



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF AGRICULTURE  
LANSING

KEITH CREAGH  
DIRECTOR

January 25, 2011

Dear Township Officials,

Thank you for visiting the Michigan Department of Agriculture Farmland Preservation exhibit at the 2011 Michigan Townships Association Annual Education Conference!

In this packet you will find information regarding the Farmland Development Rights Agreement (often referred to as PA 116) application process. Enclosed you will find a program brochure, *Instructions for Local Governing Body for Completing an Application for a Farmland Agreement*, as well as master copies of the *Farmland Agreement Eligibility & Instructions* and *Application for Farmland Agreement* for you to distribute to your landowners. **Please note that the application form has been recently updated.**

Local government is the first step in the application process, and we appreciate your efforts, and the efforts of your landowners, to preserve Michigan's farmland. Keep in mind, if your Township has zoning, your Township Board has the authority to accept or reject the applications. However, if your Township does not have zoning, the County Board of Commissioners has the authority and your Township will serve as a reviewing agency in that situation.

If at anytime you or your landowners have questions regarding the Farmland Development Rights Agreement application process, do not hesitate to contact our office. You can also visit our website at [www.michigan.gov/farmland](http://www.michigan.gov/farmland) for program information, contact information, and to download brochures & blank forms.

Sincerely,

Teresa L. Sherwood, Resource Analyst  
[sherwoodt1@michigan.gov](mailto:sherwoodt1@michigan.gov)

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Farmland & Open Space Preservation Program  
Environmental Stewardship Division  
PO Box 30449  
Lansing, MI 48909  
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MICHIGAN DEPARTMENT OF AGRICULTURE  
ENVIRONMENTAL STEWARDSHIP DIVISION  
FARMLAND AND OPEN SPACE PRESERVATION PROGRAM

**INSTRUCTIONS FOR LOCAL GOVERNING BODY  
FOR COMPLETING AN  
APPLICATION FOR A FARMLAND AGREEMENT**

- A. After a landowner completes his/her portion of an **Application for a Farmland Agreement** (in accordance with Part 361 of the Natural Resources and Environmental Protection Act, 1994, Act 451, as amended, more commonly known as P.A. 116), the landowner is to attach a copy of the most recent deed or land contract to prove current ownership of the property to be enrolled in the program, and a copy of a recent tax bill or tax assessment notice containing the legal description of the property. The landowner then is to take these application materials to the "local governing body" (see definition below) for local review and action.
- B. The local governing body holding the application shall approve or reject the application within **45 DAYS** after the application is received. It is the responsibility of the local governing body conducting the initial review (usually the township board, with actual handling done by the township clerk) to complete the bottom portion of page 3 of the application form. **ALL APPLICABLE LINES/SPACES ON THE BOTTOM PORTION OF PAGE 3 ARE TO BE COMPLETED.**
- C. SECTION I. requires the local governing body's name, date received, whether the application is approved or rejected, the date of approval or rejection, the clerk's signature and seal (if applicable), and the current market value of the property in the application. **IMPORTANT:** If the application is approved on or before November 1<sup>st</sup> of a given year, the landowner is eligible for tax credits from the State of Michigan for that entire year. If approved after November 1<sup>st</sup>, the landowner is eligible for tax credits beginning the following year.
- D. SECTION II. should be completed with either a date or check mark or "NA" for "not applicable." For all applications, the reviewing agencies are the County or Regional Planning Commission and the local Conservation District. If the county is the local governing body initiating the review of the application, the township also becomes a reviewing agency. If the land in the application is within three miles of a city, that city becomes a reviewing agency. If the land is within one mile of a village, that village becomes a reviewing agency.
- E. Reviewing agencies are to be sent a copy of the application by the local governing body (again, usually the township). At the very least, this includes the County or Regional Planning Commission and the Conservation District. A reviewing agency has **30 DAYS** in which to review and comment on the application and provide comments to the local governing body. After the 30-day period, the local governing body can proceed with or without comments from reviewing agencies.

F. Upon receipt of an application, the clerk checks the application to see that it has been properly completed by the landowner. Next, the clerk insures that the items listed under FINAL APPLICATION SHOULD INCLUDE on page 3, right side, near the bottom, have been enclosed with the application. If review letters have been received from any of the applicable reviewing agencies, the clerk should also enclose copies of those letters with the application. If no comments were received within the 30-day time period, the clerk should indicate such in some manner on the application when the application is sent on to the Farmland Preservation office.

