



**NORTHAMPTON COUNTY
FARMLAND PRESERVATION
EASEMENT PURCHASE PROGRAM**
Northampton County Farmland Preservation Board

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This program was re-certified by the State Agricultural Land Preservation Board in 2012 and must be re-certified every seven years thereafter.

INTRODUCTION

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

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

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

- *Encourage a long-term commitment to agriculture.**
- *Protect normal farming operations.**
- *Conserve viable agricultural lands.**
- *Purchase agricultural conservation easements.**

Understanding Farmland Preservation

WHEN DID THIS PROGRAM BEGIN?

In mid-February of 1989, Pennsylvania entered a new phase in its efforts to preserve the Commonwealth's farmland resources. A statewide program to purchase agricultural conservation easements (also commonly referred to as "development rights"). Farmers whose land is included in an Agricultural Security Area will be eligible to sell conservation easements, on a voluntary basis to a county agricultural land preservation board. Northampton County preserved its first farm in 1993 in Lower Mount Bethel Township.

WHAT IS AN AGRICULTURAL CONSERVATION EASEMENT?

An agricultural conservation easement is the property owner's right to prevent the development or improvement of the land for any purposes other than agricultural production. It is a legally binding contract that runs with the land. By selling the "development rights", it prevents that land from ever being developed. It is a legally binding agreement the property owner makes that restricts the land to agricultural production in perpetuity while retaining private ownership.

HOW WOULD PURCHASING AGRICULTURAL CONSERVATION EASEMENTS PRESERVE AGRICULTURE?

It would provide compensation to farmers for easement values of farmland they preserve in long-term agricultural use. By selling conservation easements, the farmer would receive the easement value of the property without having to sell it for non-farm development. Purchasing agricultural conservation easements provides a long-term, permanent solution to farmland conversion.

WHO DETERMINES THE VALUE OF AGRICULTURAL EASEMENTS?

The county farmland preservation board determines the market value, easement value, and the farmland value of the property by retaining independent licensed real estate appraisers.

HOW LONG ARE AGRICULTURAL CONSERVATION EASEMENTS?

Agricultural Conservation Easements are held in perpetuity, or forever. They run with the land. If the land is sold, transferred, or willed, the easement will follow the land.

WHAT ARE THE FARMER'S RIGHTS AFTER SELLING A CONSERVATION EASEMENT?

The right to develop or prevent development is only one of many rights in a property owner's "bundle of rights". Some of the rights include the right to sell, lease, mortgage, leave to heirs, mineral rights, air rights and surface rights. After selling the conservation easement, the owner retains all of the other rights and responsibilities that go along with property ownership. Selling conservation easements would not prevent constructing buildings used for agricultural production, including a structure for housing seasonal or full-time workers.

WHAT IS THE MINIMUM CRITERIA FOR ELIGIBILITY?

Property that is eligible to be preserved through this program is contiguous acreage of 50 acres or more (25 acres for a county only purchase), or 10 acres or more contiguous to a previously preserved farm. Property must be located within an Agricultural Security Area and composed of soils available for agricultural production that are 50% classes I through IV. The property must be at least 50% cropland, grazing or pasture, and zoned in agricultural and open space use. (Criteria for properties in municipalities participating in the Township Partnership Program may differ. Call the office for more information.)

WHO IS ON THE COUNTY FARMLAND PRESERVATION BOARD?

The county board will be composed of 5, 7, or 9 members appointed by the county governing body. On five member boards, two members are required to be farmers; seven and nine member boards must have three or four farmer members respectively. A current member of a township or borough governing body and a building contractor must also have membership status on the board.

HOW WILL THE MONEY TO PURCHASE CONSERVATION EASEMENTS BE ALLOCATED?

County contributions are determined by county government, whether that be allocated county budget funds or through other dedicated funding sources. Roll back interest from the County's Clean and Green Act (Act 319) is also utilized. The state then matches that allocation. Since July of 1993, a two-cent per pack cigarette tax has provided about \$21 million per year for the Easement Purchase Program. Also, since the introduction of Federal farm bills, millions in federal funds have been allocated toward the purchase of easements. And beginning in 2011 in Northampton County, township funding has been used towards the preservation of farms in those municipalities.

Although the primary reason to protect important parts of the community is to ensure a high quality of life, saving farmland saves money for the taxpayers. Farmland preservation is a fiscally sound activity and an investment in the community's future!

HOW THE PROGRAM WORKS

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

An ASA is acreage formally designated by the appropriate municipality(ies) for the production of crops, livestock, and livestock products. There is no fee to join an ASA, and there is no financial, zoning, or other such penalty for the change of land use in an ASA. Farms in ASAs are protected from new ordinances, which would restrict normal farming operations or define farms as nuisances. In addition, an ASA farm receives another level of protection from taking by eminent domain, through additional approvals needed before condemnation. The process for forming ASAs begins with landowners. ASAs have already been established in Allen, Bushkill, East Allen, Forks, Lehigh, Lower Nazareth, Lower Mount Bethel, Moore, Plainfield, Washington, Upper Mount Bethel and Williams Townships. Land preserved through the Agricultural Conservation Easement Program must be located in an ASA containing at least 500 acres. Landowners should contact their municipality for more information.

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

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

A farm containing land in more than one county may be preserved in one agricultural easement purchase application. The process for a cross-county easement is further described on page 10, "Minimum Criteria."

Based on available funding, the Farmland Preservation Board will order real estate appraisals for the farms scoring highest in the ranking system each year. The purpose of the appraisal is to determine the value of the land and the value of the conservation easement.

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

When purchasing an easement with state funds, the Farmland Preservation Board will submit completed contracts of sale, along with a summary report and other supporting documentation, to the State Agricultural Land Preservation Board for its approval. Following its own review, the State Agricultural Land Preservation Board must approve or deny the purchase of development rights on each farm.

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

A more complete description of the program can be found in the Process of Preserving Farmland section. In addition, a sample copy of the application form (page 24) and a description of the ranking system (page 20) are included in this booklet. Below is an abbreviated overview of the steps to sell an agricultural conservation easement.

The entire process generally takes approximately one to two years to complete.

A brief summary of the process:

1. The landowner joins an Agricultural Security Area (ASA).
2. The owner submits an application to the Northampton County Farmland Preservation Office during the yearly application round.
3. The easement application is evaluated by the Farmland Preservation Office and given a score based on factors listed on pages 20-23 of this program booklet.
4. The County Farmland Preservation Board selects the highest-scoring farms for appraisal based on available funding.
5. Following the appraisal, the Farmland Preservation Board will make an offer of the easement price to the landowner. If an agreement is reached, the owner signs an agreement of sale.
6. For easements receiving State funding, a report is prepared for State Agricultural Land Preservation Board approval.
7. After State Board approvals, settlement is held. The owner signs the deed of easement and receives payment for the easement.
8. Yearly inspections are conducted to ensure compliance with the provisions of the easement deed.

