

**RESOLUTION NO. 17-  
RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MENDOCINO  
ADOPTING AMENDMENTS TO THE MENDOCINO COUNTY POLICIES AND  
PROCEDURES FOR AGRICULTURAL PRESERVES AND WILLIAMSON ACT  
CONTRACTS RELATED TO THE CULTIVATION OF CANNABIS**

**WHEREAS**, pursuant to the California Land Conservation Act (Government Code section 51200 *et seq.*), the Board of Supervisors shall adopt uniform rules to govern the administration of the County's agricultural preserve program and requires the Board of Supervisors make certain findings regarding allowable compatible uses; and

**WHEREAS**, on October 6, 2015, by Resolution No. 15-156, the County of Mendocino adopted Policies and Procedures for Agricultural Preserves and Williamson Act Contracts ("Policies and Procedures") for the purpose of establishing procedures and guidelines intended to protect farmlands from potential land uses deemed to be incompatible with production agricultural activities; and

**WHEREAS**, the County of Mendocino desires to regulate the cultivation of medical cannabis within the unincorporated areas of Mendocino County in a manner consistent with current State law, including the Medical Cannabis Regulation and Safety Act ("MCRSA"); and

**WHEREAS**, County staff has, under the direction of the Board of Supervisors of Mendocino County, prepared draft regulations in the form of two (2) proposed new chapters of the Mendocino County Code: Chapter 10A.17- Medical Cannabis Cultivation Ordinance and Chapter 20.242 - Medical Cannabis Cultivation Site Regulation of the Mendocino County Inland Zoning Ordinance, which chapters are together known as the Medical Cannabis Cultivation Regulation or "MCCR"; and

**WHEREAS**, an Initial Study was prepared for the MCCR and noticed and made available for agency and public review on November 9, 2016 (SCH# 2016112028), and subsequently recirculated on December 5, 2016, in accordance with the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*; "CEQA") and the State and County CEQA Guidelines; and

**WHEREAS**, the Initial Study contains mitigation measure AG-3, which states that to mitigate any impacts on Williamson Act property, the County shall amend the Policies and Procedures to address cannabis cultivation; and

**WHEREAS**, County staff prepared revisions to the Policies and Procedures in response to the mitigation measure, which would generally consider the cultivation of cannabis a use compatible with a Williamson Act contract, but could not be used to qualify for a Williamson Act contract; and

**WHEREAS**, Williamson Act contract holders were noticed of a meeting of the Mendocino County Planning Commission on January 19, 2017, by mailing notice to contract holders and publishing notice on January 4, 2017, at which the Planning Commission considered the Initial Study, the proposed MCCR and the proposed changes to the Policies and Procedures; and

**WHEREAS**, as part of its report and recommendation to the Board of Supervisors on the MCCR and Initial Study, the Planning Commission recommended that the proposed draft

revisions to the Policies and Procedures be brought before the Board of Supervisors; and

**WHEREAS**, the proposed revisions to the Policies will establish procedures and guidelines intended to protect farmlands from potential land uses deemed to be incompatible with production agricultural activities; and

**WHEREAS**, a public hearing before the Board of Supervisors regarding the proposed MCCR, Initial Study and revisions to the Policies and Procedures was noticed for March 21, 2017, by publication in the *Ukiah Daily Journal* and by mailing notice to all Williamson Act contract holders and to interested parties; and

**WHEREAS**, to address mitigation measure AG-3 of the Initial Study, the Board of Supervisors desires to amend the Policies and Procedures to address the issue of cannabis cultivation to include the cultivation of cannabis as an allowed compatible use on land restricted by a Williamson Act contract.

**NOW, THEREFORE BE IT RESOLVED**, based on the evidence in the record before it, that the Board of Supervisors makes the following determinations and findings:

1. The above recitals are true and correct and incorporated herein by this reference.
2. Excluding cannabis cultivation from the Policies and Procedures definition of “agricultural use” is desirable and will properly revise the Policies and Procedures to meet the purposes of the Williamson Act.
3. The adoption of revisions to the Policies and Procedures is included in the analysis of the Initial Study prepared for the MCCR.
4. The use of contracted land for cannabis cultivation as a compatible use will not significantly compromise the long-term productive agricultural capability of contracted lands in agricultural preserves in Mendocino County because the current requirement that contracted land must be devoted to agricultural use will not be changed and because the area that all compatible uses may collectively occupy for any contracted land is limited to 15% of the contracted land or 5 acres, whichever is less, unless findings specified in the Policies and Procedures are made by the Board of Supervisors.
5. Cannabis cultivation as a compatible use will not significantly displace or impair current or reasonably foreseeable agricultural operations on contracted lands in agricultural preserves because the Policies and Procedures limit the area that all compatible uses may collectively occupy for any contracted land to 15% of the contracted land or 5 acres, whichever is less, unless findings specified in the Policies and Procedures are made by the Board of Supervisors.
6. Cannabis cultivation as a compatible use will not result in the significant removal of adjacent contracted lands from agricultural or open space uses because cannabis cultivation as a compatible use will be limited because the Policies and Procedures limit the area that all compatible uses may collectively occupy for any contracted land to 15% of the contracted land or 5 acres, whichever is less, unless findings specified in the Policies and Procedures are made by the Board of Supervisors.
7. Cannabis cultivation as a compatible use will not result in an increase in the density of the permanent or temporary human population of the agricultural area because the use is not a

residential use, the use is allowable without a dwelling unit on agricultural and resource lands, the use is not expected to result in the extension of urban services or infrastructure to agricultural uses, and because the use is limited to cultivation of cannabis and excludes other uses which could result in an increase in the density of the temporary human population of the area.

8. Cannabis related uses are not deemed to be compatible uses on any open space contracted land.

**BE IT FURTHER RESOLVED** that the Mendocino County Board of Supervisors approves the "Mendocino County Policies and Procedures for Agricultural Preserves and Williamson Act Contracts" attached to this resolution as Exhibit A.

The foregoing Resolution introduced by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and carried this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:  
NOES:  
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO  
Clerk of the Board

\_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
KATHARINE L. ELLIOTT,  
County Counsel

\_\_\_\_\_  
J. JOHN MCCOWEN, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO  
Clerk of the Board

\_\_\_\_\_  
Deputy

**POLICIES AND PROCEDURES FOR**

**AGRICULTURAL PRESERVES AND**

**WILLIAMSON ACT CONTRACTS**



**Effective Date: JANUARY 1, 2016**

**Board of Supervisors Adoption Date- October 6, 2015**  
**Resolution No. 15-156 ♦ Ordinance No. 4345**

**Amended \_\_\_\_\_, 2017; Resolution No. 17-\_\_\_\_**



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## **APPENDIX A**

## **APPENDIX B**

## **1.0 INTENT OF CALIFORNIA LAND CONSERVATION ACT**

The legislature of the State of California, in enacting the California Land Conservation Act of 1965, also known as the Williamson Act, and subsequent amendments, found that the preservation of a maximum amount of a limited supply of prime agricultural land is necessary to the state's economic resources; that the discouragement of premature and unnecessary conversion of prime agricultural land to urban uses is a matter of public interest; that in a rapidly urbanizing society agricultural lands have a definite public value as open space; that the preservation of a maximum amount of the limited supply of agricultural land is necessary for the maintenance of the agricultural economy of the state and for an assurance of adequate, healthful and nutritious food for future residents of this state and the nation; that the agricultural work force is vital to sustaining agricultural productivity and that land within a scenic highway corridor or wildlife habitat has a value to the state because of its scenic beauty and its location adjacent to or within the view of a state scenic highway or because it is of great importance as habitat for wildlife and contributes to the preservation or enhancement thereof.

## **2.0 PURPOSE OF RULES**

It is essential to the objectives of the Williamson Act that an orderly system be established whereby property within Mendocino County may be incorporated into agricultural preserves and the owners of said property may, by contract, further restrict the use of their property to exclusively agricultural, recreational or open space purposes.

The Board of Supervisors first implemented the Williamson Act through the adoption of Ordinance No. 616 entitled "Resource Preserves" Chapter 22.08 in 1970. These rules comprehensively revise, update and supersede Chapter 22.08. These rules shall be applied to existing Williamson Act Contracts in place on the effective date of these Policies and Procedures, January 1, 2016.

## **3.0 DEFINITIONS**

The following definitions shall apply with respect to the eligibility of any land proposed to be incorporated into an agricultural preserve:

- (A) "Agricultural commodity" means any and all agricultural plant and animal products produced in this state for commercial purposes, including plant products used for producing bio-fuels, but excluding cannabis.
- (B) "Agricultural preserve" means an area devoted to agricultural or open space uses and which is established in accordance with the provisions of the Williamson Act and these Policies and Procedures. Lands in an area devoted to either agriculture use, as defined in Subdivision (C), recreational use as defined in Subdivision (V) and Sections 9.4(C) and 9.6(B), or open space as defined in Subdivision (R), or any combination of such uses which is established in accordance with the provisions of these Policies and Procedures.
- (C) "Agricultural use" means use of land, including but not limited to greenhouses, for the purpose of producing an agricultural commodity for commercial purposes. Notwithstanding any provision of these Policies and Procedures to the contrary, "agricultural use" does not include or mean the use of land for the purpose of cultivating or producing cannabis or cannabis related products.
- (D) "Annual renewal date" means January 1<sup>st</sup> of each year.
- (E) "Assessor's Parcel Number (APN)" means a number assigned to parcels of a real Property by the assessor of a particular jurisdiction for purposes of identification and record-keeping. The assigned number is unique within the particular jurisdiction, may conform to certain formatting standards that convey basic identifying information such as the property type or location within the plat map.

