

## ORDINANCE NO. 2024-\_\_\_\_

An Ordinance adding Article III to Chapter 2.2 of the Solano County Code to define and implement an agricultural mitigation program within the unincorporated territory of the County of Solano.

**Whereas**, pursuant to Article XI, section 7 of the California Constitution, the County of Solano may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens; and

**Whereas**, as stated in Section 51220 of the Government Code, the State Legislature has found that “the preservation of a maximum amount of the limited ... agricultural land is necessary ... to the maintenance of the agricultural economy of the state” and that “discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest”; and

**Whereas**, the 2016-2018 Department of Conservation Farmland Conversion Report reported the conversion of over 1.6 million acres of agricultural land in California to nonagricultural purposes during the time period of 1984 to 2018, where the largest losses were to Prime Farmland (-816,123 acres), Farmland of Statewide Importance (-455,287 acres), and Grazing Land (-423,565 acres)—some of California’s best farmland. Prime Farmland, in particular, is described by the Department of Conservation as the highest-quality farmland, or that with the best combination of physical and chemical features able to sustain long-term agricultural production; and

**Whereas**, agriculture is a critical component of Solano County’s economy and cultural heritage. The County has a total land area of 527,760 acres, with agricultural land comprising approximately 352,931 acres. In 2023, Solano County farmers and ranchers produced one hundred commodities accounting for a gross production value of \$460,391,000, which represents an eighteen percent increase of \$69,510,000 from 2022 and a record high value for agricultural production; and

**Whereas**, Solano County is losing agricultural land at a rapid rate. With gross production value evermore critical to the County economy, the loss of agricultural land to development is irreparable and has a significant negative cumulative impact on the economy and local culture. Between 1984 and 2020, for example, 48,168 acres of agricultural lands were converted to other uses (over 12% of the County’s agricultural lands), including 22,405 acres of Prime Farmland; and

**Whereas**, in recent years, there has been increased pressure to convert farmland to energy and infrastructure projects. The County recognizes that such projects may provide local benefits, but it is important that a mechanism be in place to mitigate for the loss of agricultural land for such uses. In addition, the County anticipates that requests for annexations to convert agricultural lands to development will continue to increase, emphasizing the need for clear agricultural mitigation requirements and policies to be in place; and

**Whereas**, on August 5, 2008, the Solano County Board of Supervisors adopted a comprehensive update to the Solano County General Plan (“2008 General Plan” or “General Plan”). The Board of Supervisors also certified an Environmental Impact Report prepared for the 2008 General Plan (State Clearinghouse Number 2007122069) (“2008 General Plan EIR”); and

**Whereas**, the 2008 General Plan includes an Agricultural Element with goals and policies that promote the long-term protection of agricultural resources in the County. For example, Goals AR.G-1 and AR.G-2

direct the County to “[r]ecognize, value, and support the critical roles of all agricultural lands in the stability and economic well-being of the county” and “[p]reserve and protect the county’s agricultural lands as irreplaceable resources for present and future generations”; and

**Whereas**, General Plan Implementation Program AG.I-1 specifically directs the County Department of Resource Management to create and adopt a farmland conversion mitigation program and ordinance, with mitigation ratios that are at minimum 1.5:1 (1.5 acres of farmland protected through mitigation for each acre of farmland converted):

“Create and adopt a farmland conversion mitigation program and ordinance. Require compensation for loss of agricultural land. Establish appropriate mitigation ratios for the program or utilize a graduated mitigation mechanism. The mitigation ratio shall be a minimum of 1.5:1 (1.5 acres of farmland protected through mitigation for each acre of farmland converted). The program shall not present regulatory barriers to agritourism, agricultural services, and agricultural processing in regions and within land use designations where such uses are permitted and encouraged. The program shall also establish mitigation within the same agricultural region as the proposed development project, or within the Agricultural Reserve Overlay district, as a preferred strategy. The program shall incorporate a fee option, and shall provide an exemption for farmworker housing. Mitigation lands shall be of similar agricultural quality to the lands being converted”; AND

**Whereas**, this Ordinance intends to effect Implementation Program AG.I-1 by creating a farmland conversion mitigation program (referred to as the “Agricultural Mitigation Program”) that protects Solano County’s most productive and valuable farmland from conversion to non-agricultural use. The Ordinance intends to address the balance of protecting farmland and the agricultural industry’s long-term sustainability against other critical public goals, recognizing that permanently protecting all farmland may not be feasible. In some cases, the conversion of farmland to other uses, such as housing, may be in the best interest of the people of Solano County. In some circumstances, it may be appropriate to allow the conversion of farmland but also to require that such conversion be accompanied by mitigation that provides increased protection for other comparable agricultural lands. This ordinance creates a program to address those issues consistent with the General Plan directive.

