

**SUBDIVISION GUIDELINES FOR LAND SUBJECT TO AN  
AGRICULTURAL CONSERVATION EASEMENT UNDER THE  
ADAMS COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM**

**Purposes:**

The purposes of the present Subdivision Guidelines are to implement the subdivision provisions of Pennsylvania's "Agricultural Area Security Law" (the "Act") (3 P.S. §§901-915), as amended, and the Regulations promulgated thereunder by the Pennsylvania Department of Agriculture (the "Regulations"), and to provide for the administration of such Act and Regulations, in conjunction with the present Subdivision Guidelines, as appropriate for Adams County, Pennsylvania.

**General Provisions:**

Land subject to an agricultural conservation easement may be subdivided, provided the owner(s) meet(s) the criteria listed hereinbelow. Subdivisions contrary to these criteria will not be permitted. Liability for all expenses incurred for such subdivision shall be the sole responsibility of the landowner(s). The burden of proof that any proposed subdivision of land subject to an agricultural conservation easement conforms to and complies with the Act, the Regulations, and the present Subdivisions Guidelines shall be upon the applicant(s) /landowner(s). The County of Adams may attach reasonable appropriate conditions upon any subdivision approval of land subject to an agricultural conservation easement as may be necessary to insure perpetual compliance with the Act, the Regulations, the Deed of Agricultural Conservation Easement, and the present Subdivision Guidelines.

**General Criteria:**

The owner(s) of a tract of land subject to an agricultural conservation easement may subdivide the property, provided that:

- (1) The subdivision is for an agricultural purpose and all farm tracts created by the subdivision are and will remain economically viable for agricultural production;
- (2) The subdivision is consistent with the Statement of Purpose of the Adams County Agricultural Land Preservation Program, under all of the relevant circumstances; and
- (3) The subdivision conforms with County and municipal planning, zoning and subdivision requirements, and has been reviewed and recommended for approval by county agencies, pursuant to Pennsylvania's Municipalities Planning Code (Act 170), as amended; and
- (4) The number of subdivided farm tracts permitted per

Image ID: 000002779718 Type: GEN  
Recorded: 05/06/2009 at 03:08:26 PM  
Fee Amt: \$26.50 Page 1 of 8  
Instr# 20090006889  
Adams County, PA  
Linda K Myers Recorder of Deeds



BK 5362 PG 211

easement shall depend on the area of the land under easement, and shall not exceed the number allowed by the following schedule:

<u>Area that is under easement</u>	<u>Number of farm tracts permitted</u>
200-300 acres	2
301-400 acres	3
401-600 acres	4
601-900 acres	5
901-1,200 acres	6

plus one additional farm tract per each additional 300 acres; and

- (5) The subdivision meets the following Specific Criteria:

Specific Criteria:

- (1) The subdivision will not have an adverse impact on:
- soil and water conservation projects that have been installed on the land;
  - water rights and water access points;
  - the utilization and availability of farm structures, barns and infrastructure.
- (2) All tracts created by the subdivision shall be appropriately shaped and located in such a fashion that they are economically viable for agricultural production, and such sub-division shall not render agricultural production on any of the resulting farm tracts less efficient (for example, fields and contour strips shall not be split).
- (3) Fifty percent (50%) of the soils in each parcel resulting from the subdivision must be harvested cropland, orchard, pasture or grazing land.
- (4) Fifty percent (50%) of the soils in each parcel resulting from the subdivision must be in USDA Soil Classes I-IV.
- (5) Subdivisions for the sale or exchange of parcels of land by adjacent property owners both/all of which are under a form of preservation easement containing covenants analogous to or as restrictive as easements under the Act, where each of the parcels remaining after the subdivision will have an area of more than 100 acres, are permitted, subject to the balance of the general and specific criteria.

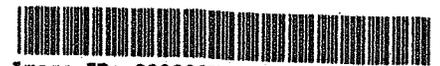


Image ID: 000002779719 Type: GEN  
Page 2 of 8

BK 5362 PG 212

(6) The farm residence and associated farm buildings shall all be on one (1) tract of at least one hundred (100) acres.

(7) The owner shall indicate on which subdivision parcel the one (1) allowed residential structure may be constructed.

(8) No subdivision of land subject to an easement shall become final until the owner has secured the approval from the municipality(ies) in which the land is located, the Adams County Agricultural Land Preservation Board and The State Agricultural Land Preservation Board.

