoned area but the property has been annexed into the city and there are now going to be residential housing in that area.

Jim Leland mentioned that the Department will be happy to assist the business owner in finding an appropriate location in the proper zoning. He noted that there is "CS" zoning throughout the unincorporated area away from residential subdivisions. There is also the potential of an "MG" zoning which is what it was zoned prior to annexation. Mr. Leland stated that staff knows the business has to move out of the City of Fairfield and appreciate the burden that Mr. Andrews is facing in relocating all those businesses, but we need to find a site where the zoning allows for his relocation to take place.

Since there were no further speakers, Chairperson Cayler closed the public hearing.

Commissioner Castellblanch stated that he was still a little perplexed as to why a pet crematorium was not an allowed use in the zone when an animal hospital, slaughterhouse and kennel were allowed uses.

Commissioner Walker stated that he can appreciate where the applicant is at in their interpretation of the zoning tables. There are definitely some uses that do not seem to fit what would be considered to be agricultural uses. And of course it is always a little more perplexing when a specific use type is not identified clearly in any zoning district. Mr. Walker said he can appreciate staff coming back with a general service-commercial service use because it does fit that category, but given the other uses that are allowed in the ag district, particularly slaughterhouses although that is for food generation ultimately, and an allowance for kennels and veterinary hospitals, it is not as clear as he would like it to be in order to render a decision, although he appreciates Mr. Leland's comments about the Board in 2001 removing a number of previously authorized uses from these zoning districts in order to retain an agricultural integrity.

Chairperson Cayler stated that in looking at the information she could not find an address of the relocation site. She commented as a planning commissioner when she finds out something is going to be built, she likes to drive by the site and see what it looks like and how much sense it makes for whatever is being proposed. She stated that uses such as wineries are located in the agricultural zone and felt that maybe a crematorium might not be such an appealing use to have next door. She felt that a commercial zone for a pet crematorium would probably be a better fit.

Jim Laughlin commented that a pet crematorium is an unusual type of use and this may be the only one in the county. He noted that the decision before the commission tonight is to decide whether the use is substantially similar enough to another type of use that is listed in the code and therefore be treated the same way because from all outside appearances it is

essentially the same type of use. He emphasized that what is not in front of the commission tonight is whether a pet crematorium should be an allowed use in the agricultural zoning district. He said that would require a zone text amendment and there is a process for doing that. Mr. Laughlin said a pet crematorium may be an appropriate use and the commission has heard some arguments as to why it might be, and if the commission thinks it is appropriate then they should direct the department to bring back a zoning text amendment to make it an allowed use or a conditionally permitted use within the ag zoning district. Mr. Laughlin said that at this hearing the commission is limited to this narrow issue of whether the use is so closely similar to another type of use that is listed in the code that we need to treat it the exact same way as the similar use. Mr. Laughlin said that in this case the property owner is suggesting it so close to what a slaughterhouse is that it should be considered such.

Mike Yankovich stated that currently there is only one pet crematorium and one pet cemetery in the unincorporated county. This is not a use that is normally seen so that is why the commission is being asked to make a determination as to whether it is consistent with some other use that is also in the agricultural district. He spoke of the train station specific plan stating that it is a major project within the city and involves some annexation of county area where businesses are and are now being forced to relocate. The improvements are going to be made with regard to not just the public utilities, but also the types of uses that will be a part of the specific plan. Mr. Yankovich said that is part of the reason why the commission is coming across these uses that are looking for different areas within the county. He said the unincorporated area of the county does not have a lot of commercial industrial but does have some.

Commissioner Walker inquired as to why this parcel was chosen as opposed to a potentially more appropriate parcel in a commercial services district. Mr. Laughlin said that the commission's decision tonight is not limited to this particular pet crematorium or this particular parcel, the decision made will from this point forward affect whether a pet crematorium will always be treated exactly like a slaughterhouse within the county regardless of where it proposes to locate.

A motion was made by Commissioner Hollingsworth and seconded by Commissioner Walker to deny the appeal of Land Use Determination LUD-16-01 (Bubbling Well) and uphold the Director's determination that a pet crematorium is not a permissible use in the A-40 Exclusive Agricultural Zoning District. The motion passed 3-1 with Commissioner Castellblanch dissenting. (Resolution No. 4641)

Item No 2.

PUBLIC HEARING to decide whether to recommend that the Board of Supervisors adopt an ordinance to amend Chapter 28 (Zoning Regulations) to allow for non-commercial cultivation of cannabis for personal and caregiver use indoors in all zones that allow a residence, and to ban outdoor cultivation of cannabis for personal and caregiver use; to collect public input on whether the County should consider allowing some types commercial cannabis activity in the manufacturing and industrial zones such as indoor cultivation and cannabis testing laboratories and prohibiting all other commercial cannabis activities in the unincorporated county.

Karen Avery provided the commission a PowerPoint presentation of staff's written report. She stated that Solano County is considering adopting regulations for personal cannabis cultivation

to prohibit outdoor cultivation, requiring instead that all personal cultivation occur inside the user's residence or other permanent building on the parcel that contains a residence. The draft regulations are to reflect both the Medical Cannabis and Safety Regulations Act (MCRSA) and the Adult Use of Marijuana Act (AUMA) which allow local jurisdictions to further regulate cannabis. The staff report noted that the Board of Supervisors considered this issue and has directed staff to develop an ordinance on personal cultivation. Attachment A to the report highlighted the specific Board recommendations.

Ms. Avery noted that staff is also researching the possibility of allowing some type of commercial cannabis activity such as laboratory/testing and indoor cultivation of less than 10,000 sf. in industrial areas. Currently, the County has adopted an interim urgency ordinance that prohibits the commercial cultivation, testing, manufacture, distribution, sales, transportation and delivery of medical cannabis in the unincorporated areas of the county.

Commissioner Castellblanch commented on the amount of information provided to the commission and wanted to know what agencies staff has been in contact with. Ms. Avery replied that county staff has met with law enforcement officials and public health representatives, as well as attended seminars and webinars. Staff has also read numerous articles on what other jurisdictions are doing across the state.

Davina Smith, Deputy County Counsel stated that this is a new area of law. She said that most counties are holding back from adopting regulations. They are pretty much banning everything, particularly outdoor, but may be regulating some indoor personal cultivation. Local governments are waiting to see what the state develops in their regulations. The state is currently holding scoping meetings relating to medical marijuana and it is hoped that draft regulations will be available in the next few months.

Ms. Smith noted that the state has just started on the recreational portion for the regulations so it is unknown if those regulations will mirror those on the medical side or will be a completely separate area. She said that it is a consensus amongst her peers that they see these ordinances as likely to change over time as this process moves forward. As life with marijuana as a constant evolves, Ms. Smith believed that the county's regulations will evolve as well. Ms. Smith noted that the direction given by the Board of Supervisors in going forward in this research and bringing this before the commission was to be conservative. She commented that it is easier to loosen up the language later on than to try and tighten it up. Ms. Smith stated that staff wanted to try to reduce the nuisance impacts as much as possible given that almost all of the county zoning districts allow homes; making it a possibility that marijuana can be grown in potentially every single zone in the county.

Commissioner Castellblanch inquired about the registration process and wanted to know what it would entail. Ms. Smith explained that a person would need to visit the Department of Resource Management, fill out a registration form and pay a fee. That person would need to confirm that if they are a renter, their landlord has given approval. They would need to be in compliance with all building and electrical codes.

Bill Emlen, Director of Resource Management commented that when the Board looked at this a few weeks ago they wanted staff to provide as broad a list as possible of potential standards relative to personal cultivation; whether they go with the extent of that list ultimately is up to

them. Mr. Emlen said that he believes what the Board wanted the commission to do is start to look at that list and determine what was best for the county and most reasonable in terms of implementation. Part of what the commission will be asked to do tonight is go through that and provide recommendations to the Board as to what they think is appropriate for moving forward with personal cultivation regulation.

Commissioner Hollingsworth gave recognition to staff for their work on the staff report calling it an exceptional report. He wanted to clarify that the commission understands what they are being tasked with, reiterating that the Board has instructed staff to come back with a set of regulations that logically control the use of growing marijuana in a house for personal use. Staff is now coming forward with those rules to logically control the growth of the six plants the state has directed, but the commission is not here to change the state laws or anything else. Also the commission will take public input with regard to commercial cultivation above and beyond the six plants. Karen Avery responded in the affirmative.

Commissioner Walker provided his compliments to the staff for a comprehensive staff report. Mr. Walker noted that this conversation is not just about the six plants and allowing them to be grown in an interior enclosure within a home or an outbuilding, the ordinance is also banning outdoor cultivation, both personally and commercial. He said it is also making banning recommendations that may or may not be modified down the road. Mr. Walker asked staff why it was decided that the county would ban personal cultivation and focus all the direction on the interior spaces.

Ms. Avery stated that the Board directed staff to be very conservative. She explained that the AUMA does not allow the county to ban personal indoor cultivation; it does allow for the ban of outdoor personal cultivation. Mr. Emlen added that the sheriff has weighed in and what they have found is that outdoor cultivation generally is harder to manage versus having it indoors in terms of potential criminal activity.

Commissioner Castellblanch inquired about the registration requirements. He questioned the 24 hour notice for inspection and wanted to know if that was a standard requirement.

Mr. Emlen said that it is hard to say that anything is standard at this point because it is an evolving area and all jurisdictions are struggling with it. He noted that staff has seen similar kinds of provisions in some jurisdictions but certainly not all. Ms. Smith added that the one year registration limitation was a standard condition.

Chairperson Cayler commented that the registration process would be similar to that of a business license that a small business operating down the street would be required to obtain and renew each year.

Ms. Smith stated that she believed a lot of what is in the ordinance is the desire to be as conservative as possible. She said it is a concern and fear about what might happen. There have been news stories reporting problems with indoor and outdoor grows. The north counties have been hit very hard by some of the environmental problems with outdoor grows and all counties in the state have been harmed by indoor grows done irresponsibly; homes that have burnt down due to poor wiring and landlords whom have had to spend thousands of dollars to fix up rental properties after a renter turned it into a grow house. Ms. Smith stated that the county is

moving forward with an abundance of caution because of these issues. She said there are many people who grow responsibly and know how to do it right, they have no intention of violating the electrical and building codes and know the proper use of chemicals, but there are those few bad apples who spoil it. She said it is easiest to start conservative and open it up at a later point when it is seen that there are no problems or issues.

Since there were no further comments or questions from the commission, Chairperson Cayler opened the public hearing.

Joseph McNeill, 5245 Tapestry Court, Fairfield, stated that he has been active in the cannabis community for almost a decade. He commented that a registration process for personal use is not a regular standard at all and he has been involved in these types of meetings in numerous cities and counties from Humboldt to Monterey. He said to give up your right to privacy to exercise another right seems wrong. He commented to the ban on mixed light usage with greenhouses, saying that they can be very secure. The material used for the structure is made with unbreakable material and the smell can be reduced just as effectively as with indoor grows. The water can also be reclaimed which reduces water usage. Mr. McNeill commented that the county should consider Type 10 dispensary licenses. He said a nursery license should not be limited to 10,000 square feet. A person should be able to provide for multiple businesses as well as personal use. Limiting them to the same canopy size does not seem right. Mr. McNeill also stated that 1,200 watts for personal use in a 100 square foot area is not enough and that amount should be doubled.

Ronald Koci, 7554 Locke Road, Vacaville, spoke to the issue of the prohibition of growing outdoors and wanted to attest to the public nuisance created by outdoor cultivation and processing of marijuana. He noted that he lives approximately 1,000 feet from a large scale grow on Hartley Road and they have 99 plants. He noted that for over 1 month this year the whole area to about a ½ mile radius of that grow has been permeated by the strong heavy pungent odor that he finds sickening. Mr. Koci stated that he has talked with the sheriff's office and they have talked to other neighbors who also find it offensive, but the Sheriff has not been able to find a way to do anything about it. The nearby residents are subjected to the unknown effects of prolonged low dose exposure to the fumes from the marijuana. Mr. Koci remarked by saying what other drug is there that because you get to take it, everyone else in the neighborhood has to take it as well. Mr. Koci believed the county has a duty to the people who do not want to use the drug to protect them from the exposure to the sickening smell and the effects of the drug.

Anthony Adams, 614 Canvasback Avenue, Suisun, stated that this is a property rights issue and he believed it is a very dangerous precedent to set. People buy homes here and pay property taxes every year to have a reasonable expectation to be able to do what they want to do on their property as long as they do not create a direct nuisance to their neighbors. The state has set regulations at six plants and it has been working for a long time. He stated that this is not a new thing. Medical marijuana has been around for a long time and in many counties it has been working really well. Mr. Adams said that for the county to outright ban it does not make sense. There are also additional costs associated with growing indoors such as the use of electricity, needed grow space, and equipment. Additional downsides are requiring people to use more electricity to grow a plant which will increase greenhouse gases, fire risk, fire inspection costs, and privacy issues due to having to join a registry. The state has not made any solid regulations

yet and he did not believe it is the county's place to set the precedent for the state. Mr. Adams suggested waiting to see what the state does or what other state jurisdictions have done. He said requiring a license every year is an unreasonable restriction for personal cultivation.

Commissioner Hollingsworth asked Mr. Adams what he would think would be the acceptable, logical rules for growing in a residential area while maintaining the property values in the area.

Mr. Adams said that he did not believe anyone was advocating growing the plants in the front yard. This would be a backyard activity which is fenced where no one would see in. Mr. Adams said that it is not someone else's responsibility to tell a homeowner what they can do on their own land unless there is a personal nuisance being created. If that nuisance is being created then a complaint can be made to the reporting authority. Mr. Adams suggested that the rules can be similar to what the states of Colorado and Washington have done which appear to be working for them.

Pat Byron, 259 A Logan Street, Rio Vista, stated that the cost of growing indoors is expensive. He said that he currently grows cannabis for medical use and uses 2280 watts of electricity in a 100 sf area. He said that there is a lot that goes into growing and it is not feasible for most patients. Outdoor cannabis develops different terpenes and a different cannabinoid profile than indoor grown cannabis. The sunlight offers a different spectrum of light and it gives outdoor cannabis very particular medical qualities as opposed to indoor cannabis that has been grown under synthetic light. Mr. Byron said in his opinion growing cannabis outdoors should be no different than growing hops, grain or corn that can easily be turned into alcohol and sold for profit. Cannabis farmers are real farmers. People who grow cannabis put a lot of time and effort into it; they care greatly for their crops and they protect their crops. Mr. Byron proposed that the commission allow for the six plants without the need for a special permit. He believed that was the intent of the state and the intent of the voters when they approved Prop 64. This measure was not just to legalize the use of cannabis this was about criminal justice reform and reforming our legal system because we know that prohibition does not work. With the current laws right now that prohibit cultivation we have all kinds of problems. We have unregulated growing, we have people who are growing hundreds of plants as indicated by the former speaker which is clearly not within the current regulation and is not getting dealt with because law enforcement officers are out chasing people who would be legal patients under a reasonable law. Mr. Byron said that a lot of this opposition is based on fear. He said medical patients like himself have come down here and have asked time and time again for help and the county continues to ban and prohibit this and they continue to suffer.