G. After all the above is done and the portion FINAL APPLICATION SHOULD INCLUDE is completed (all applicable spaces are checked), the clerk is to send the **ORIGINAL** application to the Farmland Preservation office. It is recommended that a copy of the application be kept by the landowner and/or local governing body. The local assessor is responsible for providing current market value information regarding the application.

H. Finally, please note that each individual application should stand on its own, i.e., be fully completed with all appropriate documentation attached without regard to other applications by the same landowner that might have been submitted with it.

**Definition of local governing body:** For purposes of this program, the local governing body is defined as follows. For farmland that is located in a city or village, the local governing body is the city or village. For farmland not located in a city or village but in a township having a zoning ordinance in effect, the local governing body is the township board. For farmland not located in a city or village and the township does not have a zoning ordinance in effect, the local governing body is the county board of commissioners. In most cases, the local governing body is the township board and the application then should be taken to the township clerk for township processing.



## FARMLAND AND OPEN SPACE PRESERVATION PROGRAM

Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116.

## Farmland Agreement Application ELIGIBILITY & INSTRUCTIONS

**Please review the following eligibility requirements and instructions before completing an application for a Farmland Agreement.**

If your farm (including the residence and farm buildings) meets one of the following criteria, it is eligible for enrollment in the program under Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116.

- I. As defined by the Act, **agricultural use** means: "The production of plants and animals useful to humans, including forages and sod crops; grains, feed crops and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; maple syrup production; Christmas trees; and other similar uses and activities". Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot. As defined by the Act, **farmland** means:
  1. "A farm of 40 or more acres in one ownership, with 51% or more of the land area devoted to an agricultural use."
  2. "A farm of 5 acres or more in one ownership, but less than 40 acres, with 51% or more of the land area devoted to an agricultural use, that has produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land. A farm described in this subparagraph enrolled in a federal acreage set aside program or a federal conservation reserve program is considered to have produced a gross annual income from agriculture of \$200 per year or more per acre of cleared and tillable land."
  3. "A farm designated by the department of agriculture as a specialty farm in one ownership that has produced a gross annual income from an agricultural use of \$2,000.00 or more. Specialty farms include, but are not limited to, greenhouses; equine breeding and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees and bee products; mushrooms; aquaculture; and other similar uses and activities. "
4. "Parcels of land in one ownership that are not contiguous but which constitute an integral part of farming operations being conducted on land otherwise qualifying as farmland may be included in an application under this part."
- II. The administrative rules providing for the administration and implementation of the program further define the following:
  1. "**Gross annual income** means an average computed from two of the three tax years immediately preceding the year of application from the raising or harvesting of any agricultural commodities."
  2. **Specialty farm** means an enterprise of 15 or more acres in size which meets the income requirement and has been designated by the Michigan Department of Agriculture.
  - III. A **farmland development rights agreement** is a temporary restrictive covenant where the owner and the state agree to jointly hold the right to develop a parcel of farmland. The covenant is an agreement to not develop the property except as specifically stated within the agreement. The covenant runs with the land and is for a jointly agreed upon length of time (at least 10 years). A farmland development rights agreement contains the following restrictions:
    1. A structure shall not be built on the land except for use consistent with farm operations, which includes a residence for an individual essential to the operation of the farm as defined under section 36110(5), or lines for utility transmission or distribution purposes or with the approval of the local governing body and the state land use agency.
    2. Land improvements shall not be made except for a use consistent with farm operations or with the approval of the local governing body and the state land use agency.
    3. Any interest in the property shall be sold only for a scenic, access, or utility easement which does not substantially hinder farm operations.

4. Public access shall not be permitted on the land except with the permission of the owner.
5. Any other condition or restriction on the land as agreed to by the parties that is considered necessary to preserve the land or appropriate portions of it as farmland.

**Instructions for Completing Farmland Agreement Application:**

Please print or type in all spaces required on the application form.

**PLEASE NOTE:** The application form must be filed with the clerk of the local governing body having jurisdiction over the land cited in the application. Those local governing bodies having the right of approval or rejection of an application are defined by the Act as either: (a) the legislative body of a city or village; or (b) the township board of a township having a zoning ordinance in effect as provided by law; or (c) the county board of commissioners in all other areas.

**SPECIAL SITUATIONS:**

1. **Owning more than one farm unit:**  
To make it less complicated for an owner wishing to place more than one farm unit into the program, it is recommended that the owner fill out separate applications for each farm unit over 40 acres. If all of the forms will be submitted to one local governing body having approval authority, it is suggested that the applications be filed together at the same time.
2. **Owning more than one farm unit located in different local governing bodies having approval authority:**  
If the farm units fall under different local governing bodies having approval authority, it is suggested that the applicant attach a statement to each application indicating that more than one application has been filed by the owner and a list of the local governing bodies involved.
3. **One contiguous farm unit having more than one legal description:**  
Those owners having one contiguous farm unit with more than one tax parcel description (deed) for portions of the farm, but wishing to place the entire farm into the program, may attach copies of all the descriptions and fill out the application as if the farm was under one deed.

