



# **AGRICULTURAL PRESERVATION ORDINANCE**

**City Council Work Session No. 2**

**March 6, 2023**

# AGENDA

- 1 • **Present Draft Agricultural Land Preservation Ordinance**
- 2 • **Receive Public Comments & Questions**
- 3 • **City Council Discussion & Input**



# PURPOSE

Implement General Plan Policy LU-P-34, which calls for the City to create and adopt a mitigation program to address conversion of Prime Farmland and Farmland of Statewide Importance in Tiers II and III.

Distinct from other General Plan policies calling for additional strategies to protect agricultural land.

- Right-to-farm ordinance
- Urban agricultural ordinance
- Williamson Act contracted land reviews
- Agricultural buffers and greenbelt

# PROGRAM PARAMETERS & DIRECTION

## Policy Directives

## Work Session No. 1 Direction

### 1 Applicability

- Development of prime farmland and farmland of statewide importance
- Tier II and Tier III properties
- Exemptions apply to Tier I, agricultural processing, agricultural buffers, public facilities, roadways

- Provide for a verification mechanism to ensure that prime farmland and farmland of statewide importance was the focus of the program
- Exempt sites of 5 acres or less
- Exempt 100% affordable housing projects
- Allow for portions of a project to be exempt

### 2 Easements

- 1:1 conversion to preservation
- Equivalent land
- Located outside Visalia's Urban Development Boundary (UDB)
- Held by a qualifying entity
- Agricultural zoning

- Allow easements within Madera, Fresno, Kings, Tulare, Kern counties with a preference for easements located near City
- Require one verified water supply
- City would not be a party to the easement

### 3 In-lieu Fee

- Allowed as an option
- Preference for easement over fee

- In-lieu fee to be established case-by-case
- Fee to be remitted directly to land trust

# DRAFT ORDINANCE ARTICLES & CONTENT

## Article 1: General Provisions

*Title, Purpose and Intent, Objectives, Interpretation of Provisions, Definitions*

## Article 2: Program Requirements

*Applicability, Preservation Requirement*

## Article 3: Methods of Preservation

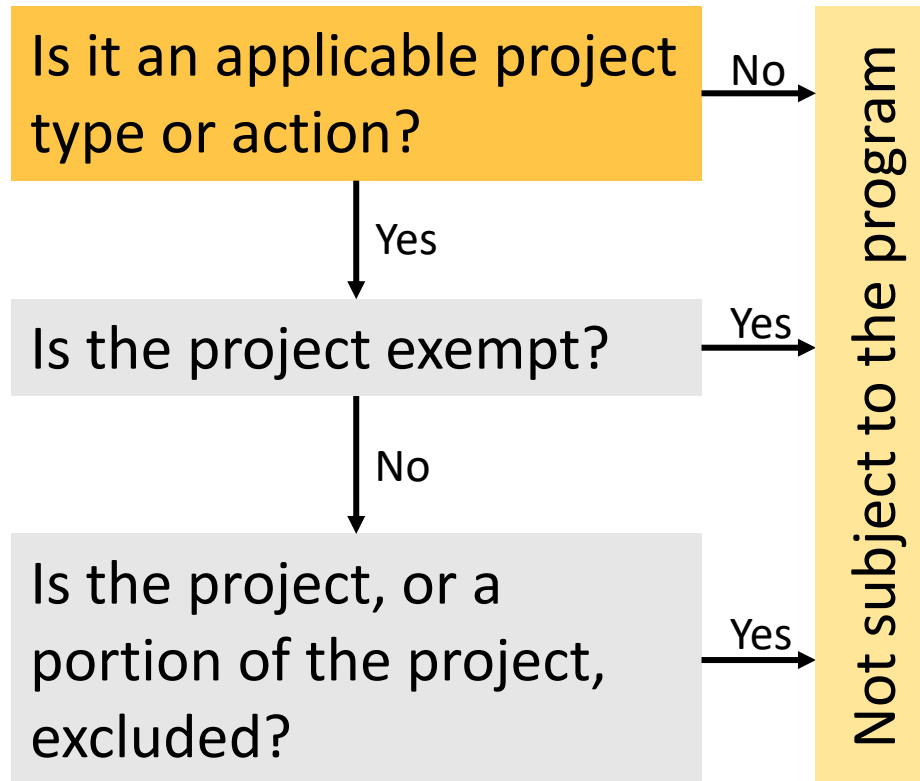
*Acquisition of Agricultural Conservation Easement, Payment of In-Lieu Fee*

