Intro. Res. No. 1700-2013 Laid on Table 9/12/2013
Introduced by Presiding Officer, on request of the County Executive

RESOLUTION NO. 987 -2013, ADOPTING LOCAL LAW NO. 44 -2013, A LOCAL LAW AMENDING CHAPTER 8 OF THE SUFFOLK COUNTY CODE

WHEREAS, there was duly presented and introduced to this County Legislature, at a regular meeting held on, September 12, 2013, a proposed local law entitled, "A LOCAL LAW AMENDING CHAPTER 8 OF THE SUFFOLK COUNTY CODE"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 44 -2013, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW AMENDING CHAPTER 8 OF THE SUFFOLK COUNTY CODE

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows**:**

Section 1. Legislative Intent.

This Legislature hereby finds that the County of Suffolk ("County") has had a long history of agricultural production, dating back to the 17th Century.

This Legislature further finds that the County is number one out of 62 counties in the State of New York in terms of value of agricultural products sold according to the 2007 Census of Agriculture.

This Legislature further finds and determines that the agricultural industry is an essential component of the County's current economy.

This Legislature further finds that the County has more than 34,000 acres of land in active commercial agricultural production according to the 2007 Census of Agriculture.

This Legislature further finds and determines that the County has had a long successful history of farmland preservation evidenced by 10,485 acres of viable farmland permanently protected since 1974 through this nation's first purchase of development rights program.

This Legislature further finds and determines that it continues to be in the best interests of the County and its residents to preserve farmlands pursuant to the Suffolk County Purchase of Development Rights Program ("program").

This Legislature further finds that the County's residents demonstrated their support for farmland preservation pursuant to this program by extending the Suffolk County Drinking Water Protection Program in 2007 through 2030.

This Legislature further finds and determines that the agricultural industry on Long Island has evolved since the inception of this program and subsequent to the amendment

in 2010 and that it is necessary to modify the program's policies and procedures the County will employ to administer and enforce it.

Therefore, the purpose of this local law is to amend Suffolk County Administrative Local Law Chapter 8, "Development Rights to Agricultural Lands," to ensure the County's ability to conserve and protect viable farmlands and active agricultural operations that will serve current and future generations of County residents.

Section 2. Amendments.

Chapter 8 of the Administrative Local Laws is hereby amended to read as follows:

Chapter 8
Development Rights of Agricultural Lands

§8-1. Statutory policy; legislative intent
§8-2. Definitions.
§8-3. Applicability.
§8-4. Farmland Committee
§8-5. Development rights; acquisition
§8-6. Development rights; alienation
§8-7. Notification requirements.
§8-8. Permits.
§8-9. Permit conditions.
§8-10. Lot coverage.
§8-11. Agricultural Tourism.
§8-12. Farm Stands and Processing Facilities.
§8-13. Alternative energy systems.
§8-14. Prohibitions.
§8-15. Enforcement.
§8-16. Right to Use Property for Recreational Purposes
§8-17. Provisions to control over other legislation.
§8-18. Severability.

§ 8-1. Statutory policy; legislative intent.

A. The State of New York, by various legislative enactments, has emphatically stated it to be a most important policy to conserve and protect viable farmlands and to encourage the improvement of such lands both for the production of food and for the preservation of such lands as valued natural and ecological resources. It has further stated that the expenditure of County funds to acquire legal interests and rights in such lands is in furtherance of such policy and is a proper expenditure of public funds for public purposes.

B. The County is in complete accord with such policy, and it is the goal of the County to conserve and protect viable farmlands, open spaces, open areas and the various natural and ecological resources associated with such lands, particularly soil and water. It is the intent of this chapter to establish the policies and procedures that will be employed by the County in its pursuit of this goal.

C. The Suffolk County Legislature finds that adequate fresh, local food supplies are critical to the health and economy of the County, that best management practices are essential to ensure that the benefits associated with land preservation are not realized at the cost of the County's natural and ecological resources, that working farms and a diversity of agricultural practices are necessary to secure the future of the business of agriculture and that a minimum threshold of acreage must be in active agricultural production to sustain the industries that support agricultural production. The Suffolk County Legislature further finds that conservation and protection of farmlands associated with viable agricultural operations that use best management practices will ensure that such lands are available to serve future generations.

§ 8-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL DEVELOPMENT PERMIT

Written permission, issued by the Committee, to erect, install, locate, relocate, modify, rebuild, remove or demolish a proposed or existing structure, to operate an alternative energy system and/or to operate a farm stand <u>or processing facility</u> on agricultural land. Only improvements necessary for agricultural production <u>or for the operation of a commercial horse boarding operation and/or for the operation of a commercial equine operation,</u> as determined by the Committee, shall be permitted on agricultural land.

AGRICULTURAL EDUCATION

Instruction about agricultural production, <u>agricultural products, processing,</u> [agricultural product management] soil and water conservation, <u>natural resource management, land preservation,</u> best management practices and other agricultural matters, as deemed appropriate by the Committee.

<u>AGRICULTURAL EDUCATIONAL TOURS</u>

<u>A form of agricultural tourism that teaches about agricultural production, agricultural products, processing, soil and water conservation, natural resource management and land preservation in the form of short tours and hands-on demonstrations.</u>

AGRICULTURAL LAND

Land to which the County has purchased the development right(s), in whole in or in part, in order to preserve resources necessary for agricultural production. Land acquired in order to preserve nonagricultural open spaces or open areas shall not be considered agricultural land.

AGRICULTURAL LAND LESSEE

The person, persons or entity who or which occupies or utilizes the agricultural land parcel under lease from the current agricultural landowner.

AGRICULTURAL LANDOWNER

The person, persons or entity owning the residual right(s) to an agricultural land parcel.

AGRICULTURAL PRODUCTION

The production for commercial purposes of agricultural products, as defined herein. [Agricultural production shall not include the processing of agricultural products.]

AGRICULTURAL PRODUCTS

The crops, livestock and livestock products as defined in § 301 of the New York State Agriculture and Markets Law, as may be amended.

AGRICULTURAL TOURISM

Agricultural tourism shall be defined as "U-Pick" activities, harvestable crop mazes, hayrides, and agricultural educational tours conducted on-farm to promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding, awareness and enjoyment of farming and farm life.

AGRICULTURE-RELATED PRODUCTS

Clothing and souvenir items that promote the farm or locally grown produce.

ALIENATION

The transfer of any development right in real property from the County to another.

ALL-TERRAIN VEHICLE

Any self-propelled vehicle which is manufactured for sale for operation primarily on off-highway trails or for off-highway competitions and only incidentally operated on public highways, provided that such vehicle does not exceed 70 inches in width or 1,000 pounds of dry weight, as defined in the New York State Vehicle and Traffic Law, as may be amended. All-terrain vehicles shall not include agricultural vehicles nor any vehicles used for law enforcement, fire, emergency or military purposes.

ALTERNATIVE ENERGY SYSTEM

A solar energy system, wind energy system or other renewable energy transduction system intended to reduce on-site nonrenewable energy consumption.

BUILDING

Any building, as defined in § 372 of the New York State Executive Law, as may be amended, such as barns, farm stands and greenhouses.

COMMERCIAL EQUINE OPERATION

A commercial equine operation as defined in § 301 of the New York State Agriculture and Markets Law, as may be amended.

[Added 3-27-2012 by L.L. No. 25-2012]

COMMERCIAL HORSE BOARDING OPERATION

A commercial horse boarding operation as defined in § 301 of the New York State Agriculture and Markets Law, as may be amended.

