

**Scott County Fiscal Court
Ordinance No. 08-03**

AN ORDINANCE RELATING TO THE AMENDMENT OF THE SCOTT COUNTY CODE OF ORDINANCES TO ESTABLISH THE SCOTT COUNTY RURAL LAND MANAGEMENT BOARD, INC., A SIXTEEN (16) MEMBER BOARD WHICH WOULD SERVE AS AN AGENCY AND INSTRUMENTALITY OF THE SCOTT COUNTY FISCAL COURT EMPOWERED TO REVIEW APPLICATIONS FROM RURAL LANDOWNERS WHO WANT TO SELL CONSERVATION EASEMENTS ON THEIR PROPERTY.

WHEREAS, the existing Code of Ordinances does not have adequate provision for the purchase of Conservation Easements as a means of Farmland Preservation.

WHEREAS, KRS 100.201 authorizes county governments to establish a program to preserve and manage agricultural, rural and natural lands; and

WHEREAS, this proposed amendment to the Scott County Code of Ordinances was approved by the Scott County Fiscal Court after a public hearing in accordance with KRS Chapter 100.

WHEREAS, the Rural Land Use Element of the most recently adopted Comprehensive Plan (the "Plan") adopted by the Scott County Fiscal Court recommends that a countywide program be established to purchase Conservation Easements in order to preserve and manage agricultural, rural and natural lands;

WHEREAS, the Rural Land Use Subcommittee was appointed to study implementation of the Plan and has made a report recommending that the Scott County Rural Land Management Board be established and a program implemented to preserve and manage agricultural, rural and natural lands;

WHEREAS, it is the purpose of this Ordinance to establish a program for the preservation and management of agricultural, rural and natural lands which will over the next thirty (30) years purchase Conservation Easements on sixty thousand (60,000) acres in the Rural Service Area; and

WHEREAS, this program will protect the health, safety and well being of present and future residents of Scott County by preserving and managing sixty thousand (60,000) acres of eligible agricultural, rural and natural lands in the Rural Service Area as a viable sector of the county's economy and as an environmental resource of major importance, while at the same time allowing for properly controlled and designed urban growth;

NOW, THEREFORE, BE IT ORDAINED BY THE FISCAL COURT OF SCOTT COUNTY, IN THE COMMONWEALTH OF KENTUCKY, AS FOLLOWS:

SECTION ONE: ADOPTION OF ORDINANCE: The Purchase of Conservation Easements on Rural Lands Ordinance is enacted as an ordinance for Scott County. Said Ordinance is presented in Exhibit A, attached hereto and incorporated by reference.

SECTION TWO: EFFECTIVE DATE: This ordinance shall take effect upon passage and publication.

This ordinance was introduced and read for the first time at a public meeting of the Fiscal Court of Scott County on _____, and for a second time and approved on _____, 2008.

APPROVED BY:

_____, Judge Executive

ATTESTED BY:

_____, CLERK

Exhibit A

FARMLAND PRESERVATION (PDR) ORDINANCE

For

Scott County, Kentucky

March 27, 2008

**FARMLAND PRESERVATION (PDR)
ORDINANCE
For Scott County, Kentucky**

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**FARMLAND PRESERVATION (PDR)
ORDINANCE**
For Scott County, Kentucky

ARTICLE I

Section 1: Purpose.

The purpose of this ordinance is to establish a countywide program to preserve and manage agricultural, rural and natural lands in furtherance of the public health, safety and general welfare of Scott County residents, by provisions designed to:

- (1) Establish a Scott County Rural Land Management Board;
- (2) Create and administer a program for the purchase of Conservation Easements over eligible agricultural, rural and natural lands; and
- (3) Coordinate administration of this ordinance with the five-year update of the Georgetown-Scott County Comprehensive Plan.

Section 2: Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

- (1) "Active Farm" shall mean a parcel of land which is currently being used for Agricultural Production.
- (2) "Agricultural Production" shall mean the production for commercial purposes of crops, livestock and livestock products, and nursery and greenhouse products, including the processing or retail marketing of these crops, livestock and livestock products, and nursery and greenhouse products, if more than fifty percent (50%) of those processed or merchandised products are produced by the farm operator and the raising and stabling of horses for commercial purposes, and shall also include any of the following: dairying, pasturage, growing crops, bee keeping, horticulture, floriculture, orchards, plant nurseries, viticulture, silviculture, aquaculture and animal and plant husbandry; the breeding, raising, training and general care of livestock for uses other than food, such as sport or show purposes; and construction and maintenance of barns, silos and other structures ancillary to agricultural production, the use of farm machinery, the primary processing of agricultural products and the sale of agricultural products produced on the land where the sales are made.
- (3) "Application" shall mean the documentation and information submitted to the Scott County Rural Land Management Board staff by a landowner on the approved application form offering to sell to the Scott County Rural Land Management Board or the Scott County Fiscal Court a Conservation Easement on eligible land.
- (4) "Comprehensive Plan" shall mean the land use plan, and amendments thereto, most recently adopted by the Scott County Fiscal Court pursuant to KRS 100.197.

- (5) "Conservation Easement" shall mean a non-possessory interest in real property, which is acquired for the purpose of retaining and enhancing agriculture; preserving natural, scenic or open space values of real property; preserving areas or structures of architectural or historical interest; restricting or preventing the development or improvement of the land for purposes other than agricultural production; or other like or similar purposes, but does not include any real property owned or leased by the Government for the purpose of or devoted to parks and recreation.
- (6) "Conservation Easement Value" shall mean the value of a Conservation Easement on a parcel of land as determined by the difference between the unrestricted value of the tract and its value as restricted by a Conservation Easement. The unrestricted value of the tract shall be determined as of date of appraisal.
- (7) "Development Right" shall mean the right that was held by the property owner having title to a tract of real property at date of appraisal.
- (8) "Rural Land Use Element of the Comprehensive Plan (the Plan) shall mean the element of the Comprehensive Plan most recently adopted by the Scott County Fiscal Court, and shall include any future portions of the Comprehensive Plan, and amendments thereto, pertaining to the Rural Service Area.
- (9) "Rural Service Area" shall mean the unincorporated areas within Scott County.
- (10) "Scott County Rural Land Management Board staff" shall mean the personnel within the office of administrative services charged by the Scott County Fiscal Court with the duty to administer this chapter.

