

Introduction

The overall purpose of the Williamson Act, also referred to as the California Land Conservation Act of 1965, is the long-term preservation of agriculture and open space by allowing contracts between counties and landowners that restrict the primary use of land to commercial agricultural production and open space uses. In exchange, landowners receive a property tax assessment lower than normal due to the valuation of affected property being based only upon agriculture or open space uses rather than being based on all other available uses of the property. A limited number of other land uses are allowed under Williamson Act Contracts if determined to be compatible with the terms of the contract and these rules and procedures.

The Marin County Board of Supervisors adopted the first rules governing the administration of the Marin County Williamson Act program in 1971. Since that time hundreds of landowners in Marin County have entered their land into a Williamson Act contract, with many contracts being initiated in the 1970s that are still active today. Preserving agricultural land in Marin County has been a shared goal of the agricultural community and the Board of Supervisors. Williamson Act contracts, along with land use regulations and private conservation easements established by the Marin Agricultural Land Trust (MALT) serve as a multipronged approach that supports preserving the heritage and commercial viability of agriculture in the county.

The Williamson Act allows local governments and owners of qualifying land with existing commercial agricultural operations to enter into contracts for one or more of the following types of uses: 1) agricultural uses, 2) recreational uses, 3) open space use, and 4) combined uses. Landowners may choose between two types of contracts: 1) a Land Conservation Contract (LCC) that restricts the use of land for a period of 10-years; and 2) a Farmland Security Zone Contract (FSZC) that restricts use of the land for a period of 20-years. Both contracts renew annually, which means that an LCC and FSZC will always be in effect for a minimum period of 9-10 years or 19-20 years, respectively. Unless otherwise specified, these rules and procedures refer to both types of contracts as “Williamson Act Contract”. The County has, to date, entered into Williamson Act contracts for commercial agricultural uses.

According to State law, counties choosing to establish a Williamson Act program are required to establish implementing regulations at the local level (Govt. Code section 51231). The following rules and procedures have been adopted by the Marin County Board of Supervisors to comply with this requirement and to assist the County and participating landowners with the implementation of the Williamson Act within the unincorporated area of Marin County. Unless otherwise specified herein, these rules and procedures apply to all contracts and thus are binding upon new contracts and existing contracts prospectively upon the annual renewal date. Current and successive landowners are responsible for complying with all terms of the contract so long as the contract is in effect, subject to periodic monitoring and enforcement by the County.

I. General Rules

- A. Consistency with State and Local Law. All applications for a Williamson Act Contract shall comply with the California Land Conservation Act (Chapter 7 Government Code sections 51200 - 51297.4), these Rules and Procedures, the Marin Countywide Plan, Marin County Code Title 20 (Coastal Zoning Code) or Title 22 (Development Code), as applicable, and other applicable County ordinances. These Rules and Procedures shall be interpreted consistent with the California Land Conservation Act as determined by the County. As an administrative practice, the Community Development

Agency staff may consult with the State Department of Conservation in determining consistency with State law.

- B. Development Applications. Applications for building permits on land subject to an existing or proposed Williamson Act Contract shall not be approved unless the application is consistent with these Rules and Procedures.
- C. Agricultural Preserves and Farmland Security Zones. Agricultural Preserves are areas devoted to agriculture, open space, or recreational uses (or combinations thereof). State law requires that land subject to a Williamson Act Contract be located entirely within an Agricultural Preserve (Govt. Code section 51230), which may be modified by a resolution adopted by the Board of Supervisors to accommodate new or modified contracts. Land proposed for a Farmland Security Zone Contract must be included in the State Farmland Series Maps as one of the following: Prime Farmland, Farmland of Statewide Importance, Unique Farmland or Farmland of Local Importance. If the proposed farmland security zone is in an area that is not designated on the Important Farmland Series Maps, the land shall qualify if it is predominantly prime agricultural land, as defined in subdivision (c) of Government Code section 51201.

