

BUTLER COUNTY AGRICULTURAL LAND PRESERVATION BOARD

AGRICULTURAL LAND PRESERVATION PROGRAM

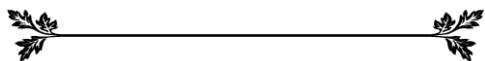
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INTRODUCTION



Butler County is located in west-central Pennsylvania less than 30 miles from the Ohio State line, about 100 miles south of Erie and within easy driving range of metropolitan Pittsburgh. Butler County has 505,178 acres of land. A modern highway system including the Pennsylvania Turnpike and Interstate Routes 79 and 80 has given Butler County many enviable advantages of an economic cultural and recreational nature. Moraine State Park is the major recreation complex with 16,000 acres.

Butler, the county seat, is near the geographical center of the county. It is a city of nearly 14,000 people which, with its shopping centers and other modern facilities, is capable of serving the normal needs of the 190,000 county residents.

Historically, Butler County had its beginnings as a political unit in 1800. The northwestern portion of Pennsylvania, of which Butler County is a part, was originally included within the jurisdiction of Westmoreland County. As settlement progressed, Allegheny County was formed out of territory formerly included within Westmoreland County. Butler County was then, in turn, formed from Allegheny County territory, as were also her neighboring counties.

The northwestern portion of Pennsylvania was acquired from the Indians by the Treaty of Fort Stanwix in 1784. However, continuing raids by the Indians made it unattractive to settlers until General "Mad" Anthony Wayne defeated the Indians in the Battle of Fallen Timbers in 1794. After this victory, the Indian menace was ended and settlers began to move into the territory. Settlement was accelerated somewhat by the state's land grants to individuals. This Depreciation and Donation land grants to individuals was provided by state law as compensation to state veterans of the Revolutionary War. Settlement of the county was further stimulated by the activities of the Harmony Society, a well-known and famous communal experiment on the banks of the Connoquenessing Creek at Old Harmony.

The territory was in the stream of national and world history even before its creation as a county. In 1753-1754, George Washington crossed the county via the Venango Trail carrying a message from Governor Dinwiddie of Virginia to the French Commandant St. Pierre at Le Boeuf (Waterford, PA) warning him that the French were trespassing on English territorial claims. This was a part of the diplomatic skirmishing which led to the French and Indian War at which time the English claim to this region was established.

The forests (or woodlands) of Butler County have and continue to play an important role in the lives of people in the county and also people from surrounding communities. The forestland provide forest products from export grade veneer logs to fire wood; areas for hunting, hiking, camping, or bird watching; and vistas that please the eye. Woodlands that have grown and been used by several generations of Butler Countians and that still account for half the land area of the county.

There are a large number of tree species present in Butler's forests. The climate, topography, and past use of the land combine to provide many different growing conditions for the trees and as a result many different kinds of trees. Oak/hickory forests were the most extensive as of the last forest inventory completed in 1989. The oak/hickory forest type accounted for nearly

half of the woodland of the county. Red maple, black cherry, sugar maple, white ash, and tulip tree dominate the other "hardwood" forest types of the county. The remaining woodland (about 4% of the total) is pine forest. The forests of the county are changing due to many factors including gypsy moth, harvesting and changes in land use. It is likely that the oak forest will not be as extensive in the next inventory.

Unlike the forests of central and north central Pennsylvania, which are large uninterrupted tracts owned by large landowners or by the public (state or federal government), Butler forests are mostly small tracts owned by a large number of small landowners. Only about five percent (5%) of the total forest of the county are owned by government agencies. These "small woodlots" added together make up "Butler's forest", a forest that makes Butler County of more livable community.

The soil and climate of Butler County were and still are conducive to the growing of crops normally grown by the pioneers and later farmers of Pennsylvania. Buckwheat seems to have been a favorite crop in the early years since so much of it was grown that the county was dubbed "The Buckwheat County." Today, Butler County boasts a number of fine farms, mainly of the diversified types but with some specialties.

The County ranks twelfth in the number of farms in the State; eighth in the State in sheep and lamb production; and tenth in the State in oats production as of 1990. In 1940, the total farm acreage utilized 62 percent of all land in the County but by 1990, farm acreage had declined to about 28 percent of the County.

Butler County has always been an important agricultural county, being one of the more productive counties in Pennsylvania. County farms annually produce agricultural products which bring in cash receipts in excess of \$54 million. A \$24.4 million income for horticultural specialties and mushrooms leads the list, with dairy product sales of \$13.3 million in second place, according to the 1990 Crop and Livestock Report. Field crops, vegetables, potatoes and fruits account for another \$6.9 million; meat animal products add \$8 million; and poultry product sales are estimated at \$0.6 million. Horticultural specialties include greenhouse and nursery sales, seeds, and the landscaping industry.

Any industry with \$54 million in annual sales is important to the economy of the County. A large portion of that amount stays in the area and is paid out by the farmer for goods and services he requires for his farm and household. Products produced by the 1,250 farms in Butler County are many and diversified. Dairying and the raising of hogs, sheep and cattle are the major livestock farming activities. Corn and hay are the predominant field crops raised, as well as wheat, oats and soybeans.

In 1987, the voters of Pennsylvania passed a referendum to allow a \$100 million bond issue to preserve farmland. The Pennsylvania legislature enacted Act 149 in 1988 to allow counties to tap the \$100 million fund to purchase agricultural conservation easements. In 1993, the Butler County Commissioners established a nine member board consisting of four farmers, one local government representative, one building industry representative and three citizens at large to develop and oversee this program

STATEMENT OF PURPOSE

It is the purpose of this program to protect viable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production and related agricultural activities. Further, it is the purpose of this program to:

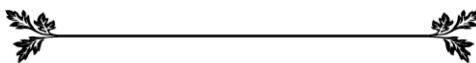
Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use.

Protect normal farming operations in agricultural security areas from incompatible non-farm land uses that may render farming impractical.

Protect normal farming operations from complaints of public nuisance against normal farming operations.

Assure conservation of viable agricultural lands in order to protect the agricultural economy of this Commonwealth.

Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property. Maximize agricultural conservation easement purchase funds and protect the investment of taxpayers in agricultural conservation easements.



PURCHASE PROCEDURE

Landowners interested in selling an agricultural conservation easement to Butler County and the Commonwealth of Pennsylvania should use the following procedures:

- A. Check eligibility criteria (Appendix C)
- B. Submit preliminary application form (Appendix D)

The application will be used to screen all potential applicants and can be obtained from the Butler County Office of Farmland Preservation. The County Board will establish a schedule for the submission of applications at the beginning of each year. If the County Board schedules more than one application period in each year, the applications submitted in the first period shall have priority over applications submitted in the second period according to a two year allocation of funds. Second period applications will be ranked, but easement purchase offers by the County Board will be considered only if sufficient State funds are available. Any applications not funded in the year of submission will be carried forward for ranking in future funding periods. Owners of farms not funded in the year of application submission will be notified so that they may apply in future funding periods.

After submission of the application, the County Board's staff will contact the applicant if needed to answer questions and determine if State and County minimum criteria for participation in the program are met.

If minimum criteria are not met, the applicant will be mailed a letter of rejection with an explanation of why the application was rejected.

INITIAL REVIEW OF APPLICATION

In accordance with 7 PA Code Chapter 138e62:

After the full application has been submitted, it will be checked to make sure that all minimum requirements are met. All conservation easement applications and other documentation shall be done in accordance with the model formats included in the State guide book and any future revisions thereto. If all minimum requirements are met, and following an on-site assessment by a representative of the County Board, the application will be scored using Butler County's Land Evaluation and Site Assessment (LESA) System. This system provides a way to rank the easement applications by evaluating Soil and locational factors for each tract under consideration. See Page 8 and appendices E and F for a complete description of the Land Evaluation and Site Assessment System and how applications will be scored using it.

All properties considered for easement purchase will be evaluated in compliance with §14.1(d)(1)(i-iv) regarding soil quality, likelihood of conversion, proximity to other eased lands, land stewardship, and fair and equitable procedures.

Following an analysis of each application, the County Board will determine an appraisal order for applicants. Preference for appraisals will be given to applicants with the highest scores. The application with the highest score will be appraised first, followed by the next highest score and so on. The County Board reserves the right to limit the number of applications it chooses to

appraise. If the applicant withdraws the application for any reason, the application will not be considered until the next calendar year.

CONSERVATION PLAN

- (a) To preserve the agricultural viability of the restricted land, the county board shall require, and the owner of the restricted land shall maintain, a conservation plan approved by the Natural Resources Conservation Service or the county board.
- (b) In addition to the requirements established by the Natural Resources Conservation Service 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 economic 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.

APPRAISAL PROCEDURE

In accordance with 7 PA Code Chapter 138e63 and 138e64:

The ranking of applications will be forwarded to applicants along with an appraisal form. The appraisal procedure will follow the regulations provided by the Commonwealth. Appraisals will be conducted using the comparable sales method if comparable sales information is available. If not available, farmland values can be determined based on crop production or through capitalization of rental income information. Submitted with the appraisal request form will be a deposit of \$1,800. This required deposit shall increase to \$2,500 beginning on January 1, 2020. There is a sixty (60) calendar day time limit from the date an applicant / owner is notified by the Butler County Agricultural Land Preservation Board that they wish to proceed with an appraisal to determine value for a possible easement purchase on the applicant's land, for the owner to submit their required appraisal deposit. This deposit will be refunded if the applicant does not sever an agreement of sale and the applicant accepts an offer equal to the appraised value of the easement. The applicant will not receive a refund if the appraised value is rejected. The applicant will also receive a refund of this deposit if the applicant agrees to sell an easement at less than the appraised value or if the County Board does not make an offer to purchase the easement. Finally, the applicant will receive a refund if the County Board offers to purchase an easement for less than the appraised value and the applicant is not willing to accept less than the appraised value. The deposit is to be held in escrow. Please refer to Appendix G on Farmland Appraisal Procedure.

Effective March 1, 2019, any applicant who withdraws from the Butler County Agricultural Land

Preservation Program after the required deposit has been received by the county board and the appraisal has been initiated is prohibited from reapplying to the Butler County Agricultural Land Preservation Program for a period of three (3) consecutive calendar years / application periods.

EASEMENT VALUE AND PURCHASE PRICE

The Butler County Agricultural Land Preservation Board will only consider applications for easements in perpetuity. The appraisal report will provide the County Board with an estimate of the value of the easement, which is the difference between market value and the farmland value.

APPROVAL OF PURCHASE BY THE COUNTY BOARD

In accordance with 7 PA Code Chapter 138e66:

Final purchase decisions will be based on the following factors:

- A. Farmland Ranking System
- B. Cost factors
 - 1. Available funds;
 - 2. Cost per acre;
 - 3. Total cost in relation to appraised value;
 - 4. Butler County will not consider any conservation easement for purchase which will use more than \$10,000 per acre of State funds. Any amount over \$10,000 per acre will be considered County funds.

If the County Board decides not to make an offer to purchase an easement on the farmland tract, the applicant shall be notified in writing.

PURCHASE NEGOTIATIONS WITH APPLICANTS

In accordance with 7 PA Code Chapter 138e66:

After the County Board has decided to make an offer for the purchase of an agricultural conservation easement, the County Board or its representative will meet with the applicant to discuss the offer.

