

**TITLE 22 – LAND USE ORDINANCE AMENDMENTS
ENVIRONMENTAL REVIEW DRAFT
AUGUST 2011**

22.22.150 - Agricultural Lands Clustering

It is the policy of the Board to encourage the preservation of agricultural lands in San Luis Obispo County for the continuing and enhanced production of food and fiber through the use of a variety of policy and regulatory techniques. One technique, provided by this Section, is the clustering of small residential parcels, preserving a large parcel to be used for agriculture, instead of the dispersal of parcels over an agricultural area.

A. Purpose. The purpose of this Section is to establish a set of regulations that allows for and encourages clustering of small parcels and the long-term preservation of agricultural resources. This would serve as an alternative to a conventional lot split, where an agricultural land division is proposed consistent with Agriculture Element Policies and Section 22.22.040.

B. Lands eligible for clustering. The use of clustering in the Agriculture category may be considered only for ownerships that are in agricultural use at the time of application and meet the location criteria as follows:

1. Properties in the unincorporated areas of the county, that are partly or entirely within two miles of the Urban Reserve Lines (URLs) of Arroyo Grande, Atascadero, San Luis Obispo, San Miguel, Nipomo, Paso Robles, and Templeton, can apply for an agricultural cluster. Distance is determined by the application of the remoteness test as defined in Section 22.80.030. For sites that meet the two mile criteria stated above, the entire ownership will be eligible to use the provisions of this Section, provided that the cluster development occurs entirely on that portion of the site that is within two miles of the URL. Sites entirely located beyond two miles from the urban reserve lines specified in Subsection above are not eligible for clustering pursuant to this Section.
2. Properties located in the Arroyo Grande, Cienega and Oso Flaco valleys as identified by the San Luis Bay and South County Area Plans of the Land Use Element shall not be eligible for clustering.
3. Lands in the Agriculture land use category under Williamson Act contract shall not be eligible for clustering.

C. Permit requirement. Conditional Use Permit approval pursuant to Section 22.62.060, shall occur at the same time as approval of a tentative map. Conditional Use Permit approval shall include conditions specifying a phasing schedule for the filing of a final tract or parcel map, where applicable, the installation of required improvements, and a date for termination of the entitlement in the event the use is not established within the specified schedule.

D. Application content. In addition to the information required by Section 22.62.060, the Conditional Use Permit application for a cluster project shall also include, but not be limited to, the following:

1. A written explanation by the applicant of how the proposed project will satisfy all the required findings specified in Subsection J;

2. A graphic and written demonstration of conventional subdivision qualification pursuant to Section 22.22.040;
3. Verifiable demonstration of ongoing agricultural history for qualifying uses (i.e. five of the past eight years);
4. Submittal of a hydrogeologic report that demonstrates there are adequate water resources to support finding J, unless the Environmental Coordinator has determined that evidence has shown that no water resource limitations exist in the vicinity of the project site;
5. Written justification for two cluster development areas consistent with Subsection F.3.a, if proposed; and
6. A draft copy of Covenants, Conditions, and Restrictions establishing the Homeowner's Association.

E. Environmental review. After acceptance of an application for cluster development pursuant to Section 22.60.050, an initial study on the project shall be prepared in compliance with the California Environmental Quality Act (CEQA), the Environmental Review Process Guidelines, and the Mitigation Monitoring Program for the Agricultural Cluster Subdivision Program Environmental Impact Report (EIR). The initial study shall closely examine the potential impacts on the long-term protection of the agricultural, environmental and biological resources, as well as the availability of, and potential impacts on, resources such as water, traffic, air quality, schools and other public services and facilities. Whether or not an Environmental Impact Report must be prepared will be determined by the initial study.