A landowner or group of landowners may apply to the County to rescind a LCC entered pursuant to these rules and procedures to simultaneously place land under a new contract designating the property as a FSZC.

- D. Application Submittal Requirements for Agricultural Uses. For the County to consider a landowner request to enter a new or modified Williamson Act Contract, the landowner shall apply to the Community Development Agency with the following information.
 - 1. An application form available from the Community Development Agency signed by the landowner(s). (Note: the landowner's signature shall constitute consent to allow agency staff to inspect the property, with advance notice to the landowner as further discussed below, to verify the type and extent of commercial agricultural activities and compliance with the terms of the contract should it be approved.)
 - 2. A current legal description of the property, including a parcel map showing the boundaries of all property proposed for the contract.
 - 3. Application processing fees as adopted by the Board of Supervisors.
 - 4. A detailed written description of the following:
 - a. Total gross acreage included in the contract.
 - b. Areas used for commercial agricultural production, including grazing and/or crop areas and the type of commodities produced for, and size of, each area.
 - c. The location, size, and use(s) of each building and other structures on the property.
 - d. The annual gross income derived from the sale of agricultural commodities produced on the land over the past 3 to 5 years or less, at the County's discretion (Agricultural producers may submit Schedule F of their federal tax returns or other relevant income tax forms to satisfy this requirement).
 - e. The location and types of infrastructure used to support and produce agricultural commodities.

- f. The Community Development Agency may require the submittal of a site plan or conduct an inspection of the property if determined necessary to clearly document or verify the type and extent of agricultural use.

Modified contracts involve proposed changes in the size, location, or boundaries of qualifying lots. Applications are not required for contracts based solely upon their annual renewal.

- E. Existing Buildings and Structures. Legal and legal nonconforming buildings and other improvements existing at the time the initial contract was approved shall not be in violation of these rules and procedures if they complied with County zoning and/or building codes, as may be applicable, at the time such buildings and other improvements were constructed.
- F. Processing of Applications. The following procedures shall apply to the processing of all new or modified Williamson Act contracts for agricultural, open space and recreational uses.
 1. To allow sufficient time for approval of contract requests by the end of the calendar year, applications shall be submitted no later than August 31st. The Community Development Agency may at the applicant's request authorize one or more extensions of these deadlines for cause as determined by the Community Development Agency Director.
 2. The Community Development Agency staff may consult with the County Agricultural Commissioner (or the County Open Space District staff and the State Natural Resources Agency for open space contracts) in reviewing the content and merits of applications prior to referral to the Board of Supervisors for approval.
 3. Once an application is determined to be complete, the Community Development Agency staff shall prepare a recommendation and schedule it for a hearing before the Board of Supervisors. The Board of Supervisors may place the recommended action on its consent agenda consistent with Board procedures.
 4. The Board of Supervisors has the discretion to approve a contract. The contract agreement shall be signed by the property owner(s) and the President of the Board of Supervisors before staff transmits it to the Marin County Recorder's Office for recordation. Once the County executes the contract, the contract shall be recorded within 20 days.
- G. Monitoring and Enforcement. Williamson Act contracts are legal agreements between the County and landowners that run with the land, meaning the contractual obligations are binding upon current and successive landowners during the life of the contract. The landowner is solely responsible for implementing the terms of the contract and the County is responsible for periodic monitoring and enforcement of the terms of the contract through one or more of the following means:
 1. Review of County records, such as building permits, planning entitlements, information available from the County Agricultural Commissioner and County Assessor, and GIS aerial photographs.

2. County staff inspection of property under contract. Inspections involving access to the property shall be preceded by written notice to the landowner at least 10 calendar days in advance of the inspection taking place.
3. Questionnaires sent to landowners requesting information on the type(s) and productive value(s) of agricultural commodities being produced and the extent of land being used for commercial agricultural production. (Note: Questionnaires are typically used to address compliance issues that cannot be resolved through other means.)

