

**WEBSTER TOWNSHIP**  
**Washtenaw County, Michigan**  
**Ordinance No. \_\_\_\_\_**

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*[An ordinance authorizing Webster Township to acquire voluntarily offered property development rights in real estate that is farmland and open space within the Township and establishing the procedure for acquiring and financing the acquisition of the development rights pursuant to Sections 31, 32 and 33 of Public Act No. 184 of 1943, as amended]*

**THE WEBSTER TOWNSHIP BOARD OF TRUSTEES ORDAINS:**

**SECTION 1:           Short Title**

This ordinance shall be known and may be cited as "The Webster Township Purchase Development Rights Ordinance".

**SECTION 2:           Findings and Declaration of Purpose**

The Board of Trustees finds that:

**A.**     Webster Township is a desirable place to live, work and visit in large part because of the availability of farmland, natural features, and open space. The Township Master Plan includes scenic views, agriculture, open spaces and wildlife habitat as valuable natural and aesthetic resources that should be protected.

**B.**     The climate, variety of soils and terrain make the Township well suited to the production of a great number of agricultural products. 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.

**C.**     Webster Township is experiencing substantial residential development because of its proximity to Dexter, Ann Arbor, and other employment centers, its attractive landscapes and 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.

**D.**     It is the policy of the State of Michigan, Washtenaw County and Webster Township to protect, preserve and enhance agricultural lands as evidenced by the Township Master Plan, the Township Zoning Act (P.A. 184 of 1943, as

amended, being MCLA 125.271 et seq.), the Washtenaw County PDR Ordinance, 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 effectively provided long-term protection of agricultural areas and open space from pressure of increasing residential and commercial development.

**E.** The Township recognizes the agricultural industry's significant contributions to the local economy.

**F.** Generally, farmlands 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 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.

**G.** The permanent acquisition of voluntarily offered interests in farmland and open space 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 those lands in the Township.

**H.** Properties on which the Township has purchased the development rights should remain substantially undeveloped in order to promote their natural and agricultural use.

**I.** The acquisition of interests in farmland and open space as provided in this Ordinance is a public purpose of Webster 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.

**J.** This Ordinance is authorized by Sections 31, 32 and 33 of the Township Zoning Act, Public Act No. 184 of 1943, as amended, (MCLA 125.301 to 125.303).

### **SECTION 3: Definitions**

"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.

"Agricultural Use" means farmland devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, 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 harvest of a woodlot where such a woodlot exceeds 49% of the land considered within an application.

"Application" means the documentation and information submitted to the Township by a landowner on an approved application for offering to sell, donate or otherwise grant to the Township a conservation easement, development rights or title to lands in the Township.

"Board of Trustees" and "Township Board" means the Webster Township Board of Trustees.

"Chairperson" means the member of the Farmland And Open Space Preservation Board who is elected Chairperson by the Preservation Board.

"Conservation easement" means a non-possessory interest in real property, which is acquired in accordance with MCL 324.2140 et seq. for the purpose of retaining and enhancing agriculture, preserving natural, scenic or open space values of real property; restricting or preventing the development or improvement of the land for purposes other than agricultural production; or other like or similar purposes.

"Development" means an activity which materially alters or affects the existing conditions or use of any land in a manner that is inconsistent with agricultural use or open space character.

"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.

"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.

"Eligible Land" means farmland and/or open space for which the purchase of development rights easements with tax funds and other monetary sources are authorized pursuant to this Ordinance.

"Farmland" means those lands designated in the Township Master Plan as part of the Agricultural Preservation District.

"Full Ownership" means fee simple ownership.

"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.

"Master Plan" or "Township Master Plan" means the Webster Township Master Plan.

"Open Space" means substantially undeveloped land that is not devoted to agricultural use, but possesses special qualities including natural areas, scenic views, wildlife habitat, threatened and endangered species.

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

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

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

"Planning Commission" means the Webster Township Planning Commission.

"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.

"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 80 acres of land.

"Supervisor" means the Webster Township Supervisor.

"Township" means Webster Township, a Michigan municipal corporation, situated in the County of Washtenaw, State of Michigan.

"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 and/or the open space value plus any residential development rights to be retained by the owner.

