

FINAL DRAFT

Recommendations on Reforming  
Agricultural Land Use Policies in  
Contra Costa County  
To Improve Both Economic Vitality and  
Sustainability

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## I. Summary

The Department of Conservation and Development (DCD) was previously authorized by the Board to review existing land use regulations related to agriculture and to identify for future Board consideration specific actions the County could take to further promote and incentivize agricultural sustainability and economic vitality. Over the past 18 months, DCD has convened a series of public meetings with people and parties interested in agricultural sustainability and economic vitality in Contra Costa County to review existing land use regulations and provide input on potential modifications to these policies.

After conducting the public meetings, a number of ideas were shared, including concerns regarding the preservation of agricultural lands. This document is intended to reflect the general consensus of participants in the process. Dissenting opinions on recommendations are included with each recommendation.

Lodging accommodations include short-term rentals for 90 days or less, farm stays for up to 90 days, bed-and-breakfast, and camping/yurts/little houses on wheels. Short-term rentals and farm stays would require being located within an existing building. Bed-and-breakfast could be located within an existing, new, or modified building. These recommended uses may require a zoning permit such as a ministerial permit or a land use permit, in addition to other permits required by other agencies.

Participants of the public meetings also recommend food service uses such as farm dinners, farm-to-table restaurants, updating the Winery Ordinance, and allowing hosting of large events. These recommended uses may require a zoning permit such as a ministerial permit or a land use permit, in addition to other permits required by other agencies.

Policy reforms have also been a topic of discussion. Policy reforms include mitigation for conversion of agricultural land, new efforts to address rural blight and illegal dumping, examine opportunities to reduce impacts of rural development on agriculture, new efforts to facilitate communication between the farming community and regulatory agencies, improving permitting for agricultural uses, and considering a Noise Ordinance.

Recommendations to promote agriculture in Contra Costa County include equestrian and bike trails to connect farms, consider allowing equestrian facilities within the A-40 District, explore additional funding for signage to promote agriculture in the County and to update the County's Sign Ordinance, and to work with other agencies to promote agricultural vitality in the County.



## II. Vision and Goals to Guide Review of Agricultural Land Use Policy in Contra Costa County

### Setting:

Contra Costa County's rich soils, micro-climate, and reliable water supplies have allowed generations of farmers to produce a variety of outstanding crops. Contra Costa farmers have grown a wide variety of food for the Bay Area and beyond since the Gold Rush; from vast winter wheat fields in the 1880's to sweet corn, stone fruits, vegetables, olives, wine grapes and beef today. Before the prohibition, Contra Costa County was home to over fifty wineries, including the largest winery in the world for 12 years (1907-1919), Winehaven, in Richmond. East Contra Costa has a long history of agricultural tourism, including U-pick operations going back to the 1970s. Over 100,000 people travel to Brentwood to pick cherries over Memorial Day weekend, annually. The unique combination of world class growing conditions, proud farming tradition and location within a major metropolitan area make agriculture one of Contra Costa County's most important assets.

Agricultural lands composed primarily of highly fertile Class I or II soils support a wide variety of crops and many are irrigated and intensively farmed to produce food, fiber, and plant materials. The majority of East Contra Costa's agricultural lands with Class I or II soils are located east of Brentwood in the County's Agricultural Core, a General Plan Land Use Designation intended to protect and promote agriculture on these high quality lands. The County's remaining intensively cultivated agricultural lands are primarily concentrated there, in the Sacramento-San Joaquin Delta and in the surrounding plain of Eastern Contra Costa County.

Agriculture thrives in other areas of the County as well. The Tassajara Valley area supports thousands of acres of rangeland. That area is at a crossroad; historic farming and ranching activities are merging with rural residential development, habitat conservation, public lands, and various other activities. Briones, Morgan Territory, and Las Trampas areas are also facing similar land use transitions and challenges.

### Contra Costa County's History of Land Use Regulations:

In 1978, the Board of Supervisors adopted the East County Area General Plan, which included the new Agricultural Core (Ag Core) land use designation. The adopted policies were intended to preserve and protect East County's prime agricultural soils. In 1990, County voters approved Measure C, establishing the 65/35 Land Preservation Plan and Urban Limit Line (ULL) requiring at least 65 percent of all land in the county be preserved for "non-urban" uses such as agriculture, open space, wetlands, and parks. Measure C also required a 40-acre minimum parcel size for prime agricultural lands. In

2006, voters approved Measure L, which extended the term of the ULL through 2026 and placed limitations on changes to the boundary. The required 2016 review of the ULL determined capacity existed inside the ULL to accommodate jobs and housing growth through 2036.

Policies have also been adopted to protect and encourage the economic viability of agricultural land. For example, the County has adopted Farmstand, Farm-Market, and Right to Farm Ordinances to protect existing uses and allow some new ones. Further, the County commissioned a report entitled Agricultural Infrastructure Report and Key Findings from agricultural economist Lon Hatamiya in 2015. That report identified economic opportunities such as demand for locally grown, source-identified, health, and sustainably-produced food, demand for organic products, potential to expand value-added food processing, manufacturing, co-processing, and co-packing across the County, and expanded agricultural tourism in Contra Costa County.

**Vision and Goals for the Future of Agriculture in Contra Costa County:**

A thriving agricultural sector, including sustainable agricultural lands and a vibrant and diverse agricultural economy, should remain a high priority for the County in setting land use policy.

