

# HARRISON COUNTY, INDIANA

## ORDINANCE NO. 2006 - \_\_\_\_\_

### AN ORDINANCE CREATING THE HARRISON COUNTY LAND CONSERVATION PROGRAM

**WHEREAS**, the conservation of farmland and other non-developed land is an important aspect in retaining the scenic beauty and rural nature of the local environment that has made Harrison County a great place to live, and;

**WHEREAS**, the institution of a land conservation program is an important tool in protecting such land from sprawling development so that it will remain available to support the local agricultural economy, and;

**WHEREAS**, it is desired to create such a program to 1) foster and support the conservation of land through easements, donations and any other means that become available, and 2) make federal, state or local conservation grants accessible to interested property owners in the county and;

**WHEREAS**, the establishment of a land conservation program is in the best interest of the citizens of Harrison County now and for future generations;

**THEREFORE, BE IT ORDAINED BY THE HARRISON COUNTY COMMISSIONERS THAT THE HARRISON COUNTY CONSERVATION PROGRAM IS HEREBY CREATED AS FOLLOWS:**

#### HARRISON COUNTY LAND CONSERVATION PROGRAM

**SECTION 1: Findings and Declaration of Purpose-** The Harrison County Board of Commissioners finds that:

**(1.1)** Harrison County's agricultural and forestland is a unique and economically important resource. Harrison County has more than 108,000-acres of land currently in agricultural use. These lands support a locally important and nationally unique agricultural industry that includes orchards, vineyards, forage crops, specialty crops, and livestock. The Census of Agriculture reported that Harrison County farms sold more than \$42.43 million in agricultural products in 2002. Harrison County consistently ranks as one of the top five producers of cattle in the state.

**(1.2)** Harrison County's farms are also an important part of the county's cultural heritage and contribute substantially to the quality of life enjoyed by county residents. Preserving Agricultural land is important to help preserve farms and the farm economy and to preserve the rural character and scenic beauty of Harrison County. The scenic beauty and rural character associated with farms and farming also help make Harrison County an attractive tourist destination. The annual economic impact of tourism in Harrison County is currently estimated to be \$416 million per year.

**(1.3)** Rapid population growth and development threaten Harrison County's agricultural land base, the ability of farmers to farm, and the long-term viability of the county's agricultural industry. Some of the same characteristics that make Harrison County uniquely suited to some forms of agriculture also make it attractive for residential home sites. Between 1990 and 2000, the population of Harrison County increased by more than 14 percent (U.S. Census Bureau). As the population increases, agricultural land is converted to residential and other developed uses.

**(1.4)** Land suitable for farming is an irreplaceable natural resource. When such land is converted to residential or other more developed uses that do not require those special characteristics, a critical community resource is permanently lost to the citizens of Harrison County. It is an accepted truth that that residential development in agricultural areas makes farming more difficult by increasing conflict over farming practices and by increasing trespass, liability exposure, and property damage. In addition, development pressure drives land prices above

values for agricultural use. This encourages the speculative purchase of agricultural land at high prices for future residential development, regardless of the current zoning of such lands. Agricultural land, which is subject to encroachment of residential development, does not attract sustained agricultural investment and eventually is sold by farmers and removed from agricultural use. Because agricultural land is an invaluable economic, cultural, natural, and aesthetic resource, the County should make an effort to maintain enough agricultural land to ensure the long term viability of agriculture in the County.

**(1.5)** There is broad support among Harrison County residents for public action to slow the conversion of farmland to developed uses as indicated by a recent survey conducted by the Farm Forest and Open Space Task Force in July 2005.

**(1.6)** It is the policy of the State of Indiana and of Harrison County to protect, preserve, and enhance agricultural as evidenced by the Harrison County Comprehensive Plan and The INDIANA'S STRATEGIC PLAN FOR AGRICULTURE and other state and local statutes and policies. These measures by themselves, however, have not effectively provided long-term protection of agricultural land in Harrison County from the pressure of increasing residential and commercial development.

**(1.7)** Federal matching funds are available under the Farm and Ranch Lands Protection Program (FRPP) and it is the intent of this program to make these funds available to property owners of the county.

**(1.8)** It is also the intent of the Harrison County Land Conservation Program to conserve agricultural land, forestland and open spaces in order to maintain a long-term business environment for agriculture and forestry in Harrison County, to protect the rural character of the County, and to maintain the quality of life of county residents.

