

Chapter 18 Purchase of Development Rights Ordinance

- 18.1 FINDINGS AND DECLARATION OF PURPOSE. The Board of Trustees finds that
- 18.1.1 Freedom Township is a desirable place to live, work and visit in large part because of the availability of farmland and the relief that agricultural fields bring. Scenic views, agriculture, open spaces and wildlife habitat are all considered invaluable natural and aesthetic resources and should be protected.
 - 18.1.2 The climate, variety of soils and terrain make the Township well suited to the production of a great number of row crops, specialty crops and livestock, including many foods available for direct human consumption. These resources include several thousand acres of land currently in agricultural production, and other woodland, wetland and open lands adjacent to these farmlands. Such lands provide unique, aesthetic and economic benefits to the citizens of the Township and are an important part of the Township's natural and agricultural heritage.
 - 18.1.3 Freedom Township is experiencing substantial residential development, however, because of its location to the highly urbanized areas of southeast Michigan, its attractive landscapes and its excellent public schools. The same characteristics which have made this area so desirable for agricultural production and recreation also make it attractive for residential sites.
 - 18.1.4 The agricultural industry in Freedom Township provides the opportunity to harvest locally grown foods to sell at roadside stands, farmer's markets, local retail food stores and other local outlets in the area. Land suitable for farming is an irreplaceable natural resource with soil and topographic characteristics that have been enhanced by generations of agricultural use. When such land is converted to residential or other more developed uses which do not require those special characteristics, a critical community resource is permanently lost to the citizens of Freedom Township.
 - 18.1.5 It is the policy of the State of Michigan and Freedom Township to protect, preserve and enhance agricultural lands as evidenced by the Township General Development Plan, the Township Zoning Act, MCLA 125.271 et seq. and other state and local statutes and policies. Ordinances regulating land use by zoning and subdivision control enacted by the Township also serve these purposes. These measures by themselves, however, have not been effective in providing long-term protection of farmland under the pressure of increasing residential development.
 - 18.1.6 Agriculture in Freedom Township produces a notable array of products, from corn and soybeans to vegetables and fruit to cattle. The Township's agricultural acreage contributes tens of thousands of dollars to the local economy in direct sales of agricultural products at the farm gate.
 - 18.1.7 Generally, farmland which are close to urban centers have a greater market value for future residential development than their market value for farming or open space. Prime agricultural land often has the same features (such as perkable soils) that are components of desirable residential areas. This fact encourages the speculative purchase of these lands at high prices for future residential development, regardless of the current zoning of such lands. Farmland which has a market value greater than its agricultural value does not attract sustained agricultural investment and eventually this land is sold by farmers and removed from agricultural uses.
 - 18.1.8 The permanent acquisition of voluntarily offered interests in farmland within the Township, as provided in this Ordinance and as authorized by the Constitution and statutes of the State of Michigan, will permit these lands to remain in agricultural use near developing urban areas and provide long-term protection for the public interests which are served by farmland in the Township
 - 18.1.9 Properties on which the Township has purchased the development rights should remain substantially undeveloped in order to promote their agricultural use
 - 18.1.10 The acquisition of interests in farmland as provided in this Ordinance is a public purpose of Freedom Township as provided in this Ordinance and financing such acquisition requires that the Township enter into purchases or installment purchases not to exceed statutory limits.
 - 18.1.11 This ordinance is authorized by Sections 31 to 33 of the Township Zoning Act, MCL 125.301 to 125.303.