The following are primary goals for the future of agriculture in Contra Costa County:

- Build on the unique assets of Contra Costa County to make agriculture more vibrant and sustainable. These assets include rich soils, a unique and varied climate, high-quality rangeland, reliable water supply, proximity to a major metropolitan area, natural beauty and the recognized expertise of County farmers and ranchers.
- Enable production of a diverse array of high-quality crops and agricultural products. The diversified production will make the agricultural sector more adaptable and resilient to changes in market conditions.
- Provide farmers greater opportunity to capitalize on the beauty, quality, diversity and accessibility of farmland in the County. Agricultural tourism and direct marketing opportunities should be supported and expanded.
- Protect the natural resources necessary for a thriving agricultural economy, beneficial to the quality of life for residents in the agricultural areas, important for climate resilience and ecological health and representing an important piece of the natural heritage of future generations (e.g. soil, water and water quality, air quality, biotic resources).
- Adapt regulation to meet the unique needs of the agricultural community, including making County permitting as efficient and flexible as possible (while

maintaining effective regulatory protections), communicating clearly and often with the agricultural constituency and ensuring that enforcement is effective.

- Improve the sustainability of agricultural communities, by retaining and enhancing the attractive, rural, natural, agricultural character of these areas and by discouraging non-conforming uses that blight the community, while also reflecting that farmers have a right to farm. The beauty of agricultural and natural open space is a County resource with value for the economy, health, and well-being of farming communities, commuters, and surrounding urban areas.
- Recognize that finite resources (water, transportation, space, firefighting/fire resiliency) require a balanced approach to rural development.
- Support opportunities for urban agriculture, where appropriate.

### III. Background Information

In 2016, the Board of Supervisors directed and authorized the Department of Conservation and Development (DCD) to review existing land use regulations in consultation with the Contra Costa County Agriculture Advisory Task Force and local agricultural stakeholders. Then in 2018, DCD presented an update to the Board of Supervisors of the progress reviewing agricultural land use policies. The Board of Supervisors authorized DCD to convene a series of public meetings with people and parties interested in agricultural sustainability and economic vitality in Contra Costa County, in lieu of coordinating with the Contra Costa County Agriculture Advisory Task Force (currently dormant).

During the past 18 months, DCD conducted 12 meetings. The first public meeting was held in June 2018 at the Knightsen Farm Bureau Hall followed by meetings held at the office of DCD in Martinez, and Hap Magee in Danville. After these three County area meetings, the remaining meetings were held at the Knightsen Farm Bureau Hall, with the final meeting held in September 2019.

The stakeholder group and County staff discussed the concerns and issues of agricultural farming and preservation. The group was provided with a map of the current County General Plan designations, zoning, Agricultural Core, and conserved agricultural lands that provided perspective of what the current agriculture is like within the County. A table of existing agriculturally zoned uses in the County was also presented to the group. Staff researched agricultural uses and the role of an agricultural ombudsperson in other counties and created a table comparing other counties regarding these two topics.

- a. Board Direction
- b. Overview of Public Process Conducted to Explore Issues and Generate Recommendations
- c. Key maps (General Plan, Zoning, Ag Core, Conserved agricultural lands, etc.)
- d. Table of Existing Agriculturally Zoned Uses in Contra Costa County
- e. Table Comparing Agricultural Uses in Other Counties
- f. Table Comparing Role of Agricultural Ombudsperson in Other Counties

## IV. Recommendations

### Recommendations of Proposed New Agricultural Uses and New Agricultural Land Use Policy Initiatives

#### A. LODGING

Enabling farmers and ranchers to provide guest accommodations at a scale and in a manner that is consistent with and enhances the rural setting, as set forth more fully in the mechanisms described below, will capitalize on the beauty and agricultural/natural resources of the setting, reinforce local support for maintaining those assets, increase transient occupancy tax revenues and add a new dimension to the agricultural tourism opportunities afforded in the County.

##### 1. Short-term rental within existing residential building for 90 days or less.

**Summary:** This proposed use would allow short-term rentals by one party at a time within an existing residential building for less than 90 cumulative days per year on any agriculturally-zoned land.

**Zoning permit required:** Ministerial short-term rental permit. Neighbors are notified, but no public hearing required.



**Potential key conditions:** Maximum party size is two per bedroom plus two. Owner/manager not required to be present. Permit would be subject to various standards and performance measures and non-compliance could lead to suspension and revocation of the permit and potential imposition of other code enforcement tools (e.g. fines). Conditions should reflect constraints of rural communities and prevent strain on roads and law enforcement from inappropriate parties and similar incompatible uses.

**Notes:** Proposed to be consistent with Draft Regulatory Framework for Short-term Rentals considered by the Board on 9-25-18 for rentals in residential areas.

#### Building Code Notes

- This recommendation pertains to existing residential buildings (not agricultural buildings, such as barns). With no construction and no change in use, no

#### Health Code Notes

- If a residence changes its use, a review of the method of sewage disposal will be required from Environmental Health (EH)

#### Public Works Notes

- Analysis of applicable fees and requirements is pending.

building permits are anticipated.

- Small Water System permit from EH may be required
- If there are 25 or more visitors in a 60-day period, approval from California Water Resources Control Board may be required, prior to EH issuing permit.

**2. Farm Stay (farm experience, lodging and meals for up to five parties at a time in an existing residential building, for up to 90 cumulative days per year).**



**Summary:** This proposed use is intended to allow guests to have an authentic farm experience that includes accommodation, meals and observing and/or participating in farming activities for up to five parties at time. Must be in an existing residential building. Facility may be occupied by guests not more than 90 days per year.

**Zoning permit required:** Ministerial short-term farm-stay permit. Neighbors are notified, but no public hearing required.

