

BURLINGTON COUNTY AGRICULTURE DEVELOPMENT BOARD

**EXCEPTIONS POLICY**

**I. EXCEPTION REGULATIONS: N.J.A.C. 2:76 – 6.16(d)(3)**

“Negative consideration: Exceptions which adversely affect the applicant’s agricultural operation (weight 10).”

**II. GUIDELINES RE: GRANTING EXCEPTIONS, RDSOs, & SUBDIVISIONS**

Under the Burlington County Farmland Preservation Program, all applicant requests for exceptions, RDSOs, or subdivisions must be approved by the County Agriculture Development Board (CADB). These general guidelines are provided to maximize program consistency in the CADB’s application of its Exception Policy, and are intended to assist landowners in preparing successful exception/RDSO/subdivision requests.

A. Housing Opportunities

The CADB will consider housing opportunity requests that, if granted, would be consistent with an overall ratio of not more than 1 house per 100 acres. If a farm is smaller than 100 acres and does not have a house, an exception may be granted.

B. Total Acreage to be Excepted or Subdivided

The CADB will consider requests to except and/or subdivide acreage from an applicant property up to a maximum total acreage of 5 percent of the premises or 10 acres, whichever is less.

**III. CADB POLICY REGARDING APPROVAL OF EXCEPTIONS**

A. In general, the CADB limits exceptions to the area around the main farmhouse and associated structures. Exceptions that are determined to adversely affect the agricultural operation are prohibited.

B. Exceptions that do not adversely affect the agricultural operation and which are not around the main farmhouse and associated structures are reviewed on a case by case basis and must meet at least one of the following conditions:

1. Granting an exception for a housing opportunity is consistent with an overall ratio of not more than one house per 100 acres.
2. No housing opportunity exists and the property does not qualify for an RDSO.
3. To except out areas to be dedicated to farm market use.

4. To except out a pre-existing non-agricultural use.
5. To except out an area for possible future development of a non-agricultural use so long as the non-agricultural use does not conflict with the agricultural use of the property in perpetuity.
6. Special purpose (i.e., to provide for a park or to protect a historical resource.)
7. Not more than one single-family structure may be constructed on an excepted area. Any residential structure located on the area to be excepted may be reconstructed or improved but additional residential dwellings may not be constructed.

#### **IV. RESTRICTIONS ON THE USE OF EXCEPTED AREAS**

- A. The following covenants, terms, conditions and restrictions shall apply to all lands which the County has agreed to except/exclude from the standard provisions of the Deed of Easement (hereafter, the "Excepted Areas") and shall be included in the Deed of Easement.

The Grantor, for Grantor and for all persons who succeed to Grantor's interest in the Excepted Areas, agrees that use of the Excepted Areas shall be subject to the following restrictions:

1. Use of an Excepted Area shall not impair, hinder or negatively impact on the agricultural use of the Premises. Use of an Excepted Area should be compatible with agricultural use of the Premises.
2. An Excepted Area may not be subdivided from the Premises and title to Excepted Areas may not be conveyed independent of a conveyance of title to the Premises (or portion thereof if subdivision of the Premises is approved pursuant to this Deed of Easement). Transfer of title to the Premises shall include title to the Excepted Areas.
3. No activity on or use of an Excepted Area requiring municipal or State approval including, but not limited to, demolition or construction of a structure or site plan or variance, shall commence unless Grantee has received a copy of the proposed application or request for approval 45-days prior to its filing. Grantee shall have the right to comment on any such application.
4. No person having an interest in an Excepted Area, whether owner, operator, lessor, lessee, resident or other, shall have any claim against the owner of the Premises for use of the Premises in accordance with this Deed of Easement.
5. Nothing herein is intended nor shall it be construed as exempting Grantor from securing such municipal and building approvals that may be necessary for the construction or demolition of any structures.
6. The Grantee and the Committee shall have the right to enforce these terms and conditions.

- B. If the preserved farm will have an excepted area that is not immediately adjacent to a public road the following additional terms shall be included in the Deed of Easement as applicable to the excepted are:
1. No lane leading to the Excepted Area shall be constructed or, if existing, relocated, widened or improved for the purpose of accommodating non-agricultural use without the prior written approval of the Grantee and Committee.
  2. The lane may be used in connection with the agricultural use of the Premises and for the purpose of accessing the structures in the Excepted Area.
  3. Neither any existing lane to the excepted area nor any new lane that might be constructed in accordance with this section shall be modified or improved so as to prevent its use for agricultural operation of the Premises.
- C. In the event that any lane that crosses over the Premises to connect the Excepted Area with a public road is to be limited to nonagricultural use, said lane shall be included in the Excepted Area
- D. Additional restrictions may be imposed as deemed necessary and appropriate to ensure that use of the an excepted area does not negatively impact the restricted farm.

Adopted March 9, 1995; Amended May 13, 1999; January 13, 2000; February 14, 2002; October 1, 2002

Doc: F:\Farmland\Application\APPLICATION PACKET\08.Exceptions Policy.doc