

NEVADA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT
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**WILLIAMSON ACT CONTRACTS
GUIDELINES**

The California Land Conservation Act of 1965 (Williamson Act) authorizes the establishment of agricultural preserves under Section 51200 et seq of the Government Code of the State of California. The intent of the Act is to preserve the State of California's limited supply of agricultural land by discouraging premature and unnecessary conversion of agricultural land to urban uses. The Act also allows lands to be preserved for open space and recreational purposes.

When a property owner enters into a Contract with the County of Nevada, the land covered by the contract will be restricted to the use provided for in the contract for at least 10 years. In return, the County Assessor will value the property for property tax purposes, based on its use value.

Nevada County first implemented the California Land Conservation Act of 1965 with the Board of Supervisors' adoption of Resolution No. 75-93. Since that time the Board has adopted Resolutions No. 77-427, 88-36 and 94-518, each providing certain amendments to the original regulations. Attached is a composite of the County's Williamson Act rules and regulations. Application forms for requesting a new, an amended, or a cancellation of, a Williamson Act contract, are available in the County Planning Department in the Eric Rood Administrative Center, 950 Maidu Avenue, Nevada City, California, telephone number (530) 265-1222.

Property owners who are considering making an application to the County for a Williamson Act contract should also contact the office of the County Assessor, at (530) 265-1232. That office can provide information on any property tax advantages that may be available on property encumbered by a Williamson Act contract with the County.

Requests for Williamson Act contracts will be considered by the Nevada County Board of Supervisors during a public hearing. Depending on the proposed use under the contract, recommendations to the Board of Supervisors will be required from 1) the Nevada County Agricultural Advisory Board for agricultural uses, and 2) the Natural Resource/Soil Conservation Service for open space or recreational uses.

Requests for Williamson Act Contract cancellations must be filed no later than 90 days prior to the anniversary date of the Contract.

**RULES & REGULATIONS FOR THE WILLIAMSON ACT
COUNTY OF NEVADA**

**Board of Supervisors Resolution Numbers:
75-93, 77-427, 88-36 & 94-518**

SECTION I. DEFINITIONS

AGRICULTURAL PRESERVE: An area which is contractually restricted to agricultural, public recreation or open space uses. Such preserves shall be established for the purpose of preserving a maximum amount of the limited supply of agricultural land and discouraging premature and unnecessary conversion of agricultural land to urban uses by placing restrictions upon the use of land within them, pursuant to the purposes of this resolution. Such preserve may also be established even if it contains no prime agricultural land, provided that the land within the preserve is subsequently restricted to agricultural, recreational, open space or compatible uses.

AGRICULTURAL USE: The use of land for the purpose of producing plant and animal products in this State for commercial purposes, excluding timber and Christmas trees.

CANCELLATION: The nullification of a contract by agreement of the parties under a cancellation clause contained in the contract; a remedy whereby a court of equity in exceptional cases exercises its jurisdiction to decree the surrender and cancellation of written instruments.

CANCELLATION CLAUSE: The provision in a contract for the termination thereof by one of the parties.

CANCELLATION VALUATION: Full cash value of land, as though it were free of contractual restrictions.

COMMISSION: The Nevada County Agricultural Advisory Commission shall serve as an advisory board to the Board of Supervisors on applications for agricultural preserves and other matters relating thereto, and shall replace the Nevada County Land Conservation Act Advisory Board which is hereby eliminated by action of this resolution.

COMPATIBLE USE: The use of land for agricultural, recreational, and open space uses as defined herein. Compatible uses include such land uses as deemed necessary to support agricultural, recreational, or open space uses, as those uses are provided for within the provisions of the zoning district in which the property being considered is located. Land within any agricultural preserve shall be zoned either "AE" Agricultural Exclusive, "A1" General Agricultural or "FR" Forest & Recreation, and any site plan approval or use permit applied for on lands within an agricultural preserve shall be evaluated on the basis of whether the use is necessary to carry-out the agricultural, recreational, or open space use of the property.

GROSS PROFIT: The excess of the selling price over the cost price without deducting expenses of resale and other costs of doing business.

OPEN SPACE USE: 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, or to provide essential habitat for wildlife, if such land is within (1) a scenic highway corridor designated by the State Department of Transportation as an official county scenic highway, (2) a wildlife habitat area recommended by the State Department of Fish & Game as an area of great importance for the protection or enhancement of the wildlife resources of the State, or (3) a managed wetland area which has been maintained for at least three consecutive years as a water fowl hunting preserve or game refuge, or for agricultural purposes.