**Potential key conditions:** Maximum occupancy is 2 persons per bedroom, not including owner-occupied rooms. Maximum number of parties at a time is five, maximum number of guest rooms is five and total maximum number of guests is 10. Food may only be served to staying guests and the cost of the food must be included in the price of the accommodation. Lodging and meals are incidental and not the primary function of the agricultural homestay facility. A minimum parcel size is recommended (perhaps ten acres), as is verifiable, active farming of five acres of land (or 25 acres of active ranching) for every guest room (e.g. use of two guest rooms would require 10 acres of verifiable active farming or 50 acres of active ranching). Owner would be required to live on site. Permit would be subject to various standards and performance measures and non-compliance

could lead to suspension and revocation of the permit and potential imposition of other code enforcement tools (e.g. fines).

**Notes:** Proposed to meet or be exceed standards for an agricultural homestay facility in Section 113893(a)(2) of the Health and Safety Code.

<u>Building Code Notes</u>	<u>Health Code Notes</u>	<u>Public Works Notes</u>
<ul style="list-style-type: none"><li>▪ This recommendation pertains to existing residential buildings (not agricultural buildings, such as barns). With owner occupancy required and accommodation limited to 10, use of an existing residential building would not amount to a change in use under the Building Code (remains R-3) and ADU requirements applicable to uses such as hotels and motels would not apply.</li><li>▪ If no construction were to occur, no building permits would be required.</li></ul>	<ul style="list-style-type: none"><li>▪ If a residence changes its use, a review of the method of sewage disposal will be required from Environmental Health (EH).</li><li>▪ A small water system permit from EH may be required.</li><li>▪ If there are 25 or more visitors in a 60-day period, approval from California Water Resources Control Board may be required, prior to EH issuing permit.</li><li>▪ A health permit from EH may be required for Bed and Breakfast and Agricultural Homestays (not a restaurant).</li><li>▪ Health &amp; Safety Code requirements will apply when food and beverages are served to guests.</li></ul>	<ul style="list-style-type: none"><li>▪ Analysis of applicable fees and requirements is pending.</li></ul>

### 3. Bed and Breakfast (short-term stays in an existing, new or modified building)



**Summary:** This proposed use is intended to allow an option for a dedicated, short term agricultural lodging facility that reflects and enhances agricultural character of the site and its surroundings. No limit is proposed on the number of days per year it could be occupied by guests, but stays of individual guests would be limited to 30 days.

**Zoning permit required:** Land use permit (discretionary; public hearing required).

**Potential key conditions:** Maximum guest rooms is five, not including any owner-occupied rooms. Maximum number of parties at a time is five, and total maximum number of guests is 10. No kitchens or kitchenettes in guest rooms. Food may only be served to overnight guests. A minimum parcel size is recommended (see discussion below). Also recommended is verifiable, active farming. Owner or manager would be required to be present. There should be a one-quarter mile separation between bed and breakfast establishments. Permit would be subject to various standards and performance measures and non-compliance could lead to suspension and revocation of the permit and potential imposition of other code enforcement tools (e.g. fines).

Bed and Breakfasts are proposed to be limited to areas served by a retail water supplier in order to provide assurances that water supply is secure and water use won't harm neighbors or environment. A retail water supplier means a public agency, city, county, or investor-owned water utility regulated by the state Public Utilities Commission, that provides retail water service. A retail water supplier does not include a mutual water company. Retail water supply need not necessarily be used for potable water on-site.

**Minimum parcel size and mitigation:** The group discussed minimum parcel size but couldn't reach consensus on this topic. Minimums discussed ranged from 10 to 40 acres. Factors considered included impacts to neighbors, maintaining farm integrity, stress on ground water and septic from increased use, right to farm and pesticide drift as well as the existing number of relatively small agricultural parcels. The group also discussed the need to have an exception process to allow smaller parcels to qualify for the use. Below please find a table summarizing some tools that could be used to enable smaller parcels to qualify.

Tools to Supplement Minimum Parcel Size (Intended as a menu of options that could be used in combination. Some are mutually exclusive.)	Example Requirement for a Smaller Parcel (< min parcel size)	Example Requirement for a Larger Parcel ( $\geq$ min parcel size)
Restrictions on footprint of new use, incl. parking	5% of lot area	5% of lot area
Portion of property required to be kept free of structures and in farming	90% of lot area	70% of lot area
Siting requirements and buffers / setbacks of new use to neighboring properties	Minimize impacts to farmland while also setting back 100 feet from property line (hedges could reduce via findings)	Minimize impacts to farmland while also setting back 100 feet from property line (hedges could reduce via findings)
Farming assurances: Grant deed of development rights to ensure farming on subject property and possibly adjacent properties	90% of subject property and enough acres on adjacent such that the total restricted area is at least half the min parcel size	None
Mitigation (with fees or in-kind)	Mitigation at 1:1 ratio required only for exceedance of footprint maximums or deficit in meeting minimum farming acreage.	Mitigation at 1:1 ratio required only for exceedance of footprint maximum or deficit in meeting minimum farming acreage

