

Introduced	<u>9/4/18</u>
Public Hearing	<u>9/17/18</u>
Council Action	<u>10/1/18</u>
Executive Action	<u>10/9/18</u>
Effective Date	<u>12/9/18</u>

County Council of Howard County, Maryland

2018 Legislative Session

Legislative Day No. 12

Bill No. 63 -2018

Introduced by: The Chairperson at the request of the County Executive
and cosponsored by Mary Kay Sigaty

AN ACT amending the purpose of the Howard County Agricultural Land Preservation Act; defining certain terms; amending the title of the Howard County Agricultural Land Preservation Act to be the Howard County Agricultural Sustainability and Land Preservation Act; amending the name of the Agricultural Land Preservation Board to be the Agricultural Preservation Board; amending the name of certain subtitles; clarifying the duties and responsibilities of the Agricultural Preservation Board; reorganizing the Executive Branch of County Government pursuant to Section 403 of the Howard County Charter to allow the Office of Community Sustainability to act as the Executive Secretary to the Agricultural Preservation Board; making certain technical corrections; combining certain sections; and generally relating to the Agricultural Sustainability and Land Preservation Act.

Introduced and read first time September 4 2018. Ordered posted and hearing scheduled.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on September 17 2018.

By order Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on October 1 2018 and Passed Passed with amendments Failed .

By order Jessica Feldmark
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 4th day of October 2018 at 3:00 a.m./p.m.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Approved Vetoed by the County Executive Oct 9 2018

Allan H. Kittleman
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Howard County**
2 **Code is amended as follows:**

3 *By repealing: Title 15. Natural Resources*
4 *Section 15.504. Purchase of Easements.*
5 *Section 15.518. Agricultural Land Preservation Board.*

6
7 *By adding: Title 15. Natural Resources*
8 *15.503. Agricultural Preservation Board.*
9 *15.518. Transitional provisions—Districts.*

10
11 *By amending:*

12 1. *Title 6. County Executive and Executive Branch*
13 *Section 6.314. Agricultural Land Preservation Board*

14
15 2. *Title 6. County Executive and Executive Branch*
16 *Section 6.407. Office of Community Sustainability*
17 *Subsection (d)*

18
19 3. *Title 15. Natural Resources.*
20 *Section 15.500. Short title; findings; purpose.*
21 *Section 15.502. Definitions.*
22 *Section 15.503. Methods of acquiring easements.*
23 *Section 15.505. Administration.*
24 *Section 15.506. ALPP Eligibility Criteria*
25 *Section 15.507. Process for buying easements.*
26 *Section 15.507A. Alternate process for the purchase of easements.*
27 *Section 15.509. Process for acquiring an easement by dedication of a*
28 *preservation parcel.*
29 *Section 15.510. Fee simple acquisitions.*
30 *Section 15.513. - Enforcement/penalties.*
31 *Section 15.515. Exchange of easements.*
32 *Section 15.517. Optional right to exchange children's or grantor's lots.*

1 *Section 15.519. Maryland Agricultural Preservation Districts—Authority;*
2 *purpose; applicability.*

3 *Section 15.520. Transitional provisions—Parcels subject to an agricultural land*
4 *preservation easement acquired before the effective date of this act.*

5 *Section 15.521. Transitional provisions—Districts.*

6
7 4. *Title 16. Planning, Zoning and Subdivisions and Land Development*
8 *Regulations.*

9 *Section 16.801. The Department of Planning and Zoning*
10 *Subsection (c)(12)*

11
12 5. *Title 22. General Provisions.*

13 *Section 22.206. Financial Disclosure Statements*
14 *Subsection (c)*

15
16 **Title 6. County Executive and the Executive Branch.**

17 **Subtitle 3. Boards and Commissions.**

18
19 **Section 6.314. Agricultural [[Land]] Preservation Board.**

20 There is an Agricultural [[Land]] Preservation Board. Its membership and duties and responsibilities are
21 set forth in subtitle 5, "Agricultural [[Land]] Preservation," of title 15, "Natural Resources," of the
22 Howard County Code.

23
24 **Title 6. County Executive and the Executive Branch.**

25 **Subtitle 4. Department of County Administration.**

26
27 **Section 6.407. Office of Community Sustainability.**

28 (d) *Duties and Responsibilities.* The Office of Community Sustainability shall promote and
29 enhance sustainability within County Government by performing the following functions:

- 30 (1) Assessing the economic, agricultural, infrastructure, and environmental impacts of all
31 initiatives and programs across the County;

- 1 (2) Developing and advocating for programs, policies, and actions by government, citizens,
2 businesses, farmers, and institutions to improve the long term environmental, agricultural,
3 social, and economic viability of the County;
- 4 (3) Serving as a single point of contact and resource for residents, businesses, farmers, and
5 institutions that are looking to become economically and environmentally sustainable or
6 that are looking to further their economic and environmental sustainability;
- 7 (4) Providing leadership in conservation and energy initiatives including exploring the
8 potential for and implementation of the use of alternative fuels;
- 9 (5) In order to resolve complaints and concerns raised by citizens, assisting in the
10 coordination of inspectors already existing in other agencies, including State and Federal
11 entities, as applicable;
- 12 (6) Working closely with the Howard County Environmental Sustainability Board to
13 recommend polices and funding proposals to the County Executive and County Council
14 concerning the sustainability of the County's natural resources;
- 15 (7) Working closely with all Boards and Commissions that may play a role in the
16 sustainability of the County's economic, environmental, infrastructure, and agricultural
17 resources;
- 18 (8) Working closely with the Economic Development Authority, Howard Soil Conservation
19 District, University of Maryland Extension and Maryland Department of Agriculture to
20 ensure agricultural innovation and economic and environmental sustainability;
- 21 (9) Coordinating, exploring, and obtaining grant funding related to all areas of sustainability;
22 [[and]]
- 23 (10) PROVIDING AN EXECUTIVE SECRETARY OF THE AGRICULTURAL PRESERVATION BOARD;
- 24 (11) ADMINISTERING ACTIVITIES UNDER THE AGRICULTURAL SUSTAINABILITY AND LAND
25 PRESERVATION ACT THAT SUPPORT FARMING AND AGRICULTURAL ENDEAVORS ON THE
26 COUNTY'S AGRICULTURAL LAND PRESERVATION EASEMENTS AND GENERALLY, WITHIN
27 THE COUNTY; AND
- 28 [[[10]]](12) Performing other functions as maybe prescribed by directive of the County
29 Executive or by law.
- 30
- 31

Title 15. Natural Resources.