ARTICLE II

Section 1: Board; organized; purposes.

- (1) George Lusby, County Judge Executive; Glenn Williams, County Attorney; Debbie Osborn, Scott County Conservation District; and John Lacy, Scott County Farm Bureau; all being residents of Scott County, are hereby authorized and requested to serve as incorporators for and to organize a non-profit, non-stock Kentucky corporation under the provisions of Chapter 273 of the Kentucky Revised Statutes, to be named the "Scott County Rural Land Management Board, Inc." and hereinafter referred to as the "Scott County Rural Land Management Board."
- (2) The Scott County Rural Land Management Board shall be an agency and instrumentality of the Scott County Fiscal Court. It is organized for the purpose of preserving and managing agricultural, rural and natural lands within Scott County consistent with the Rural Land Use Element of the most recently adopted Comprehensive Plan.

Section 2: Board; membership.

- (1) The Scott County Rural Land Management Board shall consist of sixteen (16) members. Eleven (11) members shall be voting members and five (5) members shall be ex officio non-voting members.
- (2) The eleven (11) voting members shall be residents of Scott County and shall have demonstrated an interest in farming, farmland preservation, conservation of natural areas, or other agricultural, rural and natural lands preservation and management issues. They shall be appointed by the Judge Executive, subject to confirmation by a majority of the Fiscal Court, from the following:
 - (a) Two (2) members from a list of not less than four (4) names submitted by the Scott County Farm Bureau, provided that each nominee must be either a landowner or an operator of land, who manages the production of agricultural crops or livestock;
 - (b) Two (2) members from a list of not less than four (4) names submitted by the Kentucky Thoroughbred Association, Inc. and Scott County Beef Cattle Association (one each), provided that each nominee must own a farm in Scott County;
 - (c) One (1) member from a list of not less than two (2) names submitted by the Home Builders Association of Georgetown/Scott County;
 - (d) One (1) member from a list of not less than two (2) names submitted by the Scott County Association of Realtors, Inc., provided that each nominee must be a licensed realtor;
 - (e) One (1) member from a list of not less than two (2) names submitted by the Greater Scott County Convention and Visitors Bureau;
 - (f) One (1) member from a list of not less than two (2) names submitted by the Division of Natural Sciences from Georgetown College;
 - (g) One (1) member from names submitted by the Scott County Conservation District;
 - (h) One (1) member from names submitted by governmental entities or private non-profit organizations involved in historic preservation, such as, but not limited to, the Historic Preservation and Land Conservation Commission, the Bluegrass Trust for Historic Preservation, Incorporated, and the Kentucky Heritage Council established at KRS 171.3801; and
 - (i) One (1) member from a list of not less than two (2) names submitted by the Georgetown Chamber of Commerce, Inc., provided that each

nominee must have a background in agricultural lending or agricultural finance.

- (3) The five (5) non-voting members shall be ex officio members of the Scott County Rural Land Management Board and shall consist of the individuals holding the following positions:
 - (a) The Scott County Extension Agent appointed pursuant to KRS 164.605, et seq. or any successor position; and
 - (b) The District Conservationist for Scott County appointed by the Natural Resources Conservation Services of the United States Department of Agriculture pursuant to 7 CFR § 600.6, or any successor position.
 - (c) One resident representative from each incorporated community (in Georgetown, Sadieville, and Stamping Ground).

Section 3: Board; terms; removal of members.

- (1) The voting members of the Scott County Rural Land Management Board shall serve a term of four (4) years from the date of appointment, provided the terms of those originally appointed shall be staggered in the following manner: three (3) members shall be appointed for one (1) year; three (3) members shall be appointed for two (2) years; two (2) members shall be appointed for three (3) years; and three (3) members shall be appointed for four (4) years.
- (2) Vacancies in the voting membership shall be filled for an unexpired term in the manner prescribed for the original appointment. The membership of the ex-officio non-voting members shall be terminated upon leaving the specified offices. The incorporated community members shall serve concurrently with the term of the mayor of each incorporated community.
- (3) No voting member who was originally appointed to the Scott County Rural Land Management Board for less than a four (4) year term and who has served two (2) consecutive full terms after his initial term may succeed himself until the lapse of twelve (12) months from the end of said consecutive term. No appointed voting member who has served two (2) consecutive full terms may succeed himself until the lapse of twelve (12) months from the end of said consecutive terms.
- (4) A voting member of the Scott County Rural Land Management Board shall be removed only by a majority vote of the Scott County Fiscal Court, and only for cause, except that a member of the Board shall automatically be removed by operation of law in the event of three (3) unexcused absences, whether consecutive or nonconsecutive, in any two (2) year period or in the event of absence from twenty-five percent (25%) of the meetings in any two (2) year period. An unexcused absence is any absence in which the chair of the board or the Scott County Rural Land Management Board staff is not notified of the intended absence at least twenty-four (24) hours in advance of a regularly

scheduled meeting. In the event of three (3) unexcused absences or the absence from twenty-five percent (25%) of the meetings over any two (2) year period, within the meaning of this section, the Scott County Rural Land Management Board staff shall notify the Judge Executive that a vacancy exists on the Scott County Rural Land Management Board.

Section 4: Board; officers; quorum; staff.

