



**RESOLUTION**  
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE

No. \_\_\_\_\_ 106-04 \_\_\_\_\_

Filed \_\_ June 15 \_\_\_\_, 2004

By \_\_ Linda R. Rojas, Asst. \_\_  
Clerk of the Board

WHEREAS, by adoption of its Resolution 83-68, and amended by Resolution 99-68, this Board of Supervisors implemented the California Land Conservation Act of 1965, also known as the Williamson Act, in Tuolumne County; and

WHEREAS, by the adoption of its Resolution 122-70, on January 6, 1970, this Board of Supervisors established policies and rules to govern agricultural preserves and land subject to Land Conservation Contracts executed after November 10, 1969; and

WHEREAS, by adoption of its Resolution 134-85, on April 23, 1985, this Board of Supervisors established policies and rules to govern agricultural preserves and land subject to Land Conservation Contracts executed after April 23, 1985; and

WHEREAS, this Board of Supervisors desires to establish a common set of policies and regulations to apply to all agricultural preserves and all land subject to Land Conservation Contracts,

AND WHEREAS, this Board of Supervisors, after conducting a public hearing and having reviewed the evidence presented at said public hearing, and considering the recommendation of the Williamson Act Ad Hoc Committee, does hereby find it to be in the public interest to adopt the Tuolumne County Regulations for Implementing the California Land Conservation Act as described herein in Exhibit "A";

NOW, THEREFORE, IT IS RESOLVED that this Board of Supervisors does hereby establish regulations governing lands subject to agricultural preserves and land conservation contracts in accordance with the California Land Conservation Act of 1965, also known as the Williamson Act, being Chapter 7 (commencing with section 51200) of part 1 of Division 1 of Title 5 of the Government Code, in the unincorporated area of the County of Tuolumne, as set forth in Exhibit "A" attached hereto and by this reference made a part thereof;

IT IS FURTHER RESOLVED, that a notice of nonrenewal shall be processed, pursuant to the provisions of this Resolution, for any land conservation contract in conflict with all applicable provisions contained herein.

IT IS FURTHER RESOLVED that Tuolumne County Resolution 122-70 and Resolution 134-85 and amendments thereto shall be repealed upon the termination of all land conservation contracts under the jurisdiction of the respective resolutions.

IT IS FURTHER RESOLVED, that the signatures of the members of this Board of Supervisors on this resolution shall constitute the endorsement of the approved and adopted regulations.

*IT IS FURTHER RESOLVED, that Tuolumne County Resolution 122-70 and Resolution 134-85 and amendments thereto will continue to apply to contracts entered into pursuant to those resolutions respectively, except for land divisions, reconfigurations, notices of nonrenewal and withdrawals of notices of nonrenewal which will be subject to the provisions of this Resolution. [Resolution 62-05 adopted May 17, 2005.]*

*IT IS FURTHER RESOLVED, that the Board intends this amendment to be a declaration of existing law with respect to the applicability of Resolution 106-04 to land subject to an existing land conservation contract on May 20, 2008, when these new regulations were first adopted. [Resolution 62-05 adopted May 17, 2005]*

ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE  
ON June 15, 2004.

|       |                           |                      |             |
|-------|---------------------------|----------------------|-------------|
| AYES: | 1st Dist. <u>Rotelli</u>  | NOES: None           | Dist. _____ |
|       | 2nd Dist. <u>Maffej</u>   |                      | Dist. _____ |
|       | 3rd Dist. <u>Peterson</u> | ABSENT: <u>None</u>  | Dist. _____ |
|       | 4th Dist. <u>Thornton</u> |                      | Dist. _____ |
|       | 5th Dist. <u>Pland</u>    | ABSTAIN: <u>None</u> | Dist. _____ |

Pland  
CHAIR OF THE BOARD OF SUPERVISORS

ATTEST: Linda R. Rojas, Asst No. 106-04  
Clerk of the Board



EXHIBIT "B" OF RESOLUTION 106-04  
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE

**TUOLUMNE COUNTY REGULATIONS  
FOR IMPLEMENTING  
THE CALIFORNIA LAND CONSERVATION ACT**

POLICY DECLARATION

Tuolumne County's objective in implementing the California Land Conservation Act of 1965 (Williamson Act) Chapter 7, commencing with section 51200, of Part 1, of Division 1, of Title 5, of the California Government Code is the promotion of agricultural productivity and the preservation and protection of agricultural and open space values from encroaching development.

The County's Resolution to implement the Williamson Act provides a common set of rules that apply to the standards and categories of property eligibility, the permitted land uses and restrictions on contract lands, procedures for creation and termination of contracts, and procedures for compliance monitoring and enforcement.

Establishment of the agricultural preserve is a prerequisite for landowners to enter into land conservation contracts with the County. A land conservation contract is an agreement entered into voluntarily and with full knowledge of the benefits and requirements of the Williamson Act, by and between the property owner and the County, to restrict the use of the land for agricultural, open space and compatible uses for a minimum term of ten (10) years, in return for a reduction in property taxes on the land.

**RULE 1 PREEXISTING AGRICULTURAL PRESERVES AND CONTRACTS**

This rule shall apply to all land conservation contracts in existence on the effective date of these regulations.

