



A Guide and Resource Booklet for the NJ Farmland Preservation Program

Updated 6/19/2025



New Jersey's farmlands are the foundation for a strong agricultural industry, a way of life for generations of farm families, and critical for aspiring farmers. Scenic landscapes of green, productive fields are an important part of what makes New Jersey a desirable place to live and work. Farmland preservation is an important investment in our economy, our farming heritage, and the overall quality of life for each and every New Jerseyan.



There are valuable incentives for landowners to participate in the Farmland Preservation Program.

The program can help meet financial goals, provide capital to expand existing operations; eliminate or reduce debt load; or further estate or retirement planning. Participants in the program are eligible for cost-sharing grants toward soil and water conservation projects. There are also limited protections from eminent domain; public and private nuisances; and emergency restrictions on the use of water and energy supplies.

The Farmland Preservation Program is administered by the State Agriculture Development Committee (SADC), which coordinates with County Agriculture Development Boards (CADBs), municipal governments, nonprofit organizations, and landowners to advance preservation goals.

SADC Regulations and Policies: <https://www.nj.gov/agriculture/sadc/rules/>

SADC Guidance Library: <https://www.nj.gov/agriculture/sadc/publications/guidance/>





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The following guidance documents are provided to help make the key decisions to configure an application for farmland preservation that will leave flexibility for current and future residential and non-agricultural needs which support the overall agricultural strength of the farming operation.

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If you have any questions about the application process, please contact the SADC Farmland Preservation Coordinator for the County the farm is in.

- Atlantic, Camden, Cape May, Cumberland, & Gloucester: Heather Siessel heather.siessel@ag.nj.gov
 - Bergen, Burlington, Hunterdon, Mercer, & Middlesex: Daphne Bacon daphne.bacon@ag.nj.gov
 - Morris, Passaic, Somerset, Sussex, & Warren: David Zaback david.zaback@ag.nj.gov
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What is a Farmland Preservation Easement?

An easement is a legal agreement between a landowner and another entity, such as the State, local government, public utility or individual that establishes a material interest in the property. For example, a public utility typically owns an easement over private property that allows the utility to construct and maintain electrical transmission lines across the property. An individual property without road frontage might be granted an access easement over a neighboring property for ingress and egress. When an eligible entity in the State of New Jersey purchases a farmland preservation easement on a property, the owner is selling the property's development rights. The right to develop the property for residential, commercial, industrial, or non-agricultural use will be forever extinguished. Some limited recreational and nonagricultural commercial uses are permitted pursuant to applicable laws and regulations. Details on such uses are noted in the guidance documents included in this resource booklet.

Landowners who have sold their development rights still can sell their land at any time. Deed restrictions prohibiting non-agricultural development run with the land, so future owners of preserved farms would also be required to comply with the Deed of Easement, a sample of which is included in this resource booklet.

The sale of development rights does not make farmland public property. The public has no right to access or use a deed-restricted farm without the landowner's consent.



The Deed of Easement requires that every farm preserved must obtain a Conservation Plan within a year of closing on the easement sale. A Farm Conservation Plan is a site-specific plan and FREE if developed by the Natural Resources Conservation Service (NRCS), that guides a landowner or farmer through a variety of conservation and environmental farming practices and explains how each practice helps improve the land. The NRCS staff helps inventory the resources on the land and consider which conservation practices could contribute to an environmentally and economically sound farm. The implementation of these conservation practices is voluntary and the NRCS may have grants available to implement the suggested practices and enhance the viability of the farm operation. More details on Conservation Plans can be found on the NRCS website: <https://www.nrcs.usda.gov/getting-assistance/conservation-technical-assistance/conservation-planning>

Mapping Resources:

<https://www.njblueprint.org>

<https://njdasadc.maps.arcgis.com/home/index.html>

Eligibility for Farmland Preservation

In order to be eligible for farmland preservation the property needs to be located within an adopted Agricultural Development Area and eligible for farmland assessment. Please note that County, municipality and nonprofit organizations may have different criteria.

The land must exhibit development potential based on the following standards:

1. The municipal zoning ordinance for the land as it is being appraised must allow additional development, and in the case of residential zoning, at least one additional residential site beyond that which will potentially exist on the farm.
2. Where the purported development value of the land depends on the potential to provide access for additional development, the municipal zoning ordinances allowing further subdivision of the land must be verified. If access is only available pursuant to an easement, the easement must specify that further subdivision of the land is possible. To the extent that this potential access is subject to ordinances such as those governing allowable subdivisions, common driveways and shared access, these facts must be confirmed in writing by the municipal zoning officer or planner.
3. If the land is 25 acres or less, the land shall not contain more than 80% of soils classified as freshwater or modified agricultural wetlands according to the NJDEP wetlands maps.
4. If the land is 25 acres or less, the land shall not contain more than 80% soils with slopes in excess of 15% as identified on a USDA NRCS SSURGO version 2.2 or newer soils map.

If the land does not meet any of the standards above, it may be eligible based on an allocation of development credits pursuant to a transfer of development potential program authorized and duly adopted by law.

FOR LANDS GREATER THAN 10 ACRES the land also must meet the criteria below to be eligible for preservation with SADC funding:

- At least 50% of the land or a minimum of 25 acres (whichever is less) is tillable and consists of soils that can support agricultural or horticultural production.

FOR LANDS LESS THAN OR EQUAL TO 10 ACRES the land also must meet the criteria below to be eligible for preservation with SADC funding:

- The land produces agricultural or horticultural products of at least \$2,500 annually. Supporting documentation must be provided (tax forms, receipts, etc.)
- At least 75% of the land or a minimum of 5 acres (whichever is less) is tillable and consists of soils that can support agricultural or horticultural production.



Please note that if the applicant or the applicant's immediate family defined as applicant's spouse, child, parent or sibling residing in the same household is a current CADB board member or Municipal Agriculture Advisory Committee member, they must resign prior to submission of an application for farmland preservation.

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NJ Farmland Preservation Program: What Offers Am I Eligible to Receive?

The NJ Farmland Preservation Program is administered by the State Agriculture Development Committee (SADC or the Committee). Qualified farmland applications may receive multiple offers to choose from, depending on the property's location and eligibility. The following table identifies who qualifies for the different types of valuation methods. See Page 2-3 for a more detailed description of each valuation method.

Who Qualifies?	What Offers Am I Eligible to Receive?
All eligible farmland preservation applications statewide	<ol style="list-style-type: none"> 1. Traditional Appraisal Process; AND 2. Statewide Formula
Farmland located in the Highlands and under the same family's ownership since before January 1, 2004	<ol style="list-style-type: none"> 1. Traditional Appraisal Process; AND 2. Statewide Formula; AND 3. Traditional Appraisal Process based on zoning and environmental conditions in place as of 1/1/2004 (pre-Highlands Legislation)
Farmland located in the Pinelands and eligible for Pinelands Development Credits (PDCs) as per an LOI from the Pinelands Commission	<ol style="list-style-type: none"> 1. Traditional Appraisal Process; AND 2. Statewide Formula; AND 3. Pinelands Valuation Formula

NJ Farmland Preservation Program: What Offers Am I Eligible to Receive?

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☐ Traditional Appraisal Process:

Through the traditional appraisal process, the value of a farm and development easement is established by two independent appraisers who are hired to determine the land value of the property under current market conditions based on factors including local zoning, state regulations, wetlands, soils, and septic suitability. The price paid for farmland preservation is based on the difference between the land's value before preservation and its value after preservation - generally the difference between what someone would pay for the land as is and

its value as a deed-restricted farm. SADC Appraisal staff review the two appraisals and recommend values to the Committee, who approves a value that is utilized as the basis of an offer to purchase the easement.