1 **Subtitle 5. Agricultural [[Land]] Preservation.**

2
3 **Section 15.500. Short title; findings; purpose.**

4 (a) *Short Title.* This subtitle may be known as the Howard County Agricultural SUSTAINABILITY
5 AND Land Preservation Act.

6 (b) *Findings.* Much of the agricultural land in the County is in jeopardy of being lost for any
7 agricultural purpose because of development pressures stemming from rapid growth in the
8 region's population. It is in the public interest to preserve these agricultural [[acres]]LANDS AND A
9 ROBUST AGRICULTURAL ECONOMY because:

- 10 (1) Agricultural lands enhance the material and aesthetic quality of life in the County and are
11 valued by both urban and rural residents;
- 12 (2) Maintaining viable farms makes possible the provision of fresh, high quality food close to
13 the consumer;
- 14 (3) Agricultural lands serve as valued natural and ecological resources by providing needed
15 open spaces for clean-air sheds, watershed, and floodplain protection;
- 16 (4) Preservation of agricultural land provides an eventual saving in the cost of public services
17 that development would otherwise require.

18 (c) *Purpose.* The purpose of this act is to protect the health, safety and well-being of present and
19 future residents of Howard County by ADVANCING THE SUSTAINABILITY OF AGRICULTURE AS A
20 VIABLE SECTOR OF THE COUNTY'S ECONOMY AND BY conserving and protecting 30,000 acres of
21 agricultural land as [[an environmental]] resource of major importance [[and as the basis of a
22 viable sector of the County's economy]]. The County intends to acquire [[the]] development
23 rights by purchase of the land, by purchase of the development rights and by acceptance of
24 dedicated remainders from cluster subdivision pursuant to the subdivision and zoning
25 regulations. THE COUNTY ALSO INTENDS TO SUPPORT FARMING, AGRICULTURAL ENDEAVORS AND
26 ITS INVESTMENT IN EASEMENTS BY OFFERING TECHNICAL ASSISTANCE, PROMOTING AGRIBUSINESS
27 INNOVATION, AND DEVELOPING FUTURE MARKET OPPORTUNITIES.

28
29 **Section 15.502. Definitions.**

30 FOR PURPOSES OF THIS SUBTITLE, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS INDICATED:

1 (a) *Administrator* means the DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING OR THE
2 DIRECTOR’S DESIGNEE[[County employee assigned to administer the provisions of this subtitle]].

3 (B) *AGRICULTURAL ENDEAVORS* MEANS THOSE AGRICULTURAL USES THAT REQUIRE THE FILING OF A
4 SCHEDULE F FOR FEDERAL INCOME TAX PURPOSES.

5 [[(b)]](C) *Agricultural use* means farming and includes:

- 6 (1) Dairying, pasturage, growing crops, bee keeping, horticulture, floriculture, orchards,
7 plant nurseries, viticulture, silviculture, aquaculture, and animal and poultry husbandry;
- 8 (2) The breeding, raising, training and general care of livestock for uses other than food,
9 such as sport or show purposes;
- 10 (3) Construction and maintenance of barns, silos and other similar structures, the use of
11 farm machinery, the primary processing of agricultural products and the sale of
12 agricultural products produced on the land where the sales are made; and
- 13 (4) Other uses directly related to or as an accessory use of the premises for farming and
14 agricultural purposes.

15 (D) *AGRICULTURAL LAND PRESERVATION PROGRAM* MEANS THE ACQUISITION AND STEWARDSHIP OF
16 COUNTY AGRICULTURAL LAND PRESERVATION EASEMENTS AND PROGRAMS TO SUPPORT FARMING AND
17 AGRICULTURAL ENDEAVORS. THE PROGRAM MAY BE REFERRED TO AS THE “ALP PROGRAM”.

18 [[(c)]](E) *Board* means the Howard County Agricultural [[Land]] Preservation Board as
19 described in section [[15.518]]15.503 of this subtitle. THE BOARD MAY ALSO BE REFERRED TO AS
20 THE “APB”.

21 [[(d)]](F) *Dedication* or *dedicated* refers to the process by which a landowner places a
22 preservation parcel under a restrictive easement of the [[Howard County Agricultural Land
23 Preservation Program]] ALP PROGRAM.

24 [[(e)]](G) *Department* means the Department of Planning and Zoning.

25 [[(f)]](H) *Development right* means the right to develop the parcel for purposes other than
26 agricultural uses. *Development right* includes, but is not limited to, the right to use the property
27 for industrial or commercial uses, for residential purposes (except as set forth in this subtitle), or
28 the storage or depositing of trash, junk, rubbish or debris.

29 [[(g)]] *Director* means the Director of Planning and Zoning.]]

30 [[(h)]](I) *Easement; agricultural land preservation easement* means a recorded restriction on
31 exercising the development rights on land.

1 [[(i)]](j) *Grantor* means the landowner who conveyed an easement on a parcel to the County.

2 [[(j)]](k) *Landowner* means the legal owner or owners of a parcel.

