



INTERIM INTERPRETIVE GUIDELINES
for
EL DORADO COUNTY GENERAL PLAN POLICIES
8.1.3.2 and 8.4.1.2

Adopted June 22, 2006
(Amended for clarity on September 28, 2006)

INTRODUCTION

This document presents information to planners, applicants, and the public on when special property line setbacks from agriculturally-zoned land are applicable to new development projects. Where “setbacks” are discussed below, the reference is to the special agricultural setbacks only. Regular setbacks as required under the Title 17 County Zoning Ordinance remain in effect.

BACKGROUND:

The adopted 2004 El Dorado County General Plan, Agricultural and Forestry Element, addresses the conservation, management, and utilization of the County’s agricultural and forest lands. In El Dorado County, these lands are regarded by residents as fundamental components of the County’s rural character and way of life. Policies adopted in this element focus on conserving non-renewable lands for agriculture and timber activities, natural resource values, and long-term productivity. Reproduced below, are the key policies that serve to protect agriculture and timberlands from incompatible uses:

Policy 8.1.3.2

- ***Agriculturally incompatible uses adjacent to agricultural zoned lands shall provide a minimum setback of 200 feet from the boundary of agriculturally zoned lands.***
- ***Agriculturally incompatible uses adjacent to agriculturally zoned land outside of designated Agricultural Districts shall provide a minimum setback of 200 feet on parcels 10 acres or larger.***
- ***The implementing ordinance shall contain provisions for Administrative relief to these setbacks, where appropriate, and may impose larger setbacks where needed to protect agricultural resources.***

Policy 8.4.1.2

- ***A permanent setback of at least 200 feet shall be provided on parcels located adjacent to lands identified as timber production lands designated Natural Resource and/or lands zoned Timberland Production Zone (TPZ). These setback areas shall be included in the zoning ordinance and shall be delineated on newly recorded parcel or subdivision maps. The Agricultural Commission may recommend a lesser setback to a minimum of 100 feet.***
- ***Projects located within a Community Region or Rural Center planning concept area shall maintain a minimum setback of 50 feet. The 50-foot setback shall only apply to incompatible uses including residential structures.***
- ***All setbacks are measured from the property line.***

INTERIM SETBACK GUIDELINES

Policies 8.1.3.2 and 8.4.1.2 require that agricultural protection and timber production land setbacks and procedures for administrative relief be established in the County Zoning Ordinance. The current special agricultural setbacks specified in County Code Section 17.06.150 are superseded by the setback requirements of Policies 8.1.3.2 and 8.4.1.2. **Until permanent standards are adopted in a revised County Zoning Ordinance, the following standards will be utilized in establishing the special agricultural and timberland setbacks for development projects in rural areas.**

Definitions:

Agriculturally incompatible uses: Residential structures, nursing homes, schools, recreational uses such as playgrounds, swimming pool, ponds, churches.

Agriculturally-zoned land: Land located within the following Zone Districts identified in the Title 17 County Zoning Ordinance: RA, A, AE, PA, SA-10, AP, TA, TAE.

Designated Agricultural District: Land located within an Agricultural Overlay District designated in the El Dorado County General Plan.

Timberland: Land designated in the El Dorado County General Plan as Natural Resources or land zoned TPZ, including but not limited to BLM and Forest Services lands.

Agricultural Setback Standards:

*The agricultural setback applied to the parcel upon which development is proposed (i.e. the “**project parcel**”) is determined by the zoning and land use designation of the “**adjacent parcels**.”*

(Note added on 9-28-06)

Within a Designated Agricultural District Overlay:

1. Agriculturally incompatible uses proposed on a **project parcel** shall be set back a minimum of 200 feet from any **adjacent parcel that is agriculturally-zoned.** ~~land.~~
2. Modifications to the above setback may be requested in accordance with the administrative relief procedures provided below.

Outside of a Designated Agricultural District Overlay:

1. On subject **project parcels** 10 acres or larger in area, agriculturally incompatible uses shall be set back a minimum of 200 feet from any **adjacent parcel that is** agriculturally-zoned. ~~land.~~
2. On subject **project** parcels that are less than 10 acres in area, no special agricultural setback is required.
3. Modifications to the setback required in item 1 above may be requested in accordance with the administrative relief procedures provided below.

