

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA
Certified copy of portion of proceedings, Meeting of December 13, 2016

RESOLUTION NO. 16-144

RESOLUTION ADOPTING REVISED GUIDELINES FOR AGRICULTURAL PRESERVES;
MODIFYING RESOLUTION NO. 05-58

WHEREAS, the Williamson Act Advisory Committee has recommended changes in the County's guidelines for agricultural preserves in Humboldt County;

NOW, THEREFORE, BE IT RESOLVED that County's Williamson Act Guidelines are modified and amended as follows:

GUIDELINES FOR ESTABLISHMENT
OF AGRICULTURAL PRESERVES IN THE
COUNTY OF HUMBOLDT

EVALUATION AND QUALIFICATIONS

SECTION 1. CLASSES OF PRESERVES. Notwithstanding any provisions of the Williamson Act for purposes of evaluation and qualification, the following Agricultural Preserve Classifications shall apply:

A. Class A Prime Land Preserve and Contract. In order to qualify for a Class A preserve and contract, land shall comply with the following requirements:

(1) Minimum Preserve Area. The preserve area shall contain not less than 100 contiguous acres of land, and no individual lot or parcel of land therein shall be less than 20 contiguous acres.

(2) Zone Classification. An ordinance placing all land not zoned TPZ (Timberland Production Zone) within the agricultural preserve in the A-E (Agricultural Exclusive) zoning district must be adopted by the Board of Supervisors either prior to formation of the preserve or prior to the execution of the contract. During the term of the contract, all rights of division are subservient to the enforceable restriction secured by the Land Conservation Contract and Section 8 of these Guidelines.

(3) Prime Agricultural Land. The land within the preserve shall be prime agricultural land and shall qualify therefore pursuant to any of the following categories:

(a) Land which qualifies for rating as Class I or II in the Natural Resources Conservation Service (NRCS) land use capability classification; or

(b) Land which qualifies for rating 80 through 100 in the Storie Index Rating; or

(c) Land which qualifies as supporting livestock used for production of food and fiber which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture; or

(d) Land which qualifies as planted with fruit or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than \$200.00 per acre; or

(e) Land which qualifies as having returned from the production of unprocessed agricultural plant products an annual gross value of not less than \$200 per acre for three of the previous five years.

B. Class B Grazing Land Preserve and Contract. In order to qualify for a Class B preserve and contract, land shall comply with the following requirements:

(1) Minimum Preserve Area. The preserve area shall contain not less than 600 acres of land, and no individual lot or parcel of land shall be less than 160 contiguous acres.

(2) Zone Classification. An ordinance placing all land not zoned TPZ (Timberland Production Zone) within the agricultural preserve in the A-E (Agriculture Exclusive) zoning district with a combining zone establishing a 160 acre minimum parcel size (AE-B-5(160)) must be adopted by the Board of Supervisors either prior to formation of the preserve or prior to the execution of the contract. During the term of the contract, all rights of division are subservient to the enforceable restriction secured by the Land Conservation Contract and Section 8 of these Guidelines.

(3) Non-Prime Agricultural Land. Land within the preserve shall be non-prime agricultural land of statewide or local significance. (See Section 1.F(5) of these Guidelines).

C. Class C Cropland Preserve and Contract. In order to qualify for a Class C preserve and contract, land shall comply with the following requirements:

(1) Minimum Preserve Area. The preserve area should contain not less than 100 acres of cropland (i.e., tillable soil) and no individual lot or parcel of land therein should be less than 20 contiguous acres. The Planning Commission and Board of Supervisors must find that:

(a) The land is shown in an “agricultural” designation on the Humboldt County General Plan and is zoned for agricultural use.

(b) The proposed zoning and contract would prohibit any parcel divisions.

(2) Zone Classification. An ordinance placing all land not zoned TPZ (Timberland Production Zone) within the cropland preserve in an agricultural zone with minimum parcel sizes as determined by the Planning Commission and Board of Supervisors must be adopted either prior to formation of the preserve or prior to the execution of the contract. During the term of the contract, all rights of division are subservient to the enforceable restriction secured by the Land Conservation Contract and Section 8 of these Guidelines.

(3) Prime or Non-Prime Agricultural land. Land within the cropland preserve shall consist of prime land or tillable non-prime land of statewide or local significance (see General Provisions, Section 1.F(5)), or a combination of prime or tillable non-prime lands).

