

AGRICULTURAL LANDS PRESERVATION INITIATIVE

FULL TEXT OF ORDINANCE

The people of the County of Napa do hereby ordain as follows:

Section 1. Findings and Purpose.

A. The protection of existing agricultural and watershed lands is of critical importance to present and future residents of Napa County. Agriculture has been and remains the major contributor to the economy of the County, creating employment for many people, directly and indirectly, and generating substantial tax revenues for the County.

B. In particular, the Napa Valley and surrounding area, with its unique combination of soils, micro-climate and hydrology, has become one of the finest grape-growing regions in the world. Wines produced from grapes grown in Napa County are winning international acclaim, enhancing the County's economy and reputation.

C. Uncontrolled urban encroachment into agricultural and watershed areas will impair agriculture and threaten the public health, safety and welfare by causing increased traffic congestion, associated air pollution, and potentially serious water problems, such as pollution, depletion, and sedimentation of available water resources. Such urban encroachment, or "leap-frog development," would eventually result in both the unnecessary, expensive extension of public services and facilities and inevitable conflicts between urban and agricultural uses.

D. The unique character of Napa County and quality of life of County residents depend on the protection of a substantial amount of open space lands. The protection of such lands not only ensures the continued viability of agriculture, but also protects the available water supply and contributes to flood control and the protection of wildlife, environmentally sensitive areas, and irreplaceable natural resources.

E. The County's General Plan adopted June 7, 1983, as amended through February 1, 1990, contains the following policies protecting agricultural, watershed and open space lands from the adverse effects of urban uses:

1. The Plan provides that the intent of the "Agriculture, Watershed and Open Space" designation is "[t]o provide areas where the predominant use is agriculturally oriented; where watershed areas, reservoirs, floodplain tributaries, geologic hazards, soil conditions and other constraints make the land relatively unsuitable for urban development; where urban development would adversely impact on all such uses; and where the protection of agriculture, watersheds, and floodplain tributaries from fire, pollution, and erosion is essential to the general health, safety, and welfare."
2. The Plan provides that the intent of the "Agricultural Resource" designation is "[t]o identify areas in the fertile valley and foothill areas of the County in which agriculture is and should continue to be the predominate land use, where uses incompatible with agriculture should be precluded and where the development or urban type uses would be detrimental to the continuance of agriculture and the maintenance of open space which are economic and aesthetic attributes and assets of the County of Napa."
3. The Plan provides that the minimum parcel size for lands designated "Agriculture, Watershed and Open Space" is 40 to 160 acres, and the minimum size for lands designated "Agricultural Resource" is 40 acres.
4. The Plan provides that the maximum building intensity for lands designated "Agriculture, Watershed and Open Space" and "Agricultural Resources" is one dwelling unit per parcel (except as specified in the Housing Element).

F. The purpose of this initiative is to ensure that agricultural, watershed and open space lands are not prematurely or unnecessarily converted to other non-agricultural or non-open space uses. Accordingly, the initiative ensures that until December 31, 2020, the foregoing general plan provisions governing intent and maximum building intensity may not be changed except by vote of the people, and that the provisions governing minimum parcel size may not be changed to reduce minimum parcel size except by vote of the people. In addition, the initiative provides that any lands designated as "Agriculture, Watershed and Open Space" or "Agricultural Resource" on the Napa County General Plan Land Use Map adopted by the Board of Supervisors on September 8, 1975, as amended through February 1, 1990 (a reduced copy of which is attached hereto as Exhibit A), will remain so designated until December 31, 2020 unless the land is annexed to or otherwise included within a city or town, redesignated to another land use category by vote of the people, or redesignated by the Board of Supervisors pursuant to the procedures set forth in this initiative.

G. This initiative allows the Board to redesignate Agriculture, Watershed and Open Space, or Agricultural Resource lands only if certain findings can be made, including (among other things) that the land is proven to be unsuitable for any form of agriculture and is not likely to be annexed to a city or town; if redesignation is necessary to avoid an unconstitutional taking of property without just compensation; or if redesignation of Agriculture, Watershed and Open Space land is necessary to comply with state statutes concerning siting of solid waste facilities for solid waste generated within Napa County (or the cities within the County).