4. **Having one farm unit located in different local governing bodies having approval authority:**  
In the case of an owner having one contiguous farm unit which crosses the boundaries of more than one local governing body having approval authority, the applicant must file separate applications covering the land located in the respective local governing bodies jurisdictions and attach a statement indicating that more than one application has been filed by the landowner and a list of the local governing bodies involved.
5. **Landowners need not apply for all their property. However, the landowner is responsible for furnishing an accurate legal description of land covered by the application. If the landowners wish to exclude some portion of a description, they must provide a description which excludes the acreage they desire to withhold.**

An approved application is forwarded by the local governing body to the state land use agency for approval or rejection by the state.

An applicant receiving a rejection from a local governing body can appeal within 30 days of the rejection notice to the state land use agency for a decision, or the applicant may wait one year and reapply for enrollment in the program.

**I. Personal information:**

(1-5) Owner is defined by the Act as a "person having a freehold estate in land coupled with possession and enjoyment". "Person", as defined in the Act, includes "an individual, corporation, limited liability company, business trust, estate, trust, partnership, association or 2 or more persons having a joint or common interest in the land"

If more than one name is involved (excluding husband and spouse), please attach additional sheet listing necessary names and information required in blanks 1 through 5.

Only the owner(s) of land cited within the application may apply to enroll land into the program.

Married persons filing either a joint or separate Michigan state income tax return must indicate Social Security numbers.

The federal employee identification number is applicable only to those corporations, subchapter S corporations, partnerships or individuals who must withhold taxes for their employees.

## II. Property Location:

(6-8) The applicant must indicate the county and township, city or village where the land cited in the application is located. The section number, town number and range number can be found on the deed to the land.

## III. Legal Information:

(9) The applicant must attach a clear copy of the deed from the county register of deed's office. Land contract purchasers should send a copy of the land contract or memorandum of land contract.

(10) The applicant must attach a copy of the most recent property tax assessment notice or tax bill including a complete tax description of the property. Land contract purchasers who do not receive a property tax assessment notice or tax bill may obtain a copy from the assessor.

(12) Mineral rights would include oil, gas, coal, iron ore, gravel, etc.

(13) Any land subject to a rental or lease agreement not directly associated or consistent with farm operation is prohibited from being included in the program. Examples which must be excluded are: a second residence being rented to someone not connected with the farm operation; land being used as parking or storage for materials not associated with that particular farm operation, a leased landing strip, etc.

(14) The Act states that "where land is subject to a land contract, it means the vendor (seller) in agreement with the vendee (purchaser)." Whether the applicant is the seller or the purchaser, the applicant must have the consent of the other party to place land subject to a land contract into the program.

(15) This section of the application is only applicable to those owners who fall within the described categories for income tax information. If you are the sole owner not fitting any of the listed categories, please go on to the next section, leaving (15) blank.

## IV. Land Eligibility Qualifications:

If the land cited in the application is:

(a) a farm of 40 acres or more, complete only section (16);  
(b) a farm of 5 acres or more but less than 40 acres, complete only sections (16) and (17); or  
(c) a specialty farm, complete only sections (16) and (18). These sections provide information for determining if the land cited in the application is in agricultural production and the general types of uses on the farm.

(16) If your farm is 40 acres or more, please fill out section (16) and then go to **V. Signature.**

(17) If your farm is 5 acres or more but less than 40 acres, please fill out both sections (16) and (17) and then go on to **V. Signature.** The information required in section (17) is mandatory by definition of the Act.

(18) If your farm is a specialty farm, please fill out sections (16) and (18) and then go on to **V. Signature.** The information required in section (18) is mandatory by definition of the Act.

Please diagram to the best of your ability the farm and acreage being applied for enrollment in the program. Please indicate residence(s), farm buildings, roads, property boundaries, and natural or man-made features such as lakes, ponds, swamps, streams or rivers, woodlots and gravel pits. This is a map of your farm and can be drawn by you. It does not have to be professionally drawn, but we would ask that it be as legible as possible.

## V. Signature:

If more than one owner is involved, or the applicant is a corporation, either all owners' signatures or one signature (and title) representing all owners must appear on the form. The date must be indicated at the time the signature is affixed to the application form.

