

COUNTY OF MERCED

**RULES OF PROCEDURE TO IMPLEMENT
THE CALIFORNIA LAND CONSERVATION
ACT
OF 1965**

ADOPTED BY
THE MERCED COUNTY BOARD OF SUPERVISORS
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RULES OF PROCEDURE TO IMPLEMENT THE CALIFORNIA LAND CONSERVATION ACT OF 1965

A. INTRODUCTION

The objectives of the Merced County Agricultural Preserve Program, as provided by the California Land Conservation Act of 1965 (Williamson Act), are to protect agricultural lands for continued agricultural production, and open-space uses. The County's Rules of Procedure to Implement the California Land Conservation Act of 1965 provide the standards for property eligibility and land use restrictions under the program. They also provide procedures for terminating contracts and monitoring the agricultural preserve program.

An agricultural preserve has been established by the County for those areas devoted to agricultural and open-space uses as per the Williamson Act. Establishment of the agricultural preserve is a prerequisite for landowners to enter into land conservation contracts with the county. A land conservation contract is an agreement entered into by and between the property owner and the County to restrict the use of the land for agricultural and open space compatible uses for a minimum term of 10 years, in return for a reduction in property taxes.

Any landowner meeting the qualification standards may apply to enter into a land conservation contract with the County. Following the recording of a contract, the property is reassessed on the basis of the agricultural income producing capability of the land then compared to the fair market value and Proposition 13 value. The lower of the three values will be enrolled. Adoption of Revenue and Taxation Code Section 423.3 will give up to a maximum 5% tax relief to owners who may not otherwise benefit under the Williamson Act. This assures the landowner that property valuations and taxes will remain at lower stable levels notwithstanding location relative to urban or other developing areas. In exchange for the tax benefits of the program, the landowner agrees to keep the land in agricultural or open-space use and in parcel sizes related to the quality of the land or existing use.

B. AGRICULTURAL PRESERVE

1. Eligibility Criteria for Agricultural Preserve

Consistent with the California Land Conservation Act of 1965, the County has established the following criteria for land to be within the agricultural preserve.

a. Agricultural Zone Designations

Land zoned as either General Agricultural (A-1) or Exclusive Agricultural (A-2) and consistent with the rural land use designations of Merced County General Plan may be part of the Merced County Agricultural Preserve.

b. Minimum Parcel Size

The minimum parcel size for inclusion in the agricultural preserve shall be **10 gross acres**.

c. State Farmlands Classification

Parcels with the majority of their area defined as Grazing, Prime, Farmland of Statewide Importance, Farmland of Local Importance or Unique Farmland as shown in the State of California Important Farmlands Mapping Monitoring program shall be eligible for inclusion within the Agricultural Preserve.

d. Land Use Criteria

Only those parcels which the primary use is agricultural or open space (excluding contracted duck clubs), consistent with the compatible use standards in Section C.2 of these Rules of Procedure are eligible for inclusion within the Agricultural Preserve.

2. Expansion of the Agricultural Preserve

a. Property adjacent to the existing agricultural preserve.

A landowner whose property qualifies for the program but not currently within the agricultural preserve may have their property added to the existing agricultural preserve by amendment approved by the Board of Supervisors.

b. Addition of land to the preserve and contract.

A property owner under contract who acquires adjacent parcels may add this land by amendment to the agricultural preserve and contract; the contract amendment is to recognize the remaining term of the original contract but in no event less than 10 years.

3. Removal From The Agricultural Preserve

The same procedures used to establish an agricultural preserve apply to alteration of the boundaries of the agricultural preserve. The following are circumstances under which the County will consider removal from the agricultural preserve:

a. Landowner-initiated

A landowner may request removal from the agricultural preserve if they are not under a Land Conservation Contract or upon termination of it. As the Williamson Act is a voluntary program, and an owner may not wish to participate, requests for removal will be forwarded to the Board of Supervisors for approval.

b. County-Initiated

The county will remove lands from the agricultural preserve that are acquired by a public agency for public purposes or for reasons of public health, safety, or welfare.

C. LAND CONSERVATION CONTRACTS

1. Land Conservation Contract Criteria

a. Land Conservation Contract Criteria

Minimum parcel sizes shall be no less than that established for lands respectively within the A-1 or A-2 zones except as specified below.

b. As per the provisions of the Williamson Act, no parcel less than 10 acres shall be eligible for Williamson Act Contracts.

c. Lands in agricultural or open space use shall be presumed to be in parcels large enough to sustain their agricultural use if the contracted land is:

(1) at least 20 acres in size in the case of prime agricultural land, or

(2) at least 80 acres in size in the case of land which is not prime agricultural land.

