

DEPARTMENT: Planning

BY: Sarah Williams, Deputy Director  
PHONE: 742-1215

**RECOMMENDED ACTION AND JUSTIFICATION:**

Approve form of Resolution No. 10-150, a Resolution approving County Policy Amendment No. 2005-230, finding that the project is exempt from environmental review, directing staff to file a Notice of Exemption, repealing Board of Supervisors Resolution No. 77-157, repealing Board of Supervisors Resolution No. 78-8 and repealing Board of Supervisors Resolution No. 95-350. This Resolution was adopted by the Board of Supervisors on March 23, 2010.

Justification: On March 23, 2010, the Board of Supervisors directed that staff bring the final form of the resolution to the Board of Supervisors as a Consent Agenda item.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

- 1977 - Board of Supervisors adopted Resolution No. 77-157, implementing Williamson Act in County
- 1978 - Board of Supervisors adopted Resolution No. 78-8, amending processing requirements established by Resolution No. 77-157
- 1995 - Board of Supervisors adopted Resolution No. 95-350, clarifying language contained in Resolution No. 77-157 relative to cancellation penalties for contracts
- 2003 - Board of Supervisors initiated an update to county policies implementing the Williamson Act in County
- 2005 - Board of Supervisors adopted Resolution No. 2005-546, a Resolution of Intention to Initiate an Amendment to the County Policies Implementing the California Land Conservation Act of 1965
- 2008 - Board of Supervisors entered into contract with David Guy to assist with staff work to complete processing of amendments
- 2010 - Board of Supervisors conducted public hearing on 3/23 and adopted Resolution No. 10-150 approving County Policy Amendment No. 2005-230 with revisions and giving direction to staff

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

The Board of Supervisors could re-open the public hearing to take additional public input.

Financial Impact? ( ) Yes (X) No Current FY Cost: \$ Annual Recurring Cost: \$  
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded

Amount in Budget: \$ \_\_\_\_\_  
 Additional Funding Needed: \$ \_\_\_\_\_  
 Source:  
 Internal Transfer \_\_\_\_\_  
 Unanticipated Revenue \_\_\_\_\_ 4/5's vote  
 Transfer Between Funds \_\_\_\_\_ 4/5's vote  
 Contingency \_\_\_\_\_ 4/5's vote  
 ( ) General ( ) Other

\_\_\_\_\_ A. Amended Policy with Changes shown  
 \_\_\_\_\_ B. Final Resolution with Amended Policy and Findings  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**CLERK'S USE ONLY:**

Res. No.: 10-187 Ord. No. \_\_\_\_\_  
 Vote - Ayes: 5 Noes: \_\_\_\_\_  
 Absent: \_\_\_\_\_  
 Approved  
 Minute Order Attached ( ) No Action Necessary

**COUNTY ADMINISTRATIVE OFFICER:**

Requested Action Recommended  
 No Opinion  
 Comments:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_  
Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California

By: \_\_\_\_\_  
Deputy

CAO: MSB



# COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BRAD ABORN  
LYLE TURPIN  
JANET BIBBY  
KEVIN CANN  
JIM ALLEN

DISTRICT I  
DISTRICT II  
DISTRICT III  
DISTRICT IV  
DISTRICT V



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

---

TO: KRIS SCHENK, Planning Director  
FROM: MARGIE WILLIAMS, Clerk of the Board *MW*  
SUBJECT: Consider Items Removed from the Consent Agenda  
Res. 10-187

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on April 20, 2010

#### ACTION AND VOTE:

- 9 Consider Items Removed from the Consent Agenda  
Item 106 – Supervisor Turpin initiated discussion as to how the policy amendment would be interpreted and potentially affect an existing 40-acre meat goat ranch – whether the Land Conservation Act contract would still be viable and the ranch operation could meet the requirements. Kris Schenk, Planning Director, noted that there are still steps to be taken following the adoption of the policy amendment, including addressing enforcement; and he noted that issues will come up and he suggested that they be discussed by the Agricultural Advisory Committee. (M)Allen, (S)Turpin, item 106 was approved/Ayes: Unanimous.

CA-106 **Planning**  
Approve Form of Resolution 10-150 for County Policy Amendment No. 2005-230, a Comprehensive Amendment to the County-Wide “Rules of Procedure to Implement the California Land Conservation Act of 1965.”; Res. 10-187

Cc: File

---

STATE OF CALIFORNIA  
COUNTY OF MARIPOSA  
BOARD OF SUPERVISORS

Resolution  
No. 10-150

**A resolution approving County Policy Amendment No. 2005-230,  
County-wide Williamson Act (Land Conservation Act)  
Amendments; County of Mariposa, proponent.**

---

WHEREAS, in 2003, following processing of the Williamson Act Applications for the calendar year, the Mariposa County Board of Supervisors directed staff to commence an amendment to the Mariposa County policies implementing the California Land Conservation Act of 1965; and

