

**St. Joseph County Farmland Preservation Ordinance**  
**Board of Commissioners Approved 3/15/2005**  
**Amended 9/4/2007**

AN ORDINANCE creating the St. Joseph County Farmland Preservation Program which protects farmland by acquiring development rights voluntarily offered by landowners, authorizes the cash purchase and/or installment purchases of such development rights, places an agricultural conservation easement on the property which restricts future development, and provides the procedures and guidelines governing the purchase of development rights and the placement of an agricultural conservation easement.

BE IT ORDAINED BY THE ST. JOSEPH COUNTY BOARD OF COMMISSIONERS:

**Section 1: Declaration of Purpose**

- A. Economic importance of farmland and agriculture.* St. Joseph County's agricultural land is a unique and economically important resource. It supports an important and globally significant agricultural industry. The soil and climate coupled with extensive irrigation enables the production of many high value agricultural products including seed corn, potatoes, green beans, carrots, cucumbers, gladiolas and tomatoes. Significant acres of corn, soybeans and forage crops are also grown.

St. Joseph County's economic base is strongly supported by crop production and by numerous agriculturally related businesses including; farm and irrigation equipment suppliers, fuel and grain dealers, processing plants, and professional services. Two of the world's largest seed corn plants are located in St. Joseph County providing millions of dollars of wages for both full and part time employment. Hundreds of high school and college students find summer work in the seed corn business.

- B. Importance of other non-agricultural attributes of farmland.* In addition to its economic benefits, the county's farmland contributes significantly to open space and natural resource benefits, including rural character, scenic beauty, cultural heritage, hunting and other recreational opportunities. St. Joseph County is blessed with a large network of rivers and lakes which has promoted the construction of many vacation homes. The seasonal and year-round occupants of these homes are a source of significant income to businesses in the county. Farmland is an important aspect in attracting vacationers to the area as well as a major contributor to the quality of life for the county's permanent residents.

- C. The extent of development and farmland loss.* The county's natural resources, productive farmland and rural character are major factors in making it a desirable place to live and work. The population growth in St. Joseph County has continued to increase. As the population grows and people move to the countryside, agricultural land is converted to residential and other nonagricultural uses creating an increase in the number and size of residential parcels and the continued loss of farmland.

- D. The Impact of farmland loss.* 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 the county. Residential development in agricultural areas also makes farming more difficult by increasing concern over farming practices and increased trespass, liability exposure and property damage. Because agricultural land is an invaluable economic, natural and aesthetic resource, the county should make an effort to maintain farm land in a substantially agricultural state to ensure the long-term viability of agriculture in the county.
- E. State and local policies.* It is the policy of the State of Michigan and St. Joseph County to protect, preserve and enhance farmland as evidenced by the St. Joseph County and Township Master Plans, the Natural Resources and Environmental Protection Act, portions of the Michigan Zoning Enabling Act, and other state and local statutes and policies. These measures by themselves, however, have not effectively provided sufficient long-term protection of farmland in St. Joseph County from the pressure of increasing residential and commercial development.
- F. Value of development rights.* Generally, farmland has a greater market value for future residential development than its market for farming. The features of good farmland, such as permeable soils and open space views, are also the features desired for residential home sites. This fact encourages the speculative purchase of farmland at high prices for future residential development, regardless of the current zoning of such lands. Farmland which has a greater development potential and market value than its agricultural value does not attract sustained agricultural investment and eventually is sold to non-farmers and removed from agricultural use.
- G. Purpose of the program.* It is the purpose of the St. Joseph County Farmland Preservation Program and this development rights ordinance to protect farmland in order to maintain a long-term business environment for agriculture in the county, to preserve the rural character and scenic attributes of the county, to enhance important environmental benefits and to maintain the quality of life of county residents.
- H. Mechanism to achieve purpose.* The purchase of development rights and the placement of an agricultural conservation easement on farmland through the St. Joseph County Farmland Preservation Program as provided for in this Ordinance is a public purpose of St. Joseph County. Financing of such purchases requires that the County enter into agreements with property owners to obtain such development rights. Properties on which the County has purchased development rights and entered into an agricultural conservation easement should remain substantially undeveloped in order to remain viable for agricultural use.