- (1) The officers of the Scott County Rural Land Management Board shall consist of a chair, a vice-chair, and other officers elected from the membership as set forth in the bylaws. They shall take office at the first meeting of the Scott County Rural Land Management Board after their election. The duties of the officers shall be as specified in the bylaws. The Scott County Rural Land Management Board shall determine its own rules and order of business and so provide for keeping a record of its proceedings.
- (2) A majority of the voting members of the Scott County Rural Land Management Board, that is six (6) voting members, shall constitute a quorum for transaction of business at any meeting of the Scott County Rural Land Management Board. The acts of a majority of those voting members present at any regular or special meeting of the Scott County Rural Land Management Board shall be the acts of the Scott County Rural Land Management Board, except as provided below:
 - (a) It shall take a vote of seven (7) voting members to:
 1. Propose to the Scott County Fiscal Court that ARTICLE III, relating to criteria to be used to evaluate Applications for consideration of Conservation Easements, be changed or amended;
 2. Approve, pursuant to ARTICLE III, Section 7, the purchase of Conservation Easements,
 3. Approve, pursuant to ARTICLE IV, Section 3, the acceptance of payment for release of a Conservation Easement which has been included within the Urban Service Boundary and annexed into the nearest incorporated city.
 - (b) It shall take a vote of six (6) voting members to adopt bylaws or regulations.
- (3) The Scott County Rural Land Management Board shall meet at a minimum on a quarterly basis at a date, place and time to be determined by the Board.
- (4) The Scott County Rural Land Management Board staff shall serve as staff to the Scott County Rural Land Management Board and shall be responsible for coordinating agendas, preparing minutes and handling logistical matters in order to expedite the Board's function. Within the limits of the funds appropriated by the Scott County Fiscal Court in the annual budget, the other offices and agencies

of the government shall provide the Scott County Rural Land Management Board, either directly or by contract or agreement, with the facilities, materials, supplies, and staff needed for the conduct of its business.

Section 5: Board; powers and duties.

The Scott County Rural Land Management Board shall, as permitted by law:

- (1) Adopt bylaws and regulations which are not inconsistent with this chapter.
- (2) Enter into contracts and agreements with the Scott County Fiscal Court, other governmental entities, and also private persons, firms and corporations in furtherance of the purposes of this chapter.
- (3) Solicit, acquire and hold Conservation Easements pursuant to the provisions of this chapter.
- (4) Enforce the terms and provisions of Conservation Easements pursuant to the provisions of this chapter.
- (5) Expend funds appropriated to the Scott County Rural Land Management Board by the Scott County Fiscal Court or donated or provided to the Board from any other source.
- (6) Release or terminate any Conservation Easement pursuant to the provisions of this chapter.
- (7) Appoint standing and ad hoc committees, which may be comprised of Scott County Rural Land Management Board members, employees of the Scott County Fiscal Court, the public, or any combination of the foregoing.
- (8) Hold public forums for the purpose of gauging the will of the public on agricultural, rural and natural lands matters.
- (9) Solicit financial and other contributions to the Scott County Fiscal Court or to the Scott County Rural Land Management Board, including donations of Conservation Easements, for the purposes of agricultural, rural and natural lands preservation and management.
- (10) Assist the government in the following areas:
 - (a) Promoting the preservation and management of agricultural, rural and natural lands in Scott County;
 - (b) Implementing the specifics of the Rural Land Use Element of the Comprehensive Plan most recently adopted by the Planning Commission of the Scott County Fiscal Court;

- (c) Implementing the specifics of any other plans adopted by the government or the Planning Commission relating to the Urban Service Boundary;
 - (d) Evaluating current services and facilities of the government relating to agricultural, rural and natural lands preservation and management;
 - (e) Reviewing fees and charges and alternate sources of funding to the agricultural, rural and natural lands preservation and management program, such as grants, gifts, endowments, etc.;
 - (f) Developing public relation strategies for stimulating public involvement, promoting services and achieving results;
 - (g) Preparing the agricultural, rural and natural lands preservation and management budget; and
 - (h) Securing legislation that will promote the mission, goals, and objectives of this chapter.
- (11) Establish Application Forms, filing and meeting schedules, and similar items as needed to carry out the provisions of this chapter.
- (12) Prepare and present to the Scott County Fiscal Court and Planning Commission written reports on an annual basis each calendar year. The report shall contain, but not be limited to, the following:
- (a) A listing of all parcels of land on which a Conservation Easement was purchased or donated during the year;
 - (b) A map or maps showing all parcels of land on which Conservation Easements have been purchased or donated, including the ones acquired during the preceding calendar year, and showing all parcels of land on which scenic easements, and other interests in land designed to preserve and manage agricultural, rural and natural lands, are to the knowledge of the Scott County Rural Land Management Board staff, held by entities other than the Scott County Rural Land Management Board; and
 - (c) A listing of all landowners who made unsuccessful Applications for purchase or donation of a Conservation Easement during the preceding calendar year, including the acreage and location of the parcel of land which was the subject of each Application, along with the general categories of reasons the Applications were not accepted.
- (13) Possess all the powers conferred upon a corporation organized under Chapter 273 of the Kentucky Revised Statutes dealing with non-profit non-stock corporations and have all powers necessary, proper, convenient or desirable in order to fulfill and further the purposes of this chapter.

Section 6: Board; conflict of interest.

All members of the Scott County Rural Land Management Board shall be subject to the code of ethics contained in Ordinance 94-014 Code of Ethics.

ARTICLE III

Section 1: Conservation Easements; minimum criteria.