- A. Preexisting contracts.** Owners of land under land conservation contracts existing on the effective date of these regulations shall be offered new land conservation contracts notwithstanding the fact that the parcels may not meet the minimum acreage requirements contained herein. This rule shall also apply to separate landowner(s) of a separate parcel or separate parcels under a single existing contract. All other provisions of these regulations shall be met to qualify land for a new contract. Applications must be received within one year of the effective date of these regulations to rescind existing contracts and to enter into a new contract, or the Board of Supervisors shall file a notice of nonrenewal. If an application is approved then compliance with these regulations shall be met within three years of the effective date of these regulations or the Board of Supervisors shall file notice of nonrenewal. If the application is denied, then a notice of nonrenewal shall be filed.
- B. Preexisting agricultural preserves.** Land located within agricultural preserves existing on the effective date of these regulations that does not comply with these regulations shall remain in a preserve unless the owner of the property requests removal. The County shall not initiate removal of parcels from an agricultural preserve without the landowner's consent.
- C. Waiver of fees.** Fees related to land conservation contracts in Chapter 3 of the Tuolumne County Ordinance Code shall be waived for any applications submitted to bring land in preexisting land conservation contracts into compliance with these regulations.

## **RULE 2 GENERAL PROVISIONS**

- A. Short title, citation.** These regulations shall be known and may be cited as either the “Tuolumne County Regulations for Implementing the California Land Conservation Act” or the “Tuolumne County Williamson Act Regulations.”
- B. State legislation.** These regulations reflect the authority granted to the County to establish regulations for implementing the California Land Conservation Act of 1965, as amended, and recognize subordination of the provisions contained herein to changes in that act through state legislation that impose mandates on the County.
- C. General rules for interpretation.** Terms used in these regulations shall be as defined in Section 51201 of the California Government Code, or other applicable codes as referenced herein. Words in the present tense shall include the future; the singular shall include the plural; the word “shall” is mandatory and not directory. Whenever reference is made to any portion of these regulations or any other ordinance, resolution or law, the reference shall apply to all amendments and additions now or hereafter made.
- D. Regulations** set forth in this document and the provisions of the California Land Conservation Act of 1965 as set forth in the Government Code, must be complied with. In the case of inconsistency the more restrictive of the two shall apply.

## **RULE 3 AGRICULTURAL PRESERVES**

- A. Size of preserve.**
1. An agricultural preserve shall consist of no less than one hundred (100) acres provided that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership.
  2. The County may establish an agricultural preserve of less than one hundred acres 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 Tuolumne County General Plan.
- B. Eligibility criteria for agricultural preserves.** Consistent with the California Land Conservation Act of 1965, land must meet the following criteria to be included within an agricultural preserve.
1. Zoning and General Plan land use designations. Parcels zoned as AE-37:AP, O:AP or O-1:AP and with any other zoning combining district may be included within an agricultural preserve. *Land should be designated Agricultural (AG) or Open Space (O) to be included within an agricultural preserve; however, the Board of Supervisors may allow land designated for other uses within an agricultural preserve subject to review and recommendation by the Agricultural Advisory Committee.* [Resolution 59-08, adopted May 20, 2008]
  2. Minimum parcel size. The minimum size of a parcel for inclusion in an agricultural preserve shall be ten (10) gross acres when the parcel can sustain an agricultural use.
  3. Land use criteria. Only those parcels that are primarily used for commercial agricultural production or open space as respectively established in Rules 8 and 9 of these regulations shall be eligible for inclusion within an agricultural preserve.
- C. Application for preserve.** To establish, alter the boundaries of, or disestablish an agricultural preserve, an application executed by all persons having legal and equitable interests shall be submitted to the Community Development Department on a form prescribed by that Department with the applicable fees established in Chapter 3.40 of the Tuolumne County Ordinance Code.

1. The application for establishment, alteration or disestablishment shall include the following:
  - a. A copy of a recorded map or assessor's parcel map showing the subject real property as a single parcel, a number of separate parcels, or a group of contiguous parcels.
  - b. A legal description and names and addresses of all the owners of legal or equitable interest in the property.
  
2. The application for establishment or enlargement shall also include any one or a combination of the following:
  - a. A viable agricultural production management plan detailing the type and quantity of the agricultural use including but not limited to how the parcel or parcels of land are to be commercially utilized for the production of food or fiber. The management plan should include applicable information regarding methods of production, acreage, improvements, marketing of products, a description and/or map of all appurtenant structures, accessory uses, and equipment and any other information that describes the nature or scope of the commercial agricultural use.
  - b. A wildlife habitat area management plan that may only be approved after consultation with and consideration of the recommendation of the California Department of Fish and Game.
  - c. A submerged area plan identifying the boundaries of the submerged area.
  - d. A master plan for providing recreational facilities for use by the public.
  - e. A scenic corridor management plan in accordance with the specific plan adopted by the county for the scenic route that has been approved by the State Department of Transportation Advisory Committee on a Master Plan for Scenic Highways.
  - f. A plan for open space use pursuant to Rule 9A,

**D. Application for zoning.** An application to establish or enlarge an agricultural preserve shall also be deemed to be an application to rezone the subject property to an Agricultural Preserve (AP) combining district.

**E. Review of application.** An application to create or alter the boundaries of an agricultural preserve and associated zoning or to disestablish an agricultural preserve shall be referred by the Community Development Department to the Agricultural Commissioner who shall review and verify the application information. The Agricultural Commissioner shall then schedule a meeting of the Agricultural Advisory Committee for review of the application and recommendation to the Board of Supervisors. The Agricultural Advisory Committee shall consider the consistency of the application with the provisions of these regulations. If the Agricultural Advisory Committee determines that the agricultural production management plan does not provide for viable agricultural use of the land, the Agricultural Advisory Committee shall review the proposed agricultural use for its potential to generate an annual gross income of \$2,000 per contract. If the Agricultural Advisory Committee determines that the agricultural production management plan provides a basis for generating an annual gross income of \$2,000, it shall recommend approval of the plan to the Board of Supervisors. The recommendation of the Agricultural Advisory Committee shall be submitted to the Board of Supervisors by the Community Development Department along with a recommendation by that Department of the consistency of the application with the Tuolumne County General Plan. The review of any required rezoning shall be processed concurrently with the review of the application to create or alter the boundaries of an

agricultural preserve and in accordance with the provisions of chapter 17.70 of the Tuolumne County Ordinance Code and the California Government Code.

