

**COUNTY & STATE CODE SECTIONS
PERTAINING TO THE LAND CONSERVATION ACT**

ARTICLE II. AGRICULTURAL PRESERVES**§ 19.01.020 PURPOSE.**

(A) *Intent.* The California Land Conservation Act of 1965 (Cal. Gov't Code §§ 51200 *et seq.*; the "Act") authorized counties to establish agricultural preserves. The purposes of the Act are to maintain the agricultural economy of the state and to prevent premature and unnecessary conversion of land from agricultural uses. The Board of Supervisors of the county finds it to be in the public interest to assist in the maintenance of the state's agricultural economy and to avoid the conversion of land from agricultural uses by establishing agricultural preserves by entering into contracts with landowners (LCA contracts) as authorized by the Act. The Act authorizes counties to establish the procedures for initiating, filing and processing requests for establishment of agricultural preserves. The Board intends to implement the act by adopting this article.

(B) *Definition of an "agricultural preserve".*

AGRICULTURAL PRESERVE. An area devoted either to agricultural use or as specified herein, a use compatible to agriculture. Once an agricultural preserve is created, its value is assessed as provided in the Act.

(C) *Board approval required.* No person shall establish a new agricultural preserve, nor alter the physical boundaries of an existing agricultural preserve, nor cancel an existing LCA contract without the approval of the Board pursuant to this article. No person shall perform any activity on an agricultural preserve which is incompatible with the uses authorized by this article.

(1966 Code, § 18A-1) (Ord. 582, § 2(part))

§ 19.01.021 CREATING, ALTERING OR TERMINATING.

(A) *New preserves.*

(1) *Contiguous parcels in common ownership.* An agricultural preserve shall be created only from one parcel, or portion thereof; or from two or more contiguous parcels, or portions thereof, in a common ownership. For purposes of this section, preserves separated by public roads or other public works shall be deemed to be "contiguous".

(2) *Merger.* When an owner of one agricultural preserve acquires any contiguous agricultural preserves the preserves shall merge into one agricultural preserve and the owner shall execute a new contract which incorporates the boundaries of all merged agricultural preserves. There shall be no merger if any of the contiguous agricultural preserves are in non-renewal status.

(3) *Preserves; requirements.* New agricultural preserves must meet the minimum acreage and minimum income generation requirements specified in division (D)(1) of this section. No new agricultural preserve shall be established unless the Board finds all of the requirements in division (D)(1) of this section are met.

(4) *Planned developments.* No agricultural preserve shall be created from a parcel which is part of a planned unit development. Nor can a planned unit development be created on any agricultural preserve.

(B) *Alterations of existing agricultural preserves.*

(1) *Enlargements.* The minimum acreage and income generation requirements shall not apply to enlargement of existing agricultural preserves. The sole criterion for consideration of the enlargement of an existing agricultural preserve is whether the proposed addition is capable of some agricultural use. However, no agricultural preserve shall be enlarged unless the parcel, or portion thereof, sought to be included is contiguous to the existing agricultural preserve and is owned by the same owner who owns the existing agricultural preserve. An agricultural preserve shall not be enlarged if a notice of non-renewal of the land conservation contract relating thereto has been given either by the owner of the agricultural preserve or by the county prior to the making of an application for enlargement.

(2) *Divisions.*

(a) *Minimum standards.* The Board shall approve the division of an existing agricultural preserve only if it finds that the newly created agricultural preserves will each meet the minimum acreage and income generation requirements.

(b) *Multiple ownership, non-contiguous parcels.* No new agricultural preserves may be created unless the proposed preserves are non-contiguous parcels in common ownership, or contiguous parcels in different ownership or, a combination of both.

(c) *Common ownership of contiguous agricultural preserves.* When an existing preserve is to be divided and the proposed owner of a portion thereof is the owner of a contiguous agricultural preserve, both the parcel resulting from a division and the existing preserve shall be placed in one preserve; provided that a notice of non-renewal has not been given with respect to either preserve. The division shall not be effective until a new LCA contract incorporating all contiguous preserves is executed.