D. Class D Unique Farmland and Dairy Agricultural Preserve and Contract. A Class D preserve and contract provides for prime agricultural land or non-prime agricultural land of statewide or local significance (see General Provisions, Section 1.F(5)), in parcel sizes and topographic areas unique to Humboldt County agriculture, to qualify for a preserve and contract. The purpose of the Class D Preserve is to preserve smaller units of land currently in agricultural production which do not qualify for inclusion in the Class A, B or C Preserve categories. In order to qualify for a Class D preserve and contract, land shall comply with the following requirements:

(1) Minimum Preserve Area. The preserve area shall contain not less than 10 acres of prime agricultural land or not less than 40 acres of tillable non-prime land of statewide or local significance. No individual lot or parcel of land therein shall be less than 10 acres of prime agricultural land or less than 40 acres of non-prime agricultural land of statewide or local significance. Individual parcels must have been in existence for a minimum of ten (10) years prior to application for a land conservation contract.

(2) Prime Agricultural Land. The land within the preserve shall be prime agricultural land as defined in Section 51201(c) of the Government Code and Section 1A(3) of these Guidelines.

(3) Non-Prime Agricultural Land of statewide or local significance which consists of tillable soils. (See General Provisions, Sections 1.F(5) and 1F(6)).

(4) The Planning Commission and Board of Supervisors must find that:

(a) The land is shown in an “agricultural” designation on the Humboldt County General Plan and is zoned for agricultural use.

(b) The income standard in Section 1F(7) would be met for each “ownership” unit (i.e., one or more parcels under the same ownership, or individual parcels under separate ownership) as it exists at time of entry into the Preserve and Contract.

(c) The proposed zoning and contract would prohibit any parcel divisions.

(d) Residential development rights beyond one single family residence for each ownership unit in the preserve would be conveyed to the County for the life of the Contract.

(e) Not more than twenty five percent (25%) of the land area within the preserve is zoned Timberland Production Zone (TPZ).

(5) An ordinance placing all land not zoned TPZ (Timberland Production Zone) within the Class D preserve in an agricultural zone with minimum parcel sizes as determined by the Planning Commission and Board of Supervisors must be adopted either prior to formation of the preserve or prior to execution of the contract. During the term of the contract, all rights of division are subservient to the enforceable restriction secured by the Land Conservation Contract and Section 8 of these Guidelines.

E. Exceptions. Minor modifications to minimum preserve areas and individual lots or parcels of land meeting all of the foregoing (Class A, B, C, or D) may be recommended by the Planning Commission and considered for approval by the Board of Supervisors.

F. General Provisions.

(1) Additions to lands under an agricultural preserve may be allowed if ownership of land to be added is vested in the owner of the land within the preserve, and the parcel meets the minimum size requirements of the zone or a lot merger is accomplished.

(2) Lot line adjustments, trades, and purchases between one agricultural preserve and another are allowed subject to modification of contracts, provided that resulting parcels meet minimum size requirements and the adjustment, trade, or purchase complies with all applicable provisions of the Williamson Act (Government Code Section 51200 et seq.). Lot line adjustments, as permitted by Section 66412(d) of the Government Code, shall be subject to the provisions of Government Code Section 51257, including the specific findings for lands under contract within an agricultural preserve.

(3) Lands within a Class C or D preserve may not be divided or subdivided during the term of the contract. All rights of division, including any existing legal patents, within a Class A, B, C or D preserve are subservient to the enforceable restriction secured by the Land Conservation Contract and Section 8 of these Guidelines.

(4) Lands under contract within an agricultural preserve shall be used for the producing of agricultural commodities for commercial purposes and uses compatible with agriculture. The majority of the land area of any property under contract must be devoted to agricultural pursuits consistent with the purpose of the preserve in which the property is located. For the purposes of meeting the requirements of Section 1F(7), only income from the agricultural use that occupies the majority of the land area within the preserve shall be acceptable.

Any owner of property under contract within a Class B grazing preserve, who does not use the majority of the land for grazing, but proposes to remain under contract based on the production of agricultural commodities for commercial purposes, must apply for a new contract for a Class A or C preserve. The Board of Supervisors may require a written management plan and periodic review of the agricultural operation's compliance with the management plan and these Guidelines.

Failure to maintain lands in commercial agricultural production shall be grounds for the County to consider initiating enforcement action pursuant to Section 16 of these Guidelines. The Board of Supervisors upon the recommendation of the Assessor may extend or relax this standard for good cause, including retirement (i.e., person is eligible for retirement benefits as determined by the Social Security Administration) or the sudden or unexpected death or illness of the owner. The exemption request shall be made to the Assessor on forms provided

by that Department. Exemptions shall be granted for a term not to exceed five (5) years and may be renewed.