### Questions?

Please call Farmland Preservation at  
(517) 373-3328



FARMLAND AND OPEN SPACE PRESERVATION PROGRAM

Application for Farmland Agreement

Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116.

Please print or type. Attach additional sheets as needed. Please read the Eligibility and Instructions document before filling out this form.

OFFICIAL USE ONLY
Local Governing Body:
Date Received:
Application No:
State:
Date Received:
Application No:
Approved: Rejected:

ALL APPLICATIONS MUST BE APPROVED BY LOCAL GOVERNING BODY ON OR BEFORE NOVEMBER 1 IN ORDER TO BE EFFECTIVE FOR THE CURRENT TAX YEAR

I. Personal Information:

1. Name(s) of Applicant: Last First Initial

(If more than two see #15) Last First Initial

Marital status of all individual men listed on application, if more than one, indicate status after each name:

Married Single

2. Mailing Address: Street City State Zip Code

3. Telephone Number: (Area Code) ( )

4. Alternative Telephone Number (cell, work, etc.): (Area Code) ( )

5. E-mail address:

II. Property Location (Can be taken from the Deed/Land Contract)

6. County: 7. Township, City or Village:

8. Section No. Town No. Range No.

III. Legal Information:

9. Attach a clear copy of the deed, land contract or memorandum of land contract. (See #14)

10. Attach a clear copy of the most recent tax assessment or tax bill with complete tax description of property.

11. Is there a tax lien against the land described above? Yes No

If "Yes", please explain circumstances:

12. Does the applicant own the mineral rights? Yes No
If owned by the applicant, are the mineral rights leased? Yes No
Indicate who owns or is leasing rights if other than the applicant:

Name the types of mineral(s) involved:

13. Is land cited in the application subject to a lease agreement (other than for mineral rights) permitting a use for something other than agricultural purposes: Yes No If "Yes", indicate to whom, for what purpose and the number of acres involved:

14. Is land being purchased under land contract Yes No: If "Yes", indicate vendor (sellers):

Name:

Address: Street City State Zip Code

14a. Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, states that the vendor (sellers) must agree to allow the land cited in the application to be enrolled in the program. Please have the land contract sellers sign below. (All sellers must sign).

Land Contract Vendor(s): I, the undersigned, understand and agree to permit the land cited in this application into the Farmland and Open Space Preservation Program.

Date

Signature of Land Contract Vendor(s) (Seller)

15. If the applicant is one of the following, please check the appropriate box and complete the following information (if the applicant is not one of the following – please leave blank):

- 2 or more persons having a joint or common interest in the land
- Corporation  Limited Liability Company  Partnership
- Estate  Trust  Association

If applicable, list the following: Individual Names if more than 2 Persons; or President, Vice President, Secretary, Treasurer; or Trustee(s); or Members; or Partners; or Estate Representative(s):

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

(Additional names may be attached on a separate sheet.)

IV. Land Eligibility Qualifications: Check one and fill out correct section(s)

This application is for:

- a. 40 acres or more → complete only Section 16 (a thru g);
- b. 5 acres or more but less than 40 acres → complete only Sections 16 and 17; or
- c. a specialty farm → complete only Sections 16 and 18.

16. a. Type of agricultural enterprise (e.g. livestock, cash crops, fruit, etc):

- b. Total number of acres on this farm: \_\_\_\_\_
- c. Total number of acres being applied for (if different than above): \_\_\_\_\_
- d. Acreage in cultivation: \_\_\_\_\_
- e. Acreage in cleared, fenced, improved pasture, or harvested grassland: \_\_\_\_\_
- f. All other acres (swamp, woods, etc.) \_\_\_\_\_
- g. Indicate any structures on the property: (If more than one building, indicate the number of buildings):

No. of Buildings \_\_\_\_\_ Residence: \_\_\_\_\_ Barn: \_\_\_\_\_ Tool Shed: \_\_\_\_\_  
 Silo: \_\_\_\_\_ Grain Storage Facility: \_\_\_\_\_ Grain Drying Facility: \_\_\_\_\_  
 Poultry House: \_\_\_\_\_ Milking Parlor: \_\_\_\_\_ Milk House: \_\_\_\_\_  
 Other: (Indicate) \_\_\_\_\_

17. To qualify as agricultural land of 5 acres or more but less than 40 acres, the land must produce a minimum average gross annual income of \$200.00 per acre from the sale of agricultural products.