- (F) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this Uniform Rules, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- (G) "Clerk of the Board" means the Clerk of the Board of Supervisors.
- (H) "Compatible use" is any use determined by the County administering the preserve pursuant to Section 9.0 of these Policies and Procedures to be compatible with the agricultural, recreational, or open space use of the land within the preserve and subject to contract. "Compatible use" includes agricultural use, recreational use or open space use unless the Board finds after notice and hearing that such use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract pursuant to these Policies and Procedures.
- (I) "Contiguous" means sharing a common boundary or boundaries. Land shall be considered contiguous even if it is separated by roads, streets, utility fees or easements, or railroad rights-of-way.
- (J) "Contracted land" means any agricultural or open space land restricted by a Williamson Act contract.
- (K) "County" means the county of Mendocino in the State of California.
- (L) "Devoted to Agricultural or Open Space uses" means when agricultural or open space land is used or maintained in compliance with the Eligibility Requirements of these Policies and Procedures commencing with Section 5.0.
- (M) "Director" means the Director of Planning and Building Services or his or her authorized representative.
- (N) "Dwelling" means single-family residence.
- (O) "General Plan" means the Mendocino County General Plan including the Mendocino Local Coastal Program.
- (P) "Immediate family member" means a spouse, natural or adopted child, parent, or sibling.
- (Q) "Managed wetland area" means an area, which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted and which, for at least three (3) consecutive years immediately prior to being placed within an agricultural preserve pursuant to these Policies and Procedures, was used and maintained as a water fowl hunting area or game refuse for an agricultural purpose.
- (R) "Non-prime agricultural land" means land in agricultural use that is not prime agricultural land (referred to as Type II agricultural land in the County General Plan).
- (S) "Open space use" (formerly referred to as a Type III Agricultural Preserve) is the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if such land is within:
1. A scenic highway corridor, as defined in subdivision (X).

2. A wildlife habitat, as defined in subdivision (CC).
  3. A salt pond, as defined in subdivision (W).
  4. A managed wetland area, as defined in subdivision (P).
  5. A submerged area, as defined in subdivision (Z).
- (T) "Parcel" means land under single ownership as described on a deed that may or may not be made up of one or more APN's.
- (U) "Primary dwelling" is a single-family residence occupied by the landowner or caretaker of the contracted land.
- (V) "Prime agricultural land" (referred to as Type I agricultural land in the County General Plan) means any of the following:
1. All land which qualifies for rating as Class I or Class II in the Soil Conservation Service land use capability classification.
  2. Land which qualifies for rating 80 through 100 in the Storie Index Rating.
  3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one (1) animal unit per acre. Animal Unit is defined as the quantity of forage required for good growth and production of one mature head of cattle or its equivalent in feed requirement; 4.8 tons of hay shall be deemed such feed requirement.
  4. Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a nonbearing period and meets the minimum income requirements in Table 5-2 of these Policies and Procedures.
  5. Land which has temporarily transitioned from the production of unprocessed agricultural plant products which meets the minimum income requirements in Table 5-2 of these Policies and Procedures.
- (W) "Recreational use" means the use of land in its natural or agricultural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, swimming, boating, fishing, hunting, equestrian uses or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of the land shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public. Use equates to the Outdoor Sports and Recreation- Limited use type (Section 20.024.040(C)).
- (X) A "Salt pond" is an area which, for at least three (3) consecutive years immediately prior to being placed within an agricultural preserve pursuant to these rules, has been used for the solar evaporation of sea water in the course of salt production for commercial purposes.
- (Y) "Scenic highway corridor" is an area adjacent to, and within view of, the right of way of:
1. An existing or proposed state scenic highway in the state scenic highway system established by the Legislature pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which has been officially designated by the Department of Transportation as an official scenic highway; or
  2. A County scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if each of the following conditions have been met:

- (a) The scenic highway is included in an adopted General Plan of the County or city; and
  - (b) The scenic highway corridor is included in an adopted specific plan of the County; and
  - (c) Specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the County highway has been officially designated by the Department of Transportation as an official County Scenic Highway.
- (Z) "Single-family residence" means a building designed and/or occupied exclusively by one family.
- (AA) "Submerged area" is any land determined by the Board to be submerged or subject to tidal action and found by the Board to be of great value to the state as open space.
- (BB) "Timber/forestry land" means land in timber or forestry use with the applicable management or harvest plan in place.
- (CC) Transient habitation- lodging (limited) means establishments primarily engaged in the provision of lodging services on a less than monthly basis with incidental food, drink and other sales and services intended for the convenience of guests. "Lodging (limited)" specifically refers to lodging services involving the provision of room and/or board and limited to three (3) to six (6) rooms.
- (DD) "Wildlife habitat area" is a land or water area designated by the Board of Supervisors, after consulting with and considering the recommendation of the Department of Fish and Wildlife, as an area of great importance for the protection or enhancement of the wildlife resources of the State.
- (EE) "Williamson Act" means the California Land Conservation Act of 1965 (Government Code Section 51200 et seq.).

#### **4.0 AGRICULTURAL PRESERVES**

Property within the County of Mendocino may be incorporated into agricultural preserves, and property within any agricultural preserve may be further restricted by Williamson Act contracts between the County of Mendocino and the owners of said property. An agricultural preserve may be created prior to or concurrently with the creation and execution of a Williamson Act contract restricting land within the preserve. However, all land under a Williamson Act contract must be located within an agricultural preserve.

##### **4.1 Uniformity of Agricultural Preserves**

Under the County's prior rules, the County had three different types of agricultural preserves - Type I, II, and III preserves. Type I preserves were for prime agricultural land, Type II preserves were for non-prime agricultural land and Type III preserves were for open space land. It is the intent of the Board of Supervisors in enacting these Policies and Procedures to eliminate the distinction between the three types of preserves. Under these Policies and Procedures, once an agricultural preserve is established, a Williamson Act contract may be executed for any qualifying agricultural or open space land within the preserve.

##### **4.2 Requirements for Establishing, Disestablishing or Altering Agricultural Preserves**

- (A) No agricultural preserve may be established or approved by the Board of Supervisors unless all properties within the proposed preserve boundaries has been approved by the Board of Supervisors for the following restrictive zoning: Agricultural (A-G), Rangeland (R-L), or Forestland (F-L).

- (B) An agricultural preserve shall consist of no less than 100 acres; provided that, in order to meet this requirement, two or more parcels may be combined if they are contiguous and further provided that no parcel containing less than 100 acres shall be combined for this purpose with any other parcels within an existing agricultural preserve unless the owners of all parcels included within the agricultural preserve have indicated their approval in writing on the petition. Agricultural preserves of less than 100 acres may be established if the Board of Supervisors finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the General Plan of the County.
- (C) An application to establish, disestablish or alter an agricultural preserve shall be filed on a County application form with the Department of Planning and Building Services and include all required fees and all information and materials required by the Department of Planning and Building Services. Only whole parcels shall be accepted into an agricultural preserve. Said application shall be executed by all property owners within the proposed preserve and shall contain the following:
1. Names and addresses of all parties of record title within the preserve.
  2. A legal description, or the assessor's parcel number, of the land which is proposed to be included within the preserve and a statement that it covers a minimum of one hundred (100) or more acres.
  3. Said application shall have affixed thereto a map of sufficient size to adequately reflect the following:
    - (a) Exterior boundaries of the proposed preserve and acreage.
    - (b) All individual parcels within the proposed preserve, approximate acreage of each, and assessor's parcel number.
    - (c) Names of the owners of each parcel.
- (D) No application shall be deemed complete, and processing shall not commence on any application, until all required fees have been paid, and all required information and materials have been submitted.
- (E) A public hearing shall be held by the Planning Commission pursuant to legal notice and all relevant evidence shall be received and considered by the Commission. Within thirty (30) days after a recommendation has been made, the Planning Commission shall submit a report thereon to the Board of Supervisors; provided, however, that the Board of Supervisors may extend the time allowed for an additional period not to exceed thirty (30) days.
- (F) The Board of Supervisors, upon receipt of the Planning Commission report, shall hold a public hearing on the application for the agricultural preserve and the Planning Commission's report. The Board shall make a determination to establish, disestablish, or alter an agricultural preserve by a resolution, which shall determine the boundaries of those areas within which the Board may be willing to enter into Williamson Act contracts.
- (G) No agricultural preserve may be disestablished or altered to remove land from the preserve if such removal would cause or contribute to the premature or unnecessary conversion of agricultural land to urban uses or to significant encroachment of incompatible land uses into the immediate vicinity of contracted land. No agricultural preserve may be disestablished or altered to remove land from the preserve if to do so would breach a Williamson Act contract restricting land located within the preserve.

- (H) The fees for the processing of agricultural preserves shall be as set forth in the schedule adopted by resolution of the Board of Supervisors.
- (I) No application to establish, disestablish, or alter an agricultural preserve shall be approved unless the Board of Supervisors finds that the application is consistent with the General Plan and meets all of the applicable requirements in Section 5.2 of these Policies and Procedures.
- (J) An application to establish or alter an agricultural preserve may be considered concurrently with an application for a new or replacement contract pursuant to Section 10.4 of these Policies and Procedures. However, such concurrent application shall not alter the requirements of Government Code Section 51234.