The determination of whether the land is considered as "prime" or "non-prime" shall be made by the Assessor as per the criteria of Section 51200 of the California Government Code.

- d. A property owner may request a reduction in the minimum parcel size applied to the property if the agricultural use has been substantially intensified (e.g., conversion from dry farm grain to irrigated orchards or vineyards) to justify smaller parcel sizes according to the minimum parcel size standards.
- e. Parcels less than the presumptive minimums in Section (c) must be able to demonstrate a gross annual income of no less than four hundred dollars (\$400.00) per acre from agricultural or compatible uses in order to be eligible for Land Conservation Contracts.
- f. Parcels that do not meet minimum parcel sizes individually and under a single ownership, may be considered for a land conservation contract, providing that all the land under contract is conveyed in its entirety.
- g. Discontiguous parcels under one ownership may be entered with a single contract if they collectively meet the criteria and are operated as a single agricultural enterprise. Parcels, under different ownership, must be entered as a separate contract.
- h. No land conservation contract shall be approved where an existing land use or parcel is being maintained in violation of any applicable provision of the Subdivision Map Act; the Merced County Code, or any condition of approval of a land use permit where the violation is identified prior to the filing of a land conservation contract.

2. Agricultural and Compatible Uses

a. Agricultural Uses

Agriculture, including any customary agricultural buildings and structures and the following uses such as, livestock ranges, animal husbandry, field crops, fallow, withdrawal from production pursuant to Federal agricultural programs such as, but not limited to, that authorized by the Crop and Adjustment Act, tree crops, vine crops, together with the necessary equipment for maintenance and support of these uses.

b. Compatible Uses

- (1) Agricultural Chemical Mix and Storage
- (2) Agricultural Products Storage
- (3) Agricultural Service Contractors
- (4) Agricultural and Food Processing Plants
- (5) Airstrips (crop dusting) and Temporary Airstrips (agricultural uses)
- (6) Animal Confinement Facilities
- (7) Animal Hospitals, Veterinary Clinics, Animal Boarding
- (8) Dairies
- (9) Poultry Farms
- (10) Mines, Quarries, and Gravel Pits (with necessary ancillary uses)
- (11) Oil and Gas Wells
- (12) Public and Private Hunting Clubs
- (13) Produce Stands
- (14) Public Horse Stables and Training Facilities
- (15) Ranch Equipment Storage and Repair
- (16) Ranch Offices
- (17) Truck Parking (agricultural product hauling)
- (18) Wineries and Breweries
- (19) Dwellings appurtenant to the principal agricultural use
- (20) Guest House (non-commercial only)
- (21) Home Occupations
- (22) Auction Houses (agricultural commerce only)

- (23) Plant Nursery (only grown on-site)
- (24) Communication Towers

This list differs from the one in the zoning ordinance as it provides for consistency with the compatible use standards of the Williamson Act and specifically Section 51238.1 et seq. of the California Government Code. Where there is a difference between this table, the Merced County Zoning Ordinance or the provisions of the Williamson Act, the more restrictive of the regulations shall prevail.

3. Length of Land Conservation Contracts

The minimum term of land conservation contracts shall be 10 years. If a property owner has served a notice of non-renewal of land conservation contract on the County and the same owner or a successor wishes to reinstate the ongoing contract status to negate the effect of the non-renewal, the owner will need to apply for a new contract for a term of 10 years.

4. Processing and Approval of Land Conservation Contracts

a. Processing

- (1) The Merced County Planning and Community Development Department conducts the initial processing of the Land Conservation Contracts. A completed submittal shall include: application form, plot plan, signed and notarized contract, title report, Income and Expense Questionnaire, and processing fees. The Department will verify the information and determine if the lands are within the agricultural preserve and meet the minimum requirements.
- (2) Those submittals meeting the minimum requirements will be forwarded for review by the Office of the County Assessor who will determine if the land is considered prime or non-prime, and determine the eligibility of those parcels not meeting the presumptive minimum size standards.
- (3) Land Conservation Contracts, meeting the qualifications will be scheduled for consideration for approval by the Board of Supervisors.
- (4) Upon Board Approval, and signature of the Chair, the Land Conservation Contract will be recorded by the County Recorder.

b. Processing Time

It takes approximately two to three months to process a land conservation contract.

c. Submittal Window

For the first year of the program applications will only be accepted from September 1, 2000 through September 30, 2000.

Beginning in the year 2001 applications may be submitted to Merced County Planning and Community Development Department between July 1 and September 30 of each year. This allows sufficient time for contracts to be recorded prior to the end of the year. The last working day of December is the annual deadline for ensuing property reassessments and property tax reductions that become effective the following fiscal year.

5. Termination of Land Conservation Contracts

Methods for terminating land conservation contracts include non-renewal, cancellation, annexation, and public acquisition.

