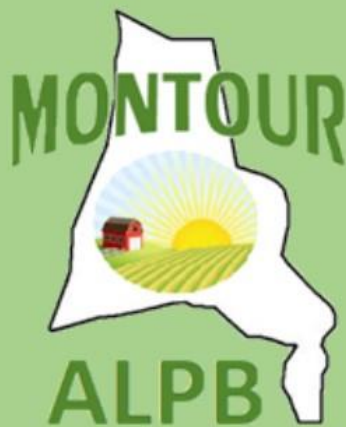


# MONTOUR COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM



Adopted on Oct. 15, 1992

By the:

Montour County Agricultural Land Preservation Board

Revisions: 3/17/97; 2/13/04; 6/05

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## **I. Introduction**

Montour County is located in the ridge and valley section of central Pennsylvania and is bordered on the East by Columbia County, on the West and South by Northumberland County, and on the North by Lycoming County. The County covers an area of approximately 83,000 acres or 130 square miles. The current population of the county is approximately 18,272 or 141 people per square mile. Montour County is the smallest county in land area in the state.

Of this land, 38,635 acres are currently in farms. This is 46.5% of the land area. There are 356 farms in the county according to information from the USDA Ag Census of 2017. The predominant type of agriculture is crop farms with the predominant crops grown being corn and soybeans. Vegetable acreage is on the increase with tobacco as a specialty crop increasing in recent years. Soils in the County range from limestone based soils in the Western part of the County to shale associations over the remainder.

Agriculture contributes an annual income of \$17.1 million from the sale of crops, livestock and livestock products to the economy of Montour County.

The value of Montour County farmland contributes more than just income to the County. The open space, wildlife habitat, and aquifer recharge areas cannot be valued in dollars.

According to the census of agriculture in 1959, Montour County had a total of 490 farms with an average size of 124 acres for a total of 60,808 acres, which equaled 73% of the land area. The latest census shows 356 farms with an average size of 109 acres for a total of 38,635 acres or 46.5% of the land area. The steady decline in the amount of land in farms is directly attributed to residential, commercial, and industrial development.

With the expansion of local industry and institutions, a greater demand for housing is placing even more pressure on farmland in the County.

This plan to preserve valuable farmland will help to preserve and enhance the quality of life in Montour County for future generations.

## **II. General Provisions**

### **Purpose**

It is the purpose of this program to protect viable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production.

Further, it is the purpose of this program to:

1. Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use;
2. Protect normal farming operations in agricultural areas from incompatible non-farming uses that may render farming impracticable;
3. Protect farming operations from complaints of public nuisance against normal farming operations;
4. Assure conservation of viable agricultural lands in order to protect the agricultural economy of this Commonwealth;
5. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property; and
6. Maximize agricultural easement purchase funds and protect the investment of taxpayers in agricultural conservation easements.
7. Encourage financial partnerships between State and local governments with nonprofit entities in order to increase the funds available for agricultural conservation easement purchases.

## **Definitions**

The following words and terms, when used in this document, have the following meanings, unless the context clearly indicates otherwise:

Act – The Agricultural Area Security Law (3 P.S. Sections 901-915), as amended.

Agricultural conservation easement or easement – An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of a parcel for a purpose other than agricultural production. The easement may be granted by the owner of the fee simple to a third party or to the Commonwealth, to a County governing body or to a unit of local government. It shall be granted in perpetuity as the equivalent of covenants running with the land. The exercise or failure to exercise any right granted by the easement will not be deemed to be management or control of activities at the site for purpose of enforcement of the Hazardous Sites Cleanup Act (35 P. S. 6020.101—6020.1305).

Agricultural Erosion & Sedimentation Control Plan (Ag E&S Plan) – A site specific plan identifying BMPs to minimize accelerated erosion and sedimentation from agricultural runoff required by 25 Pa. Code Chapter 102. The agricultural erosion and sediment control components of a conservation plan meet this requirement if consistent with the requirements of Chapter 102 which became effective on November 19, 2010.

Agricultural production – The production for commercial purposes of crops, livestock and livestock product, 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 under a soil conservation program under an agreement with an agency of the Federal government.

Agricultural value – The sum of:

1. The farmland value determined by the applicant's appraisal; and
2. One-half of the difference, between the farmland value determined by the state or County Board's appraiser and the farmland value determined by the applicant's appraiser if the farmland value determined by the state or County Board's appraiser exceeds the farmland value determined by the applicant's appraiser.

Allocation – The State Board's designation of funds to the counties under section 14.1 of the Act (3 P.S. Section 914.1). An allocation is an accounting procedure only and does not involve certifying, reserving, encumbering, transferring or paying funds to eligible counties.

Annual easement purchase threshold – An amount annually determined by the State Board.

Applicant – A person offering to sell an easement on a farmland tract.

Appropriation – The irrevocable commitment of a specific amount of money by the County governing body exclusively for the purchase of easements.

Bargain Sale – A transaction where a landowner(s) accept less than 100% of the easement value.

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."

Comparable sales – Market sales of a similar land. In locating comparable sales, first priority shall be given to farms within the same municipality as the subject land. The second priority shall be farms located within other municipalities in the same County as the subject land. The lowest priority shall be given to farms located outside the same county as the subject land.

Conservation plan – A plan describing land management practices, including an installation schedule and maintenance program, which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land.

Contract of sale – A legally enforceable agreement in a form provided by the State Board obligating the landowner to sell, and the Commonwealth or a County, or both, to purchase an agricultural conservation easement on a specific farmland tract.

Contiguous Acreage – All portions of one operational unit as described in the deed, whether or not the portions are divided by streams, public roads, bridges, railroads and whether or not described as multiple tax parcels, tracts, purports, or other property identifiers. The term includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams, or as otherwise defined in 138e.3 (relating to definitions).

County – Montour County, Pennsylvania.

County Board – The Montour County Agricultural Land Preservation Board as appointed by the Montour County Commissioners.

County fiscal year- The period from January 1 through December 31 of a particular calendar year.

County governing body – The Montour County Board of Commissioners.

County matching funds – Money appropriated by the Montour County Commissioners for the purchase of easements.

County planning commission- A planning commission or agency which has been designated by the county governing body to establish and foster a comprehensive plan for land management and development within the County.

County program – A Montour County Agricultural Land Preservation Program for the purchase of easements authorized and approved by the Montour County Commissioners.

Crops, livestock and livestock products –The term includes:

1. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans;
2. Fruits, including apples, peaches, grapes, cherries, and berries;
3. Vegetables, including, tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms;
4. Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
5. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, furs;
6. Timber, wood and other wood products derived from trees; and
7. Aquatic plants and animals and their byproducts.

Crops unique to the area – Include, but are not limited to, crops which historically have been grown or have grown within the last five years in the region and which are used for agricultural production in the region.

Curtilage – The area surrounding a residential structure used for yard, driveway, onlot sewage system or other nonagricultural purposes.

Department – The Department of Agriculture of the Commonwealth.

Easement value – The difference between the nonagricultural value and agricultural value of a farm. If solely the County or State appraisal is used, nonagricultural value and agricultural value are equal to market value and farmland value, respectively. If the landowner obtains an independent appraisal, nonagricultural value and agricultural value shall be calculated according to Section 14.1(f) (3 P.S. Section 914.1(f) of the Act.

Economic viability of farmland for agricultural production – The capability of a particular tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted under Section 14.1(c)(6)(iv) of the Act (3 P.S. § 914.1(c)(6)(iv)), to meet the criteria set forth at Section 138e.16 (a) (relating to minimum criteria for applications).

Eligible Counties – Counties whose EASEMENT PURCHASE programs have been approved by the State Board. For the purpose of annual allocations, an eligible county must have its EASEMENT PURCHASE program approved by the State AGRICULTURAL LAND PRESERVATION Board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.

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 99-514, 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.

Encumbered – Previously allocated funds reserved by the Commonwealth or a County to pay all or part of the costs of purchasing a specific easement under a specific contract of sale.

Farm – Land in this Commonwealth which is being used for agricultural production as defined in the act.

Farmland tract – Land constituting all or part of a farm with respect to which easement purchase is proposed. A farmland tract may consist of multiple tracts of land that are identifiable by separate tax parcel numbers, separate deeds or other methods of property identification.

Farmland value – The price as of the valuation date for property used for normal farming operations which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property.

Fund – The Agricultural Conservation Easement Purchase Fund established by the Act of May 13, 1988 (P.L. 398, No. 64).

Grant Funds – Funds allocated to a County by the State Board under Section 14.1(h)(2) and (5)(ii) of the Act (3 P.S. Section 914.1(h)(2), (5)(ii)), the expenditure of which is not contingent upon the appropriation and expenditure of County matching funds.

Grantee – The person or entity to whom an easement is conveyed under the act.

Grantor – The person or entity who conveys an easement under the act.

Grazing or pasture land – Land, other than land enrolled in the USDA Conservation Reserve Program, used primarily for the growing of grasses and legumes which are consumed by livestock in the field and at least 90% of which is clear of trees, shrubs, vines or other woody growth not consumed by livestock.

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 at Section 138e.16(a), or to create through subdivision, a tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time employees is permitted under Section 14.1(c)(6)(iv) of the Act that would fail to meet the criteria in 138e.16(a).

Harvested Cropland – Land, other than land enrolled in the USDA Conservation Reserve Program, used for the commercial production of field crops, fruit crops, vegetables and horticultural specialties, such as Christmas trees, flowers, nursery stock, ornamentals, greenhouse products and sod. The term does not include land devoted to production of timber and wood products.

Immediate family member – A brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the landowner.

Land Capability Class (LCC) – A group of soils designated by either the County Soil Survey, as published by USDA-NRCS in cooperation with the Pennsylvania State University and the Department, or the Soil and Water Conservation Technical Guide maintained and updated by USDA-NRCS.

Land development – Either of the following activities:

1. 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
2. A subdivision of land.

Landowner- The person holding legal title to a particular farmland tract

Land which has been devoted primarily to agricultural use – That 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 curtilages, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of 2 acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted under Section 14.1(c)(6)(iv) of the Act.

Local government unit—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.

Manure Management Plan (MMP) – A written site specific plan outlining the agreed upon and acceptable practices for the land application of manure and agricultural process wastewaters under the regulations implemented by the Pennsylvania Department of Environmental Protection.

Mansion house—The primary residential structure located upon a parcel.

Market value – The price as of the valuation date for the highest and best use of the property which a willing and informed seller who is not obligated to sell would accept for the property, and which a willing and informed buyer who is not obligated to buy would pay for the property.

Nonagricultural value – The sum of:

1. The market value determined by the state or County Board's appraiser; and
2. One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the state or the County Board's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the state or County Board's appraiser

Nonprofit land conservation organization – A nonprofit organization dedicated to land conservation purposes, recognized by the Internal Revenue Service as a tax-exempt organization under the Internal Revenue Code (26 U.S.C.A. Sections 1-7872).



Normal farming operation – The customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock, and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, and silvicultural, and aquacultural crops and commodities. The term includes the storage and utilization of agricultural and food processing wastes for animal feed and the disposal of manure, other agricultural waste and food processing waste on land where the materials will improve the condition of the soil or the growth of crops or will aid in the restoration of the land for the same purposes.

Nutrient management plan- A written site-specific plan which incorporates best management practices to manage the use of plant nutrients for crop production and water quality protection consistent with the Nutrient Management Act (3 P. S. §§ 1701—1718)

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 unit, or both, shall be eligible to purchase agricultural conservation easements covering the entire tract.

