

AUGUSTA CHARTER TOWNSHIP
WASHTENAW COUNTY, MICHIGAN

PURCHASE OF DEVELOPMENT RIGHTS ORDINANCE

ORDINANCE NUMBER 05-01
DATE ADOPTED FEBRUARY 08, 2005

AN ORDINANCE authorizing Augusta Charter Township to acquire property development rights in real estate within the township and establishing the procedure for acquiring and financing the acquisition of the development rights.

THE Augusta Charter Township BOARD OF TRUSTEES ORDAINS:

SECTION 1: Findings and Declaration of Purpose

The Board of Trustees finds that:

(1) Augusta Charter 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.

(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.

(3) Augusta Charter 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.

(4) The agricultural industry in Augusta Charter 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 Augusta Charter Township.

(5) It is the policy of the State of Michigan and Augusta Charter 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.

(6) Agriculture in Augusta Charter 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.

(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.

(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.

(9) Properties on which the Township has purchased the development rights should remain substantially undeveloped in order to promote their agricultural use.

(10) The acquisition of interests in farmland as provided in this Ordinance is a public purpose of Augusta Charter 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.

(11) This ordinance is authorized by Sections 31 to 33 of the Township Zoning Act, MCL 125.301 B 125.303.

SECTION 2: Definitions

(1) "Supervisor" means the Augusta Charter Township Supervisor.

(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.

(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.

(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.

(5) "Chairperson" means the member of the Farmland Preservation Board who is elected Chairperson by the Preservation Board.

(6) "Board of Trustees" means the Augusta Charter Township Board of Trustees.

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

(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.

(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.

(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.

(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.

(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.

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

(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.

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

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

(17) "Permitted Use" means any use contained within a development rights easement essential to the farming.

(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.

(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.

(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.

SECTION 3: Authorization

(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.

(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.

(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.

(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.

SECTION 4: Retained Residential Development Rights

(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.

(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.

(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.

(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.

SECTION 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.

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.

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 112, 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 | 44 |
| 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 112 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 | 6 |
| 20 to 39.9 acres | 4 |
| 10 to 19.9 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)

| Extent of Conservation Plan | Score |
|-----------------------------|-------|
|-----------------------------|-------|

| | |
|--|---|
| 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

| Dependence on Farm Income | Score |
|---------------------------|-------|
|---------------------------|-------|

| | |
|--|---|
| 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)

| Enrollment in P.A. 116 or Duration of Ownership | Score |
|---|-------|
|---|-------|

| | |
|---|----|
| Farm is enrolled in P.A. 116 <u>and</u> land has been in the same ownership for at least 50 years | 10 |
|---|----|

| | |
|---|---|
| Farm is enrolled in P.A. 116 <u>or</u> 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

| Frontage | Score |
|----------|-------|
|----------|-------|

| | |
|--------------------|---|
| 1,000 feet or more | 4 |
|--------------------|---|

| | |
|-----------------|---|
| 501 to 999 feet | 2 |
|-----------------|---|

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

| Steep Slopes | Score |
|--------------|-------|
|--------------|-------|

| | |
|-----------|---|
| 0 to 9.9% | 4 |
|-----------|---|

| | |
|-------------|---|
| 10 to 19.9% | 2 |
|-------------|---|

C. Amount of Wetlands and/or Floodplain

| Wetlands/Floodplain | Score |
|---------------------|-------|
|---------------------|-------|

| | |
|-----------|---|
| 0 to 9.9% | 4 |
|-----------|---|

| | |
|-------------|---|
| 10 to 39.9% | 2 |
|-------------|---|

PART IV

LONG-RANGE PLANNING CONSIDERATIONS
MAXIMUM POINTS = 44

A. Current Adjacent Zoning Classification

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

D. Proximity to Water and/or Sewer Lines

| Distance | Score |
|----------------------------|-------|
| One-half mile to two miles | 5 |
| Two miles to five miles | 2 |

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

| Features | Score |
|---|-------|
| Farm site provides a vista or has unique historical or architectural structures | 10 |
| Farm site provides an accent | 5 |

