

Appendix

E

ORDINANCE NO. 2008-01

"Planning for a Sustainable Solano County"

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ORDINANCE NO. 2008-01

**AN ORDINANCE OF THE PEOPLE OF THE COUNTY OF SOLANO,
ADOPTING AN AMENDMENT TO THE 1994 ORDERLY GROWTH
INITIATIVE TO UPDATE CERTAIN PROVISIONS OF THE GENERAL
PLAN LAND USE AND CIRCULATION ELEMENT RELATING TO
AGRICULTURE OR OPEN SPACE POLICIES AND LAND USE
DESIGNATIONS, AND TO EXTEND THE AMENDED INITIATIVE,
INCLUDING THE VOTER APPROVAL REQUIREMENT, UNTIL
DECEMBER 31, 2028**

The people of the County of Solano ordain as follows:

Section 1. Purposes and Findings

- A. In December 1980, the Solano County Board of Supervisors adopted a General Plan Land Use and Circulation Element that established a development policy of city-centered growth. Under the 1980 General Plan, urban development was to be confined to patterns that did not conflict with essential agricultural lands, while rural and suburban development was to be confined to non-essential marginal agricultural lands. The 1980 General Plan was intended to provide policy guidance for shaping growth and development within the unincorporated areas of Solano County, and for protecting its agricultural and natural resources, until the year 1995.
- B. Proposition A, an initiative measure passed by the voters of Solano County in June 1984, reaffirmed the General Plan's cornerstone policies of city-centered growth and farmland protection, and imposed strict limitations on the County Board of Supervisor's ability to allow new residential, commercial, or industrial development in agricultural and open-space areas. Proposition A was a limited-term measure that was to expire in December 1995.
- C. In 1994, the voters of Solano County proposed the Orderly Growth Initiative in order to extend the protections of Proposition A until December 31, 2010. In response to broad public support for that proposal, the Solano County Board of Supervisors adopted the Orderly Growth Initiative as its Resolution No. 94-170 on July 26, 1994.
- D. For 28 years, the 1980 General Plan, Proposition A, and the Orderly Growth Initiative have protected working farms, ranches, and watershed areas in Solano County by directing urban growth and development into our cities. The cornerstone policies of city-centered growth and farmland protection have:
 - Provided each city in Solano County the opportunity to develop with its own unique character;
 - Reduced flood risks, improved air quality, and protected our water quality;
 - Prevented poorly-planned growth and development; and
 - Assured the continued preservation of working farms, ranches, and watershed areas between the cities of Solano County.

- E. Although the 1980 General Plan was originally intended to be updated in 1995, the Orderly Growth Initiative prevents the County from adopting a comprehensive update to the 1980 General Plan unless the voters amend the language of the land use and development policies set forth in the Orderly Growth Initiative.
- F. Solano County's current General Plan does not accurately reflect existing and planned land uses of Solano County's seven cities, nor does it adequately provide for modern farming practices that Solano County's farmers need to employ in order to survive in today's regional, national, and global economies. Solano County cannot effectively plan and manage 21st century land uses and development if its guiding policy document is a 20th century General Plan.
- G. Solano County has completed a multi-year process of updating its General Plan. This process was necessary to keep the General Plan current to comply with state law and with changing conditions. The new 2008 General Plan reaffirms the County's commitment to a city-centered development pattern and the protection of agricultural and open-space area. The new 2008 General Plan is intended to serve as the guide for both development and conservation within the unincorporated portion of Solano County through the year 2030.
- H. While the 1980 General Plan divided Solano County's agricultural area into two large regions, identified as "Extensive Agriculture" and "Intensive Agriculture," the new 2008 General Plan identifies ten distinct agricultural regions based on soil types and farming practices, and establishes unique development policies for each region. In addition, the new General Plan allows for agricultural processing service uses in areas northeast of the City of Dixon to serve the farming community, and limited industrial development adjacent to the City of Vacaville, but restricted to uses that cannot be accommodated in city industrial areas.
- I. The Solano County General Plan's Land Use and Circulation Map, as reaffirmed by Solano County voters as part of the Orderly Growth Initiative in 1994 and as amended since then consistent with policies of that Initiative, is shown in Exhibit A to this ballot measure. The Solano County 2008 General Plan's Land Use Diagram is shown in Exhibit B to this ballot measure.
- J. Solano County's 2008 General Plan involves only minor amendments to the Orderly Growth Initiative, as reflected in Exhibits C and D to this ballot measure.
- K. This ordinance will continue to protect Solano County's working farms, ranches and watershed areas by extending the essential provisions of the Orderly Growth Initiative for the anticipated duration of the new 2008 Solano County General Plan. This measure will:
 - Readopt the Orderly Growth Initiative's policies that strictly limit the Board of Supervisor's ability to change the designation of "Agriculture" or "Open Space" lands through the year 2028.
 - Update the Orderly Growth Initiative's density standards for development of "Agriculture" or "Open Space" lands and extend the effect of those density standards through the year 2028. This will prevent poorly planned growth in the unincorporated lands of Solano County.