3 [[(k)]](l) *Preservation parcel* means a parcel of land [[which is created]]:

4 (1) WHICH IS CREATED IN [[In]] a subdivision after clustering; or

5 (2) THAT IS:

6 (i) [[On]] THE SENDING PARCEL ON a density exchange option [[sending parcel]] or on a
7 cluster exchange option [[sending parcel]] pursuant to [[section 104.3 of]] the zoning

8 [[regulations.]]REGULATIONS; AND

9 (ii) SUBJECT TO AN AGRICULTURAL LAND PRESERVATION EASEMENT.

10 [[(l)]](m) *Pricing formula* means a formula adopted by resolution of the County Council to assign
11 point values for various characteristics of a farm which make its preservation as agricultural land
12 more or less valuable to the County.

13 [[(m)]](n) *Public interest use* means a use which:

14 (1) Does not unduly interfere with the agricultural use of property subject to an easement;
15 and

16 (2) Has been determined by the County Council to be a public interest use.

17 [[(n)]](o) *Tenant housing* means housing for workers fully engaged in operation of the
18 agricultural use and their families.

19

20 **SECTION 15.503. AGRICULTURAL PRESERVATION BOARD.**

21 (A) *GENERAL PROVISIONS.* GENERAL PROVISIONS APPLICABLE TO THIS BOARD ARE SET FORTH IN
22 SUBTITLE 3, "BOARDS AND COMMISSIONS," OF TITLE 6, "COUNTY EXECUTIVE AND THE EXECUTIVE
23 BRANCH," OF THE HOWARD COUNTY CODE.

24 (B) *ESTABLISHMENT; NUMBER OF MEMBERS; METHOD OF APPOINTMENT.* THERE IS AN
25 AGRICULTURAL PRESERVATION BOARD CONSISTING OF SEVEN MEMBERS WHO SHALL BE
26 APPOINTED BY THE COUNTY EXECUTIVE AND CONFIRMED BY THE COUNTY COUNCIL. WHEN
27 EXERCISING THE POWER OF APPOINTMENT AND CONFIRMATION, THE COUNTY EXECUTIVE AND
28 COUNTY COUNCIL SHALL CONSIDER, AT A MINIMUM, THE FOLLOWING AREAS INCLUDING, WITHOUT
29 LIMITATION:

30 (1) IN ORDER TO ENSURE THAT MEMBERS REPRESENT THE DIVERSITY OF FARMS AND
31 AGRICULTURAL ENDEAVORS WITHIN THE COUNTY, WHEN APPOINTING MEMBERS UNDER

1 SUBSECTION (C)(2) OF THIS SECTION, CONSIDERATION SHOULD BE GIVEN TO INDIVIDUALS
2 BASED ON THE FOLLOWING CRITERIA INCLUDING, WITHOUT LIMITATION:

3 (I) SIZE OF THE AGRICULTURAL OPERATION;

4 (II) LOCATION OF THE FARM OR AGRICULTURAL ENDEAVOR;

5 (III) TYPE OF FARMING OR OTHER AGRICULTURAL ENDEAVORS; OR

6 (IV) PARTICIPATION IN THE ALP PROGRAM OR THE STATE OF MARYLAND LAND
7 PRESERVATION FOUNDATION.

8 (2) WHEN APPOINTING MEMBERS UNDER SUBSECTION (C)(4) OF THIS SECTION, CONSIDERATION
9 SHOULD BE GIVEN TO INDIVIDUALS WITH EXPERIENCE OR KNOWLEDGE IN THE FOLLOWING
10 AREAS INCLUDING, WITHOUT LIMITATION:

11 (I) LAND EASEMENTS;

12 (II) REAL ESTATE;

13 (III) AGRICULTURAL ECONOMIC DEVELOPMENT;

14 (IV) SCIENCES THAT RELATE TO AGRICULTURE; OR

15 (V) OTHER RELEVANT EXPERIENCE.

16 (C) *MEMBERSHIP*:

17 (1) ALL MEMBERS SHALL BE RESIDENTS OF HOWARD COUNTY.

18 (2) AT LEAST THREE OF THE MEMBERS SHALL RECEIVE AT LEAST 50% OF THEIR ANNUAL
19 INCOME, AT THE TIME OF THEIR APPOINTMENT, FROM ACTIVE FARMING;

20 (3) AT LEAST ONE MEMBER SHALL OWN AND FARM PROPERTY SUBJECT TO AN EASEMENT IN
21 THE COUNTY'S ALP PROGRAM;

22 (4) AT LEAST TWO OF THE MEMBERS SHALL NOT RECEIVE INCOME FROM AGRICULTURAL
23 ENDEAVORS.

24 ~~(5) NO MEMBER IS ELIGIBLE TO SERVE MORE THAN TWO SUCCESSIVE TERMS.~~

25 ~~(6)~~ (5) THE BOARD MAY RECOMMEND BOARD MEMBERS TO THE COUNTY EXECUTIVE BASED
26 ON THE CRITERIA LISTED IN SUBSECTIONS (B)(1) AND (B)(2) OF THIS SECTION.

27 (D) *EXECUTIVE SECRETARY*. A COUNTY EMPLOYEE FROM THE OFFICE OF COMMUNITY
28 SUSTAINABILITY SHALL BE ASSIGNED TO SERVE AS THE EXECUTIVE SECRETARY TO THE BOARD
29 AND SHALL ATTEND ALL MEETINGS.

30 (E) *MEETINGS*. THE BOARD SHALL MEET AT LEAST ONCE EVERY THREE MONTHS AND MORE
31 FREQUENTLY AS NECESSARY TO CONDUCT THE AFFAIRS OF THE BOARD. MEETINGS MAY BE CALLED

1 BY THE CHAIR OR BY ANY TWO MEMBERS. THE BOARD MAY DECIDE NOT TO MEET ONE MONTH IN
2 THE SPRING AND ONE MONTH IN THE FALL FOR THE PLANTING AND HARVESTING SEASONS.

