

ORDINANCE NO. 06-18

**ORDINANCE ADOPTING AND IMPLEMENTING THE BOONE COUNTY
AGRICULTURAL CONSERVATION EASEMENT AND FARMLAND
PROTECTION PROGRAM**

WHEREAS, the County has the authority to purchase real estate for the preservation of forests, prairies, and other natural areas pursuant to 55 ILCS 5/5-1005; and

WHEREAS, the County is authorized to acquire land for purposes of flood plain protection, flood water run-off, detention ponds, and other public grounds and may regulate the use of these public grounds for any public purpose pursuant to 55 ILCS 5/5-1049; and

WHEREAS, the County is authorized to acquire land for the purpose of protecting the water supply pursuant to 55 ILCS 5/5-15009; and

WHEREAS, the County is authorized to protect and establish preservation districts including the protection of landscapes in areas of scenic significance pursuant to 55 ILCS 5/5-30004; and

WHEREAS, the State of Illinois has authorized the Illinois Department of Natural Resources to assist local governments in the acquisition of open space pursuant to the Open Space Lands Acquisition and Development Act (525 ILCS 35/1); and

WHEREAS, the Boone County Board finds and determines that the adoption and implementation of the Boone County Agricultural Conservation Easement and Farmland Protection Program is necessary in order to maintain and preserve the natural beauty of Boone County; and

WHEREAS, adoption of the Boone County Agricultural Conservation Easement and Farmland Protection Program will assist in promoting responsible managed growth patterns through intergovernmental planning agreements in conjunction with the Boone County Comprehensive Plan, the Boone County Conservation District Master Plan and the Boone County Greenways Plan.

NOW, THEREFORE, BE IT ORDAINED by the Boone County Board that it hereby adopts the following:

SECTION 1: An Ordinance to create the Boone County Agricultural Conservation Easement and Farmland Protection Program and to establish the Boone County Conservation Easement and Farmland Protection program pursuant to the Illinois Real Property Conservation Rights Act, 765 ILCS 120/0.01 et seq., to read as follows;

1. **DEFINITIONS.** In this Ordinance:
 - A. Board means the Boone County Board.
 - B. Conservation Easement means a holder's non-possessory interest in real property within Boone County imposing any limitation or affirmative obligation the purpose of which includes protection viable farm operations and farmland to maintain the rural character of Boone County, permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and wood lots, creating and preserving "buffer zones" around significant environmental areas and agricultural areas, restricting land divisions, retaining or protecting natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving the historical, architectural, archaeological or cultural aspects of real property.
 - C. Commission means the Boone County Agricultural Conservation Easement and Farmland Protection Commission.
 - D. Conservation Interest means a holder's interest in a conservation easement, a third-party right of enforcement in a conservation easement or fee title interest in real property.
 - E. Nonprofit Conservation Organization means a nonprofit corporation, a charitable trust or other nonprofit association whose purposes include the acquisition of property for conservation purposes and that is described in Section 501(c) (3) of the Internal Revenue Code and is exempt from federal income tax under Section 501 (a) of the Internal Revenue Code.
2. **LAND TRUST COMMISSION**
 - A. **Creation.** There is hereby created the Boone County Agricultural Conservation Easement and Farmland Protection Commission (hereinafter the "Commission").
 - B. **Duties.** The Commission shall be responsible for general supervision of the Agricultural Conservation Easement and Farmland Protection Program as set forth in this Ordinance, including the following:

- I. The Commission shall maintain contact with public and private agencies to maximize the resources and coordinate efforts to preserve the rural character of Boone County.
 - II. The Commission shall determine the interest of owners of land within Boone County at least annually, to donate or sell interests in real property for the purpose of the Agricultural Conservation Easement and Farmland Protection Program.
 - III. The Commission shall recommend selection criteria and may recommend the acquisition of interests in specific parcels of real property to be acquired by the County of Boone for agricultural protection purposes.
 - IV. The Commission may recommend changes to the Boone County Agricultural Conservation Easement and Farmland Protection Program and suggest as to how the program may be integrated with the Boone County Comprehensive Plan, the Boone County Conservation District Master Plan, the Boone County Greenways Plan and other local and regional land use plans.
 - V. The Commission may conduct public meetings or public hearings as it determines necessary.
 - VI. The Commission may prepare any application forms necessary for the Agricultural Conservation Easement and Farmland Protection Program and prepare, review and recommend any grant application for State and Federal grants.
- C. Membership.** The Commission shall consist of seven (7) voting members consisting of:
- I. One member of the Boone County Board who shall be appointed by the Chairman of the Boone County Board with the advice and consent of the County Board.
 - II. A representative of the Boone County Farm Bureau who shall be appointed by the President of the Boone County Farm Bureau with the advice and consent of the Farm Bureau Board.
 - III. A representative of the Boone County Soil and Water Conservation District who shall be appointed by the President of the Boone County Soil and Water Conservation District with the advice and consent of the Soil and Water Conservation District Board.
 - IV. A member of the Boone County Planning Commission who shall be appointed by the Chairman of the Boone

County Planning Commission with the advice and consent of the Planning Commission.

