



Cumberland County Agricultural Land Preservation Program

Program Guidelines

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December 16, 2004 State Board Approval for Recertification
June 8, 2006 Commercial Equine Amendment
December 14, 2006 Act 46 Amendment
August 9, 2007 § 202, 204, & 600 Amendments
October 19, 2007 § 104 Amendment
December 13, 2007 § 105 Amendment
December 11, 2008 By-Laws, § 212, 404, 405, 406, 407, & 408 Amendments
October 8, 2009 § 104 & 202 Amendments
December 9, 2010 Section 104 Amendment
October 13, 2011 Section 208 & By-Law Amendments
December 15, 2011 State Board Approval for Recertification
April 19, 2012 § 205 & 206
October 11, 2012 §102, 103, 104, 105, 106, 202, 206, & 401
April 18, 2013 §102, 103, & 201

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In an effort to slow the conversion of prime farmland to non-agricultural uses, the Cumberland County Board of Commissioners declared its commitment to farmland preservation by their Resolution 89-16 of November 6, 1989, an Agricultural Land Preservation Program. The Board of Commissioners has indicated, by means of this resolution that it intends to have agriculture continue as a major part of the county's economy and lifestyle.

Agriculture has historically been a leading industry in Cumberland County. The amount of farmland and the number of farms in the county have shown a steady decline. In 1959, the county had 1,873 farms covering 204,239 acres. The Pennsylvania Agricultural Statistics Service (PASS) reports that in 2008, Cumberland County had 1,549 farms covering 156,000 acres. In approximately 40 years, Cumberland County lost over 324 farms and nearly 50,000 acres of farmland to development.

Since the creation of the Cumberland County Agricultural Land Preservation Program, the county and the state have purchased 119 agricultural conservation easements, preserving over 14,500 acres of Cumberland County farmland. Presently, the county board has approximately 50 applications pending, representing 6,000 acres of farmland. The county board hopes to preserve approximately 5,000 additional acres by the year 2020. To ensure the durability of the easement purchases, all easements have been purchased in perpetuity.

Funding sources for the program presently come from the federal Farm and Ranch Lands Protection Program, state environmental stewardship fund, state cigarette tax and from county general fund revenue. In order to satisfy demands for the program, new and additional sources of funding are constantly being explored both at the federal, state and local levels. In the year 2011, the current Board of Commissioners certified \$1,000,000 for the purchase of agricultural conservation easements. With this increase in the annual funding, the Board will preserve 650 to 700 acres of working farmland in the County and surpass the milestone of 15,000 acres preserved.

This edition of the county program contains all the changes that have been mandated by legislative amendments and certain other revisions that the county board has deemed appropriate to include here.

*Cumberland County Agricultural Land Preservation Board
Carlisle, Pennsylvania
July 2011*

TABLE OF CONTENTS

100 GENERAL PROVISIONS

101	Purpose	1
102	Definitions.....	1
103	Minimum Criteria for Applications	7
104	Farmland Ranking System	9
105	Planning Map.....	12
106	Schedule for Submission of Applications.....	13
107	Public Information.....	13

200 PROCEDURES FOR PURCHASING AN EASEMENT

201	Application.....	13
202	Evaluation of the Application	14
203	Appraisal.....	15
204	Survey Requirements	17
205	Easement Value and Purchase Price	18
206	Offer of Purchase by County Board.....	19
207	Requirements of the Agricultural Easement Deed.....	22
208	Rural Enterprises.....	22
209	Title Insurance	24
210	Statement of Costs	24
211	State Board Review for Approval for Purchase of Easement	25
212	Settlement Documents	26
213	Local Government Unit Participation	26
214	Eligible Non-Profit Entity Participation	27
215	Pennsylvania Farmland and Forest Land Assessment/ Roll Back Tax Interest.....	28

300 PROCEDURES FOR INSPECTING AND ENFORCING AN EASEMENT

301	Responsibility	28
302	Inspections	28
303	Annual Report.....	29
304	Enforcement	29
305	Notification to Owner	29
306	Enforcement Actions	29

400 RESPONSIBILITY OF OWNER

401	Permitted Acts	30
402	Conservation Plan	30
403	Construction of Buildings: Change in Use	31
404	Construction of One Additional Residential Structure.....	32
405	Subdivision of Restricted Land	33
406	Criteria for Subdivision of Restricted Land.....	33

407	Procedure & Submission Requirements for Review of Request to Subdivide Restricted Land.....	34
408	Landowner’s Duties with Respect to Change in Ownership	37

500 LAND TRUST REIMBURSEMENT PROGRAM

501	Eligible Expenses	38
502	Limitations	38
503	Eligibility.....	38
504	Registration	38

600 ACQUISITION BY DONATION

601	Minimum Criteria for Donations	39
602	Application and Consideration	39
603	Requirements for Donated Easements.....	39
604	Incidental Costs	40

APPENDICES

- A - Resolution
- B - Board Members and Staff
- C - Board By-laws
- D - Farmland Ranking System Score Sheet
- E - Application Form
- F - Soil Report Form “C”
- G - Prime and Statewide Important Soils Map
- H – Planning Map
- I - Conservation Plan Agreement Form
- J – Commercial Equine Amendment
- K – Application for Consideration of Rural Enterprise

100 GENERAL PROVISIONS

101 Purpose

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

Further, it is the purpose of this program to:

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

102 Definitions

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

Act - The Agricultural Area Security Law (3 P.S. § § 901-915).

Adjacent – A lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land to include lands divided by streams, railroads, public right-of-ways, and utility corridors.

Agreement or agreement of sale – A document executed by a landowner and the county board to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase, and that includes all of the materials referenced and incorporated into the agreement, in accordance with section 14.1(h)(8.2) of the act (3 P.S. § 914.1(h)(8.2)).

Agricultural conservation easement or easement - An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of the parcel for a purpose other than agricultural production. The easement may be granted by the owner of the fee simple to a third party or to the Commonwealth, to a county governing body or to a unit of local

government. It shall be granted in perpetuity, as the equivalent of covenants running with the land. The exercise or failure to exercise any right granted by the easement shall not be deemed to be management or control of activities at the site for purposes of enforcement of the Hazardous Sites Cleanup Act (35 P.S. § § 6020.101-6020.1305).

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

Agricultural security area – A unit of 250 or more acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons and designated as such by the procedures in the act or designated as such under the act of January 19, 1968 (1967 P.L. 992, No. 442) (32 P.S. § § 5001-5012) prior to the February 12, 1989 effective date of the act of December 14, 1988 (P.L. 1202, No. 149), by the governing body of the county or governing body of the municipality in which the agricultural land is located on the basis of criteria and procedures which predate February 12, 1989; provided that an owner of land designated as such under the authority of the act of January 19, 1968 (1967 P.L. 1992, No. 442) may withdraw the land from an agricultural security area by providing written notice of withdrawal to the county governing body or governing body of the municipality in which the land is located within 180 days of February 12, 1989.

Agricultural value - The sum of the following:

1. The farmland value determined by the applicant's appraisal.
2. One-half of the difference between the farmland value determined by the state or county board's appraiser and the farmland value determined by the applicant's appraiser if the farmland value determined by the state or county board's appraiser exceeds the farmland value determined by the applicant's appraiser.

Allocation - The state board's designation of funds to the counties under section 14.1 of the act. An allocation is an accounting procedure only and does not involve certifying, reserving, encumbering, transferring or paying funds to eligible counties.

Annual easement purchase threshold – An amount annually determined by the state board which equals at least \$10,000,000 to be allocated among eligible counties.

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

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

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

Conservation plan - A plan describing land management practices which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of

the land. A conservation plan shall include the following:

1. An installation schedule.
2. A maintenance program.
3. A nutrient management component consisting of a statement of whether a nutrient management plan is required under the Nutrient Management Act (3 P.S. § § 1701-1718) and, if required, confirmation that a plan is in place or will be in place prior to conveyance of the agricultural conservation easement. If a nutrient management plan is not required under the Nutrient Management Act, the nutrient management component shall consist of a description of the amounts and types of nutrients generated on the farmland tract and a description of any current and planned measures or procedures for containment, use, disposal or other disposition of the nutrients described.

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

County - Cumberland County, Pennsylvania.

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

County governing body - The Cumberland County Board of Commissioners.

County matching funds - Money appropriated by the Cumberland County Commissioners for the purchase of easements.

County planning commission – The Cumberland County Planning Commission, which has been designated by the county commissioners to establish and foster a comprehensive plan for land management and development within the county.

County program - The Cumberland County Agricultural Land Preservation Program for the purchase of easements authorized and approved by the Cumberland County Commissioners and approved by the state board under section 14.1(a)(3)(xi) and (xiv) of the act.

Crops, livestock and livestock products – The term includes:

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

Crops unique to the area – The term includes crops which historically have been grown or have been grown within the last five years in the region and which are used for agricultural production in the region. For example, orchard or vineyard crops that have historically been produced in a particular county might be considered crops unique to the area.