STATEMENT OF PURPOSE OF NORTHAMPTON COUNTY FARMLAND PRESERVATION BOARD

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

Further, it is the purpose of this program to:

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

**NORTHAMPTON COUNTY
FARMLAND PRESERVATION BOARD OF DIRECTORS**

1) **Name** Todd Gulick
Address 6504 Koehler Rd.
Bangor, PA 18013
Phone 610-498-3020
Occupation Farmer
Term Expires 6/30/2016
Office Served Chairperson since 1/7/14

2) **Name** Robert Doerr
Address 170 Old Well Rd.
Easton, PA 18042
Phone 610-559-1769
Occupation Builder/Developer
Term Expires 6/30/2017
Office Served Vice-Chairperson since 1/8/13

3) **Name** Terry Kromer
Address 206 Richard Garr Rd.
Easton, PA 18040
Phone 610-258-5050
Occupation Farmer
Term Expires 6/30/2017
Office Served Director

4) **Name** Andy Thierry
Address 682 Rose Inn Ave.
Nazareth, PA 18064
Phone 610-614-1524
Occupation At Large-Public
Term Expires 6/30/2016
Office Served Director

5) **Name** Roger Unangst
Address 7317 Bath-Bethlehem Pike
Bath, PA 18014
Phone 610-837-7531
Occupation Township Supervisor
Term Expires 6/30/2015
Office Served Director

Updated August 2014

MINIMUM CRITERIA FOR APPLICATIONS RECEIVING COMMONWEALTH FUNDING

Any landowners applying for easement purchase must first meet certain eligibility criteria before continuing the process. Landowners who may receive funding from the Commonwealth must meet the criteria as required by Section 138e.16 of the State regulations and described in the first section below. Easements purchased using Commonwealth funding may be acquired jointly with County funds or as multi-funded easements with State, County and Municipality funding or with State and Municipality funding. Landowners not meeting these minimum criteria may still be eligible if they meet the criteria on page 12 of this booklet.

Before a site is ranked under the numerical ranking system, it must first meet the following minimum criteria as required by Section 138e.16 of the state regulations:

As of January 1, 1998, the following criteria will apply.

The farmland tract shall:

- A. Be one or more of the following:
 1. Located in an agricultural security area consisting of 500 acres or more.
 2. Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.
 3. Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:
 - a. A mansion house on the tract 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 in the purchasing county.
- B. Contain at least 50% of soils, which are both available for agricultural production and of Land Capability Classes I through IV, as defined by the USDA-NRCS.
- C. Contain the greatest of 50% of harvested cropland, pasture, or grazing land.
- D. Be contiguous acreage of at least 50 acres in size* unless the tract is at least 10 acres in size and is either utilized for a crop unique to the area or is contiguous to a property which has a perpetual conservation easement in place held by a

“qualified conservation organization” as that term is defined in Section 170h.3 of the Internal Revenue Code.

Contiguous acreage is defined as all portion of one operational unit as described in the deed, or deeds, whether or not the portions are divided by streams, public roads, bridges, and whether or not described as multiple tax parcels, tracts, purports, or other property identifiers. It includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds, and streams.

***25-49 acres for a County only purchase per Northampton County Guidelines.**

MINIMUM CRITERIA FOR COUNTY FUNDED APPLICATIONS

At the discretion of the Farmland Preservation Board, an easement may be purchased using County funding.

The farmland tract:

- A. Shall be located within a duly recorded ASA comprised of at least 500 acres.
- B. Must contain 50% of soils, which are both available for agricultural production and of Land Capability Classes I through IV, as defined by the USDA-NRCS.
- C. Shall contain the greater of 50% of harvested cropland, pasture, or grazing land.
- D. May contain 25-49 or more of contiguous acres of land.

An easement may be purchased on a farm situated in more than one county. The county processing the application is the county containing the farm's mansion house. In the absence of a mansion house, the county containing the greater portion of land is the one to process the application. That County Program's minimum eligibility criteria will apply to the entire applicant tract. Act 14 of 2001 establishes this option; the provisions of Act 14 apply to Northampton County applicants.

MINIMUM CRITERIA FOR TOWNSHIP PARTERSHIP PROGRAM

Beginning in 2011, municipalities in Northampton County can partner with the Farmland Preservation Program through our Township Partnership Program. This program enables townships to preserve farms in their community using funds raised through an earned income tax referendum. The minimum criteria for applications in the Township Partnership Program may differ from the minimum criteria for county funded applications. Call the office for more information.

AUTHORIZATION AND PUBLIC INFORMATION

Authorization

The Northampton County Farmland Preservation Board was officially appointed and authorized by County Council Resolution Number 34-89, adopted on the 6th day of July, 1989 as authorized under Pennsylvania Act 43 of 1981, as amended by Act 149 of 1988.

Public Information

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

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

Northampton County Farmland Preservation Program is subject to the regulation promulgated under authority of the Agricultural Area Security Law (Act of June 30, 1981, P.L. 128, No. 43) (3 P.S. §§ 901-915) at 7 PA. Code Chapter 138e.

THE PROCESS OF PRESERVING FARMLAND

•APPLICATION•

*Applications are accepted from November 1 to December 15 each year. All applications **must** be received in the Farmland Preservation office by 4:00 pm on December 15, or as otherwise noted.*

•RANKING•

The time it takes the Administrator to complete the ranking process fluctuates with the number of applications that are received and the amount of follow-up required to determine eligibility. However, the goal is to complete the process as soon as possible after the submission deadline.

- Step 1:** *Landowner voluntarily submits application to the Northampton County Farmland Preservation Board (NCFPB) during the application period.*
- Step 2:** *NCFPB Administrator reviews application for completeness and determines if proposed farmland meets minimum eligibility criteria.*
- Step 3:** *Application is ranked in accordance with the State's Farmland Ranking System.*
- Step 4:** *NCFPB Administrator estimates the number of appraisals that can be initiated using average per acre easement values and the ranking list. Landowner is notified of eligibility status.*

PLEASE NOTE:

- 1. A separate application shall be required for each tract offered for easement purchase that is located on separate deeds.**
- 2. The application that is submitted for consideration MUST be complete. All information requested must be provided. Contact this office with any questions regarding the completion of the application.**
- 3. The number of acres submitted for easement purchase cannot be changed by more than 5%—excluding the land underneath the existing buildings—after the application has been ranked, or the application shall be withdrawn. Please call the office for more information.**
- 4. The application period for completed applications runs from November 1st to December 15th. The deadline for application submission will be 4:00 p.m. December 15th each year. No applications will be accepted after this date and time.**

•AGRICULTURAL SECURITY AREA (ASA)•

Timeline: 180 days from Township's receipt of petition, or less depending on processing method.

Step 5: *All land submitted for preservation must be enrolled in an ASA at the time of application. NCFPB Administrator confirms the ASA status of the land proposed for preservation. Any parcels not enrolled in an ASA at the time of preservation application will not be eligible. If the land is not in an ASA, the Administrator will assist the Landowner with the process of applying to the Township (where the land is located) to add his/her land to an existing ASA in order that the landowner may be eligible for preservation in the future.*

•SOIL CONSERVATION PLAN•

Timeline: Several months depending on NRCS workload and whether an update or new plan is required.