#### **4.3 Notice and Hearing Requirements**

- (A) Notice of the public hearing to establish, disestablish, or alter an agricultural preserve shall be provided, which includes a legal description or the assessor's parcel number of the subject land, in compliance with all of the following:
  - 1. By publication of notice for one time in a newspaper of general circulation in Mendocino County pursuant to Government Code Sections 6060 and 6061;
  - 2. By written, mailed notice to the Mendocino County Local Agency Formation Commission at least 14 days prior to the hearing;
  - 3. By written, mailed notice to any city within one mile of the exterior boundaries of the agricultural preserve proposed to be established, disestablished, or altered at least 14 days prior to the hearing;
  - 4. By written, mailed notice to the applicant; and
  - 5. If land is to be removed from an agricultural preserve, by written notice sent by certified mail to each owner of contracted land within one mile of the exterior boundary of the land to be removed.

#### **4.4 Agricultural Preserve Maps**

Whenever an agricultural preserve is established, disestablished, or altered, the Clerk of the Board shall record the adopted resolution and map showing the agricultural preserve or preserves, as established, disestablished, or altered, with the County Recorder's Office.

### **5.0 ELIGIBILITY OF LAND FOR WILLIAMSON ACT CONTRACT**

#### **5.1 Introduction**

Before land may qualify for a Williamson Act contract, it must meet the eligibility requirements specified in Section 5.2 of these Policies and Procedures. Once land is under contract, it must continue to meet those eligibility requirements for the duration of the contract.

#### **5.2 Eligibility Requirements**

No application for a new or replacement Williamson Act contract shall be approved by the Board of Supervisors unless all of the following requirements are met:

- (A) The land proposed to be restricted by the contract must be located within an existing agricultural preserve; provided, however, the Board of Supervisors may approve an

application for the establishment or alteration of an agricultural preserve concurrently with its approval of an application for a contract or contracts within the preserve.

- (B) The land proposed to be restricted by the contract must be agricultural or open space land devoted to agricultural or open space uses. Mere intent to devote agricultural or open space land to agricultural or open space uses shall be insufficient to qualify the land for a contract.

For the purposes of these Policies and Procedures, agricultural or open space land shall be deemed to be devoted to agricultural or open space uses when a minimum of 50 percent of the land is continuously used or maintained for agricultural uses, unless the Board of Supervisors finds that all of the following conditions apply:

1. More than 50 percent of the land is not suitable for agricultural or open space uses due to soil, slope, geologic, or other significant constraints.
2. The remainder of the land is continuously used or maintained for agricultural uses.
3. Placing the land under contract is consistent with the purpose and intent of the Williamson Act and these Policies and Procedures.

- (C) The land proposed to be restricted by the contract must be comprised of parcel(s) that meets the minimum parcel size requirements in Table 5-1.

**Table 5-1 Minimum Parcel Size Requirements**

Land Type	Minimum Parcel Size
Prime Agricultural Land	10 Acres
Non-Prime Agricultural Land, Open Space Land, Timber/Forestry Land	40 Acres

- (D) The land proposed to be restricted by the contract must meet the annual income requirements in Table 5-2. Except as otherwise specified in Table 5-2, annual income shall be computed on the basis of annual gross revenue per planted acre. For the purposes of these Policies and Procedures, annual income may be calculated using actual income data, or if actual data is not available, using projected income figures for existing permanent planted crops, and may be calculated as an average of three of the previous five years' annual income. Only income data from the agricultural use of the land, as defined in Section 3.0, shall be used to determine whether the annual income requirement is met.

**Table 5-2 Annual Income Requirements \***

<b>Land Type/Crop Type</b>	<b>Annual Income **</b>
Prime Agricultural Land - Vines and Bushes (e.g. Grapes, Berries, Hops)	Not less than \$ 1,000.00 per planted acre
Prime Agricultural Land - Fruit or Nut Trees (e.g. Apples, Olives, Pears, Walnuts)	Not less than \$300.00 per planted acre
Prime Agricultural Land – Other unprocessed Agricultural Plant Products	Not less than \$200.00 per planted acre
Prime Agricultural Land- Processed or unprocessed Animal Products, Grazing and Hay Production	Not less than \$2,000.00 Gross Total Income per Contract/Farm Operation (or an equivalent exchange of goods and services) plus \$2.50 Gross Income per acre
Non-Prime Agricultural Land - Grazing, Hay Production, Non-Permanent Row Crops, Livestock Production, Horse Breeding, or Other Unprocessed Agricultural Plant or Animal Products	Not less than \$2,000.00 Gross Total Income per Contract/Farm Operation (or an equivalent exchange of goods and services) plus \$2.50 Gross Income per acre
Open Space	Not Applicable
Timber/Forestry	Not Applicable

\* The Assessor's Office, in consultation with other County departments, may propose to adjust the monetary thresholds based on environmental or other factors that may have affected the production capacity of property. The Assessor's Office shall submit for authorization to the Board of Supervisors the proposed adjustment to monetary thresholds.

\*\* Evidence of substantial investment/development (whether incurred by a property owner or tenant), including capitalized improvements, maintenance and other costs related to qualified agricultural uses, may be substituted for annual income. The County may consider all qualifying agricultural income generated by the property, including tenant income, which shall be pro-rated based on the percentage of the year the property was used by the tenant.

- (E) Any use of the land proposed to be restricted by the contract, other than permitted agricultural or open space uses, as delineated in Sections 8.2 and 8.3 herein, must be a compatible use allowed under Section 9.0 of these Policies and Procedures.

## **6.0 WILLIAMSON ACT CONTRACT APPLICABILITY**

### **6.1 Single Parcel and Multi-Parcel Contracts**

- (A) A new or replacement Williamson Act contract may only restrict a single parcel or multiple contiguous parcels under the same ownership.
- (B) Any existing Williamson Act contract entered into prior to January 1, 2016, that restricts more than one parcel shall be subject to the following policies and requirements, consistent with Government Code section 51243:

1. The land under the contract shall be deemed divided and the contract shall apply separately and independently to each parcel under the contract, except that, at the election of the owner, multiple contiguous parcels under the contract may be considered a single undivided parcel for the purposes of determining contract eligibility and compliance when the parcels are: 1) in the same ownership; 2) farmed together; and 3) individually meet the minimum parcel size requirements in Section 5.2 (C) and Table 5-1 of these Policies and Procedures.
2. The contract shall be deemed to run with the land. Whenever land under the contract is divided by subdivision, transfer, sale, or recordation of a certificate of compliance or conditional certificate of compliance under the Subdivision Map Act, the owner of any parcel under the contract may exercise, independent of any other owner, any of the rights created by the original contract as it pertains to their parcel.
3. The owner of each parcel under the contract shall independently have all of the rights and responsibilities conferred by the contract, including the right to non-renew the contract pertaining to their parcel and the responsibility to comply with all requirements of the contract.
4. The County Assessor shall send, via certified and regular mail, notice that a replacement contract shall be required from the new owner for any qualifying parcel under the contract within one hundred twenty (120) days of the transfer or sale of said parcel.

## **6.2 Contract Term**

Unless otherwise specified by the Board of Supervisors, all Williamson Act contracts shall have a term of 10 years, renewing automatically at the end of each year, unless a notice of nonrenewal has been timely recorded. Pursuant to the provisions of Government Code section 51244, amended by Assembly Bill 1265 in 2011, and subject to annual approval by the Board of Supervisors, the County may implement contracts that have a 9 year term in exchange for a 10 percent reduction in property tax relief enjoyed by the landowner.

## **7.0 WILLIAMSON ACT CONTRACT APPLICATIONS AND PROCESS**

### **7.1 Application Filing and Processing**

- (A) A landowner may file an application with the Department of Planning and Building Services for a new or replacement Williamson Act contract for qualifying agricultural or open space land. With the Director's approval, an application may also be filed by an authorized agent of the landowner, or other person with the written consent of the landowner.
- (B) Each application for a new or replacement Williamson Act contract shall be filed on a County application form and shall include all required fees, and all information and materials required by the Department of Planning and Building Services. No application shall be deemed complete, and processing shall not commence on any application, until all required fees have been paid and all required information and materials have been submitted.
- (C) All applications for new or replacement Williamson Act contracts shall be processed in the same manner. A separate application shall be required for each new or replacement contract requested by the landowner.
- (D) A complete application for a new or replacement Williamson Act contract should be submitted on or before May 1<sup>st</sup> of the year prior to the year in which the contract is desired to take effect, or on such other date as established by the Director. Upon receipt of a complete application, the Department of Planning and Building Services shall review the application for compliance with the Williamson Act and these Policies and Procedures, schedule the

application for consideration by the Planning Commission which shall transmit a report and recommendation to the Board of Supervisors. If approved, the completed contract will be filed with the Clerk of the Board. Prior to the Board's consideration of the application, the landowner and any encumbrance holders under the contract must execute the contract and have their signatures notarized, and all legal descriptions must be reviewed and found to be accurate by the Assessor's Office. If the Board approves the application, the contract shall go into effect on January 1<sup>st</sup> following the date the contract is recorded.

- (E) No application for a new or replacement Williamson Act contract shall be approved unless the Board of Supervisors finds that the land proposed to be restricted by the contract meets all of the eligibility requirements in Section 5.2 of these Policies and Procedures.