**Therefore**, the Solano County Board of Supervisors ordains as follows:

## **SECTION 1.**

Article III is added to Chapter 2.2 of the Solano County Code, as follows:

### **ARTICLE III. AGRICULTURAL MITIGATION PROGRAM**

**2.2-300 Purpose.**

**2.2-310 Definitions.**

**2.2-320 Applicability.**

**2.2-330 Mitigation Requirements.**

**2.2-340 Mitigation Lands.**

**2.2-350 Methods of Mitigation.**

**2.2-360 Farmland Mitigation Plan.**

**2.2-370 Approval and Completion.**

## **2.2-380 Qualifying Entity.**

### **2.2-300. Purpose.**

The purpose of this section is to create and adopt a farmland conversion mitigation program ("Agricultural Mitigation Program" or "Program") as directed by Implementation Program AG.I-1 in the Agricultural Element of Solano County's 2008 General Plan. The goal of this program is to provide clear and consistent regulations to mitigate the loss of farmland due to development or conversion to non-agricultural uses in the unincorporated area of Solano County, and to promote the long-term protection, conservation, and enhancement of productive and potentially productive farmland. The mitigation requirements are further intended to ensure the commercial viability of Solano County's agricultural industry, and support growth management policies that encourage growth in or near developed or developing areas and away from valuable farmland.

### **2.2-310. Definitions.**

For purposes of this section, certain terms used shall be defined below. The definitions set forth in Chapter 28.01 shall otherwise apply.

- A. Agricultural Conservation Easement. A perpetual easement, comparable to a conservation easement as provided for in Section 815 to 816 of the Civil Code, or an open space easement provided for in sections 51070 to 51097 of the Government Code, limiting the use of the encumbered land to agricultural and accessory uses, which easement is used to satisfy the mitigation obligations imposed by this article.
- B. Agricultural Land or Farmland. Those land areas of unincorporated area of Solano County, regardless of current zoning, that are identified and mapped under the current California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP) and classified as Prime Farmland, Farmland of Statewide Importance, Unique Farmland, Farmland of Local Importance, or Grazing Land. Land that is determined to be incapable of supporting the production of agricultural commodities is excluded from this definition and does not require agricultural mitigation under this article. Any such determination shall be made by the Appropriate Authority in consultation with the Agricultural Commissioner, whose recommendation shall be given substantial weight unless unsupported by evidence.
- C. Agricultural Mitigation Program. The program implemented by this section, as directed by the Solano County General Plan.
- D. Agricultural Reserve Overlay. A Solano County General Plan land use designation described in Table LU-5 of the General Plan that encourages private landowners to voluntarily participate in agricultural conservation easements.
- E. Alternative Mitigation. Mitigation proposed under Section 2.2-350(D) to satisfy an applicant's mitigation obligation, subject to approval by the Board of Supervisors.
- F. Appropriate Authority. That person, official, or body designated to hear, grant, deny, modify, condition, revoke, or otherwise act on entitlement applications as provided by Chapter 28 of the Solano County Code.

