

FRANKLIN COUNTY  
AGRICULTURAL LAND PRESERVATION PROGRAM

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Approved: December 17, 1996  
Effective: January 1, 1997  
Amended: December 2002  
Re-certified: December 2003  
Amended: June 2005  
Amended: August 2006  
Amended: July 2007  
Re-certified: December 2010  
Amended: December 2011  
Re-certified: December 2017

Amended: December 2019  
Amended: June 2023  
Amended: October 2024  
Re-certified: October 2024  
Amended: December 2024

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## GENERAL PROVISIONS

### 101 PURPOSE

It is the purpose of this program to protect viable agricultural lands by acquiring agricultural conservation easements that prevent the development or improvement of the land for any purpose other than agricultural production.

Further, it is the purpose of this program to:

- (1) Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use;
- (2) Protect normal farming operations in agricultural areas from incompatible non-farming uses that may render farming impracticable;
- (3) Protect farming operations from complaints of public nuisance against normal farming operations;
- (4) Assure conservation of viable agricultural lands in order to protect the agricultural economy of this Commonwealth;
- (5) Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property; and
- (6) Maximize agricultural easement purchase funds and protect the investment of taxpayers in agricultural conservation easements.

### 102 DEFINITIONS

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act - The Agricultural Area Security Law (3 P.S. sections 901-915), as amended.

Agricultural Conservation Easement or Easement - An interest in a parcel, less than fee simple, which interest represents the right to prevent the development or improvement of the parcel for a purpose other than agricultural production. The easement may be granted by the owner of the fee simple to a third party or to the Commonwealth, to a County governing body or to a unit of local government. Franklin County will not consider any conservation easements for purchase that are not perpetual in nature. The exercise or failure to exercise any right granted by the easement shall not be deemed to be management or control of activities at the site for purposes of enforcement of the act of October 18, 1988 (P.L. 756, No. 108), known as the "Hazardous Sites Cleanup Act".

Agricultural Production - The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than 50% of such processed or merchandised products are produced by the farm operator. The term includes use of land that is devoted to and meets the requirements of and qualifications for payments and other compensation pursuant to a soil conservation program under and agreement with an agency of the Federal Government.

Agricultural Value - The sum of:

- (1) The farmland value determined by the applicant's appraisal; and
- (2) One-half of the difference between the farmland value determined by the state or County Board's appraiser and the farmland value determined by the applicant's appraiser if the farmland value determined by the state or County Board's appraiser exceeds the farmland value determined by the applicant's appraiser.

Allocation - The State Board's designation of funds to the counties under section 14.1 of the act (3 P.S. section 914.1). An allocation is an accounting procedure only and does not involve certifying, reserving, encumbering, transferring or paying funds to eligible counties.

Applicant - A person offering to sell an easement on a farmland tract.

Appropriation - The irrevocable commitment of a specific amount of money by the County governing body exclusively for the purchase of easements.

Commercial Equine Activity - The term includes the following activities where a fee is collected: the boarding of equines, training of equines, the instruction of people in handling, driving or riding equines, the use of equines for riding or driving purposes, the pasturing of equines. The term does not include activity licensed under the act of December 17, 1981 (P.L. 435, No. 135), known as the "Race Horse Industry Reform Act".

Comparable Sales - Market sales of similar land. In locating comparable sales, first priority shall be given to farms within the same municipality as the subject land. The second priority shall be farms located within other municipalities in the same County as the subject land. The lowest priority shall be given to farms located outside the same County as the subject land.

Conservation Plan - A plan describing land management practices, including an installation schedule and maintenance program, which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land.

Contract of Sale - A legally enforceable agreement in a form provided by the State Board obligating the landowner to sell, and the Commonwealth or a County, or both, to purchase an agricultural conservation easement on a specific farmland tract.

Contiguous Acreage - All portions of one operational unit as described in the deed, or deeds, whether or not the portions are divided by streams, public roads, bridges and whether or not described as multiple tax parcels, tracts, purpart or other property identifiers. It includes supportive lands such as unpaved fields access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

County - Franklin County, Pennsylvania.

County Board - The Franklin County Agricultural Land Preservation Board as appointed by the Franklin County Commissioners.

County Governing Body - The Franklin County Board of Commissioners.

County Matching Funds - Money appropriated by the Franklin County Commissioners for the purchase of easements.

County Program - A Franklin County Agricultural Land Preservation Program for the purchase of easements authorized and approved by the Franklin County Commissioners.

Crops, Livestock and Livestock Products - Include but are not limited to:

- Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- Fruits, including apples, peaches, grapes, cherries, and berries.
- Vegetables, including, tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.
- Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers.
- Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.
- Timber, wood and other wood products derived from trees.
- Aquatic plants and animals and their byproducts.

Crops Unique to the Area - Include, but are not limited to, crops which historically have been grown or have been grown within the last five years in the region and which are used for agricultural production in the region.

Curtilage - The area surrounding a residential structure used for yard, driveway or similar residential purposes.

Department - The Department of Agriculture of the Commonwealth.

Easement Value - The difference between the nonagricultural value and agricultural value of a farm. If solely the County or state appraisal is used, nonagricultural value and agricultural value

are equal to market value and farmland value, respectively. If the landowner obtains an independent appraisal, nonagricultural value and agricultural value shall be calculated according to section 14.1(f) (3 P.S. section 914.1(f)) of the act.

Economic Viability of Farmland for Agricultural Production - The capability of a particular tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1(c)(6)(iv)), to meet all of the criteria set forth at Section 138e.16 (a) (relating to minimum criteria for applications).

Eligible Counties - Counties whose easement purchase programs have been approved by the State Agricultural Land Preservation Board. For the purpose of annual allocations, an eligible county must have its easement purchase program approved by the State Agricultural Land Preservation Board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.

Encumbered - Previously allocated funds reserved by the Commonwealth or a County to pay all or part of the costs of purchasing a specific easement under a specific contract of sale.

Farm - Land in this Commonwealth that is being used for agricultural production as defined in the act.

Farmland Tract - Land constituting all or part of a farm that is proposed for the purchase of an easement.

Farmland Value - The price as of the valuation date for property used for normal farming operations which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property.

Fund - The Agricultural Conservation Easement Purchase Fund established by the act of May 13, 1988 (P.L. 398, No. 64).

Grant Funds - Funds allocated to a County by the State Board under section 14.1(h)(2) and (5)(ii) of the act (3 P.S. section 914.1(h)(2),(5)(ii)), the expenditure of which is not contingent upon the appropriation and expenditure of County matching funds.

Grantee - The person or entity to whom an easement is conveyed under the act.

