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TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (*Heading of Title 7 amended by Stats. 1974, Ch. 1536.*)

DIVISION 1. PLANNING AND ZONING [65000 - 66342] (*Heading of Division 1 added by Stats. 1974, Ch. 1536.*)

CHAPTER 3. Local Planning [65100 - 65763] (*Chapter 3 repealed and added by Stats. 1965, Ch. 1880.*)

ARTICLE 10.5. Open-Space Lands [65560 - 65570] (*Article 10.5 added by Stats. 1970, Ch. 1590.*)

65560. For purposes of this chapter:

(a) "Amount of land converted to agricultural use" means those lands that were brought into agricultural use or reestablished in agricultural use and were not shown as agricultural land on Important Farmland Series maps maintained by the department in the most recent biennial report.

(b) "Amount of land converted from agricultural use" means those lands that were permanently converted or committed to urban or other nonagricultural uses and were shown as agricultural land on Important Farmland Series maps maintained by the department and in the most recent biennial report.

(c) "Category of agricultural land" means prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance, as defined pursuant to the United States Department of Agriculture's land inventory and monitoring criteria, as modified for California, and grazing land. "Grazing land" means land on which the existing vegetation, whether grown naturally or through management, is suitable for grazing or browsing of livestock.

(d) "Department" means the Department of Conservation.

(e) "Interim Farmland maps" means those maps prepared by the department for areas that do not have the current soil survey information needed to compile Important Farmland Series maps. The Interim Farmland maps shall indicate areas of irrigated agriculture, dry-farmed agriculture, grazing lands, urban and built-up lands, and any areas committed to urban or other nonagricultural uses.

(f) "Important Farmland Series maps" means those maps compiled by the United States Soil Conservation Service and updated and modified by the department's Farmland Mapping and Monitoring Program pursuant to Section 65570.

(g) "Local open-space plan" means the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(h) "Open-space land" means any parcel or area of land or water that is devoted to an open-space use as defined in this section, and that is designated on a local, regional, or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources, including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Open space used for the managed production of resources, including, but not limited to, forest lands, rangeland, agricultural lands, and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers, and streams that are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including, but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas

presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.997 of the Public Resources Code.

(i) "Priority land" means any part, or all of a category of, agricultural or open space lands, identified by a local government in that local government's agricultural land component of its open-space element or agricultural land element of the general plan, that are prioritized for conservation, taking into consideration the need to balance competing land uses.

(Amended by Stats. 2017, Ch. 434, Sec. 4. (SB 732) Effective January 1, 2018.)

65561. The Legislature finds and declares as follows:

(a) That the preservation of open-space land, as defined in this article, is necessary not only for the maintenance of the economy of the state, but also for the assurance of the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation and for the use of natural resources.

(b) That discouraging premature and unnecessary conversion of open-space land to urban uses is a matter of public interest and will be of benefit to urban dwellers because it will discourage noncontiguous development patterns which unnecessarily increase the costs of community services to community residents.

(c) That the anticipated increase in the population of the state demands that cities, counties, and the state at the earliest possible date make definite plans for the preservation of valuable open-space land and take positive action to carry out such plans by the adoption and strict administration of laws, ordinances, rules and regulations as authorized by this chapter or by other appropriate methods.

(d) That in order to assure that the interests of all its people are met in the orderly growth and development of the state and the preservation and conservation of its resources, it is necessary to provide for the development by the state, regional agencies, counties and cities, including charter cities, of statewide coordinated plans for the conservation and preservation of open-space lands.

(e) That for these reasons this article is necessary for the promotion of the general welfare and for the protection of the public interest in open-space land.

(Added by Stats. 1970, Ch. 1590.)

65562. It is the intent of the Legislature in enacting this article:

(a) To assure that cities and counties recognize that open-space land is a limited and valuable resource which must be conserved wherever possible.

(b) To assure that every city and county will prepare and carry out open-space plans which, along with state and regional open-space plans, will accomplish the objectives of a comprehensive open-space program.

(Added by Stats. 1970, Ch. 1590.)

