

Voluntary Municipal Farm Support Program

Outline

A. Application and Review Timeline:

- 1) A landowner submits an application to the Assessor on or before October 1st.
- 2) The Assessor's Office date stamps and signs receipt of application.
- 3) The Assessor reviews the application and supporting documentation. If the application is incomplete then the Assessor contacts the landowner by written notice no later than October 15th. The written notice will specify the area(s) of the application that are incomplete and allow the landowner until November 1st to remedy the application and resubmit.
- 4) If the Assessor deems the application as complete, the applicant will be contacted to schedule a date and time to review the applicant's property.
- 5) Upon completion of the site review the Assessor shall prepare a written summary describing the site visit, including written and verbal communications and a description of the farmland and farm buildings. The written summary, along with the landowner's application will be presented to the Windham Town Council (Council) for consideration as a Farm Support Arrangement.
- 6) On or before December 31st the Council will vote to accept, deny or amend to accept the landowner's application.
- 7) Upon acceptance by the Council, the landowner is then eligible for a Farm Support Arrangement with the Town of Windham. Under the Arrangement, the landowner grants a Qualified Agricultural Conservation Easement to the Town, thus agreeing to continue the farmland and farm building's agricultural use as prescribed for a period of 20 years. In return, the Town of Windham makes farm support payments to the landowner equal to 100% of the property tax paid each year on the Qualified Farmland and Farm Building assets.
- 8) The Qualified Agricultural Conservation Easement must be recorded in the Cumberland County Registry of Deeds at the landowner's expense.
- 9) To continue eligibility with the Farm Support Arrangement, the landowner must submit to the Assessor each year, on or before May 1st, a Farm Income Report, and every two years is subject to an on-site inspection by the Assessor. As with the initial application's site review, a written summary will be prepared by the Assessor and delivered to the Council for review of farm and landowner status and eligibility.

Each subsequent year the Assessor must file a written report, on or before June 1st with the Council as to the status of each Qualified Agricultural Conservation Easement.

At any time, the landowner and/or a Council member may request a consultation with either party to review the status of eligibility based on one or more of the following:

- a) Lack of productivity and income, temporary or permanent;
- b) Catastrophic loss of property;
- c) Infirmary;
- d) Management change;
- e) Structural change.

B. Eligibility:

- 1) The eligible farm must be comprised of one (1) Tax Parcel of at least five (5) contiguous acres that produces Agricultural Crops and/or Agricultural Products. The Tax Parcel may produce the Agricultural Crops and Agricultural Products on some portion of the parcel that is less than five (5) acres. Agricultural Products must be comprised of 50% or more local agricultural ingredients. The Agricultural Crops and Agricultural Products grown or produced on the farmland must generate a minimum annual gross income or fair market value of at least \$2,000. The fair market value of Agricultural Crops and/or Agricultural Products utilized and/or consumed by the farm household and documented by the landowner may be counted toward the \$2,000 annual income requirement.

The Council may occasionally elect to waive the income requirement due to a documented adverse crop or Livestock production issue, except that the average three year income must be at least \$2,000.

- 2) Farmland ó Farmland is classified as Blueberry Land, Crop Land, Horticultural Land ó Edible, Horticultural Land - Ornamental, Orchard Land, Pasture Land, Woodland, or Wasteland.
- 3) Special consideration will be given to Farmland comprised of soils classified by the USDA ó Natural Resources Conservation Service as Prime Farmland, Unique Farmland, Farmland of Statewide Importance and Farmland of Local Importance.
- 4) Farm Buildings ó Farm Buildings, structures and improvements used for the propagation, production, storage and/or processing of Agricultural Crops and/or Livestock, including but not limited to the breeding and housing of Livestock, the storage of seed stock, the storage of feed for Livestock, milk handling, animal manure and waste management, and equipment and chemical storage and maintenance.
- 5) Exceptions to Farmland and Farm Buildings and Improvements and Farm Residential Buildings ó At the time of the initial VMFSP Application, if there are other lands and buildings that are associated with the Farm's Agricultural Management but not

specifically with the production of Agricultural Crops and Enterprises, the Council will consider including such land and buildings on a case-by-case basis.

The Council will require the landowner to demonstrate that any other land and buildings that are not involved in the production of Agricultural Crops and Agricultural Products serve a principal function for the farm operation. Such buildings include, but are not limited to, shelters for Livestock, equipment storage and maintenance structures and energy generation facilities and residential buildings. Such other land includes, but is not limited to, ponds for fresh water aquaculture, riding trails for Agritourism, and sand, clay and gravel mined for building and grading farm roads, woods roads and other such improvements made on the farm only.