Please provide the average gross annual income per acre of cleared and tillable land during 2 of the last 3 years immediately preceding this application **from the sale of agricultural products (not from rental income)**:

\$ \_\_\_\_\_ : \_\_\_\_\_ = \$ \_\_\_\_\_ (per acre)  
 total income total acres of tillable land

18. To qualify as a specialty farm, the land must be designated by the Michigan Department of Agriculture, be 15 acres or more in size, and produce a gross annual income from an agricultural use of \$2,000.00 or more. If a specialty farm, indicate average gross annual income during 2 of the last 3 years immediately preceding application from the sale of agricultural products: \$ \_\_\_\_\_

Please note: specialty farm designation may require an on-the-farm site visit by an MDA staff person.



19. What is the number of years you wish the agreement to run? (Minimum 10 years, maximum 90 years); \_\_\_\_\_

V. Signature(s):

20. The undersigned declare that this application, including any accompanying informational material, has been examined by them and to the best of their knowledge and belief is true and correct.

(Signature of Applicant)	(Corporate Name, If Applicable)
(Co-owner, If Applicable)	(Signature of Corporate Officer)
(Date)	(Title)

**ALL APPLICATIONS MUST BE APPROVED BY LOCAL GOVERNING BODY  
ON OR BEFORE NOVEMBER 1 IN ORDER TO BE EFFECTIVE FOR THE CURRENT TAX YEAR.**

**RESERVED FOR LOCAL GOVERNMENT USE: CLERK PLEASE COMPLETE SECTIONS I & II**

I. Date Application Received: \_\_\_\_\_ (Note: Local Governing Body has 45 days to take action)

Action by Local Governing Body: Jurisdiction: \_\_\_\_\_  
 County    Township    City    Village

This application is  approved,  rejected      Date of approval or rejection: \_\_\_\_\_

(If rejected, please attach statement from Local Governing Body indicating reason(s) for rejection.)

Clerk's Signature: \_\_\_\_\_

Property Appraisal: \$ \_\_\_\_\_ is the current fair market value of the real property in this application.

II. Please verify the following:

- \_\_\_\_\_ Upon filing an application, clerk issues receipt to the landowner indicating date received.
- \_\_\_\_\_ Clerk notifies reviewing agencies by forwarding a copy of the application and attachments  
 Note: Review Agencies have 30 days in which to respond before local governing body can proceed.
- \_\_\_\_\_ If rejected, applicant is notified in writing within 10 days stating reason for rejection and the original application, attachments, etc. are returned to the applicant. Applicant then has 30 days to appeal to State Agency.
- \_\_\_\_\_ If approved, applicant is notified and the original application, all supportive materials/attachments, and letters of review/comment from reviewing agencies (if provided) are sent to:

**MDA-Farmland and Open Space Program, PO Box 30449, Lansing 48909**

**\*Please do not send multiple copies of applications and/or send additional attachments in separate mailings without first contacting the Farmland Preservation office.**