COMMITTEE

The Suffolk County Farmland Committee.

COUNTY

The County of Suffolk.

DIVISION [DEPARTMENT]

The Suffolk County Division of Planning and Environment within the Department of Economic Development and Planning, which shall administer the Purchase of Development Rights Program.

DEVELOPMENT RIGHT

As authorized by § 247 of the New York State General Municipal Law, as may be amended, the permanent legal interest in the use of the subject property, the permanent legal right to permit and require the use of the subject property for agricultural production and the permanent legal right to limit, prohibit and restrict the use of the subject property to agricultural production, except where specified in this chapter.

FARM OPERATION

A single commercial agricultural operation, a single commercial horse boarding operation, a single commercial equine operation or an enterprise that combines a single commercial agricultural operation, [with] a single commercial horse boarding operation, and/or a single commercial equine operation, including all parcels, contiguous and/or

noncontiguous, that are owned and/or rented for the production, preparation and marketing of agricultural products for said operation.

[Amended 3-27-2012 by L.L. No. 25-2012]

FARM STAND

A structure for retail sales of agricultural products grown on the premises and processed agricultural products, such as cheese, jam and wine, derived from agricultural products grown on the premises. Retail sales also may include locally-grown agricultural products grown off the premises, [and] processed agricultural products derived from agricultural products locally-grown off the premises, and agriculture-related products subject to the limitations specified herein. [Only agricultural products and processed agricultural products shall be offered for sale at a farm stand.]

GREENHOUSE

A structure specifically designed, constructed and used for the culture and propagation of agricultural products. Temporary structures, such as hoop layers, that do not exceed a height of three feet six inches and do not require or result in the alteration of the property grade shall not be regulated by this chapter.

GROSS SALES VALUE

The proceeds from the sale of agricultural products and processed agricultural products. For the purposes of this chapter, receipts collected in the operation of a commercial horse boarding operation and/or in the operation of a commercial equine operation may be included in the gross sales value.

HAZARDOUS WASTE

Those wastes identified or listed in regulations promulgated pursuant to § 27-0903 of the New York State Environmental Conservation Law, as may be amended.

INTEREST or RIGHT

All legally recognized interests and rights in real property.

LANDSCAPE SCREEN

Any vegetative screen such as a hedgerow, excluding agricultural crops, that obscures the agricultural land from view. Only landscape screens planted and maintained in accordance with standard agricultural practices, the contract of sale, the deed of development rights and this chapter, as determined by the Committee, shall be permitted.

LOCALLY GROWN

A product grown in the County of Kings, Nassau, Queens or Suffolk, in the State of New York.

LOT COVERAGE

The total floor area used for buildings, display areas and parking areas divided into the total lot area, expressed as a percentage. The total lot area shall only include agricultural lands to which the County has acquired development rights under the Purchase of Development Rights Program and shall not include any land where the development rights are intact or any land to which the County does not own any interest or right.

PERSON

Any individual, partnership, firm, association, trust, company, joint venture or corporation.

PREMISES

All parcels that constitute the farm operation.

PROCESSING

The conversion of locally-grown crops and locally-raised livestock [and other goods] into any form or condition other than the natural form by subjecting the item to any procedure or technique, including, but not limited to, slaughter, milling, fermentation, cooking or juicing.

PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

The official name of the program by which the County may purchase the development right(s), in whole or in part, to properties used for agricultural production, as established and outlined by this chapter.

[**PURCHASE OF DEVELOPMENT RIGHTS PROGRAM SIGN]**

[A sign provided by the Department, which may be posted on agricultural land, for the purpose of educating the public about and promoting participation in the Purchase of Development Rights Program.]

RESIDUAL RIGHT

All legally recognized interests and rights in real property, excluding development rights.

SITE DISTURBANCE

Any physical alteration of agricultural land, including, but not limited to, dredging, excavation, filling, grading and/or soil removal. Standard agricultural practices, including, but not limited to, crop harvesting and tilling, shall not be considered site disturbances. Only site disturbances necessary for agricultural production, for the operation of a commercial horse boarding operation and/or for the operation of a commercial equine operation, as determined by the Committee, shall be permitted.

SOIL

The unconsolidated mineral and organic material creating the topsoil and subsoil layers, including, but not limited to, sand, silt, clay and organic matter, that serves as a natural medium for the growth of plants.

SOLAR ENERGY SYSTEM

A solar energy transduction system, wherein sunlight is used to produce electricity using photovoltaic technology and/or to heat water using solar thermal collection technology. Such transduction systems are intended to reduce on-site nonrenewable energy consumption.

SOLID WASTE

Any unwanted and/or discarded material from agricultural, commercial, industrial, institutional, mining and/or residential sources, including, but not limited to, durable goods, nondurable goods, yard trimmings, stones, rubble, construction and demolition debris, garbage, rubbish, litter, ash or other substance described as solid waste in Title 6 of the New York Codes, Rules and Regulations, Part 360, as may be amended. Materials used as livestock bedding or as fertilizer supplements and/or soil conditioners or used in other manners pursuant to standard agricultural practices shall not be deemed solid waste.

SPECIAL EVENT

Any occasion, wedding, catered event or activity conducted on agricultural land, with or without an admission fee, and held on a one-time [or intermittent] basis [that does not constitute agricultural production, as determined by the Committee.] Only special events consisting of agricultural education or the sale, marketing, production, harvesting or use of agricultural products, as determined by the Committee, shall be permitted.

SPECIAL USE PERMIT

Written permission, issued by the Committee to:

A. Conduct a site disturbance; and/or

B. Conduct a special event.

STRUCTURE

Any improvement constructed or erected which requires location in, on or under the ground or attachment to something having a location in, on or under the ground, including, but not limited to, farm stands, greenhouses, processing facilities, [access roadways] alternative energy systems, berms, buildings, [driveways, fences, greenhouses] irrigation pumps, landscape screens, parking areas, signs, fences, and utilities [and walkways]. This definition shall not include the following so long as they are constructed or erected in accordance with standard agricultural practices, as determined by the Committee: permeable farm roads and walkways, and trellis systems.

TEMPORARY STRUCTURE

Any structure as defined herein that is erected and in use for less than 90 days. Temporary structures erected for special events shall be removed immediately following the termination of the special event. Hoop layers that do not exceed a height of three feet six inches and do not require or result in the alteration of the property grade shall not be regulated by this chapter.

UTILITIES

Any overhead, surface or underground equipment such as a transmission line, pole, wire, pipe, well, drainage system or septic system necessary for the supply of electricity, natural gas and/or water, for the mitigation of stormwater runoff, for the removal of sanitary sewage effluent and/or for communication purposes. Only utilities necessary for the farm operation, farm stand or processing facilities shall be permitted. In addition, all utilities infrastructure shall be subordinate to the agricultural use of the agricultural land.

WIND ENERGY SYSTEM

A wind energy transduction system, wherein kinetic wind energy is converted into electricity or mechanical energy using a wind turbine, a tower and associated equipment. Such transduction systems are intended to reduce on-site nonrenewable energy consumption.

§ 8-3. Applicability.

This chapter shall be applicable to all agricultural lands to which the County has acquired interests or rights, in whole or in part, under the Purchase of Development Rights Program. This chapter shall not apply to nonagricultural lands acquired as open spaces or open areas for the purpose of preserving active parkland, passive parkland, woodlands and/or wetlands and shall not apply to farmlands to which the County does not own any interest or right.

