

# **Rules for the Establishment and Administration of Agricultural Preserves and Williamson Act Contracts**



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**Rules for the Establishment and Administration of  
Agricultural Preserves and Williamson Act Contracts**

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## **I. Background**

In 1965, the California Legislature passed the Land Conservation Act, better known as the Williamson Act, to preserve agricultural lands by discouraging premature conversion to urban uses. Over 16 million of the state's 30 million acres of farm and ranch land are currently protected under the Williamson Act.

The Williamson Act is a State-created policy administered by local government. Local governments are not mandated to participate in this program, but those that do are able to tailor the program to suit local goals and objectives. Local governments may be more restrictive in contract terms than what is required by the Williamson Act. Consequently, the Williamson Act programs found across the state often have differences, reflecting the diversity among participating local governments.

The Williamson Act creates an arrangement whereby private landowners voluntarily restrict use of their land to agricultural and compatible uses in return for lower property taxes. In the unincorporated area of Siskiyou County approximately 26.5% of private land is under Williamson Act.

Land restricted by Williamson Act contracts must be used primarily for the commercial production of agricultural commodities. Any other uses or development must be compatible with and ancillary to the commercial agricultural use.

These contracts provide for a "rolling" term of ten years. Unless either party files a "Notice of Nonrenewal" in any given year, the contract is automatically renewed annually for an additional year resulting in a continuous 10-year term. A Williamson Act contract runs with the land and obligates the property owner, and any successors of interest, to the contract's enforceable restrictions. Only land located within a County-designated agricultural preserve is eligible for a Williamson Act contract.

The California Department of Conservation is responsible for statewide administration and oversight of the Williamson Act. The Department supports local governments and landowners in the form of technical and implementation assistance, interpretation of the Williamson Act, research of issues and policies, review and comment on proposed contract cancellations, and contract enforcement.

## **II. Role of the Agricultural Preserve Administrator**

In Siskiyou County, the Agricultural Preserve Administrator (Administrator) shall be the Planning Director or his or her designee. The Administrator is responsible for reviewing and providing recommendations concerning the County's Agricultural Preserve Program, Williamson Act Program and these Rules. His or her duties include reviewing applications and making recommendations concerning creating new or proposed modifications to an Agricultural Preserve, entering new contracts, making revisions to existing contracts and terminating contracts. When an application for a permit (or other County entitlement) involves land in a Williamson Act contract, the Administrator shall have the responsibility to review the application to determine its consistency with these Rules. From time to time, the Administrator may make recommendations on revising these Rules to ensure their continuing consistency with the Williamson Act and suitability to Siskiyou County.

## **III. Establishment of Agricultural Preserves and Williamson Act Contracts**

The Williamson Act authorizes the Board of Supervisors to designate certain areas of the County as agricultural preserves for application of the program. In more recent years, it has been the County's practice to establish the preserves simultaneously with enrollment in a contract, resulting in identical boundaries between the preserves and the contracts. This past practice does not preclude the County from establishing an agricultural preserve in advance of a Williamson Act contract. Thus, land anywhere within the County that meets the zoning, size, use and other requirements set forth in these Rules may be eligible to enter into an Agricultural Preserve.

The success of Siskiyou County's Williamson Act program is dependent on financial assistance from the State of California. The State recognized the financial burden local governments incur when participating in this program, and to assist with forgone property tax revenue, the State provides annual subvention payments. However, funding for subvention payments has not been made available for a number of years. In order to protect the general welfare of the County, its residents and visitors, it shall be the policy of Siskiyou County to deny applications requesting to establish a new Williamson Act Contract or significantly increase<sup>1</sup> the size of property within an existing contract when the State of California has not appropriated funding for subvention payments. Should the State appropriate funding for subvention payments in the future, the County may consider requests for new Williamson Act contracts or significantly increase the property within an existing contract. This policy shall not apply to application requests for modification of existing Williamson Act contracts, should the request not significantly increase the acreage within the contract.

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<sup>1</sup> A significant increase would be considered acreage of 2.5% of the contracted property, not to exceed 25 acres or as determined by the Board of Supervisors and advised by the Administrator on a case-by-case basis.

## **A. Application for Agricultural Preserve and Williamson Act Contract**

A property entered into an Agricultural Preserve does not automatically allow for a Williamson Act Contract and provide lower property taxes, nor does it restrict uses on the property. It simply is a determination by the County that the property is of significant importance as Agricultural Land and is eligible to be preserved as such. Land must be within an Agricultural Preserve to qualify for a Williamson Act Contract.

