

Notice of Public Hearing and Request for Comments

DATE: February 6, 2019

TO: Affected Agencies and Interested Parties

FROM: Sara Lytle-Pinhey, Assistant Executive Officer

SUBJECT: **PROPOSED AMENDMENT TO LAFCO POLICY 22 - AGRICULTURAL PRESERVATION POLICY**

NOTICE IS HEREBY GIVEN that the Stanislaus Local Agency Formation Commission (LAFCO) will hold a public hearing on **Wednesday, March 27, 2019**, at a meeting starting at **6:00 P.M.** in the Basement Chambers at Tenth Street Place (1010 10th Street, Modesto) for the following:

Stanislaus LAFCO will consider an amendment to its existing Agricultural Preservation Policy (Policy 22 of the Commission's Policies and Procedures) regarding the timing of in-lieu fee collection if being used as an agricultural preservation strategy. The current Policy states fees are to be collected "before the issuance of a grading permit, building permit, or final map approval, whichever comes first" (emphasis added). The amendment would remove the "whichever comes first" constraint and add a plural option to recognize the in-lieu fee may be spread over multiple building permits. A copy of Policy 22 with the proposed amendment is attached for your review.

The proposed amendment is being made in accordance with the Cortese-Knox-Hertzberg Act (Government Code Section 56000 et. seq.), which requires LAFCOs to consider the effects that a proposal may have on agricultural lands (Government Code Sections 56425 and 56668(e)).

Under the California Environmental Quality Act of 1970 (CEQA) Section 15061(b)(3), the proposal is considered exempt from CEQA review, as there is no possibility that the proposed amendment will have a significant effect on the environment. A copy of the draft Notice of Exemption is also included with this notice.

Stanislaus LAFCO is requesting comments from all affected agencies and interested parties regarding the proposed amendment. Your comments should emphasize potential impacts in areas which your agency has expertise and/or jurisdictional responsibilities. Please return all written comments as soon as possible or no later than **March 15, 2019** to be included with the printed staff report for the Commission. Comments will also be accepted prior to and at the public hearing on March 27, 2019. All interested parties are invited to attend the public hearing. The staff report for the item will be available online at least five (5) days before the hearing date at: www.stanislauslafco.org

Comments may be sent to Stanislaus LAFCO, 1010 10th Street, 3rd Floor, Modesto, CA 95354 or by e-mail to lafco@stancounty.com. If you have any questions, please call (209) 525-7660.

CEQA NOTICE OF EXEMPTION

TO: County Clerk-Recorder
Stanislaus County
1021 "I" Street
Modesto, CA 95354

FROM: Stanislaus LAFCO
1010 Tenth Street, 3rd Floor
Modesto, CA 95354
(209) 525-7660

**TITLE: STANISLAUS LOCAL AGENCY FORMATION COMMISSION AMENDMENT TO
POLICY 22 - AGRICULTURAL PRESERVATION POLICY**

DESCRIPTION: Stanislaus LAFCO will consider an amendment to its existing Agricultural Preservation Policy (Policy 22 of the Commission's Policies and Procedures) regarding the timing of in-lieu fee collection if being used as an agricultural preservation strategy. The current Policy states fees are to be collected "before the issuance of a grading permit, building permit, or final map approval, whichever comes first" (emphasis added). The amendment would remove the "whichever comes first" constraint and add a plural option to recognize the in-lieu fee may be spread over multiple building permits. The proposed amendment is being made in accordance with the Cortese-Knox-Hertzberg Act (Government Code Section 56000 et. seq.), which requires LAFCOs to consider the effects that a proposal may have on agricultural lands (Government Code Sections 56425 and 56668(e)).

LOCATION: Countywide

PUBLIC AGENCY APPROVING PROJECT: Stanislaus Local Agency Formation Commission

CONTACT PERSON: Sara Lytle-Pinhey, Executive Officer, (209) 525-7660

ENVIRONMENTAL DETERMINATION: In this case, it has been determined with certainty that there is no possibility that the policy amendment may have a significant effect on the environment and therefore it is found to be exempt from CEQA pursuant to Section 15061(b)(3) of the State Guidelines. The Local Agency Formation Commission will file this Notice of Exemption upon approval of the policy amendment.

