ALAMEDA COUNTY AGRICULTURAL PRESERVES
OBJECTIVES, UNIFORM RULES AND PROCEDURES

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Amended 5/14/91

ALAMEDA COUNTY AGRICULTURAL PRESERVES
OBJECTIVES, UNIFORM RULES AND PROCEDURES

I. Objectives

The Land Conservation Act of 1965 will be implemented in the unincorporated area of Alameda County for the following purposes:

A. To aid implementation of land use policies and proposals for maintaining and preserving land for agricultural, major park and recreation and open space uses, as follows:

Alameda County General Plan:

1. Urban Development with Amenities: To take advantage of the county's opportunities for desirable urban development and to conserve and enhance open spaces with natural beauty and other resources of the county, thereby helping to retain the qualities that have attracted many people to settle in this area.

2. Balance Between Resources and Needs: To achieve a balance between the land and resources of the county and the social and economic needs of the people who live and work in the county.

3. Retain Open Space: There should be conservation and permanent retention of open spaces and recreation areas. Open space should be used to separate communities and thereby help prevent monotonous urban sprawl.

4. Preserve Local Identity by Limiting Growth: The traditional physical and social identities of local communities should be preserved through establishing limits of growth. A mature community is a well-balanced community which need not grow in quantity of population, but should continually maintain its quality of services and development, and its ability to meet the contemporary needs and desires of its citizens.

5. Relate Land Uses in Appropriate and Sufficient Areas: All types of land uses which make up a community should be located in areas appropriate and sufficient to their needs. They should be logically grouped and related to topography, to existing development, and to proposals for future development, anticipated patterns of future growth and relative demand for various types of land uses.

Open Space Element of the Alameda County General Plan:

1. Preserve Large, Continuous Areas of Open Space: Large, continuous areas of open space, protected from intrusion by development should be preserved. Examples would be San Francisco Bay, the East Bay hills and the hills surrounding the Livermore-Amador Valley.

2. Provide a Variety of Open Space for Specific Open Space Uses: A variety of open space should be provided, including open space for public use and enjoyment and for protection of agriculture, wildlife habitat and scenic values.

3. Include Natural Ridgelines and Slope Areas: Natural ridgelines and slopes in excess of twenty five percent in grade should be left open permanently to eliminate mass grading.

4. Include Existing, Potential, and Depleted Wildlife Habitat: Existing and potential marine and wildlife habitats should be preserved in a natural, undeveloped state as part of the open space plan as a means of preserving and attracting wildlife. Depleted habitats adaptable to restoration should also be included as open space. All habitats should be established as sanctuaries or refuges and closed to the public, except for ecological study in selected areas.

5. Designate Agricultural Open Space: As a means of limiting urban growth and preserving agricultural lands and other natural resources, all areas shown as cultivated and uncultivated agriculture on the County General Plan should be designated as permanent agricultural open space on the Open Space Plan.

6. Stimulate Agricultural Production in the County; Encourage Retention of Unique Crops: All means that will stimulate the continuance of well diversified and efficient agricultural production in the county should be promoted. Encouragement should be given to the retention of unique crops endemic to specific agricultural areas.

B. To preserve agricultural and open space lands. Discouragement of premature and unnecessary conversion of agricultural land to nonagricultural uses is a matter of public interest. Agricultural lands have a definite public value as open space, and the preservation of agricultural production of such lands, the use of which may be limited pursuant to the provisions of the Land Conservation Act of 1965, constitutes an important physical, social, aesthetic and economic asset to existing or pending urban or metropolitan development.

II. Implementation

Agricultural Preserves may be established and contracts entered into upon request of individual property owners, according to the procedures of State Law and subject to the following policies and procedures:

A. General:

1. The method of establishment of Agricultural Preserves and the form of contracts is to be consistent with provisions of the California Land Conservation Act of 1965 and its amendments.

2. There will be periodic review of Agricultural Preserve boundaries and use restrictions by the Planning Commission to coordinate the

program with any General Plan amendments and to permit termination of contracts at the appropriate time.

B. Agricultural Preserves:

1. Location:

a. Agricultural Preserves will be established in those areas shown on the General Plan as:

1. "Uncultivated and Undeveloped"
2. "Cultivated Agriculture"
3. "Major Parks and Recreation"
4. Any other land use category where the area is undeveloped and determined to be not needed for the planned use for at least ten years.

