

WASHTENAW COUNTY PURCHASE OF DEVELOPMENT RIGHTS ORDINANCE

Date of Adoption by Board of Commissioners—June 17, 1998

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ORDINANCE NO. _____

AN ORDINANCE creating the Washtenaw County Purchase of Development Rights ("PDR") Program

which provides for the acquisition of voluntarily offered Development Rights in Agricultural Land and Other Eligible Land in Washtenaw County, authorizes the cash purchase and /or installment purchase contracts of such Development Rights and provides the procedure and standards governing the purchase of such Development Rights.

BE IT ORDAINED BY THE WASHTENAW COUNTY BOARD OF COMMISSIONERS:

SECTION 1: Findings and Declaration of Purpose

The Washtenaw County Board of Commissioners finds that:

- (1) Washtenaw County is a desirable place to live, work and visit in large part because of the availability of agricultural land. Agriculture is an invaluable natural and aesthetic resource and should be protected.
- (2) The climate, variety of soils and terrain make the County well suited to the production of a great number of row crops, specialty crops and livestock, including the highest production of sheep of any county in Michigan. These resources include more than 170,000 acres of land currently in agricultural production. Such lands provide unique, aesthetic and economic benefits to the citizens of the County and are an important part of the County's natural and agricultural heritage. Washtenaw County is experiencing substantial residential development, however, because of its location to the highly urbanized areas of southeast Michigan, its strong economy and its excellent public schools. The same characteristics that have made this area so desirable for agricultural production and recreation also make it attractive for residential sites.
- (3) The agricultural industry in Washtenaw County provides the opportunity to harvest locally grown fruits and vegetables to sell at roadside stands, farmer's markets, local retail food stores and other local outlets in the County. 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 that do not require those special characteristics, a critical community resource is permanently lost to the citizens of Washtenaw County.
- (4) It is the policy of the State of Michigan and Washtenaw County to protect, preserve and enhance agricultural lands as evidenced by Washtenaw County Land Use Policies for land use management, the Farmland and Open Space Preservation Act (P.A. 116 of 1974, MCLA 554.702), the Conservation and Historic Preservation Easement Act (P.A. 197 of 1980, MCLA 399.251), portions of the County Zoning Act, specifically P.A. 569 of 1996, MCLA 125.231 through MCLA 125.240 and other state and local statutes and policies. These measures by themselves, however, have not effectively provided long-term protection of agricultural areas from the pressure of increasing residential and commercial development.
- (5) Agriculture in Washtenaw County produces a notable array of crops and livestock including, but not limited to, corn, soybeans and other vegetables and fruit, as well as hogs, sheep and dairy and beef cattle. Of the County's nearly 460,000 acres, approximately 170,000 acres are involved in agricultural production resulting in over \$50 million in annual agricultural sales within Washtenaw County.
- (6) Generally, agricultural lands that are close to urban centers have a greater market value for future residential development than their market value for farming. Prime agricultural land 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. Agricultural land which has a market value greater than its agricultural value does not attract sustained agricultural investment and eventually is sold by farmers and removed from agricultural use.

(7) The County's PDR Program will sustain the preservation of agricultural land near developing urban areas and provide long-term protection for the public interests served by agricultural land in the County.

(8) Properties on which the County has purchased the Development Rights should remain substantially undeveloped in order to promote their agricultural character.

(9) The County's purchase of Development Rights in agricultural land and other eligible land as provided in this Ordinance is a public purpose of Washtenaw County and financing such purchases requires that the County enter into agreements with property owners to obtain such Rights.

SECTION 2: Definitions

1. "Administration" means the Washtenaw County Administrator and related staff.

(2) "Agricultural Land" means substantially undeveloped land devoted to the production of farm products. Farm products means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae (deer), livestock, including breeding and grazing, equine (horses), fish and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms and other similar products, or any other product which incorporates the use of food, feed, fiber or fur as determined by the Michigan Commission of Agriculture. **"Agricultural land" also includes the terms, "farm, farm operation, farm product and generally accepted agricultural and management practices" as defined by the Michigan Right to Farm Act, MCLA 286.471 et seq.**

(3) "Agricultural Rights" means an interest in and the right to use and possess land for purposes and activities related to horticultural and other agricultural uses.