WHEREAS, the Mariposa County Agricultural Advisory Committee discussed the issue at fourteen (14) different noticed public meetings during 2003, 2004 and 2005 and developed a recommendation for amendments to the policy; and

WHEREAS, the Department of Conservation reviewed the recommendations of the Mariposa County Agricultural Advisory Committee and supported the recommendations with minor amendments; and

WHEREAS, on the 15<sup>th</sup> day of November 2005 the Board of Supervisors considered the Agricultural Advisory Committee's recommendations for amendments to the county policies and adopted Resolution No. 2005-546, a Resolution of Intention to Initiate an Amendment to the Mariposa County Policies Implementing the California Land Conservation Act of 1965; and

WHEREAS, the amendment was assigned a project number of County Policy Amendment No. 2005-230; and

WHEREAS, County Policy Amendment No. 2005-230 is an amendment to county-wide policies, which will affect all new Land Conservation Act (Williamson Act) contracts in the county and all Land Conservation Act (Williamson Act) contracts which are not in non-renewal; and

WHEREAS, processing of the amendment was delayed due to staffing issues and other advanced planning priorities including adoption of the General Plan Update, which includes a number of policies related to the amendment; and

WHEREAS, processing of the amendment was re-activated in the fall of 2008; and

WHEREAS, the Agricultural Advisory Committee reviewed its recommendations at an additional four (4) noticed public meetings in late 2008 and early 2009 to develop its final recommendations for the amendments; and

WHEREAS, a duly noticed Planning Commission public hearing was scheduled for the 22<sup>nd</sup> day of October 2009; notice of the hearing and a copy of the draft amendments were directly mailed to all contract holders; and

WHEREAS, a Staff Report packet was prepared, including proposed environmental findings, pursuant to the California Government Code, Mariposa County Code, the California Environmental Quality Act (CEQA) and local administrative procedures; and

WHEREAS, the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report packet and testimony presented by the public and representatives of the Agricultural Advisory Committee concerning the amendments; and

WHEREAS, the Planning Commission continued the public hearing to January 22<sup>nd</sup>, 2010; and

WHEREAS, a supplemental Staff Report packet was prepared for the Planning Commission and public for the public hearing in order to address specific issues and questions raised during the hearing conducted on the 22<sup>nd</sup> day of October, 2009; and

WHEREAS, the Planning Commission did hold a continued public hearing on the 22<sup>nd</sup> day of January 2010 and this hearing was conducted in a workshop format. The Planning Commission considered and discussed the various identified issues of concern with staff and the public; and

WHEREAS, as a result of the meeting, direction was given to staff by the Planning Commission; and

WHEREAS, the Planning Commission continued the public hearing to February 5<sup>th</sup>, 2010; and

WHEREAS, a supplemental Staff Report packet was prepared for the Planning Commission and public, for the public hearing, based on direction given; and

WHEREAS, the Planning Commission did hold a continued public hearing on the 5<sup>th</sup> day of February, 2010 and considered the supplemental Staff Report packet and testimony presented by the public and representatives of the Agricultural Advisory Committee; and

WHEREAS, on the 5<sup>th</sup> day of February, 2010 the Planning Commission adopted Resolution No. 2010-01 recommending that the Board of Supervisors adopt findings that the project is exempt from environmental review and direct staff to file a Notice of Exemption; recommending that the Board of Supervisors approve County Policy Amendment No. 2005-230; recommending that the Board of Supervisors repeal Board

of Supervisors Resolution No. 77-157, Board of Supervisors Resolution No. 78-8 and Board of Supervisors Resolution No. 95-350 as these are replaced by the amended policies; and repealing Planning Commission Resolution No. 84-41, effective on the effective date of the Board's action on County Policy Amendment No. 2005-230; and

WHEREAS, the Planning Commission's recommendations included findings for project approval; and

WHEREAS, a duly noticed Board of Supervisors public hearing was scheduled for the 23<sup>rd</sup> day of March 2010; notice of the hearing was directly mailed to all contract holders; and

WHEREAS, a Staff Report packet was prepared for the public hearing, including proposed environmental findings, pursuant to the California Government Code, Mariposa County Code, the California Environmental Quality Act (CEQA) and local administrative procedures; and

WHEREAS, the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report packet and testimony presented by the public and representatives of the Agricultural Advisory Committee concerning the amendments; and

WHEREAS, on the 23<sup>rd</sup> day of March 2010, the Board of Supervisors closed the public hearing.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Mariposa hereby finds that the project is exempt from environmental review, directs staff to file a Notice of Exemption and approves County Policy Amendment No. 2005-230, County of Mariposa, proponent, with revisions directed by the Board during the public hearing.

BE IT FURTHER RESOLVED THAT the Board of Supervisors hereby repeals Board of Supervisors Resolution No. 77-157, Board of Supervisors Resolution No. 78-8 and Board of Supervisors Resolution No. 95-350 as these are replaced by the amended policies.

BE IT FURTHER RESOLVED THAT this action to approve County Policy Amendment No. 2005-230 is based upon the findings set forth in Exhibit 1.

