

City of Davis Municipal Code

Chapter 40A Right to Farm and Farmland Preservation

40A.01.010 Purpose.

- (a) It is a goal of the city general plan to work cooperatively with the counties of Yolo and Solano to preserve agricultural land in the Davis planning area which is not otherwise identified in the general plan as necessary for development. It is the policy of the city to preserve and encourage agricultural land use and operations within the city and Yolo and Solano counties, and to reduce the occurrence of conflicts between agricultural and nonagricultural land uses and to protect the public health. One purpose of this law is to reduce the loss of agricultural resources by limiting the circumstances under which agricultural operations may be deemed a nuisance.
- (b) It is also the policy of the city to provide purchasers and tenants of nonagricultural land close to agricultural land or operations with notice about the city's support of the preservation of agricultural lands and operations. An additional purpose of the notification requirement is to promote a good neighbor policy by informing prospective purchasers and tenants of nonagricultural land of the effects associated with living close to agricultural land and operations.
- (c) It is further the policy of the city to require all new developments adjacent to agricultural land or operation to provide a buffer to reduce the potential conflicts between agricultural and nonagricultural land uses.
- (d) Implementation of these policies can be strengthened by establishing a dispute resolution procedure designed to amicably resolve any complaints about agricultural operations that is less formal and expensive than court proceedings. (Ord. No. 1823, § 1 (part).)

#### 40A.01.020 Definitions.

For the purpose of this chapter, the following terms shall have the following meanings:

(a) Agricultural land.

Those land areas of Yolo County specifically zoned as Agricultural Preserve (A-P), Agricultural Exclusive (A-E), and Agricultural General (A-I), as those zones are defined in the Yolo County zoning ordinances, those land areas of Solano County specifically zoned Exclusive Agricultural (a-40), as those zones are defined in the Solano County zoning ordinances, and those land areas of the city of Davis specifically zoned as Agricultural (A), Planned Development or any other zoned land as defined by the Davis Municipal Code where the land use on the land within the city limits is agricultural.

(b) Agricultural operations.

Any agricultural activity, operation, or facility including, but not limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting, and processing of any commercial agricultural commodity, including timber, viticulture, apiculture or horticulture, the raising of livestock, fur-bearing animals, fish or poultry, agricultural spoils areas, and any practices performed by a farmer or on a farm as incidental to or in conjunction with such operations, including the legal application of pesticides and fertilizers, use of farm equipment, storage or preparation for market, delivery to storage or to market, or to carriers for transportation to market.

(c) Agricultural processing facilities or operations.

Agricultural processing activity, operation, facility, or appurtenances thereof includes, but is not limited to, the canning or freezing of agricultural products, the processing of dairy products, the production and bottling of beer and wine, the processing of meat and egg products, the drying of fruits and grains, the packing and cooling of fruits and vegetables, and the storage or warehousing of

any agricultural products, and includes processing for wholesale or retail markets of agricultural products.

(d) Property.

Any real property located within the city limits.

(e) Transfer.

The sale, lease, trade, exchange, rental agreement or gift.

(f) Transferee.

Any buyer or tenant of property.

(g) Transferor.

The owner and/or transferor of title of real property or seller's authorized selling agent as defined in Business and Profession Code section 10130 et. Seq., or Health and Safety Code section 18006, or a landlord leasing real property to a tenant. (Ord. No. 1823, § 1 (part).) As a condition of approval of a discretionary development permit, including but not limited to tentative subdivision and parcel maps, use permits, and rezoning, pre-zoning, and planned developments, relating to property located within one thousand feet of agricultural land, agricultural operations or agricultural processing facilities or operations, every transferor of such property shall insert the deed restriction recited below in the deed transferring any right, title or interest in the property to the transferee.

Right to farm deed restriction

The City of Davis, Yolo and Solano Counties permit operation of properly conducted agricultural operations within the City and Counties.