(4) "County Board" means the Washtenaw County Board of Commissioners.

(5) "Development" means an activity that materially alters or affects the existing conditions or use of any land.

(6) "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 that are not incident to agricultural use.

(7) "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.

(8) "Full Ownership" means fee simple ownership.

(9) "Governmental Agency" means the United States or any agency thereof, the State of Michigan or any agency thereof, any Township, City or Municipal Corporation.

(10) "Other Eligible Land" means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a state or federal limited access highway.

(11) "Parcel" means all property under a single ownership that is included in the application.

(12) "Permitted Use" means any use contained within a development rights easement essential to the farming operation or which does not alter the agricultural character of the land.

(13) "Property Owner" means the party or parties having the fee simple interest in land.

(14) "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.

SECTION 3: Authorization

(1) Pursuant to P.A. 569 of 1996, MCLA 125.231 through MCLA 125.240, the County Board is authorized to purchase the Development Rights of agricultural land and other eligible land throughout the County. Such acquisition may be by purchase, gift, grant, bequest, devise, covenant or contract but only at a price which is equal to or less than the appraised value of the Development Rights as determined in this Ordinance. The County shall only purchase Development Rights that are voluntarily offered for sale by an owner of agricultural or other eligible land.

(2) The County 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 County 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.

(3) The County may contract with recognized and legally established nonprofit land trusts or other experienced and qualified nonprofit groups that would assist the County in establishing both the baseline studies and the procedures for monitoring of any Development Rights easements acquired under this Ordinance. Such studies and monitoring must conform to "The Standards and Practices Guidebook" issued in 1993 by the Land Trust Alliance.

(4) County owned interests in non-agricultural land may be exchanged for property interests in agricultural land or other eligible land on an equivalent appraised value basis. If the property interest exchanged is not exactly equal in appraised value, cash payments may be made to provide net equivalent value in the exchange.

SECTION 4: Agricultural Lands Preservation Advisory Committee

(1) The County Board shall create a nine-member body under this Ordinance to be named the

Agricultural Lands Preservation Advisory Committee ("ALPAC"). ALPAC shall function as an advisory body to assist the County Board in determining whether it should purchase the Development Rights on a particular parcel as well as how much the County should pay for those rights. ALPAC shall be staffed by Washtenaw County Metropolitan Planning Commission staff.

(2) ALPAC members shall be County residents and be appointed from the following groups: (a) one representative of environmental/conservation groups or natural resources professionals; (b) one representative from real estate development interests; (c) one private sector/academic land use planning professional; (d) four representatives who are engaged in agricultural production or operate agricultural businesses; (d) and two members of the general public. In addition, the County Board **shall appoint One County Commissioner who shall participate in ALPAC as a non-voting ex-officio member**. If the Board of Commissioners is unable to fill a specially designed slot on the Committee with an individual from the designated area, it may appoint a general public member to fill that slot.

(3) To the extent of available funding, ALPAC may consult experts.

(4) ALPAC members shall serve two-year terms; except that the initial term of three of the agricultural members as well as one member from the environmental/conservation, real estate development and private sector/academic land use planner groups shall be three years. Members may be re-appointed to successive terms by the County Board. The County Board shall have the discretion to remove ALPAC members for good cause. Members shall not be compensated for their services but shall be reimbursed for attending meetings and for mileage as provided under the Rules of the County Board.

(5) The County Board retains the right to terminate ALPAC upon approval of 2/3 of the County Board elected and serving. If the County Board terminates ALPAC, it will remain responsible for monitoring the existing Development Rights purchased by the County.

(6) Individual ALPAC members shall disclose any potential conflict of interest and abstain from any discussion or voting on the selection of agricultural land or other eligible land in which the member has any interest.

SECTION 5: Application Process

Prior to accepting any applications for the County's PDR Program, the County shall submit this Ordinance, once approved by the County Board, to each local unit where it intends to purchase Development Rights. The County shall not purchase Development Rights from any property owner located in a local unit that has failed to approve the use of this Ordinance to purchase Development Rights in that local unit.