BE IT FURTHER RESOLVED THAT the approved Rules of Procedure to Implement the California Land Conservation Act of 1965 are set forth in Exhibit 2.

BE IT FURTHER RESOLVED THAT the approved Rules of Procedure to Implement the California Land Conservation Act of 1965 as set forth in Exhibit 2 shall apply to all Land Conservation Act Contracts in Mariposa County which are automatically renewed as of 12:01 a.m. on January 1, 2011 and thereafter.

BE IT FINALLY RESOLVED THAT the Board of Supervisors hereby directs staff to make the revisions to the Draft Rules of Procedure as directed by the Board during the

public hearing and to bring the revised policy amendment back in final format as Consent Agenda item.

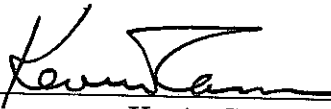
ON MOTION BY Supervisor Aborn, seconded by Supervisor Turpin, this resolution is duly passed and adopted this 23<sup>rd</sup> day of March, 2010 by the following vote:

AYES: Aborn, Turpin, Bibby, Cann, and Allen

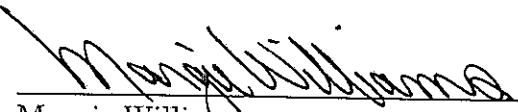
NOES: None

EXCUSED: None

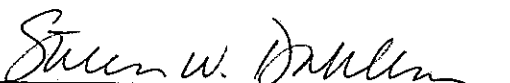
ABSTAIN: None

  
\_\_\_\_\_  
Kevin Cann, Chairman

ATTEST:

  
\_\_\_\_\_  
Margie Williams  
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM:

  
\_\_\_\_\_  
Steven W. Dahlem  
County Counsel

## EXHIBIT 1 – FINDINGS OF APPROVAL

1. These amendments support commercial agricultural operations in the county to ensure that agricultural production is and will remain a principle use of land in Mariposa County.
2. These amendments address one of the Guiding Principles in the 2006 Mariposa County General Plan which is “The Protection of Agriculture is Critical for the County’s Future”. These amendments, as the first and only comprehensive update to the Williamson Act Program since 1977, address several procedural issues with the program to ensure that the program will remain viable for commercial agricultural operations in the county in the foreseeable future.
3. These amendments support maintaining commercial agricultural production on lands within Mariposa County, as they constitute an important physical, social, aesthetic and economic asset to the county.
4. These amendments support commercial agricultural production and agricultural working landscapes, which contribute to the rural character of Mariposa County, a value described in the General Plan.
5. The Land Conservation Act of 1965 provides an important tool for Mariposa County to ensure that viable commercial agricultural operations within the county remain economically viable.
6. The Mariposa County Board of Supervisors provides strong support to the Land Conservation Act Program in Mariposa County, acknowledging the many values derived from agriculture, even if Subvention Funding for 2009 was not received from the State of California.
7. Properties which are not in compliance with the Land Conservation Act of 1965 and local contract provisions threaten the viability of the program within Mariposa County.
8. This amendment is in the interest of the health and safety of Mariposa County and its residents. These amendments address many procedural questions which have arisen during processing of projects involving Land Conservation Act contracted lands, which are not addressed by the current policies.
9. These amendments substantially meet the four objectives established for the program by the Board of Supervisors in Resolution No. 2005-546, which were as follows:
  - i) All parcels under contract shall be subject to the same standards.
  - ii) Implement Objective 1 immediately.
  - iii) Preserve as many viable parcels under contract as possible.

iv) Ensure that process is legally defensible.

Objective i) above is important to have a meaningful LCA program in Mariposa County. Contracts are not perpetual, but are rolling contracts that are automatically renewed annually unless a landowner files a notice of non-renewal.

10. The Lien Date changed from March 1<sup>st</sup> to January 1<sup>st</sup> starting in January 1<sup>st</sup> 1997. Any Land Conservation Act Contract, for which a non-renewal has not been recorded as of December 31<sup>st</sup> of any given year, automatically renews as of January 1<sup>st</sup>.
11. These amendments are consistent with the Mariposa County General Plan as they address an issue identified by the Mariposa County General Plan, Chapter 10 Agriculture Elements, which is to ensure that substandard agricultural parcels are not recognized through the Certificate of Compliance process during the tenure of the contract and that the sale of substandard contracted parcels does not create premature expectations of residential development.
12. These amendments are consistent with the Mariposa County General Plan as they implement Implementation Measure 10-2a(3) of the General Plan, which reads, "Standards shall be developed for issuance of development permits for substandard sized parcels under Williamson Act contract."
13. The approval of County Policy Amendment No. 2005-230, a comprehensive County-wide Williamson Act (Land Conservation Act) Amendments is exempt from the California Environmental Quality Act (CEQA) under a General Rule Exemption; Section 15061, CEQA Guidelines. The Land Conservation Act is a program enacted to "conserve agricultural lands and the related open space values in California". The program is implemented by a voluntary agreement between the local government (the county) and the landowner, where the landowner chooses, on an annual basis, to accept certain limits on his or her use of the land in return for an explicit tax reduction. The "project" being considered through County Policy Amendment No. 2005-230, is a set of amendments to an existing County policy, originally adopted in 1977, containing "limits on the use of land" to "conserve agricultural lands in California." The amendments are being processed to address changes in state law, to establish review procedures for all parcels under contract for the purpose of ensuring parcels are in compliance with the policies and state law, to ensure that there are written enforcement provisions and procedures in the policy, to specify provisions and procedures in the policy for adjusted boundaries, and to update the list of agricultural production and compatible uses based upon current state law and county code. There is no potential for substantial adverse changes in the physical conditions of the environment which will result from implementation of these amendments to an existing county policy to implement a program enacted to conserve agricultural lands. The amendments will protect the viability of the Land Conservation Act program in Mariposa County and limit development activities and uses on contracted lands. The amended policies will maintain and protect agricultural resources and agricultural uses on contracted lands.