At this meeting, the appraisal reports will be reviewed with the applicant. A formal offer for purchase of a conservation easement shall be submitted to the applicant in writing and accompanied by the appraisal report. The offer may be less than or equal to the appraised value of the easement.

The applicant may, at the applicant's expense, retain another independent, State certified, real estate appraiser to determine a second easement value. This second appraisal must be completed in accordance with the State regulations as found in Appendix G.

If the applicant secures an independent appraisal, the easement value shall be determined using a combination of the two appraisal reports, using the formula described in Appendix G.

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

- A. Accept the offer
- B. Reject the offer, or
- C. Secure an independent appraisal as set forth by the State guidelines.

The failure of the applicant to act within 30 days shall constitute rejection of the offer.

If the offer to purchase is accepted by the applicant, the County Board and the applicant shall enter into an agreement of sale. The agreement shall be conditioned upon the approval of the State Agricultural Land Preservation Board, and be subject to the ability of the applicant to provide good title to the premises, free of any encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interests, and other encumbrances which would adversely impact the County and the Commonwealth's interest in the farmland tract. The applicant may choose installments through an agreement of sale for up to five (5) years with no interest.

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 subsection (a) shall also contain the following:
 - 1 A recordable legal description setting forth the metes, bounds, monumentation, exceptions, easements and rights-of-way with respect to the farmland tract or other subject of the survey.
 - 2 A copy of the final boundary survey in digital electronic format that complies with the conservation easement Geographic Information System (GIS) technical standards maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act (3 P.S. § 914.1(a)(3)(xv)). The digital format shall show the bearings and distances between each monument and contain the northing and easting of each monument.
 - 3 Coordinates of at least two ground control points located sequentially along the boundary survey, with latitude and longitude expressed in decimal degrees with an accuracy of 6 recorded decimal places. These coordinates shall be based on the "North American Datum of 1983," or its most current successor document, and shall be obtained through field observation or verification of datum.
 - 4 A paper copy of the plotted final survey map from the digital file showing the course bearings and distances and other annotations and symbols as maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act.

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 subsection (b)(3). This monumentation shall consist of permanent, concrete markers of substantial length and width containing ferrous or other materials detectable by an electromagnetic locator. The identity of the surveyor who places a monument shall be affixed or marked upon the monument so that it can be ascertained by inspection of the monument in the field.

AGRICULTURAL EASEMENT DEED

At settlement, the applicant must execute a deed conveying the easement. This deed shall adhere to the Commonwealth's agricultural easement deed requirements as found in Appendix H and Chapter 138e.241 of the State Regulations for Act 43.

NUMERICAL RANKING SYSTEM FOR APPLICATIONS

In accordance with 7 PA Code Chapter 138e15:

Applications will be ranked using a two-part land evaluation and site assessment (LESA) system. The land evaluation looks at the quality of the soils and the site assessment considers locational factors that may have an impact on current or future viability of a farm.

The Numerical Ranking System is to be used to rank and prioritize applications to be selected by the Butler County Agricultural Land Preservation Board for appraisal. Selection for appraisal will be made in a descending order of a farmland ranking score.

- If a municipality will be participating as a co-owner of an easement to be purchased as defined in Appendix M of these Guidelines, then a purchase may be made in something other than descending order, as long as all other program requirements are met. In this case, the municipality is required to allocate to the county the total amount of the revenue needed to purchase the easement in their municipality no later than December 31 of the preceding year of every purchase.

Each ranking will be conducted after the first of January. Only those completed applications received between December 1 and December 31 of the preceding year will be considered for the year.

The two part Land Evaluation Site Assessment Numerical Ranking System is outlined as follows:

Land Evaluation (soil score) = 50% of total score

Site Assessment = 50% of total score:

[Development Potential (10%) + Farmland Potential (30%) + Clustering Potential (10%)]

- LAND EVALUATION (50% of total score) - LE

This part of the LESA system is based on soils data obtained from the Butler County Soil Survey. The Soil Survey was published in 1960 by the USDA Soil Conservation Service in cooperation

with the Pennsylvania State University, College of Agriculture, and the Pennsylvania Department of Agriculture. The most up to date soils information will be used in evaluating applications for soil quality.

Each soil mapping unit found in Butler County has been assigned by the Natural Resources Conservation Service a score based on its land capability classification, important farmland classification and productivity for corn. Based on these factors, each soil has been assigned a relative value with 100 being assigned to the best soils for agricultural production in the County. All the other soils in the County have been assigned relative values less than 100. See Appendix E, page 28 for a listing of relative values for all the soils in the County.

Using the worksheet found in Appendix E, each farm under consideration will be assigned an average relative value for the soil types making up the tract. The highest average relative value a farm can receive is 100.

The Land Evaluation Score (LE) is determined by multiplying the average relative value for the tract by the weighted (LE) factor of .50 (50% weighted factor). The maximum LE score is 50.

- SITE ASSESSMENT (50% of total score) - SA

The site assessment portion of LESA consists of 12 factors which relate to the viability of the site for present and future agricultural use. These factors consider development pressures in the area and the likelihood of future development having an impact on farm operations. Each application will be researched for each of the 12 site assessment factors. These factors have been assigned a weight based on the factor's overall importance in the site assessment system. The maximum weighted score a farm can receive on the site assessment is 50. The total weighted scores calculated from the land evaluation and site assessment will be added to get a total weighted LESA farm score. The maximum total weighted LESA score is 100. Refer to Appendix F.

PLANNING MAP TO GUIDE EASEMENT PURCHASES

1. The County Board will use the most recent Soil Survey Map of Butler County to assist in the identification of farm parcels to be selected for inclusion in the County's Agricultural Conservation Easement Program. The maps were originally issued in 1989 by the U.S. Department of Agriculture, Soil Conservation Service. A list of Prime Farmland and Soils of Statewide Importance are included to assist when identifying those areas in Butler County considered agriculturally important.
2. The County Board shall encourage the formation of Agricultural Security Areas within Butler County Municipalities.

PUBLIC INFORMATION PROGRAM

Copies of the Butler County Agricultural Conservation Easement Program Guidelines are available to the public by contacting the Butler County Office of Farmland Preservation, 124 West Diamond Street, PO Box 1208, Butler, PA 16003 – Phone (724) 284-5305 or Email skelly@co.butler.pa.us.

A public information program will be carried out with the help of the Butler County Office of Farmland Preservation and any other relevant agencies and will include:

- A. Direct contact with farm organizations in the County;
- B. Participation in Extension Service newsletters and meetings;
- C. Participation in the Conservation District newsletters and meetings;
- D. Timely news articles in daily and weekly newspapers;
- E. Seminars and workshops will be scheduled for the public.

INSPECTION AND ENFORCEMENT PROCEDURES

The Butler County Agricultural Land Preservation Board will conduct biennial inspections of state-funded properties (or as otherwise required) on which conservation easements were purchased with County, Municipal, State and joint funds to determine if any violations of the easement have occurred. Federally-funded conservation easements will be inspected annually or as otherwise required.

Landowners subject to these inspections will be notified by certified mail 10 days in advance of the proposed inspection.

If violations of the easement are found, the County Board will request that the landowner remove the violation. If the landowner does not comply, the Board will seek a court order requiring the landowner to remove any violations of the easement agreement. The landowner will pay all court costs if found in violation.

All persons conveying or transferring land subject to an agricultural conservation easement shall notify the county board and the Department of the price per acre or portion thereof received by the landowner, (14.1(j)(2)).

The County Board will adhere to the regulations of the Commonwealth (Title 7 PA Code Chapter 138e., 138e.201 to 138e.206 and as may be amended) in inspecting and enforcing all agricultural conservation easements.

All properties within Butler County upon which conservation easements are placed shall recite in verbatim the language of the easement as set forth in the deed whenever interest in said properties is conveyed or transferred to another person. (§14.1(1)(1-3))

AGRICULTURAL LAND PRESERVATION BOARD 2022

**Kenneth Moniot, Chairman
Bill Duncan, Vice-Chairman
Larry Baumgartel, Treasurer
Rob Burr, Secretary
John Allen
Eugene Berbigler
Luke Fritz
Gordon Marburger
Alvin Vogel**

Note when using these guidelines:

The list shown above may change from year to year and will be updated annually or as needed. For the most current list of board members and officers please contact:

**Butler County Office of Farmland Preservation
124 West Diamond Street, PO Box 1208
Butler, PA 16001**

APPENDIX A
RESOLUTION OF THE COUNTY OF BUTLER
NUMBER 93-30

WHEREAS, the Agricultural Area Security Law of June 30, 1981, (P.L. 128 Number 43) as amended by Act 149 of 1988 provides funds for the purchase of agricultural conservation easements of farmlands for the purpose of preserving the farmlands of the Commonwealth; and

WHEREAS, participation in the Farmland Preservation Program requires the formation of a Butler County Agricultural Land Preservation Board; and

WHEREAS, within the County of Butler a loss of farmlands is occurring; and

WHEREAS, it is deemed to be in the best interest of the citizens of the County of Butler to preserve and maintain open space and agricultural land.

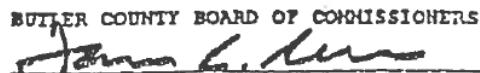
NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of the County of Butler that:

1. A County Board of nine members shall be formed to administer the Program of Act 149 of 1988; with such Board being known as the Butler County Agricultural Land Preservation Board.
2. Members of the Board shall be appointed as follows:
 - a. Four members shall be active resident farmers of the County and shall serve initial terms of three years.
 - b. One member of the County Board shall be a current member of the governing body of a Township or Borough located within the County and shall serve an initial term of two years.
 - c. One member of the County Board shall be a commercial, industrial, or residential contractor and shall serve an initial term of one year.
 - d. Three at-large members of the County Board shall serve initial terms of one year.
 - e. Upon expiration of the initial terms set forth above, all terms of members shall be three years.
 - f. Members of the County Board shall be appointed by the Board of County Commissioners.
3. Annually, the Chairman of the Butler County Commissioners shall designate one member of the Agricultural Land Preservation Board to act as Chairman of the Board.
4. The duties and responsibilities of the Butler County Agricultural Land Preservation Board shall be to administer the Agricultural Area Security Law of 1981, as amended by Act 149 of 1988, in accordance with the policies established by the State Agricultural Land Preservation Board.

THIS RESOLUTION DULY ADOPTED, by the Commissioners of the County of Butler, in lawful session, this fourth day of August, 1993.

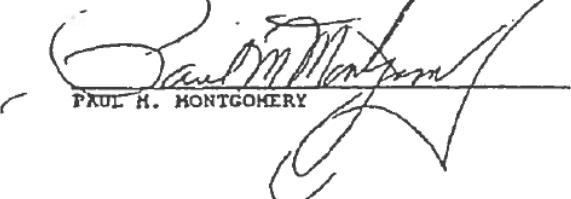
BUTLER COUNTY BOARD OF COMMISSIONERS

ATTEST:


JAMES A. GREEN, CHAIRMAN


WILLIAM S. O'DONNELL
CHIEF CLERK


GLENN L. ANDERSON


PAUL M. MONTGOMERY

APPENDIX B
BYLAWS OF THE BUTLER COUNTY AGRICULTURAL LAND PRESERVATION BOARD

NAME:

The name of this organization shall be the Butler County Agricultural Land Preservation Board, hereinafter referred to as the "Board".

PURPOSE:

Administer a program for purchasing and receiving gifts of agricultural conservation easements on behalf of the county.

