UNIFORM RULE 1

Eligibility Requirements for Agricultural Preserves and Williamson Act Contracts for Agriculture

In order to enter land into a Williamson Act contract and maintain continued eligibility during the life of the contract, the contracted land must be in an agricultural preserve, meet minimum parcel size requirements, be devoted to a commercial agricultural use, and be restricted to additional uses that are compatible with the agricultural use of the land. Williamson Act contracts, also known as Land Conservation contracts, run with the land and are binding upon any heir, successor, or assignee.

I. AGRICULTURAL PRESERVES

A. Location of Preserves

Agricultural Preserves and Williamson Act contracts shall be established in areas having the following General Plan Designations:

- Large Parcel Agriculture
- Resource Management
- Water Management

B. Minimum Preserve Size

1. Minimum Agricultural Preserve size shall consist of no less than 100 acres of land except as provided below.

2. Agricultural Preserves of less than 100 acres may be established if, on the recommendation of the Planning Department, the Board of Supervisors finds that a smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area, such as small areas of prime land.

3. For purposes of this section, contiguous park and other open space area in public ownership may be used to make up the 100-acre minimum preserve size.

4. For purposes of this section, the Vineyard Area of the South Livermore Valley Area Plan shall be considered an established Agricultural Preserve.

C. General Preserve Requirements

1. An application to establish, or annex to, an agricultural preserve and enter into a land conservation contract shall be made to the Board of Supervisors by the interested landowner. **Preserve and contract approval** shall be made simultaneously by the Board

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of Supervisors provided that preserve and contract requirements established in these Rules can be met.

2. Parcels under separate ownership may be combined into one agricultural preserve if needed to meet the minimum preserve size of 100 acres. Each landowner in an agricultural preserve shall have an **individual contract** and shall meet the contract requirements on their own merit. An exception shall be made for landowners under a Joint Management Agreement, in which case all signatories shall be under the same contract.

3. An agricultural preserve shall generally be comprised of one parcel or two or more **contiguous parcels**. However, parcels under Joint Management Agreement and parcels under one ownership that are part of one agricultural operation may be discontiguous and still comprise an agricultural preserve.

4. Only **legally-created parcels**, or a portion of a legally-created parcel, shall be established in, or annexed to, an agricultural preserve. If a property owner chooses to **exclude a portion** of an existing legal parcel from a Williamson Act contract, the portion of the parcel to go under contract must meet all contract requirements including the minimum parcel size requirement.

5. An application to establish, or annex to, an agricultural preserve shall be denied if an **incompatible use** exists on the land proposed for inclusion in the preserve.

6. The ownership of a portion of land currently designated as an agricultural preserve may be **transferred from one immediate family member to another** if the proposed transfer meets all of the conditions from California Government Code Section 51230.1, including the following: (a) the transfer parcel must conform to the applicable provisions of the County Zoning and Subdivision Ordinance; (b) the transfer parcel must be at least 10 acres in size for prime land and 40 acres if non-prime land; and (c) the transfer parcel must be operated under a Joint Management Agreement between the family members that are parties to the proposed transfer.

II. WILLIAMSON ACT CONTRACTS FOR AGRICULTURE

A. Duration of Contract

1. Each contract shall be for an initial term of no less than 10 years. Each contract shall provide that on the anniversary date of the contract, established as January 1st, a year shall be added automatically to the initial term unless notice of non-renewal is given as provided in Uniform Rule 6 of this document. (*California Government Code Section 51244*)

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B. Minimum Parcel Size and General Contract Requirements

1. For parcels of land defined as **prime land**, the minimum parcel size within a Williamson Act contract is 10 acres. An exception shall be made for land that can meet the revenue and land coverage thresholds for substandard size prime parcels established in Section II.C.3.a. of this Rule.

2. For parcels of land defined as **non-prime land**, the minimum parcel size within a Williamson Act contract is 40 acres. An exception shall be made for land that can meet the revenue and land coverage thresholds for substandard size non-prime parcels established in Section II.C.3.b. of this Rule.

