

**County of Chester
Agricultural Conservation Easement
Purchase Program**



AGRICULTURE

**Program Regulations
Application Deadline - 1st Friday in August**

Chester County Commissioners

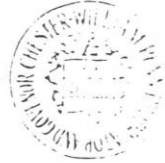
Marian D. Moskowitz
Josh Maxwell
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THE COUNTY OF CHESTER

Commissioners:
D. T. Marrone, Chairman
Irene B. Brooks
Patricia M. Baldwin

OFFICE OF THE COMMISSIONERS
Courthouse, Fifth Floor, North Wing
West Chester, PA 19380
(215) 344-6100



CHESTER COUNTY AGRICULTURAL CONSERVATION EASEMENT PROGRAM

Resolution No. 34 of 1989

WHEREAS, the County of Chester is an agricultural leader in the Commonwealth and is the eighth most productive farm county east of the Mississippi River; and

WHEREAS, our 1,600 farms produced nearly \$290 million in agricultural products in 1987, making agriculture a leading industry in Chester County; and

WHEREAS, Chester County is currently losing over 100 acres of productive farmland each week; and

WHEREAS, the Board of Commissioners has determined that Chester County should participate in the Commonwealth's Agricultural Conservation Easement Program as one means to slow the unacceptably high level of farmland loss; and

WHEREAS, a requirement of Pennsylvania Act 43, P.L. 128, No. 43, the Agricultural Area Security Law, as amended December 14, 1988, P.L. 1202, No. 149, is that counties must appoint a County Agricultural Land Preservation Board to administer the County Farmland Protection Program;

Now, THEREFORE, it is resolved that the Agricultural Land Preservation Board is hereby appointed to administer the Agricultural Conservation Easement Program for Chester County.

Molly K. Morrison
Molly K. Morrison
Chief Clerk

July 11, 1989
Date

D.T. Marrone
D.T. Marrone, Chairman
Board of County Commissioners

Irene B. Brooks
Irene B. Brooks
Commissioner

Patricia M. Baldwin
Patricia M. Baldwin
Commissioner

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PROGRAM OVERVIEW

Welcome

The Chester County Board of Commissioners support farming in a variety of ways including land preservation which is overseen by the Chester County Agricultural Land Preservation Board (ALPB) and carried out by the Chester County Department of Open Space Preservation (DOSP). For questions, concerns or assistance, please contact Geoff Shellington, Agricultural Programs Coordinator, Department of Open Space Preservation, 601 Westtown Road, Suite 390, P.O. Box 2747, West Chester, PA 19380-0990, phone 610-344-6504, gshellington@chesco.org, or visit www.chesco.org/openspace.

Background

The Commonwealth/County Farmland Preservation Program (Program) is administered under the authorization of and pursuant to Pennsylvania Act 43, P.L.128, No. 43, the Agricultural Area Security Law, as amended. This program lets the County purchase agricultural conservation easements in partnership with the state, municipal governments, and qualified non-profit organizations from farmland owners. Other than selling development rights as specified in the Deed of Easement, the landowner retains all other rights and responsibilities of private land ownership including the right to farm the ground. The farm may be sold or subdivided as permitted by the Program regulations. The Chester County Commissioners have other programs that fund the preservation of farmland which are described at www.chesco.org/openspace. The DOSP can help you consider all County land preservation programs.

Agricultural Conservation Easement

The Program's agricultural conservation easement is a legally binding document filed in the land records with the original deed from the farm property, restricting its use substantially to agriculture and directly associated uses. The easement permits the construction of buildings that are directly associated with the agricultural production of the farm. It also grants the right to construct one additional dwelling unit for purposes of providing housing for farm workers at the operation or as the principal residence of the landowner. The easement binds the current owner and future owners, carrying with the land. A copy of the Program's agricultural conservation easement may be viewed online or obtained by contacting the DOSP.

Agricultural conservation easements may be acquired through voluntary donation or sale of farmland development rights. All easements shall be permanent. The price paid for purchase of an easement is limited by the easement value, as determined by an appraisal and the Program regulations. The ALPB shall be responsible for authorizing appraisals and making offers to purchase agricultural conservation easements as described in these regulations.

Applications

Applications to this Program will be accepted through the first Friday in August and can be hand delivered or postmarked by the deadline. DOSP staff is available to help if you need assistance.

Applications will be evaluated to make sure they meet the minimum criteria which are listed on page 3. Applications meeting the minimum criteria will be ranked using the Numerical Ranking System that evaluates farm parcels based upon the quality of the soil for agricultural production, the level of development pressure, farmland potential, the ability to add to a cluster of existing protected farmland, the percentage of donated value, and other funding.

Applicants who are not offered the opportunity to participate in the Program due to funding limitations will have their applications carried over for two years. If they have not been preserved or are not in the process of being preserved within that time, they may re-apply. If the applicants farm is not enrolled in an Agricultural Security Area (ASA) the applicant must submit the ASA application to their Township prior to re-applying to the Farmland Preservation Program. Applicants who wish to change some aspect of their application must submit any changes to the County on or before the application deadline. The easement purchase procedure is described herein.

Subdivision

Subdivision of a farm subject to an agricultural conservation easement into smaller farm tracts is permitted in accordance with the subdivision regulations of this Program. Generally subdivisions of land into parcels of 50 acres or more, that leave a residual parcel of at least 50 acres and which preserve the economic viability of farming, have a current conservation plan in place and are on schedule with implementation of the best management practices as required receive favorable consideration by the Agricultural Land Preservation Board (see subdivision regulations page 48).

STATEMENT OF PURPOSE

The purpose of this Program is to protect viable agricultural lands by acquiring agricultural conservation easements. This Program is designed to accomplish the purpose by:

- (1) Encouraging landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use;
- (2) Protecting normal farming operations in agricultural areas from incompatible non-farming uses that may render farming impracticable;
- (3) Assuring conservation of viable agricultural lands in order to protect the agricultural economy and resources of this Commonwealth;
- (4) Maximizing agricultural easement purchase funds through diligence and partnerships to protect the investment of taxpayers in agricultural conservation easements

PUBLICATION OF THE COUNTY PROGRAM

Program Notification

The County Board will use the following organizations to publicize the conservation easement program:

Local agricultural organizations

News media

Township Supervisors

Township Agricultural Advisory Boards

Direct mailings

Program Information

An information folder will be available to the public upon request and will include the following materials:

Chester County program guidelines

Application form

Sample Deed of Conservation Easement

Agricultural Security Area brochure

The information folder may be requested by contacting the Chester County Agricultural Preserve Board at 601 Westtown Rd ~Suite 390 West Chester, PA 19380 or calling (610) 344-5656.

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

FARMLAND PRESERVATION APPLICATION

We _____ (applicants) understand and agree the program regulations and restrictions (described in the Program Guidelines) and, hereby offer to convey a perpetual agricultural conservation easement to the Chester County Agricultural Land Preservation Board (ALPB). The program regulations can be viewed at www.chesco.org/openspace, or a copy can be requested by contacting the Department of Open Space Preservation via phone at 610-344-5656,

Date: _____

Applicant(s) (printed) _____

Applicant(s) (signature) _____

Company Name: _____

Mailing Address: _____

Email Address: _____

Telephone Number: _____ Cell Phone: _____

Total Farm Acreage: _____ Acres Proposed for Easement Sale: _____

Are you a: ☐ Corporation* ☐ Partnership** ☐ Limited Liability Company***

If yes, identify the State where the business was formed: _____

** Submit copy of By Laws and any amendments with application. **Submit copy of Partnership Agreement and any amendments with application *** Submit copy of Operating Agreement and any amendments with application*

Property Information:

Directions to property from nearest State route:

County Tax Parcel #

For each parcel: _____

Bargain Sale Donation

☐ By checking this box, I, the farmland owner, acknowledge and understand that applicants who agree to participate in the Federal Farmland Preservation Program, offer to donate more than 10% of the easement value, or if a township partners with the County to fund preservation of the farm may be offered the chance to participate in this program ahead of other applicants who score higher.

The sale of an agricultural easement for a price that is less than the appraised value of the easement (i.e. bargain sale) has been included in the Numerical Ranking System.

Please indicate if you are interested in a bargain sale.

Yes ☐ No ☐

If yes, indicate specific percentage of the bargain sale you are offering _____%.

Minimum donation for ranking points is 10%. Higher donations will be given priority consideration. Please refer to the Ranking System in Addendum I – 2 and the preceding paragraph.

Are you willing to participate in the Federal Farmland Preservation Program and accept federal funds if the County is able to secure them to help us stretch our limited funds?

Yes ☐ No ☐

Subdivision Activity

Do you have a subdivision plan or other matter before the township for consideration?

Yes ☐ No ☐

Please note: Subdivision of land between the time of easement sale application and easement sale settlement is PROHIBITED. Please contact staff with questions or for clarification.

List any Mortgage(s), Lien Holder(s), Lines of Credit or owners of mineral rights:

****Please include contact information for the holder(s) of mortgages, liens, lines of credit****

Title issues such as mortgages, liens, judgments, etc. must be resolved prior to the agricultural conservation easement proceeding to settlement. Should discovery be made that any of the issues pertaining to title prohibits the sale of an agricultural conservation easement, the property owner is responsible for the incidental cost (title, survey, etc.) incurred by the County.

Overview of Farm Operation:

Crop & Livestock Report For Recent Calendar Year on Land Proposed for Easement (Please fill in with as much information as possible. If more space is needed – please attach a separate sheet).

Crops	Acres Grown

Livestock	Average Number

Land Use (Please fill in the blank).

Percent of farm used for Harvested Cropland, Pasture and Grazing Land: ____%

Is timber harvested from woodlands? Yes ☐ No ☐

Commercial Equine Activity

Are you engaged in any commercial equine activities on the proposed eased land?

Yes ☐ No ☐

Stewardship Practices:

NOTE: *An approved conservation plan and implementation agreement is required before settlement on the sale of an agricultural conservation easement through this program. After settlement, participating farms will be visited annually to make sure the conservation plan is up to date, that the conservation practices are working and implementation is on schedule.*

Does you have a Conservation Plan? Yes ☐ No ☐

If yes, attach a copy of the plan map.

Plan Date: _____

Plan Writer: _____

Please describe the conservation practices currently used on the farm:

Do you have a Nutrient Management Plan? Yes ☐ No ☐

If yes, provide the following information.

Date of Plan _____ Plan Date _____

Is your farm leased to another farmer? Yes ☐ No ☐

If yes, who farms it? Name: _____

Telephone Number: _____

The Agricultural Land Preservation Board and the County of Chester make no representations regarding the applicant's ability to receive favorable tax treatment as a result of this transaction. *All applicants are advised to consult their own attorney or tax consultant for advice in this regard.*

Yes ☐ No ☐ **Will the proceeds be used in a Like Kind Exchange?**

Yes ☐ No ☐ **Is there a signed agreement?**

If yes, is the exchange property a Chester County Farm? Yes ☐ No ☐

Historic, Scenic and Environmentally Sensitive Qualities

Yes ☐ No ☐ Is farm adjacent to a park*, protected natural area** or a National Historic Resource or District***?

If yes, please identify: _____

* Park = passive, low intensity recreational use by individuals or small groups in natural surroundings.

**Protected Natural Area = Land, other than farmland, owned in fee by or under easement with a private conservation organization or public entity for conservation purposes.

***National Historic Resource or District = Must be on or have potential to be on the National Register. Please provide a non-returnable photograph of the historic building.

Yes ☐ No ☐ Have any development rights been transferred from your land or any land use restrictions, including deed restrictions, subdivision restrictions, or any other covenants, exist on your property?

Each item below is required for the application to be complete. Please use the list of check boxes below to make sure you have included all required items:

- ☐ Make sure all parcels that are a part of this application are in the recorded Agricultural Security Area (ASA) of your township (if you are not sure or if you know they are not – please contact us at the County Department of Open Space Preservation to let us know and so we can help).
- ☐ A tax map, soils map, or USDA topographic map with the proposed easement area outlined/drawn.
- ☐ Printed name(s) of all applicants on Page 1
- ☐ Completed and signed Release of Records on Page 6

DEADLINE FOR SUBMISSION is the first Friday in August by 4:00 P.M.

Submit to: Agricultural Preservation Application
Chester County Department of Open Space Preservation
Government Services Center, Suite 390
601 Westtown Road, P.O. Box 2747
West Chester, PA 19380-0990,

Telephone: 610-344-5656
Fax: 610-344-4012,
Email: openspace@chesco.org

If your property is approved for an appraisal by the CCALPB, a \$750 deposit will be required at that time if the landowner wishes to proceed. A current conservation plan or a commitment and timeline for obtaining a plan will also be required. For additional information, please see the Program Guideline Appendix for the Deposit and Conservation Plan Policy.

No data from application is available pursuant to the Right to Know Act until an Agreement of Sale for agricultural conservation easement purchase is fully executed. Townships will be notified of applications within their jurisdiction in order to determine appropriate match funding. Applications will remain active for two funding rounds unless they are withdrawn by the applicant. Updates to the application will only be accepted if they are permitted by the Policies and Procedures as stated in these regulations. If they are not submitted prior to the annual deadline and are not otherwise permitted by the Policies and Procedures, then the modifications will be incorporated into the application the following (and subsequent) rounds as offered by the County Commissioners.