## **7.2 Joint Applications for Preserve Designation and Contract**

Applications for new or replacement Williamson Act contracts may be considered by the Board of Supervisors concurrently with applications for the establishment or alteration of an agricultural preserve, pursuant to Sections 4.0 through 4.4 of these Policies and Procedures. However, such concurrent application shall not alter the requirements of Government Code Section 51234.

## **7.3 Recording of Contracts**

The Clerk of the Board shall record an executed Williamson Act contract along with a reference to the map showing the location of the agricultural preserve in which the property lies with the County Recorder's Office no later than 20 days after it is executed by the Board of Supervisors. This recording shall occur no later than December 31<sup>st</sup> of the calendar year in which the contract was executed.

# **8.0 AGRICULTURAL AND OPEN SPACE USES**

## **8.1 Introduction**

Land restricted by a Williamson Act contract must be devoted to commercial agricultural or open space uses. The following Section lists qualifying use types as defined by Title 20 of the County Code (Zoning Ordinance) deemed to be appropriate for placement into a Williamson Act contract.

## **8.2 Agricultural Uses**

- (A) Qualifying agricultural uses. To be a qualifying agricultural use, a use must meet the definition of "agricultural use" under Section 3.0 and be one or more of the following:
1. Row and field crops (County Code Section 20.032.015).
  2. Horticulture (County Code Section 20.032.010).
  3. Tree crops (County Code Section 20.032.020)).
  4. Animal raising- general agriculture (County Code Section 20.032.025).
  5. Forest production and processing- limited (County Code Section 20.032.045(A)). At least 50 percent of the parcel must be classified as timberland and be subject to an approved timber management or harvest plan. Excluded from these uses are curing and milling.
  6. Other commercial agricultural uses deemed by the Board of Supervisors to be acceptable for purposes of meeting the minimum income qualifications.

(B) Accessory Agricultural Uses and Structures. The following uses and structures are allowed only if they are incidental, related, and subordinate to a qualifying agricultural use:

1. Packing and processing- limited (County Code Section 20.032.040(A)).
2. Forest production and processing- portable sawmills (County Code Section 20.032.045(D)).
3. Roadside sales of agricultural products (County Code Section 20.164.015(P)) Additional California Food and Agricultural Code and California Health and Safety Code sections also apply to roadside stands.
4. Facilities and structures utilized in conjunction with the preparation of an agricultural commodity described in Section 8.1 above such as windmills, silos, shops and barns.

### **8.3 Open Space Uses**

Qualifying open space uses shall be limited to those uses that meet the definition of “open space use,” or the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if such land is within:

1. A scenic highway corridor, as defined in subdivision (Y).
2. A wildlife habitat, as defined in subdivision (DD).
3. A salt pond, as defined in subdivision (X).
4. A managed wetland area, as defined in subdivision (Q).
5. A submerged area, as defined in subdivision (AA).

## **9.0 COMPATIBLE AND INCOMPATIBLE USES**

### **9.1 Introduction**

Land under a Williamson Act contract must be devoted to agricultural or open space uses. However, the County recognizes that it may be appropriate to allow other uses of contracted land that are compatible with the agricultural or open space uses on the land. This Section enumerates certain uses that the County considers compatible on contracted land if they are limited in area. This Section also enumerates certain uses that the County considers incompatible on contracted land. The limitation on area of compatible uses, as provided herein, may only be exceeded if the requirements of Section 9.3(B) of these Policies and Procedures are met.

To the extent these Policies and Procedures do not list certain uses as compatible uses that were listed as compatible uses in previous County ordinances or policies, existing contracts will not be affected. Compatible uses will be evaluated for new contracts or for applications to rescind an existing contract and reenter into a new contract.

### **9.2 General Principles and Restrictions**

- (A) All property subject to Mendocino County Williamson Act contracts shall be restricted to the agricultural, open-space, recreational, and compatible uses herein below set forth for the particular zone within which such property has been classified; provided that no agricultural, open-space, recreational, or compatible use listed below shall be permitted under the

Williamson Act contract if not permitted by Title 20 of the Mendocino County Zoning Ordinance.

- (B) The Board of Supervisors may impose conditions on lands and land uses to be placed within agricultural preserves to permit and encourage compatible uses in conformity with the principles of compatibility in this section.
- (C) Any compatible use shall comply with the requirements of Government Code sections 51238.1 through 51238.3 and any amendments thereto (see Appendix B).

### **9.3 Area Limitation and Exceptions**

- (A) The compatible uses enumerated under these Policies and Procedures may be allowed on contracted land if they collectively occupy no more than 15% of the contracted land as a whole, or 5 acres, whichever is less, excluding public roads, private access roads, and driveways.
- (B) The area limitation imposed by Subsection A above may be exceeded for a proposed compatible use only where the Board of Supervisors finds that:
  - 1. The use is enumerated as a compatible use by these Policies and Procedures;
  - 2. The contracted land will continue to be devoted to agricultural or open space uses;
  - 3. The use will not result in a significant increase in the density of the temporary or permanent human population that could hinder or impair agricultural operations on the contracted land;
  - 4. The use will not require and will not encourage the extension of urban services such as public sewer or water, or the upgrade of public roads to urban standards that could encourage premature conversion of agricultural land to non-agricultural uses;
  - 5. The use will not include a residential subdivision on the subject parcel;
  - 6. The use is consistent with the General Plan and Zoning Code; and
  - 7. The use will not significantly affect the operation of the agricultural or open space uses of the contracted land. In cases in which the character or appearance of the agricultural operation is impacted, a plan shall be submitted and approved by the Board of Supervisors detailing how the property is intended to be restored for future agricultural uses.

### **9.4 Compatible Uses – Agricultural Williamson Act Contracted Land**

The following uses are considered compatible with qualifying agricultural uses (Section 8.2(A), above) on any Williamson Act contracted land, provided that no use listed below shall be permitted under the Williamson Act contract if not permitted by Title 20 of the Mendocino County zoning ordinance (see Section 9.2(C) above, also see Appendix B).

#### **(A) Residential Uses**

- 1. Family residential- single-family (County Code Section 20.016.010(A)).
- 2. Second residential unit (County Code Section 20.164.015(K)), subject to the following additional restrictions applicable to Williamson Act contracted lands, provided that:

- (a) The residence is incidental to the primary dwelling;
  - (b) The dwelling is not leased, subleased, rented, or sub-rented separately from the primary residence, nor divided by sale; and
  - (c) The dwelling is occupied by the farm operator or an immediate family member of the landowner or farm operator.
- 3. Farm employee housing (County Code Section 20.016.015).
- 4. Farm labor housing (County Code Section 20.016.020).
- 5. Accessory uses and structures. The following uses and structures, provided that they do not diminish a qualifying agricultural use and are incidental, related, and subordinate to a compatible residential use:
  - (a) Private garages.
  - (b) Children's playhouses, patios, porches, gazebos, and similar structures.
  - (c) Radio and television receiving antennas.
  - (d) Shops (nonbusiness purposes).
  - (e) Private swimming pools and hot tubs.
  - (f) Guest Cottage.
  - (g) Detached bedrooms.
  - (h) Room and board.
  - (i) Travel trailer or camper.
  - (j) Home occupation.
  - (k) Household pets.
  - (l) Wild animal keeping.
  - (m) Other necessary and customary uses.
  - (n) The parking of two (2) large vehicles or construction equipment upon private property. Additional vehicles and equipment are allowed to the extent that such vehicles and equipment are of a type and number customarily used by residents of the surrounding neighborhood for their own agricultural or home use on their own property.
  - (o) Family care home.

(B) Agricultural Uses

- 1. Packing and processing- winery (County Code Section 20.032.040(B)).
- 2. Animal sales and services- auctioning (County Code Section 20.024.020(A)).
- 3. Animal sales and services- horse stables (County Code Section 20.024.020(C)).

4. Animal raising – Personal. (County Code Section 20.032.030)
  5. Animal sales and services- veterinary (large animals) (County Code Section 20.024.020(F)).
- (C) Recreational Uses
1. Outdoor sports and recreation- limited (County Code Section 20.024.040(C)). Excluded from these uses are motorized boating, golf driving ranges and athletic fields (football, soccer and batting practice range).
- (D) Extractive Uses
1. Mining and processing (County Code Section 20.036.010).
- (E) Cannabis. The cultivation of cannabis, including the planting, growing, harvesting, drying, curing, grading or trimming of cannabis in its natural state. This compatible use category expressly excludes manufacturing, distributing (not including transport of product from the site for sale or delivery), and dispensing of cannabis or cannabis products.
- (F) Miscellaneous
1. Minor impact utilities (County Code Section 20.020.080).
  2. Major impact services and utilities (County Code Section 20.020.075), excluding uses such as sewage disposal facilities, sanitary landfills and water treatment plants.
  3. Entertainment events or religious assembly (County Code Section 20.168.020).
  4. Transient habitation- lodging (limited) (County Code Section 20.024.135(B), provided the use is located in a single-family dwelling or guest quarters associated with a qualified farming operation, with an on-site farmer in residence, and that meets all of the requirements of the Zoning Code.
  5. Small family day care home providing day care to 8 or fewer children.
  6. Any other use determined by the Board of Supervisors pursuant to Government Code Section 51238.1 to be compatible with the agricultural use of land within an agricultural preserve and subject to contract.