If the County finds one or more violations of the contract, the County may provide the landowner with the opportunity to correct the violation, and renegotiate the contract if required, within a reasonable period as determined by the County. The Community Development Agency staff may consult with the County Agricultural Commissioner when determining if and how a contract violation has occurred. In general, staff prefers to resolve contract violations by way of mutual agreement between the County and landowner. However, if the landowner is unwilling to correct the violation as prescribed by the County, the County may initiate non-renewal or cancellation of the contract based on the severity of the violation. (See section V. for rules and procedures pertaining to termination of contracts.)

These monitoring and enforcement procedures shall be relied upon by the County solely for the purpose of resolving issues related to compliance with the terms of a Williamson Act contract when such issues arise. Code compliance issues outside the purview of these rules and procedures may be addressed by the County pursuant to Title I of the County Code and implementing administrative procedures.

- H. Interagency Consultation. The Community Development Agency may consult with the State Department of Conservation, the State Department of Food and Agriculture, Marin County Agricultural Commissioner, the County Assessor, UC Cooperative Extension and other County staff with appropriate expertise regarding the application of these rules and procedures, including but not limited to the content of applications, eligibility requirements, compatible uses, contract cancellations, and monitoring and enforcement. The Community Development Agency may also consult with the State Department of Fish and Wildlife and the Marin County Parks for open space contracts described in section VI below.

A contract for any land shall not be approved by the County unless the County Assessor has independently determined and advised the Community Development Agency in writing that the property complies with the requirements for eligibility in these rules and procedures.

II. Local Eligibility Requirements for Agricultural Preserves and Agricultural Contracts

- A. Countywide Plan and Zoning. State law requires that property in an Agricultural Preserve and Farmland Security Zone must be consistent with the local jurisdiction's general plan. Accordingly, property shall have one or more of the following agricultural land use categories established in the Marin Countywide Plan to qualify for a contract: Agriculture 1, Agriculture 2, and Agriculture 3. Additionally, one of the following zoning designations established in Marin County Code Title 20 or 22, as applicable, shall apply to the property: A, ARP, C-APZ or C-ARP. Existing Williamson Act contracts may be renewed

annually if the current zoning for the property no longer includes one of the above designations so long as the property meets all other eligibility requirements.

- B. Minimum Size for Agricultural Preserve and Farmland Security Zone. According to State law, the standard minimum lot size for an Agricultural Preserve or Farmland Security Zone is 100 acres (Govt. Code section 51230). However, a preserve less than 100 acres may qualify if the Board of Supervisors finds that extending Williamson Act protections to such smaller preserve is necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of such smaller preserve is consistent with the Marin Countywide Plan and agricultural zoning standards.
- C. Eligibility Criteria for Williamson Act Contracts for Agriculture. The following criteria shall be considered by the County in determining whether a legal lot(s) is eligible for a Williamson Act contract:
1. The lot is or will be located within an Agricultural Preserve at the time the contract is approved.
 2. The lot is large enough to sustain agricultural uses permitted under the contract. Agricultural land shall be presumed to be in lots large enough to sustain agricultural use if the land is at least 10 acres for prime agricultural land or 40 acres for non-prime agricultural land (Govt. Code section 51222). However, smaller contract sizes may be approved according to section II.B of these rules and procedures.
 3. The dominant use of the land shall be the commercial production of agriculture, meaning the production and wholesale or retail sale of agricultural commodities consistent with the County definition of “Agriculture” in Marin County Code Title 20 or 22, as applicable, and the State definition of “Agricultural Commodity” and “Agricultural Use” in Government Code sections 51201(a) and (b). Changes in the type(s) and intensity of agriculture may occur without resulting in a breach of contract so long as predominant use of the land remains commercial agricultural production and all other terms of the contract are met. The following factors shall be considered by the County in determining whether the dominant use of the land is agriculture:
 - a. The proportion of land used for producing an agricultural commodity.
 - b. The amount of time during the last 3-5 years the land is used to produce an agricultural commodity.
 - c. The type and extent of existing infrastructure that supports production of an agricultural commodity.
 - d. The gross income derived from agricultural commodities produced on the land in the last 3 to 5 years.
 - e. The capability of the use to contribute to the economic viability of the agricultural operation.