Traditional Appraisal Valuation		
Fair Market Value \$12,000 per acre 100 Acre Farm \$ 1,200,000	-	
	Value if Preserved \$5,400 per acre \$ 540,000	=
		Easement Value \$6,600 per acre \$ 660,000

☐ Traditional Appraisal Process, Highlands Region:

Based on zoning and environmental conditions in place as of 1/1/2004 (pre-Highlands Legislation)

The farm is valued using the Traditional Appraisal Process explained above under current zoning regulations and under the zoning and environmental regulations in place as of 1/1/2004, if the landowner qualifies.



Buckhorn Creek Farm, Warren County

NJ Farmland Preservation Program: What Offers Am I Eligible to Receive?

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☐ Statewide Formula:

In addition to the traditional easement value, all landowners are offered a value determined by the Statewide Formula, adopted in April 2025. The Formula enhances payment based on the agricultural and natural resource characteristics of the property, as well as factors that make the property important to the local community. Landowners can also choose from two voluntary deed restrictions, in addition to the standard easement, for increased easement value.



Ferrari Farm, Cumberland County

☐ Pinelands Valuation Formula:

Unrelated to the Traditional Appraisal Process, the Pinelands Valuation Formula takes into account not only Pinelands Development Credit (PDC) values and current development potential, but also the presence of important agricultural and environmental features. It applies to the agricultural production, special agricultural production and preservation areas. The formula starts by establishing base values for development easements. Base values vary depending on PDC allocation, the presence of wetlands, and whether a landowner opts for impervious coverage limits. The formula provides for base values to be adjusted upward in varying percentages depending on the following factors: regional environmental quality areas,

site-specific environmental quality, scenic corridors and access to markets, septic suitability, agricultural viability, and special importance environmental resource factors.

Landowners can receive additional benefits should they choose to comply with a 10% impervious cover restriction and/or a restriction to protect wetlands.



Kirkbride Farm, Burlington County

NJ Farmland Preservation Program: What Offers Am I Eligible to Receive?

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For More Information

SADC Guidance Documents offer more detail about many topics associated with preservation, including:

- Valuation methods:
 - Statewide Formula
 - Pinelands Valuation Formula
- Things to consider when preserving, such as:
 - Exception Areas
 - Non-Agricultural Uses
 - Deed of Easement
- Considerations after preservation, such as:
 - Division of Premises
 - Special Occasion Events
 - Grants for Wildlife Fencing
 - Grants for Soil and Water Conservation Projects



Moonshot Farm, Mercer County

SADC staff are available to meet with you at your convenience to discuss preservation options which fit the needs of you and your business.

For General Information Contact:

Stefanie Miller

Preservation Program Manager

(609) 913-6572

stefanie.miller@ag.nj.gov

For Specific Counties Contact: (609) 984-2504

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Statewide Farmland Preservation Formula

What is the Statewide Farmland Preservation Formula?

Adopted April 7, 2025, the Statewide Farmland Preservation Formula, often called the Statewide Formula Value (SFV), offers landowners another value to choose from when seeking to protect their farm. Because farmland has value beyond what the market can capture, the Statewide Formula enhances payment based on the agricultural and natural resource characteristics of the property.

How is the Statewide Formula Value Calculated?

Formula Description

Two appraisals are completed for the property; the base value for the formula is **50% of the certified “market value unrestricted” or the fee simple land value, of the property**. Additional value for agricultural and natural resource characteristics could add up to 30% to the base value. Factors that value the property’s unique local importance can give an added boost, but together, these characteristics can generate an easement offer of up to a total of **80% of fee value**.

The landowner may choose to take up to two additional restrictions, each of which can add 5% to the easement value, **for a maximum formula value of up to 90% of the property’s fee value**.

■ Base Value	= 50% of Certified Fee Value
■ + Agricultural Resources (Top 3 Scores)	= 20% Maximum of Certified Fee Value
■ + Natural Resources (Top 3 Scores)	= 10% Maximum of Certified Fee Value
■ + Local Importance Factors	= 15% Maximum of Certified Fee Value
■ = Total Formula Value w/o Additional Deed Restrictions	= 80% Maximum of Certified Fee Value
■ + Voluntary Deed restrictions	= 10% Maximum of Certified Fee Value
■ = Total Formula Value w/Voluntary Deed Restrictions	= 90% Maximum of Certified Fee Value
■ Adjustments for Retained Residential Opportunities	= - 4x max per acre offer per opportunity
No deduction for existing dwellings; if none exist, no deduction for up to two future dwellings.	

Agricultural Resources

Characteristics listed below are attributed points; the top three scores are converted to a % value increase:



- Soils
- Size
- Tillability
- Adjacent to or within ½ mile of other preserved farms
- Water supply permit for irrigation

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Statewide Farmland Preservation Formula

Natural Resources

Characteristics listed below are attributed points; the top three scores are converted to a % value increase:

- Groundwater Recharge
- Upland Forest
- Hydrology (wetlands and flood hazard mitigation)
- Adjacent to or within ½ mile of preserved open space or conservation lands
- Surface water quality (streams)

Local Importance Factors

The following categories are less common and if a property has them, each can add 5% to easement value:

- Risk of conversion to a non-agricultural use because of proximity to a State Growth Area
- Buffer to critical infrastructure, such as a military base
- Unique importance

Voluntary Deed Restrictions

Landowners may choose neither, one, or both of the following deed restrictions; these are in addition to the standard deed of easement and each can add 5% to the easement value.

- 10% impervious cover limit – This restriction limits structures or surfaces that prevent infiltration of water into the land to covering a maximum of 10% of the preserved property.
- House size limit of 2,500 square feet – This restriction limits any future residential building retained on the premises or on a nonseverable exception area to 2,500 square feet of heated living space. If an existing residence is rendered uninhabitable by an event beyond the landowner's control, the residence can be rebuilt up to the square footage existing as of the date of preservation, or 2,500 square feet of heated living space, whichever is larger.

Adjustment for Retained Residential Opportunities

For each future residential building opportunity retained in excess of two, your development easement will be reduced by four times the maximum per acre easement value derived by the formula. There will be no reduction for any residential buildings existing at the time of the farmland preservation closing. If fewer than two residential buildings exist at the time of preservation, the landowner is eligible to reserve up to two residential opportunities without a deduction. This adjustment does not apply to agricultural labor housing.



For Example:

Easement value: \$6,000 per acre

Reduction in total value: \$24,000 per opportunity

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Milestones in the Application Process

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APPLICATION MILESTONE:

Landowners review the [Application Guidance and Resource Booklet](#) for information about a variety of [Key Issues for Consideration](#) when deciding to preserve a farm. Preservation coordinators at local nonprofits, the municipality, county and/or SADC are available to answer questions and explain the nuances of the preservation process.



**Preliminary
Approval**



**Appraisals
Ordered**

PRELIMINARY APPROVAL MILESTONE:

- Once an application is received, computer mapping and reports are generated and reviewed to ensure the property meets all [Minimum Eligibility](#) criteria. The application is also reviewed to ensure that considerations have been made for existing conditions on the property related to the agricultural operation, local zoning and other relevant regulations, [Residential Information & Improvements](#), [Exception Areas](#), and [Nonagricultural Uses](#). Suggestions regarding the application configuration may be made and any conditions are discussed with the landowners.
- The SADC issues a preliminary or “green light” approval that serves as the basis for the appraisal process. In addition, the [Statewide Formula](#) factors are generated, providing an indication of what percentage of the full market value might be offered to preserve the farm.
- Landowners may be asked to sign an option agreement that includes limited permissions and restrictions during the time the property is appraised, and an offer is made for preservation.