Pennsylvania Municipalities Planning Code – 53 P.S. §§ 10101-11201.

Person - A corporation, partnership, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

Planning Commission - A local government planning commission or agency which has been designated by the governing body OF THE LOCAL GOVERNMENT UNIT to establish and foster a comprehensive plan for land management and development within the local government unit.

Restricted Land – Land which is subject to the terms of an agricultural conservation easement acquired under the act.

Secretary – The Secretary of Agriculture of the Commonwealth.

Soils available for agricultural production – Soils on land that is harvested cropland, pasture or grazing land, or land upon which no structure, easement, roadway, curtilage or natural or manmade feature would impede the use of that soil for agricultural production.

Soils report – A report which identifies and sets forth the amount of each land capability class found on a farm land tract.

State Board – The State Agricultural Land Preservation Board.

State-certified general real estate appraiser—A person who holds a current general appraiser’s certificate issued under the Real Estate Appraisers Certification Act (63 P.S. §§ 457.1—457.19).

State matching funds – Funds allocated to a County by the State Board under Section 14.1(h)(3), (4), or (5)(I) of the act, the expenditure of which is contingent upon the appropriation and expenditure of County matching funds.

Subdivision – The division or redivision 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, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development, or as otherwise defined in § 138e.3.

Title report – A report prepared by a person authorized by the Insurance Department to engage in the sale of title insurance or an attorney setting forth the existence of any liens, restrictions or other encumbrances on a farmland tract. The term does not include the title search, but does include the title binder or the title commitment, or both.

USDA – The United States Department of Agriculture.

USDA-NRSC – The Natural Resource Conservation Service of the USDA. This entity was formerly known as the Soil Conservation Service.

Viable agricultural land—Land suitable for agricultural production and which will continue to be economically feasible for that use if real estate taxes, farm use restrictions and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related nonagricultural development.

### **III. Purchase Procedure**

Applications will be accepted by the County Board at least annually from January 1 to March 1. Landowners interested in selling an agricultural conservation easement to Montour County and the Commonwealth of Pennsylvania should use the following procedure.

1. Check Eligibility Criteria – Appendix D
2. Submit Application Form – Appendix E

A complete application shall include, a completed form, \$50.00 fee, location maps, a soils report, and a crop and livestock report done in accordance with the model formats included in the state guidebook and any future revisions thereto ( § 14.1(a)(3)(xv) and (b)(2)(xiv).

After submission of the application, the County Board’s staff will meet with the applicant to answer questions and determine if state and county minimum criteria for participation in the program are met. See Appendix D for a listing of the state and county minimum requirements.

If minimum criteria are not met, the applicant will be mailed a letter of rejection with an explanation of why the application was rejected.

#### **Initial Review of Application**

After the full application has been submitted, it will be checked to make sure that all minimum requirements are met. If all minimum requirements are met, the application will be scored with the Land Evaluation and Site Assessment System (LESA). The LESA system provides a way to rank the easement applications by evaluating soil location factors for each tract under consideration. See Section IV for a complete description of the LESA system and how application will be scored using it.

Following the LESA analysis on each application, the County Board will determine an appraisal order for applicants. Preference for appraisals will be given to applicants with the highest LESA scores. The application with the highest LESA score will be appraised first, followed by the next highest LESA score and so on. The County Board reserves the right to limit the number of applications it chooses to appraise.

## **Appraisal Procedure**

The appraisal procedure will follow the regulations provided by the Commonwealth. Appraisals will be conducted using the comparable sales method See Appendix K for the details of how appraisals shall be conducted.

## **Easement Value and Purchase Price**

In Montour County, only perpetual easements will be eligible for purchase. The appraisal report will provide the County Board with an estimate of the value of the easement, which is the difference between market value and the farmland value.

## **Approval of Purchase by the Montour County Board**

Final purchase decisions will be based on the following factors:

1. LESA score
2. Cost factors
  - a. Available funds
  - b. Cost per acre
  - c. Percent of easement value
3. Consistency with planning map

If the County Board decides not to make an offer to purchase an easement on the farmland tract, the applicant shall be notified in writing.

## **Purchase Negotiations with Applicants**

After the County Board has decided to make an offer for the purchase of an agricultural conservation easement, the Board or its representative will meet with the applicant to discuss the offer. At this meeting, the appraisal reports will be reviewed with the applicant. A formal offer for purchase of a conservation easement shall be submitted to the applicant in writing and accompanied by the appraisal report. The offer may be less than or equal to the appraised value of the easement.

The applicant may, at the applicant's expense, retain another State certified general real estate appraiser to determine a second easement value. This second appraisal must be completed in accordance with the state regulations as found in Appendix K.

If the applicant secures an independent appraisal, the easement value shall be determined using a combination of the two appraisal reports using the formula described in Appendix K.

Within 30 days of receipt of the written offer from the County Board, an applicant may either:

1. Accept the offer
2. Reject the offer, or
3. Secure an independent appraisal as set forth by the state guidelines (See Appendix K)

The failure of the applicant to act within 30 days shall constitute rejection of the offer.

If the offer of purchase is accepted by the applicant, the County Board and the applicant shall enter into an agreement of sale. The agreement shall be conditioned upon the approval of the State Agricultural Land Preservation Board, the availability of funds, and be subject to the ability of the applicant to provide good title to the premises, free of any encumbrances such as liens, mortgages, options, rights of

others in surface mineable coal, land use restrictions, adverse ownership interests, and other encumbrances which would adversely impact the county and Commonwealth's interest in the farmland tract.

### **Agricultural Easement Deed**

At settlement, the applicant must execute a deed conveying the easement. All deeds of easement shall adhere to the Commonwealth's and County's agricultural easement deed requirements as found in the appropriate appendices. Local Government Units may participate as Co-Grantees to the Deed of Easement along with either the State, County, or both. State and County minimum eligibility, selection criteria, and applicable State regulations must be adhered to prior to and during commencement of all deeds of easement. See appendix O to review provisions for the participation of local governments units in the preservation of farmland through the purchase of agricultural conservation easements.

### **State Board Review for Approval for Purchase of Easement**

Application for State Board review of a proposal purchase of an easement is made by submitting the following documents to the Director, Bureau of Farmland Protection, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408.

1. Twenty-five copies of the summary report prepared in accordance with § 138e.69 of the Act (relating to summary report), including the following items:
  - a. Cover letter from County (optional)
  - b. Narrative summary report
  - c. Legible United States Geological Survey (USGS) topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
  - d. Soil Report Form "C", (a form provided by the Department) both pages.
  - e. List of soil mapping unit names, symbols and Land Capability Classes on the subject property.
  - f. Legible, uncolored soil map of subject property
  - g. Tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility, rights-of-way, and access road rights-of-way.
  - h. Summary table showing the individual ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applicants.
  - i. Copy of Exhibit "B", from the Agreement of Sale, modified to include interest, total acres and per acre easement cost.
  - j. Twenty-five copies submitted shall be individually collated and three-hole punched, but not stapled.
2. The appraisal report or reports.
3. The signed agreement of sale, including the proposed legal description, a statement of cost, the proposed deed of agricultural conservation easement, a contractor integrity clause, and a nondiscrimination clause.
4. The title insurance report or commitment.
5. A letter certifying that all adjoining landowners were provided notice and opportunity to be heard in a manner consistent with administrative agency law with respect to the proposed

easement purchase, including one (1) copy of the notification letter and a list of all adjoining landowners.

6. A completed and signed IRS form W-9, Request for Taxpayer Identification Number and Certification for individual grantors.
7. A letter from the grantors stating the percent (%) of ownership of each grantor for the purpose of issuing IRS form 1099.
8. A copy of the landowner's application including signatures.
9. Subordinations, if there are liens on the property, or letter of pay off.
10. An updated Conservation Plan.
11. An updated Nutrient Management Plan, if required.
12. Certification of County Funding.
13. Deed plot and calculations showing closure error, or a certified survey (if necessary), and the legal description of the property. See appendix G for survey requirements.
14. Colored Soil Map using specific "class colors".
15. Corporation, Trust, or Partnership agreement (when applicable).
16. Copy of Book and Page of ASA parcel recording.

#### **IV. Application Ranking System**

Applications will be ranked using a two-part Land Evaluation and Site Assessment (LESA) system. The Land Evaluation looks at the quality of the soils and the Site Assessment considers locational factors that may have an impact on current or future viability of a farm. The numerical ranking system will be used to prioritize applications for the appraisal of properties meeting the minimum criteria of the County program.

##### **Land Evaluation**

This part of the LESA system is based on soils data obtained from the Montour County Soil Survey and/or the Soil and Water Conservation Technical Guide maintained by the local USDA Natural Resource Conservation Service (NRCS). The Soil Survey was published in 1985 by the USDA Soil Conservation Service in cooperation with the Pennsylvania State University, College of Agriculture; the Pennsylvania Department of Environmental Resources, State Conservation Commission; and the Montour County Board of Commissioners.

The most up to date soils information will be used in evaluating applications for soil quality. Each soil mapping unit found in Montour County has been assigned a score based on its land capability classification, important farmland classification and productivity for corn. Based on these factors, each soil has been assigned a relative value, with 100 being assigned to the best soils for agricultural production in the county. All the other soils in the county have been assigned relative values less than 100. See Appendix H for a listing of the relative values for all the soils in the county.

Using the tables found in Appendix H, each farm under consideration will be assigned an average relative value for the soil types making up the tract. The highest average relative value a farm can receive is 100. The average relative value for the farm will then be weighted to receive the Land Evaluation (LE) portion of the LESA score. A weight of 50% will be used to determine the LE score under the LESA system for soils.

## Site Assessment

The site assessment portion of the LESA System consists of factors which relate to the viability of the site for present and future agricultural use. These factors consider development pressures in the area and the likelihood of future development impacting the farm operation. The site assessment consider factors that affect the relative importance of the site for agriculture. These factors are grouped into three categories for evaluation and rating:

1. Development Potential: (10%) Factors which measure the limitations to continue farming on a subject site imposed by development pressures.
2. Farmland Potential: (30%) Factors which measure the potential agricultural productivity of farming practices of the site. These factors include secondary values of a site, such as historic, cultural, scenic, or environmental values.
3. Clustering Potential: (10%) Factors which measure the importance of preserving blocks of farmland which support commercial agriculture and help to shield the agricultural community against conflicts with incompatible land uses.

Site assessment categories shall receive a total weight of 50% for the three categories. The weighted scores are obtained by multiplying the individual scores for each site assessment category with the variable weighted value for Development Potential (DP), Farmland Potential (FP), and Clustering Potential (CP).

## Scoring

The weighted scores are added for all the Land Evaluation (LE), Development Potential (DP), Farmland Potential (FP), and Clustering Potential (CP) factors and ranked by priority according to the highest total weighted score to the lowest total weighted score. Farms will then be selected for appraisal according to the priority ranking from the highest weighted score to the lowest weighted score.

Categories of evaluation	Total Possible Points/Category	Weight of Points	Highest Possible Weighted Score
Land Evaluation	100	50%	50
Development Potential	100	10%	10
Farmland Potential	100	30%	30
Clustering Potential	100	10%	10

Total Points = 400

Maximum Weighted Score = 100

## **Development Potential**

1. Public Sanitary Sewer System: Distance of tract from public sanitary sewer system. A tract of land in closest proximity to sewer service shall receive a higher score.

