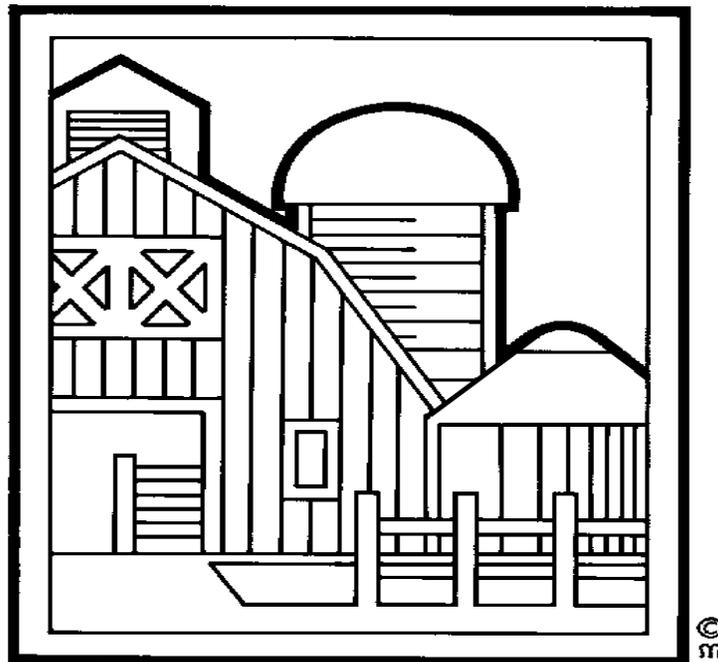


IS THE CLEAN AND GREEN PROGRAM FOR YOU?



## POTTER COUNTY

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## GUIDELINES FOR UNDERSTANDING *CLEAN AND GREEN*

When a county implements a **Clean and Green** program, it usually places two (2) values on each parcel of land that is ten (10) acres or more in size. These values are known as the *Fair Market Value* and the *Agricultural-Use Value*, better known as the **Clean and Green** value. After these new values have been certified by the county, tax bills are calculated for each taxing district, using either the *Fair Market Value* or the *Agricultural-Use Value*, depending upon whether or not the property owner has enrolled their property in the **Clean and Green** program.

The decision to enroll should be based upon factual information about the *Clean and Green* law and its requirements for eligibility. Each property owner should make an effort to understand the various aspects of the *Clean and Green* program and make this decision in their best interest. To help property owners understand the program and its impact, the Potter County Commissioners have provided this guide to answer the most frequently asked questions about *Fair Market Value* and *Clean and Green*.

### WHAT IS *CLEAN AND GREEN* ?

Clean and Green (Act 319 – Public Law 973 – Pennsylvania Farmland and Forest Land Assessment Act) is a state law passed in 1974 that allows land parcels which are ten (10) acres or more in size, and which are devoted to agricultural and forest land use, to be assessed at value for that use rather than *Fair Market Value*. The intent of the act was to encourage property owners to retain their land in agricultural or forest land use, and to provide some tax relief to land owners.

### WHO BENEFITS FROM THE *CLEAN AND GREEN* PROGRAM ?

Everyone benefits, either directly or indirectly, from this agricultural land preservation program. The property owners benefit directly by receiving some tax relief, as long as they agree not to convert their land to housing developments or other types of non- agricultural, commercial businesses. The general public benefits from the preservation of our farmlands, woodlands, and the future heritage of our land.

### WHAT IS FAIR MARKET VALUE AND HOW IS IT DETERMINED ?

*Fair Market Value* is the value, in terms of money, which a willing, prudent, and knowledgeable seller would accept and a willing, prudent, and knowledgeable buyer would pay, assuming that the property has been exposed to the market for a reasonable length of time; neither buyer or seller are under duress and both are acting in their own self – interest. The process of estimating market value involves the analysis of recent sales of comparable real estate within the county. Only transactions on the open market where there is no pressure to either buy or sell and where the property was on the market for a reasonable period of time are used. These sales are then used to predict the probable selling price or current value of each property at a given moment in time.