**Value Certification &
Easement Offer**



VALUE CERTIFICATION & EASEMENT OFFER MILESTONE:

- Two independent State Certified General Real Estate Appraisers are hired to value the property. The SADC will review the reports, ensure they are done to the appropriate standards and issue ‘certified values’ for any of the [Methods of Valuation](#) the property and landowner are eligible for.
- The highest of these values will be the most you can be paid and used as the basis of negotiations for the preservation of the property. The offer is usually made per acre, which is finalized by the surveyed acreage.
- Once an easement offer is made, it is important to review the [Deed of Easement](#) which is the document that outlines the permissions and restrictions on the farm once preserved.

Milestones in the Application Process

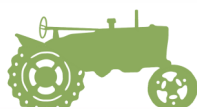
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Landowners may want to meet with accountants, attorneys, financial planners, realtors or others to help guide their decision making.

Mortgage companies should also be consulted, if any, regarding payoff or subordination requirements.



**Final
Approval**



**Due Diligence
Title & Survey**

FINAL APPROVAL MILESTONE:

- If the landowners accept the easement offer, the municipality, county and/or SADC must pass a resolution of 'final approval,' which authorizes the funding and commitment to the transaction. In most cases the landowner will be asked to sign a Contract to commit to the preservation of the farm.

DUE DILIGENCE:

- A title search is performed to review the property's ownership history, identify any liens, encumbrances or other restrictions that impact the property. The title is reviewed in conjunction with a survey that delineates the outbounds of the property, easement area and any exception areas within.
- The SADC real estate specialists and attorneys will work cooperatively with landowners and their representatives, where possible, to resolve all necessary title and survey issues.
- The landowner is paid per acre on the entire easement area unless there are areas of unclear title, encroachment, or other restrictions that conflict with the Deed of Easement or agricultural use of the property.

PRESERVATION MILESTONE:

- Before closing, a farm site visit is coordinated with the landowner to photograph and document the property conditions at the time of closing. This sets the 'baseline' that is used for annual monitoring.
- Once any and all issues are resolved, a closing date will be set and facilitated by the title company in a location and manner agreeable to all parties.



Closing!



**Baseline
Site Visit**

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Residential Information & Improvements

The “Easement Area” is the area of the farm that will be covered by the Deed of Easement and preserved for agricultural use and production. Existing residences may remain on the easement area.

A “Residential Opportunity” means any existing or future residential building on the easement area of the farm and/or those to be located inside a severable or non-severable exception area along with it’s ancillary improvements (garage, pool, utilities, etc.).

Residential opportunities include:

- **Existing or future residential buildings and ancillary improvements in Exception Areas.** See the Exception Area guidance document in this booklet for more detail.
 - An Exception Area is an area not covered by the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved.
 - The number of residential buildings permitted must be defined prior to preservation.
 - Ancillary improvements must stay within the exception area, unless additional SADC policies apply.
 - Non-agricultural uses may occur within the exception, subject to municipal ordinances.
- **Existing residential buildings and ancillary residential structures on the Easement Area**
 - May be improved, subject to municipal ordinances. They also may be relocated/replaced subject to SADC and County and municipal approval.
 - Non-agricultural uses may not occur within the structures, unless additional SADC policies apply.
- **Future residential buildings and ancillary residential structures on the Easement Area**
 - A Residual Dwelling Site Opportunity (RDSO) is the opportunity for the future construction of a single-family residential building for agricultural purposes. For every 100 acres without an existing residence or residential exception area, the farm is eligible for one RDSO. RDSOs are allocated to the farm at the time of application and are subject to approvals prior to construction.
 - To be eligible for approval and continued use, at least one person living in the residence must be regularly engaged in common farm site activities on the farm.



Residential units for agricultural labor can be designated at the time of application and/or requested after the farm is preserved. There must be a need shown for the labor residences and the units cannot be rented to a family member, of lineal descent, or someone not working on the farm.

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Nonagricultural Uses

The restrictions in the Deed of Easement limit a preserved farm to agricultural uses. Once your farm has been preserved, no nonagricultural uses will be allowed, except if otherwise outlined in the Deed of Easement or if they occur within an exception area. Because nonagricultural uses are not related to agricultural production, they cannot continue unless recorded in a Schedule B in the Deed of Easement as a pre-existing use or contained within an exception area. Both of these options are designed to protect you and allow you to continue your nonagricultural use into the future. It is important to identify any existing nonagricultural uses in your application.

Do you have a nonagricultural use on your farm?

Some examples of a nonagricultural use include:

- An existing business, not related to your farm's agricultural production, located in your barn or home
- A lumber processing business that uses timber produced/grown by other farmers
- A facility used to process or sell agricultural products not raised on the farm or by the owner's farming operation
- A portion of your farm or structure on your farm that is rented or used by someone else for a use or business not related to the production of your farm e.g., equipment, vehicle parking, office)
- A portion of your farm or structure on your farm that is used for the storage of agricultural products or materials not derived from or intended for use on your farm (e.g., grain/cold storage, parts, chemicals, fertilizers)

Schedule B Nonagricultural Use

This option allows you to continue your nonagricultural use following the preservation of your farm at the same scale and location it is at the time of preservation.

Before appraisals and surveys are conducted, you will be asked to identify and describe any nonagricultural uses occurring on your farm. Details of the use(s), such as the type, frequency, intensity, size and location, will be recorded as a Schedule B and attached to the Deed of Easement. This document binds your use to its current parameters so that you cannot expand or change it in the future.

Although you will still be paid for the land under the use, this option provides you with little flexibility and no opportunity to expand the use, change the use, or start a new use in the future. Additionally, if the current nonagricultural use ceases at some point, you are not permitted to resume it in the future.



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Nonagricultural Uses

Nonagricultural Uses in Exception Areas

You also have the option of excepting out some of your land under and surrounding a nonagricultural use(s) from the Deed of Easement. This option provides you with maximum flexibility for your use in the future since the land in exception areas is not subject to the restrictions of the Deed of Easement. Although you will not be paid for the land in an exception area, you will be able to change, improve and expand your use within the exception area as you wish, subject to all applicable local and state regulations.

An exception area around a nonagricultural use is ideal if you can foresee the use or an area of your farm changing in the future. For instance, you may have an older barn that is becoming too small for modern tractors and your agricultural operation. Rather than razing it or allowing it to go into disrepair, you may want to rent this space out to a carpenter or other small business. By including the structure in an exception area, you maintain the flexibility to repurpose an agricultural structure and adapt to the changes of your farm.



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Exception Areas

An exception is an area free from the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved. It is very important to consider exception areas prior to preservation because they will not be granted, moved or expanded once the farm is preserved.

Types of Exceptions

There are two types of exceptions: non-severable and severable.

Non-severable Exceptions:

A non-severable exception is an area of the farm which is excepted from the easement restrictions but remains tied to the farm and cannot be subdivided, transferred or conveyed separately from the farm.

Severable Exceptions:

A severable exception is an area that can be subdivided and sold separately from the farm provided it meets local subdivision requirements. It is not necessary to sever (subdivide) a severable exception prior to preservation. A landowner will not be paid for areas designated as a severable or non-severable exception because the Deed of Easement restrictions will not apply to the area(s).

Why should I take an exception area?

- Do you wish to provide a building lot for a child?
- Do you have a barn where you might want to operate a business that might not be permitted under the farmland Deed of Easement (i.e. a nonagricultural use)?
- Would you like to have the flexibility to replace your home without farmland preservation program approvals?
- Perhaps you are entertaining the idea of operating a Bed & Breakfast in the main farmhouse someday?

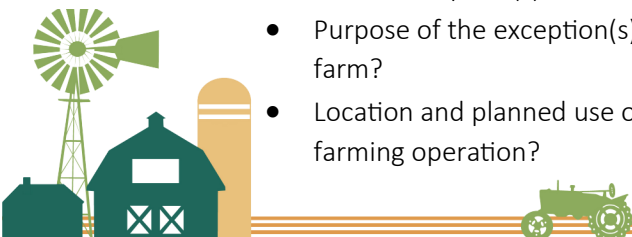
These are just a few common reasons why landowners choose to take exception areas. If your plans for future uses of the premises include any nonagricultural production based activity you should consider an exception area.