All of the eligibility criteria in section II.C above shall apply to new and modified contracts. Only the eligibility criteria in section II.C.3 above shall apply to existing contracts upon the first automatic renewal following the effective date of these rules and procedures.

- D. Compatible Uses for Agricultural Contracts. All uses designated as either “P” or “PP” in Marin County Code Title 20 or 22, as applicable, for the A, ARP, C-ARP and C-APZ zoning districts shall be compatible agricultural uses for the purpose of determining compliance with a Williamson Act contract so long as the dominant use of the land continues to be commercial agricultural production. Uses with the “P” or “PP” designations are allowed by zoning as a principally permitted use with no use permit required. Notwithstanding uses established by Marin County Code Title 20 or 22, only one primary single-family dwelling (or one farmhouse in the Coastal Zones) is permitted on all lots within a single contract in addition to housing for agricultural workers and family members engaged in the agricultural use of the property as allowed by Marin County Code Title 20 or 22, as applicable.

Uses designated as “U” in Marin County Code Title 20 or 22, as applicable, may be deemed a compatible use so long as the dominant use of the land continues to be commercial agriculture. The County’s zoning regulations require a conditional use permit for land uses designated “U”. (Note: Uses designated “P/U” may be principally permitted or conditionally permitted based on specific criteria in section 22.32.) Uses designated with a “U” shall also comply with the following standards:

1. The use will not significantly compromise the long-term productive agricultural capability of the contracted lot(s) or on other contracted lands in agricultural preserves.
2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the contracted lot(s) or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the contracted lot(s) may be deemed compatible if they relate directly to the production of commercial agricultural products on the lot(s) or neighboring lands, including activities such as harvesting, processing, or shipping.
3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.
4. In evaluating compatibility, the County shall consider the impacts on noncontracted lands in the Agricultural Preserve.

A compatible use that existed at the time the initial contract was approved is permissible as the contract renews annually so long as such use complied with the County Williamson Act rules and procedures and state statutes applicable to compatible uses at the time the initial contract became effective.

- E. Incompatible Uses for Agricultural Contracts. All uses, other than those described in section II.D of these rules and procedures, shall be an incompatible use of land for the purpose of determining compliance with a Williamson Act contract.

III. Transfer of Ownership

- A. Transfers where no change in legal boundaries occurs. When all land under a single Williamson Act contract is transferred, the transferee (new owner) shall complete a form acknowledging their assumption of a Williamson Act Contract and submit it to the County

Recorder's office for recordation no later than twenty days from the date the instrument transferring ownership is recorded.

- B. Transfers where a portion of land under Williamson Act contract is transferred through one or more whole lots. Prior to completing a transaction that transfers ownership of land, the transferee shall complete and submit a contract application form to the Community Development Agency for each lot transferred, as described in section I.D of these rules and procedures. The transferor shall complete and submit a contract application form for each lot from the prior contract being retained. The applications shall be subject to review and approval by the Community Development Agency prior to being recorded with the Marin County Recorder's Office by the transferee and transferor.
- C. Transfers in violation of these rules and procedures. If transfers result in one or more lots that do not comply with these rules and procedures, the Community Development Agency shall initiate a notice of non-renewal of the contract consistent with section V of these rules and procedures.
- D. Transfers of land solely between family members. Nothing in these rules and procedures shall prevent the transfer in ownership of a portion of land subject to a Williamson Act Contract between immediate family members, as defined by Government Code section 51230.1, so long as the following conditions are satisfied:
 - 1. The land being transferred is a legal lot that complies with applicable zoning standards.
 - 2. The lot is at least 40 acres in size for non-prime agricultural land and at least 10 acres in size for prime agricultural land.
 - 3. The operation shall be managed consistent with the terms of the contract and these rules and procedures, as documented by a written agreement between immediate family members.
 - 4. A transfer of ownership consistent with these provisions shall not alter the contract covering the land to be transferred and retained by immediate family members. For the purposes of this section, "immediate family" means the spouse of the landowner, the natural or adopted children of the landowner, the parents of the landowner, or the siblings of the landowner.
 - 5. A transfer of ownership described in this section shall have no effect on any contract executed pursuant to these rules and procedures and state law covering the land of which a portion was the subject of the transfer (the portion transferred shall remain the subject of the contract).

