COUNTY OF SAN LUIS OBISPO

RULES OF PROCEDURE TO IMPLEMENT THE CALIFORNIA LAND CONSERVATION ACT OF 1965

ADOPTED BY
THE SAN LUIS OBISPO COUNTY BOARD OF SUPERVISORS
JUNE 26, 1972 – RESOLUTION NO. 72-396

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COUNTY OF SAN LUIS OBISPO

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RULES OF PROCEDURE TO IMPLEMENT THE CALIFORNIA LAND CONSERVATION ACT OF 1965

A. INTRODUCTION

The objective of the San Luis Obispo County Agricultural Preserve Program, as provided by the California Land Conservation Act of 1965 or Williamson Act, are to protect agricultural lands for continued production of food and fiber and limited types of land devoted to open-space and recreational uses. The county's Rules of Procedure to Implement the California Land Conservation Act of 1965 provide the standards for property eligibility and land use restrictions under the program. They also provide procedures for terminating contracts and monitoring the agricultural preserve program.

These Rules of Procedure supersede previous Rules of Procedure, which were adopted in 1972 and 1991 and last amended in 1995. The extensive 1991 revisions were needed to refer to the current Land Use Element and Land Use Ordinance/Coastal Zone Land Use Ordinance instead of the prior Zoning Ordinance, to update and improve qualification and land use standards, and to address regulatory and procedural questions. The latest revisions primarily include a few modifications to qualification and land division standards in Table 1, update of the listing of agricultural and compatible uses in Table 2, the addition of the new Farmland Security Zones program, and additional criteria for agricultural preserves based on open-space and recreation uses.

An agricultural preserve is established by landowner request in an area devoted to an agricultural use, recreational use, and/or an open-space use as defined in and established in accordance with the California Land Conservation Act of 1965. Establishment of an agricultural preserve is a prerequisite for landowners to enter into land conservation contracts with the county (or a city). A land conservation contract is a contract entered into by and between the property owner and the county (or a city) to enforceably restrict the use of the land for agricultural and compatible uses for a minimum term of 10 years or more. San Luis Obispo County contracts have minimum terms of 10 or 20 years, depending on property location. The primary incentive for property owners to request establishment of preserves and then enter into contracts is to reduce current and/or future property taxes. The program is designed for the property owner who is dedicated to the long-term use of the land for agricultural, recreational and open space purposes. This is because of the relatively small tax advantage during the 9- to 10-year waiting period once the owner serves a notice of nonrenewal to terminate a contract and the difficulty of obtaining approval of cancellation of a contract for earlier termination of a contract.

Any landowner meeting the qualification standards may apply to form an agricultural preserve and, once the preserve is approved by the Board of Supervisors, enter into a land conservation contract with the county. Following the recording of a contract, the property is reassessed on the basis of the agricultural income producing capability of the land instead of fair market value or Proposition 13 value. This assures the landowner that property valuations and taxes will remain at lower stable levels notwithstanding location relative to urban or other developing areas. In exchange for the tax benefits of the program, the landowner agrees to keep the land in agricultural, open-space or recreational use and in large parcel sizes related to the agricultural quality of the land or existing use.

The county Planning and Building Department handles the processing of all applications for establishing/executing or amending agricultural preserves and land conservation contracts following these steps:

- **a.** Initial review of the application for completeness, to include a signed lienholder acknowledgement letter for properties with lienholders.
- **b.** Notification to applicant that the application has been accepted for processing.
- **c.** Preparation of an environmental determination.
- **d.** Referral of the application to the referral agencies and organizations for their review and recommendations.
- **e.** Preparation of the contract for the notarized signatures of owners as identified in a current title company lot book guarantee or preliminary title report submitted by the applicant.
- **f.** Submittal of the signed and notarized contract and title company report to the Department of Planning and Building for transmittal to the Office of County Counsel for approval as to form and legal effect.
- **g.** Preparation of resolutions approving agricultural preserve and/or contract.
- **h.** Board of Supervisors public hearing for final action on agricultural preserve and/or contract. May be scheduled as a consent item if final action required just for contract.
- **i.** Filing the environmental determination with the State Clearinghouse.
- **j.** Recordation of the contract.

It takes at least four to six months to process an agricultural preserve and land conservation contract application. Applications must be submitted to the county Planning and Building Department by the end of July in any given year to allow sufficient time for contracts to be recorded by the end of December. The last workday of December is the annual contract recording deadline for ensuing property reassessments and property tax reductions that become effective for the following fiscal year.

In addition to new agricultural preserve applications, the county Planning and Building Department also handles the processing of notices of nonrenewal of land conservation contracts and contract cancellation requests. The department provides an informational handout with appropriate instructions and forms for each type of application or request.

B. AGRICULTURAL PRESERVES FOR AGRICULTURAL USES

1. Eligibility Criteria for Agricultural Preserves and Land Conservation Contracts

This section contains the criteria for properties to qualify for agricultural preserves and land conservation contracts. The combined criteria in subsections a (general plan consistency), b (minimum preserve size) and c (minimum ownership size) apply to the majority of potentially eligible lands. The criteria in subsection d (special qualification provisions) apply to special or unusual circumstances.

a. General Plan Land Use Designations.

Land to qualify for an agricultural preserve may be located in any rural land use designation of the San Luis Obispo County General Plan if it meets preserve and ownership size eligibility requirements. The California Land Conservation Act of 1965 requires that the establishment of any agricultural preserve within the county must be found to be consistent with the county general plan. Most eligible land is already located in the Agriculture category of the Land Use Element or Agriculture designations of the 1998 Agriculture Element and 2010 Conservation and Open Space Element. When not already included in agricultural designations, all lands for which agricultural preserves are approved based on agricultural uses will be placed in these agricultural designations by general plan amendments initiated by the county within one year after the agricultural preserves are established.

b. Agricultural Preserve Size.

The minimum agricultural preserve size shall be 20 or 40 acres for prime land as defined below. For nonprime land, the minimum preserve size shall be 160 acres for non-irrigated Classes 3 and 4 soils and 320 acres for Classes 6 and 7 land. Preserves may consist of either a single ownership or contiguous ownerships of at least 10 acres per ownership if each ownership meets the qualification requirements in subsection B1c. The California Land Conservation Act of 1965 requires that an agricultural preserve, which may consist of one ownership or two or more contiguous ownerships, shall be at least 100 acres in size unless the county finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the county general plan. The county's interpretation of uniqueness provides for the establishment of agricultural preserves smaller than 100 acres if the preserve consists of 20 or 40 acres or more of prime land as defined below.

Prime Land: The definition of prime land, which is used to determine the eligibility of agricultural preserves less than 100 acres in size for the San Luis Obispo County agricultural preserve program, means any one of the following:

(1) Land with a Natural Resources Conservation Service land capability rating of Class 1 or Class 2 (all land to qualify for these ratings must be irrigated), or

(2) Other irrigated lands that have suitable soils, climate and water supply which sustain irrigated crops valued according to one of the following criteria:

(a) Land planted in crops which have produced an annual gross value of $1,000 or more per acre for three of the previous five years. Production value is to be substantiated by requiring landowners to submit commodity sales receipts or agricultural income forms from their income tax records.

(b) Land planted in orchards, vineyards and other perennial crops that would produce an average annual gross value of $1,000 or more per acre if in full commercial bearing. Value is calculated by multiplying the average production per acre by the average value of the commodity for the previous five years as determined from the Annual Reports of the San Luis Obispo County Department of Agriculture and Measurement Standards.

(3) **High Productivity Prime Land (Small Specialized Farms)**

Minimum Preserve Size: 20 acres gross

Minimum Soil Requirements: 10 of the 20 acres must be Class 1 or Class 2 soils fully planted in irrigated crops (excluding home sites, accessory structures and land not suited as farmland).

Productivity Requirements: Must include land planted in crops which have produced an annual gross value of $2,000 or more per acre for three of the previous five years. Production value is to be substantiated by requiring land owners to submit commodity sales receipts or agricultural income forms from their income tax records. (Alternatively, a land owner may provide crop production records from the Agricultural Commissioner's office if available, subject to review and approval by Planning Department staff in consultation with Agricultural Commissioner's staff.)

Minimum Parcel Size for Division or Conveyance:
Class 1 – 20 acres
Class 2 – 40 acres

c. Qualification Requirements for Individual Ownerships.

An individual property must satisfy the minimum standards in Table 1, Column 2, as well as subsections B1a and b above, to qualify for the agricultural preserve program. These standards apply to eligibility of land, not to land division and conveyance of existing parcels (minimum parcel sizes for new land divisions and conveyance of existing parcels are shown in Column 3 of Table 1 and are discussed in Section B2 of the Rules of Procedure.)

Qualification standards in Table 1 emphasize the existing and potential use of a property for cropland and/or grazing. An agricultural specialty use (most of which are defined in the Land Use Element as specialized animal facilities, animal raising and keeping, and nursery specialties) may not qualify unless the balance of the

property consists of cropland or grazing uses or the entire property consists of land capability classifications that satisfy the minimum acreage requirements in Table 1.