## Article 4: Monitoring and Compliance

*Qualified Entity, Compliance Review, Severability*

# PROGRAM REQUIREMENTS

## APPLICABILITY



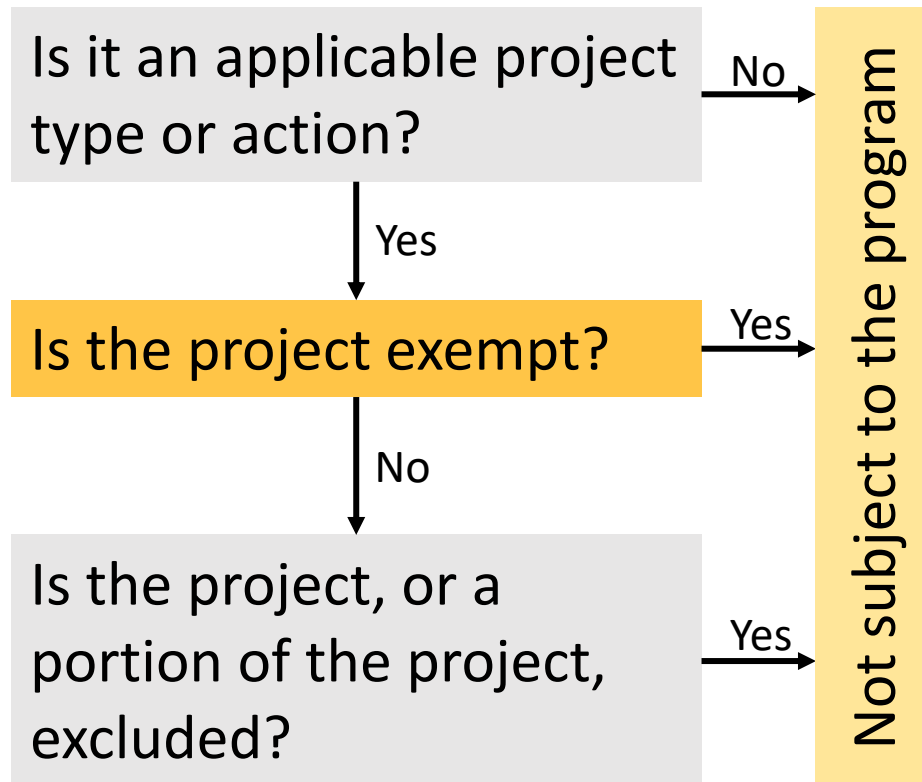
### Project Applicability

Applicable projects include development projects that would:

- authorize the construction or development of the project site, and
- result in the conversion of prime farmland or farmland of statewide importance.

# PROGRAM REQUIREMENTS

## APPLICABILITY



### Exemptions

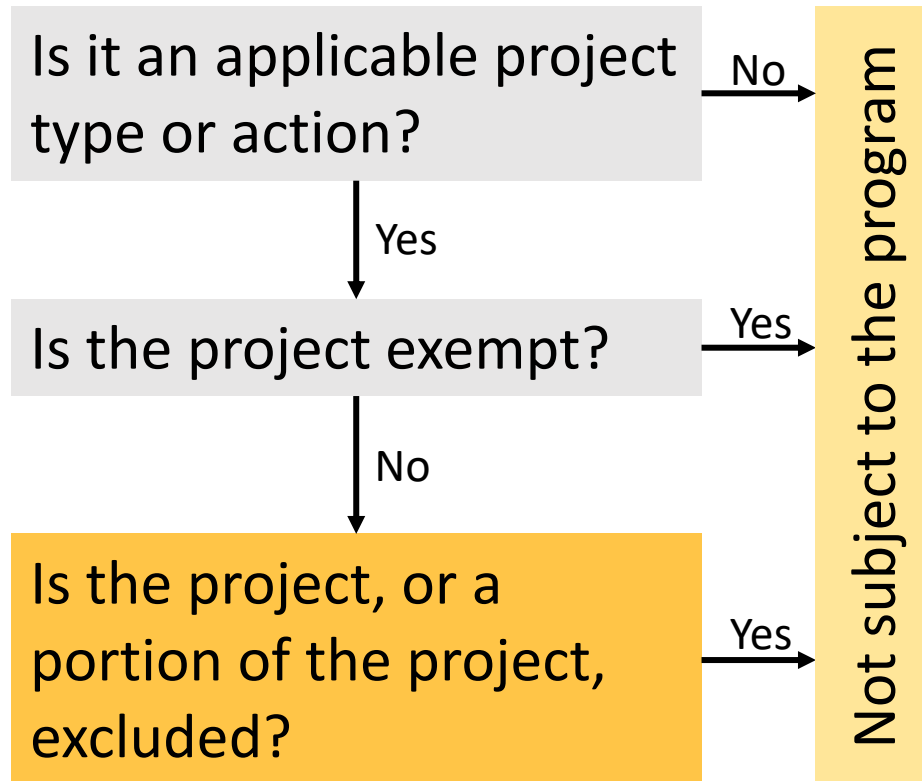
**Location.** Lands that are NOT within Tier II or Tier III.

