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**COUNTY OF BERKS  
NATURAL LAND, FARMLAND and OPEN SPACE  
CONSERVATION PROGRAM**

**August, 2006  
(amended December 18, 2008)**

***A program to preserve important natural areas, farmland and open space within the County of Berks through the acquisition and easement of land in cooperation with local government and conservation organizations.***

**Purpose**

It is the intent of the Berks County Board of Commissioners to preserve natural areas, farmland and open space in Berks County by providing funding to units of local government and eligible non-profit organizations for the purchase of land or conservation easements. In this manner the Board is acting to implement its Comprehensive Plan and set a pattern for the future.

The County will allocate approximately \$12,000,000 to worthy projects throughout the County through December 31, 2009.

**Expenditure of Funds:**

1. August 1, 2006 to December 31, 2007: Up to 60% of funds\*
2. January 1, 2008 to December 31, 2009: Remaining 40%\*

\* Not including funds allocated for a County of Berks proposed project.

Applications for Part Two and Three of this Grant Program will not be accepted until December 1, 2006.

Table of Contents

<u>Section*</u>	<u>Page #*</u>
<b><u>Municipal Grants (adopted July 2006)</u></b>	<b><u>3</u></b>
<b><u>Part One:</u></b>	
<b><u>Conservation Zoning Incentive Program (Adopted)</u></b>	<b><u>3</u></b>
Background	3
Concept	3
Organization	3
Maximum Reimbursement	5
Conservation Zoning Incentive Program Standards	5
Purpose	5
Municipal Requirements	5
Zoning Methods	6
Method 1: Growing Greener Conservation Zoning	6
Method 2: Open Space Development	6
Subdivision and Land Development Ordinance	9
Additional Objectives	10
Method 3: Alternative Protection Method	11
<b><u>Part Two: (this program is under a moratorium)</u></b>	
<b><u>Municipal Land Protection Program</u></b>	<b><u>11</u></b>
Minimum Requirements	11
Municipal Land Protection Plans	12
Plan Requirements	12
General Procedures	13
Inspection and Enforcement	16
<b><u>Part Three: (this program is under a moratorium)</u></b>	
<b><u>Private Conservation Organization Grants</u></b>	<b><u>16</u></b>
Eligible Organizations	17
Eligible Projects	17
Minimum Requirements	17
General Procedures	19
Evaluation Criteria	20
Inspection and Enforcement	21
Grant Funding	21
Miscellaneous	22
References	22

## **MUNICIPAL GRANTS**

Within Pennsylvania townships, boroughs and cities are the key to preservation of our landscape. To that end, the County of Berks desires to fund a range of activities that includes not just acquisition of land or easements, but also revisions to development ordinances that will establish preservation guidelines that protect the environment. All local governments in Berks County are eligible for the following municipal grants:

### **Part One: Conservation Zoning Incentive Program (Adopted)**

Units of local government may apply for up to \$10,000 in order to amend zoning ordinances to include conservation zoning practices that are consistent with practices to be adopted by the Berks County Planning Commission.

#### **Background**

As a Goal within Rural Conservation areas, the Berks County Vision 2020 Comprehensive Plan calls “To use development techniques that will conserve natural resources while not conflicting with rural environments.” It further states that “The County will establish a Conservation Zoning Incentive Program (CZIP) that provides technical and financial assistance for municipalities to enact effective conservation zoning regulations in natural resource areas.” The Berks County Conservation Zoning Incentive Program is one additional technique that can be used to encourage municipalities to adopt effective conservation zoning.

#### **Concept**

The concept for this program is straightforward. In return for the successful adoption of effective conservation zoning by any municipality in Berks County, the County will reimburse up to \$10,000 for the costs associated with either amending or revising the municipality’s zoning ordinance. The Berks County Planning Commission will be the sole judge of whether a municipality has met the standard of effective conservation zoning. In addition, the ordinance must be found to be consistent with the County’s Comprehensive Plan. The County and the municipality will be bound by a contractual agreement and no payment will be made until the municipality has adopted the required zoning provisions.