Adopt rules and regulations for the administration of a county program for the purchase of agricultural conservation easements within agricultural security areas. The Board shall execute all agreements or other documents necessary to effect the purchase of such agricultural conservation easements in the name of the County and/or the Commonwealth of Pennsylvania.

Encourage the use of additional farmland preservation techniques through public and private organizations in the County.

Promote efforts to support the agricultural industry in the County.

Perform such other duties and responsibilities as may be authorized pursuant to the Agricultural Area Security Law.

AUTHORIZATION:

The Board was authorized to administer the County Program by resolution of the County Governing Body at a regularly scheduled meeting on August 4, 1993. A copy of this authorization is included with the county program for purchase of agricultural conservation easements.

MEMBERSHIP:

Board members shall be appointed by the County Governing Body. The Board shall be composed of nine members, to be appointed from the following groups:

1. One less than a majority shall be active resident farmers in Butler County, and shall serve an initial term of three years after authorization of this Board by the county governing body.
2. One shall be a current member of a borough or township governing body which is located in the County, and shall serve an initial term of two years after authorization of this Board by the County governing body.
3. One shall be a commercial, industrial, or residential building contractor who resides in the County, and shall serve an initial term of one year after authorization of this Board by the county governing body.
4. Remaining members shall be appointed at the pleasure of the County Governing Body, and shall serve initial terms of one year after authorization of this Board by the county governing body.

TERMS OF OFFICE:

Upon expiration of the initial terms of office as set under Membership, all terms of office shall be three years.

DUTIES OF OFFICERS:

The Chairperson shall preside at all meetings of the Board, call special meetings, establish committees, appoint committee chairmen, and delegate other tasks and assignments as may be appropriate.

The Vice-chairperson shall preside at all meetings of the Board in the absence of the chairperson.

The Secretary shall be responsible for seeing that all meetings are recorded, and for sending and receiving correspondence of the Board.

The Treasurer shall pay all bills authorized by the Board, maintain a record of all funds designated for easement purchase and for administration of the County Program.

REMOVAL OF OFFICERS:

The Chairperson can be removed from his office by the chairperson of the County Governing Body.

Other officers can be removed from office by a majority vote of all members of the Board.

MEETINGS:

Regular meetings shall be held monthly at a time and location designated by the Chairperson of the Board, and subject to change. Special meetings shall be held at the call of the Chairperson, or at the request of four members of the Board, and shall require written notice of at least eight days.

CONDUCT OF MEETINGS:

All Board meetings shall be open to the public in accordance with the Sunshine Act (Act of July 3, 1986, P.L. 388, No. 84), and with the Right-To-Know Law (Act of June 21, 1957, P.L. 390, No. 212).

Robert's Rules of Order shall apply to all events not otherwise covered by the Bylaws.

QUORUM:

A majority of the total Board membership shall constitute a quorum for the conduct of business.

A quorum of members is required to vote on any motion before the Board, except as otherwise

specified in these bylaws.

REMOVAL FROM COUNTY BOARD:

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

Any appointment to fill any vacancy created by removal, resignation or otherwise shall be only for the unexpired term of the vacant position.

ATTENDANCE BY BOARD MEMBERS:

Board members shall attend a minimum of 60% of all Board meetings, whether regular or special. Any member who is unable to attend a meeting should notify the Chairman prior to the meeting.

OFFICERS:

The Board will be directed by a Chairperson. Additional officers shall be Vice-chairperson, Secretary, Treasurer.

A staff person may serve as Secretary but shall have no vote.

ELECTION OF OFFICERS:

The Chairperson shall be appointed annually by the chairperson of the County Governing Body.

Other officers shall be elected annually by members of the Board.

VOTING:

Each member of the Board shall be allowed to cast one vote.

Board members must be present at meetings in order to vote.

Motions shall be passed by a majority vote of members present at meetings, except as specified elsewhere in these Bylaws.

PURCHASE OF EASEMENTS:

Board members shall not participate in any discussion or vote concerning purchase of easements in which they or a member of their immediate family has an interest.

Members of the County Board shall comply with the act of October 4, 1978 (P.L. 883 No. 17)(65, P.S. Sections 401-413), known as the Public Official and Employee Ethics Law.

Purchase of agricultural conservation easements requires approval of the majority of Board members and approval of the county governing body.

STAFF:

The Board may use monies appropriated by the County Governing Body or obtained through other means to hire staff and administer Act 149 in the County, when this use of funds is specifically allowed.

COMMITTEES:

The Chairperson may appoint such committees as are desirable for accomplishing the purpose of the Board.

Committees may include persons other than Board members.

The Board may receive assistance from the staffs of the County Planning Commission, County Conservation District, County Cooperative Extension Service, other County departments, or from other sources as are available.

Members of advisory committees who are not Board members shall not vote on matters before the Board.

AGRICULTURAL SECURITY AREA ADVISORY COMMITTEES:

The Board may consult with and seek the advice of Agricultural Security Area Advisory Committees with respect to the prospective purchase of easements within their respective municipalities and with respect to such other matters, as the Board deems appropriate.

FINANCES:

- A. Unless otherwise stated, all monies received from State, County, or other sources shall be used for the purpose of protecting viable agricultural land in the County.
- B. The Board shall operate within a budget as approved annually by the County Governing Body.
- C. Board members shall not receive salary or payment for their services on the Board, but may be reimbursed for expenses incurred in the course of their service on the Board.
- D. No member of the Board shall be liable for the debts of the Board.
- E. Insurance - Blanket Policy

AMENDMENTS:

These bylaws may be amended at a Board meeting by a majority vote of the entire membership of the Board, subject to the approval of the County Governing Body, provided such amendments, along with a notice of the date of the meeting, shall have been circulated to all members of the Board and Governing Body at least 30 days prior to the meeting.

APPENDIX C

MINIMUM ELIGIBILITY CRITERIA

In accordance with 7 PA Code Chapter 138e.16:

The State Agricultural Land Preservation Board has established minimum requirements which farms must meet to be eligible for the easement purchase program. The farm must:

- A. Be in one or more of the following:
 - 1. Located in an Agricultural Security Area consisting of 500 acres or more.
 - 2. Bisected by the dividing line between two local government units having the majority of its viable agricultural land with an Agricultural Security Area of 500 acres or more and the remainder in another local government unit outside of an Agricultural Security Area or more and the remainder in another county outside of an Agricultural Security Area and with respect to one of the following applies:
 - a. A mansion house is on the tract and located within the purchasing county.
 - b. When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.
 - c. When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located within the purchasing county.
- B. Have at least 50% of its soils, which are available for agricultural production and are of Capability Classes I-IV, as defined by the Natural Resource Conservation Service, USDA.
- C. Contain at least 50% or 10 acres of harvested cropland, pasture or grazing lands.
- D. Be contiguous acreage of at least 50 acres in size unless the tract is at least 10 acres in size and is either utilized for a crop unique to the area or is contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization" as that term is defined at Section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. §170(h)(3)). Contiguous acreage is defined as all portions.
- E. County Minimum Criteria- the farmland tract shall meet all of the following minimum criteria as set forth in 7 PA Code 138e.16.
 - 1. Be located in an agricultural security area consisting of 500 acres or more, or meets the special provisions for parcels not entirely within an agricultural security area as set forth in Appendix L.
 - 2. Be contiguous acreage of at least 50 acres in size unless the tract has a perpetual agricultural conservation easement in place which is held by a qualified conservation organization, as that term is defined at Section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. 170(h)(3)).
 - 3. Contain 50% of soils, which are available for agricultural production and are in capability classes I-IV, as defined by the USDA Natural Resources Conservation Service.
 - 4. Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing lands.
- F. In determining the likelihood of nonagricultural use, consideration shall be given to the following factors:

1. The developmental pressures in the area.
2. Suitability of the farmland tract for development because of soil capabilities, location and configuration.
3. Pre-existing perpetual restrictions against development.
4. Location in an area identified by the county or township comprehensive plan as desirable for agricultural use.

G. The applicant's stewardship of the land, conservation practices, best management practices, nutrient management and erosion and sediment pollution control. (If required by State Law.)

H. An applicant must submit an entire parcel as identified on Butler County Tax Assessment Maps. The property owner will pay for the cost of subdividing prior to submitting the application.

I. The property owner will pay for the cost of subdividing prior to submitting the application.

APPENDIX D

BUTLER COUNTY AGRICULTURAL LAND PRESERVATION BOARD

AGRICULTURAL CONSERVATION EASEMENT PROGRAM APPLICATION FORM

A. General Information:

Owner(s) of Property: _____

Social Security Number(s): _____

Address: _____

Municipality: _____

Telephone Number: (_____) _____

Is your farm in an Agricultural Security Area? (Check one) Yes No

What is the name of the Agricultural Security Area? (NOTE: List if more than one)

*List Book and Page number where Agricultural Security Area is recorded

Street location of farmland tract: _____

Directions from nearest State route: _____

Crops grown on farmland tract: _____

Number and kinds of livestock: _____

Total acreage of farmland tract: _____

Acres proposed for sale: _____

Deed reference: Book _____ Volume _____ Page Number _____ (or Instrument #)

Tax assessment numbers and acreage of each parcel: _____

Date of USDA Soil Conservation Plan _____ (REQUIRED)

Please submit a copy of a Nutrient Management Plan if required.

Name(s), address(es) and telephone number(s) of person(s) to contact to view the farmland tract: _____

B. Maps:

The applicant is required to provide the following maps as part of the application:

1. Locational Map- A United States Geological Survey topographical map showing the location of the farmland tract and farm boundaries. (Note: USGS Topographical maps available in Butler County Planning Commission office or phone (724-284-5305.)
2. Soils Map- The soils map of the farmland tract. (Available from Natural Resources Conservation Service.) The soils map shall color code types as follows:
 - Class I = Green
 - Class II = Yellow
 - Class III = Red
 - Class IV = Blue
 - Class V- VIII = uncolored

*This map shall also delineate the locations of wetlands (crosshatched) and floodplains (bold lines) on the farmland tract.
3. Tax Map- Tax map(s) of the farmland tract with map reference and tax parcel numbers clearly indicated. (Available from County Assessor's Office or online at www.co.butler.pa.us)

C. Soils Report:

The applicant is required to provide a soils report for the farmland tract as part of the application. The soils report needs to include a soils narrative for each of the soils on the farm.

The applicant is required to provide a table showing the capability class and use of the land as part of the application. Information must be provided on **Form C - Soils Report** on the next two pages.

**BUTLER COUNTY AGRICULTURAL
CONSERVATION EASEMENT PROGRAM**

APPLICATION FORM: Form C - Soils Report

Name: _____

Township: _____

Total Acres: _____

Acres Offered: _____

CAPABILITY CLASSES I-IV

Capability Class	Cropland Acres	Pasture Acres	Other	Total
I				
II				
III				
IV				
Subtotal I - IV				

CAPABILITY CLASSES V-VIII

Capability Class	Cropland Acres	Pasture Acres	Other	Total
V				
VI				
VII				
VIII				
Subtotal V - VIII				

TOTALS

Capability Class	Cropland Acres	Hay/Pasture Acres	Other	Total
I-IV				
V-VIII				
TOTAL				

Application Form C**Soils Report****Page 2****PERCENT OF TOTAL ACRES IN LAND CAPABILITY CLASSES I-IV**

Step 1.