You are hereby notified that the property you are purchasing is located within 1000 feet of agricultural land, agricultural operations or agricultural processing facilities or operations. You may

be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facilities operations. Discomfort and inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents and /or the operation of machinery (including aircraft) during any 24 hour period.

One or more of the inconveniences described may occur as a result of agricultural operations which are in compliance with existing laws and regulations and accepted customs and standards. 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 an area with a strong rural character and an active agricultural sector.

Lawful ground rig or aerial application of pesticides, herbicides and fertilizers occur in farming operations. Should you be concerned about spraying, you may contact either the Yolo or Solano County Agricultural Commissioners.

The City of Davis' Right to Farm Ordinance does not exempt farmers, agricultural processors or others from compliance with law. Should a farmer, agricultural processor or other persons not comply with appropriate state, federal or local laws, legal recourse is possible by, among other ways, contacting the appropriate agency.

In addition, the City of Davis has established a grievance procedure to assist in the resolution of disputes which arise between the residents of the City regarding agricultural operations. This Right To Farm Deed Restriction shall be included in all subsequent deeds and leases for this property until such time as the property is not located within 1000 feet of agricultural land or agricultural operations as defined by Davis City Code Section 40A.01.020. (Ord. No. 1823 § 1 (part).)

40A.01.040 Notification to transferees.

(a) Every transferor of property subject to the notice recorded pursuant to section 40A.01.030 shall provide to any transferee in writing the notice of right to farm recited below. The notice of right to farm shall be contained in each offer for sale. Counter offer for sale, agreement of sale, lease, lease with an option to purchase, deposit receipt, exchange agreement, rental agreement, or any other form of agreement or contract for the transfer of property; provided that the notice need be given only once in any transaction. The transferor shall acknowledge delivery of the notice and the transferee shall acknowledge receipt of the notice.

(b) The form of the notice of right to farm is as follows:

#### NOTICE OF RIGHT TO FARM

The City of Davis, Yolo and Solano Counties permit operation of properly conducted agricultural operations within the City and the Counties.

You are hereby notified that the property you are purchasing/leasing/renting is location within 1000 feet of agricultural land, agricultural operations or agricultural processing facilities or operations.

You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facilities operations. Discomfort and inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents and/or the operation of machinery (including aircraft) during any 24 hour period.

One or more of the inconveniences described may occur as a result of agricultural operations which are in compliance with existing laws and regulations and accepted customs and standards. 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 an area with a strong rural character and an active agricultural sector.

Lawful ground rig or aerial application of pesticides, herbicides and fertilizers occur in farming operations. Should you be concern about spraying, you may contact either the Yolo or Solano County Agricultural Commissioners.

The City of Davis' Right to Farm Ordinance does not exempt farmers, agricultural processors or others from compliance with law. Should a farmer, agricultural processor or other person not comply with appropriate state, federal or local laws, legal recourse is possible by, among other ways, contacting the appropriate agency.

In addition, the City of Davis has established a grievance procedure to assist in the resolution of disputes which arise between the residents of the City regarding agricultural operations. This notification is given in compliance with Davis City code section 40A.01.040. By initialing below, you are acknowledging receipt of this notification.

Transferor's Initials

Transferee's Initials

- (c) The failure to include the foregoing notice shall not invalidate any grant, conveyance, lease or encumbrance.
- (d) The notice required by this section 40A.01.040 shall be included in every agreement for transfer entered into after the effective date of this chapter, including property subject to the deed restriction cited in section 40A.01.030. (Ord. No. 1823 § 1 (part).)

40A.01.050 Agricultural buffer requirement.