### Application Requirements

To establish or alter the boundaries of an existing agricultural preserve and/or to apply for a new Williamson Act Contract or modification to an existing contract, an application must be executed by all owners of record with the Siskiyou County Assessor/Recorder's Office of the subject property and shall be submitted to the County Planning Department before July 1<sup>st</sup> of the calendar year for a contract to become effective January 1<sup>st</sup> of the succeeding year. The application shall include all requirements outlined in the Planning Application Guide, which will include, but is not limited to, the following:

1. **A Grant Deed with legal description.** If the legal description provided is not acceptable by the County Surveyor, the applicant must provide a legal description prepared by and stamped by a California licensed land surveyor.
2. **Map:** a copy of a recorded map or assessor's parcel map showing the subject parcel as a legal parcel<sup>2</sup> or parcels when such parcels are under the same ownership. A contracted area normally has the same boundaries as the parcel.
3. **A Preliminary Title Report** dated less than 5 years from the time of application submittal, but current to the present ownership, will be required.
4. **Owner information.** The names and addresses of all owners of record with the Siskiyou County Assessor/Recorder's Office of the subject property.
5. **A detailed description** of the agricultural production use and any other uses occurring on the subject property.

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<sup>2</sup> Property is evaluated by the entire legally established parcel. A legal parcel may consist of one or more Tax Parcels.

## B. Minimum Contract Acreage and Parcel Size

State law presumes that parcels of agricultural land are large enough to sustain their agricultural use if the land is at least 10 acres in size in the case of prime agricultural land (as defined in Government Code Section 51201), or at least 40 acres in size in the case of land that is not prime agricultural land. All parcels proposed to be included in a contract must meet this parcel size requirement.

During an application review, should it be found that a parcel which is already under contract, does not meet the acreage requirements (considered to be substandard) the applicant will be notified of the issue and be afforded adequate time to modify the property boundaries to increase the acreage to meet minimum requirements. If this is not achievable, staff will recommend a notice of non-renewal be issued for the substandard parcel(s).

1. To qualify for a Williamson Act contract, the property proposed to be included must contain at least 40 acres of Class I or Class II equivalent soils (See Table below) as mapped by USDA, Natural Resources Conservation Services.

Soil Class Equivalent		
Soil	Class Equivalent	
	Irrigated	Dryland
I	1 Acre = 1 Acre	1 Acre = 1 Acre
II	1 Acre = 1 Acre	1 Acre = 1 Acre
III	1 Acre = 1 Acre	2 Acres = 1 Acre
IV	2 Acres = 1 Acre	4 Acres = 1 Acre
V	3 Acres = 1 Acre	6 Acres = 1 Acre
VI	3 Acres = 1 Acre	6 Acres = 1 Acre
VII	10 Acres = 1 Acre	10 Acres = 1 Acre

2. The 40-acre requirement shall not apply to properties dedicated to the growing of fruits, nuts, or vines. In such instances, a Williamson Act contract may be approved if the proposed property is 10+ acres and under the following conditions:
  - a. The agricultural pursuit is limited to the growing of fruits, nuts or vines.
  - b. The use has been established, consistent with sound agricultural practices, on the land prior to application for a Williamson Act Contract.
  - c. At least 80% of the legal parcel is dedicated exclusively to the proposed use.
  - d. No individual legal parcel is less than 10 acres.

### **C. Zoning Criteria**

All parcels that are part of a Williamson Act contract shall be restricted by zoning of the subject parcel to an agricultural use. Acceptable zoning designations include Prime Agricultural (AG-1), Non-Prime Agricultural (AG-2) and Rural Residential Agricultural (RR). In the event the subject parcel is not zoned for agricultural uses, a completed zone change application must be approved prior to recordation of the contract.

### **D. Terms of Contracts**

Under the Act, contracts are automatically renewed each year on January 1<sup>st</sup> following the first year of a 10-year Williamson Act contract, unless the owner or County serves a notice of non-renewal, or the contract is terminated as may be provided for by the Act and these Rules. When the County or a landowner serves a notice of nonrenewal upon the other party sufficiently prior to the renewal date (i.e., 90 days if served by the landowner, 60 days if served by the County), the contracted land must continue to meet County eligibility and compatible use requirements throughout the remaining duration of the 10- year contract. The contract shall be binding upon and inure to the benefit of all successors in the interest of the property owner in accordance with Section 51243 of the Government Code.