Timberland Setback Standards:

*The timberland setback applied to a “**project parcel**” is determined by its location within or outside of a Community Region or Rural Center and the presence or absence of “**adjacent parcels**” that are zoned or designated as timberland. (Note added on 9-28-06)*

1. **Project parcels** located outside of a designated Community Region or Rural Center: A 200-foot setback is required from **adjacent parcels zoned or designated as** timberland.
2. **Project parcels** located within a designated Community Region or Rural Center: A 50-foot setback is required from **adjacent parcels zoned or designated as** timberland.

ADMINISTRATIVE RELIEF FROM INTERIM SETBACK STANDARDS:

Pursuant to Resolution No. 176-97 of the El Dorado County Board of Supervisors, administrative relief from the above setback standards may be granted by the County Agricultural Commission or the Director of the Development Services Department (i.e. the "Planning Director"). Specific criteria are included in the attached copy of this resolution that must be met in order for a parcel to qualify for such relief.

An additional factor to be considered for an administrative relief determination is the timing of the Zone District designation. If the zoning of the adjacent property placed after the initial adoption of the El Dorado County General Plan on January 23, 1996, relief may be granted by the Director or Agricultural Commission.

- Attachments:
1. Applicant questionnaire
 2. Board Resolution No. 176-97

ATTACHMENT ONE

APPLICANT QUESTIONNAIRE

AGRICULTURAL and TIMBERLAND SETBACKS

Applicant Questionnaire

Agricultural Setbacks:

1. What is your Assessor's Parcel Number? _____

2. Is your parcel located adjacent to agriculturally-zoned land?

Yes	Go to question #3
No	Stop. No special agricultural setback required.

3. Is your property located within an Agricultural District Overlay designated in the El Dorado County General Plan?

Yes	A 200-foot setback is required. Modifications may be obtained through the Administrative Relief procedures.
No	Go to question #4.

4. Is your property less than 10 acres in area?

Yes	Stop. No special agricultural setback required.
No	A 200-foot setback is required. Modifications may be obtained through the Administrative Relief procedures.

Timberland Setbacks:

5. Is your property located adjacent to land zoned TPZ or designated NR (Natural Resources), including but not limited to BLM and Forest Services lands, in the El Dorado County General Plan?

Yes	Go to question 6.
No	Stop. No special timberland setback required.

6. Is your property located within a Community Region or Rural Center?

Yes	A 50-foot setback is required. Modifications may be obtained through the Administrative Relief procedures.
No	A 200-foot setback is required. Modifications may be obtained through the Administrative Relief procedures.



RESOLUTION NO.
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

**RESOLUTION ADOPTING THE CRITERIA AND PROCEDURES
FOR ADMINISTRATIVE RELIEF FROM AGRICULTURAL SETBACKS**

WHEREAS, agriculture is important to the vitality of El Dorado County as recognized in the 1996 and 2004 General Plan; and

WHEREAS, expansion of agricultural lands and operations are important to the economic health of the County; and

WHEREAS, the 2004 General Plan EIR recognized that locating incompatible uses near agricultural operations could result in premature agricultural land conversion while making it harder to maintain agricultural viability on surrounding properties; and

WHEREAS, the General Plan EIR found that certain agricultural uses and surrounding uses could be incompatible with each other, resulting in conversion of agricultural lands; and

WHEREAS, the General Plan EIR recommended special agricultural setbacks to which the Board of Supervisors agreed that these setbacks were needed; and

WHEREAS, the Board of Supervisors adopted, in 1996 and again in 2004, Policy 8.1.3.2 which provided that a minimum 200-foot setback would be placed on adjacent land for incompatible uses but also provided for administrative relief from these setbacks; and

WHEREAS, owners of land adjacent to agricultural land have testified that the current standards for administrative relief do not address all situations where setbacks cause undue hardship or all situations where setbacks may be modified without significant impact to the adjacent agricultural operations; and

WHEREAS, the Board of Supervisors directed staff to work to revise the administrative relief policies to address these concerns; and

WHEREAS, a committee comprised of agriculturalists, business owners, property owners, and the Agricultural Commissioner held several meetings to formulate appropriate criteria and procedures which were forwarded to the El Dorado County Agricultural Commission; and

WHEREAS, the El Dorado County Agricultural Commission held two public hearings on December 13, 2006, and January 10, 2007, to discuss the proposed criteria and procedures for Administrative Relief; and