(5) “Non-prime agricultural lands of state or local significance” as used in these Guidelines shall mean lands, including grazing lands, which are not prime agricultural land as defined in Section 51201(c) of the Government Code, that are designated for agricultural use in the General Plan, and which are in agricultural use, have present or future potential for significant agricultural production, or provide for compatible open space uses consistent with the purposes of the Williamson Act.

(6) “Tillable Soils” as used in these Guidelines shall mean lands with average slopes of less than nine percent (9%) containing soils which have been demonstrated as suitable for cultivation using practices customary to Humboldt County agriculture.

(7) In order to qualify for a Williamson Act preserve and contract, substantial evidence shall be presented to show that:

(a) the parcels in question have provided a gross annual income from the agricultural use that occupies the majority of the land area within the preserve, for three of the past five years of \$12,000 per ownership unit. Applicants will be responsible to submit proof of gross income meeting the standard. Income from agricultural operations that are not the primary agricultural operation of the majority of the land area shall not be used for the purposes of meeting this income threshold. Acceptable proof can consist of a letter by a Certified Public Accountant, the Cooperative Extension (Farm Advisor), or the Humboldt County Agricultural Commissioner stating that the land in question meets the income requirements; and

(b) that the parcels in question are used for, and devoted to, agricultural pursuits and are capable of producing agricultural commodities for commercial purposes in accordance with these Guidelines, taking into consideration the following evaluative criteria, as applicable:

- i. Prior, long-term use of the property for commercial agricultural production under the same or different ownership;
- ii. Agricultural use of the land in relation to land capabilities (e.g., animal unit carrying capacity or soil capability rating);
- iii. Investments made by the past or present operator in farm/ranch infrastructure resulting in substantial increase in productivity;

- iv. Site evaluation by the Agricultural Commissioner's Office;
and
- v. Other relevant information as submitted by the applicant (e.g. acres under irrigation).

PROCEDURES

SECTION 2. APPLICATION. Applications for establishment of agricultural preserves shall be filed with Humboldt County Community Development Services on application forms provided by that department. The Community Development Services Department shall request the assistance of the Humboldt County Agricultural Commissioner to determine the suitability of the property for the application.

SECTION 3. FEES. Each application shall be accompanied by a filing fee as set forth in the County's Fee Ordinance adopting a Schedule of Fees and Charges to cover the costs of processing the application, and such fee shall not be refundable whether the application is approved or denied.

SECTION 4. ZONING. In the event the land described in the application is not zoned A-E (Agriculture Exclusive), the Community Development Services shall first determine whether the preserve and contract fall under a Class A, B, C, or D category. Applicants shall make application for an A-E (Agriculture Exclusive) Zone for a Class A preserve or an application for a A-E-B-5 (Agriculture Exclusive) (160-Acre Minimum) Zone for a Class B preserve, or an application for an Agricultural Zone with a minimum parcel size as recommended by the Planning Commission and adopted by the Board of Supervisors for a Class C or D preserve, including filing fees in addition to the fees specified in Section 3. During the term of the contract, all rights of division are subservient to the enforceable restriction secured by the land conservation contract and Section 8 of these Guidelines.

SECTION 5. AGRICULTURAL ADVISORY COMMITTEE REVIEW.

A. Committee Membership. The Board of Supervisors may form a Williamson Act Agricultural Advisory Committee to advise the Board on matters pertinent to the Williamson Act Program and other agricultural issues affecting the County in the manner as provided for in Resolution 03-58.

B. Role of Agricultural Advisory Committee. The Williamson Act Agricultural Advisory Committee shall, at a minimum, review applications for establishment of new agricultural preserves; additions to existing preserves; lot line adjustments or subdivisions within preserves (where permitted by these Guidelines); non-renewal involving less than the entire preserve area; and the initiation of non-renewal of an existing contract by the County (pursuant to Section 16.C of these Guidelines). The Planning Division of Community Development Services shall make referrals to the Committee and shall forward the Committee's recommendations to the Planning Commission and Board of Supervisors for consideration. The Advisory Committee may

also make recommendations to the Board of Supervisors regarding amendments to these Guidelines.

SECTION 6. PLANNING COMMISSION REVIEW. Upon completion of the above, the Planning Commission shall review the agricultural preserve and/or zone reclassification applications, including the recommendation of the Agricultural Advisory Committee (if formed), and submit a report thereon to the Board of Supervisors within sixty (60) days. The applications shall be considered at a public hearing noticed as required by law.

SECTION 7 BOARD OF SUPERVISOR'S REVIEW. The Board of Supervisors shall review the agricultural preserve and/or zone reclassification applications and the reports thereon in the manner required by law.

