

Mifflin County Agricultural Conservation Easement Program



2009 Program

Prepared by:
Mifflin County Agricultural Land Preservation Board

Approved by:
Mifflin County Agricultural Land Preservation Board
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MIFFLIN COUNTY AGRICULTURAL LAND CONSERVATION EASEMENT PROGRAM 2009

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I. INTRODUCTION

Mifflin County covers an area of approximately 264,128 acres. Of this, approximately 90,486 acres on 755 farms are in agricultural use. This represents about 34 percent of the county's land area.

Agriculture plays a very important role in the county's economy. In 2001, the total value of production in Mifflin County was \$63,609,000 and ranks 22 out of 67 counties in dollars of agricultural production. In addition, agriculturally related economic activity – and its indirect income brings the total economic impact of Mifflin County's agricultural industry to well over \$112 million. The value of Mifflin County's farmland, however, goes well beyond economic value.

Farmland plays a vital environmental role providing habitat for wildlife, aquifer recharge areas, and open space in an increasingly urbanizing county. Farmland gives Mifflin County its scenic character and contributes greatly to the areas' quality of life. Increasing development pressure in several parts of the county has taken its toll on agriculture.

Recognizing the need for local leadership to conserve and protect remaining viable agricultural land, the Mifflin County Commissioners appointed a Mifflin County Agricultural Land Preservation Board ("County Board") in October of 1992. The County Board's purposes, as outlined below, are to preserve farmland by developing a program to protect farmland and to provide leadership and support to the county's agricultural land preservation efforts. A sound farmland preservation program will help assure that farmers in this county have sufficient agricultural lands to provide farm products for the people of Mifflin County, Pennsylvania, and the United States.

II. PURPOSE

It is the purpose of the Mifflin County Agricultural Land Preservation Board to protect viable agricultural land by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purposes other than agricultural production.

Further, it is the purpose of this program to:

1. Protect viable agricultural lands by acquiring agricultural conservation easements which prevent the development or improvement of the land for any purpose other than agricultural production;
2. Encourage farmland owners to make a long-term commitment to agriculture by offering them financial incentives and security of land use;
3. Protect normal farming operations in agricultural security areas from incompatible non farmland uses that may render farming impracticable;
4. Protect normal farming operations from complaints of public nuisance against normal farming operations.
5. Assure conservation of viable agricultural lands in order to protect the agricultural economy of this Commonwealth.
6. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.

7. Maximize agricultural conservation easement purchase funds and protect the investment of taxpayers in agricultural conservation easements;
8. Increase the understanding and appreciation county residents and local governments have for the importance of agriculture in the county;
9. Encourage property owners to make a long term commitment to agriculture through sound agricultural practices and land use;
10. Increase cooperation and communication among the Board and other planning bodies, businesses, organizations, and agencies concerned with land use decisions in the county.

III. SIGNIFICANT AGRICULTURAL AREAS IN MIFFLIN COUNTY

The historic trend for agricultural land has been the conversion of farmland to other uses. In the future the relevant question will continue to be: are there better uses than agriculture for land that is now being farmed or is agriculture the best use?

Unquestionably, agriculture is significant to a local area, but it is also significant in many ways beyond the property lines or municipal boundaries. Mifflin County's crops, dairy, poultry and livestock products are in local demand. The consumption of these products saves County residents the extra expense that would be involved if they were shipped in from other places. This is also important to the economic health of Mifflin County because cash spent for locally produced items remains in the County. By the same token, exporting surplus products contributes to the flow of cash into the County.

Other significances of agricultural lands include the roles they play as open space. Another role is that these lands help us manage our water resource by decreasing the amount of precipitation runoff, hence recharging the supply of groundwater as precipitation is absorbed into the ground. Absorption of water also helps to control flooding by slowing down the rush of water to streams. A second role of agricultural lands is that in combination with the County's forested ridges it forms vast areas which provide diverse habitats for wildlife. The variety of wildlife population is significant for both ecological stability and for many recreational pursuits. Even beyond these reasons, the open farmland areas provide a psychological release from urban confines while at the same time enhancing the aesthetic quality of the County.

It may seem that Mifflin County plays a small part in feeding the state or even the nation, not to mention the world. But the fact is that Mifflin County's farms, as are all other farms, are involved in a worldwide system of food supply and demand. A loss of agricultural productivity in one area must be compensated elsewhere by either bringing new areas into production or by increasing overall productivity. Until recently, the loss of farmland has been offset by general increases in productivity. But increases are coming more slowly and at lower levels in places where they are needed most; namely, the less-developed areas of the world comprising two-thirds of the human

population. As the demand for food increases, it will become increasingly prudent to productively farm our lands, and this applies to Mifflin County as part of the system.

The United States Department of Agriculture (USDA) Natural Resource Conservation Service has identified areas by soil classification for agriculture which shows Prime Agricultural Soils. The Mifflin County Planning Office has identified these two factors, which are shown on the map "Significant Agricultural Areas" (See Appendix B – Maps).

What happens in the future to our farmlands will be the result of conscious decision-making. The current trends will lead to the loss of more farmland. An alternative is to encourage, through local regulations, more concentrated developments so that farmland loss will be less disruptive to the farm economy. A third alternative would be to limit new development on farmland by channeling it to non-agricultural lands. This could be accomplished through a combination of local controls and the provision of incentives to the farmer to keep his land in production rather than to develop it. One of these incentives is the Purchase of Agricultural Conservation Easements Program.

IV. ELIGIBILITY FOR EASEMENT PURCHASE PROGRAM

In order for a site to be prioritized for easement purchase, a landowner must submit a completed application form for the purchase of conservation easements. The Mifflin County Agricultural Land Preservation Board will accept all applications for the purchase of conservation easements if the application meets the minimum criteria listed below. If a property is sold during the application and/or evaluation process, the new owner(s) may request a continuance of the evaluation. Failure by the applicant to meet the minimum criteria will result in a rejection of that application. Therefore, the applicant will not receive the benefit of being prioritized. All applicants that have been rejected by the board for the reason of not meeting the minimum criteria will be given written notice of the rejection along with an explanation of the reason(s) why the application was rejected. The following criteria are prerequisites for a conservation easement sale:

A. State Minimum Criteria:

The tract must:

(1) Be one or more of the following:

- (i) Be located in a duly established Agricultural Security Area of 500 acres or more;
- (ii) Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.
- (iii) Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:
 - (A) A mansion house is on the tract and located within the purchasing county.
 - (B) When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.

(C) When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located within the purchasing county.

(2) Be one or more of the following:

- (i) Contiguous acreage of at least 50 acres in size.
- (ii) Contiguous acreage of at least 10 acres in size and utilized for a crop unique to the area.
- (iii) 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 in section 170(h)3 of the Internal Revenue Code (26 U.S.C.A. § 170(h) (3)).

"Contiguous acreage" is defined as all portions of one operational unit as described in the deed, or deeds, whether or not described as multiple tax parcels, tracts, purports or other property identifiers. It includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams.

(3) Contain at least 50 percent of soils which are both available for agricultural production and of land capability classes I through IV, as defined by the USDA Natural Resource Conservation Service;

(4) Contain the greatest of 50 percent or ten acres of harvested cropland, pasture or grazing land.

(5) A tract must comply with the amendments (Act 14 of 2001) to the Agricultural Area Security Law (Act 43) which prescribes the process for purchasing Agricultural Conservation Easements.

B. County Minimum Criteria:

The tract must:

- (1) 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 (26 U.S.C.A. § 170(h) 3).
- (2) If harvested cropland, be capable of producing sustained yields per acre equal to the county average yield per acre for that crop as published by the Pennsylvania Agricultural Statistical Service (PASS).
- (3) For crop yields not reported by PASS, the farmland tract must demonstrate a history of sustained yields by providing information concerning the volume of farm sales over a two year period.
- (4) Farms producing **crops unique to the area for commercial purposes** will be considered on a case by case basis for easement purchase. Crops that may qualify include the following:
 - 1. Grapes - table or wine grapes.
 - 2. Tobacco.
 - 3. Speltz - a small grain grown as an alternative to federally regulated feed grains.

4. Orchard Crops - commercial agricultural enterprise.
5. Mushrooms - commercial agricultural enterprise.
6. Tomatoes - commercially grown for fresh marketing or processing.
7. Cantaloupes - commercially grown for fresh market.
8. Snap beans - commercially grown for processing.
9. Pumpkins - commercially grown for fresh market.
10. Strawberries - commercially grown for fresh market or processing.
11. Potatoes - commercially grown for fresh market or processing.
12. Sweet corn - commercially grown for fresh market or processing.
13. Christmas trees - grown as a rotation crop with a management plan for cultivation, harvesting and replacement of Christmas trees.
14. Floriculture crops - grown as a commercial agricultural enterprise.
15. Maple syrup - commercial agricultural enterprise
16. Sod, nursery stock, ornamental trees and shrubs-grown for commercial agricultural enterprise with the Deed of Easement restriction that removal of excess soil is **prohibited**.
17. Crown vetch- plugs or seed grown as a commercial agricultural enterprise.
16. Sod, nursery stock, ornamental trees and shrubs-grown for commercial agricultural enterprise with the Deed of Easement restriction that removal of excess soil is **prohibited**.
17. Crown vetch- plugs or seed grown as a commercial agricultural enterprise.

PLANNING MAP TO GUIDE EASEMENT PURCHASES

The Mifflin County Agricultural Land Preservation Board has adopted planning maps to guide easement purchases (see Appendix B). One map identifies Significant Agricultural Areas illustrating the location of Prime Agricultural Soils and capability class I-IV within the County. Parcels located within existing Significant Agricultural Areas will be afforded higher priority than parcels located outside of these areas.

V. PROCEDURES FOR EASEMENT PURCHASE

This section details the procedures for conservation easement purchase. The majority of this text is derived directly from the guidelines promulgated by the Pennsylvania Department of Agriculture.