- (1) The Scott County Rural Land Management Board shall administer any program funded by appropriations from the Scott County Fiscal Court or by grant funds or donations from any source, which are appropriated or given for the purpose of acquiring Conservation Easements or other interests in land designed to preserve and manage agricultural, rural and natural lands. The Scott County Rural Land Management Board shall adhere to any specialized procedures established by the state, federal, or local government or any grant award for a particular program and, to the extent not inconsistent therewith, to any procedures established in this chapter.
- (2) In order for a Conservation Easement to be considered for purchase by the Scott County Rural Land Management Board, it must meet the following minimum criteria:
 - (a) The applicant or applicants must have good, marketable, fee simple title to the parcel of land upon which the Conservation Easement is proposed to be imposed;
 - (b) The parcel of land upon which the Conservation Easement is proposed to be imposed must be located entirely within the agricultural land use category as determined by the Scott County Fiscal Court's most recently adopted Comprehensive Plan;
 - (c) The parcel of land upon which the Conservation Easement is proposed to be conveyed to the Scott County Rural Land Management Board is free and clear of any non-conforming uses;
 - (d) The parcel of land in question must be at least ten (10) acres in size and must have at least two residential credits; and
 - (e) All landowners of the parcel shall agree for the duration of the Conservation Easement to maintain a land conservation plan and/or forest stewardship plan, approved by the local Soil Conservation District, and shall implement the plan according to the approved schedule.
- (3) It shall not be necessary for an Application to cover all land in common ownership in order to be considered for purchase of a Conservation Easement. Accordingly, a landowner may submit an Application for only a portion of the applicant's land, if there is enough land to create a Conservation Easement of at least forty (40) acres.

Section 2: Conservation Easements: application procedures and preliminary review.

- (1) In order for a Conservation Easement to be considered for purchase by the Scott County Rural Land Management Board, a completed Application shall be submitted by the landowner on the approved application form by the dead-line established by the Board. The landowner or a duly authorized representative of the landowner may apply. All landowners shall sign the Application. A separate Application shall be required for each parcel of land offered for acquisition except for batch Applications as provided for in ARTICLE III, Section 3 (3). The Board shall, by regulation, establish policies and procedures for the Scott County Rural Land Management Board staff to follow in assisting landowners with the Application process. The following information shall be included in a completed Application:
 - (a) Adequate identification by deed reference of the parcel of land to be considered for purchase.
 - (b) A map of the property at a scale of at least 1"=600' showing the land area to be considered for purchase, as well as any contiguous acreage under the same ownership to be excluded, or a copy of a recorded plat of record, if any.
 - (c) A United States Department of Agriculture (USDA) Natural Resources Conservation Services Soil Map and farm plan and/or forest stewardship plan, if any, for the parcel under consideration.
 - (d) A full description of the Agricultural Production carried out on the property including type and quality of crops, number of livestock, and acreage of land leased or used from others for Agricultural Production.
 - (e) A statement by the landowner of any contingencies which the landowner wishes to make the Scott County Rural Land Management Board aware of such as death, health, or retirement of the owner, financial stress, estate settlement, or other circumstances which may affect the property in the future.
 - (f) The landowner's preferred method of payment for the acquisition, including but not limited to, lump sum payment or payout over time.
 - (g) A statement by the landowner agreeing to allow inspection and appraisal of the parcel of land.
 - (h) A list of any and all liens and encumbrances on the parcel of land and a letter from the holder of such evidencing willingness to subordinate the applicant's interests to the Conservation Easement.
 - (i) Existence of any surface or mineral leases or easements.

- (j) A filing fee, in an amount established by regulation adopted by the Scott County Rural Land Management Board.
 - (k) All other information requested on the approved Application Form.
 - (l) Checklist and Disclosure Statement: Tax implication information, inheritance law, issues of perpetuity, and conservation easement.
- (2) A member of the Scott County Rural Land Management Board staff shall review the Application to determine if it is complete. If the Application is complete, the staff shall make a preliminary evaluation of whether the parcel meets the minimum criteria established in ARTICLE III, Section 1. If it is determined by the staff that the parcel of land is eligible land, the staff shall notify the landowner in writing that the Conservation Easement will be considered for purchase or that, for reasons set forth in writing, the Application is being rejected. A landowner who is dissatisfied with the staff's determination may appeal to the Scott County Rural Land Management Board pursuant to ARTICLE III, Section 4 (3).

Section 3: Conservation Easements: evaluation by staff.

If the Application is complete and the minimum criteria established in ARTICLE III, Section 1 is met, the Application shall be evaluated and scored by the Scott County Rural Land Management Board staff. For purposes of this Section, less than one half acre shall be rounded down and one half acre or more shall be rounded up. This evaluation and scoring shall be done in accordance with the following criteria:

(1) SIZE OF PARCEL (12 Possible Points plus 8 potential bonus points)

The purpose of this criterion is to assist in building a critical mass of agricultural land. These points shall be calculated as follows:

- (a) Basic: Over 350 acres (12 points)
 - 251-350 acres (10 points)
 - 121-250 acres (8 points)
 - 41-120 acres (6 points)
 - 20-40 acres (2 points)
 - 10-19 acres (1 point)
- (b) Bonus: Additional points will be assigned to parcels of forty (40) or more acres if the landowner agrees not to subdivide the parcel and build residences on those parcels. The property owner shall receive one (1) bonus point for each right to develop a five (5) acre tract which is extinguished up to a maximum of eight (8) bonus points.