F. Residential cluster parcels. The design and development of an agricultural cluster project shall be consistent with the following standards:

1. **Number of parcels.** The number of residential cluster parcels allowed in an agricultural cluster shall be based on the number of parcels that would result from a conventional land division in the Agriculture land use category applying the use test minimum parcel size criteria in Section 22.22.040, except that in no case shall the minimum parcel size be less than 40 acres. Design criteria and environmental mitigation may reduce the number of residential cluster parcels allowed.
2. **Parcel size.** A residential cluster parcel shall be 2.5 acres. Larger parcels sizes may be required to accommodate agricultural buffers with a maximum residential cluster parcel size of 5 acres.
3. **Site design and development standards.** Residential cluster parcels shall be located and clustered to provide the maximum protection of agricultural land located both on and off-site. Project design and development shall be as follows:

- a. **Parcel layout.** The residential cluster parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other and located within a single cluster development area. A maximum of two cluster development areas may be approved only if such a design reduces environmental impacts. Residential parcels shall be located as close as possible to existing access roads and new road or driveway development shall be avoided to the maximum extent feasible.
 - b. **Allowed development area.** Residential development shall be limited to no more than 5 percent of the project site. Residential development components include but are not limited to residential cluster parcels, roadways and access drives, water and wastewater systems, agricultural buffers, drainage basins, and any other areas of the project site that may be removed from agricultural production to accommodate the proposed residential development. No residential component shall be located on soils with a Natural Resources Conservation Service classification of I or II.
 - c. **Limited structural uses allowed.** Each residential cluster parcel shall be limited to one single family residence and residential accessory structures. Secondary dwelling are not allowed.
 - d. **Agricultural buffers.** Residential building sites and access drives shall be located within the boundaries of the overall ownership. Residential building sites and access drive shall also maintain sufficient separation from on-site agricultural resources and exterior property lines, in order for the Review Authority to make the finding specified in Subsection J.3. The agricultural buffers shall be for both existing and potential agricultural uses, consistent with agricultural buffer policies adopted by the Board. All agricultural buffers shall be located within the residential development area of the project.
 - e. **Water and wastewater systems.** Each proposed residential cluster parcel shall be designed and developed to provide for individual on-site water and wastewater systems.
 - f. **Visual resources.** Roads and building sites shall be located to minimize site disturbance and visibility from public roads and viewing areas.
 - g. **Habitat protection.** Residential development shall be located to ensure maximum protection of sensitive habitats and minimize erosion.
 - h. **Access.** Clustered developments in compliance with this Section shall be allowed only on ownerships with access to an existing paved, county or state maintained road. Driveway access intersections with off-site roads shall be minimized.
- G. Agricultural land preservation.** The maximum preservation and protection of agricultural resources shall be achieved through consistency with the following:

1. **Requirements for preservation.** Clustered developments in compliance with this Section shall provide for the long-term preservation of a minimum of 95 percent of the project site. The agricultural preservation area shall be:
 - a. A single parcel, except existing ownership patterns may be preserved where multiple owners collaborate on a single agricultural cluster project, and that project would result in the same number of residential parcels as would separate cluster projects;
 - b. Able to qualify as a separate parcel consistent with the use test in Section 22.22.040;
 - c. 40 acres or larger to ensure agricultural capability;
 - d. Precluded from further subdivision by conditions of approval and/or deed restriction;
 - e. Able to qualify for a stand alone Williamson Act preserve and contract under the current County Rules of Procedure; and
 - f. Covered by a permanent agricultural preservation easement.
2. **Agricultural preservation area.** The agricultural preservation area may include all areas in agricultural production (including directly related infrastructure such as roads and wells), but shall not include any portion of the proposed residential cluster parcels, associated residential components, or areas affected by the proposed residential development.
3. **Limited structural uses allowed in defined agricultural preservation area.** The agricultural preservation area is not to be developed with structural uses other than:
 - a. A maximum of two residential units allowed pursuant to Subsection F.1, residential accessory structures, and farm support housing within an area that does not exceed 2.5 acres. The development of residential units will result in an equal reduction of allowed residential cluster parcels. Farm support housing may be authorized by this Subsection through the approval of the overall project Conditional Use Permit, or subsequent Minor Use Permit approval, in compliance with the standards of the above sections and Section 22.30.480.
 - b. Areas set aside for the preservation of historic buildings identified by the Land Use Element or through the environmental review process to be delineated on the recorded map.
 - c. Agricultural accessory structures or agricultural processing uses essential to the continuing agricultural production of food and fiber in the immediately surrounding area which shall not occupy an aggregate area of the site larger than five acres. Such uses may be approved or modified after the initial Conditional Use Permit approval through Minor Use Permit unless a Conditional Use Permit is otherwise required.