Monica Brown (*no address given*) appeared before the commission and commented that she was here to learn. She assumed that this item was going to go before the Board of Supervisors and it sounded to her that more time was needed to discuss the matter because it does not appear that everyone is working together. Ms. Brown commented that Prop 64 did pass and reiterated that she was here at the meeting to learn.

Thomas Lamothe (*no address given*) also appeared before the commission. He said that he is a patient and is here to respond to the public hearing notice. With regard to forcing indoor cultivation, he spoke to the power wattage and said that he did not know of anyone who uses that much power that consistently. There is significant chemical use in indoor grows that is not used outdoor which produces a more natural holistic medicine and as a patient he said that

there are significant differences between the efficacy and other factors. There is increased risk for fire. Mr. Lamothe said that he believed the impacts do not exempt this matter from CEQA and causes concern for some kind of environmental document to be done regarding indoor cultivation. This is a complex issue and some of these perspectives can be overlooked easily because there are so many things to go over. Medical patients have a right under law to confidentiality and constant permitting and licensing and regulations negate that. Under severability, Mr. Lamothe said that he would like to see a separate definition for a medical cannabis patient and a recreational marijuana consumer. Mr. Lamothe commented that odor is not a public nuisance, it is a private nuisance and recovery is civilly available to everyone. Mr. Lamothe stated that outdoor cultivation protects the safety of the public in other instances as well and quoted Section 11362.5, subsection B.2 (*Mr. Lamothe did not reference which code that section was cited from*).

Commissioner Hollingsworth asked Mr. Lamothe if with all the costs associated with the indoor grow if it would be cheaper to go out and buy it someplace else or if it would be cheaper to grow it himself. Mr. Lamothe responded by saying that it is an increase of about 1,000% and electricity and chemicals contribute to that cost. He said by requiring it indoors is a violation of Section 11362, subsection B.1.C (*Mr. Lamothe did not reference which code that section was cited from*) by not implementing a plan to provide safe and affordable distribution of marijuana for patients who need it.

Jorge Espinoza, 3611 Sonoma Blvd., Vallejo, stated that he represents Better Health Group which is the oldest and longest compliant dispensary in Solano County. He talked about personal cultivation and the new passage of laws. He said that after hearing the conversation it sounds to him like the county is doing everything possible to make it difficult for these patients and for people to exercise their right. A proposition was just passed overwhelmingly in the State of California and it appears that every time localities or government does not like a new law they do everything in their power to fight it. Mr. Espinoza said six plants is not a lot and can be grown in a small space. He did not understand the need for a permit or to excessively regulate something that is already permitted by right, and if overregulated people are not going to come in and obtain permits. The reality is that it is a right the people have and the county can challenge it as a nuisance but it is going to cost the county more money. Mr. Espinoza said the point of growing your own medicine is that the cost is more affordable and the patient does not have to go to the dispensary which can be burden if their mobility is challenged. He said the county should consider regulating and allowing dispensaries in the county. Mr. Espinoza commented that if he lived in the county he would challenge the county's overregulating something that calls for reasonable regulation. The county should talk to patients and growers in the community or surrounding communities. Mr. Espinoza said that he welcomed the commission to come to Vallejo to visit the cultivation facilities to see how much work it takes for something that is commercial vs personal. As for the criminal activity associated with outdoor grows, he noted that if someone were to enter your backyard that is a crime and that alone should protect it.

Commissioner Castellblanch offered the scenario where someone lives in a household where two people smoke marijuana and smoke a joint or two most nights of the week. He wanted to know how many plants a person would need, and how the six plants would sync up with a household that smokes marijuana.

Mr. Espinoza responded by saying that it is dependent upon how it is grown. Indoor plants are going to produce a way less yield than outdoor plants; outdoor plants can only grow once a year through a season. Outdoor cultivation is not going to be all year round; there would be one harvest and usually that harvest would last about a whole year. He noted that the majority of the odor comes out during the drying process. An indoor grow can yield 3 to 4 harvests but the amount of medicine is a lot smaller, approximately 1 to 2 ounces vs 4 to 5 ounces for an outdoor harvest.

Commissioner Walker commented with regard to dispensaries noting that three years ago the Board of Supervisors prohibited medical marijuana dispensaries in the unincorporated county and so that issue is not under the commission's consideration at this time.

Chelsea Taylor (*spelling not given*), 412 North California Street, had several alternatives for the commission to consider and asked Pat Byron to relay those suggestions on her behalf. Mr. Byron made these suggestions: for personal use medical indoor with no permit, personal use medical outdoor with a permit to ensure proper security; recreational: indoor with a reasonable permit, temporary ban on outdoor only so the county can use the permit on the medical side to monitor the medical outdoor grow. Mr. Byron said that would open it to a limited segment of people who have experience with the issue and over time if everything works out, the regulations could be lightened up.

Robert Dellenbach (*spelling not given*), 3322 Colonial Court, Fairfield, spoke to the danger of having an attractive nuisance in a neighborhood and how growing marijuana outside can be an attractive nuisance. He told a story of how his neighbor attacked his son and claimed the boy was trying to get into his backyard to steal his medical marijuana. The neighbor complains that kids are in his yard all the time trying to get to his plants. Mr. Dellenbach did not believe every grower of marijuana is like this particular individual, the man is a convicted killer and has served 7 years in prison for shooting someone. Mr. Dellenbach said he would like to see this man not be able to have an attractive nuisance in his backyard. If kids are coming into his yard to get at the plants he needs to protect them in a way that he would for example a swimming pool; he needs to put a fence around it. Ideally the man would not be able to grow it outside so the kids would not have that enticement. Mr. Dellenbach said that he did not believe this man should be able to have a license to grow marijuana because he has a propensity to be violent and has taken action into his own hands to try and protect his plants at the expense of a 14 year old boy. Mr. Dellenbach commented that this is probably a very unusual case however regulations are meant to protect kids and neighborhoods. He also believed the value of the homes in his neighborhood is less because of this guy.

Crystal Rowe (*spelling not given*), 1208 Mayfield Circle, Suisun, stated that she has worked for Solano County for 12 years. She said the county is wanting to put all this regulation on indoor grows which are dangerous if not done properly especially when Prop 64 just passed giving the citizens the right to grow six plants outdoors. She questioned the reasoning to not allow growers the ability to use the sun and natural earth to get a season's worth of grow in order to have their medicine. Ms. Rowe said the harvest would be organic, they would have grown it themselves, and they would know where it comes from and what has gone into it. Ms. Rowe commented that her husband is disabled and it is something he needs to use and it can be very expensive if they have to get it at a dispensary. Mr. Rowe said one thing she has learned, especially from being a part of a union, once you give something up you never get it back. She said that they do not

want to give up what was just voted in a week ago. She urged the commission to give it a chance, evaluate the process after a years' time, and go from there.

Since there were no further speakers, Chairwoman Cayler closed the public hearing.

Commissioner Castellblanch said that he is concerned about some of the rules for registration and felt them to be unnecessarily restrictive: the 24 hour notice of inspection of a home, no cause, just someone coming into your residence at any time; as well as the 1 year renewal. He commented that this activity is not a business use. Mr. Castellblanch said that this is for some people a practical matter and something that can be really important so he did not feel comfortable at this point to just ban it outright from being outdoors. He spoke with regard to the CEQA issue saying that this may be something that needs review. He indicated that according to the PEW Research Center 12% of Americans smoked marijuana in the last 12 months so he estimated about 10% of the population is smoking marijuana and this county has close to ½ million people so he figured the county has approximately 50,000 marijuana smokers. If those folks are now required to grow indoors, he questioned if that was still a small matter in terms of CEQA.

Mr. Castellblanch stated that due to his concerns he did not feel he is ready to sign off on this ordinance. He believed that when a matter this complex comes up it would be better if the commission had some time to have a hearing without the conclusions already set out, and then move from what the commission has learned.

Commissioner Walker commented that since Solano is an agricultural county he was surprised that someone did not have something to offer with regards to the commercial applications and cultivation information in relation to what the commission has received. Mr. Walker stated that he believed staff and the vast majority of speakers who made the point that it sounds a lot more dangerous to grow the cannabis inside than to grow six plants outside. He pointed out that the focus is on the unincorporated county so it is not like the cities where residences are stacked up close to one another. Most of the zoning in the county is minimum 2½ acres. There are some urbanized areas and perhaps the county could set very specific rules for those areas if needed in order to insure safety. Most of the zoning districts in the county are massive and so the residents are somewhere towards the middle or even several thousand feet away from the nearest private road. So ostensibly if growing six plants which is a very small footprint it would be by virtue of distance already shielded and out of the public viewshed.

Commissioner Walker spoke to the issues with over lighting or drawing too much power potentially causing fires. He voiced concern about those issues and in that regard is why he can see some of the requirements for permitting because the structures, depending on the age, may not be able to support the amount of energy that would be consumed in order to light the plants sufficiently; whereas with natural sunlight they grow naturally. Mr. Walker said that he definitely has a problem with a registration component and he would not want someone knocking on his door to make sure he is doing what he is supposed to be doing. He stated that this is not a business venture and nothing is being sold, therefore he would not want his rights infringed upon. Commissioner Walker stated that he appreciated the exhausted amount of effort made by staff but he would not be able to support the ordinance at this time.

Chairperson Cayler said the one thing she has heard is complaints about the odor from people

who do not use marijuana but their neighbors do. She was curious if breathing second hand marijuana smoke would show up on a drug test for someone who is standing nearby.

Ms. Smith stated that there is no conclusive evidence or studies that she is aware of to show that someone standing nearby would feel the effects of the marijuana. Ms. Smith noted that there has been a little work done on the smell of growing marijuana and there are sensitive receptors such as people who have asthma and there has been some discussion and research started on whether that exacerbates the problem.

Chairperson Cayler commended staff for their many hours of work on the staff report. She spoke with regard to the registration requirement. She said if you are the homeowner and damage your own home then you are responsible, but if a renter is in the home and the home gets damaged due to irresponsible growing, the property owner is at risk. That is where the registration comes into play. She commented that the permit fees required would pay for the cost of a safety inspection. The permit fees are designed to pay for the cost of doing business wherever that business is located. Requiring registration and charging a fee could in turn help hinder what happened to the gentleman who spoke that had issues with a convicted felon living and growing marijuana next door. Chairperson Cayler stated that for those reasons she could support the registration and some kind of permitting process. She supported starting out more conservative and then later on, if necessary, loosening up the requirements.

Commissioner Castellblanch checked the National Institute for Drug Abuse website to inquire if someone could fail to pass a drug test from second hand marijuana smoke and the answer is probably not since the amount of THC exhaled by marijuana smokers is so low it would take a lot of second hand exposure to fail a drug test.

Jim Laughlin, Deputy County Counsel outlined several options for the commission. He stated that the purpose for this hearing is to make a recommendation to the Board on whether they should adopt this zoning ordinance or not. There are a couple of decisions the commission can make. The first is whether the commission is ready to make a recommendation, if the commission believes they need to hear more testimony they have the option to continue this item. If they have heard enough to make a recommendation then it would be advised to proceed. When it gets to making the recommendation the commission has 3 options: to recommend that the Board adopt this ordinance as proposed; reject this ordinance, or go through this draft ordinance and mark up what they want to keep or delete and present that revised ordinance to the Board as the commission's recommended ordinance.

Commissioner Hollingsworth asked if the commission needs to address the commercial cultivation aspect. He commented that he believed there is money to be made in commercial cultivation and it is money the county could use. Ms. Smith stated that staff plans to come back before the commission with the commercial pieces, but are still in a fact finding and exploration mode in that area. If the commission has specific items they would like addressed, she would welcome any feedback from commissioners.

Commissioner Castellblanch stated that there are a lot of pros and cons with the relation to commercial cultivation. He said he has done some research and has found enough information to realize that this is going to be hard due to some of the issues relating to the use of pesticides, water usage, and large amounts of cash being involved. He said he is trying to learn more about

sustainable forms of agriculture as it might apply in this context because this may be a case where we would start to go forward in that direction since it would be new form of agriculture. He said with the county's proximity to UC Davis there may be some synergy that could be developed.

Commissioner Hollingsworth questioned if it is possible to make rules for different sizes of parcels. Ms. Smith said that it is possible to gear the regulations based on parcel size. The county would have to allow zoning to a certain extent because of the AUMA which requires that the use is allowed anywhere there is a residence. Staff could write that anywhere a residence is allowed, if the parcel is 20 acres or greater, a property owner can grow outside with setbacks from property lines and easements. With smaller parcels, maybe that might be a place where the county would want to limit growing indoors because of the small lot size.

Commissioner Walker commented that he felt 2½ acres to be large enough as the base. The county would have to get more creative when addressing the more urbanized densities throughout the unincorporated territory. He stated that he is not willing to prohibit any commercial cannabis activities until it is actually known what that is going to look like because he believed that could be money left behind, and he would like to see some economic revenue generated for the county. Commissioner Walker said that he is more in favor of outside growth on a small scale, and certainly for safety the indoor component minus the registration, although he knows it is duplicitous since a permit is required for a building inspection. He would be more concerned about Chairperson Cayler's point if a tenant burns down a rental property. He stated that that would be whole different layer and so he was not sure how the commission may want to address that issue.

Commissioner Walker said he was not sure how the county can reconcile an indoor permit without requiring some kind of a registration. He would be in favor of continuing this item to give staff an opportunity to come back with recommendations for a more lenient small outdoor component. He commented that the framework for an indoor component is established so there probably is not a lot that needs to be tightened with regard to that. He questioned if in a proposed ordinance the commercial component even needs to be addressed until the county is ready. He said that he would hate to close things off with the provision that it will come back because often times when something is banned it stays that way.

Chairperson Cayler suggested that staff speak with representatives from the insurance industry because sometimes in the fine print on insurance policies it may indicate that the property policy will not cover expenses if there is a marijuana grow at the residence.

Commissioner Castellblanch spoke with regard to the outdoor grow. He felt that some kind of setback might be helpful. He commented that he lives in Benicia and he did not believe there is anywhere on his lot that is 30 feet from a fence line.

Commissioner Hollingsworth commented that when a new person moved into his neighborhood and wanted to open a child care center, the city sent letters to all of the surrounding property owners notifying them and provided the neighbors with the ability to file an objection. He said if the 2½ acre is the chosen threshold and someone has acreage less than that maybe there should be some way where the neighbors could participate in the process. Mr. Hollingsworth stated that he felt a permit on the outdoor grow should have a cost associated with it because

he believed that there will be an increase in law enforcement costs. With regard to indoor, he said that it appears a permit is basically not required and that this would have to be something that is further thought out.