(2) LENGTH OF PUBLIC ROAD FRONTAGE (5 Possible Points)

The purpose of this criterion is to encourage the preservation of parcels with significant road frontage. These points shall be calculated as follows:

- 1001 feet + (5 points)
- 501 feet-1000 feet (3 points)
- 300 feet-500 feet (1 point)

(3) PROXIMITY AND/OR "BATCH" APPLICATION (15 Possible Points)

The purpose of this criterion is to encourage the protection of large contiguous blocks of rural land. Distances shall be measured from the parcel's boundary lines and the points from Part B (part of "batch application") are in addition to any points from Part A (proximity to another property protected with Conservation Easement). These points shall be calculated as follows:

(a) Proximity: Adjacent (10 points)

Within 1/2 Mile (5 points)

Within 1 Mile (3 points)

More than 1 Mile (0 points)

(b) Batch application:

The purpose of this criterion is to encourage landowners of contiguous parcels to apply to the program as a joint batch of Applications. A "batch" of Applications is defined as two (2) or more Applications submitted by two (2) or more property owners of contiguous parcels with a total acreage of at least 120 acres. Each Application submitted as a "batch" Application will be individually evaluated and the batch will be given five (5) additional points for being part of a batch Application.

(4) QUALITY OF SOILS (30 Possible Points)

The purpose of this criterion is to examine the quality of soils on the property for agriculture. Soil information will be provided by the landowner in the Application and verified by the Scott County Rural Land Management Board staff with the assistance of the Natural Resources Conservation Service (NRCS). The NRCS maps will be the basis to decide this question. These points shall be calculated as follows:

- At Least 80% Prime Farmland (30 points)

- At Least 70% Prime Farmland (25 points)
- At Least 60% Prime Farmland (20 points)
- At Least 50% Prime Farmland (15 points)
- At Least 50% Statewide Important (10 points)
- At Least 25% Prime Farmland &
- Less than 50% Statewide Important (5 points)
- Prime Farmland Soils are defined as: Maury, Ashton, and Huntington
- Statewide Important Soils are defined as: Lowell B, Lowell C and Nicholson

(5) FARM ACTIVITY (5 possible points)

The purpose of this criterion is to evaluate whether the parcel is actively farmed. In evaluating whether the parcel is actively farmed, consideration will be given to the percentage of cropland and/or pasture and the tobacco base of the property. These points shall be calculated as follows:

- Actively farmed more than five of last ten years (5 points)
- Not actively farmed more than five of last ten years (0 points)
- Potential to be farmed (1 point)

(6) AGRICULTURAL IMPROVEMENTS (5 Possible Points)

The purpose of this criterion is to evaluate the owner's long term commitment to agriculture. It should be noted that the type and amount of on-farm investments will vary depending on the type of agriculture practiced. Each parcel shall be evaluated based on the type of agriculture involved on that particular parcel. There shall be no preference for one type of agricultural operation over another. Factors to be considered would include the presence of substantial and well-maintained on-farm investments such as barns, other agricultural buildings and equipment, fencing, waterways or other conservation measures, and similar items.

These points shall be calculated as follows:

- High amount of on-farm investment (5 points)
- (Multiple, permanent agricultural and agricultural related structures & equipment)
- Moderate amount of on-farm investment (2 points)

- (At least some agricultural structures & equipment)
- No on-farm investment (0 point)
- (Zero improvements or equipment)

(7) ENVIRONMENTALLY SENSITIVE AREAS (5 Possible Points)

The purpose of this criterion is to protect environmentally sensitive areas. If the parcel includes environmentally sensitive areas (ESA) as determined by the Rural Land Use Element of the most recently adopted Comprehensive Plan, it will receive up to five points. These points shall be calculated as follows:

- At least 50% environmentally sensitive areas (5 points)
- Some but fewer than 50% environmentally sensitive areas (2 points)
- No environmentally sensitive areas (0 points)

(8) DESIGNATED RURAL GREENWAY/GREENBELTS (5 Possible Points)

The purpose of this criterion is to protect designated rural greenway/greenbelts. If any part of the parcel is located within one of the rural greenway/greenbelts, as determined by the Rural Land Use Element of the most recently adopted Comprehensive Plan, it will receive five (5) points.

(9) DESIGNATED FOCUS AREAS (10 Possible Points)

The purpose of this criterion is to protect the designated focus areas, as determined by the Rural Land Use Element of the most recently adopted Comprehensive Plan and Rural Land Management Board. If any part of the parcel is located within one of the focus areas, the application receives ten (10) points.

(10) NATURAL PROTECTION AREAS (5 Possible Points)

The purpose of this criterion is to protect the special natural protection areas. These points shall be calculated as follows:

- Parcel is included in "A" list of special natural (5 points) protection areas in the Rural Land Use Element of the most recently adopted Comprehensive Plan
- Parcel is included in "B" list special natural (2 points) protection areas in the Rural Land Use Element of the most recently adopted Comprehensive Plan

Alternatively, applicants will be eligible to demonstrate the parcel contains special natural protection areas not identified in the Rural Land Use Element of the most recently adopted Comprehensive Plan. The landowner who indicates on

the applicant's Application that the property includes rare or unusual flora or fauna, special indigenous plant sites, wildlife habitat or provides wildlife ecosystem linkages necessary to ensure biodiversity will need to provide background information relating to the existence of these resources on the property. The existence of these items should be independently verified by the Scott County Rural Land Management Board staff or an independent non-profit conservation organization such as The Nature Conservancy. If the landowner can document that the parcel includes special natural protection areas not identified in the Rural Land Management Plan, the Application would receive not to exceed five (5) points.

(11) LINKAGES (4 Possible Points)

The purpose of this criterion is to protect linkages within the rural areas. This criterion examines whether the parcel is located near or has the ability to be linked to parks, nature preserves, nature sanctuaries, historic sites or other lands that have been specifically designated for long term natural resource use, conservation or preservation purposes. Distance is measured from parcel boundaries. These points shall be calculated as follows:

- Contiguous or provide direct linkage (4 points)
- Within 1/2 mile or provide a buffer (2 points)
- Within 1 mile (1 point)

(12) HISTORIC/CULTURAL RESOURCES (11 Possible Points)

The purpose of this criterion is to protect the historic/cultural resources of the rural area. Points in subsections (c) through (e) are in addition to any points accumulated from subsection (a) or (b), and shall be calculated as follows:

- (a) If any part of the property is listed in the National Register of Historic Places, or is designated a local Historic Landmark (H-1), it would receive three (3) points, or if the property is determined eligible for the National Register it would receive two (2) points.
- (b) If any part of the property is located in a National Register Historic District, or is located in a locally designated historic district, it would receive two (2) additional points.
- (c) If the property includes stone fences, the property would receive two (2) additional points. A minimum of 100 linear feet of stone fence is necessary.
- (d) If any part of the property is designated as a national Historic Landmark, it would receive two (2) additional points.

