

**AGRICULTURAL LAND  
PRESERVATION  
EASEMENT PURCHASE PROGRAM**



**Montgomery County, Pennsylvania**

April 2014



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*This program was certified by the State Agricultural Land Preservation Board on June 27, 1990, and re-certified on December 17, 1996, December 16, 2004, and October 13, 2011. It must be re-certified every seven years thereafter.*

## INTRODUCTION

Traffic congestion, fewer open spaces, and loss of rural character are some of the concerns heard in Montgomery County. Among other things, the diversity of its economy has made the county a desirable place in which to live and work. The result is growth in both population and land development.

While it is a reflection of economic strength, this development has a heavy impact on the land and the natural features found on it. Farmland is often seen as very desirable for development. Because of this, the county has seen a great deal of its farmland sold for development or taken out of production. This represents the loss of a productive resource which cannot be replaced.

However, the farming economy in Montgomery County has historically been, and still is, strong and visible. There is much active farmland, as well as agricultural businesses which process farm products, or sell products and services to farmers. The dynamic population of the Delaware Valley provides opportunities for farming to thrive. Conventional farms continue to produce commodities like feed corn, wheat, and beef, while newer types of farming have a significant place in the county as well. A Montgomery County resident can find products like organic vegetables, nursery stock, buffalo meat, apples, and more right within the county's borders. The Montgomery County Agricultural Land Preservation Program (Farmland Preservation Program) is an opportunity to preserve farmland by placing it in agricultural security areas and purchasing conservation easements from interested landowners. The Easement Purchase Program contained in the following pages details the policies and procedures used in that effort. The program focuses on the following objectives:

- **Encourage a long-term commitment to agriculture.**
- **Protect normal farming operations.**
- **Conserve viable agricultural lands.**
- **Purchase agricultural conservation easements.**
- **Preserve land, a needed resource for future farmers' business of production agriculture.**





## HOW THE PROGRAM WORKS

The Montgomery County Farmland Preservation Program is a state program administered at the county level. Preserving farmland through this program is a two-step process. The first step is to join an Agricultural Security Area (ASA), and the second step is to submit an application for easement purchase. Joining an ASA does not obligate the landowner to apply for easement purchase, but any farm applying for the easement purchase must first be in an ASA.

An ASA is acreage formally designated by the appropriate municipality(ies) for the production of crops, livestock, and livestock products. There is no fee to join an ASA, and there is no financial, zoning, or other such penalty for the change of land use in an ASA. Farms in ASAs are protected from new ordinances which would restrict normal farming operations or define farms as nuisances. In addition, an ASA farm receives another level of protection from taking by eminent domain, through additional approvals needed before condemnation. The process for forming ASAs begins with landowners. ASAs have already been established in Douglass, Franconia, Horsham, Limerick, Lower Frederick, Lower Pottsgrove, Lower Salford, Marlborough, New Hanover, Perkiomen, Plymouth, Salford, Skippack, Towamencin Townships, Trappe Borough, Upper Frederick, Upper Gwynedd, Upper Hanover, Upper Pottsgrove, Upper Providence, Upper Salford, West Norriton, Whitpain, and Worcester Townships. Land preserved through the Agricultural Conservation Easement Program must be located in an ASA containing at least 500 acres. Landowners should contact their municipality for more information.

Next, a landowner can apply to sell his development rights (establish a conservation easement) to the County and/or State Agricultural Land Preservation Boards. A municipality may also participate in the purchase of a farm's development rights. Under an agricultural conservation easement, the owner retains ownership of the property but permanently gives up the right to use it for anything other than farming. Once established, the easement restrictions apply to anyone purchasing or inheriting the land in the future. Through the program, landowners are compensated financially for giving up the right to develop their property.

Landowners initiate the conservation easement process by filling out an application for the program. The County Agricultural Land Preservation Board (hereafter called the Farm Board) must evaluate all applications which meet the program's minimum criteria. To evaluate and rank applications, the Farm Board uses a Numerical Ranking System. This system awards points to farms based on quality of the farmland, stewardship of the land, threat of development, and proximity to other preserved land.

A farm containing land in more than one county may be preserved in one agricultural easement purchase application. The process for a cross-county easement is further described starting on page 7, "Minimum Criteria."

The Farm Board will order real estate appraisals for the eligible farms scoring highest in the ranking system each year. The purpose of the appraisal is to determine the value of the land and the value of the conservation easement.

After easement values are determined, the Farm Board discusses whether to purchase the development rights (place conservation easements) on any of the appraised farms. If the board elects to purchase the development rights on a farm, it will make an offer to the landowner. If the landowner accepts the offer, the county and/or state and/or municipality, and landowner enter into a legally binding agreement of sale when approved at a public meeting. The agreement of sale specifies that the landowner agrees to sell the development rights on the property to the county and/or state and/or municipality.

When the easement purchase will be made using any state funds, the Farm Board will submit completed contracts of sale along with a summary report and other supporting documentation, to the State Agricultural Land Preservation Board for its approval. Following its own review, the State Agricultural Land Preservation Board must approve or deny the purchase of an agricultural easement on each farm. See pages 18-21, Section VI of this book for further description.

Upon approval, a real estate settlement is held. At the settlement, the landowner signs the deed of easement and receives payment for putting the easement in place.

A more complete description of the program can be found in the Procedures for Easement Purchase Section (pages 13-22). In addition, copies of the application form and the evaluation form can be found in the Appendices. Below is an abbreviated overview of the steps to sell an agricultural conservation easement. The entire process generally takes about a year and a half for approved farms to complete.

1. The landowner joins an Agricultural Security Area (ASA).
2. The owner submits an application to the Montgomery County Farmland Preservation Office by the yearly deadline.
3. The easement application is evaluated by the Farmland Preservation Office and given a score based on factors listed in Appendix D of this program booklet.
4. The County Farm Board selects the highest-scoring farms for appraisal.
5. Following the appraisal, the Farm Board may negotiate an easement price with the landowner. If an agreement is reached, the owner signs an agreement of sale.
6. For easements receiving state funding, a report is prepared for State Agricultural Land Preservation Board approval
7. After State Board approval, settlement is held. The owner signs the deed of easement and receives payment for the easement.
8. Yearly inspections are conducted to ensure compliance with the provisions of the easement deed.

## **STATEMENT OF PURPOSE OF MONTGOMERY COUNTY AGRICULTURAL LAND PRESERVATION BOARD**

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 or a commercial equine activity.

Further, it is the purpose of this program to:

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



## **MINIMUM CRITERIA FOR APPLICATIONS RECEIVING COMMONWEALTH FUNDING**

Any landowners applying for easement purchase must first meet certain eligibility criteria before continuing the process. Landowners who may receive funding from the commonwealth must meet the criteria as required by Section 138e.16 of the state regulations and described on page 7. Easements purchased using Commonwealth funding may be acquired jointly with county funds or as multi-funded easements with state, county and municipal funding or with state and municipal funding. Landowners not meeting these minimum criteria may still be eligible if they meet the criteria listed on page 9, criteria for county-funded applications. Any easement qualifying for Act 43 funding may also be purchased using county-only or county and municipal funding.

Before a site is ranked under the numerical ranking system, it will first be evaluated for the following minimum criteria to be eligible for state funding, as required by Section 138e.16 of the state regulations:

The farmland easement area shall:

A. Be one or more of the following:

1. Located in an agricultural security area consisting of 500 acres or more.
2. Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.
3. Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:
  - a. A mansion house on the tract is located within the purchasing county.
  - b. When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.
  - c. When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located in the purchasing county.

B. Contain at least 50% of soils which are available for agricultural production or a commercial equine activity and are of Land Capability Classes I through IV, as defined by the USDA-NRCS.

- C. Contain the greater of 50% or 10 acres of harvested cropland, pasture, or grazing land.
- D. Be contiguous acreage of at least 35 acres in size unless the tract is at least 10 acres in size and is either utilized for a crop unique to the area or is contiguous to a property which has a perpetual conservation easement in place which is held by a “qualified conservation organization” as that term is defined in Section 170[h][3] of the Internal Revenue Code. Contiguous acreage is defined as 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 or railroads, and whether or not described as multiple tax parcels, tracts, purports, or other property identifiers. It includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds, and streams.

Crops unique to the area, as allowed for above are defined as the following:

1. Sweet corn
2. Tomatoes
3. Floriculture crops
4. Eggplants
5. Orchard crops; including but not limited to Peaches, Cherries, and Apples
6. Melons

State funds used for the purchase of an agricultural conservation easement less than 50 acres in size may include costs incidental to the purchase and shall not exceed 50% of the purchase price per acre, unless it is at least ten acres in size and is either utilized for a crop unique to the area or is contiguous to a property which has a perpetual conservation easement in place held by a “qualified conservation organization” as defined in section 170(h)(3) of the Internal Revenue Code of 1986. For these farms to be eligible for state funding, the county program shall require a minimum weighted value of 20% in the “clustering potential” section for prioritizing applications for agricultural conservation easement purchase.

When a farm fails to meet Criterion B, C, or D, it may still be considered for preservation, using county funds (see page 9). Owners of these farms are encouraged to apply for preservation, but with the understanding that available funding may be limited.

## **MINIMUM CRITERIA FOR COUNTY FUNDED APPLICATIONS**

At the discretion of the County Farm Board, an easement may be purchased using county funding only or county and municipal funding.

In this case, the farmland easement area:

- A. Shall be located within a duly recorded ASA comprised of at least 500 acres.
- B. May contain less than 50% of soils which are available for agricultural production or a commercial equine activity and may contain less than 50% of soils in Land Capability Classes I through IV, as defined by the USDA-NRCS.
- C. Shall contain the greater of 50% or 10 acres of harvested cropland, pasture, or grazing land except as described below in Section D(i).
- D. May contain less than 35 contiguous acres of land but must contain at least 10 acres as required to join an ASA.
  - (i) An easement may be purchased on a farm situated in more than one county. The county processing the application is the county containing the farm's mansion house. In the absence of a mansion house, the county containing the greater portion of land in crops, pasture, or grazing land is the one to process the application. That county program's minimum eligibility criteria will apply to the entire applicant tract. Act 14 of 2001 establishes this option; the provisions of Act 14 apply to Montgomery County applicants.

Please note:

- If the easement purchase is not eligible for state funding and is to be made using non-state funds, the County Farm Board is not required to appraise that farm in the order of its ranking.
- When a landowner intends to donate an agricultural easement, the County Board may accept this donation by using county-only funds to purchase the agricultural easement via payment of \$1.00 to the landowner.
- A farm which initially is not eligible for state funding because of its size may become eligible when adjacent land is permanently preserved through a conservation easement, including an agricultural conservation easement.
- CRP (Conservation Reserve Program) land may not be counted as part of the cropland, pasture, or grazing land for meeting the minimum criteria when using state or county funding under Act 43.





## **PUBLIC INFORMATION ELEMENT**

This element of the program is intended to keep the public aware of the county program so that all interested parties have an opportunity to participate. It is a required element of the program.

The County Board shall do the following:

- Provide status reports and updates on program implementation through Cooperative Extension newsletters, through the *Farmland Preservation in Montgomery County* newsletter, and the Pennsylvania Farm Bureau.
- Hold public informational meetings in townships that have formed agricultural security areas in order to inform interested landowners of application deadlines and procedures.
- Continue to provide information packets to all interested landowners. Places where applications are available throughout the county must be designated and their locations published.
- Provide information on preserved farmland to the public upon request. This may be a list of owners of preserved farms by municipality, a map showing the location of agricultural easements, or similar information.
- Publish any easement purchases and continue to make the public aware of funding that is available as the state, county, and local funding are allocated through the years.