- Owners of qualified land may offer to sell a conservation easement by applying to the Board by March 1 of each year.
- The Board may, at its discretion, open, close or extend any application period.
- Announcements for the biennial application period and application forms are made by a county-wide mailing to every land owner enrolled in an Agricultural Security Area, news releases, and radio spot announcements.
- A separate application shall be required for each farmland tract offered for easement purchase. The application must consist of a completed application form, location maps, a

soils report and a crop report.

APPLICATION FORM

The County Board provides an application form which requests the following information: (The Board will hold an "application workshop" to assist landowners in completing the application. This workshop will be held during the application period).

- Name, address, telephone number and signature of the owner of the property.
- County, municipality and agricultural security area in which the farmland tract is located.
- Recorded Book and Page Number of the Agricultural Security Area.
- Total acreage of farm and number of acres proposed for easement purchase.
- Crops grown on the land proposed for purchase.
- Numbers and kinds of livestock on the farm.
- Street location of farm, and directions from the nearest state route.
- Deed reference - book, volume and page.
- County tax map records, including tax parcel number, of each parcel.
- The date of the USDA Natural Resources Conservation Service (NRCS) Resource Management Systems Plan, if any, which has been approved by the County Conservation District.
- Name, address and telephone number of person to be contacted to view the farmland tract.
- The date of any Nutrient Management Plan.

Locational Maps

The following information must be provided indicating the location of the farm proposed for easement purchase:

- A USGS topographical map showing the location of the farmland tract;
- A tax map of the farmland proposed for protection with map reference and tax parcel number clearly indicated.

Soils Report

The applicant must provide a soils report and soils map for the farmland tract proposed for easement purchase, and a table showing the capability class and use of the land, as follows:

<u>Acres of:</u>	<u>Other</u>	<u>Total Cropland</u>	<u>Total Pasture</u>
Class I			
Class II			
Class III			
Class IV			
Unique Land			

Other

TOTAL

Unique land is land other than Class I-IV that is used for the production of specific high value food crops, such as fruits and vegetable. To be evaluated for easement purchase, the unique land must be used for its unique purpose at the time of application. The soils map shall color code soil types as follows:

Class I = Green

Class II = Yellow

Class III = Red

Class IV = Blue

Class V-VIII = Uncolored

Wetlands = Cross-Hatch, or shown on a separate map

Crop Production Information

The applicant shall provide crop production information for the farmland tract for the prior two growing seasons as follows:

Commodity	Acres Grown	Yield/Acre
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- 1.
- 2.
- 3.

Livestock Report

The applicant shall provide a livestock report for the farmland tract for the prior two growing seasons as follows:

Livestock	Average Product Amount	Gross Numbers Sold
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- 1.
- 2.
- 3.

EVALUATION AND RANKING OF APPLICATIONS

The Mifflin County Agricultural Land Preservation Board will review each application to determine if it is complete and meets the minimum eligibility criteria (see Appendix A, Section A). A member of the Mifflin County Agricultural Land Preservation Board or its designate will gather information and discuss the program with the applicant.

The Mifflin County Agricultural Land Preservation Board will evaluate all timely applications which meet the minimum criteria and rank them according to the Farmland Ranking System. The cost of an easement can be determined only after a property has been appraised. The County Board

will then make a determination whether to appraise the farmland tract that is the subject of an application.

The Farmland Ranking System will be maintained by the Mifflin County Agricultural Land Preservation Board and is available for public review.

APPRAISAL OF EASEMENTS

The ranking of applications will be forwarded to applicants along with an appraisal request form. Applicants who wish to proceed will submit the request form to the Mifflin County Agricultural Land Preservation Board. Submitted with the appraisal request form will be a fee that reflects the current appraisal bid rate which will be held in escrow and refunded if the purchase is completed or if the County elects to back out of the easement purchase or if the landowner refuses to accept less than the full easement value.

Easement Value

Offers to purchase easements will be based upon one or more appraisal reports. The appraisal report will estimate both the market value and farmland value of the farmland tract.

An appraisal shall be based primarily on an analysis of comparable sales. The value of a building or other improvement on the farmland tract may not be considered in determining the easement value. The description of the building or other improvement shall appear separately in the appraisal report.

Choosing the Appraiser

The appraiser shall be an independent real estate appraiser who is qualified to appraise properties for easement purchase. Appraisals shall be conducted by a State Certified general real estate appraiser, in accordance with the Act and its attendant regulations and guidelines. Selection of a State Certified general real estate appraiser shall be made through a "Request for Proposal" (RFP) process.

The appraiser shall be a member or candidate member of an organization which subscribes to the "Uniform Standards of Professional Appraisal Practice", as amended and revised, published by the Appraisal Standards Board of the Appraisal Foundation, and shall follow such ethical and professional standards.

The Appraisal Report

The appraiser shall supply a minimum of three (3) copies of a narrative report which contains the following information and is in the following format:

(1) Introduction

- Letter of Transmittal or Appraiser's Certificate
- Table of Contents
- Summary of Salient Facts and Conclusions
- Purpose of the Appraisal
- Easement Value Definition
- Appraisers Certificate of Value- as to market value, farmland value and easement value

(2) Description of Property

- Area or Neighborhood Description
- Description of Appraised Property
- Legal Description
- Property Data and Zoning
Description of Improvements
- Color Photos of Subject Property
- Tax Map of Subject Property
- Sketch of Subject Property - showing subject property and the relationship to neighboring properties
- Location Map - showing location in the county and municipality
- Soils Map - *showing property boundaries*

(3) Analyses and Conclusions

- Analysis of Highest and Best Use
- Valuation Methodology: Market Value
Comparable Sales Data
- Adjustment Grid
- Locational Map of Comparable Sales
Market Value Estimate
- Valuation Methodology: Farmland Value
- Comparable Sales Data
- Adjustment Grid
- Locational Map of Comparable Sales - showing location of subject farmland tract(s) to comparables
- Farmland Value
Value of Improvements
- Easement Value
- Professional Qualifications of the Appraiser - to include a copy of the appraisers current certification in accordance with the Real Estate Appraisers Certification Act

Comparable Sales

Appraisers will supply information concerning comparable sales as follows:

At least three comparable sales will be used for an appraisal. If the appraiser cannot obtain sufficient comparable sales data within the same County as the subject farmland tract, then the appraiser may use comparable sales from outside of the county, after 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.

All comparable sales must be completely described and include pertinent data, i.e. - date of sale, purchase price, road frontage in feet, zoning, topographical information, soil conditions and any

other relevant information. The appraisal shall include an analysis comparing the pertinent data for each comparable sale to the subject farmland tract to include approximate dollar values to adjustment shown on the Adjustment Grid or percentage. The location of each comparable sale used in the appraisal report must be shown accurately on the comparable sales map and sufficiently identified and described so as to be located easily.

For comparable sales used to estimate the farmland value, the appraiser will use sales of land that are confined to agricultural use because of legal restrictions or physical impairments that make the land valuable only for agricultural use. Data may also be gathered from farm real estate markets where farms have no apparent developmental value.

The appraiser shall report whether the subject property has any land use restrictions, is within a flood plain, or has other physical attributes which limit its developmental capability.

The appraiser shall report whether the subject property is within a flood plain or has any other physical attributes which limit the developmental capability of the land.

Number of Copies - The appraiser will provide at least one original and two copies of each report to the County Board. The original of each report and all copies will be bound with rigid covers.

EASEMENT VALUE AND PURCHASE PRICE

Easements will only be purchased in perpetuity. Easements shall not be purchased for more than \$1,500 per acre of Municipal, County and/or State Funds.

The appraisal report provides the County Board with an estimate of the value of the easement purchased in perpetuity, which is the difference between the market value and the farmland value.

The purchase price of an easement may not exceed, but may be less than the easement value. Easements may be purchased as lump sum, installments, bargain sales or like-kind exchange.

VI. PROCEDURES FOR APPROVAL OF EASEMENT PURCHASE BY THE COUNTY AGRICULTURAL LAND PRESERVATION BOARD

The Mifflin County Agricultural Land Preservation Board, when determining whether to purchase an easement, shall evaluate each application in accordance with the standards, criteria and requirements currently or hereafter established by the State Agricultural Land Preservation Board addressing soil quality, likelihood of conversion, proximity to other land under agricultural conservation easement, land stewardship and fair, equitable, objective and nondiscriminatory procedures for determining purchase priorities in accordance with § 914.1 (d) (1) (i) - (iv) of the Act (3 P.S. § 914.1 (d) (1) (i)-(iv)).

If the County Board determines to offer to purchase an easement on the farmland tract, the County Board, or a representative of the County Board, must meet with the applicant to review the County appraisal report. An offer to purchase an easement shall be submitted to the applicant in writing and accompanied by the County appraisal report.

Within 30 days of receipt of the written County Board offer, an applicant will respond to either:

- A.** Accept the offer in which case the County Board and the applicant shall enter into an agreement of sale. The agreement shall be conditioned upon the approval of the State Board and be subject to the ability of the applicant to provide good title to the premises, free of encumbrances, such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest, and other encumbrances which would adversely impact the County and Commonwealth's interest in the farmland tract.

- B.** Reject the offer and advise the County Board that the application is withdrawn.

- C.** Advise the County Board that the applicant is retaining at the applicant's expense, a state certified, general, real estate appraiser to determine the easement value. The appraiser shall be qualified and the appraisal shall be completed under this chapter. The appraisal shall be submitted to the County Board within 120 days of receipt of the County Board's offer to purchase. Upon completion, three copies of the applicant's appraisal shall be submitted to the County Board. The applicant's decision to obtain an independent appraisal under this paragraph shall not constitute a rejection of the County Board's offer. The County Board's offer shall remain open unless increased by the County Board under subparagraph (2), below or rejected by the applicant under subparagraphs (3) or (4), below.
 - (1) If the applicant retains a state certified general appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:
 - (a) The agricultural value shall equal the sum of:
 - (i) The farmland value determined by the *applicant's* appraiser.
 - (ii) One-half of the difference between the farmland value determined by the County Board's appraiser and the farmland value determined by the *applicant's* appraiser, if the farmland value determined by the County Board's appraiser exceeds the farmland value determined by the *applicant's* appraiser.
 - (b) The nonagricultural value shall equal the sum of:
 - (i) The market value determined by the County Board's appraiser.
 - (ii) One-half of the difference between the market value determined by the *applicant's* appraiser and the market value determined by the County Board's appraiser, if the market value determined by the *applicant's* appraiser exceeds the market value determined by the County Board's appraiser.

