

AGRICULTURAL LAND PRESERVATION COMMISSION

**of the
State of Rhode Island
and Providence Plantations**

RULE II

**CRITERIA FOR
EVALUATION OF FARMLAND
FOR THE PURCHASE OF DEVELOPMENT RIGHTS**

Adopted Pursuant to Chapters 42-35
and 42-82
of the General Laws
of Rhode Island

June, 1983

THE AGRICULTURAL LAND PRESERVATION COMMISSION
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CONTENTS

<u>Section</u>	<u>Title</u>	<u>Page</u>
1.00	AUTHORITY AND PURPOSE	1
	1.01 Statutory Basis	1
	1.02 Purpose.....	2
2.00	DEFINITIONS	2
	2.01 Act.....	2
	2.02 Commission	2
	2.03 Inventory	2
	2.04 Soil Survey	2
3.00	CRITERIA.....	3
	3.01 Primary Criteria.....	3
	3.02 Additional Criteria	3
	3.03 Application of Criteria	3
4.00	PRIMARY CRITERION: SOIL QUALITY.....	4
	4.01 Statutory Reference.....	4
	4.02 Significance of Soil Quality	4
	4.03 Procedure	4
	4.04 Evaluation of Soils for Specialty Crops	5
	4.05 Specific Soil Information Considered in Evaluating Parcels	6
5.00	PRIMARY CRITERION: DEVELOPMENT PRESSURE.....	7
	5.01 Statutory Reference.....	7
	5.02 Procedure	7
	5.03 Characteristics of the Land	7
	5.04 Characteristics of the Location	8
	5.05 Characteristics of the Operator	9

	5.06	Information Requirements	9
6.00		PRIMARY CRITERION: ECONOMIC IMPORTANCE	12
	6.01	Statutory Reference	12
	6.02	Procedure	12
	6.03	Current Status of the Land	13
	6.04	Type of Crops Produced	13
	6.05	Economic Viability	13
	6.06	Information Requirements	13
7.00		ADDITIONAL CRITERION: SOIL MANAGEMENT	14
	7.01	Significance of Soil Management	14
	7.02	Evaluation of Soil Management.....	14
	7.03	Information Requirements	15
8.00		ADDITIONAL CRITERION: PROTECTION OF WATERSHEDS OR GROUNDWATER RECHARGE AREAS	16
	8.01	Significance.....	16
	8.02	Evaluation of Capability for Protection	16
	8.03	Information Requirements	16
9.00		ADDITIONAL CRITERION: PRESERVATION OF OPEN SPACE AND AESTHETIC VALUES	17
	9.01	Significance.....	17
	9.02	Evaluation of Capability for Preservation.....	17
	9.03	Information Requirements	18
10.00		ADDITIONAL CRITERION: COST	18
	10.01	Significance.....	18
	10.02	Evaluation of Cost.....	18
	10.03	Information Requirements	19
APPENDIX			
A.		Relative Agricultural Values of Rhode Island Soils	
B.		Evaluation of Proposals	20

RULE II
CRITERIA AND PROCEDURES FOR EVALUATION
OF FARMLAND FOR PURCHASE OF DEVELOPMENT RIGHTS

1.00 AUTHORITY AND PURPOSE

1.01 Statutory Basis

The General Assembly has enacted the following statement of findings and purpose in Section 42-82-01 of the General Laws, the “Farmland Preservation Act”:

“Statement of Legislative Purpose - (a) The general assembly recognizes that land suitable for food production in the state has become extremely scarce and valuable resource. The amount of good farmland has declined so dramatically that unless a comprehensive program is initiated by the state to preserve what remains it will be lost forever. It is in the best interest of the people that the state identify and acquire the development rights to the remaining land most endangered by development so as to maintain farming, productive open spaces and ground water recharge areas.

(b) The general assembly finds that productive farmland is being converted to other uses because its development value at present far exceeds its value for agricultural purposes; that agriculture is an important part of the state's economy, environment, and quality of life; and that local food production will become increasingly important to the people of the state. It also finds that agriculture preservation will allow more orderly development and permit the cities and towns to plan for and provide services more adequately and at lower cost. Therefore, the general assembly hereby establishes an agricultural land preservation commission to conduct the inventory and acquisition of development rights to farmland in this state.”