Once the local units have either accepted or rejected the use of this Ordinance within the local unit, the County shall, on an annual basis, conduct a voluntary property selection process (herein called the "Selection Round") designed to identify agricultural land and other eligible land suitable for the County's PDR Program. This process shall be conducted as follows:

(1) The County Board shall begin each Selection Round by giving notice that the County is accepting applications from property owners of agricultural land and other eligible land to purchase Development Rights. This notice shall run for one consecutive week in a newspaper of general circulation in Washtenaw County. In addition, the notice shall be placed in the Washtenaw County Extension Service

Newsletter and the Washtenaw County Farm Bureau Newsletter. The notice shall describe the properties eligible for purchase in the Selection Round and shall invite the owners of such properties who are interested in selling their Development Rights to the County to send applications expressing such an interest to County Administration. The County shall make application forms available to property owners and will inform property owners where such applications may be obtained. The Selection Round shall last for three months from January through March of each year.

(2) At the close of the Selection Round, County Administration shall forward all applications to **County Planning Staff which shall complete a checklist containing the eligibility requirements listed in Section 7, Part I of this Ordinance for each parcel proposed to be included in the County's PDR program. The completed checklist will provide an initial determination of whether the property qualifies for the County's PDR program. County Planning shall send the completed checklist for each property to the local unit of government where the property is located and to the property owner.**

(3) **After County Planning completes the eligibility checklist and sends it to the local unit and the property owner, it shall forward the application to the local governmental unit having jurisdiction over the property for review and approval. A letter shall accompany the application to the local unit indicating that the local unit must approve or reject the application before the County's deadline for inclusion in the PDR program, which shall be set by the County on an annual basis.** If a local governmental unit refuses to approve a property owner's application to participate in the County's PDR program for any reason, the County shall reject the application and take no further action in the matter. **Planning staff shall obtain preliminary appraisals for those properties, which comply with the Checklist and have been approved by the local unit**

(4) **After the local governmental unit approves a property owner's County PDR application, County Administration shall forward the application and the preliminary appraisal to ALPAC and the County Planning Commission.** ALPAC shall give **the County Board** an advisory opinion on the following issues: (1) should the County purchase the Development Rights under review; and (2) how much the County should pay for those Rights. To that extent, ALPAC shall rank the applications based on the criteria in this Ordinance and determine which properties should **receive final** appraisals for possible inclusion in the PDR program. In its recommendation to **the County Board**, ALPAC shall state the reasons why it believes a property should not be included in the County's PDR Program. **ALPAC shall copy its recommendation to the Planning Commission. The Planning Commission shall consider how the application affects the following areas: (1) long range planning; (2) existing land use; (3) current zoning; (4) compliance with County and local unit master plans; (5) likelihood that property will be converted to non-farm use; and (6) impact on the community as a whole. Upon completing its review, the Planning Commission shall give an advisory opinion to County Administration, and copy that opinion to ALPAC. The Planning Commission and ALPAC shall co-operate as necessary to fulfill their respective duties under this Ordinance.**

(5) **Final appraisals shall be completed after ALPAC has ranked the properties and the Planning Commission has completed its review.** County selected State Certified Appraisers shall complete the **final** appraisal. The selected appraiser shall immediately disclose any conflict of interest he/she might have in appraising the property. The County shall choose an alternate appraiser when the County's initial appraiser discloses a conflict of interest. **Final appraisals must** be in writing and shall be furnished to the property owner for review. The County or the property owner may point out errors of fact in any

appraisal, provided, however, that only the appraiser may correct the appraisal. A property owner who disagrees with the County's appraisal may, within a reasonable time, obtain a second appraisal from a State Certified Appraiser at the owner's expense. The appraisal shall then be filed with County Administration, which will send a copy of the appraisal to ALPAC as soon as it is available.

(6) County Administration shall review the recommendations of **ALPAC and** the Planning Commission and make a final recommendation to the County Board on whether the Development Rights should be purchased and at what price. **County Administration shall give special weight to and notify the County Board of properties whose owners are able to attract matching funds or are willing to accept less than market value.**

(7) The County Board at a regularly scheduled or special meeting shall make the final decision on whether to purchase the Development Rights and at what price. The County Board has complete discretion, **regardless of property ranking or recommendations by ALPAC, Planning and Administration,** to determine whether to purchase the Development Rights and may decide not to buy all or any of the Development Rights on a particular parcel if it finds that it is in the best interest of the PDR Program. The County Board may direct Administration to negotiate for a lower price and/or seek outside funding for the purchase of Development Rights on any parcel under consideration.