Authorization for Release of Records

To: United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS)

From (Individual and/or Farm Name): _____

Mailing Address:

Farm Address (if different than mailing):

Municipality of Farm: _____

I hereby authorize the release of my individual records that are in the custody of the USDA, NRCS.

I authorize release of records to the following named individual(s) or representative(s) of the following organizations(s):

List name(s) or organization(s):

Chester County Department of Parks + Preservation

I authorize release of the following information (initial the appropriate block):

☐

ANY information in my files

☐

ONLY the following information as noted below:

- _____
- _____
- _____

Beginning date _____ for release of record. Ending date _____ for release of record

I understand and acknowledge that NRCS cannot be responsible for ensuring the confidentiality of released records.

Name (please print): _____

Signature: _____

Date Signed: _____

MINIMUM CRITERIA FOR APPLICATION

Commonwealth Minimum Criteria:

The County Program shall consider the quality of the farmland tract, using the USDA-NRCS Soil Classifications.

- (1) All parcels of the farmland tract application must be properly recorded in an Agricultural Security Area consisting of at least 500 acres.
- (2) The farmland tract shall encompass:
 - (a) Contiguous acreage of at least 35 acres or more in size, or
 - (b) at least 10 acres producing a crop unique to the area, or
 - (c) at least 10 acres contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization", as defined in Section 170(h)(3) of the Internal Revenue Code.
- (3) A minimum weighted value of 20% shall be required when prioritizing applications for agricultural easement purchase when implementing the provisions of 914.1(d)(ii.1) for easements 35 to 49.9 acres in size.
- (4) Only 50% of State funds shall be utilized to purchase agricultural conservation easements 35 to 49.9 acres in size.
- (5) In the farmland tract, at least 50% of the soils shall be available for agricultural production and in capability classes I through IV.
- (6) The farmland tract shall contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.
- (7) Act 14 of 2001, Act 138 of 1998 and Act 46 of 2006 are incorporated into the minimum criteria and can be found in these Program Regulations.

County Only Minimum Criteria:

When there are no Commonwealth funds involved, the County reserves the right to make an exception in cases when the farmland tract is at least 25 acres if the farmland tract is owned and operated as an integral piece of an agricultural operation unit that has a tract of at least 25 acres already permanently preserved. The tracts need not be adjacent.

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

CHESTER COUNTY NUMERICAL RANKING SYSTEM

LAND or SOILS EVALUATION = 40%

Soils of a farm are organized into soil groups established through the Land Evaluation Site Assessment System and each group is assigned a relative value for agricultural productivity. Multiplication of the acreage of each soil group by its relative value determines the Land or Soils Evaluation Score.

SITE ASSESSMENT = 60%

Development Potential (10%)

Farmland Potential (30%)

Clustering Potential (20%)

LAND OR SOILS EVALUATION - 40% (Geographic Information System [GIS] software program of Land Evaluation Site Analysis [LESA] system is a 100 point based system multiplied by 40%)

DEVELOPMENT POTENTIAL - 10% (100 points Maximum)

1.Availability of Public Water and Sewer	<u>Points</u>
Farm is less than or equal to 1 mile from public water and sewer.....	10

1a.(Alternate) In cases where farm is not within one mile of both public water and sewer, what is concentration of Prime Agricultural Soils (Class I and II soils) for Onsite Waste Disposal Potential

More than 50% Class I and II Soils	10
Less than 50% Class I and II Soils.....	0

2. Extent of Road Frontage	<u>Points</u>
More than 1 mile	80
1/2 - 1 mile	60
Less than 1/2 mile	40

3. Extent of Non-Agricultural Use in Area - Proximity of farm to 15 or more developed lots	<u>Points</u>
Adjacent	10
Applicant is not adjacent to 15 or more developed lots	0

FARMLAND POTENTIAL 30% (100 Points Maximum)

1. Acreage of Proposed Farm Tract	<u>Points</u>
100 or more acres	29
90-99 acres	24
80-89 acres	18
70-79 acres	12
60-69 acres	6
51-59 acres	3

2. Percent of Farm Used for Harvested Cropland, Pasture and Grazing Land	<u>Points</u>
95% or greater	18
85% - 94%	15
75%-84%.....	12
60% - 74%	9

3. Possession of Soil Conservation Plan	<u>Points</u>
Current Soil Conservation Plan with 100% implementation	20
Current Soil Conservation Plan with 75% - 99% implementation	17
Current Soil Conservation Plan with 50% - 74% implementation	11
Current Soil Conservation Plan with implementation < 50%	6
Soil Conservation Plan is not current or does not exist but is in process.....	3
No Plan and not yet in process.....	0

4. Historic, Scenic and Environmentally Sensitive Qualities	<u>Points</u>
Adjacent to Park*, Protected Natural Area** National Historic Resource or District***	2

* Park - Passive, low intensity recreational use by individuals or small groups in natural surroundings.
 ** Protected Natural Area - Land other than farmland owned in fee by or under easement with a private conservation organization or public entity for conservation purposes.
 ***National Historic Resource or District = Must be on or have potential to be on the National Register.

5. Bargain Sale. Percentage less than appraised easement value or percentage less than the \$12,000 per acre cap – whichever is less – which the applicant is willing to accept. Applications that include a bargain sale may be considered ahead of higher ranking farms.

	<u>Points</u>
80%-99% donation.....	29
70%-79% donation.....	24
60%-69% donation.....	21
50%-59% donation.....	18
40%-49% donation.....	11
30%-39% donation.....	9
20%-29% donation.....	6
10%-19% donation.....	3

6. Applicant History of Agricultural Conservation Easement Purchase Offers.....	<u>Points</u>
Never Received or Rejected Offer on same application tract	2
Rejected Offer on same application tract	0

CLUSTERING POTENTIAL 20% (100 Points Maximum)

1. Farm is located in an area designated for Rural or Agricultural Use.	<u>Points</u>
Yes	7
No.....	0

2. Proximity of Subject to Preserved Farmland*	<u>Points</u>
Within 1 mile of 350+ acres of preserved farmland	47
Within 1 mile of 250 - 349 acres of preserved farmland	34
Within 1 mile of 150 - 249 acres of preserved farmland	20
Within 1 mile of between 50 - 149 acres of preserved farmland	7

*Preserved Farmland includes land, predominately agricultural, that is owned in fee simple by, or under a perpetual conservation with, a qualified conservation organization as defined in Section 170(h)(3) of the Internal Revenue Code, or a public entity for agricultural preservation purposes.

3. Proximity of Subject to Other Active Sale Applications (in same round or in process from prior rounds. Applications from applicants who split their farm into two submissions will not count towards adjacency).	<u>Points</u>
Adjacent	20
Within 1/2 mile	13
Within 1 mile	7

4. Percent of Land Enrolled in the Agricultural Security Area Adjacent to Subject	<u>Points</u>
50%-100%	13
1% - 49%	7

5. Percent of Land Owned that is Applied	<u>Points</u>
100%	13
95% -99%	7
Less than 95%	0

SCORE CALCULATION OF A FARM PARCEL

LAND EVALUATION or Soils Component (40% OF SCORE)

Determine the relative value of the soils of a farm based on the Land Evaluation Site Assessment (LESA) formula:

1. Locate farm parcel on Chester County soil survey map and delineate farm application.
2. Determine the name and acreage of each soil type on farm and sort each soil type into the respective Soil Group, as provided in the "Land Evaluation Site Assessment Identification of Soil Groups Worksheet".
3. Multiply the number of acres of soils in each soil value group by the relative value in Column 5 of the "Chester County Agricultural Worksheet" (or use Column 6 if conservation practices are not implemented).

4. Add the products of the multiplication performed in Step C.
5. Divide the total value obtained in Step D by the total applied acreage of the farm parcel. The quotient will represent the average relative value for the farm.
6. Multiply the average relative value obtained in Step E by .4 to adjust for soils being a maximum of 40% of the system.

SITE EVALUATION (60% OF SCORE)

Assess the farm parcel for each factor listed in the "Site Assessment" portion of the "Numerical Ranking System":

Multiply the Development Potential total x (.10); multiply the Farmland Potential total x (.30); multiply the Clustering Potential total x (.20).

Add the relative Development Potential + Farmland Potential + Clustering Potential.

The total equals the relative site assessment score.

CALCULATE APPLICANTS SCORE

Determine the total score for the farm parcel by adding the relative value from the Land Evaluation soils analysis to the Site Assessment total for a total score.