- F. **Action by board.** The Community Development Department shall submit a report to the Clerk of the Board of Supervisors containing the recommendation of the Agricultural Advisory Committee and the recommendation of consistency with the General Plan and the recommendation of the Planning Commission regarding any associated rezoning. Upon receipt of the report, the Clerk of the Board shall schedule the matter for public hearing and give notice as provided in section 17.68.130(D) of the Tuolumne County Ordinance Code and in sections 51232 and 51233 of the Government Code. In addition, notice shall also be given to all owners of the land within the affected agricultural preserve. Such hearing may be continued from time to time. The Board of Supervisors shall render its decision to deny, modify or approve the application for the creation, alteration of boundaries or disestablishment of an agricultural preserve, and the management plan, within 60 days after receipt of the report from the Community Development Department. A decision of approval shall be made by adoption of a resolution.
- G. **Filing with county recorder.** Upon approval of an agricultural preserve by the Board of Supervisors, the Clerk of the Board shall file the resolution under which the preserve was established and a map of the boundaries of the preserve with the county recorder and distribute copies of the filed documents to the landowner, Community Development Department, and Agricultural Commissioner.
- H. **Filing with Director of Conservation.** The Assessor/Recorder shall file a map of all agricultural preserves in the County with the Director of Conservation in accordance with section 51237.5 of the Government Code.

#### **RULE 4 LAND CONSERVATION CONTRACTS**

##### **A. General Provisions.**

- 1. **Qualifications for Land Conservation Contracts.** To qualify for a Land Conservation Contract, land shall be in an agricultural preserve, and be comprised of a single parcel of land, or two or more contiguous or discontiguous parcels in the same preserve when such parcels are under the same ownership or are owned by immediate family members and are managed as a single unit.
  - a. A written agreement between the immediate family members is required to be part of the management plan showing that the single unit management exists.
  - b. The combined parcels must comply with the minimum acreage requirement as applicable for the type of contract, provided that no individual parcel shall be less than ten (10) gross acres in size when the parcel can sustain an agricultural use and must currently be utilized for or proposed to be utilized for commercial agricultural or open space uses as provided in these regulations and the California Land Conservation Act.
  - c. Any proposed utilization for commercial agricultural operations, open space and other qualifying and compatible uses *shall be existing at the time of recommendation for approval by the Agricultural Advisory Committee for a new Williamson Act land conservation contract.* [Resolution 59-08, adopted May 20, 2008]

2. **Minimum Acreage for Land Conservation Contracts.** The required minimum acreage shall be as provided in the following:

| <b>MINIMUM ACREAGE FOR LAND USES</b>  |                        |
|---|------------------------|
| <b>Use</b>  | <b>Minimum Acreage</b> |
| Dry land grazing<br>At least 90% shall be for agricultural production   | 160 acres              |
| Dry land grazing used in combination with a <i>minimum of 16 acres of irrigated pasture</i> . At least 90% shall be for agricultural production.<br><br>Or<br><i>Combination of nonprime agricultural uses, including dryland grazing, minimum of 40 acres on one use</i> . At least 90% of the site shall be in agricultural production. [Resolution 59-08, adopted May 20, 2008]  | 80 acres               |
| All other <i>nonprime agricultural uses; excluding dryland grazing</i> . At least 90% shall be for agricultural production<br><br>Or<br><i>Combination of prime agricultural uses with nonprime agricultural uses; 10 acre minimum for the prime use with the balance other nonprime agricultural uses, including dryland grazing</i> . At least 90% shall be for agricultural production. [Resolution 59-08, adopted May 20, 2008] | 40 acres               |
| Recreational Use;<br>At least 90% shall be subject to the management plan   | 40 acres               |
| Open Space Use;<br>At least 90% shall be subject to the management plan   | 40 acres               |
| <i>Recreational or Open Space Use, combined with prime agricultural use or nonprime agricultural use, excluding dryland grazing; 40 acre minimum for the Recreational or Open Space use</i> . At least 90% shall be subject to the management plan. [Resolution 59-08, adopted May 20, 2008]  | 80 acres               |

All parcels comprising the acreage requirements listed above shall be a minimum size of ten (10) gross acres when the parcel can sustain an agricultural use.

3. **Terms of Contract for Land Conservation Contracts.**

- a. The contract shall be binding upon, and inure to the benefit of all, successors in interest of the property owner in accordance with section 52243 of the Government Code.
- b. The contract shall be for an initial term of ten years or (twenty years for a Farmland Security Zone contract) and on each anniversary date a year shall be added automatically to the initial term unless notice of nonrenewal is given.
- c. All contracts shall have a common anniversary date of the 31st day of December, and a land conservation contract must be executed on or before such date to be in effect for the next succeeding fiscal year.
- d. The contract shall limit the uses of the land to those provided for in these regulations.
- e. The contract shall require the land be managed in accordance with the applicable plan or plans. If a plan amendment is approved as provided for in Rule 4(B)(6), the amended plan shall be deemed automatically incorporated into the contract as though fully set forth therein without the need for a contract amendment.
- f. The contract shall provide for a biennial review for compliance with the terms and conditions of a land conservation contract. In addition, the Agricultural Commissioner may schedule an inspection of the land under contract to verify compliance at any time. Such review shall include the submittal of a report from the contracted property owners to the Agricultural Commissioner. The form, supplied by the Agricultural Commissioner, shall include information that demonstrates compliance with the management plan approved by the Board of Supervisors. Failure to comply with the conditions may be considered a breach of contract and the County may file a notice of nonrenewal of the contract or seek other remedies as authorized by law.
- g. A contract approved based upon an agricultural management plan for generating an annual gross income of \$2,000 per contract, shall require \$2,000 in annual gross income be generated for three of the immediately previous five years from the production of the agricultural commodity as provided in the approved management plan, starting with the initial anniversary as of each anniversary date.