## **PROCEDURES FOR PURCHASE OF EASEMENT**

### **I. APPLICATION TO THE PROGRAM**

Owners of land within agricultural security areas may voluntarily consider applying to sell a conservation easement by applying to the county board. This procedure will take place in accordance with Subchapter D. Sections 138e.61 through 138e.73 of the state regulations and in accordance with the model formats set forth in the state guidebook, including any revisions thereto. A separate application shall be required for each tract offered for easement purchase. The application shall consist of a completed application form, location map, a summary of how many of the applicant farm's total acres are used for cropland or pasture or other land which is needed for our soils report, a crop and/or livestock report, and a copy of a soil conservation plan meeting NRCS standards or a demonstration that the plan has been started.

**Deadline: The deadline for submitting applications is February 1<sup>st</sup> each year.**

You may request assistance from the Farmland Preservation Office (610-278-3754) in completing the application form. An application form can be found in Appendix E.

#### **Application Form**

The county board has developed and made available an application form that requires the following information:

- A. The name, address, telephone number, and signature of the owner(s) of the farmland tract.
- B. The street location of the farm.
- C. The county, municipality, and agricultural security area in which the farmland tract is located.
- D. If the farm is bisected by a government unit boundary, the name of the other municipality or county.
- E. The total acreage of the farm, and the number of acres in the farmland tract proposed for easement purchase.
- F. An ownership deed book and page reference in the Montgomery County Recorder of Deeds.
- G. County tax map records, including tax parcel number, or account number of each parcel.

- H. The name, address, and telephone number of the person to be contacted to view the farmland tract.
- I. The names of any mortgage or lien holders, and the amounts of the liens or mortgages.
- J. Information regarding any current agreements, verbal or written, to sell the property.
- K. The number of years the family has farmed the tract.

**Soil Conservation Plan**

Every farmland preservation applicant must submit a current Soil Conservation Plan meeting NRCS standards before going to settlement on the easement sale. A “Resources Management System” (RMS) plan is required for the farmland preservation program. This type of plan addresses all areas of the farm including stream banks, woodlands, farm lanes, and the homestead, as well as cropland and pasture.

**Location Maps**

The applicant shall be required to provide a tax map of the farmland tract with map reference and tax parcel number clearly indicated .

Staff of the Farmland Preservation Program can provide materials to the landowner upon request. An aerial photo of the farm is acceptable.

**Soils Report**

The applicant is required to fill in the top row of the soils report or draw on a map of the property, showing how much land is in cropland, how much in pasture, and how much in “other” (buildings, creeks, woodlands, etc.). The applicant is also requested to provide the rest of the soils report and soils map for the farmland tract proposed for easement purchase and a table showing the Land Capability Classes as follows. Note: Completing the last five rows is optional. However, applicant must fill in totals in the top row.

	<b>Acres of Cropland</b>	<b>Acres of Pasture</b>	<b>Acres of Other Land</b>	<b>Total Acres</b>
<b>TOTAL</b>				
Class I				
Class II				
Class III				
Class IV				
Other				

The soils map may color code soil types as follows:

Class I = Green

Class II = Red

Class II = Yellow

Class IV = Blue

Wetlands = Cross-Hatch (or show on a separate map)

**Crop Report**

The applicant shall provide crop production information for the farmland tract for the most recent three crop year(s) that yields are available:

YEAR \_\_\_\_\_

	<b>Commodity</b>	<b>Acres Grown</b>	<b>Yield/Acre</b>	<b>Income in Dollars</b>
A				
B				
C				
D				

**Livestock Report**

The applicant shall provide a livestock report for the farmland tract for the most recent three calendar year(s) that numbers are available:

YEAR \_\_\_\_\_

	<b>Livestock</b>	<b>Average Numbers</b>	<b>Product Sold</b>	<b>Amount Sold</b>	<b>Income in Dollars</b>
A					
B					
C					
D					

**II. EVALUATION OF APPLICATION**

The County Board shall evaluate all timely applications which meet the minimum criteria (see Pages 7-9) and rank them according to the county numerical ranking system. The evaluation shall comply with Section 914.1(d)(1)[i-iv] of the Act regarding soil quality, likelihood of conversion, proximity to other eased lands, land stewardship and fair and equitable procedures. The County Board shall then determine whether to appraise the farmland tract. The Board may rank farms not meeting state minimum criteria, for consideration in non-state funded preservation.

Appendix D contains more information on the ranking system.

**III. APPRAISAL OF EASEMENTS**

Those farms that score well in the numerical ranking system will be appraised. The county will pay for the first appraisal done on these selected farms. The completion of an appraisal report does not guarantee that an easement will be purchased.

The appraiser chosen shall be a State Certified General Real Estate Appraiser who is qualified to appraise a property for easement purchase. An appraiser shall be selected by the county on the basis of experience, expertise, and professional designation.

The appraisal reports shall estimate both the market value and the farmland value of the proposed farmland easement area, and shall be based primarily on an analysis of comparable sales. The value of a building or other improvement on the farmland easement area may not be considered in determining the easement value. The value of buildings or other improvements should appear separately in the appraisal report.

All appraisals must be done in accordance with the standards set forth in Act 43. Appraisers should consult the Appraiser's Guide provided by the staff of the State Bureau of Farmland Preservation. "Elements of The Appraisal Report" can be seen in Appendix H.

#### **IV. OFFER OF PURCHASE BY COUNTY BOARD**

After the appraisal reports are completed, the County Board may elect to make offers to place conservation easements on some or all of the appraised farms. Municipal funding may also be used, in accordance with Section 914.1(b.1) of the Pennsylvania Agricultural Area Security Law. The purchase price of an easement shall not exceed, but may be less than, the easement value. In determining whether to offer to purchase an easement, the County Board shall consider the following:

- A. Evaluation according to the numerical ranking system.
- B. Consistency with county map of priority agricultural areas.
- C. Cost relative to total allocations and appropriations.
- D. Proximity to other lands subject to easements.

The County Board shall decide whether the purchase will be made with county funds, state funds, or a combination of county and state funding. Municipal funding may also be used, in accordance with Section 914.1(b.1) of the Pennsylvania Agricultural Area Security Law. 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, may 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. This offer is known as the "original offer." The offer letter will indicate a total offer and the corresponding value per acre. If a survey reveals acreage more or less than originally indicated, the total offer changes, but the offer per acre does not.

#### **Applicant's Response to Board's Offer**

Within 30 days of receipt of the written offer from the County Board, an applicant may do one of the following:

- A. Accept the offer in which case the County Board and the applicant shall enter into an agreement of sale. When state funds are being used, the agreement of sale shall be in a form provided by the State Board, and shall be conditioned upon the approval of the State Board. All agreements shall be subject to the ability of the applicant to provide good title to the premises, free of any encumbrances such as liens, mortgages, options, rights of others in surface minable coal, land use restrictions, adverse ownership interest and other encumbrances that would adversely impact the county and commonwealth's interest in the farmland tract. A mortgage subordination release, or letter from the mortgagee, lien holder, or owner of rights in surface mineable coal, approving the purchase of the conservation easement may be required.
- B. Reject the offer and advise the County Board that the application is withdrawn.
- C. Advise the County Board that the applicant is retaining, at applicant's expense, an independent state-certified general real estate appraiser to determine the easement value. The appraisal shall be completed in accordance with Subchapter D of the State Regulations. 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 or rejected by the applicant. (See *County Board Action* on the following page.)

The failure of the applicant to act within 30 days of the receipt of the original written offer from the County Board shall constitute rejection of the offer.

**Applicant's Independent Appraiser**

If the applicant retains an independent state-certified general real estate 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:
  - 1. The farmland value determined by the applicant's appraiser; and
  - 2. 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:
  - 1. The market value determined by the 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 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.

**County Board Action after Applicant Appraisal Complete**

Within 30 days of receipt of the applicant's appraisal report the County Board shall:

- A. Submit a written offer to purchase in an amount in excess of the original offer; or
- B. Notify the applicant in writing that the original offer remains open and will not be modified.

The applicant shall, within 15 days of receipt of the County Board's written offer under Paragraph (A) or (B) of "County Board Action" above, notify the County Board in writing that the applicant either:

- A. Accepts or rejects the amount in excess of the original offer; or
- B. Accepts or rejects the original offer.

The failure of the applicant to notify the County Board within the 15-day period and in the manner prescribed shall constitute a rejection of the County Board's offer.

**V. ACCEPTANCE OF OFFER**

If an offer is accepted, the County Board and the applicant shall enter into an agreement of sale containing the requirements and subject to the conditions as set forth in "Applicant's Response to Board's Offer" on Page 16.

If the landowner accepts an offer lower than the appraised value, this is known as a "bargain sale," and may offer tax advantages.

Payments for the conservation easement can be received in a lump sum, in installments for up to five years at an interest rate determined by the Farm Board, or via a like-kind exchange transaction. The Agricultural Land Preservation Board shall determine the method of payment, lump sum or installments up to five years, after considering the preference of the owner. Another option to consider is the "like-kind exchange" (Internal Revenue Code 1031), which permits the proceeds from the easement sale to be used to buy another property and potentially defer capital gains.

The County Board advises all landowners accepting offers to consult financial advisors regarding tax obligations and estate planning issues.

**VI. REVIEW OF APPLICATION BY THE STATE AGRICULTURAL LAND PRESERVATION BOARD**

When the easement purchase will use state funds, the County Board recommends the easement purchase to the State Board. According to Section



138e.91 of the State Regulations, the County Board's application to the State Board must include a summary report and various other documents.

Following its review of the County Board's recommendation the State Board will approve or deny the easement purchase within 60 days of receipt of the completed recommendation.

### **Summary Report**

The County Board staff shall prepare a report for the State Board, and submit 25 copies of a farm summary report. The summary report must be prepared in accordance with Section 138e.69 of the state regulations, and include:

A. A narrative, which includes:

1. A description of the farm, including the name, location, number of acres, and type of farm.
2. Discussion of quality of the farmland tract, including soils classification.
3. Mention of the manner in which preservation will contribute to the agricultural productivity of the county.
4. The farmland ranking score, including a statement of the relative ranking of the farmland tract among other tracts considered by the county in the same round of applications.
5. Projection of the likelihood of conversion to other uses if the easement is not purchased. This should include discussion of the nature and scope of development pressure in the municipality or area.
6. Description of the nature and scope of conservation practices and best land management practices on the farm.
7. Discussion of the purchase price, summarizing the appraisal(s) and including mention of the agricultural and nonagricultural value of the farm and negotiations for purchase.
8. Certification by the County Board that the information presented to the State Board is true and correct.

B. A legible United States Geological Survey (USGS) topographic map showing the location and boundaries of the subject property, the location and boundaries of neighboring easements, and any exclusions withheld from the subject property.

C. A soils report (Form C – provided by the PA Department of Agriculture).

D. A list of soils on the subject property including their mapping unit names, symbols, and Land Capability Classes.

E. A legible, uncolored, soil map of the subject property.

- F. A tax map showing the subject property location and boundaries, any exclusions withheld from the subject property, any utility rights-of-way, and any access road rights-of-way.
- G. A 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.
- H. A copy of “Exhibit B,” the Statement of Costs from the Agreement of Sale, modified to include interest, total acres, and per acre easement cost.

The 25 copies submitted shall be individually collated and three-hole punched, but not stapled.

