

AGRICULTURAL MITIGATION POLICY

City of Gilroy

Adopted May 3, 2004
Revised January 4, 2016

Section 1.00 Statement of Intent

It is the intent of this policy to set forth the specific criteria and guidelines, consistent with the City's General Plan policies on agriculture, to enable the continued viability of agriculture and agri-tourism in the Gilroy area through:

- (a) Recognition of agriculture's significant contribution to the local economy;
- (b) Protection of agricultural lands from urban encroachment;
- (c) Preservation of agricultural lands as a natural buffer between Gilroy and surrounding communities; and
- (d) Appreciation for the role of agricultural lands in enhancing Gilroy's semi-rural, character.

Section 1.01 Definitions

Agricultural Land or Farmland:

Those lands within the City of Gilroy's General Plan 20-year boundary that are deemed to meet the Thresholds of Significance for CEQA purposes, or those that are designated "Prime" or lands of "Statewide Importance" by the State Department of Conservation as shown on their latest "Important Farmland Map." This also includes land that has been used for agriculture but has not been irrigated for six years or more as defined by the California State Farmland Mapping Program.

Agricultural Mitigation Land:

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

Agricultural Operations:

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

Farmland Conservation Easement:

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

Farmland Deed Restriction:

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

Natural Trail:

An unimproved trail.

Preferred Preservation Area:

The agricultural lands located in the Santa Clara County agricultural preserve, specifically the agricultural lands located outside of Gilroy's General Plan boundary and within Gilroy's Sphere of Influence (See Attachment 1 "Preferred Preservation Areas").

Wildlife Habitat:

A wildlife sanctuary that provides water, food, shelter and places to raise young for native wildlife.

Wildlife Sanctuary:

An area where native wildlife are safe from people or non-native animals such as dogs and cats.

Section 1.02 Agricultural Mitigation Requirements

- (A) Those lands that require agricultural mitigation are identified in Figure 4.4-2 and Table 4.4-5 of the City of Gilroy's General Plan 2020 EIR (See Attachments 2, 3 and 4). Mitigation requirements are not limited to these lands but would include the loss of agricultural lands due to the conversion to urban uses (including actions such as USA amendments, extension of services, or annexation) when the following criteria are met:
- (1) The City of Gilroy shall require agricultural mitigation for the loss of agricultural lands due to conversion to urban uses for land defined as "prime farmland or farmland of "Statewide Importance" in *Section 1.01 Definitions*. Mitigation shall only be required for that portion of the land that no longer will be designated agricultural land and/or will be converted to a non-agricultural use. One acre of agricultural land shall be protected for every one acre that is changed to a non-agricultural zoning classification and/or converted to a non-agricultural use (1:1 ratio of land); and
 - (2) The project site is deemed a significant impact based upon the completion of a Land Evaluation and Site Assessment Model (General Plan EIR Appendix F-2) as administered through the standard CEQA process during project review.

- (3) With the following exceptions:
 - a. A maximum of 100 feet of the land that will remain in a permanent agricultural buffer; or
 - b. An area intended for city public facilities, as set forth in the City's General Plan or Parks Master Plan, that is adjacent to City roads and with nearby city infrastructure that can serve the project. Such public facilities would include public parks and/or public recreational facilities; permanent natural open space that is not disturbed by the development; trails and developed open space that is open to the public; and public school sites.
 - c. Lands dedicated for lanes, median islands, bike lanes, and pedestrian facilities which qualify for Traffic Impact Fund reimbursement or funding and are not required solely due to the proposed development project, shall not be included in the acre count for agricultural mitigation. Typically these lands include the median and all sections of the roadway except the first travel lane along the frontage and the parking/shoulder lanes for arterials. For expressways all lanes including parking, bike, and shoulder plus pedestrian facilities are included. The lands for these lanes, median islands, bike lanes, and pedestrian facilities are for the common good of the community and are not considered specific to the development.
 - (4) Specific plan areas may provide agricultural mitigation on-site as established in the specific plan if approved by the City Council. All proposed mitigation in the specific plan must be consistent with the intent of the General Plan EIR Mitigation Measure 4.4-A and this policy as feasible mitigation for the loss of agricultural lands. Additional mitigation acreage may be required outside the specific plan area to meet the 1:1 ratio mitigation requirement.
- (B)** Mitigation may be accomplished with one of the following two options and the options shall include all costs to cover program administration, monitoring and management of established easements as outlined in *Section 1.02 (E)*:
- (1) Mitigation 1: Purchase an equal amount of land (1:1 ratio) of agricultural land within the "Preferred Preservation Areas" (see *Section 1.01 Definitions*) and the transfer of the ownership of this land to the Silicon Valley Land Conservancy or other City-approved agency.
 - (2) Mitigation 2: Purchase of development rights to a 1:1 ratio on agricultural land within the "Preferred Preservation Areas" and the transfer of ownership of these rights to the Silicon Valley Land Conservancy or other City-approved agency.
- (C)** At the time of any initial land use application approval, the applicant shall enter into a deferred payment or dedication agreement establishing the specific criteria and timing for implementing any required mitigation. This deferred agreement shall be recorded with the County Recorder's Office against the proposed project property. All required mitigation must be completed prior to final map approval, or if no map is required, no later than issuance of the first building permit.