Grantor - The person or entity who conveys an easement under the act.

Grazing or Pasture Land - Land used primarily for the growing of grasses and legumes which are consumed by livestock in the field and at least 90% of which is clear of trees, shrubs, vines or other woody growth not consumed by livestock.

Harm the Economic Viability of the Farmland for Agricultural Production - To cause a particular tract of restricted land to fail to meet the criteria set forth at Section 138e.16 (a)(2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter, or to create, through subdivision, a tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1(c)(6)(i)), that would fail to meet the aforescribed criteria.

Harvested Cropland - Land used for the commercial production of field crops, fruit crops, vegetables and horticultural specialties, such as Christmas trees, flowers, nursery stock and ornamentals, greenhouse products and sod, as defined in the act. The term does not include timber and wood products.

Land Capability Class (LCC) - A group of soils designated by either the County Soil Survey, as published by USDA-NRCS in cooperation with the Pennsylvania State University and the Department, or the Soil and Water Conservation Technical Guide maintained and updated by USDA-NRCS.

Land Development - Either of the following activities:

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively; or
- (2) A subdivision of land.

Land Which Has Been Devoted Primarily to Agricultural Use - That acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing non-residential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilage, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of two acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1(c)(6)(iv)).

Local Government Units - Any city, borough, township or town or any home rule municipality, optional plan municipality, optional charter municipality or similar general purpose unit of government which may be created or authorized by statute.

Market Value - The price as of the valuation date for the highest and best use of the property which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property.



Nonagricultural Value - The sum of:

- (1) The market value determined by the state or County Board's appraiser; and
- (2) One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the state or County Board's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the state or County Board's appraiser.

Nonprofit Land Conservation Organization - A nonprofit organization dedicated to land conservation purposes recognized by the Internal Revenue Service as a tax-exempt organization under the Internal Revenue Code. (26 U.S.C.A. Sections 1-7872).

Normal Farming Operation - The customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock, and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes the storage and utilization of agricultural and food processing wastes for animal feed and the disposal of manure, other agricultural waste and food processing waste on land where the materials will improve the condition of the soil or the growth of crops or will aid in the restoration of the land for the same purposes.

Owner - The person holding title to land.

Parcel – A tract of land in its entirety that is assessed for tax purposes by one county, including any portion of that tract that may be located in a neighboring county. The county responsible for assessing an entire tract, on its own or in conjunction with either the Commonwealth or a local government entity or both, shall be eligible to purchase agricultural conservation easements covering the entire tract.

Pennsylvania Municipalities Planning Code - The Act of December 21, 1988 (P.L. 1329, No. 170) (53 P.S. §§ 10101-11201).

Restricted Land - Land and buildings, the use of which is subject to the terms of an easement.

Secretary - The Secretary of the Department.

Soils Report - A report which sets forth the amount and description of each soil class found on a specific farm.

State Board - The State Agricultural Land Preservation Board.

State Matching Funds - Funds allocated to a County by the State Board under section 14.1(h)(3), (4) or (5)(I) of the act, the expenditure of which is contingent upon the appropriation and

expenditure of County matching funds.

Subdivision - The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

Title Report - A report prepared by a corporation authorized by the Department of Insurance to engage in the sale of title insurance or an attorney setting forth the existence of any liens, restrictions or other encumbrances on a farmland tract.

USDA - The United States Department of Agriculture.

USDA-NRSC - The Natural Resource Conservation Service of the United States Department of Agriculture.

## GENERAL PROVISIONS

### 103 PUBLIC INFORMATION

The County Board will publicize the County Program through the dissemination of information, press releases, presentations, and through public meetings.

The County Board will be subject to the Sunshine Act and the act of June 21, 1957 known as the Right-To-Know Law, relating to the inspection and copying of public records.

### 104 PLANNING MAP

The County Board will utilize the *Imagine Franklin 2035* Character Area Map for the County program.

The planning map will serve two purposes:

- (a) To identify municipalities within Franklin County that has an official agricultural security area.
- (b) To identify farmland of importance to the County Board. Areas of importance to the County Board are areas within the following classes on the planning map:
  - (1) Agricultural
  - (2) Rural
  - (3) Suburban
  - (4) All Other Character Areas

## PROCEDURES FOR PURCHASING AN EASEMENT

### 201 APPLICATION

- (a) The County Board shall develop, and make available to a County resident, an application form which requires the following information:
  - (1) The name, address, phone number, email and signature(s) of the owner of the farmland tract.
  - (2) The County, municipality and agricultural security area in which the farmland tract is located.
  - (3) The total acreage of the farm and the number of acres in the farmland tract that are proposed for easement purchase. All land being excluded from the proposed easement must be identified at the time of application.
  - (4) The street location of the farm, and directions from the nearest State route.
  - (5) Current deed reference – Instrument #, book, volume and page.
  - (6) County tax map records, including tax parcel number, or account number of each parcel.
  - (7) The landowner is to list the names of all individuals, banks, or corporations having a mortgage or a judgment against the subject property, or who own mineral or gas rights to the property
  - (8) A copy of the conservation plan, which has been approved by the County Conservation District.
  - (9) The name, address, phone number, and email of the person to be contacted to view the farmland tract.
- (b) A separate application shall be required for each farmland tract offered for easement purchase.
- (c) All complete applications for the County program received by the County Board by December 31 will be evaluated, according to the numerical ranking system, for the following years funding.
- (d) Application will expire after 5 years and the applicant will need to re-apply. If the applicant does not re-apply, the County Board will withdraw the application.

- (i) Written notice of expired application shall be provided to the owner. A copy of their original application with a new application may be provided upon request.

202 EVALUATION OF THE APPLICATION

- (a) Applications received will be reviewed for completeness and consistency with the following:

- (1) State Minimum Criteria

- (i) Be located in a duly recorded agricultural security area which has at least 500 acres enrolled
- (ii) Contain at least 50% of soils that are available for agricultural production and are of capability classes I through IV, as define by the USDA-NRCS.
- (iii) Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing lands.
- (iv) Be contiguous acreage of at least 35 acres in size unless the tract is at least 10 acres in size and is either utilized of a crop unique to the area or is contiguous to property which has a perpetual conservation easement in place which is held by a “ qualified conservation organization,” as that term is defined at section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. 170 (h)(3)). State funding will not exceed 50% of the easement purchase price for farms under 50 acres unless they are contiguous to other parcels.

- (2) County Minimum Criteria

- (i.) There must be clear, recorded legal access to any landlocked properties.
- (ii) A current conservation plan must be provided at the time of application. If the applicant does not have a conservation plan, the County Board will not accept their application.