Curtilage - The area surrounding a residential structure used for yard, driveway, on-lot sewerage system or other nonagricultural purposes.

Department - The Department of Agriculture of the Commonwealth.

Easement value - The difference between the nonagricultural value and agricultural value of a farm. If solely the county or state appraisal is used, nonagricultural value and agricultural value are equal to market value and farmland value, respectively. If the landowner obtains an independent appraisal, nonagricultural value and agricultural value shall be calculated according to Section 14.1(f) of the act.

Economic viability of farmland for agricultural production - The capability of a particular tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to section 14.1(c)6(iv) of the act, to meet all of the criteria in § 138e.16(a) (relating to minimum criteria for applications).

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

Eligible non-profit entity – An entity that provides the State board or an eligible county satisfactory proof of all of the following:

1. That the entity is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §501(c)(3).
2. That the entity has experience acquiring, whether through purchase, donation or other transfer, an agricultural or other conservation easement.

Encumber – The reservation by the Commonwealth or a county of previously allocated funds to pay all or part of the costs of purchasing a specific easement under a specific agreement of sale.

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

Farmland tract or tract - Land constituting all or part of a farm with respect to which easement purchase is proposed. A farmland tract may consist of multiple tracts of land that are identifiable by separate tax parcel numbers, separate deeds or other methods of property identification.

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

Fund - The Agricultural Conservation Easement Purchase Fund established by section 7.2 of the act of June 15, 1982 (P.L. 549, No. 159) (3 P.S. § 1207.2).

Grant funds - Funds allocated to a county by the state board under section 14.1(h)(2) and (5)(ii) of the act, the expenditure of which is not contingent upon the appropriation and expenditure of county matching funds.

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

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

Grazing or pasture land – Land, other than land enrolled in the USDA Conservation Reserve Program, used primarily for the growing of grasses and legumes which are consumed by livestock in the field and at least 90% of which is clear of trees, shrubs, vines or other woody growth not consumed by livestock.

Harm the economic viability of the farmland for agricultural production - To cause a particular tract of restricted land to fail to meet the criteria set forth at § 138e.16(a), 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, that would fail to meet the criteria in § 138e.16(a).

Harvested cropland – Land, other than land enrolled in the USDA Conservation Reserve Program, used for the commercial production of field crops, fruit crops, vegetables and horticultural specialties, such as Christmas trees, flowers, nursery stock and ornamentals, greenhouse products and sod, as defined in the act. The term does not include land devoted to production of timber and wood products.

Immediate family member – A brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father, or mother of the landowners.

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

Land development - One 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.
2. A subdivision of land.

Land which has been devoted primarily to agricultural use - Acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing non-residential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilage, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of two acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted pursuant to section

14.1(c)(6)(iv) of the act.

Landowner - The person holding legal title to a particular farmland tract.

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

Mansion house – The primary residential structure located upon a parcel.

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

Non-agricultural value - The sum of the following:

1. The market value determined by the state or county board's appraiser.
2. One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the state or county board's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the state or county board's appraiser.

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

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

Nutrient management plan – A written site-specific plan which incorporates best management practices to manage the use of plant nutrients for crop production and water quality protection consistent with the Nutrient Management Act (3 P.S. § § 1701-1718).

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

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

Person – A corporation, partnership, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

Restricted land – Land which is subject to the terms of an agricultural conservation easement acquired under the act.

Secretary - The Secretary of the Department.

Soils available for agricultural production – Soils on land that is harvested cropland, pasture or grazing land, or land upon which no structure, easement, roadway, curtilage or natural or manmade feature would impede the use of that soil for agricultural production.

Soils report - A report which identifies and sets forth the amount of each land capability class found on a farmland tract.

State board - The State Agricultural Land Preservation Board.

State-certified general real estate appraiser – A person who holds a current general appraiser’s certificate issued under the Real Estate Appraisers Certification Act (63 P.S. §§ 457.1 - 457.19).

State matching funds - Funds allocated to a county by the state board under section 14.1(h)(3), (4) or (5)(l) of the act, the expenditure of which is contingent upon the appropriation and expenditure of county matching funds.

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

Title report - A report prepared by a corporation authorized by the Insurance Department to engage in the sale of title insurance or an attorney setting forth the existence of any liens, restrictions or other encumbrances on a farmland tract. The term does not include the title search, but does include the title binder or the title commitment, or both.

USDA - The United States Department of Agriculture.

USDA-NRCS - The Natural Resource Conservation Service of the United States Department of Agriculture (formerly known as the Soil Conservation Service).

103 Minimum Criteria for Applications

A. *State Minimum Criteria.* All applications submitted to the county board for consideration must meet the following minimum criteria, as established in the act. The farmland tract shall:

1. Be one or more of the following:
 - a. Located in an agricultural security area consisting of 500 acres or more.
 - b. 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.
 - c. 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:

- 1) A mansion house (primary dwelling) is on the tract and located within the purchasing county.
 - 2) When the mansion house (primary dwelling) 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.
 - 3) When there is no mansion house (primary dwelling) 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:
- a. Contiguous acreage of at least 52 acres in size
 - b. Contiguous acreage of at least 10 acres in size and is utilized for a crop unique to the area.
 - c. 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 the property's soils available for agricultural production must be land capability classes I-IV, as defined by the USDA-NRCS.
4. Contain the greater of 50% or 10 acres (relating to section (C)(2)(b) or (C)(2)(c)) of harvested cropland, pasture or grazing land.
- a. Land enrolled in Conservation Reserve Program (CRP), Conservation Reserve Enhancement Program (CREP), Wetlands Reserve Program (WRP) or similar programs or uses will not be included in the calculation of harvested cropland, pasture, or grazing land for the purposes of meeting minimum criteria.
- B. County Minimum Criteria. In addition to the State Minimum Criteria in 103.A at the time of application, the farmland tract shall have a conservation plan that meets the following requirements:
1. Definition of a conservation plan in Section 102.
 2. At least 50% implementation of the plan.
 3. The Conservation Plan shall meet requirements of PA Chapter 102 Agricultural Erosion and Sediment Control and Stormwater Management.
 4. The Conservation Plan shall, at a minimum, limit soil loss from accelerated erosion to the soil loss tolerance (T) over the planned crop rotation and address Animal Heavy Use Areas.
 5. The Conservation Plan must be current to the landowner and operator and address all areas of the current agricultural operation including harvested cropland, pasture or grazing land and headquarters if included in the application.
 6. The Conservation Plan shall be prepared and signed by a Certified Conservation Planner.
 7. The Conservation Plan shall be signed by the current operator and landowner.
 8. The Conservation Plan shall include a statement indicating if a Nutrient Management Plan is required for land in application and a copy of the Nutrient Management Plan if it is required. The Nutrient Management Plan shall be in accordance with Nutrient Management Act.
 9. If a Nutrient Management Plan is not required, a Manure Management Plan is required for

applications where manure or agricultural process wastewater is applied to the land. A copy of the Manure Management Plan shall be submitted with the application. The Manure Management Plan should follow the current requirements of the Manure Management for Environmental Protection manual and supplements published by Pennsylvania Department of Environmental Protection (DEP).

C. *Crops Unique to the Area*. Farms producing crops unique to the area for commercial purposes will be considered by the county board on a case by case basis for easement purchase. Crops that may qualify include the following:

1. Grapes – table or wine grapes grown for commercial agricultural enterprise
2. Tobacco – commercial agricultural enterprise
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 – 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

104 Farmland Ranking System

- A. A numerical ranking system is used to rank applications for agricultural conservation easement purchase. 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 ranking according to this system (See Appendix D – Farmland Ranking System).
- B. The ranking system shall evaluate tracts considered for appraisal on a 100-point system, using the two part Land Evaluation and Site Assessment (LESA) system. The weighted Land Evaluation (LE) score shall be calculated in accordance with section (B)(1). The weighted Site Assessment (SA) score shall be calculated in accordance with section (B)(2). The total weighted LE and weighted SA equal 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:

Weighted Value

Land Evaluation (LE)	40%
Site Assessment (SA)	
Development Potential	10%
Farmland Potential	20%
Clustering Potential	30%

1. Land Evaluation (*Max 100 Points*)

- a. Source of soils data: Soil Survey of Cumberland County, PA, as published by the USDA-NRCS in cooperation with the Pennsylvania State University and the Department.
- b. 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 values of less than 100 points.
- c. Calculation of average relative value. The average relative value of the soils on the 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 then dividing that sum by the total acreage of the tract.
- d. Calculation of weighted LE score. The weighted LE score of the 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.

2. Site Assessment (*Max 300 Points*)

- a. *Development Potential Factors* - Identify the extent to which development pressures are likely to cause conversion of agricultural land to non-agricultural uses. (*Max 100 Points*)

- 1) Extent of Non-Agricultural Land Use in Area - The percentage of land in non-agriculture uses within one mile of the tract boundary.