### **Other Required Documents**

In addition, the county must submit the following documents:

- A. The appraisal report or reports.
- B. The signed agreement of sale, including the following exhibits:
  - Exhibit A: Proposed legal description.
  - Exhibit B: Statement of costs prepared in accordance with Section 138e.69 of the State Regulations.
  - Exhibit C: Proposed deed of agricultural conservation easement.
  - Exhibit D: Contractor integrity clause.
  - Exhibit E: Nondiscrimination/sexual harassment clause.
  - Exhibit F: IRS form W-9 for each farm owner.
- C. The title insurance commitment. (The cost of such title insurance shall be a cost incidental to the easement purchase and payable or reimbursable from the county’s allocation under the Act.)
- D. 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 copy of the notification letter and a list of all adjoining landowners.
- E. A completed and signed IRS Form W-9, “Request for Taxpayer Identification Number and Certification” for individual grantors.
- F. A letter from the grantors stating the percent of ownership of each grantor for the purpose of issuing IRS Form 1099.
- G. A copy of the approved soil conservation plan that is required to be in place on the farmland.

- H. A copy of the nutrient management plan developed in accordance with the most current Nutrient Management Act if a nutrient management plan is required on the property.

In accordance with Section 138e.70 of the State Regulations, the county may also be required to supply:

- A. A mortgage subordination, release, or letter from the mortgagee, lien holder, or owner of rights in surface mineable coal, approving the purchase of the conservation easement. Clear title is required in order to purchase an easement. If there is a mortgage on the property, the owner has the option of paying it off on or before closing, or asking the lender to subordinate the mortgage to the agricultural easement. With subordination, the mortgage would continue as before, but the lender agrees that the agricultural conservation easement has first position in the event of foreclosure.
- B. A copy of the application form.
- C. An evaluation of ranking worksheet.
- D. Other relevant documents and information.
- E. Survey or plot plan of property under easement. See detail in Section VII (B) below.

## **VII. SETTLEMENT AND THE AGRICULTURAL EASEMENT DEED**

- A. Upon approval of the purchase of a conservation easement, a real estate settlement will be held. At settlement the landowners will sign the agricultural easement deed. The deed shall include the provisions of Sections 138e.67 and 138e.241 of the State Regulations.
- B. A legal description of the exact area under easement is needed, in accordance with Section 138e.67 of the State Regulations. This may come from a recorded deed meeting the requirements of the Farmland Preservation Program, or in the event that the requirements are not met by the recorded deed(s), a field survey shall be conducted. The survey requirements will follow the provisions of Section 138e.73. The area to come under easement along a public road will extend to the legal right of way, not to the center of the road. The cost of preparing the legal description or the survey will be paid by the county. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the farmland tract subject to the easement. However, if the landowner intends to withhold property from the easement after the agreement of sale is signed, the cost of the new survey will be paid by the landowner.
- C. Grantees shall be those entities which provided funding, in the proportion that they provided the funding, as defined in the Act.
- D. When state funds are being used, the county shall submit a copy of the deed to the State Board for approval prior to execution and delivery.

- E. For purchases made entirely with county funds, the county shall be the sole grantee.
- F. For purchases made using a combination of state, county, and local municipality funds, the grantees shall be the commonwealth, the county, and the local municipality providing the funds under joint or multiple ownership as defined in the act.
- G. In the event that one application consists of more than one tax parcel, those parcels shall be consolidated under a Deed of Consolidation, if legally feasible as determined by the County Farm Board. All parcels in one application must have the same owner. The Deed of Consolidation will be recorded at or prior to settlement on the agricultural easement. Fees for preparing the Deed of Consolidation will be paid by the county, provided the easement goes to settlement.

## **RESPONSIBILITY OF OWNER**

Once the easement is in place, it will be the responsibility of the owner of the farmland tract to comply with the requirements of Chapter 138e.241 the State Regulations regarding permitted and required acts, including maintaining a soil conservation plan, the construction of buildings, and part-time or off-season activities listed on Page 27. Activities listed on Page 27 are permitted, but are not to be considered the primary farming activity on the land. The following requirements are set forth in rules & regulations Section 138e.225-227, in the deed of easement, in the agreement of sale, and in Appendix F (subdivision guidelines) of this county program.

### **ONE PERMITTED RESIDENTIAL STRUCTURE**

Before the one permitted residential structure is built, the owner must first receive approval from the County Farm Board for the location of the structure. The County Board will consider the location of the one permitted residential structure based primarily on the economic viability of the land for agriculture.

The landowner must first determine whether the municipality requires subdivision in order to build the additional house. If subdivision is required, the Montgomery County Farmland Preservation Subdivision Guidelines shall be followed, as found in Appendix F of this program book.

If subdivision is not required, the landowner must submit an application to the Montgomery County Farm Board for location of the one permitted house. This can be done concurrently with any municipal permit applications. The County Board will review the application and approve or disapprove it based upon the impact of the proposed house on the economic viability of the land for agriculture. The proposed house must have as minimal an impact as possible, based on the following criteria:

- The curtilage shall not exceed two acres, and shall leave the greater of at least 10 acres or 50% of the preserved farmland in cropland, pasture, and/or grazing land.
- The house is placed on a less productive part of the farm, with poorer agricultural soils.
- The house location has a minimal effect on agricultural production. Generally, the house should be located on the edge of a field, next to natural features, behind existing buildings, or in corners of the property in order to limit the impact on the efficiency of the farming operation.
- The house location does not hinder future owners of the property by creating awkwardly shaped farm fields.
- The house location does not adversely impact soil conservation practices.
- Municipal guidelines must be followed and are not superseded by farmland preservation guidelines.

An application form will be provided to the landowner upon request. The following will be required:

- A map or sketch of the property's roadways, existing buildings, pertinent features of the farm, and the location of the proposed house.
- An aerial photo of the property, indicating the property boundary and the location of the proposed house
- The applicant's name & contact information, and the parcel's tax ID number & deed reference.
- Written description of who will occupy the house, how the economic viability of the land for farming will be impacted, impact on water rights and water access, and the impact of the house on the farm business.

The County Board will review the application and make a decision for or against approval based upon the continued economic viability of the land for agriculture. It will be based upon factors such as the location of the house in relation to productive land, with a preference given to house placement in the least productive part of the farm. The same guidelines which apply to subdivision for the purpose of building one house will be considered in the application to site the house when subdivision is not required.

## **SUBDIVISION**

Subdivision of eased farms will not be permitted unless the subdivision meets the criteria outlined in Appendix F.

When a landowner wishes to subdivide a farm property which is under agricultural conservation easement, the County Farm Board must first determine whether the land will remain economically viable for agriculture after subdivision.

To subdivide a farm into smaller farms, or to subdivide off the one building lot, a landowner completes a subdivision application form and submits it to the County Agricultural Land Preservation Board. To obtain a subdivision application form, contact the Montgomery County Farmland Preservation office.

## **CHANGE OF OWNERSHIP**

If the eased farm is sold, conveyed, or transferred to another person:

1. The deed conveying an interest in the restricted land shall set forth the language of the easement restriction, items 1 to 13, word for word. An electronic copy of this language is available upon request.
2. Within 30 days of a change in ownership of the restricted land, the prior owner shall notify the County Farm Board and the Pennsylvania Department of Agriculture of the name and address of the new owner, the price per acre or portion thereof received for the eased land, and the volume and page in which the transfer has been recorded by the County Recorder of Deeds.

## **ROADSIDE SIGNS ON PRESERVED FARMS**

The Farm Board requires a roadside sign on each farm preserved after September 2007. The sign states that the farm is preserved by the Montgomery County Farmland Preservation Program. There is no cost to the landowner for the sign. The sign will be placed near the road, to be seen by those passing the farm. Owners with frontage on more than one road may request one sign on each road. The farm owner owns the sign, and is responsible for its maintenance. The location of the sign will be determined in consultation with the farm owner, the municipality, and the Farm Board staff.

Farms preserved before September 2007 are also encouraged to display a roadside sign.

## **USE OF PRESERVED FARMS**

Preserved farms shall continue to be farmed, in accordance with the Permitted Acts listed in the Deed of Agricultural Easement; shall have 50% of the preserved farm as harvested cropland, pasture, grazing land, other land actively used for agricultural production, or commercial equine activity; and shall contain at least 10 acres of harvested cropland, pasture, grazing land, other land actively used for agricultural production, or commercial equine activity.

- Preserved farms shall not accept large amounts of non-agricultural fill on the land without getting approvals from the Montgomery County Conservation District and the County Agricultural Land Preservation Board.
- Preserved farms may not be used to discard non-agricultural waste, such as municipal waste and hazardous waste. This would include but not be limited to farm machinery and implement parts, agricultural plastics (e.g., silage bags, coveralls, hoop house and greenhouse materials), appliances, construction & demolition refuse as noted above, auto parts, excess fuels, excess herbicides and other pesticides.
- Preserved farms, if used for long-term storage of sewage or other organic waste products, must follow all applicable state regulations.
- Preserved Farms must be compliant with Title 25 - *Environmental Protection*, specifically Chapter 102 - *Erosion and Sediment Control And Stormwater Management*, and Chapter 91 – *General Provisions*; under authority of The Clean Streams Law. This includes any land plowed or tilled, plus Animal Heavy Use Areas (AHUAs) and Manure Management Plans.





## **PART-TIME OR OFF-SEASON ACTIVITIES**

Pursuant to State Regulations Section 138e.241, the County Board intends that agricultural conservation easements shall not prevent “customary part-time or off-season minor or rural enterprises and activities.” Items listed here are in addition to the main farm enterprise, and are not intended to substitute for the required agricultural production or a commercial equine activity. This section shall apply to all preserved farms in the county program, with any changes or additions applying to all preserved farms at the time of publication of this program book. For purposes of definition, these are limited to the following:

- A. The direct sale to the public of agricultural products produced principally on the farm, provided that at least 50 percent of such products (measured by income from product sales) are produced by the farm operator.
- B. The construction of any and all structures contributing to the production, primary processing, direct marketing, and storage of agricultural products produced principally on the farm.
- C. The construction of structures associated with the production of energy from renewable sources for use principally (at least 50% per year) on the farm including wind, solar, hydroelectric, geothermal, methane, wood, and alcohol fuel systems, and structures and facilities for the storage and treatment of animal wastes. These activities shall be called “energy rural enterprises” for this program. The landowner must comply with all of the following:
  - 1) The energy rural enterprises remain incidental to the agricultural use and character of the farm.
  - 2) Energy generated by energy rural enterprises shall be available for use on the farm.
  - 3) The retail sale of excess energy generated by energy rural enterprises is permitted.
  - 4) The construction of any permanent equipment or structures associated with the production of energy shall be located within the curtilage of existing farm buildings.
  - 5) The total site coverage of all energy rural enterprise on the property, including all parking, loading or other areas necessary for the energy rural enterprises shall be limited to two percent of the area of the property.
- D. Structures and facilities associated with irrigation, farm pond improvements, and soil and water conservation practices including but not limited to Wetland Development or Restoration, Wildlife Wetland Habitat Management, Wildlife Upland Habitat Management and Riparian Forest Buffer Resource Management Systems used for erosion and sediment control and/or water quality improvement.
- E. The provision of services or production and sale, by persons in residence, of incidental agricultural goods, services, supplies, and repairs, and/or the conduct of traditional trades, and the production and sale of home occupation goods, or arts and crafts, so long as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying residential and/or

principally agricultural structures of the property; limited in site coverage to one-half of 1 percent of the area of the property.