- (D)** Lands deemed acceptable for preservation are:
- (1) Those lands designated as “Prime” or of “Statewide Importance” by the State Department of Conservation in the Preferred Areas as defined in *Section 1.01 Definitions*; and
 - (2) Has an adequate water supply to support the historic agricultural use on the land. The water supply for the land shall be protected in the farmland conservation easement, the farmland deed restriction or other document evidencing the agricultural mitigation.
- (E)** Programs with those City-approved agencies handling conservation easements in the “Preferred Preservation Areas” (*Section 1.01 Definitions*), shall include the financial responsibility by the developers for program administration, outreach to landowners, monitoring, and management of established easements. An additional nominal fee to cover these items, the amount of which shall be established by the Silicon Valley Land Conservancy or other City-approved agency in concert with the City, shall be required in addition to the mitigation options outlined in *Section 1.02 (B)*.

Section 1.03 Right to Farm Deed Restrictions

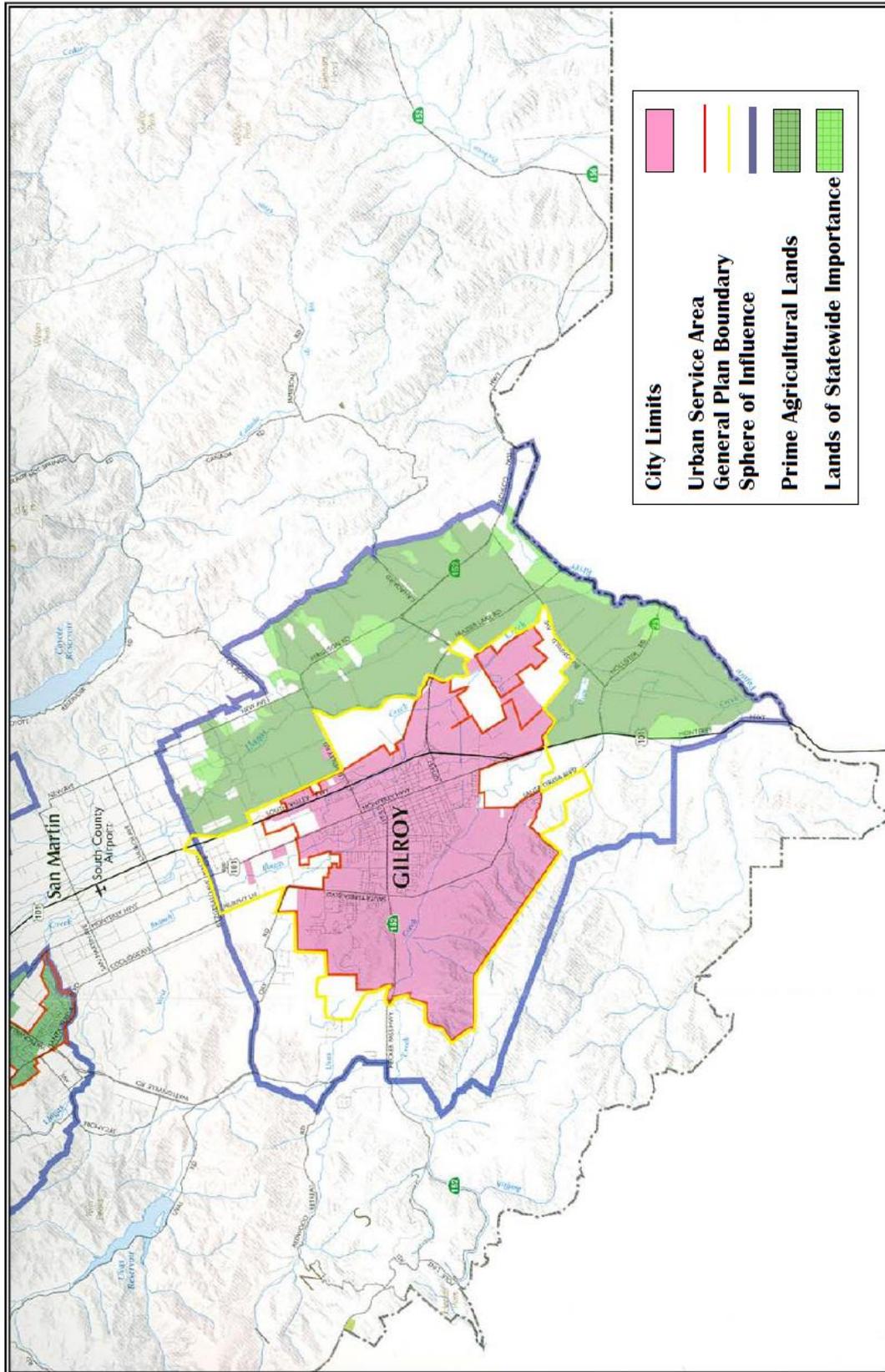
- (A)** All lands located within one thousand (1,000) feet of any agricultural lands deemed for preservation, as shown on the Farmland Preservation Area map (Attachment 1), shall be subject to the placement of a “right to farm” deed restriction that conforms with both Santa Clara County restrictions as well as the State of California real estate transfer disclosure requirements as a condition of approval for any discretionary permit.
- (B)** The deed restriction shall include the following wording:
- “You are hereby notified that the property you are purchasing is located within 1,000 feet of agricultural land, agricultural operations or agricultural processing facilities. You may be subject to inconvenience or discomfort from lawful agricultural operations. Discomfort and inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. One or more of the inconveniences described may occur as a result of agricultural operations, which are in compliance with existing laws and regulations and accepted customs and standards. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector.
- Lawful ground rig or aerial application of pesticides, herbicides and fertilizers occur in farming operations. Should you be concerned about spraying, you may contact the Santa Clara County Agricultural Commission.”