Total Acres Cropland and Pasture
in Soil Capability Classes I-IV

$$\frac{\text{Total Acres Cropland and Pasture}}{\text{Total Easement Acres}} \times 100 = \underline{\hspace{2cm}} \%$$

Step 2.

Is percentage in Step 1 fifty percent (50%), or greater? (yes/no)

Step 3.

If no, document whether 50%, or more, of total easement acreage is both available for and of soil capability classes I-IV.

PERCENT OF TOTAL ACRES IN AGRICULTURAL USE

Total Acres Cropland + Total Acres Pasture

$$\frac{\text{Total Acres Cropland + Total Acres Pasture}}{\text{Total Easement Acres}} \times 100 = \underline{\hspace{2cm}} \%$$

D. Liens and Mineral Rights

Please list all mortgages, lienholders, or owners of rights in surface mineable coal, limestone or other surface mineable minerals for farmland tract:

E. Selling Price

I would consider selling an Agricultural Conservation Easement to the Butler County Agricultural Land Preservation Board and/or the Commonwealth of Pennsylvania for not less than:

1. \$ _____ for the entire farm, or
2. \$ _____ per acre, or
3. \$ _____ please check if you accept an amount to be determined by appraisal and acceptable to the buyer and the seller.

F. Signature(s)

It is necessary for all owners of the farmland tract to give their approval and consent to this application.

Signed _____

Date _____

Signed _____

Date _____

Signed _____

Date _____

Signed _____

Date _____

Please submit this application between December 1 and December 31st for consideration in the next year. **All Applications are subject to all requirements of the program and availability of funds.** Applications not funded will be held for reapplication each year unless withdrawn by owner(s).

Submit application to:

**Butler County Office of Farmland Preservation
124 West Diamond Street, PO Box 1208
Butler, PA 16003**

Contact: Sheryl Kelly, Farmland Coordinator
Phone (724) 284-5305 / Email skelly@co.butler.pa.us

APPENDIX E

SOIL MAPPING UNITS AND SCORES

This part of the LESA system is based on soil data obtained from the Butler County Soil Survey Report, published in 1989. Each of the 220 soil mapping units (see Soil Survey Report for description of a mapping unit) found in Butler County has been assigned a score based on a relative score of 100 for the best soils for agriculture production. All other soils in the County have been assigned relative values less than 100.

In the following tables each soil mapping unit found in the County is listed in one of seven groups, with Group 1 having a relative value of 100 and each of the remaining groups having a lower relative value.

To arrive at the approximate score for the Land Evaluation portion of the LESA system for any given tract, determine the number of acres in each mapping unit, find the group to which each mapping unit is assigned and note the relative value for that group. The relative value multiplied by the number of acres given a value for each mapping unit. The total scores for all mapping units divided by the total acres in the tract is the average relative value for the farm tract. The Land Evaluation score is determined by multiplying the average relative value by the weighted (LE) factor of .50 (50 percent weight). The maximum weighted Land Evaluation Score is 50.

An example of the Land Evaluation portion of the LESA system is given below.

Farm 1 - 73.8 acres

<u>Soil Type</u>	<u>Group No.</u>	<u>Relative Value</u>		<u>Acres</u>		
GpC	4	52	x	23.8	=	1,237.6
WaB	2	72	x	30.7	=	2,210.4
BrB	5	49	x	14.2	=	695.8
ErB	3	70	x	<u>5.1</u>	=	<u>357.0</u>
				73.8		4,500.8

4,500.8 divided by 73.8 = 60.99

Weighted Land Evaluation Factor .50 (50 percent)

Land Evaluation Score is 30.49

BUTLER COUNTY AGRICULTURAL LAND PRESERVATION BOARD
NUMERICAL FARMLAND RANKING SYSTEM

LAND EVALUATION - SOILS WORKSHEET

SOIL MAPPING UNIT	Acreage of Each Unit	X	Relative Value Each	=	Total Soils Relative Value		SOIL MAPPING UNIT	Acreage of Each Unit	X	Relative Value Each	=	Total Soils Relative Value
TOTAL OF SOILS RELATIVE VALUES:							TOTAL OF SOILS RELATIVE VALUES:					

TOTAL OF SOILS RELATIVE VALUE	/	TOTAL ACREAGE OF FARM	=	AVERAGE RELATIVE VALUE OF FARM	x	WEIGHTED FACTOR 0.50	=	LAND EVALUATION RATING

LIST OF SOIL MAPPING UNITS WITH RELATIVE VALUES
BUTLER COUNTY, PENNSYLVANIA

Relative Values for Soil Mapping Units in Butler County, PA

Map Symbol	Map unit name	Land		Map Symbol	Map unit name	Land	
		Capability Class	Relative Value			Capability Class	Relative Value
AnA	Andover loam, 0 to 3 percent slopes	4w	49	ErD	Ernest silt loam, 15 to 25 percent slopes	4e	49
AnB	Andover loam, 3 to 8 percent slopes	4w	49	Fab	Fairpoint channery silt loam, 0 to 8 percent slopes	3s	0
AnC	Andover loam, 8 to 15 percent slopes	4w	49	FaD	Fairpoint channery silt loam, 8 to 25 percent slopes	4e	0
AoB	Andover loam, 0 to 8 percent slopes, extremely stony	7s	0	Fc	Fluvaquents, coal overwash		0
AoC	Andover loam, 8 to 15 percent slopes, extremely stony	7s	0	FeA	Fredon loam, 0 to 3 percent slopes	3w	52
Ar	Arents-Urban land complex	8s	0	FeB	Fredon loam, 3 to 8 percent slopes	3w	52
At	Atkins silt loam	3w	52	Fra	Frenchtown silt loam, 0 to 3 percent slopes	3w	52
BaB	Bethesda channery silt loam, 0 to 8 percent slopes	3s	0	FrB	Frenchtown silt loam, 3 to 8 percent slopes	3w	52
BaD	Bethesda channery silt loam, 8 to 25 percent slopes	4e	0	GiB	Gilpin silt loam, 3 to 8 percent slopes	2e	72
BbF	Bethesda and Fairpoint channery silt loams, 25 to 70 percent	7e	0	GiC	Gilpin silt loam, 8 to 15 percent slopes	3e	52
BeA	Braceville loam, 0 to 3 percent slopes	2w	72	GiD	Gilpin channery silt loam, 15 to 25 percent slopes	4e	49
BeB	Braceville loam, 3 to 8 percent slopes	2w	72	GiNc	Gilpin-Uphshur complex, 8 to 15 percent slopes	3e	49
BeC	Braceville loam, 8 to 15 percent slopes	3e	70	GiNcD	Gilpin-Uphshur complex, 15 to 30 percent slopes	4e	49
BrA	Brinkerton silt loam, 0 to 3 percent slopes	4w	49	GoB	Gilpin-Weikert channery silt loams, 3 to 8 percent slopes	2e	52
BrB	Brinkerton silt loam, 3 to 8 percent slopes	4w	49	GoC	Gilpin-Weikert channery silt loams, 8 to 15 percent slopes	3e	20
BrC	Brinkerton silt loam, 8 to 15 percent slopes	4w	49	GoD	Gilpin-Weikert channery silt loams, 15 to 25 percent slopes	4e	20
BuB	Buchanan loam, 3 to 8 percent slopes	2e	72	GoF	Gilpin-Weikert channery silt loams, 25 to 70 percent slopes	7e	0
BuC	Buchanan loam, 8 to 15 percent slopes	3e	70	GpC	Gilpin-Wharton silt loams, 8 to 15 percent slopes	3e	52
BxB	Buchanan loam, 0 to 8 percent slopes, extremely stony	6s	0	GpD	Gilpin-Wharton complex, 15 to 25 percent slopes	4e	49
BxD	Buchanan loam, 8 to 25 percent slopes, extremely stony	6s	0	GrA	Gresham silt loam, 0 to 3 percent slopes	2w	52
Cd	Canadice silty clay loam	4w	49	GrB	Gresham silt loam, 3 to 8 percent slopes	2e	52
CeA	Caneadea silt loam, 0 to 3 percent slopes	3w	52	GrC	Gresham silt loam, 8 to 15 percent slopes	3e	52
CeB	Caneadea silt loam, 3 to 8 percent slopes	3w	52	HaB	Hazleton channery loam, 3 to 8 percent slopes	2e	100
CeC	Caneadea silt loam, 8 to 15 percent slopes	4e	52	HaC	Hazleton channery loam, 8 to 15 percent slopes	3e	70
CeD	Caneadea silt loam, 15 to 25 percent slopes	7e	49	HaD	Hazleton channery loam, 15 to 25 percent slopes	4e	49
CfB	Canfield silt loam, 3 to 8 percent slopes	2e	70	HaE	Hazleton channery loam, 25 to 35 percent slopes	6e	0
CfC	Canfield silt loam, 8 to 15 percent slopes	3e	52	HbB	Hazleton loam, 0 to 8 percent slopes, extremely stony	6s	0
CfD	Canfield silt loam, 15 to 25 percent slopes	4e	49	HgD	Hazleton and Gilpin soils, 8 to 25 percent slopes, extreme	6s	0
CIA	Cavode silt loam, 0 to 3 percent slopes	3w	52	HgF	Hazleton and Gilpin soils, 25 to 70 percent slopes, extrem	7s	0
CIB	Cavode silt loam, 3 to 8 percent slopes	3w	52	MoB	Monongahela silt loam, 3 to 8 percent slopes	2e	70
CIC	Cavode silt loam, 8 to 15 percent slopes	3e	52	MoC	Monongahela silt loam, 8 to 15 percent slopes	3e	70
CID	Cavode silt loam, 15 to 25 percent slopes	4e	49	MrB	Morristown channery silt loam, 0 to 8 percent slopes	2e	0
CmB	Clymer loam, 3 to 8 percent slopes	2e	100	MrD	Morristown channery silt loam, 8 to 25 percent slopes	4e	0
CmC	Clymer silt loam, 8 to 15 percent slopes	3e	70	Ph	Philo loam	2w	100
CoA	Cookport loam, 0 to 3 percent slopes	2w	72	Pm	Pits, mines and quarries		0
CoB	Cookport loam, 3 to 8 percent slopes	2e	72	Pn	Pits, sand and gravel	8s	0
CoC	Cookport loam, 8 to 15 percent slopes	3e	52	Po	Pope loam	2w	100
CoD	Cookport loam, 15 to 25 percent slopes	4e	49	RaA	Ravenna silt loam, 0 to 3 percent slopes	2w	52
Dd	Dumps, industrial waste	8s	0	RaB	Ravenna silt loam, 3 to 8 percent slopes	3e	52
Dm	Dumps, mine	8s	0	RaC	Ravenna silt loam, 8 to 15 percent slopes	4e	49
ErB	Ernest silt loam, 3 to 8 percent slopes	2e	70	RdB	Riverhead sandy loam, 3 to 8 percent slopes	2s	72
ErC	Ernest silt loam, 8 to 15 percent slopes	3e	70	RdC	Riverhead sandy loam, 8 to 15 percent slopes	3e	52
				TaA	Tilsit silt loam, 0 to 3 percent slopes	2w	72
				Tab	Tilsit silt loam, 3 to 8 percent slopes	2e	70
				Teb	Titusville silt loam, 3 to 8 percent slopes	2e	72
				Tec	Titusville silt loam, 8 to 15 percent slopes	3e	70
				TrD	Titusville and Riverhead soils, 15 to 30 percent slopes	6e	0
				UaB	Udorthents, acid material, gently sloping	3s	0
				UaD	Udorthents, acid material, moderately steep	6e	0
				UaF	Udorthents, acid material, very steep	7s	0
				Ub	Urban land	8s	0
				UcD	Udorthents, calcareous material, moderately steep	6e	0
				UcF	Udorthents, calcareous material, very steep	7e	0
				UeB	Urban land-Ernest complex, 0 to 8 percent slopes	8s	0
				UeC	Urban land-Ernest complex, 8 to 15 percent slopes	8s	0
				UgD	Urban land-Gilpin complex, 15 to 25 percent slopes	8s	0
				VcB	Vandergrift-Cavode silt loams, 3 to 8 percent slopes	2e	52
				VcC	Vandergrift-Cavode silt loams, 8 to 15 percent slopes	3e	52
				VcD	Vandergrift-Cavode silt loams, 15 to 25 percent slopes	4e	49
				WaA	Wharton silt loam, 0 to 3 percent slopes	2w	72
				WaB	Wharton silt loam, 3 to 8 percent slopes	2e	72
				WaC	Wharton silt loam, 8 to 15 percent slopes	3e	52
				WhA	Wheeling silt loam, 0 to 3 percent slopes	1	100
				WhB	Wheeling silt loam, 3 to 8 percent slopes	2e	100
				WoB	Wooster gravelly silt loam, 3 to 8 percent slopes	2e	72
				WoC	Wooster gravelly silt loam, 8 to 15 percent slopes	3e	70
				WoD	Wooster gravelly silt loam, 15 to 25 percent slopes	4e	52
				WoF	Wooster gravelly silt loam, 25 to 50 percent slopes	6e	0