- (2) Within 30 days of receipt of the applicant's appraisal, the County Board shall:
 - (i) Submit a written offer to purchase in an amount in excess of the amount offered under subsection (B.) to the applicant; or
 - (ii) Notify the applicant, in writing, that the offer made under subsection (B) remains open and will not be modified.
- (3) The applicant shall, within 15 days of receipt of the County Board's written offer under subsection (C)(ii)(A) or receipt of the County Board's written notice under subsection (C)(ii)(B) notify the County Board in writing that the applicant either:
 - (i) Accepts or rejects the offer made under subsection (c)(ii)(A); or
 - (ii) Accepts or rejects the offer made under subsection (b).
- (4) The failure of the applicant to act as set forth in subsection (c)(iii) shall constitute a rejection of the County Board's offer.
- (5) If the offer of purchase is accepted, the County Board and the applicant shall enter into an agreement of sale containing the same requirements and subject to the same conditions as set forth in Section 138e.65(c)(1).

- D.** The failure by the applicant to act within 30 days of receipt of a written offer shall constitute rejection of the offer.
- E.** Acceptance by the County Board will be contingent upon the availability of County and/or State funds available to make the purchase. Funds available to the County Board described in §14.1(h) (8.2) of the Act (3 P.S. § 914.1 (h) (8.2)) may be utilized over a period of two consecutive County fiscal years.
- F.** The Mifflin County Agricultural Land Conservation Easement Program may purchase easements from farmland owners on an installment basis, consistent with the provisions of the Act (3 P.S. § 914.1(h) (11) and (g)).
- G.** The purchase is subject to the requirements of the Pennsylvania Agricultural Area Security Law (act) (3 P.S. §§ 901-915) and the regulations there under, Chapter 138e (relating to the agricultural conservation easement purchase program).

VII. APPROVAL BY THE STATE AGRICULTURAL LAND PRESERVATION BOARD

Upon acceptance by the applicant of the offer extended by the County Agricultural Land Preservation Board, the County Board shall prepare an agreement of sale utilizing a form provided by the State Board. The County Board shall then submit the agricultural conservation easement

application and other documentation required by the State Agricultural Land Preservation Board to the State Board in accordance with model formats included in the most recent State guidebook authorized under § 14.1 (a) (3) (xv) of the Act (3 P.S. § 914.1 (a) (3) (xv)) for review by the Bureau of Farmland Preservation staff. Once the application is approved by the Bureau, documentation is prepared for the State Board as indicated below.

Application for Review by the State Board

Application for State Board review of a proposed purchase of an easement will be made by the County Board submitting the following documents to the Director, Bureau of Farmland Preservation, Pennsylvania Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408, for review by the Bureau staff.

- A.** One copy of the following documents in the order indicated below prepared in accordance with §138e.69:
- (1) A copy of Exhibit “B,” from the agreement of sale, modified to include interest, total acres and per acre easement cost.
 - (2) A cover letter from the county (optional).
 - (3) A narrative summary report.
 - (4) A legible United States Geological Survey (USGS) topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
 - (5) The Soil Report Form “C” (a form provided by the Bureau of Farmland Preservation).
 - (6) The list of soil mapping unit names, symbols, land capability classes and acreage on the subject property.
 - (7) A legible, uncolored soil map of subject property.
 - (8) A tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility right-of-way, an access road right-of-way.
 - (9) A summary table showing the individual ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applications.
- B.** The appraisal reports.
- C.** The signed Agreement of Sale, including the proposed legal description, (Exhibit A), Statement of Cost(Exhibit B), the proposed Deed of Agricultural Conservation Easement (Exhibit C), a Contractor Integrity Clause, (Exhibit D) and a Nondiscrimination Clause (Exhibit E).
- D.** The title insurance report or commitment.
- E.** Certification of County Funds. (A certificate signed by the Commissioners and Controller)
- F.** 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 and a list of the adjoining landowners.
- G.** A completed and signed IRS Form W-9, Request for Taxpayer Identification Number and Certificate for individual grantors.

- H. A letter from the grantors stating the percent of ownership of each grantor for the purpose of issuing IRS Form 1099.
- I. A copy of the **approved** Resource Management System Plan (Soil Conservation and Nutrient Management Plan).
- J. A copy of the recorded Agricultural Security Area resolution indicating the land owners name and/or Uniform Parcel Identifier (UPI) or parcel number.
- K. The farmland owner's application and all of the attachments.

After the review is completed by the Bureau Staff and all deficiencies are corrected, then Twenty-five copies of the following documents in the order indicated below (**individually collated, three-hole punched but not stapled**) prepared in accordance with §138e.69 for distribution by the Bureau to the members of the State Agricultural Land Preservation Board:

1. A copy of Exhibit "B" from the agreement of sale, modified to include interest, total acres and per acre easement cost.
2. A cover letter from the county (optional).
3. A narrative summary report.
4. A legible United States Geological Survey (USGS) topographic map showing the subject property location and boundaries, location of neighboring easements, and exclusions withheld from the subject property.
5. The Soil Report Form "C" (a form provided by the Bureau of Farmland Preservation).
6. The list of soil mapping unit names, symbols, land capability classes and acreage on the subject property.
7. A legible, uncolored soil map of subject property.
8. A tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility right-of-way, an access road right-of-way.
9. A summary table showing the individual ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applications.

THE AGRICULTURAL EASEMENT DEED

Requirements of the agricultural conservation easement deed.

- A. At settlement the owners of the subject farmland tract shall execute a deed conveying the easement containing the following requirements:
- 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 a fixed 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 shall 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 must be surveyed unless the legal

description contained in the deed recorded in the land records of the County in which the farmland tract is located satisfies the requirements of subsections B and C listed above. A survey required by the provisions of this paragraph shall comply with the boundary survey measurement standards of 1 foot in 10,000 feet as published by the Pennsylvania Society of Land Surveyors. In addition, the survey shall meet the chapter 138e.73 requirements as specifically outlined in Chapter 4 of the *Guidebook for Farmland Preservation*.

- E. For purchases made entirely with state funds, the Commonwealth of Pennsylvania will be the sole grantee.
- F. For purchase made using a combination of State and County funds, the grantees will be the Commonwealth of Pennsylvania and the County under joint ownership as defined in the act.
- G. Neither the Commonwealth, the County nor the Municipality may sell, convey, extinguish, lease, encumber, restrict or otherwise dispose of their interest in the easement without the consent of the other.
- H. Upon the sale, conveyance, extinguishment, lease, encumbrance or other disposition of the easement, the Commonwealth, the County and Municipality will receive a pro rata share of the proceeds based upon their respective contributions to the purchase price.
- I. A copy of the deed shall be submitted to the State Board for approval prior to execution and delivery.
- J. Whenever interest in land subject to an agricultural conservation easement is conveyed or transferred to another person, it is the responsibility of the Grantor to ensure that the deed conveying or transferring such interest shall recite verbatim the language of the easement restrictions as set forth in the deed executed in connection with the purchase of the agricultural conservation easement; and is conformance with § 914.1(j)(1),(2) and (3) of the Act (3 P.S. § 914.1(j)). This may accomplished by:

(1) A new fee simple deed that contains **verbatim** all the terms and conditions set forth in Items 1 through 13, as contained in the recorded Deed of Easement executed for the subject property. In addition, the subdivision statement will be included verbatim indicating the date, Record Book and Page Number of the proper subdivision guidelines applicable to the subject Deed of Easement.

(2) As an option, a legal recital may be included in the new fee simple deed stating that the property is subject to an agricultural conservation easement as recorded in book and page at the Recorder of Deeds. The recital must state that a **copy** of the original recorded Deed of Easement is attached to the new fee simple deed package for recording at the County Recorder of Deeds. The Deed of Easement shall include the Exhibit "A" legal description for the eased acreage on the property.

- K. Any person conveying or transferring land subject to an agricultural conservation easement to, within 30 days of the change in ownership, shall notify the County Board and the Department of the name and address of the person to whom the subject land was conveyed or transferred and the price per acre or portion thereof received by the landowner from such person as per § 14.1(j)(2) of the Act (3 P.S. § 914.1 (j) (2)).
- L. Include the following statement on the bottom of the signature page each Deed of Easement:

SUBJECT ALSO, to the Subdivision guidelines of the County of Mifflin Agricultural Land Preservation Program, as approved by the State Agricultural Land Preservation Board on April 11, 1996 and in accordance with the Guidelines and/or Regulations of said State Board which County Guidelines are incorporated herein by reference and made a part hereof.

M. When a property has been awarded federal funds from the Federal Farm and Ranch Land Protection Program, an addendum shall be included in the Deed of Easement.

TITLE INSURANCE

The County Board will provide a title insurance commitment to the State Board upon submission of its recommendation for a purchase of an easement.

Within 60 days of settlement, the County Board will provide a title insurance policy issued by a title insurance company authorized to conduct business in the Commonwealth of Pennsylvania by the Insurance Department. The cost of such title insurance will be a cost incident to the easement purchase payable or reimbursable from a county's allocation under the Act.

NOTIFICATION OF SETTLEMENT

After settlement, but prior to recording, the County will prepare copies of the fully signed Deed of Easement, Legal Description, Subordination Agreements and the “marked up” title insurance commitment.

