

BURLINGTON COUNTY
FARMLAND PRESERVATION BOARD

BYLAWS

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ARTICLE I: BACKGROUND, PURPOSES AND AUTHORIZATION

1. The Burlington County Farmland Preservation Advisory Committee was established by the Burlington County Board of Chosen Freeholders (hereafter, the "Freeholders") by Resolution No. 132, adopted on March 25, 1981. This body was established for the following purposes:

- (a) advising the Freeholders with respect to a comprehensive program of agriculture preservation and retention;
- (b) determining appropriate preservation techniques;
- (c) delineating agricultural areas suitable for districting and
- (d) establishing conditions of eligibility for the sale of development rights to the public.

2. By Chapter 32 of 1983 laws, codified at N.J.S.A. 4:1C-11 et seq., the Legislature enacted the Agriculture Retention and Development Act (hereafter, the "Act"). Section 7 of that Act, at N.J.S.A. 4:1C-14, authorizes County governing bodies to establish county agriculture development boards. N.J.S.A. 4:1C-14 (g) specifically approved the continuation of a public body established by a county governing body prior to May 3, 1982 to carry out functions substantially similar to the functions of a county agricultural development board.

3. By Resolution no. 41, adopted on January 27, 1988, the Freeholders reorganized the Farmland Preservation Advisory Committee and established it as a Burlington County's agriculture development board, renaming the body the "Burlington County Farmland Preservation Board" (hereafter, the "Board") and declaring that the Board was to consist of 14 members: seven public members and seven persons who were actively engaged in farming in Burlington County. In addition, a majority of these seven farmers were to own a portion of the land they farmed.

ARTICLE II: POWERS.

1. The Board shall have all powers of county agriculture development Boards as specified by the Act and regulations adopted pursuant thereto, except that its powers with respect to the purchase of development easements shall be limited to the right to make recommendations to the Freeholders. The Board's powers shall include the following:

(a) Development and adoption, following a public hearing, of agriculture retention and development programs having as their principal purpose the long-term encouragement of agricultural industry and preservation of agricultural land in Burlington County;

(b) Adoption of procedural guidelines and substantive requirements for persons interested in creating non municipally approved and municipally approved farmland preservation programs and the right to approve or reject petitions for the creation of farmland preservation programs;

(c) The right of approval over requests for financial assistance authorized by the Act;

(d) The right to make recommendations to the State Agriculture Development Committee (hereafter, the "SADC") the Freeholders, municipal governing bodies and municipal boards with respect to resolutions, ordinances, regulations, policies and development approvals which have an effect on continued viability of agricultural activities and farmland preservation programs.

(e) The right to require, at the request of a municipality, that any person proposing a non-agricultural development in an agricultural development area prepare and submit a statement assessing the potential impact that the proposed development would have on agricultural activities in the area.

(f) Mediation over complaints alleging that an agricultural operation or activity constitutes a private or public nuisance.

(g) Monitor farmland preservation programs and agricultural activities in Burlington County.

(h) Enforce the conditions and restrictions imposed on real property by a farmland preservation program agreement and recommend to the Freeholders enforcement of farmland preservation easement provisions;

(i) Develop educational and informational programs concerning farmland preservation techniques and recommended agricultural management practices to advise and assist municipalities, farmers and the general public with respect to implementation of these techniques, assist farm operators with respect to permit applications and provide such information as it may have about the regulatory practices of State government agencies and

(j) Take such additional action as is consistent with the foregoing powers.

ARTICLE III: MEMBERSHIP.

1. The Board shall consist of the following members, to be appointed by the Freeholders:

A. Voting members:

There shall be twelve members having the right to vote on any matter before the Board, all of whom shall be residents of Burlington County, as follows:

- (i) six members who are actively engaged in farming and at least four of these must own at least a portion of the land they farm and
- (ii) six "public" members who are not engaged in farming. To the extent possible, these members shall be selected for their ability to provide diverse perspectives.

B. Non-voting members:

There shall be two members, as follows:

- (i) a representative of the Burlington County Chapter of the New Jersey Soil Conservation and
- (ii) a representative of the Burlington County Chapter of the New Jersey Cooperative Extension Service

C. Advisory members.

The Freeholders may appoint such other members as they deem appropriate. Advisory members shall be entitled to participate in the discussion of all

matters before the Board but shall not have the right to vote. Their presence shall not be considered for determining whether the Board has achieved a quorum.