Although nonagricultural uses existing and recognized at the time of preservation are allowed, did you know they cannot be expanded in the future unless they are within an exception area?

Locating an Exception Area

It is very important to consider the number, size and location of exception areas. Exception area requests which negatively impact the farm or are found to allow excessive housing around the agricultural operation may not be approved. Therefore, balancing landowners' needs with a sensitivity to the agricultural operation, now and into the future, is important. The SADC considers the following in evaluating exceptions:

- Number of exceptions requested – is it excessive?
- Size of exception(s) – is it a very large area of the farm?
- Purpose of the exception(s) – will future uses negatively impact the farm?
- Location and planned use of the exception area – sensitive to the farming operation?



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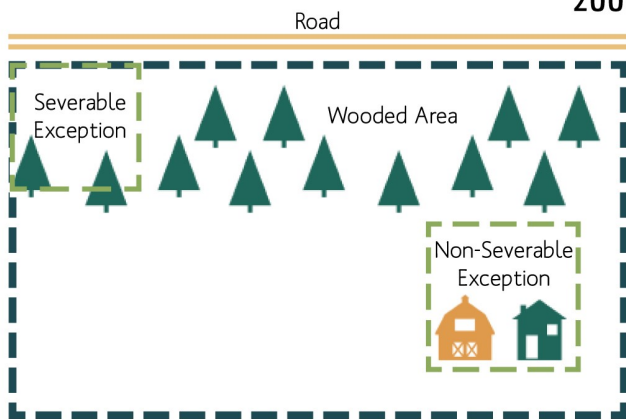
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Exception Areas

Locating an Exception Area continued...

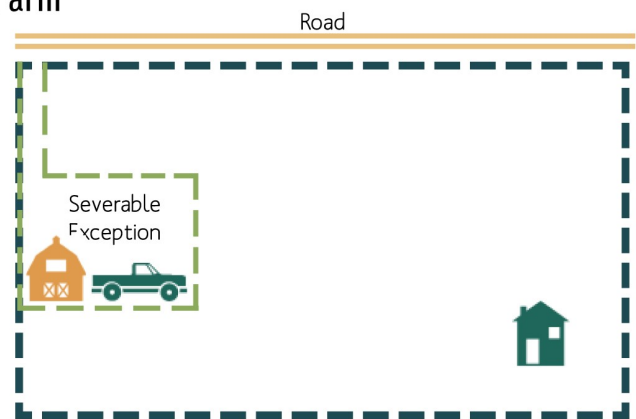
If you are requesting an exception for a future housing opportunity, you are strongly encouraged to thoroughly explore the feasibility of that location including septic suitability, ability to obtain water, road access, wetlands, wetland buffers and special regulations that may apply in your area, such as the Highlands or Pinelands. If the access to an exception area is used exclusively for nonagricultural purposes, the access must also be included in the exception area. Residential use is not considered a nonagricultural purpose, so, if the exception is being used for a residential use the driveway does not have to be included within the exception area. Remember - you must make decisions about exceptions at the time of application, prior to appraisals being conducted. If you change your mind during the preservation process, this could result in delays in processing your application.

Sample Exception Area Layouts 200 Acre Farm



Example #1

A 200 acre farm with a non-severable exception around an existing barn and house and a severable exception along the road for the landowner's child to subdivide and own separate from the farm.



Example #2

A farm with a severable exception around a nonagricultural use and driveway, and a house on the farm outside of an exception area.

Additional Resources:

- Septic Policy (P-49): <https://www.nj.gov/agriculture/sadc/documents/rules/pol49.pdf>
- Access to Exception Areas (P-41): <https://www.nj.gov/agriculture/sadc/documents/rules/p41accesstoexceptionareas.pdf>



NEW JERSEY
State Agriculture Development Committee
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Soil Disturbance on Preserved Farms

In February 2025, the State Agriculture Development Committee (SADC) adopted regulations ensuring that preserved farmland is managed in a way that protects the farm's soil and water resources, as well as its agricultural use, in perpetuity. The regulations, known as the "Soil Protection Standards," define what kinds of activities constitute soil disturbance, set limits on how much of the farm can be disturbed, and provide landowners with an opportunity to successfully rehabilitate previously disturbed soils, subject to required approvals.

All farms enrolling in the NJ Farmland Preservation Program after October 1, 2024 are permitted a maximum soil disturbance of 12% of the preserved farm or 4 acres, whichever is greater, for soil disturbing activities that are otherwise permitted by the Deed of Easement (DOE). Soil disturbance within exception areas does not count toward the maximum allowable limits.

The purpose of the rules is to clarify two existing deed of easement provisions: (1) the right to conduct agricultural development and (2) the obligation to conserve soil and water resources on preserved farms. The definition of soil disturbance includes three broad land uses, with some related examples:

- soil surfacing: gravel; pavement; buildings
- soil compaction: a farmyard; equipment parking
- soil alteration: cut/fill; grading

A list of traditional farming practices **exempt** from the disturbance calculation, provided they meet other specific definitions in the rule, are listed on the back of this document. There are also exemptions for agricultural practices meeting certain conservation standards, innovative agricultural practices, and the rehabilitation of existing soil disturbance.

At the initial stage of the application process, landowners will receive a map delineating the soil disturbance on their farm. The maps are created based on aerial imagery, so a site visit may be necessary to address any discrepancies between the map and actual field conditions.

What is the Difference between Soil Disturbance and Impervious Cover?

The soil disturbance rules are meant to limit activities that are detrimental to soil conservation and the continued agricultural use of the land, including soil compaction, surfacing and alteration. Impervious cover generally refers to activities that prevent water infiltration into soil. Not all activities that are defined as soil disturbance are also impervious cover. For example, a stormwater basin is considered a soil disturbance but is not impervious.

Soil Disturbance on Preserved Farms

Agricultural Practices Exempt from Soil Disturbance Calculations*:

- Cranberry bogs/beds;
- Deep tillage;
- Preexisting open ditches, as reflected on Spring 2023 aerial Imagery;
- Preexisting agricultural water impoundments, as reflected on Spring 2023 aerial Imagery;
- Geotextile/woven fabric fields;
- Hoophouses, including those placed on geotextile fields, without soil alteration, soil surfacing, or soil compaction;
- Normal tillage;
- Nominal smoothing;
- Nominal tents;
- On-farm utilities;
- Organic mulch;
- Rehabilitated soils;
- Solar panels;
- Storage of naturally derived materials produced on the premises, or required for use on the premises within a 12-month period, and which is not otherwise associated with soil alteration, soil surfacing, or soil compaction. "Naturally derived materials" include, but are not limited to, hay bales, lime, silage, compost, wood chips, and manure;
- Temporary geomembranes (plasticulture/silage wraps);
- Temporary ground protection mats;
- Temporary movable structures;
- Temporary parking areas;
- Temporary storage areas;
- Temporary tents;
- Topsoil stockpiles;
- Underground drainage systems;
- Unimproved livestock areas; and
- Unimproved travel lanes.

**Please note: these practices must meet specific definitions to be exempt.*

A complete copy of the adopted regulation can be found here: https://www.nj.gov/agriculture/sadc/documents/rules/SPSAdoption_20250218.pdf. If you would like more information or have any questions about soil disturbance on preserved farms, please visit www.nj.gov/agriculture/sadc/farmpreserve/soilprotection/ or contact Dave Clapp at David.Clapp@ag.nj.gov.



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Applying to the Farmland Preservation Program

Key Issues for Consideration

You and your family's goals and objectives for your farmland are important considerations when contemplating an application to the Farmland Preservation Program (FPP). Once a FPP easement is sold you still own the land, but it will be forever restricted to agricultural use, with the potential for a limited number of residences as may be permitted in the final easement document (the Deed of Easement).