(9) **Mandatory Merger of Separate Tracts/Parcels**

Notwithstanding any other statute or regulation to the contrary, in all cases wherein the existing farm deed(s) contain(s) two (2) or more separately-described tracts/parcels of land, the farm owner(s) shall, at or prior to settlement upon the purchase of an Agricultural Conservation Easement, execute, acknowledge and deliver unto the Director of the Adams County Agricultural Land Program or its Solicitor a Declaration of Merger of Separate Tracts/Parcels in the form attached hereto and incorporated herein by reference as **Exhibit "SG-1"**. Such Declaration of Merger of Separate Tracts/Parcels shall be duly recorded prior to the recording of the Deed of Agricultural Conservation Easement. In such Declaration, the farm owner(s) shall declare, covenant, promise, acknowledge and agree, in perpetuity, that: (1) all of the separately-described tracts/parcels in the existing farm deed(s) shall be deemed merged and be treated thereafter as one (1) tract/parcel, and only one (1) tract/parcel, of land, in perpetuity; (2) subsequent to the imposition and recording of the Agricultural Conservation Easement, the farm/real property encumbered by the Agricultural Conservation Easement shall not be subdivided, and the separately-described tracts/parcels in the existing farm deed(s) shall not be sold or conveyed separately, except in conformity with the terms of the Deed of Agricultural Conservation Easement unto the Commonwealth of Pennsylvania and/or the County of Adams, and specifically the Subdivision Guidelines of the Adams County Agricultural Land Program, as, from time to time, amended and supplemented; (3) subsequent to the imposition and recording of the Agricultural Conservation Easement, the separately-described tracts/parcels in the existing farm deed(s) may be conveyed in less than its/their entirety [i.e., less than each or all of the separately-described tracts/parcels at one (1) time unto one (1) grantee] only if such conveyance is preceded by a duly approved and recorded subdivision plan in accordance and compliance with the Deed of Agricultural Conservation Easement, the Subdivision Guidelines of the Adams County Agricultural Land Program, as, from time to time, amended and



Image ID: 000002779720 Type: GEN  
Page 3 of 8

BK **5362** PG **213**

supplemented, and other applicable provisions of law; and (4) subsequent to the imposition and recording of the Agricultural Conservation Easement, all of the separately-described tracts/parcels in the existing farm deed(s) shall be deemed to be one (1) tract/parcel that must be conveyed as one (1) tract/parcel [except as permitted in accordance with (2) and (3) hereinabove], even though the tracts/parcels are separately described in the existing farm deed(s).

**Procedures/Requirements:**

Landowner(s) shall submit plans for proposed subdivision to the Adams County Agricultural Land Preservation Board (the "A.C.A.L.P.B.") and the Adams County Office of Planning and Development staff well in advance of proceeding with detailed subdivision mapping, in order to assure that the subdivision will be consistent with the Act, the Regulations and the present Subdivision Guidelines, and so that the landowner(s) can avoid unnecessary expenses. In this regard, landowner(s) is/are advised to carefully consider, prior to the submission of an application for the purchase by the County and/or Commonwealth of the original agricultural conservation easement, the exclusion from the proposed coverage of the easement of any land which the landowner(s) may wish to develop for non-farm purposes in the future.

The applicant(s) shall, in accordance with Pennsylvania's Municipalities Planning Code (Act 170), submit a subdivision plan to his/her local governing body for review and approval subsequent to the above preliminary review. At that time, the applicant(s) shall submit the following information to the A.C.A.L.P.B. Coordinator.

- (1) A letter of intent signed by the landowner(s) requesting the subdivision review and explaining the reasons for such a subdivision, including evidence that the agricultural economic viability of the resulting parcels will not be diminished as a result of the proposed subdivision.
- (2) Size and soils information for the proposed parcels, which information should be obtained from the Adams County Conservation District/Soil Conservation Services Offices.
- (3) A copy of the Letter of Transmittal from the local governing body to the Adams County Office of Planning and Development, requesting a subdivision review.
- (4) As part of the official Act 170 review process and advisory report by the Adams County Office of Planning and Development, comments pertaining to the Agricultural Land Preservation Easement Subdivision criteria will be presented.