SECTION 8. LAND CONSERVATION CONTRACT.

A. Contract Availability. Any owner of land within an agricultural preserve may request to enter into a land conservation contract with the County. The request shall be submitted by the landowner to the Community Development Services Department. The Department shall cause a contract consistent with the Williamson Act and these Guidelines to be drafted and refer the request and contract to the Board of Supervisors with its recommendations regarding execution of the contract by the County.

B. Interest In Property. All parties having any interest in any real property to be included in the contract which could ripen into a fee interest or be exercised in a manner inconsistent with the purpose of the preserve, such as a security interest, shall be required to join in the execution of the proposed contract before such contract is executed by the Board of Supervisors.

C. Division.

(1) During the term of the contract, all rights of division are subservient to the enforceable restriction secured by the Land Conservation Contract and these Guidelines.

(2) Except as provided in Section 8.C(7) (Immediate Family Transfers), while under contract, land within a Class B preserve shall not be divided, meaning subdivided or conveyed, into parcels or contiguous land units smaller than 600 acres. Except as provided in Section 8.C(7) (Immediate Family Transfers), while under contract, land within a Class A or C preserve shall not be divided, meaning subdivided or conveyed, into parcels or contiguous land units smaller than 100 acres. Except as provided in Section 8.C(7) (Immediate Family Transfers), while under contract, land within a Class D preserve shall not be subdivided but may be conveyed as a whole land unit consistent with Section 8.C(5)(a) of these Guidelines.

(3) For purpose of entry into contract, parcels of 160 acres or more, with one owner or separate owners, which together constitute a contiguous land unit totaling 600 acres or more may qualify for a Class B preserve. For purpose of entry into contract, parcels of 20 acres or more, with one owner or separate owners, which together constitute a contiguous land unit totaling 100 acres or more may qualify for a Class A or C preserve. For purpose of entry into contract, contiguous parcels of 10 acres or more for prime soils and/or 40 acres or more of non-prime soils of statewide or local significance, with one owner or separate owners, may qualify for a Class D preserve.

(4) The “division” as provided in this Section and Paragraph 5 below of any parcels or contiguous land units under land conservation contract will result in contract review of the parcels subdivided or conveyed and the balance of the preserve.

(5) As used in this Section, the terms "divide" and "division" shall include any sale, transfer, encumbrance, conveyance, or any change in the manner in which title to all or any portion of the lands under contract is held, whether immediate or future. “Division” includes but is not limited to conveyance by deed, installment land sales contract, contract of sale, contract for sale, deed of trust, gift or mortgage, except that mortgages applicable to lands under contract that meet or exceed the minimum size requirement for the smallest parcel permitted under the preserve category (e.g., 160 acre in Class B) and conforming with the State Subdivision Map Act shall be exempt from this requirement so long as the lands remain in the same ownership. “Division” shall also apply to judicial partitions under the Civil Code. The land conservation contract shall run with the land and shall be binding upon, and inure to the benefit of, all successors in interest of the OWNER. Neither the owner nor any successor in interest shall divide the land described herein, except that the County may approve a division of such land subject to the terms and conditions of the Williamson Act or these Guidelines if the proposed division meets either of the following conditions:

(a) Each parcel *or contiguous land unit* which is the subject of, or which results from, the division shall meet the *acreage* requirements of the Williamson Act and Section 8(C)(2) of these Guidelines; or

(b) Notwithstanding the provisions of paragraph 5(a) above, lands held in common at the time of entry into the land conservation contract but where the individual ownership was substandard to the minimum acreage requirement for the preserve category per Section 8(C)(2) of these Guidelines, may be sold, transferred, encumbered or conveyed only as a single land unit. This restriction shall apply without regard to whether the land unit

consists of one or more patents or separate parcels as may be recognized by a Certificate of Compliance issued pursuant to Section 66499.35 of the Government Code.

(6) Approval of the Board of Supervisors shall be obtained for any division of land under contract consistent with the provisions of this Section. All successors in interest to owner that have not initiated Non-renewal shall enter into new contracts enforceably restricting said land pursuant to the provisions of the California Conservation Act of 1965 and these Guidelines. This provision shall not apply to immediate family transfers per Section 8.C(7) below and to partial family transfers where an undivided interest transfer occurs within the ownership unit, provided an Owner's Declaration in a form approved by the County is executed and recorded concurrently with the transfer and a copy is furnished to the County Assessor.