Within ten (10) days, send the following to the Bureau of Farmland Preservation:

1. Completed Notification of Settlement Form.
2. Photocopy of the fully signed Deed of Easement, Legal Description and any Subordinations.
3. A copy of the Settlement Sheet.
4. A “marked up” copy of the title insurance commitment.
5. Verification Form for the 1099S Form.
6. An invoice from the County for any additional incidental expenses.
7. A revised Exhibit B if costs are greater or less that originally submitted.

RECORDING THE DEED OF EASEMENT

Record the Deed of Easement, Legal Description and any Subordination Agreements at the Recorder of Deeds Office as soon as possible after settlement. The recorded deed should be returned to the Agricultural Land Preservation office regardless of easement ownership. Within thirty (30) days from recording, send a certified copy of the Deed of Easement, Legal Description and Subordination Agreements to the Bureau of Farmland Preservation.

STATEMENT OF COSTS (EXHIBIT B)

The County Board will submit a statement of the costs incidental to the purchase of the easement to the State Board which may include:

1. Easement purchase price;
2. County appraisal costs;
3. Necessary legal fees for title search, preparation of documents, and attendance at closing;
4. Recording fees;
5. Survey costs;
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 state 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.

The statement of costs must specify the amount of state funding requested for the purchase, and the amount of county funds allocated for the purchase.

After settlement, the County Board shall submit a revised statement of costs in the event that actual costs were greater or less than the costs estimated in the initial statement of costs.

VIII. EVALUATION OF APPLICATIONS FOR EASEMENT PURCHASE

Farmland Ranking System has been devised to rank applications for conservation easement sale. The criteria addressed within the ranking system are in addition to the minimum criteria as required by the state. All qualified farms will be prioritized and ranked according to this system. The Board will ensure that all parcels submitted for easement purchase are evaluated during the same round of applications, including parcels previously submitted and still under consideration by the Board for easement purchase.

FARMLAND RANKING SYSTEM

- (a) The county board will use the following farmland ranking system meeting the requirements of this section, for the use in prioritizing applications for the appraisal of properties meeting the minimum criteria listed in § 138e.16 (relating to minimum criteria for applications). This farmland ranking system may include additional or substitute criteria as approved by the State Board.
- (b) Review and approval of system. The county board shall set forth its farmland ranking system in its county program and submit the county program to the State Board for review and approval in accordance with the Act.
- (c) LESA system. Applications that meet the minimum criteria will be ranked using a two part Land Evaluation and Site Assessment (LESA) system. A total of 100 points are available with 50 points allocated to Land Evaluation and 50 points allocated to Site Assessment described in this section. The weighted Land Evaluation LESA score shall be calculated in accordance with subsections (1 and 2)
- d) . The Land Evaluation (LE) section of LESA assesses the quality of the soils of the tract. Each soil mapping unit found in Mifflin County has been assigned a score based on its land capability classification and productivity index. Derived from the most current USDA Natural Resource Conservation Service LESA data, the "relative values" for each of these soil types can be found in Section B. A total of 100 points is available in this category. When weighted by .50 the maximum Land Evaluation overall points a farm can receive is 50.
- (e) The Site Assessment (SA) portion of the LESA consists of 14 factors which relate to the viability of the site for present and future agricultural use. These factors consider: 1) Development

Potential; 2) Farmland Potential and; 3) Clustering Potential. These factors have been assigned points and weighted averages based on the factor's overall importance in the site assessment system. While each of these areas can receive a maximum total of 100 points each when the Site Assessment weights are applied to each factor, the maximum points each factor can receive is 10, 25, and 15 respectively for a potential maximum total of 50 overall site assessment points. The LESA Summary Sheet found in Appendix A, Section D of the Application will be used to summarize the scoring of the Land Evaluation and the Site Assessment (Section C of the Application) components of the application

	<u>Weighted Value</u>
Land Evaluation (LE)	50%
Site Assessment (SA) Development Potential	15%
Site Assessment (SA) Farmland Potential	25%
Site Assessment (SA) Cluster Potential	10%

1. Land Evaluation

This part of the LESA system is based on soils data obtained from the Mifflin-Juniata Soil Survey. The Soil Survey was published in 1981 by the USDA Natural Resource Conservation Service in cooperation with the Pennsylvania State University and the Pennsylvania Department of Agriculture.

Each soil mapping unit found in Mifflin County has been assigned a score based on its land capability classification and productivity index. Derived from the most current USDA Natural Resource Conservation Service LESA data, the "relative values" for each of these soil types can be found in Appendix A, Section B of the Application.

Based on the worksheet found in Section B of the application materials, each farm under consideration will be assigned an Average Relative Value for the soil types making up the tract. The highest Average Relative Value a farm can receive is 100. The Average Relative Value for all soils will then be weighted by 50% (.50) to get the total weighted soils points. See Appendix A, Section B of the Application.

1. Soils Rating

Weighted Soil Points (Maximum weighted points = 50)

Based on the NRCS data for Mifflin County; take the NRCS Relative Value for each soil type on the tract (found in Appendix B) and multiply by the number of acres of each soil type. Add the totals of all Relative Values per soil and divide by the total acres of land, to obtain the Average Relative Value for the entire tract. Multiply the Average Relative Value by .5 to get the total weighted soil points attributable to the entire tract (Section B of the Application).

Example:

<u>Soils</u>	<u>NRCS Relative Value.</u>		<u>Acres</u>		<u>Relative Value per Soil</u>
NO	100	X	20	=	2000
PO	100	X	40	=	4000
HAB	79	X	15	=	1185
EDB	48	X	<u>25</u>	=	<u>1200</u>
					100 Total Acres
					8385 Total Relative Value per Soil
8385/100 = 83.85 Average Relative Value					
83.85 X .5 = 41.93 Total Soil Points					

2. Site Assessment

The site assessment portion of the LESA consists of 14 factors which relate to the viability of the site for present and future agricultural use. These factors consider the development pressures in the area and the likelihood of future development pressures in the area, as well as the likelihood that these pressures will impact farm operations. The three primary factors considered and their points and weights are listed below.

<u>Factor</u>	<u>Allocated Points</u>	<u>Weight %</u>	<u>Maximum Total Points</u>
Development Potential	100	.15	15
Farmland Potential	100	.25	25
Clustering Potential	100	.10	10
TOTAL	300	.50	50

IX. PUBLIC INFORMATION PROGRAM

Copies of the Mifflin County Agricultural Conservation Easement Program are available to the public by contacting:

Mifflin County Conservation District
20 Windmill Hill
Burnham, PA 17009

Penn State Cooperative Extension
152 East Market Street, Suite 100
Lewistown, PA 17044

A public information campaign is conducted annually to promote a broad understanding and awareness of the Mifflin County Agricultural Easement Program and Mifflin County agriculture in general. This campaign will include the following:

Press releases to keep the public informed of the progress, application deadlines, and requirements of the program.

Public meetings will be held in the county to explain the Conservation Easement and Agricultural Security Area programs to the public, show landowners how they can participate in these programs, and keep residents apprised of the progress of the program.

Newsletters from Cooperative Extension, NRCS, ASCS, and the Conservation District will be utilized to publicize the program and its requirements.

The Mifflin County Agricultural Land Preservation Board is subject to the Act of July 3, 1986 (P.L. 388, No. 84), known as the Sunshine Act and the Act of June 21, 1957 (P.L. 390, No. 212), referred to as the Right-To-Know Law relating to the inspection and copying of public records. Monthly Board meetings, which are open to the public, are held the second Wednesday of each month at 7:30 p.m. in Penn State Cooperative Extension Office in the Juniata Valley Business Center, 152 East Main Street, Lewistown PA.

Announcements for the annual application period and application forms are also made by a county-wide mailing to every land owner enrolled in an Agricultural Security Area, news releases, radio spot announcements and is available on the Mifflin County website.

X. PROCEDURE FOR INSPECTING AND ENFORCEMENT

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

INSPECTIONS

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

An inspection conducted under this section 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.

Within 10 days of conducting an inspection, 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 land inspected.
3. A description of modifications in the number, type, location or use of 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 permitted structure has been constructed on the restricted land, the month and year construction was completed and its location on the land.

A copy of the inspection report shall be mailed by certified mail to the owner.

The County Board and the State Board may inspect the restricted land, jointly or severally, and without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

ANNUAL REPORT

The County Board shall file with the State Board, by March 1 of each year a copy of inspection reports for inspections conducted during the prior year, and compile an annual report which summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding unresolved violations.

ENFORCEMENT

The County Board shall enforce the terms of each easement purchased within the County under the act whether it be a Municipal, County, State or joint purchases.

The State Board may enforce the terms of State or jointly purchased easements.

The right of the State Board to enforce the terms of an easement may be exercised either jointly with the County Board or by the State Board acting on its own behalf.

NOTIFICATION TO OWNER

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

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.

ENFORCEMENT ACTIONS

Sixty days after the mailing of a notice of violation, 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:

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 a 60-day period.

Establishes a period not to exceed 1 year within which the corrective measures shall be completed.

The County Board shall commence and prosecute the enforcement action if the violation is not corrected within the time periods established.

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.

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.

XI. RESPONSIBILITY OF OWNER 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.

RESOURCE MANAGEMENT SYSTEMS PLAN

If Required By The Pennsylvania Nutrient Management Act

To preserve the agricultural viability of the restricted land, the County Board shall require, and the owner of the restricted land shall implement a Resource Management Systems Plan, (a soil conservation plan approved by USDA/NRCS or the County Board, and if required by the PA Nutrient Management Act, a Nutrient management Plan approved by the County Conservation District.)

In addition to the requirements established by the County Conservation District, or the County Board, the conservation plan shall require that:

1. The use of the land for growing nursery stock, ornamental trees and shrubs does not remove excessive soil from the 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 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.

CONSTRUCTION OF BUILDINGS; CHANGES IN USE

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 is permitted.
2. The construction and use of structures on the subject land for the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time employees: provided, that only one such structure may be constructed on no more than two acres of the subject land during the term of the agricultural conservation easement.
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.