40 Points X (Percent non-agriculture uses*) = _____ (*Max 40 points*)

*Percent non-agriculture use to be rounded to a multiple of 5

- 2) Distance of road frontage on public roads as measured in linear distance

More than 1/2 mile	40 points
1/4 mile – 1/2 mile	25 points
1/8 to 1/4 mile	5 points
Less than 1/8 mile	0 points

- 3) Availability of Public Sewer Areas according to Municipal Act 537 Sewage Facilities Plans

Tract is located within a planned public sewer service area	10 points
Tract is not within a planned public sewer service area	0 points

- 4) Availability of Public Water

Tract has public water service adjacent	10 points
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Tract has public water service within 1/2 mile measured along public roads	5 points
Public water service is more than 1/2 mile as measured along public roads	0 points

b. *Farmland Potential Factors* - Measure the potential agricultural productivity and farmland stewardship practiced on a tract. (Max 100 Points)

1) Size of Farm

151 acres or more	25 points
126-150 acres	20 points
101-125 acres	15 points
76-100 acres	10 points
52-75 acres	5 points
Less than 52 acres	0 points

2) Percent of Tract Used for Harvested Cropland, Pasture or Grazing Land

Land enrolled in CRP, CREP, WRP, or similar programs or uses will not be included in the calculation of harvested cropland, pasture, or grazing land.

25 Points X (Percent tract in crops, pasture or grazing*)= _____ (Max 25 Points)

* Percent to be rounded to a multiple of 5

3) Conservation Practices/Stewardship of Land

No score will 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 control, sedimentation control, nutrient management and other practices demonstrating good stewardship of the tract shall be considered. This factor evaluates the implementation of the conservation plan on the tract.

75 -100% plan implementation	20 points
50 - 75% plan implementation	10 points
Less than 50% plan implementation	0 points

4) Historic, Scenic and Environmental Qualities (Maximum 10 points)

Tract is adjacent to land preserved via the National Park Service, State Game Commission, State Forest, State Park, State Fish & Boat Commission, a local government unit or other land conservation organization.	10 points
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Tract contains environmentally sensitive features including but not limited to streams, wetlands, woodlands of 10 acres or more, floodplains, steep slopes, PNDI sites, etc.	10 points
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Farm is listed on the National Register of Historic Places	10 points
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Tract does NOT contain Historic, Scenic, or Environmental Qualities.	0 points
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5) Percentage of Farm Offered for Easement Purchase

- 100% of deed acreage 10 points
- Less than 100% of deeded acreage 0 points

6) Family Farm

- Property is operated by the owner or immediate family member 10 points
- Property is NOT operated by the owner or immediate family member 0 points

c. *Clustering Potential Factors* - Emphasize the importance of preserving blocks of farmland to support commercial agriculture and help to sustain the agricultural community from conflicts with incompatible uses. (Max 100 Points)

1) Proximity to a farm with a perpetual agricultural conservation easement recorded in the Cumberland County Recorder of Deeds Office.

- Adjacent 40 points
- Within 1/2 mile 30 points
- Within 1 mile 20 points

2) Consistent with the planning and development map in Appendix H as derived from the Cumberland County Comprehensive Plan Future Land Use Map.

- Within Agricultural/Prime Farmland Area 30 points
- Within Agricultural/Rural Area 15 points
- Not within area planned for Agriculture 0 points

3) Percent of land adjacent to the farm enrolled in an Agricultural Security Area.

30 Points X (Percent of land in ASA*) = _____ (Max 30 points)

*Percent land in ASA to be rounded to a multiple of 5

105 Planning and Development Map

- A. The county board shall, in consultation with the county planning commission, prepare and adopt a map identifying the important agricultural areas of the county. The scale of the map shall be such that it can be used to locate specific land proposed for easement purchase. (See Appendix H – Planning and Development Map)
- B. The county board shall encourage the formation of agricultural security areas in the important agricultural areas identified in the map described in section (A).
- C. The planning and development map shall identify areas in the county devoted primarily to agricultural use where development is occurring or is likely to occur in the next 20 years. The identification of these areas shall be made in consultation with the county planning commission, and any other body the county board deems appropriate. (See Appendix H – Planning and Development Map).

106 Schedule for Submission of Applications

- A. All complete applications received by the county board by December 31 will be evaluated according to the numerical ranking system for the following year's funding. (i.e. Applications for 2013 funding cycle must be submitted by December 31, 2012).
- B. Applicants must notify the Board of a change to their application by December 31 for the following year's funding. Otherwise, the application will be ranked according to the information provided by December 31.
- C. The Board may require applicants to submit a new application periodically as needed to respond to program changes.

107 Public Information

The county board will publicize the county program through the dissemination of information, press releases, presentations, and through public meetings.

The county board will be subject to the Sunshine Act (65 P.S. § § 271-286) and the act of June 21, 1957 (P.L. 390, No. 212) (65 P.S. § § 66.1-66.4), known as the Right-To-Know Law, relating to the inspection and copying of public records.

200 PROCEDURES FOR PURCHASING AN EASEMENT

201 Application

- A. A separate application shall be required for each farmland tract offered for easement purchase. The application shall consist of: a completed application form (with supporting documentation), a United States Geological Survey (USGS) topographical map, a tax map, a soils map and a soils report.
- B. The county board shall develop, and make available to a county resident, an application form (See Appendix E – Application Form) which requires the following information:
 - 1. The name, address, telephone number and signature of all owners of the farmland tract. If the property is owned by a corporation, the corporation name should be listed.
 - 2. The county, municipality and agricultural security area in which the farmland tract is located.
 - 3. The total acreage of the farm, as shown on the deed.
 - 4. The number of acres in the farmland tract proposed for easement purchase.
 - 5. The street location of the farm, and directions from the nearest State route.
 - 6. The most current deed reference – book, volume and page or other reference to the place of record of the deed. In the case of multiple deeds, numbers for all the deeds shall be provided.
 - 7. County tax map records, including tax parcel number, or account number of each parcel.
 - 8. Crops grown and the numbers and kinds of livestock on the farm.
 - 9. The date of the conservation plan and a copy of the conservation plan, if any.
 - 10. A date of the nutrient management plan and a copy of the plan, if required.
 - 11. The name, address and telephone number of the person to be contacted to view the farmland tract.
 - 12. Listing of any property liens, rights-of-ways, mineral or gas rights.

- C. The applicant shall provide a USGS topographical map showing the location of the farmland tract with the application.
- D. The applicant shall provide a tax map or official map used for tax purposes showing the farmland tract with all tax parcel numbers clearly indicated.
- E. The applicant shall provide a soils report and a color coded soils map for the farmland tract proposed for easement purchase. The soils report shall also contain a list of soil mapping unit names, symbols and land capability class on the farmland tract (See Appendix F – Soil Report Form “C”).

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 show on a separate map.

202 Evaluation of the Application

- A. The county board shall review the application to determine if it is complete and meets the minimum criteria in section 103. The application will be evaluated using the numerical farmland ranking system to determine the order in which tracts are selected by the county for appraisal. Selection for appraisal will be made in descending order of farmland ranking score unless the Board determines the application is an Opportunity to Leverage Additional Funding per 202.B below and an appraisal is authorized by the Board. The number of farms selected to be appraised will be based on the funding availability.
- B. Opportunity to Leverage Additional Funding
 - 1. The Board has discretionary authority to authorize appraisals and preserve a farm out of ranking order if there is a potential to leverage additional funding such as federal, township, non-profit, or private contribution equal to 50% or more of the easement value pursuant to these program guidelines and the following criteria:
 - a. The farm must be a current application.
 - b. The farm must score in the top 50% of the ranked farms.
 - c. The farm must be located in the Agricultural/Prime Farmland Area as derived from the Cumberland County Comprehensive Plan Future Land Use Map.
- C. At the appraisal request phase, applicants selected for easement purchase shall be notified by mail. Applicants who wish to proceed shall submit an appraisal deposit fee of \$2,000.00 to Cumberland County within 30 days of the receipt of the notification letter. This deposit will be held in an escrow account and may be refunded at closing. This deposit is refundable under the following conditions:
 - 1. If the applicant does not withdraw its application at any time between the appraisal and closing.
 - 2. If the applicant does not sever the agreement of sale and proceeds to closing.
 - 3. If the county board decides not to make an offer to purchase an easement from the applicant.