## WHAT IS THE AGRICULTURAL – USE VALUE OR *CLEAN AND GREEN* VALUE, AND HOW IS IT DETERMINED ?

The *Agricultural – Use Value* does not consider all uses or the highest and best use of the property. The *Agricultural – Use Value* considers only the worth of that property for agricultural purposes such as tillable land, woodland, and pastureland. The basis for determining the *Agricultural – Use Value* comes from the Income Approach to establishing value. The *Clean and Green Law* also states that the *Agricultural – Use Value* must reflect the potential of the individual parcel to produce, based upon soil type productivity. Another way to explain *Agricultural – Use Value* is the amount of money that a prudent investor might invest in an area of land and receive a reasonable rate of return from the land use itself. A productivity index for each land category is calculated and used to equalize the value based on soil productivity.

## DO I GET A TAX REDUCTION ON MY BUILDING(S) UNDER *CLEAN AND GREEN* ?

**No.** The *Clean and Green Program* benefits only the land portion of the assessment. The value of the residence, farm buildings, other out – buildings, and agricultural – commercial buildings as well as one base acre is not affected by *Clean and Green*. The *Fair Market Value* of buildings is then added to the *Agricultural – Use Value* for land, to arrive at the total *Clean and Green Value* for the property.

## DOES THIS AGRICULTURAL – USE VALUE AFFECT ALL OR PART OF MY TAXES ?

If the *Clean and Green* application is approved, then the *Agricultural – Use Value* will be used to compute all County, Municipal, and School Real Estate Taxes.

## ARE RURAL PROPERTY OWNERS BEING FORCED INTO *CLEAN AND GREEN* ?

**No.** The inclusion of a property in the *Clean and Green Program* is within the discretion of the property owner. The *Clean and Green Law* provides an option or an opportunity for tax relief if the property owner simply agrees not to develop or commercialize their land. If the property owner chooses not to participate in *Clean and Green*, then taxes will be paid on the *Fair Market Value*, as required under assessment law.

## MAY I APPEAL THE *CLEAN AND GREEN* VALUE THE SAME WAY THAT I CAN APPEAL THE FAIR MARKET VALUE ?

**Yes.** Property owners have the right to appeal to the Board of Assessment Appeals and the Court of Common Pleas under the same appeal rights described in assessment law. They may also appeal the decision to approve or disapprove their *Clean and Green* application.

## HOW LONG WILL MY LAND BE IN THE *CLEAN AND GREEN* PROGRAM ?

Once a property is approved for the program, it will remain in the program *continuously* until the property owner *chooses* to remove it from the program, or the property owner *changes* the use, and the county is required to change the status of the parcel from assessment under *Clean and Green* to an assessment under *Fair Market Value*.

## MAY I COMBINE SEVERAL PARCELS UNDER ONE APPLICATION ?

**Yes.** You may include more than one tract of land in a single application, regardless of whether the tracts have separate deeds or are identified by separate tax parcel numbers. However, you may **not** apply for preferential assessment for less than the entire contiguous portion of land described in a single deed.

## WHAT ARE THE MAIN ELIGIBILITY REQUIREMENTS TO BE APPROVED FOR *CLEAN AND GREEN* ?

### A. Size Requirements

The parcel/deed must be 10 acres or more in size to be eligible. The parcel/deed may be less than 10 acres in size if the owner can verify that the land is devoted to *agricultural use* and there is an anticipated annual gross income of \$2,000 or more from agricultural commodities. The applicant must attach an affidavit of the owner's intent to keep this parcel in *agricultural use*.

### B. Agricultural Use Eligibility

If the primary use is agricultural, you may be eligible under this category. The term, "*Agricultural Use*", is a very broad term, and actually means *all use other than housing developments or non – agricultural, commercial, business activities*. Land under this category may be promoted open space and land preservation.

### C. Forest Reserve Eligibility

If the primary use is forestlands, you may be eligible under this category. The term, "Forest Reserve", means that this parcel has forest land and is stocked with trees of any size, and is capable of producing wood products in excess of 25 cubic feet per acre, each year.

