

## ARTICLE II. - FARMLAND AND OPEN SPACE LAND

*Footnotes:*

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**Editor's note**— Ord. No. 6-2007, §§ 1—12, adopted April 16, 2007, amended and restated former art. II, §§ 48-21—48-33, to read as herein set out. Former art. II pertained to similar subject matter and derived from Ord. No. 8-03, adopted Aug. 18, 2003; Ord. No. 3-2004, adopted Feb. 16, 2004; and Ord. No. 6-2005, adopted Dec. 19, 2005.

**State Law reference**— Authority to adopt this article, MCL 125.301 et seq.

## Sec. 48-21. - Findings and declaration of purpose.

## (a) The Board of Trustees finds that:

- (1) Ann Arbor Charter Township is a desirable place to live, work and visit in large part because of the availability of farmland and open space and the relief that wetlands, woods and agricultural fields bring. Scenic views, agriculture, open spaces and wildlife habitat are all considered invaluable natural and aesthetic resources and should be protected.
- (2) The climate, variety of soils and terrain make the Township well suited to the production of a great number of row crops, specialty crops and livestock, including many foods available for direct human consumption. These resources include several thousand acres of land currently in agricultural production, and other woodland, wetland and open lands adjacent to these farmlands.

Such lands provide unique, aesthetic and economic benefits to the citizens of the Township and are an important part of the Township's natural and agricultural heritage. However, Ann Arbor Township is experiencing substantial residential development pressure, because of its location in the highly urbanized areas of southeast Michigan, its attractive landscapes and its excellent public schools. The same characteristics that have made this area so desirable for agricultural production and recreation also make it attractive for development.

- (3) The agricultural industry in Ann Arbor Charter Township provides the opportunity to harvest locally grown foods to sell at roadside stands, farmer's markets, local retail food stores, restaurants and other outlets in the area. Land suitable for farming is an irreplaceable natural resource with soil and topographic characteristics that have been enhanced by generations of agricultural use. 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 Ann Arbor Charter Township.
- (4) Agriculture in Ann Arbor Charter Township produces a notable array of products, including corn, soybeans, vegetables and livestock. The Township's agricultural acreage contributes tens of thousands of dollars to the local economy in direct sales of agricultural products.
- (5) It is the policy of the State of Michigan and Ann Arbor Charter Township to protect, preserve and enhance agricultural and open space lands as evidenced by the Township Master Plan, the Farmland and Open Space Preservation Act (P.A. 116 of 1974, MCL 554.702), the Conservation and Historic Preservation Easement Act (P.A. 197 of 1980, MCL 324.2140), the Township Zoning Act (P.A. 184 of 1943, MCL 125.271 through 125.310) and other State and local statutes and policies. Ordinances regulating land use by zoning and subdivision control enacted by the Township also serve these purposes. These measures by themselves, however, have not been effective in providing long-term protection of farmland, natural areas and open space under the pressure of increasing development.
- (6) Generally, farmland and open space lands that are close to urban centers have a greater market value for future residential development than their market value for farming or open space. Prime agricultural land often has the same features (such as perkable soils) that are components of desirable residential areas. This fact encourages the speculative purchase of these lands at high prices for future residential development, regardless of the current zoning of such lands. Farmland that has a market value greater than its agricultural value does not attract sustained agricultural investment and eventually this land is sold by farmers and removed from agricultural uses.

- (7) The permanent acquisition by the Township of voluntarily offered interests in farmland and open space lands within the Township as provided in this article and as authorized by the Constitution and statutes of the State of Michigan, will permit these lands to be used as farmland and open space near developing urban areas and provide long-term protection for the public interests which are in the Township.
- (8) Michigan Public Act 262 of 2000 created an agricultural preservation fund within the State Treasury. Money in this fund may be used to provide grants to local units of government to assist in the acquisition of agricultural conservation easements provided that the local unit has adopted an ordinance for the purchase of development rights and that the local unit has a comprehensive land use plan that includes a plan for agricultural preservation. Acceptable plans for agricultural preservation can include provisions for primary agricultural districts, rural uses that allow agriculture, and open space designations that allow agriculture.
- (9) Properties on which the Township has purchased the development rights should remain substantially undeveloped in order to promote their agricultural use or open space use.
- (10) The acquisition of interests in farmland and open space lands as provided in this article is a public purpose of Ann Arbor Charter Township as provided in this article.
- (b) Purpose. The Board of Trustees finds and declares that the use of Township funds for the purpose of paying in whole or in part the cost of acquisition of interests in eligible lands as set forth herein, including any costs necessarily incident to such acquisition, and the monitoring and enforcement of conservation easements, or participation with any party for such purposes, will promote the public health, safety and general welfare of the people of Ann Arbor Charter Township. This article is adopted pursuant to the provisions of Sections 31 and 32 of the Township Zoning Act, 1943 P.A. 184, MCL 125.301 and 125.302.