- G. Conversion. The change in General Plan land use designation, Zoning designation, or use of land that requires mitigation under this article as specified in Section 2.2-320.
- H. Farmland Mapping and Monitoring Program (FMMP). The California Department of Conservation's non-regulatory program for classifying farmland quality, which prepares, updates, and maintains Important Farmland Series Maps as defined in subsection (f) of Section 65560 of the Government Code, and prepares and maintains an automated map and database system to record and report changes in the use of agricultural lands every two years on even-numbered calendar years.
- I. Farmland Mitigation Plan. The documentation required to be submitted for review and approval by the County pursuant to Section 2.2-330.
- J. Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance. Land as identified and mapped by the FMMP classified as Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance.
- K. Good Faith Effort. An applicant has provided documentation to establish it has: 1) made a thorough effort to locate quality Mitigation Land that provides long-term protection and conservation of substantially equivalent farmland to the land being lost to development or conversion; and 2) made a minimum of one bona fide offer for an Agricultural Conservation Easement at the full appraised fair market value, but no seller has accepted the applicant's offer, if the applicant does not already own the proposed mitigation land.
- L. Grazing Land. Lands identified and mapped by the FMMP classified as Grazing Land.
- M. In-lieu Fees. Fees that the applicant pays to satisfy their mitigation obligation under this program.
- N. Mitigation Land. Land encumbered by an Agricultural Conservation Easement or under an alternative mitigation option approved by the Board of Supervisors to satisfy the mitigation obligation imposed by this article.
- O. Mitigation Ratio. The replacement ratio on an acre-for-acre basis to mitigate for the conversion of Farmland required under this article.
- P. Prime Farmland. Farmland identified and mapped by the FMMP classified as Prime Farmland.
- Q. Qualifying Entity. The Qualifying Entity is Solano County, or another entity qualified and approved by the Board of Supervisors to hold Agricultural Conservation Easements in compliance with section 2.2-380 of this article.

## **2.2-320 Applicability.**

- A. Each of the following actions shall require mitigation as set forth in Section 2.2-330:

1. General Plan Amendment: A General Plan amendment to redesignate land from an Agricultural Designation to any other designation, except for redesignations consistent with General Plan Land Use Policy LU.P-3 and Agricultural Policies AG.P-31 to -36.
2. Rezoning: A Rezoning petition to change the County zoning assigned to land from any Agricultural zoning district to any other zoning district, as defined in Chapter 28 of the Solano County Code, except for Resource Conservation Districts.
3. Communication and Infrastructure Uses: An application for an Administrative Permit, Minor Use Permit, or Use Permit for Communication and Infrastructure Use on land within any Agricultural zoning district, as defined and set forth in Chapter 28 of the Solano County Code.

**B. Exemptions.**

1. **Small Parcels**: Conversion of a legal parcel or a portion of a legal parcel that is less than one (1) acre in area. However, this exemption shall not apply to a parcel that is one phase or portion of a larger project. The Appropriate Authority may disallow use of this exemption if it finds that the subject property has been subdivided into one-acre or smaller parcels in whole or in part to avoid the mitigation obligation.

**2.2-330 Mitigation Requirements.**

**A. Mitigation Ratio.**

1. Projects that convert Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance shall be mitigated at a replacement ratio up to 3:1. This means that for every acre converted or developed, up to three (3) acres shall be protected.
2. Projects that convert Grazing Land shall be mitigated at a replacement ratio of 1.5:1. This means for every acre converted or developed, one and a half (1.5) acres shall be protected.
3. Projects that convert land comprising a mix of Farmland classifications may mitigate at the highest applicable ratio.
4. For purposes of calculating the mitigation obligation under this section, a General Plan Amendment or Rezone application shall require mitigation for the full area of the legal parcel affected by the conversion and not merely any lesser portion of the parcel that may be sought to be developed or converted to another use at the time conversion is proposed. An application seeking an Administrative, Minor Use, or Use Permit for a Communication and Infrastructure Use shall require mitigation only for the exact acreage within the full legal parcel to be converted.
5. The Mitigation Ratio shall be determined based upon the most current published FMMP mapping and Farmland classification of the land.

## **2.2-340 Mitigation Lands.**

### **A. Mitigation Lands shall meet the following criteria:**

1. Be assigned an Agricultural land use designation under the Solano County General Plan.
2. Be assigned an Agricultural Zoning District under the Solano County Code;
3. Any legal nonconforming use of the land has been or will be abandoned prior to execution of the Agricultural Conservation Easement, or if maintained, will not interfere with agricultural use of the mitigation land;
4. Be of adequate size, configuration, and location to be viable for continued agricultural operations and use;
5. Be of substantially equivalent FMMP Farmland classification or better compared to the land being converted;
6. Have an adequate water supply available for continued agricultural operations and use;
7. The mitigation land is not already subject to an encumbrance or interest that would legally or practicably prevent converting the land, in whole or in part, to a non-agricultural use, such as a conservation easement, open space easement, flowage easement, avigation easement, long term agricultural lease, profit, or an interest in the subsurface estate that would preclude development of the surface estate. A contract entered pursuant to the Land Conservation Act, Government Code section 51200 et seq (Williamson Act) shall not constitute an encumbrance for purposes of this section;
8. There are no physical conditions or contamination on the mitigation land that would legally or practicably prevent converting the land, in whole or in part, to a non-agricultural use.
9. The mitigation land does not have an existing home, unless the land proposed for conversion includes an existing home.

