

Bylaws of the
Somerset County Agriculture Development Board (SCADB)

Amended: March 21, 2019

ARTICLE I – GENERAL

Section 1.1

The County Agriculture Developing Board (CADB, hereinafter referred to as 'Board') shall consist of seven (7) voting members and three (3) non-voting members. The voting members shall be residents of the county, four (4) of whom shall be actively engaged in farming, the majority of whom shall own a portion of land they farm, and three (3) of whom shall represent the general public. The three (3) nonvoting members shall be as follows: A representative of the Somerset County Planning Board; a representative of the Somerset-Union Soil Conservation District; and the Somerset County Agriculture Extension Agent. To perform the functions of this Board, it is expected that all voting members will attend all required meetings; however, at the discretion of the Board Chairperson, the member will be allowed up to three absences per year, after which the Board Chairperson may recommend to the Board of Chosen Freeholders that action be taken to remove said member from the Board if further absences occur. Nonvoting members may send designees in their place. Members of the Board shall be appointed by the Somerset County Board of Chosen Freeholders in accordance with State Statutes. Of the seven members first to be appointed, three shall be appointed for terms of 2 years, two for terms of 3 years, and two for terms of 4 years. Thereafter, all appointments shall be made for terms of 4 years. Each of these members shall hold office for the term of the appointment and until a successor shall have been appointed and qualified. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

Section 1.2

The Board shall exercise such power as may be conferred upon it by the laws of the State of New Jersey.

Section 1.3

The office of the Board shall be located at the Somerset County Administration Building, 20 Grove Street, Somerville, NJ 08876.

Section 1.4

The Somerset County Board of Chosen Freeholders shall fill an occurring vacancy.

Section 1.5

Reference to the Act means the Agriculture Retention and Development Act, (Chapter 32, P.L. 1983).

ARTICLE II – OFFICERS AND STAFF

Section 2.1

At the re-organizational meeting of the Board held in January of each year, the Board shall elect by majority vote from among its voting members, a Chairperson, Vice-Chairperson and a Secretary/Treasurer.

Section 2.2

The Board shall employ or contract for the services and fix the compensation of legal counsel, experts and staff services, as the need shall require from time to time.

ARTICLE III – DUTIES AND POWERS

Section 3.1

The Chairperson shall preside at all meetings and public hearings of the Board, decide points of order or procedure and perform the duties required. The Chairperson shall be one of the voting members of the Board.

Section 3.2

The Chairperson has the power to administer oaths and direct that testimony be given under oath.

Section 3.3

The Chairperson shall designate the time to make site inspections and be an exofficio member of all committees and subcommittees so appointed. Where required by statute, ordinances or rules to do so, he/she, along with the Secretary/Treasurer shall sign all documents.

Section 3.4

The Vice-Chairperson, in the absence or disability of the Chairperson, shall perform all duties and exercise all the power of the Chairperson. The Vice-Chairperson shall be a voting member of the Board.

Section 3.5

The Secretary/Treasurer shall record and maintain permanent minutes of the Board's proceedings, showing the vote of each member upon every question, or, if absent or failing to vote, indicating that fact; shall keep records of its examinations and other official actions; shall summarize accurately the testimony of those appearing before the Board and keep a record of those meetings, where required, for the required appeal period, and thereafter, if appealed, shall record the names and addresses of all persons appearing before the Board and shall have published in the local newspaper, public notices of all meetings and hearings as required by law, and these rules of procedures; shall file said minutes and records in the office of the

Board, as required by the Open Public Meetings Act; and shall be the custodian of the files of the Board and keep all records, and shall perform any and all other related secretarial duties as required by the office of the Secretary/Treasurer.

Section 3.6

The Secretary/Treasurer of the Board shall sign copies of documents adopted by the Board, certifying as to their correctness, and shall likewise sign copies of the minutes of the Board.

Section 3.7

The Board shall prepare a calendar year budget sufficient for its fiscal requirements in accordance with the budgetary directions of the Somerset County Board of Chosen Freeholders.