(Ord. No. 6-2007, § 1, 4-16-2007)

#### Sec. 48-22. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agricultural rights* means an interest in and the right to use and possess land for purposes and activities related to open space, natural habitat, horticultural and other agricultural use or open space character.

*Agricultural use* means substantially undeveloped land devoted to the production of plants and animals useful to humans, including fruits, nuts, vegetables, greenhouse plants, berries, herbs, flowers, seeds, nursery stock, grasses, Christmas trees, forages and sod crops, grains and feed crops, dairy and dairy products, livestock (including breeding and grazing), poultry and poultry products and other similar uses and activities.

*Board of Trustees* means the Ann Arbor Charter Township Board of Trustees.

*Chairperson* means the member of the Farmland and Open Space Preservation Board who is elected chairperson by the Farmland and Open Space Preservation Board.

*Conservation easement* means a grant by a written instrument pertaining to development rights whereby the owner relinquishes to the public in perpetuity the right to develop the land as may be expressly reserved in the instrument, and which contains a covenant running with the land not to undertake development on the land, except as this right is expressly reserved in the instrument.

*Development* means an activity that materially alters or affects the existing conditions or use of any land in a manner that is inconsistent with agricultural use or open space character.

*Development rights* means an interest in and the right to use, divide or subdivide land for any and all residential, office, commercial, research, industrial or other use, purposes or activities including intensive animal husbandry operations, not incident to agriculture use or open space character.

*Eligible land* means farmland and open space land for which the purchase of a conservation easement with tax funds and other monetary sources are authorized pursuant to this article.

*Farmland and open space land* means those lands shown in the then current Township Master Plan as planned for agricultural preservation (overlay), plus an extension of such lands as may be approved by the Township Board in order to encompass contiguous portions of adjacent land under the same ownership and operated as one farm.

*Farmland and Open Space Preservation Board or Preservation Board* means the board formed pursuant to section 48-26 of this article, to advise the Board of Trustees in the selection of eligible lands for easement purchases.

*Full ownership* means fee simple ownership.

*Governmental agency* means the United States or any agency thereof, the State of Michigan or any agency thereof or any Township, City or municipal corporation.

*Open space character or open space use* means "substantially undeveloped land" devoted to the maintenance or enhancement of natural processes (e.g., water quality, plant and wildlife habitat, groundwater recharge) and/or the scenic enjoyment of the public.

*Owner* means the party or parties having the fee simple interest in land.

*Parcel* means all property under a single ownership that is included in the application.

*Permitted use* means any use contained within a conservation easement essential to the agricultural use or which does not alter the open space character of the land.

*Residential development rights* means the right to sell portions of a parcel, or to construct a residence and related accessory buildings such as a garage or shed on a parcel, for residential uses not related to the agricultural use or open space character of the property.

*Substantially undeveloped land* means land on which there is no more than one residential dwelling unit and related accessory buildings such as a garage or shed for each 40 acres of land. For parcels less than 40 acres in existence prior to the date of this article, and which cannot be joined to a larger contiguous parcel, substantially undeveloped land means land on which there is no more than one residential dwelling unit and related accessory buildings for the parcel.

*Supervisor* means the Ann Arbor Charter Township Supervisor.

*Value of development rights* means the difference between the fair market value as determined by a qualified appraisal of full ownership of the land (excluding the buildings thereon) and the fair market value as determined by a qualified appraisal of the agricultural rights plus any residential development rights to be retained by the owner.