## Section 2: Definitions

- A. "Agricultural conservation easement" means a conveyance by a written instrument, in which, subject to permitted uses, the owner relinquishes to the public in perpetuity his or her development rights and makes a covenant running with the land not to undertake development.
- B. "Agricultural use" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, seed corn and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae (deer-like animals), and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program, a federal conservation reserve program, or a wetland reserve program. Agricultural use does not include the management and harvesting of a woodlot.
- C. "Development" means an activity that materially alters or affects the existing conditions or use of any land in a manner that is inconsistent with an agricultural use.
- D. "Development rights" means an interest in land that includes the right to construct a building or structure, to improve land for residential, commercial, or industrial development, to divide a parcel for development purposes or to extract minerals incidental to a permitted use or as set forth in an agricultural conservation easement.
- E. "Development rights ordinance" means an ordinance adopted under the Michigan Zoning Enabling Act, P.A. 110 of 2006. The development rights ordinance may be incorporated into an existing County zoning ordinance, or it may be a separate ordinance.
- F. "Farmland" means 1 or more of the following:
  - i. A farm of 40 or more acres in 1 ownership, with 51% or more of the land area devoted to an agricultural use.
  - ii. A farm of 5 acres or more in 1 ownership, but less than 40 acres, with 51% or more of the land area devoted to an agricultural use, that has produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land. A farm described in this subparagraph enrolled in a federal acreage set-aside program or a federal conservation reserve program is considered to have produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land.
  - iii. A farm designated by the department of agriculture as a specialty farm in 1 ownership that has produced a gross annual income of \$2,000.00 or more from an agricultural use. Specialty farms include, but are not limited to, greenhouses; equine breeding and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees

and bee products; mushrooms; aquaculture; and other similar uses and activities.

- G. "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.
- H. "Like kind replacement" means a similar amount (acreage) which in the determinations of the CAPB and the County Board of Commissioners and the local unit of government in which the property is located is:
  - i. Located within a farmland or open space area as defined in a Farmland and Open Space Preservation Element of a Master Plan certified by the Michigan Department of Agriculture.
  - ii. Fulfills the preservation goals and objective of the Farmland and Open Space Plan Element in an equal or superior capacity, and
  - iii. Is at a location where there is immediate development pressure, and if not preserved, a request to withdraw the land from the preservation/protection classification of the Farmland and Open Space Element of a certified Master Plan would, in the determination of the Agricultural Preservation Board, the County Board of Commission and the local unit of government in which the property is located would likely be made.
- I. "Parcel" means a contiguous quantity of land in the possession of a single owner.
- J. "Permitted use" means any use expressly authorized within an agricultural conservation easement consistent with the farming operation or that does not adversely affect the productivity or agricultural use of the land. Storage, retail or wholesale marketing, or processing of agricultural products is a permitted use in a farming operation if more than 50% of the stored, processed, or merchandised products are produced by the farm operator for at least 3 of the immediately preceding 5 years. Permitted use includes oil and gas exploration and extraction, but does not include other mineral development that is inconsistent with an agricultural use.
- K. "Property owner" means the party or parties having a freehold estate or fee simple interest in land.
- L. "PDR program" means a program as defined in the Michigan Zoning Enabling Act for the purchase of development rights by a county, and specifically includes the St. Joseph County Farmland Preservation Program.

### **Section 3: Authorization**

- A. Pursuant to the Michigan Zoning Enabling Act, the County Board of Commissioners is authorized to purchase the development rights of farmland throughout the County. Such acquisition may be by purchase, gift, grant, bequest, devise, covenant or contract. The County shall only purchase development rights on farmland that are voluntarily offered for sale by a property owner.