1.02 Purpose

This rule sets forth the criteria and procedures used by the Agricultural Land Preservation Commission to evaluate farmland and to determine whether to purchase the development rights thereto. The Commission intends to preserve those farms that are active and will continue to be farmed, or land that may be idle but will be returned to farm use.

2.00 DEFINITIONS

2.01 Act -

Chapter 42-82 of the General Laws, entitled the “Farmland Preservation Act”, including any amendments thereto.

2.02 Commission -

The Agricultural Land Preservation Commission established by Section 42-82-1(b) and 3 of the General Laws.

2.03 Inventory -

The inventory of farmland in Rhode Island required by Section 42-82-5(a)(2) of the General Laws. This inventory is presented on a series of three maps entitled “Important Farmlands” prepared by the U.S. Department of Agriculture, Soil Conservation Service, at a scale of 1 inch equals 6,000 feet. The map sheets are “Kent and Washington Counties” (June, 1979), “Newport County” (June, 1979), and “Providence and Bristol Counties” (June, 1980).

2.04 Soil Survey -

Information on soils presented in a document entitled “Soil Survey of Rhode Island” published by the United States Department of Agriculture, Soil Conservation Service, in cooperation with the Rhode Island Agricultural Experiment Station, issued in July, 1981.

3.00 C RITERIA

3.01 Primary Criteria

Three criteria are established by the Act. These are the primary criteria for evaluation of farmland eligible for purchase of development rights and are (1) soil type, (2) development pressure, and (3) economic importance.

3.02 Additional Criteria

Section 42-82-2(a) of the Act directs the Commission to develop other criteria. These are additional criteria for the evaluation of farmland for purchase of development rights and are (1) soil management, (2) protection of watersheds or ground water recharge areas, (3) preservation of open space and aesthetic values, and (4) cost. These additional criteria will be applied only to farmland found eligible under Section 3.01.

3.03 Application of Criteria

Procedures for nomination of parcels or areas for consideration of purchase of development rights are set forth in the Commission's Operating Procedures. The Commission will utilize the data presented in the preapplication and application forms promulgated by that rule, together with such other data as it deems necessary, to evaluate each nomination received in terms of the criteria established herein. The information to be considered in determining how each parcel or area nominated satisfies each criterion is described in the following sections of this rule.

The Commission is authorized by Section 42-82-4(d) of the General Laws to “receive by gift, or otherwise acquire development rights” to farmland. Areas or parcels offered to or otherwise under consideration by the Commission under this provision shall also be evaluated using the primary and additional criteria set forth in this rule.

4.00 PRIMARY CRITERION: SOIL QUALITY

4.01 Statutory Reference

Section 42-82-2(a) of the Act states that ...“Agricultural Land means any land in the state of five contiguous acres or larger that is suitable for agriculture by reference to soil type,....”

4.02 Significance of Soil Quality

Soil Quality is a very important consideration when evaluating parcels for the purchase of development rights. The productivity of farmland is strongly dependent on the physical characteristics of the soil. The best soils for most farming enterprises are nearly level, deep, well drained, supply adequate moisture, are stone and rock free, and seldom flood. Some soils, however, are too wet, droughty, erodible, stony, rocky, or flood-prone for any viable agricultural use. Between these two extremes are soils of intermediate value for farming. The intermediate quality soils require more intensive management for crop production, and require additional labor and financial inputs, when compared to the best soils. The best soils also offer more flexibility in the choice of crops that can be grown. This flexibility enhances the long term economic viability of a farm.

Specialty crops, such as apples, grapes, cranberries, etc., require special consideration.

Soils best suited for these crops can differ markedly from the ideal soils for row crops.

4.03 Procedure

The Commission evaluates the soil quality on applicant farms by using a soil evaluation system developed by the United States Department of Agriculture. Under this system all land on a farm is identified on the soil maps included in the Soil Survey of Rhode Island.