- (e) If the property contains any registered or significant archeological sites, it would receive two (2) additional points.

(13) SCENIC RESOURCES (11 Possible Maximum Points)

The purpose of this criterion is to protect the scenic resources of the rural area. Points in subsections (d) through (f) are in addition to any points accumulated from subsections (a), (b) or (c).

- (a) If the property is located on one of the scenic rural roads identified in Rural Land Use Element of the most recently adopted Comprehensive Plan, the property would receive two (2) points; or
- (b) If the property is located on a local/state designated scenic or historic byway or highway, it would receive three (3) points, or;
- (c) If the property is located on a federally designated scenic or historic byway or highway, it would receive five (5) points.
- (d) If the property is adjacent to I-64 or I-75 and/or is part of the scenic viewshed visible from I-64 or I-75, it would receive two (2) additional points.
- (e) If the property is part of the scenic viewshed visible from publicly owned land such as parks, nature preserves, sanctuaries, historic sites, the property would receive two (2) additional points.
- (f) If the property contains other scenic features, such as tree-lined canopy, or significant view sheds, it would receive two (2) additional points. The scenic features of the property must be documented and independently verified.

(14) ELIMINATION OF UNDEVELOPED NONCONFORMING TRACTS (10 Possible Points)

The purpose of this criterion is to encourage consolidation/elimination of nonconforming tracts of less than ten (10) acres. Such tracts may be part of a platted property or part of a larger parcel. For each nonconforming tract of less than ten (10) acres which is consolidated/eliminated, add one (1) point up to maximum of 10 points.

Section 4: Conservation Easement: evaluation by board.

- (1) A member of the Scott County Rural Land Management Board staff shall view each parcel of eligible land and a written report shall be made to the Scott County Rural Land Management Board prioritizing the Applications according to the selection criteria established pursuant to ARTICLE III, Section 1.

- (2) The Scott County Rural Land Management Board members, as well as the members of any standing or ad hoc committees appointed by the Board, may also view each parcel of eligible land.
- (3) The Scott County Rural Land Management Board may, by majority vote of those voting members present, determine to hear appeals from those landowners who are dissatisfied either with determinations of the Scott County Rural Land Management Board staff as to their eligibility pursuant to ARTICLE III, Section 1 or as to the evaluation and scoring of their Application pursuant to ARTICLE III, Section 3. The Board shall determine by majority vote of those voting members present
 - (a) how appeals will be heard, unless it has adopted a specific bylaw or regulation to govern those proceedings, and
 - (b) whether remedial action will be taken.
- (4) After consideration of the written report of the Scott County Rural Land Management Board staff, as well as the inspections of the parcels of land and the determinations made on appeals, if any, the Scott County Rural Land Management Board shall upon a vote of seven (7) voting members determine with which landowners the Scott County Rural Land Management Board staff shall begin negotiations for purchase of a Conservation Easement. This determination shall be made in accordance with the goal of purchasing Conservation Easements from as many rural landowners as possible in order to accumulate a critical mass of land to be retained in the future for agricultural, rural and natural lands preservation and management purposes, without overlooking the future urban needs of the community. The Board shall not be required to purchase Conservation Easements in the exact order of priority of Applications as determined by the selection criteria established pursuant to ARTICLE III, Section 1, so long as it proceeds in compliance with this Section, pursues the purchase of highest priority Conservation Easements first, gives due consideration to each Application, and gives consideration to all of the goals of the Rural Land Use Element of the most recently adopted Comprehensive Plan.

Section 5: Conservation Easements: negotiation.

- (1) If the Scott County Rural Land Management Board determines to authorize the Scott County Rural Land Management Board staff to begin negotiations for purchase of a Conservation Easement from a particular landowner, the staff shall submit a written offer to purchase to the landowner. The offer shall be accompanied by a proposed deed of easement, whereby the Conservation Easement would be conveyed to the Board or to the Scott County Fiscal Court, as determined by the landowner.
- (2) Within a time period specified by the Scott County Rural Land Management Board staff, the landowner and Staff must come to an agreement regarding the terms of the deed of easement. At a minimum, the deed of easement shall:

- (a) Convey a non-possessory interest in the parcel of land, which shall be consistent with the purposes of this chapter;
- (b) Require the preservation of historic/cultural resources on the parcel of land if the Application received points pursuant to ARTICLE III, Section 3 (12);
- (c) Require the preservation of scenic resources on the parcel of land if the Application received points pursuant to ARTICLE III, Section 3 (13);
- (d) Provide that the landowner shall be liable for the costs of any successful enforcement action brought in the event of breach of any of the terms of the deed of easement and that a lien shall be filed against the parcel of property if the costs are not paid;
- (e) Require the landowner to maintain a land conservation plan and/or forest stewardship plan, approved by the local soil conservation district, and to implement the plan according to the approved schedule; and
- (f) Require the landowner to permit inspection of the parcel of land and/or structures which are subject to the Conservation Easement by the Scott County Rural Land Management Board staff at reasonable times.

Section 6: Conservation Easements; appraisal.