- (C)** The Right to Farm Deed Restriction shall be included in all subsequent deeds and leases for this property and shall conform with both Santa Clara County restrictions as well as the State of California real estate transfer disclosure as defined by this policy.

Section 1.04 Agricultural Buffer

- (A) To minimize future potential conflicts between agricultural and non-agricultural land uses, all new developments adjacent to designated agricultural, agricultural preserve, agricultural open space, greenbelt/agricultural buffer areas shall be required to provide an agricultural buffer/agricultural transition area.
- (B) The agricultural buffer/agricultural transition area shall be a minimum of one hundred fifty (150) feet measured from the edge of the agricultural, agricultural preserve, greenbelt area. No public access shall be allowed in this transition area due to the potential for complaints about and exposure to the dust and spraying associated with agricultural activities.
- (C) This agricultural buffer/agricultural transition area shall be comprised of two components:
- (1) A one hundred (100) foot minimum wide agricultural buffer zone located adjacent to the agricultural lands or greenbelt area. The following uses in the one hundred (100) foot or greater agricultural buffer area shall be limited to:
 - i. Native plants, trees or hedge rows
 - ii. Drainage channels, storm retention ponds, natural areas such as creeks or drainage swales
 - iii. Railroad tracks or other utility corridors
 - (2) A fifty (50) foot agricultural transition area located between the one hundred (100) foot minimum agricultural buffer area and any new development. The following uses are allowed in the fifty (50) foot agricultural transition area:
 - i. Native plants, trees or hedge rows
 - ii. Drainage channels, storm retention ponds natural areas such as creeks or drainage swales
 - iii. Bike paths, benches, lighting, trash enclosures and fencing
 - iv. Other non-residential uses determined by the Planning Commission to be consistent with the use of the property as an agricultural buffer; such as natural trails, bike paths, wildlife habitats, wildlife sanctuaries, or community service facilities like detention basins.
- (D) The agricultural buffer/transition area shall be constructed by the developer of any land adjacent to agricultural uses, subject to approved plans by the Community Development Department. This area shall be maintained by the developer according to standards approved by the City until the area is dedicated to and accepted by the City or other City approved agency at which time they shall be responsible for maintenance.