Section 3.8

The Board shall:

- a. Develop and adopt, after public hearings, agricultural retention and development programs, which shall have as their principal purpose the encouragement of the long-term agricultural business climate and the preservation of agricultural land in the county;
- b. Establish the minimal acreage of significant masses of reasonably contiguous land required for the creation of a municipally approved program or other farmland preservation programs;
- c. Establish minimum standards for the inclusion of land in a municipally approved program or other farmland preservation programs;
- d. Review and approve, conditionally approve or disapprove petitions for formation of a municipally approved program or other farmland preservation programs and monitor the operations thereof;
- e. Review and approve, conditionally approve or disapprove, prior to any applications to the State Agriculture Development Committee, any request for financial assistance authorized by the Act;

- f. Monitor and make appropriate recommendations to the State Agriculture Development Committee and to county and municipal governing bodies and boards with respect to resolutions, ordinances, regulations and development approvals which would threaten the continued viability of agricultural activities and farmland preservation programs within agricultural development areas;
- g. At the request of a municipality, require that any person proposing any nonagricultural development in an agricultural development area, prepare and submit a statement as to the potential impact the proposed development would have on the agricultural activities in the area.

Section 3.9

The Board may:

- a. Develop an educational and informational program concerning farmland preservation techniques and recommended agricultural management practices to advise and assist municipalities, farmers, and the general public with respect to the implementation of these techniques;
- b. Provide assistance to farm operators concerning permit applications and information regarding the regulatory practices of state government agencies.
- c. After public hearing, identify and recommend pursuant to state law, an area known as an Agriculture Development Area where agriculture shall be the preferred, but not necessarily the exclusive use of the land.

Section 3.10

No decisions of relief may be granted under terms of this section unless such relief can be granted without substantial detriment to the public good.

ARTICLE IV – MEETINGS

Section 4.1

The January meeting of each year shall constitute the organizational meeting of the Board. At this meeting, the Board shall elect officers, prepare for publication and distribute a calendar of its regular meetings pursuant to the Open Public Meetings Act and conduct such other business as necessary, pursuant to the Open Public Meetings Act. All meetings shall be in conformity with the Open Public Meetings Act.

Section 4.2

The Administrative Assistant shall send a notice to each member of the Board five (5) days in advance whenever a regular meeting will be held with a brief description of the business to be considered. Regular meetings may be cancelled by the Chairperson in accordance with Section 13.d of the Open Public Meetings Act.

Section 4.3

Special meetings and executive sessions may be called by the Chairperson at his discretion or upon the request of two (2) or more members, providing that forty-eight (48) hour notice is given to each member and the public, pursuant to the Open Public Meetings Act.

Section 4.4

A quorum shall consist of four (4) voting members for any regular or special meeting and is required for any decision, determination or official action of the Board. An affirmative vote of a majority of the voting members present is required for any determinations of official actions of the Board.

Section 4.5

A quorum of the Board shall be present at all public hearings, meetings and transactions of any business. Nonvoting members may express their approval or disapproval of each transaction.

Section 4.6

Members of the Board who are unable to attend the meetings of the Board shall notify the Administrative Assistant at the earliest possible time prior to the meeting.

ARTICLE V – ORDER OF BUSINESS

Section 5.1

All meetings shall proceed as follows:

- a. Pledge of Allegiance
- b. Compliance with the Open Public Meetings Act, announce Board policy, i.e., no new business will be heard three (3) hours after the commencement of the meeting
- c. Roll call
- d. Approval of minutes
- e. Open to the public for small items (15 minute time limitation)
- f. Discussion and Action Items
- g. Adjourn meeting

Section 5.2

Continuance, dismissals and/or adjournment requests with or without prejudice shall be at the discretion of the Board in any matter for good cause shown.