18.2 DEFINITIONS

- 18.2.1 "Supervisor" means the Freedom Township Supervisor.
- 18.2.2 "Agricultural Rights" means an interest in and the right to use and possess land for purposes and activities related to open space, natural habitat, horticultural and other agricultural uses.
- 18.2.3 "Agricultural Use" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including fruits, nuts, vegetables, greenhouse plants, Christmas trees and lumber, forages and sod crops, grains and feed crops, dairy and dairy products, livestock (including breeding and grazing), poultry and other similar uses and activities.
- 18.2.4 "Appendix A" of this Ordinance means the maps which describe types and locations of farmland for purposes of priority of acquisition as provided in this Ordinance. Official large-scale maps describing such areas in detail are available through the Township and are incorporated herein by this reference. Smaller scale maps generally illustrating such areas are appended to this Ordinance for more readily accessible public reference.
- 18.2.5 "Chairperson" means the member of the Farmland Preservation Board who is elected Chairperson by the Preservation Board.
- 18.2.6 "Board of Trustees" means the Freedom Township Board of Trustees
- 18.2.7 "Development" means an activity which materially alters or affects the existing conditions or use of any land.
- 18.2.8 "Development Rights" means an interest in and the right to use and subdivide land for any and all residential, commercial and industrial purposes and activities which are not incident to agriculture and open space.
- 18.2.9 "Development Rights Easement" means a grant by an instrument whereby the owner relinquishes to the public in perpetuity the right to develop the land as may be expressly reserved in the instrument, and which contains a covenant running with the land not to develop, except as this right is expressly reserved in the instrument.
- 18.2.10 "Eligible Land" means farmland for which the purchase of "development rights easements" with tax funds and other monetary sources are authorized pursuant to this Ordinance.
- 18.2.11 "Farmland and Open Space Land" means those lands shown in the Township Master Plan as being zoned for agricultural uses, as adopted and amended from time to time by the Township Planning Commission.
- 18.2.12 "Farmland and Open Space Preservation Board" means the board formed pursuant to Section 6 of this Ordinance to advise the Board of Trustees in the selection of Eligible Lands for easement purchases.
- 18.2.13 "Full Ownership" means fee simple ownership.
- 18.2.14 "Governmental Agency" means the United States or any agency thereof, the State of Michigan or any agency thereof or any Township, City or municipal corporation
- 18.2.15 "Owner" means the party or parties having the fee simple interest in land.
- 18.2.16 "Parcel" means all property under a single ownership that is included in the application.
- 18.2.17 "Permitted Use" means any use contained within a development rights easement essential to the farming.
- 18.2.18 "Residential Development Rights" means the right to sell portions of a property, or to construct houses on a property, for residential uses not related to the agricultural use of the property.
- 18.2.19 "Substantially Undeveloped Land" means land on which there is no more than one residential dwelling unit (exclusive of housing units directly associated with the farming operation) for each 40 acres of land.
- 18.2.20 "Value of Development Rights" means the difference between the fair market value of full ownership

of the land (excluding the buildings thereon) and the fair market value of the agricultural rights plus any residential development rights to be retained by the owner.

18.3 AUTHORIZATION

- 18.3.1 The Board of Trustees is hereby authorized to expend revenues to acquire property interests in the farmland described and prioritized in Section 5 of this Ordinance. The property interest acquired may either be the development rights, or any lesser interest, easement, covenant or other contractual right. Such acquisition may be accomplished by purchase, gift, grant, bequest, devise, covenant or contract but only at a price which is equal to or less than the appraised value determined as provided in this Ordinance. The revenues shall be used to acquire such property interests only upon application of the Owner and in a strictly voluntary manner
- 18.3.2 The Township is authorized to enter into cash purchase and/or installment purchase contracts, and agreements for the receipt of tax deductible donations of easements, consistent with applicable law. When installment purchases are made, the Township is authorized to pay interest on the declining unpaid principal balance at a legal rate of interest consistent with prevailing market conditions at the time of execution of the installment contract for the tax-exempt status of such interest.
- 18.3.3 The Board of Trustees is further authorized to contract with recognized and legally established nonprofit land trusts (for example, American Farmland Trust and Washtenaw Land Trust) or other experienced and qualified nonprofit groups to participate jointly in the acquisition of interests in eligible lands.
- 18.3.4 The Township may contract with recognized and legally established nonprofit land trusts or other experienced and qualified nonprofit groups that would share in the process of negotiating easements and establishing both the baseline studies and the procedures for monitoring of any conservation easements acquired under this Ordinance and would be done in accordance with "The Standards and Practices Guidebook" issued in 1989 by the Land Trust Alliance.

18.4 RETAINED RESIDENTIAL DEVELOPMENT RIGHTS

- 18.4.1 To promote "agricultural use" of properties on which the Township has purchased the Development Rights, it has been determined that such properties should remain substantially undeveloped.
- 18.4.2 It may be in the best interest of property owners and of the program to purchase development rights that property owners retain some residential development rights so long as the land remains substantially undeveloped. When property owners retain some development rights their land value remains higher than it would be if they sold all their development rights and the value of the development rights to be purchased is correspondingly reduced
- 18.4.3 Applications for the sale of development rights may include a provision to retain the right to build residential dwellings (residential development rights), provided that no retained residential development rights would result in more than one dwelling unit per forty (40) acres of land (exclusive of housing units directly associated with the farming operation). This is not to preclude the sale of all the remaining dwelling units in excess of one dwelling unit per forty acres of land.
- 18.4.4 The building locations for retained residential development rights may be restricted in the negotiated "conservation easement" in order to protect other important features of the property. Building locations and lot sizes must also conform to existing zoning in the Township where the property is located.

18.5 ELIGIBLE LANDS AND PRIORITY OF ACQUISITION

Revenues shall be used to purchase property interests in the following lands in the following order of their priority subject to the provisions of Section 7.