(d) *Dividing an agricultural preserve which is in a non-renewal status.* An agricultural preserve which is in a non-renewal status, may be divided, at the discretion of the Board of Supervisors, providing all provisions of this article are met.

(e) *Completion of division.* No approval of a division shall be deemed final until such time as separate LCA contracts are executed with respect to each new agricultural preserve created by the proposed division.

(3) *Adjustment to lot lines.*

(a) *Lot line adjustments between agricultural preserves.* The owners of contiguous preserves may apply to adjust the lot lines between the two preserves. The proposed preserves must meet the minimum acreage and income production requirements specified in division (D)(1) of this section.

(b) *Adjustment of the boundary between an agricultural preserve and a non-preserve.* A lot line adjustment between an agricultural preserve and a non-preserve shall be treated as an enlargement or a division of the agricultural preserve depending on whether the size of the agricultural preserve is sought to be increased or decreased.

(C) *Non-renewals and cancellations.* An agricultural preserve may be terminated by non-renewal of the LCA contract or by cancellation of the LCA contract. A notice of non-renewal may be given by either the county or the owner of the agricultural preserve. The procedures specified in the act govern non-renewals and cancellations.

(D) *Preserves; requirements.*

(1) *General.* Agricultural preserves must meet both of the following minimum acreage and minimum income generation requirements.

(a) *Minimum required acreage.* A potential or existing agricultural preserve must consist of one of the following categories of minimum acreage.

1. Ten acres of orchards, vineyards or irrigated vegetable and field crops;
2. Forty acres of irrigated pasture or dry-land farmed land;
3. One hundred sixty acres of grazing land; or
4. A combination of actual acreage in any of the above categories; provided that the sum of the percentages in any of the above categories equals or exceeds 100%. The percentage of acreage in each category is calculated by dividing the actual acreage in each category by the minimum acreage required in that category. For example, a proposed preserve with five acres orchard, ten acres irrigated pasture and 40 acres grazing would not qualify to become a preserve under divisions (D)(1)(a)1., 2. or 3. above. The property would in the example, however, satisfy the minimum acreage requirement under this division by the following computation:

<u>5 actual acres of orchard</u>	50%
10 minimum required acres for orchard	
<u>10 actual acres of irrigated pasture</u>	25%
40 minimum required acres	
<u>40 actual acres of grazing land</u>	25%
160 minimum required acres	
50% + 25% + 25% = 100%	

(b) *Minimum income generation.* A new or existing agricultural preserve shall produce a minimum of \$3,500 annual gross income from the sale of agricultural commodities. An agricultural preserve shall produce this minimum income amount for three out of every immediately preceding five consecutive year period, absent an act of God which prevents the achievement of this standard. An example of an act of God is an extended drought which prevents the achievement of the minimum income generation requirement. Prior to approving a new agricultural preserve, the Board shall find that the proposed agricultural preserve meets or will meet the minimum income generation standard.

(2) *New planting.* New plantings of trees, vines or other perennial agricultural crops qualify for the minimum requirement if the potential production is estimated to equal or exceed the minimum income and the plantings satisfy the minimum acreage requirements.

(3) *Preserves of less than 100 acres.* The requirements of division (D)(1) of this section provide for the creation of agricultural preserves of less than 100 acres under prescribed acreage and income generation requirements. The Board finds that the creation of preserves of less than 100 acres under the conditions prescribed in division (D)(1) of this section is necessary due to existing and desired agricultural practices in the county. The Board further finds that the establishment of agricultural preserves of less than 100 acres is consistent with the General Plan of the county.