D. Alternate members.

1. The Freeholders may appoint persons to serve as alternate members-both farmer and public, which alternates shall serve in the event of vacancies on the Board or unavailability of voting members. All members shall serve for the term appointed or until his/her successor is appointed.

2. The Board shall have the right to recommend to the Freeholders on an annual basis those persons who it believes would be valuable and active members of the Board. In the event that a farmer member advises that he/she is no longer interested in serving on the Board the Board may solicit the Burlington County Board of Agriculture for its recommendation for an appropriate replacement. The Freeholders shall appoint the Board members to serve for one-year terms or such other term that they deem appropriate. All members shall be eligible to serve for as many terms as the Freeholders deem appropriate.

3. The Board shall annually appoint a chairman and deputy chairman, who shall serve for the year following their election and shall not be limited with respect to number of terms. The chairman or, in his absence, the deputy chairman, shall preside over all regular and special meetings of the Board and shall sign all resolutions adopted by the Board, communications authorized by the Board and documents contemplated by the Act. The Chairman shall be authorized to also appoint three Board members actively engaged in farming to serve with representatives of the general public for the purpose of mediating disputes brought pursuant to N.J.S.A. 4:1C-26. The chair may also perform such other duties as the Board may authorize.

4. Vacancies. A vacancy in membership shall exist when (a) a member dies or becomes incapacitated or (b) a member advises the Board prior to the end of his/her term of appointment that he/she is no longer interested in serving on the Board. In the event of vacancy on the Board the Freeholders shall appoint a replacement to serve the remaining portion of the Board member's term.

5. Members shall receive no compensation, but appointed members may, subject to the limit of funds appropriated or otherwise made available by the Freeholders for these purposes, be reimbursed for expenses actually incurred in attending Board meetings and performing their duties as members.

6. Members shall sign the following oath prior to serving on the Board:

I, _____, do solemnly swear/affirm that I will faithfully and impartially perform the duties as member of the Burlington County Farmland Preservation Board to the best of my ability.

Signature

Date: _____

Notwithstanding the foregoing requirement, no Board action shall be void or voidable because one or more Board members has failed to sign the above oath.

7. Definitions. For the purpose of this section the following terms shall have the stated meaning:

“business entity” shall mean a partnership, corporation, sole proprietorship

“family member” or “member of Board member family” shall mean a member’s spouse, child (natural, adopted or stepchild), sibling (half or whole), parent and grandchild

“recusal” of a Board member means that the Board member shall not be present during discussion or consideration of a matter specified in section 7.5 by the Board. The Board member shall be permitted to submit such facts and information to the Board as the Board may need prior to leaving the room

7.1 Circumstances Requiring Resignation by Member. A Board member, whether voting or nonvoting, shall submit his/her resignation if any of the following occurs and subsection 7.2 applies:

- a. An application is submitted pursuant to the Agriculture Retention and Development Act, N.J.S.A.4:1C-11 et seq. or the Garden State Preservation Trust Act, N.J.S.A 13:8C-1 et seq., for any of the following:
 - i. Sale of the development rights, credits and easements:
 - ii. Sale (fee simple) of agricultural land
 - iii. Creation of a farmland preservation program pursuant to N.J.S. 4:1C-20 or 21

7.2 Interests in Land Requiring Resignation. The interests in land to which this section requires resignation are:

- a. Board member owns the property, whether wholly or in part;
- b. A business entity in which a Board member has an interest owns the property, wholly or in part;

- c. A business entity in which members of the Board member's family owns the property, wholly or part;
- d. The property, whether wholly or in part, is in an Estate in which a member or a family member of a member has a beneficial interest.
- e. The property is held by a Trust in which a member or a family member of a member has an interest.

7.3 Period of Ineligibility for Board Membership. A member who resigns pursuant to this section shall remain ineligible for appointment to the Board for the periods stated below:

- a. 365 days after closing on sale of development rights, credits and easements to the County or the SADC;
- b. 365 days after closing on sale of real property to the County or SADC;
- c. 365 days after (i) an application to sell land or interests in land for the purpose of farmland preservation to the County is terminated or (ii) the County's offer to purchase is rejected.
- d. period of time that farmland preservation program agreement is in effect

7.4 Ineligibility for Board membership. Any action described in this section as constituting reason for resignation by a member shall also make any other person taking such action ineligible for appointment to the Board for the periods stated in subsection 7.3.

