

**CLINTON COUNTY  
AGRICULTURAL LAND CONSERVATION  
EASEMENT PURCHASE PROGRAM**

**June 2015**

**Prepared by**

**CLINTON COUNTY AGRICULTURE PRESERVATION BOARD**

## Table of Contents

I.	INTRODUCTION.....	3
II.	BACKGROUND AND PURPOSE.....	3
III.	SIGNIFICANT AGRICULTURAL AREAS IN CLINTON COUNTY.....	4
IV.	AGRICULTURAL SECURITY AREAS IN CLINTON COUNTY.....	5
V.	ELIGIBILITY FOR EASEMENT PURCHASE PROGRAM.....	8
VI.	EVALUATION OF APPLICATIONS FOR EASEMENT PURCHASE.....	9
VII.	PROCEDURES FOR EASEMENT PURCHASE.....	15
VIII.	APPLICATION FORM.....	15
IX.	EVALUATION AND RANKING OF APPLICATIONS.....	17
X.	APPRAISAL OF EASEMENTS.....	17
XI.	APPROVAL OF EASEMENT PURCHASES BY THE COUNTY AGRICULTURAL LAND PRESERVATION BOARD.....	20
XII.	APPROVAL OF EASEMENT PURCHASES BY THE STATE AGRICULTURAL LAND PRESERVATION BOARD.....	22
XIII.	PROCEDURE FOR INSPECTING AND ENFORCING AN EASEMENT.....	28
XIX.	RESPONSIBILITY OF OWNER PERMITTED ACTS.....	29
XX.	SUBDIVISION GUIDELINES.....	30
	APPENDIX A: MAPS.....	35
	APPENDIX B: BOARD AUTHORIZATION.....	36
	APPENDIX C: BOARD MEMBERSHIP AND ADVISORS.....	37
	APPENDIX D: BYLAWS.....	39
	APPENDIX E: DEED OF AGRICULTURAL CONSERVATION EASEMENT.....	43
	AMENDMENT #1: DONATIONS AND \$1 BARGAIN SALES.....	47
	AMENDMENT #2: COMMERCIAL EQUINE ACTIVITIES.....	50

## **INTRODUCTION**

The creation of the Clinton County Agriculture Preservation Board on August 18, 1993, signified the County's full scale commitment to Pennsylvania's farmland preservation program. The Clinton County Commissioners appointed seven members to the Board in accordance with the provisions contained within Agricultural Area Security Law, PA Act as amended. Since that time the Commissioners have continued to support the program by providing staff support and matching funds for the purchase of agricultural land conservation easements.

### **Goals and Objectives:**

The Clinton County Agriculture Preservation Board's primary goals and objectives are to:

- Administer a program for purchasing agricultural conservation easements in accordance with Act 149.
- Promote efforts to support the agricultural community in Clinton County.
- Encourage the use of additional farmland preservation techniques through public and private organizations in Clinton County.
- Adopt rules of procedures and bylaws governing the operation of the county board
- Purchase, in the name of the county, or jointly, with a Local Government Unit and/or the Commonwealth, agricultural conservation easements within Agricultural Security Areas.

The Clinton County Agriculture Preservation Board faithfully submits its Agricultural Land Conservation Easement Purchase Program to the Pennsylvania State Agricultural Land Preservation Board. This program represents policies and procedures to be used in preserving farmland in Clinton County now and in the future.

## **II. BACKGROUND AND PURPOSE**

### **BACKGROUND**

Agriculture in Clinton County is distinguished by its fertile limestone soils which have historically supported a large farming economy. In recent years much farmland has gone out of production: according to figures from Pennsylvania Agricultural Statistics Service and Penn State Cooperative Extension, in 1959 the county had 490 farms covering 67,013 acres. In 2007 the county had 469 farms with 35,648 cropland and pasture acres. This is followed by the trend of a decrease in the farm population.

In 1981, Pennsylvania had 61,000 farms on about 9 million acres; in 2001 Pennsylvania Statistics Service shows the Commonwealth had 59,000 farms on 7.7 million acres. After a change in the definition of "farm," the Statistics list 65,000 farms on 7.8 million acres; however, farms with cropland and pasture totaled 55,000 with 4.8 million acres of cropland and pasture.

Extending these trends foretells a continued two-pronged pressure on the land which can only lead to the loss of more agricultural land. On one hand, growing communities tend to expand their borders out into farmland; and on the other hand, non-farm families are settling into the countryside on individual home sites or in small subdivisions.

## **PURPOSE**

The purpose of the Clinton County Agricultural Land Conservation Easement Purchase Program is to:

- (1) To protect viable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production.
- (2) encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use.
- (3) To protect normal farming operations in agricultural security areas from incompatible nonfarmland uses that may render farming impracticable.
- (4) protect normal farming operations from complaints of public nuisance against normal farming operations.
- (5) To assure conservation of viable agricultural lands to protect the agricultural economy of this Commonwealth.
- (6) Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.
- (7) To maximize agricultural conservation easement purchase funds and protect the investment of taxpayers in agricultural conservation easements.

## **III. SIGNIFICANT AGRICULTURAL AREAS IN CLINTON COUNTY**

The historic trend for agricultural land has been the conversion of many acres of farmland to other uses. Looking to the future, the question that will suggest itself over and over again is: are there better uses than agriculture for land that is now being farmed or is agriculture the best use?

Unquestionably, agriculture is significant to a local area, but it is also significant in many ways beyond the property lines or municipal boundaries. Clinton County's crops, dairy, poultry and livestock products are in local demand. The consumption of these products saves County residents the extra expense that would be involved if they were shipped in from other places. This is also important to the economic health of Clinton County because cash spent for locally produced items remains in the County. By the same token, exporting surplus products contributes to the flow of cash into the County.

Other significances of agricultural lands are the roles they play as Open Space. One is the way these lands manage the water resource by decreasing the amount of precipitation runoff, hence recharging the supply of groundwater as precipitation is absorbed into the ground. Absorption of water also helps to control flooding by slowing down the rush of water to streams.

A second role of agricultural lands is that in combination with the County's forested ridges, it forms vast areas which provide diverse habitats for wildlife. The variety of wildlife population is significant for both ecological stability and for many recreational pursuits. Even beyond these

reasons, the open farmland areas provide a psychological release from urban confines, while at the same time enhancing the aesthetic quality of the County.

It may seem that Clinton County plays a small part in feeding the nation or even the state, not to mention the world. But the fact is, as all farms are, Clinton County's farms are involved in a worldwide system of food supply and demand. A loss of agricultural productivity in one area must be compensated elsewhere by either bringing new areas into production or by increasing overall productivity. Until recently, the loss of farmland has been offset by general, even astounding, increases in productivity. But the increases are coming more slowly and at lower levels in places where they are needed most; namely, the less-developed areas of the world comprising two-thirds of the human population. They are going to look more and more at agriculturally rich parts of the world as their population continues to rapidly grow. As the demand for food increases, it will become increasingly prudent to farm our productive lands, and this applies to Clinton County as part of the system.

What happens in the future to our farmlands will be the result of conscious decision-making. The current trends will lead to the loss of more farmland. An alternative to this would be to encourage, through local regulations, more concentrated developments so that farmland loss will be less disruptive to the farm economy. A third alternative would be to limit new development on farmland by channeling it to non-agricultural lands. This could be accomplished through a combination of local controls and the provision of incentives to the farmer to keep his land in production rather than to develop it. One of these incentives is the Purchase of Agricultural Conservation Easements Program within Agricultural Security Areas of the County.

#### **IV. AGRICULTURAL SECURITY AREAS IN CLINTON COUNTY**

The Pennsylvania Agricultural Area Security Act, Act 43 of 1981, enables the formation of security areas through the cooperative efforts of farmland owners and local governments. Since 1984, property owners in nine municipalities in Clinton County have petitioned their local governments to establish agricultural security areas in accordance with Act 43.

It should be noted that the majority of security area parcels are located within areas containing Class I, II and III soils.

Appendix A shows the location of each Agricultural Security Area.

#### **FORMATION OF AGRICULTURAL SECURITY AREAS**

Agricultural Security Areas are intended in the long-term to result in a more permanent and viable agricultural base. Agricultural Security Areas are created by municipal governments according to the procedures established in Act 43 of 1981, as amended, and known as the "Agricultural Area Security Law." This act does not regulate or restrict development, but rather provides an incentive for farmers to make known their long range commitments to farming.

Agricultural Security Areas in Clinton County are defined geographic areas which consist of at least 250 acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons. Agricultural Security Areas are protected from local

nuisance ordinances and ordinances that would otherwise restrict farming activities. Only farms within designated Agricultural Security Areas of 500 acres or more are eligible for consideration for easement purchases.

### **Effect of Agricultural Security Area Designation**

#### **Conservation Easement Sale**

The owner(s) of a qualified farm within an Agricultural Security Area will be eligible to offer conservation easements for sale to the Clinton County Agriculture Preservation Board. The life of a conservation easement is perpetual.

#### **Protection from Public Capital Projects**

Clinton County will promote, through whatever means available, the protection of agricultural use of land in Agricultural Security Areas from incompatible municipal, school district, county, and state capital projects which were not planned at the time of the establishment of the areas and which would result in the extensive, direct and/or indirect conversion of farmland into non-farm uses.

#### **Normal Agricultural Activities**

Normal agricultural activities and uses are preferred and are designated priority activities in Clinton County Agricultural Security Areas. This policy is intended to negate nuisance complaints and/or litigation which may arise from normal noise, dust, manure, and other odors, the use of agricultural chemicals, and nighttime farm operations.

#### **Criteria for Designation**

The following criteria are requirements for the designation of Agricultural Security Areas:

- At least 250 acres of viable agricultural land. (Participation in the Farmland Preservation Program requires at least 500 acres in the Agricultural Security Area.) The proposed area may also consist of two or more noncontiguous tax parcels, provided that each tax parcel is at least ten acres.
- At least 50 percent of the land has soils which fall into one of the following categories: Class I-IV, excepting Class IV(e), as defined by the U.S. Soil Conservation Service; land which has been classified as "unique farmland;" or land whose soils do not meet Capability Classes I through IV but which is currently in active farm use and is being maintained in accordance with the soil erosion and sedimentation plan applicable to such land.
- Use of the land shall be compatible with local government comprehensive plans. Any zoning must permit agricultural use but need not exclude other uses.
- Landowner(s) may propose to include all of their land, regardless of zoning, in an agricultural security area.
- The land shall be viable agricultural land.