RECREATIONAL USE: The use of land by the public, with or without charge, for any of the following: 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 the recreational use of land as defined here shall be a reasonable amount and shall not have the effect of unduly limiting its use by the public.

RESOURCE CONSERVATION AND AGRICULTURAL PRODUCTION PLAN: A plan which outlines the land resource management and agricultural production program required to bring the property proposed for an agricultural preserve into compliance with good management practices and full agricultural production to the extent of its capability as determined by the Agricultural Advisory Commission. The plan may be prepared by the Nevada County Resource Conservation District and Soil Conservation Service or the Farm Advisor and shall be submitted with the application for an agricultural preserve for agricultural uses.

SECTION II. CRITERIA FOR APPLICATIONS FOR AGRICULTURAL USES

The following criteria shall be used in the evaluation of contracts for agricultural uses under the Williamson Act:

1. Land proposed for an agricultural preserve shall be designated on the Nevada County General Plan for Estate, Rural, Rural Low Density, or Forest and shall be zoned "AE" Agricultural Exclusive, "A1" General Agricultural or "FR" Forest & Recreation, which zoning districts will restrict the use of the land to agricultural and uses compatible therewith.
2. The minimum acreage to be considered for an agricultural preserve shall be the same as the minimum parcel size required in the zoning district in which the property is located, except that legally-established non-conforming parcels of a lesser size will be considered if findings can be made that the parcel is adequate in size to accommodate the commercial agricultural operation including in the contract without adverse impacts on adjoining properties. The land area of adjoining property owned by the applicant but zoned "TPZ" Timberland Preserve Zone may be computed to meet the minimum parcel size required under this criteria.
3. There shall be a capital outlay for agricultural improvements, livestock, plant material, and animal and crop enhancement products in the minimum total sum of \$15,000. Capital outlay may not include the cost of residential structures and accessory buildings, roads not required for conduct of the agricultural operation, land costs, or equipment, but may include, but not be limited to, site preparation associated with the agricultural operation, fencing, ditching, ponds, barns, agricultural storage buildings, irrigation piping, corrals, loading chutes, gates and cattle crossings. Value applied shall be demonstrated

by actual purchase receipts, an appraisal performed by a qualified farm appraiser (at the expense of the applicant), or by an estimate of replacement value prepared by the Nevada County Farm Advisor, the Soil Conservation Service and Nevada County Resource Conservation District at the expense of the applicant). The Agricultural Advisory Committee shall choose whichever of these methods it deems to be most effective in providing substantiation of capital outlay, and it shall be used only when the applicant is unable to document such capital outlay.

4. There shall be a minimum of \$3,000.00 of annual gross profit from agricultural production on the parcel or parcels described in the contract. Prior to making the application for contract, the property shall show a minimum of \$3,000.00 annual gross profit from agricultural production on the subject property in at least two of the three years prior to the application. The amount of the gross profit shall be substantiated by the applicant in a manner acceptable to the Commission, and substantiation shall be accompanied by a statement from the applicant, notarized and filed under penalty of perjury, that the information is correct and that the income was received from agricultural production on the property covered by the application.

As an alternative to demonstrating annual gross profit in at least two of the three years prior to the application, the plan required by Section II.5 may include a time frame in which the applicant will begin to show \$3,000.00 annual gross profit. Failure to perform in accordance with the provisions of the plan shall cause the Commission to recommend to the Board of Supervisors that the contract be canceled. In reviewing the plan, the Commission shall determine whether the proposed time frame demonstrates the applicant's intent to conduct a true commercial agricultural operation in a reasonable period of time based on the type of operation proposed.

5. An applicant for consideration under the provisions of this resolution shall have obtained from the Nevada County Resource Conservation District and Soil Conservation Service, or the Farm Advisor, a conservation and agricultural production plan to which he has agreed and which he will conscientiously follow. The plan shall include a time frame in which the property will be brought to its full agricultural production capability, and, if required, pursuant to Section II.4 above, the plan shall include a time frame in which the property will be earning \$3,000.00 annual gross profit.

Performance as provided for in the plan shall be evaluated by the Soil Conservation Service, Nevada County Resource Conservation District, and Farm Advisor, at least every two years. Failure to conscientiously perform as outlined in the plan may cause the Commission to recommend to the Board of Supervisors that the contract be cancelled.