203 Appraisal

- A. All appraisals shall be conducted by a state certified general real estate appraiser, in accordance with § 138e.64 of the act (relating to Appraisals). An appraiser shall be selected on the basis of experience, expertise and professional designation.
- B. 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.
- C. An appraisal shall be based primarily on an analysis of comparable sales.
- D. The value of a building or other improvements on the farmland tract shall not be considered in determining the easement value.
- E. The appraiser shall supply a narrative report, which contains the following information and is in the following format:
 - 1. Introduction
 - a. Letter of transmittal.
 - b. The appraiser's certificate of value as to market value, farmland value and easement value.
 - c. Table of contents.
 - d. Summary of salient facts and conclusions.
 - e. Purpose of the appraisal.
 - f. The definitions, including definitions of market value, farmland value and easement value.
 - 2. Description of property
 - a. Area or neighborhood description.
 - b. Description of appraised property including:
 - 1) Legal Description.
 - 2) Property data and zoning.
 - 3) Description of improvements.
 - 4) Color photos of subject property's fields and improvements.
 - 5) Tax map of subject property with which the acreage of properties adjoining the subject property, the names of all adjoining property owners, and deed references shall be indicated.
 - 6) Sketch of subject property showing boundaries, roads, driveways, building locations, rights of way and land use.
 - 7) Location map.
 - 8) Soils map.
 - 3. Analyses and conclusions.
 - a. Analysis of highest and best use.
 - b. Valuation methodology: Market value.
 - 1) Comparable sales data.
 - 2) Adjustment grid.
 - 3) Locational map of comparable sales.

- c. Market value estimate.
- d. Valuation methodology: Farmland value.
 - 1) Comparable sales data
 - 2) An adjustment grid
 - 3) Locational map of comparable sales.
- e. Farmland value.
- f. Easement value.
- g. Professional qualifications of the appraiser, including a copy of the appraiser's current certification issues in accordance with the Real Estate Certification Act.

F. The appraiser shall supply information concerning comparable sales as follows:

1. At least four comparable sales shall be used for an appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same municipality as the subject farmland tract, the appraiser may use comparable sales from other municipalities within the county, with the approval of the county board. The use of comparable sales, which require adjustment of 50% or more, is permitted only with the approval of the county board.
2. Pertinent data for each comparable sale used in the preparation of the appraisal shall be stated in the appraisal report, including date of sale, purchase price, zoning, road frontage in feet, soil series, an estimate of the range of slope and other relevant information. The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract.
3. The location of each comparable sale used in the appraisal report shall be shown accurately on the comparable sales map and sufficiently identified and described so as to be located easily.
4. For comparable sales used to estimate the farmland value, the appraiser may use sales of land that are confined to agricultural use because of legal restrictions or physical impairments that make the land valuable only for agricultural use. Data may also be gathered from farm real estate markets where farms have no apparent developmental value.
5. The appraiser shall set forth the reasons the farmland comparable sales are confined primarily to agricultural use. Examples of these reasons include:
 - a. The farmland tract has public or private land use restrictions
 - b. The farmland tract is within a flood plain or wetland.
 - c. The farmland tract is landlocked, subject to additional easements, subject to restrictive zoning or has other physical attributes, which limit its developmental capability.
6. The appraiser shall provide at least one original and two copies of each report to the county board. The original of each report and all copies shall be bound with rigid covers.
7. The appraisal shall include the entire acreage offered for easement sale. If, following completion of the appraisal, acreage is added to or deleted from the proposed easement sale for any reason, the appraisal shall be revised accordingly or the appraiser shall agree in writing to the use of a per acre value to account for the change in easement value resulting from such a change in acreage.

8. If acreage is voluntarily withheld from the easement sale by the landowner through subdivision accomplished in accordance with the Pennsylvania Municipalities Planning Code; the appraiser shall, in making the estimate of agricultural conservation easement value, take into account any increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.

204 Survey Requirements

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

delineate the excluded/withheld acreage. A legal description shall set forth the metes and bounds of the farmland tract subject to the easement according to §138e.67(b). Acreages must be recorded in the legal description for the main tract(s) and any exceptions described.

1. If the applicant chooses to exclude land from the easement and the existing legal description closes within the prescribed accuracy standards set forth in §138e.67(d), a survey of the excluded area is necessary. The legal description of the eased area should recite the existing deed verbatim excepting the area to be excluded from the easement. The applicant shall be responsible for retaining a surveyor and covering all costs associated with the survey and preparation of the legal description of the eased area.
2. If the applicant chooses to exclude land from the easement and the existing legal description does not close within the prescribed accuracy standards set forth in §138e.67(d), a survey of the entire farm is required. The new survey and legal description shall be prepared by a professional surveyor to requirements set forth in §138e.73. The County Board and the applicant may jointly retain a surveyor and share the costs associated with preparing the legal description and survey, or the applicant may retain a separate surveyor. Survey expenses relative to the exclusion of certain land from the easement shall be paid by the applicant. The County Board shall be responsible for survey expenses solely for the purpose of closure requirements. These costs will be allocated by the surveyor.

205 Easement Value and Purchase Price

- A. An easement will be purchased in perpetuity. The maximum value of an easement, purchased under Section 206 (relating to offer of purchase by county board), shall be the difference between the market value and the farmland value contained in the county appraisal report.
- B. The purchase price offered for the purchase of an easement under Section 206 (relating to offer of purchase by county board) may not exceed, but may be less than the appraised value of the easement.
- C. *Maximum Purchase Price.*
 1. Funds paid toward the purchase price of an easement will not exceed \$4,000 per acre unless the applicant receives acceptance by the Natural Resource Conservation Service (NRCS) into the Farm and Ranch Lands Protection Program (FRPP) in which case the Board may increase the purchase price of easements beyond the \$4,000 per acre maximum purchase price, but not to exceed the appraised easement value assuming the conditions of Section 206.C.2 are met.
 2. Local municipalities may choose to participate in the easement purchase as a joint grantee and pay any portion or the full difference between the \$4,000 per acre and the full easement value determined by the appraisal report.
- D. Payment for an agricultural conservation easement may be made in a lump sum payment, in installments, as a bargain sale or a like-kind exchange.

206 Offer of Purchase by County Board

- A. In determining whether to offer to purchase an easement following receipt of the county appraisal report, the county board shall consider the following:
 - 1. The farmland ranking system, as calculated in accordance with Section 104 (relating to numerical ranking system).
 - 2. Cost relative to total allocations and appropriations.
- B. If the county board determines to offer to purchase an easement on the farmland tract, the county board, or a representative of the county board, shall meet with the applicant to review the county appraisal report. An offer to purchase an easement shall be submitted to the applicant in writing and be accompanied by the county appraisal report.
- C. Two purchase prices may be offered to the applicant:
 - 1. The easement purchase price offered under the terms of the Deed of Agricultural Conservation Easement.
 - 2. An increased easement purchase price offered under the terms of the Deed of Agricultural Conservation Easement AND the additional terms of the FRPP. The applicant shall receive the increased purchase price, but not to exceed the appraised easement value, under the following conditions:
 - i. If the applicant receives acceptance by the NRCS into FRPP.
 - ii. If the applicant proceeds to closing with the additional restrictions of FRPP included in the Deed of Agricultural Easement as required by NRCS.

Applicants not receiving acceptance into the FRPP or not proceeding to closing with the FRPP terms will be offered the purchase price as defined in Section 206.C.1.

- C. Within 30 days of receipt of the written offer from the county board, an applicant may do one of the following:
 - 1. Accept the offer, in which case the county board and the applicant shall enter into an agreement of sale. The agreement of sale 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.
 - 2. Reject the offer and advise the county board that the application is withdrawn.
 - 3. Advise the county board that the applicant is retaining, at applicant's expense, an independent state-certified real estate appraiser to determine the easement value. The appraiser shall be qualified, and the appraisal shall be completed in accordance with § 138e.64 of the act (relating to Appraisals). Upon completion, three copies of the applicant's appraisal shall be submitted to the county board. The appraisal shall be submitted to the county board within 120 days of receipt of the county board's offer to

purchase. The county board may extend the time within which the appraisal shall be submitted. This extension shall be in writing and extend the 120 day deadline by no more than 60 days. 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 section 206(C)(3)(d) or rejected by the applicant under section 206(C)(3)(e).

- a. If the applicant retains an independent appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:
 - 1) The agricultural value shall equal the sum of:
 - a) The farmland value determined by the applicant's appraiser.
 - b) 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.
 - 2) The nonagricultural value shall equal the sum of:
 - a) The market value determined by the county board's appraiser.
 - b) 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.
- b. If the easement value determined under section 206(C)(3)(a) is less than the easement value determined by the county appraiser, the county board may offer a purchase price equal to the county's offer under section 206(B).
- c. Regardless of the easement value, the purchase price may not exceed any overall purchase price limits established in section 205(C) *Maximum Purchase Price*.
- d. Within 30 days of receipt of the applicants' appraisal, the county board shall do one of the following:
 - 1) Submit a written offer to purchase in an amount in excess of the amount offered under section 206(B) to the applicant; or
 - 2) Notify the applicant, in writing, that the offer made under section 206(B) remains open and will not be modified.
- e. The applicant shall, within 15 days of receipt of the county board's written offer under section 206(C)(3)(d)(1) or receipt of the county board's written notice under section 206(C)(3)(d)(2), notify the county board in writing that the applicant either:
 - 1) Accepts or rejects the offer made under section 206(C)(3)(d)(1); or
 - 2) Accepts or rejects the offer made under section 206(B).
- f. The failure of the applicant to act as set forth in section 206(C)(3)(e) shall constitute a rejection of the county board's offer.