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
Ba	Baile silt loam	5	3,616.4	0.7%
BaB	Baile silt loam, 3 to 8 percent slopes	5	3,037.9	0.6%
BbB	Baile silt loam, 0 to 8 percent slopes, very stony	7	1,367.4	0.3%
Bo	Bowmansville-Knauers silt loams	4	860.5	0.2%
BrB	Brecknock channery silt loam, 3 to 8 percent slopes	2	402.7	0.1%
BrC	Brecknock channery silt loam, 8 to 15 percent slopes	3	148.7	0.0%
BrD	Brecknock channery silt loam, 15 to 25 percent slopes	4	40.2	0.0%
BxB	Brecknock channery silt loam, 0 to 8 percent slopes, extremely stony	7	56.5	0.0%
BxD	Brecknock channery silt loam, 8 to 25 percent slopes, extremely stony	7	53.7	0.0%
CaA	Califon loam, 0 to 3 percent slopes	2	1,579.2	0.3%
CaB	Califon loam, 3 to 8 percent slopes	2	9,521.9	2.0%
CaC	Califon loam, 8 to 15 percent slopes	3	213.5	0.0%
CbB	Califon loam, 0 to 8 percent slopes, extremely stony	6	193.6	0.0%
CdA	Chester silt loam, 0 to 3 percent slopes	1	1,030.3	0.2%
CdB	Chester silt loam, 3 to 8 percent slopes	2	4,168.0	0.9%
CdC	Chester silt loam, 8 to 15 percent slopes	3	60.4	0.0%
ChB	Chrome silt loam, 3 to 8 percent slopes	6	1,916.0	0.4%
ChC	Chrome silt loam, 8 to 15 percent slopes	6	1,007.8	0.2%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
ChD	Chrome silt loam, 15 to 25 percent slopes	6	383.6	0.1%
ChE	Chrome silt loam, 25 to 45 percent slopes	6	443.1	0.1%
CIA	Clarksburg silt loam, 0 to 3 percent slopes	2	605.8	0.1%
CIB	Clarksburg silt loam, 3 to 8 percent slopes	2	1,038.0	0.2%
Co	Codorus silt loam	2	7,359.9	1.5%
CpA	Cokesbury silt loam, 0 to 3 percent slopes	4	7,148.0	1.5%
CpB	Cokesbury silt loam, 3 to 8 percent slopes	4	3,078.4	0.6%
CqB	Cokesbury silt loam, 0 to 8 percent slopes, very stony	7	332.7	0.1%
Cs	Comus silt loam	1	824.4	0.2%
CtA	Conestoga silt loam, 0 to 3 percent slopes	1	1,262.0	0.3%
CtB	Conestoga silt loam, 3 to 8 percent slopes	2	8,090.4	1.7%
CtC	Conestoga silt loam, 8 to 15 percent slopes	3	1,764.0	0.4%
CwA	Conowingo silt loam, 0 to 3 percent slopes	2	413.0	0.1%
CwB	Conowingo silt loam, 3 to 8 percent slopes	3	999.9	0.2%
CwC	Conowingo silt loam, 8 to 15 percent slopes	3	20.2	0.0%
CyA	Croton silt loam, occasionally ponded, 0 to 3 percent slopes	4	974.4	0.2%
CyB	Croton silt loam, occasionally ponded, 3 to 8 percent slopes	4	751.4	0.2%
DAM	Dams	8	8.2	0.0%
DfA	Duffield silt loam, 0 to 3 percent slopes	1	122.3	0.0%
DfB	Duffield silt loam, 3 to 8 percent slopes	2	164.4	0.0%
DfC	Duffield silt loam, 8 to 15 percent slopes	3	71.0	0.0%
EdB	Edgemont channery loam, 3 to 8 percent slopes	2	10,106.7	2.1%
EdC	Edgemont channery loam, 8 to 15 percent slopes	3	8,697.0	1.8%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
EdD	Edgemont channery loam, 15 to 25 percent slopes	4	3,756.1	0.8%
ExB	Edgemont channery sandy loam, 0 to 8 percent slopes, extremely stony	7	888.1	0.2%
ExD	Edgemont channery sandy loam, 8 to 25 percent slopes, extremely stony	7	1,209.4	0.2%
ExF	Edgemont channery sandy loam, 25 to 60 percent slopes, extremely stony	7	1,082.6	0.2%
GaD	Gaila silt loam, 15 to 25 percent slopes	4	1,460.5	0.3%
Gb	Gibraltar silt loam	2	849.3	0.2%
GdA	Gladstone gravelly loam, 0 to 3 percent slopes	2	1,635.4	0.3%
GdB	Gladstone gravelly loam, 3 to 8 percent slopes	2	46,610.6	9.6%
GdC	Gladstone gravelly loam, 8 to 15 percent slopes	3	26,223.1	5.4%
GdD	Gladstone gravelly loam, 15 to 25 percent slopes	4	3,681.4	0.8%
GdE	Gladstone gravelly loam, 25 to 35 percent slopes	4	519.0	0.1%
GeD	Gladstone-Parker gravelly loams, 15 to 25 percent slopes	4	4,107.3	0.8%
GfB	Gladstone gravelly loam, 0 to 8 percent slopes, very bouldery	6	417.8	0.1%
GfD	Gladstone gravelly loam, 8 to 25 percent slopes, very bouldery	6	2,136.9	0.4%
GfF	Gladstone gravelly loam, 25 to 50 percent slopes, very bouldery	7	870.1	0.2%
GgA	Glenelg silt loam, 0 to 3 percent slopes	1	2,884.7	0.6%
GgB	Glenelg silt loam, 3 to 8 percent slopes	2	60,917.1	12.5%
GgC	Glenelg silt loam, 8 to 15 percent slopes	3	19,001.6	3.9%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
GgD	Glenelg silt loam, 15 to 25 percent slopes	4	1,024.1	0.2%
GIA	Glenville silt loam, 0 to 3 percent slopes	2	1,198.8	0.2%
GIB	Glenville silt loam, 3 to 8 percent slopes	2	9,375.1	1.9%
GIC	Glenville silt loam, 8 to 15 percent slopes	3	107.9	0.0%
GxB	Glenville silt loam, 0 to 8 percent slopes, extremely stony	6	23.8	0.0%
Ha	Hatboro silt loam	4	12,857.8	2.6%
HIB	Hollinger silt loam, 3 to 8 percent slopes	2	123.1	0.0%
HIC	Hollinger silt loam, 8 to 15 percent slopes	3	168.6	0.0%
HID	Hollinger silt loam, 15 to 25 percent slopes	4	192.2	0.0%
HIE	Hollinger silt loam, 25 to 35 percent slopes	7	82.2	0.0%
Ho	Holly silt loam	3	1,435.7	0.3%
JoB	Joanna loam, 3 to 8 percent slopes	2	1,848.2	0.4%
JoC	Joanna loam, 8 to 15 percent slopes	3	2,832.2	0.6%
JoD	Joanna loam, 15 to 25 percent slopes	4	422.9	0.1%
JpB	Joanna loam, 0 to 8 percent slopes, extremely stony	7	311.5	0.1%
JpD	Joanna loam, 8 to 25 percent slopes, extremely stony	7	1,213.2	0.2%
JpF	Joanna loam, 25 to 50 percent slopes, extremely stony	7	97.7	0.0%
LbA	Lamington silt loam, 0 to 3 percent slopes	4	40.3	0.0%
LcB	Lawrenceville silt loam, 3 to 8 percent slopes	2	6.2	0.0%
LeA	Legore silt loam, 0 to 3 percent slopes	2	198.0	0.0%
LeB	Legore silt loam, 3 to 8 percent slopes	2	2,973.8	0.6%
LeC	Legore silt loam, 8 to 15 percent slopes	3	1,149.2	0.2%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
LfD	Legore gravelly silt loam, 15 to 25 percent slopes	4	269.6	0.1%
LgB	Legore gravelly silt loam, 0 to 8 percent slopes, extremely stony	6	206.4	0.0%
LgD	Legore gravelly silt loam, 8 to 25 percent slopes, extremely stony	6	205.9	0.0%
LgF	Legore gravelly silt loam, 25 to 50 percent slopes, extremely stony	7	38.4	0.0%
LhB	Lehigh channery silt loam, 3 to 8 percent slopes	2	51.9	0.0%
LhC	Lehigh channery silt loam, 8 to 15 percent slopes	3	32.4	0.0%
LkB	Lehigh channery silt loam, 0 to 8 percent slopes, extremely stony	7	6.8	0.0%
Ln	Lindside silt loam	2	781.3	0.2%
MaA	Manor loam, 0 to 3 percent slopes	1	152.7	0.0%
MaB	Manor loam, 3 to 8 percent slopes	2	12,242.8	2.5%
MaC	Manor loam, 8 to 15 percent slopes	3	23,668.2	4.9%
MaD	Manor loam, 15 to 25 percent slopes	4	14,444.8	3.0%
MaE	Manor loam, 25 to 35 percent slopes	6	6,755.5	1.4%
MaF	Manor loam, 35 to 60 percent slopes	7	1,804.7	0.4%
MbB	Manor loam, 0 to 8 percent slopes, very stony	6	27.3	0.0%
MbD	Manor loam, 8 to 25 percent slopes, very stony	6	209.7	0.0%
MbF	Manor loam, 25 to 60 percent slopes, very stony	7	1,171.2	0.2%
McA	Mattapex silt loam, 0 to 2 percent slopes, northern coastal plain	2	139.5	0.0%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
MIA	Mount Lucas silt loam, 0 to 3 percent slopes	2	375.1	0.1%
MIB	Mount Lucas silt loam, 3 to 8 percent slopes	2	2,836.5	0.6%
MIC	Mount Lucas silt loam, 8 to 15 percent slopes	3	40.7	0.0%
MnB	Mount Lucas silt loam, 0 to 8 percent slopes, extremely stony	7	321.0	0.1%
MuB	Murrill gravelly loam, 3 to 8 percent slopes	2	30.5	0.0%
NeA	Neshaminy silt loam, 0 to 3 percent slopes	1	220.8	0.0%
NeB	Neshaminy silt loam, 3 to 8 percent slopes	2	1,650.9	0.3%
NeC	Neshaminy silt loam, 8 to 15 percent slopes	3	519.8	0.1%
NeD	Neshaminy silt loam, 15 to 25 percent slopes	4	12.6	0.0%
NfB	Neshaminy gravelly silt loam, 0 to 8 percent slopes, extremely bouldery	7	696.5	0.1%
NfD	Neshaminy gravelly silt loam, 8 to 25 percent slopes, extremely bouldery	7	772.2	0.2%
NfF	Neshaminy gravelly silt loam, 25 to 60 percent slopes, extremely bouldery	7	87.1	0.0%
NvA	Neshaminy silt loam, very deep over mafic gneiss, 0 to 3 percent slopes	1	903.0	0.2%
NvB	Neshaminy silt loam, very deep over mafic gneiss, 3 to 8 percent slopes	2	6,230.2	1.3%
NvC	Neshaminy silt loam, very deep over mafic gneiss, 8 to 15 percent slopes	3	1,267.0	0.3%
NvD	Neshaminy silt loam, very deep over mafic gneiss, 15 to 25 percent slopes	4	444.7	0.1%
NxB	Neshaminy silt loam, very deep over mafic gneiss, 0 to 8 percent slopes, very stony	7	221.9	0.0%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
NxD	Neshaminy silt loam, very deep over mafic gneiss, 8 to 25 percent slopes, very stony	7	494.5	0.1%
NxF	Neshaminy silt loam, very deep over mafic gneiss, 25 to 60 percent slopes, very stony	7	288.2	0.1%
PaB	Parker gravelly loam, 3 to 8 percent slopes	2	1,042.2	0.2%
PaC	Parker gravelly loam, 8 to 15 percent slopes	3	3,160.9	0.7%
PaD	Parker gravelly loam, 15 to 25 percent slopes	4	2,913.0	0.6%
PaE	Parker gravelly loam, 25 to 35 percent slopes	6	1,782.1	0.4%
PaF	Parker gravelly loam, 35 to 60 percent slopes	6	551.7	0.1%
PbB	Parker loam, 0 to 8 percent slopes, extremely stony	6	82.1	0.0%
PbD	Parker loam, 8 to 25 percent slopes, extremely stony	6	385.2	0.1%
PbF	Parker loam, 25 to 60 percent slopes, extremely stony	7	164.6	0.0%
PdA	Penlaw silt loam, 0 to 3 percent slopes	3	716.5	0.1%
PdB	Penlaw silt loam, 3 to 8 percent slopes	3	717.4	0.1%
PeB	Penn silt loam, 3 to 8 percent slopes	2	12,978.7	2.7%
PeC	Penn silt loam, 8 to 15 percent slopes	3	5,363.4	1.1%
PeD	Penn silt loam, 15 to 25 percent slopes	4	1,139.4	0.2%
PeE	Penn silt loam, 25 to 35 percent slopes	4	115.9	0.0%
PfC	Penn channery silt loam, 8 to 15 percent slopes	3	21.5	0.0%
PgB	Penn silt loam, 0 to 8 percent slopes, very stony	6	94.7	0.0%
PgD	Penn silt loam, 8 to 25 percent slopes, very stony	6	159.6	0.0%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
PgF	Penn silt loam, 25 to 50 percent slopes, very stony	7	70.6	0.0%
Pt	Pits, quarry		787.0	0.2%
RaB	Raritan silt loam, 3 to 8 percent slopes	2	11.8	0.0%
ReA	Readington silt loam, 0 to 3 percent slopes	2	911.1	0.2%
ReB	Readington silt loam, 3 to 8 percent slopes	2	1,936.1	0.4%
Ro	Rowland silt loam	2	816.8	0.2%
Th	Thorndale silt loam	4	1,081.3	0.2%
ToA	Towhee silt loam, 0 to 3 percent slopes	4	1,131.4	0.2%
ToB	Towhee silt loam, 3 to 8 percent slopes	4	916.1	0.2%
TxB	Towhee silt loam, 0 to 8 percent slopes, very stony	7	495.4	0.1%
UdIB	Udorthents, limestone, 0 to 8 percent slopes	7	309.6	0.1%
Udp	Udorthents, sanitary landfill	7	86.6	0.0%
UdsB	Udorthents, schist and gneiss, 0 to 8 percent slopes	7	421.5	0.1%
UdsD	Udorthents, schist and gneiss, 8 to 25 percent slopes	7	19.8	0.0%
UdtB	Udorthents, shale and sandstone, 0 to 8 percent slopes	7	454.3	0.1%
Ura	Urban land, occasionally flooded	8	48.6	0.0%
UrB	Urban land, 0 to 8 percent slopes	8	4,883.5	1.0%
UrbB	Urban land-Baile complex, 0 to 8 percent slopes	8	62.6	0.0%
UrcB	Urban land-Califon complex, 0 to 8 percent slopes	8	366.2	0.1%
UrdB	Urban land-Chester complex, 0 to 8 percent slopes	8	627.4	0.1%
UrdD	Urban land-Chester complex, 8 to 25 percent slopes	8	30.9	0.0%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
UreB	Urban land-Chrome complex, 0 to 8 percent slopes	8	127.6	0.0%
UrfB	Urban land-Cokesbury complex, 0 to 8 percent slopes	8	120.4	0.0%
UrfD	Urban land-Cokesbury complex, 8 to 25 percent slopes	8	23.9	0.0%
UrgB	Urban land-Conestoga complex, 0 to 8 percent slopes	8	3,350.9	0.7%
UrgD	Urban land-Conestoga complex, 8 to 25 percent slopes	8	365.8	0.1%
UrhB	Urban land-Duffield complex, 0 to 8 percent slopes	8	58.1	0.0%
UrkB	Urban land-Edgemont complex, 0 to 8 percent slopes	8	993.7	0.2%
UrkD	Urban land-Edgemont complex, 8 to 25 percent slopes	8	607.4	0.1%
UrlB	Urban land-Gladstone complex, 0 to 8 percent slopes	8	7,281.4	1.5%
UrlD	Urban land-Gladstone complex, 8 to 25 percent slopes	8	1,615.5	0.3%
UrmB	Urban land-Glenelg complex, 0 to 8 percent slopes	8	8,271.6	1.7%
UrmD	Urban land-Glenelg complex, 8 to 25 percent slopes	8	2,569.5	0.5%
UrnB	Urban land-Glenville complex, 0 to 8 percent slopes	8	230.4	0.0%
Uro	Urban land-Hatboro complex	8	169.6	0.0%
Urp	Urban land-Holly complex	8	21.4	0.0%
UrqB	Urban land-Legore complex, 0 to 8 percent slopes	8	80.7	0.0%
Urr	Urban land-Lindside complex	8	74.4	0.0%
UrsB	Urban land-Manor complex, 0 to 8 percent slopes	8	610.7	0.1%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
UrsD	Urban land-Manor complex, 8 to 25 percent slopes	8	485.6	0.1%
UrtB	Urban land-Mount Lucas complex, 0 to 8 percent slopes	8	26.7	0.0%
UruB	Urban land-Neshaminy complex, 0 to 8 percent slopes	8	319.3	0.1%
UrvB	Urban land-Parker complex, 0 to 8 percent slopes	8	22.4	0.0%
UrvD	Urban land-Parker complex, 8 to 25 percent slopes	8	79.4	0.0%
UrwB	Urban land-Penlaw complex, 0 to 8 percent slopes	8	183.7	0.0%
UrxB	Urban land-Penn complex, 0 to 8 percent slopes	8	4,317.2	0.9%
UrxD	Urban land-Penn complex, 8 to 25 percent slopes	8	444.5	0.1%
UryB	Urban land-Towhee complex, 0 to 8 percent slopes	8	30.9	0.0%
UudB	Urban land-Udorthents, limestone complex, 0 to 8 percent slopes	8	5,091.2	1.0%
UudD	Urban land-Udorthents, limestone complex, 8 to 25 percent slopes	8	171.0	0.0%
UugB	Urban land-Udorthents, schist and gneiss complex, 0 to 8 percent slopes	8	12,762.1	2.6%
UugD	Urban land-Udorthents, schist and gneiss complex, 8 to 25 percent slopes	8	3,476.1	0.7%
UuhB	Urban land-Udorthents, serpentine complex, 0 to 8 percent slopes	8	116.2	0.0%
UusB	Urban land-Udorthents, shale and sandstone complex, 0 to 8 percent slopes	8	861.5	0.2%
UusD	Urban land-Udorthents, shale and sandstone complex, 8 to 25 percent slopes	8	68.9	0.0%