(Ord. No. 6-2007, § 2, 4-16-2007; Ord. No. 5-2010, 6-21-2010)

#### Sec. 48-23. - Authorization.

- (a) The Board of Trustees is hereby authorized to expend revenues to acquire conservation easements in the farmland and open space lands described and prioritized in section 48-25 of this article. The interest acquired may either be all of the development rights, or any lesser interest, easement, covenant or other contractual right pertaining to such development rights. Such acquisition may be accomplished by purchase, gift, grant, bequest, devise, covenant or contract but only at a price which is equal to or less than the appraised value determined as provided in this article. The revenues shall be used to acquire such development rights only those authorized by law and only upon application of the owner and in a strictly voluntary manner.
- (b) The Township is authorized to enter into cash purchase and/or installment purchase contracts, and agreements for the receipt of donations of easements and other development rights, consistent with applicable law and this article. When installment purchases are made, the Township is authorized to pay interest on the declining unpaid principal balance at a

legal rate of interest equal to or below the prevailing market conditions at the time of execution of the installment contract for the purchase of such interest.

- (c) The Board of Trustees is further authorized to enter into contracts with municipal corporations or governmental agencies or with recognized and legally established and existing nonprofit land trusts (for example, American Farmland Trust and Washtenaw Land Trust) or other experienced and qualified nonprofit groups to participate jointly in the acquisition, holding or management of conservation easements in eligible lands.
- (d) The Township may contract with recognized municipal corporations or governmental agencies or with legally established nonprofit land trusts or other experienced and qualified nonprofit groups that would share in the process of negotiating conservation easements, and in establishing both the baseline studies and the procedures for monitoring of any conservation easements or development rights acquired under this article which would be done in accordance with "The Standards and Practices Guidebook" issued in 1989 by the Land Trust Alliance.
- (e) Interest that the Township owns in property other than eligible lands may be exchanged for development rights in eligible lands on an equivalent appraised value basis. If the development rights exchanged are not exactly equal in appraised value, cash payments or other method of acquisition authorized by law and this article may be made to provide net equivalent value in the exchange.

(Ord. No. 6-2007, § 3, 4-16-2007)

Sec. 48-24. - Retained residential development rights.

- (a) Eligible lands on which the Township has purchased the development rights, shall remain substantially undeveloped land in order to promote agricultural use or open space character and the purposes of this article.
- (b) It may be in the best interest of an owner, the Township, and the purposes of this article, that certain owners retain some residential development rights so long as the parcel remains substantially undeveloped land. When an owner retains some development rights, the land value retained remains higher than if all development rights had been sold and the value of the development rights to be purchased is correspondingly reduced.
- (c) Applications for the sale of development rights may include a request to retain residential development rights, provided that no retained residential development rights result in adding more than a total of one dwelling unit for each 40 acres in the parcel, located in a manner to maximize agricultural use or open space character, with the location and size subject to Township Board approval.
- (d) The building locations for retained residential development rights may be restricted in the negotiated development rights easement in order to protect other important features of the property. All building locations and lot sizes must also conform to existing zoning in the Township where the property is located.

(Ord. No. 6-2007, § 4, 4-16-2007)

Sec. 48-25. - Eligible lands and priority of acquisition.

- (a) Revenues shall be used to purchase conservation easements in the order of the priority established in section 48-27.
- (b) Only development rights in farmland and open space land, as defined in this article, are eligible for consideration for purchase under this article.
- (c) Criteria for selection. The following criteria shall be used in determining the order in which applications will be prioritized in any selection round (defined in section 48-27) to purchase development rights on all eligible lands for which complete applications have been received by the Township:
  - (1) This numerical ranking system has been developed to prioritize farmland and open space land for the purchase of development rights. After an initial screening (for hazardous waste and agricultural or rural residential zoning and other preliminary matters), sites shall be evaluated using this system. It is the intention of the users of this system to direct

efforts toward high quality farmland and open space land in areas of the Township where preservation is most appropriate.

- (2) Appropriateness shall be determined by favorable natural conditions and location factors, including contiguity to farmland and the ability to support viable natural communities or scenic views. Areas eligible for consideration under this article are those lands shown in the Township Master Plan as planned for agricultural preservation, as adopted and amended from time to time.

(d) Description of the system. The farmland ranking system consists of four sections with a maximum point value of 100. The parts are summarized as below, with detailed explanations on the following pages.

PART	TOTAL POINTS
I — Characteristics of the farmland	20
II — Stewardship of the land	13

PART	TOTAL POINTS
III — Likelihood of conversion to nonfarm use	12
IV — Long-range planning considerations	32
V — Financial considerations	23

- (e) Farm land priorities. The point value arrived at through the use of the system described in (d) and (e) will be used to prioritize farmland areas for purchase of development rights. Higher point values indicate higher priority for purchase.