4. **Structural development on prime agricultural soils.** No structural development shall occur on soils with a Natural Resources Conservation Service classification of I or II, except that agricultural accessory structures and agricultural processing uses may be allowed on sites up to 2.5 acres in size, subject to Minor Use Permit approval, where the applicant can demonstrate that no other suitable area is available for such uses and that the proposed uses are directly related to maintaining and enhancing on-site agricultural operations.
5. **Nonstructural uses allowed in defined agricultural preservation areas.** The following nonstructural uses may be allowed in the agricultural preservation areas: crop production and grazing; animal keeping; nursery specialties (nonstructural); water storage or recharge not associated with proposed residential development; agricultural leachfield or spray disposal area not associated with residential development; scenic area protection or buffers from hazardous areas; and roads/turnarounds directly serving the agricultural use.
6. **Guarantee of agricultural preservation.** The required agricultural parcel shall be maintained consistent with the terms of an agricultural easement in perpetuity. This shall be guaranteed by either of the following methods:
 - a. A recorded, permanent agricultural easement granted to the county and placement in a stand alone Land Conservation Act (Williamson Act) preserve and contract in the Williamson Act Agricultural Preserve Program.
 - b. Transfer of fee title free and clear of any liens, or dedication of a perpetual easement to a qualified public or private non-profit organization (as defined by the regulations of the Internal Revenue Service) organized for conservation purposes and approved by the Board of Supervisors.
- H. Ownership and maintenance of roads.** Unless otherwise required by the Review Authority, all interior roads and utilities shall be privately-owned and maintained and the applicant shall demonstrate through conditions, covenants and restrictions or other means that the project residents shall maintain all private roads and utilities for the life of the project.
- I. Homeowners association.** A homeowners association shall be formed and membership shall be mandatory for each home buyer and successive buyer. The homeowners association shall be responsible for, at a minimum, the permanent maintenance of areas held in common, if any, by the homeowners. In addition, the homeowners association shall be responsible for ensuring the permanent protection of agriculture on the agricultural preservation areas. An assessment system, or other form of subsidy shall be required to ensure compliance with this provision.
- J. Required findings.** Approval of an agricultural cluster project shall not occur unless the Review Authority first makes all findings required by Section 22.62.060C.4 and also finds that:
 1. The proposed project will result in the continuation, enhancement and long-term preservation of agricultural resources and operations consisting of the production of food and fiber on the subject site and in the surrounding area.

2. The proposed project has been designed to:
 - a. Locate proposed development to avoid and buffer all prime agricultural soils on the site, other agricultural production areas on the site, as well as agricultural operations on adjoining properties;
 - b. Preserve in single ownership a minimum of 95 percent of the project site that is not affected by or associated with residential development, except this preservation may be accomplished through multiple ownership as established in Subsection G.1.a;
 - c. Affect or develop no more than 5 percent of the project site with residential development;
 - d. Minimize, to the maximum extent feasible, the need for construction of new roads by clustering new development close to existing roads;
 - e. Avoid placement of roads or structures on any environmentally sensitive habitat areas;
 - f. Minimize impacts of non-agricultural structures and roads on public views from public roads and public recreation areas;
 - g. Cluster proposed residential structures within one cluster development area, so as to not interfere with agricultural production and to also be consistent with the goal of maintaining the rural character of the area;
 - h. Allow for a second cluster development area only because it has been justified based on the reduction of environmental impacts; and
 - i. Minimize risks to life and property due to geologic, flood and fire hazard and soil erosion.
3. The proposed project will not result in any significant land use compatibility impacts affecting on-site or off-site agricultural operations, including but not limited to trespass, vandalism, and complaints about agricultural practices.
4. The water resources and all necessary services are adequate to serve the proposed development, including residential uses, as well as existing and proposed agricultural operations on the subject site and in the site vicinity.
5. The proposed clustered development and the conditions, covenants and restrictions governing the Homeowners Association and/or individual lots are adequate to ensure permanent maintenance of the lands to remain in agricultural production.