- Additional factors may be considered related to the extent and nature of farm improvements, anticipated trends in agricultural economic and technological conditions, and any other matter which may be relevant.

### **Procedures for Establishing Agricultural Security Areas**

Landowners submit a proposal for an Agricultural Security Area to the municipal governing body by certified mail with return receipt requested. The proposal must be submitted in such manner and form as prescribed by the governing body of the local government unit, wherein the proposed area is situated and shall include a description of the proposed area, including the boundaries thereof and the tax parcel number(s) of the properties submitted.

When the municipal officials receive the proposal, they should acknowledge receipt of the proposal at their next regular meeting. They should also provide notice in the newspaper and post five notices. The posting of public notices begins a 15 day public comment period.

The chairman/president of the governing body should appoint five persons to an Agricultural Security Area Advisory Committee: three farmers, each representing a different farm; one local citizen; and one elected official, who shall be the chairman of the Advisory Committee.

The governing body must send the Agricultural Security Area proposal and any modifications received to the Advisory Committee and the township planning commission at the end of the public comment period.

The Advisory Committee and the local planning commission evaluate the Agricultural Security Area proposal and make a recommendation to the municipal officials within 45 days as to whether or not the Agricultural Security Area (or a modification of it) should be adopted.

The governing body must hold a public hearing upon receipt of the recommendations from the Advisory Committee and the local Planning Commission. The hearing is to be held at a place readily accessible and advertised in the newspaper. Notice of the hearing must also be sent to each of the landowners who are included in the proposal and posted in five places.

The governing body takes action to adopt the Agricultural Security Area proposal or any modification of it as it deems necessary. The existence of utility facilities will not prevent the adoption of the Agricultural Security Area. The governing body should act within 180 days from the date the proposal was first submitted by the landowners. Failure to act within 180 days is deemed as adoption of the Agricultural Security Area as originally proposed without modification.

### **Modifications to Agricultural Security Areas**

Additions to Agricultural Security Areas may be initiated by a landowner(s). Additions may occur at any time. Non-contiguous parcels must be a minimum of ten (10) acres. Any addition is subject to the applicable procedures outlined above.

### **Review of Agricultural Security Area Status**

Agricultural Security Areas are to be reviewed and reestablished or terminated every seven years by

the municipality(ies).

A proposed termination of a property from the Agricultural Security Area is to be reviewed by the local Agricultural Security Area Advisory Board, the local Planning Commission, and the County Planning Commission. These three bodies will make recommendations to the local governing body which may accept or reject proposed terminations from the Agricultural Security Area.

### **Interim Review**

If within the seven year period, 10 percent of the land within the Agricultural Security Area is diverted to residential or non-agricultural commercial development, the governing body may review the diversion and may request, in writing, that the local and county planning commissions and agricultural security area advisory committee study its review and make recommendations within 30 days of the written request. The governing body must then conduct a public hearing. The hearing will be held no sooner than 45 days after the governing body has submitted written requests for review and recommendation to the planning commissions and advisory committee. The governing body then may terminate or modify the Agricultural Security Area.

## **V. ELIGIBILITY FOR EASEMENT PURCHASE PROGRAM**

In order for a site to be prioritized for easement purchase, a landowner must submit a completed application form for the purchase of conservation easements. The Clinton County Agriculture Preservation Board will accept all applications for the purchase of conservation easements if the application meets the minimum criteria listed below. If a property is sold during the application and/or evaluation process, the new owner(s) may request a continuance of the evaluation. Failure by the applicant to meet the minimum criteria will result in a rejection of that application. Therefore, the applicant will not receive the benefit of being prioritized. All applicants that have been rejected by the board for the reason of not meeting the minimum criteria will be given written notice of the rejection along with an explanation of the reason(s) why the application was rejected.

The following criteria are prerequisites for a conservation easement sale.

### **State Minimum Criteria:**

The county program shall consider the quality of the farmland tract, including the USDA soil classification and productivity. The farmland tract shall be one or more of the following:

- (i) Located in an agricultural security area consisting of 500 acres or more.
- (ii) 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.
- (iii) 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 is on the tract and 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 within the purchasing county.

(2) Be one or more of the following:

(i) Contiguous acreage of at least 35 acres in size.

(ii) acreage of at least 10 acres in size and utilized for a crop unique to the area.

(iii) Contiguous acreage of at least 10 acres in size and 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 (26 U.S.C.A. § 170(h)(3)).

(3) Contain at least 50% of soils which are both available for agricultural production and of land capability classes I—IV, as defined by the USDA-NRCS.

(4) Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

(b) The county program may contain additional criteria to evaluate farmland tracts if the criteria are fair, objective, equitable, nondiscriminatory and emphasize the preservation of viable agricultural land which will make a significant contribution to the agricultural economy, and are approved by the State Board. For example, a county program might require crop yields from a farmland tract to meet or exceed county crop yield averages, or might require the farmland tract to generate annual gross receipts of a particular sum, or might require that structures and their curtilages not occupy more than a certain percentage of the total acreage of the farmland tract.

**County Minimum Criteria:**

Clinton County has added the following requirements for participation in the program:

1. Applicant must submit entire parcel or parcels as described by deed of the farm. Areas of the parcel or parcels may be excluded from easement at the discretion of the Board.
2. For county-only purchases, no minimum acreage is required, if the purchase adds to an owner's existing easement.
3. A non-refundable fee of \$50 is required for each completed application submitted which meets the minimum criteria above.
4. Farms producing crops unique to the area for commercial purposes will be considered on a case by case basis for easement purchase. Crops that may qualify include the following:
  1. Grapes - table or wine grapes.
  2. Tobacco.
  3. Speltz - a small grain grown as an alternative to federally regulated feed grains.

4. Orchard Crops - commercial agricultural enterprise.
  5. Mushrooms - commercial agricultural enterprise.
  6. Tomatoes - commercially grown for fresh marketing or processing.
  7. Cantaloupes - commercially grown for fresh market.
  8. Snap beans - commercially grown for processing.
  9. Pumpkins - commercially grown for fresh market.
  10. Strawberries - commercially grown for fresh market or processing.
  11. Potatoes - commercially grown for fresh market or processing.
  12. Sweet corn - commercially grown for fresh market or processing.
  13. Christmas trees - grown as a rotation crop with a management plan for cultivation, harvesting and replacement of Christmas trees.
  14. Floriculture crops - grown as a commercial agricultural enterprise.
  15. Maple syrup - commercial agricultural enterprise
  16. Sod, nursery stock, ornamental trees and shrubs-grown for commercial agricultural enterprise with the Deed of Easement restriction that removal of excess soil is **prohibited**.
  17. Crown vetch- plugs or seed grown as a commercial agricultural enterprise.
5. Comply with the amendments (Act 14 of 2001) to the Agricultural Area Security Law (Act 43) which prescribes the process for purchasing Agricultural Conservation Easements from land owners whose parcel boundaries cross local government and county boundaries.

### **Planning Map to Guide Easement Purchases**

The Clinton County Agriculture Preservation Board has adopted a planning map to guide easement purchases (see Appendix A).

## **VI. EVALUATION OF APPLICATIONS FOR EASEMENT PURCHASE**

The Clinton County farmland Ranking System has been devised to rank applications for conservation easement sale. The criteria addressed within the ranking system are in addition to the minimum criteria as required by the state. All qualified farms will be prioritized and ranked according to this system.

The Board will ensure that all parcels submitted for easement purchase are evaluated during the same round of applications, including parcels previously submitted and still under consideration by the Board for easement purchase.

### **Farmland Ranking System**

(a) The county board will use the following farmland ranking system meeting the requirements of this section, for the use in prioritizing applications for the appraisal of properties meeting the minimum criteria listed in § 138e.16 (relating to minimum criteria for applications). This ranking system may include additional or substitute criteria as approved by the State Board.

(b) Review and approval of system. The county board shall set forth its farmland ranking system in its county program and submit the county program to the State Board for review and approval in accordance with the Act.

(c) LESA system. The farmland ranking system shall evaluate tracts being considered for appraisal on a 100-point scale, using the two-part Land Evaluation and Site Assessment (“LESA”) system described in this section. The weighted Land Evaluation (“LE”) score shall be calculated in accordance with subsection (d). The weighted Site Assessment (“SA”) score shall be calculated in accordance with subsection (e). The total of the weight LE and weight SA scores equals the farmland ranking score. The county board has established and set forth the following weighted values to be given the LE score and the SA score, as well as the weighted values to be given the three general categories (Development Potential, Farmland Potential and Clustering Potential) of factors to be considered in calculating the SA score. The weighted values set forth in the county program shall total 100%, and are set forth below:

	<u>weighted value</u>
Land Evaluation (LE) .....	40%
Site Assessment (SA) Development Potential .....	10%
Site Assessment (SA) Farmland Potential .....	20%
Site Assessment (SA) Cluster Potential .....	30%

(d) Land Evaluation

- (1) Source of soils data: *Soil Survey of Clinton County, Pennsylvania*, as published by the USDA Natural Resource Conservation Service (USDA-NRCS) in cooperation with the Pennsylvania State University and the Pennsylvania Department of Environmental Protection.
- (2) Relative value of soil. The county program has set forth a “relative value” for each soil mapping unit in the county. The relative value shall be on a 100-point-scale - with 100 points assigned to the best soils for agricultural production and all other soils assigned relative values of less than 100 points.
- (3) Calculation of average relative value. The average relative value of the soils on a tract being considered for appraisal shall be calculated by multiplying the relative value of each soil mapping unit within the tract by the total acreage of the soil mapping unit within the tract, adding these products and dividing that sum by the total acreage of the tract.

Example: A 60-acre tract has ten acres within soil mapping units with relative values of 95, 20 acres within soil mapping units with relative values 90, and 30 acres with relative values of 80. The sum of the relative values is calculated as follows:

10 acres x 95 =	950 acres
20 acres x 90 =	1800 acres
<u>30 acres x 80 =</u>	<u>2400 acres</u>
TOTAL	5150 acres

The 5150 acre sum is then divided by the total acreage of the tract (60 acres) to determine the average relative value:

5,150 acres divided by 60 acres = 85.83

In this example, the relative value of the soils on the tract is 85.83.

- (4) Calculation of weighted LE score. The weighted LE score of a tract being considered for appraisal shall be the product of the average relative value of the soils on the tract multiplied by the weighted value assigned to the LE score under the county program.