3 (F) *VOTING*. ANY ACTION OR RECOMMENDATION OF THE BOARD SHALL BE BY THE AFFIRMATIVE
4 VOTE OF A MAJORITY OF THE MEMBERS, EXCEPT THAT FIVE AFFIRMATIVE VOTES ARE NEEDED TO
5 RECOMMEND TO THE COUNTY EXECUTIVE ACQUISITION OF AN EASEMENT.

6 (G) *CONFLICT OF INTEREST*. IF A MEMBER OF THE BOARD OR THE MEMBER'S SPOUSE, PARENT,
7 CHILD, OR AFFILIATED BUSINESS INTEREST HAS A FINANCIAL INTEREST IN A PARCEL, AN OFFER MAY
8 BE MADE TO SELL AN EASEMENT IN THE PARCEL TO HOWARD COUNTY, PROVIDED THAT:

9 (1) PURSUANT TO PROVISIONS OF THE HOWARD COUNTY CHARTER AND THE HOWARD
10 COUNTY CODE REGARDING CONFLICTS OF INTEREST, THE COUNTY COUNCIL HAS
11 AUTHORIZED THE MEMBER TO NEGOTIATE WITH THE COUNTY FOR SALE OF THE EASEMENT;
12 AND

13 (2) THE BOARD MEMBER, IN THEIR BOARD CAPACITY, DOES NOT PARTICIPATE IN ANY
14 DISCUSSIONS CONCERNING PRICE, TERMS OF PURCHASE OR OTHER ISSUES RELATED TO THE
15 PURCHASE; AND

16 (3) THE BOARD MEMBER ABSTAINS FROM DISCUSSING AND VOTING ON THE BOARD'S
17 RECOMMENDATION TO THE COUNTY EXECUTIVE REGARDING THE PURCHASE OF THE
18 PARCEL, AND THE PRICE AND TERMS.

19 (H) *DUTIES AND RESPONSIBILITIES*. THE BOARD SHALL HAVE THE FOLLOWING DUTIES:

20 (1) FOR THE COUNTY EXECUTIVE AND COUNTY COUNCIL, THE BOARD SHALL:

21 (I) MAKE RECOMMENDATIONS ON:

- 22 A. THE ACQUISITION OF EASEMENTS AS PROVIDED IN THIS SUBTITLE;
- 23 B. THE CRITERIA AND METHOD FOR CALCULATING THE PRICE FOR PURCHASE OF AN
24 EASEMENT;
- 25 C. ALP PROGRAM POLICY, AND AGRICULTURAL POLICY IN GENERAL;
- 26 D. AGRICULTURAL AND AGRICULTURAL PRESERVATION ISSUES BY PROVIDING
27 WRITTEN OR ORAL TESTIMONY; AND

28 (II) LISTEN TO CONCERNS AND IDEAS OF INDIVIDUALS, INSTITUTIONS, AND ORGANIZATIONS
29 ON AGRICULTURAL ISSUES AFFECTING THE COUNTY; AND

30 (III) REPORT ANNUALLY ON THE STATUS OF THE PROGRAM AND ISSUES OF PARTICULAR
31 INTEREST OR CONCERN TO THE AGRICULTURAL COMMUNITY.

1 (2) FOR THE DEPARTMENT, THE BOARD SHALL:

2 (I) IN ACCORDANCE WITH THE TERMS OF THE DEED OF EASEMENT AND THIS SUBTITLE,
3 REVIEW AND MAKE RECOMMENDATIONS ON PROPOSALS FOR:

4 A. THE LOCATION OF PERMITTED LOTS AND DWELLINGS;

5 B. THE CONSTRUCTION OF TENANT HOUSING;

6 C. PARCEL SUBDIVISION OF THE LAND; AND

7 D. REQUESTS PERTAINING TO AN EASEMENT BROUGHT BY THE OWNERS OF THE
8 PROPERTY SUBJECT TO THE EASEMENT. THIS SECTION IS NOT INTENDED TO LIMIT
9 THE DEPARTMENT'S POLICE POWERS OR THE COUNTY'S PROPERTY RIGHTS UNDER
10 THE EASEMENT;

11 (II) HOST OR PARTICIPATE WITH THE DEPARTMENT TO CONDUCT OUTREACH, EDUCATION
12 OR BOTH, OUTREACH AND EDUCATION, FOR POTENTIAL EASEMENT APPLICANTS AND
13 EXISTING PROPERTY OWNERS; AND

14 (III) MAKE RECOMMENDATIONS ON AGRICULTURAL ISSUES, INCLUDING THE EVALUATION OF
15 ZONING RELATED COMPLAINTS AND EASEMENT ENFORCEMENT, BASED ON THE BOARD'S
16 KNOWLEDGE OF COMMON AND ACCEPTABLE FARMING PRACTICES. THIS SECTION IS NOT
17 INTENDED TO LIMIT THE DEPARTMENT'S POLICE POWERS RELATED TO ZONING
18 ENFORCEMENT OR THE COUNTY'S PROPERTY RIGHTS UNDER THE EASEMENT;

19 (3) FOR THE HEARING EXAMINER, THE BOARD SHALL REVIEW AND MAKE RECOMMENDATIONS
20 ON COMMERCIAL SOLAR FACILITY AND OTHER CONDITIONAL USES SOUGHT ON
21 EASEMENTS AS PROVIDED IN THE HOWARD COUNTY ZONING REGULATIONS.