7.5 Circumstances Requiring Recusal of Board Member. A member shall recuse him/herself from discussion and voting on the following matters if any of the interests in land described in section 7.2 applies:

- a. Sale of agricultural land to the SADC;
- b. Sale of the development rights, credits and easement to the SADC;
- c. Consideration of a farm for inclusion on the Board's Acquisition Targeting List (the "ATL");
- d. Consideration of a farm adjacent to land subject to the interests described in subsection 7.2 for the Board's ATL;
- e. Approval for subdivision of a permanently preserved farm;

- f. Allocation or exercise of a Residual Dwelling Site Opportunity (“RDSO”) on a permanently preserved farm;
- g. A matter for which Board intervention pursuant to the Right to Farm Act, N.J.S. 4:1C1 et seq. is requested and
- h. Consideration of a farm for the ATL within any municipality in which there is other land to which the interests described in subsection 7.2 apply.

7.6 Annual Reporting of interests in land held by voting members. Effective 1/1/2001, by March 30 of each year each member shall submit the following information to the Freeholders in writing on such form, if any, that is approved by the Freeholders:

- a. land subject to any of the interests described in subsection 7.2;
- b. land that is leased by any of the interested persons described in subsection 7.2;
- c. land that is subject to an agreement to purchase by any of the interested persons described in subsection 7.2
- d. any and all farmlands owned or leased by the Board member, his or her family members or business entities as defined herein at section 7. Should new acquisition of land interests subject to this reporting requirement take place at any time during the year between the annual March 30 filing dates set forth herein, that Board member shall immediately file an amended, updated list of those interests held by that Board member, his or her family or business entities.

7.7. In addition to the above provisions, Members shall comply with the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq.

ARTICLE IV: MEETINGS AND SUBCOMMITTEES

1. The Board shall meet on a monthly basis or as scheduled at the discretion of the Board at the last meeting of each calendar year. Meetings shall be conducted and advertised in accordance with the Open Public Meetings Act (“OPMA”). Robert’s Rules of Order, Revised, shall guide procedure of meetings, which rules may be relaxed where appropriate. Where these bylaws are inconsistent with Roberts, the bylaws shall control. All regular, special and emergency meetings shall be open to the public. The public may only be excluded from Board meetings in accordance with the OPMA.

2. Public hearings. In the event that the Act requires that the Board conduct a public hearing prior to taking certain action the Board shall clearly describe, in its notice publicizing the public hearing, the matter on which the Board will be conducting a public hearing and shall invite the public to attend and comment during the meeting. Not less than ten (10) business days' advance notice of all public hearings shall be given.

3. The agenda items of all regular meetings shall include the following:

- a. Call to order
- b. Roll Call
- c. Statement concerning compliance with Open Public Meetings Act
- d. Consideration of minutes of previous meeting
- e. Correspondence
- f. Old business
- g. New business
- h. Public comment*
- i. Adjournment

* The public shall be allowed to comment on matters which require a public hearing prior to the time that the Board takes action on the matter. In addition, the chairman shall have the discretion to invite public comment on motions or resolutions prior to the time the Board votes thereon.

4. Where a matter is scheduled for a public hearing at a regular meeting it shall be conducted prior to Board consideration of other business. The Chairman (or, in his absence, the Deputy Chairman) shall preside over the public hearing and the public shall be afforded an opportunity to comment before the Board takes action on the matter.

5. The Board's reorganization meeting shall be its first regularly scheduled meeting of each calendar year. At this meeting, the members shall establish

the Board's schedule of meetings and elect a chair and a deputy chair and, if desired, establish subcommittees. The chairman shall appoint the members to all standing subcommittees.

6. Subcommittees may be established at any regular meeting of the Board, in addition to the Board's reorganization meeting. Subcommittee meetings shall not be required to comply with the notice and other requirements of the OPMA but shall be open to the public except when the OPMA authorizes the exclusion of the public from a meeting of a public body. Subcommittees shall have no power other than to make recommendations to the Board. The approval of the majority of subcommittee members shall be required for the subcommittee to make a recommendation to the Board.

7. There shall be the following standing subcommittee:

A. Acquisition Subcommittee. This subcommittee shall consist of not less than 5 members as follows: three farmer members of the Board and two members of the public members of the Board. The Chairman shall be responsible for appointing the members to this subcommittee at the Board's annual reorganization meeting. The subcommittee shall be responsible for reviewing applications to sell development rights to the Freeholders and making a recommendation to the Board of the farms which should be selected for funding.