<u>Building Code Notes</u>	<u>Health Code Notes</u>	<u>Public Works Notes</u>
<ul style="list-style-type: none"> <li>▪ Bed and breakfast considered as R-1 (hotel/motel) occupancy. Building code requires Americans with Disabilities Act (ADA), even if an existing building is being repurposed.</li> <li>▪ If the B&amp;B building is also the primary residence for the owner, the B&amp;B may still qualify as an R-3 use and the ADA provisions applicable to R-1 may not apply (since guest rooms and occupancy are limited to 5 and 10, respectively).</li> </ul>	<ul style="list-style-type: none"> <li>▪ If a residence changes its use, a review of the method of sewage disposal will be required from Environmental Health (EH).</li> <li>▪ A Small Water System permit from EH may be required.</li> <li>▪ If there are 25 or more visitors in a 60-day period, approval from California Water Resources Control Board may be required, prior to EH issuing permit.</li> <li>▪ A health permit from EH may be required for Bed and Breakfast or Agricultural Homestays. This type of facility is not considered a restaurant.</li> <li>▪ Outdoor events where the general public are sold or given food or beverages, an EH Temporary Food Facility permit will be required.</li> <li>▪ Health &amp; Safety Code requirements will apply when food and beverages are served to guests or the general public.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Area of Benefit (AOB) fee may be required.</li> <li>▪ Pavement of first 50 feet of driveway may be required.</li> <li>▪ May require compliance with stormwater regulations, which requires new development projects incorporate features that control stormwater runoff to reduce the quantity of pollutants introduced into the storm drain system and our waterways and with drainage requirements.</li> </ul>

#### 4. Camping / Yurts / Little Houses on Wheels

**Summary:** This is an alternative form of short term accommodation that is intended to offer guests a different, more outdoors experience while minimizing permanent land disturbance. This proposal is for structures that are owned by the property owner or lessee of the land and not brought to the property by guests (self-service camping is not proposed to be allowed except for limited special events associated with other uses).

**Zoning permit required:** Land use permit (discretionary; public hearing required).

**Potential key conditions:** Maximum number of guest units is five. Maximum number of parties at a time is five, and total maximum number of guests is 10. No kitchens or kitchenettes in guest units. Food may only be served to overnight guests. A minimum parcel size is recommended (see discussion below). Owner or manager would be required to be present. Farm experience requirements of Farmstay (recommendation 2) also recommended. Permit would be subject to various standards and performance measures and non-compliance could lead to suspension and revocation of the permit and potential imposition of other code enforcement tools (e.g. fines).

**Minimum parcel size:** There should be a minimum. No consensus has been reached on what that should be. See discussion under recommendation 3 regarding ideas for alternative methods for qualifying smaller parcels for exceptions to minimum parcel size.



### Building Code Notes

- Yurts are subject to building code and when offered for short terms stays will be considered as R2 (multi-family) occupancy. Building code requires Americans with Disabilities Act (ADA).
- Very challenging to design a yurt that can accommodate electricity and plumbing and comply with Building Code (cooking facilities almost certainly not possible).
- Little house on wheels would need a permit from the California Department of Motor Vehicles and would need be maintained in a state where it is movable (in which case the Building Code would not apply to vehicle). Building Code would apply to external features. ADA compliance needs more analysis.
- Separate standards apply for organized camps.

### Health Code Notes

- If a residence changes its use, a review of the method of sewage disposal will be required from Environmental Health (EH).
- A Small Water System permit from EH may be required.
- If there are 25 or more visitors in a 60-day period, approval from California Water Resources Control Board may be required, prior to EH issuing permit.
- An Organized Camp health permit from EH will be required, if children under 18 are camping overnight for 4 or more consecutive nights. A health permit from EH may be required for Bed and Breakfast or Agricultural Homestays. This type of facility is not considered a restaurant. Outdoor events where the general public are sold or given food/beverages, an EH Temporary Food Facility permit may be required.
- A health permit from Environmental Health will be required for Bed and Breakfast or Agricultural Homestays. This type of facility is not considered a restaurant.
- Outdoor events where the general public are sold or given food/beverages, an EH Temporary Food Facility permit will be required.

### Public Works Notes

- Area of Benefit (AOB) fee may be required.
- Pavement of first 50 feet of driveway may be required.
- May require compliance with stormwater regulations, which requires new development projects incorporate features that control stormwater runoff to reduce the quantity of pollutants introduced into the storm drain system and our waterways and with drainage requirements.

- Health & Safety Code requirements will apply when food and beverages are served to guests or the general public.

## B. FOOD SERVICE

Enabling farmers to showcase farm products grown on-site or within the County and to offer a farm experience (i.e., culinary education), while maintaining the agricultural landscape provides an additional source of farm revenue and highlights the value of agriculture in the County.

### 5. Farm Dinners

**Summary:** This proposal would enable farmers to host up to twelve dinners at their farm per year for paying guests. Dinners could be located within an existing building that meets building code and fire standards appropriate for the proposed number of guests. Dinners could also be outdoors, on the farm or on a patio or deck. No new buildings allowed for this use; repurposing existing buildings in compliance with all applicable codes is possible. Farm dinners provide a farm experience by educating guests about the farm and the ingredients used from the farm.



**Zoning permit required:** Ministerial farm dinner permit. No public hearings.

**Potential key conditions:** Maximum number of dinners per year is 12, with one large event permitted per year. Maximum number of guests per dinner is 30, except for the

one large annual event that would have a limit of 150 guests. Permit would be subject to various standards and performance measures (e.g. time of day, duration, parking, etc.) and non-compliance could lead to suspension and revocation of the permit and potential imposition of other code enforcement tools (e.g. fines).

