

RESOLUTION # 5

LAND USE

1 **WHEREAS**, a sufficient land base must exist for agriculture to remain viable in New
2 Jersey, and of the approximately one million acres of remaining developable unpreserved
3 open space in New Jersey, approximately 800,000 acres are unpreserved farmland and
4 privately held forest land actively devoted to agricultural and woodland production; and

5 **WHEREAS**, New Jersey voters approved a state constitutional change that
6 dedicates a portion of the Corporate Business Tax revenues for the purposes of preserving
7 farmland and open space; and

8 **WHEREAS**, preservation of land is only one component of preserving New Jersey's
9 farmers and agricultural industry, hence the Department's approach to smart growth
10 coordinates farmland preservation efforts with economic development strategies at the
11 county and municipal levels; and

12 **WHEREAS**, land devoted to agriculture greatly fulfills the need to offset increasing
13 impervious cover, wherever possible, that is inevitably a byproduct of residential, commercial
14 and industrial development, thereby having a positive impact in recharging groundwater; and

15 **WHEREAS**, the State Planning Commission (SPC) reconvened in February 2011
16 and announced a new State Strategic Planning project to transform the existing land use
17 planning framework into one that prioritizes and supports sustainable economic growth; and

18 **WHEREAS**, after seven public hearings, the State Planning Commission was
19 scheduled to adopt the new State Strategic Plan in November 2012, but the vote was
20 delayed due to the state dealing with the aftermath of Hurricane Sandy, allowing for
21 additional public comment on the draft plan; and

22 **WHEREAS**, the proposed final draft of the State Strategic Plan focuses the state's
23 policies and investments on vibrant regions by fostering targeted job growth, supporting
24 effective regional planning and preserving critical resources, but has yet to be adopted by the
25 SPC after a series of public hearings; and

26 **WHEREAS**, Hurricane Sandy in October-November 2012 caused severe damage to
27 many areas of the state of New Jersey, and proposals may be put forth to redevelop areas
28 devastated by Hurricane Sandy in a way that reduces current agricultural lands or the
29 opportunities for the development of further agricultural lands; and

30 **WHEREAS**, in some recent road and other public works projects, government
31 agencies administering the projects have purchased land from farmers to replace wetlands
32 taken for the projects; and

33 **WHEREAS**, these agencies have made a practice of buying three acres of farmland
34 to turn into wetlands for every one acre of wetlands taken for the project, and this
35 counteracts the ongoing state policy of trying to keep as much farmland as possible in
36 production; and

37 **WHEREAS**, this creation of additional wetlands expands wildlife habitat and can lead
38 to wildlife crop damage on farms adjacent to the farms from which the land was purchased to
39 make wetlands, harming the production of a farmer who did not benefit from the purchase of
40 his neighbor's land; and

41 **WHEREAS**, under the State TDR Act, Woolwich Township, Gloucester County, and
42 Berkeley Township, Ocean County, have enacted TDR ordinances, however neither have
43 yet successfully marketed their receiving areas necessary to create a viable market for
44 credits; and

45 **WHEREAS**, particular concerns have been raised in Woolwich Township about a
46 decision to continue with the program, with no ability for a landowner to "opt out," even after
47 TDR credits did not sell during a seven-year trial period; and

48 **WHEREAS**, that left those whose land was "down-zoned" from two acres to 15 acres
49 with falling land values, effectively "preserving" that land without an investment similar to that
50 involved in the Farmland Preservation Program, where the landowner receives a monetary
51 value for selling the non-agricultural development rights of the land; and

52 **WHEREAS**, acknowledging the difficulty municipalities have had establishing TDR
53 programs, a State TDR Task Force, which included staff of the State Agriculture
54 Development Committee, NJDA and New Jersey Farm Bureau, was created to discuss ways
55 to foster use of TDR and other cluster provisions; and

56 **WHEREAS**, efforts of the State TDR Task Force culminated in an August 2010
57 report that outlined specific recommendations, which included amending the Municipal Land
58 Use Law to create enhanced provisions for tools such as non-contiguous clustering and lot-
59 size averaging; and

60 **WHEREAS**, on August 7, 2013, P.L. 2013, c.106 amended the Municipal Land Use
61 Law to specifically authorize use of these density transfer techniques to provide
62 municipalities a variety of development options as recommended in the Task Force report;
63 and

64 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 103rd State
65 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 7-8, 2018, do
66 hereby endorse the Department's Agricultural Smart Growth Plan and its five-part approach
67 to land use and conservation, balanced with economic development initiatives and
68 encourage the Department to incorporate these concepts into the Department Strategic Plan
69 based on the new State Strategic Plan goals and objectives with guidance from the Office of
70 Planning Advocacy.

71 **BE IT FURTHER RESOLVED**, that we urge the Department to continue taking a
72 lead role in supporting and advancing equitable and feasible density-transfer methods,
73 including but not limited to clustering, regional growth zones, Pinelands Development Credits
74 (PDCs), Highlands Development Credits and transfer of development rights (TDRs) to
75 facilitate preservation planning in conjunction with growth planning.