(4) *Road improvements.* In the event a proposed new agricultural preserve will have less than the minimum acreage required, the agricultural preserve shall still qualify if this division is applicable. Acreage of up to one acre of contiguous county or state road can be used by an applicant to satisfy the minimum acreage requirement, if all of the following requirements are met:

- (a) The acreage was transferred in fee simple absolute to the county or to the state;
- (b) The county or the state still holds title to the property;
- (c) The property is contiguous to the proposed agricultural preserve;
- (d) The property is public thoroughfare; and

(e) The proposed agricultural preserve meets or exceeds the minimum income production requirements.

(5) *Failure to continue to meet minimum acreage and income generation requirement.*

(a) *Failure to meet the requirements.* An owner of an agricultural preserve shall non-renew the LCA contract if the agricultural preserve fails to meet or exceed the minimum acreage or income generation requirements. The notice of non-renewal shall be given before the owner of an agricultural preserve takes any action to reduce acreage. The failure to maintain the minimum acreage or income generation requirements without giving a notice of non-renewal constitutes a violation of this article. The failure to meet these requirements also constitutes a basis for nonrenewal of the LCA contract by the county.

(b) *Submission of supporting information.* Annually, by November 30, each year the owner of an agricultural preserve shall provide to the Assessor supporting documentation to establish that the income production and acreage requirements have been met during the preceding year.

(1966 Code, § 18A-2) (Ord. 582, § 2(part); Ord. 672, § 1)

§ 19.01.022 LAND CONSERVATION ACT CONTRACTS.

(A) *Form, content and purpose of contracts.* The Board shall, by resolution, approve the form and content of the Land Conservation Act contract (LCA contract). The county and all owners of a potential agriculture preserve shall enter into a contract as a prerequisite to the establishment of an agricultural preserve. The purpose of the contract shall be to govern the rights and responsibilities of the parties, with the ultimate goal of preserving agricultural land in the county. The LCA contract shall qualify as an enforceable restriction as specified in Cal. Revenue and Taxation Code § 422.

(B) *Duration.* The initial term of each contract shall be ten years. Each contract shall provide that on the anniversary date of the contract, a year shall be automatically added to the initial term unless a notice of non-renewal is given.

(C) *Signature of the Chairperson of the Board.* At the time of establishing agricultural preserves, or thereafter, the Board, by resolution, may authorize the Chairperson of the Board to sign the land use contract with the owners.

(D) *Applicability of state law.* All operative provisions of the Act relevant to the nature of LCA contracts shall apply.

(1966 Code, § 18A-3) (Ord. 582, § 2(part))

§ 19.01.023 COMPATIBLE USES.

(A) *General principles.* The primary purposes of the creation of agricultural preserve is to foster agriculture and to preserve agricultural land. The determination of compatible use shall be made in light of these principles. Agricultural use is any use of land for the purpose of producing an agricultural commodity for commercial purposes. Agricultural commodities are any and all plant and animal products produced for commercial purposes.

(B) *Categories of compatible uses.* The following uses are deemed compatible. The following compatible uses shall not be used in calculating the minimum acreage requirements of an agricultural preserve.

(1) The use and conservation of natural resources, which include:

(a) The mining and processing of minerals, petroleum products, rock, sand, gravel and clay. Processing is compatible only if it involves only the use of on-site required materials; except for water. Processing includes, without limitation, crushing, washing and screening;

(b) Forestry and production of wood products;

(c) Dams, reservoirs, water facilities;

(d) Fire prevention facilities; and

(e) Flood control works.

(2) Outdoor recreation only if the recreation is incidental, and not detrimental to the agricultural use. Recreational use is the use of land by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, parks or other outdoor games or sports for which facilities are provided for public participation;

(3) Signs appurtenant to any authorized use;

(4) Signs of property for sale;

(5) Communication facilities or public utility facilities;

(6) Home occupations;

(7) Any use which was approved by the Board and which existed at the time the land is included in a preserve;

(8) Any use required to be permitted by the Act; and

(9) Any other similar compatible use as determined by the Board upon a finding that the proposed use is incidental and not detrimental to agricultural use.