- (b) Applications meeting the criteria above will be ranked according to the Franklin County Numerical Ranking System contained in Appendix D, which considers the land evaluation, development potential, farmland potential, and clustering potential of the application.

203 APPRAISAL

- (a) Farms selected for appraisal will be based on funding availability in descending rank order, except as provided in section (b)
- (b) The Board has discretionary authority to authorize appraisals and preserve a farm out of ranking order if:
  - (1) There is potential to leverage additional funding such as federal, municipal, non-profit or private contribution equal to 50% or more of the easement value pursuant to these program guidelines.
  - (2) The landowner is willing to sell the agricultural easement to the County easement program for \$1.00 (one dollar).
- (c) The landowner will be notified of their selection from the ranking and will be required to submit a \$3,500 good faith deposit before an appraisal is conducted. As this is a voluntary program, this requirement ensures the interest of the applicant and allows the county to recover a portion of the administrative costs associated with the easement purchase should the landowner decide to withdraw from the program before settlement of the conservation easement. Once the easement has been settled, the \$3,500 will be returned to the landowner after settlement of the easement purchase.
  - (i) If the landowner withdraws from the program then later re-applies, they will be required to submit a \$3,500 deposit.
  - (ii) An application will be considered withdrawn from the program if the applicant does not respond to the notification of their selection within 30 days.
- (d) Prior to submitting the farmland tract to appraisal, all excluded areas must be established. If the landowner wishes to exclude any portion of the property for consideration of easement purchase, the landowner shall negotiate with the county to omit that portion of land from the appraisal and the easement by means of exclusion prior to appraisal.
- (e) All appraisals shall be conducted by a State Certified general real estate appraiser, in accordance with the Act and its attendant regulations and guidelines.
- (f) An offer to purchase an easement shall be based upon one or more appraisal reports that estimate the market value and the farmland value of the farmland tract.
- (g) An appraisal shall be based primarily on an analysis of comparable sales.

- (h) The value of a building or other improvement on the farmland tract shall not be considered in determining the easement value. The value of the building or other improvement shall appear separately in the appraisal report.
- (i) The appraiser shall supply a narrative report which contains the following information and is in the following format:
  - (1) Introduction
    - (i) Letter of transmittal or appraiser's certificate
    - (ii) Table of contents
    - (iii) Summary of salient facts and conclusions
    - (iv) Purpose of the appraisal
    - (v) Easement value definition
  - (2) Description of property
    - (i) Area or neighborhood description
    - (ii) Description of appraised property
      - (A) Legal description
      - (B) Property data and zoning
      - (C) Description of improvements
      - (D) Photos of subject property
      - (E) Tax map of subject property with which the acreage of properties adjoining the subject property, the names of all adjoining property owners, and deed references shall be indicated
      - (F) Sketch of subject property
      - (G) Location map
      - (H) Soils map
  - (3) Analyses and conclusions
    - (i) Analysis of highest and best use
    - (ii) Valuation methodology: Market value
      - (A) Comparable sales data
      - (B) Adjustment grid
      - (C) Locational map of comparable sales
    - (iii) Market value estimate
    - (iv) Valuation methodology: Farmland value
      - (A) Comparable sales data

(B) Locational map of comparable sales

- (v) Farmland value
- (vi) Value of Improvements
- (vii) Easement value
- (viii) Professional qualifications of the appraiser

(j) The appraiser shall supply information concerning comparable sales as follows:

- (1) At least three comparable sales shall be used for estimating market value and at least three comparable sales shall be used for estimating farmland value in an appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same county as the subject farmland tract, the appraiser may use comparable sales from other counties, with the approval of the county board. The use of comparable sales which require adjustment of 50% or more is permitted only with the approval of the county board.
- (2) Pertinent data for each comparable sale used in the preparation of the appraisal shall be stated in the appraisal report, including the date of sale, the purchase price, zoning, road frontage in feet (for determining market value) and soil mapping units (for determining farmland value). The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract. This analysis shall be in the form of a narrative statement of the information considered and the reasoning that supports the analyses, opinions and conclusions, and an adjustment grid assigning, when practicable and within the Uniform Standards of Professional Appraisal Practice referenced in subsection (b), approximate dollar values to adjustment shown on the adjustment grid.
- (3) The location of each market value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily.
- (4) The location of each farmland value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily. If a farmland value comparable sales map and a market value comparable

sales map would depict the same county, they may be combined in a single map.

- (5) For comparable sales used to estimate the farmland value, the appraiser may use sales of land that are confined to agricultural use because of legal restrictions or physical impairments that make the land valuable only for agricultural use. Comparable sales shall be in primarily agricultural use. Data may also be gathered from farm real estate markets when farms have no apparent developmental value.
- (6) The appraiser shall set forth the reasons the farmland comparable sales are confined primarily to agricultural use. Examples of these reasons include:
  - (i) The farmland tract has public or private land use restrictions.
  - (ii) The farmland tract is within a flood plain or a wetland (in whole or in part).
  - (iii) The farmland tract is landlocked, subject to additional easements, subject to restrictive zoning or has other physical attributes which limit its developmental capability.
- (7) The appraiser shall provide at least one original and two copies of each report to the county board. The original of each report and all copies shall be bound with rigid covers.
- (8) The appraisal shall include the entire acreage offered for easement sale. If, following completion of the appraisal, acreage is added to or deleted from the proposed easement sale for any reason, the appraisal shall be revised accordingly or the appraiser shall agree in writing to the use of a per acre value to account for the change in easement value resulting from such a change in acreage.
- (9) If acreage is voluntarily withheld from the easement sale by the landowner through subdivision accomplished in accordance with the Pennsylvania Municipalities Planning Code, the appraiser shall, in making the estimate of agricultural conservation easement value, take into account any increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.

## 204 EASEMENT VALUE AND PURCHASE PRICE

- (a) An easement will be purchased in perpetuity.
  - (1) The value of an easement in perpetuity for purposes of making an offer to purchase an easement under Section 205(b) shall be the difference between the market value and the farmland value contained in the appraisal report.



- (b) The purchase price offered for the purchase of an easement under Section 205(b) may not exceed, but may be less than the value of the easement. The County Board will offer no more than 85% of the easement value or a cap of \$3,000 per acre, whichever is the lesser of the two values.
- (c) The County Board intends to expend the funds described in section 14.1(h)(8.2) of the act over a period of 2 consecutive county fiscal years.
- (d) The County Board will allow for the purchase of agricultural conservation easements on an installment or other deferred basis where no interest is to be paid and final payment is to be made no more than 5 years from the date the agricultural conservation easement purchase agreement is fully executed.