## **2.2-350 Methods of Mitigation.**

### **A. Mitigation Methods, generally.** Farmland mitigation can be achieved through Agricultural Conservation Easements, In-Lieu Fees, or Alternative Mitigation, subject to the requirements of this section.

1. 20 or more acres converted: If the area to be converted is twenty (20) acres or more in size, the applicant shall grant an Agricultural Conservation Easement on land located within the Agricultural Reserve Overlay or within the same Agricultural Region (as designated by the Agricultural Chapter of General Plan) as the land converted. If, after at least one Good Faith Effort, the applicant cannot locate an Agricultural Conservation Easement on lands meeting that criterion, then the applicant shall grant an Agricultural Conservation Easement elsewhere in the unincorporated area of Solano County. If, after

at least one additional Good Faith Effort, the applicant cannot locate an Agricultural Conservation Easement anywhere in the unincorporated area of Solano County, the applicant shall pay In-Lieu Fees or complete Alternative Mitigation to satisfy their mitigation obligation.

2. Less than 20 acres converted: If the area to be converted is less than twenty (20) acres in size, the applicant shall grant an Agricultural Conservation Easement anywhere in the unincorporated area of Solano County, pay In-Lieu Fees, or complete Alternative Mitigation to satisfy their mitigation obligation.

**B. Agricultural Conservation Easements.**

1. An Agricultural Conservation Easement shall be held in perpetuity by a Qualifying Entity.
2. Mitigation land shall satisfy the requirements of Section 2.2-340.
3. The Board of Supervisors may not approve a proposed Farmland Mitigation Plan that includes an Agricultural Conservation Easement unless it finds that the easement complies with each of the following requirements:
  - a. The Agricultural Conservation Easement specifies the land uses allowed on the property, and the uses are at least as restrictive as the requirements of the underlying zoning district.
  - b. The Agricultural Conservation Easement prohibits the presence, construction, or reconstruction of homes or other non-agricultural uses except within a development area designated in an exhibit accompanying the easement. Any such development area(s) shall not count towards acreage totals to satisfy the Mitigation Ratio. The easement shall specify that ancillary uses must be clearly subordinate to the primary agricultural use.
  - c. The Agricultural Conservation Easement prohibits the landowner from entering into any additional easement, servitude, or other encumbrance that could prevent or impair the potential agricultural use of the mitigation land.
  - d. The Agricultural Conservation Easement provides that the mitigation land will retain adequate water supply for continued agricultural operations and use.
  - e. The Agricultural Conservation Easement will be either obtained from a willing seller or voluntarily conveyed by the applicant.
  - f. Any existing easement, other than a right of way easement, deed of trust, or other servitude or encumbrance on the mitigation land shall be subordinated to the Agricultural Conservation Easement.
  - g. The Agricultural Conservation Easement shall be approved by the Qualifying Entity that will hold the easement and executed by all parties with an interest in the mitigation land.

- h. The Agricultural Conservation Easement is in recordable form and contains an accurate legal description of the mitigation land.
  - i. The Agricultural Conservation Easement names Solano County as an intended third-party beneficiary and authorizes it to enforce all terms of the easement, if applicable.
  - j. The Agricultural Conservation Easement recites that it is intended to satisfy the mitigation obligations imposed by this article, and that it is subject to the requirements set forth in this article.
  - k. The Agricultural Conservation Easement provides that if the Qualifying Entity holding the easement ceases to exist, ownership of the easement shall pass to the County, or another Qualifying Entity approved by the County.
  - l. The Agricultural Conservation Easement has been approved as to form by Solano County Counsel.
  - m. The Agricultural Conservation Easement recites that it shall not be amended without further approval by the Board of Supervisors.
4. The applicant, if applicable, shall pay the one-time price to purchase the Agricultural Conservation Easement and all associated transaction costs (including, but not limited to, escrow, recording, title policy, appraisal, the Qualifying Entity's administrative costs), plus a one-time payment sufficient to cover the costs of administering, monitoring, and enforcing the Agricultural Conservation Easement.
5. Extinguishment. If a court issues a judgment declaring that the purposes of this article and of an Agricultural Conservation Easement can no longer be fulfilled by enforcement of that easement, the Qualifying Entity holding that easement may extinguish the easement by selling it to the fee owner of the mitigation land, if the following requirements are met:
- a. Either (a) the action was contested, and the judgment was not entered pursuant to stipulation, or (b) Solano County was a party to the action and stipulated to the judgment; and
  - b. The Qualifying Entity shall use the proceeds of sale to acquire an Agricultural Conservation Easement in other Mitigation Land meeting the requirements of this article.
6. Excess Mitigation; Credits.
- a. At its sole option, an applicant may choose to arrange for the imposition of an Agricultural Conservation Easement on a larger area of land than the required area pursuant to the applicable mitigation ratio and thereby generate a