- g. 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 206(C)(1).
4. The failure by the applicant to act within 30 days of receipt of a written offer under section 206(B) shall constitute rejection of the offer.

D. Title Issues

1. The applicant is responsible to convey a clear title for the land to be purchased for the easement. The Board may decide to not proceed with the agricultural conservation easement process upon discovery of issues of title which prevent such an agricultural conservation easement to occur on the land. Should these concerns present themselves, it is the responsibility of the applicant to reimburse the County for all incidental costs incurred. These may include but are not limited to appraisal, survey, and title fees. It is the discretion of the Board to waive the reimbursement of these fees if special circumstances occur and are approved by the Board.

E. Withdraw from Consideration

1. In situations where the applicant withdraws from easement sale consideration or breaches the agreement of sale prior to closing, it is the responsibility of the applicant to reimburse the County for all incidental costs incurred. These may include but are not limited to appraisal, survey, and title fees. It is the discretion of the Board to waive the reimbursement of these fees if special circumstances occur and are approved by the Board.

F. An agreement of sale shall be in a form provided by the state board.

G. County-Only Funded Easements – The Board may acquire perpetual agricultural easements using county-only funding.

1. Eligibility for a County-Only funded easement

- a. Must meet all minimum State criteria;
- b. Must be a current applicant to the County program and has been ranked accordingly;
- c. The Board will consider the purchase of a County-Only easement on a case-by-case basis.

2. Procedure for Purchase of a County-Only Easement

- a. The Board will provide a County-only Deed of Easement document;
- b. An appraisal report is initiated by the Board to determine the easement value;
- c. The landowner will enter into an Agreement of Sale with the County;
- d. The Board will follow the closing procedure, recording and reporting to the State for reimbursement of incidental costs per Chapter 138e.103(c) through (f), Expenditure of Matching funds.

207 Requirements of the Agricultural Deed of Easement

- A. The owners of the subject farmland tract shall execute a deed conveying the easement. This deed shall include all provisions as set forth in the act.
- B. 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 market or monument of a type commonly placed in the field by a surveyor.
- C. The legal description shall not contain a closure error greater than one foot per 200 linear feet in the survey.
- D. 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 of sections 207(B) and 207(C). A survey required by the provisions of this paragraph shall meet the requirements of the § 138e.73 (relating to survey requirements).
- E. For purchases made entirely with state funds, the Commonwealth shall be the sole grantee.
- F. For purchases made entirely with county funds, the county shall be the sole grantee.
- G. For purchases made using a combination of state and county funds, the grantees shall be the Commonwealth and the county providing the funds under joint ownership as defined in the act.
- H. 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.
- I. For purchases made entirely with local municipal funds, the municipality shall be the sole grantee.

208 Rural Enterprise

- A. According to the Agricultural Security Area Law, 3 P.S. §914(c)(6)(v), an agricultural conservation easement shall not prevent customary part-time or off-season minor or rural enterprises and activities which are provided for in the county Agricultural Conservation Purchase Program approved by the State Board.
- B. Application for Rural Enterprise
 - 1. All requests for rural enterprises must be reviewed by the County Board.
 - 2. Applicants shall submit the application at least one month prior to a regularly scheduled meeting of the Board. Application is included as Appendix K.
 - 3. Applications for rural enterprises shall be evaluated with the following criteria:

- a. The rural enterprise shall remain incidental to the agricultural use and open space character of the farm;
 - b. The location of the rural enterprise and improvements will not harm the economic viability of the preserved farm for agricultural production.
 - c. The location of the rural enterprise and improvements shall be sited in a manner that protects the prime, unique, and important soils of the tract to the greatest extent practicable.
 4. The County Board reserves the right to review and approve these activities on a case by case basis according to this Section.
- C. The following customary part-time or off-season minor or rural enterprises and activities have been approved by the Cumberland County Agricultural Land Preservation Board and by the State Agricultural Land Preservation Board subject to criteria of Section 208.B.3:
1. Structures and facilities contributing to the production, primary processing, direct marketing and sale and storage of agricultural products if more than 50% of such processed or merchandised products are produced by the farm operator.
 2. Structures and facilities associated with irrigation, farm pond impoundment, 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.
 3. Structures and facilities associated with the production of energy if a majority of the energy annually generated is utilized on the preserved farm. Alternative energy is electricity, heat, or other usable forms of energy generated from a Tier I energy source. A Tier I alternative energy source, as defined by the Alternative Energy Portfolio Standards Act (P.L. 1672, No. 213), includes solar photovoltaic energy, wind power, low-impact hydropower, geothermal energy, biologically derived methane gas, fuel cells, biomass energy, and coal mine methane.
 4. Agriculture-related services or production and sale of agriculture-related goods and supplies limited principally to the landowner, immediate family member, or principally by persons in residence of the preserved farm. Site coverage is limited to one-half of one percent.
 5. The conduct of traditional trades and the production and sale of home occupation goods, arts and crafts principally by persons in residence of the preserved farm and limited to occupying residential and/or existing agricultural structures of the property
 6. Ag-tourism activities such as but not limited to hay rides, corn mazes, farm tours, agriculture-related events, and the accommodation of overnight visitors.
 7. Other similar uses as approved by the Cumberland County Agricultural Land Preservation Board as subject to the Agricultural Security Area law and regulations and the governing agricultural conservation easement.
- D. Rural enterprises are subject to all applicable federal, state, and local regulations

- E. These provisions are retroactive to September 27, 1990 when the County Program was approved by the State Board.

209 Title Insurance

- A. The county board shall provide the following to the state board upon submission of its recommendation for the purchase or an easement:
 - 1. A title insurance commitment
 - 2. Copies of all recorded or unrecorded documents listed on the title insurance commitments as exceptions to the title insurance policy.
- B. At settlement, the county board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth by the Insurance Department. A marked up title commitment may serve as a policy until the final policy is issued. The amount of the title insurance coverage shall equal or exceed the higher of the following amounts:
 - 1. The difference between the appraised market value and the appraised farmland value, as described in § 138e.65(a) of the act (relating to easement value and purchase price).
 - 2. The difference between the agricultural value and the non-agricultural value, as described in § 138e.66(3) of the act (relating to offer of purchase by county board), if such values are used to calculate the easement value.

210 Statement of Costs

- A. The county board shall submit, on a form provided by the Department, a statement of the costs to the state board along with the application for review. This statement of costs shall include the cost of the agricultural conservation easement and the costs incident to the purchase of the easement. The incidental costs may include:
 - 1. The county's appraisal cost.
 - 2. The necessary legal fees for title search, preparation of documents and attendance at closing.
 - 3. The recording fees.
 - 4. The survey costs.
 - 5. Reimbursements to a nonprofit land conservation organization that has acquired an easement at the request of the county board, for the purpose of transferring the easement to the county or the Commonwealth, or both. These costs include the easement purchase price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees and survey costs.
 - 6. The costs of providing adjoining land owners with required notices and of providing necessary advertisements.
 - 7. The cost of the title insurance.
- B. The statement of costs shall specify the amount of funding requested from the Commonwealth for the purchase, and the amount of county funds allocated for the purchase.
- C. 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.

- D. If the actual costs are less than the estimated costs, the county board shall promptly refund the difference to the Department by check payable to "Commonwealth of Pennsylvania."

211 State Board Review for Approval for Purchase of Easement

- A. The county board shall make its recommendation for purchase of an easement by submitting the following documents to the Director, Bureau of Farmland Protection, Pennsylvania Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

1. Twenty-five (25) copies of the summary report prepared in accordance with § 138e.70 of the act (relating to summary report), including the following items:
 - a. Cover letter from county.
 - b. A narrative summary.
 - c. Current USGS topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
 - d. Soil Report Form "C" (See Appendix F – Soil Report Form).
 - e. List of soil mapping unit names, symbols and land capability classes on the subject property.
 - f. Legible, uncolored soil map of subject property.
 - g. Tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility, rights-of-way, and access road rights-of-way.
 - h. Summary table showing the individual ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applicants.
 - i. Copy of Exhibit "B," from the Agreement of Sale, modified to include interest, total acres and per acre easement cost.
 - j. Twenty-five (25) copies submitted shall be individually collated and three-hole punched, but not stapled.
2. The appraisal report or reports.
3. The signed agreement of sale, including the proposed legal description, a statement of cost, the proposed deed of agricultural conservation easement, a contractor integrity clause, and a nondiscrimination clause.
4. The title insurance report or commitment.
5. A letter certifying that all adjoining landowners were provided with notice and opportunity to be heard in a manner consistent with administrative agency law with respect to the proposed easement purchase, including one (1) copy of the notification letter and a list of all adjoining landowners.
6. A completed and signed IRS Form W-9, Request for Taxpayer Identification Number and Certification for individual grantors.
7. A letter from the grantors stating the percent (%) of ownership of each grantor for the purpose of issuing IRS Form 1099.
8. A copy of the approved soil conservation plan that is required to be in place with respect to the land according to § 138e.241(2) of the act (relating to deed clauses).