All soil types identified in the state have been assigned to one of eight Agricultural Groups, and each group has an assigned “Relative Agricultural Value”. The Relative

Agricultural Value of each soil has been calculated based on the following factors:

1. The average yield of a selected indicator crop that can be expected from the soil.
2. The amount of soil erosion control practices, irrigation, or other important soil management activities required to achieve acceptable yields from the soil.
3. Placement of the soil in the USDA Important Farmland classification system.

The Commission will adjust upward the Relative Agricultural Value of those soils that have had permanent soil management features installed and maintained. The value of soils having needed soil erosion control, irrigation, or other management features already installed are adjusted upward to reflect the positive impact of the improvements. Poorly drained soils are assumed to have drainage systems in place. If not already drained, the Commission will adjust their values downward.

After making any needed adjustments to the Relative Agricultural Values on an applicant's property, the Commission then evaluates overall soil quality of the land by tabulating the acreage of each soil type and its Relative Agricultural Value.

Appendix "A" lists the eight Agricultural Groups, their respective Relative Agricultural Value, and the soils included in each group.

4.04 Evaluation of Soils for Specialty Crops

Because of the unique climatic and soil needs for crops such as apples, peaches, grapes, blueberries, cranberries, etc., lands used for these crops must be evaluated differently than if they were to be used for row crops or hay pasture. In general, lands that have a history of successfully producing commercial quantities of a specialty crop are judged by the Commission to be suitable for future production of that crop.

For land where specialty crops have not been grown in the past, but are being proposed,

the Commission will consider the following factors:

Climate - for most fruits -

- a. Lands with wide temperature fluctuations in the Winter or temperatures lower than -20° F should be avoided.
- b. Sloping lands with good air drainage are desirable. Valley floors and other flat lands that collect cold air on still nights are to be avoided.
- c. Windy locations are undesirable.
- d. Slopes with north or east exposures are desirable.
- e. Proximity to large, deep water bodies is desirable due to the moderating effect on air temperature.

Soils - for most fruits -

- a. Well-drained sandy loam soils are best.
- b. Apples pears, and grapes can be grown on slopes up to 20-30%, with the use of permanent sod to reduce soil erosion. Stone fruit should be grown on lesser slopes.

4.05 Specific Soil Information Considered in Evaluating Parcels:

- 1) Is the parcel or area designated in the inventory?
- 2) How many acres of soil in each relative value category exist on the farm?
- 3) Have corrective measures been installed to overcome soil related problems? Has an irrigation system been installed on droughty soils? Are needed erosion control measures in place? Are adjustments needed in the relative values to reflect these improvements?

- 4) Is the farm producing specialty crops that require special consideration in evaluating the soil and other physical resources? If so what is the potential for continued production of that specialty crop?

5.00 PRIMARY CRITERION: DEVELOPMENT PRESSURE

5.01 Statutory Reference

Section 42-82-1(a) of the Act states that ... “It is in the best interest of the people that the state identify and acquire the development rights to the remaining land, most endangered by development....”

5.02 Procedure

Land considered for purchase of development rights is evaluated as to whether development pressure on the land is high, moderate, or low. This ranking is determined by the determined by the characteristics of the land, its location, and the farm operator (if any). The information that is appraised by the Commission for each of these characteristics is described in the sections following.

5.03 Characteristics of the Land

Some land that is suitable for agriculture is also well adapted for urban or other non-agricultural uses. Indicators are:

- a) Soils capable of supporting more intensive development such as shallow excavations, dwellings with or without basements, small commercial buildings, or local roads.
- b) Favorable topographic features such as gentle slopes (up to 8 percent) and absence of wetlands or poorly drained areas.

- c) Prior subdivision of the land into residential lots or other parcels designed to accommodate more intensive development. The plat may be approved and recorded, or may have been prepared in anticipation of conversion to urban use but not yet officially approved or recorded. Conversely, rescission of a previously-approved subdivision or vacation of streets that had been accepted but never constructed may indicate absence of development pressure or an intent to continue farming.
- d) Amenities sought by developers or occupants such as shorelines of water bodies, scenic views, protection of nearby areas through public or private-conservation ownership, or other special features that are attractive to development.