Example: The average relative value of the soils on the tract described in the example set forth in paragraph (3) is 85.83. The county program assigns a weighted value to the LE score of 40% (.40) of the farmland ranking score. The weighted LE score for this tract would be 34.33, calculated as follows:  $85.83 \times .40 = 34.33$ .

(e) Site Assessment (SA)

- (1) General categories of factors. The county program shall require the evaluation of three general categories of factors in determining the SA score, and shall specify the individual factors to be considered under each of these general categories. These categories are as follows:

(i) *Development Potential Factors* that identify the extent to which development pressures are likely to cause conversion of agricultural land to non-agricultural uses.

(ii) *Farmland Potential Factors* that measure the potential agricultural productivity and farmland stewardship practiced on a tract.

(iii) *Clustering Potential Factors* that emphasize the importance of preserving blocks of farmland to support commercial agriculture and help to shield the agricultural community from conflicts with incompatible land uses.

- (2) Scoring scale. The county program shall require that each of the three general categories of factors described in paragraph (1) ranks on a 100-point scale. The total combined maximum score under these categories shall be 300 points.

- (3) Development Potential Factors.

The county program includes the following factors to be considered in scoring the development potential of the tract being evaluated for appraisal. The total Development Potential Factors score is 100 points.

- a. Availability of sanitary sewer and public water. The county program shall require

that the availability of sanitary sewer and public water to a tract be considered in scoring its development potential. A farmland tract is more likely to be surrounded by incompatible land uses or be converted to non-agricultural use if it is in an area which is suitable for on-lot sewage disposal or if it is in an area which has access to public sewer and water service or is expected to have access to such service within twenty years. Such a tract shall receive a relatively higher score than a tract that does not have sanitary sewer and public water. Points will be assigned on the following basis to determine the total points for this factor (maximum points of 30): 30 points for water and sewer at or within 150 feet of property line; 20 points if either water or sewer within 150 feet of property line; and 10 points if either water or sewer within 2,640 feet (one-half mile) of property line.

- b. Road frontage. The county program shall require that the public road frontage of a tract be considered in scoring development potential. Frontage on public roads increases the suitability of a tract for subdivision or development, and is a measure of the capability of a tract to be developed or improved for non-agricultural use. A tract with extensive public road frontage shall receive a relatively higher score than a tract with less public road frontage. The road frontage shall be calculated as a percent of the total perimeter of the farmland tract under consideration for easement purchase times a point factor of 40.
- c. Extent of non-agricultural use in the area. The county program shall require that the extent of non-agricultural use adjoining and/or in the area of a tract be a factor in scoring development potential. Consideration shall be given to whether adjacent land uses affect normal farming operations and whether surrounding (but not necessarily adjoining) land uses affect the ability of the landowner to conduct normal farming operations on the tract, or whether such impacts are likely to occur within the next 20 years. Urban uses are generally considered incompatible with agricultural uses. A tract with extensive non-agricultural uses in the area shall receive a relatively higher score than a tract that is more distant from such non-agricultural uses. The percent of non-agricultural uses within one mile of the centroid of the farm parcel under consideration for an agricultural conservation easement will then be multiplied by the maximum number of points for this factor, which is 30 points.

#### (4) Farmland Potential Factors.

The county program has the five following factors to be considered in scoring the farmland potential of a tract being evaluated for appraisal. The total Farmland Potential Factors score is 100 points.

- α. Required factor: Percentage of certain types of land. The county program shall require that the percentage of harvested cropland, pasture and grazing land on a tract be considered in scoring farmland potential. Large amounts of productive farmland (harvested cropland, pasture and grazing land) make a farm more viable. If a large

percentage of a tract is not used as productive farmland, the tract should receive a lower farmland potential score. Points for this factor (maximum of 30 points) shall be determined by calculating the percent of cropland, pasture and grazing land on the farm tract under consideration for easement purchase in relationship to the total area of the easement tract, multiplied by a factor of 30.

- b. Required factor: Stewardship of land. The county program shall require that the stewardship of the land and the use of conservation practices and best management practices be considered in scoring the farmland potential of a tract. No score shall be awarded under this factor unless sound soil and water conservation practices are in place with respect to at least 50% of the tract. The implementation of soil erosion and sedimentation control, nutrient management and other practices demonstrating good stewardship of the tract shall be considered under this factor. The following points (maximum of 30 points) shall be assigned: 15 points for implementation of a Resource Management Systems Plan on the entire tract considered for easement purchase; 5 points for implementation of a Resource Management Systems Plan affecting 50%-99% of the entire tract considered for easement purchase; and a maximum of 10 points based on a stewardship evaluation of the tract considered for easement purchase.
- c. Required factor: Size of tract on application. The county program shall require that the size of a tract described in the easement purchase application be considered in scoring the farmland potential of the tract. A farm tract at or above the optimum acreage in the county should be assigned a relatively higher value than a tract having less than the optimum acreage. The following points (Maximum of 20 points) shall be assigned, based on the size of the tract under consideration for easement purchase: 20 points for tracts of 126 acres or greater; 15 points for tracts 76-125 acres; and 10 points for tracts of 75 acres or less.
- d. Required factor: Historic, Century Farm, scenic, and environmental qualities. The county program shall require that the designation or listing of a tract by local/state/federal authorities as a historically or culturally-significant location, or a Century Farm, or as a scenic area or open space be considered in scoring the farmland potential of a tract. Tracts adjoining designated protected areas such as flood plains, wildlife habitat, parks, forests and educational sites shall also be considered under this factor. The county program shall assign 5 points for each designation (Maximum of 15 points) to a tract under easement consideration if it contains a designated or listed historic, Century Farm, scenic or environmental quality.
- e. Additional factor: Points are awarded (maximum 5 points) based upon the landowner's offer to sell the easement at a reduced price. One point shall be assigned for every twenty (20) percent of the agreed easement purchase price, to a maximum of 5 points (100 percent of the easement value). Offers extended to landowners, by the Board, may make landowners eligible for possible "charitable contribution" provisions under the Internal Revenue Code as a "Bargain Sale."

(5) Clustering Potential Factors.

The county program has the three following factors to be considered in scoring the clustering potential of a tract being evaluated for appraisal. The total Clustering Potential Factors score is 100 points.

- α. Required factor: Consistency with Significant Agricultural Area Map. The county program shall require that the location of a tract with respect to those areas of the county identified as important agricultural areas of the county in the Significant Agricultural Area map described at §138e.17 (relating to planning map) be considered in scoring the clustering potential of the tract. Tracts located within such designated areas are more viable for agricultural use; and are more likely to be compatible with county and local comprehensive plans. A tract that is within an identified important agricultural area shall receive a score of 20 points.
  - b. Required factor: Proximity to restricted land. The county program shall require that the proximity of a tract of land already under agricultural conservation easement (whether held by a county, the state, jointly by the county and state, or by a non-profit land conservation organization) be considered in scoring the clustering potential of the tract. A tract that is within one-half mile to such restricted land shall receive a higher score (maximum of 40 points) than tracts that are more distant from such restricted land. Clustering easement purchases will develop a mass of farmland which supports commercial agriculture and reduces conflicts with incompatible land uses. Points for this factor will be determined by multiplying the amount of land (as a percentage of total area) within one-half mile of the perimeter of the tract considered for easement purchase times 40 points.
  - c. Required factor: Percentage of adjoining land in an agricultural security area. The county program shall require that the percentage of the tract's boundary that adjoins land in an Agricultural Security Area be considered in scoring the clustering potential of the tract. The higher the percentage, the higher the score shall be (Maximum of 40 points). Areas where agriculture has been given protection by the municipality, at the request of the landowners, provides an environment conducive to farming. Points for this factor shall be determined by: measuring the amount of land along the perimeter of the tract (considered for easement purchase) that is currently in an agricultural security area and then determining the percentage of this amount in relation to the perimeter of the total tract. This percentage will then be multiplied by 40 points.
- (6) Calculation of weighted SA score. The weighted SA score of a tract being considered for appraisal shall be calculated as follows: The product of the Development Potential Score multiplied by the weight value for that category is the weighted development potential score. The product of the Farmland Potential Score multiplied by the weighted value for the category is the weighted farmland potential score. The product of the Clustering Potential Score multiplied by the weight value for that category is the weighted clustering potential

score. The sum of these three weighted scores is the weighted SA score.

Example: The county program assigns weighted values of 10% to Development Potential, 20% to Farmland Potential and 30% to Clustering Potential. The Development Potential, Farmland Potential and Clustering Potential scores for a particular tract are 92, 85 and 80, respectively. The weighted DP score equals the DP score (92) multiplied by its weighted value (10%): 9.2. The weighted FP score equals the FP score (85) multiplied by its weighted value (20%): 17. The weighted CP score equals the CP score (80) multiplied by its weighted value (30%): 24. The weighted SA score is the sum of these three weighted scores (9.2 + 17 + 24): 50.2

- (7) Calculation of farmland ranking score. The sum of the weighted Land Evaluation (LE) score and the weighted Site Assessment (SA) score equals the Farmland Ranking Score.
- (8) Use of farmland ranking score. The farmland ranking score shall determine the order in which tracts are selected by the county board for appraisal. Selection for appraisal shall be made in descending order or farmland ranking score.

## **VII. PROCEDURES FOR EASEMENT PURCHASE**

This section details the procedures for conservation easement purchase. The majority of this text is derived directly from the guidelines promulgated by the Pennsylvania Department of Agriculture.

- Owners of qualified land may offer to sell a conservation easement by applying to the Board by March 31 of each odd numbered year.
- The Board may, at its discretion, open, close or extend any application period.
- Announcements for the biennial application period and application forms are made by news releases, radio spot announcements and are available on the Clinton County website.
- A separate application shall be required for each farmland tract offered for easement purchase. The application must consist of a completed application form, locational maps, a soils report and a crop report.

## **VIII. APPLICATION FORM**

The County Board provides an application form which requests the following information: (If deemed necessary to further publicize the program, the County Board will hold an "application workshop" to assist landowners in completing the application. This workshop will be held during the application period).

1. Name, address, telephone number and signature of the owner of the property.
2. County, municipality and agricultural security area in which the farmland tract is located.
3. Recorded Book and Page Number of the Agricultural Security Area.
4. Total acreage of farm and number of acres proposed for easement purchase.
5. Crops grown on the land proposed for purchase.