- V. A representative of the Boone County Conservation District, who shall be appointed by the President of the Boone County Conservation District with the advice and consent of the Conservation District Board.
- VI. A representative of the Pomona Grange, who shall be appointed by the Master of the Grange.
- VII. One resident of Boone County who shall be appointed by the Chairman of the Boone County Board with the advice and consent of the County Board.
- VIII. The term of membership shall expire on June 1 following the third anniversary of their appointment. All members shall be residents of Boone County and, to the extent practicable, include persons with backgrounds and experience in agriculture, finance, conservation or planning.

D. Officers. The Commission shall have the following officers:

- I. The Commission Chairman shall be appointed by the Chairman of the Boone County Board at the initial meeting and shall preside at all meetings of the Commission. The Commission Chairman shall serve for a term of one (1) year, subject to reappointment by the Chairman of the Boone County Board.
- II. A Vice Chairman shall be elected by a majority vote of the Commission at the first meeting of the Commission to serve for a term of one (1) year, subject to reappointment by the Commission. The Vice-Chairman shall serve as Commission Chairman in the absence of the Chairman.
- III. A Secretary shall be elected by a majority vote of the Commission at the first meeting of the Commission to serve for a term of one (1) year, subject to reappointment by the Commission. The Secretary shall be responsible for keeping minutes of meetings.

E. Rules of Procedure

- I. The Commission shall adopt rules of procedure and bylaws to govern its deliberations. In the absence of any other such rules, the Commission shall conduct its proceedings in accordance with Robert's Rules of Order, latest revised edition, the Open Meetings Act (5 ILCS 120/1), and the Freedom of Information Act (5 ILCS 140/1).

- II. Under no circumstances shall a rule of procedure or bylaw release the Commission from complying with Federal and State Statutes.

3. **AGRICULTURAL CONSERVATION EASEMENT AND FARMLAND PROTECTION PROGRAM EXPENDITURES.**

The County Board is authorized to acquire conservation interests in real property or to make payments to nonprofit conservation organizations for the purpose of rural and farmland preservation as provided herein.

- A. **Conservation Easement Purchases.** The County Board may, subject to subsection C, expend funds for costs associated with the purchase or acceptance of donated holders' interests or third party easement of enforcement in conservation rights as defined, respectively, in the Illinois Real Property Conservation Rights Act.
- B. **Payments to Nonprofit Organizations.** The County Board may, subject to subsection C, appropriate money for payment to a nonprofit conservation organization for the conservation of farmland and natural resources within Boone County or beneficial to Boone County through the acquisition of conservation easements provided that the recipient organization submits and the County Board approves a detailed plan for the work to be done.
- C. **Voluntary Conveyances.** The County Board may acquire conservation easements only from willing owners and may not exercise its power of eminent domain to acquire such conservation easements.
- D. **Voluntary Contributions.** The County Board may accept voluntary contributions from individuals, organizations, or other government agencies for the purpose of acquiring conservation easements.
- E. **Indirect Costs.** In addition to the purchase price therefore, the County Board may expend funds for the payment of indirect costs associated with the conduct of the program, including costs of administration and acquisition of conservation easements, including but not limited to survey costs, title evidence, attorney's fees, appraisers' fees, environmental assessments, transfer taxes and recording fees.

4. PROCEDURE FOR ACQUISITION OF CONSERVATION EASEMENTS

- A. The Commission shall review all applications and make formal recommendations to the County Board as to which conservation easements should be considered.
- B. The County Board may conduct public meetings or public hearings as it determines necessary for consideration of Agricultural Conservation Easements and Farmland Protection conservation interests and/or expenditures.
- C. Final action of the County Board is required to acquire conservation easements either by purchasing the conservation easements or by voluntary conveyance.

5. ALIENATION OF ACQUIRED INTERESTS. Except where the intention to reconvey conservation easements is expressly provided for in the Board's authorization to acquire such easements, no conservation easements acquired by the County under the provisions of this Ordinance shall thereafter be alienated.

6. CONFLICT OF INTEREST. No person on the Commission may participate in any deliberation of the Commission or of the County Board in the consideration or determination of any expenditure under this Ordinance in which the person, a member of the person's family, or an organization with whom the person is affiliated has a financial interest.

7. AMENDMENT OR REPEAL. This Ordinance may be amended or repealed only by affirmative vote of the County Board following a public hearing.

8. SEVERABILITY. Should any provision of this Ordinance be adjudged invalid by a court of competent jurisdiction, such Adjudication shall not affect the validity of any other provision of this Ordinance.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage as provided by law.

PASSED by the County Board of the County of Boone, State of Illinois this _____ day of _____, 2006.

APPROVED by the County Chairman of the County of Boone, State of Illinois this _____ day of _____, 2006.

Susan Anderson, Chairman
Boone County Board

ATTEST:

Pam McCullough
Boone County Clerk

Ayes: _____ Nays: _____ Absent: _____