#### **Organization**

The program will operate as follows:

1. The Berks County Planning Commission will develop and maintain standards for effective conservation zoning. Municipalities will submit their letters of interest to enter into the CZIP Program to the Berks County Planning Commission.
2. A targeted list of municipalities will be sent a notice of the program and a copy of the Planning Commission standards.

3. A detailed presentation of the program will be presented by the Planning Commission to any interested municipality.
4. The municipality and the County will enter into a subrecipient agreement similar to that currently being used by the Community Development Office. The agreement will stipulate that the County will reimburse the municipality, if the municipality adopts a new or amended zoning ordinance that meets the Planning Commission's standard's for effective conservation zoning.
5. On the basis of its agreement with the County, the municipality will then procure a qualified professional to prepare the appropriate ordinance for the municipality.
6. During the preparation of the ordinance, the municipality/consultant will meet with the Planning Commission staff on an informal basis to assure that the final ordinance will meet the County Planning Commission Conservation Zoning Incentive Program standards.
7. Upon completion of the draft ordinance, it will be submitted to the County Planning Commission for formal review in accordance with Act 247. The Planning Commission will submit their comments to the municipality. If the proposed ordinance is inconsistent with the County Comprehensive Plan, the Planning Commission will recommend changes that would make the ordinance consistent. If the proposed conservation techniques in the ordinance do not meet the Planning Commission's Conservation Zoning Incentive Program standards for effective conservation zoning, the municipality will be notified of suggested remedies.
8. Once changes have been made that meet the CZIP standards, the Ordinance will be adopted by the local municipality.
9. Upon official adoption of the ordinance, and receipt of an officially adopted copy of the ordinance amendment by the Berks County Planning Commission as required by Act 247 within 30 days of adoption, the municipality will send an itemized bill to the County for all eligible expenses associated with the revision or amendment of the municipal zoning ordinance.
10. The County will review the municipality's bill and disburse funds to the municipality in an appropriate amount, not to exceed \$10,000.
11. A municipality may also apply to the County of Berks for reimbursement of required subdivision and land development ordinance (SALDO) changes related directly to the CZIP in an amount not to exceed \$2,000. The municipality must follow the same procedures set forth for CZIP in order to qualify for this reimbursement. (When CZIP and SALDO revisions are combined together the maximum reimbursement combined is \$12,000.)

## **Maximum Reimbursement**

*The total amount of funds a municipality may receive under the CZIP is \$10,000. This amount does not include the funds that may be reimbursed for required SALDO amendments as stated under 11. on page 4.*

## **CONSERVATION ZONING INCENTIVE PROGRAM STANDARDS**

**Purpose:** The primary purpose of this program is to implement the conservation element of the County Comprehensive Plan, which contains the goal “To use development techniques that will conserve natural resources while not conflicting with rural environments.” It is also designed to further objectives of the Pennsylvania Municipalities Planning Code and other Commonwealth policies.

### Specific objectives include:

- Floodplain management
- Wetland management
- Slope safeguards
- Vegetation management planning
- Riparian corridor management, preservation and restoration
- Historic Preservation
- Existing Trail Protection
- Protected Waters provisions

### Additional objectives:

- Wellhead Protection planning
- Trail protection and development
- Density Bonus
- Sketch Plan submission component
- Municipal official/applicant site inspection
- Pre-Sketch Plan conference

## **Municipal Requirements**

There are several facets to the CZIP program that are required to ensure its effectiveness as well as its long-term viability. The program must be supported by the municipality’s comprehensive plan and changes are required within the municipality’s Zoning and Subdivision and Land Development ordinances. The Conservation Zoning Incentive Program requirements are as follows:

The Municipal Comprehensive Plan or Joint Municipal Comprehensive Plan: The plan must clearly support effective conservation preservation. It must demonstrate that rural environment and its natural features are an important resource of the municipality.

**Zoning method:** The intent of the Conservation Zoning Incentive Program is to allow for greater flexibility and creativity in site layout than allowed within conventional subdivisions, resulting in the ability to concentrate and group residential structures on the least sensitive portion of the site while necessitating the protection of the most critical natural features of the tract. The municipal review process should be expedited to encourage the applicant to the use one of the following chosen methods.