(a) **Disclosure Required.** Upon any division of land or a portion thereof under contract as described in this section, except for family transfers and mortgages as provided above, the owner shall require that a disclosure statement identifying that the subject real property is under land conservation contract and is subject to the provisions of the Williamson Act and the County's Guidelines be signed by the purchaser or transferee.

(b) **Disclosure Statement.** The disclosure statement shall be in substantially the following form:

“You are hereby notified that the subject real property is located within an Agricultural Preserve and is subject to a Land Conservation Contract entered into between the owner(s) and the County of Humboldt pursuant to the California Land Conservation Act of 1965 (California Government Code Section 51200 et seq.), also known as the Williamson Act. Notice is further given that said real property is enforceably restricted under provisions of the Williamson Act, the Humboldt County Williamson Act Guidelines, the County of Humboldt's Resolution Establishing the Agricultural Preserve and setting forth Uniform Rules and Compatible Uses, and the Land Conservation Contract, as same are from time to time amended. Be advised that the Williamson Act and local regulations require that the subject property continue to be used for the purposes of producing agricultural commodities for commercial purposes and uses compatible with agriculture, and must meet the minimum land size and production requirements for participation under the County's Williamson Act Program. You are also notified that within ninety (90) days of the change of ownership the new owner(s) must enter into a successor Land Conservation Contract with the Board of Supervisors on forms

provided by the County. Execution of this successor Land Conservation Contract by the County will require a showing that the subject property is in conformance with the State Williamson Act and local Guidelines. For information concerning the Williamson Act Program or this statement, you should contact the Community Development Services – Planning Division.”

The disclosure statement as set forth above shall be made a copy of, or attached to the Real Estate Transfer Disclosure Statement required by Section 1102.6 of the Civil Code, relating to real property, or in the event the form is not required, notice shall be given on or accompanying any other required disclosure documents or, if none, with the deed transferring the interest in the property. The seller should retain a copy of the signed disclosure as proof of compliance with this section.

(c) **Execution of Successor Land Conservation Contract.** Within ninety (90) days of the change of ownership, the new owner(s) shall enter into a successor land conservation contract with the Board of Supervisors on forms provided by Community Development Services Department. Failure to comply with this provision shall subject the owner to County-initiated Non-renewal of the contract.

(7) Nothing in this Section shall prevent the transfer of ownership from on immediate family member to another of a portion of land which is currently designated as an agricultural preserve in accordance with Section 51230.1 of the California Government Code. “Immediate Family” means the spouse of the landowner, the natural or adopted children of the landowner, the parents of the land owner, or the siblings of the landowner.

SECTION 9. FORMS. The Community Development Services Department shall provide standard forms to be used in implementing the provisions of the California Conservation Act of 1965 and these Guidelines.

SECTION 10. TIME LIMITS FOR FILING. Applications for establishment of, or inclusion within, agricultural preserves for the ensuing year shall be filed with the Community Development Services Department from the first regular working day in February to the last regular working day in April. For the calendar year 2002, this period shall extend from the date these Guidelines are adopted through the last regular working day in July.

SECTION 11. EFFECT OF TIMERLAND PRESERVE ZONE. As provided for in Section 51230 of the Government Code, land zoned as timberland, pursuant to Chapter

6.7 (commencing with Section 51100 of the Government Code), may be taken into account to meet the minimums established for agricultural preserves.

SECTION 12. COMBINATIONS OF PRIME AND NON-PRIME LAND. Minimum preserve areas (100 acres Class A, 600 acres Class B, 100 acres Class C, and 10 acres on prime land and 40 acres of non-prime land Class D) shall be based on definitions of prime and non-prime as indicated within these Guidelines. If property to be considered under these provisions is over 50 per cent prime, it shall qualify for a prime preserve. Prime land within a non-prime preserve when less than 50 per cent shall be segregated from the non-prime land and submitted to the Secretary of Resources as “prime Land” for subvention purposes.

SECTION 13. FARMLAND SECURITY ZONES. As provided in Section 51296 of the Government Code, a landowner or group of land owners may petition the Board of Supervisors to rescind a land conservation contract or contracts in order to simultaneously place the land(s) under contract into a new contract designating the property as a farmland security zone. Additionally, a landowner may petition to form an agricultural preserve and place lands not currently under contract into a farmland security zone provided all requirements of the Williamson Act and these Guidelines are satisfied.

A. Petition.

Petition for a farmland security zone shall be in the same form and include the information required for establishment of an agricultural preserve.