6. Numbers and kinds of livestock on the farm.
7. Street location of farm, and directions from the nearest state route.
8. Deed reference - book, volume and page.
9. County tax map records, including tax parcel number, of each parcel.
10. The date of the USDA Natural Resources Conservation Service (NRCS) Resource Management Systems Plan, if any, which has been approved by the County Conservation District.
11. Name, address and telephone number of person to be contacted to view the farmland tract.
12. The date of any Nutrient Management Plan.

**Locational Maps**

The following information must be provided indicating the location of the farm proposed for easement purchase:

1. A USGS topographical map showing the location of the farmland tract;
2. A tax map of the farmland proposed for protection with map reference and tax parcel number clearly indicated.

**Soils Report**

The applicant must provide 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:

<u>Acres of:</u>	<u>Other</u>	<u>Total Cropland</u>	<u>Total Pasture</u>
Class I			
Class II			
Class III			
Class IV			
Unique Land			
Other			

**TOTAL**

The soils map shall color code soil types as follows:

Class I = Green

Class II = Yellow

Class III = Red

Class IV = Blue

Class V-VIII = Uncolored

Wetlands = Cross-Hatch, or shown on a separate map

Unique land is land other than Class I-IV that is used for the production of specific high value food crops, such as fruits and vegetable. To be evaluated for easement purchase, the unique land must be used for its unique purpose at the time of application.

**Crop Production Information**

The applicant shall provide crop production information for the farmland tract for the prior two growing seasons as follows:

<u>Commodity</u>	<u>Acres Grown</u>	<u>Yield/Acre</u>
------------------	--------------------	-------------------

- 1.
- 2.
- 3.
- 4.

**Livestock Report**

The applicant shall provide a livestock report for the farmland tract for the prior two growing seasons as follows:

Livestock	Average Product Amount	Gross Numbers Sold
1.		
2.		
3.		
4.		

**IX. EVALUATION AND RANKING OF APPLICATIONS**

The Clinton County Agriculture Preservation Board will review each application to determine if it is complete and meets the minimum eligibility criteria. A member of the Clinton County Agriculture Preservation Board, or its designate, will gather information and discuss the program with the applicant.

The Clinton County Agriculture Preservation Board will evaluate all timely applications which meet the minimum criteria and rank them according to the Farmland Ranking System. The cost of an easement can be determined only after a property has been appraised. The County Board will then make a determination whether to appraise the farmland tract that is the subject of an application.

The Farmland Ranking System will be maintained by the Clinton County Agriculture Preservation Board, available for public review.

**X. APPRAISAL OF EASEMENTS**

The ranking of applications will be forwarded to applicants along with an appraisal request form. Applicants who wish to proceed will submit the request form to the Clinton County Agriculture Preservation Board. Submitted with the appraisal request form will be a fee of \$250 which will be held in escrow and refunded if the purchase is completed or if the County elects to back out of the easement purchase or if the landowner refuses to accept less than the full easement value.

**Easement Value**

Offers to purchase easements will be based upon one or more appraisal reports. The appraisal report will estimate both the market value and farmland value of the farmland tract.

An appraisal shall be based primarily on an analysis of comparable sales. If comparable sales are not available for the agricultural value, the County Board, subject to approval by the State Board, may assign farmland value based on crop production. The value of a building or other improvement on the farmland tract may not be considered in determining the easement value. The description of

the building or other improvement shall appear separately in the appraisal report.

### **Choosing An Appraiser**

The appraiser shall be an independent real estate appraiser who is qualified to appraise properties for easement purchase. Appraisals shall be conducted by a State Certified general real estate appraiser, in accordance with the Act and its attendant regulations and guidelines. Selection of a State Certified general real estate appraiser shall be made through a “Request for Proposal” (RFP) process.

The appraiser shall be a member or candidate member of an organization which subscribes to the "Uniform Standards of Professional Appraisal Practice", as amended and revised, published by the Appraisal Standards Board of the Appraisal Foundation, and shall follow such ethical and professional standards.

### **Appraisals will follow “Chapter § 138e.64 Appraisal” of the Agricultural Conservation Easement Purchase Regulations.**

(a) An offer to purchase an easement shall be based upon one or more appraisal reports which estimate the market value and the farmland value of the farmland tract, as those terms are defined in § 138e.3 (relating to definitions). The initial appraisal shall be at the county board’s expense. This expense may be reimbursed as a cost incident to easement purchase in accordance with section 14.1(h)(6) of the act (3 P. S. § 914.1(h)(6)) and § 138e.68 (relating to statement of costs).

(b) An appraisal of market value and farmland value shall be based on an analysis of comparable sales, and shall be conducted in accordance with standards in the most recent edition of the *Uniform Standards of Professional Appraisal Practice*, published by the Appraisal Standards Board of the Appraisal Foundation. If an appraiser cannot practicably conduct an appraisal based on an analysis of comparable sales, the appraiser may conduct an appraisal using another methodology only if that methodology is an acceptable methodology under the *Uniform Standards of Professional Appraisal Practice* and the appraisal report clearly describes the information considered, the appraisal procedures followed and the reasoning that supports the analyses, opinions and conclusions.

(c) The value of a building or other improvement on the farmland tract will not be considered in determining the easement value.

(d) The appraiser 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 a county board on the basis of experience, expertise and professional qualifications.

Number of Copies - The appraiser will provide at least one original and two copies of each report to the County Board. The original of each report and all copies will be bound with rigid covers.

### **Easement Value and Purchase Price**

Easements will only be purchased in perpetuity. Easements shall not be purchased for more than \$2,500 per acre. (of Municipal, of County and/or State Funds)

The appraisal report provides the County Board with an estimate of the value of the easement purchased in perpetuity, which is the difference between the market value and the farmland value. The purchase price of an easement may not exceed, but may be less than the easement value. Easements may be purchased as lump sum, installments, bargain sales or like-kind exchange.

## **XI. APPROVAL OF EASEMENT PURCHASE BY THE COUNTY AGRICULTURE PRESERVATION BOARD**

The Clinton County Agriculture Preservation Board, when determining whether to purchase an easement, shall evaluate each application in accordance with the standards, criteria and requirements currently or hereafter established by the State Agricultural Land Preservation Board addressing soil quality, likelihood of conversion, proximity to other land under agricultural conservation easement, land stewardship and fair, equitable, objective and nondiscriminatory procedures for determining purchase priorities in accordance with § 14.1 (d) (1) (i) - (iv) of the Act (3 P.S. § 914.1 (d) (1) (i)-(iv)).

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, must 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 accompanied by the County appraisal report.

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. The agreement shall be conditioned upon the approval of the State Board and be subject to the ability of the applicant to provide good title to the premises, free of encumbrances, such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest, and other encumbrances which would adversely impact the County and Commonwealth's interest in the farmland tract.

**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 the applicant's expense, a state certified general real estate appraiser to determine the easement value. The appraiser shall be qualified and the appraisal shall be completed under this chapter. The appraisal shall be submitted to the County Board within 120 days of receipt of the County Board's offer to purchase. Upon completion, three copies of the applicant's appraisal shall be submitted to the County Board. The applicant's decision to obtain an independent appraisal under this paragraph shall not constitute a rejection of the County Board's offer. The County Board's offer shall remain open unless increased by the County Board under subparagraph (2) or rejected by the applicant under sub-paragraphs (3) or (4).

(1) If the applicant retains a state certified general appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:

- (a) The agricultural value shall equal the sum of:
  - (i) The farmland value determined by the applicant's appraiser.
  - (ii) One-half of the difference between the farmland value determined by the County Board's appraiser and the farmland value determined by the applicant's appraiser, if the farmland value determined by the County Board's appraiser exceeds the farmland value determined by the applicant's appraiser.
- (b) The nonagricultural value shall equal the sum of:
  - (i) The market value determined by the County Board's appraiser.
  - (ii) One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the County Board's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the County Board's appraiser.

(2) Within 30 days of receipt of the applicant's appraisal, the County Board shall:

- (vii) Submit a written offer to purchase in an amount in excess of the amount offered under subsection (B) to the applicant; or
- (viii) Notify the applicant, in writing, that the offer made under sub-section (B) remains open and will not be modified.

(3) The applicant shall, within 15 days of receipt of the County Board's written offer under subsection (C)(ii)(A) or receipt of the County Board's written notice under subsection (C)(ii)(B) notify the County Board in writing that the applicant either:

- (vii) Accepts or rejects the offer made under subsection (c)(ii)(A); or
- (viii) Accepts or rejects the offer made under subsection (b).

(4) The failure of the applicant to act as set forth in subsection (c)(iii) shall constitute a rejection of the County Board's offer.

(5) If the offer of purchase is accepted, the County Board and the applicant shall enter into an agreement of sale containing the same requirements and subject to the same conditions as set forth in Section 138e.65(c)(1).

**D.** The failure by the applicant to act within 30 days of receipt of a written offer shall constitute rejection of the offer.

**E.** Acceptance by the County Board will be contingent upon the availability of County and/or State funds available to make the purchase. Funds available to the County Board described in § 14.1(h) (8.2) of the Act (3 P.S. § 914.1 (h) (8.2)) may be utilized over a period of two consecutive County fiscal years.

**G.** The Clinton County Farmland Preservation Program may purchase easements from farmland owners on an installment basis, consistent with the provisions of the Act (3 P.S. § 914.1(h) (11) and

(g).

**H.** The purchase is subject to the requirements of the Pennsylvania Agricultural Area Security Law (act) (3 P.S. §§ 901-915) and the regulations thereunder, Chapter 138e (relating to the agricultural conservation easement purchase program).

## **XII. APPROVAL BY THE STATE AGRICULTURAL LAND PRESERVATION BOARD**

Upon acceptance by the applicant of the offer extended by the County Agricultural Land Preservation Board, the County Board shall prepare an agreement of sale utilizing a form provided by the State Board. The County Board shall then submit the agricultural conservation easement application and other documentation required by the State Agricultural Land Preservation Board to the State Board in accordance with model formats included in the most recent State guidebook authorized under § 14.1 (a)(3)(xv) of the Act (3 P.S. § 914.1 (a) (3) (xv)) for review by the Bureau of Farmland Preservation staff. Once the application is approved by the Bureau, documentation is prepared for the State Board as indicated below.

### **Application for Review by the State Board**

Application for State Board review of a proposed purchase of an easement will be made by the County Board submitting the following documents to the Director, Bureau of Farmland Preservation, PA Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408, for review by the Bureau staff.