- 18.5.1 *Primary Criteria That All Properties must Meet.* Voluntary application by the property owner and those lands shown in the Township Master Plan as being zoned for agricultural uses, or as rural residential where agriculture is practiced on larger parcels, as adopted and amended from time to time by the Township Planning Commission.
- 18.5.2 *Criteria for Selection.* The following criteria shall be used in determining the order in which applications will be prioritized in any Selection Round to purchase development rights on all eligible lands for which

complete applications have been received by the Township. This numerical ranking system has been developed to prioritize farm sites for the purchase of conservation easements. After an initial screening (for hazardous waste and agricultural zoning, e.g.), sites will be evaluated using this system. It is the intention of the users of this system to direct efforts toward high quality farmland and open space in areas of the Township where its preservation is most appropriate.

Appropriateness is determined by favorable natural conditions and location factors which make farming a viable undertaking both currently and in the future. Areas targeted for preservation are those lands shown in the Township General Development Plans as being zoned for agricultural uses, as adopted and amended from time to time by the Township Planning Commission.

DESCRIPTION OF THE SYSTEM. The farmland ranking system consists of four sections as follows. The maximum point value is 100, with some additional points possible in the event of a tie.

PART	TOTAL POINTS
I Characteristics of the Farmland	34
II Stewardship of the Land	22
III Pressure for Conversion to Nonfarm Use	12
IV Long-range Planning Considerations	32
V Tiebreakers	10

PRIORITIES. The point value arrived at through the use of this system will be used to prioritize farm sites for purchase of conservation easements. Higher point values indicate higher priority for purchase. In the case of a tie using the 100 point scale, the tiebreaking categories may be used. All property in a single ownership may be included in one application. Contiguous properties under the same ownership will be treated as a single entity.

Note: An explanation of terms and parameters used in the system appears in Appendix B.

PART I
CHARACTERISTICS OF THE FARMLAND
MAXIMUM POINTS = 34

A. *Type of Agricultural Land (See Appendix for explanation of terms)*

Category	Score
Essential	15
Secondary	7
Reserve	3

B. *Size of Parcel Offered for Development Rights Purchase (See Appendix)*

Acreage	Score
80 acres or more	8
40 to 79.9 acres	5
20 to 39.9 acres	2

C. *Proximity to Protected Land (See Appendix)*

Distance	Score
Adjacent or within one mile	7
Between one and two miles	4
More than two miles	1

D. *Farm Buildings*

Buildings	Score
Usable, functional farm buildings on site	4

Usable, functional farm buildings within two miles 2

PART II
STEWARDSHIP OF THE LAND
MAXIMUM POINTS = 22

A. *Conservation Plans (See Appendix)*

<u>Extent of Conservation Plan</u>	<u>Score</u>
Conservation plan fully implemented or conservation practices used to the fullest extent necessary	8
Conservation plan partially implemented or some practices used	4

B. *Livelihood*

<u>Dependence on Farm Income</u>	<u>Score</u>
Farming contributes 50% or more of owner's gross annual income	4
Farming contributes less than 50% of owner's gross annual income	2

C. *Commitment to Farming (See Appendix)*

<u>Enrollment in P.A. 116 or Duration of Ownership</u>	<u>Score</u>
Farm is enrolled in P.A. 116 and land has been in the same ownership for at least 50 years	10
Farm is enrolled in P.A. 116 or has been in the same ownership for at least 50 years	6

PART III
PRESSURE FOR CONVERSION TO NONFARM USE
(OR SITE DEVELOPMENT CAPABILITIES AND LIMITATIONS)
MAXIMUM POINTS = 12

A. *Amount of Road Frontage*

<u>Frontage</u>	<u>Score</u>
1,000 feet or more	4
501 to 999 feet	2

B. *Percentage of Site Containing Steep Slopes (See Appendix)*

<u>Steep Slopes</u>	<u>Score</u>
0 to 9.9%	4
10 to 19.9%	2

C. *Amount of Wetlands and/or Floodplain*

<u>Wetlands/Floodplain</u>	<u>Score</u>
0 to 9.9%	4
10 to 39.9%	2

PART IV
LONG-RANGE PLANNING CONSIDERATIONS
MAXIMUM POINTS = 32

A. *Current Adjacent Zoning Classification*

<u>Percent of Perimeter in Agricultural Zoning</u>	<u>Score</u>
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90% or more 5
 75-89% 3
 50-74% 2
 25-49% 1

B. *Current Adjacent Land Use*

Percent of Perimeter in Agricultural Use

Score

75-89% 3
 50-74% 2
 25-49% 1

C. *Current Adjacent Enrollment in P.A. 116 (See Appendix)*

Percent of Perimeter in P.A. 116

Score

75-89% 3
 50-74% 2
 25-49% 1

D. *Proximity to Water and/or Sewer Lines*

Distance

Score

Two miles to five miles 2

E. *Scenic, Historical or Architectural Features (See Appendix)*

Features

Score

or architectural structures 4
 Farm site provides an accent 2

F. *Natural Features*

Features

	LEGISLATIVE		HISTORY	
	Date passed	Date published	Where published	Ordinance Number
Adopted	9/10/2002	10/3/2002	The Manchester Enterprise	18
Amended				