

**Summary**  
**Proposed Williamson Act /Open Space Easement Program**  
**Policies and Guidelines**

General Williamson Act Principles (Re: New and Existing Contracts)

- Land under contract must be devoted to commercial agriculture. Compatible uses are also allowed as long as land is devoted to agriculture.
- State law presumes that land must be at least 10 acres (prime) or 40 acres (non-prime) to sustain commercial agricultural use. Staff recommends that no **new** contracts be approved that do not meet these minimum sizes.
- County distinguishes prime from non-prime land, based on soil resource quality. Prime lands are those with a Class I or Class II Natural Resource Conservation Service (NRCS) rating.
- Property is assessed at the lower of its' (i) current market value; (ii) Williamson Act value for agricultural use; or (iii) Prop. 13 value. Compatible uses on contracted lands (e.g., residences) are assessed at normal values (lower of current market value or Prop. 13 value).
- Contracts last for 10 years. May only be terminated through non-renewal (9-year phaseout) or cancellation (strict findings, high fee). If non-renewed, contract restrictions remain in effect throughout the non-renewal period.

Agricultural Preserve (Re: New and Existing Contracts)

- Preserves are generally required to be 100 contiguous acres. 10 distinct agricultural preserves are proposed (1 large, 9 small).
- Preserve will cover all land zoned "AR" (Agricultural Ranchlands), "A" (Exclusive Agriculture), "HS" (Hillside), and some lands zoned "RR" (Rural Residential) in San Martin. (Note: for San Martin "RR" lands, would need to adopt zoning overlay to conform the zoning to Williamson Act requirements.)

Commercial Agriculture Guidelines (Re: New and Existing Contracts)

- Agricultural use means commercially produced agricultural commodities (unprocessed plant and animal products). Horse-related uses (boarding, training) may be allowed as compatible uses only if land is devoted to the production of agricultural commodities.
- If property is at least 10 acres of prime land or at least 40 acres of non-prime land, at least 60% of the land must be used for commercial agriculture in 3 of last 5 years. There is no minimum income requirement, but owners must substantiate farm revenue.

- For properties less than 10 acres prime, 75% of land shall be used for commercial agriculture and generate \$3,500 in annual revenue from sale of agricultural commodities in 3 of last 5 years. For properties less than 40 acres non-prime, 75% of land shall be used for commercial agriculture and generate \$2,000 in annual revenue from sale of agricultural commodities in last 3 of 5 years.
- “Income Option”: Prime parcels can also be considered in commercial agriculture if they generate \$1,000 per acre or \$10,000 in annual revenue, whichever is greater, from the sale of agricultural commodities in 3 of the past 5 years. Non-prime parcels can also be considered in commercial agriculture if they generate \$250 per acre or \$10,000 in annual revenue, whichever is greater, from the sale of agricultural commodities in 3 of the past 5 years. For Compatible Use Development under this Option, at least 50% of the parcel must be used for commercial agriculture.
- Farm revenue must be validated by affidavit and substantiated with verifiable documents, such as tax records.

#### Compatible Use Development Guidelines (Re: New and Existing Contracts)

- Land must be primarily in agricultural use before any Compatible Use Development will be considered.
- Compatible uses must meet criteria in State law and County ordinance (e.g., must not displace or interfere with existing or future commercial agricultural use of property; must be “incidental” to agricultural use)
- No more than 10% of property (maximum of 5 acres) may be devoted to compatible uses.
- Compatible uses must comply with siting criteria (e.g., clustering, minimal grading)
- Properties qualifying as commercial agriculture producing parcels under the “Income Option” must use at least 50% of the parcel for commercial agriculture production before a permit may be issued for Compatible Use Development.

#### Non-renewal of Substandard Parcels (Re: Existing Contracts)

- All parcels not meeting minimum size criteria (10 acres prime, 40 acres non-prime) will be non-renewed in 2006.
- Board will establish general criteria for parcels to be non-renewed and delegate administration/processing to staff.
- Owner has 60 days to protest non-renewal. County will withdraw notice if owner demonstrates that land meets commercial agriculture guidelines.
- Undersized parcels that are contiguous to other contracted lands that are being collectively used for commercial agriculture may remain under contract if owners sign and record joint management agreement.

- Property taxes for non-renewed parcels increase over the non-renewal period in accordance with a formula established by State law. This formula generally results in a relatively large increase in the first year and a more gradual increase thereafter. Tax increases may be delayed for first 4 years of non-renewal period if owner protests non-renewal.

#### Open Space Easements (Re: Existing Contracts; New Easements)

- State law allows owner to exchange Williamson Act contract for an Open Space Easement Agreement under Open Space Easement Act of 1974.
- Definition of “open space” under Open Space Easement Act is very broad.
- The Board has requested a 5 acre minimum to be considered for easement exchange.
- Public access onto parcels with Open Space Easement Agreements is not required.
- Easements would last at least 15 years and automatically renew for an additional year each year unless non-renewed. Termination process similar to Williamson.
- Three levels of easements are proposed, at landowner’s option: (1) no development allowed; (2) restricts development to 1,000 sq. ft. residence; or (3) restricts development to 5% of property (maximum of 5 acres).
- Tax benefit of Open Space Easement Agreement questionable. Depends on how easement affects property value, based on market sales of similarly restricted properties. E.g., if development restrictions are not very onerous, easement may not have much effect on property value.
- Owners of Williamson Act properties who do not now have an agricultural use and meet the minimum acreage requirement for an Open Space Easement Agreement would be allowed to construct a residence on their property.

#### General Administration, Monitoring/Enforcement<sup>1</sup> (Re: New and Existing Williamson Act Contracts and Open Space Easement Agreements)

- Enhanced public education/outreach. E.g., when Williamson Act property is transferred, information packet will be mailed to new owner regarding requirements for Williamson Act properties.
- Williamson Act contract and Open Space Easement Agreement holders may request a formal Guideline interpretation to address unusual circumstances and geographic conditions. Interpretation decisions may be appealed.
- Proposals for development on contracted lands will trigger compliance review. No development permits will be issued until all Compatible Use Development criteria are met.

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<sup>1</sup> Contingent upon additional funding/staff resources.

- Staff will review all contract/easement lands at least once every three years to ensure contract compliance using available file data, reports and photography. On-site inspections shall only be required for cause and with notice to property owners.
- Enhanced public education/outreach. E.g., information will be made available through the realty profession, at public counters and on the County website to explain Williamson Act contract and Open Space Easement Agreement responsibilities and requirements. An ordinance will require Williamson Act contract holders to disclose contracted status as part of any real estate transaction.
- Increased follow-up on agricultural questionnaire mailed by Assessor, which owner must sign on penalty of perjury. If owner fails to return questionnaire, will trigger follow-up by Department of Planning and Development and Agricultural Commissioner staff. If investigation discloses that property is not used primarily for agriculture, contract may be non-renewed.
- Fees will be charged when Williamson Act contract holders propose to transfer to an Open Space Easement Agreement, to develop restricted lands or when an enforcement action is necessitated. Annual monitoring/enforcement fees will also be charged: (1) for Williamson Act contract holders of substandard parcels (below 10 - and 40 - acre minimums) as a condition of not non-renewing their contract; and/or (2) monitoring fee for owners who do not return Assessor's questionnaire, thus requiring follow-up investigation by staff.
- Williamson Act contract holders not proposing to develop their land, transfer to an Open Space Easement Agreement, or involved in an enforcement action, may self-certify ongoing contract compliance with their Williamson contract through the annual Assessor's questionnaire.
- Material breaches of contract will be processed in accordance with State law (AB 1492; 25% penalty).