



# Agriculture Retention & Development Act -1983



Encourages both farmland preservation and the development and strengthening of the Ag industry.





## Farmland Preservation Deed of Easement

Establishes who holds the easement and sets the base for what existed on the farm the day of preservation:

- County
- State
- Non-Profit
- Federal

Commonly reviewed Deed of Easement Paragraphs:

- Paragraph #3: Pre-Existing Nonagricultural uses
- Paragraph #13(a): Existing residences
- Paragraph #13(b): Exception areas
- Paragraph #14: New Buildings



## Retained Rights

### Agriculture

- All forms of production agriculture
- Farm markets & sales spaces
- Common agricultural infrastructure\*

### Recreational Uses

- Personal or for profit
- Using farm in existing condition
- Examples - Hunting, Fishing, Cross Country Skiing, etc.

### Personal Use/Enjoyment of Property

*\*State of NJ v. Quaker Valley Farms, LLC (August 14, 2018). Agricultural infrastructure that requires a detrimental disturbance*



## Agriculture



- All types of production agriculture permitted
- Infrastructure needed to operate the farm is permitted\*.
- Preservation does not supersede local requirements, even if permitted by preservation office.



## NJ Supreme Court Decision (2018)

- Landowner had the right to construct hoop houses, but not to destroy so much prime soil.
- *“Soil disturbance also damaged future agricultural use”* and *“constituted a gross violation of the ARDA”* and the deed.
- Agricultural uses are required to be carried out in balance with soil conservation.
- Easement provisions must be read in their entirety

**SADC is currently drafting soil protection rules as a result of this case**





## Agricultural Management Practices (AMP)

- Apiary
- Poultry manure
- Food processing by-product land application
- Commercial vegetable production
- Commercial tree fruit production
- Natural resource conservation
- On-farm compost operations
- Fencing installation for wildlife control
- Equine activities
- Aquaculture
- Solar energy generation facilities, structures and equipment
- On-farm direct marketing facilities, activities, and events





## Recreational Uses



Recreational uses are permitted if they use the farm in its existing condition

- No new infrastructure, including trails or parking
- No use which limits the farm for Ag production, such as purposely not planting a field to accommodate recreational use



- Hosting family events.
- Personal hobbies.
- Family livestock (Pet horse or 4H project).

## Personal Use & Enjoyment of Property



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## DOE Actions That Require Approval

- Housing
- Dividing the overall “Premises”
- Installation of Renewable Energy
- Cell Towers
- Rural Microenterprise



DOE Actions  
That Require  
Approval:  
  
Housing



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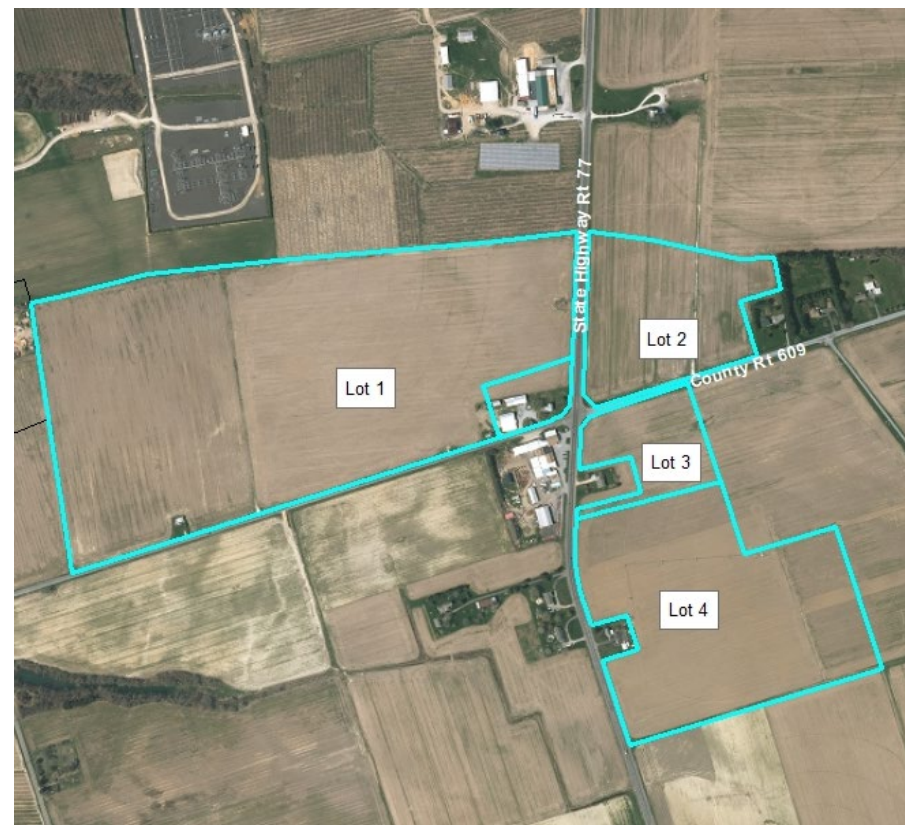