Note: An explanation of terms and parameters used in the system appears in appendix A.

- (1) *Part I.* Characteristics of the farmland (maximum points = 20).

- a. Type of agricultural land (See appendix for explanation of terms).

*Percentage of Prime Soils and Other Productive Soils: Score:*

Greater than 80% .....8

50%—80% .....5

Less than 50% .....2

- b. Size of parcel offered for development rights purchase (see appendix).

*Acreage: Score:*

80 acres or more .....9

40 to 79.9 acres .....5

20 to 39.9 acres .....3

Less than 20 acres .....2

- c. Farm buildings.

*Buildings: Score:*

Usable, functional farm buildings on site .....3

Usable, functional farm buildings within one mile .....1

- (2) *Part II.* Stewardship of the land (maximum points = 13).

- a. Conservation plans (See appendix).  
*Extent of Conservation Plan: Score:*  
 Conservation plan fully implemented or conservation practices used to the fullest extent necessary .....4  
 Conservation plan partially implemented or some practices used .....2
- b. Owner involvement.  
 All gross farming revenue generated from the site is generated by the owner(s) and employees .....9
- (3) *Part III.* Likelihood of conversion to nonfarm use (or site development capabilities and limitations) (maximum points = 12).
- a. Amount of road frontage.  
*Frontage: Score:*  
 2,000 feet or more .....8  
 1,000 to 1,999 feet .....4  
 500 to 999 feet .....1
- b. Amount of wetlands and/or floodplain.  
*Wetlands/Floodplain: Score:*  
 0% to 9.9% .....4  
 10% to 39.9% .....2
- (4) *Part IV.* Long-range planning considerations (maximum points = 32).
- a. *Current Master Plan Classification: Score:*  
 In area planned for agricultural usage .....15  
 Adjacent to land planned for agricultural usage .....6
- b. Current adjacent zoning classification.  
*Percent of Perimeter in Agricultural Zoning (Zoned A-1 and A-R): Score:*  
 90% or more .....6  
 75%—89% .....4  
 40%—74% .....3  
 15%—39% .....1
- c. Scenic, historical or architectural features (see appendix).  
*Features: Score:*  
 Farm site provides significant scenic value and has unique historical or architectural structures .....7  
 Farm site provides either a significant scenic vista or has unique or architectural structures .....4
- d. Natural features.  
*Features: Score:*  
 Significant stream corridors, woodlots or rare species present .....4
- (5) *Part V.* Financial considerations (maximum points = 23).

- a. Ability to attract matching funds (see appendix).

*Funds Availability: Score:*

Matching funds equal to or exceeding 65% of the appraised value are available .....8

Matching funds equal to or exceeding 50%, but less than 65%, of the appraised value are available .....5

Matching funds equal to or exceeding 10%, but less than 50%, of the appraised value are available .....3

Matching funds less than 10% of the appraised value are available .....1

- b. Owner willingness to accept less than market value (see appendix).

*Owner Willingness: Score:*

Owner willing to accept below appraised value:

Offer below 50% of appraised value .....15

50%—59% of appraised value .....9

60%—69% of appraised value .....7

70%—79% of appraised value .....6

80%—89% of appraised value .....4

90%—95% of appraised value .....3

96%—99% of appraised value .....1

- (f) Description of system. The open space ranking system consists of five sections with a maximum point value of 100. The parts are summarized below, with detailed explanations following:

PART	TOTAL POINTS
I — Characteristics of the land	<u>42</u>
II — Context	10
III — Likelihood of conversion to more developed use	6
IV — Long-range planning considerations	<u>22</u>
V — Financial considerations	20

- (g) Open space priorities. The point value arrived at through the system described in (f) and (g) will be used to prioritize open space areas for purchase of development rights. Higher point values indicate higher priority for purchase.

- (1) *Part I.* Characteristics of the land (maximum points = 42).

- a. Mature trees, rare species and important habitats.

*Natural feature elements:*

Species and/or habitats of special concern .....10

Mature native forest or grassland elements .....6

Early successional plant communities .....3

- b. Size of parcel.

*Acreage:*

40 acres or more .....6

20 to 40 acres .....3

Less than 20 acres .....1

c. Amount of wetlands and/or floodplain.