Status of Site	Point Allocation
Sewer line adjacent to tract	40
Sewer line within ¼ mile	20
Sewer line within ½ mile	10
Sewer line within 1 mile	5

- 1b. For Municipalities without a Public Sewer System (Alternative Factor): Percent of soils that would have slight to moderate limitations for on-lot sewage disposal. A tract of land which has a higher percentage of soils that are suitable for on-lot sewage disposal (Class I and II Soils) shall receive a higher score.

Status of Site	Point Allocation
61% to 100%	40
41% to 60%	20
21% to 40%	10
6% to 20%	5
0% to 5%	0

2. Public Water System: Distance of tract from public water system. A tract of land in closest proximity to public water service shall receive a higher score.

Status of Site	Point Allocation
Water line adjacent to tract	10
Water line within ½ mile	5
Water line more than 1 mile	0

3. Road Frontage: Amount of public road frontage along or through a tract of land. A tract with more public road frontage shall receive a higher score.

Status of Site	Point Allocation
Greater than 1 mile	20
½ to 1 mile	10
Less than ½ mile	5

4. Railroad Frontage: Amount of railroad frontage along or through a tract of land. A tract with more railroad frontage shall receive a higher score.

Status of Site	Point Allocation
Greater than 1 mile	10
½ to 1 mile	7
Less than ½ mile	5

5. Extent of Non-Agricultural Use In Area: Extent of Non-Agricultural use in area (1 mile radius). A tract with extensive non-agricultural uses in the area shall receive a higher score than a tract that is more distant from such non-agricultural uses.

Status of Site	Point Allocation
Intensive development within 1 mile of farm (85% to 100%)	20
Extensive development within 1 mile radius (50% to 84%)	15
Scattered development within 1 mile radius (25% to 49%)	10
Minimal development within 1 mile radius (0% to 24%)	5

### **Farmland Potential**

1. Acreage of Farmland Tract

Status of Site	Point Allocation
Over 80 acres	20
51 to 80 acres	10
Less than 50 acres but 10 acres or more contiguous to another perpetually eased tract or farm	5

2. Percentage of tract in harvested cropland, pasture, or grazing land: Large amounts of productive farmland make a farm more viable. If a large percentage of the tract is not used as productive farmland, a lower score will be received.

Status of Site	Point Allocation
100%	20
75% to 99%	10
50% to 74%	5
Less than 50%	0

3. Stewardship of the land and use of conservation and best management practices: No score will be awarded under this factor unless sound soil and water conservation practices are in place with respect to at least 50% of the tract. The implementation of soil erosion control, sedimentation control, nutrient management, and other practices demonstrating good stewardship of the tract shall be considered in scoring this factor.

Status of Site	Point Allocation
Farm is at least 90% compliant with plans	20
Farm is less than 90% compliant with plans	0



4. Century/Historical Farm:

Status of Site	Point Allocation
A "declared century" farm or "declared historically significant" farm by the appropriate Federal/State/Local Agency	10

5. Farm product sales: This factor measures the productivity of the tract. A higher score will be given to a more productive farm.

Status of Site	Point Allocation
Gross annual receipts of \$50,000 or more	15
Gross annual receipts of \$25,000 to \$49,000	10
Gross annual receipts less than \$25,000	5

6. Virgin Farm: Lower value given to a farm that has been subdivided for non-agricultural purposes in recent years versus a farm with no subdivisions in many years.

Status of Site	Point Allocation
No subdivision in the past 10 or more years	15
No subdivision in the past 7-10 years	10
No subdivision on the farm has occurred in the past 3-6 years	5
Subdivision on the farm has occurred on the farm within the past 2 years	0

**Clustering Potential**

1. Consistent with the County Board Priority map: Location of tracts with respect to these areas of the county identified as "Exceptional", "Important", "Moderate", and "Insignificant" agricultural areas will be considered in scoring the clustering potential of the tract.

Status of Site	Point Allocation
Located in an area designated as "Exceptional" on the County Board map	20
Located in an area designated as "Important" on the County Board map	10
Located in an area designated as "Moderate" on the County Board map	5
Located in an area designated as "Insignificant" on the County Board map	0

2. Proximity to land with agricultural conservation easements: Location of a tract with respect to land already under agricultural conservation easement will be considered in scoring the

clustering potential of the tract. A tract that is closer to restricted land shall receive a higher score than those that are not.

Status of Site	Point Allocation
Within ¼ mile	40
Within ½ mile	20
Within 1 mile	10

3. Percentage of adjoining land in an Agricultural Security Area (ASA): The percentage of a tract's boundary that adjoins land in an ASA will be considered in scoring the clustering potential for the tract. Areas where agriculture has been given protection by the municipality, at the request of the landowners, provides an environment conducive to farming. The higher the percentage of the land that borders land in an ASA, the higher the score.

Status of Site	Point Allocation
100%	20
75% to 99%	15
50% to 74%	10
25% to 49%	5
0% to 24%	0

4. Consistency with planning map: Location of the tract in areas designated as agriculture on the Montour County Planning Map.

Status of Site	Point Allocation
Located in agricultural area	20
Not located in agricultural area	0

Montour County Agricultural Land Preservation														
Numerical Farmland Ranking System														
Site Assessment Worksheet														
Farm Name:														
Development Potential		Farmland Potential		Clustering Potential										
Factor	Score	Factor	Score	Factor	Score									
1. Distance from public sewer		1. Acreage of farmland tract		1. Consistency with County Board map										
1a. No public sewer (alternative)		2. % of tract in harvested cropland, pasture ad		2. Proximity to other conservation easements										
2. Distance from public water		3. Conservation and best management practices		3. % of adjoiningland in agricultural security area										
3. Extent of road frontage		4. Century/Historical Farms		4. Consistency with planning map										
4. Extent of railroad frontage		5. Farm product sales												
5. Extent of non-agricultural uses		6. Virgin Farmland												
Total Score		Total Score		Total Score										
Development Potential Score		Farmland Potential Score		Clustering Potential Score										
Score	Weighted Value	Score	Weighted Value	Score	Weighted Value									
X	=	X	=	X	=									
X	10%	X	30%	X	10%									

Montour County Agricultural Land Preservation Board
Numerical Farmlarnd Ranking System

## Land Evaluation - Soils Worksheet

Farm Name:	
------------	--

Acreage of Farm (B)	=	
---------------------	---	--

[illegible]

Total of Soils Relative Value (A)	=	
-----------------------------------	---	--

[illegible]

Total of Soil Relative Value (A)	=	
----------------------------------	---	--

(A)	÷	(B)	=	Average Relative Value of Farm (C)
	÷		=	

(C)	X	Weighted Factor (50%)	=	Land Evaluation Rating
	X	50%	=	

## **V. Mapping**

1. Planning Map: A map has been prepared for use in planning where agricultural conservation easements should be acquired in Montour County. The base map consists of recommended land use for Montour County. An overlay shows the location of agricultural security areas in the county. The County Board will also use the planning map to encourage the formation of new agricultural security areas in important agricultural areas as indicated on the map. (Appendix K)
2. Priority Map: A map that has been prepared by the County Agricultural Land Preservation Board to categorize areas of importance within the County. These areas are designated "Exceptional", "Important", "Moderate", and "Insignificant". (Appendix Q)

## **VI. Public Information Program**

Copies of the Montour County Agricultural Conservation Easement Program are available to the public by contacting the Montour County Conservation District, 1210 Bloom Road, Danville, PA 17821 or by calling (570) 271-1140.

1. Press releases will be prepared periodically to keep the public informed of application deadlines and progress of the program. These press releases will be mailed to newspapers, radio stations, and farm publications.
2. A newsletter will be prepared and mailed to all landowners enrolled in agricultural security areas to make them aware of the program and how they can apply. This newsletter will also be sent to local agricultural organizations.
3. Public meetings will be held regionally in the county to explain the program to the public and show landowners how they can participate.
4. A slide show will be prepared for use at public meetings and other public gatherings to explain the program.

## **VII. Procedure for Inspecting and Enforcing an Easement**

### Responsibility

1. The County Board shall have the primary responsibility for inspecting restricted land and enforcing an easement.
2. The State Board or its designee will have the right to inspect restricted land and enforce an easement on its own behalf or in conjunction with the County Board.

### Inspections

1. The County Board shall inspect all restricted land within the County at least annually to determine compliance with the applicable deed of easement.
2. Written notice of an inspection to be conducted under Subsection 1 shall be mailed by certified mail to the owner at least 10 days prior to the inspection.

3. Any inspection conducted under Subsection 1 shall be performed between the hours of 8 a.m. and 5p.m. on a weekday that is not a legal holiday recognized by the Commonwealth, or a date and time agreeable to the county and the landowner.
4. When landowners are sent their inspection notice by certified mail, they will be given the option to have their farm inspected by appointment if so desired.
5. In as much as is possible, inspections will be done by observing the farm from a nearby road to offer the lease potential for livestock disease pathogen transmission.
6. Prior to mailing a notice of violation, inspection staff will make personal contact with the landowner to inform them of the violation.
7. Within 10 days of conducting an inspection under Subsection 1, the County Board shall prepare a written inspection report setting forth the following information:
  - a. The identification of the land inspected.
  - b. The name of the owner of the land inspected.
  - c. A description of the 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.
  - d. A description of the conservation practices being observed on the restricted land.
  - e. A statement of whether the provisions of the deed of easement are being observed.
  - f. A copy of the inspection report shall be mailed by certified mail to the owner.
  - g. The county board and the State Board may inspect the restricted land, jointly or severally, without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

#### Annual Report

The County Board shall file with the State Board a copy of inspection reports for inspections conducted during the prior year, and compile an annual report which summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding any unresolved violations.

#### Enforcement

1. The County Board shall enforce the terms of each easement purchases within the County under the act, whether it be a County, State, or joint purchase.
2. The State Board may enforce the terms of State or jointly purchased easements.
3. The right of the State Board to enforce the terms of an easement may be exercised either jointly with the County Board or by the State Board acting on its own behalf.

#### Notification to Owner

1. Within 10 days of the discovery of a violation of the terms of an easement, either through an inspection or otherwise, the county board shall send written notice of the violation to the owner of the restricted land, the county governing body and the State Board.

2. The written notice required by this section shall be sent by certified mail and shall set forth the following information:
  - a. A copy of the inspection report.
  - b. A copy of the deed easement.
  - c. A description of the action or condition which constitutes alleged violation.
  - d. A statement of the measures necessary to correct the alleged violation.

#### Enforcement Actions

1. Sixty days after the mailing of a notice of violation under Section 138e.205 (relating to notification of owner), the County Board shall commence and prosecute an action in the Court of Common Pleas of the County in which the restricted land is located seeking an order requiring correction of the violation, enjoining further violation of the terms of the easement, and other appropriate relief, unless the County Board does one of the following:
  - a. Determines with the State Board that the violation has been corrected.
  - b. Completes the following requirements:
    - i. Determines that the owner of the restricted land has commenced the necessary corrective measures, or determines that the necessary corrective measures cannot reasonably be completed within the 60 day period described in Subsection 1.
    - ii. Establishes a period not to exceed 1 year within which the corrective measures shall be completed.
2. The County Board shall commence and prosecute the enforcement action described in Subsection 1 if the violation is not corrected within the time established under Subsection 1.a.ii.
3. The owner of the restricted land shall bear all costs associated with the correction of a violation of the easement, including:
  - a. Costs of work required and materials used to correct the violation.
  - b. Administrative costs incurred by the County Board and the State Board
  - c. Court costs and reasonable attorney's fees incurred by the County Board and the State Board in enforcing the easement.
4. If the County Board fails to institute and prosecute a timely enforcement action, the State Board may institute the action and recover costs incurred, including reasonable attorneys' fees, from the County Board or the owner of the restricted land or both.

# Appendix



Appendix A

AMENDMENT TO RESOLUTION CREATING THE MONTOUR  
COUNTY AGRICULTURAL LAND PRESERVATION BOARD  
DATED AUGUST 13, 1991

WHEREAS, the Montour County Board of Commissioners did on August 13, 1991, by Resolution create the Montour County Agricultural Land Preservation Board; and

WHEREAS, the number of members was set at five (5) for said Board; and

WHEREAS, said Resolution set forth the manner in which members of the Board would be appointed by the Montour County Commissioners; and

WHEREAS, it is the desire of the Montour County Commissioners to increase the membership of said Board from five (5) members to nine (9) members.

NOW THEREFORE, BE IT RESOLVED, that the Resolution dated August 13, 1991, creating the Montour County Agricultural Land Preservation Board is hereby amended as follows:

The seventh paragraph shall read:--

THE BOARD shall be comprised of nine (9) members. Annually, the Chairman of the Montour County Commissioners shall designate one member of THE BOARD to act as Chairman of THE BOARD. Members of THE BOARD shall be appointed by the Montour County Commissioners as follows:

- \* One less than the majority shall be active resident farmers in Montour County and shall serve initial terms of 3 years.
- \* One member shall be a current member of the governing body of a township or borough located within Montour County and shall serve an initial 2 year term, provided that such appointment to THE BOARD shall be deemed vacant upon vacancy in, or the expiration of the term of, the township or borough office to which the member was elected.
- \* One member shall be a commercial, industrial or residential building contractor and shall serve an initial 1 year term.
- \* The remaining members shall be selected at the discretion of the Montour County Commissioners and shall serve initial terms of 1 year.

AND LET IT FURTHER BE RESOLVED, that all other provisions

LAW OFFICES  
ARTHUR M. PETERS, JR.  
PITTSBURGH, PENNSYLVANIA

of the original Resolution dated August 13, 1991, are hereby reaffirmed.

IN WITNESS WHEREOF, this Resolution has been duly adopted this 12th day of March, 1992.

MONTOUR COUNTY COMMISSIONERS

Darla J. Gill  
Darla J. Gill, Chairman

Eugene Billhime  
Eugene Billhime

James T. Connolley  
James T. Connolley

LAW OFFICES  
ARTHUR M. PETERS, JR.  
DANVILLE, PENNSYLVANIA

Appendix A

RESOLUTION CREATING THE MONTOUR COUNTY  
AGRICULTURAL LAND PRESERVATION BOARD

WHEREAS, the Agricultural Area Security Law (Act of 1981, P.L. 123, No. 43) as amended by the Agricultural Conservation Easement Purchase Program (Act of 1988, P.L. 1202, No. 149), authorizes the establishment of county programs for the purchase of agricultural conservation easements in Agricultural Security Areas; and

WHEREAS, there are currently three Agricultural Security Areas in Montour County comprising approximately 11,000 acres of prime farmland; and

WHEREAS, approximately one thousand acres of prime farmland per year are converted to nonfarm development in Montour County; and

WHEREAS, it is the purpose of the Agricultural Conservation Easement Purchase Program to provide farmers in Agricultural Security Areas with an alternative to selling their farmland for nonfarm development; and

WHEREAS, the Montour County Farmers Association has recommended the creation of a county program for the purchase of agricultural conservation easements;

THEREFORE, BE IT RESOLVED, the Montour County Agricultural Land Preservation Board (THE BOARD) is hereby created and directed to administer a program for the purchase of agricultural conservation easements in accordance with the provisions of The Agricultural Area Security Law as amended by Act 149 of 1988 and the rules and regulations promulgated thereunder.

THE BOARD shall be comprised of (5) five members. Annually, the Chairman of the Montour County Commissioners shall designate one member of THE BOARD to act as Chairman of THE BOARD. Members of THE BOARD shall be appointed by the Montour County Commissioners as follows:

- \* One less than the majority shall be active resident farmers in Montour County and shall serve initial terms of 3 years.
- \* One member shall be a current member of the governing body of a township or borough located within Montour County and shall serve an initial 2 year term, provided that such appointment to THE BOARD shall be deemed vacant upon vacancy in, or the expiration of the term of, the township or borough office to which the member was elected.
- \* One member shall be a commercial, industrial or residential contractor and shall serve an initial 1 year term.

- \* The remaining member shall be selected at the discretion of the Montour County Commissioners and shall serve initial terms of 1 year.

Upon expiration of the initial terms set forth above, the term of each member shall be 3 years.

BE IT FURTHER RESOLVED, that THE BOARD hereby created shall adopt By Laws governing the conduct of its activities and submit same to the Montour County Commissioners and the State Agricultural Land Preservation Board.

BE IT FURTHER RESOLVED, that the Montour County Commissioners confirm and ratify the following action taken on:

- \* April 9, 1991, MONTOUR COUNTY AGRICULTURAL LAND PRESERVATION BOARD APPOINTMENTS, a motion by Mrs. Cotner, seconded by Mr. Kremer, and passed, appointing the following persons to THE BOARD;

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM</u>	<u>EFFECTIVE</u>	<u>EXPIRES</u>
Robert George	Farmer	3 yrs.	5/1/91	4/30/94
Steve Shupp	Farmer	3 yrs.	5/1/91	4/30/94
David Bird	Elected	2 yrs.	5/1/91	4/30/93
Jon Vastine	Random	1 yr.	5/1/91	4/30/92
Franklin Cotner	Contractor	1 yr.	5/1/91	4/30/92

BE IT FURTHER RESOLVED, that David Bird shall serve as Chairman of THE BOARD.

IN WITNESS WHEREOF, this Resolution has been duly adopted this 13th day of August, 1991.

MONTOUR COUNTY COMMISSIONERS

Edwin R. Kremer  
Edwin R. Kremer, Chairman

Darla J. Gill  
Darla J. Gill

ATTEST:

Susan M. Kauwell  
Susan M. Kauwell, Chief Clerk

Esther Cotner  
Esther Cotner

Appendix B

<b>Montour County Agricultural Land Preservation Board</b>			
<b>Name</b>	<b>Affiliation</b>	<b>Appointment Date (Reappointment Date)</b>	<b>Term Expiration</b>
Tyler Dombroski	Governing Body	Jan. 1, 2017 (Jan. 1, 2022)	Dec. 31, 2024
Brian Tworkoski	Farmer	Jan. 1, 2017 (Jan. 1, 2019)	Dec. 31, 2022
Millard Watson	At-Large	Jan. 1, 2017 (Jan. 1, 2021)	Dec. 31, 2023
Bonnie Trump	At-Large	Jan. 1, 2017 (Jan. 1, 2020)	Dec. 31, 2023
Ralph Trego	Farmer	Jan. 1, 2017 (Jan. 1, 2019)	Dec. 31, 2022
Shane Betz	Farmer	Jan. 1, 2017 (Jan. 1, 2022)	Dec. 31, 2024
Herb Zeager	Farmer	Jan. 1, 2017 (Jan. 1, 2019)	Dec. 31, 2022
Chad Gray	Contractor	Jan. 1, 2017 (Jan. 1, 2022)	Dec. 31, 2024
Patricia Kitchen	At-Large	Jan. 1, 2017 (Jan. 1, 2021)	Dec. 31, 2023

## **Montour County Agricultural Land Preservation Board**

### **By-Laws**

#### Article I - Authorization

Section 100 The Montour County Agricultural Land Preservation Board was established by resolutions of the Montour County Commissioners on April 9, 1991 and March 12, 1992, at a duly advertised public meeting.

#### Article II - Name

Section 200 This non-profit organization shall be known and referred to as the "Montour County Agricultural Land Preservation Board". For the purpose of these by-laws, it shall be referred to as the Board.

#### Article III - Purpose

Section 300 The purpose of the Montour County Agricultural Land Preservation Program is as follows:

300.1 It is the purpose of this program to protect viable agricultural lands by acquiring agricultural conservation easements in perpetuity which prevents the development or improvement of the land for any purpose other than agricultural production.

300.2 Further, it is the purpose of this program to:

1. Encourage landowners to make a long-term commitment to agriculture by offering them financial incentives and security of land use.
2. Protect normal farming operations in agricultural security areas from incompatible non-farmland uses that may render farming impractical.
3. Protect normal farming operations from complaints of public nuisance against normal farming operations.
4. Assure conservation of viable agricultural lands in order to protect the agricultural economy of the Commonwealth.
5. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.
6. Maximize agricultural conservation easement purchase funds and protect the investment of taxpayers in agricultural conservation easements.

#### Article IV - Membership

Section 400 Board members shall be appointed by action of the Montour County Board of Commissioners.

Section 401 The Board shall be composed of nine (9) members, to be appointed from the following groups:

- A. Four (4) shall be active resident farmers in Montour County. Three shall serve an initial term of three (3) years, and one for a term of two (2) years.
- B. One (1) shall be a current member of a township or borough governing body located within Montour County, who shall serve an initial term of two (2) years, provided that such appointment to the Board shall be deemed vacant upon vacancy in, or the expiration of the term of, the township or borough office to which the member was elected.
- C. One (1) shall be a commercial, industrial, or residential building contractor who resides in Montour County, and who shall serve an initial term of two (2) years.
- D. Three (3) members shall be appointed at the pleasure of the Montour County Board of Commissioners, who shall serve an initial term of one (1) year.

Section 402      Upon expiration of the initial terms set forth in Section 401, the terms of members shall be three (3) years.

Section 403      Any appointments to fill any vacancy created by removal, resignation, or otherwise, shall be only for the remainder of the unexpired term of that particular vacant position.

Section 404      Any Board member may be removed from membership for malfeasance, misfeasance, or nonfeasance in office, or other just cause, by the majority vote of the Montour County Board of Commissioners, only after the member has received at least fifteen (15) calendar days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member requests such in writing.

#### Article V -      Officers and Duties

Section 500      The Board shall be governed by a Chair, Vice-Chair, and Secretary. A staff person may serve as secretary, but shall have no voting power.

Section 501      The Chair of the Board shall be appointed as such, annually, by the Chairman of the Montour County Board of Commissioners. The Chair shall preside at all meetings of the Board, call special meetings, establish committees, appoint committee chairs, delegate other tasks and assignments as may be appropriate, serve as ex-officio member of all committees of the Board, and have the duties normally conferred by parliamentary usage.

Section 502      The Chair may appoint committees, with the approval of the Board for specific purposes as necessary. These committees may include persons who are not Board members.

Section 503      The Vice-Chair shall act for the Chair in their absence.

Section 504      In the absence of the Chair and Vice-Chair, the Secretary shall conduct the Board meeting.

Section 505      The Secretary with assistance of such staff as available, shall keep the minutes and records of the Board, prepare the agenda of meetings under the direction of the Chair, provide notice of all the meetings to the Board members, arrange proper and legal notice of meetings and hearings, attend to correspondence of the Board, and such other duties as are normally carried out by the Secretary.

- Section 506      The Chair can be removed from office by the Chairman of the Montour County Board of Commissioners. Other officers can be removed from office as any time for just cause by the majority vote of all members of the Board.
- Article VI -      Election of Officers
- Section 601      An annual organizational meeting shall be held in the month of January of each year for the office of Vice-Chair and Secretary at the time, on the date, and at the place designated by the Board for a regular meeting.
- Section 602      Nominations for Vice-Chair and Secretary shall be made from the floor at the annual organization meeting. Election of officers specified in Section 601 shall follow immediately
- Section 603      A candidate receiving a majority vote of the entire membership of the Board shall be declared elected and shall serve one year or until a successor shall take office.
- Section 604      If the office specifies in Section 601 become vacant at any time, the Board shall elect a successor from its membership at the next regular meeting and such election shall be for the unexpired term of the office.
- Article VII -      Meetings
- Section 700      Regular meetings will be held by the Board on a periodic, recurring basis. At the annual organization meeting, or at any such time as may prove necessary, the Board shall establish the time(s) of day, date(s), and place(s) where the regular will be held by official action. It shall be presumed that the Board will hold all of its regular meetings at the time, on the date, and at the place designated unless a meeting is canceled by the chair for just cause and notice given to the Board members. In the event of a conflict with holiday or other events, a majority vote at any meeting may change the date and place of the regular meeting.
- Section 701      Special meetings may be called by the Chair. It shall be the duty of the Chairman to call a special meeting within seven (7) calendar days when requested to do so by a majority of the Board. The Secretary shall notify all members of the Board in writing no less than three (3) calendar days in advance of such special meetings.
- Section 702      Notice of all meetings of the Board shall be published and/or posted, in compliance with ACT 84 of 1986, the Sunshine Act, as amended. Further, the Board shall be in compliance with ACT 212, the Right-To-Know Law.
- Section 703      A quorum shall consist of a simple majority of the total Board membership. The number of votes necessary to transact business related to the Board itself is a simple majority vote of a quorum. It shall require vote of simple majority of the entire Board membership to transact business where agricultural conservation easements are acquired by the Board.
- Section 704      All meetings or portions of meetings at which official action is taken shall be open to the public. However, the Board may meet in closed session for Executive Sessions, Conferences, or Certain Working Sessions only, in compliance with the Pennsylvania Sunshine Act, ACT 84 of 1986, as amended.



- Section 705 Unless otherwise specified, Robert's Rules of Order shall govern the proceedings at the meetings of the Board.
- Section 706 All meetings not called to order for any reason within fifteen minutes of the time designated may be cancelled. The order of authority to cancel the meetings is from Chair, Vice-Chair, Secretary. No official business can be conducted once the meeting is canceled.
- Section 707 Each member of the Board shall be allowed to cast one vote and must be present at the meeting to vote.
- Article VIII - Finances
- Section 801 All funds shall be used for the purpose of protecting viable agricultural farmland in Montour County.
- Section 802 No member shall be liable for any debts of the Board.
- Section 803 No net income of the Board shall accrue to the benefit of any member thereof, with the exception of purchasing agricultural conservation easements consistent with ACT 43 of 1981, as amended.
- Section 804 Board members who have a personal or private interest in any measure proposed or pending before the Board shall disclose the fact to the Board and shall not exercise voting powers thereon.
- Section 805 All members and employees of the Board shall comply with the provisions of the Public Official and Employee Ethics Law, 65, P.S. Section 401-413.
- Section 806 Nothing in this ACT shall prohibit a member of the County board or his or her family from selling a conservation easement under this program, provided that all decisions made regarding easement purchases be subject to the provisions of Section 3(J) of the Act of October 4, 1978 (P.L. 883, NO. 170), referred to as the Public Official and Employee Ethics Law.
- Article IX - Staff
- Section 901 The Board may use various monies appropriated by the Montour County Board of Commissioners to hire staff to administer the requirements of ACT 43 of 1981, as amended.
- Section 902 The Board will rely upon and utilize the services and assistance of the Montour County Commissioners, the Montour County Solicitor and the Montour County Conservation District to accomplish its goals. The Montour County Commissioners shall be responsible for keeping and maintaining records of all financial matters of the Board and shall annually submit a financial report to the Board. The Montour County Solicitor shall preform duties of solicitor for the Board as required. The Montour County Conservation District shall act as coordinator for all correspondence, and personal contracts, etc. The Board may also depend upon an Advisory Committee and their agencies for additional assistance.

Article X - Amendments

The By-Laws may be amended by a majority vote of the entire membership of the Board. Each member of the Board shall receive written notice of any proposed amendments a minimum of seven (7) calendar days prior to taking action.

Article XI - Effective Date

These By-Laws shall take effect immediately.

Adopted this date:

April 1, 1992

### **Minimum Eligibility Criteria**

The State Agricultural Land Preservation Board has established minimum requirements which farms must meet to be eligible for the easement purchase program. The farmland tract must:

1. Be one or more of the following:
  - a. Located in an Agricultural Security Area, consisting of 500 acres or more.
  - b. Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.
  - c. Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:
    - i. A mansion house is on the tract and located within the purchasing county.
    - ii. When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.
    - iii. When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located within the purchasing county.
2. Be one or more of the following:
  - a. Contiguous acreage of at least 50 acres in size.
  - b. Contiguous acreage of at least 10 acres in size and utilized for a crop unique to the area.
  - c. Contiguous acreage of at least 10 acres in size and is contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified organization", as defined in section 170(h)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 170(h)(3)).
3. Contain at least 50% of its soils which are both available for agricultural production, and are of Capability Classes I-IV, as defined by the USDA-NRCS.
4. Contain, the greater of 50% or 10 acres harvested cropland, pasture or grazing lands.

In addition, the State Board requires that the following be considered:

1. The likelihood that the tract will be converted to a non-agricultural use.
  - a. In order to determine the likelihood of conversion to nonagricultural use, the following factors shall be considered:
    - (i) Development pressure.
    - (ii) Suitability of farmland tract for development due to soils, location and configuration.
    - (iii) Pre-existing perpetual restrictions against development.

(iv) Location in an area identified by the County Board of the County or Township comprehensive plan as desirable for agricultural use.

2. The applicant's stewardship of the land.

Montour County Minimum Criteria:

1. All easements purchased for perpetuity only.
2. A non-refundable fee of \$50 is required for each completed application. This application will be kept on file until a letter is submitted to the Board withdrawing their application from the program.

Montour County has adopted the following criteria for minimum eligibility to apply for "Bargain Sale Easements":

1. The purchase of a bargain sale easement must be at least 10 acres in size or be adjoining an existing conservation easement. A tract must still meet the 50% harvested cropland, pasture, or grazing lands criteria.
2. All other State and County minimum eligibility requirements still apply.
3. The Montour County Agland Preservation Board shall have full discretion for accepting and approving applications on a case by case basis on farms that utilize this criteria in order to apply for a "Bargain Sale Easement".
4. Offers for purchase of a "Bargain Sale" easement will be based the "LESA" ranking values.

## Montour County Agricultural Land Preservation Program Purchase of Conservation Easement

### Application Form

#### 1. General Information

Name: \_\_\_\_\_ SS#: \_\_\_\_\_

Name: \_\_\_\_\_ SS#: \_\_\_\_\_

Address: \_\_\_\_\_  
(Street) (City) (State) (Zip)

Telephone #: \_\_\_\_\_ Person of Contact: \_\_\_\_\_

---

#### 2. Farm Information

County: \_\_\_\_\_ Township: \_\_\_\_\_

Name of Agricultural Security Area: \_\_\_\_\_

ASA Book and Page Number: \_\_\_\_\_

Total acreage of farmland tract: \_\_\_\_\_

Total acreage offered for easement purchase: \_\_\_\_\_

Deed reference(s)	Volume: _____	Page: _____
	Volume: _____	Page: _____
	Volume: _____	Page: _____

Tax Parcel #(s)	Number: _____	Acreage: _____
	Number: _____	Acreage: _____
	Number: _____	Acreage: _____

Directions to farm from nearest state route: \_\_\_\_\_

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### 3. Signature

It is necessary for all farmland owners to give their approval and consent to this application.

I, hereby, authorize the Conservation Plan preparer to release copies of the Conservation Plan and Nutrient Management Plan (Act 38, if applicable), to the County Agricultural Land Preservation Board and Bureau of Farmland Preservation as required under Act 43 criteria for easement purchase.

Signed \_\_\_\_\_ Date: \_\_\_\_\_

Signed \_\_\_\_\_ Date: \_\_\_\_\_

I hereby certify that I AM \_\_\_\_\_ AM NOT \_\_\_\_\_ a county board member.

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### 4. Crop Production Information

The applicant must provide crop production information for the most recent crop year.

Crop Year: \_\_\_\_\_

Commodity	Acres Grown	Avg. Yield	Gross Receipts

Total Gross Receipts from Crops: \_\_\_\_\_

## 5. Livestock Report

Livestock Report of Calendar Year: \_\_\_\_\_

Livestock	Avg. Number	Product Sold	Amount Sold	Gross Receipts

Total Gross Receipts from Livestock: \_\_\_\_\_

Total Gross Receipts from Farm Tract: \_\_\_\_\_

Total Gross Receipts from Farm Operation: \_\_\_\_\_

Total Acreage Farmed (included rented land): \_\_\_\_\_

## 6. Conservation Plan

Date of Conservation Plan: \_\_\_\_\_ NRCS Tract #(s): \_\_\_\_\_

Date of Nutrient or Manure Management Plan: \_\_\_\_\_

Conservation practices currently in use: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## 7. Mortgages, Liens, and Mineral Rights

Please list all mortgages, lienholders, or owners of mineral rights for the farmland tract.

Mortgages: \_\_\_\_\_

Lienholders: \_\_\_\_\_

Mineral Rights: \_\_\_\_\_

## 8. Maps

Applicant is required to provide the following maps as part of the application:

1. Location Map – A USGS Topo Map showing the location and approximate boundaries of the farmland.
2. Tax Map – Tax Map(s) of the farmland tract with map reference and tax parcel numbers clearly indicated.
3. Soils Map – The soils map of the farmland tract must be color coded as follows:
  - Class I – Green
  - Class II – Yellow
  - Class III – Red
  - Class IV – Blue
  - Wetlands – Cross hatch or include on separate map

## 9. Selling Price

I would consider selling an Agricultural Conservation Easement to the Montour County Agricultural Land Preservation Board and/or the Commonwealth of Pennsylvania for not less than (please choose one):

☐ \$\_\_\_\_\_ for the entire farm. OR

☐ \$\_\_\_\_\_ per acre. OR

☐ An amount to be determined by appraisal acceptable to the buyer and seller.

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If the County Board and applicant agree that an appraisal will be performed by the Board, the applicant will be required to submit a written request for an appraisal and a \$500.00 deposit which the County Board will hold in an escrow account. The deposit will be refunded only if:

1. The County Board does not conduct an appraisal. OR
2. The County Board conducts an appraisal, but does not make an offer to purchase an easement. OR
3. The County Board's final offer is less than the appraised value of the easement and such offer is refused by the application. OR
4. The applicant sells an easement to the County and/or Commonwealth.

Please submit your \$50.00 application fee and completed application in its entirety to:

Montour County Agricultural Land Preservation Program  
C/O Montour County Conservation District  
1210 Bloom Road  
Danville, PA 17821

Please make checks payable to:

Montour County Conservation District

Incomplete applications will be returned.

## **Agricultural Conservation Easement Deed Requirements**

### Deed Clauses

The Deed of Agricultural Easement delivered in connection with the purchase of an easement shall identify the owner of the farmland tract as Grantor and either the Commonwealth or the County or both as Grantee and contain the following provisions and any additional, consistent revisions approved by the State Board.

I. A granting clause stating:

NOW THEREFORE, in consideration of the sum of \_\_\_\_\_ Dollars, the receipt and sufficiency of which is hereby acknowledged, GRANTOR does voluntarily grant, bargain and sell, and convey to the Grantor its successors and assigns, and Grantee voluntarily accepts, an agricultural conservation easement in the subject land, under and subject to the Act and the following terms and conditions:

II. A clause restricting use of the land to specific permitted acts as follows:

- A. Agriculture – During the term of the agricultural conservation easement conveyed herein, the subject land shall be used solely for the production for commercial purposes of crops, livestock or livestock products, including the processing or retail marketing of such crops, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter “agricultural production”). For purposes of this Deed, “crops, livestock and livestock products” include, but are not limited to:
1. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans;
  2. Fruits, including apples, peaches, grapes, cherries, and berries;
  3. Vegetables, including, tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms;
  4. Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
  5. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, fur-bearing animals, milk, eggs, furs;
  6. Timber, wood and other wood products derived from trees; and
  7. Aquatic plants and animals and their byproducts.
  8. Commercial equine activity including boarding of equine, training of equine, instruction of people in handling, driving or riding equines, use of equines for riding or driving purposes, pasturing equines all of where a fee is collected. 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."

Except as permitted in this Deed, neither Grantor nor his agents, heirs, executors, administrators, successors and assigns, nor any person, partnership, corporation or other entity claiming title under or through Grantor, or their agents, shall suffer, permit, or perform any activity on the subject land other than agricultural production.

B. Construction of Additional Structures

The construction or use of any building or other structure on the subject land other than as existing on the date of the delivery of this Deed is prohibited except that:

1. The erection of fences for agricultural production and protection of watercourses such as lakes, streams, springs and reservoirs is permitted.
2. The construction of one additional residential structure is permitted if;
  - a. The construction and use of the residential structure is limited to provide housing for persons employed in farming the subject land on a seasonal or full-time basis,
  - b. No other residential structure has been constructed on the restricted land at any time since the delivery of the Deed,
  - c. The residential structure and its curtilage occupy no more than two acres of the subject land, and
  - d. The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production.
3. The construction or use of any building or other structure for agricultural production or a commercial equine activity is permitted.
4. The replacement of a residential structure existing on the date of the granting of the easement is permitted.
5. No more than ten percent (10%) of the total conservation easement area shall be covered by permanent buildings for any purpose. Temporary agricultural buildings that do not have permanent foundations will not be considered as permanent buildings. Impervious driveways and parking areas plus impervious livestock feed and waste storage and handling areas and their necessary structures, shall be included in the calculation of building coverage. Buildings and associated areas as listed above, which are present on the restricted land on the date of the granting of the conservation easement, shall be included in the calculation of building coverage. This restriction shall be subject to periodic review by the UCALPB Directors as needed to accommodate potential advances in agricultural production science and technology.

C. Subdivision

The subject land may be subdivided if subdividing will not harm the economic viability of the subject land for agricultural production. If the subject land is subdivided, the Deeds to all of the subdivided parcels shall state on which of the subdivided parcels the residential structure permitted by

this Deed may be constructed. Deeds to all other parcels shall recite that no additional residential structure is permitted. (See Appendix N for additional requirements).

D. Utilities

The granting of rights of way by the Grantor, his heirs, executors, administrators, successors and assigns, or any person, partnership, corporation or other entity claiming title under or through Grantor in and through the subject land for the installation of, transportation of, or use of, lines for water, sewage, electric, telephone, coal by underground mining methods, gas, oil or oil products is permitted. The term “granting of rights-of-way” includes the right to construct or install such lines. The construction or installation of utility lines other than of the type stated in this paragraph is prohibited on the subject land.

E. Mining

The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the owner of the subject land or the owner of the underlying coal by underground mining methods, oil and gas, or the owner of the rights to develop the underlying coal by underground mining methods, oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil and gas development or activities incident to the removal or development of such coal or gas are permitted.

F. Rural Enterprises

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 are permitted. See appendix P for listing of approved enterprises. Note: Previous list appearing at this location has been revised and moved to appendix.

G. Soil and Water Conservation

All agricultural production on the subject land shall be conducted in accordance with a conservation plan approved by the County Conservation District or the County Board. Such a plan shall be updated every ten years and upon any change in the basic type of agricultural production being conducted on the subject land. In addition to the requirements established by the County Conservation District or the County Board, the conservation plan shall require that;

1. The use of the land for growing nursery stock, ornamental trees, and shrubs does not remove excessive soil from the subject land, and
2. The excavation of soil, sand, gravel, stone, or other materials for use in agricultural production on the land is conducted in a location and manner that preserves the viability of the subject land for agricultural production.

III. An enforcement clause stating that:

Annually, Grantee(s), its/their successor(s), assign(s) or designee(s) shall have the right to enter the subject land for the purpose of inspecting to determine whether the provisions of this Deed are being observed. Written notice of such annual inspection shall be sent via certified mail to the Grantor, his heirs, executors, administrators, successors or assigns at least ten days prior to such inspection. The annual inspection shall be conducted between the hours of 8:00 A.M. and 5:00 P.M. on a weekday that is not a legal holiday recognized by the Commonwealth of Pennsylvania or at a date and time agreeable to the county and the landowner.

Grantee(s), its/their successor(s), assign(s) or designee(s) shall also have the right to inspect the subject land at any time, without prior notice, if it/they has/have reasonable cause to believe the provisions of this Deed have been or are being violated.

Grantor acknowledges that any violation of the terms of this Deed shall entitle Grantee(s), its/their successor(s), assign(s) or designee(s) to obtain an injunction against such violation from a court of competent jurisdiction along with an order requiring Grantor, his heirs, executors, administrators, successors, or assigns to restore the subject land to the condition it was in prior to the violation, and recover any costs or damages incurred including reasonable attorney's fees. Such relief may be sought jointly, severally, or serially.

IV. A clause setting forth the duration of the easement in perpetuity. In Montour County, all agricultural conservation easements will be perpetual.

V. A clause stating that:

Every provision of this Deed applicable to Grantor shall apply to Grantor's heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantor.

VI. A clause setting forth the obligation of the Grantor upon conveyance of the farmland tract as follows (Change in Ownership Clause):

- A. A deed conveying an interest in the restricted land shall set forth the language of the easement restrictions verbatim.
- B. Within 30 days of a change in ownership of the restricted land, the prior owner shall notify the County Board and the Department of Agriculture of the name and address of the person to whom the subject land was conveyed or transferred, and the price per acre or portion thereof received by the landowner from said person, together with the volume and page in which the transfer has been recorded by the Montour County Recorder of Deeds.
- C. Whenever interest in land subject to an agricultural conservation easement is conveyed or transferred to another person, the deed conveying or transferring such interest shall recite in verbatim the language of the easement restrictions as set forth in the deed executed in connection with the purchase of the agricultural conservation easement.

VII. A habendum clause.

### **Survey Requirements**

- A. General Requirements - If a survey of land being considered for agricultural conservation easement purchase is required under 138e.67(d) (relating to requirements of the agricultural conservation easement deed) or is otherwise required to determine metes and bounds of any right-of-way or other interests in the land, the survey shall indicate that it has a closure error of not greater than 1 foot per 10,000 linear feet in the survey, and shall otherwise comply with the boundary survey measurement standards published by the Pennsylvania Society of Land Surveyors in its manual of practice for professional land surveyors in the Commonwealth of Pennsylvania, adopted July 10, 1998, or its most current successor document.
- B. Other requirements - A survey described in subsection (a) shall also contain the following:
  - a. A recordable legal description setting forth the metes, bounds, monumentation, exceptions, easements and rights-of-way with respect to the farmland tract or other subject of the survey.
  - b. A copy of the final boundary survey in digital electronic format that complies with the conservation easement Geographic Information System (GIS) technical standards maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act (3 P.S. 914.1(a)(3)(xv)). The digital format shall show the bearings and distances between each monument and contain the northing and easting of each monument.
  - c. Coordinates of at least two ground control points located sequentially along the boundary survey, with latitude and longitude expressed in decimal degrees with an accuracy of 6 recorded decimal places. These coordinates shall be based on the North American Datum of 1983 document, and shall be obtained through field observation or verification of datum.
  - d. A paper copy of the plotted final survey map from the digital file showing the course bearings and the distances and other annotations and symbols as maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act.
- C. Monumentation - If a survey of land being considered for agricultural conservation easement purchase is required under 138e.67(d) or is otherwise required to determine metes and bounds of any right-of-way or other interests in the land, the surveyor shall establish monumentation for at least the two ground control points required under subsection (b)(3). This monumentation shall consist of permanent, concrete markers of substantial length and width containing ferrous or other materials detectable by an electromagnetic locator. The identity of the surveyor who places a monument shall be affixed or marked upon the monument such that it can be ascertained by inspection of the monument in the field.

**Montour County, Pennsylvania****Land Evaluation**

Relative Values for soil mapping units in Montour County, Pennsylvania		
Map unit	Map unit name	Relative Value
AbB	Albrights silt loam, 3 to 8 percent slopes	74
AnA	Allenwood gravelly silt loam, 0 to 3 percent slopes	100
AoB	Allenwood and Washington soils, 3 to 8 percent slopes	100
AoC	Allenwood and Washington soils, 8 to 15 percent slopes	66
ArA	Alvira silt loam, 0 to 3 percent slopes	66
ArB	Alvira silt loam, 3 to 8 percent slopes	66
ArC	Alvira silt loam, 8 to 15 percent slopes	66
AsB	Alvira very stony silt loam, 0 to 8 percent slopes	0
Bc	Basher soils	74
Bd	Basher soils, frequently flooded	66
BeB	Bedington silt loam, 3 to 8 percent slopes	100
BeC	Bedington silt loam, 8 to 15 percent slopes	66
BeD	Bedington silt loam, 15 to 25 percent slopes	39
BkB	Berks shaly silt loam, 3 to 8 percent slopes	66
BkC	Berks shaly silt loam, 8 to 15 percent slopes	46

BkD	Berks shaly silt loam, 15 to 25 percent slopes	39
BuB	Buchanan gravelly loam, 3 to 8 percent slopes	74
BuC	Buchanan gravelly loam, 8 to 15 percent slopes	66
BxB	Buchanan very stony loam, 0 to 8 percent slopes	0
BxD	Buchanan very stony loam, 8 to 25 percent slopes	0
CaB	Calvin-Klinesville shaly silt loams, 3 to 8 percent slopes	46
CaC	Calvin-Klinesville shaly silt loams, 8 to 15 percent slopes	46
CaD	Calvin-Klinesville shaly silt loams, 15 to 25 percent slopes	39
DAM	Dams	0
DeB	Dekalb extremely stony sandy loam, 0 to 8 percent slopes	0
DeD	Dekalb extremely stony sandy loam, 8 to 25 percent slopes	0
DeF	Dekalb extremely stony sandy loam, steep	0
EdB	Edom complex, 3 to 8 percent slopes	100
EdC	Edom complex, 8 to 15 percent slopes	66
EdD	Edom complex, 15 to 25 percent slopes	39
EsB	Elliber cherty silt loam, 3 to 8 percent slopes	74
EsC	Elliber cherty silt loam, 8 to 15 percent slopes	66
EsD	Elliber cherty silt loam, 15 to 25 percent slopes	39



EtB	Elliber very cherty silt loam, 3 to 8 percent slopes	66
EtC	Elliber very cherty silt loam, 8 to 15 percent slopes	39
EtD	Elliber very cherty silt loam, 15 to 25 percent slopes	18
EtF	Elliber very cherty silt loam, 25 to 70 percent slopes	0
EvB	Evendale cherty silt loam, 3 to 8 percent slopes	46
HaB	Hagerstown silt loam, 3 to 8 percent slopes	100
HaC	Hagerstown silt loam, 8 to 15 percent slopes	66
HaD	Hagerstown silt loam, 15 to 25 percent slopes	39
HtB	Hartleton channery silt loam, 3 to 8 percent slopes	74
HtC	Hartleton channery silt loam, 8 to 15 percent	66
HtD	Hartleton channery silt loam, 15 to 25 percent slopes	39
HuB	Hazleton and Clymer extremely stony sandy loams, 0 to 8 percent slopes	0

## **Farmland Appraisal Procedure**

The procedure below has been taken from Pennsylvania's Agriculture Conservation Easement Program Guidelines.

### **I. Appraisal**

1. All appraisals shall be conducted in accordance with the Act and its attendant regulations and guidelines.
2. An offer to purchase easements shall be based upon one or more appraisal reports which estimate both the market value and the farmland value of the farmland tract.
3. An appraisal shall be based primarily on an analysis of comparable sales.
4. The value of a building or other improvement on the farmland tract may not be considered in determining the easement value. The value of the building or other improvement shall appear separately in the appraisal report.
5. The appraiser shall be:
  - a. A Pennsylvania State Certified General Real Estate appraiser in accordance with the standards set forth in Act 43 and any future revisions and regulations thereof (§ 14.1(f) and (f)(3)). An appraiser shall be selected on the basis of experience, expertise and professional designation.
6. The appraiser shall supply a narrative report which contains the following information and is in the following format:
  - a. Introduction
    1. Letter of Transmittal
    2. Table of Contents
    3. Certificate of Value
    4. Summary of Salient Facts and Conclusions
    5. Purpose of the Appraisal
    6. Easement Value Definition
  - b. Description of Property
    1. Area or Neighborhood Description
    2. Description of Appraised Property
      - i. Legal Description
      - ii. Property Data and Zoning
      - iii. Description of Improvements
      - iv. Photos of Subject Property
      - v. Tax Map of Subject Property, with the following indicated; acreage of properties adjoining the subject property, the names of all adjoining property owners, and deed references.
      - vi. Sketch of Subject Property
      - vii. Location Map
      - viii. Soils Map

3. Analyses and Conclusions
  - i. Analysis of Highest and Best Use
  - ii. Valuation Methodology: Market Value
    - (i) Comparable Sales Data
    - (ii) Adjustment Grid
    - (iii) Locational Map of Comparable Sales
  - iii. Market Value Estimate
  - iv. Valuation Methodology: Farmland Value
    - (i) Comparable Sales Data
    - (ii) Locational Map of Comparable Sales
  - v. Farmland Value
  - vi. Value of Improvements
  - vii. Easement Value
  - viii. Professional Qualifications of the Appraiser

7. The Appraiser shall supply information concerning comparable sales as follows:
  - a. At least four comparable sales shall be use for appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same municipality as the subject farmland tract, the appraiser may use comparable sales from other municipalities within the county, after consultation with the County Board. The use of comparable sales which require adjustment of 50% or more is permitted only with the approval of the County Board.
  - b. Pertinent data for each comparable sale used in the preparation of the appraisal shall be stated in the appraisal report including date of sale, purchase price, road frontage in feet, and estimate of the range of slope, soil series and other relevant information. The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract.
  - c. The location of each comparable sale used in the appraisal report shall be shown accurately on the comparable sales map and sufficiently identified and described so as to be located easily.
  - d. For comparable sale used to estimate the farmland value, the appraiser may use sales of land that are confined to agricultural use because of legal restrictions or physical impairments that make that land valuable only for agricultural use. Data may also be gathered from farm real estate markets where farms have no apparent developmental value.
  - e. If comparable sales data is not available for farmland value, the County Board, subject to the approval of the State Board, may assign a farmland value based on crop production or a capitalization of rental income.

- f. The appraiser shall report whether the farmland tract has any public or private land use restrictions, or is within a floodplain, or has any other physical attributes which limit its developmental capability.
  - g. The appraiser shall provide at least one original and two copies of each report to the County Board. The original of each report and all copies shall be bound with rigid covers.
- II. Procedure for determining the Easement Value if the Applicant Retains an Independent Appraiser
  - 1. The applicant may, at the applicant's expense, retain another independent licensed real estate appraiser to determine easement value. The appraiser shall be qualified and the appraisal must be completed in accordance with the above guidelines. The appraisal shall be completed within 120 days of the County's offer. Upon completion, three copies of the applicant's appraisal report shall be submitted to the County Board. A decision to obtain an independent appraisal under this paragraph shall not constitute a rejection of the County Board's offer. The county Board's offer shall remain open unless increased by the County Board in accordance with this section.
  - 2. 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; and
      - ii. One half of the difference between the farmland value determined by the County Board's appraiser and the farmland value determined by the applicant's appraiser, if the farmland value determined by the County Board'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 County Board's appraiser; and
      - ii. One-half of the difference between market value determined by the applicant's appraiser and the market value determined by the County Board's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the County Board's appraiser.
  - 3. Within 30 days of receipt of the applicant's appraisal, the County Board shall: (Please refer to Section 138e.65 of state regulations)

## **Documentation Requirements**

### **Pennsylvania Agricultural Land Preservation Board**

#### **I. Requirements of the Agricultural Easement Deed**

1. All owners of the subject farmland tract shall execute a deed conveying the easement which deed shall include the provisions of Appendix F.
2. The deed shall be in recordable form and contain:
  - a. An accurate legal description setting forth the metes and bounds of the farmland tract subject to the easement.
  - b. At least one course and distance referencing a fixed marker or monument of a type commonly placed in the field by a surveyor.
3. The legal description shall not contain a closure error greater than one foot per 200 linear feet in the survey.
4. The farmland tract on which an easement is to be purchased must 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 paragraphs 2 and 3. A survey required by the provisions of this paragraph must comply with the boundary survey measurement standards listed in Appendix G.
5. For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.
6. For purchases made using a combination of State and County funds, the grantees shall be the Commonwealth and the County providing the funds under joint ownership as defined in the act.
  - a. Neither the Commonwealth nor the county may sell, convey, extinguish, lease, encumber, restrict or otherwise dispose of their interest in the easement without the consent of the other.
  - b. Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth and the county shall receive a prorated share of the proceeds based upon their respective contributions to the purchase price
7. A copy of the deed shall be submitted to the State Board for approval prior to execution and delivery.

#### **II. Title Insurance**

1. The County Board shall provide a title report to the State Board upon submission of its recommendation for the purchase of an easement.

2. At settlement, the County Board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth of Pennsylvania by the Pennsylvania Department of Insurance. 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.

### III. Statement of Costs

1. For purposes of Section 14.1(h)(6) of the Act (3 P.S. Section 914.1(h)(6)), the County Board shall submit a statement of the costs incident to the purchase of the easement to the State Board, which may include:
  - a. Easement purchase price.
  - b. County appraisal costs.
  - c. Necessary legal fees for title search, preparation of documents, and attendance at closing.
  - d. Recording fees.
  - e. Survey costs.
  - f. Reimbursements to a nonprofit land conservation organization that has acquired an easement at the request of the County Board, 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.
2. The statement of costs shall specify the amount of funding requested from the Commonwealth for the purchase, and the amount of county funds allocated for the purchase.
3. After settlement, the County Board shall submit a revised statement of costs in the event that actual costs were greater or less than the costs estimated in the initial statement of costs.

### IV. Summary Report

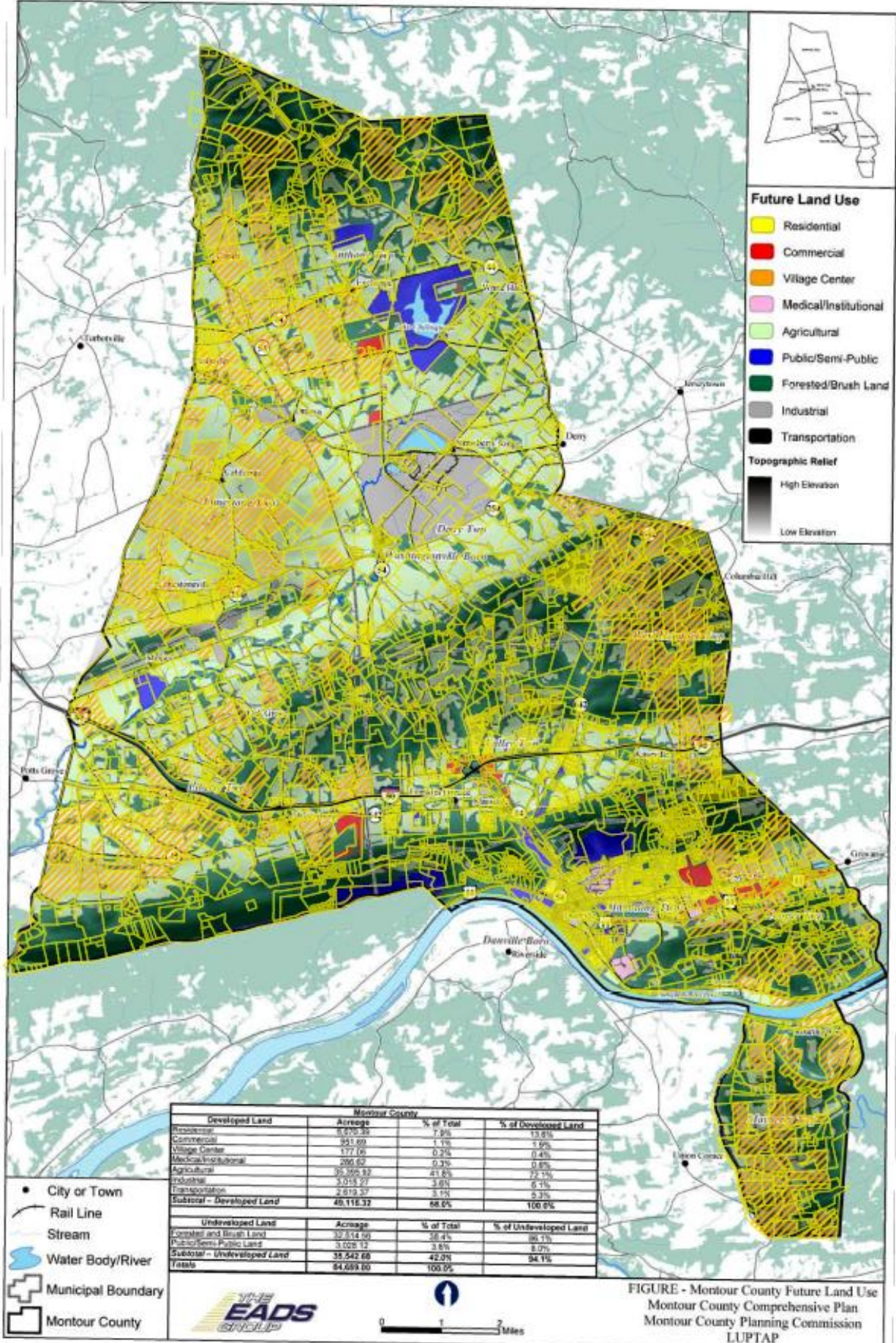
A recommendation by the County Board for the purchase of an easement shall be accompanied by a Summary report stating the following:

1. Description of the farm, including the name, location, number of acres, and type of farm.
2. Quality of farmland tract, including soil classification, yields and gross income from product sales.
3. The manner in which preservation will contribute to the agricultural productivity of the county.
4. Likelihood of conversion to other uses if the easement is not purchased. Discussion of the nature and scope of developmental pressure in the municipality or area.

5. The nature and scope of conservation practices and best land management practices.
6. Discussion of the purchase price summarizing the appraisals including the agricultural and nonagricultural value and negotiations for purchase.
7. Statement of costs as described in Section 138e.68 (relating to statement of costs).
8. Certification by the County Board that the information presented to the State Board is true and correct.
9. An appendix which shall include:
  - a. An application form.
  - b. Locational Maps.
  - c. A soils report.
  - d. A crop report.
  - e. An evaluation of the ranking worksheet.
  - f. A subordination, release, or letter approving purchase from any mortgages, lienholder, or owner of rights in surface mineable coal.
  - g. Other relevant documents and information



# Appendix K – Planning Map





## **Subdivision Guidelines**

1. Authority – Authority for the provisions and requirement of this article are granted by the Agricultural Area Security Law (3 P.S. Section 901-915) as amended.
2. Definitions – Unless otherwise and expressly states the following definitions apply to words, terms and phrases used in this article.

Act, The – The Agricultural Area Security Law (3 P.S. Section 901-915) as amended.

County Board – The Montour County Agricultural Land Preservation Board, its officers or others authorized to act on the behalf of the board.

District – The Montour County Conservation District.

Eased – Protected against uses other than agriculture through the purchase of a conservation easement.

Economic Viability of Farmland for Agriculture Production – The capability of a particular tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to section 14.1(c)(6)(iv) of the Act (3 P.S. Section 914.1(c)(6)(iv), to meet all of the criteria set forth at Section 138e.16(a)(2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter.

Harm the Economic Viability of the Farmland for Agricultural Production – To cause a particular tract restricted land to fail to meet the criteria set forth at Section 139e16(a) (2), (3), (4) and 5 (relating to minimum criteria for applications) of this chapter, or to create, through subdivision, a tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3 P.S. Section 914.1(c)(6)(i)), that would fail to meet the afore described criteria.

Land Development – Either of the following activities:

- a. The improvement of one lot or two or more continuous 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 – That acreage which is a part of restricted land is harvested cropland, grazing or pasture land, land used for the production of lumber 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 curtilages, 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)(6)(iv) of the Act (3 P. S. Section 914.1(c)(6)(iv))

Parcel – All land defined by a single tax parcel number.

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

State Board – The Pennsylvania State Agricultural Land Preservation Board.

Subdivision – The division or redivision 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, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership of building or lot development.

Utility – Any surface, subsurface or aerial transmission of medium for electricity, oil, gas, water, sewage

### 3. Construction of One Additional Residential Structure

- a. General – In addition to structures existing on the eased land at the date of the granting of the easement, one additional residential structure may be constructed subject to the following conditions:
  - i. The residential structure is constructed and used as the landowner's principal residence, an immediate family member, or for the purpose of providing necessary housing for seasonal or full-time farm employees.
  - ii. No other residential structure has been constructed on the eased land, under authority of Section 14.1(c)(6)(iv) of the Act (3P.S. Section 914(c)(6)(iv)) and this section, after the date of the granting of the easement.
  - iii. The additional residential structure and its curtilage occupy no more than two acres of the eased land.
- b. Replacement of Structures – The replacement of a residential structure constructed under the authority of Section 14.1(c)(6)(iv) of the Act and this Section is permitted. However, the preexisting residential structure must be razed or removed within 6 months of the issuance of the occupancy permit for the new structure. The replacement residential structure must be within the curtilage of the residential structure it is replacing.
- c. Reservation of Right to Construct After Subdivision – If the eased land is subdivided prior to the construction of a residential structure under the authority of Section 14.1(c)(6)(iv) of the Act and this section, the landowner shall do the following:
  - i. Inform the County Board of the specific subdivided tract upon which the right to construct and use such a residential structure is reserved.

- ii. Ensure that the deed to the subdivided tract upon which the right to construct and use such a residential structure is reserved clearly sets forth the reservation of this right.
- iii. Ensure that all deeds to remaining subdivided tracts recite that no such residential structure may be constructed on such remaining subdivided tracts.

#### 4. Subdivision of Restricted Land (No Subdivision Option)

- a. General – The following conditions shall apply to subdivision of lands eased through the Montour County Agricultural Land Preservation Program whether the easement be held solely by the State, solely by the County, or held jointly by the State and County.
- b. Authority to prohibit subdivision. The Montour County Program prohibits the subdivision of restricted land if the landowner can accomplish the construction and use of a principal residence or housing for seasonal or full-time farm employees in accordance with Section 14.1(c)(6)(iv) of the Act (3 P. S. Section 914.1 (c)(6)(iv)), under the applicable subdivision and land development ordinance, by a land development other than subdivision.
- c. Discretion to allow subdivision. The Montour County Program allows the subdivision of restricted land, and places restrictions or conditions upon subdivision in those instances where the conditions of subsection 1.a. above cannot be accomplished without applicable subdivision of land under municipal land development and subdivision ordinances.
- d. Requisite: Preservation of economic vitality for agricultural production. Subsection b. notwithstanding, a county program shall not permit a subdivision which would harm the economic vitality of the farmland for agricultural production.
- e. Requisite: Prevention of conversion to non-agricultural use: exception. Subsection b. notwithstanding, a county program shall not permit a subdivision which would convert land which has been devoted primarily to agricultural use to another primary use except that, without regard to this requirement. The Montour County Program permits one tract to be created by subdivision for the purpose of the construction of a principal residence for the landowner.
- f. The prohibitions, restrictions and conditions of subdivision of eased land as set forth in subsection d of this section shall be recited verbatim in the deed for all subdivided and remaining parcels.
- g. All costs associated with subdivision shall be the responsibility of the landowner.
- h. Nothing in this section shall relieve the landowner of any municipal, county or state regulations, procedures or requirements necessary for the subdivision of land.
- i. Notice to landowner. A county board shall do at least one of the following:

- i. File its county program, or that portion setting forth any prohibitions or restrictions with respect to subdivision of restricted land, at the Office of Recorder of Deeds for that county, and reference the place of filing of these prohibitions or restrictions in the deed of agricultural conservation easement.
- ii. Recite the prohibitions or restrictions with respect to subdivision verbatim in the deed of agricultural conservation easement.

### **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 crossing local government unit boundaries and crossing 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 easements where a local government unit is a party to the purchase of the easement.
6. 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 easement 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 easement.
7. 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 easement.

### **Rural Enterprises**

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 are permitted.

Directly associated uses are defined as customary, supportive and agriculturally compatible uses of farm properties in Montour County, Pennsylvania, and are limited to the following:

1. The direct sale to the public of agricultural products produced principally on the farm.
2. Any and all structures contributing to the production, primary processing, direct marketing and storage of agricultural products produced principally on the farm;
3. Structures associated with the production of energy for use principally on the farm including wind, solar, hydroelectric, methane, wood, alcohol fuel, and fossil fuel systems and structures and facilities for the storage and treatment of animal waste.
4. The provision of services or production and sale, principally by persons in residence, of agricultural goods, services, supplies and repairs and/or the conduct of traditional trades and the production and sale of home occupation goods, arts and crafts, so long as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying or adjoining residential and/or principally agricultural structures of the Property; limited in site coverage to one percent (1%) or maximum 2 acres of the property.
5. 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 resources management systems used for erosion and sediment control and water quality improvement.
6. The accommodation of tourists and visitors within principally residential and/or agricultural structures of the farm property so long as this use is incidental to the agricultural and open space character of the property.
7. Other similar uses considered upon request to the Montour County Agricultural Land Preservation Board must be approved by the State Agricultural Land Preservation Board.

## **Commercial Equine Activity 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 61 of 2005 amendments of the Agricultural Area Security Law, Act 43 to take affect for the 2006 applicants. This Act is retroactive and applies to easements executed after June 29, 1981. The revisions to the county 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.

### **Procedures for \$1.00 Bargain Sale & Donated Easements**

In order to effectively preserve agricultural land in Montour County the Montour County Agricultural Land Preservation Board will accept \$1.00 bargain sales and donations. A donation will only be accepted if the easement is perpetual. Acceptance of conservation easements will be at the discretion of the Montour County Agricultural Land Preservation Board. \$1.00 bargain sales will be held by Montour County in perpetuity, and donated easements will be held by Montour County or jointly by Montour County and The Commonwealth of Pennsylvania. The minimum criteria for \$1.00 bargain sales & donations can be found below.

#### **1. Minimum eligibility criteria for \$1.00 bargain sale**

- a. To accept a \$1.00 bargain sale the agricultural conservation easement must meet both the State Minimum Criteria & the County Minimum Criteria set forth in the Montour County Agricultural Land Preservation Program Manual.
- b. All requirements and procedures of an easement purchase are to be followed.
- c. For easements purchased by the County for \$1.00, incidental costs may be paid as regular easement purchase costs under Chapter 138e.69.

#### **2. Minimum eligibility criteria for donations**

- a. The land is used for agricultural production, which includes timber production.
- b. The term of the agricultural conservation easement is perpetual.
- c. The County program shall specifically state that donations can be accepted.
- d. The agricultural conservation easement is being acquired by donation by an eligible county or by an eligible county in conjunction with the Commonwealth, and eligible nonprofit entity, or a local government unit, or by any combination of these.
- e. Acquisition documents are approved by the State Board or County Board prior to execution of agricultural conservation easement. Donated agricultural conservation easements where the Commonwealth is a grantee shall receive State Board approval prior to execution of agricultural conservation easement. No State-only donations will be accepted for agricultural conservation easement. All donated agricultural conservation easements shall be free and clear of any encumbrances (ie. mortgages or liens).
- f. The donated agricultural conservation easement shall have Title Insurance. In order for Title Insurance to be issued, an appraisal report meeting IRS requirements shall set the easement value for the agricultural conservation easement purchase. Title Insurance shall be issued based on the appraised easement value for the subject eased acreage. In order to provide accurate easement acreage for the Title Insurance and location of the correct easement boundary, a survey may be required according to Chapter 138e.73.
  - i. All incidental costs will be covered by the County and/or Commonwealth.



- g.** The Deed of Easement shall be prescribed by the State Board for the purchase of the agricultural conservation easement.
- h.** The county board shall provide the State Board a certified recorded copy of the agricultural conservation easement within 30 days after recording.
- i.** Donated agricultural conservation easements must either (1) meet all the eligible criteria for purchases; or (2) adjoin land already in an agricultural conservation easement. If land does not meet the Minimum State Criteria for purchase of an agricultural conservation easement, the land shall be contiguous to property subject to an agricultural conservation easement.
- j.** The allocation of a county may be adjusted by a maximum of \$5,000.00 per easement for all costs, except administrative costs, incurred by the Commonwealth or a county incident to the acquisition by donation of an agricultural conservation easement.

## Appendix Q