TABLE 1

MINIMUM OWNERSHIP SIZES FOR QUALIFICATION AND MINIMUM PARCEL SIZES FOR CONVEYANCE OF LAND & NEW LAND DIVISIONS		
Natural Resources Conservation Service Land Capability Classification	**Minimum Acreage[1]**	
	To Qualify[2]	**To Convey Existing Parcels[3] or Create New Parcels**
20 or 40-Acre Minimum Preserve Size[4, 11]		
Class 1[5]	10	20
Class 2[5]	10	40
Irrigated Classes 3, 4, 6, 7 with Orchards or Vineyards[6]	20	40
All Other Irrigated Classes 3 & 4	40	40
Mixed Irrigated & Non-irrigated Use[7]	10/20/40	80/160
160 or 320-Acre Minimum Preserve Size		
Non-Irrigated Classes 3 & 4	160	160
Classes 6 & 7	320[8]	320
Class 8	NA[9]	320

Notes:

1. Portions of a property with different land capability ratings and agricultural uses will be considered to determine qualification and appropriate minimum parcel size(s) per Appendix Section E1

2. Qualification also requires compliance with the minimum agricultural preserve size standards in Section B1b, where a single ownership or two or more contiguous ownerships totaling less than 100 acres must contain at least 40 acres of prime land as defined in the Rules of Procedure.

3. The total land area described in any land conservation contract may be conveyed in its entirety to a new owner even if the property is smaller than the minimum parcel size for new land division. For example, a property under contract which originally qualified on the basis of 100 acres or more of rangeland, but is less than the 320-acre minimum parcel size that was applied for conveyance, may be conveyed as a single unit to a new owner. The intent of the restriction on conveyance of land is to require that separate sale(s) of existing parcels of record must be equal to or larger than the minimum acreage requirements for new land divisions except as provided above and immediately below. Further, note that the remaining acreage must also still meet the minimum acreage requirement for new land division except as provided immediately below.

   For properties that qualified with acreage in excess of the minimum required in column 3 for

creation of new parcels or conveyance of existing ones, an existing parcel or grouping of contiguous parcels of record may be separately conveyed smaller than the minimum acreage requirements for new land divisions only where the resulting ownerships, including the acreage retained, each comply with the minimum acreage requirements to qualify and are located wholly or partly within one mile of an urban reserve line or adjacent to a village reserve line designated by the Land Use Element and Local Coastal Plan.

4. Land must meet the definition of prime land per Section B1b.

5. Land must be irrigated to qualify for a Class 1 or 2 rating.

6. The orchard or vineyard must be already planted.

7. The above minimum acreage qualification requirements for irrigated uses are to be used. Appendix Section E1 is to be used to determine qualification and appropriate minimum parcel size(s) for properties with mixed land capabilities and agricultural uses.

8. The property must contain at least 100 acres of land that is well to moderately-suited for rangeland as described in the Natural Resources Conservation Service soils reports or designated as "highly productive rangeland" in the Conservation and Open Space Element of the County General Plan.

9. Class 8 land is not to be used in determining minimum acreage requirements for qualification.

10. The minimum preserve size for non-irrigated Classes 3 and 4 soils is 160 acres and the minimum preserve size for the non-irrigated Classes 6 and 7 soils is 320 acres.

11. Participation in the MILR Program and Fallowed Land Registry Platform, or another County-approved fallowing program, shall not disqualify a property currently under contract where qualification is based on irrigated soils.

d. Special Qualification Provisions

(1) P**roperty adjacent to an existing agricultural preserve.** A landowner whose property qualifies for the program under subsection B1a and B1c but does not meet the separate preserve size requirement in B1b may have his property added to an existing adjacent agricultural preserve by amendment of that preserve and then enter into a land conservation contract. (Applies only to individual properties of less than 40 acres that qualify for a land conservation contract under Table B1.c, but lack the full 40 acres to qualify for a prime-land agricultural preserve. Individual properties of 160 acres or greater and 320 acres or greater require acreage equal to their respective agricultural preserve sizes and therefore this provision does not apply.)

(2) **Addition of land to an existing preserve and contract.** A property owner under contract who acquires adjacent parcels of any size may add this land by amendment of the existing 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.

(3) **Property adjacent to public land or privately-owned land restricted to open space uses.** A landowner whose property is located adjacent to public land (e.g., federal lands or state and county parks in the Open Space, Recreation, Agriculture or Rural Lands land use categories of the county Land Use Element) or privately-owned lands subject to enforceable restrictions (e.g., open space easement) may qualify for an agricultural preserve and land conservation contract if the property meets the criteria in subsections B1a and B1c.

(4) **Property consisting of discontiguous parcels.** Discontiguous parcels under one ownership may qualify for, or be added to, a single agricultural preserve if they collectively meet the criteria in B1a, b and c, and are operated as a single agricultural enterprise. Agricultural enterprises on two or more discontiguous parcels under a single contract must be functionally operational on a collective basis to qualify.

(5) **Referral.** Planning and Building Department review of applications filed in compliance with the rules of procedure will include notification of the members of the referral agencies and organizations listed below to review and make recommendations to the Board of Supervisors and/or Planning Commission on the following:

1. New agricultural preserve applications

2. Amendments to existing agricultural preserves and land conservation contracts

3. Notices of partial nonrenewal of contracts

4. County-initiated notices of nonrenewal and contract violation matters

5. Disestablishment of preserves

6. Development proposals and other matters that may significantly affect the agricultural preserve program

7. Periodic review of the Rules of Procedure, including the Appendix, to determine if any additional revisions are necessary

Referral Agencies and Organizations:

1. Agricultural Liaison Advisory Board

2. Farm Service Agency

3. Cattlemen's Association

4. Farm Bureau

5. Farm Advisor

6. Land Conservancy of San Luis Obispo County

7. County Agricultural Commissioner

8. County Assessor

9. County Department of Planning and Building

10. Representative from an environmental organization (to be designated)

11. Person with expertise in soil science (to be designated)

12. Public-at-large member (to be designated)

13. Wine Industry Representative (to be designated)

(6) **Ordinance Compliance.** No agricultural preserve application or land conservation contract shall be approved for any land where an existing land use or parcel is being maintained in violation of any applicable provision of the Subdivision Map Act, the San Luis Obispo County Code, or any condition of approval of a land use permit where the violation is identified prior to the filing of an agricultural preserve application and a notice of violation has been recorded or a citation has been issued.

(7) **Partial Exclusion.** A property owner may not exclude a portion of an existing legal parcel from a land conservation contact approved after 1/3/2008. However, more than one existing legal parcel may be included in a single land conservation contract.

2. Land Division and Conveyance

Table 1, column 3, shows minimum parcel sizes for new land divisions related to the agricultural quality and use of lands subject to land conservation contracts and farmland security zone contracts. Minimum parcel sizes in Table 1 shall be considered as floors and not ceilings. Since approval of any proposed land division is discretionary, the county may require parcel sizes larger than the designated minimum to ensure agricultural viability. An agricultural viability report prepared by a county-approved agricultural economist will be required if proposed parcels are questionable in relation to their agricultural use and potential. Minimum parcel size standards in Table 1 are deemed appropriate for San Luis Obispo County and are more restrictive than minimum parcel sizes indicated in the California Land Conservation Act of 1965, Government Code Section 51222, which states the following: "The legislature further declares that it is in the public interest for local officials and landowners to retain agricultural lands which are subject to contracts entered into pursuant to this Act in parcels large enough to sustain agricultural uses permitted under the contracts. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their

agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land."

On a large property, different minimum parcel sizes may be applied based on predominant land capability and/or agricultural use of existing parcels of record. If a property consists of intermixed land capability ratings and/or agricultural uses, the appropriate minimum parcel size based on fractional portions of different potential or use will be determined by the method shown in Appendix Section E1.

A property owner may request a reduction in the minimum parcel size applied to the property if the agricultural use has been substantially intensified (e.g., conversion from dry farm grain to irrigated orchards or vineyards) to justify smaller parcel sizes according to the minimum parcel size standards in Table 1, column 3.

The Table 1, column 3, standards also signify minimum parcel sizes that can be separately conveyed or retained under single ownerships, subject to certain exceptions noted in footnote 3 of the table. Existing land conservation contracts for agricultural preserves established on or after January 3, 1972 (when the original El Pomar Agricultural Preserve was established), prohibit separate conveyance of parcels smaller than the minimum parcel sizes applied to the agricultural preserves, except that the total land described in any contract may be conveyed in its entirety.

3. Agricultural and Compatible Uses

Table 2 lists all land use definitions contained in Table 2-2 for the Inland Portion and Table O, for the Coastal Zone, of Framework for Planning, Part I of the Land Use Element. The respective columns indicate if the uses are: (1) allowable - "Yes", (2) conditional per Table 2 footnotes, or (3) prohibited - "No" for lands subject to land conservation contracts or farmland security zone contracts. Allowable uses are subject to all applicable standards in the Land Use Element and Land Use Ordinance/Coastal Zone Land Use Ordinance for the Agriculture land use category. These standards supersede the pre-1981 Zoning Ordinance for A-2 and A-3 zoning districts attached as "Exhibit B" to previous contracts.

Proposed land uses on contracted lands also must be consistent with the principles of compatibility contained in the California Land Conservation Act of 1965, Government Code Sections 51238 et seq.