F. Natural Features

| Features | Score |
|--|-------|
| Stream corridors, woodlots or rare species present | 10 |

G. Groundwater Recharge Area

| Percent of Property Serving as Groundwater Recharge | Score |
|---|-------|
| 50 to 100% | 4 |
| 10 to 49% | 2 |

PART V

TIEBREAKERS
MAXIMUM POINTS = 10

A. Ability to Attract Matching Funds (See Appendix)

| Funds Availability | Score |
|------------------------------|-------|
| Matching funds are available | 5 |

B. Owner Willingness to Accept Less Than Market Value (See Appendix)

| Owner Willingness | Score |
|--|-------|
| Owner willing to accept below-market offer | 5 |

SECTION 6: Farmland Preservation Board

(1) A five-member Farmland Preservation Board (the "Preservation Board") shall be appointed by the Board of Trustees. The Board of Trustees shall seek the names of nominees for the Preservation Board by the means usually employed for other boards and commissions. The Preservation Board shall determine the selection of eligible lands on which development rights are offered for acquisition by their owners. Selection of eligible lands shall be made by a majority of Preservation Board members.

(2) The Preservation Board shall consist of residents of the Township. The Preservation Board shall include a representative of the Township Board of Trustees, a natural resources professional, a citizen and two representatives who own agricultural land or operate agricultural businesses. The Board of Trustees may appoint ex-officio members.

(3) The Preservation Board may consult experts as it may desire and the Board of Trustees may appropriate funds for that purpose.

(4) Members shall serve two-year terms, except that the initial term of two members shall be one year and terms of three members shall be two years. Members shall not be compensated for their services but shall be reimbursed for expenses actually incurred in the performance of their duties. Members may be reappointed to successive terms but the Preservation Board shall be terminated two years following the expenditure of all proceeds for farmland and open space development rights acquisition.

(5) No member shall vote on the selection of individual parcels in which they have an interest or on individual parcels adjacent to property in which they have an interest.

(6) The Board of Trustees may participate in a multi-jurisdictional Preservation Board with adjoining townships. Such board shall include representatives as listed in subsection (2) above, have terms as described in subsection (4) and feature at least one member from each participating township. The Boards of Trustees of the participating townships must all approve recommendations of this Preservation Board, or may delegate approval to a regional governmental unit if that unit has been granted such authority.

SECTION 7: Selection

The Farmland Preservation Board shall conduct a voluntary property selection process (herein called the "Selection Round") generally as follows:

(1) In each selection round the development rights on all eligible land properties shall be eligible for purchase. In all selection rounds, properties of higher priority shall be purchased with available funds before properties of lower priority are purchased, provided:

(a) The Preservation Board may negotiate for a lower price and/or seek outside funding for the purchase of development rights on any parcel offered.

(b) In the interest of protecting a significant amount of agricultural land, the Preservation Board may determine not to buy all of any of the development rights on a particular parcel if the Preservation Board makes a finding that it is in the best interest of the program to protect a larger number of acres rather than a smaller number of acres of higher valued development rights.

(c) The Preservation Board may receive and act on appeals of any factual nature by affected property owners.

(2) The Preservation Board shall begin each selection round by giving notice in one newspaper of general circulation in Augusta Charter Township. The notice shall describe the properties eligible for purchase in the selection round; the general procedure to be followed in the selection process (including an estimated time schedule for the steps in the process); and shall invite the owners of such properties to make application for purchase of development rights by the Township and to describe the property interest which the owner is willing to sell, including any residential development rights to be retained by the owner. Applications shall be submitted to a location to be specified by the Preservation Board and stamped with the date of receipt.

(3) Upon closing of the application period, the Preservation Board shall review each application which has been received to determine the eligibility and priority classification of each property interest and to verify ownership by tax records.

(4) For those properties which meet the requirements of Section 5, the Preservation Board shall cause an appraisal of the applicant's property interest to be made. A "before and after" appraisal shall be made to determine the value of development rights. One appraisal shall determine the fair market value of full ownership of the land (excluding buildings thereon) and one shall determine the fair market value of the agricultural rights plus any specifically retained residential development rights.