Image ID: 00002779721 Type: GEN  
Page 4 of 8

BK 5362 PG 214

- (5) The applicant(s) shall submit the subdivision proposal to the Director of the County Soil Conservation Service office and the County Extension Agent for the purpose of securing their recommendations concerning the impact of the subdivision on the continued use and economic viability of all of the resulting tracts for agricultural production purposes. Such review and recommendations shall include, inter alia, comment as to whether all resulting parcels will, each on their own, be able to satisfy the annual agricultural production requirements set forth in Section 138e.16(a)(2) of the Regulations.
- (6) The applicant(s) shall have the burden of demonstrating, by a preponderance of the evidence, that the criteria set out in these Subdivision Guidelines, as well as the requirements of the Act and the Regulations, have been satisfied. If the applicant fails to do so, the Board shall not approve the application.
- (7) The request for subdivision will be reviewed at the next regularly-scheduled A.C.A.L.P.B. meeting next-following the submission of the subdivision application in complete and proper form and the Board's receipt of all of the comments and recommendations relative thereto mentioned herein. In any event, the Board shall approve or disapprove the subdivision application within the time provided by present or future State statute, or, in the absence of such State statute, within no more than thirty (30) days from the date of the Board's receipt of the complete and proper subdivision application and all of the comments and recommendations relative thereto mentioned herein. Written notice of the Board's decision shall be furnished to the landowner(s) within five (5) days of the Board's approval or disapproval of the application, either personally or by certified mail, return receipt requested. Copies of the Board's decision shall also be furnished to the State Agricultural Land Preservation Board, the Adams County Commissioners, the Adams County Office of Planning and Development, the Director of the Adams County Soil Conservation Service, and the governing body of the municipality in which the subject, preserved land is located.
- (8) These Subdivision Guidelines were adopted and approved by the Adams County Agricultural Land Preservation Board on November 3, 1994, and by the Adams County Commissioners on September 27, 1994. The Pennsylvania State Agricultural Land Preservation Board approved these Subdivision Guidelines as an amendment to the Adams County Agricultural Land Preservation Program on October 13, 1994.
- (9) In the event that any statute, rule or regulation is hereafter adopted by the Commonwealth of Pennsylvania, or an agency thereof, which is inconsistent with these Subdivision Guidelines, or which contains substantive and/or procedural



Image ID: 000002779722 Type: GEN  
Page 5 of 8

provisions (regarding subdivision of land subject to an agricultural conservation easement) which are not addressed or included herein, any such statute, rule or regulation shall be deemed to be self-executing relative to these Subdivision Guidelines, and, therefore, these Subdivision Guidelines shall be deemed to be automatically and immediately amended and/or supplemented, as the case may be, by any such subsequent State statute, rule or regulation.

(10) These Subdivision Guidelines were revised, amended and supplemented [See: *Specific Criteria (9) Mandatory Merger of Separate Tracts/Parcels* hereinabove], as approved by the Adams County Agricultural Land Preservation Board on February 4, 2009, by the Adams County Commissioners on February 18, 2009, and the Pennsylvania State Agricultural Land Preservation Board on April 9, 2009.



Image ID: 000002779723 Type: GEN  
Page 6 of 8

BK 5362 PG 216

**CERTIFICATE**

I, the undersigned, the duly appointed and incumbent Chief Clerk of the County of Adams, Pennsylvania (the "County"), hereby certify that the foregoing **Subdivision Guidelines For Land Subject to an Agricultural Conservation Easement under the Adams County Agricultural Land Preservation Program** ("Subdivision Guidelines") is a true and correct copy of the same, as revised, amended and supplemented, at duly convened public meetings of the Adams County Agricultural Land Preservation Board on February 4, 2009, the Adams County Commissioners on February 18, 2009, and the Pennsylvania State Agricultural Land Preservation Board on April 9, 2009; that said Subdivision Guidelines, as revised, amended and supplemented, have been duly entered among the Commissioners' official Minutes; and that said Subdivision Guidelines are in full force and effect as of the date of the present Certification.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of the County of Adams this 6<sup>th</sup> day of **May**, 2009.

**COUNTY OF ADAMS, PENNSYLVANIA**

**ADAMS COUNTY COMMISSIONERS**

*Paula V. Neiman*

Paula V. Neiman  
Chief Clerk

(OFFICIAL SEAL)



Image ID: 000002779724 Type: GEN  
Page 7 of 8

BK 5362 PG 217

COMMONWEALTH OF PENNSYLVANIA :  
: SS.:  
COUNTY OF ADAMS :

On this 6th day of May, 2009, before me, a Notary Public in and for the above Commonwealth and County, the undersigned officer, personally appeared Paula V. Neiman, the duly appointed and incumbent Chief Clerk of the said County of Adams, known to me (or satisfactorily proven) to be the person whose name is subscribed to the certification attached to the foregoing Subdivision Guidelines, and acknowledged that, being duly authorized to do so, she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Monica Dutko*  
\_\_\_\_\_  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
MONICA H. DUTKO, Notary Public  
Cumberland Twp., Adams County  
My Commission Expires June 3, 2012  
(OFFICIAL SEAL)



Image ID: 000002778725 Type: GEN  
Page 8 of 8

BK 5362 PG 218