**Size.** Projects of five acres or less.

**Prior compliance.** Projects on sites that have already complied with this program.

# PROGRAM REQUIREMENTS

## APPLICABILITY



## Exclusions

**Farmland designation.** Not prime or farmland of statewide importance.

- Based on FMMP
- Process to verify the status of the FMMP designation

**Project type or use.**

- 100% Affordable housing projects
- Agricultural processing
- Agricultural buffers
- Public facilities
- Roadways



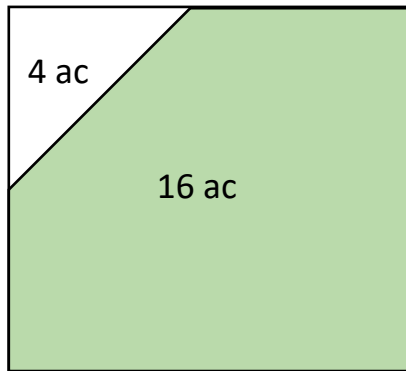
# PROGRAM REQUIREMENTS

## PRESERVED LAND OBLIGATION CALCULATION

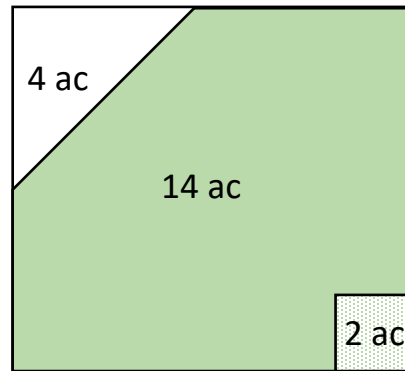
### Determine your preserved land obligation

Preserved land obligation = 1 acre for each 1 acre of converted land

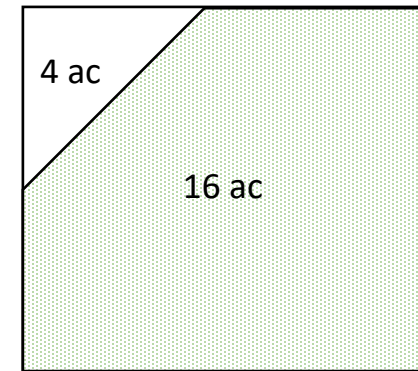
Converted land = total project acreage – acreage of exclusions



Project: Residential subdivision  
Preservation Obligation: 16 acres



Project: Residential subdivision  
with 2-acre neighborhood park  
Preservation Obligation: 14 acres



Project: Community park  
Preservation Obligation: 0 acres

# METHODS OF PRESERVATION

## ACQUISITION OF EASEMENT

### Eligibility for Preserved Land

- Location
  - Preference for easement within 10 miles of City limits.
  - Anywhere within the southern San Joaquin Valley if confirmation in writing from land trust is if there is no land or no willing seller within the 10-mile radius.
- Prime farmland or farmland of statewide importance
- Minimum 20 acres in size
- One verified water supply



*Southern San Joaquin Valley:  
Madera, Fresno, Tulare, Kings, Kern*

# METHODS OF PRESERVATION

## ACQUISITION OF EASEMENT

### Form of the Easement

- The easement form and terms shall be approved by the City to ensure compliance
  - Initial review and approval of form by City Council
  - Verification of form can be delegated
  - Any changes to approved forms will go back to City Council

# METHODS OF PRESERVATION

## IN-LIEU FEE

### Eligibility

Either:

- The total preserved land obligation is less than 20 acres OR
- At least one of the following conditions is met:
  - No qualified entity is able or willing to assist with acquisition, confirmed in writing
  - At least one good faith offer has been declined, confirmed in writing

# METHODS OF PRESERVATION

## IN-LIEU FEE

### Fee Determination

Amount of the fee is determined on a case-by-case basis. Fee will include:

- **Purchase price**
  - 35% of the average purchase price per acre of three comparable lands
  - Appraisal report is required
- **Transaction costs**, such as closing costs, due diligence costs, administrative costs
- **Endowment cost**
  - Establishes an endowment for ongoing easement monitoring, administration, enforcement

# METHODS OF PRESERVATION

## IN-LIEU FEE

### Approval of Fee

- City Council will approve the amount of the fee
- Remittance will be directly from the project proponent to the qualified entity

### Use of Fee

- In-lieu fees are only able to be used to purchase easements in Tulare County

### Reporting

- Requires accounting of all fees
- Requires submittal of costs associated with previous acquisitions

# MONITORING & COMPLIANCE

## QUALIFIED ENTITY

### Approval of Qualified Entity

- To be a qualified entity for purposes of this program, land trusts must be approved by City Council.
- To be approved, certain criteria shall be considered including:
  - Experience in the San Joaquin Valley
  - Accreditation status or standing with a nationwide or statewide association of land trusts
  - Whether the easement is consistent with the terms of the program

# MONITORING & COMPLIANCE

## QUALIFIED ENTITY

### Monitoring and Reporting

- Required annually by February 1 for previous calendar year. Reporting to include:
  - Acquisitions and associated costs
  - Actions taken to enforce easements
  - Accounting of the amount and use of administrative and in-lieu fees
  - Confirmation of accreditation status



# NEXT STEPS

- Input received during the public comment period will be considered in preparation of the public hearing draft
- Public comment period closes on March 27<sup>th</sup>
- City Council hearing date targeted for May 2023

## Submit comments & questions to:

Paul Bernal, Community Development Director

[paul.bernal@visalia.city](mailto:paul.bernal@visalia.city)

(559) 713-4025

## Visit the Website:



[https://www.visalia.city/depts/community\\_development/planning/agricultural\\_preservation\\_ordinance.asp](https://www.visalia.city/depts/community_development/planning/agricultural_preservation_ordinance.asp)

