

Chapter 103, CONSERVATION EASEMENTS

[HISTORY: Adopted by the Town Board of the Town of Perinton 8-12-1976 as Ch. 65 of the 1976 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental Conservation Board -- See Ch. 16.
Subdivision of land -- See Ch. 182.
Zoning -- See Ch. 208.

§ 103-1. Title.

This chapter shall hereinafter be known and cited as the "Conservation Easement Law of the Town of Perinton."

§ 103-2. Purpose.

It is the purpose of this chapter to provide for the acquisition of interests or rights in real property for the preservation of open space and areas which shall constitute a public purpose for which public funds may be expended or advanced after due notice and a public hearing, by which the Town of Perinton may acquire by purchase, gift, grant, bequest, devise, lease or otherwise the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to acquire open space or open area as the same is defined in § 103-5 herein.

§ 103-3. Legislative authority.

In accordance with § 247 of the General Municipal Law of the State of New York, the Town Board of the Town of Perinton has the authority to acquire such interests or rights in land. Pursuant to the above authority, the Town Board has prepared and adopted this chapter setting forth standards to be followed in the acquisition of such interest.

§ 103-4. Applicability.

This chapter shall apply to the entire area of the Town of Perinton, excluding those areas within the corporate limits of the Villages of East Rochester and Fairport.

§ 103-5. Definitions. [Amended 5-24-2000 by L.L. No. 2-2000]

For the purpose of this chapter, the terms used herein are defined as follows:

OPEN SPACE or OPEN AREA -- Any space or area characterized by natural scenic beauty or whose existing openness, natural condition or present state of use, if retained,

would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural or scenic resources. For the purposes of this section, natural resources shall include but not be limited to agricultural lands defined as open lands actually used in bona fide agricultural production. There is no minimum size required for a parcel to be placed under a conservation/agricultural easement; however, the parcel must be suitable for further development, so that the limitation on development during the easement time period provides a benefit to the Town.

§ 103-6. Procedure for granting easement.

A.Proposal by owner. Any owner or owners of land may submit a proposal to the Conservation Board of the Town of Perinton for the granting of interests or rights in real property for the preservation of open spaces or areas. Such proposal shall be submitted in such manner and form as may be prescribed by such Conservation Board and shall include a survey map and metes and bounds description of the proposed area. The owner shall pay to the Town a fee as shall be set from time to time by the Town Board which shall be deemed a reasonable sum to cover the costs of administration, no part of which shall be returnable to the applicant. [Amended 3-9-1978 by L.L. No. 2-1978; 12-10-1997 by L.L. No. 6-1997]

B.Review by Conservation Board. Upon receipt of such proposal, the Conservation Board shall investigate the area to determine if the proposal would be of benefit to the people of the Town of Perinton and may negotiate the terms and conditions of the offer. If the Conservation Board determines that it is in the public interest to accept such proposal, it shall recommend to the Town Board that it hold a public hearing for the purpose of determining whether or not the Town should accept such proposal.

C.Public hearing by Town Board. The Town Board shall, within 45 days of receipt of such advisory opinion, hold a public hearing concerning such proposal at a place within the Town of Perinton. At least 10 days' notice of the time and place of such hearing shall be published in a paper of general circulation in such Town, and a written notice of such proposal shall be given to all adjacent property owners and to any municipality whose boundaries are within 500 feet of the boundaries of said proposed area, to the Monroe County Planning Council and to the school district in which it is located.

D.Determination. The Town Board, after receiving the reports of the Conservation Board and the Monroe County Planning Council and after such public hearing, may adopt the proposal or any modification thereof it deems appropriate or may reject it in its entirety. An easement for agricultural/farming purposes, with the attendant tax benefits, may be granted only after the Town Board makes a finding that the parcel will be used for bona fide agricultural production. [Amended 5-24-2000 by L.L. No. 2-2000]

E.Recording agreement. If such proposal is adopted by the Town Board, it shall be executed by the owner or owners in written form and in a form suitable for recording in the Monroe County Clerk's office.

F.Cancellation. Said agreement may not be canceled by either party. However, the owner or owners thereof may petition the Town Board for cancellation upon good cause shown, and such cancellation may be granted only upon payment of the penalties provided in § 103-8 herein.

§ 103-7. Valuation for taxation.

After acquisition of any such interest pursuant to this chapter, the valuation placed upon such area for purposes of real estate taxation shall take into account and be limited by the limitation on the future use of the land.

§ 103-8. Penalty for violation or cancellation. [Amended 3-9-1978 by L.L. No. 2-1978]

If there is a substantial violation of the terms and conditions of the conservation easement agreement or if said agreement is canceled by the Town Board upon petition, the then owner or owners of said property must pay to the Town of Perinton the following amounts:

A.All taxes granted abatement under and pursuant to the conservation easement agreement, said taxes to include the state, county, Town, school districts and all special improvement districts and other taxing units to which the property is subject. Said back taxes shall be limited as follows: Any easement broken before its 11th year will be subject to a five-year maximum rollback; an easement broken between its 11th and 15th year will be subject to a four-year maximum rollback; an easement broken in its 16th year or later will be subject to a three-year maximum rollback; plus

B.The penalty assessed on the basis of the previous year's tax abatement multiplied by a factor equal to the term of the easement divided by the current year of the easement. This factor shall not exceed five.