- 6) Future Addition of Farm Buildings - If, after entering into the Farm Support Arrangement, and recording the Agricultural Conservation Easement, a landowner constructs or erects new Farm Buildings, structures or improvements within the perimeters of the Qualified Farm, they may request through written notice to the Assessor, an amendment to the original application to include the additional Farm Buildings. Written notice will be due on or before October 1st in any given year and follow the same deadlines as the original application, for review by the Council.
- 7) Future Acquisition of Farmland ó Additional farmland acquisitions by the landowner will not be allowed to be added to the existing Farm Support Arrangement; however, a landowner may file a separate application for that farmland pursuant to the requirements of the VMFSP.
- 8) The eligible farm must be enrolled in the Farmland Tax Law program.
- 9) The eligible farm must report a gross income of under \$60,000 for the preceding year.

C. Application Process:

- 1) The landowner must provide a statement, signed by all legal owners of the property, that declares the owner's desire to enter into the Farm Support Arrangement with the Town of Windham through the granting of a Qualified Agricultural Conservation Easement for a term of at least 20 years on specific Qualified Farmland and/or Farm Buildings located in the Town of Windham. This statement shall acknowledge whether the owners will retain professional legal services to review the Easement document on their behalf, or have elected to waive any legal representation. The statement shall also acknowledge that if the Town of Windham approves a Farm Support Arrangement, the landowners agree to pay all of the Town of Windham's cost for preparing and filing the Qualified Agricultural Conservation Easement in the Cumberland County Registry of Deeds;
- 2) A Photo ID of the applicants;

- 3) A list of the Farmland and Farm Buildings that would be subject to the Farm Support Arrangement;
- 4) An aerial image or Google Earth image of the Tax Parcel that clearly delineates the farmland soil types, Farm Buildings and Easement boundaries that would be subject to the proposed Agricultural Conservation Easement. If the VMFSP application is approved by the Town of Windham, then the owner may choose, at the owner's expense, to survey the farmland subject to the Easement;
- 5) If the owners have a mortgage on the Farmland or Farm Buildings, a list of each mortgaged asset noting the loan amount, pay-off date and lender's contact information. The landowner must include a Letter of Intent from the Lienholder of the mortgage that they will sign the "Consent of Lienholder to Conservation Easement" should the VMFSP application be approved;
- 6) A Farm Income Report which lists each Agricultural or Horticultural Crop, the previous tax year's yield based upon the price or value per unit multiplied by the number of units produced; and
- 7) Two Letters of Support from either individuals and/or businesses within the Town of Windham that describe the importance of supporting and protecting the Landowner's specific Farmland soils and Farm Buildings through the VMFSP.

The landowner is responsible for initiating, preparing and submitting the VMFSP application. The landowner may request that the Windham Town Assessor assist them with the preparation of their VMFSP Application.

D. Application Deadlines:

- 1) VMFSP Application must be received by the Town Assessor on or before October 1st in that year;
- 2) The Windham Assessor must review and make recommendation to the Town Council, whether to accept or deny all or part of the Farmland and Farm Buildings by December 31st of that year;
- 3) Upon approval by the Town Council and the recording of the Qualified Agricultural Conservation Easement, the Landowner will be eligible for a refund of the Property Tax Payments made in the next tax year on the Qualified Farmland and Farm Buildings. Payment to the landowner will be made within thirty (30) days of the designated Property Tax due dates.
- 4) There is no application fee.

E. The Town of Windham is **not** responsible for:

- a) Any of the landowner's costs related to the preparation of the VMFSP Application;
- b) Legal review of the draft Qualified Agricultural Conservation Easement by the landowner's Independent Counsel. It is therefore recommended that the landowner retain Independent Counsel;
- c) Recording fee for filing the Qualified Agricultural Conservation Easement with the Cumberland County Registry of Deeds.

Under the Rules 01-001 Chapter 37, Section 2-C2., neither the Town nor the landowner is required to pay the fee to file and report to the State of Maine Conservation Easement Registry, pursuant to Title 33 M.R.S., ss 479-C For protection under Maine Law, Title 33, Chapter 20.