**PLEASE SEE THE MOST RECENT LIST OF
 "RELEVANT VALUES FOR SOIL MAPPING UNITS IN
 BUTLER COUNTY, PA" AS ASSIGNED AND
 DISTRIBUTED BY THE USDA NRCS – AVAILABLE
 FROM EITHER NRCS OR THE BUTLER COUNTY
 OFFICE OF FARMLAND PRESERVATION**

APPENDIX F**BUTLER COUNTY SITE ASSESSMENT (50% OF TOTAL SCORE)**

A. DEVELOPMENT POTENTIAL - Factors which identify the extent to which development pressures are likely to cause conversion of agricultural land to non-agricultural uses. Total - 100 points. (Weighted percentage value of 10%).

1. AVAILABILITY OF SANITARY SEWER AND PUBLIC WATER

Distance of tract from public sanitary sewer system and public water. A tract of land in closest proximity to sewer service and public water shall receive a higher score.

SCORE

- (40) Public water AND sewer at or within 150 feet of property line
- (30) EITHER public water or sewer at or within 150 Feet of property line
- (20) EITHER public water or sewer within one half mile (2,640 feet) to 149 feet of property line
- (10) NEITHER public water or sewer is within one half mile (2,640 feet) of property line

2. ROAD FRONTRAGE

Amount of road frontage of tract along public road. A tract with more public road frontage shall receive a higher score.

SCORE

- (40) Greater than 200 feet of public road frontage
- (20) 50 feet to 199 feet of public road frontage
- (10) Less than 1 foot to 49 feet of public road frontage
- (0) No public road frontage

3. EXTENT OF NON-AGRICULTURAL USE IN AREA

Extent of Non-Agricultural Use in area (1 mile radius). A tract with extensive non-agricultural uses in the area shall receive a higher score than a tract that is more distant from such non-agricultural uses.

SCORE

- (20) Intensive development adjacent or in immediate vicinity (10 lots or more - commercial, industrial, residential uses)
- (15) Intensive or extensive scattered development within 1/2 mile radius (20 lots or more commercial, industrial, residential uses)
- (10) Scattered non-agricultural development within 1 mile radius (20 lots or more)
- (5) No significant non-agricultural development in area

B. FARMLAND POTENTIAL - Factors which measures the potential agricultural productivity or farming practices of the site. The higher quality or the more valuable a farm is, the higher the score will be in this category. Productive farmland is defined as harvested cropland, pasture and grazing land. Total - 100 points. (Weighted percentage value of 30%).

1. ACREAGE OF FARMLAND TRACT

SCORE

- (25) Over 80 acres
- (20) 51 to 80 acres
- (15) Less than 50 acres but 10 acres or more contiguous to another perpetually eased tract or farm.

2. PERCENTAGE OF TRACT IN HARVESTED CROPLAND, PASTURE, OR GRAZING

Large amounts of productive farmland make a farm more viable. If a large percentage of the tract is not used as productive farmland, a lower score will be received.

SCORE

- (20) 90% - 100%
- (15) 71% - 89%
- (10) 50% - 70%
- (0) Less than 50%

3. STEWARDSHIP OF THE LAND AND USE OF CONSERVATION AND BEST MANAGEMENT PRACTICES

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 in scoring this factor.

SCORE

- (20) 75% to 100%
- (10) 50% to 74%
- (0) less than 50%

4. HISTORIC, SCENIC AND ENVIRONMENTAL QUALITIES

All tracts designated or listed by local/state/federal authorities as historically or culturally significant or designated as a scenic or open space area shall be considered under this factor. Additional consideration shall also be given to tracts adjoining designated protected areas such as flood plains, wildlife habitat, parks, forests and educational sites when scoring this factor. A tract with favorable historic, scenic and environmental qualities shall receive a higher score.

SCORE

- (15) Exceptional features favorable for preservation - farm listed on the National Register of Historic Places, designated scenic area
- (10) Significant features favorable to preservation - farm located adjacent to areas with special environmental circumstances
- (5) Features favorable to preservation - significant but undocumented historic features and/or limited but recognized environmental features favorable to preservation.

5. CENTURY FARM

Farms that have remained in agriculture for 100 or more years are a part of the County's agricultural heritage and history and should be preserved. The applicant can contact the Butler County Office of Farmland Preservation for this information. An application is included in Appendix J.

SCORE

- (20) Farm is a designated Two-Century Farm.
- (15) Farm is a designated Century Farm.

C. CLUSTERING POTENTIAL- Factors which measure the importance of preserving blocks of farmland which support commercial agriculture and help to shield the agricultural community against conflicts with incompatible land uses. The closer the farm is to other preserved farms or to an area where other farms are targeted for preservation, the higher the farms will score in this category. Total - 100 points.
(Weighted percentage value of 10%).

1. CONSISTENCY WITH AGRICULTURAL BOARD PRIORITY MAP

Location of tract with respect to those areas of the county identified within the Agricultural Board Preservation Priority Map (Appendix O) as important agricultural areas will be considered when scoring. A tract located within an identified important agricultural area shall receive a higher score than those that are not.

SCORE

- (20) Tract is located in an area designated as a Priority Agricultural Township
- (0) Tract is not located in an area designated as a Priority Agricultural Township

2. PROXIMITY TO LAND WITH AGRICULTURAL CONSERVATION EASEMENTS

Location of a tract with respect to land already under agricultural conservation easement will be considered in scoring the clustering potential of the tract. A tract that is closer to restricted land shall receive a higher score than those that are not.

SCORE

- (50) Adjacent
- (40) Within 1/4 mile
- (30) Within 1/2 mile
- (20) Within 1 mile

3. PERCENTAGE OF ADJOINING LAND IN AN AGRICULTURAL SECURITY AREA

The percentage of a tract's boundary that adjoins land in an Agricultural Security Area will be considered in scoring the clustering potential of the tract. Areas where agriculture has been given protection by the municipality, at the request of the landowners, provides an environment conducive to farming. The higher the percentage of the land that borders land in an Agricultural Security Area, the higher the score will be.

SCORE	
--------------	--

SCORE	
--------------	--

- (15) 75% - 100%
- (10) 50% - 74%
- (5) 0% - 49%

4. NRCS PRIME AND OTHER IMPORTANT SOILS DESIGNATION

Tracts containing areas of NRCS-identified important soils utilizing the Prime and Soils of Statewide Importance designations for Butler County - Tracts that contain these types of soils shall receive a higher score than tracts that do not.

SCORE	
--------------	--

SCORE	
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- (15) Majority Prime Soils
- (10) Majority Soils of Statewide Importance
- (5) Majority Agricultural Capability Class I-IV that are not designated as Prime Soils or Soils of Statewide Importance

BUTLER COUNTY AGRICULTURAL LAND PRESERVATION BOARD
NUMERICAL FARMLAND RANKING SYSTEM

SITE ASSESSMENT - WORKSHEET

DEVELOPMENT POTENTIAL		FARMLAND POTENTIAL		CLUSTERING POTENTIAL	
Factor	Score	Factor	Score	Factor	Score
1. Availability of Sanitary Sewer and Public Water		1. Acreage of Farmland Tract		1. Consistency with Agricultural Board Priority Map	
2. Road Frontage		2. % of Tract in Harvested Crop-land, Pasture or Grazing		2. Proximity to Land with Agricultural Conservation Easements	
3. Extent of Non-Agricultural Use in Area		3. Stewardship of Land and Use of Conservation and Best Management Practices		3. % of Adjoining Land in Agricultural Security Areas	
		4. Historic, Scenic and Environmental Qualities		4. NRCS Prime and Other Important Soils Designation	
		5. Century Farm			
Total Score:		Total Score:		Total Score:	

Development Potential Score X	Variable Weighted Value (.1) =	Weighted Score	Farmland Potential Score X	Variable Weighted Value (.3) =	Weighted Score	Clustering Potential Score X	Variable Weighted Value (.1) =	Weighted Score
	x .1			x .3			x .1	

BUTLER COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM
NUMERICAL FARMLAND RANKING SYSTEM

WEIGHTED FACTOR SCORES/PRIORITY RANKING

	Farm Name	Land Evaluation Rating +	Development Potential Score +	Farmland Potential Score +	Clustering Potential Score =	Total Score	Priority Ranking
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
13.							
14.							
15.							

APPENDIX G

FARMLAND APPRAISAL PROCEDURE

The procedure below has been taken from Pennsylvania's Agricultural Conservation Easement Program guidelines.

APPRAISAL

- A. An offer to purchase easements shall be based upon one or more appraisal reports which estimate both the market value and the farmland value of the farmland tract.
- B. An appraisal shall be based primarily on an analysis of comparable sales.
- C. The value of a building or other improvement on the farmland tract may not be considered in determining the easement value. The value of the building or other improvement shall appear separately in the appraisal report.
- D. The appraiser shall be:
 1. A state certified general real estate appraiser in accordance with the standards set forth in Act 43 and any future revisions and regulations thereof. (§14.1(f) and (f)(3)).
- 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. Table of contents
 - c. Certificate of value
 - d. Summary of salient facts and conclusions
 - e. Purpose of the appraisal
 - f. Easement value definition, Market value definition and Farmland value definition.
 2. Description of property
 - a. Area or neighborhood description
 - b. Description of appraised property:
 - Legal description
 - Property data and zoning
 - Description of improvements
 - Color Photos of subject property
 - Tax map of subject property
 - Sketch of subject property
 - Location map
 - Soils map
 3. Analyses and conclusions
 - a. Analysis of highest and best use
 - b. Valuation methodology: Market value

- Comparable sales data
- Adjustment grid
- Locational map of comparable sales

- c. Market value estimates
- d. Valuation methodology: Farmland value
 - Comparable sales data
 - Locational map of comparable sales
 - An adjustment grid
- e. Farmland value
- f. Value of improvements
- g. Easement value
- h. Professional qualifications of the appraiser

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

1. At least three comparable sales shall be used for the appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same county as the subject farmland tract, the appraiser may use comparable sales from other counties, after consultation with the County Board. The use of comparable sales 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 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 sale 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 development value.
5. If comparable sales data is not available for farmland value, the County Board, subject to the approval of the State Board, may assign a farmland value based on crop production or a capitalization of rental income.
6. The appraiser shall report whether the farmland tract has any public or private land use restrictions, or is within a floodplain, or has any other physical attributes which limit its development capability.
7. The appraiser shall provide at least one original and two copies of each report to the County Board. The original of each report and all copies shall be bound with rigid covers.