- F. The accommodation of tourists and visitors within principally family residential and/or agricultural structures otherwise permitted under the law so long as the accommodations of tourists and visitors is undertaken as a part-time or off-season minor or rural enterprise and is incidental to the agricultural and open space character of the property.
- G. Agriculture-related services or activities associated with customary part-time or off-season minor rural enterprises and activities incidental to agricultural production or a commercial equine activity. These services and activities are permissible, as long as they remain incidental to the agricultural and open space character of the farm. Examples include beekeeping, corn mazes and similar farming activities, hayrides, hunting, and educational tours. No excavation, paving, graveling, construction of permanent non-agricultural structures or other activities which would diminish the productive capacity of the soils are permitted in connection with such activities. The County Agricultural Land Preservation Board reserves the right to review and approve these activities on a case-by-case basis.
- H. Other similar uses upon approval by the Montgomery County Agricultural Land Preservation Board and the State Agricultural Land Preservation Board.

*Please note: The above provisions shall not supersede local ordinances.*

## **PROCEDURE FOR INSPECTING AND ENFORCING AN EASEMENT**

After an easement has been purchased, yearly inspections will be conducted to enforce the easement according to the following procedures promulgated by Sections 138e.201 through 138e.207 of the State Regulations:

### **RESPONSIBILITY**

The County Board shall have the primary responsibility for inspecting restricted land and enforcing an easement.

The State Board or its designee shall have the right to inspect restricted land and enforce an easement on its own behalf or in conjunction with the County Board.

When the municipality is a partial owner of the easement, representatives from that municipality may work jointly with the county to inspect restricted land; however, the County Board has the responsibility to enforce the easement.

### **INSPECTIONS**

The County Board shall inspect all restricted land within the county at least annually to determine compliance with the provisions of the applicable deed of easement, the Act and these procedures.

Written notice of any inspection to be conducted shall be mailed by certified mail to the owner at least (10) days prior to such inspection. In addition, a second copy of the notification letter may also be sent via regular mail to the farm owner.

Any inspection conducted shall be performed between the hours of 8:00 A.M. and 5:00 P.M. on a weekday that is not a legal holiday recognized by the commonwealth, on a date and time agreeable to the county and the landowner.

After conducting any inspection, the County Board shall prepare a written inspection report setting forth the following information:

- A. The identification of the land inspected.
- B. The name of the owner of the land at the time the easement was acquired, and the name of the current owner.
- C. A description of any 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.
- D. A description of the conservation practices being observed on the restricted land.
- E. A statement of whether the provisions of the deed of easement are being observed.
- F. A statement of whether the one additional house allowed by the deed has been constructed, or that no houses are permitted on that site.

The original inspection report shall be mailed by certified mail to the owner. One copy shall be kept in the Farmland Preservation office, and one copy shall be sent to the Pennsylvania Department of Agriculture's Bureau of Farmland Preservation office.

The County Board, the State Board, and the municipality if a part owner (grantee), may inspect the restricted land, jointly or severally, at any time and without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

### **ANNUAL REPORT**

The County Board shall file with the state board by March 1 of each year a copy of all inspection reports for inspections conducted during the prior year and compile an annual report which summarizes the number of inspections, violations detected, violations resolved, and the circumstances surrounding any unresolved violations.

### **ENFORCEMENT**

The County Board shall enforce the terms of each easement purchased within the county pursuant to the Act, whether it be a state-only, joint, county-only, or multi-funded purchase.

The State Board may enforce the terms of all state, jointly-purchased, or multiple - purchased easements.

The right of the State Board to enforce the terms of an easement may be exercised either jointly with the County Board or by the State Board acting on its own behalf.

### **NOTIFICATION TO OWNER OF VIOLATION**

Within ten (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.

The written notice required by this section shall be sent by certified mail and shall set forth the following information:

- A. A copy of the inspection report.
- B. A copy of the deed of easement on that farm.
- C. A description of the action or condition that constitutes the alleged violation.
- D. A statement of the measures necessary to correct the alleged violation.

### **ENFORCEMENT ACTIONS**

Sixty (60) days after the mailing of a notice of violation, 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 any other appropriate relief unless:

A. The County Board and the State Board determine that the violation has been corrected; or

B. The County Board:

1. 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 under "Enforcement Actions" on Page 30.
2. Establishes a period not to exceed one year within which the corrective measures must be completed.

The County Board shall commence and prosecute an action in the Court of Common Pleas of the county seeking an order requiring correction of the violation if the violation is not corrected within the time period, as established pursuant to Paragraph B(2) immediately above.

The owner of the restricted land shall bear all cost associated with the correction of a violation of the easement including, but not limited to:

- A. Costs of any and all work required and materials used to correct the violation.
- B. Administrative costs incurred by the County Board and the State Board.
- C. Court costs and reasonable attorneys' fees incurred by the County Board and the State Board in enforcing the easement.

Should the County Board fail to institute and prosecute a timely enforcement action, the State Board may institute such action and recover all costs incurred, including reasonable attorneys' fees, from the County Board, the owner of the restricted land, or both.



# **APPENDICES**





## APPENDIX A

February 8, 1990

90-C.74

On motion of Mrs. Bloss, seconded by Mrs. Banning, the following resolution was adopted:

**RESOLVED**, Pursuant to the Agricultural Area Security Law, 3 P.S. §914.1(b), the Montgomery County Agricultural Land Preservation Board is hereby established to administer the Montgomery County program for purchasing agricultural easements from landowners whose land is within agricultural security areas within the County; and

**BE IT FURTHER RESOLVED**, that the composition of the County Board and the terms of its membership shall be as follows: the Board shall be composed of five members appointed by the County Commissioners; the Chairman of the County Commissioners shall designate annually one member of the Board to serve as chairman of the Board; Board members shall be appointed from among the following groups—two members of the Board shall be farmers, one member shall be a current member of the governing body of a township or borough located within Montgomery County, one member shall be a commercial, industrial or residential building contractor, and one member shall be selected at the pleasure of the County Commissioners; the Board membership of the member of the governing body of a township or borough located within the County shall be deemed vacant upon vacancy in, or the expiration of the term of, the township or borough office to which the member was elected; the term of office of the initial farmer appointees shall be three years, the initial term of the current member of the governing body of a township or borough shall be two years, and the initial term of all other members shall be one year; thereafter, the term of all members shall be three years; and

**BE IT FURTHER RESOLVED**, that the following persons are hereby appointed as the initial members of the Montgomery County Land Preservation Board, to serve for the terms set forth after their respective names:

Curtis Kratz <i>Souderton, PA</i>	-	Three years
Harry T. Wentz <i>Schwenksville, PA</i>	-	Three years
Charles Allebach <i>Souderton, PA</i>	-	Two years
Albert J. Westrum <i>Ambler, PA</i>	-	One year
Mrs. Maryanne Rickenbach <i>Abington, PA</i>	-	One year

Mrs. Banning voted "No" on the appointment of Mrs. Maryanne Rickenbach to the Montgomery County Agricultural Land Preservation Board.



## APPENDIX B

### MONTGOMERY COUNTY AGRICULTURAL LAND PRESERVATION BOARD

*Approved February 8, 1990  
Updated January 24, 2014*

<b>MEMBER</b>	<b>TERM</b>	<b>EXPIRATION</b>
Arthur C. Bustard (Occupation: Elected Official) P.O. Box 767 Worcester, PA 19490	3 Years	December 31, 2014
John H. Corkum (Occupation: Farmer) P.O. Box 178 Creamery, PA 19430	3 Years	December 31, 2016
Michael A. Gambone (Occupation: Realtor/Builder) 1030 W. Germantown Pike Norristown, PA 19403	3 Years	December 31, 2014
Stephen C. Quigley (Occupation: Farmer) 2222 Valley Forge Road Lansdale, PA 19446	3 Years	December 31, 2016
Jonathan E. Rinde, Esq. (Occupation: Attorney) 401 City Ave., Suite 901 Bala Cynwyd, PA 19004	3 Years	December 31, 2016

*Mr. Rinde is the Chairman of the Board.  
There are five board members.*



## **APPENDIX C**

### **MONTGOMERY COUNTY AGRICULTURAL LAND PRESERVATION BOARD BYLAWS**

#### **ARTICLE I. NAME**

The name of this board shall be the “Montgomery County Agricultural Land Preservation Board” (hereinafter referred to as the “Board”).

#### **ARTICLE II. AUTHORITY**

This Board was created and empowered by the Board of Commissioners of the County of Montgomery pursuant to Act 149 of 1988, 3 P.S. §901 (hereinafter referred to as the “Act”).

#### **ARTICLE III. PURPOSE**

The purpose of the Board is to administer the County program authorized by the Board of Commissioners for purchasing agricultural conservation easements from landowners whose land is within an agricultural security area.

#### **ARTICLE IV. POWERS**

It shall be the duty and responsibility of the Board to exercise the following powers:

- A. To adopt rules and regulations for the administration of the countywide program for the purchase of agricultural conservation easements within agricultural security areas in accordance with the provisions of the Act, including, but not limited to, rules and regulations governing the submission of applications by landowners, establishing standards and procedures for the appraisal of property eligible for purchase as an agricultural conservation easement, and establishing standards and procedures for the selection or purchase of agricultural conservation easements.
- B. To adopt these bylaws and rules of procedure governing the operation of the Board and the conduct of its meetings.
- C. To execute agreements to purchase agricultural conservation easements in the name of the County.
- D. To purchase in the name of the County agricultural conservation easements within agricultural security areas.
- E. To use moneys appropriated by the Board of Commissioners from the County general fund to hire staff and administer the countywide program.
- F. To use moneys appropriated by the Board of Commissioners from the County general fund or the proceeds of indebtedness incurred by the County and approved by the Board of Commissioners for the purchase of agricultural conservation easements within agricultural security areas.

- G. To establish and maintain a repository of records of farmlands which are subject to agricultural conservation easements purchased by the County and which are located within the County.
- H. To record agricultural conservation easements purchased by the County in the Office of the Recorder of Deeds of the County, and to submit to the State Agricultural Land Preservation Board (hereinafter referred to as the "State Board") a certified copy of agricultural conservation easements within thirty days after recording. The 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.
- I. To submit to the State Board for review the initial County program and any proposed revisions to the approved County program for purchasing agricultural conservation easements.
- J. To recommend to the State Board for purchase by the Commonwealth agricultural conservation easements within agricultural security areas located within the County.
- K. To recommend to the State Board the purchase of agricultural conservation easements by the Commonwealth and the County jointly.
- L. To purchase agricultural conservation easements jointly with the Commonwealth.
- M. To exercise other powers which are necessary and appropriate for the exercise and performance of its duties, powers and responsibilities under the Act.

## **ARTICLE V. MEMBERSHIP**

The membership of the Board shall be appointed by the Board of Commissioners, and shall be constituted and limited as follows:

- A. The Board shall be composed of five members.
- B. The Chairman of the Board of Commissioners shall designate annually one member of the Board to serve as Chairman of the Board.
- C. The membership of the Board shall elect annually one of its members to serve as Vice-Chairman of the Board, and one of its members to serve as Secretary of the Board.
- D. Two members of the Board shall be active farmers who are residents of the County.
- E. One member of the Board shall be a current member of the governing body of a township or borough located within the County.
- F. One member of the Board shall be a commercial, industrial or residential building contractor who is a resident of the County.

- G. One member of the Board shall be a resident of the County who shall be appointed without restriction as to his or her profession, occupation, or elected or appointed office.
- H. The initial term of the former appointees shall be three years, the initial term of the current member of the governing body of a township or borough shall be two years, and the initial term of the other members shall be one year. Thereafter, the term of all members shall be three years.
- I. The Board membership of the member of the governing body of a township or borough located within the County shall be deemed vacant upon vacancy in, or the expiration of the term of, the township or borough office to which the member was elected.
- J. All Board members serve at the pleasure of the Board of Commissioners, and the Board of Commissioners can remove any Board member from Board membership at any time, with or without cause.
- K. In the event that the Board membership of any member becomes vacant for any reason, the Board of Commissioners shall appoint a successor member to serve for the remainder of the unexpired term of the vacant membership.