<u>Building Code Notes</u>	<u>Health (EH) Code Notes</u>	<u>Public Works Notes</u>
<ul style="list-style-type: none"><li>▪ Applicable use category is B occupancy (Business). ADA compliance is required, even if dinner is outside. Any retrofitted buildings would need to meet the standards of B occupancy.</li></ul>	<ul style="list-style-type: none"><li>▪ If a residence changes its use, a review of the method of sewage disposal will be required from Environmental Health (EH).</li><li>▪ A Small Water System permit from EH may be required.</li><li>▪ If there are 25 or more visitors in a 60-day period, approval from California Water Resources Control Board may be required, prior to EH issuing permit.</li><li>▪ A health permit from Environmental Health may be required for a Temporary Food Facility. Approval from EH will only be permitted for outdoor events, where the food is prepared within an approved enclosed booth and involves agricultural educational components.</li><li>▪ For Culinary Experiences, where food is prepared and consumed by the guest and not sold or shared, a health permit from EH may not be required.</li></ul>	<ul style="list-style-type: none"><li>▪ Analysis of applicable fees and requirements is pending.</li></ul>

## 6. Farm-to-Table Restaurant

**Summary:** A farm-to-table restaurant is a full service restaurant located on a working farm. The ingredients are sourced as locally as possible (grown on-farm whenever possible) and are served fresh from the farm to the table. The farm-to-table concept encourages eating as locally as possible, taking advantage of seasonally available fruits and vegetables and increasing awareness and appreciation of where our food comes from and what goes into growing it.

### **Zoning permit required:**

Land use permit (discretionary; public hearing required).

## Potential key conditions:

Maximum dining area size is proposed to be 1500 square feet or a maximum capacity of 35 guests. A minimum parcel size is recommended (see discussion below). Also recommended is verifiable, active farming of one acre of

land for every guest (e.g. hosting 35 guests at a time would require 35 acres of verifiable active farming, on-site whenever possible). A farm-to-table restaurant would need to maximize use of ingredients grown on farm and in Contra Costa County. Suggested minimum standards are 50% of fruit and vegetables grown-on farm, 75% grown in-County. There should be one mile separation between farms-to-table restaurants.

Alternatively or in addition, the County may also wish to explore establishing a cap on the number of such restaurants that may be established (e.g. explore the feasibility of limiting the number of these businesses that can be established to a relatively small number, such as four). Permit would be subject to various standards and performance measures and non-compliance could lead to suspension and revocation of the permit and potential imposition of other code enforcement tools (e.g. fines).



Farm-to-table restaurants are proposed to be limited to areas served by a retail water supplier in order to provide assurances that water supply is secure and water use won't harm neighbors or environment. A retail water supplier means a public agency, city, county, or investor-owned water utility regulated by the state Public Utilities Commission, that provides retail water service. A retail water supplier does not include a mutual water company. Retail water supply need not necessarily be used for potable water on-site.

**Minimum parcel size and mitigation:** The group discussed minimum parcel size but couldn't reach consensus on this topic. Minimums discussed ranged from 10 to 40 acres. Factors considered included impacts to neighbors, maintaining farm integrity, stress on ground water and septic from increased use, right to farm and pesticide drift as well as the existing number of relatively small agricultural parcels. The group also discussed the need to have an exception process to allow smaller parcels to qualify for the use. Below please find a table summarizing some tools that could be used to enable smaller parcels to qualify.

Tools to Supplement Minimum Parcel Size (Intended as a menu of options that could be used in combination. Some are mutually exclusive.)	Example Requirement for a Smaller Parcel (< min parcel size)	Example Requirement for a Larger Parcel ( $\geq$ min parcel size)
Portion of property required to be kept free of structures and in farming	90% of lot area	70% of lot area
Siting requirements and buffers / setbacks of new use to neighboring properties	Minimize impacts to farmland while also setting back 100 feet from neighbor (hedges could reduce via findings)	Minimize impacts to farmland while also setting back 100 feet from neighbor (hedges could reduce via findings)
Farming assurances: Grant deed of development rights to ensure farming on subject property and possibly adjacent properties  or	90% of subject property and enough acres on adjacent such that the total restricted area is at least half the min parcel size	None
Alternative form of assurance, if host property is not large (less than 40 acres): lease land in County to farm and/or long-term purchase agreement for farm products grown on a farm in the County	Required	Not required
Mitigation (with fees or in-kind)	Mitigation at 1:1 ratio required only for exceedance of footprint maximums or deficit in meeting minimum farming acreage or deficit in meeting farming assurances	Mitigation at 1:1 ratio required only for exceedance of footprint maximums or deficit in meeting minimum farming acreage

### Building Code Notes

- B occupancy (Business), ADA compliance is required, even if dinner is outside



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pollutants introduced into the storm drain system and our waterways and with drainage requirements.

- May require a traffic study.

## 7. Wineries

**Summary:** Currently, a winery is permitted with the approval of a land use permit on properties of 5 acres or more in all Agricultural Zoning Districts. The County should update the current guidelines to better facilitate and reflect new market conditions. The current Winery and Olive Oil Mill Guidelines should be incorporated into the Zoning Ordinance. The County should explore the options to allow certain winery functions with an administrative permit (less involved than a land use permit), such as small facilities without tasting rooms. Hosting larger special events would be allowed, but is proposed to be limited to larger parcels, as further discussed in Item #8 below. The zoning code requirements for wineries should otherwise remain unchanged and wineries should continue to be encouraged.

**Zoning permit required:** In most instances, a land use permit (discretionary; public hearing required).

### Building Code Notes

- Pending

### Health Code Notes

- A winery or brewery may submit plans to Environmental Health (EH) to be permitted as a Host Facility. A Host Facility allows permitted caterers to serve from the winery.
- Outdoor events where the general public are sold or given food/beverages, an EH Temporary Food Facility permit is required.

### Public Works Notes

- Area of Benefit (AOB) fee may be required.
- Pavement of first 50 feet of driveway may be required.
- May require compliance with stormwater regulations, which requires new development projects incorporate features that control stormwater runoff to reduce the quantity of pollutants introduced into the storm drain system and our waterways and with drainage requirements.
- May require a traffic study. May require a traffic study.