2. Minimum Area:

a. Minimum Preserve area shall be 100 acres. The preserve may compose contiguous properties under separate ownership, or non-contiguous properties under one ownership. The Planning Department may recommend for Preserve status an area larger or smaller than that petitioned to be included in a Preserve, and the Board of Supervisors may establish as a Preserve such area as it feels necessary to be included. For purposes of this section, contiguous park and other open space area in public ownership may be used to make up the 100 acre minimum preserve size. Also, for purposes of this section, parcels separated from each other by a road or other right-of-way shall be considered contiguous.

A parcel or ownership not otherwise eligible for inclusion in the program may be included if it is used as part of a larger agricultural operation on land leased by the property owner. Uses may include any uses accessory to general agricultural operations. The contract shall be subject to the biennial review provisions of Section II.B.2.e.

b. A property containing a single family residence will not be included in an agricultural preserve unless one of the following conditions exists:

1) It contains at least 40 acres; or

2) The residence or the property is accessory to an existing intensive commercial agricultural use.

c. A property which is vacant or contains only agricultural structures may be included in agricultural preserves, provided that one of the following conditions exist:

1) It contains at least 30 acres;

2) It contains at least 20 acres and has been reviewed by the Board of Supervisors and found appropriate on its own merits for inclusion;

3) It is located in an area of substantial preserve activity;

4) Its inclusion is found by the Board of Supervisors to benefit the public interest.

If the property is under 30 acres, specific conditions will be included in the contract to prohibit subsequent construction of a single family residence if the property does not qualify for such use under II.B.2.b.

d. Contiguous parcels under the minimum size required by the A (Agricultural) District which are in common ownership shall be included in the preserve program upon the condition that, so far as is consistent with the practices of the County Assessor, they be consolidated into one Assessor's parcel, or more than one parcel, each of which is the minimum size required by the A District. This shall be done by filing a new deed and requesting the County Assessor to show the property as one new parcel(s). This shall be completed prior to signing of the contract by the County.

e. All properties whose inclusion in the program is conditioned upon intensive commercial agricultural use will be subject to biennial review. In June of each even numbered year, the Planning Department shall contact the owners of such property for a statement to include specific uses, income figures, and any other pertinent information. Based on this information, the Planning Department shall make recommendations to the Board of Supervisors as to whether that contract should be renewed or nonrenewed.

3. Establishment and Modification Procedures:

a. Applications for establishment of Agricultural Preserves shall be filed with the Clerk of the Board of Supervisors. An application may be amended to include additional property under the same ownership. One application must be filed for each separate ownership. The application shall be accompanied by a current Lot Book Report and Deed description or Title Report (obtained from a Title Company) which specifies the entire extent of current ownership in the subject properties. The application shall identify the land owner, or owners, location and size of the property, Assessor's designation, indicate the current use of the property, what types of structures and their use are located on the property, and state whether the applicant requests establishment of the Preserve for the purpose of entering with the County into a contract qualifying as an enforceable restriction as specified in Revenue and Taxation Code,

Section 422. Additional information maps, or other materials, may be required as found necessary.

b. Upon filing of an application, the Clerk of the Board of Supervisors shall forward a copy of the application to the Planning Department for report and recommendation. The report shall include a statement that the preserve is consistent, or inconsistent, with the County of Alameda General Plan, and the Board of Supervisors shall make a finding to such effect.

c. Upon receipt of the Planning Department report and recommendation, the Clerk of the Board of Supervisors shall set the application for hearing by the Board of Supervisors with legal notice being given a minimum of ten days preceding by publication in a newspaper of general circulation in the area in which subject properties are located, and a minimum of two weeks preceding by direct notification to the Local Agency Formation Commission and any incorporated city within the County within one mile of the exterior boundaries of the proposed Agricultural Preserve.

d. The Board of Supervisors will establish agricultural preserves by resolution, and will where appropriate subsequently adopt a resolution executing a contract with property owners within the preserve.

e. December 31 of any given year will be the last day for filing completed application forms and other required materials with the Board of Supervisors to assure action on the request prior to the following March 1 tax lien date.

f. The Board of Supervisors may, subject to observing the same procedure as for the establishment of agricultural preserve, disestablish or enlarge or diminish the size of an agricultural preserve.

g. The procedure for division of land in a preserve shall follow the County Subdivision Ordinance. In addition, the proposed division must be approved by the Board of Supervisors. Application for such approval shall be made in writing to the Clerk of the Board of Supervisors, accompanied by a fee as required by Section II.D.2. below. This should be done after filing of the tentative subdivision map with the County Planning Department.