Issues that should be considered *as soon as possible in the application process* include, but are not limited to:

- How will the owners of the farm:
 - pay off debt?
 - fund their retirement?
 - purchase more land?
 - invest in equipment?
- Is there a succession plan for the farm?
 - Do one or more of the owners' heirs want to farm?
 - Are their multiple heirs, some who farm but others who don't? How can one generation be "fair" to the farmer and non-farmer heirs?
 - Are there no heirs who want to farm the property?

In order to properly address the above issues, we strongly encourage you to seek advice from **one or more qualified financial professionals**, *as early as possible in the application process*, regarding a FPP easement sale. These professionals have the expertise and personal familiarity with your individual circumstances to help you make informed decisions.

We also recommend that the financial offer you receive for the purchase of a FPP easement on your farm be brought to the attention of your professionals to determine how to maximize the net financial gain from the sale.

Examples of questions to ask your financial professionals:

1. How much (if any) will I pay in taxes as a result of the sale?
2. What (if any) will be the net gain from the sale?
3. What are the implications if the farm is or was part of an estate?
4. Should I make a "bargain sale"?
5. Should I do a "like-kind exchange"?
6. Should I get paid in installments?
7. Should I donate the farmland easement?



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Applying to the Farmland Preservation Program

Key Issues for Consideration

Page 2

as of 4/3/2025

For further reference on some of the prior questions and ideas, please see:

<http://farmlandinfo.org/selling-an-agricultural-easement-capital-gains-tax-implications-and-opportunities/>

<https://www.state.nj.us/treasury/taxation/inheritance-estate/inheritance.shtml>

<http://2020 AFT overview bargain sale taximplication.pdf>

<https://www.irs.gov/businesses/like-kind-exchanges-real-estate-tax-tips>

<http://s3.amazonaws.com/landtrustalliance.org/ConservationEasementTaxIncentiveBrochure2016.pdf>

We recommend that you provide the following documents when meeting with your financial advisor:

1. Original property deed from time of purchase and current deed, if different
2. Last year's tax return
3. If you inherited the property, all estate documents
4. If the property is held by a Corporation, Limited Liability Company, Partnership, or Trust, all related business documents to ensure they are accurate and up to date
5. Any mortgage documents – be sure to discuss if the intent is to pay off the mortgage or obtain a subordination of the mortgage to the Deed of Easement (document signed at closing). *It is also important to begin discussions with the lender early in the process if you will not be paying the mortgage off in full at closing, as not all lenders are willing to subordinate their mortgage to a Farmland Preservation Program deed of easement.*

After settlement, we recommend you provide your financial advisor with copies of:

1. Certification of market value report (if you didn't get a copy at settlement, request it from the easement holder)
2. A property appraisal if you are declaring a bargain sale. Please consult with your financial professional regarding the filing of other necessary tax documents.
3. SADC final approval resolution.
4. Documents received at closing, including the HUD statement and 1099 form

Note: Nothing contained in this document is intended to provide legal or tax advice



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DISCLAIMER: This document is a draft and certain provisions will be modified depending on the Grantee, specific property conditions, and SADC approval requirements. However, most of the provisions contained in this draft deed are pursuant to [N.J.A.C. 2:76-6.15](#) and cannot be changed. The final version will be based on requirements set forth in the approval of an individual application for farmland preservation. This draft document is provided for reference only. Please contact sadc@ag.nj.gov with any questions.

**DEED OF EASEMENT
STATE OF NEW JERSEY
AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM**

This Deed is made _____, YEAR

BETWEEN **LANDOWNER** whose address is _____, and is referred to as the Grantor;

AND **STATE, COUNTY OR NONPROFIT** whose address is _____ and is referred to as the Grantee and/or Board.

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee a development easement and all of the nonagricultural development rights and credits on the Premises, located in the Township of _____, County of _____, described in the attached Schedule A, and, for the limited purpose of the restrictions contained in Paragraph 13(b), the tract of land described in the attached Schedule C, which schedules are incorporated by reference in this Deed of Easement, for and in consideration of the sum of _____ **DOLLARS (\$_____)**.

Any reference in this Deed of Easement to "Premises" refers to the property described in Schedule A, and, for the limited purpose of the restrictions contained in Paragraph 13(b), to the tract of land described in Schedule C.

The tax map reference for the Premises is:

**Township of __, County of __
Block __, Lot __**

WHEREAS, the legislature of the State of New Jersey has declared that the development of agriculture and the retention of farmlands are important to the present and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands is beneficial to the public health, safety and welfare of the citizens of _____ County;

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.

2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee). Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.

3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the non-agricultural uses indicated on attached Schedule (B) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.

4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:

- i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
- ii. No change in the pre-existing non-agricultural use is permitted;
- iii. No expansion of the pre-existing nonagricultural use is permitted; and
- iv. In the event that the Grantor abandons the pre-existing non-agricultural use, the right of the Grantor to continue the use is extinguished.

5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used.

6. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice.

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long-term objectives shall conform with the provisions of the farm conservation plan.
- iii. Grantor understands and agrees that the Premises are subject to N.J.A.C. 2:76-25, et seq. and 25A, et seq. regulating soil disturbance on preserved farms and establishing supplemental soil disturbance standards, respectively. The soil disturbance allocated to the Premises is a maximum of 12% of the Premises or 4 acres, whichever is greater, as provided by N.J.A.C. 2:76-25, et seq. and 25A, et seq. Grantor is advised that at the time of the execution of this Deed of Easement

there exists ____ % or ____ acres of soil disturbance on the Premises as depicted on the map attached as Schedule D. Due to the potential of additional soil disturbance or soil rehabilitation taking place after the execution of this Deed of Easement, Grantor is hereby put on notice that the amount of soil disturbance depicted on Schedule D may be different at the time of any subsequent conveyance of the Premises.

8. Grantee and Committee and their agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee agrees to give Grantor, at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor, to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

13(a). At the time of this conveyance, Grantor has ____ (#) existing single family residential building(s) on the Premises and ____ (#) residential buildings used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and
- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses.

13(b). Grantor, their heirs, executors, administrators, personal or legal representatives, successors and assigns may use and maintain the Exception Area, as described in the attached Schedule C subject to the following conditions:

- i. The Exception Area shall not be moved to another portion of the Premises and shall not be swapped with other land.
- ii. The Exception Area shall not be severed or subdivided from the Premises. **OR** the Exception Area may be severed or subdivided from the Premises.
- iii. The Exception Area shall be limited to __ (#) single family residential unit(s). **OR** **DELETE**
- iv. **(Right to Farm Language if Exception is Non-Severable)** Grantors, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person who is occupying or residing on the Exception Area as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that the Exception Area is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons occupying or residing on the Exception Area are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of the Deed of Easement.

OR

- iv. **(Right to Farm Language if Exception is Severable)** Grantors, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person to whom title to the Exception Area is transferred as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that the Exception Area is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons taking title to the Exception Area are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of the Deed of Easement. This provision shall be included in any deed conveying title to the Exception Area.

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for housing of agricultural labor employed on the Premises but only with the approval of the Grantee and the Committee. If Grantee and the Committee grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural; and
- ii. To construct a single-family residential building anywhere on the Premises in order to replace any single-family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Grantee and Committee.
- iii. ____ (#) residual dwelling site opportunity(ies) have been allocated to the Premises pursuant to the provisions of N.J.A.C. 2:76-6.17, "Residual Dwelling Site Opportunity". The Grantor's request to exercise a residual dwelling site opportunity shall comply with the rules promulgated by the Committee in effect at the time the request is initiated.

In the event a division of the Premises occurs in compliance with deed restriction No. 15 below, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement reflecting the reallocation of the residual dwelling site opportunities to the respective divided lots. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Grantee and Committee.