"Webster Township Farmland and Open Space Preservation Board" and "Preservation Board" means the board formed pursuant to Section 5 of this Ordinance to advise the Board of Trustees in the selection of Eligible Lands for easement purchases.

"Zoning Ordinance" means the Webster Township Zoning Ordinance.

#### **SECTION 4: Webster Township Board of Trustees**

The Board of Trustees is authorized under state law and this Ordinance to:

**A.** Expend revenue to acquire land or interests in land in accordance with the criteria and procedures established in this Ordinance. The interest acquired may either be fee title, development rights, conservation easements, or any lesser interest, easement, covenant, or other contractual right pertaining to such rights. Acquisition of land and land rights may be achieved through purchase, grant, covenant or contract but only to a price that is equal to or less than the qualified appraisal. In particular, the Board of Trustees can acquire development rights to agricultural lands and other eligible land. The revenue shall be used to acquire eligible lands only upon application of the owner as authorized by this Ordinance.

**B.** Enter into cash purchase contracts, installment purchase contracts, cash purchase/non-cash purchase donation agreements or similar agreements establishing the rights and responsibilities of the Township and the owner in the transfer of land, purchase of development rights, or the granting of conservation easements or other easements or covenants consistent with applicable law and this Ordinance. 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.

**C.** Enter into contracts with recognized and legally established nonprofit land trusts (for example, American Farmland Trust and Washtenaw Land Trust) and other experienced and qualified nonprofit groups to participate jointly in the

acquisition, retention and management of land, development rights, conservation easements and other easements involving eligible lands.

**D.** Enter into contracts with recognized and legally established nonprofit land trusts, other experienced and qualified nonprofit groups or other local units of government that would assist the Township in establishing baseline studies, procedures for monitoring and/or the management of any conservation easements acquired under this Ordinance. Such studies and monitoring must conform to the "The Standards and Practices Guidebook" issued in 1993 by the Land Trust Alliance, or its revised version as it becomes available.

**E.** Enter into agreements for the joint acquisition, retention and management of land and development rights, conservation easements, or other easements involving eligible lands with other governmental agencies to the extent permitted by law and in accordance with this Ordinance.

## **SECTION 5: Webster Township Farm Land and Open Space Preservation Board**

### **1. Membership**

**A.** The Preservation Board shall consist of five (5) members nominated and approved by the Board of Trustees.

**B.** Members of the Preservation Board shall be residents of the Township. One member shall be a member of the Board of Trustees, two members shall be citizens-at-large, and two members shall own agricultural land or operate agricultural businesses. If the member who is a member of the Board of Trustees ceases to be a member of the Board of Trustees, that member's term shall terminate. Members may be reappointed for successive terms.

**C.** Members shall serve two-year terms, except that in the initial term two members shall serve for one year and three members shall serve for two years.

**D.** Members shall not be compensated for their services but shall be reimbursed for expenses actually incurred in the performance of their duties.

**E.** No member shall vote on a selection of individual parcels in which they have an interest or on individual parcels adjacent to property in which they have an interest.

**F.** The Board of Trustees may appoint ex-officio members which shall have no voting power.

**G.** A member may be removed by a majority vote of the membership of the Board of Trustees.

## **2. Organization**

**A.** The Preservation Board shall annually elect a chairperson and a secretary.

**B.** The Preservation Board shall meet at a minimum on a quarterly basis at a date and time to be determined by the Preservation Board.

**C.** A majority of the members of the Preservation Board, that is three members, shall constitute a quorum.

**D.** A majority vote of the membership, that is three members, shall be required to make a selection of eligible lands. All other matters shall require an affirmative vote of a majority of the members present to authorize an action of the Preservation Board.

**E.** Consistent with this Ordinance and subject to the Board of Trustees approval, the Preservation Board may develop by-laws and standing rules that further define the functional and procedural aspects of the Preservation Board's duties.

**F.** The secretary shall be responsible for taking written minutes of the meeting of the Preservation Board. The records of the Preservation Board shall be kept by the Township Clerk.

**G.** Meetings shall be conducted in accordance with the Open Meetings Act, MCLA 15.261 et seq.

## **3. Powers and Duties**

**A.** To advise and make recommendations to the Board of Trustees on land matters and enhancing public awareness, commitment and active participation in the stewardship of agricultural lands and open space, and land rights acquisition, management and disposition.