ARTICLE VI – AMENDMENTS OF BYLAWS

Section 6.1

The proposed amendments to the Bylaws must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

ARTICLE VII – TITLE LIMIT CONDITIONS

Reserved

ARTICLE VIII- PROCEDURES ON HEARINGS

A. AGRICULTURE DEVELOPMENT AREAS

Section 8A.1

At a regularly scheduled meeting the Board may identify certain land(s) as an Agricultural Development Area. This action is considered a first reading. Sufficient time shall follow to permit public comment. Such land shall be documented as to where agriculture shall be the preferred but not necessarily the exclusive use of the land.

- a. The recommended criteria and accompanying map generally outlining agricultural areas shall be forwarded to the Somerset County Board of Chosen Freeholders, County Planning Board and all county municipalities.
- b. The Board will set a public hearing date with proper public notice and notice to the Somerset County Board of Chosen Freeholders, County Planning Board, all county municipalities and the State Agriculture Development Committee.
- c. Resolutions (ref. N.J.A.C. 2:76-1.5) creating Agricultural Development Areas will be adopted by majority vote at the next regularly scheduled meeting of the Board following the public hearing and sent to the Somerset County Board of Chosen Freeholders, County Planning Board, all county municipalities and the State Agriculture Development Committee.

Section 8A.2

Appeals to the Board regarding inclusion or exclusion from adopted Agricultural Development Areas may be taken by any person or municipality affected. Filing of a written notice with the Secretary of the Board will constitute an appeal.

- a. The Secretary of the Board shall forward copies of the appeal to the Somerset County Planning Board and affected municipality.
- b. At the next regularly scheduled meeting of the Agriculture Development Board, the appeal will be considered.
- c. Five (5) affirmative votes of Agriculture Development Board members will be required to approve the appeal.
- d. Reasons for approval or denial of an appeal shall be submitted by the Board to the State Agriculture Development Committee, the Somerset County Board of Chosen Freeholders, the County Planning Board, affected municipality and the applicant.

Section 8A.3

The Board may make, identify or alter existing criteria for ADA's from time to time.

B. RIGHT-TO-FARM HEARINGS

Section 8B.1

CADB's are required to hold public hearings and issue findings and recommendations regarding right-to-farm issues:

- a. Within 60 days of receiving a written complaint in which the disputed activity is addressed by an agricultural management practice (AMP) recommended by the State Agriculture Development Committee (SADC) and promulgated pursuant to the Administrative Procedure Act (N.J.S.A. 4:1c-10.1(b)); and/or
- b. Within 60 days of receiving written complaint in which the disputed activity is addressed by a site specific AMP recommended by the CADB pursuant to N.J.A.C. 2:76-2.3 (N.J.S.A. 2:76-2.10); and/or

- c. Within 60 days of receiving a decision from the SADC regarding whether a disputed activity constitutes a generally accepted agricultural operation or practice (N.J.S.A. 4:1c-10.1(c)).
- d. With respect to complaints filed pursuant to Paragraphs 8B.1a or 8B.1b above, the CADB is required to contact the commercial farm operator and request that he/she provide evidence that the agricultural operation meets the Act's definition of a commercial farm operator. The necessary documentation to establish that the operation is a commercial farm can be found at N.J.A.C. 2:76-2.3(b). If the CADB is satisfied that the operation is a commercial farm, it shall schedule a public hearing.

Section 8B.2

Scheduling of Hearings

- a. Hearings shall be scheduled to immediately follow the monthly Board meetings, and at the call of the Chairperson. A special meeting may be scheduled for the sole purpose of a right-to-farm hearing.
- b. Hearings shall be listed and scheduled for hearing based upon the date that the CADB receives the complaints of the parties.
- c. All unfinished hearings shall be scheduled to be continued to be heard at the next scheduled meeting of the Board unless rescheduled by the Board Chairperson.
- d. Postponements shall be accepted by the Board only with the consent and concurrence of the opposing party, in writing.
- e. Cases shall be heard or dismissed after two postponements.

