

CHAPTER 19.74

AGRICULTURAL PRESERVE PROCEDURES

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19.74.010 INTENT AND PURPOSE

The intent of this Chapter is to authorize the City of Perris to designate suitable areas of the City as agricultural preserves by resolution of the City Council pursuant to the Williamson Act of 1965 (Government Code Section 51200 et seq.) for the purpose of establishing agricultural and compatible land uses.

19.74.020 ADMINISTRATION OF AGRICULTURAL PRESERVES

All agricultural preserves shall be administered pursuant to the Williamson Act of 1965, as not enacted or hereafter amended, and pursuant to the following uniform rules which shall apply in all agricultural preserves now or hereafter established.

A. *Agricultural Uses*

The following uses are hereby determined to be agricultural uses and thereby compatible within an agricultural preserve. All other uses of land are prohibited:

1. Agricultural use, described as any use of land for the purpose of producing an agricultural commodity, consisting of any and all plant and animal products, for commercial purposes, providing such use is permitted by the applicable zoning and not prohibited by other law or ordinance.
2. A stand for display and sale of agricultural commodities produced on the premises or on other premises within the preserve.
3. Gas, electric, water and communication utility facilities, and public service facilities of like nature operated by a public agency or mutual water company.
4. Public highways.
5. Fire protection works and facilities.
6. Flood control works, including channel rectification and alteration.

7. Public works required for fish and wildlife enhancement and preservation.
8. Improvements for the primary benefit of the lands within the preserve.
9. State improvement described in Section 51293 (d) and (e) of the Government Code.
10. Single-family dwellings for the use only of an owner or operator of land within the agricultural preserve, or a person employed on said land if such use is permitted by the applicable zoning, on parcels of not less than 10 acres. Where the applicable zoning permits, an additional single-family dwelling (including mobilehomes), excluding the principle dwelling, shall also be allowed for each 10 acre gross being farmed. Said additional dwelling units shall be located on a parcel being farmed and occupied by the owner, operator or employee of the farming operation as a one-family residence provided that:
 - a. The dwellings are not rented or held out for lessee.
 - b. The dwellings are located not less than 50 feet from any property line.
 - c. The dwellings are screened from view from the front property line by shrubs or trees.
 - d. The arrangement of the dwelling units, sanitary facilities and utilities conforms with all of the requirements of the Health Department, the Department of Building Safety, and State law.
 - e. The number of dwelling units for employees shall not exceed 4 per established farming operation.
11. Farm labor camps, including temporary trailer housing, subject to the conditions of law or ordinance otherwise applicable.
12. Drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced.
13. Any use existing on the date the land is included within an agricultural preserve, but such use once discontinued for 2 years shall not be resumed unless permitted under these rules.
14. Any use required to be permitted by any amendment to the Williamson Act of 1965 hereafter adopted.
15. Any use determined to be a compatible use in all agricultural preserves by the City Council, after public hearing on 10 days' published notice and such other notice, if any, as the City Council may specify. Thereafter, such use shall be deemed a compatible use in any agricultural preserve.
16. Any use determined to be a compatible use in a particular agricultural preserve, based on a substantial difference in the character of the agricultural uses existing in that preserve as compared with other agricultural preserves. Such determination may be made by the City council after public hearing upon 10 days'

published notice and such be deemed a compatible use within that agricultural preserve.

17. Any use of a specific parcel of land which is determined to be a compatible use as related to differences in the location and circumstances of the owners of land in agricultural use or compatible uses with the effected preserve and which is based on character, location or other particular circumstances of the specific parcel which are not applicable generally to other lands within that preserve. Such determination may be made by the City Council only after public hearing upon 10 days' published notice, and such other notice, if any, as the City Council may specify.

19.74.030 NOTICE OF NONRENEWAL

To terminate the automatic renewal of the contract, an application for a notice of nonrenewal shall be obtained from the Planning and Community Development Department. This notice will be reviewed for corrections by the Planning and Community Development Department before being recorded. Once it is recorded, the land conservation contract to which it pertains will not be renewed. A notice of nonrenewal on a portion of property within one agricultural preserve will require approval by the City Council after a public hearing prior to recordation.

19.74.040 PROCEDURES FOR TENTATIVE CANCELLATION OF LAND CONSERVATION CONTRACTS

A. *Filing Petition*

1. Land conservation contracts may be canceled by filing a petition for cancellation of land conservation contracts with the Planning and Community Development Department. To obtain an application to cancel land conservation contracts, the applicant must pay a fee which represents the reasonable cost of the service. An environmental assessment form with an additional fee may be required.
2. The petition shall be accompanied by a proposal for a specified alternative use of the land which must be submitted at the same time as the petition.

B. *Approval of Petition*

1. Tentative approval of the petition for cancellation shall be withheld if the proposed alternative land use is not approved by the City Council. The proposed alternative land uses are contingent upon the approval of the cancellation of the contract. Approval of the petition

- for cancellation, with proposed alternative land uses shall be considered by the City Council at a legally-noticed public hearing.
2. Final approval of the cancellation of the contract shall be conditioned upon the finalization of the alternative land use (such as recordation of tentative tract maps) and the payment of a penalty fee. The penalty fee shall be 12.5 percent of the cancellation valuation of the property (assessment value of the land as though it were free of the contractual restriction). An additional penalty fee may be levied pursuant to the provisions of Government code Section 51283.1 by resolution of the City Council.