9. A copy of the nutrient management plan that has been developed, reviewed and approved in accordance with the Nutrient Management Act, if the nutrient management plan is required under the Nutrient Management Act for any portion of the property that is subject of the recommendation for purchase.

212 Settlement Documents

The following documents must be executed at settlement and recorded at the Cumberland County Recorder of Deeds Office:

- A. The deed of agricultural conservation easement (See Appendix K – Deed of Agricultural Conservation Easement) containing the provisions required by the State Board and including but not limited to the following attachments:
 1. Legal Description
 2. Conservation Plan Agreement Form
 3. Subdivision Guidelines
 4. Survey, if required
- B. A Deed of Merger must be recorded if the land subject to the deed of easement contains more than one (1) parcel or tract. A deed of merger is defined as a deed by which parcels under common ownership are combined as a single parcel with the restriction that none of the parcels may be separately conveyed unless the subdivision guidelines of the Cumberland County Agricultural Land Preservation Board have been satisfied.
- C. Any other documents relevant to the property title (subordination documents, satisfaction pieces and releases).
- D. An updated deed for the subject land referencing the easement and reciting the restrictions of the deed of easement verbatim.

213 Local Government Unit Participation

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

- A. The local government unit in conjunction with a county board, may participate with the state board in the purchase of agricultural conservation easements.
- B. The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the eligible county the local government unit as joint ownership.
- C. The local government unit shall recommend to the county board the purchase of agricultural conservation easements by the local government unit and the Commonwealth as joint ownership.
- D. The local government unit may purchase an agricultural conservation easement, provided that all of the following apply:

1. The agricultural conservation easement is located within an agricultural security area of at least 500 acres or the easement purchased is a joint purchase with either a county or both a county and the Commonwealth pursuant to the criteria set forth for the purchase of agricultural conservation easements crossing local government unit boundaries and crossing county boundaries including any portion of an agricultural conservation easement extending into an adjoining county.
 2. The deed of agricultural conservation easement is at least as restrictive as the deed of agricultural conservation easement prescribed by the state board for agricultural conservation easements purchased by the Commonwealth.
 3. The local government unit shall participate with the county board in complying with section 213(E) for recording any agricultural conservation easement purchased by the local government unit.
- E. The county board shall be responsible to record agricultural conservation easements where a local government unit is a party to the purchase of the easement. The easement shall be recorded by the county board in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located. The county board shall submit to the state board a certified copy of the agricultural conservation easement within 30 days after recording. The county board shall attach to all certified copies of the agricultural conservation easements submitted to the state board a description of the farmland subject to the agricultural conservation easement.
- F. The local government unit may incur debt pursuant to 53 PA C.S. Pt, VII Supbt.B (relating to indebtedness and borrowing) for the purchase of agricultural conservation easements.

214 Eligible Non-profit Entity Participation

An eligible non-profit entity may participate along with an eligible county, the Commonwealth, and a local government unit eligible to participate under Section 212, in the preservation of farmland through the purchase of agricultural conservation easements.

- A. The eligible non-profit entity may purchase an agricultural conservation easement if all of the following apply:
1. The agricultural conservation easement is a joint purchase with the county, and may include the Commonwealth or a local government unit, or both.
 2. The deed of agricultural conservation easement is as prescribed by the State board for an agricultural conservation easement purchased by the Commonwealth.
- B. The county board shall be responsible to record agricultural conservation easements where an eligible non-profit entity is a party to the purchase of the easement. The easement shall be recorded by the county board in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located. The county board shall submit to the State board a certified copy of agricultural conservation easements within 30 days after recording. The county board shall attach to all certified copies of the agricultural conservation easements submitted to the State board a description of the farmland subject to the agricultural conservation easement.

215 Pennsylvania Farmland and Forest Land Assessment/Roll-Back Tax Interest

Notwithstanding any other permitted or required use of accrued interest distributed in accordance with section 8(b.1) and (b.2) of the Act of December 19, 1974 (P.L. 973, No. 319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," to use any portion of that accrued interest in the following manner: a) to develop conservation plans; b) to monitor and enforce agricultural conservation easements, including the payment of legal costs associated with defending an agricultural conservation easement.

100% of the roll-back tax interest shall be used for the development of conservation plans and the monitoring and enforcement of agricultural conservation easements. Any unused funds will be utilized to purchase agricultural conservation easements.

300 PROCEDURES FOR INSPECTING AND ENFORCING AN EASEMENT

301 Responsibility

- A. The county board shall have the primary responsibility for inspecting restricted land and enforcing the following:
 - 1. Agricultural conservation easements that were acquired under the authority of the act and are located within the county.
 - 2. Agricultural conservation easements which were acquired under the authority of section 14.1(b)(2) (i) of the act (3 P.S. § 914.1(b)(2)(i)), including any portion extending into an adjoining county.
- B. The state board or its designee will have the right to inspect restricted land and enforce an easement on its own behalf or in conjunction with the county board.

302 Inspections

- A. The county board shall inspect all restricted land within the county at least annually to determine compliance with the applicable deed of easement. The first inspection shall be completed within 1 year of the date of easement sale.
- B. Written notice of an inspection to be conducted under section 302(A) shall be mailed by certified mail to the owner at least 10 days prior to the inspection.
- C. Any inspection conducted under section 302(A) 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.
- D. Within 10 days of conducting an inspection under section 302(A), the county board shall prepare a written inspection report setting for the following information:
 - 1. The identification of the land inspected.
 - 2. The name of the owner of the farmland at the time the easement was originally acquired and the name of the current owner of the land inspected.
 - 3. A description of modifications in the number, type, location or use of any structures on the land since the date of the filing of the deed of easement.
 - 4. A description of the conservation practices being observed on the restricted land.

5. A statement of whether the provisions of the deed of easement are being observed.
6. A statement indicating whether a structure permitted under section 14.1(c)(6)(iv) of the act (3 P.S. § 914.1 (c)(6)(iv)) has been constructed on the restricted land and, if such a structure has been constructed, the month and year construction was completed and a description of the structure and its location on the land.

1. A copy of the inspection report shall be mailed by certified mail to the owner.

- E. The county board and the state board may inspect the restricted land, jointly or severally, without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

303 Annual Report

By March 1 of each year, the county board shall file an annual report with the state board. The annual report shall summarize the number of inspections, violations detected, violations resolved and the circumstances surrounding unresolved violations. The report shall also include copies of inspection reports for inspections conducted during the year.

304 Enforcement

- A. The county board shall enforce the terms of each easement purchased within the county under the act, whether it be a local government unit, county, state or joint purchase.
- B. The state board may enforce the terms of state or jointly purchased easements.
- C. 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.

305 Notification to Owner

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

306 Enforcement Actions

- A. Sixty days after the mailing of a notice of violation under § 138e.205 of the act (relating to notification to owner), the county board shall commence and prosecute an action in the Court of Common Pleas of the county in which the restricted land is located seeking an order requiring correction of the violation, enjoining further violation of the terms of the easement, and other appropriate relief, unless the county board does one of the following:

1. Determines with the state board that the violation has been corrected.
 2. Completes the following requirements:
 - a. Determines that the owner of the restricted land has commenced the necessary corrective measures, or determines that the necessary corrective measures cannot reasonably be completed within the 60 day period described in section 306(A).
 - b. Established a period not to exceed 1 year within which the corrective measures shall be completed.
- B. The county board shall commence and prosecute the enforcement action described in section 306(A) if the violation is not corrected within the time established under section 306(A)(2)(b).
- C. The owner of the restricted land shall bear all costs associated with the correction of a violation of the easement, including:
1. Costs of work required and materials used to correct the violations.
 2. Administrative costs incurred by the county board and the state board.
 3. Court costs and reasonable attorneys' fees incurred by the county board and the state board in enforcing the easement.
- D. If the county board fails to institute and prosecute a timely enforcement action, the state board may institute the action and recover costs incurred, including reasonable attorneys' fees, from the county board or the owner of the restricted land, or both.

400 RESPONSIBILITY OF OWNER

401 Permitted Acts

During the term of the easement the restricted land shall be used solely for agricultural production or other uses permitted by the act. The State Agricultural Land Preservation Board approved and authorized on July 13, 2000 the use of any conservation practice under Conservation Reserve Program (CRP) and Conservation Reserve Enhancement Program (CREP) as not violating the deed of agricultural conservation easement with respect to the restricted land provided the conservation plan as revised allows for implementation of any such conservation practice.