22 (I) *AGRICULTURAL PRESERVATION ADVISORY BOARD.* THERE IS AN AGRICULTURAL PRESERVATION
23 ADVISORY BOARD ESTABLISHED PURSUANT TO TITLE 2, SUBTITLE 5 OF THE AGRICULTURAL
24 ARTICLE OF THE ANNOTATED CODE OF MARYLAND WHICH MAKES RECOMMENDATIONS ON
25 PROPERTIES PARTICIPATING IN THE MARYLAND AGRICULTURAL PRESERVATION PROGRAM. THE
26 ADVISORY BOARD CONSISTS OF FIVE MEMBERS OF THE HOWARD COUNTY AGRICULTURAL
27 PRESERVATION BOARD WHO ARE ALSO DESIGNATED AS MEMBERS OF THE AGRICULTURAL
28 PRESERVATION ADVISORY BOARD. THE OTHER TWO MEMBERS OF THE HOWARD COUNTY
29 AGRICULTURAL PRESERVATION BOARD SHALL NOT PARTICIPATE IN THE DELIBERATIONS OF THE
30 AGRICULTURAL PRESERVATION ADVISORY BOARD.

31

1 **Section ~~[[15.503]]15.504. Methods of acquiring easements.~~**

2 (A) *METHODS OF ACQUISITION.* The County may acquire agricultural land preservation easements
3 on land in the County in the following ways:

4 ~~[[a]](1)~~ By purchasing the development rights on eligible land.

5 ~~[[b]](2)~~ By dedication pursuant to the provisions of the zoning regulations concerning
6 dedication of preservation parcels.

7 ~~[[c]](3)~~ By donation of the development rights on eligible land from the owners.

8 (B) *PURCHASE OF EASEMENTS.*

9 (1) THERE IS A PLAN TO FINANCE THE PURCHASE OF EASEMENTS. THE COUNTY EXECUTIVE
10 SHALL ESTABLISH METHODS OF PAYING LANDOWNERS FOR THESE EASEMENTS, INCLUDING
11 LONG-TERM OBLIGATIONS OF THE COUNTY THROUGH THE USE OF INSTALLMENT PURCHASE
12 CONTRACTS. SINCE THESE CONTRACTS INVOLVE THE SPENDING OF COUNTY MONEY IN
13 FUTURE FISCAL YEARS, THEY ARE SUBJECT TO APPROVAL BY THE COUNTY COUNCIL,
14 PURSUANT TO SECTION 612 OF THE HOWARD COUNTY CHARTER. CONTRACTS ARE EXEMPT
15 FROM THE PROVISIONS OF SECTIONS 19-205 AND 19-206 OF THE LOCAL GOVERNMENT
16 ARTICLE OF THE ANNOTATED CODE OF MARYLAND.

17 (2) THE PRICE OF AN EASEMENT SHALL BE BASED ON A PRICING FORMULA DEVELOPED BY THE
18 BOARD AND APPROVED BY THE COUNTY EXECUTIVE AND BY RESOLUTION OF THE COUNTY
19 COUNCIL.

20
21 **Section 15.505. EASEMENT Administration.**

22 (a) *Procedures.* The Board may develop procedures for the review of parcels offering
23 development rights to the County, the rating of desirability, the pricing of an agricultural land
24 preservation easement, and the functioning of the ~~[[agricultural land preservation program]]~~ALP
25 PROGRAM and other related matters.

26 (b) *Purchase Price Formula.* There is a purchase price formula for determining the price the
27 County will pay per acre to purchase an agricultural land preservation easement. The formula
28 shall be set by resolution of the County Council.

29 (c) *Maps and Records.* The official maps of parcels subject to an agricultural land preservation
30 easement are the 1 inch = 600 feet zoning maps. The Administrator SHALL UPDATE MAPS ~~[[is~~

1 responsible for seeing that these maps are updated]] on a regular basis to reflect the addition of
2 new parcels and the amendment of existing parcels.

3

4 **Section 15.506. EASEMENT Eligibility criteria.**

5 (a) *Buying Easements.* Howard County may buy the development rights on a parcel provided that
6 the purchase is consistent with the intentions and policies of the general plan and the parcel
7 meets each of the criteria listed below:

8 (1) *Developable.* The parcel shall be capable of being further developed to a greater
9 residential density than presently exists or for nonagricultural uses. To meet this criteria,
10 the parcel shall:

11 (i) Be in a zoning district which permits development to a higher residential density than
12 presently exists; and

13 (ii) [[a.]] Be capable of being subdivided or developed for nonagricultural uses by right,
14 notwithstanding the effect of the growth tier designation of the parcel on the County's
15 general plan in terms of the parcel's major subdivision capability when the landowner
16 applies to sell development rights to the County under [[the Howard County
17 Agricultural Land Preservation]] THIS Act.

18 (2) *Size.* The parcel contains at least 20 contiguous acres.

19 (3) *Soils.* The parcel shall meet the following soils criteria:

20 (i) More than 50 percent of the parcel shall be U.S. Department of Agriculture capability
21 Class I, II and III soils, and more than 66 percent of the parcel shall be Class I
22 through IV soils; and

23 (ii) The parcel shall have:

24 a. A complete soil conservation and water quality plan approved by the local soil
25 conservation district; and

26 b. Verification by the local soil conservation district that the plan reflects current
27 conditions and activities on the land.

28 (b) *Dedicated Acquisitions.* The criteria for the acceptance of development rights on a
29 preservation parcel are that the parcel, if farmed, have a complete soil conservation and water
30 quality plan approved by the local soil conservation district and verification that the plan reflects
31 current conditions and activities on the land.

1 (c) *Donated Acquisitions:*

2 (1) The criteria for the acceptance of donated development rights on any parcel are that the
3 parcel:

4 (i) If farmed, have a complete soil conservation and water quality plan approved by the
5 local soil conservation district and verification that the plan reflects current conditions
6 and activities on the land.

7 (ii) The parcel shall be capable of being further developed to a greater residential density
8 than presently exists or for nonagricultural uses. To meet this criteria, the parcel shall:

9 a. Be in a zoning district which permits development to a higher residential density
10 than presently exists; and

11 b. Be capable of being subdivided or developed for nonagricultural uses by right.