IV. Lot Line Adjustments

- A. Rescission and Reentry of Contracts. Lot Line Adjustments may be approved if both the landowner and the County agree to rescind an existing contract(s) and reenter into a new contract(s) concurrently to facilitate an exchange of contracted land or an exchange between contracted land and land previously not under contract subject to the following standards:

1. The new contract(s) would initially restrict land within adjusted boundaries of legal lots for at least ten (10) years for LCC and at least twenty (20) years for FSZC.
2. At least 90% of the land in the prior contract would be included in the new contract.
3. The resulting land in the new contract would be large enough to sustain commercial agricultural production.
4. The adjustment of lot boundaries would not compromise the ongoing and future production of agricultural commodities on land subject to the contracts.
5. The adjustment of lot boundaries would not result in the removal of adjacent land from agricultural use, nor would it compromise the agricultural productivity of neighboring land.
6. The adjustment of lot boundaries complies with all state and local standards for Lot Line Adjustments.
7. Requests for rescission and reentry shall be subject to the application procedures in section I.D of these rules and procedures.

V. Contract Termination

- A. Breach of Contract. If and when one or more changes in conditions of land under Williamson Act Contract or the type and extent of agricultural production or other uses on such land occur, and the changes are determined by the County to be a material breach of the contract, the County shall notify the landowner of the breach and two options for its timely resolution: 1) order the landowner to eliminate the conditions or other changes that resulted in the breach of contract within 60 days (this 60-day period may be extended at the sole discretion of the Community Development Agency for valid reasons or circumstances beyond the control of the landowner and upon the landowner's ongoing demonstration of good faith efforts to resolve the violation); or 2) if such conditions are not eliminated in a timely manner, as determined by the County, initiate termination of the contract, as allowed by Government Code sections 51250 and 51251, including assessing a monetary penalty against the landowner based on the severity of the breach.
- B. Nonrenewal of Entire Contract. A Williamson Act Contract may be terminated by either the landowner or the County serving a notice of nonrenewal on the other party prior to the annual renewal date of the contract. A notice of nonrenewal may be served at any time, however, a notice of nonrenewal filed by the landowner must be served at least 90 days prior to the contract renewal date and a notice of nonrenewal filed by the County must be served at least 60 days prior to such date. A landowner who withdraws that notice prior to the effective date shall be subject to term modification and additional assessed value. Once served and effective, a landowner nonrenewal notice may not be withdrawn except for cause and with consent of the County.

If the County serves the landowner with a notice of nonrenewal, the landowner may protest it by filing an appeal form and fees to the Community Development Agency. The appeal shall be filed and processed in accordance with the Board of Supervisors appeal procedures set out in the Marin County Development Code section 22.114. If the

landowner does not file a timely appeal of the notice of nonrenewal, the nonrenewal will be effective when the Community Development Agency records the notice with the County Recorder's office. The County may withdraw its notice of nonrenewal at any time.

Because Williamson Act contracts are renewed annually, an LCC will take 9 years to terminate (commonly referred to as "winddown") and a FSZC will take 19 years to terminate from the date the Notice of Nonrenewal is recorded with the County Assessor's office.