REASONS FOR EXEMPTION: LAFCO approval of such policies is encouraged under Government Code 56000 et seq. The policy amendment does not involve, authorize, or permit the construction of any facilities associated with any property. The policy amendment is minor in nature and serves to clarify the timing of collection of an in-lieu fee when used as an agricultural preservation strategy. It also allows for collection of an in-lieu fee to be spread over multiple building permits. Approval of this policy amendment has no possibility of affecting the environment directly or indirectly as LAFCO is not proposing the approval of any application or engaging in any activity. The Cortese-Knox-Hertzberg Act calls for LAFCO to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. The Act also requires LAFCOs to establish written policies and procedures to exercise its powers consistent with its purpose. The policy amendment is consistent with the intent of the Act.

Signature: _____
Name & Title: Sara Lytle-Pinhey, Executive Officer

Date: _____

Proposed amendments are shown as **bold and double-underlined** text on page 3.

Stanislaus LAFCO

POLICY 22 - AGRICULTURAL PRESERVATION POLICY

Agriculture is a vital and essential part of the Stanislaus County economy and environment. Accordingly, boundary changes for urban development should only be proposed, evaluated, and approved in a manner which, to the fullest extent feasible, is consistent with the continuing growth and vitality of agriculture within the County.

LAFCO's mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. Additionally, Government Code Section 56668(e) requires LAFCO to consider "the effect of the proposal on maintaining the physical and economic integrity of agricultural lands."

Consistent with the legislative intent of LAFCO, the goals of this policy are as follows:

- Guide development away from agricultural lands where possible and encourage efficient development of existing vacant lands and infill properties within an agency's boundaries prior to conversion of additional agricultural lands.
- Fully consider the impacts a proposal will have on existing agricultural lands.
- Minimize the conversion of agricultural land to other uses.
- Promote preservation of agricultural lands for continued agricultural uses while balancing the need for planned, orderly development and the efficient provision of services.

The Commission encourages local agencies to identify the loss of agricultural land as early in their processes as possible, and to work with applicants to initiate and execute plans to minimize that loss, as soon as feasible. Agencies may also adopt their own agricultural preservation policies, consistent with this Policy, in order to better meet their own local circumstances and processes.

The Commission shall consider this Agricultural Preservation Policy, in addition to its existing goals and policies, as an evaluation standard for review of those proposals that could reasonably be expected to induce, facilitate, or lead to the conversion of agricultural land.

A. Plan for Agricultural Preservation Requirement

Upon application for a sphere of influence expansion or annexation to a city or special district ("agency") providing one or more urban services (i.e. potable water, sewer services) that includes agricultural lands, a Plan for Agricultural Preservation must be provided with the application to LAFCO. The purpose of a Plan for Agricultural Preservation is to assist the Commission in determining how a proposal meets the stated goals of this Policy.

The Plan for Agricultural Preservation shall include: a detailed analysis of direct and indirect impacts to agricultural resources on the site and surrounding area, including a detailed description of the agricultural resources affected and information regarding Williamson Act Lands; a vacant land inventory and absorption study evaluating lands

within the existing boundaries of the jurisdiction that could be developed for the same or similar uses; existing and proposed densities (persons per acre); relevant County and City General Plan policies and specific plans; consistency with regional planning efforts (e.g. the San Joaquin Valley Blueprint and the Sustainable Communities Strategy); and an analysis of mitigation measures that could offset impacts to agricultural resources. The Plan for Agricultural Preservation should be consistent with documentation prepared by the Lead Agency in accordance with the California Environmental Quality Act (CEQA).

The Plan for Agricultural Preservation shall specify the method or strategy proposed to minimize the loss of agricultural lands. The Commission encourages the use of one or more of the following strategies:

1. Removal of agricultural lands from the existing sphere of influence in order to offset, in whole or in part, a proposed sphere of influence expansion or redirection.
2. An adopted policy or condition requiring agricultural mitigation at a ratio of at least 1:1. This can be achieved by acquisition and dedication of agricultural land, development rights and/or conservation easements to permanently protect agricultural land, or payment of in-lieu fees to an established, qualified, mitigation program to fully fund the acquisition and maintenance of such agricultural land, development rights or easements, consistent with Section B-2 of this Policy.
 - a. In recognition of existing County policies applicable to agricultural land conversions in the unincorporated areas, as well as the goals of individual agencies to promote employment growth to meet the stated needs of their communities, an agency may select to utilize a minimum of 1:1 mitigation for conversions to residential uses.
 - b. Agricultural mitigation easements or offsets shall not be required for any annexations of land for commercial or industrial development.
3. A voter-approved urban growth boundary designed to limit the extent to which urban development can occur during a specified time period.