76 **BE IT FURTHER RESOLVED**, that we urge the Department to support and advance
77 the use of current and new wastewater technologies to allow for the implementation of

78 sound, innovative planning techniques to assist municipalities and counties with the
79 implementation of the objectives and strategies of the Agricultural Smart Growth Plan.

80 **BE IT FURTHER RESOLVED**, that we urge the Department to explore funding
81 options to advance the development and expansion of agricultural facilities and infrastructure
82 systems, and other statewide initiatives, such as Ag Enterprise Zones, should be explored to
83 stimulate the retention and viability of farms and the businesses that support them.

84 **BE IT FURTHER RESOLVED**, that we are opposed to “downzoning” or large-lot
85 zoning or zoning that has the practical effect of large-lot zoning, because it fractures and
86 consumes farmland, promotes land-consumptive sprawl, and adversely affects landowner
87 equity, and therefore is counter-productive to the principles of smart growth.

88 **BE IT FURTHER RESOLVED**, that we oppose the adoption of restrictive land use
89 and wildlife management or protection statutes, ordinances or regulations by the state, any
90 municipality or other government entity in the state of New Jersey that are not science based
91 or that exceed the powers granted to governmental entities under existing laws and statutes.

92 **BE IT FURTHER RESOLVED**, that we recommend that all landowners involved in all
93 preservation programs (TDR sending areas, Pinelands credit sending areas, Highlands
94 Development Credits, etc.) be eligible for the same package of benefits or state incentive
95 programs available through the state Farmland Preservation Program, and that tenants be
96 eligible for those programs that are appropriate to them.

97 **BE IT FURTHER RESOLVED**, that we call on the Legislature and all other
98 appropriate officials to require that all public land acquired for open space purposes, which is
99 farmed or can potentially be farmed, continue in an agricultural use or be placed in an
100 agricultural use until it is needed for its acquired purpose - thereby keeping more of the
101 state’s land base in agriculture.

102 **BE IT FURTHER RESOLVED**, that we continue to oppose any hard and fast caps on
103 impervious cover, but instead support a threshold trigger, tied to a percentage of the land
104 with impervious cover, for new impervious cover and the use of science-based criteria, which

105 is evaluated on a site-specific basis, and that such a trigger should be used to begin a
106 conversation about the amount of impervious cover, instead of automatically causing any
107 particular action to take place.

108 **BE IT FURTHER RESOLVED**, that we support the participation of the Department
109 and the State Agriculture Development Committee (SADC) in helping to implement a New
110 Jersey Future Task Force report of recommendations to encourage the use of TDRs at both
111 the municipal level and regionally through changes to relevant statutes, regulations, policies
112 and programs as recommended in the draft State Strategic Plan.

113 **BE IT FURTHER RESOLVED**, that we support a recommendation from the New
114 Jersey Future Task Force that resulted in legislation being introduced, passed and signed by
115 the Governor in 2013, authorizing the use of municipal non-contiguous clustering, as a way
116 of achieving development transfers without disrupting underlying zoning by creating a
117 voluntary program to transfer development potential from areas where preservation is
118 desirable to areas intended to support new development.

119 **BE IT FURTHER RESOLVED**, that the agricultural community should monitor the
120 implementation of this new law at the municipal level to maximize landowner protections and
121 assess this new program's feasibility as a new equity-enhancement opportunity for
122 agricultural landowners.

123 **BE IT FURTHER RESOLVED**, that we strongly urge coordinated efforts by and
124 among the various New Jersey state agencies to aid municipalities interested in TDR, in
125 particular, with regard to establishing the receiving areas necessary to drive demand for TDR
126 credits.

127 **BE IT FURTHER RESOLVED**, that we urge municipalities to engage with their
128 planners, agricultural advisory committees and the State to identify opportunities for use of
129 TDR, non-contiguous cluster and other density transfer techniques.

130 **BE IT FURTHER RESOLVED**, that we strongly urge any municipality or regional
131 entity establishing or with established TDR programs to ensure that landowner equity is

132 given the utmost consideration, and protected in the long term, by either creating lasting,
133 viable markets for TDR credits or discontinuing TDR programs promptly if found to be
134 flawed, consistent with the State TDR Act.

135 **BE IT FURTHER RESOLVED**, that we recommend that representatives from the
136 Department and the SADC meet with the Office of the Attorney General in order to seek full
137 compliance with the Right to Farm requirement related to regulatory agricultural impact
138 statements.

139 **BE IT FURTHER RESOLVED**, that we strongly urge state, county and local
140 governments to reject any plans proposed for rebuilding areas devastated by Hurricane
141 Sandy that would reduce the current acreage of agricultural lands in the area covered by the
142 redevelopment plan or which would reduce the opportunity to further develop those areas for
143 agricultural purposes.

144 **BE IT FURTHER RESOLVED**, that we urge government agencies at all levels to limit
145 the transforming of farmland into wetlands as a way to replace wetlands lost to public works
146 projects, especially by limiting the purchase of farmland to turn into wetlands to a one-to-one
147 ratio, instead of the current three-to-one ratio.