## **IV. Agricultural Production and Compatible Uses within Contracted Land**

Land encumbered by a Williamson Act Contract is to be used principally for commercial agricultural production. However, it may be appropriate to allow secondary uses on contracted land that is either incidental to, or supportive of, the agricultural operation on the property. These Rules provide guidance and criteria for evaluating the use of the on land under Williamson Act contract in terms of their compatibility and consistency with the purpose and intent of the Williamson Act. It is the goal of this County that, through application of the principles of compatibility in the Act, compatible uses allowed on contracted land will be beneficial to and inherently related to the agricultural use of the land.

It should be noted that some uses that are allowed by zoning are not allowed on contracted land because they would not be considered compatible with the Williamson Act. At the same time, there are uses that would be deemed compatible under the Williamson Act but would not be allowed under County zoning ordinances. Therefore, for a use to be allowed on contracted land, it must be both permitted by County zoning and found to be compatible under the Act and these Rules. Compatibility is evaluated by the Administrator on a case-by-case basis. Uses deemed compatible through application of this Rule are still subject to all applicable standards and requirements in County zoning ordinances (such as a Use Permit) as well as the County's General Plan, as applicable.

Agricultural production and compatible uses shall be defined as follows:

## **A. Commercial Agricultural Production Uses**

The following land uses, and those uses which in the opinion of the Administrator, subject to ratification by the Board of Supervisors, are substantially similar in nature thereto, shall be deemed commercial agricultural production<sup>3</sup> uses and thus allowed within an agriculture preserve on Williamson Act contracted lands (however, uses involving plants that have been defined as illegal by the Federal and/or State government are expressly prohibited as being an allowed use). The contracted parcels must include one of the following uses:

1. Rangeland and pasture for livestock production and forage.
2. 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, and other ornamental crops.
3. Livestock and poultry production for food and/or fiber and/or labor.
4. Operation of dairies and feed lots.
5. Keeping of honeybees.
6. Growing of plant products for producing biofuels.
7. Commercial breeding and training of equines, 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 source of revenue or income to the cover the cost(s) of the operation pursuant to the California Department of Conservation – Equine Industry Policy.
8. Fiber for textiles and related commercial purposes.

In order for the use to be considered as “devoted to the commercial production of agricultural commodities”, the contracted parcel(s) must meet at least one of the following conditions:

- 1) The property contains at least 10 acres of agricultural land, and the owner substantiates commercial agriculture use on at least 80% of the property in 3 of the past 5 years using one form of verification (See Section V. B. 2.); or
- 2) The property contains at least 40 acres of agricultural land, and the owner substantiates commercial agriculture use on at least 60% of the property in 3 of the past 5 years using one form of verification (See Section V. B. 2.); or

Exceptions to the above conditions shall be considered when there are natural land features present, such as streams and rock outcroppings, which the owner demonstrates are not conducive to commercial agricultural uses. Other exemptions may include habitat related work such as restoration projects (CEQA Guidelines, Article 19), or the Endangered Species Act (ESA), or other types of regulatory habitats.

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<sup>3</sup> “Agricultural Use” which state law defines as “Use of the land for the purpose of producing an agricultural commodity for commercial purposes.” (Government Code Section 51201(b))



## **B. Compatible Uses**

The presence of commercial agriculture as described above is required prior to the development or establishment of a compatible use. The following land uses shall be deemed compatible. Any other proposed uses shall be vetted by the Administrator for compatibility. Income derived from compatible uses will be capitalized for land valuation purposes. Compatible structures and/or improvements will be taxed at normal rates without any property tax benefits.

