

Appendix G - Responsibility of Landowners

A. 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 in accordance with regulation Chapter 138e.221 through Chapter 138e.227 and Chapter 138e.241.

B. Conservation Plan

1. In accordance with Regulation Chapter 138e.222, the York County Board shall require the owner of land considered for agricultural conservation easement purchase to do the following before the County Board recommends approval of the easement purchase to the State Board.

- a. Obtain a conservation plan approved by the county conservation district or the county board for the land that would be subject to the agricultural conservation easement.
- b. Execute a conservation plan agreement containing the following:
 - i. The name, address and the telephone number of the landowner(s).
 - ii. The location of the land.
 - iii. The acreage of the land.
 - iv. An acknowledgement that the deed of agricultural conservation easement requires that all agricultural production on the subject land be conducted in accordance with the conservation plan.
 - v. An acknowledgement that a conservation plan exists with respect to the land, together with the following:
 - A. The source of the conservation plan (e.g., County Conservation District, USDA-NRCS)
 - B. An identifying number given the conservation plan.
 - C. The date of the conservation plan.
 - vi. An acknowledgement that the landowner(s) agree(s) to comply with the conservation practices and implementation schedule set forth in the conservation plan, and an acknowledgement that failure to so comply would be a violation of the terms of the deed of agricultural conservation easement.
 - vii. The signature of the landowner(s).

2. In addition to the requirements established by the York County Conservation District or the County Board, the conservation plan shall meet the definitional requirements of a conservation plan in 138e.3 (relating to definitions) and also require that:

- a. The use of the land for agricultural production, such as growing sod, nursery stock, ornamental trees and shrubs does not remove excessive soil from the restricted land.
- b. The excavation of the soil, sand, gravel, stone or other materials for use in agricultural production on the restricted land is conducted in a location and manner that preserves the economic viability of the restricted land for agricultural production.
- c. The mining of minerals is conducted only through the use of methods authorized in the act.

C. Construction Of Buildings and Changes In Use

1. **New Buildings or Structures.** In accordance with Chapter 138e.223, 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:
 - a. The erection of fences for agricultural production and protection of watercourses such as lakes, streams, springs, and reservoirs is permitted.
 - b. The construction of one additional residential structure is permitted under Appendix G, Section D (relating to construction of one additional residential structure) in accordance with Chapter 138e.224, and Appendix F, Subdivision Guidelines of this program.
 - c. The construction or use of a building or other structure for agricultural production is permitted. The county may restrict the maximum building coverage.
 - d. The replacement of a residential structure existing on the restricted land on the date of the granting of the easement is permitted if the pre-existing residential structure is razed or removed and the replacement structure is erected within the curtilage of the residential structure it replaces.
2. **Existing buildings or structures.**
 - a. A renovation or modification of an existing residential structure, or an addition to an existing residential structure, is permitted if it would not increase the curtilage of the residential structure.
 - b. A renovation or modification of an existing agricultural building or structure, or an addition to an existing agricultural building or structure, is permitted. The county program may restrict the maximum building coverage.

D. Construction Of One Additional Residential Structure

1. **General.** In addition to the structures existing on the restricted land on the date of the granting of the easement, one additional residential structure may be constructed on the restricted land, if the following apply:
 - a. 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.
 - b. No other residential structure has been constructed on the restricted land, under authority of section 14.1(c)(6)(iv) of the act (3P.S. 914.1(c)(6)(iv) and this section, after the date of the granting of the easement.
 - c. The residential structure and its curtilage occupy no more than two acres of the restricted land.
 - d. The location of the residential structure and its driveway will not significantly harm the economic viability of the restricted land for agricultural production.
 - e. The construction and location of the one additional residential structure is in compliance with Appendix F, Subdivision Guidelines of this program.
2. **Replacement of Structures.** The replacement of a residential structure constructed under authority of Section 14.1(c)(6)(iv) of the act 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:
 - a. 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.
 - b. Ensure that the deed to the subdivided tract with respect to which the right to construct and use the residential structure is reserved clearly sets forth the reservation of the right.
 - c. Ensure that the deeds to the remaining subdivided tracts recite that no residential structure may be constructed on the remaining subdivided tracts.

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E. Subdivision

1. The restricted land may be subdivided, if subdivision will not harm the economic viability of the restricted land for agricultural production, and is in accordance with Regulation Chapter 138e. 225 and 138e.226 and in compliance with the York County Subdivision and Land Development Guidelines. See Section 11, Appendix F.

F. Landowner's duties with respect to change of ownership

1. Any deed conveying an interest in the restricted land shall set forth the language of the deed of easement restrictions verbatim.

2. Within 30 days of a change in ownership of the restricted land, the prior owner shall notify the County Board and the Department of the name and address of the new owner, provide each a copy of the deed, provide a statement of the price per acre or portion thereof involved in the transfer and a reference to the volume and page in which the transfer has been recorded by the County Recorder of Deeds.

Permitted Customary Part-Time or Off-Season Minor or Rural Enterprises

Pursuant to State Regulations, Chapter 138e.241, the York County Agricultural Land Preservation Board intends that agricultural conservation easements shall not prevent customary part-time or off-season minor or rural enterprises or activities, or participation in conservation programs. For purposes of definition, these are limited to the following:

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 principally on the farm.
3. Structures associated with the production of energy for use principally on the farm including wind, solar, hydroelectric, methane, wood, alcohol, fuel and fossil fuel systems and structures and facilities for the storage and treatment of animal 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, of incidental agricultural goods, services, supplies, and repairs, and / or the conduct of traditional trades and the production and sale of home occupation goods, arts and crafts, so long as these uses remain incidental to the agricultural and open space character of the farm and are limited to occupying residential and principally agricultural structures of the property. Incidental use structures are 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 character of the property.
7. Regulated hunting operations and the production and stocking of game birds so long as these uses remain incidental to the agricultural and open space character of the property.
8. The boarding of horses is permitted provided that it is undertaken as a part-time or rural enterprise and is incidental to the agricultural and open space character of the property.
9. The installation of communications antennae on existing structures along with associated equipment and structures shall be permitted, provided that the installation or construction of any permanent non-agricultural equipment or structures associated with the communications antennae shall be located within the existing curtilage at the base of the existing structure supporting the communications antennae and such associated equipment or structures shall remain incidental to the agricultural and open space character of the property.
10. Other similar uses upon approval by the York County Agricultural Land Preservation Board and the Pennsylvania Agricultural Land Preservation Board.

*The Pennsylvania Agricultural Land Preservation Board approved and authorized on July 13, 2000 the use of any conservation practice under CREP/CRP 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.