- (a) In addition to the right to farm deed restriction and notice requirement, the city has determined that the use of property for agricultural operation is a high priority. To minimize future potential conflicts between agricultural and nonagricultural land uses and to protect the public health, all

new developments adjacent to designated agricultural, agricultural reserve, agricultural open space, greenbelt/agricultural buffer, Davis greenbelt or environmentally sensitive habitat areas according to the land use and open space element maps shall be required to provide an agricultural buffer/agricultural transition area. In addition, development limits or restricts opportunities to view farmlands. Public access to a portion of the agricultural buffer will permit public views of farmland. Use of nonpolluting transportation methods (i.e., bikes), and use of the land to fulfill multiple policies including, but not limited to, agricultural mitigation and alternative transportation measures meets the policy objectives of the Davis general plan. The agricultural buffer/agricultural transition area shall be a minimum of one hundred fifty feet measured from the edge of the agricultural, greenbelt or habitat area. Optimally, to achieve a maximum separation and to comply with the five hundred foot aerial spray setback established by the counties of Yolo and Solano, a buffer wider than one hundred fifty feet is encouraged.

- (b) The minimum one hundred fifty foot agricultural buffer/agricultural transition area shall be comprised of two components: a fifty foot wide agricultural transition area located contiguous to a one hundred foot wide agricultural buffer located contiguous to the agricultural, greenbelt, or habitat area. The one hundred fifty foot agricultural buffer/transition area shall not qualify as farmland mitigation pursuant to article III of this chapter.
- (c) The following uses shall be permitted in the one hundred foot agricultural buffer: native plants, tree or hedge rows, drainage channels, storm retention ponds, natural areas such as creeks or drainage swales, railroad tracks or other utility corridors and any other use, including agricultural uses, determined by the planning commission to be consistent with the use of the property as an agricultural buffer. There shall be no public access to the one hundred foot agricultural buffer unless otherwise permitted due to the nature of the area (e.g., railroad tracks). The one hundred foot agricultural buffer shall be developed by the developer pursuant

to a plan approved by the parks and community services director or his/her designee. The plan shall include provision for the establishment, management and maintenance of the area. The plan shall include the use of integrated pest management techniques. An easement in favor of the city shall be recorded against the property which shall include the requirements of this article or, at the developer's discretion, the property shall be dedicated to the city in fee title.

- (d) The following uses shall be permitted in the fifty foot agricultural transition area: bike paths, native plants, tree and hedge rows, benches, lights, trash enclosures, fencing and any other use determined by the planning commission to be of the same general character as the foregoing enumerated uses. There shall be public access to the fifty foot agricultural transition area. The fifty foot agricultural transition area shall be developed by the developer pursuant to a plan approved by the parks and community services director or his/her designee. Once the area is improved and approved by the parks and community services, the land shall be dedicated to the city and annexed to a lighting and landscaping assessment district to pay for the maintenance of the area. The city shall maintain the agricultural transition area once the land is improved, dedicated and annexed. (Ord. No. 1823 § 1 (part).)

40A.02.010 Properly operated farm not a nuisance.

- (a) Agricultural operations shall not be considered a nuisance under this chapter unless such operations are deemed to be a nuisance under California Civil Code sections 3482.5 and 3482.6. Agricultural and agricultural processing operations shall comply with all state, federal and local laws and regulations applicable to the operations.
- (b) Notwithstanding any other provisions of this chapter, no action shall be maintained under this chapter alleging that an agricultural or agricultural processing operation has interfered with private property or personal well-being or is otherwise considered a nuisance unless the plaintiff



has sought to obtain a decision pursuant to the agricultural grievance procedure provided in section 40A.02.020 (Resolution of disputes) or a decision has been sought but no decision is rendered within the time limits provided in said section. This subsection shall not prevent any party or person from proceeding or bringing a legal action under the provisions of other applicable laws without first resorting to this grievance procedure. (Ord. No. 1823 § 1 (part).)

40A.02.020 Resolution of disputes.