5.04 Characteristics of the Location

Some areas or communities are more prone to development than others. Indicators may include:

- a) Community policies favoring growth and development as expressed in comprehensive or land use plans or other documents dealing with management of growth, or actions such as investments in land or facilities in order to create sites for industrial or commercial development.
- b) Increases in population or employment within the municipality or area over a recent period; and particularly increases at rates greater than those for the state or region.
- c) Zoning of the land under consideration or the surrounding area for housing at urban or suburban densities, or for industrial, commercial, or other non-rural uses.

- d) Water supply available to support more intensive development by means of a public system (existing or planned) or a major ground water aquifer.
- e) Sewage disposal available to support more intensive development by means of a public system (existing or planned) or by soils suitable for on-site disposal.
- f) Accessibility to transportation facilities or services such as arterial or collector roads or a bus route.
- g) Proximity to urban growth as indicated by changes in land use from rural to urban within the preceding five years and within a one mile radius.

5.05 Characteristics of the Operator

Agricultural land may be subjected to pressure for development by the circumstances of the landowner(s) or of the farming operation. These may or may not be within the ability of an individual or family to control. The factors considered in Section 6.03 should also be viewed as indicators of impending development.

5.06 Information Requirements:

The following questions and sources of information will be used by the Commission in evaluating parcels or areas in terms of these characteristics:

- la) Is the soil suitable for urban-level development?

Source: -Soil Survey of Rhode Island, Table 18: rating of “Slight”
or “Moderate” restrictions for urban development.

- lb) Is the topography generally level and without important wetlands?

Source: -Office of State Planning Maps
-Rhode Island Department of Environmental Management,
Land Resources Division

1c) Has the land been subdivided? If so, when was the plat recorded?

Source: -Municipal records
-Municipal planning board or commission

1d) Are there any amenities that promote development?

Sources: -Coastal Resources Center, University of Rhode Island
-Rhode Island Historic Preservation Commission
-Rhode Island Natural Areas Survey
-Office of State Planning Environmental Inventory
-Municipal planning board or commission
-Field survey

2a) What are the policies and attitudes of the community toward urban growth in general and specifically for the proposed site?

Sources: -Community plan
-Tax policies and rates
-Municipal planning board or commission and other local officials
-Citizens and interest groups

2b) How has population and employment changed in the municipality and the surrounding areas? How do rates of change compare to those for the state? Sources: -Office of State Planning - State Data Center

-Rhode Island Department of Economic Development,
Research Division
-Municipal planning board or commission

- 2c) How is the land zoned? Have there been any recent changes?
- Sources: -Office of State Planning ordinance file
-Municipal planning board or commission
- 2d) Are public or private water sources available to support development?
- Sources: -Office of State Planning Environmental Inventory
-Rhode Island Water Resources Board
-U.S. Geological Survey studies
-Municipal water supply agencies
-Rhode Island Department of Health, Water Supply Division
- 2e) Can sewage be adequately treated and disposed of by a public system or on-site methods?
- Sources: -Office of State Planning Environmental Inventory
-Soil Survey of Rhode Island, Table 19: rating of “Slight” or “Moderate” restrictions for on-site sewage disposal
-Department of Environmental Management Land Resources and Water Resources Divisions
-Municipal or regional sewage disposal agency
- 2f) Are transportation facilities available or planned that would support urban use?
- Sources: -Office of State Planning transportation plans; functional classification of the highway system; Transportation Improvement Program

-Rhode Island Department of Transportation

-Rhode Island Public Transit Authority

2g) Has urban development occurred within a one-mile radius of the land within the past five years?

Sources: -Office of State Planning Environmental Inventory and
aerial photographs
-Municipal records
-Municipal planning board or commission
-Field survey

6.00 PRIMARY CRITERION: ECONOMIC IMPORTANCE

6.01 Statutory Reference

Sections 42-82-1(a and b) provide the justification for considering this factor in the parcel selection process. From section (a)... “It is in the best interest of the people that the state identify and acquire the development rights to the remaining land so as to maintain farming, productive open spaces and ground water recharge areas”. From section (b), “agriculture is an important part of the State’s economy, environment, and the quality of life. ...local food production will become increasingly important to the people of the state.”