12 (2) Notwithstanding paragraph (1) of this subsection, an easement on real property may be
13 donated to the County if the real property was released from an agricultural land
14 preservation easement:

15 (i) To create a lot under section 15.514 of this subtitle; or

16 (ii) For a public interest use under section 15.516 of this subtitle.

17

18 **Section 15.507. Process for buying easements.**

19 This process applies only to buying easements and does not apply to donated easements or
20 to easements acquired by dedication of a preservation parcel.

21 (a) *Applications.* An application to sell the development rights shall be submitted to the
22 Administrator by the landowner. The application shall be in a form approved by the Department,
23 shall contain the information required and shall be accompanied by a nonrefundable application
24 fee, the amount of which is set by resolution of the County Council.

25 (b) *Number of Applications.* A landowner may submit an application for each parcel or may
26 submit a single application as part of a package for multiple contiguous parcels.

27 (c) *Review by Administrator:*

28 (1) The Administrator shall review each application to determine if all eligibility criteria for
29 acquiring an easement are met.

30 (2) If the eligibility criteria are met, the Administrator shall evaluate the parcel, considering
31 geographic location, productivity, soil characteristics, accessibility, size, developability,

1 contiguity to other land on which the County holds easements, restrictions and covenants
2 on the land, comments from other County departments, and any other information which
3 may assist the Board in evaluating the desirability of the property.

4 (3) The Administrator shall prepare a detailed report on the parcel and the pricing formula
5 score and shall submit the report, the application and the Administrator's evaluation and
6 ANY recommendation to the Board for its consideration.

7 (4) If the eligibility criteria are not met, the Administrator shall reject the application and
8 shall notify the landowner of the rejection and the reason(s) for rejection. The landowner
9 may request the Board to review the Administrator's decision to reject the application.

10 (d) *Review by Board:*

11 (1) The Board may review the application, the Administrator's report and recommendation
12 and may make an on-site inspection of the parcel.

13 (2) The Board shall hold a public meeting to receive comments from the public as to whether
14 the parcel offered is acceptable and desirable.

15 (3) After the public meeting, the Board shall determine the price to be offered according to
16 the pricing formula and may provide any recommendations to the County Executive
17 concerning the acquisition.

18 (e) *Purchase:*

19 (1) *Offers to landowners.* After determining the price to be paid per acre, based on the
20 pricing formula, the Board shall make an offering proposal to the landowner to purchase
21 the development rights. An offer made under this section is subject to the availability of
22 adequate borrowing authority.

23 (2) *Recommendation to County Executive.* If the landowner agrees to the price, terms and
24 conditions of the offering proposal, the Board shall advise the County Executive of the
25 agreement in a written notification briefly describing the property and the price, terms
26 and conditions agreed upon.

27 (3) *Action by County Executive.* The County Executive may not modify the agreed upon
28 price, terms and conditions, and may only approve or disapprove the purchase as
29 proposed.

30 (4) *Installment purchase; multiyear agreement; FEDERAL TAX EXEMPTION.* If the County is to
31 pay the price in installments, County Council approval of a multiyear agreement is

1 required, pursuant to section 612 of the Howard County Charter. IN ADDITION, IF THE
2 COUNTY AND THE LANDOWNER INTEND THAT THE INTEREST PAID UNDER THE INSTALLMENT
3 PURCHASE AGREEMENT IS TO BE EXEMPT FROM FEDERAL INCOME TAXATION, THE
4 TRANSACTION SHALL COMPLY WITH ALL RELEVANT PROVISIONS OF THE INTERNAL
5 REVENUE CODE OF 1986, AS AMENDED.

6
7 **Section 15.507A. Alternate process for the purchase of easements.**

8 (a) *Applicability.* Notwithstanding any other provision of this subtitle, the process under this
9 section applies to the purchase of an agricultural land preservation easement if the source of all
10 or a portion of the funds for the purchase is a State or Federal grant program that requires, as a
11 condition of the use of the funds, that a process other than that contained in this subtitle be used.

12 (b) *Price of Easement.* To determine the price the County will pay for an agricultural land
13 preservation easement the [[Director]] ADMINISTRATOR shall use the formula under subsection
14 15.505(b) of this subtitle or other method required by the program from which the funds
15 originate.

16 (c) *Notification to Potential Participants.* The Administrator may advertise the requirements for
17 participation in the program or may notify potential Applicants through any means authorized
18 under the program from which the funds originate.

19 (d) *Review by Administrator* The Administrator shall prepare an analysis of the proposed
20 purchase of an easement based upon criteria for qualification under the program from which the
21 funds originate. If the purchase of the easement is approved by the regulatory or administrative
22 authority for the program from which the funds originate, the Administrator shall include the
23 analysis in a report submitted to the Board.

24 (e) *Review by Board:*

25 (1) The Board shall review the application, the Administrator's report and recommendation
26 and may make an on-site inspection of the parcel.

27 (2) The Board shall hold a public meeting to receive comments from the public as to whether
28 the parcel offered is acceptable and desirable.

29 (3) The Board shall make a recommendation to the County Executive regarding the purchase
30 of the easement. The Board may not revise the price to be offered for the purchase.

31 (f) *Process for Purchase:*

1 (1) *Confirmation of price and conditions of sale.* The Administrator shall confirm the
2 purchase price for the development rights and any specific conditions required with the
3 appropriate regulatory or administrative authority, and shall notify the property owner in
4 a manner consistent with the requirements of the program under which the funds are
5 provided.

6 (2) *Recommendation to the County Executive.* If the landowner agrees to the price, terms and
7 conditions of the offering proposal, the ~~[[Director]]~~ ADMINISTRATOR shall ~~[[advise]]~~
8 NOTIFY the County Executive IN WRITING of the agreement ~~[[in a written notification]]~~
9 describing the property, the price, funding sources, and the terms and conditions agreed
10 upon.