- C. Nonrenewal of Portion of Contract. A landowner may file a notice of nonrenewal for a portion of land subject to a Williamson Act Contract under the following circumstances:
1. The landowner transfers ownership of an entire lot that is part of a single contract consisting of multiple lots. In general, these notices are allowed insofar as State law allows any landowner to serve a notice of nonrenewal independent of other landowners subject to the same contract. However, the County will review the remaining lots comprising the contract to determine their continued eligibility and to consider serving notices of nonrenewal on owners of lots that no longer meet the eligibility requirements in section II.C of these rules and procedures.
 2. The landowner transfers a portion of a lot subject to a contract. These notices of nonrenewal are subject to County review to determine if the remainder of the land under contract will continue to meet the eligibility requirements in section II.C of these rules and procedures. The Community Development Agency may require the transferor to submit a contract application form in accordance with section I.D of these rules and procedures to initiate County review if determined necessary to verify ongoing compliance for the land remaining under contract. The Notice of Nonrenewal will not be considered complete until the application review is complete.
- D. Recordation of Notices of Nonrenewal. No later than 20 days after receiving or serving a notice of nonrenewal, or serving a notice of withdrawal of nonrenewal, the County shall record a copy of the notice with the Marin County Recorder. If the landowner files an appeal of a County-initiated notice of nonrenewal, as allowed by section V.A of these rules and procedures, the 20-day timeline for recordation shall commence from the date the Board of Supervisors takes final action on the landowner's appeal.
- E. Cancellation of Contracts. A landowner may petition the Board of Supervisors for cancellation of all or a portion of contracted land when there is a demonstrated need to change land use on the contracted property (Govt. Code section 51280, et seq.). However, cancellations may only be approved at the discretion of the Board of Supervisors when the landowner has evidenced that extraordinary circumstances exist consistent with Government Code sections 51280-51287. The petition shall be accompanied by a specific alternative proposal for the contracted property, including any development applications and fees required for processing the proposal and environmental review that may be required pursuant to the California Environmental Quality Act as determined by the Community Development Agency. The Board of Supervisors may approve a cancellation petition only when one of two sets of findings are made, as follows:

1. The cancellation is consistent with the purposes of the California Land Conservation Act of 1965.
 - a. A notice of nonrenewal has been served.
 - b. Cancellation is not likely to result in the removal of adjacent lands from agricultural or open space use.
 - c. An alternative use is proposed which is consistent with the Marin Countywide Plan and Marin County Code Title 20 or 22, as applicable.
 - d. Cancellation will not result in discontinuous patterns of urban development.
 - e. There is no proximate noncontracted 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 noncontracted land, which is sufficiently close to the contracted land that it can serve as a practical alternative for the use which is proposed for the contracted land.

2. The cancellation is in the public interest.
 - a. Other public concerns substantially outweigh the objectives of the California Land Conservation Act of 1965.
 - b. Findings consistent with V.E.1(e) above can be made.

The unprofitable character of an existing agricultural use may only be considered if there is no other reasonable or comparable agricultural use to which the land may be put (the unprofitable character of the land use shall not by itself be sufficient reason for cancellation of the contract).

- F. Processing Cancellation Petitions. Petitions for cancellation of a Williamson Act Contract shall be processed in accordance with Government Code sections 51280-51287, including but not limited to the following:
1. The Board of Supervisors shall hold at least one noticed public hearing to consider tentative approval or denial of the petition and the specific proposal for an alternative use of the contracted land.

 2. Prior to this hearing, the Community Development Agency may:
 - a. Request review and approval, approval with conditions or denial of the specific alternative proposal by one or more lower review bodies in accordance with Marin County Code Title 20 or 22, as applicable.
 - b. Refer the petition and specific alternative proposal to members of the agricultural community or Marin County Parks Department staff for review and input.
 - c. Request that the County Assessor determine the fair market value of the land subject to the petition request (as though the land were unencumbered by Williamson Act restrictions) and to certify to the Board of Supervisors the cancellation valuation of the land for the purpose of determining the cancellation fee to be charged to the landowner.