## **EXHIBIT 2 – RULES OF PROCEDURE TO IMPLEMENT THE CALIFORNIA LAND CONSERVATION ACT OF 1965**

Mariposa County

Rules of Procedure to Implement the California Land Conservation Act of 1965

Approved by the Board of Supervisors on March 23, 2010

### **I. INTRODUCTION**

Agricultural lands and their attendant values are an important part of the economy and the rural pastoral fabric in Mariposa County. The County in its General Plan has designated "Agriculture/Working Landscape" to recognize that "lands for the production, extraction, or harvesting of food, fiber, timber and minerals" and "their historically and economically important activities are a major contributing factor to the County's character."

With respect to agricultural lands, the Board of Supervisors on October 18, 1977 adopted Resolution 77-157 to implement the California Land Conservation Act of 1965 (LCA), sometimes referred to as the Williamson Act,<sup>1</sup> by providing a program (hereafter "program") for landowners to receive tax benefits under the California Constitution in return for their land "being used for the purpose of producing an agricultural commodity for commercial purposes" during the term of contract. The California Legislature has determined that this program and the expenditure of public funds are in the public interest and necessary for the promotion of the general welfare. The orderly planning and use of land is in the public interest of all Mariposa County citizens.

The "Rules of Procedure to Implement the California Land Conservation Act of 1965" (hereafter "rules") are adopted pursuant to Government Code section 51231 and are intended to provide clear and detailed guidance for Mariposa County ("County") to administer the program and for landowners, farmers and ranchers, and the general public to understand and participate in this important program. More specifically, the rules provide basic criteria and procedures to determine eligibility in the program and they describe the land use restrictions for the agricultural lands enrolled in the program.

These rules, and future amendments to the rules, replace the previous provisions in Resolutions 77-157, 78-8 and 95-350 for all LCA contracts that are executed or automatically renewed after the effective date of these rules. As the LCA, the rules and other related provisions affecting this program are amended, those amendments are incorporated herein. In cases where there is conflict between the terms and provisions of the county policy for LCA contracts, the terms and

---

<sup>1</sup> The California Land Conservation Act of 1965, also known as the Williamson Act, is codified at Government Code section 51200 *et seq.* The Act provides for local governments to adopt rules governing the establishment and administration of agricultural preserves and to execute contracts with landowners to preserve the agricultural uses during the term of the contract. (Government Code section 51231.)

provisions of the contract, and the applicable zoning ordinance provisions and requirements, the more restrictive provision shall apply.

## **II. AGRICULTURAL PRESERVES**

### **A. Designation of Agricultural Preserves**

Agricultural preserves shall be established by the County for those areas devoted to agricultural uses as defined in the Land Conservation Act of 1965 (LCA). The establishment of an agricultural preserve is a prerequisite for landowners to enter into a contract pursuant to the LCA (hereinafter "LCA contract" or "contract") with the County.

Requests to establish a new agricultural preserve shall be filed with the Mariposa County Planning Department (Department) on an application form provided by the Department.

At the time of establishing an agricultural preserve, the Board of Supervisors shall authorize the Chairman of the Board to sign a LCA contract, on a standard form to be hereafter specified by the Board, with any owner of land within the preserve who qualifies for the contract and has requested to enter into such contract with the County and has followed the procedures in IIIA, below.

### **B. Minimum Size**

The minimum size of an agricultural preserve in Mariposa County shall be one hundred and sixty (160) acres or a legal quarter section consistent with the Mariposa County General Plan "Agriculture/Working Landscape" land use classification and the "Agricultural Exclusive Zone (AEZ)" described in the Mariposa County Zoning Ordinance. These acres shall all be contiguous.