H. The County recently completed amendments to its land use laws pertaining to wineries and their accessory uses and/or structures located in areas designated Agriculture, Watershed and Open Space, and Agricultural Resource in the County General Plan. This initiative ensures that future amendments concerning such wineries and their related uses and/or structures conform to the initiative's general purpose of protecting agricultural and agricultural watershed lands.

Section 2. General Plan Amendment.

The Agricultural Lands Preservation Initiative hereby reaffirms and readopts, until December 31, 2020, Sections 3.F.7.a, 3.F.7.c, 3.F.7.d, 3.F.8.a, 3.F.8.c, and 3.F.8.d of the Land Use Element of the Napa County General Plan adopted June 7, 1983, as amended through February 1, 1990. In addition, the initiative hereby reaffirms and readopts until December 31, 2020, the "Agriculture, Watershed and Open Space" and "Agricultural Resource" designations of the Napa County General Plan Land Use Map adopted by the Board of Supervisors on September 8, 1975, as amended through February 1, 1990, which map is incorporated herein by reference. Finally, the text of Section 3.F of the Land Use Element of the Napa County General Plan adopted June 7, 1983, as amended through February 1, 1990, shall be amended to add new subsection 9, which provides:

- (9) Limitations on General Plan Amendments Relating to "Agriculture, Watershed and Open Space" and "Agricultural Resource" Lands.
 - a) Until December 31, 2020, the provisions governing the intent and maximum building intensity for lands designated "Agriculture, Watershed and Open Space" and "Agricultural Resource" set forth in Sections 3.F.7.a, 3.F.7.d, 3.F.8.a, and 3.F.8.d of the Land Use Element adopted on June 7, 1983, as amended through February 1, 1990 (hereinafter the "Land Use Element"), shall not be amended unless such amendment is approved by vote of the people. Until December 31, 2020, the provisions governing minimum parcel size for lands designated "Agriculture, Watershed and Open Space" and "Agricultural Resource" set forth in Sections 3.F.7.c and 3.F.8.c of the Land Use Element shall not be amended to reduce minimum parcel sizes unless such amendment is approved by vote of the people.
 - b) All those lands designated as "Agriculture, Watershed and Open Space" or "Agricultural Resource" on the Napa County General Plan Land Use Map adopted by the Board of Supervisors (hereinafter, "Board") on September 8, 1975, as amended through February 1, 1990 (hereinafter "Land Use Map"), shall remain so designated until December 31, 2020 unless said land is annexed to or otherwise included within a city or town, redesignated to another general plan land use category by vote of the people, or redesignated by the Board pursuant to the procedures set forth in subsections c, d or e, below.
 - c) Land designated as "Agriculture, Watershed and Open Space" on the Land Use Map may be redesignated to a "Public Institutional" general plan area classification by the Board pursuant to its usual procedures if such redesignation is necessary to comply with the countywide siting element requirements of Public Resources Code section 41700 et seq. as those sections currently exist or as they may be amended from time to time, but only to the extent of designating solid waste transformation or disposal facilities needed for solid waste generated within Napa County (including the cities within the County).
 - d) Except as provided in subsection (e) below, land designated as "Agriculture, Watershed and Open Space" or "Agricultural Resource" on the Land Use Map may be redesignated to a land use designation other than "Agriculture, Watershed and Open Space" or "Agricultural Resource" by the Board pursuant to its usual procedures only if the Board makes all of the following findings:
 - i) Annexation to or otherwise including the land within a city or town is not likely;
 - ii) The land is immediately adjacent to areas developed in a manner comparable to the proposed use;