## **9.5 Incompatible Uses – Agricultural Williamson Act Contracted Land**

The following uses are considered incompatible with agricultural uses on any Williamson Act contracted land:

- (A) Golf courses and driving ranges.
- (B) Public, commercial, or private club use of motorized boats, motorcycles, vehicles, aircraft, or similar motorized uses for recreation.
- (C) Public, commercial, or private club use of land for field sports, including baseball, softball, polo, soccer, lacrosse, and football, or similar activities.
- (D) Public, commercial, or private club use of land for camping. Tent platforms, structures, and other facilities to support camping are not permitted.

## **9.6 Compatible Uses – Open Space Williamson Act Contracted Land**

The following uses are considered compatible with open space uses on any open space contracted land if allowed by the underlying zoning (see Section 9.2(C) above, also see Appendix B).

### **(A) Residential Uses**

1. Family residential- single-family (County Code Section 20.016.010(A)).
2. Second residential unit (County Code Section 20.164.015(K)), subject to the following additional restrictions applicable to Williamson Act contracted lands provided that:
  - (a) The residence is incidental to the primary dwelling;
  - (b) The dwelling is not leased, subleased, rented, or sub-rented separately from the primary residence, nor divided by sale.
3. Accessory uses and structures. The following uses and structures, provided that they do not diminish a qualifying open space use and are incidental, related, and subordinate to a compatible residential use:
  - (a) Private garages.
  - (b) Children's playhouses, patios, porches, gazebos, and similar structures.
  - (c) Radio and television receiving antennas.
  - (d) Shops (nonbusiness purposes).
  - (e) Private swimming pools and hot tubs.
  - (f) Guest Cottage.
  - (g) Detached bedrooms.
  - (h) Room and board.
  - (i) Travel trailer or camper.
  - (j) Home occupation.
  - (k) Household pets.
  - (l) Wild animal keeping.
  - (m) Other necessary and customary uses.
  - (n) The parking of two (2) large vehicles or construction equipment upon private property. Additional vehicles and equipment are allowed to the extent that such vehicles and equipment are of a type and number customarily used by residents of the surrounding neighborhood for their own agricultural or home use on their own property.
  - (o) Family care home.

(B) Recreational Uses

1. Outdoor sports and recreation- limited (County Code Section 20.024.040(C)). Excluded from these uses are motorized boating, golf driving ranges and athletic fields (football, soccer and batting practice range).

(C) Agricultural Uses

1. Row and field crops (County Code Section 20.032.015).
2. Horticulture (County Code Section 20.032.010).
3. Tree crops (County Code Section 20.032.020)).
4. Animal raising- general agriculture (County Code Section 20.032.025).
5. Animal raising – Personal. (County Code Section 20.032.030)

(D) Miscellaneous

1. Small family day care home providing day care to 8 or fewer children.
2. Any other use determined by the Board of Supervisors pursuant to Government Code Section 51238.1 to be compatible with the open space use of land within an agricultural preserve and subject to contract.

**9.7 Incompatible Uses – Open Space Williamson Act Contracted Land**

- (A) Permanent structures are considered incompatible with open space uses on any open space contracted land, except as provided in Section 9.6 of these Policies and Procedures.
- (B) The following uses are considered to be uses incompatible with open space uses on any contracted land: (1) the cultivation of cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis; and (2) manufacturing, retail sales, distributing, dispensing, and marketing of cannabis or cannabis products.

**10.0 WILLIAMSON ACT CONTRACT TERMINATION**

**10.1 Introduction**

A Williamson Act contract may only be terminated in a manner consistent with the Williamson Act and these Policies and Procedures.

**10.2 Non-renewal**

(A) Nonrenewal Initiated by Landowner

1. If a landowner desires in any year not to renew a Williamson Act contract, the landowner shall file an application with the Clerk of the Board for nonrenewal by the September 1<sup>st</sup> preceding the contract's annual renewal date. An application may also be filed by an authorized agent of the landowner, or other person with the written consent of the landowner. Such written consent must accompany the application.
2. Each application for nonrenewal shall be filed on a County application form and shall include all required fees, and all information and materials required by the County. No application shall be deemed complete, and processing shall not commence on

any application, until all required fees have been paid, and all required information and materials have been submitted.

3. Upon receipt of a complete application for nonrenewal, the Clerk of the Board shall transmit to the County Assessor the notice of nonrenewal who shall deliver the notice to the applicant. To be effective, the notice of nonrenewal must be signed by the landowner and the signature notarized; and (ii) served by the landowner on the County by delivering it to the Clerk of the Board at least 90 days prior to the contract's annual renewal date. Service may be made in person, or by U.S. Mail postmarked no later than the 90<sup>th</sup> day before the contract's annual renewal date. The Clerk of the Board shall record the notice of nonrenewal with the County Recorder's Office within 20 days of receipt of the served notice of nonrenewal.
4. If a notice of nonrenewal is inadequate or rejected for recording by the County Recorder's Office, the Clerk of the Board shall return it to the landowner.
5. The County Assessor shall deliver a copy of the notice of nonrenewal to the California Department of Conservation within 30 days of receipt of the landowner's served notice of nonrenewal.
6. If a notice of nonrenewal is served after the applicable deadline in Section 10.2(A)(3) above, the notice shall be deemed to apply to the contract's next annual renewal date.

(B) Partial Nonrenewal Initiated by Landowner

1. If a landowner desires in any year not to renew a Williamson Act contract as to a portion of the landowner's land under the contract, the landowner shall file an application with the Clerk of the Board for authorization to serve a notice of partial nonrenewal. An application may also be filed by an authorized agent of the landowner, or other person with the written consent of the landowner. Such written consent must accompany the application.
2. Each application for authorization to serve a notice of partial nonrenewal shall be filed on a County application form and shall include all required fees, and all information and materials required by the County. No application shall be deemed complete, and processing shall not commence on any application, until all required fees have been paid, and all required information and materials have been submitted.
3. Upon receipt of a complete application for authorization to serve a notice of partial nonrenewal, the County Department of Planning And Building Services shall review the application for compliance with the Williamson Act and these Policies and Procedures, schedule the application for consideration by the Board of Supervisors, and transmit a report and recommendation to the Board. In determining whether to approve the application, the Board may consider the effect of the proposed partial nonrenewal on the balance of the contracted land not subject to the nonrenewal, including whether the balance of the contracted land would continue to qualify for the contract. Notice of the Board meeting at which the application will be considered shall be provided to the owner(s) of all parcels subject to the contract. If the Board approves the application, the Clerk of the Board shall prepare the notice of partial nonrenewal and deliver the notice to the applicant. To be effective, the notice of partial nonrenewal must be (a) signed by the landowner and the signature notarized; and (b) served by the landowner on the County by delivering it to the Clerk of the Board at least 90 days prior to the contract's annual renewal date. Service may be made in person, or by U.S. Mail postmarked no later than the 90<sup>th</sup> day before the contract's annual renewal date. The Clerk of the Board shall record the notice of

partial nonrenewal with the County Recorder's Office within 20 days of receipt of the served notice of partial nonrenewal.

4. If a notice of partial nonrenewal is inadequate or rejected for recording by the County Recorder's Office, the Clerk of the Board shall return it to the landowner and notify the County Assessor.
5. The County Assessor shall deliver a copy of the notice of partial nonrenewal to the California Department of Conservation, the Department of Planning and Building Services and the County Agricultural Commissioner within 30 days of receipt of the landowner's served notice of partial nonrenewal.
6. If a notice of partial nonrenewal is served after the applicable deadline in Section 10.2(A)(3) above, the notice shall be deemed to apply to the contract's next annual renewal date.

(C) Nonrenewal Initiated by County

1. If the Board of Supervisors desires in any year not to renew a Williamson Act contract, it shall adopt a resolution authorizing and directing the service of a written notice of nonrenewal upon each owner of the contracted land. Service shall be no later than 60 days prior to the contract's annual renewal date.
2. If a landowner objects to the nonrenewal of a Williamson Act contract initiated by the County, the landowner may file a written protest with the County Clerk of the Board within 15 days of the Board of Supervisor's action approving the service of the notice of nonrenewal, or within 15 days of the actual service of the notice of nonrenewal, whichever is later. Protests shall be filed with the County Clerk of the Board. The Board shall take action on a timely filed protest prior to the contract's annual renewal date. Pursuant to Section 426 of the Revenue and Taxation Code, a timely protest will ensure that the landowner is afforded the Williamson Act value on their contracted parcel until there is less than 6 years remaining on the contract during the nonrenewal period.
3. The Clerk of the Board shall record a notice of nonrenewal with the County Recorder's Office not later than December 31 after the County serves such notice.
4. The Board of Supervisors may, in its discretion, withdraw a recorded notice of nonrenewal at any time prior to the contract's annual renewal date by recording a notice of withdrawal of notice of nonrenewal.
5. The Clerk of the Board shall record a notice of withdrawal of notice of nonrenewal with the County Recorder's Office within 20 days after the County serves such notice. To prevent the notice of nonrenewal from becoming effective, the notice of withdrawal of notice of nonrenewal must be recorded prior to the contract's annual renewal date. If a nonrenewal becomes effective, the contract shall terminate at the natural expiration of its term. Notwithstanding the recording of a notice of nonrenewal of an existing contract, a landowner may apply for a new contract.
6. The County Assessor shall deliver a copy of the notice of nonrenewal to the California Department of Conservation, the Department of Planning and Building Services and the County Agricultural Commissioner within 30 days of receipt of the County's served notice of nonrenewal.
7. The Clerk of the Board shall deliver a copy of all recorded notices of nonrenewal and notices of withdrawal of a notice of nonrenewal to the landowners and the County

Assessor's Office. Such copy shall show the date of recording and the County Recorder's instrument number.