TABLE 2

AGRICULTURAL AND COMPATIBLE USES FOR LANDS SUBJECT TO LAND CONSERVATION CONTRACTS AND FARMLAND SECURITY ZONE CONTRACTS

	INLAND	COASTAL ZONE	
USE GROUP	AREA	PRIME SOILS	NON-PRIME SOILS
CANNABIS ACTIVITIES (Note 14)			
Outdoor Cultivation	Yes	Yes	Yes
Indoor cultivation / Soil Dependent	Yes	No	Yes
Indoor Cultivation / Non-Soil Dependent	Yes/Subject to Review/Note 4	No	Yes/Subject to Review/Note 4
Cannabis Nurseries / Soil Dependent	Yes	Yes	Yes
Cannabis Nurseries / Non-Soil Dependent	Yes/Subject to Review/Note 4	Yes/Subject to Review/Note 4	Yes/Subject to Review/Note 4
Cannabis Manufacturing (limited to extraction of raw cannabis materials grown on-site)	Yes	No	Yes
Distribution Facilities	No	No	No
Dispensaries	Yes/Note 15	No	Yes/Note 15
Testing Facilities	No	No	No
Processing Facilities	No	No	No
Transport Facilities	Yes	No*	No*

* BOS adopted Phase 2 Cannabis Coastal Zone Ordinance Amendments would allow these uses; however, the Phase 2 amendments have not been certified by the California Coastal Commission as of the date of adoption of these amended Rules of Procedure.
[Added 2018, Reso 2018-117; Amended 2019, Reso 2019-321]

AGRICULTURE

Ag Accessory Structures	Yes	Yes	Yes
Ag Processing	Yes	Yes	Yes
Animal Raising & Keeping	Yes	Yes	Yes
Aquaculture	Note 3	No	Yes
Crop Production & Grazing	Yes	Yes	Yes
Farm Equipment & Supplies	Yes	Note 2	Yes
Nursery Specialties	Yes	Yes	Yes
Soil Dependent	Yes	Yes	Yes
Non-Soil Dependent	Note 4	Note 4	Note 4
Specialized Animal Facilities	Note 6	Note 6	Note 6

COMMUNICATIONS

Broadcasting Studios	No	No	No
Communication Facilities	Yes	No	Yes

CULTURAL, EDUCATION & RECREATION

Cemeteries & Columbariums	No	No	No
Churches	No	No	No
Coastal Accessways	Note 3	Yes	Yes
Drive-In Theaters	No	No	No
Indoor Amusements & Recreation	No	No	No
Libraries & Museums	No	No	No
Marinas	No	No	No
Membership Organization Facilities	No	No	No
Off-Road Vehicle Courses	No	No	No
Outdoor Sports & Recreation	No	No	No
Passive Recreation	Note 3	No	No
Public Assembly & Entertainment	No	No	No
Rural Recreation and Camping	Notes 4 & 9	No	Notes 4 & 9
Schools - College & University	No	No	No
Schools - Pre thru Secondary	No	No	No
Schools - Specialized Education & Training	No	No	No
Social Service Organizations	No	No	No
Sports Assembly	No	No	No
Temporary Events	Yes/Note 9	No	Yes/Note 9

MANUFACTURING & PROCESSING

Apparel Products	No	No	No
Chemical Products	No	No	No
Concrete, Gypsum & Plaster Products	Note 4	No	Notes 2 & 4
Electrical Equipment & Electronic & Scientific Instruments	No	No	No
Energy Generating Facilities	No	No	No
Food & Kindred Products	Yes	Note 2	Yes
Furniture & Fixtures Products	No	No	No
Glass Products	No	No	No
Lumber & Wood Products	No	No	No
Machinery Manufacturing	No	No	No
Metal Industries, Fabricated	No	No	No
Metal Industries, Primary	No	No	No
Motor Vehicles & Transportation Equipment	No	No	No
Paper Products	No	No	No
Paving Materials	Note 4	No	Note 4
Petroleum Refining & Related Industries	No	No	No
Plastics & Rubber Products	No	No	No
Printing & Publishing	No	No	No
Recycling Collection Stations	Yes	No	Yes
Recycling & Scrap	No	No	No
Renewable Energy Facilities	Subject to Appendix E6 Note 12	No	No
Small Scale Manufacturing	Yes/ Notes 4 & 9	No	Yes/ Notes 4 & 9
Stone & Cut Stone Products	No	No	No
Structural Clay & Pottery - Related Products	No	No	No
Textile Products	No	No	No

[Amended 2015, Reso 2015-75]

RESIDENTIAL USES

Accessory Dwellings	Yes	Yes/Note 10	Yes
Caretaker Residence	No	No	No
Farm Support Quarters	Yes/Note 8	Yes Notes 8 & 10	Yes/Note 8
Home Occupations	Yes	Yes	Yes
Mobilehome Parks	No	No	No
Mobilehomes	Yes/Note 8	Notes 8 & 10	Yes/Note 9

Multi-Family Dwellings	No	No	No
Nursing & Personal Care	No	No	No
Organizational Houses	No	No	No
Residential Accessory Uses	Yes	Yes	Yes
Residential Care	No	No	No
Secondary Dwelling Units	No	No	No
Single Family Dwellings	Yes/Note 8	Notes 8 & 10	Yes/Note 8
Temporary Dwelling	Yes	Yes	Yes

RESOURCE EXTRACTION

Fisheries & Game Preserves	Yes	Note 2	Yes
Forestry	Yes	No	Yes
Mining	Note 4	No	Note 4
Petroleum Extraction	Note 4	No	Note 4
Water Wells & Impoundments	Note 3	Yes	Yes

RETAIL TRADE

Auto, Mobilehome & Vehicle Dealers & Supplies	No	No	No
Building Materials & Hardware	No	No	No
Eating & Drinking Places/Restaurants	Yes / Notes 4, 9 & 11	No	Yes / Notes 4, 9 & 11
Food & Beverage Retail Sales	No	No	No
Fuel & Ice Dealers	No	No	No
Furniture, Home Furnishings & Equipment	No	No	No
General Merchandise Stores	No	No	No
Mail Order & Vending	No	No	No
Outdoor Retail Sales	No	No	No
Roadside Stands	Yes	Note 2	Yes
Service Stations	No	No	No

SERVICES

Auto & Vehicle Repair & Service	No	No	No
Business Support Services	No	No	No
Construction Contractors	No	No	No
Consumer Repair Services	No	No	No
Correctional Institutions	No	No	No

Financial Services	No	No	No
Health Care Services	No	No	No
Laundries & Dry-Cleaning Plants	No	No	No
Offices	No	No	No
Offices, Temporary	Yes	No	Note 2
Personal Services	No	No	No
Public Safety Facilities	Yes	No	No
Storage, Accessory	Yes	Note 2	Yes
Storage Yards & Sales Lots	No	No	No
Temporary Construction Yards	Yes	No	Yes
Waste Disposal Sites	No	No	No

TRANSIENT LODGINGS

Bed & Breakfast Facilities	Yes/Note 9	No	Yes/Note 9
Homestays	No	No	No
Hotels & Motels	No	No	No
Recreational Vehicle Parks	No	No	No
Residential Vacation Rentals	Yes/Note 13	No	Yes/Note 13
Temporary Construction Trailer Parks	Yes	No	No

TRANSPORTATION

Airfields & Landing Strips	Yes/ Notes 4 & 6	No	Yes/ Notes 4 & 6
Harbors	Note 3	No	No
Marine Terminals & Piers	Note 3	No	No
Pipelines and Transmission Lines	Yes	Yes	Yes
Public Utility Facilities	Yes	No	Yes
Transit Stations & Terminals	No	No	No
Truck Stops	No	No	No
Vehicle & Freight Terminals	No	No	No
Vehicle Storage	No	No	No

WHOLESALE TRADE

Warehousing	Yes/Note 7	No	Yes/Note 7
Wholesaling & Distribution	Yes/Note 7	No	Yes/Note 7

NOTES:

1) The definition of "prime soils" used in the Coastal Zone Land Use Element and Coastal Zone Land Use Ordinance is the same as the definition of "prime agricultural land" in the California Land Conservation Act of 1965, California Government Code Section 51201(c). The definition of "prime land" in Section B1b of the Rules of Procedure is different; it applies only to minimum agricultural preserve size for the San Luis Obispo County agricultural preserve program.

2) The Review Committee recommends that the county initiate an amendment to the Land Use Element and Land Use Ordinance/Coastal Zone Land Use Ordinance to consider inclusion of this land use definition as an allowable use in the Agriculture land use category with a subsequent amendment of the Rules of Procedure to include it in the listing of agricultural and compatible uses.

3) The land use definition is not used in the Land Use Element for the Inland Area.

4) Applications for land use permits are subject to prior review and recommendations by the referral agencies and organizations.

5) The following definition of Specialized Animal Facilities, which is a modification of the definition in the Land Use Element, limits the range of uses for lands subject to land conservation contracts:

   Specialized Animal Facilities: Intensive agricultural and other animal care or keeping establishments including: hog ranches, dairies, dairy and beef cattle feedlots (the distinction between a grazing operation and a feedlot is established by the Land Use Ordinance or the Coastal Zone Land Use Ordinance and by the definition of "Animal Raising and Keeping"); livestock auction, sales building, and sales lot facilities; chicken, turkey and other poultry ranches; riding academies, accessory equestrian exhibition facilities and large scale horse ranches (Applications for land use permits are subject to prior review and recommendations by the referral agencies and organizations); and kennels. See also "Animal Raising and Keeping," "Crop Production and Grazing."

6) Applications for Airfields and Landing Strips must demonstrate that they are directly linked to and in support of the agricultural enterprise on-site either for crop spraying, transporting, marketing or management of agricultural products and are consistent with the Williamson Act Principles of Compatibility.

7) Warehousing and Wholesaling & Distribution as land uses are limited to essential warehousing, wholesaling and distribution of agricultural products produced on-site or in support of approved on-site agricultural processing facilities that support local agricultural enterprises. Mini-warehouse facilities or other warehouses for lease to the public are prohibited on contracted properties. The property owner must demonstrate compliance with the Williamson Act.

8) Residential density for Single Family Dwellings, Mobilehomes, and Farm Support Quarters is based on the minimum parcel size for each contract, not on each individual parcel within a contract. In some, but not all cases, multiple residences may be warranted. Each proposed residence must be incidental to and in support of the

agricultural enterprise on the property and demonstrate compliance with the principles of compatibility and the Laird Bill provisions of the Williamson Act. In most cases it will be necessary to qualify the multiple residences built after January 1, 2004 as Farm Support Quarters under Section 23.08.167c. and e. of the Coastal Zone Land Use Ordinance or Section 22.30.480 B. and C. of the Land Use Ordinance.