Chairperson Cayler said that she would support some kind of a permitting or registration process. She said that it is a safety factor for emergency workers who need to know what they are facing before they enter a residence which could lead them into a dangerous situation. She suggested working with fire department personnel and public safety representatives.

Jim Laughlin stated that the building code requires an electrical permit if someone were to install a new outlet or fan so that permitting requirement is going to apply regardless of what is required for registration.

Commissioner Hollingsworth said that he would agree with the 2½ acres but also wanted staff to provide a process to deal with acreage that is less such as with the idea of notifying surrounding property owners.

Commissioner Walker commented to the area of the county referred to as Homeacres which are a bunch of tiny little lots right next to each other. He questioned how that will be affected because Prop 64 allows this right for everyone even though the county has the right to place restrictions. He said that ideally he would like to see something that can work for everyone even if those smaller parcels need to have different rules because they are smaller. He felt the key point is to keep everyone safe including those growing or using and the surrounding neighbors. Mr. Walker said that in the smaller districts it may need to be so many feet from a fence line or may be it is just not doable on some of the smaller lots. If that is the case then it would need to be an indoor requirement. Commissioner Walker said that he believed that in zoning districts where it is 2½ acres or greater it would be a whole lot easier and certainly more cost effective and healthier to be outside.

Bill Emlen commented that staff hears the direction the commission has given in terms of things they want staff to explore as part of a revamp of this ordinance. He did mention that the Board members who have looked at this and gave staff the initial direction did express concerns about outdoor cultivation so it is possible that when the commission comes forward with a recommendation they may still not accept the proposal for outdoor cultivation. Mr. Emlen said with regard to the concerns about a registration process the commission could focus on cultivation indoors with setting some basic standards. Some standards are already in the ordinance in terms of odors and having locked doors and the like. But it is basically something that the county would deal with on a compliant basis so we have some standards without having to go through a registration process and dealing with personal information and that sort of thing. That is another approach that could be used for indoor cultivation. Mr. Emlen said he felt the commission should move forward with both standards for indoor and outdoor to give the Board choices for when this item comes before them.

A motion was made by Commissioner Castellblanch and seconded by Commissioner Walker to continue this matter to the regular meeting of January 19, 2017. The motion passed unanimously.



Agenda Submittal

Agenda #: 1
Type: PC-Document
File #: PC 17-002
Agenda date: 1/5/2017
Title: Study session to obtain public testimony on the draft Noise Ordinance for the unincorporated area of Solano County

Status: PC-Regular
Department: Planning Commission
Contact: Mike Yankovich
Final action:

Governing body: Planning Commission

District:

Attachments: [A - Draft Noise Ordinance](#)
[B - Chapter 2.2 Agricultural Lands and Operations](#)
[C - Noise Survey Locations](#)
[D - Short-Term Noise Survey Results](#)

Date	Ver.	Action By	Action	Result
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RECOMMENDATION:

The Department of Resource Management recommends that the Planning Commission conduct a study session to obtain public testimony on the draft Noise Ordinance for the unincorporated area of Solano County.

DISCUSSION:

General Plan

The Solano County General Plan was updated in 2008 and included in the Public Health and Safety Chapter is a section devoted to noise. The section identifies the County’s strategy for dealing with unwanted noise as “reducing excessive noise exposure through cost-effective measures and appropriate zoning that avoids placing incompatible land uses in proximity of each other.” The section includes Land Use Noise Compatibility Guidelines (Table HS-2) for various land use categories as well as Noise Standards for New Uses (Tables HS-3 and HS-4). As part of the Implementation Program for the Public Health and Safety Chapter measure, HS.I-60 states that a county noise ordinance should be developed, adopted, and implemented.

Draft Noise Ordinance

The primary goal of the Solano County Noise Ordinance (Attachment A) is to provide for the protection of residents from unwanted and excessive noise levels, while allowing for the continuation of agricultural, industrial, and commercial uses. The draft noise ordinance establishes a baseline for noise levels for the noise-sensitive land uses in the unincorporated county, and provides a method of regulating intrusive noise. The baseline has been determined through a countywide noise survey conducted in May and July of 2016.

The ordinance has the following headings and purpose:

28.1-10, Definitions - Defines words and terms used in the ordinance;

28.1-20, General Noise Restrictions - Statement that sound and noise cannot exceed allowed decibel level and that agriculture operations are exempt;

28.1-30, Interior Noise Standards - Interior noise standard for residential dwelling units;

28.1-40, Exterior Noise Standards - Exterior noise standard for residential and agriculture zones;

28.1-50, Specific Noise Regulations - Additional standards for Construction or Demolition activities including Allowances for activities outside of prescribed operating times; Home repair and maintenance; domestic animals; amplified sound; special events; motorized off-highway vehicles operating off public right-of-way;

21.1-60, Exemptions - Noise sources exempt from ordinance;

28.1-70, Measurement Procedures - Noise measurement procedures;

28.1-80, Waiver Procedure - Waiver for preexisting uses; Permit revocation;

28.1-90, Enforcement - Authority of Noise Control Officer; Enforcement by Noise Control Officer and Sheriff; Enforcement procedures; Infraction.

PUBLIC OUTREACH

Kick-Off Meeting

On May 4, 2016, staff held a stakeholder meeting which included community members, business owners, and representatives of the sheriff's department. The purpose of the meeting was to inform attendees of the intention and direction of the forthcoming noise ordinance, and to allow a venue for voicing questions and concerns regarding the development of the ordinance. The stakeholders' concerns were centered on controlling private event noise, and ensuring that the rural nature of most residential uses result in quieter ambient noise levels.

Agriculture Advisory Committee

The development of the noise ordinance was an item of discussion at the Agriculture Advisory Committee meeting of August 10, 2016. The primary concern expressed by the committee was that the ordinance acknowledges Chapter 2.2 of the Solano County Code addressing agricultural lands and operations (Attachment B). The purpose and intent of Chapter 2.2 is to "reduce loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance." Agriculture operations may generate dust, smoke, noise and odor.

The draft ordinance included language stating that agriculture operations conducted in accordance with proper and accepted customs and standards are not subject to the noise limits established in the ordinance, however, it was located in the middle of the ordinance. The committee felt that this section should appear early in the ordinance.

Sheriff

The Sheriff Department has been reviewing the ordinance particularly since the Sheriff will be involved in the enforcement of the ordinance. They along with the Code Compliance Officer will be responsible for responding to complaints. Upon adoption of the ordinance personnel from the Sheriff's Department and the Code Compliance Officer will undergo training in the proper procedure in obtaining noise readings.

Land Use and Transportation Committee

The Land Use and Transportation Committee, which is comprised of two Board of Supervisors, has met two times to discuss the nature of the noise ordinance. The committee members suggested that the ordinance address the most compelling sources of intrusive noise.

Attachments:

Draft Noise Ordinance

Chapter 2.2 of the Solano County Code - Agricultural Lands and Operations

Noise Survey Locations

Short Term Noise Survey Results

Administrative Draft
Solano County Noise Ordinance

County Code

Chapter 28.1

Chapter 28.1 Noise Ordinance

Article I. General Provisions

Section 28.1-10 Definitions

Article II. Noise Restrictions

Section 28.1-20 General Noise Restrictions

Section 28.1-30 Interior Noise Standards

Section 28.1-40 Exterior Noise Standards

Section 28.1-50 Specific Noise Regulations

Section 28.1-60 Exemptions

Article III. Administration

Section 28.1-70 Measurement Procedures

Section 28.1-80 Waiver Procedure

Section 28.1-90 Enforcement

Article I. General Provisions

Section 28.1-10 Definitions

Agricultural operation, processing, activity, or facility. Any use defined as agriculture, agricultural education, agricultural homestay, agricultural processing, agricultural recycling or composting, agricultural research, agricultural trucking, or agricultural warehousing in Chapter 28, Zoning Regulations, of this code.

Agricultural zone or area. The A-40, A-80, A-20, A-16, A-SM-80, A-SM-160, A-SV-20, ATC, ATC-NC, W, or MP zoning district or any area or parcel within such zoning district.

Ambient sound level. The sound level of the all-encompassing sound associated with a given environment, being usually a composite of sound from many sources and excluding the specific sound under investigation. For measurement purposes, the ambient sound level is equal to the A-weighted sound pressure level exceeded 90 percent of the time for 60 minutes (L90).

A-weighted sound level (L_a , dB(A), dBA). The sound pressure level in decibels as measured on a sound level meter using the A-weighting network as specified in American National Standards Institute documents for sound level meters. The level so read is postscripted dB(A) or dBA.

Commercial zone or area. The C-H, C-N, C-R, C-R-L, C-S, or C-O zoning district or any area or parcel within such zoning district.

Construction. Any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or within private rights-of-way, structures, utilities, or similar property.

Cumulative period. An additive period of time composed of individual time segments which are either continuous or interrupted.

Decibel. A unit measure of sound (noise) level used to express the relative intensity of sounds on a scale from zero for the average least perceptible sound to about 130 for the average pain level; also a unit for expressing the ratio of two amounts of electric or acoustic signal power equal to 10 times the common logarithm of this ratio.

Development. The uses to which the land shall be put, the buildings to be constructed on it, and all alterations of the land and construction incident thereto.

Domestic animals. Includes dogs, cats, birds excepting fowl, and other animals kept primarily for the purpose of personal enjoyment.

Industrial zone or area. The M-G-1/2, M-G-3, M-L, I-WD, or I-AS zoning district or any area or parcel within such zoning district.

Intrusive noise. A sound which has a variance in character such as audibility, dissonance, duration, loudness, tonality, pitch, or timbre and is perceived adversely compared to the character of the environment in the absence of that sound.

Noise control officer. The Director of the Department of Resource Management or his or her designee.

Noise-sensitive uses. Receiving premises used for nonresidential purposes that are sensitive to noise, such as hospitals, hotels, churches, community care facilities, and schools.

Off-road vehicle. Any motorized track or wheeled vehicle such as, but not limited to, racing motorcycles, trail bikes, minibikes, dune buggies, or all-terrain vehicles, designed or used for ground travel over private or public natural terrain.

Residential zone or area. The RR-2-1/2, RR-5, RR-10, R-TC-1AC, R-TC-20, R-TC-15, R-TC-10, R-TC-6, R-TC-5, R-TC-D-4, R-TC-D-6, R-TC-MF, or R-TC-MU zoning district or any area or parcel within such zoning district.

Sound-amplifying equipment. Any machine or device used for the amplification of the human voice, music, or any other sound. Shall not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. Sound-amplifying equipment, as used in this chapter, shall also not include warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

Supplementary definitions of technical terms. Definitions of technical terms not defined herein shall be obtained from the American National Standards Institute's Acoustical Terminology S1-1-1971, or any revision thereof.

Article II. Noise Restrictions

Section 28.1-20 General Noise Restrictions

- (a) It is unlawful for any person to willfully or negligently make or continue, or cause to be made or continued, any noise or sound which exceeds the allowed decibel level identified in this chapter or which is offensive to persons of normal sensitivities.
- (1) Noise shall be deemed to be offensive to persons of normal sensitivities if it does any of the following:
- a. Causes, or tends to cause, an adverse effect on the public health and welfare.
 - b. Endangers or injures people.
 - c. Endangers or injures personal or real property.
- (2) Noise may be determined to be offensive to persons of normal sensitivities based on a consideration of the following factors:
- a. Sound level of noise.
 - b. Sound level of ambient noise.
 - c. Whether the nature of the noise is usual or unusual.
 - d. Proximity and timing in relation to any noise-sensitive uses or sleeping areas within occupied dwellings.
 - e. Nature, use, and zoning of the land from which the noise emanates, and the nature, use, and zoning of the land affected.
 - f. Number of persons affected by the noise source.
 - g. Time of day or night.
 - h. Duration and tonal content.
 - i. Whether noise is continuous, recurrent, or intermittent.

- (2) Notwithstanding subsection (a) and as established in Section 2.2-30 of this code, noise caused by agricultural operations conducted or maintained for commercial purposes in agricultural zones or areas and in a manner consistent with proper and accepted customs and standards shall not be subject to the noise limits established in this section.

Section 28.1-30 Interior Noise Standards

- (a) The interior noise standards for residential dwelling units within residential zones or areas for noise generated by sources outside the dwelling unit are presented in Table 28.1-30.

Table 28.1-30: Interior Noise Standards

Land Use	Time Interval	Allowable Interior Noise Level (dBA)
Residential	7 p.m. – 7 a.m.	55
	7 a.m. – 7 p.m.	55

- (b) Noise from any source on a property within a residential zone or area shall not cause the noise level measured inside a dwelling unit on a neighboring property to exceed the noise standard specified in Table 28.1-30 for a cumulative period of more than 5 minutes in any hour.

Section 28.1-40 Exterior Noise Standards

- (a) The maximum permissible sound levels by receiving land use shall apply:

- (1) The exterior noise standards for residential and agricultural zones or areas are presented in Table 28.1-40.

Table 28.1-40: Noise Level Permissible by Receiving Land Use

Zone	Noise Level (dBA)	
	7 a.m. – 7 p.m.	7 p.m. – 7 a.m.
Agricultural	55	50
Residential	55	50

- (2) If the measured ambient noise level at the time of a complaint investigation exceeds the identified permissible noise level for that zone, the allowable noise standard shall be the ambient noise level.
- (3) Except as provided in subsection (b) of Section 28.1-30, noise from any source shall not cause the noise level measured on a property in an agricultural or residential zone or area to exceed the exterior noise levels specified in Table 28.1-40 or in subsection (2), whichever is greater, for a period of more than 5 minutes in any hour.

Section 28.1-50 Specific Noise Regulations

In addition to the standards established in Sections 28.1-30 and 28.1-40, noise created by specific activities shall be subject to the following additional regulations.