- (1) If the Scott County Rural Land Management Board staff and the landowner reach an agreement as to the terms of the proposed deed of easement, the Staff shall secure an appraisal to determine the Conservation Easement Value. The cost of the appraisal shall be paid for from funds held by the Scott County Rural Land Management Board and the methodology shall be determined by the Board in accordance with the following:
 - (a) The appraisal shall be conducted by a licensed real estate appraiser who is qualified to appraise property for easement purchase. The appraisal shall to the extent possible be based on an analysis of comparable sales.
 - (b) The appraisal shall include, at a minimum, a legal description of the appraised parcel of land, description of improvements, photos of the parcel of land, color aerial photos of the subject parcel of land, pertinent data for each comparable sale, whether the parcel of land has public or private land use restrictions, any attributes which limit the development of the parcel of land and a description of the area or neighborhood in which the parcel of land is located.
 - (c) The appraisal shall contain an analysis of the highest and best use of the parcel of land, the valuation methodology used by the appraiser to determine value, the market value, and the Conservation Easement Value

of the parcel of land. The value of any buildings or other improvements shall appear separately in the appraisal report.

- (2) The Scott County Rural Land Management Board staff shall send a copy of the appraisal to the landowner with a letter advising that within thirty (30) days the landowner must:
 - (a) Signify agreement with the Conservation Easement Value determined by the Scott County Rural Land Management Board appraisal;
 - (b) Withdraw the applicant's Application; or
 - (c) Advise that the applicant is securing an independent appraisal at his expense within the next thirty (30) days. The letter shall also advise the landowner of the additional points which may be secured pursuant to ARTICLE III, Section 7, if the applicant timely notifies the Scott County Rural Land Management Board staff that the applicant will sell the Conservation Easement for less than the Conservation Easement Value, as determined by the Scott County Rural Land Management Board appraisal.

Section 7: Conservation Easements: purchase.

- (1) After each parcel of land has been appraised, a landowner who is willing to sell a Conservation Easement for less than the appraised value shall be awarded not to exceed ten (10) additional points which shall be calculated as follows:
 - 10-24% of appraised value (10 points)
 - 25-49% of appraised value (6 points)
 - 50% of appraised value (4 points)

These points shall be in addition to those calculated pursuant to ARTICLE III, Section 3 and may be considered by the Scott County Rural Land Management Board in determining from which landowners to purchase Conservation Easements in the event funds are not sufficient within the current fiscal year to make purchases from all landowners with which it has begun negotiations pursuant to ARTICLE III, Section 5.

- (2) After receipt of all information relating to an Application, the Scott County Rural Land Management Board may upon a vote of seven (7) voting members authorize its chair to enter into a contract of sale with a landowner for purchase of a Conservation Easement on a parcel of land at a specified price. In making this decision, the Board may consider the Application, the report of the Scott County Rural Land staff, any inspection of the parcel of land by its members, appraisals made both at the expense of the Board and at the expense of the landowner, and any additional points awarded pursuant to subsection (1) of this section. In no

case shall the Board pay more than fair market value for a Conservation Easement.

- (3) Any contract of sale entered into by the Scott County Rural Land Management Board shall be subject to the ability of the landowner to provide good title to the parcel of land, free of encumbrances such as liens, mortgages and other encumbrances which would adversely affect the Scott County Rural Land Management Board's interest in the parcel of land. This provision shall be satisfied if the lienor, mortgagor or other holder of an encumbrance subordinates its interests to the terms of the Conservation Easement.
- (4) The Rural Land Management Board will reserve the right to freeze available County funds until the application qualifies for matching funding from other sources.
- (5) Rescission Rule: A waiting period of thirty (30) days will be provided to each applicant upon contract approval. The purpose of the waiting period is to assure that the landowner fully understands the rules of the easement purchase. During this thirty (30) day waiting period, the landowner can remove their property from further consideration by the Rural Land Management Board. Once the waiting period has expired, the deed will be signed by the appropriate parties, the monies for easement purchase will be provided to the landowner, and the conservation easement will be recorded. In the event a landowner opts out of the easement purchase, certain expenditures by the Rural Land Management Board will have to be repaid by the landowner. These expenditures include but are not limited to the appraisal fee, attorney fees, and other incurred expense's of the Rural Land Management Board.

Section 8: Conservation Easements: recording.

- (1) The purchase price shall be paid for from funds held by the Scott County Rural Land Management Board. Prior to closing, a title search shall be completed by the County Attorney which determines that the landowner has clear, marketable, fee simple title to the parcel of land. The landowner shall execute a deed which shall be recorded by the County Attorney.
- (2) A Conservation Easement may also be acquired by an exchange of the interest which the government owns in other than eligible lands for eligible lands, upon approval by the Scott County Fiscal Court.
- (3) Within ten (10) working days of recording the Conservation Easement, the Scott County Rural Land Management Board staff shall notify the divisions of planning, building inspection, GIS, engineering and historic preservation; the department of finance; and other appropriate government offices, of the Conservation Easement acquisition.
- (4) Any Applications which fulfill the criteria set forth in this chapter and in the regulations adopted by the Scott County Rural Land Management Board, but

which are not offered a contract to purchase because available funds are not sufficient within the current fiscal year, shall be considered in the next Application cycle, provided that the landowner updates the information on the Application. These Applications shall not be given any preference or priority at that time, but will be considered under the terms and conditions of this chapter along with all other Applications submitted at that time. However, payment of a new Application fee shall not be required.

ARTICLE IV

Section 1: Donations of conservation easements.

