

## **5 Step Five:** **Decision by Local Government Unit**

Within 180 days of receiving an ASA proposal, a local governing body must act to adopt or reject the proposal or any related modifications. If the body accepts the proposal or fails to arrive at a decision within 180 days, an ASA automatically is created and takes effect immediately.

### **Approval**

If a local governing body approves a proposal, within 10 days it must provide each affected landowner with written notification and the effective date of the ASA creation. Also within 10 days, the body must file a description of the ASA with the recorder of deeds and the local and county planning commissions. The body then must, within 10 days of recording the ASA, notify the Secretary of Agriculture of the ASA's creation. Notification of the Secretary also is required where an ASA is modified or terminated.

### **Rejection or Modification**

If a governing body rejects or modifies an ASA proposal, it must provide each affected landowner with written notification within 10 days. The decision must contain: (1) Findings of fact; (2) Review of relevant evaluation criteria; and (3) Discussion of the reasons for rejection or modification of the proposal.

## **6 Step 6:** **Periodic Review of the Ag Security Area**

The local governing body must review the ASA every seven years and must ask recommendations of the local planning commission, county planning commission and the local ag security advisory committee. The body must also hold a properly-noticed public hearing. Persons wishing to modify the area must submit proposed modifications within 30 days of the date of such notice.

## **Interim Review to Modify or Terminate an ASA**

If, within the seven-year period, 10% of the land within the ASA is diverted to residential or nonagricultural commercial development, the local governing body may review the diversion and request that the local and county planning commissions and the agricultural security advisory committee study its review and make recommendations within 30 days of written request. The body then must conduct a properly-noticed public hearing. Only then may the local governing body terminate or modify the ASA.

### **Appeals**

Any party in interest aggrieved by a decision or action of the governing body relating to the creation, composition, modification, rejection or termination of an ASA may appeal to the court of common pleas within 30 days of a decision or action.



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*This brochure was updated in August 2006 to reflect changes in the Agricultural Security Area Law. The purpose of this brochure is to provide general information on PA's Agricultural Security Area Law. The material contained in this brochure is educational in nature and is not intended as legal advice.*

*If you would like additional information on Agricultural Security Areas, please contact the Governmental & Communications Division of Pennsylvania Farm Bureau at 717-761-2740.*



## **Protecting Pennsylvania's Farmland:**

## **Ag Security Areas & Conservation Easements**



**Pennsylvania Farm Bureau**

**Act 43 (passed in 1981) allows for the creation of Agricultural Security Areas (ASAs). The goal of Act 43 is to protect agricultural lands from development and other urban pressures.**

**In 1988, the Pennsylvania Agricultural Conservation Easement Purchase Program was developed to further protect prime farmland. This program enables state and county governments to purchase conservation easements from farmers. Only farmers whose land is in an ASA are eligible to participate, and all sales take place on a voluntary basis.**

**Act 46 of 2006 (Senate Bill 723) allows counties to establish acreage requirements as low as 35 acres for consideration for ag conservation easement purchase. Counties may establish a requirement as low as 10 acres if the land involved is engaged in production of crops unique to the area or is adjacent to land on which a conservation easement already has been purchased. Act 46 also allows non-profit land preservation organizations to partner with counties in financing and obtaining ag conservation easements.**

#### **Benefits of Inclusion in an Ag Security Area**

Under Act 43, local governments within an ASA must not enact laws or ordinances which would unreasonably restrict farm structures or farm practices, unless such restrictions or regulations bear a direct relationship to public health or safety. The act also prevents local

governments from defining or prohibiting as a public nuisance any ag activity or operation conducted using normal farming operations within the ASA that does not bear a direct relationship to public health or safety. The act further protects farmers by discouraging condemnation of ag land through eminent domain. ASA participants benefit from additional reviews for any proposed land condemnation. Finally, Act 43 allows those within an ASA that is comprised of at least 500 acres to participate in Pennsylvania's Agricultural Easement Program (also referred to as the Purchase Development Rights Program).

#### **How is an Ag Security Area Created?**

##### **1 Step One: Submission of a Proposal to Create an Ag Security Area**

An owner or owners of land used for agricultural production or owners of viable ag land, a portion of which is used for commercial equine activity, may submit a proposal to the local governing body for the creation of an ASA, provided that at least 250 acres of viable ag land are included in the proposal.

Nonadjacent farmland parcels may be included, provided that the parcel is at least ten acres or provided the parcel has an anticipated yearly gross income of at least \$2,000 from the production of crops, livestock and livestock products on that parcel.

##### **2 Step Two: Notification by Governing Body**

The local governing body must acknowledge receipt of a proposal at its next meeting and must provide public notice of the proposal. If the local governing body fails to provide notice within 15 days of receiving the proposal, an adversely affected party may get a court order forcing compliance.

##### **3 Step Three: Planning Commission and Ag Security Advisory Committee Review**

Within 15 days of notice being published, the local governing body must submit the proposal and any proposed modifications to: (1) the local planning commission; and (2) the local ag security advisory committee. These groups have 45 days to review the proposal and report to the governing body potential effects of the proposal and proposed modifications on local government's planning policies and objectives. Failure to submit a report within 45 days will constitute approval of the ASA by these groups.

##### **4 Step Four: Public Hearing**

Once the planning commission and advisory committee have reported back to the local governing body, or after 45 days have elapsed, a properly noticed public hearing must be held. There, the local governing body will use evaluation factors set forth in the ASA law to guide discussion regarding the proposed ASA. These same evaluation factors later must be used by local planning commissions and advisory committees.

#### **Evaluation Factors:**

1. Land proposed for inclusion in an ASA must have soils conducive to agriculture;
2. Use of land proposed for inclusion must be compatible with local government comprehensive plans. Zoning must permit ag use but need not exclude other uses;
3. A landowner may propose to include all his land, regardless of zoning;
4. The land proposed for inclusion, and any additions which are proposed subsequently, must be viable ag land;
5. Additional factors to be considered are the extent and nature of farm improvements, anticipated trends in ag economic and technological conditions, as well as other relevant matters.