(5) Appraisals shall be made by State certified appraisers selected by the Preservation Board. The selected appraiser shall not have a property interest, personal interest or financial interest in eligible lands. The same appraiser shall conduct the before and after appraisals.

(6) Appraisals shall be in writing and shall be furnished to the respective owners for review. Errors of fact in any appraisal may be called to the attention of the appraiser by the Preservation Board or by owners of the property appraised, but corrections of the appraisal may be made only by the appraiser. If an owner of property believes it has not been adequately appraised, such owner may, within the time allowed on the selection schedule, have a review appraisal be made at the owner's expense by a State certified appraiser. The appraisal shall then be filed with the Preservation Board. The Preservation Board shall use both appraisals to reach an agreement as to the appropriate value of the development rights.

(7) Terms and conditions of sale and information on the effect of the sale may be discussed by the entire Preservation Board with owners prior to the submission of written applications.

(8) Written applications by owners who desire to have their development rights purchased by the Township shall be submitted on forms provided by the Preservation Board. These written offers shall include any development options desired to be retained by the owners.

(9) Upon receiving the recommendations of the Preservation Board, the Board of Trustees shall take final action on such recommendations.

(10) Once action to select properties for the purchase of development rights has been taken by the Board of Trustees, the Preservation Board shall draft a baseline documentation report describing through photographic, pictorial and narrative means the condition of the property at the time of the grant and a development rights easement. The baseline report shall contain a signature page where the Owner and the Supervisor sign to state that the report is an accurate description of the property at the time of grant. The easement shall similarly feature a page where the signatures of the Owner and the Supervisor are notarized, following which the easement shall be recorded with the county register of deeds so that it is effective on all current and future owners.

(11) Upon the completion of a purchase of development rights transaction, the Township assessor will be notified of the development rights purchase.

SECTION 8: Duration of Acquired Interests

(1) Development rights acquired pursuant to this Ordinance shall be held in trust by the Township for the benefit of its citizens in perpetuity. After 25 years have passed, however, the owner may make application to the Preservation Board that farmland and open space land described in this Ordinance can no longer reasonably be used for agriculture. The Preservation Board shall review such application by virtue of a stringent procedure that shall be developed by the Preservation Board, and determine whether those development rights may be returned to the owner, subject to conditions set forth in Subsection (6). Upon receiving the recommendations of the Preservation Board, the Board of Trustees shall take final action on such recommendations.

(2) Those properties for which the Board of Trustees approves the return of development rights as specified in Subsection (1), the Preservation Board shall cause an appraisal of the applicant's property interest to be made at the owner's expense. Payment for this appraisal shall be made by the owner in advance. A "before and after" appraisal shall be made to determine the value of development rights. One appraisal shall determine the fair market value of full ownership of the land (excluding buildings thereon) and one shall determine the fair market value of the agricultural rights plus any specifically retained residential development rights.

(3) Appraisals shall be made by State certified appraisers selected by the Preservation Board. The selected appraiser shall not have a property interest, personal interest or financial interest in eligible lands. In the event that the low bidder has a conflict of interest associated with a potential easement, the second low bidder will conduct that appraisal. In any event, the same appraiser shall conduct the before and after appraisals.

(4) Appraisals shall be in writing and shall be furnished to the respective owners for review. Errors of fact in any appraisal may be called to the attention of the appraiser by the Preservation Board or by owners of the property appraised, but corrections of the appraisal may be made only by the appraiser. If an owner of property believes it has not been adequately appraised, such owner may, within 60 days of being notified of the appraisal, have a review appraisal made at the owner's expense by a State certified appraiser. The appraisal shall then be filed with the Preservation Board. The Preservation Board shall use both appraisals to reach an agreement as to the appropriate value of the development rights.

(5) At any time in this process, the owner may choose to withdraw the request for the return of development rights without penalty, while still being responsible for the Township's appraisal of the property as specified in Subsection (2).