- (1) One copy of the following documents in the order indicated below prepared in accordance with §138e.69:
  - (i) A copy of Exhibit “B,” from the agreement of sale, modified to include interest, total acres and per acre easement cost.
  - (ii) A cover letter from the county (optional).
  - (iii) A narrative summary report.
  - (iv) A legible United States Geological Survey (USGS) topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
  - (v) The Soil Report Form “C” (a form provided by the Bureau of Farmland Preservation).
  - (vi) The list of soil mapping unit names, symbols, land capability classes and acreage on the subject property.
  - (vii) A legible, uncolored soil map of subject property.
  - (viii) A tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility right-of-way, an access road right-of-way.
  - (ix) 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 applications.
- (2) The appraisal reports.

- (3) The signed Agreement of Sale, including the proposed legal description,(Exhibit A), Statement of Cost(Exhibit B), the proposed Deed of Agricultural Conservation Easement (Exhibit C), a Contractor Integrity Clause (Exhibit D) and a Nondiscrimination Clause (Exhibit E).
- (4) The title insurance report or commitment.
- (5) Certification of County Funds. (A certificate signed by the Commissioners and Controller)
- (6) A letter certifying that the 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 the adjoining landowners.
- (7) A completed and signed IRS Form W-9, Request for Taxpayer Identification Number and Certificate for individual grantors.
- (8) A letter from the grantors stating the percent of ownership of each grantor for the purpose of issuing IRS Form 1099.
- (9) A copy of the **approved** Resource Management System Plan (Soil Conservation and Nutrient Management Plan).
- (10) A copy of the recorded Agricultural Security Area resolution indicating the land owner's name and/or Uniform Parcel Identifier (UPI) or parcel number.
- (11) The farmer's application and all the attachments.

After the review is completed by the Bureau Staff and all deficiencies are corrected, then Twenty-five copies of the following documents in the order indicated below (individually collated, three-hole punched but not stapled) prepared in accordance with §138e.69 for distribution by the Bureau to the members of the State Agricultural Land Preservation Board:

- (i) A copy of Exhibit "B" from the agreement of sale, modified to include interest, total acres and per acre easement cost.
- (ii) A cover letter from the county (optional).
- (iii) A narrative summary report.
- (iv) A legible United States Geological Survey (USGS) topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
- (v) The Soil Report Form "C" (a form provided by the Bureau of Farmland Preservation).
- (vi) The list of soil mapping unit names, symbols, land capability classes and acreage on the subject property.
- (vii) A legible, uncolored soil map of subject property.
- (viii) A tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility right-of-way, an access road right-of-way.

- (ix) 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 applications.

### **The Agricultural Easement Deed**

At settlement the owners of the subject real estate shall execute a deed conveying the easement containing the following requirements:

The deed shall be in recordable form and contain:

- (1) A legal description setting forth the metes and bounds of the farmland tract subject to the easement.
- (2) At least one course and distance referencing a fixed marker or monument of a type commonly placed in the field by a surveyor.
  - The legal description shall not contain a closure error greater than one foot per 10,000 linear feet in the survey.
  - The farmland tract on which an easement is to be purchased must be surveyed unless the legal description contained in the deed recorded in the land records of the County in which the farmland tract is located satisfies the requirements above. A survey required by the provisions of this paragraph must comply with the most current boundary survey measurement standards published by the Pennsylvania Society of Land Surveyors.
  - For purchases made entirely with state funds, the Commonwealth of Pennsylvania will be the sole grantee.
  - For purchase made using a combination of state and county funds, the grantees will be the Commonwealth of Pennsylvania and the County providing the funds under joint ownership as defined in the Act.
  - Neither the Commonwealth, the County or Municipality may sell, convey, extinguish, lease, encumber, restrict or otherwise dispose of their interest in the easement without the consent of the other.
  - Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth, the County and Municipality will receive a pro rata share of the proceeds based upon their respective contributions to the purchase price.
  - A copy of the deed shall be submitted to the State Board for approval prior to execution and delivery.
  - Whenever interest in land subject to an agricultural conservation easement is conveyed or transferred to another person, it is the responsibility of the Grantor to ensure that the deed conveying or transferring such interest shall recite verbatim the language of the easement restrictions as set forth in the deed executed in connection with the purchase of the agricultural conservation easement; and is conformance with § 914.1(j)(1),(2) and (3) of the Act (3 P.S. § 914.1(j)). This may accomplished by:
    1. A new fee simple deed that contains **verbatim** all the terms and conditions set forth in Items 1 through 13, as contained in the recorded Deed of Easement executed for the subject property. In addition, the subdivision statement will be included verbatim indicating the date, Record Book and Page Number of the proper subdivision guidelines applicable to the subject Deed of Easement.

2. As an option, a legal recital may be included in the new fee simple deed stating that the property is subject to an agricultural conservation easement as recorded in book and page at the Recorder of Deeds. The recital must state that a **copy** of the original recorded Deed of Easement is attached to the new fee simple deed package for recording at the County Recorder of Deeds. The Deed of Easement shall include the Exhibit "A" legal description for the eased acreage on the property.

- Any person conveying or transferring land subject to an agricultural conservation easement to, within 30 days of the change in ownership, shall notify the County Board and the Department of the name and address of the person to whom the subject land was conveyed or transferred and the price per acre or portion thereof received by the landowner from such person as per § 14.1(j) (2) of the Act (3 P.S. § 914.1 (j) (2)).
- Include the following statement on the bottom of the signature page each Deed of Easement:

SUBJECT ALSO, to the Subdivision guidelines of the County of Clinton Agricultural Land Preservation Program, as approved by the State Agricultural Land Preservation Board on April 11, 1996 and in accordance with the Guidelines and/or Regulations of said State Board which County Guidelines are incorporated herein by reference and made a part hereof.

- When a property has been awarded federal funds from the Federal Farm and Ranch Land Protection Program, the following addendum shall be included in the Deed of Easement:

**Addendum Regarding Enforcement by U.S. Department of Agriculture  
Contingent Right in the United States of America**

In the event that the Grantee fails to enforce any of the terms of this easement as determined in the sole discretion of the Secretary of the United States Department of Agriculture, the said Secretary of Agriculture and his or her successors and assigns shall have the right to enforce the terms of the easement through any and all authorities available under Federal and State law.

In the event that the Grantee attempts to terminate, transfer, or otherwise divest itself of any rights, title or interests of this easement without the prior consent of the Secretary of the United States Department of Agriculture and payment of consideration to the United States, then, at the option of such Secretary, all rights, title, and interest in this easement shall become vested in the United States Of America.

\_\_\_\_\_  
(Signature of USDA Official)

\_\_\_\_\_  
(Signature of USDA Official)

**Title Insurance**

The County Board will provide a title insurance commitment to the State Board upon submission of

its recommendation for a purchase of an easement.

Within 60 days of settlement, the County Board will provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth of Pennsylvania by the Insurance Department. The cost of such title insurance will be a cost incident to the easement purchase payable or reimbursable from a county's allocation under the Act.

### **Notification of Settlement**

After settlement, but prior to recording, copies of the fully signed Deed of Easement, Legal Description, Subordination Agreements and the “marked up” title insurance commitment shall be prepared.

Within ten (10) days, after settlement, the following shall be sent to the Bureau of Farmland Preservation:

1. Completed Notification of Settlement Form.
2. Photocopy of the fully signed Deed of Easement, Legal Description and any Subordinations.
3. A copy of the HUD Settlement Sheet.
4. A “marked up” copy of the title insurance commitment.
5. Verification Form for the 1099S Form.
6. An invoice from the County for any additional incidental expenses.
7. A revised Exhibit B if costs are greater or less than originally submitted.

### **Recording the Deed of Easement**

Record the Deed of Easement, Legal Description and any Subordination Agreements at the Recorder of Deeds Office as soon as possible after settlement. The recorded deed should be returned to the Agricultural Land Preservation office regardless of easement ownership. Within thirty (30) days from recording, send a certified copy of the Deed of Easement, Legal Description and Subordination Agreements to the Bureau of Farmland Preservation.

### **Statement of Costs (EXHIBIT B)**

The County Board will submit a statement of the costs incidental to the purchase of the easement to the State Board which may include:

- Easement purchase price;
- County appraisal costs;
- Necessary legal fees for title search, preparation of documents, and attendance at closing;
- Recording fees;
- Survey costs;
- Reimbursements to a nonprofit land conservation organization that has acquired an easement at the request of the County Board, for the purpose of transferring the easement to the county or the state or both. These costs include the easement purchase price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees, and survey costs.

The statement of costs must specify the amount of state funding requested for the purchase, and the

amount of county funds allocated for the purchase.

After settlement, the County Board shall submit a revised statement of costs in the event that actual costs were greater or less than the costs estimated in the initial statement of costs.

### **Public Information**

The Clinton County Agriculture Preservation Board is 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. Monthly Board meetings, which are open to the public, are held as needed.

The Board publicizes the County Program through the publication of news releases, press conferences, newspaper, and radio coverage of special events. Public outreach presentations include agricultural organizations, municipalities, community service organizations, churches and public and private schools. The Board Guidelines and the information are also available on the Clinton County website at: [www.kcnet.org/Agriculture/easement.htm](http://www.kcnet.org/Agriculture/easement.htm)

Announcements for the biennial application period and application forms are through news releases, radio spot announcements and on the website.

## **XIII. PROCEDURE FOR INSPECTING AND ENFORCING AN EASEMENT RESPONSIBILITY**

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

### **INSPECTIONS**

The County Board shall inspect restricted land within the County every two years to determine compliance with the applicable deed of easement. Notice of an upcoming inspection may be delivered in person or by phone or written notice of an inspection to be conducted shall be mailed to the owner at least 10 days prior to the inspection.

An inspection conducted under this section shall be performed between the hours of 8 AM and 5 PM on a weekday that is not a legal holiday recognized by the Commonwealth, or a date and time agreeable to the County and the landowner. Within 10 days of conducting an inspection, the County Board shall prepare a written inspection report setting forth the following information:

- The identification of the land inspected.
- The name of the owner of the land inspected.
- A description of modifications in the number, type, location or use of structures on the land since the date of the filing of the deed of easement.
- A description of deviations from the conservation plan observed on the restricted land.
- A statement of whether the provisions of the deed of easement are being observed.
- A statement indicating whether a permitted structure has been constructed on the restricted land, the month and year construction was completed and its location on the land.

A copy of the inspection report shall be mailed to the owner.

The County Board and the State Board may inspect the restricted land, jointly or severally, 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 on a 2-year basis, a copy of inspection reports for inspections conducted, and compile a report which summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding unresolved violations.