**B. Procedures for a Land Conservation Contract**

- 1. **Application for Land Conservation contract.** To enter into or to modify a land conservation contract, an application executed by all persons having legal and equitable interests shall be submitted to the Community Development Department on a form prescribed by that Department. In addition to the application, applicable fees as established in Chapter 3.40 of the Tuolumne County Ordinance Code shall be submitted to the Department on or before October 1 of the calendar year for the contract to become effective January 1 of the succeeding year. The application shall include the following:
  - a. A copy of a recorded map or assessor's parcel map showing the subject real property as a single parcel or parcels when such parcels are under the same ownership, or are owned by immediate family members, and are managed as a single unit.
  - b. A legal description and the names and addresses of all the owners of legal or equitable interest in the property.
  - c. Any one or a combination of the plans listed in Rule 3(C)(2).



- d. Any additional information the Agricultural Advisory Committee requires to enable it to determine the eligibility of the land involved for a contract.
2. **Application for zoning.** An application to enter into or modify a land conservation contract shall also be deemed to be an application to rezone the subject property to an Agricultural Preserve (AP) combining district.
3. **Review of application.** An application to enter into or modify a land conservation contract shall be referred by the Community Development Department to the Agricultural Commissioner who shall review and verify the application information. The Agricultural Commissioner shall then schedule a meeting of the Agricultural Advisory Committee for review and recommendation to the Board of Supervisors. The Agricultural Advisory Committee shall consider the consistency of the application with these regulations. The recommendation of the Agricultural Advisory Committee shall be submitted to the Board of Supervisors by the Community Development Department. The review of any required rezoning shall be processed concurrently with the review of the application to enter into or modify a land conservation contract in accordance with the provisions of chapter 17.70 of the Tuolumne County Ordinance Code and the California Government Code.
4. **Action on contract application.** The Community Development Department shall submit a report to the Clerk of the Board of Supervisors containing the recommendation of the Agricultural Advisory Committee concerning the contract and recommendation of the Planning Commission regarding any associated rezoning. Upon receipt of the report, the Clerk of the Board shall schedule the matter for public hearing and give notice as provided in Section 17.68.130(D) of the Tuolumne County Ordinance Code and in Sections 51232 and 51233 of the Government Code. Notification shall be made to all landowners within and who border the affected agricultural preserve. The Board of Supervisors shall render its decision to deny, modify or approve the application for entering into or modifying a land conservation contract within 60 days after receipt of the report from the Community Development Department. Upon approval of the application, the Chairman of the Board of Supervisors shall be authorized to sign the contract on behalf of the County. The contract shall incorporate by reference the applicable plan(s) referenced in Rule 3(C)(2) approved by the Board in its consideration of the application. No contract shall be approved or modified unless the zoning of the affected land is in accordance with that referenced in Rule 3(B)(1) or such zoning has been approved concurrently with the approval or modification of a contract.
5. **Recordation of contract.** Within 20 days of approval of the contract by the Board of Supervisors, the Clerk of the Board shall record the contract, which shall describe the land subject thereto, along with a reference to the map showing the location of the agricultural preserve in which the property lies, with the County Recorder and distribute copies of the recorded contract to the landowner, County Assessor/Recorder, Community Development Department and Agricultural Commissioner.
6. **Amending a Management Plan.** Any changes that alter the original land use or land configuration of the approved management plan for which the Board of Supervisors approved the contract shall adhere to the procedure in Rules 3(C), 3(D) and 3(F).

## **RULE 5      TERMINATION OF LAND CONSERVATION CONTRACTS**

- A. **Nonrenewal of Land Conservation contract.** On each anniversary date of a land conservation contract, a year shall be added automatically to the initial term unless notice of nonrenewal is given in accordance with the California Land Conservation Act for all or a portion of the property subject to the contract. When notice is provided within the time periods specified in the Land Conservation Act, the contract shall expire nine (9) years from the renewal date. When notice is provided outside the time periods, the contract shall expire ten (10) years from the renewal date. Upon recordation of the notice of nonrenewal, the valuation formula under the Revenue and Taxation Code changes for

property tax assessment purposes. The land use restrictions, however, remain the same until the contract expires. The County prior to the expiration date of the contract shall not receive applications for converting the use of the land to uses that do not comply with the restrictions of the contract. *A notice of nonrenewal filed by the County or a property owner with respect to land subject to an existing contract, or a contract entered into pursuant to these Regulations, may be withdrawn only upon the consent of the County and the issuance of a new contract in accordance with these Regulations and any additional conditions required by the County. Any request for withdrawal of a notice of nonrenewal shall include an application for a new contract that complies with these regulations.* [Resolution 62-05 adopted May 17, 2005]