(8) After agreeing to purchase the Development Rights on a parcel of land, the County Board shall direct the Office of Corporation Counsel to complete a Development Rights Easement to be signed by the County and the property owner. The Easement shall be drafted so that it may be legally recorded in the County Clerk's office and shall specifically contain a provision indicating that the Easement runs with the land and may not be terminated except as provided in this Ordinance.

(9) The County shall notify the appropriate local governmental unit on its decision for each pending Development Rights application.

SECTION 6: Criteria for Deciding Whether to Purchase the Development Rights from Agricultural Land and Other Eligible Land

The County Board shall use the criteria **below** when **deciding whether** to purchase the development rights of a particular parcel of property.

Criteria for Selection:

The following criteria shall be used in **assisting ALPAC in** determining the order in which applications will be prioritized in any Selection Round to purchase Development Rights on all agricultural and other eligible lands for which the County has received complete applications.

This numerical ranking system has been developed to prioritize agricultural and other eligible land for

purposes of the County's PDR Program. After an initial screening for eligibility, Part I of the ranking system, sites will be evaluated using this system. It is the intention of the users of this system to direct efforts toward high quality agricultural land and other eligible land in areas of the County.

Appropriateness is determined by favorable natural conditions and location factors that make agricultural uses a viable undertaking both currently and in the future. Areas targeted for preservation are those lands shown in Township Master Plans as being zoned for agricultural use as adopted and amended from time to time by the respective Township Planning Commissions.

DESCRIPTION OF THE SYSTEM. The farmland ranking system consists of five sections. **Section I contains eligibility requirements which will be used in the checklist referenced in Article 6, Section 2. Sections II, III and IV address topics which ALPAC will use to rank the properties. Section V contains the criteria used by the Planning Commission when it evaluates the properties. Points are only awarded for Sections II, III and IV.** The maximum point value is 100. Some of the criteria result in negative points. The purpose of the negative points is to discourage the preservation of agricultural land that is not of high quality.

PART TOTAL POINTS

I – Eligibility --

II – Characteristics of the Agricultural Land 56

III – Potential for Development Pressure 33

IV – Stewardship of the Land 11

V – Long Range Planning Considerations --

PRIORITIES. The point value arrived at through the use of this system will be used to prioritize agricultural land and other eligible land for purchase of Development Rights. Higher point values indicate higher priority for purchase. All property in a single ownership may be included in one application.

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

PART I ELIGIBILITY

County Staff reviews the following screening factors to determine eligibility and forwards their findings to both the Agricultural Lands Preservation Advisory Committee and Washtenaw County Metropolitan Planning Commission for their review.

A. Local Government's Approval of the County Purchase of Development Rights Ordinance

Has the local government approved the County's Purchase of Development Rights Ordinance?

If yes then proceed to Criteria B of Part I

If no then reject application

B. Local Government's Approval of Application

Does the local government approve of the parcel's nomination for development rights purchase from the County?

If yes then proceed to Criteria C of Part I

If no then reject application

C. Development Rights Purchased by the State

Has the Development Rights on the nominated parcel not been purchased by the State?

If yes then proceed to Criteria D of Part I

If no then reject application

D. Conservation Easements Placed on the Property

*Has a conservation easement not been placed on the nominated parcel? **These are conservation easements with a private conservancy which permanently restrict development on the nominated parcel.***

If yes then proceed to Criteria E of Part I

If no then reject application

E. Permitted use According to Local Zoning

Is agriculture a permitted use according to the zoning designation for the nominated parcel?

Or if the nominated parcel is considered "other eligible land" as defined in this ordinance, is the current or proposed use of the nominated parcel a permitted use according to the local government's zoning ordinance?

If yes then proceed to Criteria F of Part I.

If no then recommend rejection of application.

F. Current Land Use of Nominated Property

Is the current primary land use of the nominated parcel agriculture based on the current Agricultural Lands Model and most recent land use inventory available from the Washtenaw County Metropolitan Planning Commission or is the nominated parcel considered "other eligible land" as defined in this ordinance?