6.02 Procedure

Land considered for purchase of development rights should be evaluated as to whether the parcel is of high, medium, or low economic importance to farming in the state. The following sections describe factors used in determining economic importance.

6.03 Current Status of the Land

The land under consideration should be actively employed in agriculture. While purchase of development rights does not ensure the land will in the future be farmed, present land utilization is indicative of the likely trend.

- a) Actively farmed lands should be rated higher than idled lands.
- b) If the land is idle, applicants must demonstrate to the commission that the land will be employed in agriculture.

6.04 Type of Crops Produced

Land which is presently devoted to food producing should be rated higher than non-food producing crops.

6.05 Economic Viability

Land which represents a viable economic unit should be rated higher than a parcel which offers only part-time opportunities. Small parcels which as rental property contribute to the viability of a full-time farm operation should be rated higher than other “part-time parcels”.

6.06 Information Requirements

Information needed to evaluate the economic importance of land in terms of these characteristics is outlined in the following questions:

- 1) Is the land presently employed in agricultural activities?
 - (a) If not, what is the most recent year in which the land was farmed?
 - (b) Do you have plans to farm the land in near future? Please explain.
- 2) If actively farmed: what crops are presently grown? (Please list crops and approximate acreages.)

- 3) If idle, what crops were most recently grown?
- 4) If idle, what future agricultural activities are committed? Indicate likely crops or activities and when they will be initiated.
- 5) The estimated gross farm income from the land being considered in this application is: \$_____.
- 6) Is any of the land included in the farm application leased from others?
- 7) Is any land owned by the applicant leased to others? If so, for what purpose?

7.00 ADDITIONAL CRITERION: SOIL MANAGEMENT

7.01 Significance of Soil Management

The Commission recognizes the need for long term soil stewardship and management of the lands for which it holds the development rights. Without such wise management of all types of soil, the land's ability to produce agricultural crops will be jeopardized.

7.02 Evaluation of Soil Management

In those situations where management of the soil after the sale of development rights will rest with the same person as prior to the sale, the Commission examines the past history of soil management. The past record of soil management should provide a measure of the farm operator's commitment to the land and reflect the future level of soil stewardship that can be expected. In situations where the responsibility for management of the soil is expected to change hands in the foreseeable future, the past history of soil management is not necessarily a valid indicator of future performance. Under these circumstances, the Commission will place higher priority on those parcels where the current owner or future owner/operator can assure that the land will be properly managed.

7.03 Information Requirements

Information needed to evaluate soil management practices includes the following:

- 1) Where responsibility for soil management will remain with the same person after the sale of development rights -
 - (a) What conservation practices have been applied on the land? If none, does the landowner/manager feel any are needed? Does the local Conservation District feel any are needed?
 - b) Has the landowner/manager been doing a good, fair, or poor job of conserving the soil?
 - c) What soil management and conservation activities does the land owner/manager plan to install if the Commission purchases the development rights to the parcel?
- 2) Where responsibility for soil management will be changing shortly after the sale of development rights:
 - a) If ownership of the land is to change in the near future, is the current owner willing to take steps to assure that the new owner will properly care for the soil? If so, what steps?
 - b) If ownership is not going to change, but a different farmer is to lease or rent the land, what steps is the owner willing to take in assuring proper care for the soil?
 - c) What permanent measures have been made to the land?

8.00 ADDITIONAL CRITERION: PROTECTION OF WATERSHEDS OR GROUND WATER RECHARGE AREAS.

8.01 Significance

The purchase of development rights to farmland may also provide opportunities to accomplish other important objectives stated in the Act. These attributes of a parcel or area may support its selection for inclusion in the program.

8.02 Evaluation of Capability for Protection

The Commission will evaluate land in terms of its location in relation to surface or groundwaters that are an existing or planned source of drinking water. Precedence will be given to those sources currently used by public water systems.