9) The referral agencies and organizations recommend that the title, organization and allowable status of this use group be reviewed for further recommendations from the referral agencies and organization after future amendments to the Land Use Ordinance and Coastal Zone Land Use Element/Land Use Ordinance for the use group are adopted.

10) Single Family Dwellings, Mobilehomes, Farm Support Quarters, and Accessory Dwellings in the Coastal Zone shall not be located on prime agricultural soils unless there is no other building site on the ownership that is all of the following:
   a. On other than prime soils;
   b. Less than 20 percent in slope;
   c. Not within a designated Flood Hazard Combining Designation.

11) Land Use permits for eating and drinking places must be found by the review authority to not significantly displace or impair agricultural operations on the site or in the area.

12) Accessory Renewable Energy Generating Facilities. On-site use Renewable Energy Facilities are allowed on contracted land subject to Title 22 (Land Use Ordinance Section 22.32.020.A.2)

[Amended 2015, Reso 2015-75]

13) Residential Vacation Rentals are allowed on properties subject to land conservation contracts in existing permitted residences if the criteria listed below can be met. In the Inland area residential Vacation Rentals are subject to Tide 22 and are processed as a Zoning Clearance. In the Coastal Zone Residential Vacation Rentals are subject to Title 23 and are processed as Minor Use Permit/Coastal Development Permits. (Including TOT and business license.)

   a) Properties must be in compliance with the provisions of their contracts (when entered into) and have current and ongoing agricultural use as required by the Williamson Act.

   b) Residential Vacation Rentals must have an on-site resident manager (or other designated off-site manager), be incidental to and in support of the primary agricultural enterprise and be consistent with the 3 Principles of Compatibility in the Williamson Act [Government Code Section 51238.1.(a) through (c)].

   c) One Residential Vacation Rental is allowed per land conservation contract. A Residential Vacation Rental is not allowed in addition to a Bed and Breakfast (one or the other but not both). Farm Support Quarters cannot be used for Residential Vacation Rentals.

d) Guest occupancy (including private parties) is limited to a maximum of 12 overnight guests with the total day time guests and visitors not to exceed 30 people, excluding children under 5 years of age, Properties with a single residence are limited to 120 days of transient occupancy and no more than 4 tenancies per month. Properties with two or more residences (one vacation rental) are allowed no more than 4 tenancies per month.

e) Temporary events are not allowed unless authorized under the appropriate land use permit as required by the respective Land Use Ordinance (Title 22 or Title 23).

14) All Cannabis Activities in the Williamson Act are subject to Title 22 and Title 23, including Cannabis definitions. Properties under Williamson Act land conservation contracts are also subject to the provisions contained in Table 2 herein.

a) Properties must be in compliance with the provisions of their contracts (when entered into) and have current and ongoing agricultural use as required by the Williamson Act.

15) Limited to sale of cannabis grown on-site as set forth in Title 22 and Title 23 for properties in the Agriculture Land Use Category.

[Amended 2007, Reso. 442; 2017, Reso. 2017-60; 2018, Reso. 2018-117; Amended 2019, Reso. 2019-321]

4. Terms of Land Conservation Contracts

The minimum term of land conservation contracts shall be 20 years, with the exception that a property located wholly or partly within one mile of an urban reserve line or adjacent to a village reserve line designated by the Land Use Element and Local Coastal Plan is eligible for a 10-year minimum term.

If a property owner has served a notice of nonrenewal of land conservation contract on the county and the same owner or a successor wishes to reinstate the ongoing contract status to negate the effect of the nonrenewal, the owner will need to apply for a new contract for a term of 20 or 10 years as provided above.

5. Termination of Land Conservation Contracts

Methods for terminating land conservation contracts include nonrenewal, cancellation, annexation, and public acquisition.

Background: Once 10 years have elapsed since the execution of a 20-year contract, it becomes, in effect, a 10-year contract. Beginning on the eleventh year, a year is automatically added for each year that elapses to maintain an on-going 10-year term unless a notice of nonrenewal is served.

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 nonrenewal is served.

Unless the landowner or the county serves notice of nonrenewal on the other party, or the contract is terminated by one of the other methods described in Section B5b, c, or d, a contract continues indefinitely.

a. Nonrenewal.

Nonrenewal is the guaranteed and by far 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 a notice of nonrenewal in a timely manner (see below).

(1) **Service and termination dates.** To terminate a land conservation contract by nonrenewal, the landowner, or the county, must serve a notice of nonrenewal by the required deadline in any given year. Once a notice of nonrenewal is served on a contract with 10 years remaining, it takes 9 to 10 years for the contract to expire. Information on and examples of filing deadlines and termination dates for 10-year and 20-year contracts are provided in Appendix Section E2.

(2) **Full or partial nonrenewal.** Any landowner under contract may terminate the contract on his property by serving a notice of nonrenewal of contract on the county. A contract can also be terminated by the county serving the notice of nonrenewal on a property owner.

County review and approval of a landowner-initiated notice is required only for a notice of partial nonrenewal 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 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 nonrenewal. However, such notices will trigger county review of other properties subject to the same contract to determine their continuing eligibility and to consider if and when the county should serve notices of nonrenewal on other property owners under the contract.

(b) The landowner requests termination of contract on a portion of his 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 nonrenewal on the entire property.

An informational handout describing nonrenewal procedures and property tax impacts and containing sample form notices of full or partial nonrenewal can be obtained from the county Planning and Building Department.

b. Cancellation.

A property owner (but not the county) may request cancellation of a land conservation contract to terminate the contract on all or a portion of the property within one year after an application is accepted for processing. However, cancellation can be approved only under extraordinary circumstances as provided in the California Land Conservation Act of 1965. The Board of Supervisors, through public hearings, must make all of the findings under one of the following two sets of findings to approve a cancellation request:

(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 use.

(c) An alternative use is proposed which is consistent with the county general plan.

(d) Cancellation will not result in discontiguous 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) Same as item b(1)(e) above.

The following provision applies to both alternatives: The uneconomic character of an existing agricultural use shall not by itself be 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 to which the land may be put.

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. If a cancellation request is tentatively approved by the Board of Supervisors, the applicant must pay a cancellation penalty fee (collected by the county and transmitted to the state) amounting to 12-1/2 percent of the appraised value of the property as if it were not subject to contract within one year after tentative approval of cancellation.

An informational handout describing cancellation procedures in detail with an attached cancellation application form can be obtained from the county Planning and Building Department.

c. Annexation.

If a city annexes land subject to a land conservation contract, the city succeeds to all rights, duties and powers of the county under the contract. The city protest provision of the California Land Conservation Act of 1965 has been eliminated effective January 1, 1991. Unless a city filed a valid protest before January 1, 1991, the city cannot terminate a contract upon annexation of the property to the city. A city protest made prior to January 1, 1991, is valid only if there is a record of the filing of the protest and the protest identifies the specific affected contract and subject parcel.

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.

6. Disestablishment of Agricultural Preserves

The same procedures used to establish an agricultural preserve apply to the disestablishment or alteration of boundaries of an agricultural preserve. The following are circumstances under which the county will consider full or partial disestablishment of an agricultural preserve:

a. Landowner-initiated.

A landowner request to remove their property from an agricultural preserve will be considered only upon termination of his land conservation contract or if they or prior owners never entered into a contract. Such requests will be approved since the agricultural preserve program is a voluntary program. A request to remove property from an agricultural preserve is normally associated with an ensuing request for a general plan amendment to change the land use category from Agriculture to some other category allowing greater development potential. No assurances can be made that a request for a general plan amendment will be approved upon disestablishment or removal of a property from an agricultural preserve. The Land Use Element otherwise requires the property to remain in the Agriculture category as long as it remains in the agricultural preserve.

b. County-Initiated.

The county will remove lands from agricultural preserves +.

7. Monitoring the Agricultural Preserve Program.

The county shall actively monitor the agricultural preserve program by periodically reviewing the continuing eligibility of properties and checking for contract violations. Methods for identifying and reviewing the continuing eligibility of properties include:

(1) Planning and Building Department review of: (a) referrals (e.g., new property transfers) by the Assessor's Office or other sources and (b) annual audit of computer printout consisting of alphabetical listings of all property owners under contract and parcel acreage;

(2) Field check of properties, particularly those which are smaller than 100 acres, for (a) existing agricultural uses and land capability to determine if they comply with qualification standards or (b) a determination as to whether any contract violations have occurred; and,

(3) The taking of necessary action as described in Section 7b or 7c below.

a. Renegotiation of Contracts

Properties that have inadequate contract restrictions shall be identified and property owners shall be given the option of either renegotiating contracts to bring them into conformance with current standards or be subject to county-initiated notices of nonrenewal. Properties in agricultural preserves established prior to 1972 are the main focus of attention, as follows:

(1) Properties designated with a 40-acre minimum parcel size for new land divisions where agricultural use is limited to dry farming or grazing.

(2) Properties found to consist of existing parcels of record that are smaller than current eligibility standards.

b. County-Initiated Notices of Nonrenewal.

(1) **Processing Procedures.** The following are the procedures for processing a county-initiated notice of nonrenewal once the need to consider nonrenewal has been determined by the Planning and Building Department and Assessor's Office. Subsections (2) and (3) below describe the circumstances under which a county-initiated notice of nonrenewal will be considered.

(a) Refer the proposed notice of nonrenewal to the Environmental Coordinator for an environmental determination.