- B. The County is authorized to enter into installment purchase contracts, options, and agreements or take receipt of donations of easements, consistent with applicable law. 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 purchase contract.
- C. The County may contract with recognized and legally established nonprofit land trusts or other experienced and qualified individuals, parties or entities that would assist the County in the process of negotiating easements and purchase contracts, establishing baseline studies and procedures for monitoring, and actual monitoring of any agricultural conservation easements acquired under this Ordinance.
- D. The County is authorized to seek grants from Federal and State government and private foundations, organizations and individuals for funding expenditures incurred in carrying out this ordinance.

#### **Section 4: County Agricultural Preservation Board**

- A. The County Board of Commissioners shall create a 7 member body under this Ordinance to be named the County Agricultural Preservation Board. The 7 voting members shall be residents of the County and will be appointed by the County Board of Commissioners and will include: (a) 1 County Commissioner or designee, (b) 3 individuals with agricultural interests, (c) 1 representative that is an elected official in township government, (d) 1 individual with real estate or development interests, and (e) 1 individual representing local natural resource conservation interests.
- B. Members of the County Agricultural Preservation Board shall serve 3-year terms, with the exception that the County Commissioner representative shall be designated on an annual basis. The initial term shall be staggered so that 1 of the agricultural representatives and the real estate representative serve an initial 1-year term, another agricultural representative and the local township representative serve an initial 2-year term and the third agricultural representative and the local conservation representative serve an initial 3-year term. Members may be re-appointed to successive 3-year terms by the County Board of Commissioners. The County Board of Commissioners shall have the discretion to remove members for neglect of duty or malfeasance in office or other good cause. Vacancies due to removal or resignation shall be filled for the remainder of a term by appointment by the County Board of Commissioners. Members shall not be compensated for their services, although reimbursement for attending meetings, for mileage and for other approved expenses shall be at the discretion of the County Board of Commissioners when funding is available, at rates established and approved by the County Board of Commissioners.
- C. The County Agricultural Preservation Board shall oversee the County's farmland preservation program and shall be responsible for:
  - i. Establishing selection criteria for the ranking and prioritization of applications to the program. The selection criteria must be approved by the County Board of Commissioners prior to each application cycle.

- ii. Reviewing and providing oversight in scoring all applications according to the adopted selection criteria.
  - iii. Ranking and prioritizing the top scoring applications for acquisition and determining whether the development rights should be purchased.
  - iv. Approving the restrictions and permitted uses under the agricultural conservation easement.
  - v. Establishing the price to be offered to the property owner and authorize negotiations for the purchase of development rights and agricultural conservation easement. All purchases of development rights and agricultural conservation easements must be approved by the County Board of Commissioners.
  - vi. Establishing monitoring procedures and overseeing subsequent monitoring to ensure compliance with the agricultural conservation easement. Enforcement of the agricultural conservation easement in the case of non-compliance shall be the responsibility of the County Board of Commissioners.
- D. Individual County Agricultural Preservation Board members shall disclose any potential conflict of interest and may not vote when a conflict exists. Conflicts of interest include, but are not confined to, situations where (1) the board member is the applicant; (2) the member is a close relative of the applicant; (3) the board member has a close business association or ties with the applicant; (4) the board member, a relative, or a business associate could receive financial gain or benefit from the acceptance of the application.
- E. To the extent of available funding and as approved by the County Board of Commissioners in consultation with the County Agricultural Preservation Board, the County may contract with qualified and experienced individuals or entities for consulting or staffing services.
- F. The County Agricultural Preservation Board shall adopt operating guidelines.

### **Section 5: Eligibility for Application**

Any property owner may submit an application to the County Farmland Preservation Program provided it meets the following requirements:

- A. The property owner has signed the application indicating that he or she is interested in voluntarily selling the development rights to the parcel.
- B. At least 51% of the parcel's area is devoted to an active agricultural use and no more than 49% of the parcel may be devoted to non-agricultural open space consisting of wetlands, woodlands, or otherwise unusable land.
- C. If the parcel is located within a township that administers a zoning ordinance, the municipality has also signed the application indicating its approval of the application to the County. The County shall not purchase development rights under a development rights ordinance from land subject to a township zoning ordinance unless all of the following requirements are met:

- i. The development rights ordinance provisions for the PDR program are consistent with the plan upon which the township zoning is based.
  - ii. The legislative body of the township adopts a resolution authorizing the PDR program to apply in the township.
- D. The property is not designated for commercial or industrial uses, or residential uses at densities in excess of 1 dwelling unit per 2 acres under the County or township Master Plan.
- E. Agricultural activities are a permitted use on the parcel under all applicable zoning ordinances.