- B. Rescission of Land Conservation contract.** In accordance with the Land Conservation Act, the landowner and the County may upon their mutual agreement rescind a contract in order to simultaneously enter into any of the following: (1) a new land conservation contract; (2) a farmland security zone contract; or (3) to facilitate a lot line adjustment, in accordance with Government Code Sections 51254 or 51257.
- C. Cancellation of Land Conservation contract.** In accordance with the Land Conservation Act, a landowner may petition the County for a cancellation of a contract to terminate the contract on all or a portion of the property. The Board of Supervisors may only approve cancellation of the contract under extraordinary circumstances as provided in Section 51282 of the Government Code.
1. To cancel a land conservation contract, a petition signed by all parties having a legal or equitable interest in the property shall be submitted to the Community Development Department on a form prescribed by that Department with the applicable fees established in Chapter 3.40 of the Tuolumne County Ordinance Code.
  2. A petition for cancellation shall be referred by the Community Development Department to the Agricultural Advisory Committee for review and recommendation to the Board of Supervisors and to the County Assessor for determination of the cancellation valuation of the subject property.
  3. The Community Development Department shall submit a report to the Clerk of the Board of Supervisors containing the recommendation of the Agricultural Advisory Committee concerning the cancellation of the contract and the certified statement from the Assessor concerning the cancellation valuation of the land. Upon receipt of the report, the Clerk of the Board shall schedule the matter for public hearing and give notice as provided in Section 17.68.130(D) of the Tuolumne County Ordinance Code and in Section 51284 of the Government Code. The Board of Supervisors shall render its decision to deny, approve or conditionally approve the petition for cancellation in accordance with the Land Conservation Act.
  4. Upon approval of a requested cancellation and recordation of a certificate of cancellation of contract, the valuation formula under the Revenue and Taxation Code changes for property tax assessment purposes and the land will be taxed at its current fair market value.
  5. Cancellation of a land conservation contract is subject to the payment of a cancellation fee equal to 12.5 percent of the cancellation valuation of the property as determined by the County Assessor based upon the current fair market value of the land as though it were free of the contractual restrictions in accordance with Section 51283 of the Government Code.

**RULE 6 FARMLAND SECURITY ZONE CONTRACT**

The County shall offer Farmland Security Zone contracts for land that qualifies for such contracts and for inclusion in a Farmland Security Zone in accordance with Section 51296 of the Government Code when a landowner specifically requests inclusion in such zone and contract. The contract shall be for an initial term of twenty years and all rules and restrictions shall be the same as for Land Conservation contracts. On each anniversary date, a year shall be added automatically to the initial term unless the contract is terminated as provided in Rule 5.

## **RULE 7 LAND USES**

**A.** Use of land within an agricultural preserve or under a Williamson Act contract shall be in accordance with the uses provided in these regulations except where there is a conflict between these regulations and the Tuolumne County Uniform Zoning Ordinance. Where there is such conflict, the more restrictive of the regulations shall prevail.

**B.** The lawful use of land or buildings existing on the effective date of these regulations, although such use does not conform to these regulations, may be continued, provided that no such use or building shall be enlarged or increased, nor be extended to occupy a greater area than occupied by such use on the effective date of these regulations and further provided that if such uses ceases for a period of eighteen months, the use shall be deemed abandoned and the subsequent uses of the land or building shall be in conformance with these regulations. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. A nonconforming structure may be maintained and repaired as needed to keep it in sound condition and may be restored or reconstructed if damaged or destroyed by fire, flood, explosion, wind, earthquake, or other calamity not created or caused by the landowner. Nothing contained in these regulations shall require any change in overall layout, plans, construction, size, or designated use of any development, structure or part thereof, for which official approvals or required construction permits have been granted before enactment of these regulations.

## **RULE 8 COMMERCIAL AGRICULTURAL USE**

**A. Qualifying uses for Commercial Agriculture.** Except as otherwise provided in these regulations, the following agricultural uses are acceptable and qualify land for inclusion in agricultural preserves or in land conservation contracts established for commercial agricultural purposes:

Agricultural uses include general ranching and farming, any customary agricultural building and structures, necessary equipment for the maintenance and support of and for the following uses: livestock pastures and ranges; poultry practices; aquaculture facilities; animal husbandry, including fur-bearing species; operation of apiaries, tree, vine, row and field crops; ornamental and agricultural nursery stock; commercial timber or Christmas trees; recreational use; fallow agricultural lands; production, processing, packing, selling and/or shipping of agricultural products grown or raised on the premises, except those listed as Compatible or Conditional Uses.

The following uses may be permitted within the definition of compatible uses, if consistent with Section 51238.1 of the Government Code and the use shall not significantly impair the qualifying commercial agricultural use of the parcel(s).

**B. Compatible uses for Commercial Agriculture.** The following compatible uses, and those which in the opinion of the Board of Supervisors, after recommendation of the Agricultural Advisory Committee, may be substantially similar in nature thereto and which enhance or expand the qualifying use with little or no impact on the agricultural or open space characteristics and are otherwise in compliance with the principles of compatibility as set forth in Section 51238.1 of the California Government Code shall be permitted for land in an agricultural preserve or under a land conservation contract, on which there is already a qualifying use, unless otherwise provided in these regulations:

1. Processing of agricultural products not primarily grown on the property subject to recommendation by the Agricultural Advisory Committee and approval by the Board of Supervisors.
2. Airstrips for agricultural purposes only.
3. Product sales facilities for sale of produce primarily raised on the property.
4. Animal rearing and training facilities.
5. Farm labor and management housing shall be subject to recommendation by the Agricultural Advisory Committee and approval by the Board of Supervisors.
6. The erection, construction, alteration, or maintenance of gas, water, sewer, electrical, or communications facilities.
7. Home occupations as defined in Title 17 of the Tuolumne County Ordinance Code, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which use does not change the character thereof.
8. Temporary film sets for not more than ninety days in a calendar year and not more than ninety consecutive days for any film production.
9. Accessory uses and structures appurtenant and necessary to the operation of the compatible use subject to recommendation by the Agricultural Advisory Committee and approval by the Board of Supervisors.
10. Storage of petroleum products for use in conjunction with the commercial agricultural use on the premises.
11. One single-family dwelling per parcel when the parcel meets the minimum acreage specified in Rule 4(A)(2). Where all parcels under the same contract fail to meet the minimum acreage requirement, one single-family dwelling may be erected on any one of the parcels under that contract.
12. Recreational uses without buildings including but not limited to walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or horseback riding, or other outdoor games or sports subject to recommendation by the Agricultural Advisory Committee and approval by the Board of Supervisors. All recreational uses shall be provided for public participation without charge or with a reasonable charge that does not unduly limit use by the public as defined in Government code 51201(n).
13. Open space.
14. The development of mineral resources up to 1000 cubic yards per one acre, including borrow pits and quarries with associated buildings, apparatus and appurtenances thereto, for noncommercial purposes related to an agricultural use.

**C. Conditional uses for Commercial Agriculture.** The following uses may be permitted within the definition of compatible uses, if consistent with Section 51238.1 of the Government Code and the use shall not significantly impair the primary qualifying commercial agricultural use of the parcel(s), subject to first securing a use permit as provided in Subdivision D.

1. Livestock auction and sales yards.
2. Raising of livestock in feed lots.

3. Livestock slaughter houses and rendering plants.
4. The development of mineral resources for commercial purposes and the removal of overburden in total amounts of one thousand cubic yards or more in any one location of one acre, including borrow pits and quarries associated buildings, apparatus and appurtenances thereto.
5. Recreation with buildings compatible to commercial agricultural use as defined in Government Code Section 51201(n) and the structures must be in compliance with Government Code Section 51238.1.
6. Commercial events such as lawn parties, weddings or similar outdoor activities may be allowed, but the use cannot be detrimental to surrounding agricultural operations or primary agricultural use on the property.
7. Wine marketing facilities for processing grapes or other fruits not grown primarily on the same parcel, as the winery is located.
8. Roadside stands for products not grown primarily on the parcel.
9. Film sets for more than ninety consecutive days in a calendar year.
10. Agricultural support services provided that such services shall be no greater in operational size than that necessary to accommodate existing local agricultural needs, shall remain accessory to agricultural uses in the area and shall be operated in a manner not substantially detrimental to existing nonagricultural development in the vicinity;
11. Accessory uses and structures appurtenant to the conditional uses.
12. Animal hospitals, veterinary clinics, kennels, and animal boarding which is incidental to the agricultural use.
13. One additional single-family dwelling or one guesthouse, per contract when all parcels meet the minimum acreage requirement as specified in Rule 4(A)(2) provided that in no case shall the acreage be less than 160 acres.
14. Any use determined not to be compatible under Rule 8(B).

**D. Conditional use permit review for Commercial Agriculture.** An application for a conditional use permit shall be referred by the Community Development Department to the Agricultural Commissioner who shall review and verify the application information. The Agricultural Commissioner shall then schedule a meeting of the Agricultural Advisory Committee for review and recommendation to the Board of Supervisors. The Agricultural Advisory Committee shall consider the consistency of the application with these regulations. The recommendation of the Agricultural Advisory Committee shall be submitted to the Board of Supervisors by the Community Development Department.

**E. Indemnification.** When the owner of land in an agricultural preserve or under a land conservation contract agrees to allow the land to be used for free public recreation, the Board of Supervisors may agree to indemnify such owner against all claims arising from such public use. The owner's agreement that the land be used for free public recreation shall not be construed as an implied dedication for such use.

## **RULE 9 OPEN SPACE USE**

**A. Qualifying Criteria for Open Space Use** Land devoted to open space uses pursuant to the provisions of Section 51205 of the Government Code, and which has statewide significance as defined in Title 14 CCR section 14112 (C) may be acceptable and qualify land for inclusion in

agricultural preserves or in land conservation contracts established for open space purposes. The Agricultural Advisory Committee shall consider the consistency of the application with these regulations. The recommendation of the Agricultural Advisory Committee shall be submitted to the Board of Supervisors by the Community Development Department.

Pursuant to Section 14112 (C) of the Open Space Subvention Act, land shall be deemed to be devoted to open space use of statewide significance within the meaning of this Rule and Section 16143 of the Government Code if it meets at least one of the following criteria:

1. Areas of outstanding scientific, scenic or recreational value.
2. Areas that are required habitat for significant fish or wildlife resources.
3. Forest and agricultural lands that are judged to be of major importance in meeting future needs for food, fiber, and timber.
4. Areas that are required to provide needed access to lakeshores, and riverbanks.
5. Areas of major historic or cultural interest.

**B. Use and management of land for Open Space Use.** Within preserves and under land conservation contracts established for open space purposes, land shall be used for the purposes specified in and managed in accordance with a wildlife habitat area improvement, recreation management plan, submerged area plan, or scenic corridor management plan approved by the Board of Supervisors in accordance with Rule 4(B)(4).

#### **RULE 10 DIVISION OF LAND**

**A. Division of land.** There shall be no division of land within an agricultural preserve or subject to a land conservation contract that will defeat the intent of the Williamson Act to preserve land in agriculture, open space or recreational use. Divisions of land within an agricultural preserve or under contract shall be allowed only when all of the following conditions are fulfilled:

1. The proposed division will not impair the production of food, fiber, livestock or wildlife habitat.
2. Each parcel created by the division shall conform to minimum acreage under Rule 10(B).
3. The division conforms to the Tuolumne County General Plan, state laws and county ordinance code.