(b) Refer the notice to the referral agencies and organizations, including notification of the property owner, for their review and recommendation on the proposed notice of nonrenewal.

(c) Prepare a staff report and notice of nonrenewal for the Board of Supervisors if the referral agencies and recommend that the county proceed with the nonrenewal.

(d) Schedule a public hearing before the Board of Supervisors to consider the proposed notice of nonrenewal and environmental document, and notify the property owner of the Board hearing date.

(e) If approved by the Board of Supervisors, the notice of nonrenewal is executed by the Chairman of the Board of Supervisors and mailed to the property owner with a letter informing him of his right to protest the nonrenewal.

(f) Upon receipt by the owner of a notice of nonrenewal from the county, the owner may make a written protest of the notice of nonrenewal. The county, at any time prior to the nonrenewal date, may withdraw the notice of nonrenewal.

(g) A copy of the notice of nonrenewal and any written protest received is to be filed by the County Clerk and copies are to be transmitted to the County Assessor.

(2) **Discretionary Filing.** When a property owner serves notice of nonrenewal of contract within an agricultural preserve that was established or enlarged on the basis of multiple ownerships being necessary to meet minimum agricultural preserve size requirements, the other properties will continue to remain under contract within the preserve until and unless the county serves notices of nonrenewal on those other property owners under the circumstances described below. The California Land Conservation Act of 1965 does not require the county to immediately serve notices of nonrenewal on other property owners since the agricultural preserve continues to exist until the contract is terminated and the owner or the county takes action to remove the property from the agricultural preserve. The following are circumstances under which the county should consider serving notices of nonrenewal on other property owners within an agricultural preserve after one of the owners has served notice:

(a) One or more of the other properties in the preserve do not meet the current qualification standards in the Rules of Procedure.

(b) The preserve does not consist of prime land as defined in Section B1b.

(c) The owner or succeeding owner of the property subject to nonrenewal is unlikely to enter into a new contract because the property has significantly greater development potential if not under contract (e.g., it consists of existing small parcels of record that could be individually sold as rural residential homesites or is located adjacent to a land use category allowing more intensive development).

(d) Property owners adjacent to the existing agricultural preserve are unlikely to apply for addition of their properties to the preserve to compensate for the property subject to nonrenewal.

(3) **Mandatory Filing.** The county shall serve notices of nonrenewal of land conservation contracts on property owners if the Board of Supervisors through a public hearing finds that the conditions under which they originally qualified for the agricultural preserve program have been substantially diminished as indicated by the following:

(a) Conveyance of an existing parcel or parcels to new landowners that are smaller than the minimum parcel size applied to the agricultural preserve in cases where the contract (for preserves established prior to 1972) does not specifically prohibit such conveyances.

(b) For preserves smaller than 100 acres, changes in land use where an intensive agricultural use which originally qualified a small property consisting of non-prime soils has been terminated and the owner has made no effort to re-establish a productive agricultural use. Examples are orchards that have been destroyed by frost or drought, orchards or vineyards that are no longer being maintained due to neglect or declining productivity or animal specialty uses which have been terminated on small properties.

(c) Once a contract is terminated by nonrenewal and the county approves the owner's request to remove the property from the agricultural preserve in conjunction with a general plan amendment to change the land use category for a more intensive use, the county will serve notices of nonrenewal on the other property owners if the remaining land does not meet the minimum preserve size requirements in the Rules of Procedure.

c. Enforcement of Contracts.

The county shall monitor the agricultural preserve program for contract violations and take necessary actions to restrain breach of contracts or compel compliance with the terms of contracts. Two major types of enforcement problems are: (1) conveyance of parcels which result in violation of the terms of the contract, and (2) changes in use that violate the contract provisions (either intensity or noncompliance).

(1) **Enforcement of Terms of Conveyance.** Land use restrictions specified in a land conservation contract are binding on the owner who entered into contract or a succeeding owner as long as the contract remains in effect. 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. It is the responsibility of the county Planning and Building Department to monitor all cuts and combinations (e.g., land divisions, lot line adjustments, reconfigurations, etc.) involving properties under contract. It is the responsibility of the Assessor's Office to monitor all transfers of contracted properties, particularly regarding minimum parcel

size. The most likely type of violation would be the conveyance of an existing parcel that is smaller than is allowed to be conveyed under the contract.

If there is a violation, the property is to be reconveyed to the prior owner. 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 declared void by the Board of Supervisors; such declaration or the provisions 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, nonrenewal of the contract by the county may be initiated if deemed appropriate. Any such action shall not affect the contracts of other owners in the same preserve.

(2) **Enforcement of Terms of Land Use and Noncompliance.** It is the responsibility of the Assessor's Office to monitor land use. This applies to two requirements. First, when a property qualifies for a preserve of less than 100 acres because it has produced $1,000 or more per acre for 3 of the past 5 years, it must continue to do so to retain its minimum size classification. If it fails to do so, it may be attached to an adjoining preserve if one is available. If not, it no longer qualifies for continuation under the California Land Conservation Act of 1965 and the county shall proceed with nonrenewal. Second, if a property obtains its minimum size classification due to the presence of an orchard or vineyard, it will retain that classification only so long as the orchard or vineyard remains in production. If production ceases (excluding regrafting or budding), and if feasible, it will be appropriately reclassified as to minimum size. If necessary and possible, it may be added to an adjacent preserve. If it no longer meets the standards as established in these regulations, the county shall proceed with nonrenewal.

It is also the responsibility of the Assessor's Office to monitor noncomplying uses of Williamson Act properties (i.e., those uses not indicated as "compatible" by Table 2). In case of a violation, the property owner shall have a period of 90 days from the date of discovery to remove the noncomplying use. If it is not removed, nonrenewal may be initiated by the county, or the Board of Supervisors may authorize the initiation of an action in Superior Court to compel removal of the noncomplying use.

In all cases, when nonrenewal is to be initiated by the county, it will be the responsibility of the Planning and Building Department to do so.

C. FARMLAND SECURITY ZONES

State Senate Bill 1182, enacted on August 24, 1998, provides a voluntary alternative to the traditional agricultural preserve program. The new program provides greater protection for productive farmlands through the establishment of farmland security zones within existing agricultural preserves. A property owner entering into a farmland security zone contract is guaranteed a 35% reduction in the property

taxes on the land. In exchange for the tax benefits, the property owner enters into a more restrictive contract, one that is for a 20-year minimum term with automatic annual one-year extensions of the 20-year term unless a notice of nonrenewal is filed by the owner. Processing procedures are the same as for a conventional agricultural preserve application since the process involves the same steps. The following are the main features of the new program:

1. Land included in this program is known as a farmland security zone and it can be established on land that is already in an agricultural preserve and subject to a land conservation contract. The existing land conservation contract is rescinded and simultaneously replaced by a farmland security zone contract. If more than one landowner requests the creation of a farmland security zone and the parcels are contiguous, the county shall place those parcels in the same farmland security zone.

2. The main incentive for a property owner to participate in this program is the guaranteed 35% reduction in the valuation of land for property taxes based on the Williamson Act (agricultural use) value or the Proposition 13 value, whichever is lower. In addition, land within a farmland security zone is eligible for a reduced rate of any special tax approved by voters for urban services.

3. A farmland security zone may be comprised of one or more properties. The property or parcels thereof must consist predominantly of farmland; grazing land does not qualify. Specifically, a farmland security zone must consist of one or more of the following land classifications as shown on the Important Farmland Series Maps prepared by the California Department of Conservation:

a. Prime Farmland - Land with the best combination of physical and chemical features for the production of agricultural crops.

b. Farmland of Statewide Significance - Land with a good combination of physical and chemical features for the production of agricultural crops.

c. Unique Farmland - Land of lesser quality soils used for the production of the state's leading agricultural cash crops (e.g., wine grapes).

d. Farmland of Local Importance - Locally important farmlands include dryland grain and hay and irrigated pasture.

If an area is not covered by the Important Farmland Series Maps, the land shall qualify if it is predominantly prime agricultural land as defined in the California Land Conservation Act of 1965.

4. The minimum acreage criteria for conveying existing parcels or creating new ones in Table 1 shall be used for property eligibility as they pertain to farmland (crop production on Class 1 through 4 land and Class 6 and 7 land in vineyards or orchards).

5. City annexation of land located in a farmland security zone is very difficult and must meet prescribed criteria. A school district cannot acquire any land that is located within a farmland security zone.

6. The minimum term of a farmland security zone contract is 20 years and 20 years is also the length of time required for this type of contract to terminate once a notice of nonrenewal is given by owner or county. By contrast, the 20-year land conservation contract in the county's regular program applies only to the initial term; once ten years have elapsed, it becomes a 10-year minimum term contract with a 10-year notice of nonrenewal.

7. Upon termination of a farmland security zone contract, the farmland security zone designation for the contracted parcel is simultaneously terminated.

8. Processing steps for establishing a farmland security zone and entering into a farmland security zone contract are identical to the procedures for establishing an agricultural preserve and entering into a land conservation contract as set forth on page 2 of the Rules of Procedure.

9. A property owner whose land is not currently located within an agricultural preserve may establish an agricultural preserve and a farm land security zone under the same application with concurrent actions at the Board of Supervisors.