Step 6: *NCFPB Administrator confirms whether or not there is a current Conservation Plan for the land proposed for preservation and designed for use by the current farm owner/operator. If a new, or updated, plan is required, NCFPB Farmland Preservation Technician will initiate the process with the Natural Resource Conservation Service (NRCS). Plans often take several months to complete and must be done prior to settlement. If a nutrient management plan (Act 38) is required, the landowner must have this plan completed prior to the completion of the easement process. Landowners will be responsible for full compliance with all practices within the conservation plan.*

•APPRAISAL & REVIEW OF APPRAISAL•

Timeline from Step 7 thru Settlement: Generally 18 - 24 months.

Step 7: *NCFPB contacts Landowner to request a \$2,200 appraisal deposit, which is refundable upon settlement of the conservation easement. **If a landowner withdraws from the program at any time, he will forfeit this deposit and will be responsible for all costs incurred by NCFPB at time of withdrawal.***

Step 8: *NCFPB engages a state certified Appraiser to appraise the easement value of the land proposed for easement sale. The easement value is the difference between the market value and the agricultural value.*

Step 9: *Appraiser submits completed appraisal to NCFPB.*

Step 10: *Appraisal will be reviewed by the NCFPB Administrator and the Board.*

•OFFER TO PURCHASE EASEMENT•
•AGREEMENT•

Step 11: *Within 30 days, after the receipt of the appraisal, the Landowner can either accept or reject the offer. The landowner may have a 2nd appraisal done at his/her own expense, for tax purposes, if they so choose.*

However, the County Board's offer will not change, and shall remain open until rejected or accepted by the applicant

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

Step 12: *NCFPB Administrator meets with the Landowner to review the appraisal, state the offer, review the easement provisions, subdivision guidelines, agreement terms and conditions, and to answer Landowner questions. The agreement of sale is considered the Board's written offer to purchase an easement.*

Step 13: *When an offer is accepted, the Landowner signs the Agreement and various required documents in the agreement package, such as a W-9 tax form, Percentage of Ownership form, etc.*

•SURVEY•
•TITLE SEARCH ISSUES•
•REVISED AGREEMENT•

Step 14: *Survey work is initiated by the NCFPB and must meet an error of closure, which is expressed as a ratio, greater than one foot per 200 linear feet (1':200') as plotted from the recorded legal description.*

- a. *Any building structures (residential structures, agriculture buildings, out buildings, etc.) located on the property at the time of the survey will be excluded from the easement. The remaining acreage as determined by the surveyor will be the final acreage listed on the deed of easement.*
- b. *A landowner who voluntarily removes more than 5% of the submitted acreage listed on their application (excluding the land underneath the existing buildings) for any use, other than preservation, will be withdrawn from the program and will forfeit their \$2,200 deposit.*

c. *Once the survey is submitted to the NCFPB, it will be considered final. No changes to exclude additional acreage will be permitted.*

Step 15: *NCFPB initiates Title Search. When Title Search is completed, NCFPB Administrator and Solicitor will work with the landowner to resolve title issues.*

a. *Subordination agreements or payoff letters are acquired when appropriate for outstanding mortgages, etc.*

b. *Miscellaneous title issues are resolved in an appropriate manner.*

Note: *All agreements shall be subject to the ability of the applicant to provide clear title to the premises, free of any encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest and other encumbrances that would adversely impact the County/Commonwealth interest in the farmland tract.*

Step 16: *Agreement is revised, if necessary, due to: (1) surveyed acreage, and/or (2) confirmation of payment (lump sum, installments, like-kind exchange, etc.). The Deed of Agricultural Conservation Easement is prepared.*

•ADJACENT LANDOWNER NOTIFICATION•

Step 17: *Neighboring landowners are notified by certified mail that land adjacent to theirs is in the process of being preserved.*

•APPROVAL BY COUNTY BOARD & STATE BOARD•

Step 18: *For all proposed conservation easement purchases – Review materials are presented to County Farmland Preservation Board for their review and approval, rejection, or recommendation for modification.*

Step 19: *For conservation easement purchases funded by the State, or jointly funded by the State and County only – Review materials are sent to the State Board several weeks prior to the meeting during which the proposed easement is presented for discussion and decision.*

PLEASE NOTE: *At public meetings there may be members of the Press present and the easement purchase may be publicized.*

•SETTLEMENT•

Step 20: *If the easement purchase is funded with County monies, checks are requested from Budget Administrator & settlement is scheduled within a week or two of approval. These settlements take place at the office of NCFPB's closing agents.*

If State approval is required, then settlement will be scheduled as soon as the funding is received. These settlements generally take place at the office of NCFPB's closing agents.

PLEASE NOTE:

- 1. Upon approval of the purchase of a conservation easement, a real estate settlement will be held. At settlement the landowners will sign the agricultural easement deed. The deed shall include the provisions of Sections 138e.67 and 138e.241 of the State Regulations.*

- 2. A legal description of the exact area under easement is needed, in accordance with §138e.67 of the State Regulations. The survey requirements will follow the provisions of §138e.73. The cost of preparing the legal description and the survey will be paid by the county. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the farmland tract subject to the easement.*

- 3. Grantees shall be those entities which provided funding, in the proportion that they provided the funding, as defined in the Act.*

- 4. For purchases made entirely with County funds, the County shall be the sole grantee.*

- 5. For purchases made using a combination of State, County, and local Municipality funds, the grantees shall be the Commonwealth, the County, and the local Municipality providing the funds under joint ownership as defined in the act.*

6. *For purchases made entirely with local Municipal funds, the Municipality shall be the sole grantee.*

7. *In the event that one application consists of more than one tax parcel, (that are not currently recorded on one deed) those parcels should be consolidated under a Deed of Consolidation, if legally feasible as determined by the County Farmland Preservation Board. The Deed of Consolidation will be recorded prior to settlement on the agricultural easement.*

Updated November 2012

NORTHAMPTON COUNTY FARMLAND RANKING SYSTEM

A. INTRODUCTION

The Farmland Ranking System is to be used to rank and prioritize for the purchase of Agricultural Conservation Easements.

The system is designed to take the total accumulative points of the entire ranking system, to determine which farmland should be appraised for Agricultural Conservation Easement purchase.

The system shall address conditions at the time the application is processed.

B. CRITERIA

1. Location

The availability of utilities in relationship to the farm location and other farm locations.

The zoning of the farm, to be compatible with the land use of the municipality.

2. Resources

Soil capability, the ability of the farm to produce, plus size to make it worthwhile to sustain a farming operation.

Human resources adequate to maintain the farm at present and future status.

3. Stewardship

Soils; are they being protected to sustain maximum agricultural commodity production.

4. History

Has the farm been operated by the same family for many years. If the farm has any historic, scenic or environmental qualities that are of concern that effect the easement purchase decision.