**Method 1: Growing Greener Conservation Zoning<sup>1</sup>** Five options are provided at varying intensities of development linked to different percentages of open space. An overall base density of 80,000 sq. ft. of net usable land per dwelling is used. When more than the minimum 50 percent open space is provided, a larger number of homes would be permitted, and fewer homes would be allowed when that 50 % open space minimum is not met. The following are Growing Greener options:

Option One- Neutral Density and Basic Conservation providing for residential uses by right at the density permitted by the underlying zoning. Greenway lands comprise approximately half the tract. The flexibly designed layouts work well with either individual wells and septic systems located in the open space, or with central wells and sewage treatment facilities.

Option Two- Enhanced Density with Greater Conservation providing for higher density residential uses by right and a larger percentage (60% or more) of greenway land in more flexibly designed layouts, with other improvements serving the community such as central wells and sewage treatment facilities.

Option Three- Estate Lots (one dwelling per four acres) providing for rural-suburban residential uses by right at lower densities in conventional layouts of standard house lots, where homes and streets are located carefully to minimize impacts on resource lands.

Option Four- Country Properties (one dwelling per ten acres) providing for very low densities by right appropriate to rural situations, with flexible and reduced design standards in instances where a permanent conservation easement is offered to maintain such uses.

Option Five- Hamlets and villages by Conditional Use allowing for higher density development designed according to special guidelines to ensure that the resulting form incorporates the design principles of traditional villages and hamlets.

**Method 2: Open Space Development also known as Cluster Development** CZIP objectives can be fulfilled when Open Space Development or Cluster Development is combined with net-out provisions and natural resource preservation measures (in the form of disturbance limitations). Using both the

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<sup>1</sup> from the Conservation Planning Workbook for Municipal Officials in Pennsylvania prepared for the Pennsylvania Department of Conservation and Natural Resources by the Natural Lands Trust, 1997.

Net-out technique and natural resource preservation measures, the tract's open space requirement is calculated and its natural features identified and preserved. The balance of the tract is developed using the cluster approach in which building lots may be reduced in size and buildings sited closer together, usually in groups, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning and subdivision regulations. When more than the minimum 50 percent open space is provided, a larger number of homes would be permitted, and fewer homes would be allowed when that 50 % open space minimum is not met. (Conventional development shall be allowed only by special exception or conditional use) The following three steps outline the Open Space Development or Cluster Development option:

**Step 1- Net-out of Natural Resources:** Net-out is a technique of deducting environmentally constrained lands from development density calculations, which effectively reduces the maximum allowable density when environmentally sensitive lands exist. Applying density adjustment factors to the overall tract and to each individual lot will determine the maximum number of permissible lots or maximum tract density, and could increase the minimum lot size for individual lots based on the nature and character of the land. As the conditions vary from lot to lot, the minimum lot size varies accordingly. A variety of net-out approaches are available.

**Step 2- Natural Resource Disturbance and Management Limitation:** This required element limits development activities from being located on certain environmentally sensitive lands (reasons for limitations must be justified), and can give the municipality more effective control over the location of structures. Logically, the preserved acreage from the net-out process must be applied to the areas that most prevent Natural Resource Disturbance and preserve natural features. When striving to limit disturbance of natural resources the following should be included:

**Slope safeguards:** This protects moderate and/or steep slopes. No more than (5-10%) of land with slopes of 25% or greater shall be altered, regraded, cleared, built upon or otherwise disturbed. A similar regulation could be used to protect slopes 15% or greater but less than 25% by using a more relaxed figure (40%) of disturbance. Include setback requirements from steep slopes to help minimize undermining the structural stability of the slope, as well as protect ridgelines. All buildings shall be set back a minimum of (50 feet) from the top of any of 25% or greater that has a grade differential from top to bottom of at least 10 feet. Soils vulnerable to erosion could be subject to additional restrictions. Land disturbance on severely sloping, poorly drained, highly erosive soils could be more restrictive than on moderately sloping, well-drained erosion-resistant soils. Also, impervious surface regulations are important provisions to address in areas of slope.