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- iii) Adequate public services and facilities are available and have the capability to accommodate the proposed use by virtue of the property being within or annexed to appropriate service districts;
- iv) The proposed use is compatible with agricultural uses, does not interfere with accepted agricultural practices, and does not adversely affect the stability of land use patterns in the area;
- v) The land proposed for redesignation has not been used for agricultural purposes in the past 2 years and is unusable for agriculture due to its topography, drainage, flooding, adverse soil conditions or other physical reasons; and
- vi) The land proposed for redesignation pursuant to subsection (d) does not exceed 40 acres for any one landowner in any calendar year, and one landowner may not obtain redesignation in the general plan of "Agriculture, Watershed and Open Space" or "Agricultural Resource" land pursuant to subsection (d) more often than every other year. Landowners with any unity of interest are considered one landowner for purposes of this limitation.
- e) Land designated as "Agriculture, Watershed and Open Space" or "Agricultural Resource" on the Land Use Map may be redesignated to another land use category by the Board if each of the following conditions are satisfied:
 - i) The Board makes a finding that the application of Section 3.F.9.b would constitute an unconstitutional taking of the landowner's property; and
 - ii) In permitting the redesignation, the Board allows additional land uses only to the extent necessary to avoid said unconstitutional taking of the landowner's property.
- f) Approval by a vote of the people is accomplished when a general plan amendment is placed on the ballot through any procedure provided for in the Election Code, and a majority of the voters vote in favor of it. Whenever the Board adopts an amendment requiring approval by a vote of the people pursuant to the provisions of this subsection, the Board action shall have no effect until after such a vote is held and a majority of the voters vote in favor of it. The Board shall follow the provisions of the Election Code in all matters pertaining to such an election.

Section 3. Implementation.

A. Upon the effective date of this initiative, the initiative shall be deemed inserted in the Land Use Element of the Napa County's General Plan as an amendment thereof, except that if the four amendments of the mandatory elements of the general plan permitted by state law for any given calendar year have already been utilized in 1990 prior to the effective date of this initiative, this general plan amendment shall be deemed inserted in the County General Plan on January 1, 1991. At such time as this general plan amendment is deemed inserted in the County General Plan (hereinafter, the "insertion date"), any provisions of the County Zoning Ordinance inconsistent with that amendment shall not be enforced to the extent of the inconsistency. Within 180 days of the insertion date, the County shall complete such revisions of its General Plan, including, but not limited to, the General Plan Land Use Map adopted by the Board of Supervisors on September 8, 1975 (as amended through February 1, 1990) and accompanying text, as are necessary to achieve consistency with all provisions of this initiative. Also within 180 days of the insertion date, the County shall complete such revisions of its Zoning Ordinance and other land use regulations as are necessary to conform to all provisions of the initiative.

B. The provisions of this initiative shall prevail over any revisions to the Napa County General Plan as amended through February 1, 1990, or to the Napa County Land Use Map as amended through February 1, 1990 which conflict with the initiative. Except as provided in Section 4 below, upon the insertion date all general plan amendments, rezonings, specific plans, tentative or final subdivision maps, parcel maps, conditional use permits, building permits or other ministerial or discretionary entitlements for use not yet approved or issued shall not be approved or issued unless consistent with the policies and provisions of this initiative. In particular, any land use provisions or actions, including but not limited to general plan amendments and zoning measures, pertaining to wineries or their accessory uses or structures located on lands designated "Agriculture, Watershed and Open Space", or "Agricultural Resource", shall conform to the intent and purposes of this initiative; and no new commercial general plan designation may be created for the purpose of accommodating such wineries and their related accessory uses and/or structures.

Section 4. Exemptions for Certain Projects.

This initiative shall not apply to any development project which has obtained as of the effective date of the initiative:

- A. A vested right pursuant to state law;
- B. A validly approved and fully executed development agreement with the County; or
- C. Approval of a vesting tentative map.

Section 5. Severability.

If any portion of this initiative is declared invalid by a court, the remaining portions are to be considered valid.

Section 6. Amendment or Repeal.

This initiative may be amended or repealed only by the voters at a County election.

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE J**

A. SUMMARY OF MEASURE

Measure "J" readopts certain General Plan Open Space policies and the portion of the General Plan Map identifying county open space land. If Measure "J" passes, changing these before January 1, 2021, with limited exceptions, will require a majority affirmative vote of the people. There are two open space designations in the General Plan, AWOS and AR. Approximately 90% of the County, excluding cities, is included within these two designations.