### **ENFORCEMENT**

The County Board shall enforce the terms of each easement purchased within the County under the act, whether it be a County, State or joint purchase.

The State Board may enforce the terms of State or jointly 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**

Within 10 days of the discovery of a violation of the terms of an easement, either through an inspection or otherwise, the County Board shall send written notice of the violation to the owner of the restricted land, the County governing body and the State Board.

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

- A copy of the inspection report.
- A copy of the deed of easement.
- A description of the action or condition which constitutes the alleged violation.
- A statement of the measures necessary to correct the alleged violation.

### **ENFORCEMENT ACTIONS**

Sixty 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 other appropriate relief, unless the County Board does one of the following:

- Determines with the State Board that the violation has been corrected.
- Completes the following requirements:
  - 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 a 60-day period.

- Establishes a period not to exceed 1 year within which the corrective measures shall be completed.

The County Board shall commence and prosecute the enforcement action if the violation is not corrected within the time periods established.

The owner of the restricted land shall bear the costs associated with the correction of a violation of the easement, including:

- costs of work required and materials used to correct the violation.
- administrative costs incurred by the County Board and the State Board.
- court costs and reasonable attorneys' fees incurred by the County Board and the State Board in enforcing the easement.

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

## **XIX. RESPONSIBILITY OF OWNER PERMITTED ACTS**

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

### **RESOURCE MANAGEMENT SYSTEMS PLAN (IF REQUIRED BY THE PA NUTRIENT MANAGEMENT ACT)**

To preserve the agricultural viability of the restricted land, the County Board shall require, and the owner of the restricted land shall implement a Resource Management Systems Plan, (a soil conservation plan approved by USDA/NRCS or the County Board, and if required by the PA Nutrient Management Act, a Nutrient management Plan approved by the County Conservation District.)

In addition to the requirements established by the County Conservation District, or the County Board, the conservation plan shall require that:

- The use of the land for growing nursery stock, ornamental trees and shrubs does not remove excessive soil from the restricted land.
- The excavation of soil, sand, gravel, stone or other materials for use in agricultural production on the restricted land is conducted in a location and manner that preserves the viability of the restricted land for agricultural production.
- The mining of minerals is conducted only through the use of methods authorized in the act.

### **CONSTRUCTION OF BUILDINGS; CHANGES IN USE**

The construction or use of a building or other structure on the restricted land other than a building or structure existing on the date of the granting of the easement is prohibited, except that:

- The erection of fences for agricultural production is permitted.
- The construction and use of structures on the subject land for the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time

employees: provided, that only one such structure may be constructed on no more than two acres of the subject land during the term of the agricultural conservation easement.

- The construction or use of a building or other structure for agricultural production is permitted.
- The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted.

### **CONSTRUCTION OF ONE ADDITIONAL RESIDENTIAL STRUCTURE**

In addition to the structures existing on the restricted land at the date of the granting of the easement, one additional residential structure may be constructed on the restricted land, if the following apply:

- The construction and use is for the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time employees: provided, that only one such structure may be constructed on no more than two acres of the subject land during the term of the agricultural conservation easement.
- No other residential structure has been constructed on the restricted land after the date of the granting of the easement.
- The residential structure and its curtilage occupy no more than 2 acres of the restricted land.
- The location of the residential structure and its driveway will not significantly harm the economic viability of the restricted land for agricultural production. The replacement of a residential structure constructed under this section is permitted.

## **XX. SUBDIVISION GUIDELINES**

### **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 farm employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1(c)(6)(iv)), to meet all of the criteria set forth at Section 138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter.

**Harm the economic viability of the farmland for agricultural production** - To cause a particular tract of restricted land to fail to meet the criteria set forth at Section 138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter, or to create, through subdivision, a tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1(c)(6)(i)), that would fail to meet the 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 a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing non-residential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their cartilages, 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 employee is permitted pursuant to Section 14.1(c)(6)(iv) or the Act (3 P.S. § 914.1(c)(6)(iv))

**Pennsylvania Municipalities Planning Code** - *The Act of 1968 (P.L. 805, No. 247) as reenacted and amended*

**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: Provided, however, That the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling shall be exempted.

### **Construction of one additional residential structure**

**(a) General.** In addition to the structures existing on the restricted land at the date of the granting of the easement, one additional residential structure may be constructed on the restricted land if the following apply:

- (1) The residential structure is constructed and used as the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time farm employees.
- (2) No other residential structure has been constructed on the restricted land, under authority of Section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1(c)(6)(iv)) and this section, after the date of the granting of the easement.
- (3) The residential structure and its curtilage occupy no more than 2 acres of the restricted land.

**(b) Replacement of structures.** The replacement of a residential structure constructed under authority of Section 14.1(c)(6)(iv) of the Act and this section is permitted.

**(c) Reservation of right to construct after subdivision.** If the restricted land is subdivided prior to the construction of a residential structure under authority of Section 14.1(c)(6)(iv) of the Act and this section, the landowner shall do the following:

- (1) Inform the county board of the specific subdivided tract with respect to which the right to construct and use such a residential structure is reserved.
- (2) Ensure that the deed to the subdivided tract with respect to which the right to construct and use such a residential structure is reserved clearly sets forth the reservation of this right.

- (3) Ensure that the deeds to the remaining subdivided tracts recite that no such residential structure may be constructed on the remaining subdivided tracts.

### **Subdivision of restricted land**

**(a) Authority to prohibit subdivision.** Approval from the Clinton County Agriculture Preservation Board is required:

- (1) prior to subdivision of restricted land, under the applicable subdivision and land development ordinance, or
- (2) prior to the construction and use of a principle residence or housing for seasonal or full-time farm employees in accordance with Section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1.(c)(6)(iv)), under the applicable subdivision and land development ordinance, by a land development other than subdivision.

**(b) Discretion to allow subdivision.** The Clinton County Agriculture Preservation Board will only allow a subdivision of restricted land when the subdivision will result in one or more parcels that would, alone, qualify for consideration of Agricultural Conservation Easement Purchase in accordance with State and County minimum criteria set forth in the County Program under the section for Eligibility for Easement Purchase Program, pages 8 and 9, and the current regulations thereunder Chapter 138e.16.

**(c) Requisite: Preservation or economic viability for agricultural production.** Subsection (b) notwithstanding, a county program shall not permit a subdivision which would harm the economic viability of the farmland for agricultural production.

**(d) Requisite: Prevention of conversion to non-agricultural use; exception.** Subsection (b) notwithstanding, a county program shall not permit a subdivision which would convert land devoted primarily to agricultural use to another primary use except that, without regard to this requirement, a county program may permit one tract to be created by subdivision for the purpose of the construction of a principal residence for the landowner.

**(e) Notice to landowner.** The following shall be required: recital of the prohibitions or restrictions with respect to subdivision contained in (a) thru (d) above shall appear in the deed of agricultural conservation easement, and any subsequent deed(s), of the restricted land.

### **Procedures and Requirements of Subdivision**

Land owners proposing to subdivide eased land shall be subject to following procedures and requirements:

**(a)** Request for subdivision approval shall be submitted, in writing, to the Clinton County Agriculture Preservation Board. Requests shall include the following maps, information, etc.

- (1) Written request for subdivision approval including description of subdivision and reason for subdivision.
- (2) A map or sketch, at scale sufficient to clearly show the following:

- i) Location of crop land, pasture land, wood land and other lands.
- ii) Roads, streets, driveways, utility right-of-way, streams.
- iii) Location of existing building, sheds, barns, dwellings, and other structures.
- iv) Delineation of proposed subdivision.
- v) Indication of which parcel either created by subdivision or remaining after subdivision on which the additional residential structure permitted by Section 14.1 (c)(6)(iv) of the Act (3PS Section 914.1 (c)(6)(iv) and this section may be constructed.

**(b)** The County Board will note receipt of the request for subdivision approval at its next regularly scheduled meeting.

**(c)** The County Board may agree to permit a parcel of land subject to an Agricultural Conservation Easement to be subdivided after the granting of such easement after appropriate review as follows:

- (1) Upon receipt of the application, the County Board shall cause to be forwarded written notification thereof to the County Planning Office and County Farmland Preservation Office, herein referred to as the reviewing agencies. Each reviewing agency shall have 90 days from receipt of such notification to review, comment and make recommendations on the proposed application to the County Board.
- (2) After reviewing the application and the comments and recommendations submitted by the reviewing agencies, the County Board shall approve or reject the application to subdivide within 90 days after the date of its filing unless the time is extended by mutual agreement of the landowner and reviewing agencies.
- (3) If application to subdivide land is approved by the County Board, a copy of the application, along with the comments and recommendations of the reviewing agencies, shall be forwarded to the State Board for review and approval or disapproval. When reviewing an application to subdivide land subject to and Agricultural Conservation Easement, the State Board shall consider only whether the application complies with the conditions under which subdivisions are permitted by the approve county program. The State Board shall notify the County Board of its decision regarding the application.
- (4) If the application to subdivide is rejected by the County Board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 PA C.S. Chapter 5 Subchapter B (relating to practice and procedure of local agencies) and Chapter 7 Subchapter B ( relating to judicial review of local agency action).

**(d)** Failure of the County Board to render a decision to approve or disapprove a subdivision within the time frame described in Sub-Section D(3)(c) of this article shall constitute approval of request to subdivide provided that the parcels created by and remaining after subdivision comply with Sub-Sections D(2)(b)m, D(2)(c) and D(2)(d) of this section.

**(e)** Approval of the County Board, or failure to act by the County Board as per Section D(3)(d) of this section shall not be construed to provide approval of the State Board or any other

Governmental Unit with authority to approve or disapprove subdivisions as specified by the Pennsylvania Municipalities Planning Code, PA Act 247 of 1968, as amended.

(f) Subdivisions approved prior to the construction of additional residential structure.

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

(g) Recording of Article

- (1) Upon approval of this section, Section VII of the Program, by the County Board and State Board, or upon approval of the Program by the State Board, in which this section is included, the County Board shall record this section and the Clinton County Recorder of Deeds Office.
- (2) All deeds conveying an Agricultural Conservation Easement to the County of Clinton, The State of Pennsylvania or to both the County and State jointly shall incorporate, by referencing the location of such filing, the provisions of this section into the deed.

### **CHANGE IN OWNERSHIP**

A deed conveying an interest in the restricted land shall set forth the language of the easement restrictions verbatim following the procedures as specified on page 23 of this document. Within 30 days of a change in ownership of the restricted land, the prior owner shall notify the County Board of the name and address of the new owner, together with the volume and page in which the transfer has been recorded by the County Recorder of Deeds.