§ 8-4. Farmland Committee.

A. Established. The Committee is hereby constituted as a continuing agency of the County government.

B. Membership.

(1) The Committee shall consist of 19 members, nine of whom shall be appointed by the Suffolk County Executive with the approval of the Suffolk County Legislature and shall serve at the pleasure of the Suffolk County Executive and 10 of whom shall be designated

one from each town within the County and shall serve at the pleasure of the respective town boards.

(2) The Committee may invite any government officials, agricultural advocates and/or others with technical expertise to participate in its deliberations in a nonvoting capacity or otherwise assist it in discharging its functions under this chapter.

C. Financial disclosure. Each Committee member shall submit the financial disclosure statement that is annexed as Exhibit "A" to Chapter 77 of the Suffolk County Code. Committee members shall submit this disclosure statement to the Suffolk County Ethics Commission, or any successor body, by May 15 of each year.

[Amended 10-11-2011 by L.L. No. 54-2011]

D. Composition.

(1) The Suffolk County Executive shall appoint nine members as follows: the Suffolk County Economic Development and [Workforce Housing] Planning Department Commissioner, or his/her designee; [the Suffolk County Environment and Energy Department Commissioner, or his/her designee; the Suffolk County Health Services Department Commissioner, or his/her designee;] the Suffolk County [Planning Department Director] Division of Planning and Environment Director, or his/her designee; and seven [five] members at large subject to the [criteria set forth in Subsection E(3) of this section] following criteria:

(a) At least one member shall be an individual with a background or expertise in the cultivation of edible crops, including, but not limited to, vegetables, fruits, berries, tree nuts, herbs, and spices;

(b) At least one member shall be an individual with a background or expertise in livestock and livestock products;

(c) At least one member shall be an individual with a background or expertise in the cultivation of ornamental, horticulture and nursery crops;

(d) At least one member shall be an individual with a background or expertise in viticulture;

(e) At least one member shall be an individual with a background or expertise in organic agriculture; and

(f) Two members may be appointed from the public at large.

(2) The 10 town designees shall be certified to the Clerk of the Suffolk County Legislature by the Town Clerk of the respective towns. Each member shall be subject to the criteria set forth in Subsection E of this section.

(3) The [Director of the Suffolk County Planning Department] Division of Planning and Environment Director, or his/her designee, shall serve as Chairman of the Committee commencing on January 1, 2012, and continuing thereafter.

(4) The Committee may appoint [three] four advisors, one from each of the following, to participate in the Committee's deliberations in a nonvoting capacity or otherwise assist the Committee in discharging its functions under this chapter: the Suffolk County Health Services Department Commissioner, or his/her designee; the Natural Resources Conservation Service or the Suffolk County Soil and Water Conservation District, Cornell Cooperative Extension and a farm advocacy group.

E. Eligibility.

(1) The [four] two Suffolk County Executive appointees from County departments, as specified in § 8-4D(1) of this chapter, shall not be subject to the eligibility requirements specified herein.

(2) A Committee member shall be a resident of the County or an employee of a municipality in the County at the time of his/her appointment and throughout the duration of his/her term as a member of the Committee.

[(3) The five at-large members appointed by the Suffolk County Executive shall meet the following criteria:

(a) At least three members shall be individuals with a background or expertise in agriculture; and

(b) Two members may be appointed from the public at large.]

([4]3) The Committee members designated by the towns shall have diverse backgrounds or expertise in areas including, but not limited to, agriculture, municipal planning, natural resources management, ecology, land use litigation, land use regulation, environmental law, tax law and/or real estate. All designees shall have a general understanding of agricultural practices.

([5]4) A member of the Committee shall continue to satisfy the requirements of this section with respect to eligibility for appointment to the Committee throughout the duration of his/her term.

([6]5) In order to continue to serve as a member of the Committee, the member shall have attended at least 75% of the meetings held by the Committee on an annual basis. Absences from such meetings caused by death in the immediate family of the member (i.e., spouse, children, parents, brothers, sisters, in-laws and/or grandparents), caused by a verifiable illness or caused by a verifiable accident shall not be counted for the purpose of this attendance calculation.

(6) If a vacancy occurs in any town position for any reason, including but not limited to expiration of term, absence or resignation and the Town does not certify a member within 90 days of notice from the County Executive, the County Executive shall fill the vacancy for the remainder of the term or four years if the term has expired. The County Executive appointee must reside in the Town where the vacancy exists.

F. Terms.

(1) An existing Committee member, as of January 1, 2010, shall continue to serve until such time as the individual voluntarily vacates the position or until such time as the appropriate appointing body approves a resolution replacing the individual.

(2) Each successive appointment shall be for a term of four years, and no member shall serve more than three terms, for a maximum of 12 consecutive years of service, except each member appointed as per § 8-4D(1)of this chapter, whose term will run concurrent to service in the title specified.

(3) Any member appointed under this chapter shall serve through the term to which he/she is appointed.

(4) Any appointments made to fill a terminated, expired or vacated position shall be made in accordance with the provisions of this chapter.

G. Authority. The Committee shall have and be entitled to exercise the following powers and duties:

(1) To recommend to the Suffolk County Legislature farmlands from which development rights may be acquired;

(2) To review requests to subdivide the residual right(s) of agricultural lands and to make, thereafter, a recommendation to the Suffolk County Legislature whether such requests be granted;

(3) To review permit applications in accordance with the criteria set forth in this chapter and the rules and regulations promulgated thereunder and to make, thereafter, a decision whether or not to issue a permit and the terms and conditions that should apply;

(4) To determine what constitutes standard agricultural practices;

(5) At the first Committee meeting of the calendar year, in order to expedite the processing of applications, the Committee may introduce a list of minor and routine agricultural practices whose permitting review and determination shall be delegated to the Division. These practices may include, but are not limited to, livestock fencing, deer fencing, irrigation wells, etc. The Committee shall issue guidelines and standards as they deem necessary and proper for the review and determination of these minor and routine practices to Division staff. The list of these minor and routine agricultural practices, and their permitting standards, shall be introduced as resolutions and voted upon at the subsequent Committee meeting. If passed via resolution the permitting review and determination for this practice shall be delegated to staff for two years. The Committee cannot delegate any additional permitting review responsibilities to the Division during these two years but can, if it deems it appropriate, re-assume permitting review and determination. The Division may, if it deems it appropriate, refer any single application back to the Committee for approval. Any applicant denied by the Division may, upon written request, have the matter referred to the Committee.

(6) To provide guidance and recommendations on matters relevant to development rights, farmland conservation and the agricultural economy;

(7) To promulgate such rules and/or regulations as may be necessary to carry out the intent of this chapter and to govern the administration and functions of the Committee;

(8) To establish and adopt written guidelines and property rating systems;

(9) To cooperate with, at the discretion of the Committee, any governmental agents and/or any experts to further the purposes of this chapter; and

(10) To perform other duties at the request of the Suffolk County Legislature, the Suffolk County Executive and/or the [Department] Division.

H. Meetings.

(1) Schedule. The Committee shall hold an organizational meeting not later than the 15th day of February of each year. At such meeting, the Committee shall adopt a schedule of meetings for that year. The Committee may amend the adopted schedule as necessary.

(2) Open meetings. Committee meetings shall be open to the general public and shall have an opportunity for public comments.

(3) Quorum. A majority of the total membership of the Committee shall constitute a quorum thereof.