B. Commission Evaluation of a Plan for Agricultural Preservation

1. The Commission may consider approval of a proposal that contains agricultural land when it determines that there is sufficient evidence within the Plan for Agricultural Preservation that demonstrates all of the following:
 - a. Insufficient alternative land is available within the existing sphere of influence or boundaries of the agency and, where possible, growth has been directed away from prime agricultural lands towards soils of lesser quality.
 - b. For sphere of influence proposals, that the additional territory will not exceed the twenty year period for probable growth and development (or ten years within a proposed primary area of influence). For annexation proposals, that the development is imminent for all or a substantial portion of the proposal area.
 - c. The loss of agricultural lands has been minimized based on the selected agricultural preservation strategy. For the purposes of making the determination in this section, the term “minimize” shall mean to allocate no more

agricultural land to non-agricultural uses than what is reasonably needed to accommodate the amount and types of development anticipated to occur.

- d. The proposal will result in planned, orderly, and efficient use of land and services. This can be demonstrated through mechanisms such as:
 - i. Use of compact urban growth patterns and the efficient use of land that result in a reduced impact to agricultural lands measured by an increase over the current average density within the agency's boundaries (e.g. persons per acre) by the proposed average density of the proposal area.
 - ii. Use of adopted general plan policies, specific or master plans and project phasing that promote planned, orderly, and efficient development.
2. For those proposals utilizing agricultural mitigation lands or in-lieu fees, the Commission may approve a proposal only if it also determines all of the following:
- a. The mitigation lands must be of equal or better soil quality, have a dependable and sustainable supply of irrigation water, and be located within Stanislaus County.
 - b. An adopted ordinance or resolution has been submitted by the agency confirming that mitigation has occurred, or requires the applicant to have the mitigation measure in place before the issuance of a grading permit, building permit (s), or final map approval for the site, whichever comes first.
 - c. The agricultural conservation entity is a city or a public or non-profit agency that: has the legal and technical ability to hold and administer agricultural preservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production; and has adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") and is operating in compliance with those standards.
 - d. The agricultural mitigation land is not already effectively encumbered by a conservation easement of any nature.
 - e. Proposed in-lieu fees shall fully fund the costs associated with acquiring and managing an agricultural conservation easement, including the estimated transaction costs and the costs of administering, monitoring and enforcing the easement. Should the proposed in-lieu fees be less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County, plus a 5% endowment, the applicant shall provide evidence that the lesser amount will in fact achieve the stated agricultural mitigation goals.

C. Exceptions

The following applications are considered exempt from the requirement for a Plan for Agricultural Preservation and its implementation, unless determined otherwise by the Commission:

1. Proposals consisting solely of the inclusion of lands owned by a city or special district and currently used by that agency for public uses.

2. Proposals which have been shown to have no significant impact to agricultural lands, including, but not limited to:
 - a. Proposals consisting solely of lands which are substantially developed with urban uses.
 - b. Proposals brought forth for the purpose of providing irrigation water to agricultural lands.

DEFINITIONS

Agricultural Conservation Easement: An easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to an agricultural conservation easement is an interest in land which is less than fee simple. Agricultural conservation easements acquired shall be established in perpetuity (or shall be permanently protected from future development via enforceable deed restriction).

Agricultural Lands: Land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under crop rotational program, or land enrolled in an agricultural subsidy or set-aside program (Government Code Section 56016). As used in this section, "agricultural lands" also includes those lands defined in Government Code Section 56064 as "prime agricultural land" and those lands identified as "prime farmland", "farmland of statewide importance", and "unique farmland" as part of the California Department of Conservation's Farmland Mapping and Monitoring Program.

Agricultural Mitigation Land: Agricultural land encumbered by an agricultural conservation easement or other conservation mechanism acceptable to LAFCO.

Primary Area of Influence: The area around a local agency within which territory is eligible for annexation and the extension of urban services within a ten year period.

Prime Agricultural Land: An area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years (Government Code Section 56064).

Sphere of Influence: A plan for the probable physical boundaries and service area of a local agency, as determined by the commission (Government Code Section 56076). The area around a local agency within which territory is eligible for annexation and the extension of urban services within a twenty year period.

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