Please verify the following regarding Reviewing Agencies (sending a copy to reviewing agencies is required):  <b>COPY SENT TO:</b> _____ County or Regional Planning Commission _____ Conservation District _____ Township (if county has zoning authority) _____ City (if land is within 3 miles of city boundary) _____ Village (if land is within 1 mile of village boundary)	<b>Before forwarding to State Agency, FINAL APPLICATION SHOULD INCLUDE:</b>  _____ Copy of Deed or Land Contract (most recent showing <u>current ownership</u> ) _____ Copy of most recent Tax Bill (must include <u>tax description</u> of property) _____ Map of Farm _____ Copy of most recent appraisal record _____ Copy of letters from review agencies (if available) _____ Any other applicable documents
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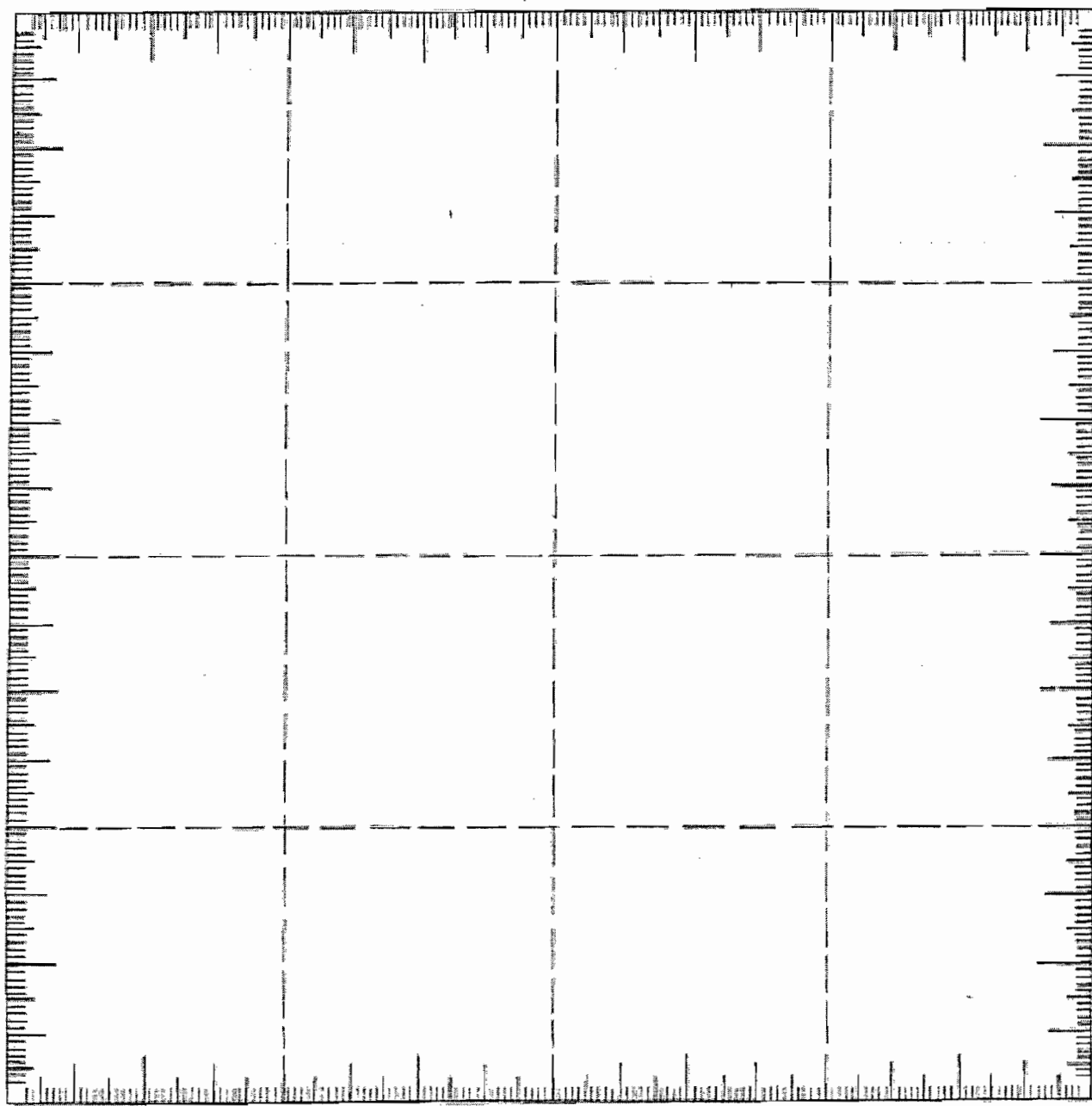
**Map of Farm with Structures and Natural Features:**

- A. Show boundary of land cited in application. (Grid below is designed to represent a 5280 ft<sup>2</sup> (1 mile<sup>2</sup>) Section)
- B. Show all buildings (house(s), barn(s), etc.); also label roads and other avenues of travel (i.e. utility access, etc.).
- C. Outline and designate the current uses of the property (crops, pasture, forest, swamp, etc.).
- D. Clear copies of map(s) provided by USDA Farm Service Agency are acceptable, but please label any roads visible on map, structures and their use, etc.

**Note:** Any residential structures housing persons not directly associated with the farm operation must be excluded from the application. Please indicate if a building falls in this category and provide the appropriate property description for its exclusion. Unless the appropriate description is included, your application cannot be processed.

County \_\_\_\_\_  
Township \_\_\_\_\_  
T \_\_\_\_\_ R \_\_\_\_\_ Section \_\_\_\_\_

↑ North



**Wind Turbines on Land Enrolled in a PA 116**  
Part 361, Act 451 of 1994 as amended (MCL 324.36101)  
October 7, 2008 (DRAFT)

Wind Turbines may be placed on land currently enrolled in PA116 provided that specific conditions are met. Options are available for Farm ownership of wind turbines, second party ownership, and for withdrawal of the land from PA116 for public utilities.

- 1) **Personal Ownership:** A wind turbine for "personal use" by the farmer or by a person considered to be essential to the farming operation as defined in statute (324.36110(5)) may be placed on enrolled farmland. The wind turbine would be considered part of the farming operation and permitted as such. A wind turbine is considered to be for personal use if its installation and operation meets any of the three following conditions:
  - a. the wind turbine is not connected to the public utility system and produces energy solely for use on the farm, or
  - b. the landowner maintains a valid interconnection agreement with a participating public utility, but the primary use of the turbine is for self-service power (as defined in MCL 460.10a(13)),
  - c. the landowner maintains a valid interconnection agreement with a participating utility, and the landowner is participating in a net metering program that is approved by the Michigan Public Service Commission.
  
