

CONSTRUCTION OF ADDITIONAL STRUCTURES AND SUBDIVISION
(As Approved By The State Agricultural Land Preservation Board on December 28, 1995.)

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

B. Definitions - Unless otherwise and expressly stated the following definitions apply to words, terms and phrases used in this article.

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

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

District - The Dauphin County Conservation District.

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

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

Harm the Economic Viability of the Farmland for Agricultural Production - To cause a particular tract 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 employees is permitted pursuant to Section 14.1(c) (6) (iv) of the Act (3 P.S. Section 914.1(c) (6) (i)), that would fail to meet the aforescribed 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 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 curtilages, wetlands, soil quality, topography or other natural or man-made features, and which further excludes any tract of two acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted pursuant to Section 14.1 (c)(6)(iv) of the Act (3 P.S. Section 914.1 (c) (6) (iv)).

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

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

Subdivision - The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development.

Utility - Any surface, subsurface or aerial transmission medium for electricity, oil, gas, water, sewage, telecommunications.

C. Construction of One Additional Residential Structure

1. General - In addition to structures existing on the eased land at the date of the granting of the easement, one additional residential structure may be constructed subject to the following conditions:
 - 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 eased land, under authority of Section 14.1 (c) (6) (iv) of the Act (3 P.S. Section 914.1 (c) (6) (iv)) and this section, after the date of the granting of the easement.
 - c) The additional residential structure and its curtilage occupy no more than two acres of the eased land.
2. Replacement of Structures - The replacement of an additional 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 eased 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 upon which the right to construct and use such a residential structure is reserved.
 - b) Ensure that the deed to the subdivided tract upon which the right to construct and use such a residential structure is reserved clearly sets forth the reservation of this right.
 - c) Ensure that all deeds to remaining subdivided tracts recite that no such residential structure may be constructed on such remaining subdivided tracts.

D. Subdivision of Eased Land

1. General - The following conditions shall apply to subdivision of lands eased through the Dauphin County Agricultural Land Preservation Program whether the easement be held solely by the State, solely by the County, or held jointly by the State and County.
 - a) The prohibitions, restrictions and conditions of subdivision of eased land as set forth in Sub-Section D (2) of this section shall be recited verbatim in the deed for all subdivided and remaining parcels.
 - b) No restriction, prohibition 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.
 - c) All costs associated with subdivision shall be the responsibility of the landowner.
 - d) 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:
 - a) Approval of a subdivision shall be requested, in writing, of and granted by the County Board and by the State Board.
 - b) Subdivision shall not harm the economic viability, as defined in Sub-Section B of this section, of any parcel created by or remaining after subdivision.
 - c) Each parcel created or remaining as a result of subdivision shall have all of the following:

- (i) Fifty percent (50%) of its soils in USDA Soil Capability Class I - IV.
 - (ii) Fifty percent (50%) of its area utilized for crop or pasture land.
 - (iii) Site characteristics (including but not limited to slopes, topography, shape, location of roads, streams, wetlands, ponds, access) that allow for practicality and reasonable efficiency of agricultural activity.
- d) No parcel of less than 100 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 following procedures and requirements.
- a) Requests for subdivision approval shall be submitted, in writing, to the County Board in care of the District. Requests shall include the following maps, information, etc.
 - (i) Written request for subdivision approval including description of subdivision and reason for subdivision.
 - (ii) A map or sketch, at a scale sufficient to clearly show the following:
 - 1) Location of crop land, 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 permitted by Section 14.1 (c) (6) (iv) of the Act (3 P.S. Section 914.1 (c) (6) (iv)) and this section may be constructed.
 - b) The County Board will note receipt of the request for subdivision approval at its next regularly scheduled meeting following the submission of the request for subdivision approval to the District.
 - c) The County Board may agree to permit a parcel of land subject to an Agricultural Conservation Easement to be subdivided after the granting of such easement after appropriate review as follows:
 - (i) Upon receipt of the application, the County Board shall cause to be forwarded written notification thereof to the County Zoning Office, County Planning Office, and County Farmland Preservation 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.
 - (ii) 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 reviewing agencies.
 - (iii) If the application to subdivide land is approved by the County Board, a copy of the application, along with the comments and recommendations of the reviewing agencies, shall be forwarded to the State Board for review and approval or disapproval. When reviewing an application to subdivide land subject to an Agricultural Conservation Easement, the State Board shall consider only whether the application complies with the conditions under which subdivisions are permitted by the approved county program. The State Board shall notify the County Board of its decision regarding the application.
 - (iv) 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 of the 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).

- d) 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 this article shall constitute approval of request to subdivide provided that the parcels created by and remaining after subdivision comply with Sub-Sections D (2) (b), D (2) (c) and D (2) (d) of this section.
- e) 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.
- f) Subdivisions approved prior to the construction of additional residential structure.
 - (i) If County Board and State Board approval is granted for subdivision of eased land prior to the construction of one additional residential structure as permitted by Section 14.1 (c) (6) (iv) of the Act and this section, the landowner must do the following:
 - 1) Ensure that the deed to the parcel created by or remaining after subdivision upon which the additional residential structure may be constructed clearly reserves the right to construct this residential structure.
 - 2) The parcel for which the right to construct the allowed additional residential structure shall be the same parcel indicated in Sub-Section 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 structures of any kind may be constructed on the eased parcels.
 - 4) Prior to recording deeds to parcels created by subdivision or remaining after subdivision, the landowner requesting subdivision approval shall forward copies of the deed for each such parcel for County Board review and approval.
 - 5) Within 15 days of recording deeds to tracts created by subdivision or remaining after subdivision, the landowner at the time of subdivision shall forward a copy of all recorded deeds to all parcels created by subdivision or remaining after subdivision to the County Board in care of the Conservation District.
- g) Recording of Article
 - (i) Upon approval of this section, Section VII of the Program, by the County Board and State Board, or upon approval of the Program by the State Board, in which this section is included, the County Board shall record this section at the Dauphin County Recorder of Deeds Office.
 - (ii) All deeds conveying an Agricultural Conservation Easement to the County of Dauphin, 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.