8. Quorum and voting. At all Board meetings a quorum shall consist of the number which constitutes a simple majority of the voting members: seven voting members unless there is a vacancy in the voting members. In the event that there are one or more vacancies in the voting members and alternate members have not been appointed the number of members sufficient to establish a quorum shall be a simple majority of the remaining voting members. Voting shall be by voice vote unless any voting members request a vote by role call. The number of votes necessary to pass a motion or resolution or take any other official action shall be a simple majority of the voting members present at the meeting, except that action on the following matters shall not be effective without the approval of four farmer members and four public members:

- a. selection of farms for development easement purchase program
- b. adoption of eligibility and ranking criteria for farmland preservation easement sale applications;
- c. adoption of Agriculture Development Area policy
- d. establishment of a new standing subcommittee
- e. adoption of criteria for the grant of Residual Dwelling Site Opportunities and exceptions from standards adopted pursuant to "b" above and

- f. Amendment to or suspension of these bylaws.

Each of the foregoing actions shall be taken by motion or by written resolution.

9. The chairman and, in his absence, the deputy chairman, shall have the authority to call special and emergency meetings. Notice of such meetings shall be advertised in accordance with the OPMA, which notice shall specify the meeting's purpose. No other business may be considered at this meeting.

10. Advance notice of Board meetings shall be provided in accordance with the OPMA. The Board may hold a meeting notwithstanding its failure to provide adequate notice only as allowed by the OPMA.

11. The following shall constitute a good cause for the Board's recommendation to the Freeholder's that a voting Board member be removed:

(a) failure of any voting member of the Board to attend three consecutive meetings without good cause;

(b) failure of any member to attend at least five regularly scheduled Board meetings within an eleven month period.

12. Burlington County staff (hereafter, "Staff") shall be responsible for satisfying the notice requirements of the OPMA with respect to all Board meetings and for recording regular and special meetings of the Board. Staff shall tape record all regular and special meetings and keep the tape until the Board approves the minutes of the meeting.

13. Minutes which comply with the OPMA for the public and nonpublic portions of each regular and special Board meeting shall be prepared and maintained by staff. At a minimum, the minutes shall include the names of Board members present and persons who addressed the Board, a summary of the actions taken, findings made by the Board and its reasons for all actions. Minutes may incorporate by reference resolutions and motions approved the Board.

14. Staff shall be responsible for preparing and distributing agendas of regular and special matters and assisting the Board in its work. Absent emergency, set agendas shall be available to the public and transmitted to Board members not less than two days prior to each meeting.

ARTICLE V AGRICULTURAL DEVELOPMENT AREAS

1. The Board may, by resolution, adopt and/or revise criteria for land to qualify as an "Agricultural Development Area" as defined in the Act. The resolution shall be kept on file as an attachment to these bylaws. The factors identified by SADC regulations shall be considered in developing criteria for identifying agricultural development areas.

2. The following criteria are the minimum standards which must be satisfied for land to qualify as an agricultural development area.

(a) the land encompasses productive agricultural lands which are either currently in production or have a strong potential for future production in agriculture;

(b) agriculture is a permitted use under the current municipal zoning ordinance or agriculture is permitted as a nonconforming use and

(c) the land is reasonably free of suburban and conflicting commercial development

3. Land may be designated an agricultural development area only after the Board has conducted a public hearing. The designation shall include a description of the land so designated and may make reference to a map. In no case shall more than 90 percent of the agricultural land mass of the County be designated as an agricultural development area.

4. The Board may consider/reconsider its designation of land as an agricultural development area at any time, but land shall not be designated as an agricultural development area or that designation withdrawn from land unless the Board has conducted a public hearing.

5. The Board's approval of an agricultural development area shall neither constitute nor be construed as authorizing exclusive agricultural zoning or any zoning which would have the practical effect of exclusive agricultural zoning, nor shall the adoption be used by any tax official to alter the value of such land or the assessment of taxes thereon.

6. SADC certification. The Board shall comply with regulations adopted pursuant to the ACT to obtain SADC certification of the Board's designation of an agriculture development area. Following SADC certification, the Board shall advise the Burlington County Planning Board of the Board's designation of an agricultural development area.