(C) *Structures*. No structures shall be constructed or placed upon land in an agricultural preserve except those structures related directly to an agricultural or compatible use. One dwelling unit shall be permitted if no dwelling unit exists. Additional dwellings units shall be limited to those necessary for the operation of the agricultural preserve. Any structures existing in an agricultural preserve before the operative date of the ordinance codified in this article, including dwelling units, which structures are inconsistent with the current requirements of this article shall be deemed legal non-conforming structures. A legal non-conforming structure shall be allowed in an agricultural preserve, but it may not be enlarged, nor may its use be altered, without prior Board approval. With prior Board approval, a legal non-conforming structure may be reconstructed or may be relocated within the agricultural preserve. The Board's approval shall be conditioned upon a timely destruction of the original non-conforming structure. The Board shall condition any approval to ensure that the agricultural production of the agricultural preserve is not substantially impaired or reduced. The Board shall include as part of such conditions a condition that the owner of the agricultural preserve maintain the same amount of area of agricultural production after the reconstruction or relocation. In no event shall a relocated or reconstructed structure exceed the square footage of the footprint of the previously existing structure, unless the Board determines the agricultural production of the agricultural preserve will not be substantially impaired or reduced. For the purposes of this division, **FOOTPRINT** shall mean the exact outer perimeter of the previously existing structure, determined by computing the area within the surrounding exterior walls of the legal non-conforming structure, including the walls themselves.

(D) *"Incidental" defined*. For purposes of this article, the term **INCIDENTAL** means secondary in terms of acreage.

(E) *Board review*. No agriculture preserve shall be created, enlarged, divided or adjusted until the proposed use is determined by the Board to be a compatible use. No category of use of an agricultural preserve shall change until the

Board determines that the proposed use is compatible. The Board shall impose any reasonable conditions upon a use to insure the use's compatibility as specified in this section.

(F) *Compatible uses.*

(1) Uses approved as compatible on agricultural preserves shall be consistent with all of the following principles of compatibility:

(a) The use will not significantly compromise the long-term productive agricultural capability of the subject agricultural preserve or on other surrounding agricultural preserves.

(b) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject agricultural preserve or on other surrounding agricultural preserves. Uses that significantly displace agricultural operations on a portion of the subject agricultural preserve may be deemed compatible if they relate directly to the production of commercial agricultural products on the remaining portion of the agricultural preserve or on neighboring lands, including activities such as harvesting, processing or shipping.

(c) The use will not result in the significant removal of adjacent agricultural preserves from agricultural or open-space use.

(2) In evaluating compatibility, the Board shall consider the impacts on non-contracted lands near the agricultural preserve.

(G) *Non-conformance with principles of compatibility.* A use that does not conform to the principles of compatibility set forth in division (I) below may nevertheless be approved by the Board only if the use is proposed to be located on non-prime lands and if the requirements of division (H) below are satisfied.

(H) *Criteria for non-prime land.*

(1) In applying the criteria pursuant to division (F) above, the Board may approve a use on non-prime land which, because of onsite or offsite impacts, would not be in compliance with divisions (F)(1) and (2) above, provided the compatible use application is approved conditionally with findings based on substantial evidence in the record, demonstrating the following:

(a) Conditions have been required for, or incorporated into the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in divisions (F)(1) and (2) above to the greatest extent possible while maintaining the purpose of the use;

(b) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations;

(c) The use is consistent with the purposes of this article to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in this article and in Cal. Gov't Code § 51205, or the use or conservation of natural resources, on the subject agricultural preserve or on other surrounding agricultural preserves. The use of mineral resources shall comply with division (I) below; and

(d) The use does not include a residential subdivision.

(2) For the purposes of this division, **NON-PRIME LAND** means land not defined as "prime agricultural land", pursuant to Cal. Gov't Code § 51201(c), or as land not classified as "agricultural land", pursuant to Cal. Public Resources Code § 21060.1(a).