mitigation credit equal to the excess net acreage encumbered with the easement.

- b. Any excess area encumbered with the Agricultural Conservation Easement shall comply fully with all requirements of this article.
- c. The administrative fee paid by an applicant choosing to create mitigation credits shall include the acreage covered by the mitigation credits. The applicant may pass that fee through to a later purchaser of the credits.
- d. Mitigation credits created under this subsection may be used to satisfy the mitigation obligation created by this chapter only after the Board of Supervisors has made the findings required by Section 2.2-350(B)(3) with respect to the land proposed for conversion and the mitigation land covered by the mitigation credits.
- e. The Director of Resource Management shall maintain a ledger indicating the amount of credits created under this article, the holder of those credits, the administrative fees paid by the creator of the credits attributable to the mitigation land covered by the credits, and any subsequent transactions involving those credits.
- f. The County shall make available to any applicant who requests it, the ledger of mitigation credits provided for in subsection (e) above. The County shall have no further responsibility for facilitating any private transaction involving mitigation credits.
- g. The Board of Supervisors may designate another approved Qualifying Entity to implement the credit program as set forth in this subsection.

C. **In-lieu Fees.** In-lieu Fees shall be subject to the following provisions:

- 1. The Board of Supervisors shall establish the amount of In-Lieu Fees on a case-by-case basis unless it has previously adopted the resolution provided for in Section 2.2-350(C)(5).
- 2. Any In-Lieu Fee shall include each of the following components:
  - a. The appraised fair market value of acquiring an Agricultural Conservation Easement on the land being converted, multiplied by the applicable mitigation ratio set forth in Section 2.2-330. The value of the Agricultural Conservation Easement shall be determined by an independent real property appraiser with experience valuing conservation easements for the California Department of Conservation Sustainable Agricultural Lands Conservation Program (SALC) or a similar program. The appraisal shall be completed within 90 days from consideration by the Appropriate Authority. The appraisal shall be considered by the Agricultural Commissioner, who may recommend that the applicant

obtain a second appraisal and return to the Agricultural Commissioner for consideration of the second appraisal.

- b. The applicant's pro rata share of Solano County's administrative costs in implementing the In-Lieu Fee program.
  - c. All transaction costs associated with acquisition of the Agricultural Conservation Easement.
  - d. An amount sufficient to endow the cost of monitoring, administering, and enforcing the Agricultural Conservation Easement in perpetuity, if applicable.
  - e. A reasonable amount to cover additional contingencies.
3. Resolution. As an alternative to case-by-case establishment of in-lieu fees, the Board of Supervisors may adopt a resolution establishing a generally applicable per acre in-lieu fee to be applied in all cases in which an applicant seeks to pay an in-lieu fee as mitigation. Such a generally applicable fee shall comply with the requirements of this section and shall include an annual adjustment for inflation.
4. The In-Lieu Fees shall be paid to the County, and the applicant shall provide evidence of the payment of the In-Lieu Fees to the Director of Resource Management.
5. Use of In-Lieu Fees.
- a. The County shall ensure that In-lieu Fees are held in a separate account.
  - b. In-Lieu Fees shall be expended for the sole purpose of mitigating the loss of Farmland by acquiring and managing Agricultural Conservation Easements that meet the criteria in this chapter and funding the cost of implementing the In-Lieu Fee Program.
  - c. The County may either expend the In-Lieu fees directly or remit the fees to another Qualifying Entity for the purpose of acquiring and managing Agricultural Conservation Easements.