L. This ordinance and the 2008 Solano County General Plan will:

- Maintain the current development strategy of city-centered growth;
- Retain the overall function of the Orderly Growth Initiative, while updating and refining the Initiative's policies and land use designations;
- Protect and support agriculture as an important component of Solano County's economy and quality of life;
- Provide an opportunity for farm-based, businesses, such as wineries, to develop successfully within Solano County;
- Encourage the location of new industrial and agricultural processing facilities;
- Sustain and enhance Solano County's natural environment, including its diverse species, watersheds, natural communities, and wildlife corridors;
- Ensure sufficient opportunities for residential, commercial, and industrial development within areas served by the cities, in order to provide all Solano County's residents with a vibrant economy and affordable housing options;
- Protect the health, safety, and welfare of Solano County's residents by avoiding more air pollution, water pollution, water shortages, traffic congestion, noise and other adverse environmental impacts from urban sprawl;
- Prevent costly and inefficient extensions of urban services and infrastructure to rural areas of the County;
- Permit Solano County to continue to bear its fair share of regional growth and provide safe, decent affordable places for people to live in our cities;
- Prevent piecemeal amendments of the Solano County General Plan that would allow development on agricultural and open space lands;
- Help increase our supply of good jobs by encouraging job development in our growing agriculturally-based industries; and
- Allow the County to update and amend its General Plan periodically as necessary to comply with State law and changing conditions, while requiring that any such amendments be consistent with the cornerstone policies of city-centered growth and protection of farmlands and open space.

Section 2. Orderly Growth Initiative Amendment

The Solano County Land Use and Circulation Element, as amended by the 1994 Orderly Growth Initiative, as part of the Solano County General Plan, is amended as follows:

- A. Development Strategy Policy No. 16 (General Plan Land Use and Circulation Element, Chapter II, page 23,) is renumbered as Land Use Policy LU.P-2 and amended to read:

A cornerstone principle of this General Plan is the direction of new urban development and growth toward municipal areas. In furtherance of this central goal, the People of Solano County, by initiative measure, have adopted and affirmed the following provisions to assure the continued preservation of those lands designated Agriculture," "Watershed", "Marsh", "Park & Recreation", or "Water Bodies & Courses": **Land Use Policy LU.P-3; Agricultural Policies AG.P-31, AG.P-32, AG.P-33, AG.P-34, AG.P-35, and AG.P-36.** The General Plan may be reorganized, and individual goals and policies may be renumbered or reordered in the course of ongoing updates of the General Plan in accord with the requirements of state law, but the provisions enumerated in this paragraph shall continue to be included in the General Plan until December 31, **2028**, unless earlier repealed or amended by the voters of the County.

- B. Development Strategy Policy No. 17 (General Plan Land Use and Circulation Element, Chapter II, page 23a) is renumbered as Land Use Policy LU.P-3 and amended to read:

The designation of specific lands and water bodies as "Agriculture," "Watershed," "Marsh," "Park & Recreation," or "Water Bodies & Courses" on the Solano County Land Use **Diagram**, adopted by the Solano County Board of Supervisors on December 19, 1980, and as amended subsequently consistent with Proposition A **and the Orderly Growth Initiative**, shall remain in effect until December 31, **2028**, except lands designated "Agriculture" may be re-designated pursuant to the procedure specified in **Agricultural Policies AG.P-32 through AG.P-36** (providing for re-designation upon the making of specific findings, or as necessary to comply with state law requirements regarding provision of low and very low income housing, or permitting certain re-designations to open space).

In addition, these agricultural and open space lands may also be re-designated after a final judgment by a court of competent jurisdiction determining that the absence of a re-designation would constitute an unauthorized taking of private property or is otherwise unconstitutional, but only to the minimum geographical extent and intensity of use necessary to avoid such unconstitutional result. Any such re-designation shall be designed to carry out the goals and provisions of this policy to the maximum extent possible.