The General Plan policies that cannot be changed without a majority vote state the intent of the AR/AWOS designations, establish minimum parcel size of 40 acres for AR and 40-160 acres for AWOS and limit density to one dwelling per parcel unless the Housing Element provides otherwise.

Changes to the General Plan Map not requiring a vote: (1) changes reflecting annexations to cities; (2) changes permitting solid waste disposal facilities involving waste generated solely within Napa County; (3) changes involving land physically unusable for agriculture providing certain conditions are met; (4) changes to avoid the County condemning private property.

Amendments to the General Plan occurring after February 1, 1990, conflicting with Measure "J" are effectively repealed. Projects vested by November 16, 1990, are not subject to Measure "J".

B. EXISTING LAW

Each county must adopt a general plan. The general plan controls the development permitted in the county. State law permits the Board of Supervisors to amend the General Plan, but only four times each year. No other limitations regarding the types of lawful changes the Board may make exists.

C. EFFECT OF MEASURE "J" ON EXISTING LAW

Measure "J" limits the right of the Board of Supervisors to amend the General Plan provisions referenced in Part "A" by readopting those portions of the General Plan referenced above and authorizing those provisions to be amended only by a majority vote of the people or by a majority vote of the Board of Supervisors and the people. The voter approval requirement is eliminated in some cases. (See third paragraph of Part "A".)

Local measures conflicting with statutory procedures that are of statewide concern are invalid. The siting of facilities to process solid waste regardless of its origin is a matter of statewide concern. Measure "J" permits amending the General Plan Map to allow such sitings without a vote of the people but only if the solid waste to be processed is limited to waste produced in Napa County. A legal question therefore exists as to the validity of that portion of Measure "J" which eliminates the ability of the Board to amend the General Plan to allow siting of solid waste disposal facilities within the county that will process Napa County and out-of-county waste unless a vote of the people is secured.

A YES VOTE MEANS you want to retain the current policies and map designations discussed in Part "A" above through the year 2020 unless changed by a vote of the people, or amended by the Board without a vote of the people in the limited circumstances set forth in Part "A" above.

A NO VOTE MEANS you want the Board to continue to decide whether those General Plan policies and map designations discussed in Part "A" above should be changed, without a vote of the people.

Robert Westmeyer
County Counsel

ARGUMENT IN FAVOR OF MEASURE J

Measure J, the 2020 Agricultural Lands Preservation Initiative, will protect agriculture and open space in Napa County. It will transfer the power to develop our open space lands from the politicians to the people for the next years.

Napa County is under tremendous pressure to grow from the same forces that produced mushrooming urban sprawl in Contra Costa and Solano Counties. Napa County is a desirable place to live within commuting distance to Bay area jobs, putting it in danger of going the way of other Bay area counties. Napa County has already zoned thousands of acres outside the cities for future industrial, commercial and residential development. Measure J will not affect this.

If we want to keep our scenic mountains and farmlands, we must prevent the rezoning of agricultural land by the vote of any three supervisors. Measure J will provide immediate protection for our lands. Its passage will give the voters of Napa County the ability to decide, for the next 30 years, whether or not agricultural lands should be developed to non-agricultural uses.

The current system to protect our lands is insufficient. Our General Plan can be changed by a vote of any three county supervisors. Measure A, the County's growth management system, will expire in nine years, and it does not protect against massive rezoning.

Measure J will not change any current zoning. It will simply guarantee that any change from agricultural to other uses must be voted upon by the people of Napa County. Measure J will preserve our land and give our children the opportunity to decide their own future.

VOTE YES ON MEASURE J!

s/ Ruth Von Uhlit, Chair 2020 Vision
s/ Janet Altman, Vice President
League of Women Voters of Napa County
s/ Volker Eisele, Vice President
Napa County Farm Bureau
s/ Mel Varrelman Supervisor
District 3
Paul Battisti, Supervisor
District 4

**NO ARGUMENT AGAINST THIS MEASURE
WAS SUBMITTED**