## **APPENDIX A MAP FOR PLANNING**

**Map of the County with targeted areas for purchases of Agricultural Conservation Easements in grey. As of the date of this manual, June 2015, there are 9 municipalities that have agricultural security areas. These municipalities, Bald Eagle, Beech Creek, Dunnstable, Greene, Lamar, Logan, Loganton, Pine Creek, and Porter are this county's targeted areas for purchase of agricultural easements.**

**This is blank. Copies of county map with 9 municipalities shaded is available on request.**

**APPENDIX B**

**CLINTON COUNTY AGRICULTURE PRESERVATION BOARD AUTHORIZATION**

**RESOLUTION**

**This is blank. copy of the official resolution is available when booklet is printed.**

## APPENDIX C

### 2015 CLINTON COUNTY AGRICULTURE PRESERVATION BOARD MEMBERS

CLINTON COUNTY 7-MEMBER

AGRICULTURE PRESERVATION BOARD

NAME	AFFILIATION	APPOINTMENT	TERM	DATE EXPIRES
Frederick (Dan) Chappell, Chair 94 Chappell Lane Mill Hall, PA 17751	Developer	1/1/2004	3	12/31/2017
Steve Bason Vice-Chair 160 Meadowbrook Lane Mill Hall, PA 17751-8661	Citizen Member at Large	1/1/2012	3	12/31/2015
Tim Owens 1111 Sugar Run Road Mill Hall, PA 17751	Citizen Member at Large	1/1/2009	3	12/31/2017
John Lucas 407 Cider Press Road Lock Haven, PA 17751	Elected Official	01/01/03	3	12/31/2016
Charles L. Bechdel, Jr. 1549 Eagle Valley Road Beech Creek, PA 16822	Farmer Member at Large	1/1/2004	3	12/31/2016
James Harbach 860 West Valley Road Loganton, PA 17747	Farmer	1/1/2009	3	12/31/2016
Mae Johnson 472 Pine Mountain Road Lock Haven, PA 17745	Farmer	6/23/2011	3	12/31/2015

Requirement for the Clinton County Agriculture Preservation Board: two resident farmer members, 3 members-at-large, one elected official, and one developer/contractor.

Members of a county board shall comply with the act of October 4, 1978 (P. L. 883. No. 170) (65 P. S. §§ 401—413), known as the Public Official and Employee Ethics Law.

**2015 CLINTON COUNTY AGRICULTURE PRESERVATION BOARD ADVISORS**

**CLINTON COUNTY BOARD OF COMMISSIONERS:**

JEFF SNYDER, AG BOARD ADVISOR  
ROBERT "PETE" SMELTZ  
JOEL LONG

**CLINTON COUNTY PLANNING DEPARTMENT:**

TIMOTHY HOLLADAY, DIRECTOR OF PLANNING

**CLINTON COUNTY GIS OFFICE**

JAMES WATSON, DIRECTOR

**CLINTON COUNTY CONSERVATION DISTRICT STAFF**

MARY ANN BOWER, DISTRICT MANAGER

**CLINTON COUNTY ASSESSMENT OFFICE**

KEITH YEARICK, CHIEF ASSESSOR

**USDA, NATURAL RESOURCES CONSERVATION SERVICE**

SCOTT HECKMAN, DISTRICT CONSERVATIONIST

## **APPENDIX D**

The Clinton County Agriculture Preservation Board, in accordance with provisions contained within Act 149, have adopted the following rules of procedures and bylaws governing the operation of the County Board:

### **Clinton County Agriculture Preservation Board Bylaws**

#### **Section I** Authorization of Program

- I.1 The Clinton County Board of Commissioners in August 6, 1993, authorized and appointed a seven member Agriculture Preservation Board according to the provisions of Pennsylvania Act 43, as amended, to administer the purchase of conservation easements in Clinton County.

#### **Section II** County Board Bylaws

- II.1 The Clinton County Agriculture Preservation Board has drafted and will follow a set of bylaws. These bylaws address the purpose of the program and board, membership, voting, officers, finance, meetings, and amendment procedure.
- II.2 The official Clinton County Agriculture Preservation Board Bylaws are as follows:

##### **Article I** Name

- 1.1 The name of this nonprofit organization shall be called The Clinton County Agriculture Preservation Board. For the purposes of these bylaws, it will be referred to as the "board."

##### **Article II** Purpose

- 2.1 It is the purpose of the Clinton County Agriculture Land Preservation Program to protect viable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production. Further, it is the purpose of this program to:
- 1 Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use;
  - 2 Protect normal farming operations in agricultural security areas from incompatible non-farmland uses that may render farming impracticable;

- 3 Protect farming operations from complaints of public nuisance against normal farming operations;
  - 4 Assure conservation of viable agricultural lands in order to protect the agricultural economy of this county and the Commonwealth;
  - 5 Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property;
  - 6 Maximize agricultural easement purchase funds and protect the investment of taxpayers in agricultural conservation easements; and
  - 7 Develop fair, equitable, objective, non-discriminatory procedures for determining easement purchase priorities and adopt written policies and guidelines for purchasing easements.
- 2.2 The purpose of the board will be to administer the county program as set forth in Act 149 of 1988 and administer any other public program approved by county governing body for the purpose of preserving agricultural land.

### Article III Membership

- 3.1 The membership of the board will be as specified in the state guidelines and will be appointed by the County Commissioners.
1. The Board shall be comprised of seven members. Annually the Chairperson of the Board of the County Commissioners shall designate one member of the Board to act as chairperson of the Board.
  2. Two members of the Board shall be active resident farmers and serve an initial three year term.
  3. One member of the Board shall be a member of a township or borough governing body within the County and serve an initial two year term.
  4. One member of the Board shall be a commercial, industrial or residential contractor and serve an initial one year term.
  5. Three members of the Board shall be selected at the pleasure of the County Commissioners and serve an initial one year term.
  6. Upon expiration of the initial terms stated above, all terms of members shall be three years.
  7. The Board will also include appropriate non-voting ex officio members who have expertise in appropriate areas. These members shall be known as the Advisory Board and be appointed by the Clinton County Board of Commissioners.

8. The Board may also include Director(s) Emeritus, at the discretion of the County Board of Commissioners, who shall be any Director deemed to have made appreciable contributions to the Board and to agriculture, while serving as a Director on this Board.
9. In the event of a vacancy on the Board, the Clinton County Board of Commissioners shall appoint a person to serve for the balance of the term vacated.

### 3.2 Removal from County Board.

Any board member may be removed from the Board for malfeasance, misfeasance, or nonfeasance in office or for other just cause by the majority vote of the County Commissioners, after the member has received fifteen (15) days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

## Article IV Voting

- 4.1 Each member of the Board will be allowed to cast one vote and must be present at the meeting to vote. All motions must be approved by a majority of members at a meeting.

## Article V Officers & Duties

### 5.1 The board will have the following officers:

1. Chairperson. The member of the board who serves as Chairperson will be selected by the Chairperson of the Board of the County Commissioners. The Chairperson shall preside at all the meetings of the board, call special meetings, establish committees, appoint committee chairperson, and delegate other tasks and assignments as may be appropriate.
2. Vice-Chairperson. The member of the board who serves as Vice-Chairperson will be elected annually by the vote of the board. The Vice-Chairperson shall preside at all board meetings in the absence of the Chairperson and assist Chairperson in his or her duties when ask to do so.
3. Secretary. The staff person for the board may serve as Secretary and will have no vote. The Secretary will be responsible to record the minutes of all meetings of the board in written form and present minutes of previous meetings to the board. The Secretary will coordinate all correspondence for the board.

## Article VI Finance

### 6.1 All monies received via county, state, or private funds shall be used for the purpose of protecting viable agricultural farmland in Clinton County.

1. No member of the Board shall be liable for the debts of the Board.
2. No net income of the board shall accrue to the benefit of any member with the exception of purchasing conservation easements consistent with Act 149 of 1988.

3. Board members who have a personal or private interest in any measure proposed or pending before the board shall disclose the fact to the board and shall not vote thereon.
4. 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.

## Article VII Meetings

7.1 Meetings of the Board will be as follows:

1. Regular. The Board will meet as needed. The first meeting of the calendar year will be a reorganization meeting. At the reorganization meeting a vice-chairperson will be elected and a secretary shall be appointed. Meeting dates, time, and place shall be established but can be changed at any time pending a simple majority vote.
2. Special. The Board may meet at any day, time or place in a special meeting to carry out important business. The meeting may be called by the Chairperson, or by a petition to the Secretary from a quorum of board members. Advance notice shall be given to all board members of any special meeting to be held.
3. All meetings shall require a quorum of a simple majority of the Board to conduct business. Meetings shall be in compliance with the provisions of the Act of July 3, 1986, (P.L. 388, No. 84) known as the Sunshine Act, and with the Right-To-Know-Law (Act of June 21, 1957, P.L. 390, No. 212). Robert's Rules of Order shall apply to all events not otherwise covered by the bylaws.

## Article VIII Amendments

8.1 These bylaws may be amended by a simple majority vote of the members of the Board. The secretary shall provide written notification of all proposed bylaws changes to all Board Members at least fifteen (15) Days prior to a vote at a regular or special meeting.

The above bylaws were amended at a board meeting dated March 9, 2005 and noted in the Secretary's Minutes.

## APPENDIX E

### DEED OF AGRICULTURAL CONSERVATION EASEMENT DEED CLAUSES

The Deed of Agricultural Conservation Easement delivered in connection with the purchase of an easement shall identify the owner of the farmland tract as grantor and either the Commonwealth or the County, or both, as grantee and contain the following provisions and additional, consistent provisions approved by the State Board:

**(1) A granting clause stating:**

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 Grantee, its successors and assigns, and Grantee voluntarily accepts, an agricultural conservation easement in the subject land, under the subject to the Act and the following terms and conditions:

**(2) A clause restricting use of the land to specific permitted acts as follows:**

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, livestock and livestock products, including the processing or retail marketing of such crops, 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 purposes of this Deed, "crops, livestock and livestock products" include, but are not limited to:

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

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 any activity on the subject land other than agricultural production.