(a) Construction or Demolition

- (1) Construction and demolition activities within a residential district or within a radius of 500 feet are allowed only during the times specified in Table 28.1-50.
- (2) Except as set forth in subsection (5) of this section, the noise created by construction activity shall not cause:
 - a. The noise level to exceed the noise standards specified in Table 28.1-40 of this chapter, for the land use where the measurement is taken, plus 20 dBA, for a period of more than 2 minutes; or
 - b. A maximum noise at the receiving property line of more than 90 dBA at any time.
- (3) Prior to the issuance of a building permit, all private development projects located within 500 feet of any residential development or noise-sensitive use must submit a list of equipment and activities required during construction. In particular, this list shall include the following:
 - a. Construction equipment to be used, such as pile drivers, jackhammers, pavement breakers, or similar equipment.
 - b. Construction activities such as 24-hour pumping, excavation, or demolition.
 - c. A list of measures that will be implemented to minimize noise impacts on nearby residential or noise-sensitive uses. Such measures may include, but not be limited to:
 1. Considering the installation of temporary sound barriers for construction activities immediately adjacent to occupied dwellings or noise-sensitive structures.
 2. Equipping construction equipment with mufflers.
 3. Restricting haul routes and construction-related traffic.
 4. Reducing nonessential idling of construction equipment to no more than 5 minutes per hour.
- (4) Any construction that exceeds noise levels established in Sections 28.1-30 or 28.1-40 shall occur between the hours of 10 a.m. and 3 p.m., Monday through Friday.
- (5) Construction or demolition activity during the times otherwise prohibited by this section may be allowed as described in this subsection if it is found to be in the public interest.

- a. A request for such allowance shall be in writing and shall set forth in detail facts showing that the public interest will be served by the grant of such allowance.
- b. If the allowance is being requested in connection with construction or demolition activities to be undertaken in connection with a land division, use permit, or other discretionary entitlement, the request shall be submitted as part of the application for such entitlement and shall acted upon by the official or decision-making body taking action on such application, after considering the recommendation of the noise control officer.
- c. If the allowance is being requested in connection with a building permit, demolition permit, or grading permit and is not in connection with a discretionary entitlement, the request shall be considered and acted on by the noise control officer after the construction or demolition permit has been issued.

Table 28.1-50: Time Limits for Noise Associated with Construction Activities

Day of Week	Time Frame
Monday–Friday	7 a.m. – 6 p.m.
Saturday	8 a.m. – 5 p.m.
Sunday	Not allowed
Federal Holidays	Not allowed

(b) Home Repair and Maintenance

Time restrictions on construction and demolition activities do not include the use of home power tools or yard maintenance equipment used by the owner or a resident of the premises if used between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and 8:00 a.m. and 6:00 p.m. Saturday and Sunday.

(c) Domestic Animals

Noise produced by domestic animals exceeding the provisions of Sections 28.1-30 and 28.1-40 is in violation of this chapter.

(d) Loudspeakers, Amplified Sound

- (1) Using or operating for any purpose any loudspeaker, loudspeaker system, or similar device, such that the sound creates a noise disturbance, or at any time violates the provisions of Sections 28.1-30 and 28.1-40, is prohibited.
- (2) Special event facilities authorized pursuant to Chapter 28 of this code shall comply with the provisions of Section 28.1-40 unless a higher noise standard is approved as part of the use permit for the facility, provided the maximum noise limit on a receiving property line shall not exceed 70 dB [daytime] and 60 dB [nighttime].

- (3) Private gatherings shall meet the provisions of Section 28.1-40.
- (e) Motorized Off-Highway Vehicles Operating Off Public Right-of-Way
 - (1) Operating or causing to be operated any motorized off-highway vehicle outside of a public right-of-way in a manner such that the sound levels emitted will violate the provisions specified in Sections 28.1-30 and 28.1-40 is prohibited. This section will apply to all motorized off-highway vehicles, whether or not duly licensed and registered, including but not limited to commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft, campers, dune buggies, and motorboats.
- (f) Radios, Television Sets, Musical Instruments, Etc.
 - (1) Operating, playing, or permitting the operation or playing of any radio, television set, music-playing device or instrument, or similar device which produces or reproduces sound in such a manner as to at any time violate the provisions of Sections 28.1-30 or 28.1-40, is prohibited.

Section 28.1-60 Exemptions

- (a) The following activities and noise sources are exempt from the provisions of this chapter:
 - (1) Emergency sirens.
 - (2) Any operation or action required to respond to an emergency.
 - (3) Emergency construction or maintenance work conducted by public agencies or their contractors which is necessary to maintain the health and safety of the public.
 - (4) Agricultural activities:
 - a. Livestock and fowl, primarily kept for personal or commercial egg, meat, or milk production, including animals kept in residential areas, so long as the keeping of such animals is in compliance with the zoning regulations applicable to such property.
 - (5) Those commercial and industrial operations in existence prior to the date of adoption of the ordinance codified in this chapter, if in compliance with local zoning statutes, shall be granted a five-year period from the date of adoption within which to comply with the provisions of this chapter. If, at the end of the five-year period, it can be shown that compliance with the provisions in this chapter constitutes a hardship in terms of technical and economic feasibility, a waiver may be requested following procedures established in Section 28.1-80 of this code until such time as compliance may be effected.
 - (6) Any activity which regulation thereof has been preempted by state or federal law.

Article III. Administration

Section 28.1-70 Measurement Procedures

- (a) Upon receipt of a complaint, the noise control officer or the sheriff may investigate and assess whether the alleged noise levels exceed the noise standards set forth in this chapter. The investigation may consist of a measurement and the gathering of data required to comply with such code section, and a deadline date for such compliance, and shall warn that if a subsequent inspection or sound level measurement discloses the continued existence of such violation, further action will be taken to adequately define the noise problem, and shall include the following:
 - (1) Type of noise source.
 - (2) Location of noise source.
 - (3) Time period during which the noise source was reported as being in violation of County standards.
 - (4) Duration of noise produced by noise source.
 - (5) Date, time, and precise location of the noise measurement survey.
- (b) Utilizing the A-weighting scale of the sound level meter and the "slow" meter response, the noise control officer shall measure the noise level at a position(s) at the complainant's property line. In general, the microphone shall be located 4 to 5 feet above the ground and 10 feet or more from the nearest reflective surface, where possible. However, in cases where another elevation is appropriate, the latter shall be utilized.
- (c) Interior noise measurements shall be made within the affected residential unit. The measurements shall be made at a point at least 4 feet from the wall, ceiling, or floor nearest the noise source, with windows in the normal seasonal configuration.

Section 28.1-80 Waiver Procedure

- (a) The noise control officer is authorized to grant a waiver for a period of not more than five years from any provision of this chapter for any activity or noise source in existence and lawfully operating on (**ordinance effective date**), subject to limitations as to area, noise levels, time limits, and other terms and conditions as the noise control officer determines are appropriate to protect the public health, safety, and welfare from the noise disturbance. A waiver shall not be issued for a period exceeding five years.
- (b) Any person seeking a waiver pursuant to this chapter shall file an application with the noise control officer.
- (c) An application for waiver shall include all of the following:

- (1) Information which demonstrates that bringing the source of the sound or activity for which the waiver is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, the community, or other persons.
 - (2) Payment of the application fee established by resolution of the Board of Supervisors.
 - (3) Such additional information as the noise control officer may require.
 - (4) In addition to the required information and fee, the applicant may support the application with an assessment of the technical and financial feasibility of reducing the noise source to the standards of otherwise required by this chapter. The assessment shall be prepared by an acoustical engineer.
- (d) A separate application shall be filed for each parcel on which a fixed noise source(s) is in existence.
- (e) The noise control officer may summarily deny an application for a waiver that is not supported with a technical and financial feasibility assessment. If the noise control officer does not summarily deny the application, the application shall be set for public hearing.
- (1) Notice of a public hearing on an application for waiver shall be mailed to the owners of all real property located within 300 feet of the parcel on which the noise source is located at least 15 days prior to the hearing.
 - (2) The public hearing shall be conducted by the noise control officer. At the hearing, any person who would be adversely affected by the granting of the requested waiver may object orally or in writing and provide any information to support said objection.
- (f) In determining whether to grant or deny the application, the noise control officer shall balance the hardship on the applicant, the community, and other persons of not granting the waiver against the adverse impact on the health, safety, and welfare of persons affected by the noise disturbance, as well as any other adverse impacts that may result if the waiver is granted. If a technical and financial feasibility assessment has not been submitted by the applicant, the noise control officer may continue the hearing to allow the applicant to submit such an assessment prior to the noise control officer rendering a decision.
- (g) If the waiver is granted, it shall be conditioned in such a way as to protect the public health, safety, and welfare from the noise source. In determining the conditions to be imposed, the noise control officer shall, at a minimum, consider the magnitude of the nuisance that is or will be caused by the offensive noise; the uses of the property within the area that will be affected by the noise; operations carried on under existing nonconforming rights or previously approved conditional use permits or zoning variances; and the economic factors related to the age and useful life of the equipment that is creating the noise or will create the noise.

- (h) A waiver shall not be granted unless all conditions proposed by the noise control officer are agreed to by the applicant. All waivers granted shall provide that noncompliance with any condition of the waiver shall be grounds for permit revocation in accordance with Section 28.1-90.
- (i) In any case where the conditions of a waiver have not been or are not being substantially complied with, or where the noise source has been abandoned, the noise compliance officer may initiate proceedings to revoke the waiver.
 - (1) Notice of noise control officer's intention to revoke the waiver shall be given to the owner or the noise source or the property at least 15 days prior to the noise control officer's revocation hearing.
 - (2) Formal rules of evidence shall not apply to revocation proceedings.
 - (3) After conclusion of the hearing, the noise control officer may revoke the waiver if it is found that the terms and conditions of the waiver have not been substantially complied with or that the noise source has been abandoned, or may modify the waiver by imposing new or modified conditions to address the previous noncompliance.
- (j) The applicant shall be notified by certified mail within 10 working days of the action taken on the application for waiver and of any conditions imposed.
- (k) Any appeal of a decision of the noise control officer shall be made to the Planning Commission pursuant to Section 28.112(B) of this code.

Section 28.1-90 Enforcement

- (a) The provisions of this chapter shall be enforced by the noise control officer and the sheriff unless otherwise expressly provided herein.
- (b) For the purpose of administering and enforcing this chapter, the noise control officer shall have, in addition to any other authority, the power to:
 - (1) Conduct or cause to be conducted studies, monitoring, and inspections related to noise, including cooperative investigation with private or public agencies, and the application for and acceptance of grants.
 - (2) Conduct programs of public education regarding the cause, effect, and methods of abatement and control of noise, as well as the actions prohibited by this chapter and the procedures for reporting violations.
 - (3) Train field inspectors and other technical personnel concerned with noise abatement.
 - (4) Coordinate and cooperate with other local, state, and federal departments and agencies regarding noise-control activities.

- (5) Conduct public and private project review and sound analysis on projects which are likely to cause noise in violation of this chapter and which are subject to mandatory review or approval by other departments.
 - (6) Inspect private property or place upon presentation of proper credentials and at any time when granted permission by the owner, or by some person with apparent authority to act for the owner. When permission is refused or cannot be obtained, an inspection warrant may be obtained from a court of competent jurisdiction upon showing of reasonable belief to believe that a violation of this chapter may exist. Such inspection authority may include the conduct of any necessary tests.
 - (7) Prior to any zoning change, review the potential noise impact of the zoning change by identifying existing and projected noise sources and the associated noise levels, and recommend the imposition of adequate control measures on noise sources identified.
- (c) Violations of this chapter are deemed to be a public nuisance and may be abated civilly or enforced criminally.
- (d) If the noise control officer or the sheriff has reason to believe that any provision of this chapter has been violated, the noise control officer or sheriff may cause written notice to be served upon the alleged violator. Such notice shall specify the provision(s) of this chapter alleged to have been violated and the facts alleged to constitute a violation, including dBA readings, and may include a corrective action to be taken within a specified time. If corrective action is not taken within such specified time, upon conviction, the violation shall constitute as an infraction and the violator will be deemed guilty of an infraction. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.
- (1) Penalties for any such infraction will be a fine of \$250 for the first violation, with an additional \$250 for each additional day the infraction occurs.
 - (2) Notwithstanding any other provision of this code, any person creating or causing to create such a disturbance so as to be in violation of this code shall be guilty of an infraction upon conviction thereof. A person who violates the provisions of this subsection shall be deemed to be guilty of a separate offense for each day, or portion thereof, during which the violation continues or is repeated.

CHAPTER 2.2

AGRICULTURAL LANDS AND OPERATIONS

2.2-10.	Definitions
2.2-20.	Findings and policy
2.2-30.	Nuisance
2.2-40.	Notice to purchasers of real property
2.2-50.	Installation of signs
2.2-60.	Agricultural grievance committee
2.2-70.	Noise making devices
2.2-80.	Severability

Sec. 2.2-10. Definitions

Unless the context otherwise requires, the following definitions in this section govern the construction of this chapter in order for more effective interpretation and enforcement.

Agricultural lands. Agricultural lands are those land areas of the county specifically classed and zoned as exclusive agricultural (A) districts, limited agricultural (A-L) districts, park (P) districts, watershed and conservation (W) districts, and marsh preservation (MP) districts, as those districts are defined in Chapter 28 of this Code and such other land actually used for agricultural operations.

Agricultural operations. Agricultural operations means and includes, but is not limited to, cultivation and tillage of the soil; burning of agricultural waste products; lawful and proper use of agricultural chemicals including, but not limited to, the application of pesticides and fertilizers; and production, irrigation, pruning, growing, harvesting and processing of any agricultural commodity, including horticulture, timber, apiculture, the raising of livestock, fish, poultry; and commercial practices performed as incident to or in conjunction with such agricultural operation, including preparation for market, delivery to storage or market, or to carriers or transportation to market.

(Ord. No. 1270 §1; Ord. No. 1378, §1)

Sec. 2.2-20. Findings and policy

It is the declared policy of this county to conserve and protect both intensive and extensive agricultural land, and encourage agricultural operations within the county, and to specifically protect those lands for exclusive agriculture use or uses which do not interfere with agricultural operations. Where nonagricultural uses, especially residential development, extends into agricultural areas or exist side by side, agricultural operations have often become the subject of nuisance complaints. As a result, agricultural operations are sometimes forced to cease or curtail operations and many others are discouraged from making investments in farm improvements, to the detriment of adjacent agricultural uses and economic

viability of the county's agricultural industry as a whole. It is the purpose and intent of this section to reduce the loss to the county of its agricultural resources by limiting the circumstances under which agricultural operations may be considered a nuisance. This section is not to be construed as in any way modifying or abridging state law as set out in the California Civil Code, Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 of the Water Code relative to nuisances; but, rather, is only to be utilized in the interpretation and enforcement of the provisions of this Code and county regulations.

The further purpose of this Code is to promote a good neighbor policy between agriculturalists and residents by advising purchasers and residents of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence, including, but not limited to, the sounds, odors, dust, and chemicals that may accompany agricultural operations so that such purchasers and residents will understand the inconveniences that accompany living side by side to agriculture, and be prepared to accept such problems as the natural result of living in or near rural areas.

(Ord. No. 1270, §1; Ord. No. 1378, §1)

Sec. 2.20-30. Nuisance

No preexisting or future agricultural operation or any of its appurtenances conducted or maintained for commercial purposes and in a manner consistent with proper and accepted customs and standards on agricultural land shall become or be a nuisance, private or public, due to any changed condition of adjacent land uses in or about the locality thereof; provided, that the provisions of this section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances, or if the agricultural activity or appurtenance obstructs the free passage or use in the customary manner of any navigable lake, river, stream, canal or basin, or any public park, square, street or highway.