1. Growing and harvesting of timber.
2. Farm employee housing which is incidental to the commercial agricultural use.
3. Roadside stands, U-Pick and the direct sale of agricultural produce.
4. The installation, construction, alteration, or maintenance of gas, water, sewer, and electrical utilities that serves the agricultural production or compatible use.
5. Power generation (including solar and wind) or communication facilities and their incidental appurtenances.
6. Offices, processing, packaging, shipping, training and vending facilities that are related to agricultural production operations.
7. Passive recreation that does not displace existing or future agricultural production use and does not include permanent structures.
8. Private airstrips and heliports if used as a part of the agricultural production use.
9. Production of game animals and fish with the specific intent for commercial harvest.
10. 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.
11. Horses raised or maintained primarily for ranching work.
12. Agricultural Enterprises including agricultural education programs, promotional events and activities.
13. Home occupation 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.
14. Any other use proposed by the owner, found to be compatible with, and not displace, the existing agricultural production uses, as required by Government Code Section 51238.1. Such proposed use shall be limited to an area either 5% of the parcel size, or 5 acres, whichever is lesser. The proposed use shall be submitted to the Administrator in writing for review and determination of compatibility by the Administrator prior to the establishment of the use on the

contracted land who shall make a decision on the proposed use within 30 days of submission. Appeals of this determination shall be determined by the Board of Supervisors in accordance with the procedures described in Title 1, Chapter 4 of the Siskiyou County Code.

15. Residential Uses: *See language below.*

Residential structures on contracted land should be occupied by persons directly engaged in the commercial agricultural operation. However, if due to changes in the Agricultural use, farm labor is no longer necessary, these residential structures may be rented or leased on a long-term basis (30-days or more).

Vacation rentals are considered a compatible use when utilized within existing residential structures, as allowed by State Law and permitted under Siskiyou County Code, Article 61.

**(Exceptions: Accessory Dwelling Units are not allowed to be rented out on a short-term basis pursuant to Government Code 65852. Additionally, temporary structures are not allowed to be rented out on a short-term basis pursuant to the Siskiyou County Code).**

No new residential dwelling permits will be issued to a contracted parcel for the use as a rental (long term or vacation rental). Additionally, Landowners who lease their land for commercial agricultural uses may reside on a permanent or temporary basis on contracted land to monitor the lease arrangement and provisions pursuant to this restriction.

No new construction permits or use permits may be issued to a contracted parcel unless the parcel is in full compliance with state law, these Rules, other County policies or the terms in the Williamson Act Contract. The owner must first demonstrate that there is an existing commercial agricultural use on the property. Any proposed residential development which creates more than one residence per contract is subject to review by the Administrator to ensure compliance with these Rules and the density provisions of the application zoning and general plan land use designation.

16. Conservation Program: *See language below.*

Conservation programs can vary from permanent deed restrictions to temporary participation for a stated term or period of time. A conservation easement is an encumbrance that typically includes a transfer of usage rights (easement) between a landowner and a government agency or a qualified land protection organization (often called a "land trust"). Conservation programs in the County can include but are not limited to the United States Department Agriculture's Conservation Reserve Program, and programs of the Siskiyou Land Trust, the Siskiyou Land Conservancy, the Nature Conservancy, and the like. The primary purpose of a conservation easement is to protect land from certain forms of development or use. The landowner who gives up these "development or use

rights" continues to privately own and manage the land and may receive tax advantages or other income.

Depending on the terms of the conservation program, the program may or may not be consistent with the property owner's contractual obligations under their Williamson Act Contract. The provisions herein are the applicable rules for conservation programs, including conservation easements under the County's Williamson Act Program. Any income received from program payments will be treated as farm income just as any other farm income and capitalized to determine property tax values.

- A landowner may enter into a conservation program on contracted land and still qualify under these rules provided that the conservation program does not require the landowner to change or stop the contracted agricultural production use occurring on the property.
- A landowner may enter into a conservation program that restricts the agricultural production use on a minor portion of contracted land provided that the conservation program does not change or alter the contracted agricultural production use of the property, and that the conservation program supports the contracted agricultural production use of the property by reducing soil erosion, enhancing water supply, improving groundwater recharge, creating windbreaks and the like.
- A conservation program that requires the contracted agricultural use to be temporarily changed or temporarily stopped shall not qualify as an allowed use under these rules unless approved by the Agricultural Preserve Administrator.
- A conservation program that requires the contracted agricultural use to be permanently changed shall not qualify as an allowed use under these rules unless approved by the Administrator under the Change in Use rules herein.
- A conservation program that requires agricultural production use to stop shall not qualify as an allowed use under these rules.

Should a property owner have entered into a conservation program prior to review and approval of the Agricultural Preserve Administrator, they shall provide a copy of the easement to the Planning Division, upon request. A review of the established easement will be reviewed, and a compatibility determination made. Should it be found that the easement conflicts with the Williamson Act contract, a Notice of Non-Renewal will be issued for the contracted land restricted by the easement.