CONSTRUCTION OF ONE ADDITIONAL RESIDENTIAL STRUCTURE

In addition to the structures existing on the restricted land at the date of the granting of the easement, one additional residential structure may be constructed on the restricted land, if the following apply:

The construction and use is for the landowner's principal residence or for the purpose of providing necessary housing for seasonal or full-time employees: provided, that only one such structure may be constructed on no more than two acres of the subject land during the term of the agricultural conservation easement.

1. No other residential structure has been constructed on the restricted land after the date of the

granting of the easement.

2. The residential structure and its curtilage occupy no more than 2 acres of the restricted land.
3. The location of the residential structure and its driveway will not significantly harm the economic viability of the restricted land for agricultural production. The replacement of a residential structure constructed under this section is permitted.

APPENDIX A – Application

APPENDIX B – Maps of Preserved Parcels & Prime Farmlands

APPENDIX C – Board Authorization

APPENDIX D – Board Membership

APPENDIX E – Bylaws

APPENDIX F – Rural Enterprise

APPENDIX G – Definitions

APPENDIX H – Agricultural Security Areas

APPENDIX I – Subdivision Guidelines

APPENDIX, A
MIFFLIN COUNTY AGRICULTURAL LAND PRESERVATION BOARD

SECTION, A
Agricultural Conservation Easement Application Form

I. General Information

Name(s) _____

Address _____
(Street / R.R.) (City) (State) (Zip Code)

Social Security # (s) _____

Telephone # (s) _____
(Please include best times to contact)

County _____ Municipality _____

Location of the Agricultural Security Area (ASA) in which your farm is located and recorded:
_____ Township, Mifflin County -- Recorded ASA as listed below:

Book: _____ Volume: _____ Page: _____

Street location of farmland tract _____

Directions from nearest state route _____

Total acreage of farmland tract _____

Total acreage offered for easement purchase _____

Deed of Ownership: Reference: _____ Book: _____ Volume: _____ Page: _____

County tax map, include tax parcel number or account number

Date of U.S.D.A. Natural Resource Conservation Service Conservation Plan, if any

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

II. Maps

The applicant is required to provide the following maps as part of this application. Each of the farm parcel boundaries must be clearly identified on every map.

1. Location Map - A United States Geographical Survey Topographical Map showing the location of the farmland tract. A copy of this map may be obtained at the Mifflin County Conservation District Office.
2. Soils Map - The soils map of the farmland tract must be color coded as follows:
Soils maps are available at the Soil Conservation Service office in Burnham.
 - Class I - Green
 - Class II - Yellow
 - Class III - Red
 - Class IV - Blue
 - * Unique Land - Purple
 - Wetlands - Cross Hatch or include on separate map
3. Tax Map - Tax map (s) of the farmland tract with map reference and tax parcel numbers clearly indicated. Tax maps are available at the Mifflin County Tax Assessor's Office.

III. Soils Report

The applicant is required to provide a soils report for the farmland tract as part of the application. This report should contain a listing of the soil types found on the tract and the number of acres of each type. Information for this report can be found in the Mifflin County Soil Survey available through the Mifflin Conservation District Office.

IV. Capability Class Table

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

Class	Acres of Cropland	Acres of Pasture	Other	Total Acres
Class I				
Class II				
Class III				
Class IV				
Other Classes				
Total				

Other = Woodland/Wetland areas = _____ Class I - IV Soils = _____ %

Homestead/buildings = _____ Class I = _____ % Class II = _____ %

Signatures

It is necessary for all owners of the farmland tract to give their approval and consent to this application. In the following section, list any judgments or liens against your farm:

Signed: _____

Date: _____

Judgments or Liens: _____

Please submit this application to:

Mifflin County Ag Land Preservation Board
c/o Mifflin County Conservation District
20 Windmill Hill #4
Burnham, PA 17009

Please call the Mifflin County Conservation District Office (717-248-4695) if you have questions or would like assistance in completing this application.

Those applicants who receive preference for appraisal will be asked to submit a \$500 good faith deposit prior to ordering the appraisal. In addition, if the easement purchase offer is accepted, the applicant will be asked to pay the costs of a survey of the easement area by a licensed surveyor. Both the cost of the survey and the good faith deposit will be refunded after closing unless the applicant refuses an offer to purchase the conservation easements on the property at full market value or unless the applicant breaks a sales agreement with the Mifflin County Agricultural Land Preservation Board. The deposit is to be held in escrow and will be refunded within 30 days of the closing.

Soils and Application Assistance Mifflin County Conservation District
20 Windmill Hill, #4
Burnham, PA 17009 (717)-248-4695

Natural Resource Conservation Plan ----- Natural Resource Conservation Service Office
20 Windmill Hill, #4
Burnham, PA 17009 (717)-248-9541

Deed Reference ----- Registrar and Records Office, Mifflin County Courthouse
(717) 242-1449

Tax Account Numbers ----- Office of the Chief Assessor, Mifflin County Courthouse
20 North Wayne Street
P.O. Box 68
Lewistown, PA 17044 (717)-248-5783

APPENDIX, B

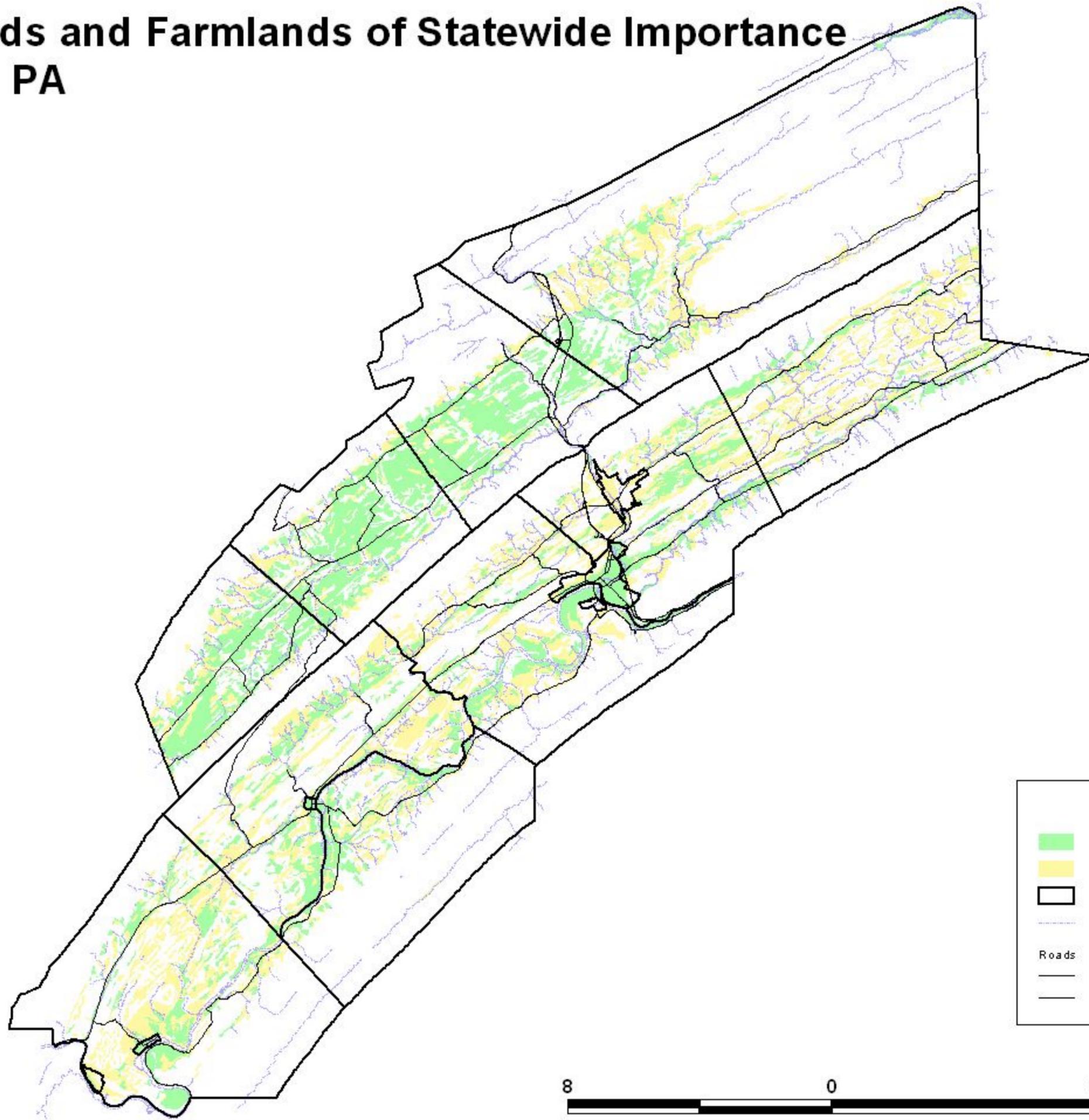
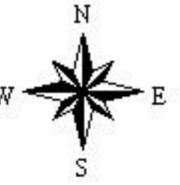
COUNTYWIDE FARMLAND MAPS