- (a) The city shall establish a grievance procedure to settle any disputes or any controversy that should arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation of the parties involved. Either party shall submit the controversy to a hearing officer as set forth below or to community mediation services, if agreed to by the parties, in an attempt to resolve the matter prior to the filing of any court action.
- (b) Any controversy between the parties shall be submitted to the hearing officer within ninety days of the later of the date of the occurrence of the particular activity giving rise to the controversy or the date a party became aware of the occurrence.
- (c) The effectiveness of the hearing officer for resolution of the disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy and are encouraged to seek a written statement from the agriculture commissioner as to whether the activity under dispute is consistent with adopted laws and regulations and accepted customs and standards.
- (d) The controversy shall be presented to the hearing officer by written request of one of the parties within the time limit specified. Thereafter the hearing officer may investigate the facts of

the controversy but must, within twenty-five days, hold a meeting to consider the merits of the matter and within five days of the meeting render a written decision to the parties. At the time of the meeting both parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the hearing officer for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the hearing officer may be extended upon the written stipulation of all parties in a dispute.

- (e) Any reasonable costs associated with the functioning of the hearing officer process shall be borne by the participants. The city council may, by resolution, prescribe fees to recover those costs. (Ord. No. 1823 § 1 (part).)

#### 40A.03.010 Purpose and findings.

- (a) The purpose of this chapter and this article is to implement the agricultural land conservation policies contained in the Davis general plan with a program designed to permanently protect agricultural land located within the Davis planning area for agricultural uses.
- (b) The city council finds this chapter and this article are necessary for the following reasons: California is losing farmland at a rapid rate; Yolo and Solano County farmland is of exceptional productive quality; loss of agricultural land is consistently a significant impact under CEQA in development projects; the Davis general plan has policies to preserve farmland; the city is surrounded by farmland; the Yolo and Solano County general plans clearly include policies to preserve farmland; the continuation of agricultural operations preserves the landscape and environmental resources; loss of farmland to development is irreparable and agriculture is an important component of the city's economy; and losing agricultural land will have a cumulatively negative impact on the economy of the city and the counties of Yolo and Solano.

- (c) It is the policy of the city to work cooperatively with Yolo and Solano counties to preserve agricultural land within the Davis planning area beyond that deemed necessary for development. It is further the policy of the city to protect and conserve agricultural land, especially in areas presently farm or having Class 1, 2 3 or 4 soils.
- (d) The city council finds that some urban uses when contiguous to farmland can affect how an agricultural use can be operated which can lead to the conversion of agricultural land to urban use.
- (e) The city council further finds that by requiring conservation easements for land being converted from an agricultural use and by requiring a one hundred fifty foot buffer, the city shall be helping to ensure prime farmland remains an agricultural use. (Ord. No. 1823 § 1 (part).)

#### 40A.03.020 Definitions.

- (a) Advisory committee.

The city of Davis planning commission shall serve as the advisory committee.

- (b) Agricultural land or farmland.

Those land areas of the county and/or city specifically classes and zoned as Agricultural Preserve (A-P), Agricultural Exclusive (A-E), or Agricultural General (A-I), as those zones are defined in the Yolo County zoning ordinance; those land areas classed and zoned Exclusive Agriculture (A-40), as defined in the Solano County zoning ordinance; and those land areas of the city of Davis specifically classed and zoned as Agricultural (A), Agricultural Planned Development or Urban Reserve where the soil of the land contains Class 1, 2, 3 or 4 soils, as defined by the Soil Conservation Service.

- (c) Agricultural mitigation land.

Agricultural land encumbered by a farmland deed restriction, a farmland conservation easement or such other farmland conservation mechanism acceptable to the city.

- (d) Farmland conservation easement.

The granting of an easement over agricultural land for the purpose of restricting its use to agricultural land. The interest granted pursuant to a farmland conservation easement is an interest in land which is less than fee simple.

(e) Farmland deed restriction.

The creation of a deed restriction, covenant or condition which precludes the use of the agricultural land subject to the restriction for any nonagricultural purposes, use, operation or activity. The deed restriction shall provide that the land subject to the restriction will permanently remain agricultural land.

(f) Qualifying entity.