### **Section 6: Criteria for Reviewing and Ranking Applications**

The County Agricultural Preservation Board shall establish selection criteria for ranking and prioritizing all eligible parcels submitted to the County Farmland Preservation Program. The selection criteria shall place an emphasis on farmland that:

- A. As part of the application procedure for the specific proposed purchase of development rights, township provides the county with written approval of the purchase.
- B. Has a productive capacity suited for the production of feed, food, fiber, seed and horticulture crops and has a greater potential for long-term agricultural production. Specific selection criteria may be based on soil classifications, parcel size, agricultural income, and/or enrollment in the Farmland and Open Space Preservation Act.
- C. Is under the threat of development. Specific selection criteria may be based on proximity to public sanitary sewer or water, the extent of development activity in the township or the amount of road frontage.
- D. Complements other farmland protection efforts in the County. Specific selection criteria may include proximity to other permanently protected farmland, proximity to other protected lands or surrounding land enrolled in the State Farmland and Open Space Preservation Act, or inclusion in an agricultural zoning district.
- E. Has additional matching funds available for the purchase of development rights provided by a local unit of government, landowner or private sources.
- F. Has other factors considered important by the County Agricultural Preservation Board such as unique physical, historical or environmental characteristics.
- G. Has implemented a general conservation plan with the Natural Resource Conservation Service.

### **Section 7: Application and Selection Process**

- A. The County shall on an annual basis, at the discretion of the County Agricultural Preservation Board, conduct a voluntary application and selection process for

property owners who wish to sell development rights under the County Farmland Preservation Program.

- B. The County Agricultural Preservation Board shall begin each application cycle by giving notice at least 90 days in advance of the application deadline that the County is accepting applications to the County Farmland Preservation Program. Notification shall be given in newspapers of general circulation within the County, through the County Farm Bureau, County Conservation District, County MSU-Extension Service, local township offices and other organizations.
- C. The application may require information to be filled out by the property owner, the County Conservation District and the local unit of government. The application may require an application fee paid by the property owner at the time the application is submitted to the County Agricultural Preservation Board. An application fee may be established at the recommendation of the County Agricultural Preservation Board, subject to final approval by the County Board of Commissioners. At a maximum, the amount of the application fee shall reflect the actual administrative cost of scoring the application according to the approved selection criteria.
- D. All applications shall represent the applicant's intent to sell the development rights of the property to the County subject to mutually acceptable terms. The application will remain active by way of annual written approval of the landowner, provided there is no subsequent modification to the scoring criteria or application that requires additional information. Local townships will be asked to sign a letter of continued support for standing landowner applications, and all applications, both new and old, will be scored and ranked for each cycle.
- E. The County Agricultural Preservation Board shall give notice to each township in which an application for the purchase of development rights has been received, and the disposition of that application.
- F. At the close of the application deadline, an initial determination of eligibility shall be completed by the County Agricultural Preservation Board or designated staff. The property owner shall be notified if the application is or is not eligible for the program. Each application shall be evaluated and scored according to selection criteria approved by the County Agricultural Preservation Board and the County Board of Commissioners prior to the application cycle.
- G. The County Agricultural Preservation Board shall rank parcels according to the selection criteria score but shall also individually evaluate and prioritize the top scoring parcels. The County Agricultural Preservation Board may reprioritize the top scoring parcels based on individual review of each application and establish a priority on which development rights should be purchased first based on available funds. The written rationale for reprioritization of the top scoring parcels shall be included with each application.
- H. The final ranking and prioritization of applications shall be submitted to the County Board of Commissioners for their approval.

