

APPENDIX K – Dartmouth Trust Council Operating Procedures



AGRICULTURAL PRESERVATION TRUST COUNCIL

of the

TOWN OF DARTMOUTH

OPERATING PROCEDURES FOR

PURCHASE OF FARMLAND DEVELOPMENT RIGHTS

**Town of Dartmouth
400 Slocum Road
Dartmouth, MA 02747**

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OPERATING PROCEDURES OF THE AGRICULTURAL
PRESERVATION TRUST COUNCIL

1.00 **AUTHORITY AND PURPOSE**

1.01 Article Language

ARTICLE 6 of the May 1998 Town Meeting

AGRICULTURAL PRESERVATION TRUST FUND

MOVED and duly seconded

That the Town establish and appropriate \$2,750,000 for an Agricultural Preservation Trust Fund for the purpose of preserving existing productive agricultural lands and supporting and revitalizing the Dartmouth agricultural industry. This Agricultural Preservation Trust Fund will provide the Town of Dartmouth with the means to exercise options which include:

- (1) Contributing to Agricultural Preservation Restrictions (purchase of development rights and preservation of agriculture rights).

- (2) Exercising the Town's Right of First Refusal under M.G.L. Chapter 61A on farmlands.

- (3) Activities deemed to be in the best interest of preserving agricultural land and revitalizing the agricultural industry in Dartmouth.

Management of the Agricultural Preservation Trust Fund shall be overseen by an Agricultural Preservation Trust Council. Said Council shall report to and recommend Fund expenditures to the Board of Selectmen and Finance Committee. Said Council shall consist of nine (9) members, appointed by the Agricultural Commission. Each member shall serve for a term of three years, each on a three-year staggered term.

One member of the Agricultural Commission

One member of the Planning Board

One member of the Board of Selectmen

One member of the Conservation Commission

One member of the Finance Committee

One member of the Capital Improvement Committee

One member of the Dartmouth Natural Resources Trust

Two Citizens-at-Large

Upon receipt of a recommendation from the Agricultural Preservation Trust Council, the Board of Selectmen and Finance Committee shall, by majority, vote each in its separate entity, to follow the Council's recommendation, modify it, or change it for reasons they shall so state. All actions must be determined through a public hearing process, notice to parties concerned, and in conformity with M.G.L. Chapter 39 Section 23B.

Said fund shall consist of the sum of \$2,750,000 appropriated by borrowing, funded through a bond issue that is placed before the voters of the Town of Dartmouth on November 3, 1998 at the

State Election as a Proposition 2 1/2 Debt Exclusion Question. That to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow not in excess of \$2,750,000 under and pursuant to Chapter 44, Section 7 (3), as amended, or any other enabling authority, and to issue bonds or notes of the Town therefor; and provide further, that no sums shall be borrowed or expended hereunder until the Town has voted to exempt debt service on the borrowing hereby authorized from the limits of Chapter 59, Section 21C of M.G.L.

SO VOTED. Yes 163 No 18 12:00 P.M.

1.02 **PURPOSE**

This establishes the operating procedures of the Council for administering the Agricultural Preservation Trust Fund.

2.00 **MEETINGS**

2.01 Regular Meetings

Regularly scheduled meetings of the Council shall be held on the 2nd and 4th Wednesday of each month.

2.02 Special Meetings

The Chairperson may call special meetings or cancel regular meetings at any time upon 48 hours public notice.

2.03 Notice of Meetings

Notices of meetings and agendas will be posted at the Clerk's Office at the Dartmouth Town Hall.

2.04 Open Meetings

All Council meetings and records shall be consistent with the statute (M.G.L., Chapter 39, Section 23-B) requiring open meetings.

3.00 **ALLOCATION OF FUNDS**

3.01 Allocation Process

Upon receipt of a recommendation from the Agricultural Preservation Trust Council, the Board of Selectmen and Finance Committee shall, by majority, vote each in its separate entity, to follow the Councils recommendation, modify it or change it state. All actions must be determined through a public hearing process, notice to parties concerned, and in conformity M.G.L. Chapter 39 Section 23-B.

4.00 **APPLICATION PROCEDURES FOR EACH PROPERTY**

4.01 Application Forms

The form that shall qualify a landowner for consideration shall be the form designated Application to Sell Development Rights to Farmland and approved by the Council.

4.02 Availability of Application Forms

Application forms shall be made available to individuals and organizations on request from the Town Clerk's Office.

4.03 Filing of Applications

Applications shall be filed with the Agricultural Preservation Trust Council through the Town Clerk's Office, 400 Slocum Road, Dartmouth, MA, 02747, open Monday - Friday, 8:30-4:30, (508/999-0700) or such other address as the Council designates in the application form instructions. Applications shall be

accepted by the Council any business day during regular working hours and shall be date stamped upon receipt.

4.04 Application Acceptance

A Council representative shall review each application as it is received.