## **III. LAND CONSERVATION ACT (LCA) CONTRACTS**

### **A. Processing and Approval**

1. Any landowner within an agricultural preserve meeting the qualification standards may enter into a LCA contract with the County.
2. Requests to execute a LCA contract shall be filed with the Mariposa County Planning Department on an application form provided by the Department.
3. Application information shall include, but not be limited to, the landowner(s) of record, the location of the property, the legal description of the property, the Assessor's Parcel Number (APN), the size of the property, and evidence and verification that the property for the past three (3) years has been used for the purpose of producing an agricultural commodity for commercial uses. The application information shall indicate the landowners' understanding of the LCA, the ensuing contract requirements for a commercial agricultural operation and his or her intention to enter into a LCA contract that will qualify as an enforceable use restriction as specified in Sections 422(a) and (b) of the Revenue & Taxation Code of the State of California. The County may require as part of the application an indemnification agreement and/or a waiver of any and all claims against the County and/or other lead agency for any permit or project involving

the LCA contract, including but not limited to, a building permit application. Any indemnification agreement would only relate to the landowner's legal obligations under the LCA.

4. It is the intent of the County for its staff, the Agricultural Advisory Committee and the Planning Commission to closely scrutinize all applications for a LCA contract to help assure that the land has been used for commercial agricultural operations for the past three years and will support commercial agricultural operations for the term of the contract.
5. The fees for processing applications shall be periodically established by the Board.
6. The Mariposa County Agricultural Advisory Committee shall review all applications for new or amended LCA contracts and shall forward such applications, along with a Committee recommendation, to the Mariposa County Planning Commission.
7. The Mariposa County Planning Commission shall hold a noticed public hearing on all applications for new or amended LCA contracts and shall forward such applications, along with a Commission recommendation, to the Board of Supervisors.
8. The Board of Supervisors shall hold a public hearing on all applications for new or amended LCA contracts, singularly or jointly. The purpose of the hearing is to provide a venue for all interested parties to inform themselves and present testimony if desired. The Board shall take action on all applications by resolution, upon finding that the application complies with all requirements established by state law and applicable county policies.

#### B. Term of Contracts.

The minimum term of LCA contracts shall be twenty years with automatic annual renewals as described in the LCA and the ensuing contracts.

#### C. Parcel Requirements

1. *Minimum Size.* To be eligible for a LCA contract or to qualify for continuing participation in the program, a parcel must be of adequate size to sustain a "commercial agricultural operation."

To assure that a parcel is being used for a commercial agricultural operation, landowners with LCA contracts shall file a biennial report with the County Assessor by January 30 of years ending in an odd number on a form provided by the Assessor. The report shall provide a full description of the "agricultural production uses" on the parcel for the past two years, how the agricultural commodities were used for commercial purposes, and contain a signed verification by the landowner, under penalty of perjury, that "the land is being used for the purpose of producing an agricultural commodity for commercial purposes." For purposes of this section, agricultural production uses are listed in III E and "agricultural use" and "agricultural commodity" are defined in the LCA.<sup>2</sup>

---

<sup>2</sup> See Government Code sections 51201(a) and (b).

Landowners with LCA contracts shall be responsible for completing the report in a timely manner and coordinating with their lessees to assure the information is accurate.

No parcel of less than 160 acres<sup>3</sup> or a legal quarter section in size may be considered for a LCA contract if the agricultural production use is rangeland and pasture for livestock production or forage. Parcels used for rangeland and pasture for livestock production or forage must be used according to customary grazing capacity for commercial agricultural production.

Parcels that are used for intensive farming<sup>4</sup> will only be considered a commercial agricultural operation if the parcel is at least 40 acres or a legal quarter-quarter section in size and the landowner and/or lessee can show that "the land is being used for the purpose of producing an agricultural commodity for commercial purposes" and income from sales of agricultural commodities produced on-site or income from the lease of land used for commercial production of agricultural commodities shall be at least three thousand dollars (\$3000.00) per year.<sup>5</sup> These shall be the only sources of income used to calculate whether the land is being used for commercial purposes. If a portion of a contracted parcel is managed for production of an agricultural commodity and a portion of the same contracted parcel is leased, then income from both uses may be counted; however, revenue from other compatible uses or ancillary uses of the land shall not be counted in determining whether there is a commercial agricultural operation. For permanent, non-bearing agricultural crops, such as orchards and vineyards, the plants shall be planted, properly cared for and maintained to produce a commercial crop within the customary period for agricultural production in Mariposa County.

To be considered a commercial agricultural operation, the parcel must be used for "commercial purposes" as defined by Mariposa County Code, Section 17.148.010.

For purposes of these rules, ten LCA contracts in which the County previously executed LCA contracts with landowners for parcels less than 160 acres<sup>6</sup> are considered to meet the minimum parcel size to remain under LCA contract, unless there is a proposal to change the boundaries of the land under section III.D after the effective date of these rules; in which case, the parcels will be subject to the minimum size requirements described herein or unless the parcels otherwise become conforming because they are

---

<sup>3</sup> The County acknowledges that the LCA establishes a broad, statewide, presumption that a parcel is large enough to sustain an agricultural use if it is at least 10 acres in size in the case of prime land, or at least 40 acres in size in the case of land which is not prime agricultural land. (Government Code section 51222.) Based on the special and unique characteristics of Mariposa County and its agricultural land, the County, in accordance with Government Code sections 51240 and 51243(a), has determined that larger minimum parcel sizes are necessary to sustain commercial agricultural uses in the County.