(4) Required vote for action. Resolutions of the Committee shall be adopted by a vote of not less than the majority of the total membership of the Committee.

§ 8-5. Acquisition of development rights.

A. Application Bi-Annual Review Process. [Annual review] A Bi-Annual [annual] review period shall be designated in order to maximize the County's financial resources while preserving its valuable natural resources, including, but not limited to, its viable agricultural soils and sole-source aquifer.

(1) Review of new parcels.

(a) New parcels shall include those parcels that have never been reviewed by the Committee for inclusion in the Purchase of Development Rights Program; those parcels whose approval by the Suffolk County Legislature for planning steps under the Purchase of Development Rights Program has expired; or those parcels that were denied by the Committee and/or the Suffolk County Legislature for inclusion in the Purchase of Development Rights Program but for which a substantive change in the preservation proposal has occurred, as determined by the Committee.

(b) Each landowner of a new parcel interested in participating in the Purchase of Development Rights Program shall submit an application to the [Department during the month of September] Division in order to be considered for the Program.

(c) Each complete application received by the [Department during September] Division by the last day of January shall be considered by the Committee at [the first Committee meeting of the subsequent year.] its March meeting or subsequent meeting held after March. Each complete application received by the Division by the last day of July shall be considered by the Committee at its September meeting or subsequent meeting held after September.

(d) Within five years of rejecting the County's offer or expiration of the County's offer, the landowner may re-submit an application but the landowner must bear the expense incurred by the County associated with the application process including but not limited to: surveys, title searches, appraisals, and environmental assessments. Furthermore, the landowner will be required to follow the bi-annual review process in the same manner as a new parcel outlined in this section. After five years of rejecting the County's offer or expiration of the County's offer, the landowner can re-submit an application free-of-charge.

[1] In the case of a landowner death, the surviving tenant by the entirety or devisee can resubmit a parcel application within the five year window without bearing the expenses incurred by the County.

([d]e) Applications may be considered by the Committee outside of the Bi-Annual review period if there is a necessity for review, such as estate concerns resulting from the sudden death of the landowner(s) or financial hardship resulting from crop failure or similar imperative, and if the proposed preservation is consistent with the applicable County, town and/or village comprehensive plans and/or agricultural and farmland protection plans. In addition, a referral made by a Suffolk County Legislator, a town or village within the County and/or a not-for-profit conservation organization may be considered outside of the Bi-Annual review period, provided that the proposed preservation is consistent with the applicable County, town and/or village comprehensive plans and/or agricultural and farmland protection plans.

[(2) Review of pending parcels.

(a) Pending parcels shall include those parcels that have been approved by the Suffolk County Legislature for planning steps under the Purchase of Development Rights Program, excluding those parcels whose approval by the Suffolk County Legislature for planning steps under the Purchase of Development Rights Program has expired, those that are in negotiation, those that are in contract and those from which development rights have been acquired.

(b) The Committee shall consider all pending parcels at the first Committee meeting of the year.

(3) Preservation priority list.]

(2) Comprehensive Master List for Farmland.

(a) Every six months [Each year] the Committee shall establish a [preservation priority list] Comprehensive Master List that prioritizes all of the [new and pending] parcels the Committee

recommends for inclusion in the Purchase of Development Rights Program. It will not include parcels that are in negotiations, that are in contract or that have been approved for acquisition by resolution of the County Legislature.

(b) The Committee shall prioritize the parcels in a manner that maximizes the County's financial resources while protecting the County's most significant agricultural resources.

(c) The [preservation priority list] Comprehensive Master List shall be recommended to the Suffolk County Executive and Suffolk County Legislature [not later than the 15th day of February of each year] following the Farmland Committee's March meeting or its subsequent meeting, as well as following the Farmland Committee's September meeting, or its subsequent meeting.

[(d) Upon adoption of the preservation priority list by the Suffolk County Legislature, the Real Property Acquisition and Management Division of the Suffolk County Environment and Energy Department shall conduct its outreach and negotiations in accordance with the established list, which shall replace all existing farmland preservation priority lists.

(e) The Committee may recommend to the Suffolk County Executive and Suffolk County Legislature amendments to the adopted preservation priority list not more than two times per year.

(f) In the event that the preservation priority list is not adopted, the preservation priority list from the prior year shall remain in effect until such time as a new list is adopted.]

B. Acquisitions.

(1) The County shall have the authority to purchase the development right(s) to a parcel, in whole or in part, upon approval of the Suffolk County Legislature and subject to the provisions of this chapter.

(2) Criteria for consideration. Only lands able to sustain an economically viable commercial agricultural enterprise, as determined by the Committee, shall be considered for inclusion in the Purchase of Development Rights Program. Land eligible for inclusion shall either be used in agricultural production, in support of a commercial horse boarding operation, or in support of a commercial equine operation and shall meet the following criteria:

[Amended 3-27-2012 by L.L. No. 25-2012]

(a) Commercial agricultural operation.

[1] All development rights to the subject land shall be intact.

[2] The subject land shall be actively used in agricultural production.

[3] The subject land shall be at least seven acres and the associated farm operation shall have an average annual gross sales value of at least $10,000, or the subject land shall be less than seven acres and the associated farm operation shall have an average annual gross sales value of at least $50,000.

(b) Commercial horse boarding operation.

[1] All development rights to the subject land shall be intact.

[2] The subject land shall be actively used in support of a commercial horse boarding operation.

[3] The subject land shall be at least seven acres and the associated farm operation shall have an average annual gross sales value of at least $10,000.

(c) Commercial equine operation.

[1] All development rights to the subject land shall be intact.

[2] The subject land shall be actively used in support of a commercial equine operation.

[3] The subject land shall be at least seven acres and the associated farm operation shall have an average annual gross sales value of at least $10,000.

(3) The Committee shall demonstrate a preference for farm operations that promote agricultural production while protecting groundwater, soils and viewsheds. [The Committee shall limit its recommendations for acquisitions of farm operations that undermine the long-term viability of such natural resources as the Nassau Suffolk sole source aquifer, prime farmland, farmland of statewide importance, unique farmland, etc.]

C. Restrictions, conditions or encumbrances. When the County acquires title to a development right(s) with funds received from the federal, state or local governments or from private sources, such title may be acquired subject to restrictions, conditions or encumbrances required as a result of the funds received. Such restrictions, conditions or encumbrances may include, but are not limited to, a reverter interest held by the source of funds. Such restrictions and conditions shall be reviewed by the Suffolk County Attorney. Acceptance of such funds and the terms and conditions for acceptance shall be subject to legislative approval.

D. Title. Where the County acquires the development right(s) through the Purchase of Development Rights Program, which conditions said acquisition upon the financial participation of a governmental entity or other private source, the title may be held by:

(1) The County;

(2) The County, governmental entity(ies) and/or not-for-profit conservation organization(s) as tenants in common, each on an undivided pro-rata interest to the extent of the financial participation stipulated in the legislation authorizing the respective County acquisition or acquisition program; or

(3) The County, governmental entity(ies) and/or not-for-profit conservation organization(s), by physically dividing the property up between the County, governmental entity(ies) and/or not-for-profit conservation organization(s), with the County owning all of the development rights (and/or interests) in its respective portion of the property, with the governmental entity(ies) owning all of the development rights (and/or interests) in its (their) respective

portion(s) of the property and with the not-for-profit conservation organization(s) owning all of the development rights (and/or interests) in its (their) respective portion(s) of the property.