Background

Beginning on the first year following execution of a 10-year contract, a year is automatically added for each year that elapses to maintain an ongoing 10-year term unless a notice of non-renewal is served. Unless the landowner or the county serves notice of non-renewal on the other party, or the contract is terminated by one of the other methods described, a contract continues indefinitely.

a. Non-renewal

Non-renewal is the most common method for a landowner or the county to terminate a land conservation contract. All that is required is for the landowner, or the county, to serve a notice of non-renewal in a timely manner (see below).

(1) Service and termination dates

To terminate a land conservation contract by non-renewal, the landowner must serve a Notice of Non-renewal to the county by October 1 in any given year, or the county, must serve a Notice of Non-renewal to the landowner by November 1 in any given year. Once a Notice of Non-renewal is served, it will take 9 to 10 years for the contract to expire. Any landowner under contract may terminate the contract on his property by serving a Notice of Non-renewal on the county, and paying the applicable processing fee. A contract may also be terminated by the county serving the Notice of Non-renewal on a property owner.

(2) Full or partial non-renewal

County review and approval of a landowner-initiated notice is required only for a notice of partial non-renewal of contract as follows:

- (a)** The landowner acquired a portion of a larger property subject to a contract. The County policy is to approve such notices since the California Land Conservation Act of 1965 provides that any landowner, independent of other landowners subject to the same contract, may serve a Notice of Non-renewal. However, such notices will trigger County review of the balance of the property subject to the same contract to determine its continuing eligibility and to consider whether the county should serve a Notice of Non-renewal on other property owners under that contract.
- (b)** The landowner requests termination of contract on a portion of their property. The request will be reviewed to determine if the portion to remain in the program (subject to continued annual renewal) complies with the program's eligibility requirements. If not, the property owner would need to decide whether to continue the entire property under the program or serve Notice of Non-renewal on the entire property.

b. Cancellation

Only a property owner may request cancellation of a land conservation contract to terminate the contract on all or a portion of the property. However, cancellation may be approved only under extraordinary circumstances as provided in the California Land Conservation Act of 1965. The Board of Supervisors, following a public hearing, must make all of the findings under one of the following two sets of determinations to approve a cancellation request:

- (1)** The cancellation is consistent with the purposes of the California Land Conservation Act of 1965 as evidenced by the following:
 - (a)** A Notice of Non-renewal has been served.

- (b) Cancellation is not likely to result in the removal of adjacent lands from agricultural use.
 - (c) Alternative uses are consistent with the Merced County General Plan.
 - (d) Cancellation will not result in discontinuous patterns of urban development.
 - (e) There is no proximate non-contracted land which is both available and suitable for the proposed alternative use, or, development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land, which is sufficiently close to the contracted land that it can serve as a practical alternative for the use which is proposed for the contracted land.
- (2) The cancellation is in the public interest as evidenced by the following:
- (a) Other public concerns substantially outweigh the objectives of the California Land Conservation Act of 1965.
 - (b) There is no proximate non-contracted land which is both available and suitable for the proposed alternative use, or, development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land, which is sufficiently close to the contracted land that it can serve as a practical alternative for the use which is proposed for the contracted land.

The following provision applies to both alternatives.

The uneconomic character of an existing agricultural use is not a sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use for the land.

Cancellation is an expensive method to seek termination of contracts.

Processing fees are high due to the need to prepare detailed staff reports, the possible requirement for an environmental impact report, and public hearings. If a cancellation request is approved by the Board of Supervisors, the applicant must pay a cancellation penalty fee amounting to 25 percent of the appraised value of the property as if it were not subject to contract within one year after approval of cancellation.

c. Annexation

If a city annexes land subject to a land conservation contract, the city succeeds to all rights, duties and powers of the county under the contract. The city protest provision of the California Land Conservation Act of 1965 was eliminated as of January 1, 1991 and thus does not apply to contracts within Merced County.

d. Public Acquisition

Land conservation contracts become void for land that is acquired by a federal, state or local government agency for necessary public uses and facilities. The California Land Conservation Act of 1965 contains policies and restrictions to avoid public acquisition of lands in agricultural preserves, with special emphasis on restricting acquisition of land subject to land conservation contracts or containing prime agricultural land. State and local government agencies are required to refer proposals to acquire land in agricultural preserves to the State Department of Conservation for their review and response prior to acquisition.

D. MONITORING THE AGRICULTURAL PRESERVE PROGRAM

The county shall actively monitor the agricultural preserve program by periodically reviewing the continuing eligibility of properties and checking for contract violations. If necessary the County will initiate a Notice of Non-renewal to remedy violations. The following are the procedures for processing a county-initiated Notice of Non-renewal.