If yes then proceed to Criteria G of Part I.

If no then recommend rejection of application.

G. Local Government's Master Plan

Is the nominated parcel located in an area designated as one of the following land use designations according to the most recently adopted local government's master land use plan?

- *Essential Agriculture*
- *Important Farmland*
- *General Agriculture*
- *Agriculture*
- *Rural Agriculture*
- *Secondary Agriculture*
- *Resource/Recreation Conservation, or Open Space, or Greenbelts (outside sewer service areas only)*

Or is the nominated parcel considered "other eligible land" as defined in this ordinance?

If yes then proceed to Criteria H of Part I.

If no then recommend rejection of application.

H. Washtenaw County Land Use Policies

Is the nominated parcel located within one of the following land use policy designations according to the Washtenaw County Land Use Policies?:

- *Important Agricultural Lands*
- *Secondary Agricultural Lands*
- *Major Open Space (outside sewer service boundaries only) or*
- *Highly Fragile Lands (outside sewer service boundaries only)*

Or is the nominated parcel considered "other eligible land" as defined in this ordinance?

If yes then proceed to Criteria I of Part I.

If no then recommend rejection of application

I. Contamination on the Site

*Is the site free of any **known** environmental contamination?*

If yes then proceed to Part II.

If no than recommend rejection of application.

PART II - CHARACTERISTICS OF THE AGRICULTURAL LAND

Responsibility for Review: Agricultural Lands Preservation Advisory Committee

MAXIMUM POINTS = **56**

A. Type of Agricultural Land or Current Land Use Based on the Current Washtenaw County Agricultural Lands Model and the Most Recent Land Use Inventory Available from the Washtenaw County Metropolitan Planning Commission

Category Score

Essential Agriculture **+30**

Secondary Agriculture **+20**

Reserve Agriculture **+10**

Open Space (outside sewer service boundaries only) **0**

All other land uses **-30**

B. Size of Parcel Offered for Development Rights Purchase

Acreage Score

100 acres or more **+10**

80 to 99.9 acres **+8**

60 to 79.9 acres **+6**

40 to 59.9 acres **+4**

20 to 39.9 acres **+2**

Less than 20 acres 0

C. **Average Farm Product Sales From Parcel Offered for Development Rights**

Purchase over the Last Five Year Period (See Appendix)

Sales Score

Gross Annual Receipts of \$60,000.00 or more +**5**

Gross Annual Receipts of \$50,000 to \$59,999.99 +**4**

Gross Annual Receipts of \$40,000 to \$49,999.99 +**3**

Gross Annual Receipts of \$30,000 to \$39,999.99 +**2**

Gross Annual Receipts of \$10,000 to \$19,999.99 +**1**

Gross Annual Receipts of less than \$10,000.00 0

D. **Farm Buildings**

Buildings Score

Usable, functional farm buildings on site +**2**

Usable, functional farm buildings within two miles +**1**

No usable, functional farm buildings within two miles 0

E. **Amount of Wetlands and/or Floodplain**

Percentage of Nominated Parcel Containing

Wetlands and/or Floodplains Score

0 to 9.9% +3

10 to 24.9% +2

25 to 49.9% +1

50% or more 0

F. Amount of Steep Slopes

Percentage of Nominated Parcel Containing Steep Slopes

(See Appendix) Score

0 to 4.9% +3

5.0 to 9.9% +2

10.0 to 14.9% +1

15.0% or more 0

I. Scenic, Historical or Architectural Features (See Appendix)

Features

Farm site provides a vista or has unique historical or architectural features, including architecturally significant barn(s) or has been designated as a centennial farm +3

Farm site provides an accent +1

No contribution or not significantly visible 0

PART III - POTENTIAL FOR DEVELOPMENT PRESSURE

Responsibility for Review: Agricultural Lands Preservation Advisory Committee

MAXIMUM POINTS = 33

A. Current Adjacent Zoning

Percent of Perimeter in Agricultural Zoning Score

- 100% +6**
- 90% to 99% +4**
- 75-89% +3**
- 50-74% +2**
- 25-49% +1**
- Less than 25% 0**