402 Conservation Plan

- A. To preserve the agricultural viability of the restricted land, the county board shall require the owner of land being considered for agricultural conservation easement purchase to do the following:
1. Before the county board recommends approval of the easement purchase to the state board, obtain a conservation plan approved by the county conservation district or the county board for the land that would be subject to the agricultural conservation easement.
 2. As part of the settlement documents described in § 138e.93 of the act (relating to post settlement recording and reporting and reporting procedures), execute a conservation plan agreement form (See Appendix I – Conservation Plan Agreement Form) containing the following:
 - a. The name, address and telephone number of the landowners.

- b. The location of the land.
 - c. The acreage of the land.
 - d. An acknowledgement that the deed of agricultural conservation easement requires that all agricultural production on the subject land be conducted in accordance with the conservation plan.
 - e. An acknowledgement that a conservation plan exists with respect to the land, together with the following:
 - (1) The source of the conservation plan.
 - (2) An identifying number given the conservation plan.
 - (3) The date of the conservation plan.
 - f. An acknowledgement that the landowners agree to comply with the conservation practices and implementation schedule in the conservation plan and an acknowledgement that failure to so comply would be a violation of the terms of the deed of agricultural conservation easement.
 - g. The signature of the landowners.
- B. In addition to the requirements established by the county conservation district, or the county board, the conservation plan shall meet the definitional requirement of a conservation plan in § 138e.3 (relating to definitions) and also require that:
1. The use of the land for agricultural production, such as growing sod, nursery stock, ornamental trees and shrubs does not remove excessive soil from the restricted land.
 2. The excavation of soil, sand, gravel, stone, or other materials for use in agricultural production on the restricted land is conducted in a location and manner that preserves the viability of the restricted land for agricultural production.
 3. The mining of minerals is conducted only through the use of methods authorized in the act.

403 Construction of Buildings: Change in Use

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

404 Construction of One Additional Residential Structure

- A. *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 in accordance with Section 404(A).
1. Criteria for Approval – A landowner must meet all of the following criteria in order to obtain approval:
 - a) 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.
 - b) No other residential structure has been constructed on the restricted land, under authority of section 14.1(c)(6)(iv) of the act and this section, after the date of the granting of the easement.
 - c) The residential structure and its curtilage occupy no more than two acres of the restricted land.
 - d) The location of the residential structure and its driveway will not harm the economic viability of the preserved farm for agricultural production.
 - e) The location of the residential structure shall be sited in a manner that protects the prime, unique, and important soils to the greatest extent practicable.
 2. Approval Procedures - A landowner must obtain approval from the County Board prior to siting and construction of the additional residential structure. The landowner shall submit the following items to the County Board at least 120 days prior to construction:
 - a) A letter, signed by the landowner(s), requesting approval to build an additional residential structure. The letter should include the purpose of the residential structure and how the proposed structure meets the requirements of Section 404(A)(1) Criteria.
 - b) A sketch plan of the proposed structure showing, at minimum, the following items: property boundaries, existing land use, location and size of the proposed residential structure, location and length of proposed driveway and size of curtilage.
 - c) A draft deed for the subject land which references the deed book and page of the deed of easement and recites verbatim the language of the easement. The deed shall also state that no additional residential structures are permitted.
 3. Post Construction – No later than 30 days after construction, the landowner shall record the deed as described in 404(A)(2)(c) at the Cumberland County Recorder of Deeds Office and provide a copy to County Board.
- B. *Replacement of structures.* The replacement of a residential structure constructed under the 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 is reserved.
 2. Ensure that the deed to the subdivided tract with respect to which the right to construct and use the residential structure is reserved clearly sets forth the reservation of this right.

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

405 Subdivision of Restricted Land

- A. *General Provisions.* Land subject to an agricultural conservation easement may be subdivided, provided the owner or owners (applicant) meet the criteria contained in the county program. Any and all expenses incurred in connection with a request for subdivision shall be the sole responsibility of the applicant. 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 board's program guidelines shall rest with the applicant.
- B. *Authority to prohibit subdivision of land.* A county program may prohibit the subdivision of restricted land if the land owner can accomplish the construction and use of a principal residence or housing for seasonal full-time farm employees in accordance with § 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.
- C. *Discretion to allow subdivision.* A county program may allow the subdivision of restricted land, and may place restrictions or conditions upon subdivision.
- D. *Requisite: Preservation of economic viability for agricultural production.* Section 405(C) notwithstanding, a county program shall not permit a subdivision which would harm the economic viability of the farmland tract for agricultural production.
- E. *Requisite: Preservation of conversion to non-agricultural use; exception.* Section 405(C) 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 construction of a principal residence for the landowner or an immediate family member.
- F. Nothing in these subdivision regulations shall relieve the landowner of any local, county, state or federal regulations, procedures or requirements necessary for the subdivision of land.
- G. *Notice to landowner.* A county board shall do at least one of the following:
 1. File its county program, or that portion setting forth any prohibitions or restrictions with respect to subdivision of restricted land, at the Cumberland County Recorder of Deeds, and reference the place of filing of these prohibitions or restrictions in the deed of agricultural conservation easement.
 2. Recite the prohibitions or restrictions with respect to subdivision verbatim in the deed of agricultural conservation easement.

406 Criteria for Subdivision of Restricted Land

Farms preserved prior to February 22, 1996 may be subdivided with approval of the County Board. Approval shall be granted only if the subdivision meets the requirements of Section 406(A)1-7 *General Criteria*. Exception: Subdivision for the purpose of construction of one additional residential structure shall only meet the requirements of Section 406(A)1-5 *General Criteria*.

Farms preserved after February 22, 1996 may be subdivided with approval of the County Board and State Agricultural Land Preservation Board. Approval shall be granted only if the subdivision meets the requirements of Section 406(A)1-7 *General Criteria* and Section 406(B) *Specific Criteria for Farms Preserved after February 22, 1996*. Exception: Subdivision for the purpose of construction of one additional residential structure shall only meet the requirements of Section 407(A)1-5 *General Criteria*.

A. *General Criteria*

1. The subdivision shall be consistent with the statement of Purpose of the Cumberland County Agricultural Land Preservation Board, as amended.
2. The subdivision shall conform to and be consistent with the Cumberland County Comprehensive Plan, the Municipal Comprehensive Plan, and applicable municipal zoning.
3. Approval of the subdivision shall not cause a reduction to, or the effectiveness of, any soil or water conservation methods or practices which have been implemented by the farm operator.
4. Approval of the subdivision shall not alter, diminish, divert or otherwise modify any water access or water rights to others.
5. Each farmland tract created by subdivision shall remain economically viable for agricultural production.
6. Each farmland tract created by subdivision shall consist of a minimum of fifty percent (50%) harvest cropland, orchard, pasture or grazing land.
7. Each farmland tract created by subdivision shall contain a minimum of fifty percent (50%) of its soils in soils classes I through IV as defined by the United States Department of Agriculture, Natural Resources Conservation Service.

B. *Specific Criteria for Farms Preserved after February 22, 1996*. A subdivision shall not create a tract or parcel of land that is less than 100 acres, unless the tract or parcel of land is contiguous to a property which is subject to an agricultural conservation easement.

407 Procedure & Submission Requirements for Review of Request to Subdivide Restricted Land

A. Informal Sketch Review (*Optional*)

1. A landowner may request an informal sketch review of a proposed subdivision. The purpose of the informal review is to determine general consistency with the Subdivision Guidelines prior to preparation of an engineered subdivision plan. An informal sketch review does not replace the need for formal review and approval of an engineered subdivision plan.
2. To request an informal sketch review the landowner shall submit to the County Board the following items:

- a. A sketch plan showing the proposed subdivision.
- b. A letter, signed by applicant(s), requesting informal sketch review and clearly describing the following:
 1. The intent of the proposal.
 2. Explanation that the economic viability of the agricultural conservation easement will not be diminished.
 3. Explanation that no part or parts of any of the subdivided tracts will be converted to nonagricultural uses.
 4. Explanation that at least fifty percent of each farmland tract in the subdivision, including the residual, be cropland, orchard, pasture or grazing land.
- c. A soils map for each proposed tract, including the residual. Soils map shall include the acreage of each proposed tract and the number of acres in each soil class.

B. Formal Request for Approval (*Mandatory*)

All subdivisions require review and approval by the County Board. The County Board shall review the subdivision plan to ensure the plan is consistent with and conforms to program guidelines.

Approval by the State Agricultural Land Preservation Board is also required if the subject property received State funding after the adoption of the Subdivision Guidelines on February 22, 1996.