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
W	Water		3,670.0	0.8%
WaA	Watchung silt loam, 0 to 3 percent slopes	4	642.8	0.1%
WaB	Watchung silt loam, 3 to 8 percent slopes	6	417.1	0.1%
Totals for Area of Interest			486,106.0	100.0%

CHESTER COUNTY AGRICULTURAL LAND PRESERVATION BOARD POLICIES

Act 14, Act 138, and Act 46 inclusion	Act 14 of 2001, Act 138 of 1998, and Act 46 of 2006 as amended are incorporated into this Program by reference with the exception that the payment cap of \$12,000 per acre shall be imposed by the CCALPB on all projects.
Application Deadlines:	4:00 P.M. First Friday in August
Application Modifications:	Applications may be modified after the deadline for application if the modification consists of increased acreage that has a neutral or positive impact on the applicant's score, to increase the amount of funds from non-county sources, or if determined to be in the best interest of the CCALPB. The CCALPB reserves the right to grant a waiver to an application for the removal of land from an application if it is in the best interest of the Program. Urgent situations may apply throughout the year.
Administrative Deposit Policy:	A \$750 deposit will be required of any applicant approved for an appraisal. If an applicant has rejected <u>one</u> purchase offer within the preceding three years, a \$1,500 deposit is required. The deposit fee shall be refunded to the applicant if no easement purchase offer is made by the Board (as long as the application was accurate and the applicant followed the Program regulations as directed by County staff), or if the easement purchase proceeds to settlement, the application was accurate, and the applicant followed the Program regulations as directed by County staff. Applicants who have rejected <u>two</u> previous easement purchase offers are required to pay a nonrefundable fee, in advance of the appraisal assignment, equal to all appraisal update fees or for a new appraisal, if required. All deposits collected shall be forfeited if an offer is rejected.
Bargain Sale: Full Bargain Sale of Agricultural Conservation Easement:	The ALPB will work with any landowner interested in selling their development rights to the County of Chester for \$1.00. This type of sale can be a very effective estate-planning tool. Please talk to your tax advisor for tax advantages. Farms offering a \$1.00 sale must meet minimum criteria for application, per section 138e.16 of the State Regulations. Appraisal

(138e.63), survey and title work (138e.67) must be consistent with procedure for purchasing an easement in subchapter D of the State Regulations. Incidental cost obligations shall be on a case by case basis and will be determined by Agricultural Land Preservation Board review and the availability of County funds.

Bargain Sale/Donation of a Farmland Conservation Easement:

Landowners may sell their Agricultural Easement for a price that is less than its' appraised value. Willing applicants must specify the exact percentage of the lesser of the cap or appraised easement value that they are willing to accept. This figure must be entered on the application. An application receives points for offering a bargain sale and may receive priority consideration over other applications. The Bargain Sale option may also have tax advantages to the landowner, their estate and/or heirs. Please consult your tax advisor.

Conservation/Nutrient Management Plans: All agricultural operations shall be conducted in accordance with a Conservation Plan and a Comprehensive Nutrient Management Plan (if required by the Nutrient Management Act, Act 38). Conservation Plans and Conservation Plan Implementation Agreements must be approved and signed before an easement purchase agreement of sale is placed on the Commonwealth agenda, or in the case of County only, prior to settlement. Preparation and completion of these plans are the responsibility of the applicant. The County can provide a list of local certified plan writers upon request. Landowners are required to inform the County of the selected plan writer and completion date when they submit their administrative deposit. All costs associated with these plans are the responsibility of the landowner.

Construction of Additional Residential Structure:

In addition to the structures existing on the restricted land at the date of the granting of the easement, one additional residential structure may be constructed on the restricted land in accordance with Section 404(A).

Criteria for Approval – A landowner must meet all of the following criteria in order to obtain approval:

- 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.
- No other residential structure has been constructed on the restricted land, under authority of section 14.1(c)(6)(iv) of the act and this section, after the date of the granting of the easement.
- The residential structure and its curtilage occupy no more than two acres of the restricted land.
- The location of the residential structure and its driveway will not harm the economic viability of the preserved farm for agricultural production.
- 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.
- The right to 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.

Excepted Parcels:

All land to be withheld from an easement application, other than the existing building envelope, shall be delineated on a map and submitted to the Agricultural Land Preservation Board at the time of application.

Expanded Use of PA Farmland & Forest Land Assessment/ Roll-Back Tax Interest:

In accordance with Senate Bill 723 (Act 46 of 2006) CCALPB intends to use accrued interest from the source of funds herein to establish an escrow account for future use to costs attributable to monitoring and enforcement of agricultural conservation easements purchased pursuant to Act 43 including prosecution of easement violations. The Chester County Agricultural Land Preservation Board (ALPB) adopts a policy to set aside necessary funds in a dedicated account, and authorize disbursements from this fund for all eligible costs pursuant to Act 43.

Limits on Spray Irrigation:

The Program may permit certain types of spray irrigation consistent with Act 43. CCALPB further stipulates its' permission requires: the irrigation must be consistent with the needs and goals of the agricultural operation and the agricultural conservation easement; the use of spray irrigation and associated best management practices must be

contained in a Conservation Plan for the operation; the agricultural operator must control the timing and quantity of effluent application and such authority shall not be transferable to any public or private utility.

Parcel Annexation/ Property Deed Consolidation:

The CCALPB reserves the right, where possible, to require parcel annexation through a deed consolidation or deed merger.

Perpetual Easements:

Chester County will only consider conservation easements for purchase that are perpetual in duration.

Payment Caps:

It is the policy of the CCALPB of Commissioners that not more than \$12,000 per acre of Township, County, and/or State funds shall be paid for perpetual easements.

Right to Refuse Application:

The Chester County Agricultural Land Preservation Board may decide to not consider a property for easement sale if the farm operation is in violation of federal, state or local law, is subject to a deed restriction, conservation easement, covenant, restriction imposed by a subdivision, agricultural preservation ordinance, or a legal document that is consistent with the deed of agricultural conservation easement in terms of resource protection.

Subdivision:

Farms entering into an agreement of sale after February 22, 1996 shall be subject to Subdivision Regulations as attached in these Program Regulations. Subdivision of land between the time of easement sale application and easement sale settlement is PROHIBITED. Please contact staff for clarification.

Title Issues:

The Chester County Agricultural Land Preservation Board may decide to not proceed with the agricultural conservation easement process upon discovery of issues of title which prevent such an agricultural conservation easement to occur on the land. Should these concerns present themselves, the land owner shall forfeit the administrative deposit and is responsible for the incidental costs incurred by the County.

Transfer of Development Rights:

Eligible farmland located in areas municipally zoned as eligible to transfer development rights (TDR) may

apply to sell all – or all remaining (in the event some have been transferred) – development rights to the CCALPB. The owner of the land shall agree to extinguish any and all remaining “transferable rights” provided under the TDR zoning to the CCALPB’s satisfaction as a condition prior to the settlement with the CCALPB.

Urgent Situations:

The CCALPB may consider preserving a farm sooner than the ranking indicates if the farm is subject to an Urgent Situation. CCALPB has the discretionary authority to authorize appraisals and preserve a farm out of ranking order if there is potential to leverage additional funding such as federal, township, or private contributions pursuant to these Program Regulations. Applications subject to an Urgent Situation may be submitted at anytime, are eligible for immediate consideration by the CCALPB and may be preserved as soon as funds are available.

Well and Septic Infrastructure:

The CCALPB will not permit private septic or private water infrastructure to be placed on land subject to an agricultural conservation easement that is intended to service a parcel that is not subject to a permanent farmland preservation easement.

Withdrawal from Consideration:

If the applicant withdraws from easement sale consideration or breaches the agreement of sale prior to closing, it shall be the applicant’s responsibility to reimburse the County for all incidental costs incurred. These may include but are not limited to administrative, appraisal, survey fees and title fees.

Woodland Cap:

For farms containing more than 15 percent woodland (excluding Christmas tree farms) easement purchase offers will not exceed 90 percent of appraised easement value.

Chester County Agricultural Land Preservation Board

Rural Enterprise Guidelines

A. Statutory Authority

The Agricultural Area Security Law, 3 P.S. § 901 et seq. (hereafter referred to as “the Act”), 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 Act.

B. Definitions:

Agricultural production –

The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than 50% of such processed or merchandised products are produced by the farm operator. The term includes use of land which is devoted to and meets the requirements of and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government. (Def. amended May 30, 2001, P.L.103, No.14). The following are examples of agricultural production authorized for use on eased land:

- Roadside stands (if 50% of the products are produced by the farm operator)
- Christmas tree farms / cut your own
- U-pick operations

Exception Areas –

All land that is being withheld from the Agricultural Conservation Easement and not subject to the regulations and guidelines relating to Agricultural Conservation Easements under the Act.

Incidental Use –

Use that is at all times ancillary to the farm’s primary use and purpose, and in no way interferes with the agricultural production of the farm.

Rural Enterprise –

Services or activities associated with customary part-time or off-season minor Rural Enterprises or activities incidental to agricultural production. Agricultural-related services or activities associated with customary part-time or off-season minor Rural Enterprises or activities incidental to agricultural production. These are permissible as long as they remain incidental to the agricultural and open space character of the farm. The Chester County Agricultural Land Preservation Board (hereafter referred to as “CCALPB”) reserves the right to review and approve these activities on a case-by-case basis.

The following are examples of Rural Enterprise operations that the CCALPB may deem acceptable for use on eased land:

- Roadside stands (if more than 50% of the products are not produced by the farm operator)
- Weddings/special events
- Corn mazes
- Hay rides
- Petting zoos
- Farm tours
- General storage (within existing structures)

C. General Provisions

A landowner undertaking or proposing to undertake a Rural Enterprise(s) shall be responsible for and subject to all of the following:

- a. In all cases, a Rural Enterprise shall not detract from agricultural production and agricultural use as required by law and otherwise defined by the Act. Agricultural Area Security Law.
- b. The Rural Enterprise shall be the responsibility of the landowner(s) or the tenant(s).
- c. The Landowner (or Tenant) operating the Rural Enterprise is responsible for obtaining and maintaining any required permits or approvals from any State or local governing body.
- d. The CCALPB and/or its staff reserve the right to consider other similar Rural Enterprise(s) that support the local agricultural economy or economic viability of preserved farms. Approval of Rural Enterprise(s) by the CCALPB does not constitute an automatic approval of future requests nor set a precedent for any future requests.
- e. During inspections the Rural Enterprise(s) will be reviewed based on the information included within the approved application. If the Rural Enterprise is not in compliance 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, the County will initiate violation procedures.

D. Application Procedures

The CCALPB reserves the right to review and approve or disapprove customary part-time or off-season minor or Rural Enterprises on a case-by-case basis. In order to obtain approval for a Rural Enterprise, a written request must be submitted to the Agricultural Programs Coordinator at least two (2) weeks prior to a regularly-scheduled meeting of the CCALPB (*in some cases it may be necessary for the applicant to attend a CCALPB meeting to present their application for approval*). The written request shall be in the form of the application attached to these guidelines and shall include the following information:

- a. Nature of Rural Enterprise
- b. Name of landowner/tenant of Rural Enterprise

- c. Relationship to landowner
- d. Number of full time/part time employees
- e. Hours/season of operation
- f. Existing use of area proposed to be used for the Rural Enterprise
- g. Total area and location of the Rural Enterprise, including:
 - i. Square footage of building space; and
 - ii. Acres of farm
- h. Access to Rural Enterprise from public road
- i. Sketch map identifying location and dimensions of total area

Landowners should submit sketches or other documentation that may be useful for the CCALPB to render a decision. Following the CCALPB meeting, Staff shall provide notice to the landowner of the decision made by the CCALPB.

Please note that **all** Rural Enterprises require an application to be submitted in order to receive consideration for approval.

E. Rural Enterprises

1. The following Rural Enterprises must be approved by the CCALPB:

- a. Energy Enterprises. The production of energy from renewable sources (for example: wind, solar, hydropower, geothermal, biomass or animal waste) and equipment associated with the production of energy, so long as the landowner complies with all of the following: (1) Energy Enterprises shall remain incidental to the agricultural use and character of the farm; (2) The energy generated by Energy Enterprises shall be primarily for use on the farm; (3) The construction of any permanent equipment or structures associated with the production of energy shall be located within the curtilage of existing farm buildings.
- b. Soil and Water Conservation, etc. Structures and facilities associated with irrigation, farm pond impoundment, and soil and water conservation, including, but not limited to, wetland development or restoration, wildlife wetland habitat management, wildlife upland habitat management, and riparian forest buffer management used for erosion and sediment control and water quality improvement. The State Board approved and authorized on July 13, 2000, the use of any conservation practices under CRP/CREP as not violating the deed of Agricultural Conservation Easement with respect to the restricted land provided the conservation plan as revised allows for the implementation of any such conservation practice.
- c. Communication Facilities. 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: (1) the Rural Enterprise shall remain incidental to the agricultural use and character of the farm; (2) the communication antennae is on an existing structure; (3) the installation or construction of any permanent non-agricultural equipment or structures associated with such communication antennae shall be located at the base and within the curtilage of the existing structure supporting the communication antennae.