205 OFFER OF PURCHASE BY COUNTY BOARD

- (a) The county program requires that any property evaluated for agricultural conservation easement purchase be evaluated in accordance with standards, criteria and requirements currently or hereafter established by the State Board addressing soil quality, likelihood of conversion, proximity to other land under agricultural conservation easement, land stewardship and fair, equitable, objective and nondiscriminatory procedures for determining purchase priorities. In determining whether to offer to purchase an easement following receipt of the County appraisal report, the County Board shall consider the following:
  - (1) Evaluation according to the numerical ranking system
  - (2) Consistency with County map of priority agricultural areas
  - (3) Cost relative to total allocations and appropriations
  - (4) Proximity to other lands subject to easements
  - (5) Opportunity to Leverage Additional Funding
- (b) If the County Board determines to offer to purchase an easement on the farmland tract, the County Board, or a representative of the County Board, shall meet with the applicant to review the County appraisal report. An offer to purchase an easement shall be submitted to the applicant in writing and be accompanied by the County appraisal report.
- (c) Within 30 days of receipt of the written offer from the County Board an applicant may do one of the following:

- (1) Accept the offer in which case the County Board and the applicant shall enter into a contract of sale. The contract shall be conditioned upon the approval of the State Board and be subject to the ability of the applicant to provide good title to the premises, free of encumbrances such as liens, mortgages, options, rights of others in surface minable coal, land use restrictions, adverse ownership interest, and other encumbrances which would adversely impact the County and Commonwealth's interest in the farmland tract.
- (2) Reject the offer and advise the County Board that the application is withdrawn.
- (3) Advise the County Board that the applicant is retaining, at applicant's expense, an independent licensed real estate appraiser to determine the easement value. The appraiser shall be qualified, and the appraisal shall be completed, under this chapter. The appraisal shall be submitted to the County Board within 120 days of receipt of the County Board's offer to purchase. Upon completion, three copies of the applicant's appraisal shall be submitted to the County Board. The applicant's decision to obtain an independent appraisal under this paragraph shall not constitute a rejection of the County Board's offer. The County Board's offer shall remain open unless increased by the County Board under subparagraph (c)(3)(ii) or rejected by the applicant under subparagraphs (c)(3)(iii) or (c)(3)(iv).
  - (I) If the applicant retains an independent appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:
    - (A) The agricultural value shall equal the sum of:
      - (i) The farmland value determined by the applicant's appraiser.
      - (ii) One-half of the difference between the farmland value determined by the County Board's appraiser and the farmland value determined by the applicant's appraiser, if the farmland value determined by the County Board's appraiser exceeds the farmland value determined by the applicant's appraiser.
    - (B) The nonagricultural value shall equal the sum of:
      - (i) The market value determined by the County Board's appraiser.

- (ii) One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the County Board's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the County Board's appraiser.
- (II) Within 30 days of receipt of the applicant's appraisal, the County Board shall:
  - (A) Submit a written offer to purchase in an amount in excess of the amount offered under subsection (B) to the applicant; or
  - (B) Notify the applicant, in writing, that the offer made under subsection (b) remains open and will not be modified.
- (III) The applicant shall, within 15 days of receipt of the County Board's written offer under subsection (C)(ii)(A) or receipt of the County Board's written notice under subsection (C)(ii)(B) notify the County Board in writing that the applicant either:
  - (A) Accepts or rejects the offer made under subsection (c)(ii)(A), worksheet formula value; or
  - (B) Accepts or rejects the offer made under subsection (b), the original offer.
- (IV) The failure of the applicant to act as set forth in subsection (c)(iii) shall constitute a rejection of the County Board's offer.
- (V) If the offer of purchase is accepted, the County Board and the applicant shall enter into a contract of sale containing the same requirements and subject to the same conditions as set forth in Section 205.
- (4) The failure by the applicant to act within 30 days of receipt of a written offer under subsection (b) shall constitute rejection of the offer.
- (d) A contract of sale shall be in a form provided by the State Board.

206 SURVEY AND PLAT REQUIREMENTS

- (a) The farmland tract on which an easement is to be purchased must be surveyed by a professional land surveyor.

- (b) Surveyor is required to determine metes and bounds of any right-of-way or other interests in the land, the survey shall indicate that it has a closure error of not greater than 1 foot per 10,000 linear feet in the survey, and shall otherwise comply with the boundary survey measurement standards published by the Pennsylvania Society of Land Surveyors in its "Manual of Practice for Professional Land Surveyors in the Commonwealth of Pennsylvania," adopted July 10, 1998, or its most current successor document.
- (c) *Other requirements:* A survey described in subsection (a) shall also contain the following:
- (1) A recordable legal description setting forth the metes, bounds, monumentation, exceptions, easements and rights-of-way with respect to the farmland tract or other subject of the survey.
  - (2) A copy of the final boundary survey in digital electronic format that complies with the conservation easement Geographic Information System (GIS) technical standards maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act (3 P. S. § 914.1(a)(3)(xv)). The digital format shall show the bearings and distances between each monument and contain the northing and easting of each monument.
  - (3) Coordinates of at least two ground control points located sequentially along the boundary survey, with latitude and longitude expressed in decimal degrees with an accuracy of 6 recorded decimal places. These coordinates shall be based on the "North American Datum of 1983," or its most current successor document, and shall be obtained through field observation or verification of datum.
  - (4) A paper copy of the plotted final survey map from the digital file showing the course bearings and distances and other annotations and symbols as maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act.
  - (5) Monumentation. If a survey of land being considered for agricultural conservation easement purchase is required under § 138e.67(d) or is otherwise required to determine metes and bounds of any right-of-way or other interests in the land, the surveyor shall establish monumentation for at least the two ground control points required under subsection (b)(3). This monumentation shall consist of permanent, concrete markers of substantial length and width containing ferrous or other materials detectable by an electromagnetic locator. The identity of the surveyor who places a monument shall be affixed or marked upon

the monument so that it can be ascertained by inspection of the monument in the field.

(d) County Requirements:

- (1) The survey must have a rounding statement stating that the surveyed acreage will be rounded to two decimal places.
- (2) Any exclusions on the property must have legal access. The metes and bounds must be provided for any legal access.
- (3) The plat must be recorded at the time of settlement.

207 TITLE INSURANCE

(a) The County Board shall provide a title commitment to the State Board upon submission of its recommendation for the purchase of an easement.

