

**Prepared By:**

Berks County Agricultural Land  
Preservation Board  
Berks County Agricultural Center  
1238 County Welfare Road, Suite 260,  
Leesport, PA 19533

**Premises:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Return To:** Berks County Agricultural Land  
Preservation Board  
Berks County Ag. Center  
1238 County Welfare Rd., Suite 260  
Leesport, PA 19533  
(610) 378-1844

DPERJF (6-2006)

**DEED OF AGRICULTURAL CONSERVATION EASEMENT TO THE COMMONWEALTH OF PENNSYLVANIA AND A COUNTY JOINTLY IN PERPETUITY**

THIS DEED OF AGRICULTURAL CONSERVATION EASEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between \_\_\_\_\_

\_\_\_\_\_ (hereinafter, "Grantor") and the Commonwealth of Pennsylvania and the County of Berks Pennsylvania (hereinafter collectively referred to as "Grantees") in joint ownership pursuant to the Agricultural Area Security Law (P.L. 128, No. 43) as amended (hereinafter "Act") is made pursuant to the Act.

WHEREAS, Grantor is the sole owner of all that certain land situate in \_\_\_\_\_ Township(s), Berks County, Pennsylvania more particularly described in Exhibit "A" attached hereto consisting of \_\_\_\_\_ acres and all buildings and improvements erected thereon ("the subject land");

AND WHEREAS, the State Agricultural Land Preservation Board has determined to purchase an agricultural conservation easement in the subject land pursuant to the Act;

AND WHEREAS, the Agricultural Land Preservation Board of Berks County, Pennsylvania has determined to purchase an agricultural conservation easement in the subject land pursuant to the Act;

AND WHEREAS, all holders of liens or other encumbrances upon the subject land have agreed to release or subordinate their interests in the subject land to this Deed of Agricultural Conservation Easement and to refrain from any action inconsistent with its purpose;

NOW THEREFORE, in consideration of the sum of \$\_\_\_\_\_ dollars, the receipt and sufficiency of which is hereby acknowledged, Grantor does voluntarily grant, bargain and sell, and convey to the Commonwealth of Pennsylvania as \_\_\_\_\_ percent joint owner and the County of

Berks Pennsylvania as \_\_\_\_\_ percent joint owner, their successors and assigns, (hereinafter “Grantees”) and the Grantees voluntarily accept, an agricultural conservation easement in the subject land, under and subject to the Act and the following terms and conditions:

1. Permitted Acts - During the term of the agricultural conservation easement conveyed herein, the subject land shall be used solely for the production for commercial purposes of crops, equine, livestock and livestock products, including the processing or retail marketing of such crops, equine, livestock or livestock products if more than fifty percent of such processed or merchandised products are produced on the subject land (hereinafter “agricultural production”). For purpose of this Deed, “crops, equine, livestock and livestock products” include, but are not limited to:

- (a) Field crops, including corn, wheat, oats, rye, barley, soybeans, speltz, buckwheat, hay, potatoes and dry beans;
- (b) Fruits, including apples, peaches, grapes, cherries, pears and berries;
- (c) Vegetables, including tomatoes, pumpkins, snap beans, cabbage, carrots, beets, onions, sweet corn and mushrooms;
- (d) Horticultural specialties, including nursery stock ornamental shrubs, ornamental trees and flowers;
- (e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs, and furs;
- (f) Timber, wood and other wood products derived from trees; and
- (g) Aquatic plants and animals and their byproducts.
- (h) Commercial equine activity including boarding of equine, training of equine, instruction of people in handling, driving or riding equines, use of equines for riding or driving purposes, pasturing equines all of where a fee is collected. **THE TERM DOES NOT INCLUDE ACTIVITY LICENSED UNDER THE ACT OF DECEMBER 17, 1981 (P.L. 435, NO. 135), KNOWN AS THE “RACE HORSE INDUSTRY REFORM ACT.”**

Except as permitted in this Deed, neither Grantor nor his agents, heirs, executors, administrators, successors and assigns, nor any person, partnership, corporation or other entity claiming title under or through Grantor, or their agents, shall suffer, permit, or perform an activity on the subject land other than agricultural production or commercial equine activities.