FARMLAND RANKING SYSTEM

Soils (LE)

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 the relative values for each soil. Relative values are included in the soil survey.

a. Land Evaluation.

(i) Source of soils data. A farmland ranking system shall designate either or both of the following as the source of the soils data used in LE:

(a) The County Soil Survey, as published by the USDA Natural Resource Conservation Service (USDA-NRCS) in cooperation with the Pennsylvania State University and the Department of Environmental Resources.

- (b) The Soil and Water Conservation Technical Guide maintained and updated by the USDA-NRCS.
- (ii) Relative value of soil. The County program shall 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.
- (iii) 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.
- (iv) 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 (40%) assigned to the LE score under the County program.

Site Assessment (SA)

- (i) 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:
 - (a) Development Potential Factors. Factors that identify the extent to which development pressures are likely to cause conversion of agricultural land to nonagricultural uses.
 - (b) Farmland Potential factors. Factors that measure the potential agricultural productivity and farmland stewardship practiced on a tract.
 - (c) Clustering Potential factors. 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.
- (ii) Scoring scale. The County program shall require that each of the three general categories of factors described in paragraph (i) ranks tracts on a 100-point scale. The total combined maximum score under these categories shall be 300 points.

a. Development Potential (DP)

- (i) Availability of Sewer and Public Water

Public water or sewer on farm	25
Public water or sewer within ½ mile of farm.....	15
Public water or sewer within 1 mile of farm.....	7
Public water or sewer within 2 miles of farm	0
- (ii) Development Pressure, subdivision on contiguous lots of 5 or more residences

Development adjacent to property line	30
Within ½ mile of property line	20
More than ½ mile from farm property line	10
- (iii) Road Frontage Available

1000 feet or more of public road frontage.....	25
400 to 999 feet of public road frontage.....	15
1 foot to 499 feet of public road frontage.....	7
No public road frontage	0

- (iv) Distance to Urban Center
 The shortest distance between the tracts boundary and the boundary of the closest incorporated borough or city within Northampton County will be measured.
 One mile 20
 Two miles 10
 Greater than two miles 0

** The sum of the scores for each of these four factors will be multiplied by 10% to yield the final weighted development score

b. Farmland Potential

The percent of the farm used for crop or pasture will be based on acreage's reported on the application and verified through NRCS or CFSA.

- (i) Percent of tract in harvested crop, pasture or grazing
 90% to 100% of tract in harvested cropland/pasture/grazing..... 30
 70% to 89% of tract in harvested cropland/pasture/grazing 20
 50% to 69% of tract in harvested cropland/pasture/grazing 10
- (ii) Size of Tract on Application
 100 acres or more 30
 99 to 50 acre..... 15
 Less than 50 acres or 10 acres or more contiguous to another
 eased tract or farm..... 5
- (iii) Stewardship
 NRCS Conservation Plan fully implemented or adequate
 conservation practices implemented 20
 NRCS Conservation Plan with at least 50% implemented
 conservation practices 10
 No conservation practices implemented 0
- (iv) Historic/Scenic/Environmental Qualities
 Located adjacent to scenic/open space/historical or
 cultural significant land 10
 (flood plains, wildlife habitat, high quality watersheds)
 Located adjacent to park/recreation area owned by Federal/
 State/County/Local Government..... 7
 (parks, forest, education centers, state gamelands)
 Property not adjacent to (a) or (b)..... 0
- (v) Percentage of farm offered for Easement Purchase
 100% of deeded acreage (minus homestead exclusion) 5
 Additional exclusion areas being left out of easement..... 0
- (vi) Ownership
 Farm owner derives majority of income from farm operation 5
 Family member of farm owner derives majority of income from
 farm operation 3
 No family member of farm owner derives an income from farm operation..... 0

** The sum of the scores for each of these six factors will be multiplied by 20% to yield the final weighted Farmland Potential Score (FP).

c. Clustering Potential (CP)

- (i) Contiguous Farms Adjacent to Farms Preserved by Conservation Easements
 - Farmland contiguous on all sides of property to an eased property 40
 - Farmland contiguous on portion of property to an eased property 20
 - Farmland not contiguous to an eased property 0

- (ii) Contiguous Farms Participating in Ag Security Area Program
 - Farmland contiguous on all sides of property included in ag security area.... 20
 - Farmland contiguous on portion of property included in ag security area 10
 - Farmland not contiguous to property included in ag security area..... 0

- (iii) Contiguous Farms Participating in Purchase of Development Rights
 - Contiguous farm applied for purchase of development easements 100+ acres 10
 - Contiguous farm applied for purchase of development easements 99 to 50 acres 5
 - No contiguous farms 0

- (iv) Consistency with Regional Comprehensive Plan
 - Tract consistent within Farmland Protection Area 30
 - Tract consistent within Natural Features Area 15
 - Tract consistent within Rural Area 5
 - Tract consistent within Urban Area 0

** The sum of the scores for each of these four factors will be multiplied by 30% to yield the final weighted Clustering Potential Score (CP).

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

C. CALCULATION OF FARMLAND RANKING SCORE

The sum of the weighted LE score and the weighted SA score equals the farmland ranking score.

D. 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 of farmland ranking score

Updated November 2012

Northampton County Agricultural Conservation Easement Program

Sample Application Form

For Office Use Only

App. # _____

Date Rc'd _____

Landowner Information

This application must be completed in its entirety.

Name: _____ <small>(PLEASE PRINT)</small>	SSN# _____
Address: _____ <small>(Street/Rd)</small>	(City) _____ (State) _____ (Zip Code) _____
Property Address: _____ <small>(If farm address is different from mailing address)</small>	(City) _____ (State) _____ (Zip Code) _____
Telephone Number: _____	Cell # _____
Email Address: _____	
Name and phone number of person actively farming tract: _____	
	<small>Name</small> _____ <small>Phone#</small> _____
Is this operation a:	<input type="checkbox"/> Corporation* <input type="checkbox"/> Partnership** <input type="checkbox"/> Sole Proprietorship
	<small>*Submit Articles of Incorporation with application</small> <small>**Submit copy of Partnership Agreement with application</small>

Property Information

1 Total number of parcels submitted: <input style="width: 50px;" type="text"/>	2 Municipality: _____
3 Total Acreage of farm tract: <input style="width: 50px;" type="text"/>	4 Agricultural Security Area: _____ <small>Tow nship</small>
5 Acreage being excluded from the easement: <input style="width: 50px;" type="text"/> <small>(If you are excluding acreage outside of the existing building envelope, you MUST attach a detailed map showing the exclusions. Applications without this map will be rejected.)</small>	6 Deed Book & Page of ASA: _____ / _____ <small>Book Page</small>
7 Tax Parcel ID# and acreage for each:	
_____ / _____ / _____ <small>Map Block Lot</small>	Acreage: _____ Deed Book & Page: _____ / _____
_____ / _____ / _____ <small>Map Block Lot</small>	Acreage: _____ Deed Book & Page: _____ / _____
_____ / _____ / _____ <small>Map Block Lot</small>	Acreage: _____ Deed Book & Page: _____ / _____
_____ / _____ / _____ <small>Map Block Lot</small>	Acreage: _____ Deed Book & Page: _____ / _____
8 Total acreage offered for easement: <input style="width: 50px;" type="text"/> <small>(Enter the amount of acreage you are preserving: this figure cannot change more than 5% after the application has been submitted.)</small>	