D. AGRICULTURAL PRESERVES FOR OPEN-SPACE AND RECREATIONAL USES

The California Land Conservation Act of 1965 provides that agricultural preserves may consist of land devoted to open-space or recreational uses, which are defined in following Sections D1 and D2:

1. "Open-space Use"

is the use or maintenance of land in such a manner as to preserve its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of sea water in the course of salt production for commercial purposes, if such land is within one of the following defined areas:

a. A "scenic highway corridor,"

which is an area adjacent to, and within view of, the right-of-way of: (a) an existing or proposed state scenic highway in the state scenic highway system established by the State Legislature pursuant to Streets and Highways Code Sections 260 et seq. and which has been officially designated by the State Department of Transportation as an official state scenic highway, or (b) a county scenic highway established pursuant to

Streets and Highways Code Sections 260 et seq. if it is included in the adopted county general plan, adopted specific plan for the county, and specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county highway has been officially designated by the State Department of Transportation as an official county scenic highway.

b. A "wildlife habitat area,"
which is a land or water area designated by the Board of Supervisors, after consulting with and considering the recommendation of the State Department of Fish and Game, as an area of great importance for the protection or enhancement of the wildlife resources of the state.

c. A "salt pond,"
which is an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve, has been used for the solar evaporation of sea water in the course of salt production for commercial purposes.

d. A "managed wetland area,"
which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural preserve was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.

e. A "submerged area,"
which is any land determined by the Board of Supervisors to be submerged or subject to tidal action and found by the Board to be of great value to the state as open space.

2. "Recreational Use"

is the use of land in its agricultural or natural state by the public, with or without charge, for walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for any of these recreational uses of land shall be a reasonable amount and shall not have the effect of unduly limiting its use by the public. Any ancillary structures necessary for a recreational use shall comply with the provisions of California Government Code Section 51238.1.

The amount of land in San Luis Obispo County that is potentially eligible for the agricultural preserve program based on open-space or recreational use is very small in comparison to land qualifying on the basis of agricultural uses. The small number of anticipated applications taken together with the diversity of open-space and recreational uses and natural characteristics necessitate careful review of applications on a case-by-case basis, and, if approved, land conservation contracts will need to be tailor-made to identify and protect the uses and features that qualify properties for the agricultural preserve program. The sections that follow describe the minimum eligibility standards and contract restrictions to protect qualifying open-space and recreational uses.

3. Eligibility Standards

a. General Plan Land Use Designations.

Land to qualify for an agricultural preserve based on open-space or recreational uses may be located in any rural land use designation of the San Luis Obispo County General Plan. However, within one year after such an agricultural preserve is established and the owner enters into a land conservation contract, the county will initiate a general plan amendment, if necessary, to include the property in appropriate land use designations of the Land Use Element, Agriculture Element and Conservation and Open Space Element. Open-space uses will be included in the Open Space land use category and recreational uses will be included in the Recreation category of the Land Use Element.

b. Agricultural Preserve Size.

The minimum agricultural preserve size for open-space and/or recreational uses is 100 acres, except for the special circumstance described in Section D3b(4) and D3b(5) below. The preserve may consist of one or more individually qualifying ownerships as follows:

(1) A single ownership of not less than 100 acres, or

(2) Two or more contiguous ownerships of not less than 40 acres each if owners file concurrent applications to establish an agricultural preserve of not less than 100 acres, or

(3) Any ownership of not less than 40 acres which is adjacent to an existing agricultural preserve, which may be enlarged through amendment of that preserve, or

(4) Any ownership of not less than 40 acres which is adjacent to either public land or privately-owned land restricted to open space use as described in Section B1d(3).

(5) Any size ownership located within a "scenic highway corridor" as defined in subdivision (i) of Section 51201 of the California Government Code is eligible for inclusion in an agricultural preserve.

c. Minimum Ownership Size.

The normal minimum qualifying ownership size is 100 acres. However, any size ownership located within an agricultural preserve established on a "scenic highway corridor" as defined in subdivision (I) of Section 51201 of the California Government Code is eligible for a land conservation contract. Also, an ownership of not less than 40 acres for other types of open-space and recreation uses may qualify if it consists of open-space or recreational uses and features of exceptional value to the public. Examples are wildlife habitat areas containing rare or endangered species within a restricted habitat range or forming essential corridors for wildlife migration, managed coastal wetland areas, and popular outdoor recreational uses.

d. Open-space and Recreational Uses.

Qualification of any property requires compliance with any one of the specific definitions of open-space use or recreational use in Section D1 or D2.

e. Considerations for "Wildlife Habitat Area".

The following considerations are to be used for the review of applications submitted under the above definition of "wildlife habitat area", which is likely to generate the majority of applications under the open-space and recreational uses:

(1) Plant species diversity (to be provided by the landowner) including: (a) number and diversity of plant species found in different vegetative layers (ground, shrub, and canopy) and (b) size of vegetation

(2) Soil variations and significant soil properties (to be provided by the county) including: (a) Natural Resources Conservation Service map of the area and (b) soil properties such as texture, depth to bedrock, depth to the high water table and other features important to plant growth

(3) Animal species diversity (provided by the California Department of Fish and Game) including an estimate of the seasonal and annual species with reference to the "Species Summary Report" produced from the "California Wildlife Habitat Relationships System"

(4) Presence of rare and endangered species (as determined by the California Department of Fish and Game or the landowner's consultant)

(5) Wildlife habitat types (provided by the landowner and checked by the county) including the evaluation and documentation of the presence and extent of vernal pools, dense oak woodlands, riparian zones and chaparral on the site

(6) Importance of the habitat to contiguous properties (as determined by the California Department of Fish and Game or the landowner's consultant) including: (a) the significance of the site as part of a wildlife habitat corridor versus an isolated patch, (b) size and quality of vegetation and (c) whether or not the habitat has been degraded.

(7) Function of the site as a corridor or linkage for migration of wildlife (as determined by the California Department of Fish and Game or the landowner's consultant).

f. Ordinance Compliance.

No agricultural preserve application or land conservation contract shall be approved for any land where an existing land use or parcel is being maintained in violation of any applicable provision of the Subdivision Map Act, the San Luis Obispo County Code, or any condition of approval of a land use permit where the violation is identified prior to the filing of an agricultural preserve application and a notice of violation has been recorded or a citation has been issued.

4. Land Use Restrictions

a. Land Division.

The minimum parcel size for new land divisions in agricultural preserves consisting of open-space or recreational uses is 320 acres. This requirement shall prevail over minimum parcel size standards that may otherwise be allowed by Section 22.04 et seq. of the County Land Use Ordinance or Section 23.04 et seq. of the County Coastal Zone Land Use Ordinance.

b. Minimum Ownership Size.

If a property subject to contract consists of two or more existing parcels of record, the smallest parcel or contiguous parcel area that can be conveyed to a new owner or retained by the existing owner is 320 acres. However, the entire acreage described in a contract may be conveyed in its entirety to a new owner.

c. Open-space and Recreational Use Limitations.

The Planning and Building Department staff report on an application shall include recommendations identifying the existing open-space or recreational use, compatible land uses, and measures to maintain and protect the qualifying use and important natural features occurring on the property. The land conservation contract shall include the land use standards and conditions that are adopted for the agricultural preserve. Each contract shall refer to allowable uses in the Open Space or Recreation land use category of the Land Use Element and Land Use Ordinance or Coastal Zone Land Use Ordinance and specify any necessary limitations on use to ensure protection of the open-space or recreational use. As noted in Section D3a, the county will initiate a general plan amendment to change the land use category to Open Space for a property with an open-space use or Recreation for a property with a recreational use within one year following execution of the land conservation contract.

d. Terms of Contracts.

See Section B4.

5. Termination of Land Conservation Contracts. See Section B5.

6. Disestablishment of Agricultural Preserves. See Section B6.

7. Monitoring the Agricultural Preserve Program. See Section B7.

E. APPENDIX

1. Procedures for Determining Qualification and Minimum Parcel Size for Land with Mixed Agricultural Potential or Use

This section describes the procedures for determining property qualification for the agricultural preserve program and minimum parcel size for new land division on property consisting of intermixed land capability or agricultural use. Planning and Building Department staff reports on agricultural preserve applications are to include tables similar to those shown in the examples if necessary to prove qualification or appropriate minimum parcel size.

a. Mark the boundaries

of the property on a copy of the Natural Resources Conservation Service soils map (or use your computer to access the soils layers in GIS), identify the land capability ratings of different soils on the property from the soils descriptions in the soils report, and calculate the acreage of each category having a different minimum acreage requirement as shown in Table 1 of the Rules of Procedure. The acreage of existing agricultural uses, which is considered only if the property contains irrigated orchards or vineyards, is determined from information provided by the applicant and verified by site viewing, land use maps and/or air photos.

b. Prepare tables as shown in the following examples.

The number of parcels or fractional portions thereof in the last column is determined by dividing the acreage of each category by the minimum acreage requirement in Table 1.

c. Qualification:

If the total of fractional portions of the last column is one or more, the property would qualify for the agricultural preserve program provided that it also meets minimum preserve size requirements (see Sections B1b and B1d).

A mixed use property can qualify for an individual land conservation contract by satisfying the minimum acreage requirements in Table 1 with:
- mixed irrigated potential or use,
- mixed irrigated potential or use and non-irrigated potential

Similarly, a mixed use property can qualify for an agricultural preserve by satisfying the minimum acreage requirements in Table 1 and Section B1b with:
- mixed irrigated potential or use and a total combined 40 acres of irrigated land (Section B1b), or
- mixed irrigated potential or use and non-irrigated potential and a combined total of 100 acres of gross acreage (Section B1b).