E. Management agreement. If it is not contrary to any statute, the Suffolk County Charter, this chapter or any other local law, any regulation or other County policy, the County is hereby authorized to negotiate and to enter into management agreements with governmental entities and not-for-profit conservation organizations for the management of said County acquisition(s), and the terms and conditions thereof shall be approved by the Suffolk County Attorney in consultation with the Suffolk County [Planning Department] Division of Planning and Environment Director.

§ 8-6. Alienation of development rights.

A. Unless authorized by local law recommended by the Committee and approved upon mandatory referendum, development rights acquired by the County to agricultural lands shall not be alienated in any manner, except where provided herein.

B. In determining whether to recommend the alienation of development rights, the Committee shall take into consideration:

(1) The continuing practicality of the use of the residual right(s) to the land(s);

(2) The development rights which have been acquired by the County;

(3) Such factors as the uses to which adjacent lands have been put; and

(4) The necessity for the use of the land(s) for another governmental purpose.

§ 8-7. Notification requirements.

A. Change of address. The agricultural landowner shall notify the Division [Department] if the land is to be leased to another party and provide the agricultural land lessee's name and address. The agricultural landowner and agricultural land lessee shall notify the Division [Department] of any change of address for receipt of mail or service of process in writing within 30 days of a change of address.

B. Change in ownership. The agricultural landowner, seller shall notify the Division [Department] of the intention to sell the residual right(s) to the agricultural land and provide the name and address of the intended purchaser in writing 45 days prior to the closing of a sale of the residual right(s) to land(s) for which the County has purchased, in whole or in part, the development right(s).

§ 8-8. Permits.

A. Permit types.

(1) Agricultural development permit. An agricultural development permit shall be necessary for the following actions, where proposed on agricultural land:

(a) To erect a structure, including temporary structures;

(b) To install a structure, including temporary structures;

(c) To locate and/or relocate a structure;

(d) To modify an existing structure, except de minimis alterations such as the replacement of doors on an existing structure;

(e) To rebuild a structure, including temporary structures;

(f) To remove and/or demolish an existing structure;

(g) To operate an alternative energy system; [and/or]

(h) To operate a farm stand;

(i) To operate a processing facility; and/or

(j) To create a permeable parking area.

(2) Special use permit. A special use permit shall be necessary for the following actions, where proposed on agricultural land:

(a) Site disturbances.

[1] Such permit shall be necessary for all site disturbances on agricultural lands.

[2] Only site disturbances associated with standard agricultural practices, drainage improvements and/or agricultural development permits, as determined by the Committee, shall be permitted on agricultural land.

(b) Special events.

[1] Such permit shall be necessary to conduct a special event where proposed on agricultural land.

[2] A maximum of one special event may be held each calendar year per farm operation.

[3] No special event shall exceed two days of operation.

[4] No special event shall adversely impact the viability of the agricultural operation and/or the associated natural resources, as determined by the Committee.

[5] All catered events shall be considered a special event and are subject to special event permitting through the Committee.

B. Permit requirements and limitations.

(1) An agricultural development permit shall be obtained by the agricultural landowner or agricultural land lessee with approval of landowner prior to commencement of construction activities, including clearing, regrading or other site preparation necessary for constructing,

placing, modifying or demolishing a structure. Failure to comply with the permit requirements specified herein shall be subject to the provisions of § 8-15 [14]of this chapter.

(2) A special use permit shall be obtained by the agricultural landowner or agricultural land lessee with approval of landowner prior to commencement of site disturbance activities. Failure to comply with the permit requirements specified herein shall be subject to the provisions of § 8-15 [14] of this chapter.

(3) A special use permit shall be obtained by the agricultural landowner or agricultural land lessee with approval of landowner prior to any site preparation activities for a special event. Failure to comply with the permit requirements specified herein shall be subject to the provisions of § 8-15 of this chapter.

(4) An agricultural development permit does not relieve the agricultural landowner and/or agricultural land lessee from compliance with federal, state and local regulatory and/or zoning ordinances.

(5) A special use permit does not relieve the agricultural landowner and/or agricultural land lessee from compliance with federal, state and local regulatory and/or zoning ordinances. Compliance with all health and safety codes shall be required in connection with any special events.

C. Exception to permit requirement. The agricultural landowner and/or the agricultural land lessee shall not be required to obtain a permit for an activity or structure that is existing and in compliance with the provisions of this chapter, the contract of sale and the deed of development rights on the effective date of these amendments. Any modifications to the preexisting, conforming activity or structure shall be subject to the permit requirements specified in this chapter.

D. Permit application procedures.

(1) Applications for permits or permit modifications shall be submitted to the Division [Department] two weeks before the Committee meeting at which the application will be heard, unless a later filing is approved by the Division [Department]. Applications shall include:

(a) An application form, where required;

(b) The name, address and telephone number of the applicant, and if an agent will be representing the applicant, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant;

(c) The name, address and telephone number of the agricultural landowner, and if the agricultural landowner is not the applicant, the application shall include a letter or other written permission signed by the agricultural landowner:

[1] Confirming that the agricultural landowner is familiar with the application; and

[2] Authorizing the submission of the application;

(d) The physical address of the subject parcel;

(e) The Suffolk County Real Property Tax Map Number (i.e., district, section, block and lot) of the subject parcel;

(f) A site plan delineating the location of the proposed development and/or the proposed event, which the Committee may require be prepared by a licensed surveyor or other professional;

(g) A nonrefundable application fee, where required; and

(h) Any other information requested by the Division [Department] and/or Committee that may be necessary to review the proposal.

(2) Applications for permits or permit modifications may be referred to another agency such as the [Natural resources Conservation Service] Suffolk County Soil and Water Conservation District for expert advice.

(3) Only complete applications, as determined by Division staff, may be referred to the Committee for approval.

(4[3]) The Committee may approve, approve with conditions, deny or deem incomplete an application.

[(4) Only complete applications, as determined by the Committee, may be approved.]

(5) The agricultural landowner shall record the agricultural development permit and/or special use permit, including applicable conditions, with the Suffolk County Clerk if such recording is required by the Committee. Failure to comply with this requirement shall be subject to the provisions of § 8-15[14] of this chapter.

(6) The agricultural landowner shall submit the "as-built" plans associated with an agricultural development permit and/or special use permit, where required by the Committee, to the Division [Department] within one year of permit issuance. The agricultural landowner may submit in writing a request to extend the time frame within which this requirement must be completed. Failure to comply with this requirement shall be subject to the provisions of § 8-15[14] of this chapter.

E. Permit issuance criteria. Permit issuance shall be subject to the following conditions:

(1) The agricultural landowner and the agricultural land lessee, if applicable, shall be otherwise in compliance with this chapter;

(2) The proposed action shall not alienate the development right(s) acquired by the County in any manner;

(3) The proposed action shall be consistent with the intent and provisions of this chapter;

(4) The proposed action shall be consistent with all adopted Committee guidelines;

(5) The proposed action shall promote agricultural production <u>or agricultural tourism;</u>

(6) The proposed action shall not negatively impact the agricultural land's short-term and/or long-term viability for agricultural production;

(7) The proposed action shall not negatively impact the value of the agricultural land;

(8) The proposed action shall not undermine the short-term and/or long-term viability of the natural resources;

(9) The proposed action shall be approved in such a manner, with applicable conditions, as to limit the negative impacts to soils, water (both groundwater and surface waters) and viewsheds;

(10) The proposed action shall not result in a significant negative impact to any adjacent property that is not consistent with standard agricultural practices;

(11) The proposed action shall be approved in such a manner that minimizes, to the extent possible, all other negative impacts; and

(12) The proposed action shall be consistent with expert recommendations, where sought by the Committee.