## **8. Hosting Larger Events at Wineries, Bed and Breakfasts, and Farm-to Table Restaurants**

**Summary:** Currently, event centers can be permitted as a subordinate use to a winery, which can be permitted as a subordinate use to farming (grape growing). In the past, event center use has become the dominant use (often used for weddings) and some concerns have been expressed about noise and impacts to agriculture.

Large events do depend on the beauty and vibrancy of the setting and can be a complement to efforts to improve the vitality and sustainability of agricultural lands. The recommendation is to require such use to be appurtenant to significant agricultural production and agricultural visitor facilities, namely wineries, bed and breakfast, and farm-to-table restaurants (i.e., no longer limit larger event use to only wineries). A once a year special event would be allowed as an associated use for farm dinners. Standalone event centers are not currently allowed and are not recommended.



**Zoning permit required for larger event uses:** Use may be approved through the land use permit granted for appurtenant agricultural use (e.g., winery). (discretionary; public hearing required).

**Potential key conditions, minimum parcel size and mitigation:** Moving forward, proposed uses with appurtenant large events are proposed to be required to have a large minimum parcel size moving forward (e.g., 40 acres) as well as reasonable conditions on hours, noise levels, etc., to assure the primary use of the property is for agriculture and to provide a buffer for noise impacts on adjacent neighbors. Large events can be defined as having more than 300 people present, including staff and host. There should be a one-mile separation between larger event center establishments.

Larger event uses are proposed to be limited to areas served by a retail water supplier in order to provide assurances that water supply is secure and water use won't harm neighbors or environment. A retail water supplier means a public agency, city, county, or investor-owned water utility regulated by the state Public Utilities Commission, that provides retail water service. A retail water supplier does not include a mutual water company. Retail water supply need not necessarily be used for potable water on-site.

Below please find a table summarizing some tools that could be used to enable smaller parcels to qualify.

Tools to Supplement Minimum Parcel Size (Intended as a menu of options that could be used in combination. Some are mutually exclusive.)	Example Requirement for a Smaller Parcel (< min parcel size)	Example Requirement for a Larger Parcel ( $\geq$ min parcel size)
Restrictions on footprint of new use, incl. parking	5% of lot area	5% of lot area
Portion of property required to be kept free of structures and in farming	90% of lot area	70% of lot area
Siting requirements and buffers / setbacks of new use to neighboring properties	Minimize impacts to farmland while also setting back 100 feet from property line (hedges could reduce via findings)	Minimize impacts to farmland while also setting back 100 feet from property line (hedges could reduce via findings)

Farming assurances: Grant deed of development rights to ensure farming on subject property and possibly adjacent properties	90% of subject property and enough acres on adjacent such that the total restricted area is at least half the min parcel size	None
Mitigation (with fees or in-kind)	Mitigation at 1:1 ratio required only for exceedance of footprint maximums or deficit in meeting minimum farming acreage.	Mitigation at 1:1 ratio required only for exceedance of footprint maximum or deficit in meeting minimum farming acreage.

<u>Building Code Notes</u>	<u>Health Code Notes</u>	<u>Public Works Notes</u>
<ul style="list-style-type: none"> <li>▪ Pending</li> </ul>	<ul style="list-style-type: none"> <li>▪ A winery or brewery may submit plans to Environmental Health (EH) to be permitted as a Host Facility. A Host Facility allows permitted caterers to serve from the winery.</li> <li>▪ For other uses, an event center permit from EH would be needed to allow caterers to serve at the facility.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Area of Benefit (AOB) fee may be required.</li> <li>▪ Pavement of first 50 feet of driveway may be required.</li> <li>▪ May require compliance with stormwater regulations, which requires new development projects incorporate features that control stormwater runoff to reduce the quantity of pollutants introduced into the storm drain system and our waterways and with drainage requirements.</li> <li>▪ May require a traffic study.</li> </ul>

## C. POLICY / IMPLEMENTATION REFORMS

Conservation of agricultural lands for production of a diverse array of crop and agricultural products are one the primary goals for Contra Costa County. In order to preserve agricultural lands, while allowing agricultural opportunities, the following recommendations are consistent with the goals and policies of the County's Conservation Element of the General Plan.

### 9. Mitigation requirements for conversion of agricultural land

While large-scale conversion of agricultural lands to urban uses is not anticipated to occur in the future—certainly not at the scale that occurred during preceding decades before the establishment of (and near buildout to) the County's Urban Limit Line—some impacts are likely to occur, including impacts from minor subdivisions, rural home construction and some of the agricultural tourism activities described in this report. However, agricultural uses including agricultural tourism activities that



comply with all standards without the need for an exception are proposed to be exempt from mitigation requirements set by proposed new agricultural mitigation program.

The County should consider establishing an agricultural mitigation program to protect irrigated and intensively cultivated agricultural lands and offset impacts to such lands. The County could also consider a mitigation effort for rangeland. The program could take the form of an in lieu fee or could be satisfied with in-kind conservation. Conserved lands would be from willing sellers only and the conservation instrument could be an agricultural conservation easement held by a land trust or some similar method. The primary purpose of the easement would be to protect the agricultural value of the encumbered land. Dedication of development rights is another option that would be easier to administer, but would have less protections and assurances. 1:1 has been suggested as a mitigation ratio typical for mitigation of irrigated and intensively cultivated lands.