Section 8B.3

Notification of Hearings

- a. Public notification shall be made to the New Jersey Courier-News, New Jersey Star Ledger and Messenger Gazette and posted on the bulletin board in the Somerset County Administration Building lobby in sufficient time to have the

advertisement appear a minimum of five (5) days prior to the hearing, pursuant to N.J.S.A. 10:4-8 et seq.

- b. A notice of the pending hearing shall be sent by regular mail to the State Agriculture Development Committee (SADC) and the municipality in which the commercial farm is located.
- c. The following individuals shall be sent notices of the pending hearing by certified mail, return receipt requested, seven (7) days prior to the hearing:
 - i. Commercial farm operator and or designated representative
 - ii. Aggrieved party and/or designated representative
 - iii. Expert witnesses and/or designated representative
 - iv. [Throughout the procedures, “commercial farm operator” shall mean commercial farm operator and/or designated representative and/or owner; “aggrieved party” shall mean aggrieved party and/or designated representative; and “expert witness” shall mean expert witnesses and/or designated representative.]

Section 8B.4

Hearings

- a. Documents
 - i. Copies of pertinent documents shall be available to the Board members and Board Counsel for the hearing.
 - ii. Where possible, the documents should be sent by mail to the Board members and Board Counsel seven (7) days prior to the hearing.
- b. Hearing Officer
 - i. The Chairperson of the Board shall be the hearing officer.
 - ii. If the Chairperson is not present, the Vice-Chairperson shall serve as the hearing officer.
 - iii. If the Vice-Chairperson is not present, the Board shall choose a hearing officer through a motion of those Board members present for the hearing.
- c. Recording of Hearings

- i. Hearings shall be recorded by the Board using an electronic sound recording device.
 - ii. Either party may elect to have a stenographer at the party's expense.
 - iii. If a stenographer is used, a copy of the transcript of the proceeding shall be provided to the Board at no expense of the Board.
- d. Hearing Process

Hearings shall be conducted in general conformance with the pre-established meeting agenda or as directed by the Hearing Officer. At a minimum, the following steps shall occur in the sequence specified:

 - i. Open Public Meeting Statement under N.J.S.A. 10:4-8 et seq. (Open Public Meeting Act)
 - ii. Introductory statement by Hearing Officer, including
 - Welcome and introductions
 - Statement of purpose of hearing
 - Description of the hearing process
 - Opening statement by aggrieved party
 - Opening statement by commercial farm operator
 - Testimony by aggrieved party
 - Cross-examination by commercial farm operator
 - Cross-examination by Board
 - Testimony by commercial farm operator
 - Cross-examination by aggrieved party
 - Cross-examination by Board
 - Closing argument by aggrieved party
 - Closing argument by commercial farm operator
 - Open discussion by Board
 - The Board decision is made by a motion, and voted on by the regular members of the Board qualified to vote
- e. Testimony

- i. The members of the Board shall hear the testimony of all witnesses under oath or affirmation.
- ii. All parties shall be given the right of cross-examination, either directly, if not represented by an attorney, or through their attorney if represented.
- iii. All testimony shall be subject to the discretion of the Hearing Officer and the Board subject to reasonable limitations as to time and number of witnesses.
- iv. The Hearing Officer, any members of the Board, or Counsel to the Board shall administer oaths and affirmations.
- v. Testimony may include verbal and written statements from aggrieved parties, the commercial farm operator, expert witnesses and any other party deemed appropriate by the Board.
- vi. Verbal testimony may be given in narrative form or by question and answer.
- vii. Parties shall not be bound by statutory or common law rules of evidence or any formally adopted rule in the New Jersey Rules of Evidence, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
- viii. All relevant evidence shall be heard and admitted.