F. Payment Mechanism:

- 1) Tax Payments Made by the Participant - Participants shall pay, when due, all property taxes. If such property taxes are not paid when due, the Town of Windham may withhold and suspend all payments to the Participant under their agreement until such property taxes and all penalties, interest and other costs relating thereto are paid in full and 100% of such penalties, interest and other costs shall belong to the Town of Windham without any obligation to share such penalties, interest and other costs with the Participant.
- 2) Payments to the Participant - The Town of Windham shall refund 100% of Participants property tax payments on assets the Town designates as Qualified Farmland and Farm Buildings. The refund will be made within 30 days of each tax payment due date for no less than twenty (20) years, provided the Participant remains in compliance with the Qualified Agricultural Conservation Easement.
- 3) Property Tax Abatements - In addition, if a Participant institutes any property tax abatement proceeding with respect to any of their Qualified Farmland and Farm Buildings, the Town may withhold and suspend all payments to the Participant. Upon final action and completion of such abatement proceeding (whether by administrative or court action or by settlement), the adjusted amount (based on the results of the abatement proceedings) shall then be paid to the Participant.
- 4) The Town of Windham and the Participant acknowledge that all laws of the State now in effect or hereafter enacted with respect to taxation of property shall be applicable and that the Town is not excusing any non-payment of taxes by a Participant. Without limiting the foregoing, the Town and the Participants shall always be entitled to exercise all rights and remedies regarding assessment, collection and payment of taxes assessed on the Participant's property.
- 5) Failure to Make Payment to the Participant - In the event the Town of Windham should fail to or be unable to make any of the payments required under the foregoing provisions of this program, the item or installment so unpaid shall continue as a limited obligation of the Town, under the terms and conditions of the VMFSP, until the amount unpaid shall

have been fully paid.

- 6) The payments provided for in this program shall be paid directly to the Participant at the address on file in the Assessor's Office related to the Qualified Farmland and Farm Buildings.
- 7) Limited Obligation - The obligation of the Town of Windham to make such payments to the Participant shall be a limited obligation of the Town payable solely from that portion of taxes paid by the Participant and shall not constitute a general debt or obligation of the Town or a general obligation or charge against or pledge of the faith and credit. The agreement shall not directly or indirectly or contingently obligate the Town to levy or to pledge any form of taxation whatever therefore or to make any appropriation for their payment, excepting the Town's obligation to levy property taxes upon the Participant's property.

G. Monitoring:

- 1) The Town Assessor shall monitor each accepted VMFSP Participant on an annual basis and provide a written report to the Council on or before June 1st each year. Before providing the written report, the Assessor shall:
 - a.) Require the Participant to file a Farm Income Report each year and submit same to the Assessor on or before May 1st.
 - b.) Conduct a site visit every two years to review the Participant's Qualified Farmland and Farm Buildings.
- 2) If, upon completion of the on-site visit, the Assessor deems the Participant's Tax Parcel is not in compliance then the written report to the Council must state such. The Council may request a meeting with the landowner to review the terms of the Easement and the Farm Support Arrangement and to mutually agree upon a plan for compliance and set a date for a follow-up site visit.
- 3) The Tax Assessor shall submit a report and other relevant updates to the Town Council on or before the scheduled October Town Council Meeting each year.
- 4) Temporary Cessation of Use - If the Qualified Farmland and Farm Buildings that are protected under the Arrangement are inactive for 6 months, the Tax Assessor will review the Participant's circumstances (catastrophic loss of farm income due to crop loss, health, change in management, etc.) and the requirements of the Participant's Farm Support Arrangement, and make a written recommendation to the Council.

H. Withdrawal:

- 1) Landowner's Request - If the landowner seeks to withdraw from the Farm Support Arrangement any or all Qualified Farmland and/or Farm Buildings, they must provide a

written notification to the Tax Assessor and pay a Withdrawal Penalty.

- 2) Noncompliance - If the Qualified Farmland and/or Farm Buildings cease to meet the eligibility and qualification requirements and the Participant ceases to meet his/her obligations of the Farm Support Arrangement, then the Windham Tax Assessor must deliver to the Council a written recommendation for the nullification of the Farm Support Arrangement and specific terms of the Withdrawal Penalty.
- 3) The Council must then vote to accept as recommended; amend and accept; or deny the nullification of all or part of the Farm Support Arrangement. A vote to nullify will result in the assessment of a Withdrawal Penalty on the Participant.
- 4) Withdrawal Penalty:
 - a) Shall be not less than the 100% refund of all applicable taxes covered under the Arrangement;
 - b) Shall include interest on the portion of the property taxes covered under the Arrangement for each year the Qualified Farmland and Farm Buildings have been in the program;
 - c) Shall include all costs to ~~extinguish~~ the Qualified Agricultural Conservation Easement at the Cumberland County Registry of Deeds;
 - d) The penalty may be assessed and collected as a supplemental assessment in accordance with section 713-B.
 - e) Exception ó A Withdrawal Penalty shall not be assessed if permanent cessation of use is caused by a transfer resulting from the exercise or threatened exercise of the power of eminent domain.