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WHEREAS, on January 10, 2007, the El Dorado County Agricultural Commission unanimously recommended that the El Dorado County Board of Supervisors amend the current criteria and procedures; and

WHEREAS, the Board of Supervisors has reviewed and held a public hearing to consider the proposed criteria and procedures including revisions also considered at that time; and

WHEREAS, Resolution No. 176-97 adopted by the Board of Supervisors on July 22, 1997, included administrative relief procedures and criteria provisions, but those adopted provisions did not provide the necessary relief in all circumstances when the setback caused unnecessary hardship to the adjacent property owner; and

WHEREAS, the Board of Supervisors desires to protect agriculture, encourage more land converting to agriculture, when appropriate, and wishes to grant certainty of neighbor's lands adjacent to proposed agricultural rezones; and

WHEREAS, the most important asset to agricultural operations is the use of the land for agricultural production which would prohibit the 200-foot setback from being placed on the agricultural lands.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of El Dorado County adopts the Revised Criteria and Procedures for Administrative Relief from Agricultural Setbacks as contained in Exhibit A of this Resolution.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the _____ day of _____, 200__, by the following vote of said Board:

Attest:
Cindy Keck
Clerk of the Board of Supervisors

Ayes:
Noes:
Absent:

By: _____
Deputy Clerk

Chairman, Board of Supervisors

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

DATE: _____

Attest: CINDY KECK, Clerk of the Board of Supervisors of the County of El Dorado, State of California.

By: _____

EXHIBIT A

CRITERIA AND PROCEDURES FOR ADMINISTRATIVE RELIEF FROM AGRICULTURAL SETBACKS

A. Procedure

1. Upon a determination by the Development Services Department that the agricultural setbacks required pursuant to General Plan Policies 8.1.3.1, 8.1.3.2, 8.1.3.3 and 8.4.1.2 or Section 17.06.150 of the zoning ordinance apply to a parcel, the property owner or his/her agent (applicant) may petition for administrative relief.
2. In order to petition for administrative relief, the applicant shall provide to the Development Services Department sufficient information to show that the required setback would render the parcel unbuildable, or otherwise severely restrict the use and enjoyment of the property if the agricultural setback is applied.
3. Under certain circumstances identified in Section B, Criteria, the Development Services Director or his/her designee may approve a reduction in the setback up to seventy-five percent (75%).
4. If the reduction in setback requested is greater than seventy-five percent (75%), or the subject property is located adjacent to agricultural or TPZ zoned land or the applicant is dissatisfied with the decision of the Development Services Director under 3. above, the Agricultural Commission shall review the request. The applicant shall submit to the Development Services Department the requested reduction in setback, together with the information supporting the request. The Development Services Department shall then route the information to the Agricultural Commission for review on the next available Commission agenda.

If the requested reduction cannot meet the administrative criteria in either 3 or 4 above, a variance application may be filed by the applicant pursuant to chapter 17.22

B. Criteria

1. Development Services Director Approval. The Development Services Director shall approve a reduction in the required setback for a proposed non-compatible use/structure of up to fifty percent (50%) when all of the following exists:
 - a) No suitable building site exists on the subject parcel except within the required setback;
 - b) The adjacent agricultural land does not contain choice soils or choice timber production soils as defined in the General Plan;

- c) The adjacent land is not located within an agricultural district as designated in the General Plan or within a Natural Resource designated area if timberland;
 - d) The portion of the adjacent agricultural land adjacent to the subject property does not contain an existing agricultural or timber operation;
 - e) The adjacent agricultural land is not zoned AE - Exclusive Agricultural, AP – Agricultural Preserve, or TPZ - Timberland Production Zone;
 - f) The Agricultural Commissioner concurs with the proposed setback reduction.
2. If the subject parcel cannot meet criteria (a)-(f) above, the Development Services Director may approve a reduction in the required agricultural setback of up to seventy-five percent (75%), subject to the concurrence of the Agricultural Commissioner, provided that the proposed non-compatible use/structure is located in a manner that would reasonably minimize the potential negative impact(s) on the adjacent agricultural or TPZ zoned land and the subject parcel can meet at least one of the criteria below:
- a) The subject parcel is 5 acres or less;
 - b) The subject parcel has a width to length ratio of greater than 1 to 3 and the longer of the boundary measurements abut the adjacent agricultural or TPZ zoned land;
 - c) The subject parcel is located in a Community Region or Rural Center as designated in the General Plan;
 - d) The non-compatible use/structure involves the addition, re-model or re-building of a current structure or demolished structure that was lawfully placed within the agricultural setback. Under this criterion, a reduction in the agricultural setback may only be granted when the non-compatible use/structure does not further encroach into the agricultural setback. If the proposed non-compatible use/structure would further encroach into the agricultural setback, Agricultural Commission review shall be required pursuant to 3. below;
 - e) The agricultural setback on the subject parcel results from the approval of a new Williamson Act or Farmland Security Zone contract when the parcel or parcels included in the contract application are rezoned from residential to agricultural zoning. Fees for reductions in agricultural setbacks under this criterion are waived for each parcel adjacent to the new contract parcel(s);
 - f) The proposed location of the non-compatible use/structure would be directly adjacent to a parcel or parcels that are not zoned for agricultural or TPZ use.