- (1) The provisions of this chapter shall apply to donations of conservation easements and shall not apply to a donation of any interest in land to the Scott County Rural Land Management Board or the government by a gift or a bequest.
- (2) An Application shall be required to be filed containing only materials specified under ARTICLE III, Section 2.
- (3) The Scott County Rural Land Management Board staff will review the application and issue a recommendation to the Scott County Rural Land Management Board.
- (4) The Scott County Rural Land Management Board shall decide whether to accept the offer by vote of a simple majority of those voting members present. If accepted, the Scott County Rural Land Management Board staff shall notify the landowner of the acceptance.
- (5) The deed shall be executed as specified under ARTICLE III, Section 8 except for the payment of the purchase price. Upon recording, the Scott County Rural Land Management Board staff will provide notice as specified under ARTICLE III, Section 8 (3).
- (6) The Scott County Rural Land Management Board staff shall provide as much assistance and advice as prudent regarding donation of interests in land, but shall not be permitted to offer individual tax advice. The Staff shall maintain professionally prepared resource and reference materials and standard deed restriction and easement documents to assist landowners wishing to donate Conservation Easements or other interests in land.

Section 2: Conservation Easements: enforcement.

- (1) The Scott County Rural Land Management Board staff, under the administrative supervision of the Chief Administrative Officer, shall administer and enforce this chapter. The Scott County Rural Land Management Board staff shall promptly investigate all complaints of violation of Conservation Easements. Additionally, the Scott County Rural Land Management Board staff shall use its best efforts to prevent violations by inspecting the land and structures to which each

Conservation Easement applies at least once annually in order to ascertain whether the landowner is complying with all of the conditions of the deed of Conservation Easement and this chapter. In the case of any investigation or inspection, the Scott County Rural Land Management Board staff shall record all findings and actions in the official records which shall be available in the office of administrative services. If the Scott County Rural Land Management Board staff finds that the provisions of any Conservation Easement are being or have been violated, an order may be issued on behalf of the Scott County Rural Land Management Board to require that the landowner take the action necessary to correct the violation.

- (2) If an order of the Scott County Rural Land Management Board is disregarded, the County Attorney may seek by appropriate proceedings an injunction against any threatened construction or other development or activity on the parcel of land which would violate the Conservation Easement and shall seek a mandatory injunction requiring the removal of any structure erected in violation of a Conservation Easement and the restoration of the land and structures to their original character as of the effective date of the conservation easement, insofar as possible. The County Attorney shall also seek to recover the costs of any successful enforcement proceeding and damages, if appropriate, and pursuant to the terms of the Conservation Easement record a lien against the property until paid.
- (3) After a Conservation Easement has been acquired by the Scott County Rural Land Management Board or the Scott County Fiscal Court, whether by purchase or donation, no building permit shall be issued for any structure or any certificate of occupancy for any use, which would violate the terms of the Conservation Easement.

Section 3: Conservation Easements: Release.

- (1) All Conservation Easements or other interests in land which are purchased pursuant to this chapter shall be perpetual, unless released by the Scott County Rural Land Management Board pursuant to the provisions of this Section.
- (2) At any time fifteen (15) years or more after a Conservation Easement has been purchased on a parcel of land, the then current landowner may file a written request with the Scott County Rural Land Management Board staff for release of any part of the parcel of land which has been annexed into the nearest incorporated city and included within the Urban Service Boundary, as determined by the most recently adopted Comprehensive Plan. In deciding whether to approve the request, the Scott County Rural Land Management Board shall also consider whether the termination of the easement would have an adverse impact upon other properties for which a Conservation Easement or other interests in land designed to preserve and manage agricultural, rural and natural lands has been purchased or donated, or upon other farmland. The Scott County Rural Land Management Board shall approve the request and authorize the chair to

execute a release of the Conservation Easement in recordable form, upon the following conditions:

- (a) The landowner conveys to the Scott County Rural Land Management Board or the Scott County Fiscal Court a Conservation Easement of equal or greater Scott County acreage of a single tract or contiguous tracts and of an equal or greater numerical score determined pursuant to Section 3;
 - (b) The landowner pays to the Scott County Rural Land Management Board a sum equal to the costs incurred by the Board pursuant to subsection (a) of this section, including, but not limited to, survey and engineering fees, title search and title insurance fees, appraisal costs and recording fees; and
 - (c) The landowner pays to the Scott County Rural Land Management Board a sum equal to the amount, if any, by which the actual sum paid by the Board for the original Conservation Easement exceeds the actual sum paid by the landowner for the new Conservation Easement, in the event the landowner conveys to the Board a new Conservation Easement.
- (3) The Scott County Rural Land Management Board shall place the proceeds realized from subsection 2 of this Section in an account dedicated to the purchase of Conservation Easements and shall use the proceeds for the purchase of Conservation Easements consistent with the provisions of this chapter.
 - (4) If the Scott County Rural Land Management Board receives any appropriations, bequests or donations of funds to purchase interests in land, which may by the terms of the appropriation, bequest or donation not be used for purchase of interests in land that are subject to release pursuant to the provisions of this Section. The provisions of this Section shall not apply to donations of easements.

Section 4: Planning Commission duties.

- (1) During every five-year update of the Comprehensive Plan, and at any other time that the Planning Commission reviews the location of the Urban Service Boundary, the Planning Commission shall consider the following matters with regard to the inclusion within the Urban Service Boundary of any property for which a Conservation Easement or other interests in land designed to preserve and manage agricultural, rural and natural lands has been purchased or donated:
 - (a) Whether the inclusion of the property within the Urban Service Boundary is consistent with the goals of the Rural Land Use Element of the most recently adopted Comprehensive Plan;
 - (b) Whether the inclusion of the property in the Urban Service Boundary is in the public interest because development of the property is necessary to accommodate growth and to encourage development in a more contiguous pattern than might otherwise occur; and

- (c) Whether inclusion of the property in the Urban Service Boundary is likely to have an adverse impact upon other properties from which a Conservation Easement has been purchased under the program or upon surrounding farmland.
- (2) In reviewing these issues, the Planning Commission shall consult with and receive recommendations from the Scott County Rural Land Management Board and other entities holding interests in land designed to preserve and manage agricultural, rural and natural lands.