8.03 Information Requirements

- a) The surface or groundwaters as existing or potential drinking water sources will be determined from information provided by the Rhode Island Water Resources Board, the Division of Water Supply of the Rhode Island Department of Health, water supply departments, agencies, or companies, and by the State Guide Plan and community plans.
- b) For surface waters, watersheds will be determined from (1) the 7.5 minute series (topographic) quadrangle maps, scale 1:24,000, United States Geological Survey; and (2) the Map Atlas, Water and Land Resources of Southeastern New England, New England River Basins Commission; supplemented by field inspection where necessary.
- c) For groundwater, aquifers and primary recharge areas will be determined from the map series, Ground-Water Reservoirs in Stratified-Drift Aquifers, prepared by the

Rhode Island Statewide Planning Program in cooperation with the Rhode Island Water Resources Board, Project FRC JF-01-11; supplemented by hydrogeological studies where necessary.

9.00 ADDITIONAL CRITERION: PRESERVATION OF OPEN SPACE AND AESTHETIC VALUES

9.01 Significance

The purchase of development rights to farmland may also provide opportunities to encourage the preservation of important open spaces and aesthetic values. These attributes of a parcel or area may support its selection for inclusion in the program.

9.02 Evaluation of Capability for Preservation

The Commission will evaluate land in terms of its physical and cultural characteristics, and of its environment and context. The factors considered may include, but are not limited to the following:

- a) Historic or archeological districts, buildings, or sites, and lands associated therewith.
- b) Features identified in the Rhode Island Natural Heritage Program of the Rhode Island Department of Environmental Management, the Natural Areas of the Audubon Society of Rhode Island, or similar inventories or programs.
- c) Vegetation type and quality.
- d) Areas subject to flooding.
- e) Wetlands and forest lands.
- f) Wildlife and marine life habitat.
- g) Recreation, conservation, or management lands owned by a public or private

agency and dedicated to these purposes.

- i) Major open spaces identified in the State Guide Plan or community plans.
- j) Scenic views and particularly well-kept grounds and structures.

9.03 Information Requirements

The environmental inventory and aerial photographs maintained by the Statewide Planning Program, the State Guide Plan and community plans, and advice by governmental agencies and public interest groups, will be supplemented by field inspections where necessary.

10.00 ADDITIONAL CRITERION: COST

10.01 Significance

Section 42-82-5(b) of the Act states that "The commission may accept or negotiate at a price not in excess of the average of two independent appraisals..." in acquiring development rights to farmland. The Commission also recognizes its responsibility to use public funds in a prudent manner in achieving the objectives of the Act.

10.02 Evaluation of Cost

The Commission has a limited amount of funds with which to purchase development rights. Consequently, the Commission will use its statutory authority to negotiate with those offering to sell development rights to farmland, in order to obtain the best available land at the lowest reasonable cost. In deciding whether to accept any offer, the Commission will compare the cost of acquisition of the development rights for each parcel or area under consideration to the capability of each parcel or area to achieve the objectives of the Act. This comparison will be made in the context of all other applications under consideration at the same time.

10.03 Information Requirements

The information needed to comply with this section includes the evaluation of the land under all other criteria, the value of the land for agricultural and development purposes, and the prices at which development rights are offered.

APPENDIX B

EVALUATION OF PROPOSALS

The procedure for evaluation of proposals to purchase the development rights to farmland are set forth in Rule 1, the Commission's Operating Procedures. This procedure requires that every parcel or area found eligible for consideration be evaluated by each member of the Commission voting thereon, in terms of each criterion set forth herein.

Ranking of proposals will be accomplished by assignment of a separate point score for each primary criterion. Points will be assigned by each Commissioner as determined by his or her judgement of the ability of each proposal to satisfy each of the three primary criteria. The point scores that may be assigned are as follows:

Degree to which the criterion is <u>satisfied</u>	Each Primary <u>Criterion</u>
High	8 to 10
Moderate	4 to 7
Low	1 to 3
None or not Applicable	- 0 -

A single point score will be given to each proposal by each Commission member, representing their evaluation of all of the additional criteria, except cost. This score will range from a minimum of zero to a maximum value determined by the process set forth in Rule 1. The score assigned by the Commission will be recorded and will be used to determine whether each proposal meets the minimum standard or threshold established in accordance with Rule 1.