**B. Minimum parcel size.** No real property within any agricultural preserve or subject to a land conservation contract shall be divided where any parcel will be less than the following minimum acreage provided for each use: Lands can only be divided in accordance with their management plans. *At least 90% of the parcel must be in agricultural production.* [Resolution 59-08, adopted May 20, 2008]

1. Commercial agricultural uses:
  - a. Dry land grazing 160 acres
  - b. *Dryland grazing with a minimum of 16 acres of irrigated pasture Or a combination of nonprime agricultural uses, including dryland grazing, with a minimum of 40 acres on one type of use.* [Resolution 59-08, adopted May 20, 2008] 80 acres
  - c. *All other nonprime agricultural uses, excluding dryland grazing Or a combination of prime agricultural uses with nonprime Agricultural uses, including dryland grazing,; minimum of*

- 10 acres for the prime agricultural use with the balance  
nonprime agricultural use.* 40 acres  
[Resolution 59-08, adopted May 20, 2008]
2. All open space uses 40 acres
  3. All recreational uses 40 acres
  4. *Recreational or Open Space Use, combined with prime agricultural use or nonprime agricultural use, excluding dryland grazing; 40 acre minimum for the Recreational or Open Space use.* 80 acres  
[Resolution 59-08, adopted May 20, 2008]
  5. Agricultural labor housing as described in Section 51230.2 of the California Government Code. less than or equal to 5 acres

**C. Transfer of ownership to family member.** Notwithstanding Rule 10(B), land shall be permitted to be divided into parcels that do not meet the minimum parcel sizes provided in this Rule only when such division is for the purpose of transferring ownership from one immediate family member to another in accordance with Section 51230.1 of the California Government Code. If the title to one or more of the parcels so created is transferred to a person who is not an immediate family member, a notice of nonrenewal shall be filed for all portions of the land subject to the existing contract. An exception for agricultural labor housing shall comply with the provisions of the California Government Code Section 51230.2. No residential buildings shall be erected on parcels that fail to meet the standards for minimum acreage specified in Rule 4(A)(2).

**D. Procedures.** Applications for division of land within an agricultural preserve or subject to a land conservation contract shall be processed in the manner prescribed in Title 16 of the Tuolumne County Ordinance Code, except that all such applications shall be referred only to the Agricultural Advisory Committee for review and recommendation to the Board of Supervisors in the manner prescribed in Rule 3(E). A new contract shall be required since the division has changed the pre-existing parcel boundaries, and the contract description.

**E. Existing contracts.** *This Rule shall apply to land subject to an existing land conservation contract as well as a contract entered into pursuant to these regulations.* [Resolution 62-05 adopted May 17, 2005]

## **RULE 11 RECONFIGURATION OF LAND**

**A. Minimum parcel size.** Parcels resulting from the reconfiguration of real property within any agricultural preserve or subject to an existing land conservation contract shall comply with the following:

1. Except as provided for in this Rule, no parcel resulting from a reconfiguration (lot line adjustment or resubdivision), as defined in Title 16 of the Tuolumne County Ordinance Code, shall be less than the minimum acreage specified in Rule 10(B) based upon the use of the property.
2. Parcels resulting from the merger of two or more parcels shall not be subject to any minimum acreage requirements.

**B. Reconfiguration of parcels not subject to land conservation contracts through merger, lot line adjustment, or resubdivision.** An application shall be submitted to the Community Development Department in accordance with the Rule 3(C) to alter the boundaries of the agricultural preserve to correspond to the reconfigured parcel boundaries and to rezone the subject property in accordance with Rule 3(D) and Title 17 of the Tuolumne County Ordinance Code as a condition of approval of the reconfiguration.

1. The boundaries of parcels located within an agricultural preserve may be reconfigured with other parcels within the same or different preserves in accordance with and in the manner prescribed by Title 16 of the Tuolumne County Ordinance Code.
2. The boundaries of parcels located in an agricultural preserve may be reconfigured with parcels that are not in a preserve provided there is no net decrease in the amount of the acreage in the preserve and the acreage to be adjusted is similar in characteristics in order to comply with the qualification requirements of the affected agricultural preserve.

**C. Reconfiguration of parcels subject to land conservation contracts.**

1. The boundaries of parcels subject to land conservation contracts may be reconfigured through lot line adjustments or resubdivisions with the boundaries of parcels: (1) subject to the same contract; (2) subject to a different contract; or (3) not subject to a contract provided the existing contract or contracts are rescinded and new contracts are executed in accordance with Section 51257 of the California Government Code as a condition of approval of the parcel reconfiguration. To approve an application for rescission of contracts and entering into new contracts to facilitate a reconfiguration, the Board of Supervisors shall make all of the findings required under Section 51257 of the California Government Code. Applications for reconfiguration of parcels shall be referred to the Agricultural Advisory Committee for review and recommendation to the Board of Supervisors.
2. Parcels subject to land conservation contracts may be merged with parcels: (1) subject to the same contract; (2) subject to a different contract; or (3) not subject to a contract without modifying the existing contract(s) in accordance with and in the manner prescribed by Title 16 of the Tuolumne County Ordinance Code.

**D. Smaller parcel sizes.**

1. A reconfiguration, other than a merger that results in any parcel smaller than the minimum acreage specified in Rule 10(B) for the then current use as provided for in the approved management plan, may not be approved until an amended management plan is approved as provided for in Rule 4(B)(6).
2. A reconfiguration, other than a merger, may result in a parcel smaller than the minimum acreage specified in Rule 10(B) for the current use, without an amended management plan, if the reconfiguration does not decrease the size of the parcel existing before the reconfiguration.