**B.** To review and recommend to the Board of Trustees applications for the purchase of eligible lands in accordance with the provisions of this Ordinance.

**C.** To advise the Board of Trustees on monitoring and enforcement of the terms and provisions of any development rights agreement and/or conservation easements acquired by the Township.

**D.** To publish and present an annual report, which shall include a listing of all parcels of land donated or for which development rights or conservation easements or other easements were acquired, and the method of acquisition; a map showing the location of acquired lands and dates of acquisition; financial cost, and land characteristics; other parcels on which other governmental entities hold development rights or conservation easements; a listing of the number of applications made, the number of unsuccessful applications and the categorical reasons they were not accepted.

**E.** To prepare and present to the Board of Trustees an annual budget for land and land rights acquisition, preservation, and management within the Township.

**F.** To review and recommend to the Board of Trustees alternate sources of funding, such as grants, gifts, endowments, etc., for land and land rights acquisition, preservation, and management.

**G.** To work collaboratively with city, village and other township boards and commissions which have responsibilities for specific issues, including but not limited to the Planning Commission.

**H.** To hold public forums, separately or with other municipal boards or commission, for the purpose of identifying needs in the community on natural land matters.

**I.** To meet with municipal boards and commissions in other jurisdictions and other public and private organizations to address regional and state land and land rights preservation matters.

**J.** In addition to the powers and functions herein provided, the Board of Trustees may delegate to the Preservation Board by resolution other powers and functions permitted by law concerning the acquisition of development rights.

**SECTION 6: Application and Selection Process**

**1.** The applicant or applicants must have good, marketable, fee simple title to the land.

**2.** The parcel of land proposed for purchase must be located within the Township.

**3.** If a development rights purchase, the applicant or applicants must agree to maintain the land in accordance with a conservation easement approved by the Board of Trustees.

4. To locate owners of eligible land who would like to voluntarily participate in the property development rights program, the Preservation Board may annually publish notice in a newspaper having general circulation in the Township which invites those owners to submit an application for the purchase of development rights. The Preservation Board may prioritize the applications based on the criteria set forth in Section 7 and submit a list of those properties to the Board of Trustees and seek its guidance on which properties, if any, to pursue.

5. A completed application must be submitted on the approved application form. An owner or a duly authorized representative of the owner may apply. All applications must be signed. A separate application is required for each non-contiguous parcel of land offered for acquisition. The Preservation Board shall establish and publish procedures for submission and assist owners with the application process. These procedures shall be available from the Township Clerk and may be placed on the Township website.

6. The following information shall be included in a completed application:

- (i) Adequate identification by deed reference of the parcel of land to be considered for purchase. The description should also include a map showing the location of the parcel.
- (ii) A description of the agricultural use carried out on the parcel or other current uses on the parcel.
- (iii) A statement by the owner of any contingencies that the owner wishes to make the Preservation Board aware of that may affect the property in the future (such as death, estate plans, etc.).
- (iv) A description of the features of the property, such as presence of water bodies, scenic views, streams, wetlands, rare species, or other desirable features.
- (v) A statement by the owner granting access for the purpose of inspection and appraisal of the parcel by the Township, its employees or contractors and the Preservation Board.
- (vi) A list of any and all liens and encumbrances on the parcel.
- (vii) Existence of any surface or subsurface leases or easements.
- (viii) All other information requested on the application.

**7.** If the application is complete and the minimum criteria established are met, the application shall be evaluated. The members of the Preservation Board, Township staff, and other authorized persons shall view each parcel for which an application is submitted and a written report shall be made by the Preservation Board evaluating the application according to the established selection criteria.

**8.** The Township shall notify each village in which is located land from which development rights are proposed to be purchased of the receipt of an application of the purchase of development rights and shall notify each such village of the disposition of that application.

**9.** The Preservation Board, after consideration of the written report, may, upon the affirmative vote of three members, determine and submit to the Board of Trustees its recommendation with respect to the application.