- d. Home Occupations. The production and sale by persons in residence of agricultural and/or home occupation goods (for example, flowers/plants, jellies/jams, juices/beverages, bakery items, cheese products, gift items, meats, arts/crafts, bulk foods), so long as the landowner complies with all of the following: (1) the home occupation shall remain incidental to the agricultural use and character of the farm; (2) the home occupation is limited to one percent (1%) of the total eased acreage.
 - e. Agritourism and Agritainment Enterprises. The American Farm Bureau Federation approved a good working definition of agritourism in 2004: “Agritourism refers to an enterprise at a working farm, ranch or agricultural plant conducted for the enjoyment of visitors that generates income for the owner. Agricultural tourism refers to the act of visiting a working farm or any horticultural or agricultural operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation that also adds to the economic viability of the site”.
 - i. Structures and/or buildings existing on the eased land at the date of granting of the easement and/or subsequent CCALPB recognized structures are intended to be used for agriculture. When agricultural opportunities are exhausted, those buildings may be utilized for Rural Enterprise(s).
 - ii. The Rural Enterprise(s) does not render any portion of the land incapable of being immediately converted to agricultural use.
 - f. Other Potential Enterprises. Other similar uses that support the local agricultural economy or the economic viability of preserved farms, upon approval by the CCALPB, who may make the approval conditional in order to protect farmland and that are otherwise allowed under applicable law, including without limitation, the Act, its regulations, the governing agricultural conservation easement, zoning ordinance requirements, and other applicable law.
2. The CCALPB may authorize County Staff to approve specific Rural Enterprise(s) topics.

PROCEDURE FOR PURCHASING EASEMENTS

The Chester County Agricultural Land Preservation Board intends to follow the procedures contained in Subchapter D - State Regulations, for easement purchases. Several sections, but not all detailed below.

SUBCHAPTER D - PROCEDURE FOR PURCHASING AN EASEMENT

§138e.61 - Application

- (a) A separate application shall be required for each farmland tract offered for easement purchase. The application shall consist of a completed application form, location maps, a soils report and a crop report.
- (b) The CCALPB shall develop and make available to a county resident an application form which requires the following information:
 - (1) The name, address, telephone number and signature of all owners of the farmland tract.
 - (2) The county, municipality and agricultural security area in which the farmland tract is located.
 - (3) The total acreage of the farm as shown on the deed or instruments of record.
 - (4) The number of acres in the farmland tract proposed for easement purchase.
 - (5) The street address of the farm, and directions from the nearest State route.
 - (6) The most current deed reference--book, volume and page--or other reference to the place of record of the deed. In the case of multiple deeds, numbers for all the deeds shall be provided.
 - (7) County tax map numbers, including tax parcel number, or account number of each parcel.
 - (8) The date of the conservation plan, if any, which has been approved by the county conservation district or CCALPB. This expense may be reimbursed as a cost incident to easement purchase in accordance with section 14.1(h)(6) of the act (3 P.S. § 914.1(h)(6) and § 138e.69 (relating to statement of costs).
 - (9) The date of any nutrient management plan.
 - (10) The name, address and telephone number of the person to be contacted to view the farmland tract.
- (c) The applicant or the county shall provide both of the following location maps with the application:
 - (1) A United States Geological Survey topographical map or a portion of the map showing the location of the farmland tract, with the farmland tract boundaries clearly and correctly delineated and showing the location of acreage being excepted from the easement.
 - (2) A tax map or official map used for tax assessment purposes showing the farmland tract with all tax parcel numbers clearly indicated.
- (d) The applicant or CCALPB shall provide a soils report and a color-coded soils map for the farmland tract proposed for easement purchase. The soils report shall also contain a list of

soil mapping unit names, symbols and land capability classes on the farmland tract. The soils map shall use as a base soil survey maps published by the USDA-NRCS. A county with a digital mapping database system for soils may provide the soils map in digital form in an appropriate scale acceptable to the Department. The soils map shall color code soil types as follows:

Land Capability Class I	=	Green
Land Capability Class II	=	Yellow
Land Capability Class III	=	Red
Land Capability Class IV	=	Blue
Land Capability Class V – VIII	=	Uncolored
Wetlands	=	Cross-Hatch or shown on a separate map

- (e) The applicant shall provide crop production information for the farmland tract for the most recent crop year that comparable statistics are available from the Pennsylvania Agricultural Statistics Service as follows:

Commodity	Acres Grown	Yield/Acre
1.		
2.		
3.		
4.		

- (f) The applicant shall provide a livestock report for the farmland tract for the most recent calendar year that comparable statistics are available from the Pennsylvania Agricultural Statistics Service as follows:

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

- (g) If the applicant grows crops or produces livestock that are of a type not reported by PASS, the CCALPB shall obtain two years of production data from the applicant in order to determine if the application meets the minimum criteria as set forth in Section 138e.16

§138e.62 - Evaluation of application

- (a) The CCALPB shall review the application to determine if it is complete and meets the minimum criteria in §§ 138e.11-138e.21 (relating to requirements for certification of county Program).
- (b) If the application is complete and the minimum criteria are met, an agent or member of the CCALPB shall view the farmland tract and discuss the Program with the applicant.
- (c) The CCALPB shall evaluate timely applications which meet the minimum criteria and rank them according to the county farmland ranking system.

§138e.63 - Order of appraisal

Farmland ranking score and percentage of bargain sale available shall be considered when determining the order in which farmland tracts are selected by the CCALPB for appraisal. Selection for appraisal shall be made in descending order of farmland ranking score unless the application qualifies for consideration as an Urgent Situation and an appraisal is subsequently authorized by the CCALPB. Additional details for Urgent Situations are found on Page 26.

§138e.64 - Appraisal

- (a) An offer to purchase an easement shall be based upon one or more appraisal reports which estimate the market value and the farmland value of the farmland tract, as those terms are defined in § 138c.3 (relating to definitions). The initial appraisal shall be at the CCALPB's expense. This expense may be reimbursed as a cost incident to easement purchase in accordance with section 14.1(h)(6) of the act (3 P.S. § 914.1(h)(6) and § 138e.68 (relating to statement of costs).
- (b) An appraisal of market value and farmland value shall be based on an analysis of comparable sales, and shall be conducted in accordance with standards in the most recent edition of the Uniform Standards of Professional Appraisal Practice, published by the Appraisal Standards Board of the Appraisal Foundation. If an appraiser cannot practicably conduct an appraisal based on an analysis of comparable sales, the appraiser may conduct an appraisal using another methodology only if that methodology is an acceptable methodology under the Uniform Standards of Professional Appraisal Practice and the appraisal report clearly describes the information considered, the appraisal procedures followed and the reasoning that supports the analyses, opinions and conclusions.
- (c) The value of a building or other improvement on the farmland tract will not be considered in determining the easement value.
- (d) The appraiser shall be a State Certified General Real Estate Appraiser who is qualified to appraise a property for easement purchase. An appraiser shall be selected by a CCALPB on the basis of experience, expertise and professional qualifications.
- (e) The appraiser shall supply a minimum of three copies of a narrative report which contains the following information and is in the following format:
 - (1) Introduction
 - (i) Letter of transmittal.
 - (ii) The appraiser's certificate of value as to market value, farmland value and easement value.
 - (iii) A table of contents.
 - (iv) A summary of salient facts and conclusions.
 - (v) The purpose of the appraisal.
 - (vi) The definitions, including definitions of market value, farmland value and easement value.

- (2) Description of property.
 - (i) A brief area of neighborhood description.
 - (ii) A description of appraised property.
 - (A) A legal description.
 - (B) Property data and zoning.
 - (C) A brief description of improvements.
 - (D) Color photos of subject property's fields and improvements.
 - (E) Tax map or official map used for tax assessment purposes showing the subject property and its relationship to neighboring properties.
 - (F) A legible sketch or aerial photograph of subject property showing boundaries, roads, driveways, building locations, rights of way and land use.
 - (G) A location map showing the location of the subject farmland tract in a county or municipality.
 - (H) Soils map showing property boundaries.
- (3) Analyses and conclusions.
 - (i) An analysis of highest and best use.
 - (ii) The valuation methodology: market value.
 - (A) Comparable sales data.
 - (B) An adjustment grid.
 - (C) A location map of comparable sales showing the location of the subject farmland tract with respect to the comparables. A single location map shall be submitted with respect to each county from which comparable sales are drawn.
 - (iii) The market value estimate.
 - (iv) The valuation methodology: farmland value.
 - (A) Comparable sales data.
 - (B) An adjustment grid.
 - (C) A location map of comparable sales showing the location of the subject farmland tract with respect to the comparables. A single location map shall be submitted with respect to each county from which comparable sales are drawn.
 - (v) A farmland value estimate.
 - (vi) The easement value.
 - (vii) An appendix containing a brief statement of the appraiser's professional qualifications and a copy of the appraiser's current certification issued in accordance with the Real Estate Appraisers Certification Act (63 P.S. §§ 457.1-457.19)

- (f) The appraiser shall supply information concerning comparable sales as follows:
- (1) At least three comparable sales shall be used for estimating market value and at least three comparable sales shall be used for estimating farmland value in an appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same county as the subject farmland tract, the appraiser may use comparable sales from other counties, with the approval of the CCALPB. The use of comparable sales which require adjustment of 50% or more is permitted only with the approval of the CCALPB.
 - (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, the purchase price, zoning, road frontage in feet (for determining market value), and soil mapping units (for determining farmland value). The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract. This analysis shall be in the form of a narrative statement of the information considered and the reasoning that supports the analyses, opinions and conclusions, and an adjustment grid assigning, when practicable and within the Uniform Standards of Professional Appraisal Practice referenced in subsection (b), approximate dollar values to adjustment shown on the adjustment grid.
 - (3) The location of each market value comparable sale used in the appraisal report shall be shown accurately on the comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily.
 - (4) The location of each farmland value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily. If a farmland value comparable sales map and a market value comparable sales map would depict the same county, they may be combined in a single map.
 - (5) For comparable sales used to estimate the farmland value, the appraiser may use sales of land that are confined to agricultural use because of agricultural conservation easements or other legal restrictions or physical impairments that make the land valuable only for agricultural use. Comparable sales shall be in primarily agricultural use. Data may also be gathered from farm real estate markets when farms have no apparent developmental value.
 - (6) The appraiser shall set forth the reasons the farmland comparable sales are confined primarily to agricultural use. Examples of these reasons include:
 - (i) The farmland tract has public or private land use restrictions.
 - (ii) The farmland tract is within a flood plain or a wetland (in whole or in part).

- (iii) The farmland tract is landlocked, subject to additional easements, subject to restrictive zoning or has other physical attributes which limit its developmental capability.
- (7) The appraiser shall provide at least one original (Chester County requests 3 originals at the discretion of the appraiser to voluntarily provide), one paper copy and, if available, one electronic copy of each report to the CCALPB. The original of each report shall be bound with rigid covers.
- (8) The appraisal shall include the entire acreage offered for easement sale. If, following completion of the appraisal, acreage is added to or deleted from the proposed easement sale for any reason, the appraisal shall be revised accordingly or the appraiser shall agree in writing to the use of a per acre value to account for the change in easement value resulting from such a change in acreage.
- (9) If acreage is voluntarily withheld from the easement sale by the landowner through subdivision accomplished in accordance with the Pennsylvania Municipalities Planning Code; the appraiser shall, in making the estimate of agricultural conservation easement value, take into account any increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.

§138e.65 - Easement value and purchase price

- (a) Easement Value. An easement shall be purchased in perpetuity. The maximum value of an easement for purposes of making an offer to purchase an easement under § 138e.66(b) (relating to offer of purchase by CCALPB) shall be the difference between the market value and the farmland value contained in the county appraisal report.
- (b) Maximum purchase price. The purchase price offered for the purchase of an easement under § 138e.66(b) may not exceed, but may be less than, the value of the easement.
- (c) Chester County may take up to two years to encumber each annual State allocation of funds.
- (d) Chester County may utilize the long-term installment provisions of Act 43, as amended.

§138e.66 - Offer of purchase by county board

- (a) In determining whether to offer to purchase an easement following receipt of the county appraisal report, the CCALPB shall consider the following:
 - (1) The farmland ranking score, as calculated in accordance with § 138e.15 (relating to farmland ranking system).
 - (2) The cost relative to total allocations and appropriations.
 - (3) The factors or considerations set forth in the Program as those factors or conditions under which an offer to purchase would be made in something other than descending order of farmland ranking score. An example of a factor or

consideration under which the Program might provide for the making of an offer to purchase in something other than descending order of farmland ranking score would be a bargain sale or funds contributed by others (excluding the County and Commonwealth).