*Wetlands/floodplain:*

20% or more .....10

10% to 20% .....6

Less than 10% .....3

No wetlands or floodplain .....0

d. Amount of public water resources frontage.

*Frontage:*

500 feet or more .....10

100 to 500 feet .....6

Less than 100 feet .....3

No frontage .....0

e. Amount of steep terrain.

*Slopes >12%:*

20% or more .....6

10% to 20% .....3

Less than 10% .....1

No steep slopes .....0

(2) *Part II.* Context (maximum points = 10).

a. Scenic features.

*Features:*

Site provides a broad, sweeping view from publicly accessible sites .....4

b. Adjacent land use.

*Percent of adjacent properties in ag or open space use:*

90% or more .....6

75 to 89% .....4

40 to 74% .....3

15 to 39% .....1

Less than 15% .....0

(3) *Part III.* Likelihood of conversion to developed use (or site development capabilities and limitations) (maximum points =



6), measured by amount of road frontage.

*Frontage:*

2,000 feet or more .....6

1,000 to 2,000 feet .....3

500 to 1,000 feet .....1

Less than 500 feet .....0

(4) *Part IV.* Long-range planning considerations (maximum points = 22).

a. Current Township Master Plan classification.

*Classification:*

In area planned for agricultural production .....6

In area planned for open space preservation .....6

All other master plan classifications .....0

b. Current adjacent zoning.

*Percent of Perimeter in Agricultural (A-1 and A-R) or Recreation Conservation (RC) Zoning:*

90% or more .....6

75 to 89% .....4

40 to 74% .....3

15 to 39% .....1

Less than 15% .....0

c. Proximity to protected land.

*Distance to permanently protected land:*

Adjacent .....10

Within one-half mile .....6

One-half to one mile .....3

(5) *Part V.* Financial considerations (maximum points = 20).

a. Ability to attract matching funds.

*Matching funds availability:*

65% or more of appraised value .....10

50% to 65% .....6

10% to 50% .....3

5% to 10% .....1

No matching funds .....0

b. Owner willingness to accept less than market value.

*Owner donation:*

More than 50% of appraised value .....10

41% to 50% .....8

31% to 40% .....6

21% to 30% .....4

11% to 20% .....3

5% to 10% .....2

1% to 5% .....1

Less than 1% .....0

(Ord. No. 6-2007, § 5, 4-16-2007; Ord. No. 1-2014, § 1, 2, 8-18-2014)

Sec. 48-26. - Farmland and Open Space Preservation Board.

- (a) A seven-member Farmland and Open Space Preservation Board (or Preservation Board) shall be appointed by the Board of Trustees. The Board of Trustees shall seek the names of nominees for the Preservation Board by the means usually employed for other boards and commissions. If possible, at least two members shall have current farming experience. The purpose of the Preservation Board is to review applications submitted by property owners and, using the ranking system defined in section 48-25, select and make a recommendation to the Township Board of Trustees of properties upon which development rights should be purchased. Four members of the Preservation Board shall be a quorum. Selection of eligible lands shall be made by a majority of Preservation Board members present at a meeting at which a quorum is present, convened on not less than ten days' prior written notice to all members of the Preservation Board.
- (b) Two members of the Preservation Board may be nonresidents of the Township. All other members shall be residents of the Township. The Preservation Board shall include one representative of the Township Board. The Township Board may appoint ex officio members.
- (c) The Preservation Board may consult experts, as it may desire after the Board of Trustees has appropriated funds for that purpose.
- (d) Members shall serve three-year terms, except that the initial term of three members shall be two years and the initial term of four members shall be three years. Members may be removed by the Township Board at its discretion. Members may receive reasonable compensation for their services as determined by resolution of the Township Board. Members shall be reimbursed for expenses actually incurred in the performance of their duties. Members may be reappointed to successive terms.
- (e) No member shall vote on the selection of a parcel for the purchase of development rights if such member has an ownership or other financial interest in such parcel or in a parcel adjacent to parcel being considered.

(Ord. No. 6-2007, § 6, 4-16-2007; Ord. No. 9-2007, 10-15-2007; Ord. No. 2-2009, 5-18-2009)

Sec. 48-27. - Selection.