2. Construction of Buildings and Other Structures - The construction or use of any building or other structure on the subject land other than as existing on the date of the delivery of this Deed is prohibited except that:

- (a) The erection of fences for agricultural production or a commercial equine activity and protection of watercourses such as lakes, streams, springs and reservoirs is permitted.
- (b) The construction of one additional residential structure is permitted if:
  - (i) The construction and use of the residential structure is limited for the landowner’s principal residence or for the purpose of providing necessary housing for persons employed in farming the subject land on a seasonal or full-time basis.
  - (ii) No other residential structure has been constructed on the restricted land at any time since the delivery of the Deed,

- (iii) The residential structure and its curtilage occupy no more than two acres of the restricted land, and
  - (iv) The location of the residential structure and its driveway will not significantly harm the economic viability of the subject land for agricultural production or a commercial equine activity.
- (c) The construction or use of any building or other structure for agricultural production or a commercial equine activity is permitted. The maximum building coverage may be restricted if the County Agricultural Conservation Easement Purchase Program approved by the State Board imposes such a restriction.
  - (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 preexisting residential structure is razed or removed and the replacement residential structure is erected within the curtilage of the residential structure it replaces.
  - (e) The 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.
  - (f) The renovation or modification of an existing agricultural building or structure, or an addition to an existing agricultural building or structure, is permitted. The maximum building coverage may be restricted if the County Agricultural Conservation Easement Purchase Program approved by the State Board imposes such a restriction.

3. Subdivision - The land under the Agricultural Conservation Easement is subject to the Subdivision Guidelines of the County of Berks, Agricultural Land Preservation Program, approved by the State Agricultural Land Preservation Board on July 10th, year of 1996, as may be attached hereto. If the subject land is subdivided, the Deeds to all of the subdivided parcels shall state on which of the subdivided parcels the residential structure permitted by this Deed may be constructed. Deeds to all other parcels shall recite that no additional residential structure is permitted.

4. Utilities - The granting of rights-of-way by the Grantor, his heirs, executors, administrators, successors and assigns, or any person, partnership, corporation or other entity claiming title under or through Grantor in and through the subject land for the installation, transportation, or use of, lines for water, sewage, electric, telephone, coal by underground mining methods, gas, oil or oil products is permitted. The term “granting of rights-of-way” includes the right to construct or install such lines. The construction or installation of utility lines other than of the type stated in this paragraph is prohibited on the subject land.

5. Mining - The granting of leases, assignments or other conveyances or the issuing of permits, licenses or other authorization for the exploration, development, storage or removal of coal by underground mining methods, oil and gas by the owner of the subject land or the owner of the underlying coal by underground mining methods, oil and gas or the owner of the rights to develop the underlying coal by underground mining methods, oil and gas, or the development of appurtenant facilities related to the removal of coal by underground mining methods, oil or gas development or activities incident to the removal or development of such minerals is permitted.

6. Rural Enterprises - Customary part-time or off-season minor or rural enterprises and activities which are provided for in the County Agricultural Easement Purchase Program approved by the State Board are permitted.

7. Soil and Water Conservation - All agricultural production or commercial equine activity on the subject land shall be conducted in accordance with a conservation plan approved by the County Conservation District or the County Board. Such plan shall be updated upon any change in the basic type of agricultural production or commercial equine activity being conducted on the subject land. In addition to the requirements established by the County Conservation District or the County Board, the conservation plan shall include an installation schedule and maintenance program and a nutrient management component which, when completely implemented, will improve and maintain the soil, water and related plant and animal resources of the land and shall require that:

- (a) The use of the land for growing sod, nursery stock ornamental trees, and shrubs does not remove excessive soil from the subject land, and
- (b) The excavation of soil, sand, gravel, stone or other materials for use in agricultural production or commercial equine activities on the land is conducted in a location and manner that preserves the viability of the subject land for agricultural production or commercial equine activity.

As part of the settlement documents, the executed Conservation Plan Agreement shall be recorded with the Deed of Easement at the County Recorder of Deeds.

8. Responsibilities of Grantor Not Affected - Except as specified herein, this Deed does not impose any legal or other responsibility on the Grantee, its successors or assigns. Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the subject land and all improvements erected thereon. Grantor shall continue to be solely responsible for the maintenance of the subject land and all improvements erected thereon. Grantor acknowledges that Grantee has no knowledge or notice of any hazardous waste stored on or under the subject land. Grantee's exercise or failure to exercise any right conferred by the agricultural conservation easement shall not be deemed to be management or control of activities on the subject land for purposes of enforcement of the Act of October 18, 1988, (P.L. 756, No. 108), known as the Hazardous Sites Cleanup Act.