- (b) If the CCALPB determines to offer to purchase an easement on the farmland tract, the CCALPB, or a representative of the CCALPB, shall meet with the applicant to review the county appraisal report and resolve any outstanding issues relative to the mandatory conservation plan. An offer to purchase an easement shall be submitted to the applicant in writing and accompanied by the county appraisal report.
- (c) Within 30 days of receipt of the written offer from the CCALPB an applicant may do one of the following:
 - (1) Accept the offer, in which case the CCALPB and the applicant shall enter into an agreement of sale. The agreement of sale shall be conditioned upon the approval of the State Board and be subject to receipt by the CCALPB of a complete and up to date conservation plan, a signed conservation plan implementation agreement, as well as the ability of the applicant to provide good title to the premises, free of encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest, and other encumbrances which would adversely impact the county and Commonwealth's interest in the farmland tract.
 - (2) Reject the offer and advise the CCALPB that the application is withdrawn.
 - (3) Advise the CCALPB that the applicant is retaining, at applicant's expense, an independent State-certified general real estate appraiser to determine the easement value. The appraiser shall be qualified, and the appraisal shall be completed in accordance with the procedure § 138e.64 (relating to appraisal). The appraisal shall be submitted to the CCALPB within 120 days of receipt of the CCALPB's offer to purchase. The CCALPB may extend the time within which this appraisal shall be submitted. This extension shall be in writing and shall extend the 120-day deadline by no more than 60 days. Upon completion, three copies of the applicant's appraisal shall be submitted to the CCALPB. The applicant's decision to obtain an independent appraisal under this paragraph does not constitute a rejection of the CCALPB's offer. The CCALPB's offer shall remain open unless increased by the CCALPB under subparagraph (ii) or rejected by the applicant under subparagraph (iii) or (iv).
 - (i) If the applicant retains an independent appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:
 - (A) The agricultural value shall equal the sum of:
 - (I) The farmland value determined by the applicant's appraiser.
 - (II) One-half of the difference between the farmland value determined by the CCALPB's appraiser and the farmland value determined by the applicant's appraiser, if the farmland

value determined by the CCALPB's appraiser exceeds the farmland value determined by the applicant's appraiser.

- (B) The nonagricultural value shall equal the sum of:
 - (I) The market value determined by the CCALPB's appraiser.
 - (II) One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the CCALPB's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the CCALPB's appraiser.
- (ii) If the easement value determined under subparagraph (i) is less than the easement value determined by the county appraiser, the CCALPB may offer a purchase price equal to the county's offer under subsection (b).
- (iii) Regardless of the easement value, the purchase price may not exceed \$12,000 per acre of County, Municipal, and/or State funds.
- (iv) Within 30 days of receipt of the applicant's appraisal, the CCALPB shall do one of the following:
 - (A) Submit a written offer to purchase in an amount in excess of the amount offered under subsection (b) to the applicant; or
 - (B) Notify the applicant, in writing, that the offer made under subsection (b) remains open and will not be modified.
- (v) The applicant shall, within 15 days of receipt of the CCALPB's written offer under subparagraph (iv)(A) or receipt of the CCALPB's written notice under subparagraph (iv)(B) notify the CCALPB in writing that the applicant does one of the following:
 - (A) Accepts or rejects the offer made under subsection (iv) (A); or
 - (B) Accepts or rejects the offer made under subsection (b).
- (vi) The failure of the applicant to act as set forth in subparagraph (v) shall constitute a rejection of the CCALPB's offer and forfeiture of the administrative deposit.
- (vii) If the offer of purchase is accepted, the CCALPB and the applicant shall enter into an agreement of sale containing the same requirements and subject to the same conditions in subsection (c) (1).
- (4) The failure by the applicant to act within 30 days of receipt of a written offer under subsection (b) shall constitute rejection of the offer.
- (d) An agreement of sale shall be in a form provided by the State Board.

§138e.67 - Requirements of the agricultural conservation easement deed

- (a) The owners of the subject farmland tract shall execute a deed conveying the easement. This deed shall include the provisions of § 138e.241 (relating to deed clauses).
- (b) The deed shall be in recordable form and contain:
 - (1) A legal description setting forth the metes and bounds of the farmland tract subject to the easement.
 - (2) At least one course and distance referencing a fixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, PK nails, spikes, concrete monuments or stones.
 - (3) A transfer clause stating that any person conveying or transferring land subject to an agricultural conservation easement shall, no less than 30 days prior to the change in ownership (settlement), notify the CCALPB and the Department of Agriculture of the name and address of the person(s) to whom the subject land will be conveyed or transferred and the price per acre or portion thereof to be received by the landowner from such person. (14.1(j) (2)).
- (c) The legal description may not contain a closure error greater than one foot per 200 linear feet in the survey.
- (d) The farmland tract on which an easement is to be purchased shall be surveyed unless the legal description contained in the deed recorded in the land records of the county in which the farmland tract is located satisfies the requirements of subsections (b) and (c). A survey required by the provisions of this paragraph shall comply with the boundary survey measurement standards of one foot per 10,000 linear feet (1:10,000) as published by the Pennsylvania Society of Land Surveyors.
- (e) For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.
- (f) For purchases made using a combination of State and county funds, or municipality and Commonwealth or County funds, the grantees shall be the Commonwealth, county, and municipality if providing the funds under joint ownership as defined in the act.
 - (1) Neither the Commonwealth, county, nor municipality may sell, convey, extinguish, lease, encumber, restrict or otherwise dispose of its interest in the easement without the consent of the other.
 - (2) Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth, county, and municipality shall receive a pro rata share of the proceeds based upon their respective contributions to the purchase price.
- (g) A copy of the deed shall be submitted to the State Board for approval prior to execution and delivery.
- (h) All properties within Chester 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(j)(1-3)).

§138e.68 - Title insurance

- (a) The CCALPB shall provide a title commitment to the State Board upon submission of its recommendation for the purchase of an easement.
- (b) At settlement, the CCALPB shall provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth by the Insurance Department. A marked-up title commitment may serve as a policy until the policy is issued. 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.

§138e.69 - Statement of costs

- (a) For purposes of Section 14.1(h)(6) of the act (3 P.S. § 914.1(h)(6)), the CCALPB shall submit, on a form provided by the Department, a statement of costs. This statement of costs shall include the cost of the agricultural conservation easement and the costs incident to the purchase of the easement, and shall be submitted to the State Board along with the application for review described in § 138e.91 (relating to recommendation for purchase). The incidental costs may include:
 - (1) The county appraisal costs.
 - (2) The necessary legal fees for title search, preparation of documents and attendance at closing.
 - (3) The recording fees.
 - (4) The survey costs.
 - (5) The costs of providing adjoining landowners with required notices and of providing necessary advertisements.
 - (6) Reimbursements to a nonprofit land conservation organization that has acquired an easement at the request of the CCALPB, for the purpose of transferring the easement to the county or the Commonwealth, or both. These costs include the easement purchase price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees and survey costs.
 - (7) The cost of title insurance.
- (b) The statement of costs shall specify the amount of funding requested from the Commonwealth for the purchase, and the amount of county and municipality funds allocated for the purchase.
- (c) After settlement, the CCALPB shall submit a revised statement of costs if actual costs were greater or less than the costs estimated in the initial statement of costs.
- (d) If the actual costs are less than the estimated costs, the CCALPB shall promptly refund the difference to the Department by check payable to "Commonwealth of Pennsylvania".

§138e.70 - Summary report

- (a) General. A recommendation by the CCALPB for the purchase of an easement shall be accompanied by a summary report consisting of a narrative report and appendix as described in subsections (b) and (c).
- (b) Narrative report. The narrative report shall consist of the following:
 - (1) A description of the farm, including the name of all landowners, location in relation to the nearest town, number of acres proposed for purchase and type of agricultural production on the farm.
 - (2) A description of the quality of the farmland tract, including soil capability classes of the soils available for agricultural production.
 - (3) The farmland ranking score, including a statement of the relative ranking of the farmland tract among other tracts considered by the county in the same round of applications.
 - (4) A description of the likelihood of conversion to other uses if the easement is not purchased.
 - (5) A description of the nature and scope of developmental pressure in the municipality or area.
 - (6) A description of the nature and scope of conservation practices and best land management practices, including soil erosion and sedimentation control and nutrient management.
 - (7) A discussion of the purchase price summarizing the appraisals, including the agricultural and nonagricultural value, negotiations for purchase and the percentage of the appraised easement value accepted by the landowner.
 - (8) A statement of costs as described in § 138e.69 (relating to statement of costs).
 - (9) A certification by the CCALPB that the information presented to the State Board is true and correct.
- (c) Appendix. The appendix of the summary report shall, at a minimum, consist of the following:
 - (1) The application form.
 - (2) Location maps, including tax, topographic and soils maps.
 - (3) A soils report.
 - (4) Any crop report required by the Program.
 - (5) Any livestock report required by the Program.
 - (6) An evaluation of the farmland ranking score, showing how the farm scored in comparison to other farms.
 - (7) A quitclaim deed, or subordination, release or letter approving the purchase from a mortgagee, lien holder or owner of rights in surface mineable coal.

§138e.71 - Notification of owners of land adjoining proposed easement purchase

- (a) General. A county board shall provide the owners of land adjoining a farmland tract with respect to which an easement purchase is proposed with notice of the proposed purchase and notice of an opportunity to be heard at the State Board meeting at which the easement purchase recommendation is to be considered. At a minimum, this notice shall identify the property being considered for easement purchase, reference the time and place of the State

Board meeting at which the easement purchase recommendation is to be considered and reference the criteria at section 14.1(e)(1) of the act (3 P.S. § 914.1(e)(1)) upon which the State Board could disapprove a recommended easement purchase. Service of this notice may be accomplished by personal service or mail as described in subsections (b) and (c).

- (b) Personal service. The notice described in subsection (a) may be accomplished by personal service upon the landowners entitled to notice. If service is accomplished by personal, the county board shall submit verification of service to the State Board in advance of the State Board meeting at which the easement purchase recommendation is to be considered.
- (c) Certified mail. The notice described in subsection (a) may be accomplished by certified mail, return receipt requested, addressed to the landowner entitled to the notice. If service is accomplished by certified mail, the county board shall submit verification of service, including a copy of the return receipt, to the State Board in advance of the State Board meeting at which the easement purchase recommendation is to be considered.

LAND TRUST REIMBURSEMENT PROGRAM

PURPOSE:

The purpose of these regulations is to implement the Land Trust Reimbursement Program Provisions of Act 46 of 2006 which re-establishes this grant program under the Agricultural Area Security Law (14.6).

- a) Eligible expenses for reimbursement include:
 - 1. Appraisals
 - 2. Legal services
 - 3. Title searches
 - 4. Document preparation
 - 5. Title insurance
 - 6. Closing fees
 - 7. Survey costs
- b) Limitations:
 - 1. Reimbursement shall be limited to \$5,000 per easement.
 - 2. The term of an agricultural conservation easement shall be perpetual.
- c) Eligibility: To be eligible under this subsection, a land trust shall be an eligible nonprofit entity and shall:
 - 1. Register with the State Board;
 - 2. coordinate agricultural conservation easement purchase activities with the eligible county in which the activity occurs or coordinate such activities with the State Board, if the activity does not occur within an eligible county; and
 - 3. Submit an application to the State Board, with the statement of costs incidental to the acquisition, the deed of easement and any other documentation required by the State board, within 60 days of closing the easement.
- d) Registration: To become registered with the State Board, the nonprofit entity shall:
 - 1. Send a letter of request to the Pennsylvania Bureau of Farmland Preservation stating the organization's desire to be registered with the State Agricultural Land Preservation Board for the purpose of receiving reimbursement grants under the program;
 - 2. The letter is to be signed by the president or other appropriate officer of the land trust;
 - 3. Enclose a copy of the land trust's Section 501(c)(3) tax-exempt certification as issued by the Internal Revenue Service and any other documentation necessary to demonstrate that the land trust has the acquisition of agricultural conservation easements or other conservation easements as part of its stated purposes; and
 - 4. Include a letter from the Director or Chairperson of the County Agricultural Land Preservation Board in which the land is located indicating that the land trust coordinates its farmland preservation activities with those of the County Board.

SUBDIVISION REGULATIONS
FOR LAND SUBJECT TO AGRICULTURAL CONSERVATION EASEMENTS IN
CHESTER COUNTY

PURPOSE:

The purpose of these regulations is to implement the subdivision provisions of Pennsylvania's Agricultural Area Security Law (the Act), 3 P.S. § 901-915

No subdivision will be permitted which will:

- (a) Harm the economic viability of the farmland for agricultural production; or
- (b) Convert land which has been devoted primarily to agricultural use to another primary use, except that a county program shall permit one subdivision for the purpose of a residence for the landowner, an immediate family member or an employee, unless the right to the residence has been relinquished and extinguished in accordance with subsection (c)(6)(iv).

(Section (c)(6)(iv)):

(iv) Construction and use of structures on the subject land for the purpose of a residence for the landowner, an immediate family member or an employee: Provided, That only one such structure may be constructed on no more than two acres of the subject land during the term of the agricultural conservation easement: and Provided further, That the owner of the land subject to the agricultural conservation easement may relinquish and extinguish the right of construction and use of structures conferred by this clause by recording, in the office for the recording of deeds in the county in which the land subject to the agricultural conservation easement is located, an affidavit evidencing the intent to relinquish and extinguish which includes a reference to the original deed of easement.

APPLICATION OF THESE REGULATIONS:

These regulations shall apply only to easements for which an agreement of sale has been signed on or after the date that these regulations have been approved by the State Board.

These regulations apply only to subdivision of land upon which exists an easement under the Act at the time a land owner begins the process of seeking subdivision approval.

Subdivision of land between the time an application for an easement under the Act is submitted and the time said easement purchase is completed is **prohibited**. Any subdivision during this period will cause the application to be denied. The application may be resubmitted after subdivision is complete.

DEFINITIONS:

Contiguous Acreage: All portions of one operational unit as described in the deed, or deeds, whether or not the portions are divided by streams, public roads, bridges and whether or not described as multiple tax parcels, tracts, purports, or other property identifiers. It includes

supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds, and streams.

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 as the landowner's principal residence or housing for seasonal or full-time farm employees is permitting pursuant to section 14.1(c) (iv) of the Act), to meet all of the criteria set forth in State Board Regulations at the time of application for subdivision.