4. Intent to Restrict Use:

a. It is the policy of the County to establish preserves where there is reasonable certainty that properties will be restricted to agricultural and compatible uses by application of appropriately restrictive zoning and execution of contracts.

5. Use Restrictions:

a. Land in preserves and under contract shall be classified either in the A (Agricultural) District or a PD (Planned Development) District as indicated below. Land classified in the A District may also be classified in the B (Combining) District when the size of the parcels in the Preserve should be maintained at areas above the minimum parcel area required by the A (Agricultural) District. Reclassification, if necessary, shall be done at the expense of the property owner, and shall be initiated prior to recordation of the contract by the County Recorder.

b. Land in preserves and under contract may be classified in a PD (Planned Development) District if all of the following conditions are met: 1) the land is not currently nor within the past ten years has been in intensive commercial agricultural use; 2) the land is cultivable and suitable for intensive commercial agricultural use, such as but not limited to vineyards, orchards, or row crops; 3) if the land is in an area generally characterized by prime or cultivable land, and does not constitute an isolated pocket of prime or cultivable land; and 4) if the PD District a) restricts the land to agricultural uses which are compatible and consistent with the intent of these Guidelines and the Williamson Act and with the principles and policies of the Alameda County General Plan, including all elements thereof; b) requires that the land be irrevocably committed to an intensive commercial agricultural use such as those indicated above, but specifically not to an extensive use such as field crops or grazing; and c) requires that the developer be subject to mitigation programs for conversion of the development envelope to non-agricultural purposes and to provide local affordable housing. The provisions of the PD District must require that rights to develop non-agricultural uses on the agricultural portions of the parcels be conveyed through irrevocable easements or other type of restriction, such as a conservation easement, to the county of Alameda, the people of the County of Alameda, and/or an independent non-profit organization whose purpose is to protect open space and agriculture. Such PD District may allow for division of the property into parcels smaller than that allowed by the A (Agricultural) District, but not into parcels which cannot individually support the intensive commercial agricultural use. In no event may the PD District allow parcels smaller than those allowed under the State Subdivision Map Act. Residences may be allowed on such parcels subject to the provisions of Section 2.b.2) above, provided that no land may be taken out of cultivation in order to construct a residence, any building accessory to a residence such as a poolhouse or guesthouse, or any other structure not directly related to agricultural production. Residential development shall be limited to a development envelope of no more than two acres per parcel, regardless of parcel size.

C. Contracts

1. Execution Procedure:

a. Contracts may be established between Alameda County and owners of properties situated within Agricultural Preserves constituted under the California Land Conservation Act of 1965 and these rules. A contract of similar terms will be offered to all property owners within a given Preserve. The Clerk of the Board of Supervisors shall give 30 days written notice to any city within the County of the intent of the County to consider a contract which includes land within one mile of the exterior boundaries of the city.

b. The Board of Supervisors will execute each contract by adoption of a resolution to that effect. Proposed contracts should be filed with the Clerk of the Board of Supervisors by the end of the second week in January to assure execution prior to the following March lien date.

c. The County, upon entering into any such contract, will record said contract, including a description of the land subject thereto, with the County Recorder. Pursuant to Government Code Section 51249, a sample form of contract is on file with the State Director of Agriculture.

d. Where no contract has been signed for land which has been placed in a preserve by March 1 following establishment or amendment of that preserve, if the owner subsequently requests a contract the Board of Supervisors shall hold a hearing on that request subsequent to a Planning Department report on the property. The property must conform to policies in effect at the time the contract is signed.

2. Intent:

It is intended that contracts constitute enforceable restrictions as required by the State of California Revenue and Taxation Code Section 422. Exhibit "A" attached shall be the standard contract form.

The County will not contract with respect to any land pursuant to the California Land Conservation Act of 1965 unless the land is devoted to agricultural or compatible uses and is located within a designated Agricultural Preserve.

3. Provisions:

a. Term: Contracts will be predicated upon a ten year or longer term, and unless notice of non-renewal is given by the property owner or County, shall be automatically renewed each year by adding an additional year to the initial term.

b. No Compensation: Property owners limiting the use of their land through contract with the County shall not receive compensation for such limitation other than that which may derive from a restriction on the assessed valuation of the land.

c. Non-renewal: Either the land owner or the County may elect in any given year to not renew the contract. Written notice of such non-renewal shall be served upon the County by the land owner at least ninety days prior to the annual renewal date, and upon the land owner by the County at least sixty days prior to the annual renewal date, or the contract shall be considered renewed. In the event of non-renewal, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal, as the case may be.

d. Cancellation: Contracts may not be cancelled except pursuant to a request by the land owner and a finding by the Board of Supervisors that the cancellation is not inconsistent with the purposes of the California Land Conservation Act of 1965, and is in the public interest. The existence of an opportunity for another use of the land involved, or the uneconomic character of an existing agricultural use, will not be sufficient reason for cancellation of the contract.