## **10. New efforts to avoid/address rural blight**

Agricultural lands in Contra Costa County are inherently beautiful and can provide a wonderful setting for rural homes and communities. However, blighted conditions can occur and can greatly harm the quality of life of neighbors. Examples of blighted conditions include but are not limited to illegal dumping, excessive storage of dumped soil and equipment unrelated to agriculture, operation of illegal businesses (cannabis, light industrial, etc.) and excessively noisy unpermitted activities. Blighted conditions are out of character or incompatible with the existing zoned agricultural land uses and creates eyesores that prevent the quiet enjoyment of the region by visitors and local producers. Most of these blighted conditions constitute a code violation in one form or another. Code enforcement actions related to property can be violations of either or both the Zoning Code and Building Code and must be addressed by the County in accordance with procedures set forth in state law (including a step-wise process to inform the property owner of the violation and afford an opportunity to address the problem or appeal). Neighbors are often frustrated with the pace of the process as well the challenges associated with recurring problems and the limitations of a finite Code Enforcement staff covering a large area.



The County is urged to continue prioritize rural code enforcement and to seek mechanisms for improving its speed and efficacy. One measure recommended now is to provide an additional regulatory tool—namely, making property nuisance code sections more applicable to agricultural areas (illegal dumping is dealt with in the next recommendation).

Below please find an excerpt from County Code specific to residential property nuisances:

**720-2.006 - Residential property nuisance.**

No person owning, leasing, renting, occupying or having charge or possession of residential real property shall maintain or allow the maintenance of the property in such a manner that any of the following conditions exist on the property and are visible from a street, highway, or private road:

- (a) Attractive nuisances dangerous to children, such as abandoned, broken or neglected equipment, machinery, refrigerators or freezers, or unsafe pools, ponds or excavations;
- (b) Shopping carts, household equipment or broken or discarded furniture for an unreasonable period of time;
- (c) Garbage or trash cans for more than thirty-six hours;
- (d) Boats, trailers, vehicle parts or other articles of personal property that are abandoned or left in a state of partial construction or repair for an unreasonable period of time;
- (e) Construction and wood debris, including cuttings, for an unreasonable period of time;
- (f) Weeds over eighteen inches in height.

The recommendation is to define nuisance standards specific to agricultural properties, recognizing that articles like old tractors that are not suitable in urban areas are perfectly suitable in agricultural areas. Participants recognize that rural properties need to be held to a different, more permissive standard than urban properties, but also that the lack of adherence to any standard does not adequately protect the rights of neighbors. Proposed examples of nuisances include the following visible from a street, highway or private road:

- Accumulation of non-operable, broken or neglected equipment, machinery, or other unsafe and dangerous articles not associated with agricultural uses;
- Excessive storage for an unreasonable period of time of non-agricultural items such as: shopping carts, home appliances, broken or discarded furniture boats, trailers, vehicles, vehicle parts, or other articles of personal property that are abandoned or left in a state of partial construction or repair except for incidental articles related to agricultural related activities;

- Tracks constructed for racing and jumping of motorcycles or other off-road vehicles and the operation of such vehicles for racing or jumping.

## **11. New efforts to address illegal dumping**

As discussed above, illegal dumping has been a huge problem for a long time and the consensus is that it is getting worse. It is a particular hardship on rural communities as these areas are frequently targeted by dumpers and clean-up can be onerous.



The County has been considering a comprehensive strategy to address illegal dumping and the proposed measures shared with the Board in October 2018 were also shared with the people attending the agricultural policy review meetings. These strategies include dedicated law enforcement to deter dumpers, stronger enforcement of the County's mandatory subscription rules (requirement for garbage service), improved removal of illegally dumped material, easier opportunities to dispose of waste properly and greater public education.

The Board approved the illegal dumping recommendations on June 11, 2019 and is proceeding to identify funding to implement. The County is recommended to pursue effective implementation of these more aggressive strategies to reduce illegal dumping.

## **12. Examine opportunities to reduce impacts of rural home development on agriculture.**

The County should consider initiating a process to examine and adjust the provisions for development of homes on agricultural properties to protect agricultural vitality and sustainability. The ability to have a home on their farm is essential to many farmers. However, the development of homes on some agricultural parcels in the County have partially or completely negated the availability of the parcel to be used for agriculture. This can lead to rural residential neighborhoods instead of farming areas, leading to a cumulative loss of farmland and residences that are not close to schools, stores, jobs, etc., and increased exposure to wildfire.

The County should look at provisions to try to address this problem in the future, such as minimum parcel size requirements and requirements to site a home on a property in such a way that availability of land remaining for agriculture is maximized on properties

40 acres or less. The County should also consider a floor area ratio for ranchette construction, in addition to siting restrictions.

Below are some examples of agricultural properties and the impact of home siting on agricultural use.



### **13. New efforts to facilitate communication between the farming community and the local regulatory agencies**

During public meetings conducted as part of this process (as well as in various forums that preceded this process), farmers and representatives of owners of agricultural land expressed concern that government permitting processes can be difficult to access.

Many felt this could be due to the complexity of regulations, confusion about which agency has authority over which regulation and the unique nature of permitting inquiries made by such landowners (e.g. their inquiries are not frequent and may not be similar to inquiries made by urban residents). One idea that has been discussed to try to address this concern is seeking to identify or hire an agricultural ombudsperson.

The group learned a lot about what an agricultural ombudsperson does depending on their County. The group heard directly from the people who perform this role in Yolo and Sonoma Counties (Stephanie Cormier and Karen Giovannini). Ms. Cormier and Ms. Giovannini attended the agricultural meetings as guest speakers, explained their work and answered questions. Also, CC County Staff reviewed the role of an ombudsperson in five counties and provided information to the group in the form of a comparison table. Typical duties ranged from serving as an approachable point of contact to direct applicants to the proper agency/department--to more directly assisting applicants as they navigate permitting requirements--to trying to assist the agricultural economy more generally through marketing and outreach to investors/the public--to assisting with particularly complex regulations such as health requirements related to beef, pork or poultry. A common approach was to locate the ombudsperson role in an organization that was not charged with code enforcement and was therefore perceived as approachable.

