

XIV. – SUBDIVISION

Legal subdivision of property encumbered by a Deed of Agricultural Conservation Easement (hereinafter “eased property”) must meet the criteria in section 1. below and follow the procedures in section 2. below to be approved.

1. Eased property may be subdivided only when all of the following criteria are met:

A. All tracts created by the subdivision are “economically viable for agricultural production” as defined below except that in the event that the one (1) additional residential structure allowed by Section 14.1(c)(6)(iv) of the Act (3P.S. Section 914.1 (c) (6)(iv)) and Section 2 (b) of the Deed of Agricultural Conservation Easement, has not yet been built, subdivision of the eased property may be approved by the County Board if subdivision is required by the local municipality for the landowner to build the one (1) additional residential structure. This subdivision shall not exceed the minimum acreage criteria set forth by the local municipality.

The phrase “economically viable for agricultural production” shall mean:

- (1) A tract having acreage of at least 52 acres; and
- (2) At least fifty percent (50%) of each tract resulting from the subdivision must be actively harvested cropland, orchard, pasture or grazing land; and
- (3) At least fifty-percent (50%) of the soils making up each tract resulting from the subdivision must be in USDA soil Classes I-IV,

B. The subdivision is consistent with the Statement of Purpose of the County Agricultural Land Preservation Program and the Deed of Agricultural Conservation Easement.

C. The subdivision conforms with municipal planning, zoning and subdivision requirements and has been reviewed by the County Planning Commission pursuant to the Municipalities Planning Code (Act 170).

D. All tracts created by the subdivision shall be shaped and located in such a way that they shall not render agricultural production on any of the resulting tracts less efficient.

E. Every tract created by the subdivision must contain an existing residential structure or specifically be allocated the right to construct the additional residential structure permitted pursuant to Section 14.1(c)(6)(iv) of the Act (3P.S. Section 914.1 (c) and Section 2 (b) of the Deed of Agricultural Conservation Easement. The deeds of conveyance for every tract within or comprising the eased property shall state on which subdivided parcel the one (1) permitted additional residential structure has been, or will be, constructed.

F. The existing farm residence and associated farm buildings shall be on one tract of at least 52 acres after subdivision.

G. Deeds of conveyance for every tract within or comprising the eased property will include, verbatim, the language of the Deed of Agricultural Conservation Easement whenever an interest in all or any portion of the eased property is conveyed or transferred to another person.

H. In accordance with the Perry County Farmland Preservation Program, impervious surface is limited to 6% of the size of the original eased property. Impervious surface limits will be assigned proportionately to all subdivided tracts based on the remaining square footage of impervious surface available to be allocated and the size of the tracts, or as the parties to the transaction and the Perry County Farmland Preservation Board approve.

The landowner, the purchaser of the subdivided land, and any other party to the subdivision transaction, in addition to the Perry County Farmland Preservation Board, shall sign an agreement detailing the allocation of impervious surface to each tract within and comprising the eased property. This written, fully executed agreement shall be submitted as part of the subdivision application process detailed in Section 2 below.

2. Application for subdivision of eased property shall be made as follows:

A. The landowner of record may submit an application, in such form and manner as the County Board may prescribe, to the County Board requesting that the eased property be subdivided. Upon receipt of the application, the County Board shall cause to be forwarded written notification thereof to the 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, pursuant to the above criteria in Section 1 above.

B. 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 the eased property within 120 days after the date of the filing unless the time is extended by mutual agreement of the landowner and the County Board.

C. If the application to subdivide the eased property 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 eased property, the State Board shall consider only whether the application complies with the criteria under which subdivisions of eased property are permitted by the approved county program. The State Board shall notify the County Board of its decision regarding the application.

D. If the application to subdivide is rejected by the County Board, the application shall be returned to the landowner together 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. Ch. 5 Subch. B (relating to practice and procedure of local agencies) and Ch. 7 Subch. B (relating to judicial review of local agency action).

E. Liability for all costs and expenses incurred for the subdivision application process, any appeal process, and for the subdivision itself shall be the sole responsibility of the landowner.