#### **ARTICLE VI. MEETINGS**

- A. Regular Meetings. The Board shall meet at least six times annually, or as needed, for regularly scheduled meetings. The first meeting of each calendar year shall be an organizational meeting.
- B. Special Meetings. Special meetings may be called at any time by the Chairperson of the Board, or by a petition to the Secretary from a quorum of Board members.
- C. Each member of the Board shall be permitted to cast one vote on each question at any meeting.
- D. All meetings shall require a quorum of at least three members to conduct business.
- E. The Board may adopt rules and regulations to govern the conduct of its meetings and activities.

#### **ARTICLE VII. APPLICABLE STATUTES**

The Board shall be subject to the Act of July 3, 1986 (P.L. 388, No. 84), known as the Sunshine Act, and the Act of June 21, 1957 (P.L. 390, No. 212), referred to as the Right to Know Law, relating to the inspection and copying of public records.

#### **ARTICLE VIII, ETHICS LAW**

All members and employees of the Board shall comply with the provisions of the Public Official and Employee Ethics Law, 65, P.S. Sections 401-413. Nothing in Act 43 shall prohibit a member of the County Board or his or her family from selling a conservation easement under this program, provided that all decisions made regarding easement purchases be subject to provisions of Section 3(J) of the Act of October 4, 1976 (P.L. 883, No. 170), referred to as the Public Official and Employee Ethics Law.

## **ARTICLE IX. FINANCE**

- A. No member of the Board shall be liable for the debts of the Board.
- B. All moneys received by the Board shall be used for the purpose of protecting viable agricultural farmland in the County.
- C. Board members who have a personal or financial interest in any matter proposed or pending before the Board shall disclose the fact to the Board and shall not vote thereon.

## **ARTICLE X. AMENDMENTS**

These bylaws may be amended by a majority vote of the members of the Board, subject to the approval of the Board of Commissioners. The Secretary shall provide written notification of all proposed bylaw changes to all Boards members at least 15 days prior to a vote on such changes, and such vote shall be taken only at a duly called regular or special meeting.



## APPENDIX D

### MONTGOMERY COUNTY AGRICULTURAL LAND PRESERVATION BOARD NUMERICAL RANKING SYSTEM

The Montgomery County Agricultural Land Preservation Board has developed this numerical ranking system to prioritize farm sites for the purchase of conservation easements. After an initial screening, sites will be evaluated using this system.

#### DESCRIPTION OF SYSTEM

The farmland ranking system consists of four sections as follows:

Section	Percent of Score
I. Land Evaluation (Soil Productivity)	40
II. Site Assessment:	
A. Farmland Potential	25
B. Development Potential	10
C. Clustering Potential	25

#### Priorities

The point value arrived at through the use of this system will be used to prioritize farm sites for purchase of conservation easements. Higher point values indicate higher priority for purchase.

#### Revisions

The numerical ranking system may be revised. Such revisions shall proceed in compliance with the provisions of the State Regulations.

NOTE: For an explanation of the terms and parameters used in the system, see Page D-7

## Numerical Ranking System

	<b>Points</b>
I. Land Evaluation (40%)	
Soil Productivity .....	0-100
<b>TOTAL FOR PART I.....</b>	<b>100</b>
II. Site Assessment (60%)	
A. Farmland Potential (25%)	
(1) Soil Conservation Plans	
NRCS Plan at least 75% Implemented (good) .....	20
NRCS Plan 50% to 75% Implemented (fair).....	10
NRCS Plan Less than 50% Implemented (needs improvement)	0
(2) Size of Farm	
70 acres or more .....	30
50 to 69.9 acres .....	20
35 to 49.9 acres .....	10
less than 35 acres.....	0
(3) Percentage of Acreage in Crop/Pasture	
90+ % .....	5
80-89.9% .....	4
70-79.9% .....	3
60-69.9% .....	2
50-59.9% .....	1
(4) Perimeter to Area Ratio (Perimeter (ft.)/Farm Area (ac.))	
Less than 150 .....	10
150 to 200 .....	5
More than 200 .....	0
(5) Percentage of Farm Perimeter next to Residential Uses	
Less than 30% .....	10
30-40% .....	5
More than 40% .....	0

(6) Historic and Scenic Qualities .....	<b>Points</b>	
Building is listed on or eligible for the National Register of Historic Places .....		10
or		
Farm is adjacent to public open space.....		10
or		
Farm site provides a scenic vista.....		10
(Farm provides a broad sweeping view, including variation in topography and vegetation and is visible from a major highway or rural road)		
Farm site provides a scenic accent .....		5
(Farm provides an attractive view, but less impact than a vista)		
Farm provides no significant scenic contribution.....		0
(Farm is hidden or screened by man-made or natural features)		
 (7) Farm Product Sales		
Gross annual three year average receipts \$100,000 or more..		10
Gross annual three year average receipts \$50,000 to \$99,999		5
Gross annual three year average receipts \$20,000 to \$49,999		3
Gross annual three year average receipts less than \$20,000..		0
 (8) Duration of Family Farming Activity		
Family farming property continuously for 60 years or more ...		5
Family farming property continuously for 30-59 years.....		2
Family farming property continuously for 1-29 years.....		0
 <b>TOTAL FOR PART II, SECTION A .....</b>		<b>100</b>

B. Development Potential (10%)

(1) Amount of Road Frontage		
2500 feet or more.....		30
1800 to 2499 feet.....		25
1200 to 1799 feet.....		15
750 to 1199 feet.....		10
0 to 749 feet.....		0
 (2) Percentage of Site Containing Steep (>15%) Slopes		
0-9.9%.....		30
10-19.9% .....		15
20% or more .....		0
 (3) Amount of Wetlands and/or Floodplain		
0-9.9%.....		20
10-39.9% .....		10
40% or more .....		0

(4) Proximity to Public Water or Sewer Service	
Existing or planned service area within ¼ mile.....	10
Existing or planned service area within ½ mile.....	5
No existing or planned service area within ½ mile .....	0
(5) Proximity to Non-Agricultural Development	
21% or more of the land within a ½ mile radius .....	10
10-20% of the land within a ½ mile radius .....	5
Less than 10% of the land within a ½ mile radius .....	0
<b>TOTAL FOR PART II, SECTION B .....</b>	<b>100</b>

**Points**

C. Clustering Potential (25%)

(1) Consistency with County Agricultural Areas Map	
Property is within “Significant Farmland” Area .....	20
Property is less than ½ mile from “Significant Farmland” Area	12
Property is ½ to 1 mile from “Significant Farmland” Area .....	6
Property is more than 1 mile from “Significant Farmland” Area	0
(2) Proximity to Other Restricted Land/ Ability to Start a New Cluster:	
Property is adjacent to two or more existing/proposed eased farms	30
Property is adjacent to one existing/proposed eased farm.....	25
Property is less than .25 miles from existing/proposed eased farm	20
Property is .25-.49 miles from existing/proposed eased farm.	10
Property is .5-.99 miles from existing/proposed eased farm...	5
Property is 1 mile or more from existing/proposed eased farm	0
or	
First applicant in an ASA .....	20

(3) Percentage of Farm Perimeter Bordering ASA lands

75.1-100%.....	20
50.1-75%.....	15
25.1-50%.....	10
0.1-25%.....	5
0%.....	0

(4) Consistency with County Comprehensive Plan

Half or more of the site is shown as Rural Resource Area on the Growth and Preservation Plan .....	25
Half or more of the site is shown as a combination of Rural Resource Area, Proposed Open Space, or Existing Rural Development.....	15
Less than half of the site is shown as a combination of Rural Resource Area, Proposed Open Space, or Existing Rural Development.....	0

(5) Consistency with Municipal Comprehensive Plan:	
Site is shown as agricultural, rural, or low density residential in Municipal Comprehensive Plan, if this plan has been adopted within the past 10 years. When it has not been adopted within 10 years, site is shown as agricultural, rural or low density residential in Municipal Open Space Plan, if this plan has been adopted within the past 10 years. When neither the Open Space Plan nor the Comprehensive Plan have been adopted within the past 10 years, site is shown as agricultural or low density residential on the municipal zoning map. ....	5
Site does not meet any of the planning criteria listed above ...	0
<b>TOTAL FOR PART II, SECTION C .....</b>	<b>100</b>

Points in each section are totaled, then multiplied by the percent of the total score and added together to arrive at the final score.



## EXPLANATION OF TERMS

### Section I – Land Evaluation

This score will be the average productivity of the site based on the productivity values assigned to soil types by the Natural Resource Conservation Service (NRCS). The NRCS has assigned productivity relative values to each soil type, as determined by the group numbers in the table below. In order to calculate the soil productivity, the relative value for each soil type on the farm will be multiplied by the total acreage of that soil type. The sum of these figures will then be divided by the total acres of the site to obtain the average productivity score.

Group Number	Important Farmland	Relative Value
1	Prime	100
2	Prime	89
3	Prime	70
4	State	63
5	State	43
6	Other	27
7	Other	0

### Section II – Site Assessment

#### Subsection A. Farmland Potential

- **Size of Farm:** According to the 2001 Pennsylvania Agricultural Statistical Summary, the average farm size for Montgomery County was 74 acres. This figure may be skewed due to the presence of a few very large farms. Therefore, the Board made the decision to use the acreage breakdown shown.
- **Perimeter to Area Ratio:** This is calculated by dividing the total perimeter of the farm in feet by the area of the farm in acres. (Portions of a farm on both sides of a road do not count as part of the perimeter.)
- **Percentage of Farm Perimeter Next to Residential Uses.** Residential uses include all single-family detached homes on lots of 5 acres or less and all single-family attached or multi-family developments with a density of 2 or more dwelling units per acre. (Portions of a farm on both sides of a road do not count as part of the perimeter.)
- **Scenic Qualities:**
  - **Vista:** A broadly sweeping view including a variety of vegetation types (woodland, farm fields) combined with topographical variations. This view must be visible from a major highway and/or rural road.

- Accent: An attractive view but narrower in scope and weaker in impact than a vista.
- No Contribution: Hidden or screened by man-made or natural features.
- **Farm Product Sales:** According to the 2001 Pennsylvania Agricultural Statistical Summary, the average gross income for farms in Montgomery County was \$55,125 in 1999. This figure was used as a reference point to arrive at the high and low values in this category. Income from the entire farm operation may be reported, not just income from the applicant parcel. Farm product sales may be averaged for the three prior years .
- **Duration of Family Farming Activity:**
  - Family: Persons related by blood or marriage.

#### **Subsection B. Development Potential**

- **Percentage of Site Containing Steep Slopes:** Steep slopes are defined as those greater than 15 percent.

#### **Subsection C. Clustering Potential**

- **Proximity to Other Restricted Land/Ability to Start a New Cluster:**

Existing Eased Farm: A farm property which has a perpetual agricultural conservation easement in place either under Title 3 Section 914.1 (Agricultural Land Preservation Program) or which is held by a “qualified conservation organization” as that term is defined in Section 170.H.3 of the Internal Revenue Code.

Proposed Eased Farm: A farm property that has an agreement of sale signed by all parties to create a perpetual agricultural conservation easement either under Title 3 Section 914.1 (Agricultural Land Preservation Program) or which is held by a “qualified conservation organization” as that term is defined in Section 170.H.3 of the Internal Revenue Code.