<sup>4</sup> Intensive farming may include the agricultural production uses described in E.1., except it does not include rangeland and pasture for livestock production.

<sup>5</sup> The Agricultural Advisory Committee will review this value annually and it may recommend any adjustments to the Board of Supervisors.

<sup>6</sup> This applies to LCA contracts 13, 19, 46, 74, 84-3, 85-4 and Amendment 88-1, 86-4, 86-8, 2000-1, and 2001-2.

managed jointly with adjacent parcels. These contracts and the parcels are otherwise subject to all other applicable requirements.

If the biennial report described above is not submitted to the County by January 30, or if the County deems the report incomplete, the County will send a notice by March 31 to the landowner that will indicate the report has not been received or is not complete. The landowner will have 30 days from the receipt of the notice to submit the completed report to the County. If a completed report is not received at that time, the County will file a notice of nonrenewal for all parcels for which a completed report has not been submitted. As part of the compliance monitoring described in F.1, the County may request additional information and inspect the property, after proper notice, to verify the property is being used for a commercial agricultural operation.

2. *Zoning Restrictions.* All parcels that are part of a LCA contract shall, within one (1) year of the effective date of the LCA contract, be restricted by zoning of said parcel to agricultural use. A completed rezoning application shall be submitted to the Planning Department for such parcel(s) following submittal of a LCA contract application, but prior to recordation of the LCA contract for these parcels. Processing of the rezoning application in accordance with County procedures may occur following recordation of the LCA contract. No applications for change in the agricultural use zoning shall be processed for contracted parcels, unless a notice of non-renewal has been filed and there are two or less years remaining in the contract.

3. *Multiple Parcels.* The following shall apply to multiple parcels:

a) *New Applications.* A new application for a LCA contract may be submitted for multiple legal parcels that are less than the minimum size necessary to sustain a commercial agricultural operation, as described above, but only if the parcels are contiguous and, at the option of the landowner, either: (i) merged<sup>7</sup> prior to executing a LCA contract into a parcel or parcels that complies with the minimum size criteria for a commercial agricultural operation or (ii) the LCA contract shall include an express provision that prohibits the sale of the parcels individually during the term of the LCA contract.<sup>8</sup> Parcels which are not contiguous, even if under one ownership, shall not be eligible for a single contract but will require individual contracts that separately meet the criteria established in these rules.

Parcels are contiguous if they are located adjacent to each other or share an edge or boundary, even if separated by roads, streets, utility easements, or similar rights of way.

b) *Existing Parcels.* For existing parcels under contract on March 23, 2010, a parcel that is less than the minimum size requirements described above is eligible to remain under the existing contract and participate in the program if the landowner can show

---

<sup>7</sup> A Parcel Merger Application, which is completed by a 1) Certificate of Compliance and 2) Declaration of Waiver and Merger, shall be recorded prior to or concurrently with the LCA contract.

<sup>8</sup> This section does not preclude the sale of the combined parcels together to one person or entity pursuant to a single conveyance instrument.

that the multiple parcels, even if not contiguous, are jointly operated for commercial agricultural production. For these purposes, the County will consider joint operations on parcels located in adjoining counties if the parcel or parcels are contiguous to a parcel in Mariposa County under LCA contract. If the landowner cannot meet these requirements, the County shall non-renew the contract(s) for any parcel that does not meet the minimum size requirements.

4. *Appraisal.* For appraisal purposes only, existing and future home sites on parcels under LCA contract shall be allocated parcel sizes of no less than 2.5 acres.

#### D. Divisions and Changes to Parcel Configurations

All proposals to change boundaries of land under LCA contract shall comply with the California Subdivision Map Act (Government Code section 66473 *et seq.*) and the minimum parcel size requirements for commercial agricultural productivity described herein. The boundaries of land within an agricultural preserve and under LCA contract shall not be changed where any one (1) of the parcels so modified will be less than the minimum parcel sizes described in C, above. Additionally, "no parcel of real property in the AEZ shall be divided or split into two (2) or more parcels by voluntary transfer, court action or other conveyance where any one (1) of the parcels so created will be less than one hundred sixty (160) acres or a legal quarter section in gross area." (Section 17.40.A.2, Mariposa County Code.) Proposals to change boundaries of land under contract include: lot line adjustments, parcel mergers, land divisions, and certificate of compliance applications.

Applications on LCA contracted lands, which propose to adjust or amend parcel configurations, shall be reviewed pursuant to state law, county policy and contract requirements. Applications for land divisions shall be conditioned to require that new contracts be recorded for each parcel modified by the division; except that transfers of ownership to immediate family members will remain subject to the existing contract as described in Government Code section 51230.1 and III.C.3(b), herein. Applications for lot line adjustments shall be conditioned to require that contracts be amended to reflect amended parcel configurations, prior to completion of the lot line adjustment. State law provisions regulating divisions and adjustments of contracted lands must be met.