B. Adjacent Land Use Designation According to Local Government's Master Plan

Percent of Perimeter Designated Agricultural Use Score

- 100% +6**

90% to 99% +4

75-89% +3

50-74% +2

25-49% +1

Less than 25% 0

C. Amount of Road Frontage

Frontage Score

1,000 or more feet +2

500 to 999 feet +1

0 to 499 feet 0

D. Proximity to Freeway Interchange

Proximity Score

2 miles or more away +2

1 mile or more, but less than 2 miles +1

Less than 1 mile 0

E. Proximity to Existing and Proposed Public Sanitary Sewer/Water Line

Proximity Score

2 miles or more away +6

1 mile or more, but less than 2 miles +4

1/2 mile or more, but less than 1 mile +2

Less than 1/2 mile 0

F. Percentage of Contiguous Land Owned by the Property Owner, Defined as at Least a 10 Percent Interest in Parcels that are Adjacent to Each Other, that is Nominated for a Development Rights Purchase

Percentage Score

100% +8

90 to 99% +6

70 to 89% +4

50 to 69% +2

Less than 50% 0

G. Local Zoning Techniques and Other Preservation Programs

The local government uses zoning techniques and other

preservation programs which are supportive of farmland preservation (local PDR program, local TDR program, cluster zoning, sliding scale zoning, voluntary agricultural security areas, Planned Unit Development, etc) Score

3 or more zoning techniques and preservation programs +**3**

2 zoning techniques and preservation programs +**2**

1 zoning technique and preservation programs +**1**

No zoning techniques or preservation programs that support farmland preservation 0

PART IV - STEWARDSHIP OF THE LAND

Responsibility for Review: Agricultural Lands Preservation Advisory Committee

MAXIMUM POINTS = **11**

A. Conservation Plan

Extent of Conservation Plan Score

NRCS conservation plan fully implemented or conservation practices used to the fullest extent necessary +**3**

NRCS plan partially implemented or some practices used +**1**

Limited or no conservation practices used 0

B. Proximity to Existing Private Protected Land

(i.e. conservation easements, other County, Local, or State PDR agreements, parcels enrolled in P.A. 116)

Proximity Score

Directly adjacent +4

Not adjacent, but within ½ mile +2

Not adjacent and not within ½ mile 0

C. Proximity to Existing Public Protected Land

(i.e. state, county, regional, city, village and township parkland, state game areas, or any other public land protected from development)

Proximity Score

Directly adjacent +4

Not adjacent, but within ½ mile +2

Not adjacent and not within ½ mile 0

PART V - LONG RANGE PLANNING CONSIDERATIONS

Responsibility for Review: Washtenaw County Metropolitan Planning Commission

A. Local Zoning

What is the zoning for the nominated parcel according to the local zoning ordinance?

Agricultural (defined as those zoning districts with a intent or purpose of agricultural land use)

Resource/Recreation Conservation

All other Zoning Districts

B. Local Government's Master Plan

What is the land use designations for the nominated parcel according to the most recently adopted municipality's master land use plan?

Essential Agriculture, Important Agriculture, General Agriculture, or Agriculture

Secondary Agriculture

Resource/Recreation Conservation, or Open Space, or

Greenbelts (outside sewer service areas only)

Other Land Use Designation

C. Washtenaw County Land Use Policies

What is the land use policy designation for the nominated parcel according to the Washtenaw County Land Use Policies?

Important Agricultural Lands

Secondary Agricultural Lands

Major Open Space (outside sewer service boundaries only)

Other Land Use Policy Designation

D. Recent Local Master Plan Update

Does the local governing body have a master plan that was written, amended, reviewed, or revised within the last five years?

E. Current Adjacent Zoning Classification

Percent of Perimeter in Agricultural Zoning

F. Adjacent Land Use Designation According to Local Government's Master Plan

Percent of Perimeter Designated Agricultural Use

G. Type of Adjacent Agricultural Land Based on the Current Washtenaw County Agricultural Lands Model and the Most Recent Land Use Inventory Available from the Washtenaw County Metropolitan Planning Commission

Percent of Perimeter Designated Agricultural Use

H. Likelihood that Property will be Converted to Non-farm Use

What factors suggest that the property may be converted to non-farm use?