Mifflin County Agricultural Land Preservation Program

1- PRIME FARMLANDS and FARMLANDS of STATEWIDE IMPORTANCE

2- AGRICULTURAL SECURITY and AGRICULTURAL PRESERVATION PARCELS

Prime Farmlands and Farmlands of Statewide Importance Mifflin County, PA



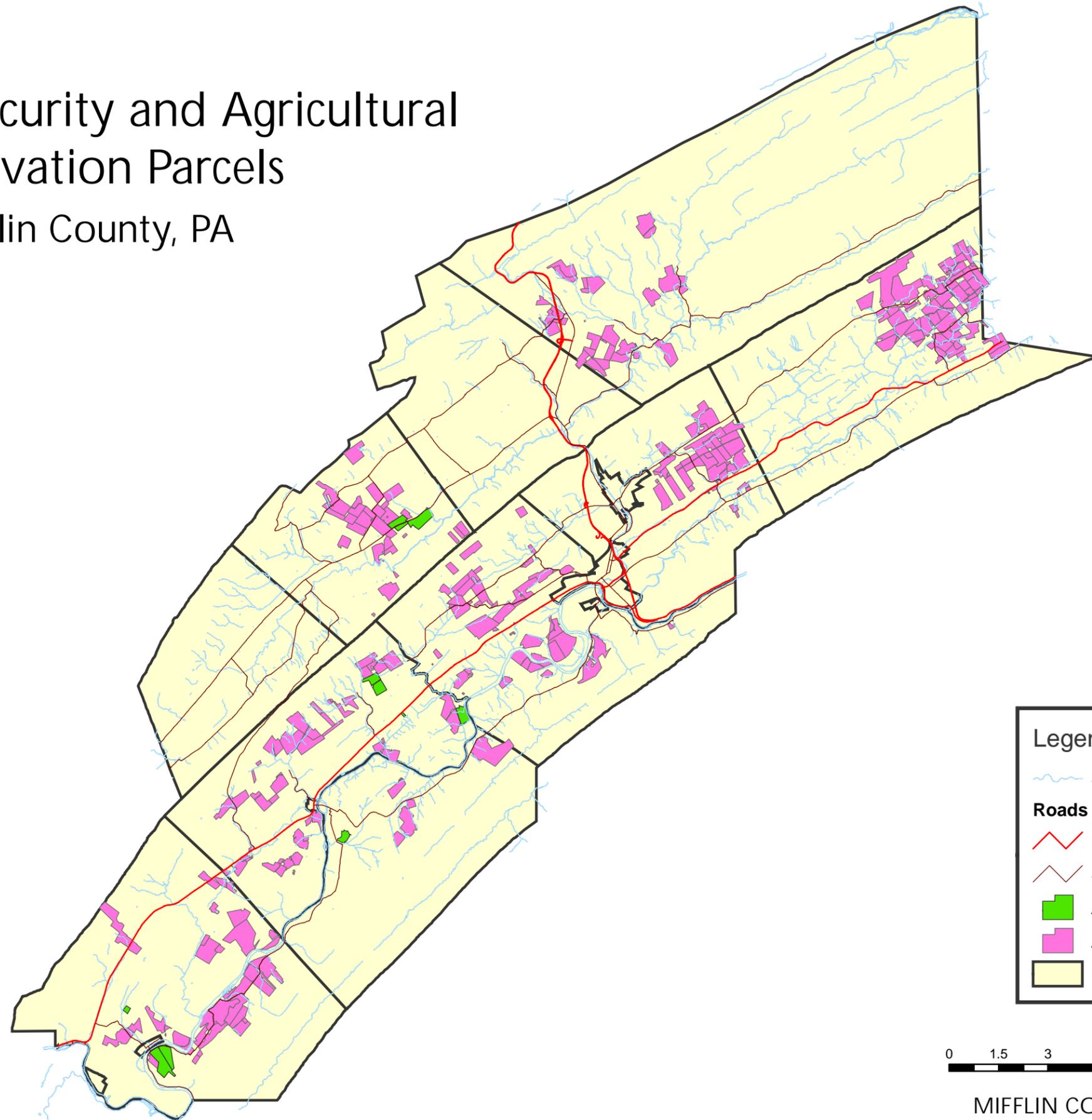
Legend

- Prime Farmland
- Additional Farmland of Statewide Importance
- Municipal Boundary
- Hydrography
- Roads
 - Federal
 - State



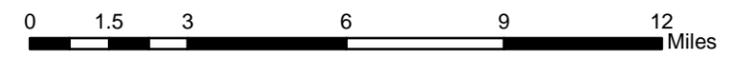
Agricultural Security and Agricultural Preservation Parcels

Mifflin County, PA



Legend

- Streams
- Roads**
 - Federal
 - State
- Ag Preservation Parcels
- Ag Security Parcels
- Municipal Boundary



MIFFLIN COUNTY GIS DEPARTMENT

APPENDIX, C
BOARD AUTHORIZATION

Mifflin County Agricultural Land Preservation Program

RESOLUTION NO. 92-27

APPENDIX, E

BYLAWS

Mifflin County Agricultural Land Preservation Program

BY LAWS OF THE COUNTY AGRICULTURAL LAND PRESERVATION BOARD MIFFLIN COUNTY, PENNSYLVANIA

NAME:

The name of this (non-profit) organization shall be the Mifflin County Agricultural Land Preservation Board, hereinafter referred to as the "Board".

PURPOSE:

The purpose of the Board shall be as follows:

- 1) Administer a program for purchasing and receiving gifts of agricultural conservation easements on behalf of the county.
- 2) Adopt rules and regulations for the administration of a county program for the purchase of agricultural conservation easements within agricultural security areas. The Board shall execute all agreements or other documents necessary to affect the purchase of such agricultural conservation easements in the name of the County and/or the Commonwealth of Pennsylvania.
- 3) Encourage the use of additional farmland preservation techniques through public and private organizations in the County.
- 4) Promote efforts to support the agricultural industry in the County.
- 5) Perform such other duties and responsibilities as may be authorized pursuant to the Agricultural Area Security Law.

AUTHORIZATION:

The Board was authorized to administer the County Program by resolution of the County Governing Body at a regularly scheduled on meeting on October 15, 1992.

A copy of said resolution is attached hereto and by this reference incorporated herein.

MEMBERSHIP:

Board members shall be appointed by the Board of the Mifflin County Commissioners (hereafter County Commissioners).

The Board shall be composed of nine members, to be appointed from the following groups:

1. Four shall be active resident farmers in Mifflin County, and shall serve an initial term of three years after authorization of this Board by the County Commissioners.
2. One shall be a current member of a borough or township governing body which is located in Mifflin County and shall serve an initial term of two years after authorization of this Board by the County Commissioners.
3. One shall be a commercial, industrial, or residential building contractor who resides in Mifflin County, and shall serve an initial term of one year after authorization of this Board by the County Commissioners.
4. Three members shall be appointed at the pleasure of the County Commissioners and shall serve initial terms of one year after authorization of this Board by the County Commissioners.

TERM OF OFFICE:

Upon expiration of the initial terms of office as set under Membership, all terms of office shall be three years.

REMOVAL FROM COUNTY BOARD:

Any Board member may be removed from the Board for malfeasance, misfeasance, or nonfeasance in office or for other just cause by the majority vote of the County commissioners after the member has received fifteen days advance notice of the intent to take such vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Any Board member missing three (3) consecutive meeting shall be automatically removed from the Board.

VACANCIES:

Any appointment to fill any vacancy created by removal, resignation or otherwise shall be only for the unexpired term of the vacant position.

OFFICERS:

The Board will be directed by a Chairperson. Additional officers shall be Vice-chairperson, Secretary, and Treasurer.

A Staff person may serve as Secretary but shall have no vote.

ELECTION OF OFFICERS:

The Chairperson shall be appointed annually by the chairperson of the County Commissioners.

Other officers shall be elected annually by members of the Board.

DUTIES OF OFFICERS:

The Chairperson shall preside at all meetings of the Board, call special meetings, establish committees, appoint committee chairmen, 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 Secretary shall be responsible for seeing that all meetings are recorded, and for sending and receiving correspondence of the Board.

The Treasurer shall pay all bills authorized by the Board, maintain a record of all funds designated for easement purchase and for administration of the County Program.

REMOVAL OF OFFICERS:

The Chairperson can be removed from his office by majority vote of the County Commissioners.

Other officers can be removed from office at any time for just cause by a majority vote of all members of the Board.

MEETINGS:

Regular meetings shall be held on the third Wednesday of every month beginning in October, 1992 at 7:30 P.M. in Meeting Room A, Mifflin County Courthouse, 20 North Wayne street, Lewistown, PA Special meetings shall be held at the call of the Chairperson, or at the request of three (3) members of the Board, and shall require written notice of at least five (5) days.

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.

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.

VOTING:

Each member of the Board shall be allowed to cast one vote.

Board members must be present at meetings in order to vote.

Motions shall be passed by a majority vote of members present at a meeting, except as specified elsewhere in the By-laws.

COMMITTEES:

The chairperson may appoint such committees as are desirable for accomplishing the purpose of the Board.

Committees may include persons other than Board members but must include at least one Board member.

AGRICULTURAL SECURITY AREA ADVISORY COMMITTEES:

The Board may consult with and seek the advice of Agricultural Security Area Advisory Committees with respect to the prospective purchase of easements within their respective municipalities and with respect to such other matters as the Board deems appropriate.

STAFF:

The Board may use moneys appropriated by the County Commissioners to hire staff and administer Act 149 in the county. However, county match funds are expressly prohibited for paying staff or any other administrative use. (See Section 138e. 102(d) of

Exhibit B)

STAFF ASSISTANCE FROM OTHER AGENCIES:

The Board may receive assistance from the staffs of the County Planning Commission, County Conservation District, County Cooperative Extension Service, other County Departments, or from other sources as are available.

ADVISORY COMMITTEE:

The County Board may form an advisory committee composed of the directors of local, county, state, and federal agencies and provide groups who have experience with the county's agriculture industry and land use concerns. Members of this advisory committee shall not have voting privileges on the County Board.

FINANCES:

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

The Board shall operate within a budget as approved annually by the County Commissioners; Board members shall not receive salary or payment for their services on the Board, but may be reimbursed for expenses incurred in the course of their service on the Board.

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

PUBLIC OFFICIAL AND EMPLOYEE ETHICS LAW:

All members and employees of the Board shall comply with the provisions of the Public Official and Employee Ethics Law, 65, P.S. Sections 401-413.

AMENDMENTS:

The By-laws may be amended at a Board meeting by a majority vote of the entire membership of the Board, subject to the approval of the County Commissioners provided such amendments, along with a notice of the date of the meeting, shall have been circulated to all members of the Board and County Commissioners at least 15 days prior to the meeting.