11 (3) *Action by County Executive.* The County Executive may not modify the agreed upon
12 price, terms, and conditions, and may only approve or disapprove the purchase as
13 proposed.

14 (4) *Installment purchase; multiyear agreement.* If the County is responsible as a participating
15 party to a contract that requires the payment of funds from a fiscal year beyond the year
16 in which the contract is made, the contract shall be approved by the County Council as a
17 multiyear agreement under section 612 of the Howard County Charter.

18
19 **Section 15.509. Process for acquiring an easement by dedication of a preservation parcel.**

20 The Administrator MAY ~~[[is authorized to]]~~ accept easements on preservation parcels which
21 meet the criteria of subsection 15.506(b) during the subdivision process as set forth in the
22 subdivision regulations and ~~[[to]]~~ SHALL notify the Board of ~~[[the]]~~ ANY SUCH acquisition.
23

24 **Section 15.510. Fee simple acquisitions.**

25 Funds dedicated ~~[[to the agricultural land preservation program]]~~ FOR THE ACQUISITION OF
26 AGRICULTURAL LAND PRESERVATION EASEMENTS may be used to purchase land in fee simple,
27 provided that the land shall then be subject to all the restrictions of an agricultural land
28 preservation easement.
29

30 **Section 15.513. - Enforcement/penalties.**

1 (a) *Inspection.* The Administrator [[or the Administrator's designated representative]] shall have
2 the right, with prior notice to the landowner, to enter the land on which the County holds an
3 agricultural land preservation easement in order to inspect for compliance with the conditions of
4 the deed of easement.

5 (b) *Civil Penalties.* The County may impose civil penalties pursuant to title 24 of the Howard
6 County Code for failure of the landowner to maintain and implement the approved soil
7 conservation and water quality plan, which failure shall be a Class A offense.

8 (c) *Damages.* The County may seek monetary damages of up to 25 percent of the value of the
9 easement from a landowner who substantially reduces the value of the easement by engaging in
10 practices which are unacceptable to the U.S. Department of Agriculture or the Maryland
11 Department of Agriculture.

12 (d) *Injunction.* In addition to other remedies, the County may seek an injunction to halt practices
13 which violate the terms and conditions of the easement.

14

15 **Section 15.515. Exchange of easements.**

16 (A) *AUTHORITY.* In very limited circumstances and only where the exchange of easements would
17 benefit the [[agricultural land preservation program]]ALP PROGRAM, the County may release the
18 easement from land subject to A: [[a purchased or donated easement]]

19 (1) PURCHASED EASEMENT;

20 (2) DONATED EASEMENT; OR

21 (3) DEDICATED EASEMENT ON A PRESERVATION PARCEL THAT IS:

22 (i) CREATED, IN ACCORDANCE WITH THE ZONING REGULATIONS, ON A DENSITY EXCHANGE
23 OPTION SENDING PARCEL; AND

24 (ii) SUBJECT TO AN AGRICULTURAL LAND PRESERVATION EASEMENT.

25 (B) *VALUE OF THE EXCHANGE.* AN EASEMENT MAY ONLY BE EXCHANGED [[in exchange]] for an
26 easement on contiguous land of equal or greater acreage and agricultural value.

27 (C) *CONDITIONS TO COMPLETE AN EXCHANGE.* The exchange may not take place unless:

28 ([[a]]1) The Board approves the exchange; and

29 ([[b]]2) The subdivision regulations permit the exchange; and

1 ([[c]]3) The landowner bears all expenses in connection with the exchange, including, but
2 not limited to, all subdivision fees, survey and engineering costs and any title search or
3 title insurance required by the County.
4

5 **Section 15.517. Optional right to exchange children's or grantor's lots.**

6 A landowner who has the right to create one or more one-acre lots for the owner's personal use or
7 the personal use of a child pursuant to the provisions of a deed of easement recorded prior to
8 [[the effective date of this act]]May 1, 1993, may, instead, elect to create one-acre lots permitted
9 under section 15.514 on the following conditions:

10 (a) The landowner relinquishes any further rights to create lots pursuant to the existing deed of
11 easement; and

12 (b) In determining the number of lots allowed by this election, any one-acre lots already created
13 for the grantor or the grantor's children shall be deducted from the total number allowed pursuant
14 to section 15.514;

15 (c) The deed of easement is amended to reflect the exercise of this option.
16

17 **15.518. TRANSITIONAL PROVISIONS—DISTRICTS.**

18 (A) *DISTRICTS REQUIRED UNDER PREVIOUS STATE LAW.* MARYLAND AGRICULTURAL LAND
19 PRESERVATION FOUNDATION (THE FOUNDATION) LAW EFFECTIVE PRIOR TO JULY 1, 2007
20 REQUIRED PARCELS TO BE INCLUDED IN AGRICULTURAL LAND PRESERVATION DISTRICTS BEFORE
21 THE LANDOWNER COULD OFFER AN EASEMENT TO THE STATE. THIS REQUIREMENT WAS REPEALED
22 BY CHAPTER 650 OF THE 2007 LAWS OF MARYLAND. THIS SECTION DEALS WITH THE STATUS OF
23 THE AGRICULTURAL LAND PRESERVATION DISTRICTS.

24 (B) *STATUS OF DISTRICTS IN WHICH THE STATE HAS PURCHASED AN EASEMENT.* PURSUANT TO
25 CHAPTER 650 OF THE 2007 LAWS OF MARYLAND, ANY DISTRICT IN WHICH AN EASEMENT HAS
26 BEEN TRANSFERRED TO THE FOUNDATION REMAINS IN FORCE AND MAY NOT BE TERMINATED.