65562.5. On and after March 1, 2005, if land designated, or proposed to be designated as open space, contains a place, feature, or object described in Sections 5097.9 and 5097.993 of the Public Resources Code, the city or county in which the place, feature, or object is located shall conduct consultations with the California Native American tribe, if any, that has given notice pursuant to Section 65092 for the purpose of determining the level of confidentiality required to protect the specific identity, location, character, or use of the place, feature, or object and for the purpose of developing treatment with appropriate dignity of the place, feature, or object in any corresponding management plan.

(Amended by Stats. 2005, Ch. 670, Sec. 5. Effective October 7, 2005.)

65563. On or before December 31, 1973, every city and county shall prepare, adopt and submit to the Secretary of the Resources Agency a local open-space plan for the comprehensive and long-range preservation and conservation of open-space land within its jurisdiction. Every city and county shall by August 31, 1972, prepare, adopt and submit to the Secretary of the Resources Agency, an interim open-space plan, which shall be in effect until December 31, 1973, containing, but not limited to, the following:

(a) The officially adopted goals and policies which will guide the preparation and implementation of the open-space plan; and

(b) A program for orderly completion and adoption of the open-space plan by December 31, 1973, including a description of the methods by which open-space resources will be inventoried and conservation measures determined.

65564. Every local open-space plan shall contain an action program consisting of specific programs which the legislative body intends to pursue in implementing its open-space plan.

(Added by Stats. 1970, Ch. 1590.)

65565. (a) A city or county may develop an agricultural land component of the city or county's open-space element or a separate agricultural land element. If a city or county chooses to develop an agricultural land component of the open-space element or an agricultural land element, the agricultural land component of the open-space element or the agricultural land element shall do the following:

(1) Identify and map, utilizing the designations in the Farmland Monitoring and Mapping Program pursuant to Section 65570 or soil surveys conducted by the United States Natural Resources Conservation Service where applicable, agricultural lands within the city's or county's jurisdiction. That portion of the plan shall include all of the following:

(A) All parcels subject to a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5).

(B) All parcels subject to a conservation easement.

(C) All agricultural preserves established pursuant to Article 2.5 (commencing with Section 51230) of Chapter 7 of Part 1 of Division 1 of Title 5.

(D) All parcels subject to a farmland security zone contract established pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1 of Title 5.

(E) All parcels being used for agricultural purposes within a sphere of influence or municipal service boundary and not subject to a permanent easement.

(F) The total acreage of land classified as a category of agricultural land and a breakdown of agricultural land by Farmland Monitoring and Mapping Program classification.

(G) The total acreage of agricultural land that is located within two miles of land zoned for housing, including rural residential uses, business, or industry in the land use element prepared pursuant to subdivision (a) of Section 65302. The city or county shall not identify the individual parcels subject to this subparagraph.

(H) All public agencies with responsibility for preservation of agricultural land within the jurisdiction, including resource conservation districts established pursuant to Division 9 (commencing with Section 9001) of the Public Resources Code.

(I) The total acreage and Farmland Monitoring and Mapping Program classification of former agricultural land that has been developed since 1984. All land that was, at any time, classified as agricultural land shall be included, even if it was subsequently classified as "other" land.

(J) The total acreage of land that qualifies as a category of agricultural land that is likely to be developed in the next eight years.

(K) An identification and designation of priority land for conservation.

(2) Establish a comprehensive set of goals, policies, and objectives based on the information identified pursuant to paragraph (1) to support long-term protection of agricultural land. In developing these goals, policies, and objectives, a city or county may include, but is not limited to, the following:

(A) Evaluating and amending as necessary the action plan developed pursuant to Section 65564.

(B) Avoiding or minimizing, when feasible, new development that is located on priority land.

(C) Locating, when feasible, new essential public facilities no less than one mile from priority land.

(D) Adopting land use and zoning policies to discourage leapfrog development.

(E) Creating procedures for cooperating with other public agencies and agricultural associations to protect priority land.

(F) Developing strategies to promote the development of multicounty and city-county agreements for the protection of priority land.

(G) Identifying the total acreage of agricultural land to be preserved within the jurisdiction.