**10.** The Board of Trustees, upon the affirmative vote of the members present, may authorize the Preservation Board to continue to process the application whereupon the Preservation Board shall do the following:

- (i)** Title Commitment: Conduct a title search to determine if the owner has clear, marketable, fee simple title to the land.
- (ii)** Appraisal: For purchases of development rights or conservation easements, a “before and after” qualified appraisal of the property and the interest offered for purchase shall be conducted. The qualified appraisal shall contain an analysis of the highest and best use of the parcel of land, the valuation methodology used by the appraiser to determine the value, the fair market value of the full ownership of the land (excluding the buildings thereon, if any), and the value of the agricultural rights and any residential developments rights to be retained by the owner for development right purchases; or the value of all rights to be retained by the owner for conservation easement purchases. The value of the owner’s retained rights or interest in the land shall be listed separately in the qualified appraisal. For purchases of land in fee simple, the qualified appraisal shall contain only the analysis of the highest and best use of the parcel of land, the valuation methodology used by the appraiser to determine value and the fair market value of the full ownership of the land (excluding the buildings thereon, if any).
- (iii)** Other Studies: If appropriate, an environmental assessment, soil analysis, boundary survey or other testing may be conducted.

**11.** At the conclusion of all testing and completion of the title search, a complete property analysis, including a baseline documentation of the property, and recommendation shall be prepared with its tentative recommendation.

**12.** The owner shall be entitled to a copy of the property analysis. The owner may, at his or her own expense, provide additional information to the Preservation Board on the findings and determinations included in the property analysis or withdraw his or her application within 30 days of receipt of the property analysis.

**13.** The Preservation Board shall submit to the Board of Trustees a copy of the report, appraisal, studies, submissions by the owner, and other pertinent information, together with its recommendation. The Board of Trustees, upon the affirmative vote of a majority of those members present, may authorize the Preservation Board to proceed with the application, enter into negotiations, and submit a written offer to the owner. The offer shall be for a time certain accompanied by a proposed deed or easement or title in accordance with the offer made in the application.

## **SECTION 7: Eligible Lands and Priority of Acquisition**

Revenues may be used to purchase property interests in the following lands in the following order of their priority:

### **1. Primary Criteria that all properties must meet**

Voluntary application by the property owner and those lands designated in the Township Master Plan as part of the Agricultural Preservation District.

### **2. Criteria for Selection**

The following criteria may 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 and open space for the purchase of conservation easements. After an initial screening, 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 designated in the Township Master Plan as part of the Agricultural Preservation District.

### 3. **Initial Screening**

**A.** Development rights already purchased and/or conservation easement placed on the property. If yes, then reject application.

**B.** Permitted use according to the Zoning Ordinance: Is agriculture a permitted use according to the zoning designation for the nominated parcel? Or if the nominated parcel is considered "open space" as defined in this Ordinance, is the current or proposed use of the nominated parcel a permitted use according to the Zoning Ordinance? If no, then recommend rejection of application.

**C.** Contamination on the site: Is the site free of any known environmental contamination? If no, then recommend rejection of application.

### 4. **Description of the System**

The screening and scoring system for review of potential easement acquisition consist of two land types: Agricultural Land and Open Space Land. The system is intended to identify high quality agricultural and open space properties that are appropriate for protection. The Agricultural Land system consists of four sections. The maximum point value is 100. The Open Space Land consists of three sections and a maximum point value of 113.

#### **A. AGRICULTURAL LAND**

<u>PART</u>	<u>TOTAL POINTS</u>
I - Characteristics of the Farmland	51
II - Stewardship of the Land	6
III - Pressure for Conversion to Non-farm Use	18
IV – Leveraging	25

#### **Priorities:**

The point value arrived at through the use of this system will be used to evaluate or prioritize farm sites for purchase of conservation easements. Higher point values indicate higher priority for purchase. 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 A.

PART I CHARACTERISTICS OF THE FARMLAND

*Quality of the soils*

<u>Category</u>	<u>Score</u>
75% or more Class I, II	15
50-74% Class I, II	10
50% or more Class I, II, III	6
Less than 50% Class I, II, III	0

*Size of Parcel Offered for Development Rights Purchase*

<u>Acreage</u>	<u>Score</u>
80 acres or more	15
20 to 79 acres	8
5 to 19 acres	3

*Farmland in Agricultural Use*

<u>Percent of Property in Agricultural Use</u>	<u>Score</u>
90% & up	10
76% - 89%	8
61% - 75%	6
51% - 60%	4