(Ord. No. 1270, §1; Ord. No. 1378, §1)

Sec. 2.2-40. Notice to purchasers of real property

Notice concerning this chapter may be given to purchasers of real property in the County of Solano by including the following notice with any preliminary title report and any grant deed, quitclaim deed, or land sale contract returned to the grantee by the recorder after recording:

Notice to Purchaser of Real Property

Solano County is an agricultural county with many areas zoned for agricultural operations. The presence of farms and ranches yields significant aesthetic and economic benefits to the residents of the County. Thus, the County's agriculture must be protected, including in areas where it is near

residential development. To do this, Solano County has enacted Chapter 2.2 of its County Code, which provides that properly conducted agricultural operations will not be deemed a nuisance.

The ordinance further requires the County to give notice of the Ordinance and its provisions to buyers of real property located in Solano County. Accordingly, you are hereby notified that if the property you are purchasing is located close to agricultural lands or operations, you may be subject to inconvenience or discomfort from the following agricultural operations: cultivation and tillage of the soil; burning of agricultural waste products; lawful and proper use of agricultural chemicals including, but not limited to, the application of pesticides and fertilizers; and production, irrigation, pruning, growing, harvesting, and processing of any agricultural commodity, including horticulture, timber, apiculture, the raising of livestock, fish, poultry, and commercial practices performed as incident to or in conjunction with such agricultural operation, including preparation for market, delivery to storage or market, or to carriers or transportation to market. These operations may generate dust, smoke, noise and odor.

If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and a healthy agriculture sector.

To assist in resolving problems between residential and agricultural land use, an Agricultural Grievance Committee has been created in Solano County to arbitrate and mediate disputes concerning agricultural operations. For information concerning where agricultural operations are located in relation to your property, you may contact the Solano County Department of Resource Management. For questions concerning the specific kinds of agricultural operations in your area, including their use of fertilizers and pesticides, and information on the Agricultural Grievance Committee, you should contact the Solano County Agricultural Commissioner.

This notice is given for informational purposes only and nothing in the Ordinance or this Notice should be deemed to prevent you from complaining to any appropriate agency or taking any other available remedy concerning any unlawful or improper agricultural practice.

(Ord. No. 1270, §1; Ord. No. 1378, §1; Ord. No. 1630, §1; amended during August 2015 supplement)

Sec. 2.2-50. Installation of signs

The county may install or permit the installation of signs at the entry of or within established farming areas zoned as "agricultural land" to notify and explain to purchasers that some of the land in this area is being used for agricultural purposes and that the producers' interests are protected by law. The prospective purchaser

of such land or a residence is advised to check local agencies as to any regulation or requirements which may affect agricultural property and of inherent potential problems associated with a purchase of such property or a residence in areas zoned as an "agricultural land" and of the likely effects of such agricultural operations.

(Ord. No. 1270, §1; Ord. No. 1378, §1)

Sec. 2.2-60. Agricultural grievance committee

(a) For any dispute over whether an agricultural operation constitutes a nuisance, any interested party may contact the agricultural commissioner for mediation.

(b) If the agricultural commissioner is unsuccessful in mediating the dispute, any interested party may appeal the matter to the agricultural grievance committee for mediation, arbitration and/or the issuance of an opinion.

(c) The agricultural grievance committee shall be organized on an ad hoc basis and shall be comprised as follows:

(1) Except as provided in subdivision (c)(2) of this section, the agricultural grievance committee shall consist of an appointee of the Solano County farm bureau, an appointee of the chair of the Solano County agricultural advisory committee, and a subject matter expert appointed by the director of the University of California Cooperative Extension Service, Solano County.

(2) For any dispute alleging an agricultural operation causing a nuisance in an incorporated city in Solano County, the agricultural grievance committee shall be the same as in subdivision (c)(1) of this section, but with the addition of the city manager of the affected city, or his/her designated city employee, and the Solano County administrative officer, or his/her designated county employee.

(Ord. No. 1760, §2)

Sec. 2.2-70. Noise making devices

(a) For purposes of this section, "noise making device" means a gas cannon, scare gun, automatic exploder, or any similar device used to frighten birds or other wildlife away from an agricultural crop.

(b) The use of a noise making device is prohibited and constitutes a nuisance except under the following conditions:

(1) It may only be used for the protection of an agricultural crop susceptible to bird or other wildlife damage.

(2) It shall not be operated more than eleven (11) times per hour, and only from one-half (1/2) hour after sunrise to one-half (1/2) hour before sunset.

(3) No more than one (1) noise making device shall be allowed for every five (5) acres of land in production with a crop susceptible to bird or other wildlife damage.

(4) A noise making device within fifty (50') feet of the property line must be relocated at least two hundred (200') feet every four (4) days. A noise making device placed in the center of the property or the center of the crop to be protected does not have to be relocated.

(5) A noise making device shall not be directed towards any residence unless the residence is more than four hundred (400) yards from the device. For residences less than four hundred (400) yards from the device, the noise making device must rotate automatically and have a sound baffle erected between the residence and the noise making device. The baffle shall be mounted no more than five (5) feet from the noise making device.

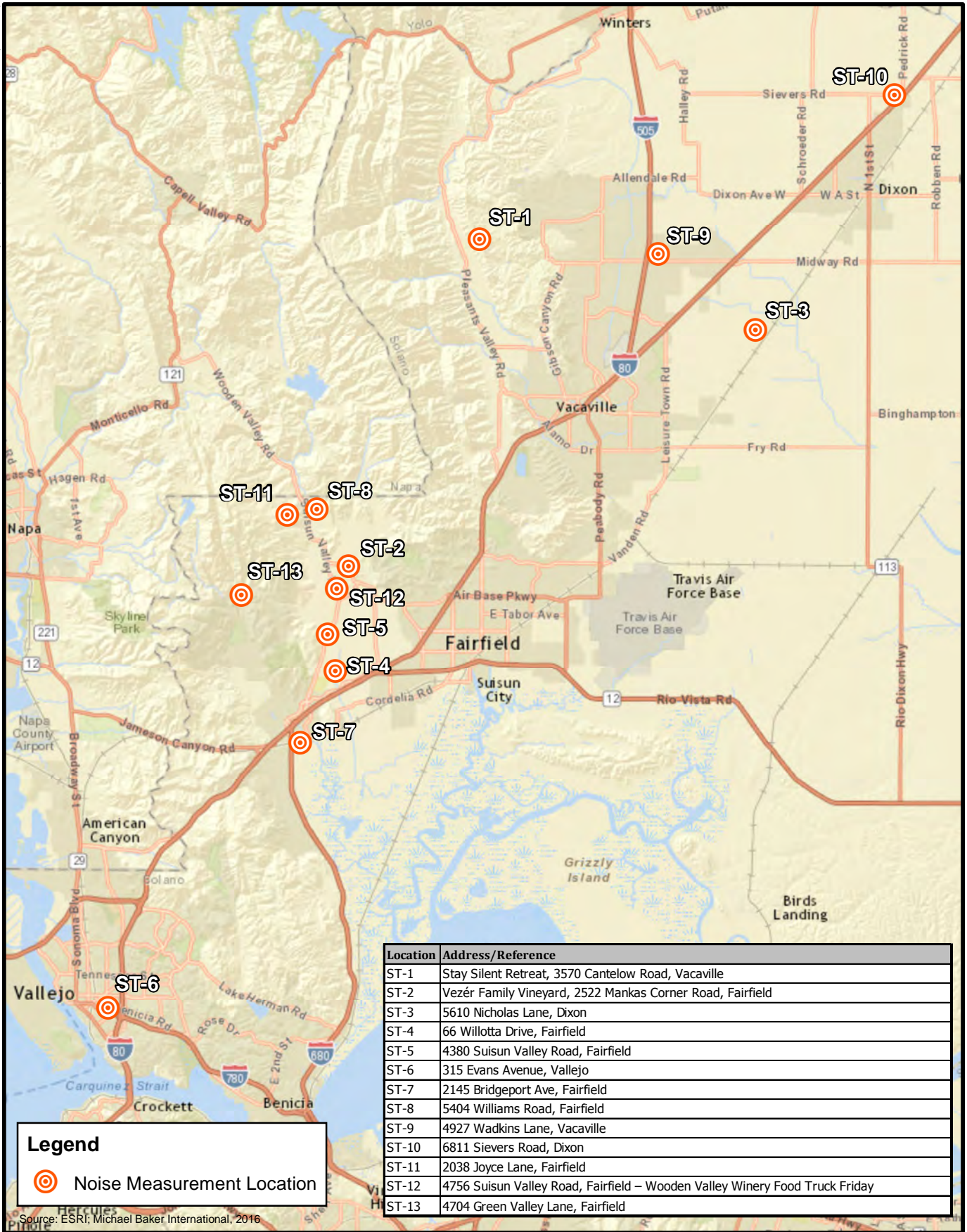
(c) Operating a noise making device in a manner inconsistent with the requirements of this section shall result in a written warning issued by the agricultural commissioner, sheriff, or other authorized representative of the county for the first violation. Each subsequent violation is an infraction punishable as provided by Government Code Section 25132.

(Ord. No. 1761, §2)

Sec. 2.2-80. Severability

If any section, subdivision, sentence, clause, or phrase of this chapter is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the chapter.

(Ord. No. 1270, §1; Ord. 1378, §1; Ord. No. 1761, §1. Formerly 2.2-70)



Source: ESRI; Michael Baker International, 2016

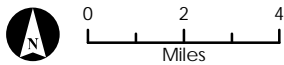


FIGURE X
Noise Measurement Locations in Solano County

Short-Term Noise Survey Results

	Location	Run Date	Run Time	Primary Noise Sources	Noise Level Statistics		
					L _{eq} (dBA)	L _{min} (dBA)	L _{max} (dBA)
ST-1	3570 Cantelow Road	May 19, 2016	11:08 AM-11:23 AM (15 minutes)	Airplane overflight, single vehicle along roadway	35.9	24.5	59.0
ST-2	2522 Mankas Corner Road	May 19, 2016	11:58 AM-12:13 PM (15 minutes)	Traffic, music from commercial establishments	62.1	47.4	78.3
ST-3	5610 Nicholas Lane	May 19, 2016	2:10 PM-2:25 PM (15 minutes)	Amtrak train	62.3	37.8	91.2
ST-4	66 Willotta Drive	May 19, 2016	2:57 PM-3:12 PM (15 minutes)	Traffic on I-80, local traffic	50.0	44.4	66.8
ST-5	4380 Suisun Valley Road	May 19, 2016	3:30 PM-3:45 PM (15 minutes)	Traffic on Susain Valley Road	67.4	39.7	87.7
ST-6	315 Evans Avenue	May 19, 2016	4:13 PM-4:28 PM (15 minutes)	Rooster, traffic, and construction	62.6	54.6	81.1
ST-7	2145 Bridgeport Avenue	May 25, 2016	10:21 AM-10:38 AM (15 minutes)	Wind and traffic on I-680	49.2	42.6	57.7
ST-8	5404 Williams Road	May 25, 2016	11:01 AM-11:16 AM (15 minutes)	Machinery and trucks in vineyard	58.7	51.6	74.1
ST-9	4927 Wadkins Lane	May 25, 2016	11:35 AM-11:50 AM (15 minutes)	Airplane fly-over, barking dogs, neighbor playing music	50.2	35.4	67.4
ST-10	6811 Sievers Road	July 22, 2016	4:49 PM-5:04 PM (15 minutes)	Traffic	67.3	45.8	88.7
ST-11	2038 Joyce Lane	July 22, 2016	6:19 PM-6:34 PM (15 minutes)	Wind (very little)	40.9	29.7	58.8
ST-12	4756 Suisun Valley Road	July 22, 2016	6:53 PM-7:08 PM (15 minutes)	Traffic, music, people at event	61.3	46.0	75.3
ST-13	4704 Green Valley Lane	July 22, 2016	7:37 PM-7:52 PM (15 minutes)	Wind (very little)	30.5	23.1	48.8



Agenda Submittal

Agenda #: 2 **Status:** PC-Regular
Type: PC-Document **Department:** Planning Commission
File #: PC 17-003 **Contact:** Mike Yankovich
Agenda date: 1/5/2017 **Final action:**
Title: Study session to obtain public testimony on possible Tourist Home and Tourist House regulations for the unincorporated area of Solano County

Governing body: Planning Commission

District:

Attachments: [A - Williamson Act Rules and Regs Final 5-11-12](#)

Date	Ver.	Action By	Action	Result
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RECOMMENDATION:

The Department of Resource Management recommends that the Planning Commission conduct a study session to obtain public testimony on possible Tourist Home and Tourist House regulations for the unincorporated area of Solano County.

DISCUSSION:

There is an increasing number of complaints regarding the short-term rental of rooms and whole houses for periods of less than 30 days. In some cases, these rentals have included the conduct of special events. The use of a dwelling unit as a tourist home or tourist house rather than as a residence is a land use that is not currently authorized by Chapter 28 (Zoning Regulations) of the Solano County Code.

Chapter 11 (Finances, Fees, Taxation and Revenue) of the Solano County Code does define the short term rental of a structure or any portion of any structure as a hotel use and establishes a transient occupancy tax of 5 percent of the rent charged by the operator. The definition of a hotel under Chapter 11 is, "Any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, including any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location or other similar structure or portion thereof."

Research by staff shows that many Solano County properties are currently listed on Airbnb and other on-line travel companies. As a result, staff is requesting the Commission consider whether a tourist home and tourist house are acceptable uses in the unincorporated County and, if so, in what zone district(s) and with what standards.

Criteria for the location of the tourist home or house could consist of one or more of the following criteria: a) There is adequate road access and off-street parking; b) There is no significant fire hazard due to topography, access or vegetation and c). The prevalence of tourist homes is not detrimental to the residential character of neighborhood.

Given these criteria the zone districts that would most likely be able to accommodate a tourist home or house due to minimum lot area requirements would include the Exclusive Agriculture district (A-20), the Suisun Valley Agricultural districts (A-SV-20 & ATC) and the Rural Residential districts (RR 2½, RR5 & RR10). An issue that could preclude a tourist home in the A-20 and A-SV-20 agriculture zone districts would be if the property is under a Land Conservation Contract (Williamson Act). Like in Chapter 28 (Zoning Regulations) a tourist home/house has not been determined a compatible use under the Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts (Attachment A).

