

Question & Answer from Public Meetings **Agricultural Preserve Policies and Procedures Update**

During the week of April 6 through April 11, 2015, the County hosted a series of five public meetings in various locations to introduce the proposed update to its Agricultural Preserve Policies and Procedures and to receive feedback from interested participants. The following is a compilation of the questions or issues raised by attendees. County staff has reviewed the questions and provides the following answers:

(The proposed Policies and Procedures, along with all other supporting documents, can be found online at: <http://www.co.mendocino.ca.us/planning/publicnotices.htm>)

1. How is “ownership” defined for the purposes of a Williamson Act contract?

Ownership of a parcel means the person or entity that is on the legal title for a parcel.

2. Are second residences allowed on Williamson Act contracted properties for rental purposes?

Language within the Williamson Act (Government Code Section 51238.1) covers matters of “compatibility” with respect to allowable uses on contracted land (see Appendix B of the draft Policies and Procedures document). The County is given a fair degree of discretion in determining compatibility as long as the use does not “significantly compromise” or “displace” agricultural production on the subject or other contracted land. Section 51250 states that “commercial, industrial or residential” buildings that are not related to agricultural or compatible uses may constitute a material breach of contract. Section 9.4(A)(2) would require that second residential units a) be incidental to the primary dwelling, b) not be leased or rented separately from the primary dwelling and c) be occupied by the farm operator or an immediate family member of the landowner or farm operator.

3. Are weddings (or similar events) allowed on contracted land?

Section 9.4 (E)(3) allows certain “miscellaneous” compatible uses on the property including “Entertainment Events or Religious Assembly.” Use of contracted property for commercial wedding events over 100 persons would require an Administrative Permit through Planning and Building Services. Private (non-commercial) weddings or gatherings are excluded from this requirement.

4. Would an existing septic site used to receive septage/sludge conform to new compatible use language?

According to Section 9.4(E)(2) of the draft Policies and Procedures, certain types of “Major impact services and utilities,” would be allowed on contracted property. Excluded from these allowed uses, however, are “sewage disposal facilities, septage disposal facilities and sites, sanitary landfills and water treatment plants.” The intent is to prohibit larger scale “facility” type operations on contracted land. Staff will recommend removing the words “and sites” from the proposed exclusions to accommodate small scale uses on agricultural lands.

5. How will agricultural operations utilizing less than 50 percent of the property be handled according to the proposed Policies and Procedures?

Section 5.2(B) of the draft Policies and Procedures requires that a “minimum of 50 percent of the land” must be continuously used or maintained for agricultural uses, unless the Board of Supervisors finds that 1) more than 50 percent of the land is not suitable due to soil, slope, geologic, or other significant constraints, 2) the remainder of the land is used or maintained for agricultural uses, and 3) a proposed contract is consistent with the purposes and intent of the Williamson Act and the local Policies and Procedures.

6. Would the County be open to other options for properties utilizing less than 50 percent of the land?

Additional suggestions were offered for such properties including an increase to the required income levels in certain cases where less than 50 percent of the land is utilized for agriculture. While no changes will be recommended by staff at this time, the Board of Supervisors would have the ability to amend the Policies and Procedures in the future to accommodate these or similar concepts.

7. What about land that is subject to Coastal Zone restrictions, including the protection of Environmentally Sensitive Habitat Areas (ESHAs) such as wetlands?

The Williamson Act contracts are between the County and the landowner. In cases where the property lies within the Coastal Zone, the land under contract would also be subject to any and all regulations of the County’s Local Coastal Program (LCP). “Managed wetlands” will continue to be a category of a possible “Open Space” Williamson Act contract (see Section 3.0 (Q) and (S) of the draft Policies and Procedures). Ultimately, any use restrictions or prohibitions required by other local, State or federal agencies on the same lands would be in addition to those listed in a Williamson Act contract.

8. In certain cases where the property may be overgrazed, would this impact qualification or compliance?

Each contracted property must be able to sustain the minimum level of production agriculture to remain in the program. The proposed Policies and Procedures do allow for an averaging of three (3) of the last five (5) years of production income to maintain eligibility, so the ability to fallow the land and allow it to recover is built into the program.

9. Are there cases in which parcels smaller than the specified minimums would qualify for a Williamson Act contract?

Section 51222 of the Williamson Act requires that the land must be in “parcels large enough to sustain their agricultural use” which is defined as 1) at least 10 acres for prime agricultural land, or 2) at least 40 acres for non-prime agricultural land. No exceptions are provided for contracted lands, although an *agricultural preserve* may be less than the required 100 acres when the Board of Supervisors finds it necessary due to unique circumstances and consistent with the General Plan.

10. How will the income qualifications work for grazing operations? Will there be allowances for “extenuating circumstances” that would impact reportable income (e.g. sustained droughts, significant market declines, etc.)?

The minimum annual gross income figures to qualify and maintain eligibility for grazing operations is listed in Table 5-2 (fifth row). Regarding the “extenuating circumstances,” staff will recommend that, in such cases, the Board of Supervisors consider enacting a resolution suspending or modifying certain requirements of the Policies and Procedures on a short-term basis.

11. Could income from other activities such as firewood production be used to qualify or remain eligible for a contract?

The sale of firewood is not considered production agriculture, so income from such sales does not enter into the annual gross income figures to establish or maintain eligibility for a Williamson Act contract.

12. Could charitable contributions of an agricultural commodity be used as a form of “income” for qualifying purposes?

Charitable contributions of an agricultural commodity do not constitute production agriculture, which would demonstrate certain economic activity such as sales receipts, infrastructure costs, in-kind exchanges, lease agreements, etc. There are other avenues that could be pursued for tax purposes, such as forming a 501(c)(3) nonprofit and filing a welfare exemption.

13. What types of documentation would be needed for income reporting?

Under the proposed Policies and Procedures, the economic information required to be disclosed on the reporting statements will be requested by the Assessor for the County under the Revenue Tax Code Section 441. As such, this information will remain confidential and exempt from Public Records Act requests. The Assessor may make additional requests for information, if needed.

14. What types of compatible uses will be allowed?

Generally speaking, compatible uses need to be on a small enough scale so as to be consistent with the principles of compatibility listed in Appendix B of the Policies and Procedures (Government Code Sections 51238.1 to 51238.3). Staff will recommend that the opening sentences of 9.4 and 9.6 include references to 9.2 (C) and Appendix B. Likewise, it will be recommended that “See Appendix B” be added to 9.2 (C).

15. Why is camping prohibited in Section 9.5(D)?

The prohibition of camping on Williamson Act contracted lands that 1) is open to the public, 2) a commercial venture, or 3) is club oriented is based on the fundamental intent of the Williamson Act program to protect production agricultural lands. Such activities are seen as incompatible with that intent.

16. Will timber operations continue to qualify for a Williamson Act contract?

Yes. As noted in Table 5-2, there are no set economic qualifiers or maintenance requirement for timber production. A Timber Harvest Plan (THP) or a Non-Industrial Timber Management Plan (NTMP) serve to demonstrate management and future production on the land and can still be used to qualify property for Williamson Act contracts.

17. How often will reporting statements be requested under the new Policies and Procedures?

Under the proposed Policies and Procedures, reporting statements will be mailed to all contract holders by the County Assessor at a frequency determined by the Assessor.