Overview of Farm Operation

9 How long has the property been owned by the same family? _____
 (*Please attach copy of Century Farm Certificate) Less than 50 yrs 51-99 years Over 100 years*

10 How is your land zoned? Agricultural Agricultural w/Residential
 Conservation Commercial Commercial/Industrial

11 Do you have public water or sewer? If so how close? _____ YES NO

12 Are there any cemeteries located on this property? YES NO

13 Are there any railroads located on your property? YES NO

14 Are there any underground storage tanks located on the property? YES NO

15 Are there any equine activities on the property? YES NO
 Please describe: _____

16 Is your property located adjacent to:
 Scenic, open space, historical or cultural significant land (flood plains, wildlife habitat, high quality watershed/streams) YES NO
 Park/recreation area owned by Federal/State/County/Local YES NO
 Please describe: _____

17 Are there right-of-ways or easements through this property? YES NO
 Please describe: _____

18 Based on Act 38 of 2006, are you required to have a Nutrient Management Plan? YES NO
 Plan Date: ____/____/____

19 How many acres of land proposed is enrolled in CRP/CREP? (Conservation Reserve Program/Cons. Reserve Enhancement Program)
 Please circle one: CRP CREP Acreage: _____ Contract period: ____/____/____ through ____/____/____

20 Do you have a USDA/NRCS Soil Conservation Plan? YES NO

21 Conservation Plan Date: Plan # Name on plan: _____

22 What percentage of the plan is currently being implemented? %

23 List ALL conservation practices currently in use: _____
 (List only those in use on the farm being submitted for preservation.) _____

24 Pasture or crops grown on land proposed for easement (past two growing seasons) List types of livestock on the farm:

Season 1			Season 2			Livestock:		Amount:
Pasture/Crops	Acreage	Yield	Pasture/Crops	Acreage	Yield			

Other Important Information

25	List property owners with Preserved Easements that are contiguous to your property: _____
26	What businesses other than agricultural production are located on the farm?
27	Please list information regarding any current agreements to sell the property: _____ (Please note: We will not accept applications on properties that are currently under an agreement of sale.)
28	Please list any mortgages or liens held against this property: (List name of mortgage(s) or lien holder and type of lien)
29	Please give a list of buildings existing on the property:
30	Please specify any historic or environmental features found on the property:
31	Street location of farmland tract (include CLEAR directions from nearest State Route)

"I/We hereby, authorize the Conservation Plan preparer to release copies of the Conservation Plan and Nutrient Management Plan (Act 38, if applicable), to the Northampton County Farmland Preservation Board and the Bureau of Farmland Preservation as required under Act 43 criteria for easement purchase.

I/We acknowledge that I am fully aware if there is a deviation from the original amount of submitted acreage listed on this application, The Northampton County Farmland Preservation Board or their designee has the right to disqualify my application and it will be withdrawn.

I/We, authorize Northampton County Farmland Preservation to release and forward a copy of this application to officials in my municipality for possible consideration of an easement purchase at the municipal level.

I/We, do hereby verify that I/We have reviewed the application. I/We further verify that the application correctly and accurately depicts the condition of the land and that such statements are true and correct to the best of my/our knowledge, information and belief. These statements are being given by me/us to induce official action on the part of the Northampton County Farmland Preservation Board, its agents, officers, servants, and employees. I/We understand that any false statements made herein are being made subject to the penalties of 18 P.A.C.S Section 4904 relating to unsworn falsification to authorities."

Thank you for taking the time to complete this application as accurately as possible.

Print Name:	Signature:	Date:
Print Name:	Signature:	Date:
Print Name:	Signature:	Date:
Print Name:	Signature:	Date:

(If additional signatures are needed, please copy this page)

Updated 9/13

Application round is open from November 1st to December 15th of each calendar year. The application is due back in the office no later than 4:00 PM December 15th.

RESPONSIBILITY OF OWNER

Once the easement is in place, it will be the responsibility of the owner of the farmland tract to comply with the requirements of Chapter 138e.241 of the State Regulations regarding permitted and required acts, including maintaining a soil conservation plan, the construction of buildings, and part-time or off-season activities listed on Page 28. Activities listed under *Rural Enterprise/Part Time or Off Season Activities* are permitted, but are not to be considered the primary farming activity on the land. These requirements are set forth in Chapter 138e.227, the deed, and the agreement.

SUBDIVISION

When a landowner wishes to subdivide a farm property which is under agricultural conservation easement, the County Farmland Preservation Board must first determine whether the land will remain economically viable for agriculture after subdivision, with the exception of a tract for the construction of the one permitted house, not to exceed two acres.

To subdivide a farm, a landowner completes a subdivision application form and submits it to the County Farmland Preservation Board. To obtain a subdivision application form, contact the Northampton County Farmland Preservation office. An outline of the subdivision guidelines can be found on page 30.

CHANGE OF OWNERSHIP

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

1. The deed conveying an interest in the restricted land shall set forth the language of the easement restrictions verbatim.
2. A request for transfer of ownership must be completed and approved by the Farmland Preservation Board. (Contact this office to obtain this request form)
3. Within 30 days of a change in ownership of the restricted land, the prior owner shall notify the County Board and the State Department of Agriculture of the name and address of the new owner, the price per acre or portion thereof received for the eased land, and the volume and page in which the transfer has been recorded by the County Recorder of Deeds.

RURAL ENTERPRISE & PART TIME OR OFF-SEASON ACTIVITIES

Pursuant to State Regulations Section 138e.241, the County Board intends that agricultural conservation easements shall not prevent “customary part-time or off-season minor or rural enterprises and activities”. Items listed here are in addition to the main farm operation and are not intended to substitute for the required production agriculture.

Customary part-time or off-season minor or rural enterprises and activities provided for in the County Agricultural Conservation Easement Purchase Program approved by the State Board are permitted. The following is a list of activities considered agriculturally compatible uses of farm properties in Northampton County:

- 1) The direct sale to the public of agricultural products produced principally on the farm, provided that at least 50% of such products are produced by the farm operator.
- 2) 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.
- 3) The provision of services or production and sale, principally by persons in residence, of incidental agricultural goods, services, supplies and repairs and/or the conduct of traditional trades and the production and sale of home occupation goods, arts and crafts, **as long** as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying residential and/or principally agricultural structures of the property.
- 4) Structures and facilities associated with irrigation, farm pond improvements, and soil and water conservation practices including but not limited to Wetland Development or Restoration, Wildlife Wetland Habitat Management, Wildlife Upland Habitat Management and Riparian Forest Buffer Resource Management Systems used for erosion and sediment control and water quality improvement. The State Agricultural Land Preservation Board approved and authorized on 7/13/00 the use of any conservation practices under CRP/CREP (USDA programs) as not violating the deed of agricultural conservation easement with respect to the restricted land provided the conservation plan as revised allows for the implementation of any such conservation practices.
- 5) 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.
- 6) Any and all structures contributing to the production, primary processing, direct marketing and storage of agricultural products produced principally on the farm. Other similar uses upon written approval of the Northampton County Farmland Preservation Board and State Agricultural Land Preservation Board.