ARTICLE VI.

FARMLAND PRESERVATION PROGRAMS

A. Non-municipally approved farmland preservation programs.

1. The Board may, by resolution, adopt and/or revise criteria for land to be considered eligible for a farmland preservation program. Any such resolution shall be kept as an attachment to these bylaws. Said criteria shall, at a minimum include the requirements that:

- a. the land is within an agriculture development area and
- b. the land qualifies for differential property tax assessment pursuant to the Farmland Assessment Act.

The Board may consider/reconsider its criteria at any time.

2. The following procedure shall be followed for all applications for the creation of a non-municipally approved farmland preservation program:

a. All applications for the creation of a non-municipally approved farmland preservation program shall be made in writing by petition. The application shall be made by the property owner or by any other person having an interest in the property with the owner's written consent, which consent shall be submitted with the petition. The applicant shall submit the following with the completed petition form:

- * a map of the boundaries of the proposed program
- * a true copy of the deed which conveyed title to the property to the current owner.

b. Staff shall be responsible for reviewing the application and requesting that the applicant provide such additional information as may be necessary for the Board to consider the application.

c. Once the staff has sufficient information to submit the application to the Board the application shall be placed on the agenda of the Board's next regularly scheduled meeting for which sufficient notice can be provided in accordance with IV-2 above. The applicant shall be advised of the Board's meeting and encouraged to attend.

d. The Board shall consider the application for its satisfaction of Board and SADC-adopted conditions of eligibility. Based on such review the Board shall approve, conditionally approve or reject the petition. The Board's action shall be recorded in a resolution. In the event that the Board approved the petition or

conditionally approves the petition and the property owner does not object to the conditions, the Board shall obtain an "owner of last record" search to confirm the owner (s) of the property.

e. Upon the Board's approval of the petition and verification of the property owner (s) the owner shall enter into a SADC-approved form agreement with the Board to retain the land in agricultural production for a minimum period of eight years.

f. Following execution of the agreement by the owner and the Board's chairman staff shall submit the following to the SADC:

- * a copy of the approved petition
- * the original copy of the agreement
- * a copy of the tax map and any other documents required by the Board for the purpose of identifying the boundaries of the proposed program;
- * a copy of the "owner of last record" search;
- * a copy of the Board's resolution approving the application and
- * a certification (if not included in the Board's resolution) that the property is in a certified ADA and that the property satisfies the SADC's requirements for eligibility

g. In the event that the SADC does not certify the program it shall not be adopted. Following certification by the SADC or certification with conditions by the SADC, to which conditions the owner does not object, the Staff shall be responsible for filing the original agreement with the County Clerk for recording in the same manner as a deed. Staff shall also forward copies of the agreement to the persons/agencies designated by the SADC and to the owner.

B. Municipally approved farmland preservation programs.

1. Any land which is eligible for creation of a non-municipally approved farmland preservation program shall be eligible for creation of a municipally approved farmland preservation program. The Board shall have the right to adopt/reconsider eligibility criteria for creation of municipally approved farmland preservation programs and to impose criteria which are different from those for non municipally approved programs.

2. The following procedure shall be followed for all applications for the creation of a municipally approved farmland preservation program:

a. All applications for the creation of a municipally approved farmland preservation program shall be made in writing by petition and shall include a map of the boundaries of the proposed program. Applicants shall utilize a standard form adopted for such use by the Board. The application shall be made by the property owner or by any other person having an interest in the property with the owner's written consent, which consent shall be submitted with the petition. The applicant shall submit the following with the completed petition form:

- * a copy of the tax map, survey or other type of map on which the boundaries of the proposed program are clearly indicated;

- * a true copy of the deed which conveyed title to the property to the current owner

b. Staff shall be responsible for reviewing the application and requesting that the applicant provide such additional information as may be necessary for the Board to consider the application.

c. Upon Staff's determination that the applicant has provided all required information it shall advise, in writing, all owners named on the tax records of the municipality of land contiguous to the property on which the program is proposed of the application. Staff shall inform the addressees of the reasons for and impact of the creation of a municipally approved farmland preservation program, solicit their opinions concerning the petition and invite them to attend the public hearing scheduled for its consideration. Staff shall also place the application on the agenda of the Board's next regularly scheduled meeting for which sufficient notice can be provided in accordance with IV-2 above and which is conducted not less than 30 days after copies of the petition were transmitted to owners of property adjacent to the applicant's property. The Board shall have the right to approve, conditionally approve or reject the petition.