(6) If the Preservation Board approves a request that farmland and open space land described in this Ordinance can no longer reasonably be used for agriculture, the Township shall have a right of first refusal to purchase the remaining rights at the fair market value of the agricultural rights plus any retained development rights, as determined by a State certified appraiser, for the purposes of a Township park or other publicly-accessible property. Upon receiving the recommendations of the Preservation Board, the Board of Trustees shall take final action on such recommendations. If the Board of Trustees chooses to exercise this right of first refusal, an offer to purchase the remaining rights at the appraised value shall be submitted. Acquisition of lands for public purposes shall be made with funds designated for such purchases and not with funds authorized for development rights acquisition pursuant to this Ordinance. The owner may at that time choose to not sell the remaining rights and instead retain ownership of the property. If the Board of Trustees approves the sale of development rights back to the

owner, proceeds from that sale shall be placed in the Development Rights Acquisition Fund as specified in Section 12 of this Ordinance.

(7) The Township may convey development rights acquired pursuant to this Ordinance to a conservation, open space preservation, historic preservation or similar organization under terms ensuring that the public benefits for which the Township purchased the development rights will be maintained.

SECTION 9: Related Costs

The costs of appraisal, closing and legal review lawfully incurred incident to the acquisition of interests in eligible lands by the Township may be paid by the Township. The Township shall not be responsible for expenses incurred by the owner incident to this transaction, including surveying and the owner's legal review.

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 some lesser interest in eligible lands or to supplement or enlarge such acquisition. The Township Board is hereby authorized to utilize such funds to purchase interests in eligible lands or to otherwise supplement Township funds in the manner provided by this Ordinance and in accordance with the applicable laws or terms governing such grant.

SECTION 11: Purpose

The Board of Trustees finds and declares that the use of Township funds for the purpose of paying in whole or in part the cost of acquisition of interests in eligible lands as set forth herein, including any costs necessarily incident to such acquisition, and the monitoring and enforcement of development rights easements, or to participation with any party for such purposes will promote the public health, safety and general welfare of the people of Augusta Charter Township.

SECTION 12: Development Rights Funding Sources and Acquisition Fund

(1) Funding for purchasing development rights may come from one or more of the following sources:

- (a) General appropriations by the township.
- (b) Proceeds from the sale of development rights by the township subject to Section 8 (6) of this Ordinance.
- (c) Grants.
- (d) Donations.
- (e) Bonds or notes issued under subsections (2) to (6).
- (f) General fund revenue.
- (g) Special assessments under subsection (7).
- (h) Other sources approved by the township board and permitted by law.

(2) The township board may borrow money and issue bonds or notes under the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, subject to the general debt limit applicable to the township. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes;

subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes; or bonds or notes to refund in advance bonds or notes issued under this section.

(3) The township board may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the township board is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the township, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) The township board may borrow money and issue bonds or notes for refunding all or part of existing bond or note indebtedness only if the net present value of the principal and interest to be paid on the refunding bonds or notes, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the bonds or notes being refunded, as calculated using a method approved by the department of treasury.

(8) The township board may finance the purchase of development rights by special assessments. A special assessment district may be established if both of the following requirements are met:

(a) A petition is filed with the township board containing all of the following:

(i) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(ii) A description of the proposed special assessment district.

(iii) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(iv) The amount and duration of the proposed special assessments.

(b) The township board specifies how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

(9) All revenues for purchasing development rights on farmland and open space land shall be placed in a designated Development Rights Acquisition Fund to be hereafter created in the office of the Treasurer of Augusta Charter Township (here and after "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 Township money.

(10) The revenues and any interest received from the deposit or investment of such revenues shall be applied and used solely for the purposes set forth in this Ordinance.

SECTION 13: Severability.

In the event any provision of this Ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

APPENDIX A

PART I – CHARACTERISTICS OF THE FARMLAND

Type of Agricultural Land. In 1981, the Washtenaw County Metropolitan Planning Commission developed 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. In the study of Washtenaw County agriculture, land within the townships but outside the year 2000 sanitary sewer service area was divided into quarter sections (160 acres). This was deemed most appropriate for a study at a county-wide scale. Public lands and other major areas committed to present use (e.g., the Chrysler Proving Grounds) were deleted from consideration of potential agricultural land.