**D. Agricultural Reserve**

If the parcel fails to meet the requirement for the Agricultural Use or Forest Reserve categories, then it may be approved under this category. This category requires the land to be non – commercial, open to the public for outdoor recreation or the enjoyment of scenic or natural beauty, at no charge or fee, with no discrimination against any person using the land.

**E. Commercial, Non – Agricultural Use**

The only other factor in eligibility is whether or not the property owner, or anyone else, is currently conducting a non – agricultural, commercial business on this property. Property owners may request that up to two (2) contiguous acres of the total acreage included on the application be excluded from the program to allow non – agricultural, commercial activity. The applicant must provide a site map showing the location of the two (2) acres at the time of application and shall not be permitted to change the location of the two (2) acres after the property is admitted into the Clean and Green Program. Some property owners may wish to deed larger commercial enterprises off as a separate parcel, therefore, not affecting the land placed under Clean and Green. Property owners should obtain legal advice on whether or not sub-division approval is necessary.

**MUST I OPEN MY LAND TO THE PUBLIC AS A CONDITION FOR ENROLLING ?**

If your property is approved under the Agricultural Use or Forest Reserve, you are not required to open your land to the public. If a property is approved under the Agricultural Reserve category, then there is a condition that permits the general public to have access to your land for outdoor recreation or the enjoyment of scenic or natural beauty. Any portion of a property that is open, non – tilled land, approved under the Agricultural Reserve area cannot be posted prohibiting public access. For more details, see Eligibility Requirements – Agricultural Reserve.

**IF I PARTICIPATE IN *CLEAN AND GREEN*, DO I LOSE MY RIGHTS TO USE THE LAND AS I WISH ?**

No. You may use your land as you choose, subject to land use regulations and laws. Act 319 has no provision or interference with the individual rights of property owners to do whatever they wish with their land. It is simply an agreement or covenants that as long as property owners do not change the use, then they may receive the benefits provided under Clean and Green. No state or county authority has any right, under the law, to interfere or direct your personal use of the land. However, if you enroll your property in Clean and Green and then change its use to an ineligible use, it will be subject to a roll – back tax penalty.

## WHAT IS THE ROLL – BACK TAX, AND HOW WILL IT BE CHARGED ?

A roll – back tax is a penalty imposed when the use of a property in the Clean and Green program is changed to an ineligible use. The roll – back tax is the difference between the Clean and Green tax and the tax that would have been due based upon the market value of the property for each year that the property was in the program, up to a maximum of seven (7) years, plus six percent (6%) per year, interest. No roll – back tax is charged when the property is sold or transferred to another party. The question as to who pays the roll – back tax is based on who owns the land at the time of the use change.

If the use never changes to an ineligible use, then there will never be a roll – back tax charged. If the property owner chooses to remove the property from the Clean and Green program without the use actually changing to an ineligible use, the request must be made in writing.

## WHAT HAPPENS TO THE *CLEAN AND GREEN* STATUS IF I DIE ?

Nothing will change, upon the death of the owner, with regard to *Clean and Green*. The *Clean and Green* agreement stays with the estate and is attached as a covenant to the property. If the estate or future owners continue with the same use, as provided under Clean and Green, the taxes will continue to be calculated on the *Agricultural – Use Value*. If the use changes, a roll – back tax, plus interest, will be charged.

## DOES THE *CLEAN AND GREEN* PROGRAM PUT A LIEN ON MY LAND ?

**No.** But an approved application to a property in the *Clean and Green Program* will be recorded in the *Recorder of Deeds* office. Recording an agreement between the property owner and the county provides public notice that the parcel is in the *Clean and Green Program*; therefore, informing a future buyer that if they wish to change the use to a non – conforming use, they will incur a roll – back tax liability.

## WHAT IS THE COST TO ENROLL IN THE *CLEAN AND GREEN* PROGRAM ?

There will be a one – time application and recording fee. Check with the Assessment Office for the current fee schedule.