d. Upon the Board's approval or conditional approval of the petition Staff shall be responsible for forwarding a copy of the petition to the following:

- * the Burlington County Planning Board;

- * the municipal governing body of each municipality in which the property is located (the "host municipality") and the municipal governing body of each municipality which is within 500 feet of the property and

- * the planning board of each municipality in which the property is located ("host planning board") and the planning board of each municipality which is within 500 feet of the property.

e. the governing body and planning board of any municipality which is located within 500 feet of the property shall have the right to comment on the proposed application.

f. The host municipal planning board shall be responsible for advising the host municipal governing body within 60 days of its receipt of the petition with respect to the potential effect the proposed program might have upon municipal planning policies and objectives.

g. The host municipal governing body shall have 120 days to consider the petition, measured from the date that the host municipal planning board received it. During this time the municipal governing body shall conduct a public hearing and recommend to the Board, by ordinance duly adopted, that the municipally approved farmland preservation program boundaries be approved, conditionally approved with proposed geographical modifications or disapproved. In the event that the host municipality fails to take action on the application within 180 days of the planning board's receipt of the petition the Board shall have the right to appeal to the SADC to intervene, and the SADC shall be authorized to approve or disapprove the petition for the municipality. In the event that the municipal governing body disapproves the application no program shall be created. The applicant shall have the right, however, to modify its application and seek to create a non-municipally approved program.

h. In the event that the governing body approves the petition with proposed geographical modifications to which the applicant does not object, the Board shall review the recommendation for conformance with minimum eligibility criteria. If the Board finds that the criteria have been met and that the proposed modifications encourage agriculture retention and development to the greatest practicable extent, the Board shall adopt a resolution amending its approval of the application.

i. In the event that the governing body approves the petition subject to geographical modifications or to the exclusion of a portion of the applicant's property from the program, and the applicant objects to such modifications or exclusion, the Board shall have the right, but not the duty, to mediate with the governing body. The applicant may also elect to change the application to one for the creation of a non-municipally approved farmland preservation program.

j. Unless the applicant elects to withdraw the application because of the municipalities' action, upon receipt of the governing body's ordinance the Board shall obtain an "owner of last record" search to verify the ownership of the property. Upon verification of the property's owner, the owner shall enter into an agreement with the Board to retain the land in agricultural production for a minimum period of eight years. Said agreement shall constitute a restrictive covenant.

k. The agreement, Board resolution and municipal ordinance shall be transmitted to the SADC for review and approval. Upon SADC approval, the Board shall file the agreement with the County Clerk, who shall record it in the same manner as a deed. The Board shall also transmit the agreement, Board resolution and municipal ordinance to the municipal official responsible for issuing building permits and to the County Planning Board.

C. Termination, Withdrawal and Continuation of Farmland Preservation Programs.

1. The following procedure shall be followed for the review of farmland preservation programs which are due to expire.

a. Prior to termination date of the program the Staff shall, in writing, inquire of each party to the agreement if they desire to continue the program for an additional eight-year period. In the event that the owner of the property does not wish to continue the program the program shall terminate at the end of its term. The Board shall file a Notice of Termination with the County Clerk, which Notice shall be recorded in the same manner as a deed, and shall transmit copies of the Notice to all parties who are entitled to receive a copy of the agreement when the program was created.

b. In the event that the municipality in which the property is located advises that it does not wish to continue to approve the program but the owner nevertheless wishes to continue the program the owner may convert the program to a non-municipally approved program if the Board finds that continuation of the program is practicable and feasible.

c. In the event that the owner of the property wishes to continue a municipally approved or non-municipally approved program and no party to the program agreement opposes continuation of the program the Board shall assess the practicability and feasibility of the program's continuation. The meeting at which the Board considers the program shall be conducted not less than 30 days after the date the inquiries transmitted pursuant to "a" above were transmitted. Notice of the meeting shall be provided to the owner of the property.

For purposes of this section "practicability and feasibility" shall be assessed on consideration of factors such as (but not limited to) the status of the property's agricultural operation, the owner's interest in continuing agricultural use of the property, the existing zoning, the extent of infringement of nonagricultural uses and their impact on the property and overlap of program benefits and restrictions with other farmland preservation programs in which the property is enrolled.

d. In the event that the Board believes that the farmland preservation program is no longer practicable or feasible it shall so advise the owner and, where the

program was a municipally approve one, municipal governing body and shall prepare and file a Notice of termination.