3. Agricultural Commission Approval. If the subject parcel does not meet the criteria for a reduction in the agricultural setback pursuant to B.1 and B.2 above, the applicant may request review by the Agricultural Commission. The Agricultural Commission may approve a reduction of up to one hundred percent (100%) of the special agricultural setback (not less than 30 feet from the agriculturally zoned parcel) when it can be demonstrated that a natural or man-made barrier or buffer already exists such as, but not limited to, topography, roads, wetlands, streams, utility or other easements, swales, etc., that would reduce the need for such a setback, or the Commission finds that three of four of the following exists:
 - a) No suitable building site exists on the subject parcel except within the required setback due, but not limited to, compliance with other requirements of the General Plan or other County development regulations;
 - b) The proposed noncompatible use/structure is located on the property to reasonably minimize the potential negative impact on the adjacent agricultural or TPZ zoned land;
 - c) Based on the site characteristics of the subject parcel and the adjacent agricultural or TPZ zoned land including, but not limited to, topography and location of agricultural improvements, etc, the Commission determines that the location of the proposed non-compatible use/structure would reasonably minimize potential negative impacts on agricultural or timber production use.
 - d) There is currently no agricultural activity on the agriculturally zoned parcel(s) adjacent to the subject parcel and the Commission determines that the conversion to a low or high intensive farming operation is not likely to take place due to the soil and/or topographic characteristics of the adjacent agriculturally zoned parcel(s) or because the General Plan Land Use Designation of the surrounding or adjacent parcels is not agricultural (e.g. Light/Medium/High Density Residential);
4. Board of Supervisors Administrative Relief: The Board of Supervisors may approve a reduction of up to one hundred percent (100%) of the special agricultural setback (not less than 30 feet from the agriculturally zoned parcel) on adjacent parcels concurrently with the approval of any parcel rezone to any agricultural designation using the applicable criteria from B.1, B.2., and/or B.3 above or any other criteria deemed appropriate by the Board. Whenever a rezone to an agricultural designation is recommended by the Planning Commission, the recommendation shall also include an analysis and recommendation for the setback for each surrounding parcel that would be affected by the new setback.
5. In all cases, if a reduction in the agricultural setback is granted for a non-compatible use/structure, prior to the issuance of a building permit, a Notice of Restriction must be recorded identifying that the non-compatible use/structure is constructed within an agricultural setback and that the owner of the parcel granted the reduction in the agricultural setback acknowledges and accepts responsibility for the risks associated with building a non-compatible use/structure within the setback.

6. “Non-compatible use/structure” means those uses of the land which are apt to conflict with agricultural uses/operations due to sprays, dust, noise, odors, equipment or products escaping the agricultural property in a manner which threatens the health, safety, welfare or repose of adjacent occupants or land uses. It also means those uses which are apt to cause conflict and threaten the loss of viability of agricultural use due to trespass, vandalism, theft, complaint and dog related problems. It includes, but is not limited to:

- | | | |
|-------------------------------|---------------------|---------------|
| a. Residential structures; | e. Daycare centers; | g. Spas; |
| b. Nursing homes; | f. Playgrounds; | h. Ponds; and |
| c. Public or private schools; | g. Swimming pools; | i. Churches |

7. Fee for Administrative Relief Review. The applicant shall pay the following fee prior to consideration for administrative relief:

Development Services Director... \$50
Agricultural Commission\$350