Staff is suggesting that a tourist home/house be considered a compatible use in the A-20 zone district since this land is primarily grazing and located adjacent or close to urbanized areas with future potential for development beyond the time frame of the General Plan. The A-40, A-80 and A-160 zone districts are not included because virtually all agriculture takes place in these three zone districts. The A-SV-20 and ATC zone districts are located exclusively in the Suisun Valley which has a tourist emphasis and the Rural Residential (RR 2½, RR5 & RR10) zone districts are residential in character and have the lot area that is sufficient to enable the operation of a tourist home/house.

Possible Standards

This section provides potential requirements and standards for the operation of a tourist home or house. These standards are intended to ensure that a tourist home or house is compatible with and do not adversely impact surrounding residential and agricultural uses.

1. Tourist Home

- a. A dwelling used as a tourist home shall meet all of the development standards for dwellings specified in subsection 28.72.10(A)(1) and in Table 28.21B, 28.23B, or 28.31B, as applicable to the zoning district.
- b. A dwelling or guesthouse may not be used as a tourist home for more than 90 days in any calendar year.
- c. Space used for overnight accommodations as part of a tourist home must be located entirely within a dwelling that is the residence of the property owner or manager, or within an approved guesthouse that is accessory to such dwelling. Other accessory buildings, recreational vehicles, recreational vehicle parking space, or tents may not be used as part of a tourist home.
- d. If two dwellings are located on the parcel, only one dwelling may be used as a tourist home. If more than two dwellings are located on the parcel, none of the dwellings may be used as a tourist home.
- e. If the manager of the tourist home will be someone other than the property owner, written consent of property owner is required.
- f. No exterior signage is allowed.
- g. No more than two guest vehicles are allowed; off-street parking shall be provided for all guests.
- h. Overnight occupancy shall not exceed a total of 6 persons.
- i. Guest turnover limited to once per seven-day period.
- j. A tourist home may not be advertised, offered, or used as event venue.
- k. A dwelling or guest house may not be used as a tourist home if it is the subject of an enforcement action pursuant to any provision of this code.

- l. The owner or manager is responsible for the nuisance behaviors of guests.
- m. The owner or manager must ensure that trash is disposed of at least weekly.
- n. A tourist home shall not be located on the same ownership as a winery, a special events facility, or another land use that requires a discretionary land use permit.
- o. Transient occupancy tax registration and payment are required, pursuant to Chapter 11 of this code.

2. Tourist House

- a. A dwelling used as a tourist house shall meet all of the development standards for dwellings specified in subsection 28.72.10(A)(1) and in Table 28.21B, 28.23B, or 28.31B, as applicable to the zoning district.
- b. Space used for overnight accommodations as part of a tourist house must be located entirely within a dwelling or a dwelling in combination with an approved guest house. Other accessory buildings, recreational vehicles, recreational vehicle parking space, or tents may not be used as a tourist house.
- c. If two dwellings are located on the parcel, only one dwelling may be used as a tourist house and the property owner or other person acting as the manager of the tourist home must reside in the other dwelling. If more than two dwellings are located on the parcel, none of the dwellings may be used as a tourist house.
- d. If the manager of the tourist house will be someone other than the property owner, written consent of property owner is required.
- e. No exterior signage is allowed, except if the property owner or manager does not reside on site, then a sign with the name of the property owner or manager and a contact phone number shall be located near the front door or the dwelling unit.
- f. No more than three guest vehicles are allowed; off-street parking shall be provided for all guests.
- g. Overnight occupancy is limited to 2 persons per bedroom plus 2 additional persons, not to exceed a total of 10 persons. For purposes of determining allowed occupancy, each bedroom must be at least 120 square feet and include a window.
- h. Guest turnover limited to once per seven-day period.
- i. A tourist house may not be advertised, offered, or used as event venue. Amplified music or sounds may not be used outdoors between 9:00 p.m. and 10:00 a.m.
- j. A dwelling or guest house may not be used as a tourist house if it is the subject of an enforcement action pursuant to any provision of this code.
- k. The owner or manager is responsible for the nuisance behaviors of guests.
- l. The owner or manager must ensure that trash is disposed of at least weekly.
- m. A tourist house shall not be located on the same ownership as a winery, a special events facility, or another land use that requires a discretionary land use permit.
- n. Transient occupancy tax registration and payment are required, pursuant to Chapter 11 of this code.

3. Permit Required. A tourist home/tourist house that meet the standards outlined in this section

shall be permitted subject to issuance of a minor use permit.

4. Any use of a dwelling unit as a tourist home or tourist house prior to the effective date of the ordinance or prior to the approval of a use permit pursuant to the regulations set forth shall not be considered a legal nonconforming land use.

Land Use and Transportation Committee

The Land Use and Transportation Committee, which is comprised of two Board of Supervisors, has met two times to discuss the nature of tourist home and tourist house, although at the time they were referred to as vacation rentals. The committee members suggested that staff take a cautious approach to address this issue.

Attachment:

A - Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts

**SOLANO COUNTY
UNIFORM RULES AND PROCEDURES
GOVERNING AGRICULTURAL PRESERVES AND
LAND CONSERVATION CONTRACTS**

- I. Introduction
- II. Definitions
- III. Eligibility Requirements for Preserves and Contracts
 - A. Applications
 - B. Agricultural Preserves
 - 1. General Requirements
 - 2. Minimum Parcels Size
 - 3. Amendments to Agricultural Preserves
 - C. Land Conservation Contracts
 - 1. Commercial Agricultural Use
 - 2. Compatible Land Uses
 - 3. General Plan Requirements
 - 4. Zoning Requirements
 - 5. Minimum Parcel Size
 - D. Binding Effect of Land Conservation Contracts
- IV. Permitted and Compatible Land Uses
 - A. Principles of Compatibility
 - B. Additional Compatibility Criteria
 - C. Residential Uses Incidental to Agricultural Use
 - D. Determination of Compatible Use
 - E. Permitted and Compatible Land Use Table
- V. Eligibility Requirements for Open Space and Recreational Uses
 - A. Open Space and Recreational Use
 - B. Eligibility Standards
 - C. Permitted and Compatible Land Uses
- VI. Lot Line Adjustments

- VII. Subdivisions
- VIII. Application Procedures
- IX. Monitoring Procedures for Land Conservation Contracts

Appendices A through F

I. INTRODUCTION

These uniform rules and procedures implement the Solano County Agricultural Preserve Program as authorized under the California Land Conservation Act of 1965 (Williamson Act).

The Legislature of the State of California in enacting the Williamson Act declared:

“That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state’s economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.” (Gov. Code Section 51220 (a))

The Williamson Act program is designed to protect agricultural land for continued commercial agricultural use primarily for the production of food and fiber and other lands devoted to open-space and recreational uses. These rules set forth the eligibility requirements, land use restrictions and procedures for entering into and terminating agricultural preserves and land conservation contracts within Solano County.

Under the Solano County Agricultural Preserve Program, an agricultural preserve is established by the County at the request of one or more property owners within areas devoted to agricultural use, recreational use and/or open-space use, as defined in the Williamson Act. Establishment of an agricultural preserve is a prerequisite for property owners wishing to enter into land conservation contracts with the County. Under Solano County’s program, a property owner makes application simultaneously for either the establishment or expansion of an agricultural preserve and approval of a land conservation contract.

A land conservation contract is a contract entered into by the property owner and the County that enforceably restricts the use of the land for agricultural, recreational and/or open space uses for a minimum term of 10 years. In exchange, the property receives a reduction in property taxes while the contract is in effect. Under the program, contracted property is assessed on the basis of the agricultural income producing capability of the land, the fair market value, or the Proposition 13 value, whichever is less.

II. DEFINITIONS

- A. **Agricultural commodity** – means any and all plant and animal products produced in the State of California for commercial purposes.
- B. **Agricultural employee** – means a person employed by the farm operator primarily to work in agricultural activities on the contracted property or on other property controlled by the farm operator, together with the employee’s family members.
- C. **Agricultural preserve** – means an area devoted to either agricultural use as defined in Section III(C), recreational use as defined in Section V(A)(2), or Open-space use as defined in Section V(A)(1), or any combination of those uses, and which is established in accordance with these Uniform Rules and Procedures.
- D. **Agricultural use** – means use of land for the purpose of producing an agricultural commodity for commercial purposes.
- E. **Contiguous and Contiguous parcels** – means that each parcel must touch or abut at least one other parcel, but not all other parcels.
- F. **Contract** – means Land Conservation Contract.
- G. **Farm operator** – means a property owner or lessee who conducts or controls the agricultural use of the property, together with the farm operator’s family members.
- H. **Legal Parcel** – means parcel was created consistent with the requirements of the State Subdivision Map Act.
- I. **Non-prime agricultural land** – means agricultural land other than “Prime agricultural land” as defined in Section II(K).
- J. **Ownership** – means any persons, corporation, or several persons together that have an undivided interest in the land.
- K. **Prime agricultural land** - means any of the following:
 - 1. Land which qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.

2. Land which qualifies for rating 80 through 100 in the Storie Index Rating.
3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
4. Land planted with fruit-or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
5. Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.

L. Property owner – includes stockholders in family corporations, beneficiaries of family trusts and estates, owners of undivided partial interests, and joint tenants.

M. Williamson Act – means California Land Conservation Act of 1965, codified in the California Government Code beginning at section 51200

III. ELIGIBILITY REQUIREMENTS FOR PRESERVES AND FARMLAND CONSERVATION CONTRACTS FOR AGRICULTURAL USES

A. Applications

1. Applications to establish or amend agricultural preserves and to enter into land conservation contracts shall be made by the owner of the affected property.
2. Applications to establish or amend agricultural preserves shall be made simultaneously with, and shall be deemed to be applications to enter into land conservation contracts within the area to be included in the agricultural preserve. Each land conservation contract shall be established by a separate application.
3. A single application to establish one land conservation contract consisting of two or more parcels may be made by a single applicant only if the applicant owns all the parcels and

all the parcels are contiguous. Contiguous parcels under different ownership require separate applications.

4. Any application for a lot line adjustment or land division of a parcel or parcels subject to a land conservation contract, that proposed to change the outer perimeter of the land subject to the contract, shall be accompanied by an application for a replacement contract. The replacement contract must comply with all requirements described in this section.

B. Agricultural Preserves

1. General Requirements

- a. Property must be eligible to enter into a land conservation contract at the time the property is established as, or annexed to, an agricultural preserve.
- b. Only whole, legally created parcels shall be established as, or annexed to, an agricultural preserve. For parcels that are not created by a recorded parcel or final map, or for which a Certificate of Compliance has not been recorded, an application for a Certificate of Compliance shall accompany the application for agricultural preserve.
- c. An application to establish, or annex to, an agricultural preserve shall be denied if an incompatible use exists on the land proposed for inclusion within the agricultural preserve.

2. Minimum Preserve Size

- a. Agricultural preserves created or amended after January 1, 2006, shall consist of no less than 100 acres, except as provided in the next paragraph. Two or more parcels may be included within a single preserve if they are contiguous.
- b. Agricultural Preserves of less than 100 acres may be established if the Board of Supervisors finds that:
 - 1.) A smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area;
 - 2.) Each parcel meets the minimum parcel size requirements for land conservation contracts; and

- 3.) The proposed preserve is Prime agricultural land.

3. Amendments to Agricultural Preserves

- a. Agricultural preserves may be amended and additional contiguous parcels which meet the minimum parcel size for land conservation contract may be annexed to the preserve, provided the parcels being added to the preserve meets the requirements of Section III(B)(1).
- b. Contiguous parcels that are less than the minimum parcels size for Land Conservation Contract may be annexed to an existing preserve provided that the parcel meets all other requirements of Section III(B)(1) and is merged with a parcel within the existing preserve through a lot line adjustment consistent with the requirements under Section VI or by parcel merger. The property owner under the existing preserve must agree to rescind the existing contract or contracts and simultaneously enter into a new contract or contracts consistent with the approved lot line adjustment or parcel merger.
- c. A non-contiguous parcel may be annexed to an existing agricultural preserve if the parcel is under the same ownership as one or more parcels within the preserve, meets the requirements under Section III.(B)(1) and (2), above, and is operated as a single agricultural enterprise together with those parcels under the same ownership within the preserve.
- d. Non-preserve islands surrounded by agriculture preserve lands may be considered as eligible when all of the island is to be included in the preserve and all other eligibility criteria other than parcel size is met.

C. Land Conservation Contracts

To be eligible to enter into a land conservation contract, amend an existing contract, and to maintain eligibility while under contract, the property must meet the requirements described in this subsection.

1. Commercial Agricultural Use

- a. The property must be in commercial agricultural use at the time of application for an agricultural preserve and land conservation contract and must be maintained in

commercial agricultural use during the life of the contract. Agricultural use is defined as “use of land for the purpose of producing an agricultural commodity for commercial purposes” (Gov. Code Section 51201(b)). Agricultural commodity is defined as “any and all plant and animal products produced in this state for commercial purposes” (Gov. Code Section 51201(a)).

- b. To determine whether a property is in commercial agricultural use, the County has set minimum production values based on annual Williamson Act surveys conducted by the Assessors/Recorders Office. The minimum production values by agricultural activities for the last five (5) years are presented in Appendix F. The production values will be updated on an annual basis based on information produced by the Assessors/Recorders Office.
- c. The County may request that a property owner provide evidence that the property is in commercial agricultural use by submitting documentation that the production value for the property meets or exceeds the minimum production value for 3 out of the last 5 years.

2. Compatible Land Uses

- a. Compatible land uses includes any use designated as a compatible use by the Williamson Act and any permitted and compatible land use as set forth in Section IV of these rules.
- b. The establishment of any use other than an agricultural use or compatible use, as defined in the Williamson Act and Section IV, shall constitute a breach of contract.

3. General Plan Requirements

The property must be designated on the Land Use Diagram of the Solano County General Plan under one of the following land use categories:

Agriculture
Watershed
Marsh

4. Zoning Requirements

- a. The property must be within one of the following zoning districts and in full compliance with all regulations for that district as described in the Zoning Code (Chapter 28 of the Solano County Code):

Exclusive Agriculture: A-20, A-40, A-80 and A-160

Limited Agriculture: AL-80 and AL-160

Watershed and Conservation: W

Marsh Preservation: MP

Suisun Valley Agriculture: A-SV-20

- b. If the property is not appropriately zoned, an agricultural preserve may be established contingent upon the parcel or parcels within the preserve being appropriately rezoned consistent with the Solano County General Plan. An application for such rezoning must be filed by the property owner within thirty (30) days of such action. The establishment of the preserve shall be effective upon completion of the rezoning, and the land conservation contract may then be executed and recorded.
- c. The establishment of an agricultural preserve and entry into a land conservation contract does not eliminate the requirement that the owner of the property comply with all other applicable zoning, land use laws, and regulations of Solano County.