**PROCEDURE FOR DETERMINING THE EASEMENT VALUE
IF APPLICANT RETAINS AN INDEPENDENT APPRAISER**

- A. The applicant may, at applicant's expense, retain another independent state certified real estate appraiser to determine the easement value. The appraiser shall be qualified and the appraisal must be completed in accordance with the above guidelines. The appraisal shall be completed within 120 days of the County's offer. Upon completion, three copies of the applicant's appraisal report shall be submitted to the County Board.
- B. If the applicant retains an independent appraiser, the easement value shall be the difference between the agricultural value and the non-agricultural value, determined as follows:
 1. The agricultural value shall equal the sum of:
 - a. The farmland value determined by the applicant's appraiser; and
 - 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 non-agricultural value shall equal the sum of:
 - a. The market value determined by the County Board's appraiser; and
 - 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.

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

- 2.1a Submit a written offer to purchase in an amount in excess of the amount offered under subsection 2.1b to the applicant; or
- 2.1b Refer to original offer in accordance with page 8 of this document.
- 2.2 The applicant shall, within 15 days of receipt of the County Board's written offer under subsection 2.1a or receipt of the County Board's written notice under subsection 2.1b, notify the County Board in writing that the applicant either:
 - 2.2a Accepts or rejects the offer made under subsection 2.1a; or
 - 2.2b Accepts or rejects the original offer.

APPENDIX H

DOCUMENTATION REQUIREMENTS

REQUIREMENTS OF THE AGRICULTURAL EASEMENT DEED

- A. All owners of the subject farmland tract shall execute a deed conveying the easement.
- B. The deed shall be in recordable form and contain an accurate legal description setting forth the metes and bounds of the farmland tract subject to the easement.
- C. For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.
- D. For purchases made using a combination of State and County and Municipal funds, the grantees shall be the Commonwealth, County and Municipality providing the funds under joint ownership as defined in the Act.
- E. A copy of the deed shall be submitted to the State Board for approval prior to execution and delivery. A sample deed with the required language for conveying the easement is available at the Butler County Office of Farmland Preservation.

TITLE INSURANCE

- A. The County Board shall provide a title insurance commitment to the State Board upon submission of its recommendation for the purchase of an easement.
- B. At settlement, the County Board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth of Pennsylvania by the Pennsylvania Department of Insurance. The cost of such title insurance shall be a cost incident to the easement purchase, payable or reimbursable from a county's allocation under the Act.

STATEMENT OF COSTS

- A. For purposes of Section 14.1(h)(6) of the Act [3 P.S. Section 914.1(h)(6)], the County Board shall submit a statement of the costs incident to the purchase of the easement to the State Board, which may include:
 1. Easement purchase price
 2. County appraisal costs
 3. Necessary legal fees for title search, preparation of documents, and attendance at closing
 4. Recording fees
 5. Survey costs
 6. Reimbursements to a non-profit 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, appraisal costs, necessary legal costs, recording fees,

and survey costs.

- 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.

SUMMARY REPORT

A recommendation by the County Board for the purchase of an easement shall be accompanied by a summary report stating the following:

- A. Description of the farm, including the name, location, number of acres, and type of farm.
- B. Quality of the farmland tract, including soil classification.
- C. The manner in which preservation will contribute to the agricultural productivity of the County.
- D. Likelihood of conversion to other uses if the easement is not purchased. Discussion of the nature and scope of developmental pressure in the municipality or the area.
- E. The nature and scope of conservation practices and best land management practices.
- F. Discussion of the purchase price summarizing the appraisal, including the agricultural and non-agricultural value and negotiations for purchase.
- G. Statement of costs as described in Section 138e.69 (relating to statement of costs).
- H. Certification by the County Board that the information presented to the State Board is true and correct.
- I. An appendix which shall include:
 1. An application form
 2. Locational maps
 3. A soils report
 4. A crop report
 5. An evaluation of the application
 6. A subordination, release, or letter approving purchase from any mortgages or lienholder, or owner of rights in surface mineable coal
 7. Other relevant documents and information
- J. Farmland ranking score, including a statement of the relative ranking of the farmland tract among other tracts considered by the County in the same round of applications.

STATE BOARD REVIEW FOR APPROVAL FOR PURCHASE OF EASEMENT

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

1. Online submission through PA Farmland, PA Department of Agriculture's web based program, including the following items:
 - a. Cover letter from County (optional).
 - b. Narrative Summary Report.
 - c. Legible United States Geological Survey (USGS) topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
 - d. Soil Report Form "C", (a form provided by the Department) both pages.
 - 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 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. A letter from the grantors stating the percent (%) of ownership of each grantor for the purpose of issuing IRS Form 1099.
7. A letter from the grantors stating the percentage (%) 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 under 138e241(2) (relating to deed clauses).
9. A copy of the nutrient management plan that has been developed, certified, reviewed and approved in accordance with the Nutrient Management Act.

APPENDIX I

CONSERVATION EASEMENTS - PURCHASES FOR A MINIMUM OF \$1.00

A. Intent

In order to effectively preserve agricultural land within agricultural security areas, it is the intent of the Butler County Agricultural Land Preservation Board and Board of County Commissioners to accept voluntary bequests of conservation easements as easements in gross on a perpetual term basis. Such grants of easement constituting restrictions on the use of land are designed to preserve and protect the agricultural and open space character of the land. Acceptance of conservation easements will be determined by the Agricultural Land Preservation Board and the Butler County Board of Commissioners through minimum eligibility criteria.

The purchase of a perpetual conservation easement for a minimum of \$1.00 on qualified land may result in federal income tax benefits and other tax benefits to the grantors which will vary according to the nature and value of the property and the circumstances of the landowners(s).

B. Description

A conservation easement is a legal document which is filed in the land records with the deed of farm property, restricting its use to agricultural and directly associated uses. As an easement in gross, the restrictions are binding upon the owner and future owners. The conservation easement carries with the land. Easements acquired in other ways may be for a duration of perpetuity.

Conservation easements purchased for a minimum of \$1.00 will be held by Butler County for perpetuity and the County is responsible for enforcing the deed restrictions contained in the conservation easement.

C. Minimum Eligibility Criteria

Prerequisite to acceptance of a conservation easement purchased for a minimum of \$1.00, agricultural land must meet the following criteria.

1. **Within an agricultural security area** - Farm properties must be:
 - a. At least 10 acres in size; and
 - b. In agricultural and open space use.

D. Procedures for Acceptance

The following procedures are necessary prior to recordation of a conservation easement purchased for a minimum of \$1.00:

1. Property must be recorded within an agricultural security area.
 - a. Agricultural Land Preservation Board works with landowner to develop easement from sample documents.
 - b. Agricultural Land Preservation Board reviews property for compliance with minimum eligibility criteria.
 - c. If purchase is to be in perpetuity, land appraisal is initiated by landowner

to determine valuation for federal income tax deductibility. Under special circumstances, such as location and prime quality of land, the Agricultural Land Preservation Board, with approval of the Board of County Commissioners, may pay the costs of appraisals on a case-by-case basis. The landowner shall reimburse the Agricultural Land Preservation Board the costs of appraisal if the purchase is not completed within one year.

- d. Agricultural Land Preservation Board makes a recommendation to the County Commissioners to accept the conservation easement.
- e. County Commissioners consider acceptance of conservation easement.
- g. Agricultural Land Preservation Board assumes responsibility for on-going monitoring and conservation easement enforcement.
- h. Public hearing is scheduled and held and adjoining property owners are notified of the easement to be accepted.
- i. Easement is recorded by the Agricultural Land Preservation Board.

E. Sample Conservation Easement Documents

Sample of the language and format of conservation easements are available upon request.

There are instruments for a specified term of perpetuity. The term and perpetual conservation easement instruments are very similar. Both documents are samples and, as such, may be tailored to suit the needs of individual property owners or the agricultural, scenic, natural and/or historic character of the property through the addition of other restrictions more particularly tailored to the property.

APPENDIX J

PENNSYLVANIA CENTURY FARM APPLICATION

The family farm and rural traditions of Pennsylvania are important in our goals of continued growth for the Commonwealth.

Preservation of our farm families has always been a priority of the Pennsylvania Department of Agriculture. The Century Farms Program emphasizes pride in the contributions of these farms as a symbol to remind us of where we want to go in the future.

Century Farms owners receive certificates which provide the family and community with a sense of pride in our farm heritage. All application forms will be held in the State Archives for future research by historians.

CRITERIA:

1. The farm must be owned by the same family for 100 consecutive years to the date of the application.
2. A family member must currently live on the farm on a permanent basis.
3. The farm must consist of at least ten acres of the original holding, OR gross over \$1,000 annually from the sale of farm products.

Please complete **the most current** application from the PA Dept. of Agriculture and have it notarized. Mail to: Bureau of Farmland Preservation, PA Department of Agriculture, Room 402, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

For more information, contact:

April R. Orwig

Phone (717) 783-3167

aorwig@pa.gov



Bicentennial & Century Farm Application

Current Farm Owner(s): _____

Names for Certificate: _____

Relationship of owners (spouse, brother & sister, etc.): _____

Complete Address: _____

Township: _____ County: _____

Telephone Number: () _____ E-mail: _____

Number of acres in the farm now: _____ Numbers of acres remaining from original tract: _____

Does the farm gross over \$1,000 annually from farm products? _____

Primary business: _____

Date of **original purchase** by your ancestors: _____

Family member who lives on the farm full-time: _____

Is this farm preserved? _____ Yes _____ No _____ If so, what year was it preserved? _____

Legal description of the land from deed, abstract or tax statement:

List everyone in your family who owned the farm, beginning with the first owner:

Date purchased	Name	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I (We), _____

Being duly sworn, depose and say that the above statements are true and correct with regard to the land described above.

Signature of Applicant(s):

Subscribed and sworn to me this _____ day of _____, _____

My commission expires: _____

Notary public in and for the County of _____, PA

Additional Information:

Additional information will be most valuable to future historians. The questions below are offered only as a guide, so feel free to add any other information you have, especially family history or pioneer stories about the farm and surrounding areas.

1. From whom was the farm originally purchased?
2. How many acres were in that parcel?
3. What was the cost of land per acre?
4. Where was the first owner born?
5. Where did he live prior to this farm?

6. Was this a homestead?
7. Did the first owner farm the land?
8. Did he engage in any trades or occupations other than farming? If so please list.

9. How many children did he have?
10. Children's names and where did they move?

11. Is the original home or any of the original buildings still standing or in use?
12. When was your present home built?
13. Please include any other relevant, interesting or historical information you have.