EXAMPLE 1: QUALIFYING PROPERTY						
Land Capability	**Agricultural Use**	**Acres**		**Minimum Acres to Qualify**		**Fractional Portion**
Class 3	Irrigated Orchard	10	÷	20	=	0.50
Class 3	Dry Farm Grain	80	÷	160	=	0.50
Class 6	Grazing	80	÷	320	=	0.25
Total		170				1.25

This property meets the qualification requirements for an individual ownership land conservation contract because the total of fractional portions of different land capability (soils class) and agricultural use is one or larger. However, the property would also need to meet one of the minimum preserve size requirements. The minimum preserve size for prime-land preserves is 40 acres, however only approximately 5% of the property has qualifying irrigated prime soil under cultivation and therefore does not meet the requirements for a prime-land preserve. The property does meet the minimum requirement of 100 acres for a non-prime preserve (see section B.1.b.) It must therefore qualify under the mixed use provision for an individual land conservation contract, which it does.

For the purposes of evaluating individual contracts for ownerships with more than one legal parcel, or for contract amendments involving reduction in minimum parcel sizes to rescind the existing contract and establish multiple contracts for multiple parcels, each proposed parcel may demonstrate eligibility independently of the other(s).

EXAMPLE 2: NON-QUALIFYING PROPERTY						
Land Capability	**Agricultural Use**	**Acres**		**Minimum Acres to Qualify**		**Fractional Portion**
Class 3	Irrigated Orchard	5	÷	20	=	0.25
Class 4	Dry Farm Oats	20	÷	160	=	0.125
Class 6	Grazing	40	÷	320	=	0.125
Total		65				0.275

This property would not qualify because the total of fractional portions of different land capability and use is less than one.

d. Minimum Parcel Size for New Land Division:

Divide the total property acreage by the total number of parcels. If the figure so derived is situated in between the successive minimum acreage figures in the last column of Table 1, the minimum parcel size to be applied to the agricultural preserve is to be the larger of the two figures.

EXAMPLE 1: MINIMUM PARCEL SIZE FOR NEW LAND DIVISION						
Land Capability	**Agricultural Use**	**Acres**		**Minimum Parcel Size**		**Fractional Portion**
Class 1	Vegetables	20	÷	20	=	1.00
Class 7	Grazing	80	÷	320	=	0.25
Total		100				1.25

The total property size of 100 acres divided by 1.25 is 80 acres, which is the appropriate minimum parcel size. The property could not be divided as long as the land conservation contract remains in effect.

EXAMPLE 2: MINIMUM PARCEL SIZE FOR NEW LAND DIVISION						
Land Capability	**Agricultural Use**	**Acres**		**Minimum Parcel Size**		**Fractional Portion**
Class 3	Alfalfa	100	÷	40	=	2.5
Class 4	Barley	240	÷	160	=	1.5
Class 6	Grazing	160	÷	320	=	0.5
Total		500				4.5

This property would first be evaluated to determine if there are existing parcels of record that could be designated with different minimum parcel sizes according to predominant land capability. However, if the property consists of intermixed land capability ratings, it would be designated with a single minimum parcel size. The total property size of 500 acres divided by 4.5 is 111 acres; this figure is then raised to 160 acres as the appropriate minimum parcel size for the property according to the specific minimum parcel sizes in column 3, Table 1 of the Rules of Procedure. The actual land division capability, then, would be three parcels of 160 acres or more each.

If a landowner wishing to participate in the agricultural preserve program is concerned about existing parcel configurations in relation to their agricultural use and land division capability, he has the option of applying for a lot line adjustment or parcel map prior to applying for an agricultural preserve. It is also possible to later apply for a lot line adjustment or parcel map concurrently with an application to amend the agricultural preserve and contract. However, each proposed parcel must comply with the minimum parcel size standards in the Rules of Procedure.

2. Examples of Filing Deadlines for Landowner-Initiated Notices of Nonrenewal and Contract Termination Dates

A contract continues indefinitely unless the landowner or the county serves notice of nonrenewal on the other party to terminate the contract. For any 10-year contract or for any 20-year contract that has been in effect for more than ten years, the annual deadline for a landowner to serve notice is 90 days prior to the January 1 anniversary date specified in all county contracts; otherwise, a year will be automatically added for each year that elapses to maintain an on-going ten year term. The annual deadline varies between September 30 and October 3 in different years due to the effect of county offices being closed on weekends. For a county-initiated notice of nonrenewal, the annual deadline is 60 days prior to the January 1 anniversary date, or approximately the end of October.

The following are examples of filing deadlines and termination dates for landowner-initiated notices of nonrenewal of land conservation contracts:

EXAMPLE 1: 10-YEAR CONTRACT

Date owner entered into contract: February 14, 1989

Date owner served notice of nonrenewal	Termination Date
On or before 10/03/89	02/14/1999
Between 10/04/89 and 10/03/90	01/01/2000
Between 10/04/90 and 10/03/91	01/01/2001

EXAMPLE 2: 20-YEAR CONTRACT

Date owner entered into contract: February 14, 1989

Date owner served notice of nonrenewal	Termination Date
On or before Sept./Oct. deadline of 1999	02/14/2009
Between Sept./Oct. deadlines for 2000 and 2001	01/01/2010
Between Sept./Oct. deadlines for 2001 and 2002	01/01/2011

For a farmland security zone contract, it takes 20 years for the contract to terminate once a notice of nonrenewal is served.

3. Other Methods for Protecting Agricultural and Open-Space Lands

a. County General Plan and Land Use Ordinance/Coastal Zone Land Use Ordinance

The traditional and basic method for protecting agricultural and open space lands from unwise or premature development is by general plan and zoning control over

land use. Most of the productive agricultural land in the county is included in the Agricultural land use category of the Land Use Element and some marginal agricultural land is included in other rural land use categories. Most non-agricultural open space lands are included in several different rural land use categories. They include Open Space, which is land in public ownership or land subject to open space easements executed by and between landowners and the county; Recreation, including public and privately owned parklands and recreational uses; and Rural Lands, which mostly includes remote and rugged lands in public or private ownership. In addition to these major rural land use categories, there are combining designations which are applied to areas of particular environmental significance or natural hazards where development is restricted. They include the Sensitive Resource Area, Archaeologically Sensitive Areas, Coastal Access, Flood Hazard and Geologic Study Area combining designations.

The land use categories and combining designations are subject to standards in the Land Use Element and Land Use Ordinance/Coastal Zone Land Use Ordinance to limit the range of allowable use, limit minimum parcel sizes for new land division, mitigate the impacts of allowable development to protect significant agricultural uses and open space features, avoid conflict in land uses, and provide protection from natural hazards.

The Land Use Ordinance and Coastal Zone Land Use Ordinance also contain alternative modes of development to protect agricultural and open space uses. The Land Use Ordinance for the inland area provides for agricultural cluster division as an alternative to standard land division for large properties in the Agriculture category located within five miles of specified urban areas, where a residential cluster may be located on a small portion of a property while the remainder is preserved in agricultural use by agricultural preserve contract and open space easement. Both ordinances provide for cluster division in the Rural Lands, Recreation and Residential Rural land use categories, where clustering of residences can be effectively used to protect small agricultural areas or environmentally sensitive portions of properties through the execution of open space easements.

The Transfer of Development Credits (TDC) program and application procedures were added to the Land Use Element (Inland Area) and Land Use Ordinance in 1996. The purpose of this program is to relocate potential development from agricultural land and environmentally sensitive land to areas that are more suitable for development closer to or within urban areas. Development credits are transferred from a sending site, which has its development potential reduced or retired through recordation of a permanent conservation easement or other instrument. The site receiving development credits is allowed to develop with a higher density than would otherwise be allowed by the Land Use Element/Land Use Ordinance.

b. County Agriculture Element and Conservation and Open Space Element

The Agriculture Element adopted by the county on December 15, 1998 and the Conservation and Open Space Element adopted by the county on May 11, 2010, supersede the 1972 Open Space Plan and provide better and more detailed direction for future land uses in rural areas of the county. The major emphasis is on the

identification and protection of important agricultural and open space lands from the increasing growth and development pressures being experienced by the county and promoting orderly patterns of urban and rural residential development though the use of numerous policies and criteria to control conversion of agricultural and open space lands to more intensive uses. The Agriculture Element and Conservation and Open Space Element recommend appropriate programs to protect important agricultural and open space lands and indicates the appropriate lead agencies to develop and implement the programs.

The agricultural preserve program is the principal program currently used in San Luis Obispo County to protect agricultural lands. The long-term, voluntary commitment of landowners to maintain their land in agricultural uses is compensated by property tax benefits. While the majority of the agricultural land in the county is subject to land conservation contracts, the program does not provide permanent protection, many farmers and ranchers close in to urban areas are not participating in the program, and the program does not provide for inclusion of properties consisting of some important types of nonagricultural open space land.

Supplemental agricultural and open space land preservation programs are needed to compensate landowners who possess the capability of selling off existing small parcels of record in old rural subdivisions consisting of prime agricultural land or other land that should not be converted due to significant agricultural use, environmentally sensitive land, and inappropriate location for higher density development. The Agriculture Element and Conservation and Open Space Element recommend that the TDC program as well as agricultural and open space cluster division projects be expanded to the coastal zone.

Open space easements could be used to protect sensitive open space features on properties that do not otherwise qualify for the agricultural preserve program. Open space easements are included as enforceable restrictions under the California Revenue and Taxation Code and are accordingly subject to the same method of valuation as lands subject to land conservation contracts. However, they are not eligible for state open space subventions to help compensate local government for tax revenue losses.

The major method for permanent open space preservation is public acquisition in fee by federal, state and county government through purchase, grant, gift, bequest or tax delinquency. This would primarily apply to acquisition of land for public recreation facilities or outstanding natural areas for passive recreation and educational use. Land exchanges between government and private landowners to mutually consolidate holdings and refine boundaries to include more environmentally sensitive areas in public holdings should be encouraged.