SECTION 7 Development Rights Easement Provisions

Once the County and the property owner agree on the sale of Development Rights for a parcel of land, they shall execute a Development Rights Easement which, at a minimum, shall contain the following provisions: (1) a granting clause deeding the Development Rights from the property owner to the County; (2) a clause restricting the use of the land to specific agricultural activities; (3) a clause which addresses the construction of buildings and residential structures on the property; (4) an enforcement clause acknowledging that the breach of the easement by the property owners or his/her successors will result in irreparable harm to the County which cannot be measured thus giving the County the right to obtain an injunction to stop the breach; (5) a clause indicating that the easement runs with the land and is binding on the property owner's successors in interest; **and (6) option language giving the County a 60 day option to purchase the remainder of the property interest should the property owner or his/her successors in interest attempt to repurchase the development rights.**

SECTION 8 Duration of Acquired Interests/Repurchase of Development Rights

(1) Development Rights acquired pursuant to this Ordinance shall run with the land and be held by the County in perpetuity, provided, however, that a property owner who has sold Development Rights to the County may repurchase those Rights upon the following conditions: (1) **25** years have passed since the Development Rights were sold; and (2) the County Board, upon receiving a recommendations from Administration, **ALPAC and the Planning Commission**, determines that the property may not be reasonably used for Agricultural Use; (3) **the local unit where the property is located agrees that the property is no longer suitable for agricultural purposes and thus consents to the repurchase;** (4) **the repurchase of the development rights is consistent with the purpose of the County's PDR program as determined by the County Board;** and (5) **the County chooses not to exercise its 60 day option to purchase the remainder of the property interests in the parcel.**

(2) Once the County Board determines that a property is eligible to have its Development Rights repurchased, the owner shall pay the fair market value of those rights at the time of their return, as determined by a State Certified Appraiser. The property owner may not challenge this appraisal. If the Appraiser has a conflict of interest associated with a potential appraisal, he/she shall report the conflict to the County and the County shall select another Appraiser to complete the appraisal. The County will deposit the proceeds from any repurchases into a separate fund that shall be used to purchase additional Development Rights or for other agriculture land preservation means available within the County.

SECTION 9: Related Costs

The costs of appraisal, engineering, surveying, planning, financial, legal, environmental assessments and other services lawfully incurred in relation to the County's purchase of Development Rights shall be paid from all available PDR Program funding sources within the County. The County shall not be responsible for any expenses incurred by the Owner incident to this transaction.

SECTION 10: Supplemental Funds

Supplemental or matching funds from other Governmental Agencies or private sources may become available to pay a portion of the cost of acquiring Development Rights or to supplement or enlarge such acquisitions. The County Board authorizes such funds to be used to purchase Development Rights in agricultural land or other eligible land.

SECTION 11: Development Rights Acquisition Fund

Available funding for the County PDR program shall be deposited in a special fund. ("Acquisition Fund"). Money in such Acquisition Fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of County money.

The revenues from the deposit and/or investment of the Acquisition Fund shall be applied and used solely for the purchase of Development Rights under this Ordinance or promoting agricultural land **preservation means** within the County.

SECTION 12: Development Rights Enforcement Fund

The County Board shall establish a special fund ("Enforcement Fund") from the funding available for the PDR program to be used for enforcement expenses, including initial follow-up with the landowner, review and inspection of remedial measures and legal, engineering and other professional services. Money in the Enforcement Fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of County money.

The revenues from the deposit and/or investment of the Enforcement Fund shall be applied and used solely to enforce the County's rights under this Ordinance.

SECTION 13: Severability

Any provision of this Ordinance which is found by a court of competent jurisdiction to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision contained in the Ordinance and such other provisions shall remain in full force and effect.

SECTION 14: Amendments

This Ordinance may only be amended by a majority vote of the County Board members elected and serving.

SECTION 15: Repeal of Conflicting Ordinances

All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies or conflicts.