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 in State Board Regulations at the time of application for subdivision or to create, through subdivision, a tract of restricted land that would fail to meet the aforesaid criteria set forth in State Board Regulations at the time of application for subdivision. Specifically excepted is a tract of two acres or less upon which construction and use as the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to section 14.1(c) (iv) of the Act.

Land development:

Either of the following activities:

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

Land which has been devoted primarily to agricultural use: Acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing non-residential structures used for agricultural production, or other acreage immediately available for agricultural production, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtileges, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of two acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted pursuant to section 14.1(c)(iv) of the Act.

Pennsylvania Municipalities Planning Code: The Act of December 21, 1988 (P.L. 1329, No 1 170) (53 P.S. sec 10101-11201)

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, or lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

PROCEDURE:

- (a) An application for subdivision shall be submitted on a form prescribed by the Chester County Agricultural Land Preservation Board (CCALPB). The Forms may be obtained from the administrator of the CCALPB.
- (b) Upon receipt of the completed application, the administrator for the CCALPB shall note the date upon which the application is received and forward written

notification to the county planning office and county farmland preservation office. The CCALPB shall note the date upon which each reviewing agency receives said notice. These agencies (reviewing agencies) shall have 60 days from the receipt (receipt presumed to be within 3 days of mailing) to review, comment and make recommendations on the proposed application to the CCALPB. The CCALPB will only consider comments and recommendations received beyond said deadline if the landowner agrees in writing.

- (c) Upon receipt of the application the CCALPB shall review it to determine whether subdivision complies with these regulations, the Act and State Regulations. Within 120 days of receipt of the application, the CCALPB shall decide whether to approve or deny the application. This deadline may be extended with the written approval of the landowner and the reviewing agencies. Failure of the CCALPB to approve or reject an application for subdivision before said 120 day period will result in the deemed approval of the application. Approval shall be conditioned upon approval by the State Board. Notice of the decision shall be mailed to the applicant on the next business day following the decision.
- (d) If the application to subdivide land is approved, the CCALPB administrator shall forward to the State Board on the next business day: a copy of the application, the comments and recommendations of the reviewing agencies.
- (e) If the application to subdivide land is rejected, the application shall be returned to the landowner with a written statement of the reasons for the rejection. Within 30 days after the receipt (receipt presumed to be within 3 days of mailing) of the statement of rejection, the landowner may appeal the rejection in accordance with 2 PA.C.S. CH. 5 Subch B (relating to practice and procedure of local agencies) and CH. 7 Subch. B (relating to judicial review of local agency action).
- (f) At all times, the burden of proof is upon the landowner.

CRITERIA FOR SUBDIVISION:

A landowner may subdivide a tract of land subject to an Agricultural Conservation Easement (the easement) per the Act if the CCALPB finds the conservation plan is up to date and the landowner has completed or is on schedule to complete its implementation, that such subdivision does not harm the economic viability of the farmland for agricultural production, does not convert land devoted primarily to agricultural use to another primary use, or violate any one or more of the following criteria:

- (a) Subdivision is not inconsistent with any provision of the Act, State Regulations, County regulations, The Municipalities Planning Code or local land use law or regulations;
- (b) The size of the parcels of land after subdivision is not inconsistent with the agricultural use of the property as it existed prior to subdivision. However, no subdivision will be allowed if it results in a tract of land which is less than 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 or an IRS 501 (c) (3) non-profit land trust or by a qualified public entity.

- (c) The soil types of the parcels of land after subdivision is not inconsistent with the agricultural use of the property as it existed prior to subdivision;
- (d) The location of any structures to be built (which are permitted by the Act) is not inconsistent with the agricultural use of the property as it existed prior to subdivision;
- (e) The subdivision is not inconsistent with any Soil conservation plan in existence prior to the subdivision;
- (f) The subdivision is not inconsistent with the easy administration and enforcement of the laws and regulations pertaining to the easement;
- (g) Subdivision is not inconsistent with or detrimental to any conservation easement of adjoining property;
- (h) The shape and location of the subdivided tracts are not inconsistent with the agricultural use of the property as it existed prior to subdivision;
- (i) The land to be subdivided is not (as of the time of the vote on the application) in violation of the easement or any soil conservation plan; and law or regulation Federal, State or local.

RESERVATION OF RIGHT TO CONSTRUCT AFTER SUBDIVISION:

If the restricted land is subdivided prior to the construction of a residential structure under authority of the Act, the landowner shall do the following:

- (a) Inform the county board, at the time an application for subdivision under these regulations is submitted, of the specific subdivided tract where said residential structure is to be built; and
- (b) Ensure that the deed to the subdivided tract where said residential structure is to be built clearly sets forth the reservation of this right to build said residential structure; and
- (c) Ensure that the deeds to any remaining subdivided tracts recite that no residential structure may be constructed on said subdivided tracts.

NOTICE OF SUBDIVISION REGULATIONS:

The CCALPB shall file these regulations at the Office of the Recorder of Deeds for Chester County and reference the place of filing of these regulations in the deed of agricultural conservation easement. These regulations will be recited verbatim in the deed of agricultural conservation easement.

CHESTER COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM AMENDMENT

In accordance with the regulations at 7 PA Code § 138e.43 (relating to revision of county programs), the county board, hereby, revises the County Agricultural Land Preservation Program in compliance with Act 14 of 2001, Act 138 of 1998, Act 46 of 2006, and Act 44 of 2011 amendments of the Agricultural Area Security Law, Act 43. The revisions to the county Program are incorporated into the applicable sections and new sections have been added on an as needed basis.

DEFINITIONS

Agricultural Conservation Easement

In the first sentence of the definition, the use of the term “the land” has been replaced by the words “a parcel.”

Agricultural Production

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

Eligible Nonprofit Entity

An entity that provides the State board or an eligible county satisfactory proof of all of the following:

1. That the entity is tax exempt under section 501 (c) (3) of the Internal Revenue Code of 1986 (Public Law 99-154, 26 U.S.C. § 501(c) (3))
2. That the entity has experience acquiring, whether through purchase, donation or other transfer, an agricultural or other conservation easement.

Local Government Units

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

Parcel

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

SPECIAL PROVISIONS FOR PARCELS NOT ENTIRELY WITHIN AN ASA

Act 14 of 2001 and Act 46 of 2006 amended the Agricultural Area Security Law (Act 43) to prescribe certain conditions which would allow for the purpose of an agricultural conservation

easement (ACE) on a parcel that is not entirely within an agricultural security area (ASA). The county governing body authorized the CCALPB on 7/11/1989 to administer a Program for the purchasing of agricultural conservation easements from landowners whose land is either within an agricultural security area or in compliance with the criteria set forth below as it applies to the Act 14 amendment. The CCALPB shall follow the Chapter 138e.43 Revision of County Program procedures and approvals as amended.

1. Consistent Standards. The standards and procedures for the selection and purchase of an agricultural conservation easement set forth in this Program are applicable to the selection and purchase of easements crossing local government unit boundaries and county boundaries.
2. Parcels Crossing Local Government Unit Boundaries. The CCALPB may recommend the purchase of an agricultural conservation easement on a parcel a portion of which is not within an agricultural security area if all of the following occur:
 - a. The agricultural conservation easement would be purchased by the county solely or jointly with either the Commonwealth or a local government unit, or both. State-only easements are not included. Township-only easement purchases do not apply.
 - b. 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 or more acres and the portion within the other local government unit not being within an agricultural security area.
 - c. The majority of the parcel's viable agricultural land is located within an agricultural security area of 500 or more acres.
3. Parcels Crossing County Boundaries. The CCALPB may recommend the purchase of an agricultural conservation easement on a parcel a portion of which is not within an agricultural security area if all of the following occur:
 - a. The agricultural conservation easement would be purchased by the county solely, or jointly with either the Commonwealth or a local government unit, or both. State-only easements are not included. Township-only easement purchases do not apply.
 - b. The land is part of a parcel of farmland that is transected by the dividing line between the purchasing county and an adjoining county, with the portion within the purchasing county being in an agricultural security area of 500 or more acres and the portion within the adjoining county's local government unit not being within an agricultural security area.
 - c. One of the following shall apply:

- i. The main dwelling (mansion house) is located on the parcel, and the house is located entirely in the purchasing county with the local government unit that has an ASA.
 - ii. The main dwelling (mansion house) is located on the parcel, on the dividing line between counties and the owner of the parcel has chosen the purchasing county with the local government unit that has an ASA as the house site for tax assessment purposes.
 - iii. There is no main dwelling (mansion house) on the parcel, and the majority of the parcel's viable agricultural land is located in the purchasing county with the local government unit that has an ASA.
4. **Recording Responsibilities.** Upon the purchase of an agricultural conservation easement as described above in items 2 and 3, the portion of the parcel that was not part of an agricultural security area immediately becomes part of the agricultural security area covering the rest of the parcel. The purchasing county will take all steps necessary to ensure the local government unit which created the agricultural security area meets its responsibility, under § 14.1(b)(2)(i)(B)(II) and 14.1(b)(2)(i)(C)(III) of the Agricultural Area Security Law, for the recording, filing and notification described in § 8(d) and 8(g) of the Agricultural Area 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 following:

1. Agricultural Conservation Easements within the county.
2. Agricultural Conservation Easements acquired pursuant to the criteria set forth for the purchase of agricultural conservation easements that cross local government unit boundaries including any portion of an agricultural conservation easement extended into an adjoining county.

LOCAL GOVERNMENT UNIT PARTICIPATION

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

1. The local government unit, in conjunction with a county board, may participate with the State board in the purchase of agricultural conservation easements.
2. 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.
3. 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.

4. The local government unit may purchase an agricultural conservation easement, provided that all of the following apply:
 - a. The agricultural conservation easement is located within an agricultural security area of at least 500 acres or the easement purchased is a joint purchase with either a county or both a county and the Commonwealth pursuant to the criteria set forth for the purchase of agricultural conservation easements cross local government unit boundaries and cross county boundaries including any portion of an agricultural conservation easement extending into an adjoining county.
 - b. 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.
 - c. The local government unit shall participate with the county board in complying with paragraph (5) for recording any agricultural conservation easement purchased by the local government unit.
5. The county board shall be responsible to record agricultural conservation easement where a local government unit is a party to the purchase of the easement. The easement shall be recorded by the county board in the office of the recorder of deeds of the county wherein the agricultural conservation easements are located. The county board shall submit to the State board a certified copy of the agricultural conservation easements within 30 days after recording. The county board shall attach to all certified copies of the agricultural conservation easements submitted to the State board a description of the farmland subject to the agricultural conservation easements.
6. The local government unit may incur debt pursuant to 53 PA C.S. Pt. VII Supbt. B (relating to indebtedness and borrowing) for the purchase of agricultural conservation easements.

EASEMENT VALUE AND PURCHASE PRICE

Maximum Purchase Price. The purchase price offered for the purchase of an easement in the perpetuity under Chapter 138e.66(b) may not exceed, but may be less than, the value of the easement. Regardless of the easement value, the overall (state, county, and local government unit) purchase price for an agricultural conservation easement in perpetuity may not exceed \$12,000 per acre or limit established by the county board in this Program.

BY-LAWS FOR THE COUNTY AGRICULTURAL LAND PRESERVATION BOARD

ARTICLE I - NAME

The organization shall be known as the Chester County Agricultural Land Preservation Board, herein also referred to as the Board.

ARTICLE II - PURPOSE

The Chester County Agricultural Land Preservation Board (ALPB) was established by the resolution of the Chester County Board of Commissioners, dated July 11, 1989, to administer Agricultural Conservation Easement Programs on behalf of Chester County Board of Commissioners (Board). This includes but is not limited to programs administered in cooperation with the Commonwealth of Pennsylvania and any other agricultural easement acquisition programs deemed desirable by the Board. The ALPB is authorized by the Board to undertake any and all administrative actions necessary to effectively implement all agricultural easement programs authorized by the Board.

ARTICLE III - AUTHORIZATION

The Chester County Agricultural Land Preservation Board was established by the authority granted to the Chester County Board of Commissioners by Pennsylvania Act 43, P.L. 128, No. 43, as amended.

ARTICLE IV - MEMBERSHIP

Section 401: Representation - The Chester County Agricultural Land Preservation Board shall be appointed by the Board of County Commissioners as follows:

- (1) One (1) less than the majority shall be active resident farmers of the County and shall serve initial terms of three (3) years;
- (2) One (1) member shall be a current member of the governing body of a township or borough located within the County and shall serve an initial two (2) year term;
- (3) One (1) member shall be a commercial, industrial, or residential contractor and shall serve an initial one (1) year term;
- (4) The remaining members shall be selected at the pleasure of the County governing body and shall serve initial terms of one (1) year.

Section 402: Size of Membership - The Board shall have no less and no more than nine (9) members appointed by the Chester County Board of Commissioners, of which no less than four (4) members shall serve initial terms of one (1) year.

Section 403: Terms of Office - Upon expiration of the initial terms set forth above, all terms of members shall be three (3) years.

Section 404: Vacancies - Appointments to fill vacancies on the Board shall be made by the Chester County Board of Commissioners for the balance of the term vacated.

ARTICLE V – OFFICERS

Section 501: Officer Titles – The Board shall be governed by a Chairman, a Vice-Chairman, and a Secretary.