In the event a residual dwelling site opportunity has been approved by the Grantee, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement at the time of Grantee's approval. The Corrective Deed of Easement shall reflect the reduction of residual dwelling site opportunities allocated to the Premises. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Grantee and Committee.

(OR)

- iii. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement:

"Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

MOST PROPERTIES ARE NOT ELIGIBLE FOR A RESIDUAL DWELLING SITE OPPORTUNITY. DETAILS WILL BE DISCUSSED DURING THE APPLICATION PROCESS.

"Residual dwelling site" means the location of the residential unit and other appurtenant structures.

"Residential unit" means the residential building to be used for single family residential housing and its appurtenant uses. The construction and use of the residential unit shall be for agricultural purposes.

"Use for agricultural purposes" as related to the exercise of a residual dwelling site opportunity and the continued use of the residential unit constructed thereto, means at least one person residing in the residential unit shall be regularly engaged in common farmsite activities on the Premises including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage, water management and grazing.

15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the joint approval in writing of the Grantee and the Committee. In order for the Grantor to receive approval, the Grantee and Committee must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

- i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. Grantee or the Committee do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.

22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future. In the event that the law permits the conveyance of said development rights, Grantee agrees to reimburse the Committee (%) percent of the value of the development rights as determined at the time of the subsequent conveyance.

23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, the numerator of which is the fair market value of the development easement as certified by the Committee at the time of the initial acquisition and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as (/).

[Add the following if the consideration is based on the statewide formula valuation:]

- i. The following applies in the event the consideration for this Deed of Easement is determined based on the Statewide Formula valuation pursuant to N.J.A.C. 2:76-26.1, et seq.: That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, the numerator of which is the Statewide Formula value of the development easement as determined pursuant to N.J.A.C. 2:76-26.1, et seq. at the time of the initial acquisition and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as (/).

Furthermore, the Grantee's proceeds shall be distributed among the Grantee and the Committee in shares in proportion to their respective cost share grants on the date of execution of this Deed of Easement. The Grantee shall use its share of the proceeds in a manner consistent with the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

24. No historic building or structure located on the Premises may be demolished by the grantor or any other person without the prior approval of the State Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et seq.

[Insert the following if Grantor took the voluntary SFV restrictions.]

The parties hereto agree to the following additional restrictions under the authority of N.J.A.C. 2:76-6.15(b):

[If landowner takes the impervious cover limitation]

25. Impervious cover will not exceed 10% of the Premises. "Impervious cover" means any structure or surface that prevents the infiltration of water into the land. Examples include, but are not limited to, pavement, sidewalks, surfaced driveways or parking areas, machine-compacted soil or stone areas, rooftops, buildings, barns, sheds, houses, garages, greenhouses, hoopouses, plastics, or other impermeable ground covers. This term shall not apply to seasonal structures that remain in place for no more than 180 days, unimproved farm lanes, areas of field-based agriculture, or seasonal ground coverings. This limitation does not include public roads or other roads owned or controlled by parties with rights superior to those rights conveyed to the grantee. "Seasonal ground coverings" means permeable, woven or non-woven geotextile fabrics that allow for water infiltration or impermeable materials, such as those used in plasticulture, that are in contact with the soil and used for no more than two consecutive years. At the time of farmland preservation closing on this development easement, there exists _____ percent of impervious cover on the Premises as identified on the survey plat, a reduced copy of which is attached to this deed at Schedule A.

[if landowner takes the house size limit restriction]

25. A maximum house size limitation of 2,500 square feet of heated living space shall apply to any future residential unit retained in accordance with the following: **[insert as applicable]** the replacement of an existing or the construction of a future residential unit identified in paragraph 13(b) above; the replacement of an existing residential unit on the Premises identified in in paragraph 13(a) above, which may be replaced in accordance with paragraph 14.ii. above; and/or an RDSO retained in accordance with paragraph 14.iii. above..

[the following applies if there is a residential unit existing on the premises or in the nonseverable exception area at the time of farmland preservation closing]

- i. If any residential unit existing on the Premises and/or in the nonseverable exception area at the time of farmland preservation closing is rendered uninhabitable by an event beyond the landowner's control, the residential unit can be rebuilt within the square footage existing as of the date of preservation, or 2,500 square feet of heated living space, whichever is larger. At the time of farmland preservation closing on this development easement, there exists a **[insert number]** of residential units located on the Premises and **[insert number]** of residential units existing on the nonseverable exception area. Each residential unit consists of the following square feet of heated living space: **[insert each residential unit's square footage of heated living space]**.

The location and heated living space square footage of each residential unit is identified on the survey plat, a reduced copy of which is attached to this deed at Schedule A.

The Grantor signs this Deed of Easement as of the date of the top of the first page. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers.

_____(L.S.)
Name of Seller, Name of position (if applicable)

_____(L.S.)
Name of Seller, Name of position (if applicable)

(CHOOSE PROPER ACKNOWLEDGMENT BASED ON TYPE OF ENTITY LANDOWNER IS, i.e., individual, corporation, or LLC)

(INDIVIDUAL ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____,

_____ personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- a. is named in and personally signed this DEED OF EASEMENT;
- b. signed, sealed and delivered this DEED OF EASEMENT as his or her act and deed;
- c. made this DEED OF EASEMENT for and in consideration of mutual obligations and benefits to each party; and
- d. the actual and true consideration paid for this instrument is \$_____

Insert Name & Title under signature

CORPORATE ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____, the subscriber (WITNESSING OFFICER), personally appeared before me, who, being by me duly sworn on his or her oath, deposes and makes proof to my satisfaction, that he or she is the Secretary/VP of _____ the Corporation named in the within Instrument; that _____ is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation; that said Instrument was signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his or her name thereto as attesting witness; and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$_____ and the mutual obligations and benefits contained herein.

_____, Inc.

_____, (L.S.)

Notary Public_____
Witnessing Officer**(LLC ACKNOWLEDGMENT)**

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____,

_____ personally came before me and that this person acknowledged under oath, to my satisfaction, that:

- a. _____ is the Managing Member of the _____, LLC and has full authority to execute this Deed of Easement as the act of _____ LLC;
- b. the full and actual consideration paid to purchase a development easement as evidenced by this deed of easement is \$_____.

Insert Name & Title under signature

(COUNTY AGRICULTURE DEVELOPMENT BOARD)

THE UNDERSIGNED, being Chairperson of the _____ County Agriculture Development Board, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____ 20____

[NAME], Chairperson

_____ County Agriculture Development Board

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____

_____ personally came before me and acknowledged under oath, to my satisfaction that this person:

- a. is named in and personally signed this DEED OF EASEMENT,
- b. signed, sealed and delivered this DEED OF EASEMENT as the Board's act and deed; and
- c. is the Chairperson of the _____ County Agriculture Development Board.

Insert Name & Title under signature

(BOARD OF COUNTY COMMISSIONERS)

THE UNDERSIGNED, being _____ of the _____ Board of County Commissioners, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____ 20____.

[Name & Title]

_____ Board of County Commissioners

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____

_____ personally came before me and acknowledged under oath, to my satisfaction that this person:

- a. is named in and personally signed this Deed of Easement;
- b. signed, sealed and delivered this Deed of Easement as the Board of County Commissioners act and deed; and
- c. Is the Administrator/Clerk of the _____ Board of County Commissioners

Signed and sworn to before me on _____, 20____

[Name & Title]

_____ Board of County Commissioners

(STATE AGRICULTURE DEVELOPMENT COMMITTEE)

The State Agriculture Development Committee has approved the purchase of the development easement on the Premises pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and has authorized a grant of __% of the purchase price of the development easement to ____ County in the amount of \$_____.