### **C. Change in Use**

While under contract, the primary agricultural use of the property shall be consistent with the agricultural use originally approved for entry into the Williamson Act program. In the event that the primary agricultural use has significantly changed or is proposed to be significantly changed, in the opinion of the Administrator, the proposed change shall be processed as a minor Williamson Act contract amendment. The amendment application shall follow the application submittal process for new contracts detailed herein however the review and approval will be by the Agricultural Preserve Administrator.

Implementing a crop rotation program or leaving the ground temporarily fallow for a season shall not be considered a change in use. A significant change in use would occur if the general nature of the primary agricultural commodity were to be changed. For example, if a Williamson Act contract was approved for rangeland and pasture for livestock production and forage and this use was changed to raising field crops or vice versa, this change would be considered a significant change in use.

In the event that the change in primary agricultural use is not approved and the landowner does not or cannot resume the originally approved primary agricultural use, the Administrator shall proceed with the County initiated non-renewal process specified under these rules.

### **D. Use Determinations**

In the event that ambiguity exists concerning a proposed use and its compatibility with a Williamson Act contract or these Rules or a contract holder wishes to enter into a conservation program that requires the contracted agricultural use to be temporarily changed or temporarily stopped, a request for a formal written determination shall be made to the Administrator on whether a proposed use, development, or conservation program is compatible with the contract for the property, the Williamson Act, the applicable Zoning requirements, or these Rules.

Once a determination has been made, it shall be in writing. Should the Administrator determine that the use is not consistent with the contract for the property, the Williamson Act, the applicable Zoning requirements, or these Rules, this decision may be appealed to the Board of Supervisors pursuant to the County Code requirements. (Title 1. Chapter 4, commencing with Section 1-4.01)

If the Administrator determines that the use is consistent with the contract for the property, the Williamson Act, the applicable Zoning requirements, and these Rules, the Administrator shall forward a copy of the determination to the Board of Supervisors for its information.

## **V. Monitoring and Enforcement**

Williamson Act contracts are binding agreements between landowners and the County that assume that the terms of the contract continue to be met in exchange for the reduced property tax assessments. As such, landowners must remain in compliance during the entire life of the contract, even after nonrenewal has been initiated. If, at any time, the Administrator finds that the terms of a contract, including the requirements set forth in these Rules, are no longer being met, the County shall give the landowner sixty (60) days to remedy the contract violation. If the violation persists at the end of this period, the issue shall be brought before the Board of Supervisors to consider the filing of a Notice of Non-Renewal.

### **A. Annual Reporting Requirements (Assessor's Office)**

The Assessor's Office will annually mail to property owners a Williamson Act Income and Production Questionnaire to assist in the accurate appraisal of contracted properties. Property owners are required to return the questionnaires (R & T Code Section 441). The information provided on this form is confidential information and not shared with any other County departments, including the Planning Department (R & T Code Section 451). This process is entirely separate from the monitoring and enforcement activities of the Planning Division and Agricultural Department.

### **B. Compliance Monitoring (Planning Division and Agriculture Department)**

#### **1. Compliance Monitoring Surveys**

The Planning Division shall actively monitor this program by periodically sending out a compliance monitoring survey (separate from the Assessor's questionnaire). The property owner's response to the monitoring survey shall provide a full description of the agricultural production uses on the parcel, 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.

#### **2. Verification of Commercial Agricultural Use**

Agricultural income is required three of every five years. Upon the request of the Planning Division, the property owner shall provide verification of a commercial agricultural use by providing one or more of the following:

- Schedule F (Form 1040) Profit or Loss from Farming
- When the agricultural use is undertaken by someone other than the landowner, a statement from the user outlining the use (i.e. acreage, crop, number of head, species, and anticipated revenue due to the use of the land)
- A statement from the Agricultural Commissioner that a site visit has occurred and verifies that the property is devoted to commercial agricultural uses.
- Or other reasonable evidence such as receipts from sales of agricultural commodities.

This information may be requested as often as every three years in order to substantiate revenue from commercial agriculture. All personal and financial information shall be confidential to the fullest extent provided by law including, but not limited to, the protections provided by the California Constitution and the Information Practices Act of 1977.