Further, the precise boundaries of land use designations may be subject to minor adjustment and refinement prior to development, or upon request of an affected landowner, provided such refinements reflect the overall boundaries indicated on the General Plan Land Use **Diagram** and are consistent with all other General Plan policies, in particular, the General Plan policies prohibiting piecemeal conversions of agricultural lands to non-agricultural uses.

- C. Agricultural Lands Policy 9 (General Plan Land Use and Circulation Element, Chapter III, pp. 37-37a) is renumbered as Agriculture Policy AG.P-31 and amended to read:

Define parcel size of Agriculture designated lands based on the “Agriculture Regions” section as described in this chapter and presented in Table AG-3.

One residence **and a permitted secondary unit** may be built on a lot of record existing as of January 1, 1984, designated “Agriculture” provided however that (i) the owner demonstrates compliance with all other applicable County requirements, and (ii) before such exemption is granted, the lot has first been merged with contiguous parcels to the maximum extent possible consistent with State law.

- D. Table AG-3, as referenced in Agricultural Policy AG.P-31, is added:

Table AG-3
Agricultural Regions

Agricultural Region	Minimum Lot Size	General Uses
Winters	40 acres	Provides for agricultural production, agricultural processing facilities, facilities to support the sale of produce, and tourist services that are ancillary to agricultural production
Dixon Ridge	40 acres	Provides for agricultural production, agricultural processing facilities, and agricultural services
Elmira and Maine Prairie	40 acres – northwest portion (Elmira) 80 acres – southeast portion (Maine Prairie) See Figure AG-5	Provides for agricultural production, agricultural processing facilities, and agricultural services
Montezuma Hills	160 acres	Provides for agricultural and energy production
Ryer Island	80 acres	Provides for agricultural production

Agricultural Region	Minimum Lot Size	General Uses
Suisun Valley	20 acres	Provides for agricultural production, agricultural processing facilities, facilities to support the sale of produce, and tourist services that are ancillary to agricultural production
Green Valley	20 acres	Provides for agricultural production. A future Specific Plan required for Middle Green Valley will further detail desired agricultural uses and lot sizes
Pleasants, Vaca, and Lagoon Valleys	40 acres – Parcels with current A-40 zoning 20 acres – Parcels with current A-20 zoning See Figure AG-6	Provides for agricultural production and facilities to support the sale of produce, and tourist services that are ancillary to agricultural production
Jepson Prairie	160 acres	Provides for agricultural production
Western Hills	160 acres – West of Pleasants Valley Road 20 acres – East of Pleasants Valley Road and in the Tri-City and County area See Figures AG-7 and AG-8	Provides for agricultural production and tourist services that are ancillary to agricultural production

E. Agricultural Lands Policy 10 (General Plan Land Use and Circulation Element, Chapter III, pp. 37a-37b) is renumbered as Agriculture Policies AG.P-32 and amended to read:

Lands within the “Agriculture” designations as shown on the Land Use **Diagram** may be re-designated to a more intensive agricultural designation, or to a rural residential designation (with a maximum density of one unit per 2.5 to 10 acres) if the Board of Supervisors makes each of the following findings:

- (a) That the approval will not constitute part of, or encourage, a piece-meal conversion of a larger agricultural area to residential or other non-agricultural uses, and will not alter the stability of land use patterns in the area;
- (b) That no land proposed for re-designation is prime agricultural land as defined pursuant to California Government Code section 51201 (the California Land Conservation Act of 1965, also known as the Williamson Act);

- (c) That the subject land is unsuitable for agriculture due to terrain, adverse soil conditions, drainage, flooding, parcel size or other physical facts, such that it has no substantial market or rental value under the "Agriculture" designation;
- (d) That the use and density proposed are compatible with agricultural uses and will not interfere with accepted farming practices;
- (e) That the land is immediately adjacent to existing comparably developed areas and the applicant for the re-designation has provided substantial evidence that the Fire District, School District, County Sheriff, ***the area road system, and the proposed water supplier*** have adequate capacity to accommodate the development and provide it with adequate public services; and
- (f) That annexation to a city or incorporation is not appropriate or possible based on the following factors: nearby cities' designated sphere of influence boundaries, cities' general plan growth limits and projections, and comprehensive annexation plans.

All re-designations pursuant to this policy shall be limited to a maximum of 160 acres for any one landowner in any calendar year. Landowners with any unity of interest are considered one landowner for purposes of this limitation.