**Vegetation management planning:** Woodland is an existing means of controlling site runoff, erosion and stream sedimentation. This minimizes disturbance to existing vegetation, except for silviculture operations. Removal of trees and vegetation should be limited to the site of a proposed structure, septic field, driveway, street rights-of-ways, driveways, utility easements, and

associated grading. Include Tree Protection Zones, which protect trees during construction. Include language to work with developers to protect important woodland corridors, such as: Where possible, woodlands that interconnect with existing woodland on adjacent properties should remain undisturbed to preserve continuous woodland corridors and allow for wildlife migration.

**Wetland management:** At a minimum, require delineation and coordination with state and federal agencies. A site specific soil survey shall be performed. Within ordinance provisions there shall be language that prevents or minimizes disturbance and development within wetlands and within the buffer areas of wetlands.

**Floodplain management:** Municipalities are required to adopt and maintain floodplain development controls that comply with the National Flood Insurance Program and the Pennsylvania Floodplain Management Act. Ordinance provisions should severely limit or prohibit development within these areas due to potential hazards to human life, general unsuitability for septic systems, and to prevent disruption of aquatic habitat. Municipalities can enact floodplain management regulations that exceed the minimum state and federal requirements.

**Riparian corridor management, preservation and restoration:** A riparian buffer is an essential element of stream health as it prevents sedimentation, stabilizes the stream's bank, and helps prevent stream meandering; establishes stream setbacks, also known as riparian buffers that limit land disturbance within an established buffer width measured from the water's edge. Pennsylvania's Stream ReLeaf Initiative recommends a minimum buffer width of 35 feet, each side and contains language regarding protective zones within the buffer areas. One option is to require a smaller buffer and then provide incentives for buffers wider than the requirement. For instances that the riparian buffer has already been removed or degraded, the ordinance shall support its being replaced/restored to the greatest degree possible to the predetermined width and with recommended native flora varieties. A minimum buffer of 35 ft, each side, along with associated protective language is required. The municipality may choose to have a wider buffer for additional protection as recommended within the Pennsylvania Stream Releaf Initiative.

In developments that have common open space, provisions could require the riparian buffer be part of the open space.

Farms that are located within an area that has conservation zoning standards will be governed by a current conservation plan that addresses soil and water quality resource concerns. These farms shall be managed in such a manner that complies with state and federal laws and regulations governing normal farming operations, utilizing best management practices. Construction activities not covered by the current conservation plan are subject to all applicable regulations.

**Step 3- Cluster:** The final step is to allow cluster development to occur within suitable areas as defined by the previous steps. The cluster

development approach allows building lots to be reduced in size and buildings sited closer together, usually in groups or clusters, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning and subdivision regulations. As previously mentioned, this type of development will occur on the balance of the tract that remains after both the Net-Out of Natural Resources process determines undevelopable land and after the Natural Resource Disturbance and Management Limitation step preserves natural features and determines site constraints. This concept provides greater flexibility and creativity in site layout than conventional subdivisions, resulting in the ability to concentrate and group residential structures on the least sensitive portion of the site, allowing for the protection of the most critical natural features of the tract. Density bonuses should also be considered as an additional option. Conventional development should be strongly discouraged.

**Subdivision and Land Development Ordinance:** Below is a detailed synopsis of what must be incorporated into a Municipal Subdivision and Land Development Ordinance to be eligible for the program. It is strongly recommended that the municipality allow sketch plans as a means of proactively opening dialogue with the applicant. The following are the required components:

The subdivision and land development ordinance preliminary plan submission guidelines section that governs required content of sketch, preliminary and final plans must be updated. If not already required to be shown, the applicant must be required to include the following features/resources on the “existing conditions” portion of a plan submission: floodplains, areas of slope greater than or equal to 25%, areas of slope greater than or equal to 15% but less than 25%, wetlands, riparian buffer areas, protected waters and vegetation. These features must be depicted in a clear fashion so that said features are discernable from one another. The method of slope delineation should be specified within the ordinance. Also, any Additional Objectives, as defined below, that entails specific features for potential preservation should be included within the above listed features/resources.