*Proximity to Protected Land*

<u>Distance</u>	<u>Score</u>
Directly adjacent	6
Not adjacent, but within 1 mile	3
Not adjacent and not within 1 mile	0

*Scenic, Historical, or Architectural Features*

<u>Features</u>	<u>Score</u>
Farm site provides a vista, unique historical or architectural features, including architecturally significant barn(s)	5
Farm site provides an accent	3

PART II STEWARDSHIP OF THE LAND

*Conservation Plans*

<u>Extent of Conservation Plan</u>	<u>Score</u>
USDA Natural Resources Conservation Services (NRCS) conservation plan implemented	4
Conservation practices used on the property (documented)	3
Limited or no conservation practices used	0

*Commitment to Farming*

<u>P.A. 116 Participation</u>	<u>Score</u>
Applicant property enrolled in P.A.116	3

PART III PRESSURE FOR CONVERSION TO NON-FARM USE (OR SITE DEVELOPMENT CAPABILITIES AND LIMITATIONS)

*Amount of Road Frontage*

<u>Frontage</u>	<u>Score</u>
1,000 feet or more	6
500 - 999 feet	3
100 - 499 feet	1

*Adjacent Land Use*

<u>Percent of Perimeter in Agricultural Use</u>	<u>Score</u>
75-100%	6
50-74%	4
25-49%	2
< 25%	0

*Adjacent Land Use Designation*

<u>Percent of Perimeter designated Agricultural Zoning</u>	<u>Score</u>
75-100%	6
50-74%	4
25-49%	2
< 25%	0

PART IV LEVERAGING PROPERTIES

*Acquisition Considerations*

<u>Matching Funds</u>	<u>Score</u>
> 50%	15
20 – 50%	10
< 20%	5
No matching funds	0

<u>Landowner Contribution</u>	<u>Score</u>
> 20%	10
10-20%	8
< 10%	2
No contribution	0

**B. OPEN SPACE LAND**

<u>PART</u>	<u>TOTAL POINTS</u>
I – Characteristics of the Land	44
II – Context	46
III – Acquisition Considerations	23

*I. Characteristics of the Land*

<u>Mature Trees and/or Rare Species</u>	<u>Score</u>
Species and/or habitats of special concern	15
Mature native forest or grassland elements	10
Early successional plant communities	6

<u>Parcel Size</u>	<u>Score</u>
> 40 acres	10
20 – 40 acres	3
< 20 acres	2

<u>Road Frontage</u>	<u>Score</u>
> 1000 feet	3
500 – 1000 feet	2
< 500 feet	1

<u>Wetlands and/or Floodplain (% of property with feature)</u>	<u>Score</u>
>20%	10
10 – 20 %	7
<10%	3
No features	0

<u>Groundwater Recharge</u> (% of property serving as a groundwater recharge)	<u>Score</u>
> 75 %	6
50 -75%	4
< 50%	2

## II. *Context*

<u>Adjacent Land Use</u> (% of properties perimeter to open space/agriculture use)	<u>Score</u>
> 89%	7
50 – 89 %	5
< 50%	4
None	0

<u>Proximity to Water Resources Frontage</u> (Amount of frontage on open water, a perennial stream, or county drain)	<u>Score</u>
> 500 feet	15
100 – 500 feet	10
< 100 feet	5
no frontage	0

<u>Proximity to Protected Land</u>	<u>Score</u>
Adjacent	12
1 mile or less	6
> 1 mile	0

<u>Scenic and/or historical value</u> (Does the site provide a broad, sweeping view from publicly accessible sites, or does it have unique or historical features)	<u>Score</u>
2 or more attributes	12
1 attributes	6
0 attributes	0

### III. Acquisition Considerations

<u>Matching Funds</u> (% of the appraised value of development rights available from other sources)	<u>Score</u>
> 50%	15
20 – 50%	10
< 20 %	5
No funds	0

<u>Landowner Contribution</u> (% of the appraised value of development rights the landowner is willing to donate)	<u>Score</u>
> 20%	8
10 – 20%	5
<10%	3

#### **SECTION 8: 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 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 eighty (80) acres of land. This is not to preclude the sale of all existing dwelling units on the site at the time the development rights are purchased. Sale of these existing dwelling units shall be in accordance with the conservation easement on the property.
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 the existing zoning regulations.