B. Applicability. Lands to be subject to a farmland security zone contract must be designated on the Important Farmland Series maps or shall meet the definition of “prime” agricultural land per Government Code Section 51201(c) and shall be located within three (3) miles of the Sphere of Influence boundary of an incorporated city. The minimum preserve area and minimum parcel size for land to be placed in a farmland security zone shall be the same as for the equivalent class of agricultural preserve under these Guidelines.

C. Procedures. Petitions for designating lands as farmland security zones shall be processed in the same manner as for agricultural preserves under these Guidelines and consistent with all applicable provisions of the Williamson Act (Government Code Section 51200 et seq.).

D. Forms and Filing Fees. The Community Development Services Department shall provide standard forms for implementing the provisions of this section. Fees to cover the cost of providing services in the processing of applications under this part shall be in accordance with the County’s Ordinance establishing a Schedule of Fees and Charges.

SECTION 14. TERMINATION OF CONTRACTS. Methods for terminating land conservation contracts include non-renewal, cancellation, annexation, and public acquisition.

Background:

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

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

(1) Service and termination dates. To terminate a land conservation contract by non-renewal, the landowner must serve a Notice of Non-renewal ninety (90) days prior to next renewal date. Notice of Non-renewal initiated by the County must be given sixty (60) days prior to the renewal date of the contract. Once non-renewal is served, it will take a period of nine (9) years for the contract to expire. Any landowner under contract may terminate the contract on his property by serving a Notice of Non-renewal on the county, and paying the applicable processing fee. A complete Notice of Non-renewal will include the same information as is required for entering into the contract (e.g., verification of property ownership and owner's consent). Incomplete submittals will not be accepted for processing and the contract will be considered continued. A contract may also be terminated by the County serving the Notice of Non-renewal on a property owner as provided in Section 16(C) of these Guidelines.

(2) Partial non-renewal. (NOTE: A pre-requisite for filing shall include a Determination of Status and issuance of Certificates of Compliance pursuant to Section 66499.35 of the Government Code). County review and approval of a landowner-initiated notice is required only for a notice of partial non-renewal of contract as follows:

(a) The landowner acquired a portion of a larger property subject to a contract. The County policy is to approve such notices, subject to the provisions of Section 8.C of these Guidelines, since the California Land Conservation Act of 1965 provides that any landowner, independent of other landowners subject to the same contract, may serve a Notice of Non-renewal. However, such notices will trigger County review of the balance of the property subject to the same contract to determine its continuing eligibility and to consider whether the County should serve a Notice of Non-renewal on other property owners under that contract.

(b) The landowner requests termination of contract on a portion of their property. The request will be reviewed to determine if the portion to remain in the program (subject to

continued annual renewal) complies with the program's eligibility requirements. If not, the property owner would need to decide whether to continue the entire property under the program or serve Notice of Non-renewal on the entire property.

B. Cancellation.

(1) Initiation and Findings. Only a property owner may request cancellation of a land conservation contract to terminate the contract on all or a portion of the property. However, cancellation may be approved only under extraordinary circumstances as provided in the California Land Conservation Act of 1965, specifically Sections 51280 et seq. and 51296(k) of the Government Code. The Board of Supervisors, following a public hearing, must make all of the findings under one of the following two sets of determinations to approve a cancellation request:

(a) The cancellation is consistent with the purposes of the California Land Conservation Act of 1965 as evidenced by the following:

- (1) A Notice of non-renewal has been served.
- (2) Cancellation is not likely to result in the removal of adjacent lands from agricultural use.
- (3) Alternative uses are consistent with the Humboldt County General Plan.
- (4) Cancellation will not result in discontinuous patterns of urban development.
- (5) There is no proximate non-contracted land which is both available and suitable for the proposed alternative use, or, development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land, which is sufficiently close to the contracted land that it can serve as a practical alternative for the use which is proposed for the contracted land.

(b) The cancellation is in the public interest as evidenced by the following:

- (1) Other public concerns substantially outweigh the objectives of the California Land Conservation Act of 1965.
- (2) There is no proximate non-contracted land which is both available and suitable for the proposed alternative use, or, development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land, which is sufficiently close to the contracted land that it can serve as a practical alternative for the use which is proposed for the contracted land.

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

In addition, cancellation of a farmland security zone contract shall require the Board to make the following additional findings:

- (1) That no beneficial public purpose would be served by the continuation of the contract;
- (2) That the uneconomic nature of the agricultural use is primarily attributable to circumstances beyond the control of the land owner and the local government; and
- (3) That the landowner paid a cancellation fee equal to 25% of the cancellation valuation calculated in accordance with subdivision (b) of Section 51283.

Cancellation of a farmland security zone contract also requires the approval of the Department of Conservation.