- (a) The Farmland and Open Space Preservation Board shall conduct a voluntary property selection process for the purchase of development rights (herein called the "selection round") generally as follows:
  - (1) In all selection rounds, properties of higher priority shall be purchased with available funds before properties of lower priority are purchased, provided:
    - a. The Preservation Board may negotiate for a lower price and/or seek outside funding for the purchase of development

rights on any parcel offered, subject to approval of the Township Board.

- b. In the interest of protecting a significant amount of farmland and open space land, the Preservation Board may determine not to buy all or any of the development rights on a particular parcel if the Preservation Board makes a finding that it is in the best interest of the program to protect a larger number of acres rather than a smaller number of acres of higher-valued development rights.
  - c. The Preservation Board may establish preferences among applicants of roughly equal ranking for applications judged to have the most favorable impact upon future land use in the Township.
  - d. The Preservation Board may receive and act on appeals of any factual nature by affected property owners.
- (b) The Preservation Board shall begin each selection round by publishing a notice 30 days prior to the selection round in one newspaper of general circulation in Ann Arbor Charter Township. The notice shall describe the properties eligible for purchase in the selection round in accordance with this article; the general procedure to be followed in the selection process (including an estimated time schedule for the steps in the process); and shall invite the owners of such properties to make application for purchase of development rights by the Township and to describe the development rights which the owner is willing to sell, including any residential development rights to be retained by the owner. Applications shall be submitted to a location within the Township to be specified by the Preservation Board and stamped with the date of receipt.
- (c) Written applications by owners who desire to have their development rights purchased by the Township shall be submitted on application forms provided by the Preservation Board, and shall include a detailed description of the development rights, if any, the owner desires to retain. All property in a single ownership may be included in one application. Contiguous properties under the same ownership will be treated [as] one application.
- (d) Upon closing of the application period, the Preservation Board shall review each application that has been received to determine the eligibility and priority classification of each conservation easement and to verify ownership by tax records and title searches.
- (e) For those eligible lands that meet the requirements of section 48-25, the Preservation Board shall order an appraisal of the applicant's development rights. A "before and after" appraisal shall be made to determine the value of development rights to be purchased. One appraisal shall determine the fair market value of full ownership of the land (excluding buildings thereon) and one shall determine the fair market value of the agricultural rights plus any specifically retained residential development rights.
- (f) Appraisals shall be made by State-certified appraisers selected by the Preservation Board. The selected appraiser shall not have an ownership interest, personal interest or financial interest in eligible lands. The same appraiser shall conduct both the before and after appraisals.
- Appraisals shall be in writing and shall be furnished to the respective owners for review. Errors of fact in any appraisal may be called to the attention of the appraiser by the Preservation Board or by owners of the property appraised, but corrections of the appraisal may be made only by the appraiser upon authorization by the Preservation Board.
- (g) The Preservation Board shall provide the Township Board with a written report and recommendation, including the form of proposed conservation easement, for any proposed development rights, which the Preservation Board determines would be in the best interest of the Township to purchase, in accordance with the purposes of this article. The Township Board shall consider such report and recommendation and may request further information or study by the Preservation Board. After review of the report and recommendation, and receipt of any additional information, the Township Board shall, by majority vote of its members, approve or disapprove the proposed development rights purchase. If approved, the development rights easement shall be promptly executed and recorded and the Township assessor shall be provided with a copy of the recorded document.

(Ord. No. 6-2007, § 7, 4-16-2007)

Sec. 48-28. - Duration of acquired interests.