- 2) **Second Party Ownership:** Wind turbines may be placed on the enrolled land by persons other than the landowner via an easement or lease if the following four conditions are met:
  - a. The wind turbine must be placed by a public utility or the turbine owner must maintain a valid interconnect agreement with a public utility to connect to the public utility system, and
  - b. The Michigan Department of Agriculture must find that the location of the facility, and ground changing features associated with the wind generator, do not substantially hinder the farming operation, and
  - c. The facility and placement of the wind turbine must be approved by the unit of government having zoning authority, and
  - d. The landowner/PA 116 Agreement holder must agree with the placement of the facility.
  
- 3) **Withdrawal:** The land being used for a wind turbine may be removed from the program if:
  - a. The wind turbine is being constructed by a public utility or the wind turbine owner has an interconnect agreement with a public utility, and
  - b. The landowner has submitted an application for removal of the land from the PA116 program to the local unit of government having zoning authority and the application has been approved by both the local government and Michigan Department of Agriculture, and
  - c. The portion of the last seven years of PA 116 tax credits attributable to the parcel being released have been repaid to the Department.

**For Reference: MCL 324.36110(5) Essential to the farm**

(5) As used in this section, "individual essential to the operation of the farm" means a co-owner, partner, shareholder, farm manager, or family member, who, to a material extent, cultivates, operates, or manages farmland under this act. An individual is considered involved to a material extent if that individual does 1 or more of the following:

- (a) Has a financial interest equal to or greater than 1/4 the cost of producing the crops, livestock, or products and inspects and advises and consults with the owner on production activities.
- (b) Works 1,040 hours or more annually in activities connected with the production of the farming operation.

**For Reference: MCL 460.10a(13) Self Service Power**

(13) This act does not prohibit or limit the right of a person to obtain self-service power and does not impose a transition implementation, exit fee, or any other similar charge on self-service power. A person using self-service power is not an electric supplier, electric utility, or person conducting an electric utility business. As used in this subsection, "self-service power" means any of the following:

- (a) Electricity generated and consumed at an industrial site or contiguous industrial site or single commercial establishment or single residence without use of an electric utility's transmission and distribution system.
- (b) Electricity generated primarily by the use of by-product fuels, including waste water solids, which electricity is consumed as part of a contiguous facility, with the use of an electric utility's transmission and distribution system, but only if the point or points of receipt of the power within the facility are not greater than 3 miles distant from the point of generation.
- (c) A site or facility with load existing on June 5, 2000 that is divided by an inland body of water or by a public highway, road, or street but that otherwise meets this definition meets the contiguous requirement of this subdivision regardless of whether self-service power was being generated on June 5, 2000.
- (d) A commercial or industrial facility or single residence that meets the requirements of subdivision (a) or (b) meets this definition whether or not the generation facility is owned by an entity different from the owner or the commercial or industrial site of single residence.

## What Happens When a Farmland Development Rights Agreement Expires?

During the last year of a Farmland Development Rights Agreement, the agreement holder will be sent a notice asking whether the agreement will be extended or allowed to expire.

### Extension

After the initial term of the 10-year agreement, the agreement may be extended for a minimum of seven years, or longer, up to 90 years maximum.

### Expiration

If the agreement holder chooses to let the agreement expire, tax credits received during the last seven years of the agreement must be repaid. The agreement holder will be notified of the amount.

If the amount is not paid within 30 days, a lien will be placed against the property. No interest will accrue on this lien. If no credits were taken during the last seven years of the agreement, then no lien will be placed.

### Tax Credit Eligibility

The application to enroll in the program must be approved by the local unit of government on or before November 1 to be eligible for tax credits beginning that year.



Printed by authority of Part 367, Farmland and Open Space Preservation, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended, more commonly known as "PA 116," Michigan Department of Agriculture

This publication and program forms are available online at [www.michigan.gov/farmland](http://www.michigan.gov/farmland)