SECTION III. CRITERIA FOR APPLICATIONS FOR OPEN SPACE

The following criteria shall be used in the evaluation of contracts for open space uses under the Williamson Act:

1. Land proposed for an agricultural preserve for preservation of open space, as defined herein, shall be zoned in a manner which clearly defines the nature of the open space and restricts the land use to protect the particular resource. If restrictive zoning is not in

place at the time of application, a petition for rezoning shall accompany the contract application, and the rezoning shall be approved before a contract can be entered into.

2. An applicant shall have obtained from the Nevada County Resource Conservation District and Soil Conservation Service a plan which clearly outlines the conservation and resource management program in effect, or to be implemented within a specific time frame for the property under consideration. If the property is intended to provide essential habitat for wildlife or is a managed wetland area, the plan shall have been approved by the State Department of Fish & Game which shall also provide a statement indicating that the property provides important protection for the protection and enhancement of the wildlife resources of the state.
3. There shall be no minimum parcel size for properties to be considered for preservation of open space as defined herein.

SECTION IV. CRITERIA FOR APPLICATIONS FOR RECREATIONAL USES

The following criteria shall be used in the evaluation of contracts for recreational uses under the Williamson Act:

1. Land proposed for an agricultural preserve for public recreational uses, as defined herein, shall be located in a zoning district which allows the existing or proposed public recreational use.
2. If required by the zoning district in which the property is located, the application shall be accompanied by a statement of legal non-conforming status or a site plan or conditional use permit approval indicating that the existing or proposed public recreational use is consistent with County zoning regulations.
3. An applicant shall have obtained from the Nevada County Resource Conservation District and Soil Conservation Service a plan which clearly outlines the conservation and resource management program in effect, or to be implemented, for the property under consideration. If all appropriate best management practices are not in effect at the time of application, the plan shall include a time frame in which all measures will be in place.
4. There shall be no minimum parcel size for properties to be considered for public recreational uses.

SECTION V. PROCEDURES

The following is established as procedure for application for an agricultural preserve under the provisions of the Land Conservation Act of 1965, and this resolution:

1. The Nevada County Agricultural Advisory Commission shall serve as the advisory board to the Board of Supervisors on all applications for agricultural preserves and matters relating thereto.
2. Landowners shall file complete applications for contracts with the Nevada County Planning Department upon forms provided by that department.

3. Each application form shall be accompanied by:
 - a. A non-refundable filing fee as established by the latest fee schedule adopted by the Board of Supervisors;
 - b. For applications for contracts for agricultural uses, a Resource Conservation and Agricultural Production Plan as defined herein;
 - c. For applications for open space and public recreational uses, a conservation and resource management plan pursuant to Section III.2 or IV.3;
 - d. All other information which may be required on the application form last approved for use by the Agricultural Advisory Commission.
4. After a complete application is received and reviewed for compliance, a receipt for same shall be issued. Within 10 days from the date of the receipt, the Planning Department shall circulate a copy of all material received in the application to the following departments with a memorandum requesting comments relative to compliance with criteria established by this resolution and any other consideration:
 - (A) Nevada County Agricultural Commissioner
 - (B) Nevada County Assessor
 - (C) Nevada County Farm Advisor
 - (D) Nevada County Resource Conservation District
 - (E) Nevada County Local Agency Formation Commission
 - (F) Every city and county within one mile of the boundaries of the proposed preserve.
 - (G) Any other agency which can aid the Agricultural Advisory Commission in evaluating the application.
 - (H) School, fire or other special districts.
5. Within sixty (60) days from the date of receipt of the request for comments, the Planning Department shall receive comments from any interested agency and shall set the application for public hearing before the Agricultural Advisory Commission. The Notice of Public Hearing outlining the content of the application for preserve and time and place for public hearing shall be published once in a newspaper of general circulation published within the County at least ten (10) days prior to the hearing.
6. Prior to the public hearing, the Planning Department shall prepare a report to the Agricultural Advisory Commission including all comments received from interested agencies and a statement that the proposed preserve is consistent or inconsistent with the adopted Nevada County General Plan and the purpose and intent of this resolution.
7. Upon conclusion of the public hearing, which may be continued from time to time, the Agricultural Advisory Commission shall, by a majority vote of the members present, recommend to the Board of Supervisors that the application for agricultural preserve be granted or denied.
8. Upon action by the Agricultural Advisory Commission, the application and Commission recommendations shall be set for consideration by the Board of Supervisors. The Board

of Supervisors may hold a public hearing on the matter with notification as outlined in Paragraph 5 if it desires.