Please complete, sign, notarize and return the application to:

PA Department of Agriculture—Room 402
Attn: Century Farm Program
2301 North Cameron Street
Harrisburg, PA 17110-9408

For more information, contact:

April R. Orwig
Phone: (717) 783-3167
aorwig@pa.gov

APPENDIX K

In accordance with 7 PA Code Chapter 138e.224.

CONSTRUCTION OF ADDITIONAL STRUCTURES AND SUBDIVISION FOR BUTLER COUNTY

- A. Authority** - Authority for the provisions and requirement of this article are granted by the Agricultural Area Security Law (3 P.S. Section 901-915) as amended.
- B. Definitions** - Unless otherwise and expressly stated the following definitions apply to words, terms and phrases used in this article.

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

County Board - The Butler County Agricultural Land Preservation Board, its officers or others authorized to act on behalf of the Board.

District - The Butler County Conservation District.

Eased - Protected against uses other than agricultural through the purchase of a conservation easement.

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

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

Land Development - Either of the following activities:

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

Land which has been devoted primarily to agricultural use - That acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing nonresidential structures

used for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilages, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of two acres or less designated as the site upon which the landowner's principal residence or for an immediate family member or for housing for seasonal or full-time employees is permitted pursuant to Section 14.1 (c)(6)(iv) of the Act (3 P.S. Section 914.1 (c)(6)(iv)).

Parcel - All land defined by a single tax parcel number.

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

State Board - The Pennsylvania State Agricultural Land Preservation Board.

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.

Utility - Any surface, subsurface or aerial transmission medium for electricity, oil, gas, water, and sewage.

C. Construction of One Additional Residential Structure

1. *General* - In addition to structures existing on the eased land at the date of the granting of the easement, one additional residential structure may be constructed subject to the following conditions:
 - a. The residential structure is constructed and used as the landowner's principal residence or for an immediate family member 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 eased land, under authority of Section 14.1 (c)(6)(iv) of the Act (3 P.S. Section 914.1 (c)(6)(iv)) and this section, after the date of the granting of the easement.
 - c. The additional residential structure and its curtilage occupy no more than two acres of the eased 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.
 - f. The right of the additional residential structure has not been relinquished and extinguished by current or previous owner in accordance with subsection (c)(6)(iv) of the Act.

2. *Replacement of Structures* - The replacement of an additional residential structure constructed under authority of Section 14.1 (c)(6)(iv) of the Act and this section is permitted.
3. *Reservation of Right of Construct After Subdivision* - If the eased 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 unless the right to the residence has been relinquished and extinguished under the Act:
 - a. Inform the County Board of the specific subdivided tract upon which the right to construct and use such a residential structure is reserved.
 - b. Ensure that the deed to the subdivided tract upon which the right to construct and use such a residential structure is reserved clearly sets forth the reservation of this right.
 - c. Ensure that all deed to remaining subdivided tracts recite that no such residential structure may be constructed on such remaining subdivided tracts.

D. Subdivision of Eased Land

1. *General* - The following conditions shall apply to subdivision of lands eased through the Butler County Agricultural Land Preservation Program whether the easement be held solely by the State, solely by the County, or held jointly by the State and County.
 - a. The prohibitions, restrictions and conditions of subdivision of eased land as set forth in Sub-section D(2) of this section shall be recited verbatim in the deed for all subdivided and remaining parcels.
 - b. No restriction, prohibition or condition of this section shall prevent a landowner from subdividing eased lands for the purpose of construction one additional residential structure as authorized by Section 14.1 (c)(6)(iv) of the Act (P.S. Section 914.1 (c)(6)(iv)). Provided that such a subdivision complies with the conditions of Sub-section C(1) of this section or unless the right to construct one additional structure has been relinquished and extinguished under the Act.
 - c. All costs associated with a request for subdivision shall be the responsibility of the landowner. 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 Butler County program guidelines shall rest with the applicant.
 - d. Nothing in this section shall relieve the landowner of any municipal, county or state regulations, procedures or requirements necessary for the subdivision of land.
2. *Subdivision Restrictions* - Except as provided for in Sub-Section D(1)(b) of this section, no subdivision of eased land shall be permitted unless all of the following conditions are met:

- a. Approval of a subdivision shall be requested, in writing, of and granted by the County Board and by the State Board.
- b. Subdivision shall not harm the economic viability, as defined in Sub-section B of this section, of any parcel created by or remaining after subdivision.
- c. Each parcel created or remaining as a result of subdivision shall have all of the following:
 - i) Fifty percent (50%) of its soils in USDA Soil Capability Class I-IV.
 - ii) Fifty percent (50%) of its area utilized for crop or pasture land.
 - iii) Site characteristics (including but not limited to slopes, topography, shape, location or roads, streams, wetlands, ponds, access) that allow for practicality and reasonable efficiency of agricultural activity.
- d. No parcel of less than 52 acres may be created by subdivision or shall remain after subdivision of the original parcel.

3. *Procedures and Requirements of Subdivision* - Landowners proposing to subdivide eased land shall be subject to following procedures and requirements.

- a. Requests for subdivision approval shall be submitted, in writing, to the County Board. Requests shall include the following maps, information, etc. 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 Butler County program guidelines shall rest with the applicant.
 - i) Written request for subdivision approval including description of subdivision and reason for subdivision.
 - ii) A map or sketch, at a scale sufficient to clearly show the following:
 - 1) Location of crop land, pasture land, woodland and other lands.
 - 2) Roads, streets, driveways, utility right-of-way, streams.
 - 3) Location of existing buildings, sheds, barns, dwellings, and other structures.
 - 4) Delineation of proposed subdivision.
 - 5) Indication of which parcel either created by subdivision or remaining after subdivision on which the additional residential structure permitted by Section 14.1 (c)(6)(iv) of the Act (3 P.S. Section 914.1 (c)(6)(iv)) and this section may be constructed unless this right has been relinquished and extinguished under the Act.
- b. The County Board will note the receipt of the request for subdivision approval at its next regularly scheduled meeting following the submission of the request for subdivision approval to the District.

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

structure.

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

g. Recording of Article

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

APPENDIX L

SPECIAL PROVISIONS FOR PARCELS ENTIRELY WITHIN AN AGRICULTURAL SECURITY AREA

Consistent standards- The standards and procedures for the selection and purchase of an agricultural conservation easement set forth in this county program are applicable to the selection and purchase of an agricultural conservation easement crossing local government unit boundaries and county boundaries.

Parcels Crossing Local Government Unit Boundaries- The County Board may recommend the purchase of an agricultural conservation easement on a parcel a portion of which is not within and agricultural security area if all of the following occur:

1. The agricultural conservation easement would be purchased by the county solely, or jointly with either the Commonwealth or a local government unit, or both.
2. The land is part of a parcel of farmland that is transected by the dividing line between two local government units, with the portion within one local government unit being in an agricultural security area of 500 acres or more acres and the portion within the other local government not being within an agricultural security area.
3. The majority of the parcel's viable agricultural land is located within an agricultural security area of 500 or more acres.

Parcels Crossing County Boundaries- The County Board may recommend the purchase of an agricultural conservation easement on a parcel a portion of which is not within and agricultural security area if all of the following occur:

1. The agricultural conservation easement would be purchased by the county solely, or jointly with either the Commonwealth or a local government unit, or both.
2. The land is part of a parcel of farmland that is transected by the dividing line between Butler County and an adjoining county, with the portion within Butler County being in an agricultural security area of 500 acres or more acres and the portion within the other local government not being within an agricultural security area.
3. One of the following shall apply:
 - a. A main dwelling (mansion house) is located on the parcel, and the house is located entirely within Butler County with the local government unit that has an agricultural security area.
 - b. A main dwelling (mansion house) is located on the parcel, on the dividing line between Butler County and an adjoining County, with the local government unit that has an agricultural security area, as the house site for tax assessment purposes.
 - c. There is no main dwelling (mansion house) on the parcel, and the majority of the parcel's viable agricultural land is located within Butler County with the local government unit that has an agricultural security area.

Recording Responsibilities- Upon purchase of an agricultural conservation easement as described above, the portion of the parcel that was not part of the agricultural security area immediately

becomes part of the agricultural security area covering the rest of the parcel. Butler County will take all steps necessary to ensure the governing body which created the agricultural security area meets its responsibly, under 14.1(b)(2)(i)(B)(II) and 14.1(b)(2)(i)(C)(III) of the Agricultural Security Law with respect to the land added to the agricultural security area.

Enforcement- The County Board shall exercise primary enforcement authority with respect to the agricultural conservation easement acquired pursuant to the criteria set forth for the purchase of agricultural conservation easements crossing the local government unit and county boundaries including any portion of an agricultural easement extended into an adjoin county, as set forth in Section XIV of these guidelines.

APPENDIX M

LOCAL GOVERNMENT UNIT PARTICIPATION

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

- A. The local government unit, in conjunction with a county board, may participate with the State Board in the purchase of agricultural conservation easements.
- B. The local government unit shall recommend to the County Board the purchase of agricultural conservation easements by the eligible county and the local government unit as joint ownership.
- C. The local government unit shall recommend to the County Board the purchase of agricultural conservation easements by the local government unit and the Commonwealth as joint ownership.
- D. The local government unit may purchase an agricultural conservation easement, provided that all 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 the County or both the 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 paragraph (E) for recording any agricultural conservation easement purchased by the local government unit.
- E. In any case where an easement purchase involving municipal recommendation and participation with the county and/or state may occur by anything other than descending order of the county farmland ranking score for a farm (see page 10 “Numerical Ranking System for Applications”), then the municipality is required to allocate to the county the total amount of the revenue needed to purchase the easement in their municipality no later than December 31 of the preceding year of every purchase.
- F. 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 Butler County. 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 easement submitted to the State Board a description of the farmland subject to the agricultural conservation easement.

APPENDIX N

PERMITTED CUSTOMARY PART-TIME OFF-SEASON MINOR OR RURAL ENTERPRISES

REQUIREMENTS

A. Statutory Authority

The Agricultural Area Security Law, 3 P.S. § 901 et seq., requires that 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 Easement Purchase Program approved by the State Board. 3 P.S. § 914(c)(6)(v). The following guidelines are applicable to all Agricultural Conservation Easements acquired under the Agricultural Area Security Law.

B. Purpose

It is the intent of this section to establish guidelines in conformance with statutory authority to permit certain Rural Enterprises. Permitted Rural Enterprises are intended to supplement farm incomes in a manner which will not adversely affect the use of preserved farmland for agricultural production and to create a healthy environment for the long-term sustainability of the agricultural economy and farming as a way of life.

C. General Provisions

A landowner undertaking or proposing to undertake a Rural Enterprise(s) shall be subject to all the following. In all cases:

1. A Rural Enterprise shall not detract from and is in addition to the open space character and required primary use of the restricted land which is, and shall be available for, agricultural production and agricultural use as otherwise defined by the Agricultural Area Security Law (“Act”) and as recorded in the Agricultural Conservation Easement (“ACE”). Rural Enterprises shall not be a substitute for normal agricultural production or commercial equine activity.
 - a. Agricultural production, as defined by the Act is: “The production for commercial purposes of crops, livestock, and livestock products, including the processing or retail marketing of the crops, livestock or

livestock products if more than 50% of the processed or merchandised products are produced by the farm operator.” Areas in agricultural production shall not be used for any other purpose other than agricultural production.