(2) Cancellation Fees. Cancellation is an expensive method to seek termination of contracts. Processing fees are high due to the need to prepare detailed staff reports, the possible requirement for an environmental impact report, and public hearings.

(a) Williamson Act Contract. Unless waived or deferred by the Board of Supervisors as provided in Section 51283 of the Government Code, if a cancellation request is approved by the Board of Supervisors, the applicant must pay a cancellation penalty fee amounting to 25%* of the appraised value of the property as if it were not subject to contract within one year after approval of cancellation. (*12 ½ % cancellation fee shall be distributed to the State and 12 ½% to the County).

(b) Farmland Security Zone Contract. The landowner shall pay to the Department of Conservation a cancellation fee equal to 37.5%* of the cancellation valuation calculated in accordance with subdivision (b) of Section 51283 of the Government Code. . (*25% cancellation fee shall be distributed to the State and 12-½% to the County).

C. Annexation. If a city annexes land subject to a land conservation contract, the city succeeds to all right, duties and powers of the county under the contract. Annexations are not permitted for lands in a Farmland Security Zone contract.

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

SECTION 15. EXPANSION OF PRESERVE

A. Property contiguous to the existing agricultural preserve. A landowner whose property qualifies for the program but not currently within the agricultural preserve may have their property added to the existing preserve by amendment approved by the Board of Supervisors provided they meet all requirements of the Williamson Act and these Guidelines.

B. Addition of land to the preserve and contract. A property owner under contract who acquires adjacent parcels that meet all requirements of the Williamson Act and these Guidelines may add this land by amendment to the agricultural preserve and contract; the contract amendment is to recognize the remaining term of the original contract but in no event less than 10 years.

SECTION 16. PROGRAM MONITORING AND ENFORCEMENT.

A. Monitoring. The county shall actively monitor the agricultural preserve program by periodically reviewing the continuing eligibility of properties and checking for contract violations. Monitoring of contract compliance shall be the responsibility of the Assessor and the Community Development Services Department.

(1) The following specific compliance areas will be monitored annually:

(a) Divisions, including the sale, transfer, encumbrance, or conveyance of lands within an agricultural preserve will be reviewed to verify that the parcel(s) are consistent with the terms of the Williamson Act, Section 8 of these Guidelines, and the State Subdivision Map (Section 66410 et seq. of the Government Code). All questionable noncompliance activity will be referred to the Community Development Services Department and may involve a Determination of Status at the property owner's expense.

(b) Land uses which are not compatible with the agricultural activities as specified in the individual land conservation contracts, or for which a Use Permit is required but has not been obtained.

(2) The County shall provide written notification to the property owner if it documents non-compliance with terms and provisions of the Williamson Act, these Guidelines and/or the Land Conservation Contract.

(3) Identified violations of the land conservation contract shall be submitted to the Board of Supervisors. Enforcement action, as provided in subsection B below, shall be as directed by the Board of Supervisors.

B. Enforcement of Contracts. The County shall take necessary actions to restrain breach of contracts or compel compliance with the terms of the contract as authorized by Section 51251 of the Government Code, which may include instituting an action to seek specific performance or an injunction.

(1) Enforcement of Terms of Contract. Land use restrictions specified in a land conservation contract are binding on the owner who entered into contract or a succeeding owner(s) as long as the contract remains in effect. All rights of division, which includes the sale, transfer or conveyance of real property subject to a land conservation contract, are subservient to the enforceable restriction secured by the Land Conservation Contract and Section 8 of these Guidelines. **THE COUNTY WILL NOT PROCESS ANY DEEDS CONVEYING PROPERTY, OR PORTION THEREOF, WITHOUT A SHOWING OF COMPLAINE WITH THE CONTRACT AND THESE GUIDELINES.**

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

(3) Any conveyance, contract or authorization (whether oral or written) by the owner or his/her successors in interest which would permit use of the property contrary to the terms of the contract may be enforced by the county by an action filed in the Superior Court of the county for the purpose of compelling compliance or restraining breach thereof. These remedies are non-exclusive and the county may take any other action legally available to enforce the terms of the contract. Alternatively or in addition to the forgoing remedies, contract non-renewal may be initiated by the Board of Supervisors if deemed appropriate as provided in subsection C below. Any such action to seek specific performance or injunction to resolve a violation of a contract shall not affect the contracts of the other owners in the preserve.

C. County-Initiated Non-Renewal. The Board of Supervisors shall use Non-Renewal of a land conservation contract as an enforcement mechanism,

when in the judgment of the Board, other efforts undertaken by the County to secure compliance with contract provisions, have proven ineffective.