Certificate of compliance applications shall not be processed on LCA contracted lands, unless accompanied by a Parcel Merger Application for parcels which do not comply with the minimum parcel size and agricultural productivity requirements of state law and these rules. For example, the County could process applications for certificates of compliance, if they were accompanied by merger applications so that all resulting parcels could sustain a commercial agricultural operation and meet the minimum size described herein. If an applicant meets these and any other applicable requirements for processing of a certificate of compliance, a contract amendment shall also be required, so that new LCA contracts are executed for each resulting parcel.

These rules are not intended to affect the underlying historic parcels in Mariposa County, although a landowner who executes a LCA contract and desires to receive the tax benefits of this program will be subject to these rules for land under contract during the term of the contract.

#### E. Agricultural Production and Compatible Uses

For landowners to receive the tax benefits under the California Constitution and the Revenue and Tax Code, the LCA provides that the land must be "devoted to agricultural use" and every LCA contract shall "provide for the exclusion of uses other than agricultural, and other than those compatible with agricultural uses, for the duration of the contract." (Government Code sections 51242(a); 51243(a).)<sup>9</sup> As such, the primary use of contracted land shall be for commercial agricultural production uses including production of agricultural commodities for sale in wholesale or direct marketing channels. Agricultural commodity means "any and all plant and animal products produced in this state for commercial purposes." (Government Code section 51201(a).)

Agricultural production and compatible uses shall be defined as follows:

1. *Agricultural Production Uses:* The following land uses, and those uses which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be deemed agricultural production uses and thus allowed within an agriculture preserve on LCA contracted lands:
  - i. Rangeland and pasture for livestock production and forage.
  - ii. Intensive farming, including but not limited to the growing and harvesting of vegetables, field crops, fruit and nut crops, bush and berry crops, vineyards, hay crops, and nursery, cut flower, other ornamental crops, and confined animal facility operations.
  - iii. Livestock production for food and/or fiber.
  - iv. Dairies.
  - v. Keeping of honey bees.
  - vi. Commercial breeding and training of horses, including training for racing as well as stock horses. A finding must be made, based upon evidence, that the primary function of the operation is commercial horse breeding or training for sale and this is the sources of revenue or income to cover the cost(s) of the operation.
  - vii. Fiber for basket-making and related commercial purposes.
  - viii. Plant products used for producing biofuels.
  - ix. Accessory uses and structures appurtenant and necessary to the commercial agricultural operation, including one-family dwellings located on the land and occupied by persons directly engaged in the commercial agricultural operation (including both lessors and lessees).

---

<sup>9</sup> The Agriculture/Working Landscape Land Use Classification "identifies lands where the primary use is the production of agriculture...for economic benefit, which incidentally have scenic value and appear as open space areas." (General Plan 5.3.04A.)

2. *Compatible Uses:* The following land uses shall be deemed compatible with agricultural production uses and the related scenic and open space values and thus allowed within agricultural preserves, provided that these land uses are not the principal use and the land uses overlay and do not displace the agricultural production use, described above.
  - i. Forestry, but not including any processing facilities.
  - ii. Utility lines and substations.
  - iii. Processing and vending facilities that are related to the agricultural production uses on the LCA contract parcel.
  - iv. Recreation that does not displace agricultural production use, but not including permanent structures.
  - v. Private airstrips and heliports if used as a part of an agricultural production use on-site.
  - vi. Production of game animals and fish.
  - vii. Mining if conducted in accordance with all requirements of county ordinance, state and federal law, including the Surface Mining and Reclamation Act of 1975. Reclamation shall be to agricultural production and compatible uses pursuant to Government Code 51238.2. A finding shall be made that the proposal is of limited extent and duration, so as to meet compatibility principles of state law.
  - viii. Horses raised or maintained primarily for ranching work.
  - ix. Growing and harvesting of hardwoods.
  - x. Home enterprises conducted entirely within existing conventional single family residential structures as determined by the Planning Director, and operated by permanent residents. Home enterprises on contracted lands shall not create any significant traffic impacts that affect contracted parcels and there shall be no external evidence of the existence of the business.

Agricultural production and compatible uses are also subject to all applicable Zoning Ordinance provisions and requirements.

3. *Residential Uses.* Any residential structure on LCA contract land must be occupied by persons directly engaged in the commercial agricultural operation. Landowners who lease their land for commercial agricultural uses may reside on a permanent or temporary basis on contracted land to monitor the lease arrangements and provisions pursuant to this restriction.

For residential development on contracted parcels that meet the minimum parcel requirements, there is no discretionary review for any proposed single family residential home; although the structures must be a single family dwelling as determined by the Planning Director. Any proposed residential development which creates more than one residence per property owner is subject to review by the Planning Director, and if



necessary, by the Agricultural Advisory Committee, and shall comply with these rules and the density provisions of the applicable zoning and general plan land use designation. All residential building permits on parcels under LCA contract shall be conditioned upon the applicant executing a new LCA contract; but only if the LCA contract covers multiple parcels that are under different property ownership.