2. No excavation, paving, gravelling, construction of permanent non-agricultural structures or other activities that would diminish the productive capacity of the soils are permitted in connection with Rural Enterprises.
3. A Rural Enterprise shall be owned or operated by the person(s) in residence on the restricted land. The owner is ultimately responsible for any Rural Enterprise activity occurring on the preserved land.
4. The burden of proof shall be with the owner of the preserved land to prove their proposed Rural Enterprise meets all applicable Rural Enterprise criteria, including that set forth herein and in the Act, its regulations, the governing agricultural conservation easement, zoning ordinance requirements, and other applicable law. If a landowner does not offer sufficient credible evidence of meeting such criteria and otherwise persuade the Butler County Agricultural Land Preservation Board (BCALPB) that all such requirements have been met, the BCALPB has the right to reject the request.
5. Any Rural Enterprise activity that occurs within a detailed and recorded Exclusion Area of the easement property is not subject to the regulation or easement law and therefore not subject to the easement rules, regulations, or law. However, that does not exonerate the landowner from any responsibility to abide by local laws, zoning regulations, and other municipal restrictions.
 - a. Refer to your formal survey map or consult with BCALPB Staff because not every preserved farm in Butler County has an exclusion area.
6. Those landowners requesting to implement Rural Enterprise activities must complete a Rural Enterprise Application for consideration by the BCALPB prior to commencing any Rural Enterprise activities (Appendix N). Any change or expansion of such rural activities will be subject to BCALPB review.
7. During inspections of a preserved farm, the Rural Enterprise(s) will be evaluated based on the facts and information included within the approved Application. If the Rural Enterprise is not in conformity with said Application, the landowner/tenant will be given 60 days to comply with the

original approved Application. If the Rural Enterprise remains out of compliance, BCALPB will initiate violation procedures.

8. Proposed activities shall be evaluated on a case-by-case basis and must be approved individually by the BCALPB. Approval of any Part-Time or Off-Season Minor or Rural Enterprise by the BCALPB shall not constitute automatic approval of any future request nor does it set a precedent for future requests.

D. Rural Enterprises are limited to the following activities and similar uses as may be approved by the BCALPB:

1. Direct sale to the public of agricultural products produced principally on the farm provided that at least 50% of such products are produced by the farm operator.
2. Any and all structures contributing to the production, primary processing, direct marketing and storage of agricultural products produced principally on the farm.
3. Structures associated with the production of energy for use principally on the farm including wind, solar, hydroelectric, methane, wood, alcohol fuel and fossil fuel systems and structures and facilities for the storage and treatment of animal waste.
4. Structures and facilities associated with irrigation, farm pond improvements, and soil and water conservation practices including but not limited to Wetland Development or Restoration, Wildlife Wetland Habitat Management, Wildlife Upland Habitat Management and Riparian Forest Buffer Resource Management Systems used for erosion and sediment control and water quality improvement.
5. The provision of services or production and sale, by persons in residence, of incidental agricultural goods, services, supplies, and repairs and/or the conduct of traditional trades and the production and sale of home occupation goods, arts and crafts so long as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying residential and principally agricultural structures of the property; limited in site coverage to one-half of one percent of the area of the Property.
6. The accommodation of tourists and visitors within principally family residential and/or agricultural structures otherwise permitted under the law so long as the accommodation of tourists and visitors is undertaken as a Part-Time or Off-Season Minor or Rural Enterprise and is incidental to the agricultural and open space character of the property.
7. Regulated hunting operations and production and stocking of game birds so long as these uses remain incidental to the agricultural and open space character of the property.

8. Agricultural-related services or activities associated with customary Part-Time or Off-Season Minor or Rural Enterprises and activities incidental to agricultural production. These services and activities are permissible, as long as they remain incidental to the agricultural and open space character of the farm.
9. The installation of communication antennae structures along with associated equipment and structures shall be permitted so long as the landowner complies with all of the following:
 - (a) the Rural Enterprise shall remain incidental to the agricultural use and character of the farm;
 - (b) the communication antennae is located on an existing structure;
 - (c) the installation or construction of any permanent non-agricultural equipment or structures associated with such communications antennae shall be located at the base and within the curtilage of the existing structure supporting the communications antennae.

E. Application Procedure

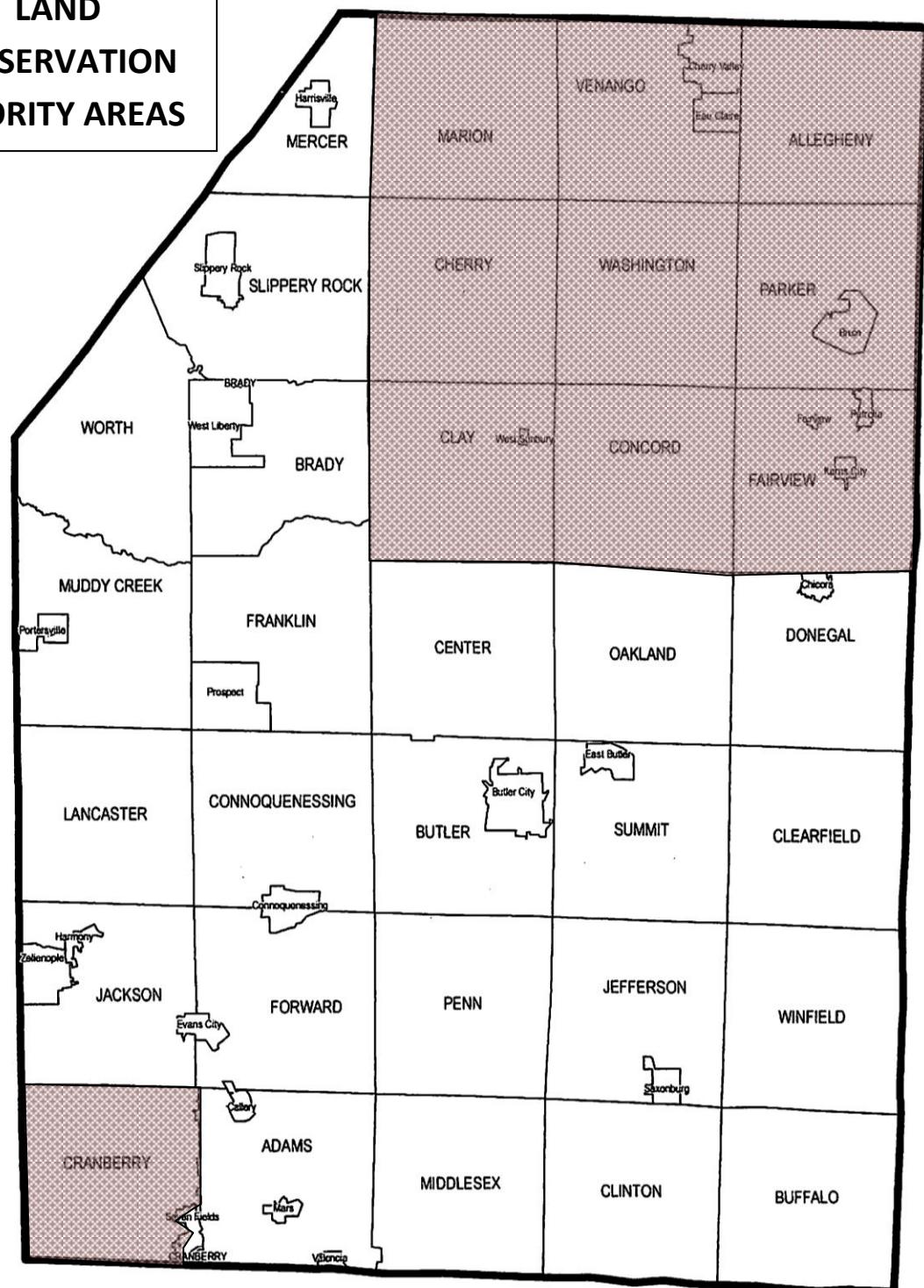
For the Rural Enterprises herein specified, the following procedure shall be followed:

1. The landowner of the preserved farm shall submit a Rural Enterprise Application on the customary BCALPB form.
2. The BCALPB shall reply to such Application, request any needed additional information, and when all information has been submitted, shall deem such Application to be administratively complete at which time BCALPB Staff shall place the matter on the next available agenda for its consideration by the BCALPB.
3. If the requested Rural Enterprise meets the criteria for BCALPB approval, the BCALPB shall act on the Application and send the landowner a written decision on the same.
4. Following the BCALPB meeting, BCALPB Staff shall give written notice to the landowner of the decision of the BCALPB.
5. At all times and for all Applications, the following shall apply:
 - a. the landowner shall submit a site plan depicting all structures; and
 - b. the landowner shall present credible evidence and persuade the BCALPB that issues relating to other entity approvals including but not limited to: traffic, sewage, noise, hours of operation, parking, road use, non-impact on agricultural production, viable agricultural land preservation and similar issues, have all been credibly addressed; and

- c. all other criteria herein specified (specific and general) shall have been met; and
- d. approval is required for all landowner requests for Rural Enterprises prior to their commencement on the restricted land; and
- e. the BCALPB may make the approval conditional to protect farmland and as otherwise allowed under applicable law including without limitation, the Agricultural Area Security Law, its regulations, the governing agricultural conservation easement, zoning ordinance requirements, and any other applicable law; and
- f. when more than one Rural Enterprise subject to a limitation of one-half of one percent site coverage exist on the restricted land, the total site coverage of all such Rural Enterprises shall be limited to one-half of one percent of the area of the restricted land; and
- g. Any amenities needed for public use shall be made only within the curtilage area as recorded at the time of easement purchase.

**BUTLER COUNTY
AGRICULTURAL
LAND
PRESERVATION
PRIORITY AREAS**

APPENDIX O

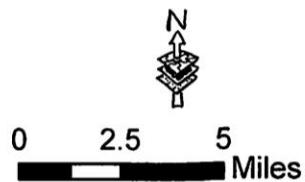


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Southwestern Pennsylvania Commission

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Priority Ag Townships



**NO
YES**

APPENDIX P

ACQUISITION BY DONATION

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

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 subject to an agricultural conservation easement.

Application for Consideration

- A. Applicants wishing to donate an agricultural easement shall complete an application of the County form (See Appendix C – Application Form) and submit it to the County Board (See Section 202).
- 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.

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:
 - a. County-only acquisition
 - b. County – Commonwealth
 - c. County – non-profit
 - d. County – local government unit

- e. 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 donated acreage.
- F. Survey – The survey must meet all of the same requirements as a tract of land being considered for agricultural conservation easement purchase.
- G. Subordination Agreement – proper releases from mortgage holders and lien holders must be obtained and executed to sure 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 the 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 the 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.

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.

APPENDIX Q

COMMERCIAL EQUINE ACTIVITIES

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

Definitions

Commercial Equine Activity: The term includes the following activities where a fee is collected: the boarding of equines, training of equines, the instruction of people in handling, driving or riding equines, the use of equines for riding or driving purposes, the pasturing of equines. The term does not include activity licensed under the act of December 17, 1981 (P.L. 435, No. 135), Known as the "Race Horse Industry Reform Act." **Agricultural Security Areas:** Section 14.05(a) of Act 43 is amended to include "or of viable agricultural land a portion of which is used for commercial equine activity," to the first sentence of this section.

County Program

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

Restrictions and Limitations

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

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

Amendment or Addition of Section

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