**Historic Preservation:** Historic buildings and features should be preserved. Language should guide the development of a site so that impact on historic buildings and features is minimized. Language that promotes the incorporation of historic buildings and structures into new development is recommended. Language regarding Demolition delay and demolition due to neglect prohibitions shall be required. While not part of this program, it is strongly recommended that the municipality conduct and maintain a historic building and feature inventory to refer to in chorus with this historic preservation provision.

**Existing Trail Protection:** Existing trail connections shall be maintained off-road, not run coincidentally with a paved road used by motorized vehicles. The points at which the trail enters and exits the tract shall remain unchanged. PA Act 43 requirements shall apply to agriculturally eased farms.

**Protected Waters:** Provisions shall be added that promote extra riparian buffer widths near Act 93 designated Exceptional Value or High Quality streams. The Pennsylvania “Special Protection Waters Implementation Handbook” recommends a 100 ft buffer with no construction within the buffer. Pennsylvania’s Stream ReLeaf Initiative also recommends using the appropriate buffer zones and describes needed vegetation management and regulation of activities. In order to protect these Act 93 streams, a minimum buffer of 100 ft is required, however a municipality may choose to increase this buffer if conditions warrant.

Farms that are located within an area that has conservation zoning standards will be governed by a current conservation plan that addresses soil and water quality resource concerns. These farms shall be managed in such a manner that complies with state and federal laws and regulations governing normal farming operations, utilizing best management practices. Construction activities not covered by the current conservation plan are subject to all applicable regulations.

**Additional Objectives:** The following Additional Objectives shall be considered.

**Wellhead Protection\*:** Wellhead protection should be promoted by adding ordinance language that discourages development (streets, structures) in areas of high natural percolation/infiltration.

**Trail protection and development\*:** This goal can be achieved by requiring proposed developments to accommodate trails that are proposed to cross or abut the tract. In instances where the trail is to be improved or moved, specific design criteria can be required including: width of trail, trail material, minimum overhead clearance, the trail being for non-motorized usage and the requirement of a permanent conservation easement. PA Act 43 requirements shall apply to agriculturally eased farms.

**Density Bonus:** Density bonuses should be awarded in a regimented fashion to applicants that fulfill predefined additional expectations, which could include but are not limited to the following:

- greater percentage of site preservation than required
- greater setback from stream banks than required combined with a complete preservation and/or restored riparian buffer within said area. The additional area should also be permanently protected from future development.
- Provision for affordable housing
- to allow a portion of additional income generation to be allocated to establish a permanent fund to offset future maintenance costs of the preserved lands and/or recreational features (contingent on the area designated for a greenway being donated to a land trust, municipality or recognized non-profit).

**Sketch Plan submission:** See the Growing Greener guidelines for items to be included and the degree of accuracy of the submission.

**Municipal official/applicant site inspection element:** This element promotes additional proactive dialogue within the plan review process. This should occur after the Existing Conditions portion of the plan has been prepared but before a sketch plan has been submitted.

**Pre-Sketch Plan conference:** Like the site inspection element, this element promotes additional municipal official/applicant dialogue. This conference would occur after the site inspection to discuss features and the potential layout of a proposal.

**Dedications:** Lands set aside for public recreation use and fee in lieu of alternatives or a combination thereof.

**Other Design Standards:** Items discussed and approved by the BCPC that minimize adverse impact upon natural, cultural and historic resources.

Method 3: Where a municipality indicates it is unable to implement either Conservation by Design or Cluster Development, due to physical constraints within the municipality, it may request approval from the Berks County Planning Commission to use an alternative method as long as the method:

1. Implements the overall goal of the CZIP;
2. Includes all of the resource protection standards as outlined in Method 2 above; and
3. Implements the overall goals of the Berks County Greenway Park and Recreation Plan corridor interconnection.
4. Additional standards and requirements may apply upon review and recommendation of the Berks County Planning Commission.

*\* These features should be considered for Step 2 (Natural Resource Disturbance and Management Limitation) of Method 2 Open Space Development also known as Cluster Development. The Additional Objectives that are opted for should be added to the features that are required for depiction on the existing development sheet (see page 9 Subdivision and Land Development Ordinance).*