   Subsequent to receipt of a written request for cancellation by the property owner, the Board of Supervisors will hold a public hearing on such request. Notice of the public hearing shall be mailed to each and every owner of property under contract, a portion of which is situated within the same Agricultural Preserve and within one mile of the exterior boundary of the land upon which the contract is proposed to be cancelled, and will be published pursuant to Section 6061 of the Government Code.

e. Cancellation Liability of Owner: Upon approval by the Board of Supervisors of cancellation and prior to such cancellation becoming effective, the property owner shall pay to the County Treasurer as a cancellation fee an amount equal to 50 percent of the new equalized assessed valuation of the property. Such valuation is to be determined by the County Assessor as if the property were free of contractual restriction.

f. Division of Land: Property under contract in a Preserve shall not be divided into parcels of less area than the minimum area required by the A (Agricultural) Zoning District or, in the alternative, the minimum parcel size required by the PD (Planned Development) District in which the property is located consistent with these Guidelines, except as a result of court decree or the intestate or testamentary disposition on the land. All provisions of the contract

shall remain applicable to both the transferred property and the remainder after division.

g. Restrictions on Use of Property: While under contract, property may be used only for producing agricultural commodities for commercial purposes, and compatible uses as listed below. During the term of the contract, the Board may by resolution add to, and with the written consent of the property owner subtract from, the list of compatible uses.

Uses permitted in preserves will be restricted under contracts to the following compatible uses:

1) One, 1-family dwelling unit per separate ownership of not less than 40 acres in area; or of less than 40 acres if the residence or the property is accessory to an existing intensive commercial agricultural use;

2) Crop, vine or tree farm, truck garden, plant nursery, greenhouse, apiary, aviary, hatchery, horticulture;

3) Raising or keeping of poultry, fish fowl, rabbits, sheep or goats, or similar animals;

4) Grazing, breeding or training of horses or cattle;

5) Winery;

6) Killing and dressing of livestock;

7) Packing house for fruit or vegetables, but not including a cannery or a plant for food processing or freezing;

8) Living quarters for farm laborers;

9) Flight strip;

10) Hog ranch;

11) Drilling for and removal of oil, gas, or other hydrocarbon substances, and mining and quarrying;

12) Farm or ranch buildings, including stables, barns, pens, corrals or coops;

13) Building or room for packing or handling products raised on the premises;

14) Killing and dressing of poultry, fish, rabbits and other small livestock raised on the premises, but not including an abattoir for sheep, cattle, or hogs;

15) Stand for the sale at retail of items produced or raised on the premises having a ground coverage not in excess of four hundred (400) square feet;

16) Accessory business signs not exceeding an aggregate area of twenty (20) square feet; having no moving parts or illumination;

17) Dwelling for persons employed in the agricultural use of subject property, and the families of those persons;

18) The maintenance of land in its natural state for the purpose of preserving open space for recreation or plant or animal preserves;

19) Fish hatcheries and rearing ponds;

20) Public or private rifle and pistol practice range, trap and skeet field, archery range or other similar use;

21) Public or private riding and hiking trails;

22) Riding academy, stables and the boarding of horses or other livestock;

23) The erection, construction, alteration or maintenance of gas, electricity, water, communication, radio, television, or microwave antennas, transmitters and related facilities as accessory to other permitted uses;

24) Public or private hunting of wildlife or fishing;

25) Public or private hunting clubs and accessory structures.

h. The authorization of "Agricultural and Compatible Uses" as contained in these rules, the California Land Conservation Act of 1965, or contracts as provided in said Act, is not intended to modify or take the place of any restrictions imposed by any zoning ordinance.

D. Fees

Fees to cover administrative costs shall be paid to the Clerk, Board of Supervisors. Checks should be made payable to "County of Alameda."

1. The fee for filing an application to include property in the preserve program, whether for creation of a new preserve or amendment of an existing one, is $300.00 per separately owned parcel.

2. The fee for each filing of a request for cancellation of contract of division of property under contract is $300.00.