Grantor, his heirs, executors, administrators, successors or assigns agree to hold harmless, indemnify and defend Grantee, its successors or assigns from and against all liabilities and expenses arising from or in any way connected with all claims, damages, losses, costs or expenses, including reasonable attorneys fees, resulting from a violation or alleged violation of any State or Federal environmental statute or regulation including, but not limited to, statutes or regulations concerning the storage or disposal of hazardous or toxic chemicals or materials.

9. Enforcement – Annually, Grantee, its successors, assigns or designees shall have the right to enter the subject land for the purpose of inspecting to determine whether the provisions of this Deed are being observed. Written notice of such annual inspection shall be mailed to Grantor, his heirs, executors, administrators, successors or assigns at least ten days prior to such inspection. The annual inspection shall be conducted between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth of Pennsylvania or at a date and time agreeable to the county and the landowner.

Grantee, its successors, assigns or designees shall also have the right to inspect the subject land at any time, without prior notice, if Grantee has reasonable cause to believe the provisions of this Deed have been or are being violated.

Grantor acknowledges that any violation of the terms of this Deed shall entitle Grantee, its successors, assigns or designees to obtain an injunction against such violation from a court of competent jurisdiction along with an order requiring Grantor, his heirs, executors, administrators, successors or assigns to restore the subject land to the condition it was in prior to the violation, and recover any costs or damages incurred including reasonable attorney's fees. Such relief may be sought jointly, severally, or serially.

10. Duration of Easement – The agricultural conservation easement created by this Deed shall be a covenant running with the land and shall be effective in perpetuity. Every provision of this Deed applicable to Grantor shall apply to Grantor's heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantor.

11. Conveyance or Transfer of the Subject Land – Grantor, his heirs, executors, administrators, successors or assigns, and any person, partnership, corporation, or other entity claiming title under or through Grantor, shall, within thirty (30) days of a change in ownership or within any lesser period prescribed in the county program, notify the county agricultural land preservation board and the Pennsylvania Department of Agriculture in writing of any conveyance or transfer of ownership of the subject land. Such notification shall set forth the name, address and telephone number of the Grantor and the party or parties to whom ownership of the subject land has been conveyed or transferred, and the price per acre or any portion thereof and a reference to the volume and page in which the transfer has been recorded by the County Recorder of Deeds.

This obligation shall apply to any change in ownership of the subject land. Whenever interest in the subject land is conveyed or transferred to another person, the deed conveying or transferring such land shall recite in verbatim the language of the easement as set forth in this deed.

12. Applicability - Every provision of this Deed applicable to Grantor shall apply to Grantor's heirs, executors, administrators, successors, assigns, agents, and any person, partnership, corporation or other entity claiming title under or through Grantor.

13. Interpretation – This Deed shall be interpreted under the laws of the Commonwealth of Pennsylvania. For purposes of interpretation, no party to this Deed shall be considered to be the drafter of the Deed. All provisions of this Deed are intended, and shall be interpreted, to effectuate the intent of the General Assembly of the Commonwealth of Pennsylvania as expressed in Section 2 of the Act.

To have and to hold this Deed of Agricultural Conservation Easement unto the Grantee, its successors and assigns in perpetuity.

AND the Grantor, for himself, his heirs, executors, administrators, successors and assigns does specially warrant the agricultural conservation easement hereby granted.

IN WITNESS WHEREOF, the undersigned have duly executed this Deed on the day first written above.

Witness:

GRANTOR

\_\_\_\_\_

\_\_\_\_\_ [Seal]

ACKNOWLEDGMENT

COUNTY OF BERKS:  
COMMONWEALTH OF PENNSYLVANIA

On this day of , 2013 , before me, the undersigned officer, personally appeared the above named , who is/are personally known to me (or satisfactorily proven) to be the person described in the foregoing instrument and acknowledged that he/she/they executed the same in the capacity therein stated and for the purposes therein contained.

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

\_\_\_\_\_ Notary Public

My Commission expires:

## SUBDIVISION GUIDELINES

(As approved by the State Agricultural Land Preservation Board on July 10, 1996 and revised 6/19/08.)

### **Section XI: CONSTRUCTION OF AN ADDITIONAL STRUCTURE AND SUBDIVISION**

A. Authority — Authority for the provisions and requirements of these Subdivision Guidelines is granted by the Agricultural Area Security Law (3 P.S. Sections 901-915) as amended.