No new residential dwelling permits may be issued to a contracted parcel, unless the parcel is in full compliance with state law, county policy, and contract requirements. Employee and agricultural laborer housing, such as duplexes or dormitories, shall comply with the provisions in Government Code section 51230.2 and are subject to review by the Planning Director, and if necessary, by the Agricultural Advisory Committee, and shall comply with these rules and the density provisions of the applicable zoning and general plan land use designation.

Any other proposed residential development is subject to review by the Planning Director, and if necessary, by the Agricultural Advisory Committee, and shall comply with these rules and the density provisions of the applicable zoning and general plan designation. As described below, the County shall seek enforcement pursuant to Government Code section 51250 *et seq.* against landowners who have materially breached their contracts by constructing any commercial, industrial or residential building not allowed by the LCA contract.

#### F. Enforcement and Monitoring

##### 1. *Compliance Monitoring*

The Planning Department and Assessor's Office shall actively monitor this program by periodically reviewing the biennial reports in III.C.1 to determine whether landowners are complying with the program by using their property for commercial agricultural operations and to assure the intent of the program to encourage commercial agricultural production is being carried out in Mariposa County. When it appears to the Planning Department or the Assessor's Office that a landowner is not complying with state law, these rules, other County policies or the terms in the LCA contract, the County will formally notify the landowner about the potential violations. The County will provide one year for the landowner to rectify any violations before beginning the enforcement proceedings described below.

##### 2. *Enforcement*

The County shall actively enforce the terms of the program and ensuing contracts and shall take any action legally available to enforce state law, these rules, other County policies, and the terms set forth in a LCA contract. Any conveyance, contract or authorization (whether oral or written) by the landowner or his or her successors in interest that would cause use of the property contrary to state law, these rules, and the terms of the contract shall be enforced by the County by an action filed in Superior Court of the County for the purpose of compelling compliance or restraining breach thereof. This includes the following non-exclusive remedies:

- i. County shall seek a breach of contract claim under the provisions of the LCA contract. If owner materially breaches the contract, owner shall pay County one half

(1/2%) percent of the restricted assessed value of the land subject to the LCA contract for each day owner is in breach as liquidated damages;

- ii. Utilize the procedures in Government Code section 51250 (AB 1492) for material breaches;
- iii. The County shall also seek non-renewal of the contract pursuant to the contract in accordance with Government Code section 51245.

#### G. Termination of Contracts

Methods for terminating a contract include non-renewal, cancellation, and public acquisition.

##### 1. Processing and Approval for Rescissions and Cancellations

Requests to rescind or cancel a contract shall be filed with the County Planning Department on an application form provided by the Department.

The County Agricultural Advisory Committee shall review all applications for contract rescissions and cancellations and shall forward such applications, along with a Committee recommendation, to the Planning Commission.

The County Planning Commission shall hold a noticed public hearing on all applications for rescission and cancellations and shall forward such applications, along with a Commission recommendation, to the Board of Supervisors.

The Board of Supervisors shall hold a public hearing on all applications for contract rescissions and cancellations. The purpose of such hearing is to permit all interested parties to inform themselves and present testimony if desired. The Board shall take action on all applications by resolution, upon finding that the application complies with all requirements established by state law and county policy.

##### 2. Non-renewal

Non-renewal of a LCA contract is the preferred method for a landowner or the County to terminate a contract. To begin the process to terminate a LCA contract, a landowner shall serve a notice of non-renewal as described in Government Code sections 51245, 51254 and 51255 and the LCA contract by August 31 in any given year (to become recorded prior to December 31 to be effective on January 1 the following year) and pay the applicable processing fee and meet other applicable processing requirements. When the County initiates the non-renewal, it shall serve the notice of non-renewal by August 31.

When a landowner seeks nonrenewal for a portion of land under a contract or a portion of a parcel, the County shall review the remaining portions of the parcel(s) or contract(s) to determine if the remaining portion meets the LCA requirements and these rules. If the remaining portion does not meet these requirements, the landowner or County will file for nonrenewal of the remaining portion of the parcel(s) or contract(s).

##### 3. Cancellation

A landowner may request cancellation to terminate a LCA contract, but the cancellation will only be approved by the County under extraordinary circumstances as provided in the Government Code section 51280 *et seq.*

The County shall assess a cancellation penalty of twenty five percent (25%) of the unrestricted fair market value of the property after the LCA contract is no longer imposed on the property.

#### 4. Public Acquisitions

LCA contracts may become void for land that is acquired by the federal, state or local governmental agency. The LCA in Government Code section 51290 contains policies and restrictions to avoid public acquisition of lands within agricultural preserves. State and local governmental agencies are required to refer proposals to acquire land within an agricultural preserve to the State Department of Conservation for its review and response prior to acquisition.