- **Consistency with County Agricultural Areas Map:**
  - County Agricultural Areas Map: the planning map included as Appendix G of this document.
  - “Significant Farmland Areas”: Area shown in the cross-hatched pattern on the County Agricultural Areas Map.
  - If a farm falls into more than one category, it will be given the score where the majority of the farm falls.



**APPENDIX E**

(September 2011)

**MONTGOMERY COUNTY, PENNSYLVANIA  
AGRICULTURAL CONSERVATION EASEMENT  
SALE APPLICATION**

We, \_\_\_\_\_, Landowners, hereby make an application to sell an agricultural conservation easement on farm property consisting of \_\_\_\_\_ acres, located on \_\_\_\_\_ Road(s), in \_\_\_\_\_ Township/Borough, Montgomery County, Pennsylvania. The property is identified as follows in the land records of Montgomery County: Deed Book \_\_\_\_\_ Page \_\_\_\_\_ (or attach a copy of deed(s) to application). A Conservation easement sale to the Montgomery County Agricultural Land Preservation Board and/or the Pennsylvania State Agricultural Land Preservation Board is offered in consideration of a mutually agreed price per acre to be determined by appraisal. It is understood that submitting this application does not commit the landowner to any further steps in selling an agricultural conservation easement. There is no obligation until an agreement of sale is signed by the landowner.

By signing below, I (we) hereby authorize the Conservation Plan preparer to release copies of the Conservation Plan and the Act 38 Nutrient Management Plan, if applicable, to the County Agricultural Land Preservation Board and the Bureau of Farmland Preservation as required under Act 43 criteria for easement purchase.

Signature of Landowners: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Street Address of Farm: \_\_\_\_\_  
*(if different from mailing address)*

Telephone \_\_\_\_\_

Date: \_\_\_\_\_

Name of Agricultural Security Area (ASA): \_\_\_\_\_

Recording Information of ASA: Book: \_\_\_\_\_ Page: \_\_\_\_\_

Submit To:  
**Montgomery County Agricultural Land Preservation Board**  
**Montgomery County Planning Commission**  
**P.O. Box 311**  
**Norristown, Pennsylvania 19404-0311**  
**610-278-3754**

## EASEMENT SALE APPLICATION

Total Acreage of Farm: \_\_\_\_\_

Number of Acres Proposed for Easement Sale: \_\_\_\_\_

County Tax Parcel Number for each Parcel:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

There is a USDA Natural Resources Conservation Service (NRCS) Conservation Plan for the farm or a plan privately produced meeting NRCS standards: (check one)

\_\_\_\_\_ Yes      \_\_\_\_\_ No      \_\_\_\_\_ Pending

Date of Plan: \_\_\_\_\_

Conservation Plan prepared by: \_\_\_\_\_

Person to be contacted to view farm:      Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone No.: \_\_\_\_\_

The farm has been in my family since \_\_\_\_\_ (year)

Do you have any agreements, written or verbal, to sell the property, or any rights to it, to any other parties? \_\_\_\_\_ Yes      \_\_\_\_\_ No. If yes, please describe the nature of the agreement.

Are there any mortgages or liens on the property? \_\_\_\_\_ Yes      \_\_\_\_\_ No  
 If yes, please list the mortgage or lien holders and the approximate balances of each mortgage or lien.

Is the farm located in more than one county? \_\_\_\_\_ Yes      \_\_\_\_\_ No

Farm type at time of application (check all that apply):

- |                  |                     |              |
|------------------|---------------------|--------------|
| Dairy            | Aquaculture         | Fruit        |
| Beef             | Pasture             | Seed stock   |
| Swine            | Fur-bearing animals | Trees        |
| Poultry          | Feed crops          | Nursery      |
| Horse production | Vegetables          | Other: _____ |

## **ADDITIONAL INFORMATION**

### **Location Maps**

Please submit the following with your application. For assistance in obtaining this item, contact the County Farmland Preservation Office:

A tax map or aerial photo, of the farmland tract with map reference and tax parcel number clearly indicated, and any excluded areas clearly indicated.

### **Soil Conservation Plan**

Every farmland preservation applicant must submit a current Soil Conservation Plan meeting NRCS standards before going to settlement on the easement sale. A “Resources Management System” (RMS) plan is recommended for the farmland preservation program. This type of plan addresses all areas of the farm, including stream banks, woodlands, and the homestead, as well as cropland and pasture.

### **Soils Report**

The farmland preservation office will generate a soils report and soils map for the farmland tract proposed for easement purchase, and a table showing the capability class and use of the land, as follows. Note: Completing the last five lines is for office use only; however, the applicant must fill in the totals in the top row.

	<b>Acres of Cropland</b>	<b>Acres of Pasture</b>	<b>Acres of Other Land</b>	<b>Total Acres</b>
<b>TOTAL</b>				
Class I				
Class II				
Class III				
Class IV				
Other				

The soils map color codes soil types as follows, according to USDA procedure:

Class I = Green

Class III = Red

Class II = Yellow

Class IV = Blue

Wetlands = Cross-Hatch (or show on a separate map)

**CROP REPORT**     *NOTE: The crop and livestock reports must be filled out completely.*

Please submit information on any crops grown on the farm. This should be from the past three years. If you do not know the prices, or if you use your crops as feed on your farm, please estimate the dollar values here.

**YEAR** \_\_\_\_\_

	<b>Commodity</b>	<b>Acres Grown</b>	<b>Yield/Acre</b>	<b>Income in Dollars</b>
1				
2				
3				
4				
5				
6				
<b>TOTAL</b>				

**YEAR** \_\_\_\_\_

	<b>Commodity</b>	<b>Acres Grown</b>	<b>Yield/Acre</b>	<b>Income in Dollars</b>
1				
2				
3				
4				
5				
6				
<b>TOTAL</b>				

**YEAR** \_\_\_\_\_

	<b>Commodity</b>	<b>Acres Grown</b>	<b>Yield/Acre</b>	<b>Income in Dollars</b>
1				
2				
3				
4				
5				
6				
<b>TOTAL</b>				

## LIVESTOCK REPORT

Please submit information on any livestock and products from livestock. This should be for the most recent three years that livestock were on the farm.

YEAR \_\_\_\_\_

	<b>Livestock</b>	<b>Average Numbers</b>	<b>Product Sold</b>	<b>Amount Sold</b>	<b>Income in Dollars</b>
1					
2					
3					
4					
<b>TOTAL</b>					

YEAR \_\_\_\_\_

	<b>Livestock</b>	<b>Average Numbers</b>	<b>Product Sold</b>	<b>Amount Sold</b>	<b>Income in Dollars</b>
1					
2					
3					
4					
<b>TOTAL</b>					

YEAR \_\_\_\_\_

	<b>Livestock</b>	<b>Average Numbers</b>	<b>Product Sold</b>	<b>Amount Sold</b>	<b>Income in Dollars</b>
1					
2					
3					
4					
<b>TOTAL</b>					

You may request assistance in completing your application form by calling the Farmland Preservation Office at 610-278-3754.

A complete application consists of the following items:

Application Form:

- \_\_\_\_\_ Application form completed & signed by the landowner(s): Pages E-1 & E-2
- \_\_\_\_\_ Soils report with top line completed, rest of report optional - Page E-3
- \_\_\_\_\_ Crop report - Page E-4
- \_\_\_\_\_ Livestock report (if applicable) - Page E-5
- \_\_\_\_\_ Location Map with applicant farm outlined and excluded areas indicated

Other

- \_\_\_\_\_ Current NRCS or NRCS-level soil conservation plan included

## **APPENDIX F**

### **SUBDIVISION GUIDELINES FOR LAND SUBJECT TO AN AGRICULTURAL CONSERVATION EASEMENT UNDER THE MONTGOMERY COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM**

#### **PURPOSES**

The purposes of the Montgomery County Agricultural Land Preservation Board (“County Board”) Subdivision Guidelines are to implement the subdivision provisions of Pennsylvania’s “Agricultural Area Security Law” (the “Act”) (3 P.S. Sections 901-915), as amended, and the Regulations promulgated thereunder by the Pennsylvania Department of Agriculture (the “Regulations”), and to provide for the administration of such Act and Regulations, in conjunction with the present Subdivision Guidelines, as appropriate for Montgomery County, Pennsylvania. The Subdivision Guidelines are intended to preserve as much farmland as possible in integral tracts and to promote viable agricultural enterprises. Special exceptions to the guidelines will be considered by the County Board on a case-by-case basis depending on the size of the subdivided tracts, township zoning, neighborhood characteristics, and other pertinent factors.

#### **GENERAL PROVISIONS**

Land subject to an agricultural conservation easement may be subdivided, provided the owner(s) meet(s) the criteria contained in these guidelines. All expenses incurred for such subdivision shall be the sole responsibility of the landowner(s). The burden of proof that any proposed subdivision of land subject to an Agricultural Conservation Easement conforms to and complies with the Act, the Regulations and the present Subdivision Guidelines shall be upon the applicant(s)/landowner(s).

#### **DEFINITIONS**

- **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 employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. Section 914.1(c)(6)(iv), to meet all of the criteria set forth in 7 PA Code Section 138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications).
- **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 7 PA Code Section 138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications), 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 for housing for seasonal or full-time farm employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. Section 914.1(c)(6)(i), that would fail to meet the afore described criteria.

- **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 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 curtilages, 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(d)(6)(iv) of the Act (3 P.S. Section 914.1(c) (6)(iv)).
- **Pennsylvania Municipalities Planning Code:** The Act of December 21, 1988 (P.L. 1329, No. 170) (53 P.S. Sections 10101-11201).
- **Subdivision:** The division or redivision 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.

## **GENERAL CRITERIA**

There are two types of subdivision of a preserved farm: A subdivision of up to 2 acres for the construction of the one additional residential structure permitted by the deed or the subdivision of a farm that is greater than 100 acres into smaller farms. (Farms preserved before December 17, 1996 may be subdivided into smaller farms in accordance with the farm program subdivision rules in effect at the time the farm was preserved.)

**A. Subdivision of Up to 2 acres for the Construction of the One Additional Residential Structure .** The owner(s) of a tract of land subject to an Agricultural Conservation Easement “Property” may subdivide such Property, provided that:

1. The subdivision conforms with County and municipal planning, zoning and subdivision requirements, and has been reviewed and recommended for approval by the Montgomery County Planning Commission and the appropriate municipal planning commission and the municipal governing body, pursuant to Pennsylvania’s Municipalities Planning Code (Act 247), as amended; and
2. Subdivision shall be approved by the County Board only if the subdivision involves subdividing no more than two (2) acres for the construction and use of the landowner’s principal residence or for the construction and use of housing for seasonal or full-time employees.



**B. Subdivision of Farm that is Greater than 100 acres into Smaller Farms.**

1. All farm tracts created by the subdivision are and will remain economically viable for agricultural production (as defined above); and
2. The subdivision is consistent with the Statement of Purpose of the Montgomery County Agricultural Preservation Board Program Guidelines, as amended; and
3. The subdivision conforms with County and municipal planning, zoning and subdivision requirements, and has been reviewed and recommended for approval by the Montgomery County Planning Commission and the appropriate municipal planning commission and the municipal governing body, pursuant to Pennsylvania’s Municipalities Planning Code (Act 247), as amended; and
4. Subdivision shall be permitted only if :
  - a. No new tracts below 50 acres are created and the parent tract remains greater than 50 acres in size; and
  - b. The number of subdivided tracts per “property” does not exceed the number allowed by the following schedule; and

<b>Area Subject to the Agricultural Conservation Easement</b>	<b>Number of Farm Tracts Permitted</b>
100-200 acres	2
201 + acres	3

5. Once a preserved farm has been subdivided, the new parcels and remaining parent parcel will not be further subdivided, and the new deeds must reference the prohibition against further subdivision; and
6. All new parcels and the remaining parent parcel shall continue to be subject to the terms of the original agricultural conservation easement; and
7. The subdivision meets the following specific criteria.