B. Definitions — Unless otherwise and expressly stated the following definitions apply to words, terms, and phrases used herein:

- (1) *Act, The* - The Agricultural Area Security Law (3 P.S. Sections 901-915) as amended.
- (2) *Annex/Annexation* - To append or attach one tract of land to another.
- (3) *County Board* - The Berks County Agricultural Land Preservation Board, its officers or others authorized to act on behalf of the County Board.
- (4) *Deed of Merger* - A deed which, when recorded, accomplishes an annexation and which shall contain a condition and restriction in substantially the following form:  
  
“UNDER AND SUBJECT nevertheless, to the express condition and restriction that Parcels A and B described hereinabove are hereby annexed, one to the other, and shall not hereafter be separately conveyed and shall not hereafter be considered separate building lots. The Grantees for themselves, their heirs and assigns, by acceptance of this indenture, agree that the said condition and restriction shall be a covenant running with the land.”
- (5) *Eased* - Protected against uses other than agriculture through the purchase of a conservation easement.
- (6) *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 employees is permitted pursuant to 3 P.S. Section 914.1 (c)(6)(iv), to meet all of the criteria set forth at 7 Pa. Code Section 138e.16 (relating to minimum criteria for applications).
- (7) *Harm the Economic Viability of the Farmland for Agricultural Production* - To cause a particular tract or restricted land to fail to meet the criteria set forth at 7 Pa. Code Section 138e.16 (relating to minimum criteria for applications), 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 3 P.S. Section 914.1 (c)(6)(iv), what would fail to meet the aforescribed criteria.
- (8) *Land Development* - Either of the following activities:

- a) 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
  - b) A subdivision of land.
- (9) *Land which has been devoted primarily to Agricultural Use* - That area which has been devoted primarily to agricultural use such as 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 production, and which excludes any acreage upon which immediate agricultural production is impractical due to residential structure 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 3 P.S. Section 914.1 (c)(6)(iv).
- (10) *Main Parcel* - Parent tract from which the parcel for annexation is taken.
- (11) *Parcel* - All land defined by a single tax parcel number.
- (12) *Parcel for Annexation* - The tract of land of at least 10 acres to be attached to the Receiving Parcel.
- (13) *Pennsylvania Municipalities Planning Code* - The Act of December 21, 1 988 (FL. 1329, No. 170) (53 P.S. Sections 10101-11201), as amended.
- (14) *Receiving Parcel* - A tract of land subject to an agricultural conservation easement to which the parcel for annexation shall be annexed.
- (15) *Residue Parcel* - The tract of land of at least 52 acres remaining after the annexation.
- (16) *State Board* - The Pennsylvania State Agricultural Land Preservation Board.
- (17) *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.
- (18) *Tract* - A tract shall be considered to be that area of land offered by the landowner for agricultural conservation easement purchase, which meets or exceeds the minimum criteria. The tract may consist of multiple tax parcel identification numbers and/or deeds.
- (19) *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 3 P.S. Section 914.1 (c)(6)(iv) and this Section XI, after the date of the granting of the easement.
  - c) The additional residential structure and its curtilage occupy no more than 2 acres of the restricted land.
  - d) The landowner(s) is encouraged to locate the residential structure and its driveway in such a manner so that it will not significantly harm the economic viability of the restricted land for agricultural production.
- (2) *Replacement of Structures* — The replacement of an additional residential structure constructed under authority of 3 P.S. Section 914.1 (c)(6)(iv) and this Section XI 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 3 P.S. Section 914.1 (c)(6)(iv) and this Section XI, 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 owner(s) of a property subject to an agricultural conservation easement through the Berks 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 may subdivide the property into a maximum of two parcels provided that the following conditions apply:
  - a) The subdivision is consistent with the statement of purpose of the Berks County Agricultural Land Preservation Board as defined in the Agricultural