A nonprofit public benefit 501(c)(3) corporation operating in Yolo County or Solano County for the purpose of conserving and protect land in its natural, rural or agricultural condition. The following entities are qualifying entities: Yolo Land Conservation Trust and Solano Farm and Open Space Trust. Other entities may be approved by the city council from time to time. (Ord. No. 1823 § 1 (part).)

#### 40A.03.030 Agricultural land mitigation requirements

(a) Beginning on November 1, 1995, the city shall require agricultural mitigation by applicants for zoning changes or any other discretionary entitlement which will change the use of agricultural land to any nonagricultural zone or use.

(b) Agricultural mitigation shall be satisfied by:

- (1) Granting a farmland conservation easement, a farmland deed restriction or other farmland conservation mechanism to or for the benefit of the city and/or a qualifying entity approved by the city. Mitigation shall only be required for that portion of the land which no longer will be designated agricultural land, including any portion of the land used for park and

recreation purposes. One time as many acres of agricultural land shall be protected as was changed to a nonagricultural use in order to mitigate the loss of agricultural land; or

(2) In lieu of conserving land as provided above, agricultural mitigation may be satisfied by the payment of a fee based upon a one to one replacement for a farmland conservation easement or farmland deed restriction established by the city council by resolution or through an enforceable agreement with the developer. The in lieu fee option must be approved by the city council. The fee shall be equal to or greater than the value of a previous farmland conservation transaction in the planning area plus the estimated cost of legal, appraisal and other costs, including staff time, to acquire property for agricultural mitigation. The in lieu fee, paid to the city, shall be used for farmland mitigation purposes, with priority given to lands with prime agricultural soils and habitat value.

(c) The land included within the one hundred foot agricultural buffer required by section 40A.01.050(c) shall not be included in the calculation for the purposes of determining the amount of land that is required for mitigation.

(d) It is the intent of this program to work in a coordinated fashion with the habitat conservation objectives of the Yolo County habitat management program, and, therefore, farmland conservation easement areas may overlap partially or completely with habitat easement areas approved by the State Department of Fish and Game and/or the Yolo County habitat management program. Up to twenty percent of the farmland conservation easement area may be enhanced for wildlife habitat purposes as per the requirements of the State Department of Fish and Game and/or Yolo County habitat management program; appropriate maintenance, processing or other fees may be required by the habitat program in addition to the requirements set forth herein. (Ord. No. 1823 § 1 (part).)

40A.03.040 Comparable soils and water supply.

- (a) The agricultural mitigation land shall be comparable in soil quality with the agricultural land whose use is being changed to nonagricultural use.
- (b) The agricultural mitigation land shall have adequate water supply to support the historic agricultural use on the land to be converted to nonagricultural use and the water supply on the agricultural mitigation land shall be protected in the farmland conservation easement, the farmland deed restriction or other document evidencing the agricultural mitigation. (Ord. No. 1823 § 1 (part).)

40A.03.050 Eligible lands.

- (a) The agricultural mitigation land shall be located within the Davis planning area as shown in the Davis general plan. The criteria for preferred locations or zones for agricultural mitigation land shall be determined by the Davis city council after receiving input from the advisory committee, Yolo and Solano counties, Woodland, Dixon, the Davis open space committee, the natural resources commission and Yolo and Solano farm bureaus. In making their determination, the following factors shall be considered:
  - (1) The zoned shall be compatible with the Davis general plan and the general plans of Yolo and Solano counties.
  - (2) The zones shall include agricultural land similar to the acreage, soil capability and water use sought to be changed to nonagricultural use.
  - (3) The zones shall include comparable soil types to that most likely to be lost due to proposed development.
  - (4) The property is not subject to any easements or physical conditions that would legally or practicably preclude modification of the property's land use to a nonagricultural use.

- (b) The advisory committee shall recommend to the city council acceptance of agricultural mitigation land of twenty acres or more by a qualifying entity and/or the city, except that it may consider accepting smaller parcels if the entire mitigation required for a project is less, or when the agricultural mitigation land is adjacent to larger parcels of agricultural mitigation land already protected. Contiguous parcels shall be preferred.
- (c) Land previously encumbered by a conservation easement of any nature or kind is not eligible to qualify as agricultural mitigation land, unless the conservation easement meets the requirements of section 40A.03.030. (Ord. No. 1823 § 1 (part).)