(H) Prioritizing the development of housing, including affordable housing, and commercial development within existing areas zoned for housing and commercial development, when feasible.

(3) Identify and establish a set of feasible implementation measures designed to carry out and promote the goals, policies, and objectives established pursuant to paragraph (2). Implementation measures may include, but are not limited to, all of the following:

(A) Establishing, or entering into an agreement with a resource conservation district, pursuant to Chapter 3 (commencing with Section 9151) of Division 9 of the Public Resources Code.

(B) Establishing public-private partnerships for the long-term protection and stewardship of agricultural lands.

(C) Establishing streamlined procedures for the development of housing within areas identified as adequate housing sites in the housing element developed pursuant to Section 65583.

(D) Promoting the development of housing and utilizing the reforms and incentives to facilitate and expedite the construction of affordable housing that are identified in Section 65582.1.

(E) Repealing ordinances that limit development in existing or planned urban areas, including, but not limited to, density limitations, permit caps, and height restrictions.

(F) Identifying all urban parcels suitable for infill development.

(b) Subject to available funding, and pursuant to the grant application requirements of Section 10281.5 of the Public Resources Code, the department may award grants to cities or counties to implement the requirements of this section.

(c) (1) At least 45 days before adopting or amending the open-space element, or at least 45 days before adopting or amending an agricultural land element, each county and city shall submit to the department one copy of a draft of the agricultural land component of the open-space plan or amendment, or the agricultural land element or amendment, and any maps used in creating that component or element.

(2) The department may review drafts so submitted to determine whether the drafts incorporate all known agricultural land and reasonable measures for the long-term protection of agricultural land, and report its recommendations to the city or county within 30 days of receipt of the draft of the open-space element or amendment, or the agricultural land element or amendment, pursuant to this subdivision.

(3) The legislative body of the city or county shall consider the department's recommendations before the final adoption of the open-space element or amendment, or the agricultural land element or amendment, unless the department's recommendations are not available within the above-prescribed time limits as described in paragraph (4), or unless the department has indicated to the city or county that the department will not review the agricultural component of the open-space element or amendment or the agricultural land element or amendment.

(4) If the department's recommendations are not available within those prescribed time limits, the legislative body of the city or county may take the department's recommendations into consideration at the time it considers future amendments to the agricultural component of the open-space element or agricultural land element.

(5) All recommendations made by the department shall be advisory to the planning agency and legislative body of the city or county.

(d) This section does not require a city or county with an existing adopted agricultural land component of their open-space element, or an existing separate agricultural land element, that is in place before January 1, 2018, to update that element to require the information specified in this section.

(Added by Stats. 2017, Ch. 434, Sec. 5. (SB 732) Effective January 1, 2018.)

65565.1. (a) The department shall give priority consideration for any grants, bond proceeds, and other local assistance funding provided by the department to a city or county that does all of the following:

(1) Completes the agricultural land component of the open space element or an agricultural land element as described in Section 65565.

(2) Provides the department with any geographical information system (GIS) data corresponding with the information identified in paragraph (1) of subdivision (a) of Section 65565.

(3) Continues to review, and revise if necessary, the agricultural land component of the open-space element or the agricultural land element upon each revision of the housing element to identify new information that was not available during the previous revision of the open-space element or the agricultural land element.

(b) A city or county with an existing agricultural land component of their open-space element or an existing separate agricultural land element that substantially complies with Section 65565 may apply to the department for priority consideration pursuant to subdivision (a) by doing all of the following:

(1) Submitting a copy of the agricultural land component of their open-space element or the separate agricultural land element to the department. The department shall determine whether the component substantially complies with Section 65565.

(2) Submitting any other supporting background documentation that corresponds with the information identified in paragraph (1) of subdivision (a) of Section 65565.

(3) Continuing to review, and revise if necessary, the agricultural land component of the open-space element or the agricultural land element upon each revision of the housing element to identify new information that was not available during the previous revision of the open-space element or the agricultural land element.

(c) The department may promulgate regulations, pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), that are necessary to carry out its duties under this chapter.