APPENDIX A

PART II – CHARACTERISTICS OF THE FARMLAND

Type of Agricultural Land. In 1997, the Washtenaw County Metropolitan Planning Commission developed the Agricultural Lands Model as a system of ranking agricultural land. The delineation utilized both physical and cultural factors to avoid having good soil characteristics become the sole criterion for determining the distribution of prime agricultural lands. It was created by overlaying several elements, including land use, soil type, and parcel base data on top of each other. The Agricultural Lands Model is designed to be updated as different factors such as land use, parcel size, and participants in the Public Act 116 program change through time.

The Agricultural Land Use Model identifies four categories of agricultural land which include Essential Agriculture, Essential Agriculture Excluding Public Act 116 Participants, Secondary Agriculture, and Reserve Agriculture. Four factors were used to select agricultural lands. These factors include Class II soils as defined by the Natural Resource Conservation Services, Agricultural Land Use in 1995 as defined by the Southeast Michigan Council of Governments, parcels 40 acres in size or greater, and Public Act 116 participants.

The first element, Class II soils, deals with the physical characteristics of Washtenaw County. Class II soils are defined as "having moderate limitations that reduce the choice of plants or that require moderate conservation practices." This soil type is the most representative of Washtenaw County's best agricultural soils. Washtenaw County does not have any Class I soils, which are the highest quality soils for agricultural production. The remaining factors are directed towards stability criteria, or indicators of existing agricultural situations. The 1995 Agricultural Land Use Inventory identifies areas which that are currently being farmed. Parcels 40 acres and greater are generally considered to be the smallest viable size for major farming operations. Public Act 116 participants are an indication of an individuals intent to remain in agricultural production.

These factors were grouped in four different ways to represent the four different categories of agricultural land.

Essential Agriculture is defined as the combination of Class II soils, 1995 Agricultural Land Use, Public Act 116 Participants, and parcels greater than 40 acres. It is deemed the best land for agriculture of sufficient size that are currently in agricultural use in Washtenaw County. The presence of P.A. 116 participants indicates a possible willingness for new or increased preservation efforts on the part of landowners.

Essential Agriculture excluding Public Act 116 is similar to Essential Agriculture with one element omitted. These lands are deemed the best land for agriculture of sufficient size that are currently in agricultural use without the indication of long term commitment (Public Act 116 participants).

Secondary Agriculture includes lands with either Class II soils or 1995 Agricultural Land Use and Public Act 116 participants or parcels greater than 40 acres. These lands contain the best soil for agriculture in Washtenaw County or are currently in agricultural use as well as either large enough to sustain major farming operations or displaying a willingness for new or increased preservation efforts.

Reserve Agriculture includes lands with either Class II soils or 1995 Agricultural Land Use. These lands are deemed the best land for agriculture by soil type (regardless of land use) or indicate lands that are used for agriculture despite not being of the highest soil quality in Washtenaw County.

Qualification for a particular type of agricultural land will be determined by having a majority of the parcel offered for development rights purchase in that designation.

Size of Parcel. According to the 1992 U.S. Census of Agriculture, the average size of all farms in Washtenaw County was 179 acres, while those farms with gross sales of \$10,000.00 or more from farm commodities averaged 328 acres.

Farm Product Sales. The 1992 U.S. Census of Agriculture indicated there were 475 Washtenaw County farms with gross sales of \$10,000.00 or more from farm commodities, comprising 82.4% of the total land base in farming. The figures shown are in 1998 dollars and shall be adjusted for inflation or subject to U.S. Department of Agriculture ratings for farm revenue.

Scenic, Historical or Architectural Features.

- a) Vista: a broadly sweeping view including a variety of vegetation types (woodland, farm fields) combined with topographical variations. This view is visible from a major highway and/or rural road.
- b) Historical or Architectural: pre-Civil War houses and round barns are examples of this category.
- b) Accent: An attractive view but narrower in scope and weaker in impact than a vista.
- c) No contribution: hidden or screened by man-made or natural features.

PART III - POTENTIAL FOR DEVELOPMENT PRESSURE

Percentage of Farm Containing Steep Slopes. Steep slopes are defined as those of greater than 15 percent.

PART IV - STEWARDSHIP OF THE LAND

Conservation Plans. In the absence of conservation plans, the Agricultural Lands Preservation Advisory Committee will determine the extent of conservation practices by consulting with experts in the field and other appropriate means.

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