- 7) Agriculture-related services or activities associated with customary part-time or off-season minor rural enterprises and activities incidental to agricultural production. These services and activities are permissible as long as they remain incidental to the agricultural and open space character of the farm. No excavating, paving, gravelling, construction of permanent non-agricultural structures or other activities which would diminish the productive capacity of the soils is permitted in connection with such activities. (Examples include but are not limited to: beekeeping, corn mazes and similar farming activities, hayrides, hunting, and educational tours.) The County Board reserves the right to review and approve these activities on a case-by-case basis.
- 8) The installation of communication antennae along with associated equipment and structures shall be permitted, provided that the installation or construction of any permanent non-agricultural equipment or structures associated with the communication antennae shall be located within the existing curtilage at the base of the existing structure supporting the communications antennae and such associated equipment or structures shall remain incidental to the agricultural and open space character of the property. The County board reserves the right to give final approval as to the location of tower, structures, and access roads.
- 9) Regulated hunting operations and the production and stocking of game birds so long as these uses remain incidental to the agricultural character of the property.

(This provision is retroactive to February 14, 1991, when the County program was approved by the State Board.)

*The County Farmland Preservation Board reserves the right to review and approve these activities on a case-by-case basis.

Please note: The above provisions shall also be in accordance with all local and or municipal ordinances.

Updated 11/12

PROCEDURE FOR SUBDIVISION
NORTHAMPTON COUNTY AGRICULTURAL CONSERVATION EASEMENT
PROGRAM

Purposes

The purposes of these Subdivision Guidelines are to implement the subdivision provisions of Pennsylvania's "Agricultural Security Law" (the "Act") (3 P.S. Sections 901-915), as amended, and the Regulations promulgated thereunder by the Pennsylvania Department of Agriculture (the "Regulations"), and to provide for the administration of such Act and Regulations, in conjunction with the present Subdivision Guidelines, as appropriate for Northampton County, Pennsylvania.

General Provisions

Land subject to an Agricultural Conservation Easement may be subdivided, provided the owner(s) meet(s) the criteria listed herein. Subdivisions contrary to these criteria will not be permitted. Liability for all expenses incurred for such subdivision shall be the sole responsibility of the landowner(s). The burden of proof that any proposed subdivision of land subject to an Agricultural Conservation Easement conforms to and complies with the Act, the Regulations and the present Subdivision Guidelines shall be upon the applicant(s)/landowner(s). The County of Northampton may attach reasonable and appropriate conditions upon any subdivision approval of land subject to an Agricultural Conservation Easement as may be necessary to insure perpetual compliance with the Act, the Regulations, the Deed of Agricultural Conservation Easement, and the present Subdivision Guidelines.

Definitions

See Section I-B of the Northampton County Farmland Preservation Program Guidelines located at the Northampton County Farmland Preservation Office.

General Subdivision Criteria

The owner(s) of a tract of land subject to an agricultural conservation easement may subdivide the property, provided that the subdivision is for one of the following purposes:

1. Fifty percent (50%) of the land subject to an easement may be subdivided, provided that no tract created after subdivision is less than 52 acres in size and the remaining parcels must meet the minimum criteria as stated in the Specific Subdivision Criteria.
 - a. The new deeds must state that no further subdivision is permitted on the created or remaining tracts.

Specific Subdivision Criteria

1. All tracts created by the subdivision shall be appropriately shaped and located in such a fashion that they are economically viable for agricultural production, and such subdivision shall not render agricultural production on any of the resulting farm tracts less efficient.
2. The subdivision shall be consistent with the Statement of Purpose of the Northampton County Agricultural Conservation Easement Program and to ensure the long-term viability of preserved land for agricultural use.

3. Fifty percent (50%) of the soils in each parcel resulting from the subdivision must be harvested cropland, orchard, pasture or grazing land.
4. Fifty percent (50%) of the soils in each parcel resulting from the subdivision must be in USDA Soil Classes I-IV.
5. The Northampton County Farmland Preservation Office has been afforded the opportunity to review, comment and make recommendations on the proposed application for subdivision in accordance with Section 14.1(i)(2) of the Act [3 P.S. Section 914.1 (i)(2)].
6. All costs associated with subdivision shall be the sole responsibility of the landowner.
7. No subdivision of land subject to an agricultural conservation easement shall become final until the owner has secured the approval from the Northampton County Farmland Preservation Board and the State Agricultural Land Preservation Board as being in compliance with the terms and conditions set forth herein. In addition, the proposed subdivision of land may require the approval of other reviewing agencies applying standards other than those set forth herein or in the Act [such as those allowed under the authority of Pennsylvania's Municipalities Planning Code (Act 170)]. Nothing in these subdivision guidelines shall be construed to relieve the landowner of any municipal, county, or State regulations, procedures or requirements necessary for the subdivision of land.

Subdivision Procedure

As a prerequisite for a review of a subdivision plan by the County Board, an applicant shall submit an application in accordance with the procedures set forth herein. Applicants should be mindful that he/she/it must also submit the subdivision plan to the appropriate local governing body for review in accordance with Pennsylvania's Municipalities Planning Code (Act 170). Landowner(s) must follow the procedure below to request subdivision approval of land subject to an agricultural conservation easement:

1. Landowner(s) shall submit a written request and application for subdivision to the Northampton County Farmland Preservation Board. This application submission shall include the following information:
 - a. A completed Subdivision Application which may be obtained from the Northampton County Farmland Preservation office.
 - b. A map prepared by a professional surveyor or engineer, at a scale sufficient to clearly show the following:
 - (1) Location of cropland, pasture, woodland and other lands,
 - (2) Roads, Streets, Driveways, utility rights-of-ways, streams,
 - (3) Location of existing of existing buildings, sheds, barns, dwellings and other structures,
 - (4) Delineation of proposed subdivision,

- (5) If the additional residential structure permitted by Section 14.1 (c) (6) (iv) of the Act [3 P.S. Section 914.1 (c)(6)(iv)] has not been constructed, the map or sketch should clearly indicate on which of the proposed subdivided tracts this residential structure may be constructed.
- c. Soil map showing the current property boundary and the proposed division of the property.
- d. Aerial photograph indicating the current property boundary and proposed division of the property.
- e. Applicant's name, address and phone number.
- f. Tax parcel numbers and deed reference for the land proposed for subdivision.
- g. Narrative describing the proposed subdivision and the purpose of the proposed subdivision. This narrative should include evidence that the agricultural economic viability of the resulting parcels will not be diminished as a result of the proposed subdivision. Specifically, the narrative should also address the following:
 - (1) Impact of subdivision on existing soil and water conservation practices and structures.
 - (2) Impact of subdivision on water rights and water access points.
 - (3) Impact of subdivision on the utilization and availability of farm structures, barns and infrastructure.
 - (4) Impact of the shapes and arrangement of the proposed new farm tracts on the future agricultural production on these tracts.