2. The following procedure shall be followed in the event that a property owner wants to withdraw the property from an eight year farmland preservation program prior to the expiration date of the program.

a. An owner of property within a farmland preservation program or other person having an interest in the property wishes to terminate the program prior to its expiration date shall make written application to the Board, describing how the property has been used since the program was created and explaining the reason(s) for the request to terminate. Alternatively, the owner may request an opportunity to orally make this application. Unless the reason for the request is the death or incapacity of the owner the request to terminate shall be made by the owner.

b. On receipt of a request to terminate the Staff shall obtain whatever information is reasonably necessary for the Board to consider the application and shall place the matter on the agenda of the Board's next regularly scheduled meeting as a public hearing for which notice in compliance with IV-2 can be provided.

c. Following a public hearing the Board may approve the request if the owner or applicant satisfies one of the following:

- * one or all of the properties owners has died;
- * one or more of the properties owners is suffering from an incapacitating illness;
- * one or more of the properties owners has filed a petition in bankruptcy; or
- * the property owner has demonstrated other serious hardship

For purposes of this section "serious hardship" shall include, but not limited to, the SADC's determination that farms in eight-year programs which have conveyed the development rights to the SADC and/or the Board and/or the Freeholders may not exercise residual dwelling site opportunities and other condition which prevents the agricultural use of the property for more than one year.

d. In the event that the Board approves the request it shall adopt a resolution setting forth its findings which it believes justify early termination of the program.

e. The Board shall prepare a Notice of Termination, which Notice shall be filed with the County Clerk in the same manner as a deed. In addition, a copy of the Notice shall be transmitted to those persons/agencies designated by the SADC.

**ARTICLE VII: FARMLAND PRESERVATION DEVELOPMENT
EASEMENT ACQUISITION PROGRAM**

The following procedures shall apply to Burlington County's program for the purchase of development rights through acquisition of a development easement for the purpose of farmland preservation.

1. On an annual basis the Board, through Staff, shall inquire into the interest of Burlington County municipalities in which there is an agricultural development area to provide funding for the purchase of development easements for farmland preservation and of their support or nonsupport of farmland preservation through easement sale notwithstanding that the municipality is unable/unwilling to provide cost share funds to purchase such easements. Staff shall poll municipalities which have either participated in prior easement purchase programs or which have expressed an interest in the current program or from which applications to sell easements have been received. Staff shall advise the Board of the results of their survey.

2. Staff shall advise the Board with respect to the proposed SADC schedule for considering applications for the sale of development easements through expenditure of State monies. Staff shall review with the Board the eligibility criteria and ranking system which the Board has previously adopted for consideration of such applications as well as the ranking system used by the SADC. If the Board believes that changes to its eligibility criteria or ranking system should be made, it shall review and approve such changes.

3. The Board shall establish its requirements for the current easement purchase program, the ranking system it will use in considering applications and its projected schedule for receipt and consideration of applications. At a minimum said requirements shall include those specified by the Act and regulations adopted pursuant thereto.

4. Staff shall be responsible for transmitting applications to those persons who have indicated an interest in selling a development easement as well as to farms in appropriate agriculture development areas. Such applications shall include the requirement that the applicant provide an acknowledgement by all persons holding a mortgage on the property in which the mortgagee approves the application and acknowledges that the mortgagee will be required to subrogate its rights to the deed of easement by which the owner will convey the development rights to the Freeholders in the event that the mortgage is not paid off at closing.

5. Staff shall review the applications and rank those found to be eligible for the program in accordance with the system adopted by the Board and policies and standards adopted by the Freeholders.

6. Staff shall review the applications, including any issues regarding municipal cost share, with the Acquisition subcommittee. The subcommittee shall adopt a ranking of applications for recommendation to the Board.

7 The Board shall conduct a public hearing on the subcommittee's recommendation and shall adopt a final ranking of applications and approve a recommendation to the Freeholders for acquisition. The Board may elect to condition its selection of the farms for the easement purchase program on a wetlands review or assessment. In the event it does so and the Freeholders concur that selection should be withheld pending a wetlands review or assessment, such review or assessment shall be conducted and the results communicated to the Board.