3. More than one existing legal parcel may be included in a single contract, including parcels located in different preserves, as long as they are part of one agricultural operation under one ownership or under a Joint Management Agreement.

4. A parcel too small for inclusion in the program may be included if: (a) it is used as **part of a larger agricultural operation** either on non-contiguous parcels under the same ownership or by means of a Joint Management Agreement with other contracted landowners; or, (b) it is an island surrounded by agriculture preserve lands and all of an individually-owned property is included in the preserve and all other eligibility criteria other than parcel size is met.

5. Contiguous parcels under common ownership and which are under the minimum size required by the zoning district shall not be considered for a Williamson Act contract unless they are **merged through a lot line adjustment** so as to create one or more legal parcels that meets or more closely meets the minimum size of the zoning district.

6. A landowner of non-prime land who **leases his or her property for agricultural use** may be considered as eligible for a Williamson Act contract provided that the parcel is included in a preserve and that one of the commercial agriculture thresholds established in Section II.C.3.b. can be met.

C. Commercial Agricultural Use Requirements

Contracted land must be devoted to commercial agriculture as the primary use of the land (see *Government Code Section 51242*).

1. Definition of Agricultural Use

Commercial agricultural use means the production and sale of agricultural commodities. Agricultural commodities mean unprocessed plant and animal products of farms, ranches, production nurseries and forests.

Agricultural commodities include, but are not limited to, the following: fruits, nuts, and vegetables; grains, such as wheat, barley, oats, and corn; legumes, such as field beans and

peas; animal feed and forage crops, such as grain hay and alfalfa; seed crops; fiber and oilseed crops, such as safflower and sunflower; biofuels; production nursery stock; aquaculture; trees grown for lumber and wood products; turf grown for sod; poultry, such as chickens, ostriches, and emus; livestock such as cattle, sheep, goats and swine and similar animals; rangeland and pasture for livestock production; and, commercially-bred horses (see definition below).

2. Definition of the Commercial Breeding and Training of Horses as an Agricultural Use

For purposes of this Rule, the commercial breeding and training of horses shall be considered as constituting a commercial agricultural use of contracted property if the commercial threshold for such an operation can be met as established under Section II.C.3.b.(1) of this Rule.

a. The commercial breeding and training of horses is defined as the breeding and training of horses, such as race horses, competition horses, and ranch horses, for the purpose of commercial sale.

b. Any equine facility will be considered as a compatible agricultural use if its horse population consists of at least 50 percent, by number of horses, that are categorized as breeding horses plus those in training plus ranch horses used in commercial cattle production.

c. Ancillary uses shall include veterinary activities and rehabilitation of injured horses and any other uses demonstrated to the satisfaction of the Planning Director to be necessary to the commercial operation. Ancillary uses or buildings cannot significantly compromise the long-term productive agricultural capability, or significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted land, or cause significant removal of adjacent land from agricultural use, as provided by *Government Code Section 51238.1*.

d. The commercial breeding and training of horses as a commercial agricultural operation shall be allowed only on parcels of non-prime soils 40 acres or larger in size. Non-prime soils are soils other than a Natural Resource Conservation Service land capability rating of Class I or Class II.

e. The breeding and training of horses as part of ranch or farm operations shall be considered an accessory use to the primary agricultural use of the land. Boarding stables, riding stables, riding academies, and private stables shall be considered as compatible recreational uses if the standards for these uses can be met (see Rule 2 Section II.C.)