If the responses are not submitted to the County within the prescribed timeline, or the County deems the response incomplete, the County will send a notice to the landowner that will indicate the required response has not been received or is not complete. The landowner will be given 30 days' notice to submit the requested information to the County. If a response is still not received at that time, a 30-day notice to comply will be sent and the County may request to inspect the property to verify a commercial agricultural operation. Should the landowner not respond to the notice or not provide the requested information, the County shall initiate the non-renewal process.

Further, the Agricultural Department may perform site visits, as deemed necessary, to determine whether landowners are complying with the program by using their property for commercial agricultural operations.

When it appears to the County that a landowner is not complying with state law, these Rules, other County policies or the terms in the Williamson Act contract, the County will mail written notice to the landowner about the potential violations. The County will provide up to sixty (60) days for the landowner to rectify any violations before beginning the Enforcement Proceedings described in these Rules.

### **C. 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 or the terms in the Williamson Act contract. Any conveyance, contract or authorization (whether oral or written) by the landowners or his or her successor in interest that would permit use of the property contrary to state law, these rules, other County policies or the terms of the Williamson Act contract shall be enforced by the County by the following non-exclusive remedies:

1. The County may non-renew the contract in accordance with Government Code Section 51245.
2. The County may seek a lawsuit to declare a breach of contract in accordance with Government Code Section 51250 and file an action in Superior Court of the County for the purpose of compelling compliance or restraining breach thereof in accordance with Government Code Section 51251.

## **VI. Modification of Williamson Act Contracted Lands**

Any application for a land division or boundary line adjustment of a parcel or parcels subject to a Williamson Act contract, that propose to change the boundaries of the land subject to the contract, shall be accompanied by an application to rescind / reenter the Williamson Act contract to reflect the proposed parcel boundaries. For the purposes of determining application fees, this shall be considered an Agricultural Preserve Amendment pursuant to the Planning Department's fee schedule. Whenever land in an agricultural preserve is to be divided or modified, no parcel may be created which would not qualify for an agricultural preserve unless qualifying under Government Code Section 51230.1.

### **A. Division of Land**

All proposals to subdivide land under a Williamson Act contract shall comply with the California Subdivision Map Act, Siskiyou County Subdivision Ordinance, and the minimum parcel size requirements for commercial agricultural production described in these Rules. Applications for land divisions shall be conditioned to require that new contracts be recorded for each parcel created by the division simultaneously with the recording of the parcel map, final map or parcel map wavier. To adjust the existing Williamson Act contract to coincide with, or be contained within, the new legal lot boundaries, the County and landowner must mutually agree to rescind the Williamson Act contract and simultaneously reenter into new contracts for each new parcel.

### **B. Boundary Line Adjustments**

A boundary line adjustment request often involves the exchange of contracted land for previously non-contracted land, or an exchange of land between contracts. To adjust the perimeter of the existing Williamson Act contract to coincide with the new legal lot boundaries, the County must first confirm that the new parcel configurations will not restrict the existing and future Agricultural Uses and that the resultant parcels will meet minimum requirements for soils, and use (See Section III). Additionally, the County and landowners must mutually agree to rescind the Williamson Act contract and simultaneously reenter into a new contract or contracts.

To approve a rescission/reentry application and prior to recording a boundary line adjustment, the Board of Supervisors must make all of the following findings pursuant to Government Code section 51257:

1. The new contract(s) would initially restrict land within adjusted boundaries of legal lots for at least ten (10) years for Williamson Act contracts.
2. There is no net decrease in the amount of the aggregate acreage (total contract acreage combined between the parcels involved in the boundary line adjustment) subject to the existing and proposed contract(s).

3. At least ninety percent (90%) of the originally contracted land is included within a new contract(s).
4. The resulting legal lot area subject to contract is large enough to sustain qualifying agricultural uses.
5. The boundary line adjustment would not compromise the long-term agricultural production of land within the proposed legal lots or other agricultural lands subject to contract(s).
6. The boundary line adjustment is not likely to result in the removal of adjacent land from agricultural uses.
7. The boundary line adjustment does not result in a greater number of developable legal lots than existed prior to the adjustment, or an adjusted lot that is inconsistent with the County General Plan.

The rescission/reentry application may be processed before the Board of Supervisors periodically throughout the year provided that the Planning Director has found that the BLA complies with the above findings.