F. Permit fees.

(1) Application fee. A nonrefundable fee in the amount of $100 shall be submitted with each application for a permit.

(2) The application fee shall be waived if the application is exclusively for:

<u>(a) Permission to remove or demolish an existing structure, in whole or in part.</u>

[(a) Permission to install a Purchase of Development Rights Program sign;

(b) Permission to install a landscape screen;

(c) Permission to install, relocate, modify or extend a fence structure; or]

(3) Public hearing fee. A fee in the amount of $500 shall be submitted with each application for which a public hearing is required. The fee shall be refundable if the application is withdrawn and the public hearing has not been advertised. If the public hearing has been advertised but the application is withdrawn prior to the public hearing, the applicant shall be entitled to a refund of 1/2 of the public hearing fee.

(4) Failure to submit the required fee(s) shall deem the application incomplete.

§ 8-9. Permit conditions.

A. General conditions. Permits shall contain such reasonable conditions as the Committee deems necessary to protect the agricultural land.

B. Covenants and restrictions. Where it deems appropriate and necessary, the Committee may condition the issuance of an agricultural development permit and/or special use permit upon the agricultural landowner's execution of a restrictive covenant, or other instrument acceptable to the Division [Department]. The restrictive covenant or other instrument shall be recorded in the Office of the Suffolk County Clerk prior to permit issuance and not later than 60 days from the date of the Committee's approval. Failure to file said restrictive covenant in accordance with the above shall render the approval null and void and may be subject to the provisions of § 8-15[14] of this chapter.

C. Continuing obligations. The agricultural landowner and/or agricultural land lessee shall have a continuing obligation to maintain all improvements authorized by and to abide by all conditions imposed by a permit, including compliance with all provisions of this chapter.

D. Noncompliance. The failure to comply with any and all conditions of an agricultural development permit and/or special use permit shall be deemed a violation of this chapter, subject to the penalties provided in § 8-15 of this chapter. In addition, the County reserves the right to rescind or revoke, in whole or in part, such permit.

E. Modifications of permits and restrictive covenants. All requests for modifications of conditions of permits or restrictive covenants must be made through the Committee in accordance with § 8-8D.

F. Expiration. All agricultural development permits shall expire within one year of issuance unless the authorized improvements have been commenced; a building permit, where required by the local town or village, has been secured by the agricultural landowner; or the Committee has granted the agricultural landowner an extension. Any request for an extension shall be made in writing to the Committee by the agricultural landowner. Only one extension per permit application may be granted by the Committee. No extension may be granted for a duration greater than one year. Requests for extension shall not be subject to the permit fee requirements specified in this chapter.

§ 8-10. Lot coverage.

A. Maximum lot coverage. The lot coverage of agricultural lands shall not exceed the following:

Parcel Area (acres)	Maximum Lot Coverage
0 to 25	15%
25 to 50	12.5%
More than 50	10%

B. Further limitations. The maximum lot coverage set forth in Subsection A does not create a right to construct buildings, display areas or parking areas up to the limits imposed. All

proposed development must be for the express purpose of supporting agricultural production, a commercial horse boarding operation and/or a commercial equine operation, as set forth in this chapter. The Committee may limit lot coverage to an amount less than the maximum lot coverage as it deems necessary to carry out the purposes of this chapter.

C. Relief. In the event of hardship, the Committee shall have the authority to approve, in whole or in part, or disapprove all agricultural development permit applications for buildings that would result in a lot coverage that exceeds the maximum lot coverage specified in Subsection A of this section. In no case shall the lot coverage exceed 25%. All approvals shall be subject to ratification by the Environment, Planning and Agriculture Committee (EPA), or successor committee, of the Suffolk County Legislature.

(1) Relief process. The Committee shall conduct a public hearing. Upon closing the public hearing, the Committee shall determine whether or not a hardship exists. If a hardship does not exist, the Committee shall disapprove the application. If the Committee makes a determination that a hardship exists, the Committee shall approve, in whole or in part, or disapprove the application. The Committee shall refer all approvals to the EPA for consideration and ratification. The EPA shall have the authority to ratify, ratify with conditions, or reject the application. Upon ratification by the EPA, the Committee shall issue an agricultural development permit specifying any and all necessary conditions. Failure of the EPA to ratify the Committee's approval shall deem it null and void.

(2) Public hearing notice requirements. Written notice of the public hearing shall be provided to all property owners within 500 feet of the subject parcel, to the municipality in which the property is located and to the Suffolk County Legislature. Notice shall be sent or delivered at least 10 days prior to the public hearing. In addition, notice of the hearing shall also be published in the official newspaper(s) of the County at least 10 days prior to the public hearing.

(3) Criteria for relief. In making its determination, the Committee shall take into consideration the benefit to the applicant if the agricultural development permit is approved, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such approval. In making such determination, the Committee shall also consider:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by approving the agricultural development permit;

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the agricultural development permit as proposed;

(c) Whether the requested relief is substantial and the extent to which the maximum lot coverage would be exceeded;

(d) Whether the proposed relief will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Committee, but shall not necessarily preclude the granting of the agricultural development permit.

(4) Extent of relief. The Committee, in the granting the approval, shall grant the minimum lot coverage that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(5) Imposition of conditions. The Committee shall, in approving the relief and the agricultural development permit, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the premises. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such approval may have on the neighborhood or community.

§ 8-11. Agricultural Tourism.

A. Purpose. Agricultural tourism promotes agricultural education and gives the public the opportunity to experience agricultural activities first-hand. Agricultural tourism can enhance the long-term economic viability of agricultural production by providing an additional source of on-the-farm revenue. Agricultural tourism must be accessory to the primary purpose of agricultural production. Catered events shall not be considered agricultural tourism.

B. Permits.

(1) Only the following specifically enumerated agricultural tourism activities are allowed on agricultural lands. The following activities, in conjunction with an active farming operation, shall be considered components of agricultural production and are not subject to the Committee permitting process:

a) “U-Pick” operations with produce such as, but not limited to, strawberries, raspberries, blueberries, pumpkins. “U-Pick” activities can only be offered for produce grown on the farm operation. Produce grown off-premises cannot be imported to the agricultural lands for the purposes of “U-pick” operations;

b) Crop mazes. Crop mazes must be made from a harvestable commodity such as corn stalks or sunflowers that are harvested on a regular basis. Mazes of a permanent nature are not permitted;

c) Hayrides;

d) Agricultural educational tours, such as vineyard tours. Only sampling of products grown or processed on the farming operation is allowed on an agricultural educational tour.

(2) Agricultural tourism activities that require the installation of a temporary structure or the modification within the footprint of an existing structure are subject to the Committee permitting process as specified in § 8-8. Agricultural tourism structures can only be temporary in nature and must be associated with allowable agricultural tourism activities as listed in § 8-

11 B (1). Temporary structures shall count towards the parcel area's maximum lot coverage as specified in § 8-10 of this chapter. No permanent agricultural tourism structures are permitted on premises.

C. Parking. Permeable parking areas for agricultural tourism may be permitted as necessary, subject to the agricultural development permit requirement specified in § 8-8 of this chapter. Parking areas shall count towards the parcel area's maximum lot coverage as specified in § 8-10 of this chapter.