9. At least thirty (30) days prior to the date of the Board of Supervisors will consider the application and recommendation, the Clerk of the Board of Supervisors shall give written notice to any city within the county of its intention to consider a contract which includes land within one mile of the exterior boundaries of that city. If such files with the Nevada County Local Agency Formation Commission, a resolution protesting the execution of a contract which includes land within one mile of the exterior boundaries of the city, and that Commission, following a hearing, upholds the protest upon a finding that the contract is inconsistent with publicly desirable future use and control of the land in question, then, should the Board of Supervisors execute such a contract, the city shall have the option of not succeeding to the contract upon annexation of the land to the city.
10. Upon conclusion of the hearing or public hearing on the application and Agricultural Advisory Commission recommendation, the Board of Supervisors may, by majority vote of its membership, adopt a resolution establishing all or any part of the land covered by the application in an agricultural preserve. The resolution may include the rules pertaining to the regulation of the land within the preserve. A contract between the Board of Supervisors and the landowner may follow adoption of a resolution. The contract shall provide for maintenance of the land in compliance with the criteria established in this resolution, limit use of the land covered by the contract to agricultural uses, or uses which are compatible therewith, and recreational uses, open spaces shall prohibit the subdivision of any land under contract unless specifically allowed in the contract.
11. For a contract to be in effect for a March 1 lien date in any year, the application for contract must be filed by September 1 of the previous calendar year.

SECTION VI. CONTRACTS

Contracts entered into by a landowner and the County of Nevada shall be provided for as follows:

1. Each contract shall be for an initial term of no less than ten (10) years, and each contract shall provide that on the anniversary date of the contract, a year shall be added automatically unless notice of non-renewal is given.
2. If either the landowner or the County desires in any year not to renew a contract, that party shall serve written notice of non-renewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner, at least ninety (90) days prior to the renewal date, or by the County at least sixty (60) days prior to the renewal date, the contract shall be considered renewed.
3. Upon receipt by the owner of a notice from the County of non-renewal, the owner may make a written protest of the notice of non-renewal. The County may, at any time prior to the renewal date, withdraw the notice of non-renewal.

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4. If the County or landowner serves notice of intent not to renew in any year, the existing contract shall remain in effect for the balance of the period remaining since the original executive or the last renewal of the contract, as the case may be.
5. No later than twenty (20) days after the County enters into a contract with a landowner, the Clerk of the Board of Supervisors shall record with the County Recorder a copy of the contract which shall describe the land subject thereto, together with a map showing the location of the agricultural preserve. From and after the time of such recordation, such contract shall impart notice thereof to all persons.
6. No contract may be cancelled until after the County has held a public hearing giving notice of public hearing as provided in this resolution, and by mailing notice of public hearing to the owners of land under the contract, those owners of land within 300 feet of the exterior boundary of the land upon which the contract is proposed to be cancelled and any city whose limits are within one (1) mile of the boundaries of the contracted property. The owner of any land located in the County may protest the cancellation to the Board of Supervisors.
7. The County or landowner may bring any action in court necessary to enforce any contract including, but not limited to, an action to force the contract by specific performance or injunction.
8. The following actions shall cause the Board of Supervisors to issue immediate notice of public hearing for consideration of cancellation of the contract:
 - (A) Any modification of the boundaries of the land described in the contract unless subdivision is specifically provided for in the contract.
 - (B) Notification from the Soil Conservation Service, Nevada County Resource Conservation District, or Farm Advisor, that the owner of the land under contract has not performed within the time frame of the conservation plan included in the application for contract.
 - (C) Failure of the applicant to show an annual gross profit of \$3,000.00 derived from agricultural production on the property.
 - (D) Failure of the applicant to comply with the plan included in the application for contract or the site plan or use permit in effect for the land use.
9. The landowner may petition the Board of Supervisors for cancellation of any contract as to all or any part of the subject land. The Board of Supervisors may approve the cancellation of a contract only if they find:
 - (A) That the cancellation is not inconsistent with the purpose of this resolution.
 - (B) That the cancellation is in the public interest. The existence of an opportunity for another use of the land involved shall not be sufficient reason for the cancellation of a contract. A potential alternative use of the land may be considered only if there is no proximate, non-contracted land suitable for the use to which it is proposed the contracted land be put. The uneconomic character of an existing agricultural, recreational or open space use shall

likewise not 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, recreational or open space use to which the land may be put.