DOE Actions  
That Require  
Approval:

Dividing the  
Premises



Single block/lot with division  
through the middle



Multiple lots divided by road



## DOE Actions that Require Approval: Renewable Energy





## DOE Actions that Require Approval: Cell Towers



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DOE Actions  
that Require  
Approval:  
Rural

Microenterprises  
N.J.AC. 2:76-22.1

Customary rural activity  
or ag support service





## Farmland Preservation Deed of Easement

The restrictions in the Deed of Easement limit a preserved farm to agricultural uses.

### **Three exceptions to this rule:**

- 1) Pre-Existing use at time of preservation grandfathered in as described in Schedule B of preservation easement.
- 2) Activity is occurring on an “Exception Area”.
- 3) Activity has become permitted by legislation, such as Renewable Energy or Rural Microenterprise.



## Monitoring: Enforcement & Outreach



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- Requirement to monitor easements annually
- Enforce easement terms
- Inform landowners of concerns or violations
- Opportunity for building on landowner relationship (or new ones)
- Educate landowners on new programs
- Connection to conservation assistance
- Preventing conflicts





## Agri-tourism

- Seasonal activities (pumpkin patches, corn mazes, light shows)
- “Farm Experience”
- U-pick
- On-Farm Markets
- Value Added



## Future Trends

### Event spaces

- Weddings
- Parties
- Business events

### Wineries/Breweries/Distilleries

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**Case  
Examples:**  
Problematic  
Local  
Approvals

Request for a building permit for a single-family residential unit

Township tells owner no problem – you have 100-acre farm, and you can build one house, build it wherever you want.



**Problem:** The Property has an exception area and that's the only spot they can build a house.



Case  
Examples:  
Problematic  
Local  
Approvals

## Request for new residential unit in an existing structure

Township approves apartment in barn (ag labor).



**Problem:** The SADC has not approved anything yet.



Case  
Examples:  
Problematic  
Local  
Approvals

## Request for permit for a non-agricultural use

Township gives permit for building that is allowed per local zoning.



**Problem:** The building is non-agricultural in nature, i.e. a mechanics shop/garage/catering business/banquet hall, etc. Which is not allowed by the DOE.



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Case  
Examples:  
Problematic  
Local  
Approvals

## Request to build a large agricultural building

Landowner wants to construct a large agricultural building - Township gives permit to extremely large ag building (multi-acre greenhouse)



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**Problem:** It may be violation of our new soil protection rules or impervious cover limit if federal funds were used.



Case  
Examples:  
Problematic  
Local  
Approvals

## Township makes agreement with landowner to dump municipal leaves on farm



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**Problem:** Activity is not contemplated in the farm's conservation plan and farmer is not dealing with them in a way that complies with DOE



Next Course  
in the Series



We look forward to seeing you at the second day of this series to discuss:

- Key Deed of Easement Provisions
- Farm/Neighbor Convergences
- Deed of Easement Concerns
- Right to Farm
- Agricultural Mediation

# Question & Answer

**Do you need clarification on any aspect of the course material?**

- Are you clear on how to determine if a property is preserved?
- Did you obtain an understanding of which sections of the DOE pertain to situations that require local and State approval?

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