(b) At settlement, the County Board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in this Commonwealth by the Insurance Department. A marked up title commitment may serve as a policy until the final policy is issued. The amount of title insurance coverage shall equal or exceed the higher of the following amounts:

- (1) The difference between the appraised market value and the appraised farmland value, as described in § 138e.65(a) (relating to easement value and purchase price).
- (2) The difference between the agricultural value and the nonagricultural value, as described in § 138e.66(c)(3) (relating to offer of purchase by county board), if the values are used to calculate the easement value.

208 STATEMENT OF COSTS

(a) For purposes of Section 14.1(h)(6) of the Act (3 P.S. section 914.1(h)(6)), the County Board shall submit a statement of the costs incident to the purchase of the easement to the State Board which may include:

- (1) The County's appraisal cost

- (2) The necessary legal fees for title search, preparation of documents and attendance at closing
- (3) The recording fees
- (4) The survey costs
- (5) The costs of providing adjoining landowners with required notices and of providing necessary advertisements
- (6) Reimbursements to a nonprofit land conservation organization that has acquired an easement at the request of the County Board, for the purpose of transferring the easement to the County or the Commonwealth, or both. These costs include the easement purchase price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees and survey costs.
  - (a) The statement of costs shall specify the amount of funding requested from the Commonwealth for the purchase, and the amount of County funds allocated for the purchase.
  - (b) After settlement, the County Board shall submit a revised statement of costs in the event that actual costs were greater or less than the costs estimated in the initial statement of costs.
  - (c) If the actual costs are less than the estimated costs, the county board shall promptly refund the difference to the Department by check payable to "Commonwealth of Pennsylvania."
- (7) The cost of the title insurance
- (8) If the actual costs are less than the estimated costs, the county board shall promptly refund the difference to the Department by check payable to "Commonwealth of Pennsylvania."

209 REQUIREMENTS OF THE AGRICULTURAL EASEMENT DEED

- (a) The owners of the subject farmland tract shall execute a deed conveying the easement which deed shall include the provisions of Appendix E (relating to deed clauses). The deed shall be in recordable form and contain:
  - (1) A legal description provided by the surveyor setting forth the metes and bounds of the farmland tract subject to the easement.

- (2) At least one course and distance referencing affixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, pk nails, spikes, concrete monuments or stones.
  - (3) The legal description may not contain a closure error greater than 1 foot per 10,000 linear feet in the survey (1:10,000).
- (b) For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.
- (c) For purchases made entirely with county funds, the county shall be the sole grantee.
- (d) For purchases made using a combination of State and County funds, the grantees shall be the Commonwealth and the County providing the funds under joint ownership as defined in the act.
  - (1) Neither the Commonwealth nor the County may sell, convey, extinguish, lease, encumber, restrict or otherwise dispose of its interest in the easement without the consent of the other.
  - (2) Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth and the County shall receive a pro rata share of the proceeds based upon their respective contributions to the purchase price.
- (e) A Deed of Merger must be recorded if the land subject to the deed of easement contains more than one (1) parcel or tract. A deed of merger is defined as a deed by which parcels under common ownership are combined as a single parcel with the restriction that none of the parcels may be separately conveyed unless the subdivision guidelines of the Franklin County Agricultural Land Preservation Board have been satisfied.
- (f) A copy of the deed shall be submitted to the State Board for approval prior to execution and delivery.

## 210 STATE BOARD REVIEW FOR APPROVAL FOR PURCHASE OF EASEMENT

Application for State Board review of a proposed purchase of an easement is made by submitting the following documents to the Director, Bureau of Farmland Protection,

Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408.

- (1) Twenty-five copies of the summary report prepared in accordance with §138e.69 of the Act (relating to summary report), including the following items:
  - (i) Cover letter from County (optional)
  - (ii) Narrative Summary Report
  - (iii) Legible United States Geological Survey (USGS) topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
  - (iv) Soil Report Form “C”, (a form provided by the Department) both pages.
  - (v) List of soil mapping unit names, symbols and Land Capability Classes on the subject property.
  - (vi) Legible, uncolored soil map of subject property
  - (vii) Tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility, rights-of-way, and access road rights-of-way.
  - (viii) Summary table showing the individual ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applicants.
  - (ix) Copy of Exhibit “B”, from the Agreement of Sale, modified to include interest, total acres and per acre easement cost.
  - (x) Twenty-five copies submitted shall be individually collated and three-hole punched, but not stapled.
- (2) The appraisal report or reports.
- (3) The signed agreement of sale, including the proposed legal description, a statement of cost, the proposed deed of agricultural conservation easement, a contractor integrity clause, and a nondiscrimination clause.
- (4) The title insurance report or commitment.
- (5) A letter certifying that all adjoining landowners were provided with notice and opportunity to be heard in a manner consistent with administrative agency law



with respect to the proposed easement purchase, including one (1) copy of the notification letter, required under subsection 138e.71, relating to notification of owners of land adjoining proposed easement purchase and a list of all adjoining landowners.

- (6) A completed and signed IRS Form W-9, Request for Taxpayer Identification Number and Certification for individual grantors.
- (7) A letter from the grantors stating the percent (%) of ownership of each grantor for the purpose of issuing IRS Form 1099.

#### PROCEDURE FOR INSPECTING AND ENFORCING AN EASEMENT

##### 301 RESPONSIBILITY

- (a) The County Board shall have the primary responsibility for inspecting restricted land and enforcing an easement.
- (b) The State Board or its designee will have the right to inspect restricted land and enforce an easement on its own behalf or in conjunction with the County Board.

##### 302 INSPECTIONS

- (a) The County Board shall inspect all restricted land within the County at least biennially to determine compliance with the applicable deed of easement.
- (b) Written notice of an inspection to be conducted under subsection (a) shall be mailed by certified mail to the owner at least 10 days prior to the inspection.
- (c) Any inspection conducted under subsection (a) shall be performed between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth, or a date and time agreeable to the County and the landowner.
- (d) Within 10 days of conducting an inspection under subsection (a), the County Board shall prepare a written inspection report setting forth the following information:
  - (1) The identification of the land inspected.
  - (2) The name of the original and current owner of the land inspected.
  - (3) A description of modifications in the number, type, location or use of any structures on the land since the date of the filing of the deed of easement.

- (4) A description of the conservation practices being observed on the restricted land.
  - (5) A statement of whether the provisions of the deed of easement are being observed.
  - (6) A statement indicating whether a structure permitted under section 14.1(c)(6)(iv) of the act (3 P.S. § 914.1 (c)(6)(iv)) has been constructed on the restricted land and, if such a structure has been constructed, the month and year construction was completed and a description of the structure and its location on the land.
  - (7) A statement indicating whether the residential subdivision permitted under Section 14.1(c)(6)(iv) has been exercised.
- (e) A copy of the inspection report shall be mailed by certified mail to the owner.
  - (f) The County Board and the State Board may inspect the restricted land, jointly or severally, without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

### 303 ANNUAL REPORT

The County Board shall file with the State Board a copy of inspection reports for inspections conducted during the prior year, and compile an annual report that summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding any unresolved violations.