To delve deeper into the issue and try to frame an implementable recommendation, staff from the following five agencies working in Contra Costa County met in December: Contra Costa Resource Conservation District (RCD), University of California Cooperative Extension (UCCE) – Contra Costa County and the County Departments of Agriculture, Conservation and Development (DCD) and Health Services-- Division of Environmental Health. The group discussed options and sought consensus on a recommended approach. The following is a summary of the group's preliminary recommendations:

- Establish a point person for coordination in each agency. DCD's point person would be a point of contact for farmers dealing with DCD, would help farmers understand processes at DCD and help DCD staff understand the particular needs of farmers (as well as coordinate with other agencies). The RCD point person would be a more general point of contact for farmers and would maintain a working knowledge of processes at other agencies so that a farmer could be directed to the right place for detailed questions and applications. Environmental Health, County Department of Agriculture and UCCE would designate a point person to participate in coordination meetings with other agencies and with the public. Each agency anticipates it could perform this function with existing budgeted resources.
- Point people from each local agency meet periodically to improve communication and foster understanding of permit processes across local agencies. Contra Costa County Public Works was also recommended to participate and have agreed to do so. The affected fire district(s) should also be invited to participate.

- Local agencies convene an annual, public Agricultural Forum meeting to listen to and communicate with the agricultural community. The intent is to build relationships and foster better mutual understanding. This Forum could also be a sounding board for policy initiatives, similar to the current meeting process. Staff felt an open, less-structured Agricultural Forum process was preferable at this time to re-establishing the appointed Agricultural Task Force, a County advisory committee that has not met in many years.
- Contra Costa AgForum portal web page to be created and hosted by RCD (DCD can help). This portal page will link visitors to the proper website/agency to pursue their question. It will also be the home for information on the Agricultural Forum meetings.
- UC Cooperative Extension has been recruiting for the UCCE Specialty Crops Advisor position. When Advisors commence UCANR employment, they undertake a needs assessment based on input from their farmer/crops-producer clientele. The Ag Specialty Crops Advisor can research local needs on making local permitting processes more streamlined. Such assessment will establish baseline information to determine whether current processes serve County farmer's needs well, should be improved or if it would be beneficial to replace them with a more intensive approach (assuming funds could be found to implement).

#### **14. Improve permitting for agricultural uses**

Farmers and representatives of owners of agricultural land expressed concerns with the complexity, time and expense of securing various permits, and also with some of the requirements imposed when developing their agricultural property. Many felt that farm development should not have the same requirements as commercial and residential developments. Some also mentioned that the permitting process should maximize focus on meeting the objective of the regulations. The County Departments of Conservation and Development, Agriculture, Health, and Public Works have indicated a willingness to continue to engage with the agricultural community to pursue these goals to the reduce the time and cost of processing the required permits. Collaboration as discussed in Item #13 above will be important.

The County agricultural lands consist of grazing lands found in the Briones Hills, Bollinger Canyon, Tassajara, and other areas, while orchard and row crops are located in the East County area. As such, the County should consider having distinct policies for the different agricultural regions.

#### **15. Consider a Noise Ordinance**

During the agricultural land use policy meetings, a topic that has been brought up several times was on noise generated from special events occurring on neighboring properties. The County currently does not have a Noise Ordinance and has limited ability

to enforce complaints received on noise, though enforcement tools increase when a land use entitlement is approved and conditions of approval regarding noise are imposed. A Noise Ordinance should be considered to provide thresholds for noise generating impacts. However, it should be recognized that even if a Noise Ordinance were adopted significant enforcement hurdles would remain.

## **D. PROMOTION / MARKETING**

### **16. Equestrian, bike trail connecting farms; Consider Allowing Equestrian Facilities within the A-40 and A-80 Zoning Districts with a Land Use Permit**

The County should work with partners to explore and plan for enhanced trail connections between agricultural tourism sites, including existing U-Pick operations.

Currently, the A-40 and A-80 Zoning Districts do not allow equestrian facilities. Though such uses do not capitalize on the exceptionally productive soils in the A-40 Zoning District, they also do not destroy the soils. Also, despite the prohibition, a number of equestrian uses are present today. The County should consider allowing new or existing equestrian uses through a land use permitting process incorporating standards to protect neighbors, and agricultural uses generally, and should consider requiring mitigation.



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## **17. Signage**

The County should work with partners to explore, seek funding for and implement an effort to provide more signage promoting agriculture in the County.

The County currently has a Sign Ordinance that provides standards for any proposed signage. The County is currently working on amending the existing Sign Ordinance to update the sign standards to allow way-finding signs in the right-of-way to direct people to U-pick operations.

The working group recommends the sign standards also be amended to clarify that lighted signs for lodging, food service, and winery uses may be compatible with agricultural areas if conditioned appropriate with setting (e.g. wood signs lit from the front; not neon, not lit from within).

## **18. Promoting Agriculture in Contra Costa County**

The County should work with other agencies and non-profits to continue to promote agricultural vitality in Contra Costa County. The County should continue to evaluate its agricultural policies in the future and strive to expand the tools available to promoting a thriving, sustainable agricultural economy. Planning grants from the State's Sustainable Agricultural Lands Conservation Program should be pursued.