Applications found to be complete will be referred to the Council for evaluation as described in Section 5 of this document. Applications found to be incomplete will be returned to the applicant with a statement as to the deficiencies noted and a notice that the applicant can correct these and resubmit the application within 14 days.

4.05 Application Review

The Council shall act on all applications in a timely manner, and in no case shall the Council take more than 60 days after accepting the application to inform a landowner of its decision. Those whose applications have been disqualified shall receive a letter approved by the Council advising them of the action and reasons for disqualification.

4.06 Additional Information

Within 7 days of Council's action on the application, the Council will mail the owner a consent form that is to be signed by the owner permitting the Council the Council and/or its staff to inspect or appraise the property. The Council may require additional information including a letter of intent signed by the owner outlining the parameters of the transaction. These forms must be returned to the Council within 14 days of receipt.

5.00 **EVALUATION AND SELECTION PROCEDURES**

5.01 Basis of Evaluation: Data

The completed application, in addition to other information assembled by the Council and/or Dartmouth Agricultural Commission shall form the basis of the Council's decision.

5.02 Communication with Applicants

After an application is received and accepted as complete, by the Council, all communications between the Council and the applicant will be through the Chairperson or Council representative. All site visits shall be arranged with the landowner on a date suitable to the majority of the Council.

5.03 Evaluation of Criteria

Each Application shall receive a numerical rating of the criteria adopted by the Council as Scoring & Rating Procedure. The instrument of that rating shall be the Scoring Sheet approved by the Council for this purpose.

5.04 Rating: Primary Criteria

After the individual Council Members rate all of the applications and the Dartmouth Agricultural Commission makes its recommendations to the Council, the Council, by vote, shall set a minimum rating score.

5.05 Evaluation of Secondary Criteria

The Council allows for further consideration of an application based on unique conditions as determined by the Council.

5.06 Selection of Applications for Negotiation

In selecting the applications for negotiation, the Council shall, by vote, consider the combined score as well as geographic diversity, mix of farm types, and cost of development rights. All applications not so selected shall, with the owner's permission, be carried over to be re-evaluated in the next round. All applicants will receive a letter approved by the Council notifying them of this determination.

6.00 **PURCHASE OF DEVELOPMENT RIGHTS**

6.01 Negotiating Committees

The Chairperson of the Council shall appoint a sub-committee to negotiate with each applicant selected in accordance with Section 5.08. Each sub-committee shall consist of at least three members, membership will include: At least one member from the Council, one member from the Dartmouth Agricultural Commission and may include a State or Federal Representative as necessary and appropriate.

6.02 Negotiations

The Committee shall meet with the owner(s) of the property under consideration, or with the authorized representative of the owner(s), and shall attempt to formulate an agreement to complete the transaction contemplated by the Letter of Intent as amended by mutual agreement. The Committee shall insure that such agreement accomplishes the purposes of Article 6 of the May 1998 Town Meeting and that it incorporates any provisions or considerations specified by the Council. As part of these negotiations, the Council shall determine that title to the land under consideration is in fact held by the applicant, and shall identify any

mortgages, liens, or other encumbrances attached to the land and the amount of taxes due and unpaid, if any. A deed, purchase and sales agreement and a standard covenant with such additions or amendments as are appropriate to the land and to the proposed transaction in question shall be the instrument of agreement.

6.03 Cost of Acquisition of Development Rights or Acquisition of Property Rights

The Committee shall attempt to negotiate a mutually agreeable price and/or other consideration to be exchanged for the proposed transaction. This consideration shall be made a part of the purchase and sales agreement. No agreement shall be concluded or accepted by the Committee until the value of the proposed transaction has been determined by appraisal.

6.04 Conclusion of Negotiations

If the Committee and the applicant reach a purchase and sales agreement, a proposed deed and covenant shall be prepared and submitted to the Council for approval. If an agreement cannot be concluded, the Committee shall report to the Council.

6.05 Final Approval by the Council

The Council shall review each proposed agreement, and shall approve or disapprove each by majority vote. Those agreements that are approved by the Council shall be transmitted to the Finance Committee, Board of Selectmen and the Dartmouth Town Meeting in conformity with M.G.L. Chapter 39, Section 23B.

6.06 Completion of Purchase

Upon approval by the Dartmouth Town Meeting, the deed and covenant shall be executed by the Chairman of the Council, or by another member of the Council designated by the Chairman, and by the owner or authorized representative. The deed and covenant shall be recorded in the Bristol County Registry of Deeds, New Bedford, MA.

7.00 **NONDISCRIMINATION**

7.01 Establishment of Policy

All operations and decisions of the Council are governed by the policies set forth in the Town of Dartmouth Anti-discrimination Plan.

7.02 Statement of Policy

The Council shall not discriminate against, or in favor of, any person on grounds of sex, race, color, national origin, physical or mental handicap, or political affiliation.

Michael Gagne for
Board of Selectmen

Notice given on:

Hearing held on:

Effective:

