

**Erie County  
Agricultural Land  
Preservation Board**

# **Agricultural Conservation Easement Program Guidelines**

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## **100 – General Provisions**

### ***101 – Purpose***

It is the purpose of this program to protect viable agricultural lands by acquiring agricultural conservation easements that prevent the development or improvement of the land for any purpose other than agricultural production and related agricultural activities. Further, it is the purpose of this program to:

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

### ***102 – Definitions***

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

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

Agreement or agreement of sale – A document executed by a landowner and the county board to purchase a specific agricultural conservation easement as part of the county board's recommendation for purchase, and that includes all of the materials referenced and incorporated into the agreement, in accordance with section 14.1(h)(8.2) of the act (3 P.S. § 914.1(h)(8.2)).

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 the 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 shall not be deemed to be management or control of activities at the site for purposes

of enforcement of the Hazardous Sites Cleanup Act (35 P.S. § § 6020.101-6020.1305).

Agricultural production - The production for commercial purposes of crops, livestock and livestock products, 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 that is devoted to and meets the requirements of and qualifications for payments and other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

Agricultural security area – A unit of 250 or more acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons and designated as such by the procedures in the act or designated as such under the act of January 19, 1968 (1967 P.L. 992, No. 442) (32 P.S. § § 5001-5012) prior to the February 12, 1989 effective date of the act of December 14, 1988 (P.L. 1202, No. 149), by the governing body of the county or governing body of the municipality in which the agricultural land is located on the basis of criteria and procedures which predate February 12, 1989: provided that an owner of land designated as such under the authority of the act of January 19, 1968 (1967 P.L. 992, No. 442) may withdraw the land from an agricultural security area by providing written notice of withdrawal to the county governing body or governing body of the municipality in which the land is located within 180 days of February 12, 1989.

Agricultural value - The sum of the following:

1. The farmland value determined by the applicant's appraisal.
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.

Applicant - A person offering to convey an easement on a farmland tract.

Comparable sales - Market sales of 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 which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land. A conservation plan shall include the following:

1. An installation schedule.
2. A maintenance program.
3. A nutrient management component consisting of a statement of whether a nutrient management plan is required under the Nutrient Management Act (3

P.S. § § 1701-1718) and, if required, confirmation that a plan is in place or will be in place prior to conveyance of the agricultural conservation easement. If a nutrient management plan is not required under the Nutrient Management Act, the nutrient management component shall consist of a description of the amounts and types of nutrients generated on the farmland tract and a description of any current and planned measures or procedures for containment, use, disposal or other disposition of the nutrients described.

Contiguous acreage - All portions of one operational unit as described in the deed, or deeds, whether or not the portions are divided by streams, public roads, bridges and whether or not described as multiple tax parcels, tracts, or other property identifiers. It includes supportive lands such as unpaved fields access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

County – Erie County, Pennsylvania.

County Board - The Erie County Agricultural Land Preservation Board, its officers or others authorized to act on behalf of the Board.

County program - The Erie County Agricultural Land Preservation Program for the purchase of easements approved by the state board under section 14.1(a)(3)(xi) and (xiv) of the act.

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, furbearing animals, milk, eggs and furs.
6. Timber, wood and other wood products derived from trees.
7. Aquatic plants and animals and their byproducts.

Crops unique to the area – The term includes crops which historically have been grown or have been grown within the last five years in the region and which are used for agricultural production in the region. For example, orchard or vineyard crops that have historically been produced in a particular county might be considered crops unique to the area.

Curtilage - The area surrounding a residential structure used for yard, driveway, on-lot sewerage system or other nonagricultural purposes.

Department - The Department of Agriculture of the Commonwealth.

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

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) of the act.

Economic viability of farmland for agricultural 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, to meet all of the criteria in § 138e.16(a) (relating to minimum criteria for applications).

Eligible non-profit 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.

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

Farmland tract or 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 section 7.2 of the act of June 15, 1982 (P.L. 549, No. 159) (3 P.S. § 1207.2).

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 § 138e.16(a), 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 farm employees is permitted pursuant to 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 and ornamentals, greenhouse products and sod, as defined in the act. 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 - One 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.
2. A subdivision of land.

Land which has been devoted primarily to agricultural use - 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 curtilage, 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.

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

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.

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.

Non-agricultural value - The sum of the following:

1. The market value determined by the state or county board's appraiser.
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 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. § § 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, 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 - The Act of 1968, P.L. 805, No 247, as reenacted and amended.

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

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

Secretary - The Secretary of the Department.

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 farmland 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).

Subdivision - The division or re-division 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.

Title report - A report prepared by a corporation 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-NRCS - The Natural Resource Conservation Service of the United States Department of Agriculture (formerly known as the Soil Conservation Service).

### ***103 – Minimum Criteria for Applications***

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

- A. Be one or more of the following:
  1. Located in an agricultural security area consisting of 500 acres or more.
  2. Bisected by the dividing line between two municipalities, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another municipality outside of an agricultural security area.
  3. Bisected by the dividing line between Erie County and an adjoining county, having the land located in Erie 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 located on the tract and located within Erie County.
    - ii. When the mansion house on the tract is bisected by the dividing line between Erie County and an adjoining county,

the landowner has chosen Erie 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 in Erie County.

B. Be one or more of the following:

1. Contiguous acreage of at least 50 acres in size.
2. Contiguous acreage of at least 10 acres in size and utilized for a crop unique to the area. Crops unique to the area include grapes, potatoes, peaches, and cherries.
3. Contiguous acreage of at least 10 acres in size and contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization," as that term is defined at Section 170(h)(3) of the Internal Revenue Code.

C. Contain at least 50% of soils which are available for agricultural production and are of capability classes I through IV, as defined by the USDA - Natural Resource Conservation Service.

D. Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

Erie County has added the following requirements for participation in the program:

- E. An applicant must submit an entire parcel as identified on Erie County Tax Assessment Maps.
- F. Applications shall not be accepted for farms that are located within areas designated as being targeted for development by the Erie County Comprehensive Plan or a municipal comprehensive plan. Examples of areas that are not targeted for development include districts such as Agrarian, Agriculture, Conservation, Rural Residential, Rural Resources, etc.

### ***104 – Farmland Ranking System***

Applications will be ranked using a two-part land evaluation and site assessment (LESA) system. The land evaluation portion looks at the quality of the soils and the site assessment portion considers locational factors that may have an impact on current or future viability of a farm. All qualified farms will be ranked and prioritized using this system.

#### **Land Evaluation**

This part of the LESA system is based on soils data obtained from the Erie County Soil Survey. The Soil Survey was published in 1960 by the USDA Soil

Conservation Service in cooperation with the Pennsylvania State University, College of Agriculture, and the Pennsylvania Department of Agriculture. The most up to date soils information will be used in evaluating applications for soil quality. This part of the ranking system (LE) is in accordance with Section 14.1(d)(1)(i) of the Act.

Each soil mapping unit found in Erie County has been assigned a score based on its land capability classification, important farmland classification, and productivity. Based on these factors, each soil mapping unit 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. Using a worksheet, the relative value for each soil type will be multiplied by the acreage of that individual mapping unit. The sum of all these relative values for the soils will be divided by the total acreage of the farm to obtain the overall average relative value for the farm. See Appendix D for a listing of relative values for all the soil types in the County.

The minimum weighted score a farm can receive on the Land Evaluation (LE) portion of the LESA System is 40% of the total LESA score.

### **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 having an impact on the farm operation. The site assessment considers 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: Factors that measure the limitations to continue farming on a subject site imposed by development pressures.
2. Farmland Potential: Factors that measure the potential agriculture productivity or farming practices of the site. These factors may include secondary values of a site, such as historic, cultural, scenic, or environmental values.
3. Clustering Potential: Factors that measure the importance of preserving blocks of farmland that support commercial agriculture and help to shield the agricultural community against conflicts with incompatible land uses.

The total of all the three types of site assessment categories will constitute a maximum score of three hundred (300) points.

Each site assessment category has been assigned a different weighted value by the County Board. The weighted values are as follows:

Development Potential 30%

Farmland Potential 20%

Clustering Potential 10%

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), Clustering Potential (CP) and Land Evaluation (LE).

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.

### **Development Potential**

These factors are intended to identify the extent to which development pressures from urban areas cause conversion of agricultural land to non-agricultural uses. Erie County shall identify and consider where development is occurring or is likely to occur in the next 20 years. The greater a farm's likelihood of conversion to non-farm use, the higher its score will be in this category. This portion of the ranking system (DP) is in accordance with Section 14.1(d)(1)(ii) of the Act.

1. Amount of road frontage with the tract. Farms with a large amount of road frontage can be quickly developed without installation of improved roads. These farms are more desirable for development than farms with poor or limited access to public roads.
  - (15) Over 2,000 feet of road frontage.
  - (10) From 1,000 to 1,999 feet of road frontage.
  - ( 5) From 500 to 999 feet of road frontage.
  - ( 0) Less than 500 feet of road frontage.
2. Central water-distribution system. A site serviced by water lines is more likely to be under significant development pressure than sites without available public water.
  - (15) Water line within less than one-quarter mile of site boundaries.
  - (10) Water lines within one quarter to one-half mile of site boundaries.
  - ( 5) Water lines within one-half to one mile of site boundaries.
  - ( 0) No water lines within one mile of site boundaries.
3. Central sanitary sewage system. If a sanitary sewer line of sufficient capacity is available close to the farm, the farm will be more likely to be under significant development pressure than a farm without available public sewer.
  - (15) Sewer line within less than one-quarter mile of site boundaries.
  - (10) Sewer lines within one-quarter to one-half mile of site boundaries.
  - ( 5) Sewer lines within one-half to one mile of site boundaries.
  - ( 0) No sewer lines within one mile of site boundaries.

4. Potential for conversion to non-agricultural use. Farms with a high percentage of flat, well-drained land are in high demand for development. The presence of environmentally-sensitive land such as wetlands, hydric soils, floodplain and steep (greater than 15%) slopes will lower the suitability of a farm for conversion to other uses.
  - (15) Less than 25% of land is environmentally sensitive.
  - ( 0) More than 25% of land is environmentally sensitive.
5. Percentage of area adjacent to farm in non-agricultural use.
  - (20) Over 75% of adjacent area in non-agricultural use.
  - (10) 50% to 74% of adjacent area in non-agricultural use.
  - ( 5) 25% to 49% of adjacent area in non-agricultural use.
  - ( 0) 0% to 24% of adjacent area in non-agricultural use.
6. Distance from farm to an area targeted for development by the Erie County Comprehensive Plan or a municipal comprehensive plan.
  - (20) Within less than one-quarter mile of farm boundaries.
  - (10) Within one-quarter to one-half mile from farm boundaries.
  - ( 5) Within one-half mile to one-mile from farm boundaries.
  - ( 0) No urban center or growth areas within one mile of farm boundaries.

### **Farmland Potential**

These factors measure the potential agriculture productivity or farming practices on the site. The higher quality or the more valuable a farm is, the higher its score will be in this category. This portion of the ranking system (FP) is in accordance with Section 14.1(d)(1)(iii) of the Act.

1. Amount of land on farm. In some areas, equipment size and crops grown present problems in farming small fields or farm units.
  - (30) 200 acres or more.
  - (20) 160 to 199 acres.
  - (15) 120 to 159 acres.
  - (13) 80 to 119 acres.
  - (10) 40 to 79 acres.
  - ( 3) 10 to 39 acres.
  - ( 0) Less than 10 acres.

2. Percentage of the tract used for harvested cropland, pasture, or grazing land. Large amounts of unproductive land do not make a farm more viable. (Percentages determined with ASCS records.)
  - (15) 90% to 100% of the land is harvested cropland, pasture, or grazing land.
  - (10) 75% to 89% of the land is harvested cropland, pasture, or grazing land.
  - ( 5) 50% to 74% of the land is harvested cropland, pasture, or grazing land.
  - ( 0) Less than 50% of the land is harvested cropland, pasture, or grazing land (not eligible for State funding).
3. Installation of soil and water conservation practices. Farms which will be dedicated to long-term agricultural use should not have depleted soils, and should be in compliance with local, state, and federal pollution control regulations.
  - (15) Over 90% of soil and water conservation practices installed.
  - (10) 75% to 90% of soil and water conservation practices installed.
  - ( 5) 50% to 74% of soil and water conservation practices installed.
  - ( 0) 0% to 49% of soil and water conservation practices installed.
4. Historic, scenic or environmental qualities. Tracts declared or listed by local/State/Federal agencies as historic, scenic, open space, or cultural and tracts adjoining designated protected areas such as State gamelands, flood plains, wildlife habitat, parks, forests and educational sites will be awarded higher values reflecting broader policies affecting the farmland landscape. Environmentally sensitive and historical areas can buffer farmland from non-compatible land uses.
  - (15) Exceptional features favorable to preservation (National Register of Historic Places, exceptional scenic contribution on major highway corridor, exceptional or special environmental circumstances).
  - (10) Significant features favorable to preservation (National Register of Historic Places, exceptional scenic contribution on highway corridor, exceptional or special environmental circumstances).
  - ( 5) Features favorable to preservation (significant but undocumented historic features, moderate localized scenic contribution, and/or limited but recognized environmental features favorable to preservation).

5. Condition of buildings and improvements. Farms with up-to-date facilities in good repair are more viable than farms with poor buildings, or with bare land that must use off-site facilities.
  - (10) Buildings in good repair that have value for commercial agricultural use.
  - ( 0) No buildings, or old buildings which have no value for commercial agricultural use.
6. Duration of family farming activity.
  - (15) Family farming for 100 years or more.
  - ( 5) Family farming property for 50 years to 99 years.
  - ( 3) Family farming property for 20 to 49 years.
  - ( 0) Family farming property for less than 20 years.

### **Clustering Potential**

These factors 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. The closer a farm is to other preserved farms or to an area where other farms are targeted for preservation, the higher the farms will score in this category. This portion of the ranking system (CP) is in accordance with Section 14.1(d)(1)(ii.1) of the Act.

1. Percentage of the area within 2 miles of property's boundaries in agricultural use or available for agricultural use. Areas that are all agricultural are more viable than areas that are non-agricultural.
  - (30) 90% to 100% of area in agricultural use or available for agricultural use.
  - (20) 75% to 89% of area in agricultural use or available for agricultural use.
  - (10) 50% to 74% of area in agricultural use or available for agricultural use.
  - ( 0) 0% to 49% of area in agricultural use or available for agricultural use.
2. Proximity to other farms with easements. Clumping agricultural easement purchases in an area will help develop a nucleus of farms which can support each other and reduce conflicts with incompatible land uses.
  - (20) Two farms with easements within one mile of site boundaries.
  - (10) One farm with an easement within one mile of site boundaries.
  - ( 0) No farms with easements within one mile of site boundaries.

3. Percentage of land adjacent to the farm enrolled in an Agricultural Security Area. Areas where agriculture has been given protection by the local municipality, at the request of the landowners, provide an environment conducive to farming.
  - (25) Over 75% of the area adjacent to the farm is enrolled in an ASA.
  - (15) 50 % to 74% of the area adjacent to the farm is enrolled in an ASA.
  - (10) 25% to 49% of the area adjacent to the farm is enrolled in an ASA.
  - ( 0) Less than 25% of the area adjacent to the farm is enrolled in an ASA.
4. Percentage of the Township in which farm is located that is not designated as an area targeted for development by the Erie County Comprehensive Plan or a municipal comprehensive plan.
  - (25) 65% or more of the municipality located outside areas targeted for development.
  - (15) 40% to 64% of the municipality located outside areas targeted for development.
  - ( 5) 20% to 39% of the municipality located outside areas targeted for development.
  - ( 0) Less than 20% the municipality located outside areas targeted for development.

### **105 – Planning Map to Guide Easement Purchases**

- A. The County Board will use the Important Farmlands maps of Erie County to assist in the identification of farm parcels to be selected for inclusion in the County's Agricultural Conservation Easement Program. These two maps, issued in 1978 by the U.S. Department of Agriculture, Soil Conservation Service, identify those areas in Erie County considered agriculturally important.
- B. The County Board adopts the Erie County Plans For Land Use & Community Facilities map from the Erie County Land Use Plan, adopted December 9, 2003, or most recent revision, to determine which areas of Erie County are designated for development and which are not, as required under Section 103 (F) of the Minimum Eligibility Criteria.
- C. Reference copies of U.S.D.A., S.C.S. Important Farmlands maps and the Erie County Plans for Land Use and Community Facilities map can be reviewed at the Erie County Department of Planning between 8:30 AM and 4:30 PM, Monday through Friday.
- D. The County Board shall encourage the formation of Agricultural Security Areas identified on the map of important agricultural areas of the County.

### **106 – Public Information**

- A. The County Board will publicize the county program through the dissemination of information, press releases, presentations, and through public meetings.
- B. The County Board shall be subject to the Sunshine Act (65 P.S. § § 271-286) and the act of June 21, 1957 (P.L. 390, No. 212) (65 P.S. § § 66.1-66.4), known as the Right-To-Know Law, relating to the inspection and copying of public records.
- C. Copies of the Erie County Agricultural Conservation Easement Program Guidelines are available to the public by contacting the Erie County Department of Planning, Erie County Court House, First Floor, Room 111, 140 West 6th Street, Erie, PA 16501; or by calling (814) 451-6336.

### **107 – County Board Cost Recovery**

- A. At the appraisal request phase, applicants selected for easement purchase shall be notified by mail. Applicants who wish to proceed shall submit an appraisal deposit fee of \$500.00 to Erie County within 30 days of the receipt of the notification letter. This deposit may be refunded after close of the sale. This deposit is refundable under the following conditions:
  - 1. If the applicant does not withdraw his/her application at any time between the appraisal and closing.
  - 2. If the applicant does not sever the agreement of sale and proceeds to closing.
  - 3. If the County Board decides not to make an offer to purchase an easement from the applicant.
- B. Should an applicant choose to withdraw from the Agricultural Conservation Easement Program at any time after consulting work has been contracted by the County Board (appraisal, title commitment work, or survey), then the applicant shall be responsible for reimbursing Erie County for the cost of any work completed, less the appraisal deposit. Should the cost for completed work not exceed the amount of the appraisal deposit, the difference between the cost of the work completed and the original appraisal deposit shall be refunded to the applicant.

## **200 – Procedures for Purchasing an Easement**

Landowners interested in selling an agricultural conservation easement to Erie County and the Commonwealth of Pennsylvania should use the following procedure.

All conservation easement applications and other documentation shall be done in accordance with the model formats included in the State guidebook and any future revisions thereto.

### ***201 – Summary of Procedure***

The following is a list of steps required for the purchase of an agricultural conservation easement.

1. Landowner submits an application.
2. County Board evaluates the application.
3. County Board authorizes an appraisal.
4. County Board establishes an easement value and purchase price.
5. County Board offers to purchase an agricultural conservation easement.
6. Landowner responds to offer.
7. Upon acceptance of the offer, the County Board prepares an application for State Board approval.
  - A. A survey is typically required. The County Board will obtain the survey.
  - B. A legal description of the easement area is prepared from the survey.
  - C. County Board orders a title search and secures a title insurance commitment for the easement purchase.
  - D. Landowner obtains and submits to County Board any necessary releases or subordinations from mortgage holders or other lien holders.
  - E. County provides required notification to adjacent landowners.
  - F. County Board submits its recommendation, and application for State Board approval.
8. State Board approves the application.
9. Settlement occurs on the agricultural conservation easement.

## **202 – Submission of Application**

- A. In order to apply for the agricultural conservation easement program, a landowner must submit a completed application. The application shall consist of a completed application form, location map, county tax map, a soils report, a copy of the conservation plan (if any), and a copy of the nutrient management plan (if required).
- B. The County Planning Department's staff is available to assist landowners with completing the application. The 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 Section 103 for a list of minimum criteria. For assistance with the application, or for questions about the program, contact the Erie County Department of Planning.
- C. Applications can be obtained from the Erie County Department of Planning, Erie County Court House, First Floor, Room 111, 140 West 6th Street, Erie, PA 16501.
- D. The application will be used to screen all potential applicants. The County Board will accept applications every second year, beginning in 2004, and the application period will run from **June 1st through September 30th** of each application year. All applicants in any application period shall be eligible for subsequent years' funding. Any applications not funded during the process term will be carried forward for ranking in future funding periods, unless property owners request in writing that their applications be removed.

## **203 – Evaluation of the Application**

- A. The County Board shall review the application to determine if it is complete and meets the minimum criteria in Section 103.
- B. If minimum criteria are not met, the applicant will be mailed a letter of rejection with an explanation of why the application was rejected.
- C. If all minimum requirements are met, and following an on-site assessment by a representative of the County Board, the application will be ranked using a two-part, land evaluation and site assessment (LESA) system. The land evaluation portion looks at the quality of the soils and the site assessment portion considers locational factors that may have an impact on current or future viability of a farm. All qualified farms will be ranked and prioritized using this system. The farmland ranking system is explained in Section 104.
- D. Selection for appraisal will be made based on the farmland ranking score. Preference for appraisals will be given to applicants with the highest LESA scores. The application with the highest score will be appraised first, followed by the next highest score and so on. The County Board reserves the right to limit the number of applications it chooses to appraise. The

number of farms selected to be appraised will be based on funding availability.

## **204 – Appraisal**

The procedure below has been taken from Pennsylvania's Agricultural Conservation Easement Program guidelines.

- A. 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.
- B. An appraisal shall be based primarily on an analysis of comparable sales, and shall be conducted in accordance with standards in the most recent edition of the *Uniform Standards of Professional Appraisal Practice*, published by the Appraisal Standards Board of the Appraisal Foundation. If an appraiser cannot practicably conduct an appraisal based on an analysis of comparable sales, the appraiser may conduct an appraisal using another methodology only if that methodology is an acceptable methodology under the *Uniform Standards of Professional Appraisal Practice* and the appraisal report clearly describes the information considered, the appraisal procedures followed and the reasoning that supports the analysis, opinions and conclusions.
- C. The value of a building or other improvement on the farmland tract will not be considered in determining the easement value.
- D. The appraiser shall be a Pennsylvania State Certified General Real Estate Appraiser who is qualified to appraise a property easement purchase. An appraiser shall be selected on the basis of experience, expertise, and professional qualifications.
- E. The appraiser shall supply a minimum of three copies of a narrative report which contains the following information and is in the following format:
  1. Introduction
    - i. Letter of transmittal
    - ii. The appraiser's certificate of value as to market value, farmland value and easement value.
    - iii. Table of contents
    - iv. Summary of salient facts and conclusions
    - v. Purpose of the appraisal
    - vi. The definitions, including definitions of market value, farmland value and easement value.

2. Description of Property

- i. Area or neighborhood description
- ii. Description of appraised property
  - 1. Legal description
  - 2. Property data and zoning
  - 3. Description of improvements
  - 4. Photos of subject property's fields and improvements
  - 5. Tax map showing the subject property and its relationship to neighboring properties
  - 6. A legible sketch or aerial photograph of subject property showing boundaries, roads, driveways, building locations, rights of way and land use.
  - 7. Location map showing the location of the subject farmland tract in the county or municipality.
  - 8. Soils map showing property boundaries.

3. Analyses and Conclusions

- i. Analysis of highest and best use
- ii. The valuation methodology: market value
  - 1. Comparable sales data
  - 2. An adjustment grid
  - 3. A locational map of comparable sales showing the location of the subject farmland tract with respect to the comparables. A single locational map shall be submitted with respect to each county from which comparable sales are drawn.
- iii. The market value estimate
- iv. The valuation methodology: farmland value
  - 1. Comparable sales data
  - 2. An adjustment grid
  - 3. A locational map of comparable sales showing the location of the subject farmland tract with respect to the comparables. A single locational map shall be submitted with respect to each county from which comparable sales are drawn.
- v. A farmland value estimate
- vi. The easement value

- vii. An appendix containing a brief statement of the appraiser's professional qualifications and a copy of the appraiser's current certification issued in accordance with the Real Estate Appraisers Certification Act (63 P.S. § § 457.1 – 457.19).
- F. The appraiser shall supply information concerning comparable sales as follows:
1. At least three (3) comparable sales shall be used for estimating market value and at least three (3) comparable sales shall be used for estimating farmland value in an appraisal. If the appraiser cannot obtain sufficient comparable sales data within Erie County, the appraiser may use comparable sales from other counties, with the approval of 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.
  2. 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 (for determining market value) and soil mapping units (for determining farmland value). The appraisal shall include an analysis comparing pertinent data for each comparable sale to the subject farmland tract. This analysis shall be in the form of a narrative statement of the information considered and the reasoning that supports the analyses, opinions and conclusions, and an adjustment grid assigning, when practicable and within the *Uniform Standards of Professional Appraisal Practice*, approximate dollar values to adjustment shown on the adjustment grid.
  3. The location of each market value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily.
  4. The location of each farmland value comparable sale used in the appraisal report shall be shown accurately on a comparable sales map depicting the entire county in which the comparable sale is located, and shall be sufficiently identified and described so it may be located easily. If the comparable sales map depicts the county in which the property that is the subject of the appraisal is located, that property shall also be sufficiently identified and described so it may be located easily. If a farmland value comparable sales map

and a market value comparable sales map would depict the same county, they may be combined in a single map.

5. For comparable sales used to estimate the farmland value, the appraiser may use sales of land that are confined to agricultural use because of agricultural conservation easements or other legal restrictions or physical impairments that make the land valuable only for agricultural use. Comparable sales shall be in primarily agricultural use. Data may also be gathered from farm real estate markets when farms have no apparent developmental value.
6. The appraiser shall set forth the reasons the farmland comparable sales are confined primarily to agricultural use. Examples of these reasons include:
  - i. The farmland tract has public or private land use restrictions.
  - ii. The farmland tract is within a flood plain or a wetland (in whole or in part).
  - iii. The farmland tract is landlocked, subject to additional easements, subject to restrictive zoning or has other physical attributes which limit its developmental capability.
7. 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.
8. The appraisal shall include the entire acreage offered for easement sale. If, following completion of the appraisal, acreage is added to or deleted from the proposed easement sale for any reason, the appraisal shall be revised accordingly or the appraiser shall agree in writing to the use of a per acre value to account for the change in easement value resulting from such a change in acreage.
9. If acreage is voluntarily withheld from the easement sale by the landowner through subdivision accomplished in accordance with the Pennsylvania Municipalities Planning Code, the appraiser shall, in making the estimate of agricultural conservation easement value, take into account any increase in the value of the subdivided acreage because of the placement of the easement on the remaining farmland.

## **205 – Easement Value and Purchase Price**

- A. *Easement value:* An easement shall be purchased in perpetuity. The maximum value of an easement for purposes of making an offer to purchase an easement under § 138e.66(b) (relating to offer of purchase by county board) shall be the difference between the market value and the farmland value contained in the county appraisal report.

- B. *Maximum purchase price:* The purchase price offered for the purchase of an easement under § 138e.66(b) may not exceed, but may be less than, the value of the easement.

### **206 – Offer of Purchase by County Board**

- A. In determining whether to offer to purchase an easement following receipt of the county appraisal report, the County Board shall consider the following:
1. The farmland ranking score
  2. The cost relative to total allocations and appropriations.
  3. Under § 138e.66(a), the following factors or considerations are set forth in the county program as those factors or conditions under which an offer to purchase may be made in something other than descending order of farmland ranking score.
    - a. The landowner is unable to obtain clear title to the farmland tract within 6 months, unless an extension is requested by the landowner and approved by the County Board.
    - b. Available funds are insufficient to purchase a higher ranked farm, but sufficient funds are available to purchase a lower ranked farm.
    - c. The County Board has the authority to ask a non-profit conservation organization to purchase an agricultural conservation easement on its behalf at any time. For this to occur, the farm site must meet the State and County Minimum Criteria for applications, have an acceptable Land Evaluation and Site Assessment score, and the owner must make application to the county program.
    - d. A qualifying land trust wishes to protect the farm and transfer the conservation easement to the county program.
    - e. Below are a few situations where the Board may wish to consider an emergency agricultural conservation easement purchase.
      - i. A desirable farm is for sale and a conservation buyer is interested in purchasing the property.
      - ii. The farm may be sold under a forced sale.
      - iii. The farm may be sold under severe financial pressure to sell the property.
- B. 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.

- C. After the County Board has decided to make an offer for the purchase of an agricultural conservation easement, the County Board or its representatives 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.
- D. 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. Advise the County Board that the applicant is retaining, at applicant's expense, a Pennsylvania State Certified General Real Estate Appraiser to determine the easement value. The appraisal shall be completed as set forth by the state regulations (See Section 204). Three copies of this independent appraisal shall be submitted to the County Board within 120 days of the receipt of the County Board's offer to purchase.

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

- E. If the offer to 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, 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.
- F. If the applicant chooses to complete a second appraisal according to option (3) above, the County Board has 30 days from the receipt of the second appraisal to:
  - 1. Submit a new written offer to purchase in an amount in excess of the first offer, if a larger easement value resulted from the consideration of the second appraisal using the formula described in Section 204.
  - 2. Notify the applicant, in writing, that the first offer remains open and will not be modified.

The applicant has 15 days from the receipt of the County Board's offer under option (1) or (2) above, to notify the County Board in writing of his/her acceptance or rejection of the offer.

- G. All procedures relating to offers to purchase by the County Board shall follow the State Agricultural Conservation Easement Program Regulations.

**207 – Requirements of the Agricultural Easement Deed**

- A. At settlement, the owners of the subject farmland tract shall execute a deed conveying the easement. This deed shall include the provisions of § 138e.241 (relating to deed clauses).
- B. The deed shall be in recordable form and contain:
  - 1. A legal description setting forth the metes and bounds of the farmland tract subject to the easement.
  - 2. At least one course and distance referencing affixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, pk nails, spikes, concrete monuments or stones.
- C. The legal description may not contain a closure error greater than 1 foot per 200 linear feet in the survey.
- D. The farmland tract on which an easement is to be purchased shall 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 Section 207 (B) and (C). A survey required by this subsection shall meet the requirements of § 138e.73 (relating to survey requirements).
- E. For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.
- F. 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.
- G. For purchases made using a combination of State, county and local municipality funds, the grantees shall be the Commonwealth, the county and the local municipality providing the funds under joint ownership as defined in the act.
- H. For purchases made entirely with county funds, the county shall be the sole grantee.
- I. For purchases made entirely with local municipal funds, the municipality shall be the sole grantee.
- J. For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.

## **208 – Survey Requirements**

- A. *General requirement.* 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:
1. 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.
  2. 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.
  3. 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,” or its most current successor document, and shall be obtained through field observation or verification of datum.
  4. A paper copy of the plotted final survey map from the digital file showing the course bearings and 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 so that it can be ascertained by inspection of the monument in the field.

### **209 – Title Insurance**

- A. The County Board shall provide the following to the State Board upon submission of its recommendation for the purchase of an easement:
  - 1. A title insurance commitment.
  - 2. Copies of all recorded or unrecorded documents listed on the title insurance commitment as exceptions to the title insurance policy.
- B. At settlement, the County Board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in this Commonwealth by the Insurance Department. A marked up title commitment may serve as a policy until the final policy is issued. The amount of title insurance coverage shall equal or exceed the higher of the following amounts:
  - 1. The difference between the appraised market value and the appraised farmland value, as described in § 138e.65(a) (relating to easement value and purchase price).
  - 2. The difference between the agricultural value and the nonagricultural value, as described in § 138e.66(c)(3) (relating to offer of purchase by county board), if the values are used to calculate the easement value.

### **210 – Statement of Costs**

- A. For purposes of section 14.1(h)(6) of the act (3 P. S. § 914.1(h)(6)), the County Board shall submit, on a form provided by the Department, a statement of costs. This statement of costs shall include the cost of the agricultural conservation easement and the costs incident to the purchase of the easement, and shall be submitted to the State Board along with the application for review described in § 138e.91 (relating to recommendation for purchase). The incidental costs may include:
  - 1. The county appraisal costs.
  - 2. The necessary legal fees for title search, preparation of documents and attendance at the closing.
  - 3. The recording fees.
  - 4. The survey costs.
  - 5. The costs of providing adjoining landowners with required notices and of providing necessary advertisements.
  - 6. 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.

7. The cost of the title insurance.
- B. 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.
- C. After settlement, the County Board shall submit a revised statement of costs if actual costs were greater or less than the costs estimated in the initial statement of costs.
- D. If the actual costs are less than the estimated costs, the County Board shall promptly refund the difference to the Department by check payable to "Commonwealth of Pennsylvania."

## **211 – Summary Report**

- A. *General.* A recommendation by the County Board for the purchase of an easement shall be accompanied by a summary report consisting of a narrative report and appendix as described in Section 208 (B) and (C).
- B. *Narrative report.* The narrative report shall consist of the following:
  1. A description of the farm, including the name of all landowners, location in relation to the nearest town, number of acres proposed for purchase and type of agricultural production on the farm.
  2. A description of the quality of the farmland tract, including the soil capability classes of the soils available for agricultural production.
  3. The farmland ranking score, including a statement of the relative ranking of the farmland tract among other tracts considered by the county in the same round of applications.
  4. A description of the likelihood of conversion to other uses if the easement is not purchased.
  5. A description of the nature and scope of developmental pressure in the municipality or area.
  6. A description of the nature and scope of conservation practices and best land management practices, including soil erosion and sedimentation control and nutrient management.
  7. A discussion of the purchase price summarizing the appraisals, including the agricultural and nonagricultural value, negotiations for purchase and the percentage of the appraised easement value accepted by the landowner.

8. A statement of costs as described in § 138e.69 (relating to statement of costs).
  9. A certification by the county board that the information presented to the State Board is true and correct.
- C. *Appendix.* The appendix of the summary report shall, at a minimum, consist of the following:
1. The application form.
  2. Locational maps, including tax, topographic and soils maps.
  3. A soils report.
  4. Any crop report required by the county program.
  5. Any livestock report required by the county program.
  6. An evaluation of the farmland ranking score, showing how the farm scored in comparison to other farms.
  7. A quitclaim deed, or a subordination, release or letter approving the purchase from a mortgagee, lien holder or owner of rights in surface mineable coal.

## ***212 – State Board Review and Approval***

The County Board shall make its recommendation for purchase of an easement by submitting the following documents to the Director, Bureau of Farmland Preservation, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408:

1. Twenty-five copies of the summary report prepared in accordance with § 138e.70 (relating to summary report), including the following items:
  - a. A cover letter from the county
  - b. A narrative summary
  - c. A current United States Geological Survey (USGS) topographical map that clearly and legibly shows the subject property location and boundaries, location of neighboring easements and exclusions withheld from the subject property.
  - d. The Soil Report Form “C” (a form provided by the Department)
  - e. The list of soil mapping unit names, symbols and land capability classes on the subject property.
  - f. A legible, uncolored soil map of the subject property.
  - g. A 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. A summary table showing the individual farmland ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applicants.
    - i. A copy of Exhibit B from the agreement of sale, modified to include interest, total acres and per acre easement cost.
    - j. The 25 copies submitted shall be individually collated and three-hole punched, but not stapled.
  2. The appraisal 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 the adjoining landowners were provided with notice and opportunity to be heard in a manner consistent with administrative agency law with respect to the proposed easement purchase, including one copy of the notification letter required under §138e.71 (relating to notification of owners of land adjoining proposed easement purchase) and a list of the 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 approved soil conservation plan that is required to be in place with respect to the land under § 138e.241(2) (relating to deed clauses).
  9. A copy of the nutrient management plan that has been developed, certified, reviewed and approved in accordance with the Nutrient Management Act (3 P. S. § § 701—1718), if the nutrient management plan is required under the Nutrient Management Act for any portion of the property that is the subject of the recommendation for purchase.

### **213 – Post Settlement Recording & Reporting Procedures**

- A. *Retaining copies of essential documents.* The County Board shall make and retain photocopies of the following documents after settlement is held with respect to an agricultural conservation easement purchase, and prior to the recording of the deed of agricultural conservation easement in the appropriate recorder of deeds' office:
  1. The complete and fully-executed deed of agricultural conservation easement, including the complete legal description of the land subject to the agricultural conservation easement.

2. A marked-up title insurance commitment document, reflecting that all listed title insurance exceptions have been addressed and resolved prior to the purchase of the agricultural conservation easement.
  3. Mortgage satisfaction pieces, subordination agreements and other documents to be recorded in connection with the agricultural conservation easement purchase.
  4. The complete and fully-executed conservation plan agreement form as described in § 138e.222 (a) (relating to conservation plan).
- B. *Recording of the deed of agricultural conservation easement and other documents.* The County Board shall record the deed of agricultural conservation easement and any other documents (such as subordination documents, satisfaction pieces and releases, and the conservation plan agreement form) at the appropriate recorder of deeds' office after settlement is held with respect to the easement purchase.
- C. *Reporting the agricultural conservation easement purchase to the State Board.*
1. *General.* The County Board shall mail or deliver the following documents to the Department within 10 days following the date upon which settlement is held with respect to an agricultural conservation easement purchase:
    - i. A complete notification of settlement, on a form available from the Department upon request, containing the following:
      - a. The name of the landowners.
      - b. The county in which the land is located.
      - c. The date of settlement.
      - d. A statement identifying any additional incidental costs.
      - e. An indication (by check-off or other designation) of the other documents the county board is submitting to the Department along with the Notification of Settlement Form.
      - f. The signature of the administrator or chief executive of the county board.
    - ii. Copies of all of the documents described in subsection (b).
    - iii. A copy of the settlement sheet, if the execution of such a document is part of the settlement transaction.
    - iv. A marked-up title insurance commitment document or a title insurance policy, reflecting that all listed title insurance exceptions have been addressed and resolved prior to the purchase of the agricultural conservation easement.

- v. A complete verification, executed by the settlement agent at settlement, on a form available from the Department upon request, containing the following:
  - a. A statement reading substantively as follows:

As Settlement Agent for \_\_\_ County, I hereby verify that I have submitted (or will take responsibility for submitting) the appropriate IRS 1099-S form(s) for the agricultural conservation easement identified below in accordance with the Internal Revenue Code, section 6045. I further verify that I have reported (or will report) the gross proceeds in the case of a joint purchase by the Commonwealth and the county. If this verification is not submitted to the Commonwealth within 30 days of closing, I further verify that the 1099-S form(s) will be sent to the IRS and the transferor by the deadline established by the IRS.
  - b. The name and Federal taxpayer I.D. number of each person who sold an interest in the agricultural conservation easement.
- vi. An invoice from the county for any additional incidental costs related to the agricultural conservation easement purchase, on a form available from the Department upon request, containing the following:
  - a. The name, address and Federal taxpayer I.D. number of the county.
  - b. The date of the application.
  - c. The name, address and telephone number of the person designated by the county to act as a contact person if the Department requires further information.
  - d. The name of the farm owner, address of the farm and the number of acres under agricultural conservation easement.
  - e. A breakdown of the purposes for which reimbursement of additional incidental expenses is requested, and the amount of each expense.

- vii. A revised statement of costs, as described in §138e.69 (relating to statement of costs), if the incidental costs are higher or lower than originally reported.
2. *Exception for agricultural conservation easements purchased by a local government unit solely.* Paragraph (1) notwithstanding, if an agricultural conservation easement is purchased by a local government unit solely, the County Board shall mail or deliver the following documents to the Department within 30 days after recording the deed of agricultural conservation easement:
- i. A copy of the complete and fully-executed deed of agricultural conservation easement, including the complete legal description of the land subject to the agricultural conservation easement.
  - ii. A current United States Geological Survey (USGS) topographical map that clearly and legibly shows the subject property location and boundaries, location of neighboring easements and exclusions withheld from the subject property.
  - iii. An invoice as described in paragraph (1)(vi).
- D. *Copies of filed documents.* The County Board shall mail or deliver copies of the recorded documents described in subsection (B) to the Department within 30 days following the date upon which these documents are recorded at the Erie County Recorder of Deeds' office. The date and place of recording shall appear on each document.
- E. *Title insurance policy.* The title insurance policy should be mailed or delivered to the State Board within a reasonable time after settlement—preferably within 60 days of settlement.

## **214 – Local Government Unit Participation**

- A. Any local municipality that has created an agricultural security area may participate along with Erie County and the Commonwealth in the preservation of farmland through the purchase of agricultural easements. Participating municipalities, in conjunction with the County Board, may participate with the State Board in the purchase of agricultural conservation easements.
- B. Participating municipalities shall recommend to the County Board the purchase of agricultural conservation easements by the municipality and either Erie County or the Commonwealth as joint ownership.

- C. Participating municipalities may purchase an agricultural conservation easement, provided that all of the following apply:
1. The agricultural conservation easement is located within an agricultural security area of at least 500 acres of the easement purchased is a joint purchase with Erie County or both Erie County and the Commonwealth pursuant to the criteria set forth for the purchase of agricultural conservation easements crossing municipal boundaries and crossing county boundaries including any portion of an agricultural conservation easement extending into an adjoining county.
  2. 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.
  3. The municipality shall participate with the County Board in complying with the recording requirements detailed below for recording any agricultural conservation easements purchased by the municipality.
- D. The County Board shall be responsible for recording agricultural conservation easements where a municipality is party to the purchase of the easement. The easement shall be recorded by the County Board in the office of the Erie County Recorder of Deeds,. 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.
- E. Participating municipalities may incur debt pursuant to 53 PA C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) for the purchase of agricultural conservation easements.

### ***215 – Eligible Non-Profit Entity Participation***

An eligible non-profit entity may participate along with the County Board, the Commonwealth, and a local government unit eligible to participate under Section 214, in the preservation of farmland through the purchase of agricultural conservation easements.

- A. The eligible non-profit entity may purchase an agricultural conservation easement if all of the following apply:
1. The agricultural conservation easement is a joint purchase with the county, and may include the Commonwealth or a local government unit, or both.

2. The deed of agricultural conservation easement is as prescribed by the State Board for an agricultural conservation easement purchased by the Commonwealth.
- B. The County Board shall be responsible to record agricultural conservation easements where an eligible non-profit entity is a party to the purchase of the easement. The County Board shall record the easement at the office of the Erie County Recorder of Deeds, and shall submit to the State Board a certified copy of agricultural conservation easement within 30 days after recording. The County Board shall attach to all certified copies of the agricultural conservation easement submitted to the State Board a description of the farmland subject to the agricultural conservation easement.

### ***216 – Easement Pre-Acquisition by Non-Profit Organization***

- A. The Erie County Agricultural Land Preservation Board has the authority to ask a nonprofit conservation organization to purchase an agricultural conservation easement on its behalf at anytime following receipt of the county appraisal report.
- B. Below are a few situations where the Board may wish to consider asking a non-profit conservation organization to purchase an agricultural conservation easement on its behalf:
1. A desirable farm is up for sale and a conservation buyer is interested in purchasing the property.
  2. The farm may be sold under a forced sale due to landowner's health.
  3. The farm may be sold under severe financial pressure to sell the property.
  4. A qualifying land trust wishes to protect the farm and transfer the conservation easement to the county program.
- C. Section 138e.69 of the State Regulations for the Agricultural Conservation Easement Program states that county boards can request reimbursement for costs incurred by a non-profit 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 and/or the Commonwealth. These costs can include the easement purchase price, reasonable costs of financing the purchase, appraisal costs, necessary legal costs, recording fees and survey costs.

- D. The Procedure for pre-acquisition of an agricultural conservation easement by a non-profit conservation organization is as follows:
1. County Board makes determination that easement pre-acquisition may be necessary.
  2. County Board checks to make sure the farm meets the State and/or County Minimum Criteria and ranks the farm with the Land Evaluation and Site Assessment (LESA) system.
  3. County Board sends written request to the conservation organization asking the organization to assist in the protection of the farm by pre-acquiring an easement for the County Board. The letter should clearly state what costs will be reimbursed to the non-profit entity for undertaking the easement pre-acquisition.
  4. Conservation organization responds to County Board request agreeing to do the easement pre-acquisition.
  5. If the Commonwealth is to eventually hold the easement, notice should be given to the Bureau of Agricultural Land Protection that an easement is being pre-acquired by the conservation organization.
  6. Conservation Organization and/or County Board should then take the following steps:
    - a. Negotiate an easement purchase price with the landowners.
    - b. Survey the property if necessary.
    - c. Order a title search and secure a title insurance commitment for the easement purchase.
    - d. Obtain any necessary releases or subordinations from mortgage holders or other lien holders.
  7. Conservation organization and the attorney for the conservation organization, in consultation with the County Board and Bureau of Farmland Protection, should draft the following legal documents:
    - a. **Deed of Agricultural Conservation Easement** - If the easement is to be eventually transferred to the Commonwealth, the easement language must be identical to the standard Commonwealth Deed of Agricultural Conservation Easement. The county subdivision guidelines should also be included or referenced in the Deed of Easement.
    - b. **Purchase and Sales Agreement** - Agreement between the conservation organization and the landowner to purchase and sell the agricultural conservation easement.

- c. **Assignment Agreement** - This is the legal agreement between the conservation organization, the County Board and the State Board describing how the conservation easement ownership will be transferred from the conservation organization to the Commonwealth and/or County. This includes the details on the costs involved in the transaction and how these costs will be reimbursed.
  - d. **Assignment of Agricultural Conservation Easement** - This is the legal document which is used to transfer the ownership of the conservation easement from the conservation organization to the Commonwealth and/or County. It is included as an attachment to the Assignment Agreement.
- 8. Conservation organization obtains financing and follows through with the purchase of the easement from the landowner. The conservation organization should record the deed of easement in the Recorder of Deeds Office immediately following settlement with the landowner.
- 9. If the easement is to be transferred to the Commonwealth, the County Board should submit a written request to the State Board to approve the assignment of the conservation easement from the conservation organization to the Commonwealth. The same documentation should be submitted to the State Board as is required for recommending a standard Commonwealth easement purchase with the additional legal documents included.
- 10. After the State Board votes to approve the assignment, the conservation organization must wait for the State funds to be released to cover the assignment costs and the reimbursement of incidental costs involved in the pre-acquisition transaction.
- 11. At the assignment settlement, representatives or agents for the conservation organization, the Commonwealth and/or County Board sign the assignment document, legally transferring ownership of the easement from the conservation organization to the Commonwealth and/or County. During the settlement, the conservation organization is reimbursed for all agreed costs in pre-acquiring the easement. The County Board should have the assignment document recorded in the Recorder of Deeds Office immediately following the settlement.
- 12. The last step in the pre-acquisition process is for the County Board to submit a request to the State Board to reimburse any additional incidental costs that were incurred by the conservation organization and/or County Board that were not initially requested in the assignment agreement (i.e. additional financing costs, recording costs, legal costs, etc.)

## **300 – Procedures for Inspecting & Enforcing Easements**

### ***301 – Responsibility***

- A. The County Board shall have the primary responsibility for inspecting restricted land and enforcing the following:
  - 1. Agricultural conservation easements that were acquired under authority of the act and are located within the county.
  - 2. Agricultural conservation easements which were acquired under authority of section 14.1(b)(2)(i) of the act (3 P. S. § 914.1(b)(2)(i)), including any portion extending into an adjoining county.
- B. 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.

### ***302 – Inspections***

- A. The County Board shall inspect all restricted land within the county at least annually to determine compliance with the applicable deed of easement. The first inspection shall be completed within 1 year of the date of easement sale, and shall be included in the annual report described in § 138e.203 (relating to annual report) no later than the first annual report following that 1-year period.
- B. Written notice of an inspection to be conducted under subsection (A) shall be mailed by certified mail to the owner at least 10 days prior to the inspection.
- C. An inspection conducted under subsection (A) shall be performed between the hours of 8 a.m. and 5 p.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.
- D. Within 10 days of conducting an inspection under subsection (A), the County Board shall prepare a written inspection report setting forth the following information:
  - 1. The identification of the land inspected.
  - 2. The name of the owner of the farmland at the time the easement was originally acquired and the name of the current owner of the land inspected.
  - 3. A description of 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.
  - 4. A description of deviations from the conservation plan observed on the restricted land.

5. A statement of whether the provisions of the deed of easement are being observed.
  6. A statement indicating whether a structure permitted under section 14.1(c)(6)(iv) of the act (3 P. S. § 914.1(c)(6)(iv)) has been constructed on the restricted land and, if such a structure has been constructed, the month and year construction was completed and a description of the structure and its location on the land.
- E. A copy of the inspection report shall be mailed by certified mail to the owner.
  - F. 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.

### ***303 – Annual Report***

The County Board shall file the following with the State Board by March 1 of each year:

- A. A copy of inspection reports for inspections conducted during the prior year.
- B. An annual report which summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding unresolved violations.

### ***304 – Enforcement***

- A. The County Board shall enforce the terms of each easement purchased within the county under the act, whether it be a local government unit, county, State or joint purchase.
- B. The State Board may enforce the terms of State or jointly purchased easements.
- C. 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.

### ***305 – Notification to Owner***

- A. Within 10 days of the discovery of a violation of the terms of an easement, 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.
- B. The written notice required by this section shall be sent by certified mail and shall set forth the following information:
  1. A copy of the inspection report.
  2. A copy of the deed of easement.

3. A description of the action or condition which constitutes the alleged violation.
4. A statement of the measures necessary to correct the alleged violation.

### **306 – Enforcement Actions**

- A. Sixty days after the mailing of a notice of violation under § 138e.205 (relating to notification to 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:
  1. Determines with the State Board that the violation has been corrected.
  2. Completes the following requirements:
    - a. 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 this subsection.
    - b. Established a period not to exceed 1 year within which the corrective measures shall be completed.
- B. The County Board shall commence and prosecute the enforcement action described in subsection (A) if the violation is not corrected within the time established under subsection (A)(2)(b).
- C. The owner of the restricted land shall bear the costs associated with the correction of a violation of the easement, including:
  1. Costs of work required and materials used to correct the violation.
  2. Administrative costs incurred by the county board and the State Board.
  3. Court costs and reasonable attorneys' fees incurred by the County Board and the State Board in enforcing the easement.
- D. 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.

### **307 – County Board’s Duties Regarding Change of Ownership**

- A. The county board shall provide the State Board with a copy of a deed conveying an ownership interest in restricted land no later than 20 days of learning of the change in ownership.
- B. As part of its enforcement responsibility, the county board shall ensure that a deed conveying an interest in the restricted land sets forth the language of the easement restrictions verbatim.

## **400 – Responsibility of Owner**

### **401 – Permitted Acts**

During the term of the easement, the restricted land shall be used solely for agricultural production or other uses permitted by the act.

### **402 – Conservation Plan**

- A. To preserve the agricultural viability of the restricted land, the County Board shall require the owner of land being considered for agricultural conservation easement purchase to do the following:
  - 1. Before the County Board recommends approval of the easement purchase to the State Board, obtain a conservation plan approved by the county conservation district or the County Board for the land that would be subject to the agricultural conservation easement.
  - 2. As part of the settlement documents described in § 138e.93 (relating to post settlement recording and reporting procedures), execute a conservation plan agreement form containing the following:
    - a. The name, address and telephone number of the landowners.
    - b. The location of the land.
    - c. The acreage of the land.
    - d. An acknowledgement that the deed of agricultural conservation easement requires that all agricultural production on the subject land be conducted in accordance with the conservation plan.
    - e. An acknowledgement that a conservation plan exists with respect to the land, together with the following:
      - 1. The source of the conservation plan (typically, the county conservation district).
      - 2. An identifying number given the conservation plan.
      - 3. The date of the conservation plan.

- f. An acknowledgement that the landowners agree to comply with the conservation practices and implementation schedule in the conservation plan, and an acknowledgement that failure to so comply would be a violation of the terms of the deed of agricultural conservation easement.
      - g. The signature of the landowners.
- B. In addition to the requirements established by the county conservation district or the County Board, the conservation plan shall meet the definitional requirement of a conservation plan in § 138e.3 (relating to definitions) and also require that:
  - 1. The use of the land for agricultural production, such as growing sod, nursery stock, ornamental trees and shrubs does not remove excessive soil from the restricted land.
  - 2. The excavation of soil, sand, gravel, stone or other materials for use in agricultural production on the restricted land is conducted in a location and manner that preserves the economic viability of the restricted land for agricultural production.
  - 3. The mining of minerals is conducted only through the use of methods authorized in the act.

#### **403 – Construction of Buildings: Change of Use**

- A. *New buildings or structures.* The construction or use of a building or other structure on the restricted land other than a building or structure existing on the date of the granting of the easement 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 under Section 404 (relating to construction of one additional residential structure).
  - 3. The construction or use of a building or other structure for agricultural production is permitted.
  - 4. The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted if the preexisting residential structure is razed or removed and the replacement residential structure is erected within the curtilage of the residential structure it replaces.
- B. *Existing buildings or structures.*
  - 1. A renovation or modification of an existing residential structure, or an addition to an existing residential structure, is permitted if it would not increase the curtilage of the residential structure.

2. A renovation or modification of an existing agricultural building or structure, or an addition to an existing agricultural building or structure, is permitted.

#### **404 – Construction of One Additional Residential Structure**

- A. *General.* In addition to the structures existing on the restricted land on the date of the granting of the easement, one additional residential structure may be constructed on the restricted land if the following apply:
  1. The residential structure is constructed and used as the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time farm employees.
  2. No other residential structure has been constructed on the restricted land, under authority of section 14.1(c)(6)(iv) of the act (3 P. S. § 914.1(c)(6)(iv)) and this section, after the date of the granting of the easement.
  3. The residential structure and its curtilage occupy no more than 2 acres of the restricted land.
- B. *Replacement of structures.* The replacement of a residential structure constructed under authority of section 14.1(c)(6)(iv) of the act and this section is permitted.
- C. *Reservation of right to construct after subdivision.* If the restricted land is subdivided prior to the construction of a residential structure under authority of section 14.1(c)(6)(iv) of the act and this section, the landowner shall do the following:
  1. Inform the county board of the specific subdivided tract with respect to which the right to construct and use such a residential structure is reserved.
  2. Ensure that the deed to the subdivided tract with respect to which the right to construct and use the residential structure is reserved clearly sets forth the reservation of this right.
  3. Ensure that the deeds to the remaining subdivided tracts recite that no residential structure may be constructed on the remaining subdivided tracts.

#### **405 – Subdivision of Restricted Land**

- A. *Authority* - Authority for the provisions and requirement of this section are granted by the Agricultural Area Security Law (3 P.S. Section 901-915) as amended.
- B. *General* - The following conditions shall apply to the subdivision of land eased through the Erie County Agricultural Land Preservation Program whether the easement is held solely by the State, solely by the County, or held jointly by the State and County.

1. The prohibitions, restrictions and conditions of subdivision of eased land as set forth in Sub-Section C of this section shall be recited verbatim in the deed for all subdivided and remaining parcels.
  2. No restriction, prohibition or condition of this section shall prevent a landowner from subdividing eased land for the purpose of constructing one additional residential structure as authorized by Section 14.1(6)(c)(iv) of the Act (3 P.S. Section 914.1(c)(6)(iv), provided that such a subdivision complies with the conditions of Section 404 A.
  3. All costs associated with subdivision shall be the responsibility of the landowner.
  4. Nothing in this section shall relieve the landowner of any municipal, County or State regulations, procedures or requirements necessary for the subdivision of land.
- C. Subdivision Restrictions - Except as provided for in Sub-Section B (2) of this section, no subdivision of eased land shall be permitted unless all the following conditions are met:
1. A request for approval of a proposed subdivision plan shall be submitted, in writing, and approval granted by the County Board and by the State Board.
  2. A subdivision of land shall not harm the economic viability, as defined in Section 102, of any parcel created by or remaining after subdivision.
  3. Each parcel created or remaining as a result of subdivision shall have all of the following:
    - a. Fifty percent (50%) of its soils in USDA Soil Capability Classes I-IV.
    - b. Fifty percent (50%) of its area utilized for crop or pasture land.
    - c. Site characteristics (including but not limited to slopes, topography, shape, location or roads, streams, wetlands, ponds, access) that allow for practicality and reasonable efficiency of agricultural activity.
    - d. Be contiguous acreage of at least 50 acres in size unless the tract is at least 10 acres in size and is either utilized for a crop unique to the area or is contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization," as that term is defined at Section 170(h)(3) of the Internal Revenue Code.

Contiguous Acreage is defined as all portions of one operational unit as described in the deed, or deeds, whether or not the portions are divided by streams, public roads, bridges, and whether or not described as multiple tax parcels, tracts, purparts, 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.

#### **406 – Procedures and Requirements for Subdivision**

Landowners proposing to subdivide eased land shall be subject to the following procedures and requirements:

- A. Requests for subdivision approval shall be submitted, in writing, to the County Board in care of the Erie County Department of Planning. Requests shall include the following maps, information, etc.
  1. Written request for subdivision approval including description of subdivision and reason for subdivision.
  2. A map or sketch, at a scale sufficient to clearly show the following:
    - a. Location of crop land, pasture land, wood land and other lands.
    - b. Roads, streets, driveways, utility right-of-way, streams.
    - c. Location of existing buildings, sheds, barns, dwellings, and other structures.
    - d. Delineation of proposed subdivision.
    - e. Indication of which parcel either created by subdivision or remaining after subdivision on which the additional residential structure permitted by Section 14.1(c)(6)(iv) of the Act (3 P.S. Section 914.1(c)(6)(iv) and this section may be constructed.
- B. The County Board will note receipt of the request for subdivision approval at it's next regularly scheduled meeting following the submission of the request for subdivision approval to the Department of Planning.
- C. The County Board may agree to permit a parcel of land subject to an Agricultural Conservation Easement to be subdivided after the granting of such easement after appropriate review by all required entities.
  1. The Erie County Department of Planning, herein referred to as the reviewing agency, shall have 60 days from receipt of the application to review, comment and make recommendations on the proposed application to the County Board.

2. After reviewing the application and the comments and recommendations submitted by the reviewing agency, the County Board shall approve or reject the application to subdivide within 120 days after the date of its filing unless the time is extended by mutual agreement of the landowner and reviewing agency.
  3. If the application to subdivide land is approved by the County Board, a copy of the application, along with the comments and recommendations of the reviewing agency, shall be forwarded to the State Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an Agricultural Conservation Easement, the State Board shall consider only whether the application complies with the conditions under which subdivisions are permitted by the approved County program. The State Board shall notify the County Board of its decision regarding the application.
- D. Failure of the County Board to render a decision to approve or disapprove a subdivision within the timeframe described in Section 406 (C) shall constitute approval of a request to subdivide provided that the parcels created by and remaining after subdivision comply with Section 405 (C) (2) and (3).
- E. Approval of the County Board, or failure to act by the County Board as per Section 406 (D) shall not be construed to provide approval of the State Board or any other Governmental Unit with authority to approve or disapprove subdivisions.
- F. *Subdivisions approved prior to the construction of additional residential structure:* If County and State Board approval is granted for subdivision of eased land prior to the construction of one additional residential structure as permitted by Section 14.1(c) (6)(iv) of the Act and this section, the landowner must do the following:
1. Ensure that the deed to the parcel created by or remaining after subdivision upon which the additional residential structure may be constructed clearly reserves the right to construct this residential structure.
  2. The parcel for which the right to construct the allowed additional residential structure shall be the same parcel indicated in Section 406 (A).
  3. Ensure that the deeds to all other parcels created by subdivision or remaining after subdivision clearly state that no residential structures of any kind may be constructed on the eased parcels.
  4. Prior to recording deeds to parcels created by subdivision or remaining after subdivision, the landowner requesting subdivision approval shall forward copies of the deed for each such parcel to the County Board for review and approval.

5. Within 15 days of recording deeds to tracts created by subdivision or remaining after subdivision, the landowner at the time of subdivision shall forward a copy of all recorded deeds to all parcels created by subdivision or remaining after subdivision to the County Board in care of the Erie County Department of Planning.

G. Recording Deeds Conveying Easements

1. All deeds conveying an Agricultural Conservation Easement to the County of Erie, the State of Pennsylvania or to both the County and State jointly shall incorporate the provisions of this Sections 404, 405 and 406 into the deed.
2. The provisions of Sections 404, 405 and 406 (formerly known as Appendix J) of the Agricultural Conservation Easement Program Guidelines have been recorded in order to allow subdividers of property enrolled in this program to incorporate the provisions of these sections into the deed(s) of easement by referencing the location of this filing in all new deed recordings. This filing was recorded May 28, 1996, in Erie County Record Book 442, Page 490.

***408 – Landowner’s Duties Regarding Change in Ownership***

- 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 the name and address of the new owner, provide each a copy of the deed, provide a statement of the price per acre or portion thereof involved in the transfer and a reference to the volume and page in which the transfer has been recorded by the county recorder of deeds.

## 500 – Rural Enterprises

Pursuant to State Regulations, Subchapter I, Section 138e.241, the County Board intends that agricultural conservation easements shall not prevent "customary part-time or off-season minor or rural enterprises and activities." For purposes of definition, these are limited to the following:

- A. Direct sales to the public of agricultural products produced principally on the farm, provided that at least 50% of such products are produced by the farm operator.
- B. Any and all structures contributing to the production, primary processing, direct marketing and storage of agricultural products produced principally on the farm.
- C. 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 wastes.
- D. Structures and facilities associated with irrigation, farm pond improvement, and soil and water conservation practices including but not limited to Wetland Development or Restoration, Wildlife Wetlands Habitat Management, Wildlife Upland Habitat Management and Riparian Forest Buffer Resource Management Systems used for erosion and sediment control and water quality improvement.\*
- E. The provision of services or production and sale, by persons in residence, of incidental 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 incidents to the agricultural and open space character of the farm and are limited to occupying residential and principally agricultural structures of the property; limited in site coverage to one-half (1/2) of one percent (1%) of the area of the property.
- F. The accommodation of tourists and visitors within principally family residential and/or agricultural structures otherwise permitted under the law so long as the accommodation of tourists and visitors is undertaken as a part-time or off-season minor or rural enterprise and is incidental to the agricultural and open space character of the property.
- G. Other similar uses upon approval of the Erie County Agricultural Land Preservation Board and the State Agricultural Land Preservation Board.

\*The State Agricultural Land Preservation Board approved and authorized on 7/13/00 the use of any conservation practice under CRP/CREP as not violating the deed of agricultural conservation easement with respect to the restricted land provided the conservation plan as revised allows for the implementation of any such conservation practices.

## **600 – Acquisition by Donation**

The County Board may accept a 100% donation of an agricultural conservation easement subject to the following conditions.

### ***601 – Minimum Criteria for Donations***

In order to be eligible to make application for donation, an agricultural conservation easement must either:

- A. Meet all minimum state criteria for purchase as per Section 103 (relating to Minimum Criteria for Applications); OR
- B. Adjoin land already subject to an agricultural conservation easement.

### ***602 – Application and Consideration***

- A. Applicants wishing to donate an agricultural conservation easement shall complete an application on the County form (See Appendix C – Application Form) and submit it to the County Board (See Section 202).
- B. Applications for donations of agricultural conservation easements will be accepted any time during the year and will be considered by the County Board on a case-by-case basis.

### ***603 – Requirements for Donated Easements***

- A. Easement Term - The term of the donated Deed of Easement shall be perpetual.
- B. Easement Form - The Deed of Easement shall be prescribed by the State Board for the donated easement.
- C. Grantee - The County must always be a grantee of the easement. No State-only donations will be accepted. The County may acquire the easement as:
  - 1. County - only acquisition
  - 2. County - Commonwealth
  - 3. County - non-profit
  - 4. County - local government unit
  - 5. County - any combination of these
- D. Appraisal – An appraisal, prepared by a state certified general real estate appraiser, shall be required for a donated easement.
- E. Title Insurance - The donated easement shall have title insurance and shall be free and clear of all encumbrances. The title insurance shall be issued based on the appraised value for the donated acreage.
- F. Survey – A survey shall be required for a donated easement, if the existing deed does not meet the standards of Section 207 (related to

Requirements of the Agricultural Deed of Easement). If required, the survey shall meet the requirements set forth in Section 208 (related to Survey Requirements).

- G. Subordination Agreement – Proper releases from mortgage holders and lien holders must be obtained and executed to insure that all easements are free and clear of encumbrances.
- H. Agreement of Sale - For easements where the Commonwealth is not a grantee, an Agreement of Sale shall be approved by the County Board prior to execution of the easement. For easements where the Commonwealth is a grantee, an Agreement of Sale shall be approved by County and State Board prior to execution of the easement.
- I. Post Settlement - The County Board shall provide the State Board a certified copy of the easement within 30 days of recording.

**604 – Incidental Costs**

- A. The County Board shall pay for all incidental costs for donated easements approved by the County and/or State Board.
- B. Up to \$5,000 in incidental costs per easement shall be paid by the County Board utilizing State funds. The County shall cover any incidental costs that exceed \$5,000.
- C. Incidental costs shall include the cost of appraisal, title insurance and survey, if required.
- D. The County Board shall be responsible for retaining and arranging for the appraisal, title insurance and survey, if required.

## **Appendices**

### ***Appendix A –Establishment of Board***

#### **Erie County Agricultural Land Preservation Board Membership**

A current list of Erie County Agricultural Land Preservation Board members is available upon request, by contacting the Erie County Department of Planning.

**Resolution for Establishment of Board**

**Insert Copy of Ag Program Resolution Here**

## **Appendix B –Bylaws**

### **Erie County Agricultural Land Preservation Board Bylaws**

#### **Article I – Name**

The name of this non-profit organization shall be the ERIE COUNTY AGRICULTURAL LAND PRESERVATION BOARD, herein referred to as the "Board".

#### **Article II – Establishment and Purpose**

Established by Erie County Council on July 14, 1992, pursuant to Act 149 of 1988 amending the Agricultural Area Security Act of 1981 (H.B. 422 of 1988), having the following purposes:

- A. To administer a program for purchasing agricultural conservation easements on behalf of the County. It is the purpose of this program to protect and promote continued productive agricultural use on viable agricultural land by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production and related agricultural activities.
- B. To encourage landowners to participate in and assist Townships with the establishment of Agricultural Security Areas ("ASAs").
- C. To encourage the use of additional farmland preservation techniques through public and private organizations in the County.
- D. To adopt rules and regulations for the administration of a County program for the purchase of agricultural conservation easements within ASAs. The Board shall execute all agreements of agricultural conservation easements in the name of the County and/or the Commonwealth of Pennsylvania.
- E. To promote efforts to support the agricultural industry in the County.
- F. To assist Erie County Government, local municipal governments, the Erie County Metropolitan Planning Commission and local planning commissions when considering issues affecting agricultural preservation.
- G. To perform such other duties and responsibilities as may be authorized pursuant to the Agricultural Area Security Law.

#### **Article III – Membership**

The Board shall be comprised of seven (7) members to be appointed by the County Executive and approved (ratified) by County Council.

Board members will include the following:

- A. Three (3) active resident farmers of Erie County (representing one less than majority).

- B. One (1) current member of the governing body of a Township or Borough located within Erie County.
- C. One (1) industrial, commercial or residential building contractor or developer.
- D. Two (2) at-large members, one of whom will be a non-City of Erie resident, and one of whom will be a City of Erie resident.

**Article IV – Term of Office**

The term of all members appointed to the Board shall be three (3) years. The position held by the appointee under Article III(B) 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.

**Article V – Attendance by Board Members**

The Board member shall attend a minimum of sixty percent (60%) of all Board meetings, on a calendar year basis, whether regular or special. Any member who is unable to attend a meeting should notify the Erie County Department of Planning (ECDP) prior to the meeting.

**Article VI – Vacancies**

Any appointment to fill any vacancy created by removal, resignation or otherwise shall be only for the unexpired term of the vacant position. The County Executive shall designate any appointment to fill such vacancy, with the appointment to be ratified by a majority vote of County Council.

**Article VII – Removal from the Board**

Any Board member may be removed from the Board for malfeasance, misfeasance, or nonfeasance in office or for other just cause at the recommendation of the County Executive and upon ratification of said recommendation by a majority vote of County Council. Board members shall receive fifteen days advance notice of the intent to take such vote.

**Article VIII – Officers**

The officers of the Board shall be a chairperson and a vice-chairperson whose duties shall be usually incident to such offices. Nominations shall be made from the floor for each position. The chairperson and vice-chairperson shall be elected by a simple majority of the members of the Board and shall hold such offices for one (1) year, starting with the first meeting of each calendar year. Said officers shall serve without compensation.

The ECDP will provide secretarial assistance to the Board. The ECDP shall have no voting rights. In the event that both the Chairperson and Vice-Chairperson are absent at a regular or special meeting, the Board members present shall designate a temporary chair for that meeting only.

### **Article IX – Voting**

Each member of the Board shall be allowed to cast one (1) vote and must be present to vote.

### **Article X – Duties of Officers**

The Chairperson shall preside at all meetings of the Board, call special meetings, establish committees, appoint committee chairpersons, and delegate other tasks and assignments as may be appropriate.

The Vice-Chairperson shall preside at all meetings of the Board in the absence of the Chairperson.

The ECDP shall be responsible for seeing that all meetings are recorded, and for sending and receiving correspondence of the Board. In addition, this office will pay all bills authorized by the Board, maintain a record of all funds designated for easement purchase and for day to day administration of the County Program.

### **Article XI – Removal of Officers**

The Chairperson can be removed from that office by the County Executive. The Board can request removal of the Chairperson for just cause by resolution passed by a majority vote of all members of the Board. The Vice-Chairperson can be removed from office by a majority vote of all members of the Board.

### **Article XII – Meetings**

Regular meetings shall be held as needed at the time and location designated by the Chairperson of the Board. Special meetings shall be held at the call of the Chairperson, or at the request of four (4) members of the Board, and shall require written notice of at least 7 days.

### **Article XIII – Conduct of Meetings**

All Board meetings shall be open to the public in accordance with the Sunshine Act (Act of July 3, 1986, P.L. 388, No. 84), and with the Right-To-Know Law (Act of June 21, 1957, P.L. 390, No. 212). Robert's Rules of Order shall apply to all events not otherwise covered by the By-Laws.

### **Article XIV – Quorum**

A majority of the total Board membership shall constitute a quorum for the conduct of business.

A quorum of members is required to vote on any motion before the Board, except as otherwise specified in these By-Laws.

### **Article XV – Purchase of Easements**

Board members shall not participate in any discussion or vote concerning purchase of easements in which they or a member of their immediate family have an interest.

Members of the Boards shall comply with the Act of October 4, 19778 (P.L. 883 No. 17) (65, P.S. Sections 401-413), known as the Public Officials and Employee Ethics Law.

Purchase of agricultural conservation easements requires approval of a majority of Board members.

### **Article XVI – Staff Assistance from Other Agencies**

The Board may receive assistance from the staffs of the ECDP, the Erie County Conservation District, the U.S.D.A. Soil Conservation Service, the Erie County Cooperative Extension, or from other sources as are available.

### **Article XVII – Amendments**

The By-Laws may be amended at a regularly scheduled Board meeting by five (5) or more affirmative votes, provided that such amendments, along with a notice of the meeting, have been circulated to all Board members at least two (2) weeks prior to the meeting.

### **Article XVIII – Minutes**

Minutes of all Board meetings shall be maintained by the ECDP, and copies distributed to all Board members, together with a tentative agenda for the next meeting, at least one (1) week prior to regularly scheduled meetings.

### **Article XIX – Finances**

Unless otherwise stated, all monies received from State, County, or other sources shall be used for the purpose of protecting viable agricultural land in the County.

No member of the Board shall be liable for the debts of the Board.

***Appendix C – Application Form***

**ERIE COUNTY AGRICULTURAL LAND PRESERVATION BOARD**  
**AGRICULTURAL CONSERVATION EASEMENT PROGRAM APPLICATION**

Part A – General Information

Owner(s) of Property:

Name(s)

Social Security Number(s)

Address:

Municipality:

Telephone Number(s):

Is your farm in an Agricultural Security Area?    Yes \_\_\_\_\_    No \_\_\_\_\_

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

Street location of farmland tract:

Directions from nearest State Route:

Number of years farming this land: \_\_\_\_\_

Number of years this farm has been in your family (either by direct relation or spouse's family): \_\_\_\_\_

Motivation for selling the development rights to this farm:

Crop(s) grown on farmland tract:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Number and kinds of livestock:

	<u>Type(s)</u>	<u>Number</u>
1.		
2.		
3.		
4.		
5.		
6.		
7.		

Number of employees: Full-time \_\_\_\_\_ art-time/Seasonal \_\_\_\_\_

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

Acreage to be proposed for easement: \_\_\_\_\_

Deed reference(s):  
Book \_\_\_\_\_ Page \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_  
Book \_\_\_\_\_ Page \_\_\_\_\_

Tax assessment number(s) and  
acreage of each parcel:

Tax Number

Acreage

Date of U.S.D.A. Soil Conservation  
Plan, if any:

\_\_\_\_\_

Number of farm buildings and condition  
of each:

Building(s)

Condition

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

Name(s), address(s) and telephone  
number(s) of person(s) to contact to  
view the farmland tract:

Name(s) and Address(s)

Phone Number(s)

Part B - Maps

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

1. Locational Map - A United States Geological Survey topographical map showing the location of the farmland tract.
2. Soils Map - The soils map of the farmland tract. (Available from Soil Conservation Service.) The soils map shall color code types as follows:

- Class I = Green
- Class II = Yellow
- Class III = Red
- Class IV = Blue

This map shall also delineate the locations of wetlands (cross-hatched) and floodplains (bold lines) on the farmland tract.

3. Tax map. Tax map(s) of the farmland tract with map reference and tax parcel numbers clearly indicated. (Available from County Assessor.)

Part C – Soils Report

The applicant is required to provide a soils report for the farmland tract as part of the application.

The applicant is required to provide a table showing the capability class and use of the land as part of the application.

**Capability Class Table**

<b>Class</b>	<b>Acres of Cropland and Pasture</b>	<b>Other Acres</b>	<b>Total Acres</b>
Class I			
Class II			
Class III			
Class IV			
Other Classes			
Total Acreage			

Wetlands \_\_\_\_\_ Acres

Floodplains \_\_\_\_\_ Acres

Part D – Crop Production Information

The applicant must provide crop production information for the prior two growing seasons as part of the application:

Year 1

Commodity	Acres Grown	Yield/Acre	Gross Receipts
<b>Total Gross Receipts (Year 1)</b>			<b>\$</b>

Please indicate: \* corn for silage/green chop  
 \*\* crops used for feed only

Year 2

Commodity	Acres Grown	Yield/Acre	Gross Receipts
<b>Total Gross Receipts (Year 2)</b>			<b>\$</b>

Please indicate: \* corn for silage/green chop  
 \*\* crops used for feed only

Part E – Livestock Report

The applicant shall provide livestock production information for the farmland for the most recent calendar year as part of the application.

Livestock (type)	Number (average)	Product Sold	Gross Receipts
<b>Total Gross Receipts</b>			<b>\$</b>

Part F – Conservation Easement Acreage and Selling Price

I would consider selling an Agricultural Conservation Easement, consisting of \_\_\_\_\_ acres, to the Erie County Agricultural Land Preservation Board and/or the Commonwealth of Pennsylvania for not less than:

1. \$\_\_\_\_\_ for the entire farm, or
2. \$\_\_\_\_\_ per acre, or
3. \_\_\_\_\_ please check if you accept an amount to be determined by appraisal and acceptable to the buyer and the seller.

Part G – Signature(s)

It is necessary for all owners of the farmland tract 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 6, if applicable), to the Erie County Agricultural Land Preservation Board and the Bureau of Farmland Preservation as required under Act 43 criteria for easement purchase.

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

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

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

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

Please submit this application to:

Erie County Department of Planning  
Erie County Court House  
First Floor - Room 111  
140 West 6th Street  
Erie, PA 16501

**Appendix D – Soil Mapping Units and Scores**

The Land Evaluation portion of the LESA system is based on soil data obtained from the Erie County Soil Survey Report, published in 1960, and the Erie County Soils Inventory, approved in 1992 and reproduced in part on the following pages. Each of the 220 soil mapping units (see Soil Survey Report for description of a mapping unit) found in Erie County has been assigned a score based on a relative score of 100 for the best soils for agriculture production. All other soils in the County have been assigned relative values less than 100.

In the following tables each soil-mapping unit found in the County is listed in one of seven groups, with Group 1 having a relative value of 100 and each of the remaining groups having a lower relative value.

To arrive at the approximate score for the Land Evaluation portion of the LESA system for any given tract, determine the number of acres in each mapping unit, find the group to which each mapping unit is assigned and note the relative value for that group. The relative value multiplied by the number of acres gives a value for each mapping unit. The total scores for all mapping units divided by the total acres in the tract is the unweighted Land Evaluation score. The weighted Land Evaluation score is determined by multiplying the unweighted score by .40.

Several examples of the Land Evaluation portion of the LESA system are given below and on the next page.

Farm 1 - 182 acres

<b>Soil Type</b>	<b>Group No. Relative Value</b>	<b>Acres</b>	<b>Score</b>
ChB2	77	X 69	5,313
CmA2	77	X 28	2,156
CmB2	77	X 15	1,155
FaB4	58	X 19	1,102
WbA4	58	X 36	2,088
ChC6	35	X 12	420
ChC <sub>3</sub> 6	35	X 3	105
<b>Totals</b>		<b>182</b>	<b>12,339</b>
12,339 divided by 182 (acres) = 67.80			
67.80 X 0.40 = 27.12			
Weighted Land Evaluation Score is 27.12			

Farm 2 – 101 acres

<b>Soil Type</b>	<b>Group No. Relative Value</b>	<b>Acres</b>	<b>Score</b>
DaA4	58	X 61	3,538
DaB4	58	X 3	174
DaB <sub>2</sub> 4	58	X 8	464
EbB <sub>2</sub> 4	58	X 27	1,566
EaB7	0	X 2	0
<b>Totals</b>		<b>101</b>	<b>5,742</b>
5,742 divided by 101 (acres) = 56.85			
56.85 X 0.40 = 22.74			
Weighted Land Evaluation Score is 22.74			

Farm 3 – 136 acres

<b>Soil Type</b>	<b>Group No. Relative Value</b>	<b>Acres</b>	<b>Score</b>
LaB <sub>2</sub> 2	77	X 12	924
MdC3	73	X 5	365
EbA4	58	X 4	232
EbB <sub>2</sub> 4	58	X102	5,916
EaB7	0	X 3	0
LbE7	0	X 10	0
<b>Totals</b>		<b>136</b>	<b>7,437</b>
7,437 divided by 136 (acres) = 54.68			
54.68 X 0.40 = 21.87			
Weighted Land Evaluation Score is 21.87			

## ***Appendix E – Commercial Equine Activities***

In accordance with the regulations at 7 PA Code § 138e.43 (relating to revision of county programs), the County Board, hereby, revises the Erie County Agricultural Land Preservation Program in compliance with Act 61 of 2005 amendments of the Agricultural Area Security Law, Act 43, to take effect 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 included “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)(III) and (VI) of the Act shall apply to easements executed after June 29, 1981.