1. Refer the proposed Notice of Non-renewal to the Planning and Community Development Department for a compliance determination.
2. Schedule a public hearing before the Board of Supervisors to consider the proposed Notice of Non-renewal and environmental determination, and notify the property owner of the Board hearing date
3. Prepare a staff report and Notice of Non-renewal for the Board of Supervisors.
4. If approved by the Board of Supervisors, the Notice of Non-renewal is executed by the Chair of the Board of Supervisors and mailed to the property owner with a letter informing them of their right to protest the non-renewal.
5. Upon receipt by the owner of a Notice of Non-renewal from the county, the owner may make a written protest of the Notice of Non-renewal. The County, at any time prior to the non-renewal date, may withdraw the Notice of Non-renewal.
6. A copy of the notice of Non-renewal and any written protest received is to be filed by the County Clerk and copies are to be transmitted to the County Assessor.

a. Mandatory Filing

The County shall serve notices of non-renewal of land conservation contracts on property owners if the Board of Supervisors through a public hearing finds that the conditions under which they originally qualified for the agricultural preserve program have been substantially diminished.

b. Enforcement of Contracts

The County shall monitor the agricultural preserve program for contract violations and take necessary actions to restrain breach of contracts or compel compliance with the terms of contracts.

(1) Enforcement

Terms of conservation contract are binding on the owner who entered into contract Conveyance. Land use restrictions specified in a land or a succeeding owner as long as the contract remains in effect.

The owner is obligated to maintain the land in a condition that will not diminish the use or characteristics which originally qualified the property for the agricultural preserve program.

Any conveyance, contract or authorization (whether oral or written) by the owner or his/her successors in interest which would permit use of the property contrary to the terms of the contract may be enforced by the county by an action filed in the Superior Court of the county for the purpose of compelling compliance or restraining breach thereof. These remedies are non-exclusive and the county may take any other action

legally available to enforce the terms of the contract. Alternatively or in addition, non-renewal of the contract by the county may be initiated if deemed appropriate. Any such action shall not affect the contracts of other owners in the preserve.

(2) **Enforcement of Terms of Land Use and Noncompliance**

In case of a violation, the property owner shall have a period of 90 days from the date of discovery to remove the non-complying use. If it is not removed, non-renewal may be initiated by the county, or the Board of Supervisors may authorize the initiation of an action in Superior Court to compel removal of the non-complying use.

E. Contract Term Reduction As Authorized Under SB 863

The following rules and procedures shall be effective in any year in which the Board of Supervisors makes the determination to implement Subdivision (b) of Section 51244 and Section 51244.3 of the California Government Code. This Subsection of the County Rules of Procedure to Implement the California Land Conservation Act of 1965 shall remain operative only until January 1, 2015 unless otherwise modified by the State or the County.

1. Changes to the Length of a Contract

- a. For any year in which the Merced County Board of Supervisors makes a determination to implement Subsection (b) of Section 51244 and Section 51244.3 of the California Government Code, a year shall **not** be added to a contract upon its next anniversary date, effectively reducing the term of a contract from ten years to nine years.
- b. In any subsequent year during the reduced term of contract in which the Merced County determines not to implement Subsection (b) of Section 51244 and Section 51244.3, two additional years shall be added to the contract on the next anniversary date, which will restore the contract to its full 10-year contract length.
- c. The terms of this Section shall not apply to contracts in non-renewal or other specified exemptions in accordance with Section 51244(b)(7) of the California Government Code.

2. Changes to the Property Tax Reduction

- a. The assessed value of contracted land shall be increased to reflect the reduction of the contract term equal to 10 percent of the difference between the valuation pursuant to Section 423, 423.3, or 423.5 of the Revenue and Taxation Code, as applicable, and the valuation under subdivision (b) of Section 51 or Section 110.1 of the Revenue and Taxation Code whichever is lower.
- b. A landowner may serve notice of nonrenewal instead of accepting a 9 year contract. In such case, the additional assessed value shall not be added to the property as provided for in paragraph 2.a.

3. Changes to the Non Renewal Procedures

- a. If a landowner serves a Notice of Non Renewal to the County by February 18, 2011 it shall be considered to have been served in a timely manner and effective prior to

the January 1, 2011 anniversary date of the contract.

- b. The standard fee for processing a Notice of Non-Renewal shall be waived until February 18, 2011.
- c. After February 18, 2011, Notices of Non-Renewal shall continue to be subject to Section C.5.a(1) above and subject to the required processing fee.

4. Withdrawal of a Notice of Non-Renewal

A landowner may request a withdrawal of a Notice of Non-Renewal subject to the approval of the county and a processing fee equal to that for new contracts in accordance with Section 51245 of the California Government Code.