## **SECTION 9: Duration of Acquired Interests**

**1.** Development Rights acquired pursuant to this Ordinance shall run with the land and be held by the Township, for the benefits of its citizens, in perpetuity, however, that a property owner who has sold Development Rights to the Township may repurchase those Rights upon the following conditions:

**A.** Fifty (50) years have passed since the Development Rights were sold; and

**B.** The Preservation Board determines that the property may not be reasonably used for Agricultural Use. A recommendation will be based on the following factors:

(i) That, because of the quality of the farmland, agricultural production cannot be made economically viable with generally accepted agricultural and management practices.

(ii) That surrounding conditions impose physical obstacles to the agricultural operation or prohibit essential agricultural practices.

(iii) That significant natural physical changes in the farmland have occurred that are generally irreversible and permanently limit the productivity of the farmland.

(iv) That a court order restricts the use of the farmland so that agricultural production cannot be made economically viable.

(v) That significant natural physical changes occurred in the open space making it less desirable to protect.

**C.** The Board of Trustees agrees that the property is no longer suitable for agricultural or open space purposes and thus consents to the repurchase.

**D.** The repurchase of the development rights is consistent with the purpose of the purchase development rights program as determined by the Board of Trustees.

**E.** The Township chooses not to exercise its 60-day option to purchase the remainder of the property interests in the parcel.

**2.** Once the Board of Trustees 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 Township and the Township shall select another Appraiser to complete the appraisal. The Township 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 Township.

3. A repayment received shall be allocated to all original contributing fund partners in the same proportion as the proportion for the original purchase of the development rights of the parcel.

#### **SECTION 10: Related Costs**

The costs of appraisal, engineering, surveying, planning, financial, legal, environmental assessments and other services lawfully incurred in relation to the purchase of Development Rights shall be paid by Webster Township or any of its contributing partners. Payment of these costs shall be negotiated between contributing partners. Webster Township shall not be responsible for any expenses incurred by the Owner incident to this transaction.

#### **SECTION 11: 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 Board of Trustees 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 12: Funding**

1. 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 Webster Township.

2. Funding for purchasing development rights may come from one or more of the following sources:

- (i) General appropriations by the Township.

- (ii) Proceeds from the sale of development rights by the Township subject to Section 9 of this Ordinance.
- (iii) Grants.
- (iv) Donations, including but not limited to contributions from land trusts or other non profit entities.
- (v) General fund revenue.
- (vi) Other sources approved by the Township Board and permitted by law.

3. 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 Webster Township. 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.

4. 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: Donations**

The provisions of this Ordinance shall not apply to a donation of any interest in land to the Township by a gift or bequest.

### **SECTION 14: Enforcement**

The Township staff shall administer and enforce and the Township Attorney shall prosecute this Ordinance and development rights and conservation easement agreements. The Preservation Board will advise and make recommendations to the Township Board concerning monitoring and investigation of complaints of violation of Township acquired development rights. The Preservation Board shall at least once annually ascertain whether the owner is complying with all conditions of the easement or deed. Inspection findings shall be in writing and maintained.

**SECTION 15: 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.

**SECTION 16: Publication and Effective Date**

Publication of this Ordinance shall be made within 30 days after the passage by publication of a true copy once in a newspaper having general circulation in the Township and shall take effect on the date following publication. Within 1 week after publication of the Ordinance the Township Clerk shall record the Ordinance in the Ordinance Book, record the date of passage of the Ordinance, the names of the members of the Township Board voting, and how each member voted.

Date of Passage: \_\_\_\_\_  
Date of Publication: \_\_\_\_\_  
Effective Date: \_\_\_\_\_  
Date Recorded: \_\_\_\_\_

\_\_\_\_\_  
Mary Dee Heller, Clerk  
Webster Township

## APPENDIX A

### PART I - CHARACTERISTICS OF THE FARMLAND

*Accent.* Attractive view but narrower in scope and weaker in impact than a vista.

*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.

*Vista.* A broadly sweeping view visible from a roadway, including but not limited to a variety of vegetation types such as woodlands, and farm fields and may have topographic variations.

\*Architecturally significant barns viewed during scoring may or may not be permanently protected within an Agricultural Conservation Easement.

### 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 IV - LEVERAGING

*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.