Three categories of agricultural lands were utilized: essential, secondary and reserve. Six factors were used to select these agricultural lands. Three physical factors are related to soil characteristics and were derived from the Natural Resources Conservation Service (NRCS) Soil Survey of Washtenaw County. The remaining three factors have a cultural origin, which can change rapidly.

The three physical criteria included soils capable of producing 100 bushels of corn or more per acre where farmers practice good management techniques, soils with a Class II agricultural capability as determined by the NRCS and prime agricultural areas depicted on the 1980 NRCS map of Washtenaw County.

The three cultural criteria included existing farms that are well operated and viable as determined by personnel of the Michigan State University Extension Service and later supplemented by input from the county Agricultural Lands Committee, parcels of land that exceed 80 acres in size and farmlands whose owners have applied to enroll in the Michigan Farmland and Open Space Preservation Act program (P.A. 116).

Essential Agricultural Lands include all those with one of three physical criteria and which contain an existing farm that is well operated and viable.

Secondary Agricultural Lands also must contain one of the three physical criteria or contain a well-operated farm plus have parcels of 80 acres or more or be enrolled in P.A. 116.

Reserve Agricultural Lands must also contain one of the three physical criteria or contain a well-operated farm.

Where more than 50 percent of a quarter section could be designated under one of these three agricultural land divisions, the entire 160 acres was given a particular classification.

Before the final map was completed, quarter sections that were designated in one of the three categories, but in which more than 50 percent of the land was in parcels smaller than 10 acres, were deleted. This comprised only a few cases, but the decision was based on the premise that viability of farms is limited where land ownership is highly fragmented.

While certainly much has changed in the 20 years since this process was completed, it still serves as a basis for making determinations on targets for agricultural land preservation today.

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 1997 U.S. Census of Agriculture, the average size of all farms in Washtenaw County was 175 acres.

Protected Land. Protected land is defined as that which is permanently protected through private or public means. Types of protected land include nature preserves, public park and recreation lands, lands restricted by conservation easement with land trusts and conservancies and other lands with development rights secured through purchase or donation.

PART II – STEWARDSHIP OF THE LAND

Conservation Plans. In the absence of NRCS plans, the Farmland Preservation Board will determine the extent of conservation practices by consulting with experts in the field and other appropriate means.

Enrollment in P.A. 116. Michigan's Farmland and Open Space Preservation Act (P.A. 116 of 1974) enables a landowner to enter into a development rights agreement (for farmland) or a development rights easement (for open space) with the state. These agreements and easements are designed to ensure that the land remains in a particular use or uses for an agreed upon period. In return for maintaining the land in a particular use, the landowner is entitled to certain income or property tax benefits.

PART III – LIKELIHOOD OF CONVERSION TO NONFARM USE

Percentage of Farm Containing Steep Slopes. Steep slopes are defined as those of greater than 12 percent.

PART IV – LONG RANGE PLANNING CONSIDERATIONS

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 V – TIEBREAKERS

Matching Funds. Matching funds are defined as other financial contributions from private or public sources that could be applied to a property's application and result in a lower local cost for development rights purchase.

Market Value. Refers to an owner's willingness to accept an offer for development rights at a percentage lower than the full market value.

RESOLUTION DECLARED ADOPTED:

The foregoing resolution offered by Board Member Giszczak, seconded by Board Member Manty and upon roll call vote, the following voted "Aye": Babut, Dew, Giszczak, Jackson, Kidder, Manty, Tobler. Nay": None.

The Supervisor declared the resolution adopted.

Kathy Giszczak, Clerk

CERTIFICATE

I, Kathy Giszczak, the duly elected and acting Clerk of Augusta Charter Township, hereby certify that the foregoing resolution was adopted by the Township Board of said Township at a work session meeting of said Board held February 8, 2005, at which meeting a quorum was present by a roll call vote of said members as hereinbefore set forth; that said resolution was ordered to take immediate effect.

Kathy Giszczak, Clerk