10. Prior to any action by the Board of Supervisors to cancel any contract, the County Assessor of the County shall determine the full cash value of the land as though it were free of contractual restriction. The Assessor shall certify that value to the Board of Supervisors as the cancellation valuation of the land for the purpose of determining the cancellation fee.
11. Prior to any action by the Board of Supervisors to cancel any contract, the Board shall determine and certify to the County Auditor the amount of the cancellation fee which the landowner must pay the County Treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to fifty (50) percent of the cancellation valuation of the property; or, a sum equal to the tax savings for each and every year the contract has been in effect, plus a compounded interest component to be determined by an announced rate which has the same yield rate for long term United States Government Bonds as published by the Federal Reserve Board for each year, rounded to the nearest one-quarter percent, whichever is greater.
12. When deferred taxes are collected, they shall be transmitted to the County Treasurer.
13. Upon approval of the cancellation, the Clerk of the Board of Supervisors shall record in the office of the County Recorder a certificate which shall set forth the name of the owner of such land at the time the contract was cancelled with the amount of the cancellation fee certified by the Board of Supervisors as being due, the contingency of any waiver or deferment of payments, and a legal description of the property. From the date of recording of such certificate, the contract shall be finally cancelled and, to the extent the cancellation fee has not yet been paid, a lien shall be created and attached against the real property described therein and any other real property owned by the person named therein as the owner and located within the County. Such lien shall have the force, effect and priority of a judgment lien. In no case shall the cancellation of a contract be final until the notice of cancellation is actually recorded.
14. If a contract covers more than one legally-established separate parcel under the same ownership at the time of the contract, those separate parcels may be sold separately if:
 - (A) Each of the parcels contains the minimum parcel size required by the zoning district in which the property is located;
 - (B) The original contract includes the provision that the separate parcels may be sold separately;
 - (C) It can be demonstrated to the satisfaction of the Agricultural Advisory Commission that:
 - (1) In the case of lands contracted for agricultural uses, each of the parcels to be sold, and the remaining parcel, each has received \$15,000.00 in capital outlay, is capable and has a new conservation and agricultural

production plan, including a time frame in which the \$3,000.00 annual gross profit must be shown, in effect;

- (2) In the case of lands contracted for recreational uses or open spaces uses, that each of the parcels is capable of being used in a manner consistent with the intent of the Land Conservation Act and this resolution, and
 - (D) Prior to the sale of any parcel, a contract application is made by the prospective owner in the manner outlined in this resolution, and the contract is entered into with the County within thirty (30) days from the date of sale. Failure to enter into a new contract will cause the County to schedule a public hearing to consider cancellation of the contract as provided herein.
15. If the owner of property under contract desires to change the land use provided for in the contract to another land use allowed under this resolution, he/she shall make application for a new contract as provided herein.
16. A.
 - Nothing contained in these rules and regulations or in the provisions of any existing Williamson Act contract shall prevent the transfer of ownership from one immediate family member to another of a portion of land which is currently designated as an agricultural preserve if all of the following conditions are satisfied with regard to both the parcel to be transferred and the parcel remaining:
 - (1) The parcels are large enough to sustain agricultural uses permitted under the Williamson Act contract and in no event smaller than 10 acres in size in the case of prime agricultural land or 40 acres in the case of land which is not prime agricultural land.
 - (2) The parcels conform to the applicable local zoning and land division ordinances and applicable general plan designations.
 - (3) The parcels comply with all applicable requirements relating to agricultural income and permanent agricultural improvements imposed by the existing contract covering the land of which the parcel to be transferred is a portion.
 - (4) There exists a written agreement between the immediate family members who are parties to the proposed transfer that the parcels will be operated under the joint management of the parties subject to the terms and conditions and for the duration of the existing contract.
 - B. A transfer of ownership described in subsection (A), supra, shall have no effect on any existing contract executed under the authority of the Williamson Act and these rules and regulations covering the land of which a portion is being transferred. The portion so transferred shall remain subject to that contract.
 - C. For purposes of this subsection 16, "immediate family" means the spouse of the landowner, the natural or adopted children of the landowner, the parents of the landowner, or the siblings of the landowner.

- D. Nothing contained in this subsection 16 shall prevent the transferee of a parcel pursuant thereto from applying for a new contract separately covering the portion transferred, provided all other parties subject to the terms and conditions of the existing contract consent in writing and request an amendment of the existing contract to delete the transferred portion from its coverage, which amendment may be summarily agreed to by the Board of Supervisors.