C. *Public Hearing*

No contract shall be canceled until after the City Council has given notice and has held a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 of the Government Code and shall be mailed to every owner under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be cancelled.

1. Within 30 days of the tentative cancellation of the contract, the City as required by Government Code Section 51284 shall comply with the following:
 - a. Deliver a copy of the public notice of the decision (to include the findings made pursuant to Government Code Section 51282), to the Director of the Department of Conservation.
 - b. Advertise in at least one newspaper of general circulation within the City in a display size of not less than one-eighth of a newspaper page. This publication is for informational purposes only.

D. *Findings*

The City Council may grant tentative approval for cancellation of a contract only after making one of the following findings:

1. That the cancellation is consistent with the purposes of the Williamson Act.
2. That the cancellation is in the public interest.

E. *Williamson Act Findings*

Consistency with the Williamson Act is found only if the City Council makes all of the following findings:

1. That the cancellation is for land on which a notice of nonrenewal has been served.
2. That the cancellation is not likely to result in the removal of adjacent lands from agricultural use.

3. That cancellation is for an alternative use which is consistent with the applicable provisions of the City's General Plan.
4. That the cancellation will not result in discontinuous patterns of urban development.
5. That there is no proximate noncontracted land which is both available and suitable for proposed use of which is both available and suitable for proposed use of the contracted land, or, that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

F. Public Interest Findings

Cancellation is in the public interest only if the City Council makes the following findings:

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

G. Payment of Penalty Fee

Unless the penalty fee is paid, or a final certificate of cancellation is issued within one year from the date of the recording of the certificate of tentative cancellation, the penalty fee will be recomputed as of the date of the applicant's notice to the City Council that all of the conditions of the certificate of tentative cancellation have been satisfied.

H. Contract Duration

The land conservation contract will stay in effect until all conditions within the certificate of tentative cancellation have been met, and a final certificate of cancellation has been adopted by the City Council and has been recorded.

19.74.050 DIMINISHMENT OR CANCELLATION OF AN AGRICULTURAL PRESERVE

Diminishment or cancellation of an agricultural preserve may be approved by resolution of the City Council pursuant to the Williamson Act of 1965.

19.74.060 APPLICATION PROCESSING

A. Application

An application for nonrenewal, diminishment or cancellation of an agricultural preserve shall be made to the Planning and Community Development Department on forms provided by that department. The applicant shall set forth complete data required to satisfy all the requirements of this Code and other applicable laws. The completed application shall be submitted to the City Council for public review.

B. *Investigation*

The City Council shall investigate the facts bearing on each case, verify information necessary to assure action consistent with the intent and purpose of this Code.

C. *Application Processing Prohibited*

A person may not file and the Director of Planning and Community Development shall not accept an application which is the same as or substantially the same as an application upon which final action has been taken by the City of Perris within 12 months prior to the date of said application, unless accepted by a motion of the City Council.

19.74.070 **FILING FEES**

Fees under this Chapter shall be established and adjusted from time to time by a resolution of the City Council.

19.74.080 **APPEALS**

A. *General Provisions*

The applicant, any interested person or any member of the City Council, may appeal to the City Council the decision made by the legislative body on any establishment, diminishment or cancellation of any agricultural preserve.

B. *Appeal Procedure*

1. Within 10 calendar days after mailing of the decision, the applicant or any interested person may appeal to the City Council by filing a written appeal with the City Clerk, with the appropriate filing fee. The City Clerk shall transmit one copy of the appeal to the Director of Planning and Community Development and one copy to the applicant, if the applicant is not the appellant. The written appeal shall specify the person making the appeal, the decision being appealed, and shall state the reasons for the appeal. Appeals shall be limited to action beyond the authority of the decision-making body,

action based on incorrect facts or action based on a claim that the decision violates provisions of the law.

2. Within 10 calendar days after the mailing of the decision, any member of the City Council may appeal a decision and request review by the Council. Thereupon, the City Clerk shall give written notice to the Director of Planning and Community Development and the applicant, and set the matter for review by the City council within 30 days.
3. After the filing of an applicant's appeal or any other interested person's appeal, the City Clerk shall transmit the appeal to the Planning and Community Development Department for a report, detailing the facts of the appeal. The Director of Planning and Community Development's report shall be filed within 30 days for review by the City Council. After reviewing the facts, the City Council may decide to either hear the appeal, hear the appeal in part or not hear the appeal by minute motion.
4. The appeal hearing shall be held within 30 days after the City Council's decision to hear the appeal, unless the 30 day time limit is waived by the appellant. Not less than 10 days before the date set for the hearing, notice of the date, time and place of the hearing shall be mailed by the City Clerk to the appellant. Notice shall also be mailed to the applicant in the event the applicant is not the appellant, and to any person who has made a written request for such notice.
5. After the hearing and before making a final decision, the City Council may refer the request for nonrenewal, diminishment or cancellation of an agricultural preserve back to the Director of Planning and Community Development for further consideration. The City Council may affirm in whole or part, modify or reverse its original decision.