§ 8-[11]12. Farm Stands and Processing Facilities.

A. Purpose. Farm stands provide farmers with direct outlets to market the agricultural products grown on [agricultural lands] the farm operation as well as locally grown produce. Processing facilities provide farmers with opportunities to convert natural and raw forms of agricultural products grown on a farm operation into a processed agricultural product such as cheese, jam and wine, derived from products grown on the farm operation.

B. Limitations. In no event shall the cumulative floor area of a farm stand and/or processing facility exceed 1,000 square feet of floor area. For purposes of this calculation, a farm stand display area shall not be counted towards this building limit. All proposed development must be for the express purpose of supporting a farm stand operation or processing facility, as set forth in this chapter. The Committee may limit this building coverage to an amount less than the maximum building allowance as it deems necessary to carry out the purposes of this chapter. Farm stands, display areas, processing facility structures and parking shall count towards the parcel area's maximum lot coverage as specified in § 8-10 of this chapter.

[B]C. Permits. The construction, placement, relocation, modification, expansion, demolition and/or operation of a farm stand or processing facility on agricultural lands shall be subject to the agricultural development permit requirements specified in this chapter. The Committee may issue an agricultural development permit for a farm stand structure and/or a processing facility subject to the following conditions:

(1) Farm stands:

(a) Only agricultural products, [and] processed agricultural products, and other agriculture-related products shall be offered for sale at the farm stand. Agricultural products shall include:

i) [In addition to a] Agricultural products grown on [the] premises and processed agricultural products, such as cheese, jam and wine, derived from agricultural products grown on [the] premises. [retail sales also may include goods that are grown off the premises, provided they are locally grown agricultural products or processed agricultural products derived from locally grown agricultural products and are offered for sale in an amount that shall not exceed 40% of the total square footage of the farm stand structure.]

ii)Agricultural products grown off premises may be sold on farm stands, provided they are locally grown agricultural products or processed agricultural products derived from locally grown agricultural products. The total amount of locally

grown products offered for sale must be subordinate to produce grown on the farm operation and shall not exceed 40% of the total square footage of products displayed at the farm stand structure.

iii) Agriculture-related products, including clothing and other souvenir items that promote the farm or locally grown produce, shall be allowed so long as the total sales area does not exceed 10% of the total square footage of products displayed at the farm stand structure.

[(3)](b) The farm stand structure shall not exceed 1,000 [500] square feet and shall be subject to the agricultural development permit specified in this chapter.

[(4)](c) The farm stand operation may include an additional display area which shall not exceed [1,000] 1,500 square feet. Awnings, overhangs, porches and decks attached to the farm stand structure shall count towards the farm stand display area.

[(5)](d) The farm stand structure shall be [semi-permanent and] designed for either seasonal or year round use, [use in growing seasons only] and the installation and maintenance of permanent heating equipment within the farm stand structure is permitted [shall be prohibited].

(e) Storage of agricultural products and processed agricultural products, including cold or climate controlled storage is permitted within the farm stand structure.

(f) The installation of utilities, including any overhead, surface or underground equipment such as a transmission line, pole, wire, pipe, well, drainage system or septic system necessary for the supply of electricity, natural gas and/or water, for the mitigation of stormwater runoff, for the removal of sanitary sewage effluent and/or for communication purposes shall be permitted if necessary and required for the farm stand operation. A special use site disturbance permit is required for the installations of such utilities.

(g) Second floors are not permitted to be built for farm stand structures.

(h) Permeable parking areas for the farm stand may be permitted as necessary, subject to the agricultural development permit requirement specified in § 8-8 of this chapter. Parking areas shall count towards the parcel area's maximum lot coverage as specified in § 8-10 of this chapter.

(i) The farm stand and display areas listed herein shall be constructed and operated in compliance with all applicable federal, state and local legal requirements, including, but not limited to, zoning restrictions and New York State and Suffolk County Department of Health Services regulations.

[(6) The farm stand shall be constructed and operated in compliance with all applicable federal, state and local legal requirements, including, but not limited to, zoning restrictions.

(7) Gravel or dirt parking areas for the farm stand may be permitted as necessary, subject to the agricultural development permit requirement specified in this chapter.]

(2) Processing Facilities:

(a) Processing shall be limited to the processing of on-premises and locally grown agricultural products. No less than 51% of the inputs used in processing must consist of products produced on the farm operation.

(b) The processing structure shall not exceed 1,000 square feet and shall be subject to the agricultural development permit specified in this chapter. However, as set forth in Section § 8-12 (B), the cumulative total floor area of a processing structure and a farm stand structure cannot exceed 1,000 square feet.

(c) Processing structures shall not include display areas.

(d) The modification of an existing structure for processing purposes is permissible, subject to the Committee permitting review.

(e) The installation of utilities, including any overhead, surface or underground equipment such as a transmission line, pole, wire, pipe, well, drainage system or septic system necessary for the supply of electricity, natural gas and/or water, for the mitigation of stormwater runoff, for the removal of sanitary sewage effluent and/or for communication purposes shall be permitted if necessary and required for the processing facility. A special use site disturbance permit is required for the installations of such utilities.

(f) The processing structure listed herein shall be constructed and operated in compliance with all applicable federal, state and local legal requirements, including, but not limited to, zoning restrictions and New York State and Suffolk County Department of Health Services regulations.

C. Conditions. The Committee may impose such additional conditions as it deems necessary to carry out the purposes of this chapter.

§ 8-13[12]. Alternative energy systems.

A. Purpose. Alternative energy systems provide farmers with opportunities to generate safe, efficient, effective and renewable energy on site and diminish the farm operation's dependence on nonrenewable energy sources. All alternative energy systems shall be subordinate to the agricultural use of the agricultural land.

B. Permits. The construction, placement, relocation, modification, expansion, demolition and/or operation of an alternative energy system on agricultural lands shall be subject to the agricultural development permit requirements specified in this chapter. The Committee may issue an agricultural development permit for an alternative energy system subject to the following conditions:

(1) The rated capacity of the alternative energy system shall not exceed 110% of the farm operation's average annual consumption, where annual consumption is the total amount of energy used per annum for those agricultural activities permitted on agricultural lands.

(2) Electricity generated by the alternative energy system shall not be consumed by any residential or other nonagricultural land use nor shall it be consumed by any activity

prohibited on agricultural lands [including, but not limited to, processing] whether or not said use is on the subject parcel, contiguous to the subject parcel and/or under common ownership with the subject parcel, except as stated herein.

C. Connectivity. The alternative energy system may be connected to the utility provider's electricity grid, provided that the rated capacity of the alternative energy system is less than or equal to the standard set forth in Subsection B(1) of this section. In the event that the farm operation changes and the average annual electricity consumption is reduced, the agricultural landowner shall be required to disconnect from the utility provider's grid unless the alternative energy system is modified such that the new rated capacity of the alternative energy system is consistent with the standard set forth in Subsection B(1) of this section.

D. Conditions. The Committee may impose such additional conditions it deems necessary to carry out the purposes of this chapter.

§ 8-14[13]. Prohibitions.

A. Nonagricultural use. No person shall use agricultural lands for any purpose other than agricultural production, except as provided in this chapter.

B. Abandonment of Agricultural Use. Beginning on January 1, 2014, no owner shall leave agricultural land uncultivated and not engage in agricultural production or a commercial horse boarding operation and/or a commercial equine operation, for more than two (2) consecutive years.