(d) The department, in consultation with the Office of Planning and Research and the Department of Housing and Community Development, may develop nonbinding guidance for local governments on agricultural land conservation planning and policy, including model policies.

(Added by Stats. 2017, Ch. 434, Sec. 6. (SB 732) Effective January 1, 2018.)

65565.5. (a) Every city and county shall review and update its local open-space plan by January 1, 2026. The update shall include plans and an action program, as required by Section 65564, that address all of the following:

(1) Access to open space for all residents in a manner that considers social, economic, and racial equity, correlated with the environmental justice element or environmental justice policies in the general plan, as applicable.

(2) Climate resilience and other cobenefits of open space, correlated with the safety element.

(3) Rewilding opportunities, correlated with the land use element.

(b) For purposes of this section, "rewilding opportunities" may include, but are not limited to, the following:

(1) Opportunities to preserve, enhance, and expand an integrated network of open space to support beneficial uses, such as habitat, recreation, natural resources, historic and tribal resources, water management, and aesthetics.

(2) Establishing a natural communities conservation plan to provide for coordinated mitigation of the impacts of new development.

(Added by Stats. 2022, Ch. 997, Sec. 1. (SB 1425) Effective January 1, 2023.)

65566. Any action by a county or city by which open-space land or any interest therein is acquired or disposed of or its use restricted or regulated, whether or not pursuant to this part, must be consistent with the local open-space plan.

(Added by Stats. 1970, Ch. 1590.)

65567. No building permit may be issued, no subdivision map approved, and no open-space zoning ordinance adopted, unless the proposed construction, subdivision or ordinance is consistent with the local open-space plan.

(Added by Stats. 1970, Ch. 1590.)

65568. If any provision of this article or the application thereof to any person is held invalid, the remainder of the article and the application of such provision to other persons shall not be affected thereby.

(Added by Stats. 1970, Ch. 1590.)

65570. (a) The department may establish, after notice and hearing, rules and regulations, and require reports from local officials and may employ, borrow, or contract for such staff or other forms of assistance as are reasonably necessary to carry out this section,

Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2, and Section 612 of the Public Resources Code. In carrying out the department's duties under those sections, it is the intention of the Legislature that the department shall consult with the Director of Food and Agriculture and the Director of State Planning and Research.

(b) Commencing July 1, 1986, and continuing biennially thereafter, the department shall collect or acquire information on the amount of land converted to or from agricultural use, and between agricultural categories, using 1984 baseline information as updated pursuant to this section for every county for which Important Farmland Series maps exist. Commencing on December 31, 2018, and continuing biennially thereafter, the department shall report to the Legislature on the data collected pursuant to this section. In reporting, the department shall specify, by category of agricultural land, the amount of land converted to, or from, agricultural use, by county and on a statewide basis. The department shall also report on the nonagricultural uses to which these agricultural lands were converted or committed.

(c) Commencing on December 31, 2018, and continuing biennially thereafter, the department shall update and send counties copies of current Important Farmland Series maps. Counties may review the maps and notify the department within 90 days of any changes in agricultural land pursuant to subdivision (b) that occurred during the previous fiscal year, and note and request correction of any discrepancies or errors in the classification of agricultural lands on the maps. The department shall make those corrections requested by counties. The department shall provide staff assistance, as available, to collect or acquire information on the amount of land converted to, or from, agricultural use for those counties for which Important Farmland Series maps exist.

(d) The department may also acquire any supplemental information which becomes available from new soil surveys and establish comparable baseline data for counties not included in the 1984 baseline, and shall report on the data pursuant to this section. The department may prepare Interim Farmland maps to supplement the Important Farmland Series maps.

(e) The Legislature finds that the purpose of the Important Farmland Series maps and the Interim Farmland maps is not to consider the economic viability of agricultural lands or their current designation in the general plan. The purpose of the maps is limited to the preparation of an inventory of agricultural lands, as defined in this chapter, as well as land already committed to future urban or other nonagricultural purposes.

(Amended by Stats. 2017, Ch. 434, Sec. 7. (SB 732) Effective January 1, 2018.)