## MUST I FARM THE LAND, CUT BRUSH, MOW FIELDS, ETC. IN ORDER TO KEEP IT ELIGIBLE FOR *CLEAN AND GREEN* ?

**No.** You may actively farm the land, lease it, or let it revert to its original state. The only issue that could affect a change in eligibility will be your decision to commercialize and develop your land.

## WHERE DO I GET AN APPLICATION, AND WHERE DO I APPLY?

You may request an application in writing, by telephone (814) 274-0517, on the website [www.pottercountypa.net](http://www.pottercountypa.net), or you may pick up an application from the Potter County Assessment Office, 1 North Main Street, Suite 111 Coudersport, PA 16915.

## WHAT IS THE DEADLINE FOR ENROLLING IN *CLEAN AND GREEN* ?

The deadline for enrolling in the *Clean and Green Program* is **June 1<sup>st</sup> of each year**. The application becomes **effective** for the tax year **beginning the following January 1**.

## DO THE PROVISIONS OF *CLEAN AND GREEN* TAKE PRIORITY OVER LOCAL ZONING OR SUBDIVISION ORDINANCES ?

**No.** The provisions of *Clean and Green Law* reflect what may be done under **Act 319** in order to retain the land in the program. Nothing in the law takes any priority over zoning or subdivision ordinances, and property owners may find fewer or greater limitations imposed within their own jurisdictions than by **Act 319**.

## MAY I BUILD A HOUSE ON MY LAND WITHOUT IT AFFECTING *CLEAN AND GREEN* ?

**Yes.** You may always build a personal residence or any other building related to your farm enterprise, as long as it is not non - agricultural, commercial, or a housing development.

## MAY I SUB – DIVIDE OR SELL ANY PART OF MY LAND WITHOUT CAUSING A ROLL – BACK TAX ?

**Yes.** You may sell portions of your land under some conditions without causing a roll – back tax. There are two (2) types of subdivisions. The first is called, “SEPARATION”, and is permitted if each new parcel created meets the size and use requirements to remain in **Clean and Green**. The remainder of the original property must also continue to meet these requirements. If the new buyer changes the use, they will pay the roll – back tax on the *entire* original tract.

For example: A property owner enrolls a 100 – acre tract of land in **Clean and Green**, and subsequently sells off three (3) 25 – acre tracts of land. The use does not change, therefore, there is no roll – back tax, unless, one (1) of the buyers decides to build an apartment building. They have changed the use, and now the roll – back tax will be charged on the entire tract of land as it was originally enrolled. The owner of the apartment building will pay the roll – back tax on the *entire* 100 acres of land. The **Clean and Green** agreement is now void and each of the remaining property owners must then individually re – apply to retain their own **Clean and Green** status, although they are under no compulsion to do so.

Another type of subdivision or transfer is called a “SPLIT – OFF”, a permissible split – off cannot exceed two (2) acres a year, the use cannot change, except as noted below, and the total of all splits cannot exceed 10 percent of the entire, original tract of land or 10 acres, whichever is less. A maximum of only two (2) acres can be split off during any single calendar year, even if the property has been enrolled for several previous years and experienced no split off activity. These split – offs may remain in agricultural use or be used for residential use, as long as the person owning the property is building a house which they will personally occupy. No speculative building projects would be permitted without causing a roll – back tax to be charged.

## IS THERE ANY CONNECTION BETWEEN THE *CLEAN AND GREEN* PROGRAM, THE AGRICULTURAL SECURITY AREA PROGRAM, AND THE AGRICULTURAL LAND PRESERVATION PROGRAM ?

**No.** These programs are all separate attempts to preserve Pennsylvania agricultural and forest land.

- **Clean and Green provides** a preferential assessment, which allows tax relief to property owners who agree not to put in housing developments or commercialize their land.
- The **Agricultural Security Area Program** involves the cooperative effort on the part of property owners who decide to band together for, a security area for agricultural land. This security area will restrict governmental bodies from imposing nuisance ordinances against agricultural activities, will limit eminent domain, and is the prerequisite to the Agricultural Land Preservation Program.
- The **Agricultural Land Preservation Program** allows for the purchase of development rights.