### **C. Sale of Property**

A Williamson Act contract may contain multiple legal parcels under one ownership. Over time it is possible that individual parcels within a Williamson Act contract are sold to a different ownership interest or transferred to a non-immediate family member. A different ownership interest is defined as an entity that is comprised of different principal owners with different operating interests and does not include different business entities which have the same principal owners and operating interests. An immediate family member is defined by Government Code Section 51230.1(c) as the spouse of the landowner, the natural or adopted children of the landowner, the parents of the landowner, or the siblings of the landowner.

The remaining property and the sold property are still subject to all of the requirements of state law, these Rules, and the terms of the contract. In order to ensure that the remaining property and the sold property still meet the applicable requirements, the following provisions are required:

1. Real Estate Transfer Disclosure Statement.

Pursuant to Civil Code § 1102.6a, prior to any transfer of contracted land, the transferor shall provide the following disclosure:

"The real property that is the subject of this transaction is subject to a contract pursuant to the California Land Conservation Act of 1965 ("Williamson Act"), Government Code § 51200 et seq., which requires that the land be devoted to agricultural use and imposes restrictions on the use and development of the land and the minimum parcel size. Furthermore,



all owners of contracted parcels agree to submit a Williamson Act contract application to the County for review and consideration to cover their change in ownership interests within an agricultural preserve upon the sale or purchase of Williamson Act contracted lands pursuant to the County's **Rules for the Establishment and Administration of Agricultural Preserves and Williamson Act Contracts.**"

This disclosure shall be provided on a form substantially similar to that provided in Civil Code § 1102.6a. Completing the **Local Option Real Estate Transfer Disclosure Statement** available from the California Department of Real Estate shall be considered satisfying this requirement. The transferor shall ensure that the transferee signs the disclosure prior to completing the transfer and shall forward a copy of said disclosure to the County of Siskiyou Planning Department, c/o Williamson Act Monitoring Program.

## 2. New Contract Requirement

Upon the sale or purchase of Williamson Act contracted land that constitutes only a portion of a contract to a different ownership entity or non-immediate family member as defined herein, the transferee shall submit the necessary County applications to apply for a separate Williamson Act contract for the property under their ownership and the county shall review all land under the existing contract to ensure it will continue to meet current standards.

- a. Should the transfer be finalized prior to June 1<sup>st</sup> in any given year, the contract application shall be submitted prior to July 1<sup>st</sup> of that given year. Should the transfer be finalized from June 1<sup>st</sup> to the last day of that any given year, the application shall be submitted prior to July 1<sup>st</sup> of the immediately subsequent year.
- b. In the event that the required application is not filed within the timeline detailed herein, the County, at its sole discretion, may consider this inaction as grounds for non-renewal.
- c. The transferor and transferee may file a single application to establish their new individual contracts.
- d. In the event that the new contracts are not approved by the County, the County will issue a notice of non-renewal for the subject property at the earliest possible time in accordance with the Governmental Code and these Rules.

It is the new property owner's responsibility to notify the County of the change of ownership. The County is not responsible for searching for properties under Williamson Act that may have changed ownership.

## **VII. Termination of Williamson Act Contracts**

The purpose of this section is to establish standards for the termination of Williamson Act contracts and the withdrawal of land from Agricultural Preserves without impairing the integrity of the program. The procedures developed under this Rule are in accordance with the Williamson Act. Methods for terminating Williamson Act contracts include nonrenewal, cancellation, annexation, and public acquisition.

### **A. Non-Renewal**

If either the landowner or the County desires in any year not to renew a contract, that party shall serve written notice of contract nonrenewal upon the other party in advance of the annual renewal date of the contract (Government Code Section 51245).

#### By the County –

If County staff concludes in any year that it would be appropriate to non-renew a contract or a portion of a contract, the Administrator shall forward the proposed non-renewal for review and approval by the Board of Supervisors prior to issuance of the notice of non-renewal. If the Board of Supervisors approves the proposal for non-renewal, the County shall serve written notice upon the landowner at least 60 days prior to the renewal date. If a Notice of Non-Renewal is issued by the County for only a portion of a contract, the remaining property will continue to be encumbered by the existing contract.

#### By the Landowner –

If the landowner desires in any year not to renew a contract, the landowner shall contact the Planning Division to obtain the appropriate form and instructions. Should the application be for only a portion of a contract, it must be approved by the Board of Supervisors prior to recording the Notice of Non-Renewal (Per Government Code Section 51245). Applicable fees will apply.

