

Mariposa County  
Draft Rules of Procedure to Implement the California Land  
Conservation Act of 1965  
Approved by the Board of Supervisors on \_\_\_\_\_, 2009

**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 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 provisions of the

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<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.)

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 as described 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 Agricultural Exclusive Zone (AEZ) described in the Mariposa County General Plan. 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 year, 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> 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.

Parcels that are used for general farming, livestock production for human consumption, dairies and keeping of honey bees will only be considered a commercial agricultural operation if the landowner and/or lessee can show that "the land is being used for the purpose of producing an agricultural commodity for commercial purposes." 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.

In determining whether the parcel is a commercial agricultural operation, income from sales of agricultural commodities or income from the lease of land used for commercial production of agricultural commodities 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,

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

<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.

revenue from other compatible uses or ancillary uses of the land shall not be counted in determining whether there is a commercial agricultural operation.

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 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>4</sup> prior to executing a LCA contract into a parcel 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>5</sup> Parcels which are not contiguous, even if under one-ownership, shall not be eligible for a single contract but will require separate contracts that separately meet the criteria established in these rules.

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<sup>4</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>5</sup> This section does not preclude the sale of the combined parcels together to one person or entity pursuant to a single conveyance instrument.

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 [date], 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 that the multiple parcels, even if not contiguous, are jointly operated for commercial agricultural production. 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 minimum parcel size requirements for commercial agricultural productivity. 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, but are not necessarily limited to, 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. 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>6</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.
  - ii. General 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.
  - iii. Livestock production for food and fiber.
  - iv. Dairies.
  - v. Keeping of honey bees.

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<sup>6</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.)

- vi. 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).l
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.
  - 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 contract 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.

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 up to 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 permit 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 Modifications, Rescissions and Cancellations

Requests to modify, 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 modifications, 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 modification, 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 modifications, rescissions and cancellations, singularly or jointly. 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. 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) 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).

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.