**E. Existing contracts.** *This Rule shall apply to land subject to an existing land conservation contract as well as a contract entered into pursuant to these regulations.* [Resolution 62-05 adopted May 17, 2005]

**RULE 12 AGRICULTURAL ADVISORY COMMITTEE**

**A. Membership.** The Board of Supervisors shall appoint an Agricultural Advisory Committee, the members of which shall serve at the pleasure of the Board. The Committee shall be comprised of five residents of Tuolumne County as follows: one planning commission member, one member representing the Tuolumne County Farm Bureau, one member representing the Tuolumne County Cattlemen's Association, one Open Space representative from a recognized conservation group and one representative who demonstrates interest with resource conservation issues or one member of the public who demonstrates an interest in agricultural production. With the exception of the member representing one of the Tuolumne County Planning Commissions, all committee members must *have familiarity with the Williamson Act land conservation program*. The open space



representative must be *familiar with Rule 9 and the Open Space provisions of the Williamson Act Program*. The Board of Supervisors shall review the Committee composition three years initially, then every four years hereafter. [Resolution 59-08, adopted May 20, 2008]

**B. Terms of office.** The representatives from the Tuolumne County Farm Bureau and the member who demonstrates interest with resource conservation issues or one member of the public who demonstrates an interest in agricultural production shall serve an initial term of two years, and the representatives from the Tuolumne County Cattlemen's Association and the Open Space representative from a recognized conservation group shall serve an initial term of four years. After the initial terms of the Committee, members shall serve four-year terms with the exception of the one planning commission member. The Board of Supervisors will appoint each year the one planning commission member from applicants from any planning commission within the unincorporated areas of the county. The open space representative *must be familiar with Rule 9 and the Open Space provisions of the Williamson Act program*. The representatives of the Tuolumne County Farm Bureau and the Tuolumne County Cattlemen's Association shall be nominated by their associations for appointment by the Board of Supervisors. The Committee shall select a chairman each year. Members shall serve until qualification of a successor. [Resolution 59-08, adopted May 20, 2008]

**C. Duties.** The Agricultural Advisory Committee shall be responsible for reviewing and recommending action to the Board of Supervisors concerning the consistency and compliance with the provisions of this resolution, contracts, the California Land Conservation Act, and the General Plan Agricultural Resources Element of applications or pre-applications submitted to the Community Development Department or Public Works Department.

1. Applications for the creation, disestablishment or alteration to the boundaries of agricultural preserves; entering into, modifying, or canceling a land conservation contract; division of land in an agricultural preserve; discretionary entitlements from the County for land in an agricultural preserve or on land outside of an agricultural preserve as required by the Tuolumne County General Plan Agricultural Resource Element; and the proposed conversion of any land designated as Agricultural by the General Plan.

2. The Committee may submit comments to the Board of Supervisors on proposed legislation concerning changes to the California Land Conservation Act and may initiate amendments to the provisions contained in this resolution and in the general plan agricultural resources element.

3. The Committee may also review and comment to the Board of Supervisors, Agricultural Commissioner, Community Development Director, or Public Works Director concerning issues related to the preservation of land as provided in the California Land Conservation Act. The Agricultural Advisory Committee shall review and make recommendations on enforcement actions as described in Rule 13(A).

**D. Secretary to Committee.** The Agricultural Commissioner shall serve as the Secretary to the Agricultural Advisory Committee. The Secretary shall serve as an advisor to the Committee in the performance of its duties. The Secretary shall also publish agendas, keep a record of the meetings of the Committee, and provide other services as necessary to the Committee.

**E. Vacancies and removal.**

1. Vacancies on the Committee shall be filled as set forth in this Rule for the unexpired term. A vacancy on the Committee shall occur automatically on the happening of any of the following events before the expiration of the term:

a. Removal of the incumbent;

b. Death or resignation of the incumbent;

c. Ceasing to hold any eligibility requirement for appointment; or

- d. Absence from three consecutive regular meetings or his/her absence from four regular meetings in any one calendar year.
2. The Secretary of the Committee shall certify the happenings of any vacating event to the Board of Supervisors. The Board may waive a vacating event under Subsection c or d for any member by majority vote.

**G. Officers and rules.**

1. Annually the Committee shall elect a Chairman and a Vice-Chairman from among its members.
2. The committee shall hold meetings on a regularly scheduled basis as established by the committee.
3. The Committee shall keep a public record of its proceedings.
4. A majority of the authorized positions of the Committee constitutes a quorum for the transaction of its business. No act of the Committee shall be valid or binding unless a majority of the filled positions concur therein, except as otherwise required by state law.

**RULE 13 ENFORCEMENT**

- A. Enforcement responsibility.** The Agricultural Commissioner shall enforce the provisions of these regulations and shall determine the existence of any violations of the management plan as approved by the Board of Supervisors. The Agricultural Commissioner will bring his/her findings to the Agricultural Advisory Committee for review. The Board of Supervisors shall consider the recommendations of the Agricultural Advisory Committee in determining its enforcement action.
- B. Violation; enforcement.** A violation of these regulations shall be enforced as provided for in this Rule and as provided for in the California Land Conservation Act.
- C. Notice of Nonrenewal.** In addition to other remedies provided for by law, a notice of nonrenewal of a land conservation or farmland security zone contract may be filed by the Board of Supervisors for land determined to be out of compliance with these regulations as determined by the Board of Supervisors after consideration of the recommendation of the Agricultural Advisory Committee in accordance with this Rule.
- D. Additional remedies.** The remedies provided for in this Rule are cumulative and in addition to any other remedies otherwise provided for by law.