5. Minimum Parcel Size

- a. Only whole, legally created parcels shall be accepted under a land conservation contract.
- b. For parcels of land defined as Nonprime Land, the minimum parcel size within a land conservation contract is 40 acres.
- c. For parcels of land defined as Prime Land, the minimum parcel size within a land conservation contract is 10 acres.
- d. Existing prime and nonprime land conservation contracts established prior to January 1, 2006, which do not meet these whole-parcel or minimum parcel size requirements shall continue to be eligible for preserve and contract status provided that no changes are made to the contract boundaries.

D. Binding Effect of Land Conservation Contracts

Land conservation contracts shall run with the land and are binding upon any heir, successor, lessee, or assignee.

IV. PERMITTED AND COMPATIBLE LAND USES FOR ALL PRESERVES FOR AGRICULTURAL USE

Land within an agricultural preserve for agricultural purposes shall be maintained in commercial agricultural use subject to the permitted and compatible use requirements under this Section. Lands subject to an agricultural preserve for open space or recreational purposes shall be subject to the permitted and compatible use requirements set forth in Section V, below.

A. Principles of Compatibility

1. Non-agricultural uses on contracted lands shall be consistent with all of the following principals of compatibility, as set forth under Section 51238.1(a) of the Government Code:
 - a. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.
 - b. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.
 - c. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use. In evaluating compatibility, the Board of Supervisors shall consider the impacts on noncontracted lands in the agricultural preserve or preserves.
2. Compatible uses that are permitted subject to a conditional use permit on prime land shall be subject to conditions or

mitigation requirements such that the conditional uses conform to the principles of compatibility set forth in Section IV.A.1 above.

3. Compatible uses that are permitted subject to a conditional use permit on nonprime land may be approved based on findings demonstrating the following, as provided under Section 51238.1(c) of the Government Code:
 - a. Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in Section IV(A)(1) above to the greatest extent possible while maintaining the purpose of the use.
 - b. The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.
 - c. The use is consistent with the purposes of the Agricultural Preserve Program to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in these rules, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve.
 - d. The use does not include a residential subdivision.

B. Additional Compatibility Criteria

1. A compatible use must be secondary to the primary use of the land for commercial agricultural purposes. A use is considered secondary when it is required for or is part of the agricultural use.
2. A use is incompatible if it increases the temporary or permanent human population on the subject property and that increase population could hinder or impair agricultural operations on the subject property and/or other agricultural lands in the vicinity.
3. Housing for agricultural laborers is a compatible use and the State Legislature has declared that such use of agricultural land is in the public interest.
4. A use is incompatible if it will encourage the premature conversion of agricultural land to non-agricultural uses.

5. A residential use identified in Section IV(C) shall be presumed not to be a residential subdivision if established on a parcel that complies with the minimum parcel size required under the applicable zoning district.
6. Public horse boarding or breeding stables (including arenas for training and shows as ancillary uses), and kennels are compatible uses on nonprime land if the total area of the horse or kennel operation, and related facilities (including parking, landscaping, driveways, or other disturbed area), does not exceed 3% of the area of the legal parcel or 5 acres, whichever is less, and; the facility must be managed by the resident farm operator.

C. Residential Uses Incidental to Agricultural Use

Providing housing opportunities on lands under agricultural preserve in order to accommodate farm operators, their families, and their agricultural employees is consistent with the primary purpose of the Williamson Act to maintain agricultural land in commercial agricultural use. These rules allow for limited residential opportunities on contracted land, provided that the use does not conflict with the agricultural operations. The residential uses permitted on contracted land are more restrictive than authorized by the underlying zoning district.

The following residential uses are considered incidental to the commercial agricultural use of the land when it provides housing opportunities as follows:

1. Principal Dwelling – a single-family dwelling providing housing for the farm operator or agricultural employee.
2. Secondary Dwelling– a second single-family dwelling on the same parcel as the principal dwelling that provides housing for the farm operator or agricultural employee.
3. Agricultural Employee Housing – temporary manufactured dwelling unit on parcels of 20 acres or more. Provides housing for an agricultural employee(s).
4. Temporary Single Family Dwelling – temporary manufactured dwelling allowed when the principal or secondary dwelling is under construction. Provides temporary housing for the farm operator or agricultural employee.

D. Determination of Compatible Use

A property owner may request a determination of compatibility by the Planning Commission upon written request based on new and sufficient evidence of a use's compatibility with the purposes and intent of the Williamson Act based on the compatibility criteria set forth in subsections A and B above and that the use is incidental to the commercial agricultural use of the property. The Planning Commission may seek advice from the Department of Conservation as part of its review.

E. Permitted and Compatible Land Use Table

Table A identifies agricultural uses and uses determined by the Solano County Board of Supervisors to be compatible with agriculture for lands within agricultural preserve. It should be noted that in some cases, the permitted and compatible uses are more restrictive than the uses allowed and permitted under the applicable zoning district.

V. ELIGIBILITY REQUIREMENTS AND PERMITTED AND COMPATIBLE USES FOR PRESERVES FOR OPEN SPACE AND RECREATIONAL USES

A. The California Land Conservation Act of 1965 provides that agricultural preserves may be established that consist of land devoted to open-space or recreation uses which are defined as follows:

1. Open-Space use is the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of sea water in the course of salt production for commercial purposes, if such land is within one of the following defined areas:

a. A "scenic highway corridor" which is an area adjacent to, and within view of, the right-of-way of: (a) an existing or proposed state scenic highway in the state scenic highway system established by the State legislature pursuant to Streets and Highways Code Sections 260 et seq. and which has been officially designated by the State Department of Transportation as an official state scenic highway, or (b) a county scenic highway established pursuant to Streets and Highways Code Sections 260 et seq. if it is included in the adopted county general plan, adopted specific plan for the county, and specific proposals for implementing the plan, including

regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county highway has been officially designated by the State Department of Transportation as an official county scenic highway.

- b. A "wildlife habitat area" which is a land or water area designated by the Board of Supervisors, after consulting with and considering the recommendation of the State Department of Fish and Game, as an area of great importance for the protection or enhancement of the wildlife resources of the state.
 - c. A "saltpond," which is an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve, has been used for the solar evaporation of sea water in the course of salt production for commercial purposes.
 - d. A "managed wetland area," which may be an area diked off from the ocean or any bay, river, or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural preserve was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.
 - e. A "submerged area," which is any land determined by the Board of Supervisors to be submerged or subject to tidal action and found by the Board to be of great values to the state as open space.
2. **Recreational Use** is the use of land in its agricultural or natural state by the public with or without charge, for walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for any of these recreational uses of land shall be reasonable amount and shall not have the effect of unduly limiting its use by the public. Any ancillary structures necessary for recreational use shall comply with the provisions of Section IV(A)(1) above.

B. Eligibility Standards

1. Except for the General Plan Requirements and Zoning Requirements as provided under this section, all other

eligibility standards set forth in Section III above shall apply to preserves for open space and recreational use.

2. General Plan Requirements

The property must be designated on the Land Use and Circulation Map of the Solano County General Plan under one of the following land use categories:

Watershed
Marsh

3. Zoning Requirements

The property must be zoned under the Zoning Code (Chapter 28 of the Solano County Code) under one of the following zoning districts:

Watershed and Conservation
Marsh Preservation

C. Permitted and Compatible land uses

Permitted and compatible uses for lands within preserves established for open-space or recreational uses shall be established at the time of considering an application to establish the preserve, based on the compatibility principles and criteria described in Section IV and the uses authorized by the applicable zoning district regulations.

VI. LOT LINE ADJUSTMENTS

A. In addition to all other requirements applicable to lot line adjustments, a lot line adjustment involving one or more parcels under land conservation contract shall not be approved unless the Planning Commission or Board of Supervisors makes the following findings, as required by Gov. Code Section 51257(a):

1. The lot line adjustment complies with all of the findings and requirements for lot line adjustments as set forth in Chapter 26, Article IV of the Solano County Code.
2. The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

- 3.** There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
 - 4.** At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
 - 5.** After the lot line adjustment, the parcels of the land subject to contract will be large enough to sustain their agricultural use.
 - 6.** The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
 - 7.** The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
 - 8.** The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the Solano County General Plan.
- B.** A lot line adjustment involving parcels under more than one land conservation contract, or which would alter the outer perimeter of the land subject to contract, shall be heard by the Board of Supervisors and may be approved only if the landowner(s) and County mutually agree to rescind the contracts and simultaneously enter into a replacement contract or contracts pursuant to these rules
- C.** A lot line adjustment involving parcels under a single land conservation contract and which would not alter the outer perimeter of the land subject to that contract shall be heard by the Planning Commission. Because the contract runs with the land and applies to the newly-configured parcels, no replacement contract is required.
- D.** The lot line adjustment shall not result in a parcel under contract that is less than 10 acres for Prime land or less than 40 acres for Nonprime land.

- E.** If a replacement contract is required, the replacement contract shall be recorded simultaneously with the Certification of Compliance for the lot line adjustment.
- F.** A lot line adjustment shall not be approved if notice of nonrenewal has been filed on any parcel involved in the lot line adjustment.

VII. SUBDIVISIONS

- A.** Land subject to a land conservation contract shall not be subdivided unless all parcels created by the subdivision will comply with the following minimum size requirements:
 - 1.** Except for parcels zoned A-SV-20, the minimum parcel size for new parcels created within preserves established prior to December 27, 1977, is 41 acres.
 - 2.** Except for parcels zoned A-SV-20, the minimum parcel size for new parcels created within preserves established or amended on or after December 27, 1977, is 80 acres.
 - 3.** For parcels zoned A-SV-20, the minimum parcels size for new parcels created within preserves is 20 acres.
- B.** In addition to all other requirements applicable to subdivisions, a subdivision involving one or more parcels under land conservation contract shall not be approved unless the Board of Supervisors makes the findings required by Gov. Code Section 66474.4(a). These Rules and Procedures may be used to support the required findings, as follows:
 - 1.** The requirement that resulting parcels be large enough to support their agricultural use, using the presumption described in Gov. Code Section 51222, is satisfied by the requirement in Section VII(A) that resulting parcels be at least 20, 41 or 80 acres; and
 - 2.** The requirement that the subdivision will not result in residential development not incidental to the commercial agricultural use of the land is satisfied by the presumption described in Section IV(B)(5).
- C.** Subdivisions that alter the outer perimeter of land subject to a land conservation contract shall only be approved only if the landowner(s) and County mutually agree to rescind the contract or contracts and simultaneously enter into a replacement contract or contracts pursuant to these rules.

- D. The subdivision approval shall require that the replacement contract or contracts be approved prior to, and recorded simultaneously with, the parcel map or final map.
- E. Acquisition of land within a preserve by a public agency is not a subdivision of land for purposes of these Rules and Procedures, and the minimum parcel size requirements described in Section VII(A) shall not apply either to the land acquired by the public agency or to the remainder parcel.

VIII. APPLICATION PROCEDURES

A. Agricultural Preserves and Land Conservation Contracts

- 1. Appendix A

B. Notice of Non-renewal

- 1. Appendix B

C. Cancellation

- 1. Appendix C

D. Building Permits

- 1. Appendix D

IX. Monitoring Procedures for Land Conservation Contracts

- A. To insure compliance with the requirements to maintain the property in commercial agricultural use, the property owner shall maintain records of annual productive acreage and its production value to demonstrate continued eligibility, and shall provide this information to the County upon request.
- B. The Assessor/Recorders Office mails annual surveys on agricultural production to property owners with lands under a Land Conservation Contract. Property owners shall return Assessor's requests for information by the due date noted on the survey. Failure to return complete information will require the Assessor to estimate agricultural production, income and expenses for the parcels.

Table A

PERMITTED (P), COMPATIBLE (C), and NON-PERMITTED (NP) LAND USES		
LAND USE	LAND TYPE	
	PRIME	NON-PRIME
AGRICULTURAL LAND USES		
Crop production, including orchards and vineyards	P	P
Minor agricultural related ancillary uses (including harvesting or trucking of onsite & offsite product)	P	P
Aquaculture	P	P
Animal production facilities and operations		
Kennels and catteries	NP	C Section IV.B.6
Fowl and poultry ranches	P	P
Grazing	P	P
Hog ranches	P	P
Confined animal facilities, including dairies	P	P
Agricultural accessory structures	P	P
Wind turbine generators, non-commercial (over 100 ft.)	C	C
Agricultural processing facility – On-site products	P	P
Agricultural processing facility – Off-site products	C	C
Agricultural processing facility with special events	C	C
RESIDENTIAL USES		
Principal dwelling	C	C
Secondary dwelling	C	C
Agricultural employee housing	C	C
HCD Agricultural employee housing	C	C
Home occupations	C	C
Rural resident enterprise	C	C
Storage, manufactured home	C	C
Temporary single family dwelling	P	P
Stable, private	C	C
HABITAT LAND USES		
Management of wetlands	NP	C
Restoration of tidal, managed and seasonal wetlands using approved dredge sediments.	NP	C

PERMITTED (P), COMPATIBLE (C), and NON-PERMITTED (NP) LAND USES		
LAND USE	LAND TYPE	
	PRIME	NON-PRIME

RECREATION, EDUCATION AND PUBLIC ASSEMBLY USES		
Boating and swimming facilities on existing waterways	NP	C
Stable, public, horse show and horse breeding	NP	C Section IV.B.6
Hunting and fishing clubs	C	C
Agricultural education	C	C
Limited public events	NP	NP
Marsh oriented recreation use and use incidental to recreation	NP	C
Commercial recreation use (e.g. bait shop, refreshment stand)	NP	C
Scientific research and education facility directly related to the marsh environment and similar uses as may be determined by the Planning Commission.	NP	C

RETAIL TRADE USES		
Farm supplies and farm equipment sales	NP	NP
Roadside stands, 80 feet or more from street centerline	P	P
Roadside stands, less than 80 feet from street centerline	P	P

AGRICULTURAL SERVICE USES		
Veterinary facilities	NP	NP
Agricultural trucking services and facilities	NP	NP
Airfields and heliports, Agricultural	NP	NP
Custom farm services, e.g. hay baling	NP (unless clearly ancillary to onsite agriculture)	NP (unless clearly ancillary to onsite agriculture)
Farm equipment fabrication and repair	NP (unless clearly ancillary to onsite agriculture)	NP (unless clearly ancillary to onsite agriculture)

**SOLANO COUNTY UNIFORM RULES AND PROCEDURES
GOVERNING AGRICULTURAL PRESERVES AND LAND CONSERVATION CONTRACTS**

PERMITTED (P), COMPATIBLE (C), and NON-PERMITTED (NP) LAND USES		
LAND USE	LAND TYPE	
	PRIME	NON-PRIME
COMMUNICATIONS AND INFRASTRUCTURE USES		
Injection wells	C	C
Oil and gas wells	C	C
Pipelines, transmission and distribution lines in R.O.W.	C	C
Public service facility	C	C
Cemetery	NP	NP
Refuse dumping, disposal, processing, composting	NP	NP
Surface mining operation	NP	C
Utility facilities or infrastructure, outside of R.O.W.	C	C
Wind turbine generators, commercial	C	C
Wireless communication facilities	C	C
Dredging of minerals or natural materials	NP	C
Temporary facilities for the transfer of levee materials from shore to barge.	NP	C
Restoration of tidal, managed and seasonal wetlands using approved dredged sediments.	NP	C

Appendix A

PROCEDURE FOR ESTABLISHMENT OF AGRICULTURAL PRESERVES AND LAND CONSERVATION CONTRACTS IN SOLANO COUNTY

Establishment of Agricultural Preserves and Land Conservation Contracts as enabled by the California Land Conservation Act of 1965 (Williamson Act), as amended.