3. Thresholds for Commercial Agriculture

For a landowner to qualify as devoted to the commercial production of agriculture and maintain eligibility under the contract, the contracted land must meet minimum annual

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revenue requirements and in some cases land coverage requirements. Land coverage means the amount of land, as a percentage of the contracted land, required to be in commercial agricultural use. (*See the Endnotes to the Guidelines for Commercial Agriculture in Appendix 1 for more detailed information on agricultural production and land coverage requirements.*)

a. Definition and Thresholds for Prime Land

Prime land means land planted in annual or perennial crops that can meet one of the following thresholds:

(1) Land that is at least 10 acres in size, has a Natural Resource Conservation Service (NRCS) land capability rating of Class I or Class II, and is planted in annual and/or perennial crops:
- agricultural production must yield "some" gross annual revenue as substantiated by Schedule F of the federal tax returns filed in 3 of the past 5 years
- at least 60% of the property under contract must be used for commercial agriculture

(2) Land that is at least 10 acres in size and is planted in annual and/or perennial crops:
- agricultural production must yield an annual gross revenue equal to or exceeding $200 per acre per year as substantiated by Schedule F of the federal tax returns filed in 3 of the past 5 years
- at least 60% of the property under contract must be used for commercial agriculture

(3) Land that is less than 10 acres in size and is planted in annual and/or perennial crops:
- agricultural production must yield an annual gross revenue equal to or exceeding $3,500 as substantiated by Schedule F of the federal tax returns filed in 3 of the past 5 years
- at least 75% of the property under contract must be used for commercial agriculture

(4) Land that is less than 10 acres in size and is planted in annual and/or perennial crops:
- agricultural production must yield an annual gross revenue equal to or exceeding $10,000 as substantiated by Schedule F of the federal tax returns filed in 3 of the past 5 years
- no planting coverage is required unless compatible use development is proposed, in which case at least 50% of the parcel under contract must be used for commercial agriculture to ensure that any development is incidental to the agricultural use

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b. Definition and Thresholds for Non-Prime Land

Non-prime land means land that is engaged in dry-land farming, grazing of livestock or livestock production, the commercial breeding or training of horses, or other types of similar agricultural pursuits and that can meet one of the following thresholds:

(1) Land that is at least 40 acres in size and is being used for dryland farming, grazing of livestock or livestock production, the breeding or training of horses, and/or other types of agricultural pursuits:
- agricultural production must yield "some" gross annual revenue as substantiated by Schedule F (and/or Form 4797 for a horse breeding operation) of the federal tax returns filed in 3 of the past 5 years.
- at least 60% of the property must be used for commercial agriculture

(2) Land that is less than 40 acres in size and is being used for dryland farming, livestock production, and/or other types of agricultural pursuits:
- agricultural production must yield an annual gross revenue equal to or exceeding $2,000 as substantiated by Schedule F of the federal tax returns filed in 3 of the past 5 years
- at least 75% of the property must be used for commercial agriculture

(3) Land that is less than 40 acres in size and is being used for dryland farming, grazing of livestock or livestock production, and/or other types of agricultural pursuits:
- agricultural production must yield an annual gross revenue equal to or exceeding $10,000 as substantiated by Schedule F of the federal tax returns filed in 3 of the past 5 years
- if compatible use is proposed, at least 50% of the parcel must be used for commercial agriculture to ensure than any development is incidental to the agricultural use

4. Joint Management Agreement

If the agricultural use on the land does not meet the required minimum income requirements or the parcel is too small for inclusion in the program, the property owner may enter into a Joint Management Agreement with the owner(s) of contiguous or non-contiguous properties in one or more preserves so that jointly the commercial agricultural thresholds established in Section II.C.3.a. or Section II.C.3.b. of this Rule may be met. A Joint Management Agreement requires that the joint properties be under one contract and be **operated collectively** and under the joint management of all the property owners (see Appendix 2 for the Joint Management Agreement Form).

5. Annual Declaration of Commercial Agricultural Use

All contract holders shall annually document the past year's commercial agricultural activity on the contracted land by filling out and returning to the Planning Department the

Declaration of Commercial Agricultural Use form (see Appendix 7) that shall be mailed out to all contract holders on a yearly basis. Failure to return the questionnaire in the time period allotted may, at the option of the County, result in the non-renewal of the contract.

D. Compatible Use Requirements

See Uniform Rule 2.

E. Boundary Line Adjustments

1. The provision for a boundary (lot) line adjustment, as outlined under Government Code Section 51257 and supplemented under *Government Code Section 66412(d),* is intended to facilitate minor adjustments to parcel boundaries that will improve the agricultural use or management of the land.