#### 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:

- (i) The erection of fences for agricultural production is permitted.
- (ii) The construction of one additional residential structure is permitted if:
  - (A) The construction and use of structures on the subject land for the landowner's principal

- residence or for the purpose of providing necessary housing for seasonal or full-time employees: provided, that only one such structure may be constructed on no more than two acres of the subject land during the term of the agricultural conservation easement.
- (B) No other residential structure has been constructed on the restricted land at any time since the delivery of the Deed,
  - (C) The residential structure and its cartilage occupy no more than two acres of the subject land, and
  - (D) The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production.
- (iii) The construction or use of any building or other structure for agricultural production is permitted.
  - (iv) The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted.

#### SUBDIVISION

The subject land may be subdivided if subdividing will not harm the economic viability of the subject land for agricultural production and if the subdivision is in accordance with section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1(c)(6)(iv)), and under the applicable municipal subdivision and land development ordinance. 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.

**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 of, transportation of, 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.

**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 and gas development or activities incident to the removal or development of such coal, oil or gas are permitted.

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

These rural enterprises and activities are defined as customary, supportive and agriculturally compatible uses of farm properties in Clinton County, Pennsylvania, and are limited to the following:

1. The direct sale to the public of agricultural products produced principally on the farm;
2. Any and all structures contributing to the production, primary processing, direct marketing and storage of agricultural products produced principally on the farm;
3. Structures associated with the production of energy for use principally on the farm including wind, solar, hydroelectric, methane, wood, alcohol fuel, and fossil fuel systems and structures and facilities for the storage and treatment of animal waste;
4. The provision of services or production and sale, principally by persons in residence, of agricultural goods, services, supplies and repairs and/or the conduct of traditional trades and the production and sale of home occupation goods, 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 or adjoining residential and/or principally agricultural structures of the Property; limited in site coverage to one-half of one percent of the area of the Property;
5. Structures and facilities associated with irrigation, farm pond impoundment, and soil and water conservation;
6. The accommodation of tourists and visitors within principally family residential and/or agricultural structures otherwise permitted under the law so long as the accommodation 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;
7. Agriculture-related services or activities associated with customary part-time or off-season minor rural enterprises and activities (such as corn mazes, hay rides and farm tours,) incidental to agricultural production. These services and activities are permissible as long as they remain incidental to agricultural and open space character of the farm. NO excavation, paving, graveling, construction or permanent structures or other activities that would diminish the productive capacity of the soils are permitted in conjunction with such activities. The County Board reserves the right to review and approve these activities on a case by case basis.
8. The State Agricultural Land Preservation Board approved and authorized on 7/13/00 the use of any conservation practice under CRP/CREP as not violating the Deed of Agricultural Conservation Easement with respect to restricted land, provided the conservation plan, as revised, allows for the implementation of any such conservation practices.
9. Other similar uses upon written approval of the Clinton County Agriculture Preservation Board and State Agricultural Land Preservation Board.

**SOIL AND WATER CONSERVATION** - All agricultural production on the subject land shall be conducted in accordance with a Resource Management Systems Plan approved by the County Conservation District or the County Board. Such plan shall be updated every ten years and upon any change in the basic type of agricultural production 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 require that:

- (i) The use of the land for growing 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 on the land is conducted in a location and manner that preserves the viability of the subject land for agricultural production.

**(3) An enforcement clause stating that:**

Annually, Grantee(s), its/their successor(s), assign(s) or designee(s) 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 sent by certified mail to the 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(s), its/their successor(s), assign(s) or designee(s) shall also have the right to inspect the subject land at any time, without prior notice, if it/they has/have 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(s), its/their successor(s), assign(s) or designee(s) 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.

**(4) A clause stating that:**

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.

**(5) A clause setting forth the obligation of the Grantor upon conveyance of the farmland tract as follows:**

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 notify Grantee in writing, within three (3) days, of any conveyance or 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. This obligation shall apply to any change in ownership of the subject land. The restrictions set forth in this Deed shall be included in any Deed purporting to convey or transfer an ownership interest in the subject land. It is the responsibility of the Grantor to ensure that the deed conveying or transferring such interest shall recite verbatim the language of the easement restrictions as set forth in the deed executed in connection with the purchase of the agricultural conservation easement; and is conformance with § 914.1(j)(1),(2) and (3) of the Act (3 P.S. § 914.1(j)).

**(6) A habendum clause. (To Have and To Hold)**

## **Amendments**

### **Amendments**

#### **Amendment Number 1**

#### **DONATIONS AND \$1 BARGAIN SALES**

#### **CLINTON COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM AMENDMENT**

In order to effectively preserve agricultural land within agricultural security areas, it is the intent of the Clinton County Agriculture Preservation Board and the Board of County Commissioners, to accept voluntary \$1 Bargain sales or bequests of conservation easements on a perpetual term basis only. Such grants of easement constituting restrictions on the use of land are designed to preserve and protect the agricultural and open space character of the land. Acceptance of conservation easements will be determined by the Agriculture Preservation Board and the Clinton County Board of Commissioners through minimum eligibility criteria.

A conservation easement is a legally binding document, which is filed with the Recorder of Deeds restricting use to agricultural and directly associated uses. As an easement in gross, the restrictions are binding upon the owner and future owners. The conservation easement carries with the land. \$1 Bargain Sale conservation easements will be held by Clinton County in perpetuity and the County is responsible for enforcing the deed restrictions contained in the conservation easements.

#### **A. Minimum Eligibility Criteria for Donation or \$1 Bargain Sales:**

Prerequisite to acceptance of a Donation or County-only \$1 Bargain Sale Agriculture Conservation Easement, the agricultural land must be in an Agricultural Security area (ASA) and meet the County Minimum Criteria for Donation or \$1 Bargain Sale, as listed below.

(a) General Rule. —Notwithstanding any other provision of this act to the contrary, upon recommendation by an eligible county, the Donation or \$1 Bargain Sale of an agricultural conservation easement may be acquired by the county, State Board, an eligible nonprofit entity or a local government unit if all of the following apply:

- (1) The land is used for agricultural production. (including timber production)
- (2) The term of the agricultural conservation easement is perpetual.
- (3) The applicable county program provides for the acquisition by donation or \$1 bargain sale of an agricultural conservation easement.
- (4) The agricultural conservation easement is being acquired by donation or \$1 bargain sale by an eligible county or by the eligible county in conjunction with the Commonwealth, an eligible nonprofit entity or a local government unit, or by any combination of these.
- (5) Instruments and documents for the acquisition by donation of an agricultural conservation easement are approved by the State board or the county board, as the case may be, prior to execution and delivery. Proper releases from mortgage holders and lien holders must be obtained and executed to ensure that all agricultural conservation easements acquired by donation or \$1 bargain sale are free and clear of all encumbrances.
- (6) The agricultural conservation easement has title insurance. Property must have

Clinton County Farmland Preservation Program

acceptable undisputed metes and bounds description of the property.

- (7) The deed of agricultural conservation easement is as prescribed by the State board for agricultural conservation easements purchased by the Commonwealth.
- (8) The applicable county board records an agricultural conservation easement acquired by donation or \$1 bargain sale by the county in the office of the recorder of deeds of the county wherein the agricultural conservation easement is located and submits to the State board a certified copy of the agricultural conservation easement within 30 days after recording.
- (9) For \$1 Bargain Sales only, the land is not required meet the minimum criteria established by the State Board for purchase of an agricultural conservation easement and the acceptance of same will be decided by the County Board on a case-by-case basis.

(b) Expenses. —The allocation of a county may be adjusted by a maximum of \$5,000 per easement for all costs, except administrative costs, incurred by the Commonwealth or a county incident to the acquisition by donation of an agricultural conservation easement. \$1 bargain sales are administered the same as purchases and Commonwealth reimbursement is not restricted to \$5,000.

Land must consist of productive agricultural soils of Pennsylvania soils.

Farms producing crops unique to the area for commercial purposes will be considered on a case by case basis. Crops that may qualify include the following:

1. Grapes - table or wine grapes.
2. Tobacco.
3. Speltz - a small grain grown as an alternative to federally regulated feed grains.
4. Orchard Crops - commercial agricultural enterprise.
5. Mushrooms - commercial agricultural enterprise.
6. Tomatoes - commercially grown for fresh marketing or processing.
7. Cantaloupes - commercially grown for fresh market.
8. Snap beans - commercially grown for processing.
9. Pumpkins - commercially grown for fresh market.
10. Strawberries - commercially grown for fresh market or processing.
11. Potatoes - commercially grown for fresh market or processing.
12. Sweet corn - commercially grown for fresh market or processing.
13. Christmas trees - grown as a rotation crop with a management plan for cultivation, harvesting and replacement of Christmas trees.
14. Floriculture crops - grown as a commercial agricultural enterprise.
15. Maple syrup - commercial agricultural enterprise
16. Sod, nursery stock, ornamental trees and shrubs-grown for commercial agricultural enterprise with the Deed of Easement restriction that removal of excess soil is **prohibited**.
17. Crown vetch- plugs or seed grown as a commercial agricultural enterprise.
18. Comply with the amendments (Act 14 of 2001) to the Agricultural Area Security Law (Act 43) which prescribes the process for purchasing Agricultural Conservation Easements from land owners whose parcel boundaries cross local government and county boundaries.

## COMMERCIAL EQUINE ACTIVITIES AMENDMENT

### CLINTON COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM AMENDMENT

In accordance with the regulations at 7 PA Code § 138e.43 (relating to revision of county programs), the county board, hereby, revises the County Agricultural Land Preservation Program in compliance with Act 61 of 2005 amendments of the Agricultural Area Security Law, Act 43 to take affect for the 2006 applicants. This Act is retroactive and applies to easements executed after June 29, 1981. The revisions to the county program are described by section.

#### **DEFINITIONS**

##### Commercial Equine Activity

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

##### Agricultural Security Areas

Section 14.05(a) of Act 43 is amended to include “or of viable agricultural land a portion of which is used for commercial equine activity,” to the first sentence of this section.

#### **COUNTY PROGRAM**

Sections 14.1(B)(2)(I) and (C)(6) of Act 43 are amended to include “establishing minimum criteria for eligibility of viable agricultural land a portion of which is used for commercial equine activity.”

#### **RESTRICTIONS AND LIMITATIONS**

Section 14.1(C)(6)(iii) of Act 43 is amended to allow “Construction and use of structures on the subject land necessary for agricultural production “or a commercial equine activity.””

Section 14.1(C)(6)(VI) of Act 43 allows for “Commercial equine activity on the subject land.”

#### **AMENDMENT OR ADDITION OF SECTION**

Section 4 of Act 61 of 2005 states, “The amendment or addition of section 14.1(C)(6)(III) and (VI) of the Act shall apply to easements executed after June 29, 1981.”