[B]C. Mining. Resource extraction, including soil removal, shall be prohibited on all agricultural lands.

[C]D. Dumping. There shall be no dumping on agricultural lands.

[D. Processing. Processing, including the processing of agricultural products, shall be prohibited on agricultural lands.]

E. Solid waste. No solid waste shall be burned or stored on agricultural lands.

F. Hazardous waste. No hazardous waste shall be stored on agricultural lands.

G. Aviation. No aircraft, including, but not limited to, airplanes, helicopters, hot-air balloons and gliders, shall be permitted to land on, hover above or take off from agricultural lands, except where part of standard agricultural practices such as crop dusting or for law enforcement, fire, emergency or military purposes.

H. Vehicles. No vehicles, including all-terrain vehicles, shall be used or stored on agricultural lands except in aiding agricultural production or for law enforcement, fire, emergency or military purposes.

I. Structures. No person shall erect, install, locate, relocate, modify, rebuild, remove or demolish a structure without an agricultural development permit.

J. Farm stands. No person shall operate a farm stand without an agricultural development permit.

K. Processing. No person shall operate a processing facility without an agricultural development permit.

[K]L. Alternative energy systems. No person shall operate an alternative energy system without an agricultural development permit.

[L]M. Driveways, roadways, thoroughfares. No person shall use any driveway, roadway, path or thoroughfare on agricultural land for vehicular access to an adjacent parcel for any purpose other than agricultural production.

[M]N. Parking areas. Asphalt, concrete and all other impermeable parking areas shall be prohibited on agricultural lands.

[N]O. Landscape screens. No landscape screen shall be permitted around fallow agricultural land, except those agricultural lands kept fallow customary to standard agricultural practices.

[O]P. Site disturbances. No person shall conduct a site disturbance, including, but not limited to, dredging, excavation, filling, grading and/or soil removal on agricultural land without a special use permit.

[P]Q. Special events. No person shall conduct a special event on agricultural land without a special use permit.

[Q]R. Contracts. No person shall violate the terms and conditions of the contract of sale, as may be amended, and the deed of development rights, as may be amended.

[R]S. Any nonagricultural activity not explicitly permitted by this chapter shall be prohibited.

§ 8-15[14]. Enforcement.

A. Cease and desist order.

(1) Where a violation of this chapter, the contract of sale and/or the deed of development rights is suspected, the Division [Department] shall cause an investigation to be conducted. If the Division [Department] has reason to believe that a violation of this chapter, the contract of sale and/or the deed of development rights has been committed or exists, the Division [Department] may issue a cease and desist order. The cease and desist order shall be served in person or by certified mail to the agricultural landowner at the address on file with the Division [Department] and, where applicable, the agricultural land lessee. The cease and desist order may direct restoration of the property, removal of structures that are in violation of this chapter, the contract of sale and/or the deed of development rights and such other corrective actions and terms as the Division [Department] finds necessary to protect the County's interest in the agricultural land.

(2) A cease and desist order may be lifted by the Division [Department] upon a finding that the violation has been abated and/or when an application to bring the activity into compliance has been filed and a permit has been issued.

B. Violations. Where it is determined by a court that a violation of any of the provisions of this chapter has been committed or exists, the agricultural landowner, the agricultural land lessee

and any other person who takes part or assists in such violation shall each be deemed guilty of a violation of this chapter.

C. Temporary restraining order and/or injunction.

(1) The County may obtain a temporary restraining order and/or injunction to enforce the provisions of this chapter.

(2) Violation of a temporary restraining order and/or injunction may be punishable as contempt under state laws.

(3) Violation of a temporary restraining order and/or injunction shall constitute a separate violation of this chapter, punishable by penalties in addition to those imposed for the underlying violation for which the temporary restraining order and/or injunction was obtained.

D. Restoration.

(1) The court may compel the agricultural landowner and/or agricultural land lessee to restore agricultural land to a condition suitable for agricultural production where there has been an abandonment of agricultural production or a site disturbance has occurred in violation of this chapter.

(2) Where a violation has resulted in damage to the agricultural resource on agricultural land, the court may order restoration of the agricultural land to the greatest extent possible, regardless of cost.

E. Removal.

(1) The court may compel the agricultural landowner and/or the agricultural land lessee to remove any and all unauthorized structures on agricultural land.

(2) Where a violation has resulted in the erection, installation, location, relocation, modification or demolition of a structure or the operation of an alternative energy system, farm stand and/or processing facility on agricultural land, the court may order the removal of said structure or remains, regardless of cost.

F. Damages. Where a violation of the provisions of this chapter results in damage to the County's interest in the development right(s) and/or the underlying value of the land, the court may award damages to the County equal to the development right(s) purchase price plus compounded interest and an additional amount as would be necessary to purchase the development right(s) to a similar agricultural property, as determined by the County.

G. Civil penalties.

(1) A violation of § 8-14[13] shall be punishable by a civil penalty of up to $5,000 per day, with each day constituting a separate violation.

(2) Any violation which causes a substantial reduction in the viability of the agricultural resource shall be punishable by a civil penalty not more than $10,000 per day, with each day constituting a separate violation. The viability of the agricultural resource may be determined by any reasonable means, including, but not limited to, testimony from any person with demonstrated agricultural expertise.

H. Costs and disbursements. The court may award costs of investigating and enforcing this chapter.

I. Attorneys' fees. The court may award attorneys' fees.

J. No waiver. Failure to take an action to enforce the provisions of the contract of sale, the deed of development rights, this chapter and/or any rules or regulations promulgated thereunder shall neither constitute a waiver nor constitute an agreement to allow the prohibited activity nor constitute permission to engage in the activity without first obtaining applicable permits.

K. Other remedies. The County reserves the right to pursue any and all legal and equitable remedies herein mentioned or otherwise available at law, including administrative, civil and criminal actions to enforce the provisions of this chapter and to satisfy the intent and spirit of the Purchase of Development Rights Program.

L. Cost no defense. Cost shall not be a defense to the imposition of remedies.

§ 8-16. Right to Use Property for Recreational Purposes.

The agricultural landowner retains the right to use the Property for otherwise lawful personal, non-commercial uses, including, but not limited to, hunting, fishing, cross-country skiing, camping, and horseback riding. In all cases, such recreational uses cannot damage the environmental sustainability of the property and must be subordinate to and consistent with the agricultural use of the Property.

§ 8-17[15]. Provisions to control over other legislation.
Notwithstanding the provisions of any special law, charter law, local law or resolution which may be inconsistent herewith, in whole or in part, this chapter shall in all respects control in the matter of the acquisition or alienation of development rights in agricultural lands.

§ 8-18[16]. Severability.
Should any provision of this chapter be adjudged invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any other provision of this chapter.

Section 3. Applicability.

This chapter shall be applicable to all agricultural lands to which the County has acquired interests or rights, in whole or in part, under the Purchase of Development Rights Program. This chapter shall not apply to nonagricultural lands acquired as open spaces or open areas for the purpose of preserving active parkland, passive parkland, woodlands and/or wetlands and shall not apply to farmlands to which the County does not own any interest or right.

Section 4. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order of judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this resolution constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) AND WITHIN THE MEANING OF Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management, and information collection, and the Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this resolution.

Section 6. Effective Date.

This law shall take effect immediately upon filing with the Secretary of State.

DATED: November 19, 2013

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: December 4, 2013

After a public hearing duly held on December 2, 2013
Filed with the Secretary of State on December 26, 2013