### 304 ENFORCEMENT

The county board shall exercise primary enforcement authority with respect to the following:

- (1) Agricultural Conservation Easements within the county, whether it be county, state, or joint purchase.
- (2) Agricultural Conservation Easements acquired pursuant to the criteria set forth for the purchase of agricultural conservation easements across local government unit boundaries and across county boundaries, including any portion of an agricultural conservation easement extended into an adjoining county.

305 NOTIFICATION TO OWNER

- (a) Within 10 days of the discovery of a violation of the terms of an easement, either through an inspection or otherwise, the County Board shall send written notice of the violation to the owner of the restricted land, the County governing body and the State Board.
- (b) The written notice required by this section shall be sent by certified mail and shall set forth the following information:
  - (1) A copy of the inspection report.
  - (2) A copy of the deed of easement.
  - (3) A description of the action or condition that constitutes the alleged violation.
  - (4) A statement of the measures necessary to correct the alleged violation.

306 ENFORCEMENT ACTIONS

- (a) Sixty days after the mailing of a notice of violation under section 138e.205 (relating to notification to owner), the County Board shall commence and prosecute an action in the Court of Common Pleas of the County in which the restricted land is located seeking an order requiring correction of the violation, enjoining further violation of the terms of the easement, and other appropriate relief, unless the County Board does one of the following:
  - (1) Determines with the State Board that the violation has been corrected.
  - (2) Completes the following requirements:
    - (i) Determines that the owner of the restricted land has commenced the necessary corrective measures, or determines that the necessary corrective measures cannot reasonably be completed within the 60 day period described in subsection (a).
    - (ii) Establishes a period not to exceed 1 year within which the corrective measures shall be completed.
- (b) The County Board shall commence and prosecute the enforcement action described in subsection (a) if the violation is not corrected within the time established under subsection (a)(2)(ii).

- (c) The owner of the restricted land shall bear all costs associated with the correction of a violation of the easement, including:
  - (1) Costs of work required and materials used to correct the violation.
  - (2) Administrative costs incurred by the County Board and the State Board.
  - (3) Court costs and reasonable attorneys' fees incurred by the County Board and the State Board in enforcing the easement.
- (d) If the County Board fails to institute and prosecute a timely enforcement action, the State Board may institute the action and recover costs incurred, including reasonable attorneys' fees, from the County Board or the owner of the restricted land, or both.

#### RESPONSIBILITY OF OWNER

##### 401 PERMITTED ACTS

During the term of the easement the restricted land shall be used solely for agricultural production or other uses permitted by the act.

##### 402 CONSERVATION PLAN

- (a) To preserve the agricultural viability of the restricted land, the County Board shall require, and the owner of the restricted land shall implement, a conservation plan approved by the County conservation district or the County Board.
- (b) In addition to the requirements established by the County conservation district, or the County Board, the conservation plan shall require that:
  - (1) The use of the land for growing sod, nursery stock, ornamental trees and shrubs does not remove excessive soil from the restricted land.
  - (2) The excavation of soil, sand, gravel, stone or other materials for use in agricultural production on the restricted land is conducted in a location and manner that preserves the viability of the restricted land for agricultural production.
  - (3) The mining of minerals is conducted only through the use of methods authorized in the act.

403 CONSTRUCTION OF BUILDINGS; CHANGE IN USE

- (a) New Buildings or structures: The construction or use of a building or other structure on the restricted land other than a building or structure existing on the date of the granting of the easement is prohibited, except that:
- (1) The erection of fences for agricultural production and protection of watercourses such as lakes, streams, springs and reservoirs is permitted.
  - (2) The construction of one additional residential structure is permitted under Section 404 (relating to construction of one additional residential structure).
  - (3) The construction or use of a building or other structure for agricultural production is permitted. The county program may restrict the maximum building coverage.
  - (4) The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted if the preexisting residential structure is razed or removed and the replacement residential structure is erected within the curtilage of the residential structure it replaces.
- (b) Existing buildings or structures
- (1) A renovation or modification of an existing residential structure, or an addition to an existing residential structure, is permitted if it would not increase the curtilage of the residential structure.
  - (2) A renovation or modification of an existing agricultural building or structure, or an addition to an existing agricultural building or structure, is permitted. The county program may restrict the maximum building coverage

404 CONSTRUCTION OF ONE ADDITIONAL RESIDENTIAL STRUCTURE

- (a) In addition to the structures existing on the restricted land at the date of the granting of the easement, one additional residential structure may be constructed on the restricted land, if the following apply:
- (1) The residential structure is constructed and used as the landowner's principle residence an immediate family member or for or for the purpose of providing necessary housing for seasonal or full-time farm employees.
  - (2) No other residential structure has been constructed on the restricted land under authority of Section 14.1(c)(6)(iv)of the Act (3 P.S. § 914.1(c)(6)(iv)) and this

section after the date of the granting of the easement.

- (3) The residential structure and its curtilage occupy no more than 2 acres of the restricted land.
  - (4) The location of the residential structure and its driveway will not harm the economic viability of the preserved farm for agricultural production.
  - (5) The location of the residential structure shall be sited in a manner that protects the prime, unique, and important soils to the greatest extent practicable.
  - (6) The right to the additional residential structure has not been relinquished and extinguished by current or previous owner in accordance with subsection (c)(6)(iv) of the Act.
- (b) The replacement of a residential structure constructed under authority of 14.1(c)(6)(iv) of the Act and this section is permitted.
- (c) Reservation of right to construct after subdivision. If the restricted land is subdivided prior to the construction of a residential structure under authority of Section 14.1(c)(6)(iv) of the Act and this section, the landowner shall do the following:
- (1) Inform the county board of the specific subdivided tract with respect to which the right to construct and use such a residential structure is reserved.
  - (2) Ensure that the deed to the subdivided tract with respect to which the right to construct and use such a residential structure is reserved clearly sets forth the reservation of this right.
  - (3) Ensure that the deeds to the remaining subdivided tracts recite that no such residential structure may be constructed on the remaining subdivided tracts.