(I) *Compatible uses; mineral extraction.*

(1) Mineral extraction that is unable to meet the principles of division (H) above may nevertheless be approved

agricultural preserve and the resolution under which the preserve was established shall be filed and kept current by the city or county with the county recorder.

History.—Stats. 1971, p. 1811, in effect March 4, 1972, deleted “and the Director of Agriculture” from the first sentence.

51237.5. Filing of map with Director of Conservation. On or before the first day of September of each year, each city or county in which any agricultural preserve is located shall file with the Director of Conservation a map of each city or county and designate thereon all agricultural preserves in existence at the end of the preceding fiscal year.

History.—Added by Stats. 1971, p. 1811, in effect March 4, 1972. Stats. 1974, Ch. 544, p. 1252, in effect January 1, 1975, substituted “Director of Food and Agriculture” for “Director of Agriculture”. Stats. 1984, Ch. 851, in effect January 1, 1985, substituted “Conservation” for “Food and Agriculture” after “Director of”.

51238. Facilities as compatible uses. (a) (1) Notwithstanding any determination of compatible uses by the county or city pursuant to this article, unless the board or council after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities are hereby determined to be compatible uses within any agricultural preserve.

(2) No land occupied by gas, electric, water, communication, or agricultural laborer housing facilities shall be excluded from an agricultural preserve by reason of that use.

(b) The board of supervisors may impose conditions on lands or land uses to be placed within preserves to permit and encourage compatible uses in conformity with Section 51238.1, particularly public outdoor recreational uses.

History.—Stats. 1972, p. 2687, in effect March 7, 1973, added the second paragraph. Stats. 1978, Ch. 1120, in effect January 1, 1979, deleted “utility” after “communication” in the first and second sentences of the first paragraph. Stats. 1980, Ch. 1219, in effect January 1, 1981, added “or agricultural laborer housing” after “communication” in the first and second sentences of the first paragraph. Stats. 1994, Ch. 1251, in effect January 1, 1995, substituted “that” for “such” after “by reason of” in the second sentence of the first paragraph; added “or land uses” after “conditions on lands”, and substituted “uses in conformity with Section 51238.1,” after “and encourage compatible” in the second paragraph. Stats. 1999, Ch. 967 (AB 1505), in effect January 1, 2000, added subdivision letters and numbers (a), (1) and (2), and (b).

Note.—Section 5 of Stats. 1980, Ch. 1219, provided no payment by state to local governments because of this act; however, a local agency or school district may pursue other remedies to obtain reimbursement.

51238.1. Compatible uses. (a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:

(1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

In evaluating compatibility a board or council shall consider the impacts on noncontracted lands in the agricultural preserve or preserves.

(b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional uses shall conform to the principles of compatibility set forth in subdivision (a) or, for nonprime lands only, satisfy the requirements of subdivision (c).

(c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on nonprime land which, because of onsite or offsite impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:

(1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of this chapter to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.

(4) The use does not include a residential subdivision.

For the purposes of this section, a board or council may define nonprime land as land not defined as "prime agricultural land" pursuant to subdivision (c) of Section 51201 or as land not classified as "agricultural land" pursuant to subdivision (a) of Section 21060.1 of the Public Resources Code.

Nothing in this section shall be construed to overrule, rescind, or modify the requirements contained in Sections 51230 and 51238 related to noncontracted lands within agricultural preserves.

History.—Added by Stats. 1994, Ch. 1251, in effect January 1, 1995.

51238.2. Compatible uses; mineral extraction. Mineral extraction that is unable to meet the principles of Section 51238.1 may nevertheless be approved as compatible use if the board or council is able to document that (a) the underlying contractual commitment to preserve prime agricultural land, as defined in subdivision (c) of Section 51201, or (b) the underlying contractual commitment to preserve land that is not prime agricultural land for open-space use, as defined in subdivision (o) of Section 51201, will not be significantly impaired.