**SPECIFIC CRITERIA**

- A. The subdivision will not:
  1. cause the reduction of the effectiveness of soil and water conservation projects that have been installed on the land; or
  2. eliminate water rights and water access points; or
  3. convert land devoted primarily to agriculture (as defined above) to another use, except for a tract of no more than two acres set aside for the construction of the landowner’s principal residence, or housing for seasonal or full-time farm employees.

- B. For resulting tracts 75 acres or more, 50 percent of the area must be harvested cropland, orchard, pasture or grazing land. For resulting tracts less than 75 acres, 75 percent (75%) of the area must be harvested cropland, orchard, pasture or grazing land.
- C. Fifty percent (50%) of the soils in each tract of 50 or more acres resulting from the subdivision must be available for agricultural production and in USDA Soil Classes I-IV.
- D. The owner of the parent tract shall indicate on which subdivided tract the one allowed residential structure may be constructed, if that additional residence has not already been constructed.
- E. If it is to be constructed, the one allowed residential structure and its curtilage shall occupy no more than 2 acres.
- F. Nothing in this Section shall relieve the landowner of any municipal, county, or state regulations, procedures, or requirements necessary for the subdivision of land.

### **PROCEDURES/REQUIREMENTS**

Landowner(s) shall submit plans for proposed subdivision to the Montgomery County Agricultural Land Preservation Board well in advance of proceeding, with detailed subdivision mapping in order to assure that the subdivision will be consistent with the Act, the Regulations and present Subdivision Guidelines, and so that the landowner(s) can avoid unnecessary expenses.

The applicant(s) shall submit the following information to the Montgomery County Agricultural Land Preservation Board:

An application form to the Montgomery County Agricultural Land Preservation Board for subdivision of a preserved farm, completed and signed by the owner(s). Copies of the application form are available from the Montgomery County Farmland Preservation Office.

- A. A letter of intent signed by the landowner(s) requesting the subdivision review and explaining the reasons for such a subdivision, including a demonstration based on crop and animal production and evidence that the agricultural economic viability of the resulting parcels will not be diminished as a result of the proposed subdivision.
- B. Size and soils information for the proposed parcels, which may be obtained from the Montgomery County Conservation District/Natural Resources Conservation Service Offices.

The applicant(s) shall have the burden of demonstrating, by a preponderance of evidence, that the criteria set out in these Subdivision Guidelines, as well as the requirements of the Act and Regulations, have been satisfied. If the applicant fails to do so, the County Board shall not approve the application.

Upon receipt of the application, the County Agricultural Land Preservation Board shall notify the County Planning Commission. The County Planning Commission shall have 60 days from receipt of such notification to review, comment and make recommendations on the proposed application. The provisions for municipal and county review under Act 247 will still apply.

After reviewing the County Planning Commission's recommendations, the County Board shall approve or reject the application to subdivide within 60 days after the date of its filing unless the time is extended by mutual agreement of the landowner and reviewing agencies. Approval by the County Agricultural Land Preservation Board is conditional, and is contingent upon approval by the State Agricultural Land Preservation Board.

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 Agricultural Land Preservation Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an agricultural conservation easement, the State Agricultural Land Preservation Board shall consider only whether the application complies with the conditions under which subdivision is permitted by the approved county program. The State Agricultural Land Preservation Board shall notify the County Board of its decision regarding the application.

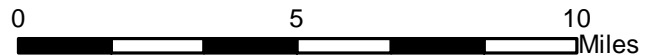
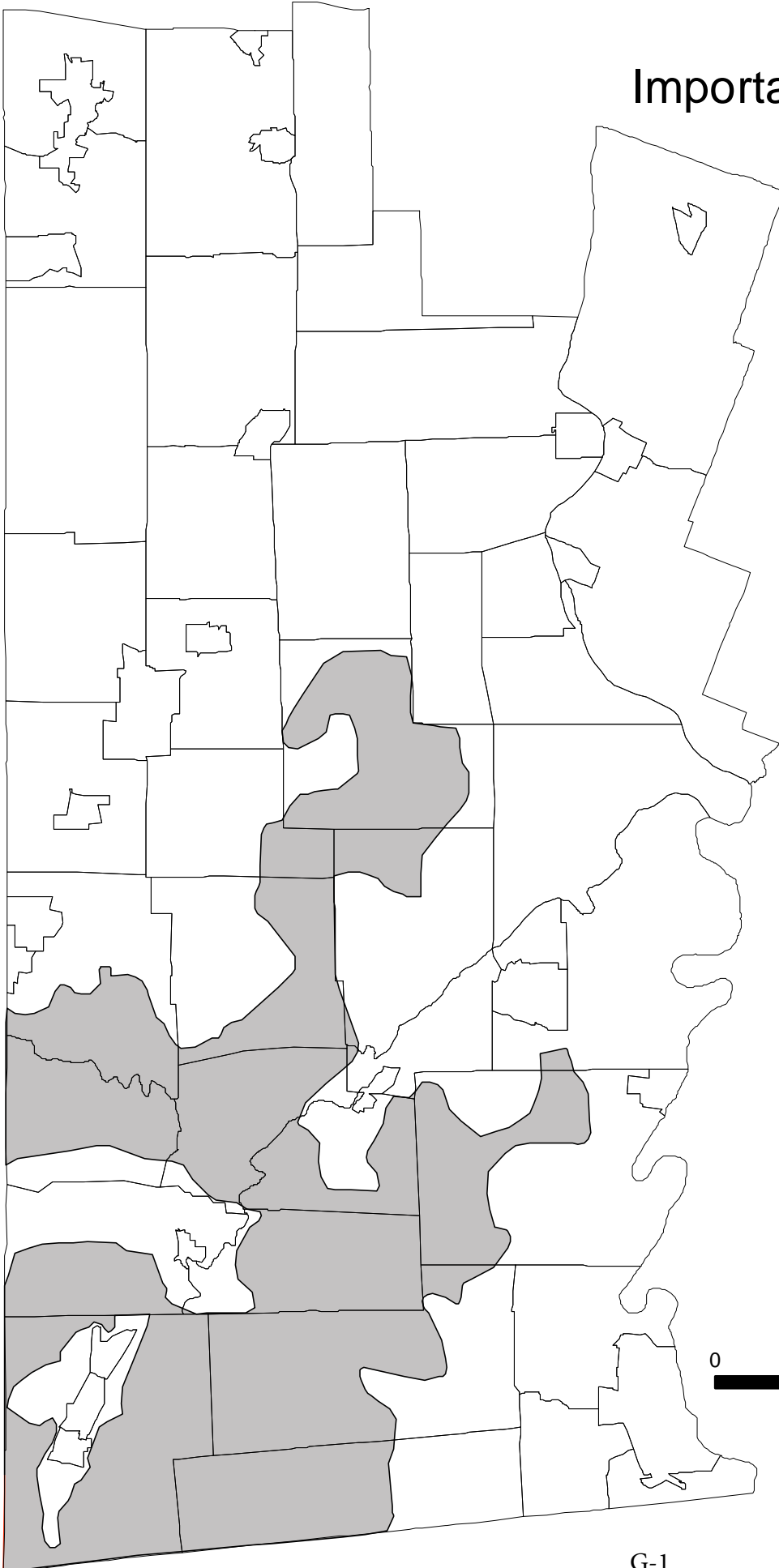
If the application to subdivide is rejected by the County Board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 PA Code Chapter 5 Subchapter B (relating to judicial review of local agency action).

If the application to subdivide is approved by the County Agricultural Land Preservation Board, the State Agricultural Land Preservation Board, and the appropriate municipality, the owner of the parent tract must ensure that the deeds to the subdivided tracts recite verbatim the restrictions of the Agricultural Conservation Easement and these Subdivision Guidelines, and the tract not receiving the house must state in its deed that no house may be built.



# Appendix G

## Important Agricultural Areas



**MCPC** Montgomery County Planning Commission  
Montgomery County Courthouse - Planning Commission  
PO Box 311 • Norristown PA 19404-0311  
(p) 610.278.3722 • (f) 610.278.3941  
www.montcopa.org/pla/ncom

Map prepared July 7, 2011

This map is based on 2010 ortho photography and official sources. Property lines were compiled from individual block maps from the Montgomery County Board of Assessment Appeals, with no verification from the deed. This map is not meant to be used as a legal definition of properties or for engineering purposes.





## **APPENDIX H**

### **“ELEMENTS OF THE APPRAISAL REPORT”**

The following list represents what is normally required in an appraisal report, according to Section 138e.64. A summary of current requirements is provided to all appraisers doing Farmland Preservation Appraisals for the county, and to all applicants who choose a second appraisal at their own expense following an offer by the County Farm Board. This list is subject to change.

The appraiser shall supply a narrative report that contains the following information and is in the following format:

A. Introduction:

1. Letter of transmittal and appraiser's certificate.
2. Table of contents.
3. Summary of salient facts and conclusions.
4. Purpose of the appraisal.
5. Easement value, market value, and farmland value definitions.

B. Description of Property:

1. Area or neighborhood description.
2. Description of appraised property:
  - a. Legal description.
  - b. Property data and zoning.
  - c. Description of improvements.
  - d. Color photos of subject property.
  - e. Tax map of subject property.
  - f. Sketch of subject property.
  - g. Location map.
  - h. Soils map.

C. Analyses and Conclusions:

1. Analysis of highest and best use.
2. Valuation methodology: Market value.
  - a. Comparable sales data.
  - b. Adjustment grid.
  - c. Locational map of comparable sales.

3. Market value estimate.
4. Valuation methodology: Farmland value.
  - a. Comparable sales data. *(See below for more information.)*
  - b. Adjustment grid.
  - c. Locational map of comparable sales.
5. Farmland value.
6. Value of improvements.
7. Easement value.
8. Professional qualifications of the appraiser.

### **COMPARABLE SALES**

The appraiser shall supply information concerning comparable sales as follows:

- A. At least three comparable farm sales and three comparable market value sales shall be used for 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, after consultation with the County Board. The use of comparable sales that require adjustment of 50 percent or more is permitted only with the approval of the County Board.
- B. Pertinent data for each comparable sale used in the preparation of the appraisal shall be stated in the appraisal report including date of sale, purchase price, zoning, road frontage in feet, topographical information, soil conditions, and other relevant information. The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract.
- C. The location of each comparable sale used in the appraisal report shall be shown accurately on the comparable sales map and sufficiently identified and described so as to be located easily.
- D. 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. Data may also be gathered from farm real estate markets where farms have no apparent developmental value.
- E. The appraiser shall report whether the farmland tract has any public or private land use restrictions or is within a floodplain or has any other physical attributes that limit its developmental capability.
- F. The appraiser shall provide at least three copies of each report to the County Board. Each report shall be bound with rigid covers.



## **EASEMENT VALUE**

- A. The value of an easement shall be the difference between the market value and the farmland value contained in the County appraisal report. Easement value should not include the value of improvements. The easement value is determined on the land only.
- B. The entire acreage of the farmland tract shall be included in the determination of the value of the easement, less the value of any acreage which was withheld prior to the granting of such easement. The appraiser shall take into account enhancement value, which is the potential increase in the value of the withheld acreage because of the placement of the easement on the remaining farmland.