**(1.9)** Properties on which the County finances purchase/donation of a Conservation easement shall remain viable for the use for which it is conserved.

**(1.10)** The Conservation of agricultural land and other eligible land as provided for in this Ordinance is a public purpose of Harrison County.

**(1.11)** Financing such purchases/donations may require that the County enter into agreements with a Land Trust to obtain hold and enforce such Easements.

**(1.12)** The Harrison County Land Conservation Program, as defined in this Ordinance, is established by and for Harrison County and shall be administered as set forth in this Ordinance.

## **SECTION 2: Definitions**

**(2.1)** "Agricultural Land" or "Agricultural Use" means substantially undeveloped land devoted to the production of farm products. Farm products means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae (deer), livestock (including breeding and grazing), equine (horses), fish and other aquiculture products, bees and bee products, berries, herbs, fruits, vegetables, flowers, ornamental plants, greenhouse products, seeds, grasses, nursery stock, trees and tree products, mushrooms and other similar products, or any other product which incorporates the use of food, feed, fiber or fur as determined by the Indiana Department Agriculture. Land enrolled in an agricultural set-aside program is considered to be in Agricultural Use.

**(2.2)** "Agricultural Value" is the value of land for agricultural use as determined by the most recent average per acre value of agricultural land reported by farmers in Harrison County as published by the USDA, NASS, Indiana Field Office.

**(2.3)** "Commissioners" means the Harrison County Board of Commissioners.

**(2.4)** "Conservation Easement" means a recorded restriction placed on land, which prohibits certain or all types of division and or development.

**(2.5)** A "Farm" is all contiguous land under single ownership that contains some land in Agricultural Use. "Single Ownership" includes parcels registered under different titles if a single individual has controlling interest in all parcels.

**(2.6)** "Harrison County Conservation Committee" (HCC) is the committee appointed to oversee the Harrison County Conservation Program activities and provide recommendations to the Commissioners.

(2.7) "Harrison County Land Conservation Fund" is a separate fund established for the purpose of accepting private donation of funds which may be used to promote and preserve land in Harrison County.

(2.8) "Harrison County Land Conservation Program" means all land conservation programs administered by the Commissioners.

(2.9) "Land Trust" means an independent not-for-profit organization whose primary purpose is the conservation of land and which will purchase, hold, monitor and enforce conservation easements.

(2.10) "NRCS" is the Natural Resources Conservation Service.

(2.11) "Property Owner" means the party or parties having a fee simple interest in land or any party that owns severed conservation easements to land.

(2.12) "Residential/Commercial land" means a parcel that is developed for residential or commercial purposes. On parcels in excess of 5-acres in size and which more than 10 acres is cultivated, grazed or managed for timber only that portion of the parcel occupied and used for the residential/commercial purpose shall be classified as such and the balance of the parcel shall be classified as agricultural.

(2.13) "State" means the State of Indiana.

(2.14) "Substantially Undeveloped Land" means land on which there is no more than one residential dwelling unit (exclusive of housing units directly associated with the farming operation) for each 40 acres of land.

(2.15) "USDA" is the United States Department of Agriculture.

### **SECTION 3: Authorization**

Pursuant to IC 32-23-5 Uniform Conservation Easement act, the County is authorized to participate in the creation of Conservation easements on Agricultural Land and other eligible land throughout the county.

### **SECTION 4- POLICIES**

(4-1) The County shall only participate in the creation of Conservation easements that are voluntarily offered by an owner of agricultural or other eligible land.

(4.2) The County is authorized to enter into contracts, options, and agreements to achieve the stated purposes of the program consistent with applicable law.

(4.3) The County may contract with recognized and legally established not-for-profit land trusts or other experienced and qualified not-for-profit groups that would assist the County in conserving land under this Ordinance.

(4.4) The County may promote and/or participate in the creation of conservation easements within the county to be held by a land trust.

### **SECTION 5: Harrison County Conservation Committee**

(5.1) The Commissioners shall create a seven-member committee under this Ordinance to be named the Harrison County Conservation committee(HCC).

(5.2) HCC members shall be county residents and shall be appointed by the County Board from the following groups:

- a) Three representatives who are engaged in agricultural production or who operate agricultural businesses;
- b) One representative from township government;
- c) One representative of economic development, tourism, or business interests;
- d) One representative of environmental/conservation groups or natural resources professionals; and
- e) One member of the general public.

(5.3) The HCC shall oversee Harrison County Conservation Easement activities as follows:

- a) With regards to any federal, state, or local grant programs for conservation of land, the HCC shall
  1. Identify and inform owners of eligible property,
  2. Assist property owners to qualify and make application for awards under such programs, and
  3. review all applications submitted and make recommendations to the Commissioners.

- b) With regards to Conservation Easement Donations the HCC shall:
  1. maintain a list of property owners interested in donating conservation easements,
  2. Identify and inform owners of property interested in donating easements, and
  3. Assist landowners in making application for grants, and securing any other available funding to finance stewardship fees commonly associated with such donations.
- c) Administer the Harrison County Land Conservation Fund account including accounting for all funds deposited, actively pursuing private donations, identifying and securing all available funds that may support conservation activities and recommending how such funds should be dispersed to be consistent with the contributors desires,
- d) Prepare an annual budget for the Land Conservation Fund for consideration by the County Commissioners. Said budget shall be submitted for review on or before the first day of December of each year and in no case shall expenditures from the fund be made until a budget is approved. The committee shall also make recommendations for amendments to an approved budget which may be approved, conditionally approved or denied by the County Commissioners upon the first reading at any regularly scheduled Commissioners meeting.
- e) Monitor conservation activities across the nation, recommend changes and/or additions to the local program and assist the State of Indiana in developing new programs and funding sources for land conservation.

**(5.5) Terms of members-** Members of the HCC shall serve three-year terms; except that the initial terms of the members are staggered so that three of the members serve for three years, two other members serve for two years, and the remaining two members serve for one year. HCC members may be re-appointed to successive three-year terms by the Commissioners. The Commissioners shall have the discretion to remove HCC members for good cause. Reimbursement of Members for travel expenses and mileage associated with Committee activities shall be at the discretion of the Commissioners when funding is available at rates established and approved by the Commissioners/County Council.

**(5.6) Bylaws-** The HCC shall adopt By-laws, which shall become effective upon approval of the Commissioners.

**(5.7) Conflict of Interest-** Individual HCC members shall disclose any potential conflict of interest and shall not vote when a conflict exists. A conflict of interest includes, but is not limited to:

- a) Any conduct that would lead a reasonable person, knowing all of the circumstances, to conclude that the HCC member is biased against or in favor of an applicant,
- b) Acceptance of any form of compensation other than from the HCC for any services rendered as part of the official duties of the HCC member,
- c) Participation in any business being transacted with or before the HCC where the HCC member or his or her parent, spouse, child, sibling, or parent or sibling of a spouse or employee has a financial interest,
- d) Use of the position, title, or any related authority of the HCC member in a manner designed for personal gain or benefit, or
- e) Demonstration, through work or other action in the performance of the official duties of the HCC member of any preferential attitude or treatment of any person.

## **SECTION 6: Funding-**

**(6.1)** Funding for the program may come from any legitimate source including but not limited to Governmental agencies or private sources as may become available. Such funds shall be used for the purpose specified (if any) by the contributing entity and shall in no case be used for any purpose which is not directly related to conservation of land, education of HCC members, conservation programs, conservation easement program development and public outreach.

(6.2) The ability of the County to accept donations or grants for conservation activities is designed to allow flexibility in the program to:

- Take advantage of any conservation opportunity that may become available
- Facilitate acquisition of conservation easements on property which may not qualify for existing grant programs
- Allow donation of conservation easements on property within the county

**SECTION 7: Tax Deductibility of Donations**

The County makes no claim as to the deductibility of the value of a conservation easement under this program. Each Landowner is strongly advised to consult with a tax advisor or attorney prior to making application to determine what steps and costs will be involved. The County, shall not reimburse or pay any costs incurred by the landowner to determine or claim deductibility of a donation of conservation easement.

**SECTION 8: Severability**

Any provision of this Ordinance which is found by a court of competent jurisdiction to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision contained in the Ordinance and such other provisions shall remain in full force and effect.

PASSED BY THE HARRISON COUNTY BOARD OF COMMISSIONERS ON THIS 2<sup>nd</sup> DAY OF OCTOBER 2006.

**HARRISON COUNTY BOARD OF COMMISSIONERS**

-----  
John R. Eckart, President

-----  
James Goldman, Commissioner

-----  
Jim Heitkemper, Commissioner

ATTEST: \_\_\_\_\_  
Patricia A. Wolfe, Auditor