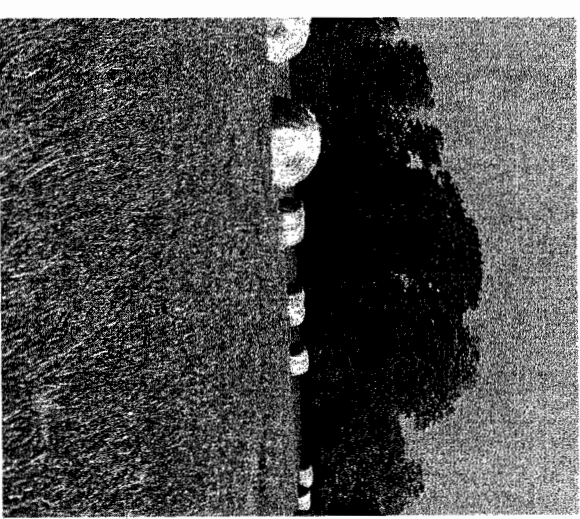
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**The Farmland & Open Space Preservation Program (PA 116)**



**Farmland Agreements Enrollment, Eligibility & Benefits**



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**The Farmland and Open Space Preservation Program** is designed to preserve farmland and open space through agreements that restrict development, and provide tax incentives for program participation. (See *brochure #2 Farmland Agreements--Transferring, Dividing & Releasing for information on revising agreements.*)

This is part one of a two-brochure series explaining the benefits of program enrollment, and the options available to current participants in regard to farmland agreements.

## **What Does the Farmland and Open Space Act Do?**

The act enables a farm owner to enter into a Development Rights Agreement with the state. The agreement ensures that the land remains in agricultural use for a minimum of 10 years, and is not developed for any non-agricultural use. In return for maintaining the land in agricultural use, the landowner may be entitled to certain income tax benefits, and the land is not subject to special assessments for sanitary sewer, water, lights or non-farm drain projects.

*This brochure explains Part 361, Farmland and Open Space Preservation, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended. This act was formerly known as the Farmland and Open Space Preservation Act, and is commonly known as PA 116 of 1974.*

## **Which Lands are Eligible?**

Farmland eligibility is determined by the size of the farm, and in some instances, by the farm's income. A parcel meets qualification requirements for enrollment in a Farmland Development Rights Agreement if one of the following is true:

- Parcel is 40 acres or larger, and a minimum of 51 percent of the land is agriculturally active.

- Parcel has at least five acres but less than 40 acres in size, more than 51 percent of the land is agriculturally active, and the agricultural land produces a gross annual income in excess of \$200 per tillable acre.
- Parcel has been designated as a specialty farm by the Michigan Department of Agriculture, is a minimum of 15 acres, and has a gross annual income exceeding \$2,000 per year.

## **How Long Does the Agreement Last?**

The original farmland agreement is contracted for a minimum of 10 years, and a maximum of 90 years. The agreement may be extended for a minimum of seven years or longer, after the initial term.

## **Must the Landowner Provide Public Access?**

The landowner is not required to provide public access to participate in the program.

## **How Does the Landowner Benefit from Enrollment in the Program?**

There are two primary benefits for participation in a Farmland Agreement:

**Tax Credits:** Benefits under a farmland agreement will depend on the property tax assessed against the property, and the landowner's income. The landowner is entitled to claim a Michigan income tax credit equal to the amount the property taxes (on the land and improvements covered by the agreement) exceed 3.5 percent of the household income.

For example, if the owner has an income of \$20,000 and property taxes on the farm total \$2,000, he/she would subtract \$700 (3.5 percent of \$20,000) from the \$2,000 property tax for an income tax credit of \$1,300. This tax credit is in addition to the Homestead Property Tax Credit, for which the landowner may already be qualified.

**Special Assessments:** Land that qualifies, and is enrolled in the program, is exempt from special assessments for sanitary sewers, water, lights, or non-farm drainage, unless the assessments were imposed prior to the recording of the farmland agreement. Land exempted from special assessment will be denied use of the improvement until the portion of the special assessment directly attributable to the actual use of the improvement is paid.

When the farmland agreement is terminated, the local government may require payment of the special assessment; however, the amount of the assessment can not exceed the amount the assessment would have been at the time of the exemption, and can not include any interest or penalty.

## **How Does the Landowner Apply for Enrollment?**

The application form is available from the MDA Farmland Preservation Office. After the landowner fills out the application, it must be submitted to the local governing body (i.e., city, village, township or county).

Application is made with the township ordinance, or with the county for those townships which have not adopted a zoning ordinance. The local governing body has 45 days to approve or reject the application.

Within the 45-day period, the governing body must seek comments from the county or regional planning commission; the soil conservation district; a city, if the land is within three miles of the city; or a village, if the land is within one mile of the village.

These agencies are allowed 30 days from the day of notification to forward their comments to the clerk of the local governing body. If approved, the application is forwarded to the Michigan Department of Agriculture Farmland Preservation Office.

If no action is taken by the local governing body, or the application is rejected, the applicant may appeal directly to the Michigan Department of Agriculture within 30 days.