8. If a notice of nonrenewal is served after the applicable deadline, the notice will be deemed to apply to the contract's next annual renewal date.

### **10.3 Cancellation**

- (A) Applications for cancellation of a Williamson Act contract shall be processed in accordance with the requirements of the Williamson Act and these Policies and Procedures.
- (B) A landowner may file an application with the Department of Planning and Building Services for cancellation of a Williamson Act contract as to all or part of the landowner's contracted land. An application may also be filed by an authorized agent of the landowner, or other person with the written consent of the landowner. Such written consent must accompany the application.
- (C) Each application for cancellation of a Williamson Act contract shall be filed on a County application form and shall include all required fees, and all information and materials required by the Department of Planning and Building Services. No application shall be deemed complete, and processing shall not commence on any application, until all required fees have been paid, and all required information and materials have been submitted.
- (D) The Board of Supervisors shall not approve any application for cancellation of a Williamson Act contract unless the cancellation fee equals the cancellation fee specified in Government Code section 51283(b), except in those cases where the Board, pursuant to Government Code section 51283(c), finds that it is in the public interest to waive all or part of, or extend time for payment of the cancellation fee. In the event the Board determines to waive all or part of the cancellation fee or extend the time for payment, the Board shall specify the cancellation fee payable. No cancellation shall be effective unless and until the cancellation fee is paid.
- (E) Notwithstanding any contract term to the contrary, cancellation shall not be required to terminate a Williamson Act contract as to all or a portion of contracted land that is acquired by a public agency by condemnation or eminent domain, or in lieu of condemnation or eminent domain. The provisions of Government Code Section 51290 et seq., governing public acquisitions of land within an agricultural preserve, or contracted land within a preserve, apply to contracted land within the county. Where required by Government Code Section 51290 et seq., the County shall deem a contract null and void as to the land area acquired by a public agency by condemnation or in lieu of condemnation.

### **10.4 Rescission and Replacement with New Williamson Act Contract**

- (A) A landowner and the County may mutually agree to rescind an existing Williamson Act contract in order to simultaneously enter into a replacement contract or contracts, where the replacement contract or contracts would enforce or restrict the same land for an initial term at least as long as the unexpired term of the contract being so rescinded, but not less than 10 years unless otherwise specified by the Board of Supervisors. Applications for replacement contracts shall be reviewed and processed in accordance with the Williamson Act and these Policies and Procedures. Replacing a contract that is in nonrenewal with a replacement contract or contracts effectively terminates the nonrenewal process previously initiated.
- (B) If a parcel restricted by an existing multi-parcel Williamson Act contract is transferred or sold, the new owner and the County shall mutually agree to rescind the contract as to the transferred parcel and simultaneously replace it with a replacement contract, if the transferred parcel independently meets all requirements for a contract under these Policies

and Procedures. If the transferred parcel does not meet all requirements for a contract under these Policies and Procedures, the County shall initiate nonrenewal of the contract as to the transferred parcel.

- (C) Any Boundary Line Adjustment (BLA) requiring rescission and replacement shall be consistent with Government Code Section 51257.

#### **10.5 Easement Exchange**

The County, upon an application by a landowner, may enter into an agreement with the landowner to rescind a Williamson Act contract in order to simultaneously place other land within the county under an agricultural conservation easement (Public Resources Code Section 10200 et seq.), provided that the requirements of Government Code Section 51256 are met.

#### **10.6 Annexation by City**

- (A) On the annexation by any city within the County of any land under a Williamson Act contract, the city shall succeed to (i.e. legally take over) all rights, duties, and powers of the County as a party to the contract, including the power to initiate nonrenewal of the contract. Under certain limited circumstances defined in Government Code Section 51243.5, a city may elect not to succeed to the rights, duties, and powers of the County under the contract.
- (B) Whenever part of the land under a Williamson Act contract is removed from the County's jurisdiction through annexation to a city, the part remaining under contract in the County's jurisdiction must be able to independently meet the eligibility requirements in Section 5.0 of these Policies and Procedures to remain under contract. In the event that unqualified land is left subject to contract, the County shall immediately serve a notice of nonrenewal for the contract, unless a notice of nonrenewal has already been recorded and the contract is in the process of phasing out.
- (C) In cases of annexation of land under a Williamson Act contract, coordination is encouraged between the annexing city, the Mendocino County Local Agency Formation Commission, the County, and the landowner to ensure that proper protocol is followed and that all parties are provided the opportunity to comment and work towards the best possible outcome for all parties involved.

#### **10.7 Eminent Domain or Public Acquisitions in lieu of Eminent Domain**

Pursuant to the Williamson Act, a Williamson Act contract becomes void for land that is acquired by a federal, state, or local government agency for necessary public uses and facilities via eminent domain or by acquisition in lieu of eminent domain. Notwithstanding contract language to the contrary, there is no requirement that the acquiring or condemning federal, state, or local government agency seek or obtain cancellation of the contract as to the land so acquired.

The Williamson Act contains policies and restrictions to avoid public acquisitions of land subject to Williamson Act contracts or containing prime agricultural land. The Williamson Act imposes certain requirements on public agencies seeking to acquire contracted land or place public improvements within an agricultural preserve, or on contracted land. For example, state and local governments proposing to acquire land within an agricultural preserve are required by the Williamson Act to refer proposals for such acquisitions to the California Department of Conservation for its review and response prior to acquisition.

## **11.0 Land Divisions, Boundary Line Adjustments, and Certificates of Compliance**

### **11.1 Subdivision of Contracted Land**

- (A) No land subject to a Williamson Act contract shall be subdivided unless the Board of Supervisors finds that:
  - 1. The subdivision is consistent with the General Plan and Zoning Code;
  - 2. Each resulting parcel will separately qualify for a Williamson Act contract and be consistent with the requirements of the Williamson Act and these Policies and Procedures; and
  - 3. The subdivision and each resulting parcel will conform with the requirements of the Subdivision Map Act, including Government Code section 66474.4.
- (B) The County shall require an owner of contracted land that has been or will be subdivided to apply, pursuant to Section 10.4 of these Policies and Procedures, for rescission of the existing contract and simultaneous replacement of that contract with a separate new contract for each qualifying parcel resulting from the subdivision. This requirement may be waived by the County if a notice of nonrenewal has been recorded for the contract restricting the land that has been or will be subdivided, and the phase out period has begun.

### **11.2 Boundary Line Adjustments Involving Contracted Land**

- (A) To facilitate a boundary line adjustment of contracted land, a landowner and the County may mutually agree to rescind a Williamson Act contract or contracts and to simultaneously enter into a new contract or contracts, provided that:
  - 1. The new contract or contracts satisfy all requirements of the Williamson Act and these Policies and Procedures; and
  - 2. The Board of Supervisors makes the findings required by Government Code section 51257.
- (B) The Subdivision Committee shall condition any approval of a boundary line adjustment of a Williamson Act contracted property on the approval by the Board of Supervisors of an application to rescind a Williamson Act contract or contracts and to simultaneously enter into a new contract or contracts.
- (C) If the Board of Supervisors is unable to make the findings required by Government Code section 51257, it shall not approve an application to rescind a Williamson Act contract or contracts and to simultaneously enter into a new contract or contracts.

### **11.3 Certificates of Compliance**

- (A) On or after January 1, 2016, prior to the issuance of any certificate of compliance by the County for property subject to a Williamson Act contract, the Department of Planning and Building Services shall review the lots to determine if they were merged pursuant to the County's merger provisions in Article XV of Title 17 of the Mendocino County Code relating to Division of Land Regulations.
- (B) If the lots did not merge pursuant to the above-mentioned merger provisions, a certificate of compliance shall only be issued if the Department of Planning and Building Services finds that:

1. Each resulting parcel is consistent with the Williamson Act and these Policies and Procedures;
2. Each resulting parcel independently meets all requirements for a contract under these Policies and Procedures;
3. Each resulting parcel is entitled to a certificate of compliance or conditional certificate of compliance under the Subdivision Map Act.

## **12.0 WILLIAMSON ACT CONTRACT COMPLIANCE AND ENFORCEMENT**

### **12.1 Williamson Act Compliance Determination Required Before Permit Issuance**

#### **(A) Compliance Determination by the Department of Planning and Building Services**

Prior to issuance of any permit for development or use of contracted land, other than qualifying agricultural or open space uses, the landowner shall obtain clearance from the Department of Planning and Building Services that the contracted land is in compliance with the Williamson Act contract, and that the proposed development or use will comply with the contract and these Policies and Procedures. The Department of Planning and Building Services shall not issue any permit for development or use of contracted land if the contracted land is not in compliance with the contract, or the proposed development or use will not comply with the contract and these Policies and Procedures.

#### **(B) Administrative Appeals**

Any interested person may appeal any determination made pursuant to Section 12(A) above. An appeal must be filed within 10 days after the decision with the Department of Planning and Building Services and be accompanied by payment of the required appeal fee. The appeal process will follow the procedures defined in Mendocino County Code Chapter 20.208.