(1) The following are the procedures for processing a County-initiated Notice of Non-renewal:

(a) On the recommendation of the Assessor, Community Development Services and County Counsel, or the Agricultural Advisory Committee, if formed, a public hearing will be scheduled before the Board of Supervisors to consider the Notice of Intent to Serve Notice of Non-renewal. A written notification will be mailed to the property owner at least ten (10) days before the hearing.

(b) A staff report and Notice of Intent to Serve Notice of Non-renewal will be submitted to the Board of Supervisors.

(c) If approved by the Board of Supervisors, the Notice of Non-renewal will be executed and mailed to the property owner with a letter informing them of their right to protest the non-renewal. Such notice shall be given at least 60 days prior to renewal date.

(d) Upon service of a Notice of Non-renewal from the County, the owner may make a written protest of the Notice of Non-renewal to the Board of Supervisors. Such protest shall be filed no later than 30 days prior to the renewal date.

(e) A copy of the Notice of Non-renewal and any written protest received is to be filed by the Clerk of the Board and copies are to be transmitted to the Assessor, Community Development Services, and County Counsel.

(f) If a protest is filed, the Board of Supervisors will conduct a public hearing on the protest as provided in (a) above. The County, at any time prior to the Non-renewal date, may withdraw the Notice of Non-renewal.

(g) Within 30 days of the service of a Notice of Non-renewal upon a landowner, or the withdrawal of a Notice of Non-renewal, the Assessor shall deliver a copy of the notice to the Department of Conservation pursuant to Section 51245 of the Government Code.

(h) No later than 20 days after the County serves a Notice of Non-Renewal upon a landowner, or withdraws a Notice of Non-renewal, the Clerk of the Board shall record with the County Recorder a copy of the Notice of Non-renewal or Notice of Withdrawal of Non-renewal.

SECTION 17. The County hereby adopts Section 423.3 of the Revenue and Taxation Code allowing a ten percent (10%) reduction from the Factored Base Year Value for prime and non-prime land under contract to ensure that all participants in the Williamson Act Program will realize some tax relief.

SECTION 18. APPLICABILITY AND AMENDMENT OF THE GUIDELINES.

A. Applicability. These Guidelines shall govern the administration of the Williamson Act Program within the unincorporated areas of Humboldt County. These Guidelines are to be applied prospectively (i.e., from this date of adoption forward) to all lands within designated agricultural preserves and under contract. The provisions of these Guidelines may be rescinded, superceded or modified by amendments adopted by the Humboldt County Board of Supervisors in the manner set forth in Section 19.B.

B. Amendments. It is intended that these Guidelines be amended from time to time to reflect changes in the State law and to be responsive to local needs. Changes shall be made in consultation with the agricultural community, including representatives from groups such as the Farm Bureau and Humboldt-Del Norte Cattlemens' Association, as well as individual contract holders and other interested parties. At a minimum, the following shall apply:

(1) Notice of Proposed Amendment. Written notice of a proposed change to the Guidelines shall be provided to all contract holders by certified mail at least thirty (30) days prior to the hearing on the amendment. The notice shall include a description of the proposed change(s) and the dates of any workshop(s) and/or hearing(s) to be held to consider the proposal.

(2) Public Hearing. The Board of Supervisors shall conduct a noticed public hearing on the proposed amendment to the Guidelines. The Williamson Act Agricultural Advisory Committee (if formed and active) may, but is not required to, conduct a workshop or public hearing prior to making its recommendation to the Board of Supervisors on the proposed amendment.

(3) Record of Action. Written notice of any action taken by the Board of Supervisors to amend the Guidelines shall be provided to contract holders in writing by certified mail. Such record of action shall include notice to contract holders of their right to exercise their option to file for Non-renewal should they no longer wish to continue in the Program under the adopted changes to the Guidelines. Notwithstanding an election to seek Non-renewal, the contract holder shall remain subject to the amended Guidelines for the remainder of the term of their contract.

SECTION 19. Resolution 05-58 is hereby amended to reflect the changes made herein.

/
//

Adopted on motion by Supervisor
and the following vote:

, seconded by Supervisor

AYES: Supervisors--
NOES: Supervisors--
ABSENT: Supervisors--
ABSTAIN: Supervisors--

STATE OF CALIFORNIA)
County of Humboldt)

I, KATHY HAYES, Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true and correct copy of the original made in the above entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto
set my hand and affixed the Seal of
said Board of Supervisors

KATHY HAYES
Clerk of the Board of Supervisors of
the County of Humboldt, State of California