

# Agricultural Conservation Easement Information

Monroe County Agricultural Land Preservation Board  
c/o County Administrator  
Monroe County Planning Commission  
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As a property owner you have multiple rights. These rights include water, mineral, air, the right to sell the land, the right to transfer the land to heirs, the right to use the land, and the right to develop the land.

When you sell or donate your development rights to the local or state government, you are permanently retiring the development rights (i.e., all future development potential of the land) in what is called a perpetual "Deed of Agricultural Conservation Easement." You retain all other rights and responsibilities that go with the land's ownership, such as the right to sell the property.

An agricultural conservation easement is a legally binding contract that runs with the land. It sets forth restrictions on the property to maintain the integrity of the land for farming. The value of the conservation easement is the difference between the fair market value and the agricultural value of the farmland. In other words, it is the difference in value of the farmland before the easement is in place and the value of the farmland after the easement is in place.

Funding for the Monroe County Agricultural Land Preservation Program is provided by both the Commonwealth of Pennsylvania and through the Monroe County Open Space Bond. It is the purpose of this program to protect and promote continued productive agricultural use on viable agricultural lands by acquiring conservation easements which preclude the development or improvement of the land for any purpose other than agricultural production and allowed related agricultural activities.

#### **Minimum Criteria for Program Eligibility**

Property that is eligible to be preserved through this program must:

- 1) Be located in an agricultural security area consisting of 500 acres or more.
- 2) Be "contiguous acreage" of at least 50 acres (State-funded easement) or 25 acres (County-funded easement) in size unless the tract is at least 10 acres in size and is either utilized for a "crop unique to the area" or is contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization," as that term is defined at Section 170(h)(3) of the Internal Revenue Code.
- 3) Contain at least 50% of soils which are available for agricultural production and are in capability class I through IV, as defined by the USDA-Natural Resource Conservation Service.
- 4) Contain the greater of 50% or 10 acres of harvested cropland, pasture or grazing land.

NOTE: An Agricultural Security Area (ASA) is administered at the township level. It is not a land use law and does not prohibit what local zoning permits. It provides protection from nuisance ordinances, eminent domain, and condemnation. If you are not already a part of an ASA, you can join an existing ASA; or, if your Township does not have an ASA, you may be able to form one.

## **Some Things To Think About Regarding The Preservation Of Your Farm**

- 1. Perpetuity** - Once an easement has been placed on a tract of land, the guidelines in the deed remain permanent to the land. If you sell the farm, the new owner must also continue to farm and follow the provisions of the deed of easement.
- 2. Conservation Plan** - Prior to closing, someone from the Conservation District will assist you in developing a Conservation Plan if you do not already have one in place. The plan will be catered to your farming practices and your situation. The purpose of the preservation program is not only to preserve the farm, but to preserve the soils that keep the farm productive.
- 3. One Additional Residential Structure** - Once the easement is in place, one additional residential structure may be constructed on the land under easement. This structure must be used as either the landowner's principal residence or for seasonal or fulltime farm employees. When completing your application for preservation, you should think ahead in terms of children, parents, and tenant farmers who may need housing.
- 4. Subdivision** - Subdivision of the eased land is prohibited if the construction of the additional residential structure can be completed by land development other than subdivision. If subdivision is necessary in order to build this structure, the Agricultural Land Preservation Board has the discretion to accept or deny the subdivision.
- 5. Enforcement** - The Agricultural Land Preservation Board is responsible for enforcing the restrictions stated in the easement. To do this, the Board inspects the property once per year and maintains written records of these monitoring visits. If a monitoring visit reveals an easement violation, the Board has the legal right to require the landowner to correct the violation and restore the property to its condition prior to the violation.

### **The Process (takes approximately 12-18 months):**

1. Your application is received and reviewed for completion.
2. Site visits are conducted and the Ag Board decides if your farm meets the minimum criteria.
3. If your farm qualifies, it will be ranked amongst the other applicants' farms.
4. Your land will be appraised to determine the easement value.
5. Based on the availability of funding and the appraised value of each farm, offers will be made to as many farms as possible starting with the highest ranked farm.
6. If it is determined (based on your deed) that a survey is needed, then a survey will be conducted to determine the accurate boundary lines of the easement.
7. The Agreement of Sale will be signed.
8. If the easement will be funded through the County, then your application will be approved by the Commissioners. If the easement is funded through the State, then your application will be approved by the State Agricultural Land Preservation Board.
9. The Deed of Agricultural Conservation Easement will be signed at closing and then recorded thereafter.

# Monroe County Easement Summary

(as of February 2005)

<u>Township</u>	<u>Number of Farms</u>	<u>Acres Preserved</u>
Chestnuthill	12	868
Eldred	6	424
Hamilton	9	790
Jackson	9	611
Polk	21	1,488
Ross	5	405
Stroud	3	213
Tunkhannock	1	114
<b>Totals</b>	<b>66</b>	<b>4,913</b>

The success of this program is based on the excellent partnerships and working relationships between the County Commissioners, Agricultural Land Preservation Board, Open Space Advisory Board, Planning Commission, and Conservation District.

## Monroe County Commissioners

Donna M. Asure, Chairman  
Robert Nothstein, Vice-Chairman  
Suzanne McCool, Commissioner

## Monroe County Agricultural Land Preservation Board

Glenn Beers, Chairman  
Lee Costenbader  
Russell Gould  
Robert Serfass  
Richard Snyder

## Advisor

Victor Motts, Conservation District