APPENDIX, F

RURAL ENTERPRISE

Mifflin County Agricultural Land Preservation Program

The following customary part-time or off-season minor or rural enterprises and activities have been approved by the Mifflin County Agricultural Land Preservation Board and by the State aboard. The agricultural conservation easement does allow these enterprises and activities on the subject land:

1. Direct sale 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.
2. Any and all structures contributing to the production, primary processing, direct marketing and storage of agricultural products produced principally in the farm.
3. Structures associated with the production of energy for use principally on the farm including wind, solar, hydroelectric, methane, wood, alcohol fuel and fossil fuel systems and structures and facilities for the storage and treatments of animal wastes.
4. Structures and facilities associated with irrigation, farm pond improvements, and soil and water conservation practices including but not limited to Wetland Development or Restoration, Wildlife Wetland Habitat Management, Wildlife Upland Habitat management and Riparian Forest Buffer Resource Management Systems used for erosion and sediment control and water quality improvement.*
5. The provision of services or production and sale, by persons in residence, if incidental agricultural goods, services, supplies, and repairs and/or the conduct of traditional trades and the production and sales of home occupation goods, arts and crafts, so long as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying residential and/or principally agricultural structures of the property; limited in site coverage to one-half of one percent of the area of the property.
6. 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 characteristic of the property.
7. Other similar uses upon approval by the Mifflin County Agricultural Land Preservation Board and the State Agricultural land Preservation Board.

***The State Agricultural Land Preservation Board approved and authorized on 7/31/2000 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.**

APPENDIX, G

DEFINITIONS

Mifflin County Agricultural Land Preservation Program

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

The Agricultural Area Security law (3 P.S. sections 901-915), *as amended*.

Agricultural conservation easement or easement - An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of the land 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. Franklin County will not consider any conservation easements for purchase which are not perpetual in nature. 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 act of October 18, 1988 (P.L 756, No.108), known as the 'Hazardous Sites Cleanup Act.'

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.

Agricultural value - The sum of:

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

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

Annual easement purchase threshold - An amount annually determined by the State Board which equals at least \$10,000,000 to be allocated among eligible counties.

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

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

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, including an installation schedule and maintenance program, which, when completely implemented will improve and maintain the soil, water and related plant and animal resources of the land.

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

Contiguous acreage - All portions of one operational unit as described in the deed, or deeds, whether or not the portions are divided by streams, public roads, bridges and whether or not described as multiple tax parcels, tracts, purpart 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 - Mifflin County, Pennsylvania.

County Board - The Mifflin County Agricultural land Preservation Board as appointed by the Mifflin County Commissioners.

County Governing Body - The Mifflin County Board of Commissioners.

County Matching Funds - Money appropriated by the Mifflin County commissioners for the purchase of easements.

County program - A Mifflin County Agricultural land Preservation Program for the purchase of easements authorized and approved by the Mifflin County Commissioners.

Crops, livestock and livestock products - Include but are not limited to:

- (1) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- (2) Fruits, including apples, peaches, grapes, cherries, and berries.
- (3) Vegetables, including, tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.
- (4) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers.
- (5) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, 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 - Include, but are not limited to, 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.

Curtilage - The area surrounding a residential structure used for yard, driveway or similar residential purposes.

Department - The Department of Agriculture of the Commonwealth.

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

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

Eligible counties - Counties whose easement purchase programs have been approved by the State Agricultural Land Preservation Board. For the purpose of annual allocations, an eligible county must have its easement purchase program approved by the State Agricultural Land Preservation Board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.

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

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

Farmland tract - land constituting all or part of a farm that is proposed for the purchase of an easement.

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

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

Grant funds - Funds allocated to a County by the State Board under section 14.1(h)(2) and (5)(li) of the act (3 P.S. section 914.1~(2),(5)(li)), the expenditure of which is not contingent upon the appropriation and expenditure of County matching funds.

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

Grazing or pasture land - land used primarily for the growing of grasses and legumes which are consumed by livestock in the field and at least 90% of which is clear of trees, shrubs, vines or other woody growth not consumed by livestock.

Harm the economic viability of the farmland for agricultural production -To cause a particular tract of restricted land to fail to meet the criteria set forth at Section 138e. 6 (a)(2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter. or to create, through subdivision, a tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to Section 14.1 (c)(6)(iv) of the Act (3 P.S. ~ 914.1(c)(6)(1)).

Harvested cropland - land used for the commercial production of field crops. fruit crops. vegetables and horticultural specialties such as Christmas trees. flowers, nursery stock and ornamentals as defined in the act. The term does not include timber and wood products.

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

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

Land development - Either of the following activities:

- 1- The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively; or
- 2- A subdivision of land.

Land which has been devoted primarily to agriculture - That acreage which is a Part of restricted land and is harvested cropland. grazing or posture land, land used for the production of timber and wood products. land containing nonresidential 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 (3 P.S. ~ 914. 1(c)(6)(iv)).

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

Nonagricultural value - The sum of:

- (A) The market value determined by the state or County Board's appraiser; and
- (B) 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. Sections 1-7872).

Normal farming operation - The customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock, and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, 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.

Owner - The person holding title to land.

Pennsylvania Municipalities Planning Code - *The Act of 1968 (P.L. 805, No. 247) as reenacted and amended through February 2005 by Acts 99 and 206 of 2004. Eighteenth Edition.*

Restricted land - land and buildings, the use of which is subject to the terms of an easement.

Secretary - The Secretary of the Department.

Soils report - A report which sets forth the amount and description of each soil class found on a specific farm.

State Board - The State Agricultural Land Preservation Board.

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

Subdivision - The division or 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 Department of Insurance 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.

USDA - The United States Department of Agriculture.

USDA-NRCS - The United States Department of Agriculture Natural Resource Conservation Service.

APPENDIX, H

AGRICULTURAL SECURITY AREAS

Mifflin County Agricultural Land Preservation Program

AGRICULTURAL SECURITY AREAS IN MIFFLIN COUNTY

The Pennsylvania Agricultural Area Security Act, Act 43 of 1981, enables the formation of security areas through the cooperative efforts of farmland owners and local governments. Since 1984, property owners in seventeen municipalities in Mifflin County, have petitioned their local governments to establish agricultural security areas in accordance with Act 43.

As a result, over 86,000 acres of Mifflin County farmlands have been included voluntarily in such areas. This acreage represents over 78 percent of the total acres reported as land in farms in the 1997 Census of Agriculture, prepared by the U.S. Bureau of the Census. It should be noted that the majority of security area parcels are located within areas containing Class I and II soils and noted as Agricultural Land Use in the County's 2002 Land Use Survey.

Appendix A shows the location and respective acreage of each Agricultural Security Area.

FORMATION OF AGRICULTURAL SECURITY AREAS

Agricultural Security Areas are intended in the long-term to result in a more permanent and viable agricultural base. Agricultural Security Areas are created by municipal governments according to the procedures established in Act 43 of 1981, as amended, and known as the "Agricultural Area Security Law". This act does not regulate or restrict development, but rather provides an incentive for farmers to make known their long range commitments to farming.

Agricultural Security Areas in Mifflin County are defined geographic areas which consist of at least 250 acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons. Agricultural Security Areas are protected from local nuisance ordinances and ordinances that would otherwise restrict farming activities. Only farms within designated Agricultural Security Areas will be eligible for consideration for easement purchases.

Effect of Agricultural Security Area Designation

Conservation Easement Sale

The owner(s) of a qualified farm within an Agricultural Security Area will be eligible to offer conservation easements for sale to the Mifflin County Agricultural Land Preservation Board. The life of a conservation easement is perpetual. Farms not within designated Agricultural Security Areas are ineligible for this program.

Protection from Public Capital Projects

Mifflin County will promote, through whatever means available, the protection of agricultural use of land in Agricultural Security Areas from incompatible municipal, school district, county, and state capital projects which were not planned at the time of the establishment of the areas and which would result in the extensive, direct and/or indirect conversion of farmland into non-farm uses.

Normal Agricultural Activities

Normal agricultural activities and uses are preferred and are designated priority activities in Mifflin County Agricultural Security Areas. This policy is intended to negate nuisance complaints and/or litigation which may arise from normal noise, dust, manure, and other odors, the use of agricultural chemicals, and nighttime farm operations.

Criteria for Designation

The following criteria are requirements for the designation of Agricultural Security Areas:

1. At least 250 acres of viable agricultural land. The proposed area may also consist of two or more noncontiguous tax parcels, provided that each tax parcel is at least ten acres.
2. At least 50 percent of the land has soils which fall into one of the following categories: Class I-IV, excepting Class IV(e), as defined by the U.S. Soil Conservation Service; land which has been classified as "unique farmland;" or land whose soils do not meet Capability Classes I through IV but which is currently in active farm use and is being maintained in accordance with the soil erosion and sedimentation plan applicable to such land.
3. Use of the land shall be compatible with local government comprehensive plans. Any zoning must permit agricultural use but need not exclude other uses.
4. Landowner(s) may propose to include all of their land, regardless of zoning, in an agricultural security area.
5. The land shall be viable agricultural land.
6. Additional factors may be considered related to the extent and nature of farm improvements, anticipated trends in agricultural economic and technological conditions, and any other matter which may be relevant.

Procedures for Establishing Agricultural Security Areas

Landowners submit a proposal for an Agricultural Security Area to the municipal governing body by certified mail with return receipt requested. The proposal must be submitted in such manner and form as prescribed by the governing body of the local government unit wherein the proposed area is situated and shall include a description of the proposed area, including the boundaries thereof and the tax parcel number(s) of the properties submitted.

When the municipal officials receive the proposal, they should acknowledge receipt of the proposal at their next regular meeting. They should also provide notice in the newspaper and post five notices. The posting of public notices begins a 15 day public comment period.