Section 8B.5

Resolution of the Board

- a. The findings and recommendations of the Board shall be in the form of a written narrative providing a summary of the testimony, any supporting documents, and a copy of the agricultural management practice or site specific agricultural management practice utilized by the Board in its recommendations and any other information requested by the SADC (N.J.A.C. 2:76-2.10(b)2i).
- b. The resolution containing the findings and recommendations shall include the following:

- i. Caption (name of complainant and defendant)
 - ii. Appearances of parties and their representatives, if any
 - iii. Statement of issue(s)
 - iv. Factual discussion, including summaries of testimony and documents
 - v. Fact findings
 - vi. Recommendations
- c. The resolution shall receive review by Board Counsel prior to presentation for approval at the next regularly scheduled meeting of the Board after the hearing has concluded or as otherwise agreed to by the Board and the parties.
- d. Resolutions shall be acted on by the Board as:
 - i. *Approved as Prepared*
 - ii. *Approved as Modified*
 - iii. *Rejected*
- e. Copies of the approved resolution shall be sent to:
 - i. Aggrieved party
 - ii. Attorney or aggrieved party
 - iii. Commercial farm operator
 - iv. Attorney for commercial farm operator
 - v. Municipality
 - vi. Counsel for Municipality, or Municipal Attorney
 - vii. SADC
 - viii. Other interested parties, by request or participation in the hearing
- f. The Board staff shall maintain a standard distribution list to include the contact names and addresses of individuals that have requested copies of resolutions.
- g. The original resolution and all other pertinent documents shall be maintained as a written record by the Board staff and filed in the appropriate manner.

Section 8B.6

Other Matters, Correspondence and Communication

- a. The Hearing Officer may authorize Board Counsel to establish a direct line of communication with any related party for the purpose of facilitating resolution of the matter.
- b. Communication of a verbal nature is non-binding unless followed up by a record of conversation.
- c. CADB decisions can be appealed to the SADC within ten (10) days of receipt of the CADB's findings and recommendations (N.J.S.A. 4:1C-10.1(d); N.J.S.A. 4:1C-10.2; N.J.A.C. 2:76-2.10(b)2ii).

ARTICLE IX – DECISIONS

Reserved

ARTICLE X – MISREPRESENTATION

Reserved

ARTICLE XI – CODE OF ETHICS

Section 11.1

The following amendment to the by-laws / policies of the Somerset County Agriculture Development Board ("SCADB") shall ensure the integrity of the State farmland preservation program by protecting against any actual or perceived conflicts of interest by members of the SCADB and their immediate families. The policy is adopted pursuant to N.J.A.C. 2:76-6.18(z).

Section 11.2

- Authority: N.J.S.A. 4:1C-11 et seq.; N.J.S.A. 13:8C-1 et seq.

Section 11.3

The Somerset County Agriculture Development Board hereby adopts a “Code of Ethics” that shall apply to all members of the Board as follows:

- a. All voting members of the SCADB and members of their immediate families shall be prohibited from selling or applying to sell development easements on their property pursuant to the Agriculture Retention and Development Act (N.J.S.A. 4:1C-11 et seq.) and the Garden State Preservation Trust Act (N.J.S.A. 13:8C-1 et seq.).
- b. “Member of the immediate family,” pursuant to this policy and in accordance with N.J.A.C. 2:76-6.18, shall be defined as the member’s spouse, child, parent, or sibling, residing in the same household.
- c. All voting members of the SCADB and members of their immediate families shall also be prohibited from selling their property in fee simple pursuant to the acts and conditions enumerated in (III)(1) above.
- d. All members of the SCADB shall comply with the Local Government Ethics Law (N.J.S.A. 40A:9-22.1 et seq.).
- e. All voting members of the SACDB shall be required to resign from the SCADB before selling or applying to sell development easements on their property pursuant to the Agriculture Retention and Development Act (N.J.S.A. 4:1C-11 et seq.) and the Garden State Preservation Trust Act (N.J.S.A. 13:8C-1 et seq.).
- f. All voting members of the SCADB and members of their immediate families shall be required to resign from the SCADB prior to selling their property in fee simple pursuant to the acts and conditions enumerated in (III)(1) above.

Section 11.4

This policy shall apply to all applications submitted to the SCADB for further consideration by the SADC on or before November 15, 2000 for the 2001 Application Round and all subsequent funding rounds.