2. A boundary line adjustment shall only be approved provided the Board of Supervisors makes all of the following findings:

   a. There is **no net decrease** in the amount of the acreage under contract as a result of the boundary line adjustment. In cases where two parcels under separate contracts are involved in a boundary line adjustment, and are therefore subject to the rescinding and re-entering of contracts pursuant to Uniform Rule 5, Section III this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.

   b. If replacement contracts are required pursuant to Uniform Rule 5, Section III, the new contract will restrict the adjusted boundaries of the parcel for an initial term at least as long as the un-expired term of the rescinded contract but for **not less than 10 years**.

   c. If replacement contracts are required pursuant to Uniform Rule 5 Section III, at least **90 percent of the land** under the former contract(s) remains as located under the new contract(s).

   d. After the boundary adjustment, the parcels of land subject to contract will be **large enough to sustain** their agricultural use.

   e. The lot line adjustment will **not compromise the long-term agricultural productivity** of the parcel or other agricultural lands subject to a contract(s).

   f. The boundary line adjustment is not likely to result in the **removal of adjacent land** from agricultural use.

   g. The boundary line adjustment does not result in a **greater number of developable parcels** than existed prior to the adjustment, or an adjusted lot that is inconsistent with the General Plan.

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h. The boundary line adjustment is between **4 or fewer existing adjoining parcels**.

F. Division of Land

The division of contracted land by means of a tentative map or a parcel map for which a tentative map is not required is governed by the Subdivision Map Act (*see Government Code Section 66474.4*) and by the County's General Plan, Zoning Ordinance and Subdivision Ordinance.

1. Williamson Act **contracts run with the land** and are binding upon any heir, successor, or assignee (*see Government Code Section 51243(b)*). To this end, when a property or a portion of a property under contract is sold or the ownership otherwise transferred, the contract shall be rescinded and new contracts reentered to reflect the boundaries of each contract and the new ownership. Each new contract must meet the contract requirements of these Uniform Rules, the Williamson Act, and state statutes

2. A subdivision of contracted land shall be approved by the Board of Supervisors only if the Board can make both of the following **findings**:

   a. The resulting parcels will be large enough to sustain a commercial agricultural use (see the commercial agriculture thresholds established in Rule 1); or, the resulting new parcels will be owned and jointly managed by immediate family members under a joint management agreement and will aggregate into the presumptive minimum parcel sizes of 10 acres for prime land and 40 acres for non-prime land (*see Government Code Section 51222*).

   b. Residential development resulting from the division of land is incidental to the continued commercial agricultural use of the land (see Rule 2, Section II. A. for residential development that is considered "incidental" to the commercial agricultural use of the land).

3. **Acquisition by a public agency** of land that is within a preserve is not a subdivision of land for purposes of these Rules and Procedures, and the minimum parcel size requirements described in Section II. B. of this Rule shall not apply either to the land acquired by the public agency or to the remainder parcel. If no use may be made of the remainder parcel, the contract on the land may be cancelled without penalty. *See Government Code Sections 51291 and 51295*.

G. Treatment of Contracts Existing Prior to the Adoption of these New Rules

1. Landowners of contracts signed prior to the adoption of these New Rules (ADD DATE OF ADOPTION) shall be required to meet one of the thresholds established for commercial agriculture or else the contract shall be non-renewed. Or, if the agricultural use on the contracted property is unable to meet one of the thresholds for commercial

agriculture, the property owner may enter into a Joint Management Agreement as outlined under Section II.C.4., above.

2. Landowners of contracts signed prior to the adoption of these New Rules shall be required to fill out and return to the Planning Department the Annual Declaration of Commercial Agricultural Use form as described in Section II.C.5., above.

3. As a procedural matter, landowners of contracts signed prior to the adoption of these New Rules and who share a contract with other landowners other than that shared under a Joint Management Agreement shall be required to rescind and re-enter into individual replacement contracts at the time of an application for a use permit, development permit, Site Development Review, or subdivision by any one of the contract holders.

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