2. Upon receipt of 3 copies of the above submission, the Northampton County Farmland Preservation Board will forward a copy of this application to the following review agencies:

- a. Pa Department of Agriculture, Bureau of Farmland Preservation
- b. Northampton County Farmland Preservation Office

3. The reviewing agency(s) have 60 days from the receipt of the subdivision application to review, comment and make recommendations on the proposed subdivision to the County Board.

4. The County Board shall review the application, comments, and recommendations submitted by the reviewing agency(s) and approve or reject the application to subdivide within 120 days after the date that the subdivision application was initially filed. The review time can be extended by mutual agreement of the landowner and the reviewing agency(s).

5. If the application to subdivide is approved by the County Board, the application, along with the comments and recommendations of the reviewing agency(s) shall be forwarded to the State Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an agricultural conservation easement, the State Board shall consider only whether the application complies with the conditions under which the Northampton County Farmland

Preservation Board permits subdivisions. The State Board shall notify the County Board of its decision regarding the application.

6. 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.A. § 501 Subchapter B (relating to practice and procedure of local agencies) and 2 Pa. C.S.A. § 701 Subchapter B (relating to judicial review of local agency action).

7. If no residential structure other than that existing on the date of the granting of the easement has been constructed on the land subject to the easement, the landowner shall include in one of the new property deeds language indicating that this one subdivided tract retains the right for the construction of the additional residential structure. The deeds to the other parcel(s) shall state that no additional residential structures are permitted.

8. Within 15 days of recording deeds to tracts created by, or remaining after subdivision, the landowner must forward a copy of all recorded deeds to all parcels created by, or remaining after subdivision to the Northampton County Farmland Preservation Office.

The prohibitions, restrictions and conditions of subdivision of eased land as set forth in these guidelines shall be recited verbatim in the deeds for all subdivided and remaining parcels.

The subdivision guidelines shall be recorded in the Northampton County Office of the Recorder of Deeds. The Northampton County Farmland Preservation Board shall incorporate reference to the recording of these Subdivision Guidelines in all future Deeds of Agricultural Conservation Easement.

The County Board will take into consideration all impacting factors when making this decision and the approval will be at the discretion of the County Board.

The subdivision guidelines are intended to preserve as much farmland as possible in integral parcels and to promote viable agricultural enterprises. The County Board, on a case-by-case basis, will consider special exceptions to these subdivision guidelines.

REQUEST & REVIEW PROCEDURE FOR A NEW RESIDENCE

Northampton County Farmland Preservation Board

As a requisite to review a proposal for a new residential structure by the County Board, an applicant shall submit an application as prescribed in the procedure to follow. Applicant must also submit the residential structure proposal to the appropriate local governing body for review in accordance with the Pennsylvania's Municipalities Planning Code (Act 170) and its local ("SALDO") and Zoning Regulations. Landowner(s) or the owner(s) in equity must follow the procedures below to request the construction of a new residential structure.

1. The landowner shall ask the municipality to make a determination as to whether or not a subdivision is required to build the proposed residence. If a subdivision is required, the procedure in the existing Northampton County Farmland Preservation Subdivision Guidelines and local SALDO shall be followed and approval is required from the local municipality and both the County Board and the State Board.

2. Whether or not a subdivision is required, the following information shall be submitted to make a request to build a new residential structure on property protected with an agricultural conservation easement:

A. Landowner(s) shall submit a written request and application for the construction of a new residence to the Northampton County Agricultural Farmland Board. This application shall include the following information:

- (1) A map or sketch, at a scale sufficient to clearly show the following:
 - (a) Location of cropland, pasture, woodland and other lands.
 - (b) Roads, streets, driveways, utility rights-of-ways, streams, and ponds.
 - (c) Location of existing buildings, sheds, barns, dwellings, and other structures.
 - (d) Location of the proposed new residence, yard area, and driveway.
- (2) Soil map showing the current property boundary and the location of the proposed new residence, yard area, and driveway.
- (3) Aerial photograph indicating the current property boundary and the proposed location of the new residence, yard area and driveway.
- (4) Applicant's name, address, and phone number.
- (5) Tax parcel number and the deed reference for the tract of land where the new residence is proposed.

- (6) Narrative describing who will be housed in the new residence. This narrative shall include evidence that the agricultural economic viability of the farm tract will not be diminished as a result of the construction of a new residence. Specifically, the narrative should address the following:
 - (a) Impact of the proposed residence on prime and statewide importance soils.
 - (b) Impact of the proposed residence on existing soil and water conservation practices and structures.
 - (c) Impact of the proposed residence on water rights and water access points.
 - (d) Impact of the proposed residence on the utilization and availability of farm structures, barns and infrastructure.
 - (e) Impact of the proposed residence on the existing layout of crop fields and pastures.

3. Upon receipt of the application, the Northampton County Farmland Preservation Board shall forward a copy of the application to the municipal planning commission requesting review and comment on the proposal. The Northampton County Farmland Preservation Office and the municipal planning commission shall have **60 days** from the receipt of the application to review, provide comment and make recommendations on the residential structure proposal to the County Board.

4. The Northampton County Farmland Preservation Board shall review the application, comments, and recommendations submitted by the Farmland Preservation Office and the municipal planning commission. A determination shall be made as to whether or not the construction of the residence, as proposed, would significantly harm the economic viability of the subject land for agricultural production. The County Board shall approve or reject the proposed residence application within **120 days** after the date that the application was initially filed with the County Board.

5. The County Board shall notify the applicant in writing of its decision. If a residential structure proposal is rejected, a written explanation for the rejection shall be provided to the applicant.

The County Board shall also notify the municipality in writing of its decision regarding the residential structure request.

PROCEDURE FOR INSPECTING AND ENFORCING AN EASEMENT

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

RESPONSIBILITY

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

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

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

INSPECTIONS

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

However, the County Board shall inspect restricted land **annually** under any of the following conditions:

1. Funds from the federal Farmland and Ranchlands Protection Program (FRPP) were used to purchase the easement
2. A violation, or potential violation, of the easement has occurred or has not been fully resolved. The inspection will be performed annually until compliance is achieved.

Written notice of any inspection to be conducted shall be mailed to the owner at least (10) days prior to such inspection.

Any inspection conducted shall be performed between the hours of 8:00 A.M. and 4:00 P.M. on a weekday that is not a legal holiday recognized by the Commonwealth or a date and time agreeable to the County and the landowner.