F. Agricultural Lands Policy 11 (General Plan Land Use and Circulation Element, Chapter III, p. 37b) is renumbered as Agriculture Policy AG.P-33 and amended to read:

To comply with state law regarding the provision of low and very low income housing, as those terms are or may be defined by state law, lands within the "Agriculture" designations on the Land Use ***Diagram*** may be changed to a residential designation. No more than 50 acres of land may be re-designated for this purpose in any calendar year. Such re-designation may be made only upon each of the following findings:

- (a) The findings stated in subparagraphs (e) and (f) in Policy ***AG.P-32***, above, are met;
- (b) Use of the land re-designated under this policy will be limited to low and very low income housing development, pursuant to a legally valid Housing Element of this General Plan;
- (c) There is no existing residentially designated land available for the low and very low income housing; and
- (d) The re-designation of lands, and construction of low and very low income housing on those lands, is required to comply with state law requirements for provision of such housing.

Section 3. Policies of the Orderly Growth Initiative Not Being Amended

The 1994 Orderly Growth Initiative provides that its policies may be renumbered and that such renumbering shall not constitute an amendment of the Initiative. The policies identified in this section are being renumbered without amendment in the 2008 Solano County General Plan as follows:

- A. Agricultural Lands Policy 12 (General Plan Land Use and Circulation Element, Chapter III, p. 37c) is renumbered as Agriculture Policy AG.P-34. That policy provides as follows:

Lands within the “Agriculture” designations may be re-designated to “Park & Recreation” only for public recreation and public open space uses and only if the uses permitted by the new designation will not interfere with or be in conflict with agricultural operations.

- B. Agricultural Lands Policy 13 (General Plan Land Use and Circulation Element, Chapter III, p. 37c) is renumbered as Agriculture Policy AG.P-35. That policy provides as follows:

Lands within the “Agriculture” designations may be re-designated to “Watershed” or “Marsh.”

- C. Watershed Lands Policy 2 (General Plan, Land Use and Circulation Element, Chapter III, page 39) is renumbered as Agriculture Policy AG.P-36. That policy provides as follows:

Lands designated Watershed.

- a. Within the “Watershed” land use designation, the maximum permitted residential density is one dwelling unit per one hundred sixty (160) acres.
- b. Notwithstanding the preceding paragraph, one residence may be built on a lot of record existing as of January 1, 1984, designated “Watershed” provided however that (i) the owner demonstrates compliance with all other applicable County requirements, and (ii) before such exemption is granted, the lot has first been merged with contiguous parcels to the maximum extent possible consistent with state law.

Section 4. Effective Date

This ballot measure shall take effect ten days after the date on which the election results are declared by the Solano County Board of Supervisors. Upon the effective date of this ordinance, and not sooner, the 2008 Solano County General Plan becomes effective, provided it includes amendments to the various policies of the 1994 Orderly Growth Initiative as set forth in Sections 2 and 3 of this ordinance.

Section 5. Exemptions for Certain Projects

This ordinance shall not apply to any of the following: (1) any project that has obtained as of the effective date of the Initiative a vested right pursuant to state or local law; (2) any land that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution. Nothing in this ballot measure shall be applied to preclude the County's compliance with housing obligations under state law or the use of density bonuses where authorized by state law.

Section 6. Severability and Interpretation

This ordinance shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this ordinance is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of it. The voters declare that this ordinance, and each section, sub-section, sentence, clause, phrase, part, or portion of it, would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this ordinance is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this ordinance that can be given effect without the invalid application. This ordinance shall be broadly construed in order to achieve its purposes.

Section 7. Amendment or Repeal

Except as otherwise provided, only the voters of Solano County may amend or repeal the policies set forth in Sections 2 and 3 of this ordinance.

This ordinance was passed by a vote of the people of the County of Solano, on November 4, 2008, by the following vote:

Yes: _____

No: _____

The vote on this ordinance was declared by the Board of Supervisors on _____, 2008.

John F. Silva, Chair
Solano County Board of Supervisors

Attest:

Michael D. Johnson, Clerk
Board of Supervisors

By: _____
Patricia J. Crittenden, Chief Deputy Clerk

Ordinance No. 2008-01

Exhibits:

Exhibit A: Solano County Land Use and Circulation Map, a part of the 1980 Solano County General Plan.

Exhibit B: Solano County Land Use Diagram, figure LU-1 of the 2008 Solano County General Plan.

Exhibit C: Agricultural and Open Space Land Use Designation Changes from 1980 General Plan.

Exhibit D: Sections 2 and 3 of Ordinance No. 2008-01 with revised text.