- (a) Development rights acquired pursuant to this article shall be held in trust by the Township for the benefit of its citizens in perpetuity. Provided, if the Township Board finds, upon recommendation of the Preservation Board, if existing, and on request of an owner of property on which a development rights had been purchased by the Township more than 50 years prior, that the property can no longer reasonably sustain agricultural use or that the property has lost its open space character, the Township Board shall have the right, by majority vote of its members, to relinquish such development rights to the owner, subject to conditions set forth in this section 48-28. The owner shall pay the fair market value of the relinquished development rights at the time of their return, as determined by a State-certified appraiser. Proceeds of such disposition shall first be used for the acquisition of interests in eligible lands as provided in this article. If no eligible lands are available, the proceeds may be used to purchase or improve parkland or open spaces. A "before and after" appraisal shall be made to determine the value of the development rights relinquished, and the Township Board, or the Board of Trustees in its absence, shall not relinquish the development rights for an amount less than the appraised value. One appraisal shall determine the fair market value of full ownership of the land (excluding buildings thereon) and the other shall determine the fair market value of the agricultural rights plus any retained residential development rights. Appraisals of the fair market value of full ownership of a development rights shall be made by State-certified appraisers selected by the Preservation Board, or the Board of Trustees in its absence. The selected appraiser shall not have an ownership interest, personal interest or financial interest in eligible lands. In any event, the same appraiser shall conduct the before and after appraisals. Upon receiving the recommendations of the Preservation Board, if any, the Board of Trustees shall take final action on such recommendations.
- (b) If the Township Board approves a request that farmland and open space land described in this article can no longer reasonably be used for agricultural use or has lost its open space character, the Township shall have a right of first refusal to purchase the remaining rights of the property at the fair market value of the agricultural use plus any retained development rights, as determined by a State-certified appraiser, for the purposes of a Township park or other publicly accessible property. Upon receiving the recommendations of the Preservation Board, if any, for such purpose, the Board of Trustees shall take final action on such recommendations.
- (c) The Township may convey development rights acquired pursuant to this article to a legally existing and recognized conservation, open space preservation, historic preservation or similar organization under terms ensuring that the public benefits for which the Township purchased the development rights will be maintained.

(Ord. No. 6-2007, § 8, 4-16-2007)

#### Sec. 48-29. - Related costs.

The costs of appraisal, engineering, surveying, planning, financial, legal and other services lawfully incurred incident to the acquisition of development rights in eligible lands by the Township in accordance with this article shall be paid by the Township. The Township shall not be responsible for expenses incurred by the owner incident to any purchase of a conservation easement.

(Ord. No. 6-2007, § 9, 4-16-2007)

#### Sec. 48-30. - Supplemental funds.

To the extent authorized by law, supplemental or matching funds from other governmental agencies or private sources may become available to pay a portion of the cost of acquiring development rights, or some lesser interest in eligible lands or to supplement or enlarge such acquisition. The Township Board, upon recommendation of the Farmland and Open Space Preservation Board, is authorized to use such funds to purchase development rights in eligible lands or to otherwise supplement Township funds in the manner provided by this article and in accordance with the applicable laws or terms governing such grant.

(Ord. No. 6-2007, § 10, 4-16-2007)

#### Sec. 48-31. - Development rights acquisition fund.

- (a) The revenues for purchasing development rights on farmland and open space land shall be placed in a designated development rights acquisition fund to be hereafter created in the Office of the Treasurer of Ann Arbor Charter Township

("acquisition fund"). Money in such acquisition fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of Township money.

- (b) The revenues and any interest received from the deposit or investment of such revenues shall be applied and used solely for the purposes set forth in this article.

(Ord. No. 6-2007, § 11, 4-16-2007)

Sec. 48-32. - Enforcement; monitoring.

- (a) The Township Building Official, at the direction of the Township Board and in consultation with the Township Attorney and the Preservation Board, shall administer and enforce this article and all conservation easements granted pursuant to this article in accordance with the terms of this article, the applicable conservation easement, and applicable State and Federal law. In addition to the other rights and remedies available to the Township pursuant to a conservation easement and applicable State and Federal law, a violation of this article shall be a civil infraction subject to the general provisions for municipal civil infraction violations of Township ordinances.
- (b) The Preservation Board shall advise and make recommendations to the Township Board on monitoring and investigation of complaints of violations of this article or a conservation easement.
- (c) Monitoring of conservation easements shall occur at least annually and shall be conducted by the Preservation Board. Written monitoring reports of all conservation easements granted pursuant to this article shall be filed with the Township and applicable State and Federal authorities by January 31 of each year. Monitoring shall be conducted as follows:
- (1) Written notice shall be sent to the landowner by certified mail ten days prior to a monitoring visit;
  - (2) A monitoring visit should be at a time mutually agreeable to both the Township and landowner;
  - (3) Within ten days of conducting the visit the Township should prepare a written report setting forth the following information:
    - a. Identification of the property visited;
    - b. Name of owner when easement was acquired and the name of the current owner;
    - c. A description of the modifications in the number, type, location or use of any structures on the property since the date of the recording of the conservation easement; and
    - d. A statement of whether the provisions of the conservation easement have been observed; and
  - (4) A copy of the report shall be sent by certified mail to the landowner.

(Ord. No. 6-2007, § 12, 4-16-2007)