- I. Upon mutual agreement to purchase terms by the property owner and the County Agricultural Preservation Board, a title search shall be completed before signing and recording of the agricultural conservation easement. The cost of a title search will be borne initially by the CAPB and will be reimbursed by the landowner at the time of closing. Any questions or concerns regarding clear title to the property shall be resolved prior to signing of the agricultural conservation easement. All individuals, parties or entities with an interest in the property must be willing to agree to the terms and provisions of the agricultural conservation easement.
- J. The County Board of Commissioners must approve the purchase of development rights and the agricultural conservation easement. The County Board of Commissioners may alter the recommendation by the County Agricultural Preservation Board to purchase the development rights only if there are insufficient funds, or upon a finding of fact that the selection criteria had not been accurately or appropriately applied to a specific application.
- K. Once the application has been approved for purchase by the County Board of Commissioners, the County and the property owners shall sign the agricultural conservation easement and it shall be legally recorded with the County Register of Deeds' office.
- L. The County shall notify the appropriate local unit of government of each agricultural conservation easement.
- M. The agricultural conservation easement will be monitored in accordance with procedures and guidelines established by the County Agricultural Preservation Board.

### **Section 8: Agricultural Conservation Easement Provisions**

- A. Upon the agreement of the purchase and sale of development rights by the County Agricultural Preservation Board, the property owner and the County Board of Commissioners, the County and the property owner shall execute an agricultural conservation easement, approved by the County Agricultural Preservation Board and the County Board of Commissioners, that will perpetually protect the parcel's agricultural use by preventing any use that would impair or interfere with the agricultural value or use of the farmland. The agricultural conservation easement shall contain a provision indicating that the easement runs with the land and may not be terminated except as provided for in this Ordinance and the easement.
- B. Restrictions on that portion of the property included in the agricultural conservation easement shall include, but not be limited to, the following:
  - i. Property shall not be divided into parcels less than 40 acres in size.
  - ii. The construction of residences for new owners of any divisions shall be prohibited.
  - iii. Construction of any other buildings, unless they are built for uses consistent with farming operations shall be prohibited.

- iv. Commercial or industrial activity that is inconsistent with a normal farming operation shall be prohibited.
  - v. Excavation of topsoil, sand, gravel, rock, minerals or other materials that significantly impairs or interferes with the agricultural values of the property shall not take place without prior written approval.
- C. Permitted uses and retained development rights in the agricultural conservation easement shall include, but not be limited to, the following:
- i. Construction of building necessary for and consistent with agricultural uses.
  - ii. The right to construct one additional residence for an individual essential to the operation of the farm as defined in section 36110(5) of the Natural Resources and Environmental Protection Act, MCL 324.36110(5); MSA 13A.36110(5). Any structure must be in conformance with all applicable federal, state and local laws, ordinances and regulations.
  - iii. The right to maintain, renovate, add on to, or replace existing structures. Structure built must be in conformance with all applicable federal, state and local laws, ordinances and regulations.
  - iv. The right to sell, mortgage, bequeath or donate the property, provided that any conveyance shall be subject to the terms of the easement.

### **Section 9: Duration of the Agricultural Conservation Easement**

- A. The agricultural conservation easement shall be permanent and run with the land, regardless of transfers in property ownership. It is the intent of this ordinance to preserve valuable farmland through the establishment of permanent conservation easements. Development rights acquired pursuant to this Ordinance shall be held by the County in perpetuity and the development rights may be repurchased by the landowner only when a court of competent jurisdiction has determined through eminent domain that the use of those development rights is necessary for a specific public interest, need or purpose.
- B. Development rights acquired pursuant to this Ordinance shall be held in trust by the County of St. Joseph, the Participating Local Unit of Government and the State of Michigan, the United States, land conservancy or other organization as deemed appropriate by St. Joseph County Board of Commissioners for the benefit of the citizens St. Joseph County and the State of Michigan in perpetuity. If the St. Joseph County Board of Commissioners with concurrence of the participating local unit of government and any holder of interest in the subject property of the easement finds the farmland or open space upon which development or conservation rights have been acquired meets the following requirements, the St. Joseph County Board of Commissioners may approve the disposition of their interest in the land.
- i. The property subject to the easement is no longer consistent with the Farmland and Open Space Element of the Comprehensive Plan of the Participating Local Government and St. Joseph County due to:

1. The quality of the farmland is such that agricultural production cannot be made economically viable with generally accepted agricultural and management practices,
  2. Surrounding conditions now exist that impose physical obstacles to the agricultural operations or prohibit essential agricultural practices,
  3. A significant natural physical change in the farmland that occurred resulting in a generally irreversible and permanent limitation upon the productivity of the farmland,
  4. A court order that restricts the use of the farmland so that agricultural production cannot be economically viable, or
  5. A court ordered public purpose condemnation being imposed on all or a portion of the property resulting in the remainder of the farmland for which the development rights have been purchased no longer being economically viable for agriculture production.
- ii. The Planning Commissions of participating local unit of government and the County have taken such action to amend the farmland and open Space element of the comprehensive plans of the participating local government, removing the subject land from the protection/preservation area designation.
  - iii. The property owner has requested to repurchase the development rights,
  - iv. The property owner and the CAPB have reached an agreement defining compensation due the County for the repurchase of the development rights based on the appreciated development rights value or an amount of “like kind replacement” farmland or other eligible land of equal value to replace the amount of land for which the development rights are being repurchased. If the property interest exchanged is not exactly equal in appraised value, cash payments may be made to provide net equivalent value for the repurchase or exchange. Such cash payments are to be used to purchase other eligible farmland through the program.
- C. For development rights held jointly by St. Joseph County and another entity, such as a land conservancy, trust or the State of Michigan, all parties to the easement must concur with the disposition of the development rights interest in the land.
- D. Valuation Methodology Upon Termination of Easements  
If the County approves the disposition of development rights acquired on a parcel, the value of the development rights to be sold shall be determined by a “before and after” appraisal based on the value of the property at the time the request for disposition is made or by utilizing the formula-based process in section 10. The “before and after” appraisal shall be made by a currently licensed Michigan State Certified Appraiser, selected by the CAPB. The appraisal shall establish the fair market value of the property as if the development rights were still attached to the property and the fair market value of

the property with the agricultural conservation easement in place and the development rights severed. The difference between the fair market value with development rights and the fair market value with the development rights severed would be required to be repaid to St. Joseph County in order for the development rights to be reconnected to the parcel. The development rights value shall be determined based on the legally permissible intensity of development as set forth by the zoning ordinance of the local unit of government in effect at the time the development rights were purchased.

E. Like Kind Replacement Land Policy

It is policy of St. Joseph County to seek the replacement of like kind land that will replace any land released from the St. Joseph County Farmland and Open Space Preservation Program pursuant to the standards of subparagraph B above. An applicant seeking to repurchase development rights from any land enrolled in the program shall be allowed to offer like kind replacement land to replace the amount of land being requested to be released from the program. Any land offered for replacement shall be consistent with the Certified Farmland and Open Space Element of the Master Plan of the Participating Local Unit of Government.

F. Use of Cash Payment from Repurchases

Proceeds from the repurchase of any development rights or the acquisition of the development rights of a parcel through eminent domain will be deposited into the Farmland and Open Space Preservation Fund of the County and will be used to acquire the development rights of other farmland and open space land within St. Joseph County.