Within ten (10) days of conducting any inspection, the County Board shall prepare a written inspection report setting forth the following information:

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

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

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

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

ENFORCEMENT

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

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

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

NOTIFICATION TO OWNER OF VIOLATION

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

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

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

ENFORCEMENT ACTIONS

Sixty (60) days after the mailing of a notice of violation, the County Board shall commence and prosecute an action in the Court of Common Pleas of the County in which the restricted land is located, seeking an order requiring correction of the violation, enjoining further violation of the terms of the easement, and any other appropriate relief unless:

- A. The County Board and the State Board determine that the violation has been corrected; or the County Board:
 1. Determines that the owner of the restricted land has commenced the necessary corrective measures or determines that the necessary corrective measures cannot reasonably be completed within the 60-day period described under "Enforcement Actions".
 2. Establishes a period not to exceed one year within which the corrective measures must be completed.

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

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

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

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

Permitted Acts

Permitted Acts – Once the agricultural conservation easement is conveyed, the subject land shall be used solely for the production for commercial purposes of crops, equine, livestock and livestock products, including the processing of retail marketing of such crops, equine, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter “agricultural production”). For purposes of this program, “crops, equine, livestock and livestock products” include, but are not limited to:

- a) Field crops, including corn, wheat, oats, rye, barley, soybeans, speltz, buckwheat, hay, potatoes and dry beans.
- b) Fruits, including apples, peaches, grapes, cherries, pears, and berries.
- c) Vegetables, including tomatoes, pumpkins, snap beans, cabbage, carrots, beets, onions, sweet corn, and mushrooms.
- d) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs and furs.
- f) Timber, wood and other wood products derived from trees; and
- g) Aquatic plants and animals and their byproducts.
- h) Commercial equine activity including boarding of equine, training of equine, instruction of people in handling, driving or riding equines, use of equines for riding or driving purposes, pasturing equines all of where a fee is collected. THE TERM DOES NOT INCLUDE ACTIVITY LICENSED UNDER THE ACT OF DECEMBER 17, 1981 (P.L. 435, NO. 135) KNOWN AS THE “RACE HORSE INDUSTRY REFORM ACT.”

Contact this office for more information regarding other residential and commercial horse operation issues.

Updated 6/06

TAX PLANNING

When planning to sell the agricultural easement, make sure you know how it will fit into your estate planning, business succession plan and tax planning. This is an investment and you want to make sure all possible implications have been considered prior to making the sale of the easement.

This is not tax advice. These are items to consider and discuss with your tax consultant and/or attorney prior to agreeing to sell the easement.

1. **Capital gain tax** – All agricultural conservation easement purchases are subject to capital gain tax. The amount of tax you will pay will depend upon your gain and your tax rate. Currently, the maximum capital gain tax is 20%. If you're in the 15% bracket, the rate is 10% (subject to IRS law).
2. **Installment Sale** – Agricultural conservation easement purchases may be made in installments with annual payments of principal and interest. In addition, there is a pilot program which will allow for installment up to 30 years with the principal being paid at the end of the term, thus deferring capital gains tax (subject to IRS law).
3. **Like Kind Exchange** – If you use the proceeds from the sale of the conservation easement to purchase additional real estate, the tax law allows for the deferment of the capital gains tax. This is also known as a 1031 exchange. With this option, you can create more income with no additional debt. You can purchase investment real estate outside agriculture and create a positive cash flow. The real estate purchased does not have to be farmland. The real estate cannot be used for a personal residence for 2 years after purchase and it must be for either business or investment purposes. There are several time frames and qualifications that need to be followed for this exchange. County must add appropriate clause in the Agreement of Sale (subject to IRS law).
4. **Bargain Sale** – If you accept less than 100% of the agricultural conservation easement value, it is considered a bargain sale. The difference may qualify as a charitable contribution (subject to IRS law).

WHAT TO DO WITH YOUR PAYMENT? – FOOD FOR THOUGHT

1. Pay down your debt. Debt reduction is a very good way to improve your future profits. Also most lenders will re-amortize a debt after pay down which will reduce your payments.
2. Add new enterprise to your operation or increase your current operation.
3. Do basic building maintenance, remodel the farmhouse kitchen, add a larger bath or mud room. Any improvements increasing the value of the farm will lower tax gain.
4. Set up your own retirement plan to reduce the market value for the next generation.
5. Consider gift investments for non-farm children. Remember fair may not always be equal.
6. Catch up on tithing or gifting at church or in the community.

Prepared by the Bureau of Farmland Protection, Harrisburg, PA

PAYMENT OPTIONS

- 1) Lump Sum - Easement payment received as a lump sum payment.
- 2) Traditional Installment Sale - You can elect installment sale treatment, which allows you to pay tax on the sale proceeds as you receive them over a period of years. If you elect this method, you will get a promissory note for the balance of the principal not received at settlement, plus interest.
- 3) Long Term Installment Sale: - Under a new pilot program initiated by the state (in 2000), the seller can defer all or part of the easement purchase price for up to 30 years, and in the meantime receive semi-annual interest payments on the outstanding principal. Those interest payments are exempt from federal and state income taxes.
- 4) Like-Kind Exchange: - The tax law allows for the deferral of capital gain if you take the proceeds from the sale of the conservation easement and roll the proceeds into other real estate. This is called a “like-kind exchange” or “1031 exchange.” To qualify: (1) the proceeds must be used to buy other real estate, but not necessarily farmland; and (2) the replacement property must be used for business or investment purposes and cannot be a residential property that you live in. If the farm from which the easement is being sold is owned by a partnership, then the replacement property must be bought by the partnership. Any portion of proceeds from the easement sale that is not used to purchase other real estate is taxable.
- 5) Deferred Like-Kind Exchange: - A “deferred like-kind exchange” is an exchange in which the sale of the easement and the purchase of the replacement property do not occur on the same day. The proper process is to use a qualified intermediary (QI), who will receive the proceeds for you and use the funds to purchase the replacement property. There is a 45-day identification period and a 180-day replacement period.
- 6) Reverse Like-Kind Exchange: - The I.R.S. recently released guidelines to allow taxpayers to accomplish a “reverse like-kind exchange.” This is an exchange in which the replacement property must be acquired prior to the sale of the agricultural conservation easement. Consult someone who has experience in like-kind exchanges

Addendum to
Operational Procedures for Acquiring Easements

If the landowner enters into an Agreement of Sale for the purchase of the Conservation Easement, and one or more of the following have occurred:

- 1. If the appraisal has been completed, presented to the landowner and accepted,**
- 2. The landowner has entered into an Agreement of Sale with Northampton County and/or the Commonwealth of Pennsylvania and/or the local Municipality,**
- 3. A survey has been requested and/or completed,**
- 4. A title search and/or title insurance has been requested or completed,**

the landowner will forfeit the original \$2,200 deposit if he/she withdraws from the program at any time, for any reason, during the process. The landowner will also be responsible for reimbursing Northampton County/Commonwealth of Pennsylvania/local Municipality for any costs incurred to date related to the process of placing the conservation easement on the landowner's deed.

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Approved PDA-BFP 1/2006*