There are a number of related techniques and variations on the above-mentioned programs that may be instituted by either a government agency or conservation organization. They include purchase of development credits, conservation easements, and public acquisition and resale with deed restrictions or lease with use restrictions.

4. Federal Estate Taxes

Information on federal estate taxes is provided to emphasize the importance of estate planning to reduce the financial impacts of these taxes on heirs to family farms and ranches. The regulations under Internal Revenue Code Section 2032a provide as of 1990, for family farms and ranches to be valued for federal estate tax purposes according to their agricultural income producing capacity rather than their fair market value. Property owners should refer to the detailed provisions of Internal Revenue Code Section 2032a and consult with a tax attorney, estate planner, certified public accountant and/or appraiser to determine eligibility and financial impacts.

The following are the principal qualifying criteria as of 1990, all of which would need to be satisfied:

a. The property must have been wholly owned and operated as a farm or ranch by the decedent or a member of the decedent's family (parents, brothers and sisters of the decedent and lineal descendants, including children, grandchildren, nieces and nephews) for five out of the last eight years prior to the death of the decedent.

b. The property must be in agricultural use at the time of death.

c. The agricultural property and business, including cattle and farm equipment, must amount to at least 50% of the total value of the estate.

d. Qualified real property (the land) must constitute at least 25% of the total value of the estate.

e. The farm or ranch must be wholly owned and operated by qualified heirs for ten years after the death of the decedent and all heirs must accept a lien against the property for the purpose of recapturing tax savings if this condition is broken.

f. Farm use valuation must be elected by the executor of the estate prior to the date when the tax becomes due, ordinarily nine months from death.

If the criteria can be met, and provided the 1990 provisions of Internal Revenue Code Section 2032a remain in effect, the maximum value reduction per decedent is $750,000; this means that in the husband and wife situation, the gross taxable estate value could be reduced up to $1,500,000. Since the estate tax exemption per decedent is $600,000, this could mean virtually no federal estate tax for most family farms in the county. As examples: 1) dry farm grain and grazing properties in the western part of the county stand to benefit most from IRC 2032a because of the large difference between fair market value and agricultural income value and 2) very large ranches as well as farmlands used for high value crop production may not benefit significantly. The formula for computing the valuation based on agricultural income is similar to that used in the Williamson Act. As with the Williamson Act, nonagricultural improvements such as residences do not qualify for the tax exemption.

It should be noted that the federal estate tax is now the only applicable death tax in the state since the California inheritance tax was repealed in 1982. Also, there is no death tax when property passes to spouses or charities.

In addition to Internal Revenue Code Section 2032a, there are many estate and gift tax planning tools available to reduce tax impacts. They include gifts of fractional interests, donations of conservation easements, qualified terminal interest trusts (Q-TIP), and features such as transferring properties to heirs which have less present than potential value, while the donor retains higher income properties.

In conclusion, estate planning is extremely important for protecting the family farm or ranch from having to be sold to pay federal estate taxes based on fair market value instead of agricultural production value and is consequently a major factor in maintaining land in agricultural use.

5. Annotated References

a. California Land Conservation Act of 1965 and Related State Statutes

The following are the essential state statutes pertaining to the California Land Conservation Act of 1965. These codes and their latest amendments are available for reference use at the Law Library, County Government Center.

Land Conservation Act of 1965: California Government Code Sections 51200 et seq.

Article No.	Title	Commencing with Section
1	General Provisions	51200
2	Declaration	51220
2.5	Agricultural Preserves	51230
3	Contracts	51240
3.5	- repealed -	
4	- repealed -	
5	Cancellation	51280
6	Eminent Domain or Other Acquisition	51290
7	Farmland Security Zones	51296

Valuation of Open-space Land Subject to an Enforceable Restriction: California Revenue and Taxation Code Sections 421 et seq.

Section 423: Valuation of land subject to a land conservation contract or other enforceable restriction.

Section 423.4: Valuation of land subject to a farmland security zone contract

Section 426: Valuation of land after a notice of nonrenewal has been served.

Open Space Subventions: California Government Code Sections 16140 et seq.

This code provides for state payments to local governments as partial compensation for tax revenue losses resulting from the reduction of property taxes for properties subject to land conservation contracts and assessed under Sections 423 and 423.4 of the Revenue and Taxation Code.

b. County General Plan and Land Use Ordinance/Coastal Zone Land Use Ordinance

The policies and standards of the San Luis Obispo County General Plan and Land Use Ordinance/Coastal Zone Land Use Ordinance apply to all land uses for lands subject to land conservation contracts except that standards in the Rules of Procedure to Implement the California Land Conservation Act of 1965 prevail if they are more restrictive. These documents and their latest amendments are available for reference use at county libraries or can be purchased at the county Planning and Building Department. Planning staff will assist persons requesting information on specific land uses.

Land Use Element (Adopted in 1980)

Part I: Framework for Planning - Inland Portion
Part II: Area Plans (11 planning areas)
Part III: Official Maps

Land Use Ordinance (Adopted in 1980)

Land Use Element and Local Coastal Plan (Adopted in 1980 and certified by the California Coastal Commission in 1988)

Part I: Framework for Planning and Coastal Plan Policies
Part II: Area Plans (4 planning areas)
Part III: Official Maps

Coastal Zone Land Use Ordinance (Certified by the California Coastal Commission in 1986 and adopted by the county 1988)

Agriculture Element (Adopted in 1998)

Conservation and Open Space Element (Adopted in 2010)

c. San Luis Obispo County Department of Agriculture and Measurement Standards, Annual Reports.

These reports provide information on the acreage, productivity and value of agricultural commodities produced in the county each year. This information is used to identify crops that annually produce a gross value of $1,000 or more per acre to qualify for prime land agricultural preserves in the size range of 40 to 100 acres as described in Section B1b of the Rules of Procedure.

d. U. S. Department of Agriculture, Natural Resources Conservation Service, Soil Surveys of San Luis Obispo County.

The following reports and maps provide the information on land capability classification and potential agricultural uses referred to in Table 1 of the Rules of Procedure. Soils reports and maps or property-specific information may be obtained through the Natural Resources Conservation Service (NRCS) office in Templeton.

Soil Survey of San Luis Obispo County, California: Coastal Part, 1984: Soil survey covers coastal area west of the Santa Lucia Divide and includes the Huasna area.

Soil Survey of San Luis Obispo County, California: Paso Robles Area, 1983: Soil survey covers the northeastern part of the county east of the Santa Lucia Divide.

Soil Survey of Northern Santa Barbara Area, California, 1972: Soil survey includes Cuyama Valley in San Luis Obispo County.

Soil Survey of San Luis Obispo County, California: Carrizo Plain Area, In Preparation: This report will include the Carrizo Plain and southerly Shandon area to complete soils surveys of all privately-owned lands in San Luis Obispo County. Preliminary detailed soils mapping on air photos and soils descriptions for most are available from the NRCS Templeton office.

6. Renewable Energy Facility (REF) projects are allowed on contracted land if they can satisfy the following criteria:

a. These criteria apply to Renewable Energy Facilities only, not Energy Generating Facilities as defined in Title 22. Energy Generating Facilities (which are Non-Renewable Energy Facilities) are not allowed uses on contracted land.

b. Each property must meet and maintain the current eligibility criteria in the Rules of Procedure for both establishment of an agricultural preserve and entering into a land conservation contract as well as the "Minimum Parcel Size for Conveyance" required by each contract. A land owner with a contract not compliant with current eligibility standards may apply to requalify their property and enter into a new replacement contract as part of the application process for a REF project.

c. A REF project may not be located on prime or potentially prime soils. (Prime or potentially prime soils are any soils classified as Class 1 or Class 2 by tile Natural Resource Conservation Service soils survey).

d. REF projects are not allowed on properties qualifying for preserves and contracts as High Productivity Prime Land (Small specialized Farms).

e. For properties qualifying as a Prime Land Preserve the site area acreage for REF projects shall be in addition to the minimum acreage required to meet the 40 acre eligibility criteria. (A REF project on prime land preserve property must exceed 40 acres by the amount of the REF site acreage).

f. For properties qualifying as Mixed Use (irrigated and non-irrigated uses) the required acreage shall be consistent with the 80 to 160 acre minimum parcel size based on eligible soils classes and uses. The acreage required for the REF site shall be in addition to the applicable minimum parcel size.

g. For properties qualifying as Dry Land Preserves (non-irrigated Class 3 & 4 soils, minimum 160 acres in size — with 100 acres of Class 3 & 4 qualifying soils and current or historical dry farm agricultural use) the acreage required for the REF site shall be in addition to minimum parcel size of 160 acres.

h. For properties qualifying as Rangeland Preserves (Class 6 & 7 or better soils and minimum 320 acres in size — with 100 acres of Class 6 & 7 qualifying soils and 100 acres with soils moderately to well-suited as rangeland) the REF project site shall be in addition to the minimum parcel size of 320 acres.

i. REF project site acreage may not exceed 10% of the total acreage of the property under a land conservation contract up to but not to exceed 20 acres in size.

j. The proposed REF project must be found consistent with the Principles of Compatibility in the Williamson Act [Government Code Section 51238.1(a) et seq.].

k. All REF projects shall be reviewed by Department of Planning and Building staff through Site Plan application for projects up to 10 acres in site area and Minor Use Permit for projects over 10 acres in site area. All REF projects shall be reviewed for compliance with the above criteria. REF projects subject to Minor Use Permit review (or Conditional Use Permit if otherwise required) shall be referred to the referral agencies and organizations for a recommendation to the Review Authority. The referral agencies and organizations shall base their review on the criteria in the. Rules of Procedure and the Principles of Compatibility.

[Amended 2015, Reso 2015-75]