### **12.2 Reporting Statements / Information Requests**

- (A) The Assessor's Office shall mail agricultural preserve questionnaires to the owners of contracted land no less than every 4 years, but may mail questionnaires or requests for information pursuant to Revenue and Taxation Code Section 441 at any time. Each owner of contracted land receiving a questionnaire shall return the completed questionnaire to the Assessor's Office within 30 days after receipt of the questionnaire, unless an extension of time is obtained from the Assessor's Office. Those properties for which a completed questionnaire was not returned, and those properties for which information indicates a potential breach, may be subject to an investigation by the Assessor's Office regarding whether the property is in compliance with the Williamson Act contract restricting it, the Williamson Act, these Policies and Procedures, and other state and local laws, regulations, and guidelines. The Assessor's Office may use the annual tree and vine report in lieu of mailing a Williamson Act agricultural preserve questionnaire.
- (B) The Assessor's Office may mail requests for information concerning contract compliance to the owners or users of contracted land. Each owner or user of contracted land receiving a request for information shall return the completed request to the Assessor's Office within 30 days after receipt of the request, unless an extension of time is obtained from the Assessor's Office.
- (C) Any income or production data submitted to the Assessor's Office pursuant to this Section shall be proprietary and shall be confidential.

### **12.3 Audits and Inspections**

- (A) The County may audit any contracted land for compliance with the Williamson Act contract, these Policies and Procedures, and other state and local laws, regulations, and guidelines. Such audits may include reviewing available documentation such as aerial photographs, completed agricultural preserve questionnaires and contacting the landowner or manager to obtain additional information or documentation. The County is authorized to develop procedures and guidelines for the conduct of audits under this Section.
- (B) If the County has probable cause to suspect that contracted land is not in compliance, it may contact the landowner to arrange for an inspection of the property by the County's officers, employees, contractors, or agents. The County shall give the landowner at least 48 hours written notice of the inspection date, approximate time, the person(s) who will be participating in the inspection, and the reason for the inspection. When scheduling an inspection, the County must make a reasonable attempt to accommodate the landowner's schedule. Any such inspection shall occur during normal business hours (Monday through Friday, 8:00 A.M. to 5:00 P.M.).

### **12.4 Material Breaches**

The County will fulfill its enforcement responsibilities for material breach of Williamson Act contracts pursuant to Government Code Section 51250.

### **12.5 Enforcement**

Williamson Act contracts are binding agreements between landowners and the County that require the terms of the contract to continue to be met in exchange for reduced property tax assessments based on the contract restriction. As such, landowners must remain in compliance during the entire life of the contract, even after transfer of ownership or during phase out after nonrenewal has been initiated. If, at any time, the County finds that the terms of a contract, including the requirements set forth in the Williamson Act and these Policies and Procedures, are no longer being met, the Board of Supervisors may serve a notice of nonrenewal pursuant to Section 10.2(C) of these Policies and Procedures. The County may also, in addition to non-renewal, take other appropriate action to enforce the terms of the contract and these Policies and Procedures. Pursuant to Government Code Section 51251 the County or landowner may bring any action in court necessary to enforce any contract, including, but not limited to, an action to enforce a contract by specific performance or injunction. The County may elect to sue for liquidated damages as set forth in the contract which sum is equal to 25% of the full cash value, as defined by Revenue and Taxation Code Section 110, of the land when relieved of the restriction, as found by the Assessor.

### **12.6 Severability**

If any article, section, subsection, paragraph, sentence, clause or phrase of these Policies and Procedures, which is reasonably severable from the remaining portion of these Policies and Procedures is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portion of these Policies and Procedures, it being herein expressly declared that these Policies and Procedures and each article, section, subsection, paragraph, sentence, clause and phrase thereof would have been adopted irrespective of the fact that any one or more sections, subsections, paragraphs, clauses or phrases be declared invalid or unconstitutional.



## **Appendix A**

### **Use Type Definitions- County Code Title 20, Division I**

**(Note: The following definitions are subject to periodic Zoning Code amendments and are provided for reference only.)**

**Animal raising- general agriculture (County Code Section 20.032.025):** "Animal raising—general agriculture" means the raising of crops or livestock on parcels greater than forty thousand (40,000) square feet or zoned A-G, R-L, U-R, F-L or TPZ and shall include:

- (A) Grazing of livestock and feeding and caring incidental thereof;
- (B) Animal husbandry including, without limitation, the breeding and raising of cattle, sheep, horses, goats, pigs, rabbits, and poultry, including egg production;
- (C) Sale of agricultural products grown, raised, or produced on the premises;
- (D) 4-H, FFA or similar projects shall be permitted in all zoning districts.

**Animal raising – personal (County Code Section 20.032.030):** "Animal raising—personal" means the raising of hen chickens or rabbits for personal use on parcels forty thousand (40,000) square feet or less in size in accordance with the following criteria:

- (A) No more than six (6) of any one (1) or combination of such animals on the lot;
- (B) Maintained in coops or pens located at a distance of fifty (50) feet or more from buildings used for human habitation;
- (C) Coops or pens shall be located only on the rear one-third (1/3) of the lot;
- (D) Coops or pens shall be located no closer than five (5) feet from the side or rear property line.

**Animal sales and services- auctioning (County Code Section 20.024.020(A)):** Auctioning of livestock on a wholesale or retail basis with incidental storage of animals produced off property not exceeding seventy-two (72) hour periods. Typical uses include animal auctions or livestock auction yards.

**Animal sales and services- horse stables (County Code Section 20.024.020(C)):** Boarding, breeding or raising of horses not owned by the occupants of the premises or riding of horses by other than the occupants of the premises or their nonpaying guests. Typical uses include boarding stables or public stables.

**Animal sales and services- veterinary (large animals) (County Code Section 20.024.020(F)):** Veterinary services for large animals. Typical uses include animal hospitals (large animals) and veterinary hospitals (large animals). Typical uses include clinics for the treatment of sheep, cattle, horses, goats and similar large animals.

**Entertainment events or religious assembly (County Code Section 20.168.020):** The temporary gathering of people for a circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious purposes or other similar activities may be permitted upon the issuance of a use permit in compliance with the following provisions:

- (A) Location. A circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious assembly or other similar activities may be permitted in any zone except R-1 and R-2.
- (B) Duration. The period of operation of the circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious assembly or other similar activities shall not exceed five (5) days in any six (6) month period.
- (C) Permits.

## **Appendix A**

### **Use Type Definitions- County Code Title 20, Division I**

- (1) Gatherings of one hundred (100) to one thousand (1,000) persons shall be required to obtain an administrative permit.
- (2) Gatherings of over one thousand (1,000) persons shall be required to obtain a minor use permit.
- (D) The requirements of this Section shall not be intended to supersede provisions in Mendocino County Code Chapter 6.16.
- (E) Exclusions. The provisions of this Section are not intended to include or regulate private gatherings such as weddings, housewarmings, family gatherings, barbeque, etc.

**Family residential- single-family (County Code Section 20.016.010(A)):** The use of a parcel for only one (1) dwelling unit.

**Farm employee housing (County Code Section 20.016.015):** Occupancy by a farm employee and his/her family within a single-family dwelling, or trailer coach which occurs exclusively in association with the performance of agricultural labor for a bona-fide agricultural operation. Farm employee housing shall be limited to one (1) unit per ownership, shall be required to obtain an administrative permit and shall not be required to meet density requirements. Housing for more than one (1) farm employee and his/her family is classified as farm labor housing.

**Farm labor housing (County Code Section 20.016.020):** Occupancy on a parcel in one (1) or more dwelling units or trailer coaches by more than one (1) farm employee and his/her families which occurs exclusively in association with the performance of agricultural labor. Farm labor housing shall not be required to meet density requirements.

**Forest production and processing- limited (County Code Section 20.032.045(A)):** Refers to the growing, harvesting, curing, milling, packaging, packing, shipping and selling of forest products, produced on the premises. (See Policy Number 8.2(A)(5) for exclusions.)

**Forest production and processing- portable sawmills (County Code Section 20.032.045(D)):** Refers to the operation of small portable milling machines for production of rough-sawed lumber subject to the following limitations:

- (1) Logs or other material to be sawed may come from timber produced on the premises or imported from off-site sources;
- (2) Combined horsepower of all engines or motors used in the milling process shall not exceed seventy-five (75);
- (3) Planing or other remanufacturing of lumber shall not be allowed.
- (4) A maximum of three (3) workers/employees including the owner/operator;
- (5) Production shall not exceed three thousand (3,000) board feet in any day or thirty thousand (30,000) board feet in any month;
- (6) Milling machinery shall not be located closer than two hundred (200) feet from the nearest property line;
- (7) Log/lumber storage and similar uses accessory to the milling operation shall not be located closer than fifty (50) feet from the nearest property line;
- (8) All equipment and materials associated with the milling operation shall not be located closer than one hundred (100) feet from any Class I or Class II stream, and shall not be located within a one hundred-year (100-year) flood plain;

## **Appendix A**

### **Use Type Definitions- County Code Title 20, Division I**

- (9) Minimum parcel size shall be ten (10) acres;
- (10) Maximum area encompassed by operation shall not exceed one (1) acre;
- (11) Maximum building area shall not exceed 5,000 square feet if the structure is pre-existing, and that any new building area shall be limited to 2,000 square feet as per cottage industries. Pre-existing (legal) facilities must pre-date July 1, 1999;
- (12) Noise created by the operation shall not exceed the levels specified in Appendix C.