1. A land owner may petition the Solano County Board of Supervisors for establishment of an agricultural preserve and enter into a land conservation contract with the County pursuant to the Act by filing an application with:

**The Solano County Department of Resource Management
675 Texas Street, Suite 5500, Fairfield, CA 94533**

2. One ownership only is permitted under each application and may consist of a single parcel or several contiguous parcels.
3. Each application must be completed and accompanied by:
 - a. Assessor's Parcel Map showing the proposed preserve outlined in red and matching the legal description. (Secure map from Assessor's Office.)
 - b. A copy of the written legal or deed description of the property to be placed under contract.
 - c. Two (2) standard form contracts signed by the applicant-owner(s) and notarized restricting the property to agricultural or compatible uses. (Secure forms from the Resource Management office.)
 - e. Evidence that the property is in commercial agricultural use by submitting documentation that the production value for the property meets or exceeds the minimum production value for 3 out of the last 5 years as established in the County's Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts
 - d. Filing Fee: As determined by the Board of Supervisors

The Application Filing Fee includes the cost of time and materials for Planning Services Division processing, reporting, public notice and hearing for this type of application. This fee does not include environmental review. **If time and materials needed to process your application exceed the application filing fee amount plus 100% of the fee amount, you will be billed for the additional costs incurred by the County.**

Note: All application materials must be submitted 8 1/2 x 11 inches in size to be recorded. Application materials may not be taped or stapled to any sheet.

4. Upon acceptance of the application by Resource Management, the steps below will be followed:
 - a. The Solano County Planning Commission will hold a public hearing on applications that require an interpretation of consistency with the County's Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts or the Williamson Act.
 - b. The Board of Supervisors will hold a public hearing and decide whether or not to establish the agricultural preserve and enter into the land conservation contract.
 - c. The contract referred to in 3(b) above will be executed by the Board of Supervisors, if the decision is to approve and establish the agricultural preserve.
 - d. One copy of the executed contract will be mailed to the applicant-owner(s) and the other copy will be retained by the County and recorded.
5. Applicant will be notified of public hearings and resulting actions. Applicants are encouraged to attend and be available to answer questions which may arise at each of the public hearings.

Note: Applications may require up to 90 days or longer in some cases to process. Applications accepted after October 1 may not be processed in time to meet the following year tax roll effective January 1.

Appendix B

PROCEDURES FOR FILING NOTICE OF NONRENEWAL OF LAND CONSERVATION (Williamson Act) CONTRACTS

1. **GENERAL COMMENTS** - If the landowner desires in any year not to renew the land conservation contract, the landowner shall serve written notice of nonrenewal of the contract upon the Board of Supervisors 90 days in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner's at least 90 days prior to the annual renewal date, the contract shall be considered renewed as provided in Section 51244 or 51244.5 of the Government Code.
2. **FILING NOTICE** - A written notice must be signed by the owner(s) of the contracted land and filed with the Clerk to the Board of Supervisors.
3. **RECORDING NOTICE** - Within 20 days of receipt of a correctly filed written notice, the Clerk to the Board of Supervisors shall record with the County Recorder a copy of the Notice of Nonrenewal and notify the Planning Services Division of the recording.
4. **NOTICE TO STATE DEPARTMENT OF CONSERVATION** - The Planning Services Division shall provide a copy of the Notice of Nonrenewal to the Director of Conservation within 30 days of receipt of correctly filed written notice.
5. **EFFECT** - Upon filing Notice of Nonrenewal, the contract shall remain in effect for the balance of the period remaining (approximately 9 years) except that taxes will gradually increase towards full unrestricted value. Contact the County Assessor's Office to determine the rate and amount of any tax increase.

NOTE: Notice of Nonrenewal forms are available at the Department of Resource Management, Planning Services Division. It is recommended the form be returned to the Planning Services Division to be checked for completeness prior to filing with the Clerk to the Board of Supervisors for recordation.

Appendix C

LAND CONSERVATION CONTRACT (Williamson Act) CANCELLATION INSTRUCTIONS

1. **GENERAL COMMENTS** - The purpose of this process is to remove land from an Agricultural Preserve and Land Conservation Contract. This removes the property from the land use restrictions associated with the Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts in Solano County and also eliminates any tax savings inherent in land conservation contract assessments.
2. **APPLICATION** - The application will be accepted when the following information is filed with the Department of Resource Management.
 - a. Completed Petition for Cancellation of Land Conservation Contract signed by the owner(s) of record.
 - b. Completed Environmental Evaluation Questionnaire provided by the Department of Resource Management.
 - c. Cancellation of a portion of an agricultural preserve and land conservation contract requires submittal of a legal description of the property and a copy of the Assessor's Parcel Map delineating the property.
 - d. Filing Fee: Fee as set by the Board of Supervisors

The Application Filing Fee includes the cost of time and materials for Planning Services Division processing, reporting, public notice and hearing for this type of application. This fee does not include environmental review. **If time and materials needed to process your application exceed the application filing fee amount plus 100% of the fee amount, you will be billed for the additional costs incurred by the County.**

3. **PUBLIC NOTICE** - Two advertised public hearings are required for each cancellation petition, one by the Planning Commission and one by the Board of Supervisors. At least ten (10) days prior to each hearing, the Department of Resource Management will provide written notice by first class mail to the applicant and owners of property located within 500 feet of the property involved. Notice will also be published in a newspaper of general circulation or posted in the vicinity of the project location. This public notice is to inform the public of their right to appear and be heard on the matter.
4. **PUBLIC HEARING** - The owner or his representative should be present at the public hearings. If he is unable to attend, he may request a continuance in writing. During the hearings before the Planning Commission and the Board of Supervisors, all interested persons will have the opportunity to speak in favor or in opposition to granting the cancellation petition. Persons speaking will usually

be asked their interest in the petition and other pertinent questions deemed necessary in determining approval or denial of the cancellation petition. Normally, the applicant is invited to speak first.

5. **DECISION** - The Planning Commission holds a public hearing on the cancellation petition and adopts a resolution which is forwarded to the Board of Supervisors. The Assessor's Office determines a cancellation value and certifies it for the Board of Supervisors. The Board then determines a cancellation fee and certifies the amount to the Auditor. The Board of Supervisors then holds its public hearing on the cancellation petition. In order to approve a cancellation petition the Board of Supervisors must find that either:

- (1) cancellation is consistent with the purposes of the Williamson Act; or
- (2) cancellation is in the public interest.

Under (1) above the Board of Supervisors must make all of the following findings:

- a. That the cancellation is for land on which a notice of non-renewal has been served.
- b. That cancellation is not likely to result in the removal of adjacent lands from agricultural use.
- c. That cancellation is for an alternative use which is consistent with the applicable provisions of the County General Plan.
- d. That cancellation will not result in discontinuous patterns urban development.
- e. That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

Under (2) above (cancellation is in the public interest) the Board of Supervisors must specifically find:

- a. That other public concerns substantially outweigh the objectives of the Williamson Act.
- b. That there is no proximate non-contracted land which is both available and suitable for the use to which it is proposed the contract land should be put, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

6. **PETITION GRANTED** - Upon tentative approval of a cancellation petition, several steps are required (Section 51283.3 and 51283.4) to complete the process which includes:

- a. The Clerk to the Board of Supervisors records a Certificate of Tentative Cancellation which contains at least: the name of the property owner, the amount of the cancellation fee as certified by the Board, any contingency of waiver, or deferment of its payment, conditions and contingencies and legal description of the property involved.
- b. The landowner notifies the Board when the conditions and contingencies enumerated in the certificate of tentative cancellation have been satisfied. Within thirty (30) days of receipt of such notice, and determination that conditions and contingencies have been satisfied, the Clerk to the Board shall record a Certificate of Cancellation of the contract.

APPENDIX D

**SUPPLEMENT TO
BUILDING PERMIT APPLICATION
FOR INCIDENTAL STRUCTURES TO COMMERCIAL AGRICULTURE ON
PROPERTIES UNDER LAND CONSERVATION (Williamson Act) CONTRACTS**

Building Permit Number: _____ Zoning District: _____

Assessor Parcel Number(s): _____

Land Conservation Contract No.: _____

The subject property is under a Land Conservation (Williamson Act) Contract. Under the contract provisions, the subject parcel shall not be used for any purposes other than “an agricultural use” and “open space use” as provided in Section 51205 of the Government Code or uses compatible with “agricultural use” as defined in the Land Conservation Act (Williamson Act) of 1965 and the “Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts” adopted by the Solano County Board of Supervisors.

Please provide the following information in support and as part of your application for a Building Permit for either a residential structure or agricultural structure on the subject property. First check the applicable use, residential structure or agricultural structure. Second, provide a brief explanation of the applicable circumstances.

Residential Structure (Check applicable use if residential structure)

_____ Single family dwelling (A¹), one-family dwelling or manufactured dwelling (AL², W³, MP⁴) (Primary residence)

_____ Accessory Dwelling Unit (A¹) or Secondary Living Unit (AL²)

A residence must be incidental to the commercial agriculture use of the property. To be incidental to commercial agriculture, the residential structure must be for person(s) engaged in the commercial agricultural operations including the property owner, agriculturalist (property owner or lessee), or agricultural employee and their families as defined in the “Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts”.

Briefly describe the applicable circumstances:

Agricultural Structure (check if agricultural structure)

_____ Agricultural Accessory Structures (A¹) or Buildings and uses clearly accessory or incidental to any permitted use located on the premises including, barns sheds and other farm buildings (AL², W³, MP⁴)

Briefly describe the proposed use of the agricultural structure and how it supports the commercial agricultural use of the subject property:

ACKNOWLEDGEMENTS

I (We) hereby acknowledge notice that the Land Conservation Contract and “Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts” restricts the proposed structure to uses compatible and incidental to the commercial agricultural use of the property.

I (We) further acknowledge notice that if the proposed structure is later found not to be compatible or incidental to the commercial agriculture use of the property resulting in a material breach to the Land Conservation Contract, the property owner may be subject to fines for up to 25 percent of the unrestricted fair market value of the land rendered incompatible by the breach of contract, plus 25 percent of the value of the incompatible building and any related improvements on the contracted land.

I (We) certify under penalty of perjury that the information provided above, is true and correct.

Signature of Property Owner(s) of Record	Date and Place
_____	_____
_____	_____
_____	_____
_____	_____

¹ (A) Uses allowed under the Exclusive Agricultural Zoning District
² (AL) Uses allowed under the Limited Agricultural Zoning District
³ (W) Uses allowed under the Watershed and Conservation Zoning District
⁴ (MP) Uses allowed under the Marsh Preservation Zoning District

Appendix E

Monitoring Procedures for Land Conservation Contracts

In order to ensure compliance with the provisions of a Land Conservation Contract, the Department of Resource Management may initiate a review of a contract under the following circumstances:

- Application for Building Permit
- Application for Use Permit
- Citizen's/Code Violation complaint
- Notice from the State Department of Conservation
(Gov. Code Section 51250(c))

Building Permits and Use Permits

As part of a building permit or use permit application Resource Management may request that the property owner(s) provide documentation that the property is under commercial agricultural use or maintained in open space or recreational use as defined in the Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts.

Citizen's or Code Violation Complaints and Notice from the State Department of Conservation

In response to a citizen's complaint, alleged code violation, or notice from the State Department of Conservation, Resource Management may conduct an initial inspection of the property. As part of the investigation, Resource Management may request that the property owner(s): 1) provide documentation that the property is under commercial agricultural use or maintained in open space or recreational use as defined in the Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts and/or 2) provide documentation explaining the facts and circumstances related to a possible non-compatible use.

Notice of Potential Breach of Contract

If commercial agricultural activity is not evident and the property does not meet the requirements for open space and recreational use, or non-compatible uses have been established, Resource Management shall issue a "Notice of Potential Breach of Contract" requesting the property owner(s) provide documentation that the property is in commercial agricultural as defined in the Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts. The property owner(s) shall have 60 days to provide the documentation.

If a non-compatible use has been established contrary to the compatible uses established in the Solano County Uniform Rules and Procedures Governing Agricultural Preserves and Land Conservation Contracts, Resource Management shall issue "Notice of Potential Breach of Contract" to the property owner(s) and to State Department of Conservation for building or buildings greater than 2500 sq. ft. within 10 days of determining that a breach of contract is likely to exist. A property owner(s) shall have 60 days to abate the non-compatible use.

The "Notice of Potential Breach of Contract" shall include the reasons for the determination and a copy of the contract.

Board of Supervisors Hearing

If after 60 days the property owner(s) has not provided documentation the property is under commercial agricultural use or the non-compatible use has not been abated, the land conservation contract shall be scheduled for public hearing before the Board of Supervisors no more that 120 days after the "Notice of Potential Breach of Contract" was issued.

Resource Management shall give notice of the public hearing by certified mail, return receipt requested, to the property owner(s) at least 30 days prior to the hearing. If potential breach of contract is for a non-compatible use, notice shall also be provided to the State Department of Conservation for building or buildings greater that 2500 sq. ft.

Resource Management shall also give notice by first class mail to all property owners under contract within one mile of the exterior boundary of the contracted land on which the likely breach exists. A notice of the hearing shall also be published pursuant to Government Code Section 6061, including the date, time and place of the public hearing.

The Board of Supervisors shall consider any oral or written testimony presented at the public hearing.

Board of Supervisors Determinations

If the Board of Supervisors finds that the property is not under commercial agricultural use, the Board shall authorize the Chair to execute a Notice of Non-renewal on the subject property and authorize the Clerk to the Board to record said document.

If the Board of Supervisors finds that a breach of contract exists for a non-compatible use, the Board shall either:

1. Order the property owner(s) to eliminate the conditions that resulted in the breach of contract within 60 days.

2. Authorize the Chair to execute a Notice of Non-renewal on the subject property and authorize the Clerk to the Board to record said document.
3. For non-compatible uses with building or buildings that exceed 2500 sq. ft., assess the monetary penalty pursuant to Government Code Section 51250 (j) and terminate the contract on that portion of the contracted parcel that has been made incompatible by the breach of contract.