The complete application should be submitted to the Planning Division no later than August 1 to ensure adequate time for the Planning Staff to verify the contract history, legal description and present the request to the Board of Supervisors in order to meet noticing requirements. Once the application has been approved, staff will provide the complete Recording Instrument to the applicant for signatures and notice. Notice upon the County shall be by delivery of the completed form to the County Clerk. The property owner must serve written notice upon the County at least 90 days prior to the renewal date (January 1).

If a Notice of Non-renewal is issued by the property owner for only a portion of a contract, the remaining property will continue to be encumbered by the existing contract.

The clerk of the board shall record the notice no later than 20 days after receipt of the notice of non-renewal.

Once a Notice of Nonrenewal is recorded, the contract shall remain in effect for the balance of the period remaining since its previous renewal (9 years).

## Withdrawal of Non-Renewal

- a. Notice of Non-Renewal Issued by Landowner  
In order for a landowner to withdraw a notice of non-renewal which they've issued upon the county, they must complete and file with the Clerk of the Board of Supervisors the appropriate application form along with a copy of the recorded Notice of Non-Renewal prior to the renewal date.
- b. Notice of Non-Renewal Issued by the County  
In order for a landowner to request a notice of non-renewal which the county issued, to be withdrawn, they must first submit an application through the Planning Department prior to the renewal date.

### **B. Cancellation**

Only a property owner (not the County) may request cancellation of a Williamson Act contract to terminate the contract on all or a portion of the property within that contract. 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 determination 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 Nonrenewal 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 Siskiyou 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.

In the case of either alternative, the uneconomic character of an existing agricultural use shall not by itself be 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 of a Contract also requires the property owner to pay a “cancellation fee” set by Government Code. This required cancellation fee is based on the current fair market value of the property, determined as if the property were free of the Contract restriction.

### **C. Annexation**

If a city annexes land subject to a Williamson Act 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 has been eliminated effective January 1, 1991. Unless a city filed a valid protest before January 1, 1991, the city cannot terminate a contract upon annexation of the property to the city. A city protest made prior to January 1, 1991, is valid only if there is a record of the filing of the protest and the protest identifies the specific affected contract and subject parcel.

### **D. Public Acquisition**

The Williamson Act requirements for public acquisitions are found in Sections 51290-51295 of the California Government Code.

The California Land Conservation Act of 1965 (Williamson Act) contains policies and restrictions to avoid public acquisition of lands in agricultural preserves. Government agencies are required to notify the County of their intent to acquire land within an agricultural preserve for public use/improvement prior to the acquisition. Upon receipt of notice, the Board of Supervisors will discuss the acquisition at the next regularly scheduled meeting. The Board will consider the location of the proposed public improvement in respect to potential effects on agricultural land use and conversion of adjacent or nearby agricultural land to nonagricultural uses. A written response will be prepared and forwarded to the appropriate government agency within 30 days, as prescribed by Government Code Section 51291(b).

Government Code Section 51290 states: *“It is the policy of the state to avoid, whenever practicable, the location of any federal, state or local public improvements and any improvements of public utilities, and the acquisition of land therefor, in agricultural preserve.”*

Therefore, government acquisitions of land within in an agricultural preserve should be a rare occurrence; only under special circumstances where the proposed improvements are for the betterment of the public welfare, there is no other land outside the preserve on which it is reasonably feasible to locate the proposed improvement and the County has as approved the acquisition pursuant to Siskiyou County Board of Supervisors Resolution No. 13-87.

If land is acquired via eminent domain or in lieu of eminent domain, a Williamson Act Contract shall become null and void (Government Code Section 51295). Otherwise, the contract remains in full effect.

#### **E. Rezone to Timber Production Zoning (TPZ)**

Government Code Section 51282.5 provides no cancellation fees shall be imposed for cancellations for land which has been zoned as timberland production pursuant to Government Code Section 51112 or 51113.

If the use of a property encumbered by Williamson Act Contract should change from the approved use to Timberland Production, no longer qualifying for a contract, property owners may want to consult with a Registered Professional Forester to determine if their property may qualify for Timber Production Zoning.

Additional information on Rezoning can be obtained from the Siskiyou County Planning Department.

#### **VIII. Disestablishment of Property Within the Agricultural Preserves.**

Upon termination of a contract, the County may disestablish or alter the boundary of the agricultural preserve, thus removing the property from an agricultural preserve (Pursuant to Government Code Section 51236).