8. In the event that selection of a farm is conditioned on a wetlands review the Board shall review the results of the study and make a final recommendation to the Freeholders. The Board may elect to recommend that purchase of the development rights to one farm be conditioned on a second property's sale of a development easement on its finding of one of the following:

- a. Purchase of the development rights to the first farm without the contemporaneous purchase of the development rights to the second farm would create an island of a single deed-restricted property.
- b. Purchase of the development rights to the first farm is only desirable if the development rights to the second farm are purchased because the second farm abuts an existing project area.

9. For each farm which the Board selects for participation in the program it shall allocate residual dwelling site opportunities (RDSO) in accordance with regulation adopted by the SADC and policies adopted by the Board. In addition, for each farm, the Board shall determine whether to grant an applicant's request that a portion of the farm be excepted from the development easement. A Board decision to grant an exception shall be based on a finding that the property without the excepted property will be agriculturally viable and that one of the following conditions exists:

- a. The farm is not eligible for an RDSO allocation and there is no structure on the property used as a residence.
- b. The exception will not adversely impact the agricultural operation

The Board may require as a condition to approval of an exception that a deed restriction be placed on the excepted area to prevent its subdivision from the remainder of the property.

10. Board action taken pursuant to paragraphs 8 and 9 shall be reported to the Freeholders. The Freeholders shall consider the Board's recommendation but shall not be bound thereby. In the event the Freeholders reject, in whole or in part, the Board's recommendation they shall state their reasons therefore.

11. Staff shall be responsible for advising each municipality in which a selected farm is situated of the Freeholder's action and shall request that the municipality adopt a resolution supporting the purchase of the farm(s)'s development rights and committing to provide funding (if the municipality has indicated that funding is available) in the event that the farm is found eligible for State funding and the property owner elects to sell a development easement. Staff shall also solicit the municipality's advice on road and drainage projects which may impact on acreage which would be subjected to the farmland preservation easement. In addition, Staff shall advise all applicants of the Freeholders' decision in writing.

12. All appraisals and related information required by the SADC shall be transmitted to the SADC. Staff shall be responsible for reviewing SADC action on each application and for advising the SADC of any inaccuracies in its findings.

13. On Staff's finding that the SADC has either not made any errors in its deliberations or has corrected them, Staff shall advise each applicant of the easement value certified by the SADC or of such other action taken by the SADC and shall advise the owner of the deadline established for the owner to advise whether he/she is willing to sell the development rights to the property at the SADC-certified value or such other price. Staff shall advise the Board at its next regularly scheduled meeting of the SADC's action and any responses from the property owners which have been communicated. Failure by a property owner to make an offer to sell shall make him/her ineligible to apply to sell a development easement on the same property for the next two subsequent program years.

14. Upon the SADC's advice that it is willing to provide funding to purchase the development rights to a farm, Staff shall so advise the Board, the Freeholders and each owner. Following the Freeholder's indication of their willingness to contribute towards the cost to purchase the development easement Staff shall be responsible for obtaining an agreement to sell executed by the owner.

15. The Freeholders shall be responsible for obtaining a title report and survey of each farm and Staff, with the advice and assistance of the County Solicitor shall be responsible for obtaining all such documentation and information, including review of applicability pursuant to the Industrial Site Recovery Act, as is necessary and appropriate. A deed of easement shall be prepared which includes such language as may be prescribed by SADC regulations and Board-adopted policies. Following execution of the deed Staff shall be responsible for notifying all public agencies prescribed by regulation.

ARTICLE VIII. SOIL AND WATER CONSERVATION PROJECTS

1. When requested to do so by the SADC or State Soil Conservation Board, the Board shall certify that the property of a person who has applied for soil and water conservation project cost-share funds is or is not in a farmland preservation program or has or has not conveyed a development easement in accordance with the Act.

ARTICLE IX: AMENDMENTS

1. These bylaws may be amended on the motion or resolution approved by four farmer members and four public members of the Board. Upon the Board's approval of it, the proposed amendment to these bylaws shall be transmitted to the Freeholders for review and approval. The amendment shall not be effective until the Freeholders have approved it.

2. These bylaws may be suspended by the Board only on the affirmative vote of four farmer and four public members. The bylaws shall only be suspended in the event that there is a change in law which makes a provision obsolete and action on a matter is necessary before the bylaws can be changed or in the event that Board action is needed on an emergency basis to preserve or protect the public good.