_____, Executive Director
State Agriculture Development Committee

Date

STATE OF NEW JERSEY, COUNTY OF MERCER SS.:

I CERTIFY that on _____, 20____,

_____ personally came before me and acknowledged under oath, to my satisfaction, that this person:

- a. is named in and personally signed this DEED OF EASEMENT,
- b. signed, sealed and delivered this DEED OF EASEMENT as the Committee's act and deed, and
- c. is the Executive Director of the State Agriculture Development Committee.

SCHEDULE A

INSERT LEGAL METES AND BOUNDS OF THE PREMISES

SCHEDULE B

Grantor certifies that at the time of the application to sell the development easement to the Grantee no non-agricultural uses existed. Grantor further certifies that at the time of the execution of this Deed of Easement no non-agricultural uses exist.

OR

Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the following nonagricultural use occurs on the Premises: *The pre-existing nonagricultural use will be described here based on all pertinent approvals.*

SCHEDULE C

INSERT LEGAL METES AND BOUNDS OF THE EXCEPTION AREA (IF ANY)

Soil & Water Conservation Grants

How They Work

The State Agriculture Development Committee (SADC) provides grants to eligible landowners to fund up to 50-percent of the costs of approved soil and water conservation projects.

Application

Landowners apply to local Soil Conservation Districts, which assist in developing farm conservation plans and ensure projects are necessary and feasible. Applications are forwarded to the N.J. State Soil Conservation Committee, which recommends projects to the SADC for funding approvals.

Criteria

Farms must be permanently preserved or enrolled in a term (8-year or 16-year) farmland preservation program.



Special Considerations

Permanently-preserved farms receive first priority for grant funding. Term-preserved farms receive second priority (farms with a 16-year term) or third priority (farms with an 8-year term). Some independently-preserved (non-SADC-preserved) farms, e.g., farms preserved through county independent easement purchase, cluster development, transfer of development rights, or severing of Pinelands or Highlands development credits/rights, also may receive first priority if they meet certain criteria.

Projects must be completed within three years of SADC funding approval. Grants may be renewed for a one-year period under certain circumstances, such as seasonal constraints or other unavoidable delays, only upon the approval of the local Soil Conservation District, the State Soil Conservation Committee and the SADC.

For More Information

Landowners should contact their local Soil Conservation District, or the SADC, and also see SADC Policy P-48, <https://www.nj.gov/agriculture/sadc/documents/rules/p48.pdf>.



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Farmland Stewardship Wildlife Fencing Grants

How They Work

The State Agriculture Development Committee (SADC) provides cost-share grants for the installation of wildlife fencing (high-tensile woven wire deer fencing, electric bear fencing, or other wildlife fencing) on permanently-preserved farms. Applicants can receive a grant for up to 50% of the costs of materials and installation, not to exceed a total grant of \$50,000.

Application

Owners, operators, and lessees of preserved farms may apply to the SADC at any time. The application form and program policy, P-53, are available on the SADC website.

Criteria

The applicant must be an owner, operator, or lessee of permanently preserved farmland who regularly engages in the operation and management of the farming operation on the preserved farmland. If the applicant is an operator or lessee, they must have written approval to install the wildlife fencing from the owner.

The farmland on which the fencing is to be constructed must be permanently preserved, i.e., enrolled in a permanent Farmland Preservation Program as defined in Policy P-53. Farms preserved through the Agriculture Retention and Development Act are eligible. Some independently-preserved (non-SADC-preserved) farms, e.g., farms preserved through cluster development, transfer of development rights, or severing of Pinelands or Highlands development credits/rights, also may be eligible if certain criteria are met.



Wildlife Fencing Projects

The fenced area must be completely enclosed by fencing that meets the specifications outlined in Policy P-53. Projects must be commenced within six months and completed within three years. The fencing also must be maintained for and have a lifespan of at least ten years.

Special Considerations

If deer fencing is to be installed, the applicant must attend an SADC deer fence training installation session or watch the SADC deer fence installation training video prior to installing the fence. Once a fence project is completed, the applicant submits a reimbursement form, and the SADC inspects the fence.

For More Information

Farms should contact the SADC at (609) 984-2504 and ask for David Kimmel or David Clapp. More information also is available at <https://www.nj.gov/agriculture/sadc/farmpreserve/postpres/>.



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Division of the Premises

The Deed of Easement sets forth the legal restrictions that will apply to your farm once it is preserved. The survey metes and bounds description of your farm has the effect of tying all of your lots together as one preserved “premises”.

Although your farm may consist of multiple lots, after preservation they cannot be divided, transferred individually or conveyed to other owners without written approval of the State Agriculture Development Committee (SADC) and the easement holder, which may be the County Agriculture Development Board (CADB) or a non-profit agency.

The SADC’s objective is to retain large masses of viable agricultural land. Agricultural parcels may become less viable if reduced in size. Therefore, the SADC will carefully consider the criteria to evaluate whether a permanently preserved farm should be divided.

Diagram of a Non-Contiguous Division

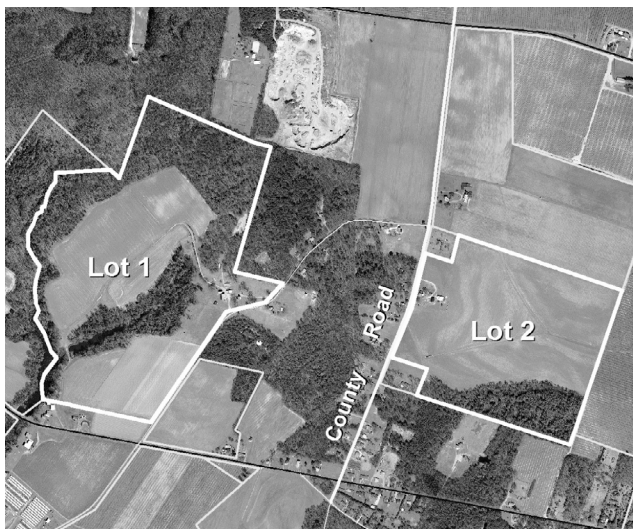
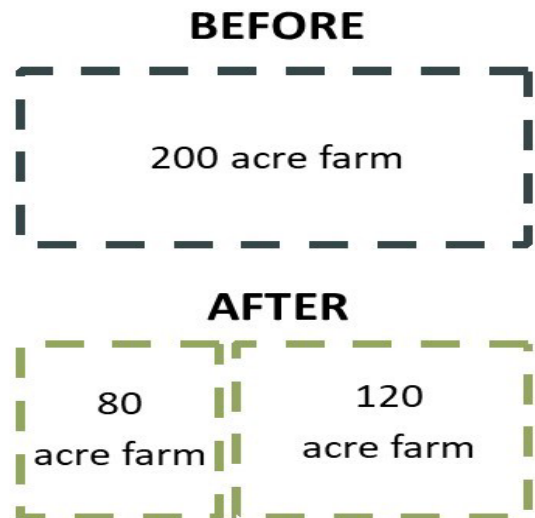


Diagram of a Contiguous Division



Major SADC Considerations

- Total Tillable Acreage
- Quality of Soils
- Configuration of New Parcels
- Historical Agricultural Uses
- Existing Agricultural Infrastructure
- Proximity to Other Farms/ Preserved Farms
- Proposed Agricultural Uses
- Benefit to Production Agriculture



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Division of the Premises

To request approval to divide the preserved premises, you need to submit an application to the easement holder demonstrating that the division would meet both of the following tests:

The Agricultural Purpose Test

First, the proposed division must be for an agricultural purpose. The SADC considers enhanced agricultural production activities, such as agricultural expansion, diversification and/or intensification resulting from a division as typically meeting the agricultural purpose test.

The Agricultural Viability Test

Second, the division must result in agriculturally viable parcels, each capable of sustaining a variety of agricultural operations that produce a reasonable economic return under normal conditions, solely from the parcel's agricultural production. So, the SADC would need to be confident that each newly created farm has sufficient agricultural resource value (soil quality, tillable land, size, etc.) to support a variety of agricultural operations into the future. Additionally, any parcel not meeting the minimum eligibility criteria for new applications to the program set forth in the SADC regulations will not be approved.