- Conservation Easement Program Guidelines, as amended.
- b) No restriction, prohibitions or condition of this Section XI shall prevent a landowner from subdividing eased lands for the purpose of constructing one additional residential structure as authorized by 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 XI.
  - c) The prohibitions, restrictions, and conditions of subdivision of eased land as set forth in Sub-Section D(2) of this Section XI shall be recited verbatim in the deed for all subdivided and remaining parcels.
  - d) The subdivided parcels shall continue to be subject to the terms of the original agricultural conservation easement.
  - e) The subdivision guidelines, 7 PA Code Section 138e.225 (relating to subdivision of restricted land), are intended to preserve as much farmland as possible in integral parcels and to promote viable agricultural enterprises. Special exceptions to these subdivision guidelines will be considered by the County Board on a case by case basis depending on the size of the subdivided parcels, township zoning, neighborhood characteristics, and other pertinent factors.
  - f) All costs associated with subdivision shall be the responsibility of the landowner.
  - g) Nothing in this Section XI 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 in Sub-Section D (1)(b) of this Section XI, 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 XI, of any parcel created by or remaining after subdivision. The owner(s) shall have the burden of proof.
  - c) The subdivision of property does not convert land which has been devoted primarily to agricultural use to another primary use, 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 3 PS. Section 914.1 (c)(6)(iv).
  - d) Subdivision of a property with an agricultural conservation easement may be prohibited if the landowner can accomplish the construction and use of a principal residence or housing for seasonal or full-time farm employees in accordance with 3 P.S. Section 914.1(c)(6)(iv), under the applicable subdivision and land development ordinance, by a land development other than subdivision.
  - e) Each parcel created or remaining as a result of subdivision shall have all of the following:

- i) At least fifty percent (50%) of its soils in USDA Soil Capability Class I-IV.
    - ii) At least 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.
  - f) No parcel of less than 52 acres may be created by subdivision. The sole exception to this 52-acre-minimum subdivision standard shall allow a tract of as few as 10 acres to be created through subdivision if all of the following occur:
    - i) The subdivision results in the residue parcel and the parcel for annexation; and
    - ii) Each of these parcels, by itself, meets the minimum criteria in (D)(2)(e); and
    - iii) The parcel for annexation is annexed, by deed of merger, to an adjacent receiving parcel, with this deed of merger effectively extinguishing the legal right to convey the parcel for annexation as a separate building lot; and
    - iv) The residue parcel retains any existing right to the additional residential structure allowed under the Agricultural Area Security Law, with the deed of merger for the parcel for annexation clearly reserving this right for the residue parcel; and
    - v) The parcel for annexation remains subject to the restrictions of its original deed of agricultural conservation easement. If said restrictions encumbering the parcel for annexation are stricter than the restrictions of the original deed of easement encumbering the receiving parcel, the owner of the receiving parcel shall execute documentation satisfactory to the County Board imposing the restrictions encumbering the parcel for annexation on the receiving parcel; and
    - vi) No further annexations under this section may occur with respect to the main 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 review and approval shall be submitted, in writing, to the County Board. The letter, hereafter referred to as the “subdivision application,” shall explain 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.
  - b) If applicable, the landowner shall submit a copy of the owner’s subdivision review request submitted to the governing body and a copy of the letter of transmittal from the local governing body to the Berks County Planning

- Commission, requesting the subdivision review.
- c) The owner should be mindful that it is their responsibility, in accordance with the Pennsylvania Municipalities Planning Code to submit a subdivision plan to the local governing body for review and approval. Applicants are encouraged to seek this review, any other required review, and the Berks County Agricultural Land Preservation Board review simultaneously.
  - d) Requests shall include the following maps, information, etc.
    - i) Written requests 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 3 P.S. Section 914.1 (c)(6)(iv) and this Section XI may be constructed.
  - e) The County Board will note receipt of the request for subdivision approval at its next regularly scheduled meeting.
  - f) 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) The County Board will send written notification for a review of the subdivision application to the local governing body, the Berks County Planning Commission, and the Berks County Agricultural Preservation Office herein referred to as the reviewing agencies. The reviewing agencies 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 the request for subdivision was noted at the regularly scheduled County Board meeting, unless the time is extended by mutual agreement of the landowner and reviewing agencies.
    - iii) If the application to subdivide the 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 receipt of the statement of rejection, the landowner may appeal the rejection in accordance with 2 PA. CS. Chapter 5 Subchapter B (relating to practice to judicial review of local agency action).
- g) Failure of the County Board to render a decision to approve or disapprove a subdivision within the time from described in Sub-Section D(3)(f) of this Section XI shall constitute approval of request to subdivide provided that the parcels created by and remaining after subdivision comply with Sub-Section D(2) of this Section XI.
- h) Approval of the County Board, or failure to act by the County Board as per Section D(3)(g) of this Section XI shall not be construed to provide approval of the State Board or any other Governmental Unit with authority to approve or disapprove subdivisions.
- i) Subdivisions approved prior to the construction of additional residential structure.
  - i) If the 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 3 P.S. Section 914.1 (c)(6)(iv) and this Section XI, 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)(d)(ii)(5) of this Section XI.
    - 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.
  - ii) 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.
  - iii) 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.