#### 405 SUBDIVISION OF RESTRICTED LAND

Authority to prohibit subdivision. A county program may prohibit the subdivision of restricted land if the landowner can accomplish the construction and use of a principal residence or housing for seasonal or full-time farm employees in accordance with Section 14.1(c)(6)(iv) of the Act (3 P. S. § 914.1(c)(6)(iv)), under the applicable subdivision and land development ordinance, by a land development other than subdivision.

- (a) General - The following conditions shall apply to subdivision of lands eased through the Franklin County Agricultural Land Preservation Program whether the easement be held solely by the State, solely by the County, or held jointly by the State and County.

- (1) The prohibitions, restrictions, and conditions, of subdivision of eased land as set forth in this section shall be recited verbatim in the deed for all subdivided and remaining parcels.
  - (2) No restriction, prohibition or condition of this section shall prevent a landowner from subdividing eased lands for the purpose of constructing one additional residential structure as authorized by Section 14.1 (c)(6)(iv) of the Act (3 P.S. Section 914.1 (c)(6)(iv)). Provided that such a subdivision complies with the conditions of Subsection 404 (a)(1-3) of this program.
  - (3) All costs associated with subdivision shall be the responsibility of the landowner.
  - (4) Nothing in this section shall relieve the landowner of any municipal, county or state regulations, procedures or requirements necessary for the subdivision of land.
- (b) Requirement to allow subdivision of land - A county program must allow subdivision of restricted land if subdivision is for a residence for the landowner, an immediate family member, or an employee, unless the right to the residence has been relinquished and extinguished in accordance with Section (c) (6) (iv) of the Act. The right includes both construction of the additional residential structure or subdivision of the existing residential structure and is limited to two acres or less.
- (c) Subdivision Restrictions - Except as provided for in Subsection 405 (a)(2) of this section, no subdivision of eased land shall be permitted unless all of the following conditions are met:
- (1) Approval of a subdivision shall be requested, in writing, of and granted by the County Board and by the State Board.
  - (2) Subdivision shall not harm the economic viability, as defined in this program, of any parcel created by or remaining after subdivision.
  - (3) Subdivision shall not convert land that has been devoted primarily to agricultural use to another primary use except that, without regard to this requirement, a county program may permit one tract to be created by subdivision for the purpose of the construction of a principal residence for the landowner or an employee of the farm.
  - (4) Each parcel created or remaining as a result of subdivision shall have all of the following:
    - (i) Fifty percent (50%) of its soils in USDA Soil Capability Class I-IV.

- (ii) Fifty percent (50%) of its area utilized for crop or pasture land.
    - (iii) Site characteristics (including but not limited to slopes, topography, shape, location of roads, streams, wetlands, ponds, access) that allow for practicality and reasonable efficiency of agricultural activity.
  - (5) No parcel of less than 100 acres may be created by subdivision or shall remain after subdivision of the original parcel.
- (d) Procedures and Requirements of Subdivision - Landowners proposing to subdivide eased land shall be subject to following procedures and requirements.
- (1) Requests for subdivision approval shall be submitted, in writing, to the County Board in care of the Franklin County Planning Commission. Requests shall include the following:
    - (i) Written request for subdivision approval including description of subdivision and reason for subdivision.
    - (ii) A map or sketch of a scale sufficient to clearly show the following:
      - (1) Location of cropland, pasture land, woodland and other lands.
      - (2) Roads, streets, driveways, utility right-of-way, streams.
      - (3) Location of existing buildings, sheds, barns, dwellings and other structures.
      - (4) Delineation of proposed subdivision.
      - (5) Indication of which parcel either created by subdivision or remaining after subdivision on which the additional residential structure permitted by Section 14.1 (c)(6)(iv) of the Act (3 P.S. Section 914.1 (c)(6)(iv)) and this section may be constructed.
  - (2) The County Board will note receipt of the request for subdivision approval at the next regularly scheduled meeting following the submission of the request for subdivision approval to the Franklin County Planning Department.
  - (3) The County Board may agree to permit a parcel of land subject to an Agricultural Conservation Easement to be subdivided after the granting of such easement after appropriate review as follows:



- (i) Upon receipt of the application, the County Board shall cause to be forwarded written notification thereof to the County Planning Department<sup>1</sup> and the local municipal office, herein referred to as the reviewing agencies. Each reviewing agency shall have 60 days from receipt of such notification to review, comment, and make recommendations on the proposed application to the County Board.
  - (ii) After reviewing the application and the comments and recommendations submitted by the reviewing agencies, the County Board shall approve or reject the application to subdivide within 120 days after the date of its filing unless the time is extended by mutual agreement of the landowner and reviewing agencies.
  - (iii) If the application to subdivide land is approved by the County Board, a copy of the application, along with the comments and recommendations of the reviewing agencies, shall be forwarded to the State Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an Agricultural Conservation Easement, the State Board shall consider only whether the application complies with the conditions under which subdivisions are permitted by the approved county program. The State Board shall notify the County or Board of its decision regarding the application.
  - (iv) If the application to subdivide is rejected by the County Board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 PA. C.S. Chapter 5 Subchapter B (relating to practice and procedure of local agencies) and Chapter 7 Subchapter B (relating to judicial review of local agency action).
- (e) Failure of the County Board to render a decision to approve or disapprove a subdivision within the time frame described in Sub-Section 405(c)(3) of this article shall constitute approval of request to subdivide that the parcels created by and remaining after subdivision comply with Sub-Section 405(b)(2), 405(b)(3), 405(b)(4) and 405(b)(5) of this section.
- (f) Approval of the County Board, or failure to act by the County Board as per Sub-Section 405(d) shall not be construed to provide approval of the State Board or any other Governmental Unit with authority to approve or disapprove subdivisions.

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<sup>1</sup>The County Planning Department administers the Farmland Protection Program and provides staff and services for any county planning activities.

- (g) Subdivisions approved prior to the construction of additional residential structure.
  - (l) If County Board and State Board approval is granted for subdivision of eased land prior to the construction of one additional residential structure as permitted by Section 14.1(c)(6)(iv) of the Act and this section, the landowner must do the following.
    - (1) Ensure that the deed to the parcel created by or remaining after subdivision upon which the additional residential structure may be constructed clearly reserves the right to construct this residential structure.
    - (2) The parcel for which the right to construct the allowed additional residential structure shall be the same parcel indicated in Sub-Section 405(c)(1)(ii)(5).
    - (3) Ensure that the deeds to all other parcels created by subdivision or remaining after subdivision clearly state that no residential structures of any kind may be constructed on the eased parcels.
    - (4) Prior to recording deeds to parcels created by subdivision or remaining after subdivision, the landowner requesting subdivision approval shall forward copies of the deed for each such parcel for County Board review and approval.
    - (5) Within fifteen (15) days of recording deeds to tracts created by subdivision or remaining after subdivision, the landowner at the time of subdivision shall forward a copy of all recorded deeds to all parcels by subdivision or remaining after subdivision to the County Board in care of the Franklin County Planning Commission.