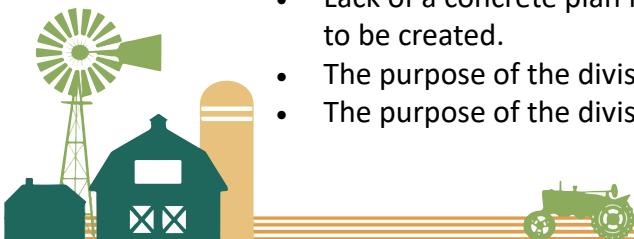
Division Procedure

1. Submit completed application and required maps to the easement holder.
2. The easement holder will ensure that the application is complete and evaluate it based on the Deed of Easement and the agricultural purpose and viability tests.
3. If approved, the easement holder will forward the application to the SADC for its review based on the Deed of Easement and the agricultural purpose and viability tests.
4. If approved by the SADC, new surveys and legal descriptions may be required as a condition of approval. In addition, the SADC may request to review any deed which transfers a portion of the Premises to a new owner. Upon review and approval of all necessary documents, the SADC will record its approval resolution with the appropriate County Clerk's office.

Application and additional information can be found under Policies at
<http://www.nj.gov/agriculture/sadc/rules/>

Why might an application for a division of the Premises be denied?

- Each parcel does not meet the minimum eligibility criteria on its own – For example, the newly created farms may not be of sufficient size or may have a lack of tillable acres on at least one parcel.
- Large wooded areas or areas of marginal soils render the tillable land of one parcel insufficient or unable to support a variety of agricultural production activities.
 - Lack of a concrete plan for agricultural production for one or both of the new parcels to be created.
 - The purpose of the division is speculative resale of one or multiple preserved parcels.
 - The purpose of the division is to accomplish estate planning.



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Special Occasion Events - Overview

Special Occasion Events on Preserved Farmland – P.L. 2023, c.9.

Introduction

P.L. 2023, c.9 became law on February 3, 2023. The law recognizes the positive effects that holding special occasion events (SOEs) on preserved farms can have, under certain conditions. Among these are helping sustain the agricultural industry, enhancing the growing demand for agritourism activities on farmland, and improving the viability of the state's farm operations without displacing agricultural or horticultural use of the land, or disrupting neighborhoods that surround preserved farms.



What an SOE Is

An SOE is a cultural or social event, including a wedding, held on preserved farmland. For the purposes of P.L. 2023, c.9., SOEs do not include the following: activities eligible for Right to Farm Act protection; recreational uses already permitted under the farmland preservation deed of easement; and weddings held for the owner, operator, or employee of the commercial farm or weddings held for certain family members of the commercial farm owner.

Who May Apply to Hold SOEs

The owner or operator of a preserved farm that is also a “commercial farm” may apply to hold SOEs. The preserved farmland must produce agricultural or horticultural products worth \$10,000 or more annually to qualify to hold SOEs. If the applicant to hold SOEs is a farm operator, and not the farm owner, the operator must obtain written authorization from the owner to apply.

How Many SOEs May be Held

Farm owners or operators can receive approval to hold up to twenty-six (26) SOEs per calendar year on the preserved farm. Up to six of the SOEs may have 250 or more guests in attendance at any time during the event. If a farm holds more than one SOE on the same day, only one of the SOEs on that day may have 100 or more guests. An event is considered a single SOE if the event lasts not more than two consecutive days and is marketed as a single event. Further, events held by or for a nonprofit entity do not count as an SOE if the event has fewer than 100 guests and the permittee does not charge for and receives no fees or compensation for hosting the event, other than for reimbursement of out-of-pocket expenses, which cannot exceed \$1,000.



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Special Occasion Events - Overview

Area Used to Hold SOE's

The area used to host the SOEs is referred to as the "occupied area", and includes all areas needed for structures, parking, and other infrastructure. The occupied area may be up to 10 acres or 10% of the preserved farmland acreage, whichever is less. SOEs may not interfere with the use of the preserved farm for agricultural or horticultural production and shall have only minimal effects on the occupied area and ensure that the land can be readily returned to productive agricultural or horticultural use after the event.

SOEs can be held outside, or inside a building that is at least 5 years old at the time of application for the SOE. No new permanent structures may be constructed or used to host SOEs, and improvements to existing structures are limited to the minimum required for the protection of health and safety. Temporary structures or tents may be used, provided they comply with applicable construction and fire codes and are limited to use between April 1 to November 30.

No public utilities other than electric and water service may be extended to the preserved farm for holding SOEs. Parking areas for SOEs must use existing parking areas and land around existing buildings to the extent possible. Additional temporary, on-site parking areas are required to follow standards previously adopted by the SADC in regulation (N.J.A.C. 2:76-2A.13).

How it Works

Farm owners, or farm operators with written authorization from the owner, can submit an SOE application to the holder (grantee) of the Farmland Preservation Program (FPP) deed of easement.

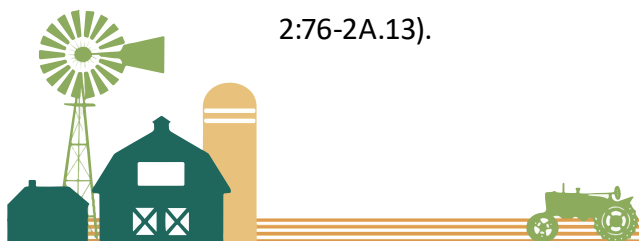
The easement holder, typically a county agriculture development board (CADB), board of county commissioners, nonprofit organization, or State Agriculture Development Committee (SADC), will review the application. The grantee must first confirm that the farm complies with its FPP deed of easement in order for it to be eligible to hold SOEs.

The grantee has 90 days in which to review the application and "shall" approve the application if it adheres to the requirements in the law and to forthcoming regulations promulgated by the SADC.

If the grantee does not respond to the application within 90 days, the application is deemed approved.

A nonprofit grantee can approve, approve with conditions, or deny the application. A grantee cannot require a farm to submit an application to hold SOEs more than once annually.

Once an applicant receives approval to hold SOEs, the applicant is required to report annually to the grantee information about the SOEs held in the prior calendar year, including information on the dates, type of SOEs, and number of attendees of each event held. The Grantee is required to send a copy of this information to the SADC.



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Special Occasion Events - Overview

County, Nonprofit, and SADC Roles

Counties and nonprofit partners are responsible for accepting, reviewing, and acting on SOE applications from farms for which they hold the FPP deed of easement. No additional approval by the SADC is required; the SADC, like its partners, only reviews and acts on SOE applications from those farms on which it holds the easement. Partners must forward a copy of all SOE approvals and annual reporting information received from farms holding SOEs to the SADC.

The SADC is directed to develop and adopt regulations governing the SOE program, however, applications may be submitted to and processed by the easement holder prior to the SADC adopting SOE rules. The SADC also is required to regularly report to the legislature on implementation of the program.

Municipal Role

All applicable State and local laws and regulations apply to the holding of SOEs, including but not limited to those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety. If the SOEs proposed by a farm would generate parking or traffic flow that could unreasonably interfere with normal traffic or emergency vehicle movement, or require the expenditure of municipal resources or inspections from agencies or authorities of the municipality, a municipality may require the submission of a municipal SOE application to review compliance of a farm's proposed SOEs with local laws. Municipalities may not charge more than a \$50 application fee and may not require more information than would be required for similar events conducted at a public park or another public venue.



For More Information

Please see the SADC website, www.nj.gov/agriculture/sadc, for a copy of the SOE law and an SADC Q&A document. Farm owners and operators, as well as farmland preservation partners, also can contact the SADC at (609) 984-2504 and ask for David Kimmel.



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