Section 502: Duties of Officers

- (1) The Chairman shall preside at all meetings of the Chester County Agricultural Land Preservation Board, call special meetings, establish committees, appoint committee chairmen, and delegate other tasks and assignments as may be appropriate.
- (2) The Vice-Chairman shall preside at all meetings of the Chester County Agricultural Land Preservation Board in the absence of the Chairman.
- (3) The Secretary shall be responsible for seeing that all meetings are recorded.

ARTICLE VI – ELECTION OF OFFICERS

Section 601: Terms of Office – All officers shall serve for a term of one (1) year and may succeed themselves.

Section 602: Date of Election – Election of officers shall be made annually at the first meeting after July 1. Annually, the Chairman of the Board of County Commissioners shall designate one (1) member of the Board to act as Chairman of the Board.

Section 603: Nomination of Officers – All officers, except Chairman, shall be nominated by members of the Board and shall be themselves members of the Board. A nominated candidate must be present at the meetings and may decline nomination.

Section 604: Election – An officer shall be considered elected upon having received a simple majority vote of members present.

Section 605: Vacancies – If a vacancy occurs in any office other than Chairman, the Board shall fill the vacancy at an election to be held at the first meeting after the vacancy occurs. Officers elected to unexpired terms are eligible for nomination for reelection to a full one (1) year term. The Chairman of the Board of County Commissioners shall fill any vacancy in the office of the Chairman of the Board.

ARTICLE VII - MEETINGS

Section 701: Meeting Dates - Meeting dates, times and places, shall be established by the Board and may be changed at any time pending a majority vote.

Section 702: Special Meetings - Special meetings may be called by the Chairman upon five (5) days notice, and at the request of five (5) members of the Board.

ARTICLE VIII - QUORUM

A quorum for official transaction of Board business shall be a simple majority of all members of the Board.

ARTICLE IX - VOTING

A simple majority vote of members present (provided the quorum rule is met) is needed to pass all resolutions and to transact all other items of business requiring a vote, except to amend these by-laws (see ARTICLE X).

ARTICLE X - AMENDMENTS

These by-laws can be amended only by a simple majority vote of all members of the Board, not merely those present, and shall be subject to approval by the Board of Commissioners. Notice of any proposed amendment must be made to all members and to the Board of Commissioners at least twenty-one (21) days prior to the vote being held.

ARTICLE XI - PARTICIPATION BY BOARD MEMBERS

The County Board members shall be able to participate in the Agricultural Conservation Easement Program provided they comply with the Act of October 4, 1978 (P.L. 833, No. 170), known as the Public Official and Employee Ethics Law.

County-Only Funded Easements

- A. Intent - To permanently preserve the agricultural land within Agricultural Security Areas, the Chester County ALPB intends to acquire agricultural conservation easement using county-only funding. Acceptance of conservation easement will be determined by the ALPB using adopted minimum eligibility criteria.
- B. Description - The Agricultural Conservation Easement is a legally binding document recorded in the Recorder of Deeds office, restricting use of the land to agriculture and directly associated uses. The Agricultural Conservation Easement is held by the County of Chester in perpetuity and the enforcement of the deed restrictions is the responsibility of the county as contained in the easement document.
- C. Minimum Criteria for a County-Only Easement
 - (1) The farmland shall be located in a recorded Agricultural Security Area of at least 500 acres as required in Act 43, Section 14.1(e)(1)(iii). All parcels of the farmland tract application must be properly recorded in an ASA.
 - (2) The farmland tract shall encompass:
 - (a) at least 35 acres, or
 - (b) at least 25 acres if tract is owned and operated as an integral piece of an agricultural operation unit that has a tract of at least 25 acres already permanently preserved. The tracts need not be adjacent.
 - (c) at least 10 acres producing a crop unique to the area, or
 - (d) at least 10 acres contiguous to a property which has a perpetual conservation easement held by a "qualified conservation organization", as defined in Section 170(h)(3) of the Internal Revenue Code.
 - (3) At least 50% of farmland tract soils shall class I – IV as defined by the USDA NRCS and be available for agricultural production.
 - (4) The farmland tract shall contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.
- D. Procedures for Acceptance
 - (1) The ALPB will provide a County-only Deed of Easement document.
 - (2) The ALPB reviews the properties for compliance with the County-only minimum eligibility criteria and ranks the applications.
 - (3) An appraisal report is initiated by the Board to determine the easement value.
 - (4) The landowner, the ALPB and relevant partners shall enter into an Agreement of Sale.
 - (5) The ALPB will follow the closing procedure, recording and reporting to the State for reimbursement of incidental costs as per Chapter 138e.103 (c) through (f), Expenditures of Matching Funds.

Commercial Equine Activities Amendment

Chester County Agricultural Land Preservation Program Amendment

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

CHESTER COUNTY AGRICULTURAL LAND PRESERVATION BOARD

AGRICULTURAL EASEMENT INSPECTION/ENFORCEMENT PROCEDURE

1. Inspections

- a. The CCALPB shall inspect eased land as frequently as necessary to comply with the terms of the Deed of Easement and Act 43 or more frequently at the CCALPB's discretion.
- b. Written notice of an inspection to be conducted shall be mailed to the owner at least 10 days prior to the inspection.
- c. An inspection shall be preformed between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday or a date and time agreeable to the county and the landowner.
- d. Within 10 days of conducting an inspection, the CCALPB shall prepare a written inspection report setting forth the following information:
 1. The identification of the land inspected.
 2. The name of the owner of the farmland at the time the easement was originally acquired and the name of the current owner of the land inspected.
 3. A description of modifications in the number, type, location or use of any structures on the land since the date of the filing of the deed of easement.
 4. A description of deviations from the conservation plan observed on the restricted land
 5. A statement of whether the provisions of the deed of easement are being observed.
 6. A statement indicating whether a structure has been constructed on the restricted land, the month and year the construction was completed, and a description of the structure and its location on the land.
 7. A statement indicating whether the residential subdivision permitted under Section 14.1(c)(6)(iv) has been exercised.
 1. A copy of the inspection report shall be mailed to the owner.
 2. The CCALPB and/or the State Board (if applicable) may inspect the restricted land without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

2. Notification to landowner

- a. Within 10 days of the discovery of a violation of the terms of an easement, either through an inspection or otherwise, the CCALPB shall send written notice of the violation to the owner of the restricted land, the County governing body, and the State Board.
- b. The written notice required by this section shall be sent by certified mail and shall set forth the following information:
 1. A copy of the inspection report.
 2. A copy of the deed of easement.

3. A description of the action or condition which constitutes the alleged violation.
4. A statement of the measures necessary to correct the alleged violation.

3. County Assistance

The landowner shall be granted 20 days from the date of the notification letter to meet with the CCALPB to discuss remedial actions. The CCALPB, in conjunction with the Chester County Soil Conservation District, shall offer its assistance through either a site visit and/or meeting with interested parties at the Government Services Center to discuss implementation of remedial actions. At this time, a sequence of remedial actions and an implementation schedule shall be discussed, agreed to, and a statement of agreement shall be signed by the landowner and the CCALPB. In the agreement, the landowner shall agree to review the implementation schedule with the land user, if the landowner and land user are two separate persons. However, the landowner agrees to all legal responsibility for implementation of the schedule further implied as compliance with the easement. It shall also be agreed that the corrective measures shall be completed in a period not to exceed one year from the date of this meeting.

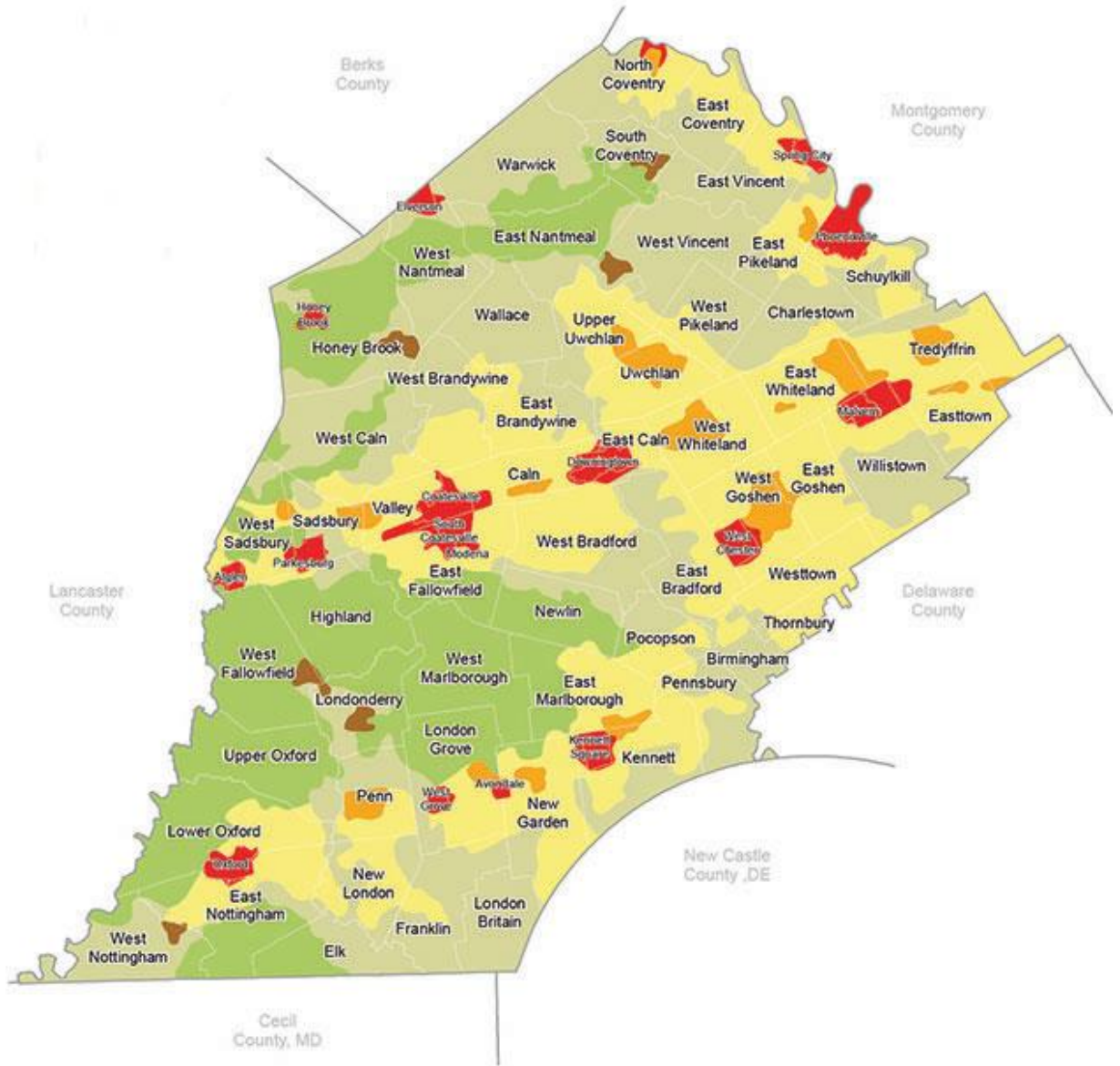
4. Follow-up Inspection

- a. A follow-up inspection of the property shall be conducted by the CCALPB 30 days after remedial measures as stated in the agreement are scheduled to commence.
- b. A Statement of compliance shall be sent to the landowner following the inspection.
- c.
 1. If the landowner is not in compliance with the agreement, the CCALPB shall send a statement of non-compliance to the landowner, advising the landowner that the CCALPB has referred this matter to counsel who shall wait 7 days from the date of the non-compliance letter to file papers with the Chester County Court of Common Pleas requesting an injunction; cost and attorney's fees to be reimbursed.
 2. If the landowner is in compliance with the schedule, the compliance letter shall verify corrective procedures implemented and those remaining on the schedule and remind the landowner that corrective measures must be completed by the date ending the established one year period.

Enforcement Actions

- d. Upon violation of the statement of agreement or if corrective measures have not been completed within the established one year period, the CCALPB shall commence and prosecute an action in the Chester County Court of Common Pleas seeking an order requiring correction of the violation, enjoining further violation of the terms of the easement, and other appropriate relief, including costs and attorney's fees.
- e. The owner of the restricted land shall bear all costs associated with the correction of a violation of the easement, including;
 1. Costs of work required and materials used to correct the violation.
 2. Administrative costs incurred by the CCALPB and the State Board.
 3. Court costs and reasonable attorney's fees incurred by the CCALPB and the State Board in enforcing the easement.

RURAL RESOURCE AREAS MAP



CHESTER COUNTY AGRICULTURAL LAND PRESERVATION BOARD

<u>Board Members</u>	<u>Occupation</u>	<u>Term Expires</u>
Melba Matthews, Chairman Chester Springs, PA	Farmer	6/30/2020
Donald Cairns, Vice Chairman Parkesburg, PA	Farmer	6/30/2022
Nelson Beam, Secretary Elverson, PA	Township Supervisor	6/30/2022
John Diament Uwchland, PA	Building Contractor	6/30/2020
Richard Abbott Cochranville, PA	Farmer	6/30/2020
Amy McKenna Coatesville, PA	At Large	6/30/2020
Bill Covalesski Glenmoore, PA	At Large	6/30/2022
Eli Silberman Unionville, PA	At Large	6/30/2022
Duane Hershey Elverson, PA	Farmer	6/30/2022
Nicole Forzato West Chester	Solicitor	