**D. Alternative Mitigation.**

1. The applicant may propose Alternative Mitigation measures that fulfill the purpose of the Agricultural Mitigation Program and demonstrate that they will protect, preserve, or benefit Farmland and the agricultural industry in the County. Alternative Mitigation is wholly optional and made available solely for the applicant's convenience. Under no circumstances shall the County require any applicant to implement any such Alternative Mitigation.

2. Alternative Mitigation must fulfill the purpose of this article, as specified in Section 2.2-300, and demonstrate that they will protect, preserve, or benefit Farmland and the agricultural industry in the County.
3. The total dollar value of the Alternative Mitigation project must be equal to or valued more than the appraised fair market value of acquiring an Agricultural Conservation Easement on the land being converted, multiplied by the applicable mitigation ratio set forth in Section 2.2-330. The applicant shall provide documentation substantiating the total dollar value of the Alternative Mitigation project. The value of the Agricultural Conservation Easement shall be determined by an independent real property appraiser with experience valuing conservation easements for the California Department of Conservation Sustainable Agricultural Lands Conservation Program (SALC) or a similar program. The appraisal shall be completed within 90 days from consideration by the Appropriate Authority. The appraisal shall be considered by the Agricultural Commissioner, who may recommend that the applicant obtain a second appraisal and return to the Agricultural Commissioner for consideration of the second appraisal.
4. The County Agricultural Commissioner shall consider and make a recommendation to the Board of Supervisors regarding any proposed Alternative Mitigation.
5. Alternative Mitigation is subject to review and approval by the Board of Supervisors.
6. The applicant shall bear all the costs of the County or a third party reviewing, approving, managing, and enforcing the Alternative Mitigation.

#### **2.2-360 Farmland Mitigation Plan.**

- A. When an applicant submits an application to the County that triggers mitigation under this article, the applicant shall concurrently submit a Farmland Mitigation Plan. The Farmland Mitigation Plan shall contain the following information and documentation in sufficient detail, as specified in this section:
  1. Map and calculate the applicable project acreage of the following: Prime Farmland and Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance, and Grazing Land; and
  2. The proposed mitigation method to mitigate the conversion of agricultural land in accordance with this program.
- B. Before the application is heard by the Appropriate Authority, the applicant shall submit an updated Farmland Mitigation Plan that shall contain the following information and documentation in sufficient detail:
  1. The Qualifying Entity that will hold the Mitigation Land or administer the In-lieu Fees, if applicable;
  2. The acreage that would be preserved through mitigation or the amount of In-lieu Fees that would be paid;

3. The location of the Mitigation Land, if applicable; and
4. The proposed Agricultural Conservation Easement, if applicable.

#### **2.2-370 Approval and Completion**

- A. All mitigation proposed by an applicant to comply with the Agricultural Mitigation Program shall be reviewed by the Planning Commission for consistency with the terms and purposes of this article. The Planning Commission shall recommend approval, conditional approval, or disapproval to the Board of Supervisors. The Planning Commission shall not recommend approval of the proposed mitigation unless it finds that mitigation to be consistent with the requirements of this article.
- B. The Board of Supervisors shall consider the Planning Commission's recommendation and shall either approve, conditionally approve, or disapprove the proposed mitigation.
- C. The County shall not issue any permit or other approval for any project involving a conversion subject to the mitigation obligation under this article unless the Board of Supervisors has previously approved proposed mitigation in compliance with this article. Issuance of such permit or approval shall be conditioned on the applicant's completion of mitigation in compliance with section 2.2-370(D).
- D. Completion of Mitigation.
  1. The applicant for conversion must complete all required mitigation prior to the earliest of (a) filing of any parcel map or final subdivision map, or (b) issuance of any building, grading, or encroachment permit.
  2. Mitigation shall be deemed complete by the Director of Resource Management when the approved Agricultural Conservation Easement has been recorded and the applicant has paid the required administrative fee. For In-Lieu Fees, mitigation shall be deemed complete by the Director of Resource Management upon full payment. However, if the applicant elects to seek approval of an Alternative Mitigation option, mitigation shall be deemed complete when the Director of Resource Management provides the applicant with a letter indicating that mitigation is complete.