1. Procedure - A landowner shall obtain approval to subdivide a tract of restricted land in accordance with the following procedure:
 - a. The landowner shall submit an application to the County Board, in a form and manner prescribed by the county board, requesting review and approval of the subdivision of a tract of land (See section 407(B.2) Subdivision Application Submission).
 - b. The County Board shall note the date upon which the application is received.
 - c. Upon receipt of the application, the County Board shall forward written notice of the application to the Cumberland County Planning Department.
 - d. The County Planning Department shall have 60 days from receipt of the written notice described in section 407(C) within which to review, comment and make recommendations on the proposed application to the County Board. The County Board may not consider comments and recommendations received beyond this deadline unless the landowner agrees in writing.
 - e. The County Board shall have 120 days from receipt of the application for approval to subdivide within which to review the application, review comments and recommendations submitted by the County Planning Department and approve or reject the application. This 120-day deadline may be extended by the mutual agreement of the landowner and the reviewing agencies. If the County Board fails to approve or reject an application within the 120-day deadline or an extension thereof, the application shall be deemed approved.

- f. If the application is rejected by the County Board, the County Board shall return the application and a written statement of the reasons for the rejection to the landowner. Within 30 days after 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).
 - g. If the application is approved by the County Board, the County Board shall promptly forward a copy of the application and the comments and recommendations of the reviewing agencies to the State Board for review and approval or disapproval, if required.
 - h. The State Board will provide the County Board and the landowner with written notice of the date, time and location of the meeting at which the State Board shall review and consider the application. This notice will be forwarded by regular mail at least 14 days in advance of the State Board meeting.
 - i. In its review of an application requesting approval of the subdivision of a tract of restricted land, the State Board will consider only whether the application complies with the conditions under which subdivisions are permitted by the county program.
 - j. The State Board will provide both the County Board and the landowner with written notice of its decision regarding the application for approval of the subdivision of a tract of restricted land. If the application is disapproved, the notice shall contain a statement of the reasons the application does not comply with the conditions under which subdivisions are permitted by the county program.
2. Submission Requirements - The applicant shall submit the following items to the County Board.
- a. A subdivision plan prepared by a licensed engineer/surveyor including the following items:
 - 1. The plan shall state that the property is subject to the terms and conditions of the Agricultural Conservation Easement given by the Commonwealth and Cumberland County and reference the Deed Book and Page of the Deed of Easement.
 - 2. The plan shall state on which tract the allowable additional residential dwelling unit may be erected. In the event one additional dwelling unit has been erected prior to the submission of the application, location of said dwelling shall be shown on the plat plan and indicate no additional residential structures are permitted.
 - b. A letter, signed by applicant(s), requesting formal review and approval and describing the following:
 - 1. The intent of the subdivision proposal.
 - 2. Explanation that the economic viability of the agricultural conservation easement will not be diminished.
 - 3. Explanation that no part or parts of any of the subdivided tracts will be converted to nonagricultural uses.
 - 4. Explanation that at least fifty percent of each farmland tract in the subdivision, including the residual, be cropland, orchard, pasture or grazing land.

- c. A soils map for each proposed tract, including the residual. Soils map shall include the acreage of each proposed tract and the number of acres in each soil class.
 - d. Draft deeds for the residual tract and subdivided tracts in accordance with the following:
 - 1. Each deed, whether for newly created tract or residual tract, shall reference the deed book and page of the deed of easement and recite verbatim the language of the deed of easement.
 - 2. Ensure that the deed to the tract with the right to construct additional residential structure, if not used, is reserved clearly sets forth this right.
 - 3. Ensure that the deed(s) to the remaining subdivided tract(s) recite that no additional residential structure may be constructed on the remaining subdivided tract(s).
- C. Post-Settlement – No later than 30 days after recording the subdivision plan, the landowner shall record the deeds as described in 407(B)(2)(d) at the Cumberland County Recorder of Deeds Office and provide a copy to County Board.

408 Landowner’s Duties with Respect to Change in Ownership

- A. No later than 30 days after change in ownership, the landowner shall notify the County Board and the Pennsylvania Department of Agriculture in writing of any conveyance of or transfer of ownership of land subject to an agricultural conservation easement. The notification shall include the following information:
 - 1. Name, address, and telephone number of Grantor
 - 2. The party or parties to whom ownership has been conveyed or transferred
 - 3. Price per acre
 - 4. A reference to the volume and page in which the transfer has been recorded
 - 5. A copy of the recorded deed
- B. The deed conveying or transferring such land shall reference the deed book and page and recite verbatim the language of the easement as set forth in the original deed of easement for that property.
- C. If there are multiple tracts on one easement, the Grantor must designate which tract has or will have the right for the additional residential structure permitted by the easement. The deed shall state that the additional residential structure is permitted for that tract. The deeds for all other tracts must state that no additional residential structure is permitted.
- D. The landowner shall contact the Board for the necessary language of the easement that must be included in the new deed and provide a draft copy of the deed to the Board prior to recording to ensure appropriate language is included.
- E. If the language of the deed of easement is not included in the recorded deed, landowners will be required to re-record a deed with the appropriate language.
- F. The landowner shall bear all legal and recording costs associated with a transfer or conveyance of land subject to an agricultural conservation easement.

500 LAND TRUST REIMBURSEMENT PROGRAM

501 Eligible Expenses

Eligible expenses for reimbursement under this section shall include:

- A. Appraisals
- B. Legal services
- C. Title searches
- D. Document preparation
- E. Title insurance
- F. Closing fees
- G. Survey costs

502 Limitations

Limitations shall include the following:

- A. Reimbursement shall be limited to \$5,000 per easement.
- B. The term of an agricultural conservation easement shall be perpetual.

503 Eligibility

To be eligible under this section, a land trust shall be an eligible non-profit entity and shall:

- A. Register with the State board
- B. Coordinate agricultural conservation easement purchase activities with the State board, if the activity does not occur within an eligible county; and
- C. Submit an application to the State board, with the statement of costs incidental to acquisition, the deed of easement and any other documentation required by the State board, within 60 days of closing the easement.

504 Registration

The process for registration with the State board shall include the following:

- A. Send a letter of request to the Bureau of Farmland Preservation stating the organization's desire to be registered with the State Agricultural Land Preservation Board for the purpose of receiving reimbursement grants under the program;
- B. The letter is to be signed by the president or other appropriate officer of the land trust;
- C. Enclose a copy of the land trust's Section 501(c)(3) tax-exempt certification as issued by the Internal Revenue Service and any other document necessary to demonstrate that the land trust has the acquisition of agricultural conservation easements or other conservation easements as part of its stated purposes; and

- D. Include a letter from the Director or Chairperson of the county agricultural land preservation board in which the land is located indicating that the land trust coordinates its farmland preservation activities with those of the County board.

600 ACQUISITION BY DONATION

The County Board may accept a 100% donation of an agricultural conservation easement subject to the following conditions.

601 Minimum Criteria for Donations

In order to be eligible to make application for donation, an agricultural conservation easement must either:

- A. Meet all minimum state criteria for purchase as per Section 103 (relating to Minimum Criteria for Applications); OR
- B. Adjoin land already in subject to an agricultural conservation easement

602 Application and Consideration

- A. Applicants wishing to donate an agricultural conservation easement shall complete an application on the County form (See Appendix E – Application Form) and submit it to the County Board.
- B. Applications for donations of agricultural conservation easements will be accepted any time during the year and will be considered by the County Board on a case by case basis.

603 Requirements for Donated Easements

- A. Easement Term - The term of the donated Deed of Easement shall be perpetual.
- B. Easement Form - The Deed of Easement shall be prescribed by the State Board for the donated easement.
- C. Grantee - The County must always be a grantee of the easement. No State-only donations will be accepted. The County may acquire the easement as:
 - 1. County - only acquisition
 - 2. County – Commonwealth
 - 3. County – non-profit
 - 4. County - local government unit
 - 5. County - any combination of these
- D. Appraisal – An appraisal, prepared by a state certified general real estate appraiser, shall be required for a donated easement.
- E. Title Insurance - The donated easement shall have Title Insurance and shall be free and clear of all encumbrances. The title insurance shall be issued based on the appraised value for the subject donated acreage.

- F. Survey – A survey shall be required for a donated easement, if the existing deed does not meet the standards of Section 207 (related to Requirements of the Agricultural Deed of Easement). If required, the survey shall meet the requirements set forth in Section 204 (related to Survey Requirements).
- G. Subordination Agreement – Proper releases from mortgage holders and lien holders must be obtained and executed to insure that all easements are free and clear of encumbrances.
- H. Agreement of Sale - For easements where the Commonwealth is not a grantee, an Agreement of Sale shall be approved by the County Board prior to execution of the easement. For easements where the Commonwealth is a grantee, an Agreement of Sale shall be approved by County and State Board prior to execution of the easement.
- I. Post Settlement - The County Board shall provide the State Board a certified copy of the easement within 30 days of recording.

604 Incidental Costs

- A. The County Board shall pay for all incidental costs for donated easements approved by the County and/or State Board.
- B. Up to \$5,000 in incidental costs per easement shall be paid by the County Board utilizing State funds. The County shall cover any incidental costs that exceed \$5,000.
- C. Incidental costs shall include the cost of appraisal, title insurance and survey, if required.
- D. The County Board shall be responsible for retaining and arranging for the appraisal, title insurance and survey, if required.