**Horticulture (County Code Section 20.032.010):** "Horticulture" means premises devoted to horticultural and floracultural specialties such as flowers, shrubs, and trees intended for ornamental or landscaping purposes. Typical uses include wholesale/retail nurseries limited to the sale of horticulture and horticulture specialties grown on site and in green houses.

**Major impact services and utilities (County Code Section 20.020.075):** "Major impact services and utilities" means services or utilities which may have a substantial impact. Such uses may be conditionally permitted when the public interest supersedes the usual limitations placed on land use and transcends the usual restraints of zoning for reasons of necessary location and community wide interest. Typical places or uses are power generating facilities, sewage disposal facilities, septage disposal facilities and sites, sanitary landfills and water treatment plants, and radio, telephone and other commercial communication transmission towers and antennas. (See Policy Number 9.4(E)(2) for exclusions.)

**Mining and processing (County Code Section 20.036.010):** The mining and processing use type refers to places or plants primarily devoted to surface or subsurface mining of metallic and nonmetallic materials, geothermal development, oil or gas together with essential processing of only nonmetallic mineral products. Except where conducted within a Mineral Processing Combining District, and subject to the requirement for a major use permit, all such processing shall be of a temporary nature and carried on in conjunction with, and only for the duration of a specific construction project (except that portable screening and crushing equipment need not be related to a specific construction project). The sale of additional materials may be allowed for other off-site uses where such materials do not exceed ten (10) percent of that volume specified for the primary construction project. Typical places or uses include borrow pits, gravel bars, rock quarries, oil and gas drilling rigs, or portable crushing, screening, washing, and mixing plants.

**Minor impact utilities (County Code Section 20.020.080):** "Minor impact utilities" means public utilities which have a local impact on surrounding properties and are necessary to provide essential services. Typical uses are electrical and gas distribution substations and transmission distribution lines. Radio, telephone and other commercial communication transmission towers and antennas are not included.

**Outdoor sports and recreation- limited (County Code Section 20.024.040(C)):** Recreational activities that are compatible with and not detrimental to the agricultural use of the property, specifically meaning the use of land by the public, with or without charge, for any of the following recreational uses: Walking, hiking, picnicking, swimming, boating, fishing, hunting, equestrian uses or other outdoor games such as golf driving ranges, tennis courts (grass only), par course (physical fitness) and athletic fields (football, soccer and batting practice range). This recreational use is limited as follows:

- (1) A duration of two (2) years, subject to renewal.
- (2) No permanent structures may be constructed to support this use.
- (3) No soil shall be moved to support this use.
- (4) Use must be in compliance with Williamson Act contract restrictions and with the use as specified in Mendocino County Code Section 22.08.071.

(See Policy Number 9.4(C)(1) for exclusions.)

## **Appendix A**

### **Use Type Definitions- County Code Title 20, Division I**

**Packing and processing- limited (County Code Section 20.032.040(A)):** Packing or processing of crops grown on the premises.

**Packing and processing- winery (County Code Section 20.032.040(B)):** Crushing of grapes and fermentation, storage, and bottling of wine from grapes grown on or off the premises. Said use type also includes tasting rooms in conjunction with a winery and breweries provided said tasting room occupies less than twenty-five percent (25%) of the floor space of the winery.

**Roadside sales of agricultural products (County Code Section 20.164.015(P)):** Operation of a single roadside stand for a display and sales of only those products produced on the premises, or on other property owned or leased by the vendor, as permitted by this Division, provided that the stand does not exceed an area of two hundred (200) square feet, and is located not nearer than fifteen (15) feet to any, street or highway, and provided further that such stands shall be permitted only in the S-R, R-R, A-G, U-R, R-L, F-L, and T-P districts.

**Row and field crops (County Code Section 20.032.015):** "Row and field crops" means premises devoted to the cultivation for sale of agricultural products grown in regular or scattered patterns such as vines, field, forage and other plant crops intended to provide food or fibers.

**Second residential unit (County Code Section 20.164.015(K)):** A second residential unit shall be permitted in all zoning districts which allow single-family dwellings subject to the following standards and criteria:

- (1) The lot contains an existing single-family dwelling unit or a building permit for the single-family dwelling unit (primary residence) has been applied for.
- (2) An adequate water system as approved by the Division of Environmental Health is available to serve the second residential unit.
- (3) An adequate sewage disposal system as approved by the Division of Environmental Health is available to serve the second residential unit.
- (4) The second unit shall conform to height, setback, lot coverage, architectural review, site plan review, off-street parking, fees, charges and other zoning requirements generally applicable to residential construction within the zone in which the second residential unit is located.
- (5) The second residential unit shall comply with appropriate local building code requirements.
- (6) A second residential unit shall not be allowed if more than one (1) dwelling unit (including farm employee housing, farm labor housing, temporary family care unit) is located on the parcel, or if there currently exists two (2) accessory residential units (any combination of guest cottages and detached bedrooms) on the parcel.
- (7) Where dwelling group or parcel clustering is approved, no second residential unit shall be allowed.
- (8) Nothing in this Section shall prohibit a detached bedroom, guest house or family care unit from being converted into a second residential unit, consistent with the other provisions of this Section.
- (9) Second residential units may be either attached to the existing dwelling or they may be detached, separate structures.
- (10) Attached or detached second residential units are not intended for sale but may be rented.

(See Policy Number 9.4(A)(2) for additional restrictions.)

## **Appendix A**

### **Use Type Definitions- County Code Title 20, Division I**

**Transient habitation- lodging (limited) (County Code Section 20.024.135(B)):** Lodging services involving the provision of room and/or board. Typical uses include hotels, motels, inns, or transient boarding houses with three (3) to six (6) rooms. (See Policy Number 9.4(E)(4) for additional restrictions.)

**Tree crops (County Code Section 20.032.020):** "Tree crops" means premises devoted to the cultivation for sale at wholesale of tree-grown agricultural products such as pears, apples, walnuts and Christmas trees but excluding other forestry products.



## **Appendix B**

### **Government Code Sections 51238.1 to 51238.3**

**(Note: The following Government Code sections are subject to periodic amendments and are provided for reference only.)**

51238.1. (a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

- (1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.
- (2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.
- (3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use. In evaluating compatibility a board or council shall consider the impacts on non-contracted lands in the agricultural preserve or preserves.
  - (b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional uses shall conform to the principles of compatibility set forth in subdivision (a) or, for nonprime lands only, satisfy the requirements of subdivision (c).
  - (c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on nonprime land which, because of onsite or offsite impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:
    - (1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.
    - (2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.
    - (3) The use is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.
  - (4) The use does not include a residential subdivision.

For the purposes of this section, a board or council may define nonprime land as land not defined as "prime agricultural land" pursuant to subdivision (c) of Section 51201 or as land not classified as "agricultural land" pursuant to subdivision (a) of Section 21060.1 of the Public Resources Code.

Nothing in this section shall be construed to overrule, rescind, or modify the requirements contained in Sections 51230 and 51238 related to non-contracted lands within agricultural preserves.

51238.2. Mineral extraction that is unable to meet the principles of Section 51238.1 may nevertheless be approved as compatible use if the board or council is able to document that (a) the underlying contractual commitment to preserve prime agricultural land, as defined in subdivision (c) of Section 51201, or (b) the

## **Appendix B**

### **Government Code Sections 51238.1 to 51238.3**

underlying contractual commitment to preserve land that is not prime agricultural land for open-space use, as defined in subdivision (o) of Section 51201, will not be significantly impaired.

Conditions imposed on mineral extraction as a compatible use of contracted land shall include compliance with the reclamation standards adopted by the Mining and Geology Board pursuant to Section 2773 of the Public Resources Code, including the applicable performance standards for prime agricultural land and other agricultural land, and no exception to these standards may be permitted.

For purposes of this section, "contracted land" means all land under a single contract for which an applicant seeks a compatible use permit.

51238.3. (a) The requirements of Sections 51238.1 and 51238.2 shall not apply to compatible uses for which an application was submitted to the city or county prior to June 7, 1994, provided that the use constituted a "compatible use" as that term was defined by this chapter either at the time the application was submitted, or at the time the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(b) Neither shall the requirements of Sections 51238.1 and 51238.2 apply to land uses of contracted lands in place prior to June 7, 1994, that constituted a "compatible use" as the term "compatible use" was defined by this chapter either at the time the use was initiated, or at the time the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.

(c) (1) Neither shall the requirements of Sections 51238.1 and 51238.2 apply to uses that are expressly specified within the contract itself prior to June 7, 1994, and that constituted a "compatible use" as the term "compatible use" was defined by this chapter at the time that Williamson Act contract was signed with respect to the subject contract lands, or at the time the contract was amended to include the uses, whichever is later. For purposes of this subdivision, the requirements of Sections 51238.1 and 51238.2, effective January 1, 1995, shall apply to contracts for which contract nonrenewal was initiated and was withdrawn after January 1, 1995.

(2) For purposes of this chapter, a compatible use is considered to be expressly specified within the contract only if it is specifically enumerated within the four corners of the Williamson Act contract either without the benefit of referenced documents, or with respect to Williamson Act contracts signed on or before June 7, 1997, with the benefit of referenced documents as those documents existed at the time the Williamson Act contract was initially signed. This subdivision shall be narrowly construed to be consistent with the purposes of this chapter.