3. Cancellation of the contract shall be contingent upon the landowner paying in full the cancellation fee determined by the County Assessor (or Assessment Appeals Board if the landowner contests the Assessor's adjusted fair market value used to determine the basis for the cancellation fee).
4. When the Board of Supervisors approves a tentative cancellation, the Clerk of the Board or their designee shall record a tentative certificate of cancellation, including all conditions and contingencies the landowner is required to satisfy. The landowner shall notify the Community Development Agency when all conditions and contingencies have been satisfied or if the landowner is unable to satisfy conditions and contingencies. Within 30 days of determining that date, the Clerk of the Board, or Community Development Agency acting in behalf of the Clerk, shall record a certificate of cancellation of the contract. However, if the landowner is unable to satisfy one or more of the conditions and contingencies as required by the tentative certificate of cancellation, the landowner shall notify the Community Development Agency. If the County verifies that conditions and contingencies have not been met, the Clerk of the Board shall record a certificate of withdrawal of tentative cancellation of the contract. The Community Development Agency shall send a copy of the cancellation to the State Department of Conservation.

VI. Local Eligibility Requirements for New or Modified Williamson Act Contracts for Recreational and Open Space Uses

The following requirements apply to contracts for recreational and open space uses, as defined by Government Code section 51201. Contracted land used for both agriculture and open space will be considered an agricultural operation with compatible open space uses. Land used for both agriculture and open space must comply with the above rules and procedures pertaining to agriculture.

- A. Countywide Plan and Zoning. Land proposed for an open space contract must be designated by the Countywide Plan for agriculture or open space as follows C-AG1, C-AG2, C-AG3, C-OS, AG1, AG2, AG3, AGC1, AGC3, OS. Additionally, land must be located within one of the following zoning districts C-ARP, C-APZ, C-OA, APR, A, OA. If the land proposed for an agricultural preserve and/or open space contract is not properly designated and zoned at the time the contract application is filed with the County, the proposal shall include a rezoning request to comply with this section.
- B. Agricultural Preserve for Recreational and Open Space Uses. Notwithstanding any provisions of these rules and procedures to the contrary, land devoted to recreational use or land within a scenic highway corridor, a wildlife habitat area designated by the Board of Supervisors, a saltpond, a managed wetland area, or a submerged area, as defined by Government Code section 51201, may be included within an agricultural preserve pursuant to these rules. When such land is included within an agricultural preserve, the County may contract with the owner for the purpose of restricting the land to recreational or open space use, as defined by Government Code section 51201, and uses compatible therewith in the same manner as provided in these rules and procedures for land devoted to agricultural use. Public access or use fees are prohibited for land subject to an open space contract.

Because the feasibility of a contract for open space or recreational use is based on the type, extent and value of natural habitat and scenic quality, rather than economic factors

associated with commercial agriculture, there is no minimum size for an agricultural preserve created solely for recreational or open space uses and the land within the contract.

- C. Compatible Uses for Open Space Contracts. Limited non-intensive and non-commercial uses may be permitted where deemed appropriate by the County for land subject to an open space contract, such as hiking, cycling, scenic viewing, and scientific research. The specific types, limits and conditions for these incidental uses may be established in the contract. Except as provided for in Government Code 51238, no structures or physical improvements shall be allowed, and no equipment or motorized vehicles shall be allowed unless for emergency fire response, flood control, and other hazard prevention and control purposes.

VII. Application Submittal Requirements for Recreational and Open Space Uses

A property owner applying for a contract for recreational and/or open space uses must provide the following, in addition to information otherwise required under these Rules and Procedures:

- A. Submittal items listed in section I.D (1), (2) and (3) of these rules and procedures.
- B. A detailed written description of open space or recreational uses as defined by Government Code section 51201.
- C. If determined necessary by the Community Development Agency, the following additional information:
 - 1. A site plan showing the location and extent of open space or recreational uses as defined by Government Code section 15201.
 - 2. An assessment of the wetlands and wildlife habitat resources on the property, prepared by a qualified professional as determined by the County Environmental Planning Manager.