The chairman/president of the governing body should appoint five persons to an Agricultural Security Area Advisory Committee: three farmers, each representing a

different farm; one local citizen; and one elected official, who shall be the chairman of the Advisory Committee.

The governing body must send the Agricultural Security Area proposal and any modifications received to the Advisory Committee and the township planning commission at the end of the public comment period.

The Advisory Committee and the local planning commission evaluate the Agricultural Security Area proposal and make a recommendation to the municipal officials within 45 days as to whether or not the Agricultural Security Area (or a modification of it) should be adopted.

The governing body must hold a public hearing upon receipt of the recommendations from the Advisory Committee and the local Planning Commission. The hearing is to be held at a place readily accessible and advertised in the newspaper. Notice of the hearing must also be sent to each of the landowners who are included in the proposal and posted in five places.

The governing body takes action to adopt the Agricultural Security Area proposal or any modification of it as it deems necessary. The existence of utility facilities will not prevent the adoption of the Agricultural Security Area. The governing body should act within 180 days from the date the proposal was first submitted by the landowners. Failure to act within 180 days is deemed as adoption of the Agricultural Security Area as originally proposed without modification.

Modifications to Agricultural Security Areas

Additions to Agricultural Security Areas may be initiated by a landowner(s). Additions may occur at any time. Non-contiguous parcels must be a minimum of ten (10) acres. Any addition is subject to the applicable procedures outlined above.

Termination of Agricultural Security Area Status

Agricultural Security Areas are to be reviewed and reestablished or terminated every seven years by the municipality(ies).

A proposed termination of a property from the Agricultural Security Area is to be reviewed by the local Agricultural Security Area Advisory Board, the local Planning Commission, and the County Planning Commission. These three bodies will make recommendations to the local governing body which may accept or reject proposed terminations from the Agricultural Security Area.

Interim Review

If within the seven year period, 10 percent of the land within the Agricultural Security Area is diverted to residential or non-agricultural commercial development, the governing body may review the diversion and may request, in writing, that the local and county planning commissions and agricultural security area advisory committee study its review and make recommendations within 30 days of the written request. The governing body must then conduct a public hearing. The hearing will be held no sooner than 45 days after the governing body has submitted written requests for review and recommendation to the planning commissions and advisory committee. The governing body then may terminate or modify the Agricultural Security Area.

APPENDIX, I

SUBDIVISION GUIDELINES

Mifflin County Agricultural Land Preservation Program

A. Authority

Authority for the provisions and requirements of this article are granted by the Agricultural Area Security Law (3 P.S. Sections 901-915) as amended.

B. 138e.3. Definitions.

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 (3 P. S. § 914.1 (c) (6) (iv)), to meet all of the criteria set forth at Section 138e.16 (a) (2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter.

Harm the economic viability of the farmland for agricultural production - To cause a particular tract of restricted land to fail to meet the criteria set forth at Section 138e.16 (a) (2), (3), (4) and (5) (relating to minimum criteria for applications) of this chapter, or to create, through subdivision, a tract of restricted land, other than a tract of two acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted pursuant to Section 14.1 (c) (6) (iv) of the Act (3 P.S. § 914.1 (c) (6) (I)), that would fail to meet the afore described criteria.

Land development - Either of the following activities:

- 1- The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving a group of two or more residential buildings, whether proposed initially or cumulatively; or
- 2- A subdivision of land.

Land which has been devoted primarily to agricultural use - That acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing non-residential structures used for agricultural production, or other acreage immediately available for agricultural productions, and which excludes any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilages, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of two acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1 (c) (6) (iv) of the Act (3 P.S. § 914,1 (c) (6) (iv)).

Pennsylvania Municipalities Planning Code - *The Act of 1968 (P.L. 805, No. 247) as reenacted and amended through February 2005 by Acts 99 and 206 of 2004.*

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.

C. 138e.224. Construction of one additional residential structure.

- (1) General.** In addition to the structures existing on the restricted land at the date of the granting of the easement, one additional residential structure may be constructed on the restricted land if the following apply:

 - (i) 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.
 - (ii) 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.
 - (iii) The residential structure and its curtilage occupy no more than 2 acres of the restricted land.
 - (iv) The location of the residential structure and its driveway will not significantly harm the economic viability of the restricted land for agricultural production.
 - (v) The additional structure and its curtilage shall not be constructed in such area that would require removal from production any cropland without the County Board approval. However, if existing municipal, county, state or federal regulations (including but not limited to zoning, subdivision, and land development ordinances, building codes, sewage regulations, stream obstruction and encroachment and wetlands regulations) do not allow for the construction of the additional residential structure and its curtilage in an area that would not remove cropland from production or would necessitate such construction in an area that is not reasonable located or that would require unreasonable expenses (including legal fees, permits, additional construction costs, etc.), the County Board may not disapprove construction in an area which would take cropland out of production.
- (2) 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.
- (3) 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:

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

D. 138e.225 Subdivision of restricted land.

(1) General - The following conditions shall apply to subdivision of lands eased through the Mifflin County Agricultural Land Preservation Program whether the easement is held by the Municipality, the State, the County, or held jointly by the State and the County.

(i) The prohibitions, restrictions and conditions of subdivision of eased land as set forth in Section D (2) of this section shall be recited verbatim in the deed for all subdivided and remaining parcels.

(ii) No restrictions, prohibitions or condition of this section shall prevent a landowner from subdividing eased lands for the purpose of constructing one additional residential structure as authorized by Section 14.1 (c) (6) (iv) of the Act (3 P.S. Section 914.1 (c) (6) (iv). Provided that such a subdivision complies with the conditions of sub-section C (1) of this section.

(iii) All costs associated with the subdivision shall be the responsibility of the landowner.

(iv) Nothing in this section shall relieve the landowner of any municipal, county or state regulations, procedures, or requirements necessary for the subdivision of land.

(2) Subdivision restrictions - Except as provided for in sub-section (D) (1) (b) of this section, no subdivision of eased land shall be permitted unless all of the following conditions are met:

(i) Approval of a subdivision shall be requested, in writing, of and granted by the County Board and the State Board.

(ii) Subdivision shall not harm the economic viability, as defined in sub-section B of this article, or any parcel created by or remaining after subdivision.

(iii) 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 Class I-IV.

(B) Fifty percent (50%) of its area is utilized for crop or pasture land.

(C) Site characteristics including but not limited to slopes, topography, location of roads streams, wetlands, ponds, access, etc., that allow for practicality and reasonable efficiency to agricultural activity.

(iv) No parcel of less than 52 acres may be created by subdivision or shall remain after subdivision of the original parcel.

(3) Procedures and Requirements of Subdivision - Landowners proposing to subdivide eased land shall be subject to the following procedures and requirements:

(i) Requests for subdivision approval shall be submitted in writing to the County Board in care of the Mifflin County Commissioners. Requests shall include the following maps and information.

(A) Written requests for subdivision approval including description of the subdivision and reason for the subdivision

(B) A map or sketch, at a scale sufficient to clearly show the following:

1- Location of cropland, pasture land, wood land and other lands.

2- Roads, streets, driveways, utility right-of-way, streams.

3- Location of existing buildings, sheds, barns, dwellings and other structures.

4- Delineation of proposed subdivision.

5- Indication of which parcel either created by subdivision or remaining after subdivision on which the additional residential structure is 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.

(ii) The County Board will note receipt of the request for subdivision at its next regularly scheduled meeting following the submission of the request for subdivision approval to the Board.

(iii) 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 an easement after appropriate review as follows:

(A) Upon receipt of the application, the County Board shall cause to be forwarded written notification thereof to the relevant municipal planning office and the Mifflin County Planning Office herein referred to as the reviewing agencies.

Each

reviewing agency shall have 60 days from receipt of such notification to review, comment, and make recommendations on the proposed application to the County Board.

(B) After reviewing the application and the comments and recommendations submitted by the reviewing agencies, 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 the reviewing agencies.

(C) If the application to subdivide is approved by the County Board, a copy of the application, along with the comments and recommendations of the reviewing agencies, shall be forwarded to the State Board for and approval or disapproval. When reviewing the 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) If the application to subdivide is rejected by the County Board, the application shall be returned to the landowner with a written statement of the reasons for such rejection. Within 30 days after the receipt statement of rejection, the landowner may appeal the rejection in accordance with 2 PA C.S. Chapter 5 Subchapter B (relating to practice and procedure of local agencies) and Chapter 7, Subchapter B (relating to judicial review of local agency action).

(iv) Failure of the County Board to render a decision to approve or disapprove a subdivision within the time frame described in Sub-section D (3) (c) of the article shall constitute approval of request to subdivide provided that the parcels created by and remaining after subdivision comply with the Subsections D (2) (b), D (2) (c) and D (2) (d) of this section.

(v) Approval of the County Board, or failure to act by the County Board as per Section D (3) (d) of this section shall not be construed to provide approval of the State Board or any other Governmental Unit with authority to approve or disapprove subdivisions.

(vi) Subdivisions approved prior to the construction of an additional residential structure. If the County Board and the State Board approval is granted for subdivision of the eased land prior to the obstruction 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 the additional residential

structure shall be the same parcel indicated in subsection D (3) (a) (ii) (5) of this section.

3- Ensure that the deeds to all other parcels created by subdivision or remaining after subdivision clearly state that no residential structure 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 the subdivision approval shall forward copies of the deed for each such parcel for County Board review and approval.

5- Within 15 days of recording deed 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 Mifflin County Commissioners Office.

(vii) Recording of Article

(A) Upon approval of this section, Section VIII of the Program, by the County Board and State Board, or upon approval of the Program by the State Board, which this section is included, the County shall record this section at the Mifflin County Recorder of Deeds Office.

(B) All deeds conveying an Agricultural Conservation Easement to County of Mifflin, the State of Pennsylvania or to both the County and State jointly shall incorporate, by referencing the location of such filing, the provisions of this section into the deed of Agricultural Conservation Easement.