## APPENDIX I

(Sample Deed of Agricultural Conservation Easement)

Prepared By:

Return To:

UPI#

DPERJF (6-2006)

**EXHIBIT "C"**

### **DEED OF AGRICULTURAL CONSERVATION EASEMENT TO THE COMMONWEALTH OF PENNSYLVANIA AND A COUNTY JOINTLY IN PERPETUITY**

THIS DEED OF AGRICULTURAL CONSERVATION EASEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_ (hereinafter, "Grantor") and the Commonwealth of Pennsylvania and the County of \_\_\_\_\_, Pennsylvania (hereinafter collectively referred to as "Grantees") in joint ownership pursuant to the Agricultural Area Security Law (P.L. 128, No. 43) as amended (hereinafter "Act") is made pursuant to the Act.

WHEREAS, Grantor is the sole owner of all that certain land situate in \_\_\_\_\_ Township, \_\_\_\_\_ County, Pennsylvania more particularly described in Exhibit "A" attached hereto consisting of \_\_\_\_\_ acres and all buildings and improvements erected thereon ("the subject land");

AND WHEREAS, the State Agricultural Land Preservation Board has determined to purchase an agricultural conservation easement in the subject land pursuant to the Act;

AND WHEREAS, the Agricultural Land Preservation Board of \_\_\_\_\_ County, Pennsylvania has determined to purchase an agricultural conservation easement in the subject land pursuant to the Act;

AND WHEREAS, all holders of liens or other encumbrances upon the subject land have agreed to release or subordinate their interests in the subject land to this Deed of Agricultural Conservation Easement and to refrain from any action inconsistent with its purpose;

NOW THEREFORE, in consideration of the sum of \$\_\_\_\_\_ dollars, the receipt and sufficiency of which is hereby acknowledged, Grantor does voluntarily grant, bargain and sell, and convey to the Commonwealth of Pennsylvania as \_\_\_\_\_ percent joint owner and the County of \_\_\_\_\_, Pennsylvania as \_\_\_\_\_ percent joint owner, their successors and assigns, (hereinafter "Grantees") and the Grantees voluntarily accept, an agricultural conservation easement in the subject land, under and subject to the Act and the following terms and conditions:

1. Permitted Acts - During the term of the agricultural conservation easement conveyed herein, the subject land shall be used solely for the production for commercial purposes of crops, equine, livestock and livestock products, including the processing or retail marketing of such crops, equine, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter "agricultural production"). For purpose of this Deed, "crops, equine, livestock and livestock products" include, but are not limited to:

- (a) Field crops, including corn, wheat, oats, rye, barley, soybeans, spelt, buckwheat, hay, potatoes and dry beans;
- (b) Fruits, including apples, peaches, grapes, cherries, pears and berries;
- (c) Vegetables, including tomatoes, pumpkins, snap beans, cabbage, carrots, beets, onions, sweet corn and mushrooms;
- (d) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
- (e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs, and furs;
- (f) Timber, wood and other wood products derived from trees; and
- (g) Aquatic plants and animals and their byproducts.
- (h) Commercial equine activity including boarding of equine, training of equine, instruction of people in handling, driving or riding equines, use of equines for riding or driving purposes, pasturing equines all of where a fee is collected. 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."

Except as permitted in this Deed, neither Grantor nor his agents, heirs, executors, administrators, successors and assigns, nor any person, partnership, corporation or other entity claiming title under or through Grantor, or their agents, shall suffer, permit, or perform an activity on the subject land other than agricultural production or commercial equine activities.

2. Construction of Buildings and Other Structures - The construction or use of any building or other structure on the subject land other than as existing on the date of the delivery of this Deed is prohibited except that:

- (a) The erection of fences for agricultural production or a commercial equine activity and protection of watercourses such as lakes, streams, springs and reservoirs is permitted.
- (b) The construction of one additional residential structure is permitted if:
  - (i) The construction and use of the residential structure is limited for the landowner's principal residence or for the purpose of providing necessary housing for persons employed in farming the subject land on a seasonal or full-time basis.
  - (ii) No other residential structure has been constructed on the restricted land at any time since the delivery of the Deed,
  - (iii) The residential structure and its curtilage occupy no more than two acres of the restricted land, and
  - (iv) The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production or a commercial equine activity.
- (c) The construction or use of any building or other structure for agricultural production or a commercial equine activity is permitted. The maximum building coverage may be restricted if the County Agricultural Conservation Easement Purchase Program approved by the State Board imposes such a restriction.
- (d) 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.

- (e) The 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.
- (f) The renovation or modification of an existing agricultural building or structure, or an addition to an existing agricultural building or structure, is permitted. The maximum building coverage may be restricted if the County Agricultural Conservation Easement Purchase Program approved by the State Board imposes such a restriction.

3. Subdivision - The land under the Agricultural Conservation Easement is subject to the Subdivision Guidelines of the County of \_\_\_\_\_, Agricultural Land Preservation Program, approved by the State Agricultural Land Preservation Board on \_\_\_\_\_, year of \_\_\_\_\_, as may be attached hereto. If the subject land is subdivided, the Deeds to all of the subdivided parcels shall state on which of the subdivided parcels the residential structure permitted by this Deed may be constructed. Deeds to all other parcels shall recite that no additional residential structure is permitted.

4. Utilities - The granting of rights-of-way by the Grantor, his heirs, executors, administrators, successors and assigns, or any person, partnership, corporation or other entity claiming title under or through Grantor in and through the subject land for the installation, transportation, or use of, lines for water, sewage, electric, telephone, coal by underground mining methods, gas, oil or oil products is permitted. The term “granting of rights-of-way” includes the right to construct or install such lines. The construction or installation of utility lines other than of the type stated in this paragraph is prohibited on the subject land.

5. Mining - The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the owner of the subject land or the owner of the underlying coal by underground mining methods, oil and gas or the owner of the rights to develop the underlying coal by underground mining methods, oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil or gas development or activities incident to the removal or development of such minerals is permitted.

6. Rural Enterprises - Customary part-time or off-season minor or rural enterprises and activities which are provided for in the County Agricultural Easement Purchase Program approved by the State Board are permitted.

7. Soil and Water Conservation - All agricultural production or commercial equine activity on the subject land shall be conducted in accordance with a conservation plan approved by the County Conservation District or the County Board. Such plan shall be updated upon any change in the basic type of agricultural production or commercial equine activity being conducted on the subject land. In addition to the requirements established by the County Conservation District or the County Board, the conservation plan shall include an installation schedule and maintenance program and a nutrient management component which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land and shall require that:

- (i) The use of the land for growing sod, nursery stock ornamental trees, and shrubs does not remove excessive soil from the subject land, and
- (ii) The excavation of soil, sand, gravel, stone or other materials for use in agricultural production or commercial equine activities on the land is conducted in a location and manner that preserves the viability of the subject land for agricultural production or commercial equine activity.

As part of the settlement documents, the executed Conservation Plan Agreement shall be recorded with the Deed of Easement at the County Recorder of Deeds.

8. Responsibilities of Grantor Not Affected - Except as specified herein, this Deed does not impose any legal or other responsibility on the Grantee, its successors or assigns. Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the subject land and all improvements erected thereon. Grantor shall continue to be solely responsible for the maintenance of the subject land and all improvements erected thereon. Grantor acknowledges that Grantee has no knowledge or notice of any hazardous waste stored on or under the subject land. Grantee's exercise or failure to exercise any right conferred by the agricultural conservation easement shall not be deemed to be management or control of activities on the subject land for purposes of enforcement of the Act of October 18, 1988, (P.L. 756, No. 108), known as the Hazardous Sites Cleanup Act.

Grantor, his heirs, executors, administrators, successors or assigns agree to hold harmless, indemnify and defend Grantee, its successors or assigns from and against all liabilities and expenses arising from or in any way connected with all claims, damages, losses, costs or expenses, including reasonable attorneys fees, resulting from a violation or alleged violation of any State or Federal environmental statute or regulation including, but not limited to, statutes or regulations concerning the storage or disposal of hazardous or toxic chemicals or materials.

9. Enforcement – Annually, Grantee, its successors, assigns or designees shall have the right to enter the subject land for the purpose of inspecting to determine whether the provisions of this Deed are being observed. Written notice of such annual inspection shall be mailed to Grantor, his heirs, executors, administrators, successors or assigns at least ten days prior to such inspection. The annual inspection shall be conducted between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth of Pennsylvania or at a date and time agreeable to the county and the landowner.

Grantee, its successors, assigns or designees shall also have the right to inspect the subject land at any time, without prior notice, if Grantee has reasonable cause to believe the provisions of this Deed have been or are being violated.

Grantor acknowledges that any violation of the terms of this Deed shall entitle Grantee, its successors, assigns or designees to obtain an injunction against such violation from a court of competent jurisdiction along with an order requiring Grantor, his heirs, executors, administrators, successors or assigns to restore the subject land to the condition it was in prior to the violation, and recover any costs or damages incurred including reasonable attorney's fees. Such relief may be sought jointly, severally, or serially.

10. Duration of Easement – The agricultural conservation easement created by this Deed shall be a covenant running with the land and shall be effective in perpetuity. Every provision of this Deed applicable to Grantor shall apply to Grantor's heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantor.

11. Conveyance or Transfer of the Subject Land – Grantor, his heirs, executors, administrators, successors or assigns, and any person, partnership, corporation, or other entity claiming title under or through Grantor, shall, within thirty (30) days of a change in ownership or within any lesser period prescribed in the county program, notify the county agricultural land preservation board and the Pennsylvania Department of Agriculture in writing of any conveyance of

transfer of ownership of the subject land. Such notification shall set forth the name, address and telephone number of the Grantor and the party or parties to whom ownership of the subject land has been conveyed or transferred, and the price per acre or any portion thereof and a reference to the volume and page in which the transfer has been recorded by the County Recorder of Deeds.

This obligation shall apply to any change in ownership of the subject land. Whenever interest in the subject land is conveyed or transferred to another person, the deed conveying or transferring such land shall recite in verbatim the language of the easement as set forth in this deed.

12. Applicability - Every provision of this Deed applicable to Grantor shall apply to Grantor's heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantor.

13. Interpretation – This Deed shall be interpreted under the laws of the Commonwealth of Pennsylvania. For purposes of interpretation, no party to this Deed shall be considered to be the drafter of the Deed. All provisions of this Deed are intended, and shall be interpreted, to effectuate the intent of the General Assembly of the Commonwealth of Pennsylvania as expressed in Section 2 of the Act.

To have and to hold this Deed of Agricultural Conservation Easement unto the Grantee, its successors and assigns in perpetuity.

AND the Grantor, for himself, his heirs, executors, administrators, successors and assigns does specially warrant the agricultural conservation easement hereby granted.

IN WITNESS WHEREOF, the undersigned have duly executed this Deed on the day first written above.

GRANTOR

Witness:	_____ [Seal]
_____	_____ [Seal]
_____	_____ [Seal]
_____	_____ [Seal]

ACKNOWLEDGMENT

COUNTY OF SS:  
COMMONWEALTH OF PENNSYLVANIA

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the subscriber, a Notary Public for the Commonwealth of Pennsylvania, residing in the City of \_\_\_\_\_ personally appeared the above named \_\_\_\_\_ and \_\_\_\_\_, and in due form of law acknowledged the above Deed of Agricultural Conservation Easement to be their voluntary act and deed, and desired the same to be recorded as such.

WITNESS my hand and Notarial Seal the day and year aforesaid.

\_\_\_\_\_ Notary Public

My Commission expires:





