

HARRISON COUNTY, INDIANA

ORDINANCE NO. 2006 - _____

AN ORDINANCE CREATING THE HARRISON COUNTY CONSERVATION DONATION(CD) PROGRAM

WHEREAS, Harrison County has embraced the importance of conserving land for the benefit of future generations under the Harrison County Conservation program, and;

WHEREAS, donations of conservation easements and land support this program and provide a way for property owners to 1) insure farms and open space are permanently preserved for future generations, 2) access valuable tax benefits, 3) eliminate future costs to tax payers of the county that would have been associated with providing schools and services to the property if it had been developed rather than preserved, and ;

WHEREAS, promoting and providing financial support for such donations will substantially reduce the over all cost to the county to conserve farms, forest, and open space under the land conservation programs; and;

WHEREAS, donations of land may create a new revenue source that can be used to further expand conservation efforts in the County; and;

WHEREAS, the establishment of a CD program is in the best interest of the citizens of Harrison County now and in the future;

THEREFORE, BE IT ORDAINED THE HARRISON COUNTY COMMISSIONERS
Hereby create the Harrison County Conservation Donation program as follows:

SECTION 10- Conservation Donation Program (CD)

- A) Purpose-** The CD program is designed to 1) assist landowners interested in donating a conservation easement or land for conservation by providing financial support for legal and administrative costs associated with such donations including but not limited to attorneys fees for easement/deed preparation, and stewardship fees typically required by a land trust as a condition of accepting a donated conservation easement, and 2) create a mechanism for the commissioners to accept donations of land for conservation purposes.
- B) Eligibility-** Eligibility criteria establish the minimum conditions a property must satisfy to participate under the CD Program. The property is eligible to participate if:
- 1) The owner of the land has a documented conservation plan in place with Natural Resources Conservation Service (NRCS);
 - 2) The land is at least 20 acres in size;
 - 3) The landowner must own all developmental interest in the land or have written documentation that all interests can be guaranteed should the property be chosen for participation;
 - 4) There are no known environmental hazards on the site; and;
 - 5) The owner is willing to restrict the future use of the property for only those activities which are consistent with the county conservation program.
- C) Property Selection Process-** The County Auditor shall make available and accept applications for funding under this program. The application process shall be conducted as follows:
- 1) The Auditor shall forward a copy of all applications to the HCC who shall use the information provided by the applicant to make an initial determination of an application's eligibility based on eligibility criteria for the

program. If in the opinion of the HCC the application is not eligible, it shall notify the applicant and commissioners in writing that the application may not qualify and the specific criteria, which led to the opinion that the property may not be eligible. Once the HCC has issued an opinion that the property is eligible the commissioners, may consider approval of the application (if funding is available), conditional approval (which indicates a willingness to fund the application when monies become available) or denial of the application.

- 2) For those applications which receive an opinion of in-eligibility from the HCC the commissioners shall take no action until the applicant has responded in writing on the opinion of the HCC. Once a response is received the Commissioners may approve, conditionally approve or deny the application at their discretion. In the event the applicant fails to respond within one year after the date of the HCC opinion the application shall be declared null and void and discarded.
 - 3) Once an application has been approved or conditionally approved the HCC shall forward the application to one or more land trusts for review, comment and a quote for total stewardship fees that will be required to accept the easement. The applicant may request that the application be forwarded to a particular land trust if they desire, provided the name and address of the trust is included as part of the application.
 - 4) Typically approved/conditionally approved applications will be processed on a first come first served basis, however, the Commissioner reserve the right to prioritize applications when it is determined that doing so will be in the best interest of the program or allow use of funds they may not normally be available for program activities.
 - 5) Approved applications shall be active and remain on file until the donation is finalized or the applicant withdraws the application in writing. Conditionally approved applications shall remain active until all conditions have been met. In the event conditions on the property change at any time before a donation is finalized the Commissioners may reject the application and require the applicant to make a new application in order to participate in the program.
- D) Application Provisions-** Once an application has been approved and a funding commitment made by the Commissioners, a binding agreement to donate a conservation easement or land between the applicant and the County shall be recorded in the office of the Harrison County Recorder. In the case of an easement dedication the HCC shall notify the Land Trust that it may proceed with easement preparation and execution. In the case of land donations the Commissioners Attorney shall prepare and execute all deeds and restrictions associated with the conservation donation.
- E) Disbursement of Funds-** The HCC shall monitor preparation of easement documentation and coordinate payment to the land trust to coincide with execution of the conservation easement.
- F) Easement Monitoring-** In order to assist the land trust in monitoring a conservation easement, the County shall provide copies of maps, photos, assessments cards and any other information routinely maintained about a parcel free of charge. The HCC shall also at a minimum conduct a windshield survey of each property on an annual basis and report its findings to the trust.
- G) Easement Enforcement-** In order to insure the long term viability of the donations made for conservation, all easements shall be held and enforced by a land trust. Also all land donated to the county for conservation shall be restricted by a perpetual conservation easement, enforceable by a land trust, as well as any citizen of the county.
- H) Use and Sale of Donated Land-** As a condition of acceptance of donated land the County shall reserve the right to use, rent, lease, sale or transfer the land and or mineral rights to another entity or individual provided adequate guarantees are put in place to insure that

the attribute or purpose for which the land was conserved will not be negatively impacted or placed in jeopardy by the use or transfer. Any and all income from such activities shall be deposited in the conservation fund to support the County's Conservation Program.

ADOPTED by the Harrison County Board of Commissioners on this 2nd day of October, 2006.

**HARRISON COUNTY
BOARD OF COMMISSIONERS**

John R. Eckart, President

James Goldman, Commissioner

Jim Heitkemper, Commissioner

ATTEST:

Patricia A. Wolfe, County Auditor