ATTACHMENT 1

**City of Gilroy
PREFERRED PRESERVATION AREAS**



ATTACHMENT 3

**Table 4.4-5
Changes to Land Use Designations or General Plan Boundary¹
Involving Agricultural Lands**

Area ID	Notes	Acres (Approx.)
A	Prime farmland proposed for removal from the planning area (274 acres total of which 40 acres is rural residential). With the proposed General Plan, the site will be designated as County agricultural and rural residential.	- 234
B	Prime farmland to be designated as Campus/General Industrial to better align the planning boundary along the east side of planning area. ("Other land" of 15 acre in northernmost area <i>not</i> included in table or on Figure 4.4-2)	93
C	Prime farmland to be added to the planning area and redesignated as Campus Industrial (430 acres) and Open Space (234 acres). The Open Space area is not expected to be actively farmed due to the fact that it would be bound on the west by drainage/recreational uses upon development of the 430 acres of Campus Industrial, on the east by Llagas Creek, and the land between the two is expected to be too narrow to be effectively farmed. See more details in the following section.	664
D	Prime farmland to be added to the planning area as Public Facility. This land to be used by the South County Regional Wastewater Authority (SCRWA).	49
F	Prime and Statewide-Important farmland to be added to the planning area as Public Facility for the South County Regional Wastewater Authority.	380
E, G, H, I, J, K, L	Prime and Statewide-Important farmland within the existing and proposed General Plan areas to be redesignated from Open Space to urban uses. See below for more information.	381
M	Ranchlands to be added to the planning area and designated as Open Space. The new designation does not permit any urban development but does permit grazing; therefore it is not considered an urban use nor a conversion of agricultural land.	1,470
Farmland Proposed to Be Added to Planning Area		952
Farmland Proposed to Be Added/Converted from City or County open space or agricultural designation to an urban land use designation		1,333
¹ The General Plan Boundary used for this analysis is the "Boundary of the Planning Area" shown in the General Plan map dated 1/7/98 with changes approved in the amendment for the Gilroy Sports Park.		

ATTACHMENT 4

AGRICULTURAL MITIGATION POLICY APPLICABILITY

GENERAL PLAN EIR – Additional Agricultural Mitigation Measures (4.4.a)		
Is the site located within an area identified in the GP EIR as being converted to urban designation (see attachments 2 and 3 of Ag Policy)?	Yes, subject to mitigation through the Ag Policy.	No, continue to next question
Is the site designated as farmland that is either of prime or statewide importance according to the State Department of Conservation Important Farmland Mapping?	Yes, continue to CEQA Review	No, not subject to policy
California Environmental Quality Act (CEQA) Review		
Does it score as significant based on the California Department of Conservation Agricultural Land Evaluation and Site Assessment (LESA) model?	Yes, mitigation through the Ag Policy is required	No, continue to next question
Are there any Williamson Act Contracts in place on the property?	Yes, significant unavoidable impact	No mitigation required, less than significant impact

* CEQA requires all feasible mitigation for significant unavoidable impacts. Upon certification of the General Plan EIR, the City Council declared that an Agricultural Mitigation Program is deemed feasible mitigation. Therefore significant impacts as determined under CEQA would be subject to the City’s Agricultural Mitigation Policy.