27 (C) *STATUS OF DISTRICTS IN WHICH THE STATE DOES NOT HOLD AN EASEMENT.* PURSUANT TO
28 CHAPTER 650 OF THE 2007 LAWS OF MARYLAND, DISTRICTS IN WHICH THE STATE DOES NOT HOLD
29 AN EASEMENT WERE TERMINATED AS OF JULY 1, 2012.
30

1 **[[Section 15.519. Maryland Agricultural Preservation Districts—Authority; purpose;**
2 **applicability.**

3 (a) In accordance with title 2, subtitle 5, section 501 of the Agricultural Article of the
4 Annotated Code of Maryland, and COMAR section 15.15.01, Maryland Agricultural
5 Preservation Districts may be established in Howard County. These districts are subject to the
6 provisions of State law and regulations concerning Maryland Agricultural Preservation Districts.

7 (b) In accordance with title 2, subtitle 5, sections 501 through 515 of the Agriculture Article of
8 the Annotated Code of Maryland with COMAR section 15.15.01, Maryland Agricultural
9 Preservation District establishment shall be finalized only upon formal notification to the County
10 Council of Howard County by the Maryland Agricultural Land Preservation Foundation. This
11 notification shall include a copy of the agricultural preservation district agreement signed by all
12 parties and as recorded among the land records of Howard County. The Administrator shall
13 maintain an official file for all such Maryland Agricultural Preservation District agreements
14 together with property descriptions and shall make these files available to the public.]]

15
16 **Section ~~[[15.520]]15.519. Transitional provisions—Parcels subject to an agricultural land~~**
17 **preservation easement acquired before MAY 1, 1993 ~~[[the effective date of this act]]~~.**

18 Except as specifically provided in this subtitle, the laws in effect prior to ~~[[the effective date~~
19 ~~of this act]]~~May 1, 1993 governing the use of parcels subject to an agricultural preservation
20 easement, including the types and number of dwellings and the potential for subdivision, shall
21 continue to govern all parcels which were subject to an agricultural land preservation easement
22 prior to the effective date of this act.

23
24 **Section ~~[[15.521]]15.520. Transitional provisions—Districts.~~**

25 (a) *Districts Required under Previous COUNTY Law.* Howard County agricultural land
26 preservation law effective prior to ~~[[the effective date of this act]]~~May 1, 1993 required parcels
27 to be included in agricultural land preservation districts before the landowner could offer the
28 easement to the County. ~~[[That]]~~ PURSUANT TO COUNCIL BILL NO. 10-1993, THAT law ~~[[is]]~~ WAS
29 repealed and replaced by this subtitle which does not require the establishment of agricultural
30 land preservation districts. There are parcels, however, which are in agricultural land

1 preservation districts and which THE LANDOWNERS have not sold the development rights to the
2 County. This section deals with the status of the agricultural land preservation districts.

3 (b) *Status of Districts IN WHICH [[Where]] the County Has Purchased an Easement.* All the
4 parcels [[upon]] IN which the County bought or was authorized to buy the easement before MAY
5 1, 1993 [[the effective date of this act]] were in agricultural preservation districts. The district
6 agreement for parcels subject to an agricultural preservation easement is superseded by the deed
7 of easement and is hereby terminated.

8 (c) *Status of Districts [[upon]] IN Which the County Does Not Hold an Easement.* Districts
9 [[upon]] IN which the County does not hold an easement may continue as provided in the district
10 agreement and pursuant to the law in effect when the district was created. However, the County
11 shall terminate the district upon the written request of the landowner.

12
13 **Title 16. Planning, Zoning and Subdivisions and Land Development Regulations.**

14 **Subtitle 8. Department of Planning and Zoning.**

15
16 **Section 16.801. The Department of Planning and Zoning.**

17 (c) *Duties and Responsibilities.* The Department of Planning and Zoning shall comprehensively
18 plan for the growth and development of the County, including but not limited to the functions set
19 forth in this subsection.

20 (12) *Agricultural preservation.* The Department of Planning and Zoning is responsible for
21 the [[operation]]ACQUISITION AND STEWARDSHIP of the [[County's]] agricultural land
22 preservation [[program]]EASEMENTS, pursuant to subtitle 5 of title 15 of the Howard
23 County Code.

24
25 **Title 22. General Provisions.**

26 **Subtitle 2. Howard County Public Ethics Law.**

27
28 **Section 22.206. Financial disclosure statements.**

29 (c) This section applies to members of the following boards and commissions:

- 30 (1) Board of Appeals;
31 (2) Planning Board;

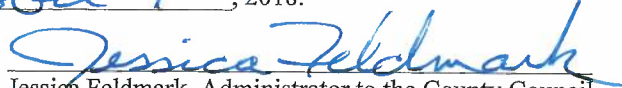
- 1 (3) Recreation and Parks Board;
- 2 (4) Public Works Board;
- 3 (5) Ethics Commission;
- 4 (6) Housing and Community Development Board;
- 5 (7) Agricultural [[Land]] Preservation [[Advisory]] Board;
- 6 (8) Equal Business Opportunity Commission;
- 7 (9) Historic Preservation Commission;
- 8 (10) Board of Library Trustees;
- 9 (11) Howard County Housing Commission;
- 10 (12) Economic Development Authority Board;
- 11 (13) Howard County Pension Oversight Commission;
- 12 (14) Local Behavioral Health Advisory Board;
- 13 (15) Howard County Alcoholic Beverage Hearing Board;
- 14 (16) Howard County Revenue Authority Board;
- 15 (17) Design Advisory Panel;
- 16 (18) Animal Matters Hearing Board;
- 17 (19) Advisory Board on Consumer Protection;
- 18 (20) Board of Electrical Examiners;
- 19 (21) Board of Health; and
- 20 (22) Human Rights Commission.

21

22 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County, Maryland that
23 *this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on October 9, 2018.



Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2018.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2018.

Jessica Feldmark, Administrator to the County Council