## **Section 10: Method of Determining Value and Payment**

A. Methods of Valuation

Upon approval of an application under the terms of this ordinance the County Agricultural Preservation Board (CAPB) shall initiate an appraisal or utilize a formula-based process for determining the value of the agricultural conservation easement. Said appraisal shall be a “before and after” appraisal. Under the “before and after” scenario, one appraisal will determine the value of the full ownership of the land, before the development rights are severed, and one will determine the fair market value of the parcel with an agricultural conservation easement in place, after the development rights are severed. The amount to be offered would be the difference between the before appraisal and the after appraisal. The development rights value will be determined based on the legally permissible intensity of development as set forth by the zoning ordinance of the local unit of government in effect at the time the development rights are to be purchased. The formula-based process, as authorized under P.A. 262 of 2000 (being M.C.L 324.36201-324.36207), reduces administration costs, is more time efficient, and provides a consistent and objective value for all applications. When the formula-based process is used for determining value, it shall be established by the CAPB prior to an application cycle such that a property owner may determine the value of his/her agricultural conservation easement prior to submitting an application. The CAPB shall review the formula-based process at the end of each application cycle and compare agricultural conservation

easement values to actual fair market sales in the county.

**B. Qualifications of Appraisers**

Currently licensed Michigan State Certified Appraisers selected by the CAPB will make all appraisals. The selected appraiser will not have a property interest, personal or financial interest in the selected parcel.

**C. Owner to Receive Appraisal or Formula-Based Value and Right of Valuation Review**

All appraisals or formula-based values will be in writing and will be furnished to the respective owners for review at the time an offer is made. The cost of an appraisal will be borne initially by the CAPB and will be reimbursed by the landowner at the time of closing. If an owner of property believes the value of development rights has not been determined adequately, said owners may, within 90 days from the date of an offer, have a review appraisal made at the owner's expense, by a currently licensed Michigan State Certified Appraiser. The review appraisal will be filed with the CAPB.

**D. CAPB to Recommend Amount of Purchase Offer**

The CAPB will recommend to the St. Joseph County Board of Commissioners an amount to be offered for the development rights based on the opinion of value contained in the appraisal or the value determined in the formula-based process and in the case of where the owners contracted a review appraisal, the review appraisal.

**E. Action by the County Board of Commissioners**

Upon reviewing the application, the County Board of Commissioners shall, at a regular meeting of the Board:

- i. Approve the application; or
- ii. Approve the application subject to specific conditions; or
- iii. Deny the application, stating specific reasons for the denial; or
- iv. Postpone action on the application to a specified date.

**F. The property owner may be paid a cash payment or offered an installment purchase contract, or a combination of both.**

**Section 11: Related Costs**

The cost of services ordered by the County Agricultural Preservation Board in relation to the County's Farmland Preservation Program shall be paid from all available farmland preservation program funding sources within the County, including state and federal matching funds, which may include the cost of appraisal, engineering, surveying, planning, financial, legal, environmental assessments, title searches, developing baseline assessments and monitoring easements. The County shall not be responsible for any expenses incurred by the property owner incident to this transaction that the County Agricultural Preservation Board has determined is the responsibility of the property owner, which may include title searches, appraisals, or surveying.

**Section 12: Farmland Preservation Fund**

**A. Available funding for the County Farmland Preservation Program shall be deposited in a special farmland preservation fund. Money in such farmland**

preservation 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 farmland preservation fund shall be applied and used solely for the purpose of purchasing development rights and agricultural conservation easements under this Ordinance, making payments obligated under installment purchase contracts, promoting farmland preservation programs, or paying for costs of administering or enforcing the County Farmland Preservation Program.

- B. Supplemental or matching funds from private sources or other governmental agencies, including local municipalities, the State, or Federal Government, may become available to pay a portion of the cost of acquiring development rights or agricultural conservation easements, or to supplement or enlarge such acquisitions.
- C. The County, upon approval by the County Board of Commissioners, may finance the County Farmland Preservation Program through 1 or more of the following sources:
  - i. General appropriations by the County.
  - ii. Proceeds from the sale of development rights by the county under Section 9.
  - iii. Grants.
  - iv. Donations.
  - v. General fund revenue.
  - vi. Bonds or notes.
  - vii. Special assessments as permitted by law.
  - viii. Other sources approved by the County Board of Commissioners and permitted by law.

### **Section 13: Amendments**

This Ordinance may be amended, after receiving input from the County Agricultural Preservation Board, comments from the County Planning Commission, and townships, by a majority vote of the County Board of Commissioners.

### **Section 14: 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.