#### 406 CHANGE IN OWNERSHIP

- (a) All properties within Franklin County upon which conservation easements are placed shall recite in verbatim the language of the easement as set forth in the deed whenever interest in said properties is conveyed or transferred to another person (§ 14.1(j) (1-3)).
- (b) All persons conveying or transferring land subject to an agricultural conservation easement shall notify the County Board and the Department of Agricultural within 30 days of a change in ownership of the restricted land and the price per acre or portion thereof received by the landowner from said person, together with the volume and page in which the transfer has been recorded by the Franklin County Recorder of Deeds.

- (c) If the language of the deed of easement is not included in the new recorded deed, the landowners will be required to re-record a deed with the appropriate language at their own expense.

SPECIAL STANDARDS AND PROCEDURES FOR THE SELECTION OR PURCHASE AN AGRICULTURAL CONSERVATION EASEMENT ON A PARCE THAT IS NOT ENTIRELY WITHIN AN AGRICULTURAL SECURITY AREA

Act 14 of 2001 amended the Agricultural Area Security Law (Act 43) to prescribe certain conditions which would allow for the purpose of an agricultural conservation easement on a parcel that is not entirely within an agricultural security area (ASA). The Franklin County Board of Commissioners authorized the county board on December 4, 2001 to administer a program for the purchasing of agricultural conservation easements whose land is either within an agricultural security area or in compliance with the criteria set forth as it applies to the Act 14 amendment.

501 CONSISTENT STANDARDS

The standards and procedures for the selection and purchase of an agricultural conservation easement set forth in this county program are applicable to the selection and purchase of an agricultural conservation easement under these special standards and procedures, to the extent they are not inconsistent with these special standards and procedures.

502 PARCELS STRADDLING LOCAL GOVERNMENT UNIT BOUNDARIES

The county board may recommend the purchase of an agricultural security area if all of the following occur:

- (a) The agricultural conservation easement would be purchased by the county solely or jointly with either the Commonwealth or a local government unit, or both. State only and township easement purchases do not qualify under this section.
- (b) The land is part of a parcel of farmland that is transected by the dividing line between two local government units, with portion within on local government unit being in an agricultural security area of 500 or more acres and the portion within the other local government unit not being within an agricultural security area.
- (c) The majority of the parcel's viable agricultural land is located within an agricultural security area of 500 more acres.

### 503 PARCELS STRADDLING COUNTY BOUNDARIES

The county board may recommend the purchase of agricultural conservation easement on a parcel, a portion of which is not within an agricultural security area, if all of the following occur:

- (a) The agricultural conservation easement would be purchased by the county, solely or jointly, with either the Commonwealth or a local government unit, or both. State only and township easement purchases do not qualify under this section.
- (b) The land is part of a parcel of farm land that is transected by the dividing line between Franklin County and an adjoining county, with the portion within Franklin County being in an agricultural security area of 500 or more acres and the portion within the adjoining county not being in within an agricultural security area.
- (c) One of the following is accurate:
  - (1) A main dwelling (mansion house) is located on the parcel, and the mansion house is located entirely within Franklin County.
  - (2) A main dwelling (mansion house) is located on the parcel, on the dividing line between Franklin County and an adjoining county, and the owner of the parcel has chosen Franklin County as the site of the mansion house for tax assessment purpose.
  - (3) There is no main dwelling (mansion house) on the parcel, and the majority of the parcel's viable agricultural land is located within Franklin County.

### 504 RECORDING RESPONSIBILITIES

Upon the purchase of an agricultural conservation easement as described above in Section 503 (paragraphs 2 and 3), the portion of the parcel that was not part of an agricultural security area immediately becomes part of the agricultural security area covering the rest of the parcel. Franklin County will take all steps necessary to ensure the governing body which created the agricultural security area meets its responsibility, under §§ 14.1(b)(2)(i)(B)(II) and 14.1(b)(2)(i)(C)(III) of the Agricultural Area Security Law, for the recording, filing and notification described in § 8(d) and 8 (g) of the Agricultural Area security Law with respect to the land added to the agricultural security area.

### LOCAL GOVERNMENT UNIT PARTICIPATION

#### 601 LOCAL GOVERNMENT UNIT PARTICIPATION

Any local government unit that has created an agricultural security area may participate along with an eligible county and the Commonwealth in the preservation of farmland through the purchase of agricultural conservation easements.

- (a) The local government unit, in conjunction with a county board, may participate with the State board in the purchase of agricultural conservation easements.
- (b) The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the eligible county and the local government unit as joint ownership.
- (c) The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the local government unit and the Commonwealth as joint ownership.
- (d) The local government unit may purchase an agricultural conservation easement, provided that all of the following apply:
  - (1) The agricultural conservation easement is located within an agricultural security area of at least 500 acres or the easement purchased is a joint purchase with either a county or both a county and the Commonwealth pursuant to the criteria set forth for the purchase of agricultural conservation easements across local government unit boundaries and across county boundaries including any portion of an agricultural conservation easement extending into an adjoining county.
  - (2) The deed of agricultural conservation easement is at least as restrictive as the deed of agricultural conservation easement prescribed by the State board for agricultural conservation easements purchased by the Commonwealth.
  - (3) The local government unit shall participate with the county board in complying with paragraph (5) for recording any agricultural conservation easement purchased by the local government unit.
- (e) The county board shall be responsible to record agricultural conservation easement where a local government unit is a party to the purchase of the easement. The easement shall be recorded by the county board in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located. The county board shall submit to the State board a certified copy of the agricultural conservation easements within 30 days after recording. The county board shall attach to all certified copies of the agricultural conservation easements submitted to the State board a description of the farmland subject to the agricultural conservation easements.
- (f) The local government unit may incur debt pursuant to 53 PA C.S. Pt. VII Subpt. 8 (relating to indebtedness and borrowing) for the purchase of agricultural conservation easements.

## APPENDICES

- A - BOARD MEMBERS
- B - BY-LAWS
- C - APPLICATION FORM
- D - NUMERICAL FARMLAND RANKING SYSTEM
- E - DEED OF AGRICULTURAL CONSERVATION EASEMENT
- F - RESOLUTION
- G - MAP
- H - SOIL CLASSIFICATIONS
- I - RURAL ENTERPRISES
- J - COMMERCIAL EQUINE ACTIVITES AMENDMENT