#### **2.2-380 Requirements for Qualifying Entities**

- A. To be considered a Qualifying Entity, an entity must (a) be a nonprofit benefit corporation that is qualified to hold conservation easements under section 815.3 of the Civil Code and in compliance with the requirements of section 65965 et seq. of the Government Code, and (b) be approved by the Board of Supervisors for the purpose of holding and managing Agricultural Conservation Easements.
- B. Approval Criteria. In considering whether to approve an entity as a Qualifying Entity, the Board of Supervisors may consider the following criteria:

1. Whether the entity's principal purpose includes holding and administering easements for the purposes of conserving and maintaining lands in agricultural production;
  2. Whether the entity has an established record of holding and administering easements for the purposes of conserving and maintaining lands in agricultural production;
  3. The extent and duration of the entity's involvement in agricultural land conservation with Solano County;
  4. Whether the entity has been accredited by the Land Trust Accreditation Commission; and
  5. Whether the entity is a member in good standing of an established and widely recognized California statewide association of land trusts.
- C. No Qualifying Entity shall sell, lease, hypothecate, or encumber any interest in any mitigation land without the prior approval of the Board of Supervisors.
- D. Expenditures of Fees. A Qualifying Entity shall use fees provided by Solano County solely for purposes of acquiring, administering, monitoring, and enforcing Agricultural Conservation Easements acquired pursuant to this article.
- E. Termination of Qualifying Entity. If a Qualifying Entity intends or reasonably expects to cease operations, it shall assign any Agricultural Conservation Easements it holds to Solano County or another Qualifying Entity with the approval of the Board of Supervisors.
- F. Monitoring and Enforcement. The Qualifying Entity shall monitor the use of all mitigation land subject to Agricultural Conservation Easements held by the entity and enforce compliance with the terms of those Agricultural Conservation Easements.
- G. Reporting. On or before December 31 of each year after a Qualifying Entity is approved by the Board of Supervisors, the entity shall provide to the Director of Resource Management a single annual report describing the activities undertaken by the entity under this article. That report shall describe the status of the Mitigation Land and/or Agricultural Conservation Easements held by the entity, including a summary of all action taken to enforce its Agricultural Conservation Easements, and an accounting of the use of administrative and In-Lieu Fees remitted to it by Solano County.

## **SECTION 2.**

This Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §21000, et seq.) (CEQA) pursuant to CEQA Guidelines (Cal. Code Regs., tit. 14, §15000 et seq.) Section 15162. The 2008 General Plan EIR evaluated environmental impacts associated with implementation of the 2008 General Plan, which included Implementation Program AG.I-1 in the Agricultural Element directing the County to create and adopt this Farmland Conversion Mitigation Program. Therefore, no subsequent environmental review is required for this ordinance because the effects of establishing the farmland conversion mitigation program were analyzed in the General Plan EIR and no substantial changes in

project description, substantial changes in circumstances, or new information of substantial importance leading to new significant effects or a substantial increase in the severity of previously identified effects have been identified. Further, CEQA already requires mitigation of impacts on agricultural land and provides the County of Solano with the authority to mitigate. This program establishes a mitigation program and does not authorize any specific project.

This Ordinance is further exempt from CEQA under CEQA Guidelines Sections 15307 and 15308 as an action taken to assure the maintenance, restoration, enhancement, or protection of natural resources and the environment. This ordinance establishes a regulatory program for avoiding or reducing significant environmental impacts to farmland in the County and will ensure that future impacts to farmland in the County are minimized and mitigated through a consistent and standardized regulatory program. This ordinance minimizes future alterations in land use and will not result in disturbances to agricultural or environmental resources.

### **SECTION 3.**

This Ordinance will be effective thirty (30) days after its adoption.

### **SECTION 4.**

If any provision of this Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance and each case be given effect without the invalid provision or application, and to this end the provisions of this ordinance are hereby declared to be severable.

### **SECTION 5.**

A summary of this ordinance will be published within 15 days of its adoption in the Fairfield Daily Republic, a newspaper of general circulation in Solano County.

Passed and adopted by the Solano County Board of Supervisors at its regular meeting on \_\_\_\_\_, 2024, by the following vote:

AYES:	SUPERVISORS	_____
NOES:	SUPERVISORS	_____
EXCUSED:	SUPERVISORS	_____

\_\_\_\_\_  
MITCH H. MASHBURN, Chair  
Solano County Board of Supervisors

ATTEST:  
BILL EMLLEN, Clerk  
Solano County Board of Supervisors

By: \_\_\_\_\_  
Alicia Draves, Chief Deputy Clerk

**Introduced:** October 22, 2024  
**Adopted:**  
**Effective:**  
**Operative:**