40A.03.060 Requirements of instruments; duration.

- (a) To qualify as an instrument encumbering agricultural mitigation land, all owners of the agricultural mitigation land shall execute the instrument.
- (b) The instrument shall be in recordable form and contain an accurate legal description setting forth the description of the agricultural mitigation land.
- (c) The instrument shall prohibit any activity which substantially impairs or diminishes the agricultural productivity of the land, as determined by the advisory committee.
- (d) The instrument shall protect the existing water rights and retain them with the agricultural mitigation land.
- (e) The applicant shall pay an agricultural mitigation fee equal to cover the costs of administering, monitoring and enforcing the instrument in an amount determined by city council.
- (f) The city shall be named a beneficiary under any instrument conveying the interest in the agricultural mitigation land to a qualifying entity.

- (g) Interests in agricultural mitigation land shall be held in trust by a qualifying entity and/or the city in perpetuity. Except as provided in subsection (h) of this section, the qualifying entity or the city shall not sell, lease, or convey any interest in agricultural mitigation land which it shall acquire.
- (h) If judicial proceedings find that the public interest described in section 40A.03.010 of this chapter can no longer reasonably be fulfilled as to an interest acquired, the interest in the agricultural mitigation land may be extinguished through sale and the proceeds shall be used to acquire interests in other agricultural mitigation land in Yolo and Solano counties, as approved by the city and provided in this chapter.
- (i) If any qualifying entity owning an interest in agricultural mitigation land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall pass to the city. (Ord. No. 1823 § 1 (part).)

40A.03.070 City of Davis farmland conservation program advisory committee.

- (a) The Davis planning commission shall serve as the Davis farmland conservation advisory committee.
- (b) It shall be the duty and responsibility of the planning commission to exercise the following powers:
  - (1) To adopt rules of procedure and bylaws governing the operation of the advisory committee and the conduct of its meetings;
  - (2) To recommend the areas where mitigation zones would be preferred in the Davis planning area:
  - (3) To promote conservation of agricultural land in Yolo and Solano counties by offering information and assistance to landowners and others;
  - (4) To recommend tentative approval of mitigation proposals to city council;



- (5) To certify that the agricultural mitigation land meets the requirements of this chapter;
- (6) Any denial from the advisory committee may be appealed to city council.
- (c) The natural resources commission shall monitor all lands and easements acquired under this chapter and shall review and monitor the implementation of all management and maintenance plans for these lands and easement areas. The natural resources commission shall provide advice to the planning commission on the establishment of criteria for the location of agricultural mitigation lands.
- (d) All action of the planning commission and the natural resources commission shall be subject to the approval of the Davis city council. (Ord. No. 1823 § 1 (part).)

#### 40A.03.080 Annual Report.

Annually, beginning one year after the adoption of this chapter, the city planning director shall provide to the advisory committee and annual report delineating the activities undertaken pursuant to the requirements of this chapter and an assessment of these activities. The report shall list and report on the status of all lands and easements acquired under this chapter. The planning director shall also report to the natural resources commission. (Ord. No. 1823 § 1 (part).)

#### 40A.04.010 Violation.

Any person or entity who violates any provision of this chapter shall be deemed guilty of an infraction and, upon conviction thereof, shall be punished by a fine not exceeding the maximum prescribed by law. In addition, any person or entity who violated any provision of article 1 of this chapter shall be liable to the transferee of the property for actual damages. In an action to enforce such liability or fine, the prevailing party shall be awarded reasonable attorneys' fees. (Ord. No. 1823 § 1 (part).)

40A.05.010 Precedence.

This chapter shall take precedence over all ordinances or resolutions or parts of resolutions in conflict herewith. (Ord. No. 1823 § 1 (part).)