

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 4<sup>th</sup> day of October, 2018 at 3 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 (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.

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.

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:

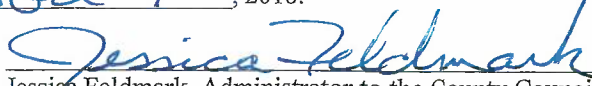
- 30 (1) Board of Appeals;
- 31 (2) Planning Board;

- 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

Amendment 1 to Council Bill No. 63-2018

BY: The Chairperson at the request  
of the County Executive

Legislative Day 13  
Date: October 1, 2018

Amendment No. 1

*(This amendment removes a provision that conflicts with the County Charter related to how many terms an appointee can serve.)*

- 1 On page 7, strike line 24.
- 2
- 3 On page 7, in line 25, strike “(6)” and substitute “(5)”.

ADOPTED 10/1/18  
FAILED \_\_\_\_\_  
SIGNATURE Jessica Feldman

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) THE BOARD MAY RECOMMEND BOARD MEMBERS TO THE COUNTY EXECUTIVE BASED ON  
26 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

**BY: The Chairperson at the request  
of the County Executive**

**Legislative Day 13  
Date: October 1, 2018**

**Amendment No. 1**

*(This amendment removes a provision that conflicts with the County Charter related to how many terms an appointee can serve.)*

- 1 On page 7, strike line 24.
- 2
- 3 On page 7, in line 25, strike “(6)” and substitute “(5)”.

**Sayers, Margery**

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**From:** Feldmark, Jessica  
**Sent:** Monday, September 17, 2018 4:37 PM  
**To:** Sayers, Margery  
**Subject:** FW: Council Bill 62-2018

For posting and legislative file, **please note this is for CB63** (not 62)...thanks!

Jessica Feldmark  
Administrator  
Howard County Council  
410-313-3111  
[jfeldmark@howardcountymd.gov](mailto:jfeldmark@howardcountymd.gov)

---

**From:** Ricky & Leslie Bauer [mailto:[rrfarm@verizon.net](mailto:rrfarm@verizon.net)]  
**Sent:** Monday, September 17, 2018 4:34 PM  
**To:** CouncilMail <[CouncilMail@howardcountymd.gov](mailto:CouncilMail@howardcountymd.gov)>  
**Subject:** Council Bill 62-2018

Honorable Council members:

My name is Ricky Bauer and I reside at 13817 Howard Rd, Dayton. I am a past member and former chair of the Howard County Agricultural Land Preservation Board. I am writing you to ask for your support of Council Bill 62-2018. During my time serving on the board I personally experienced, and witnessed many others experience, difficulties with our ever growing number of non-farm neighbors. It came to light, after many inquiries from the ag community for help that there wasn't a lot of avenues to seek help for these problems, and after reading the ALPB roles and rules, our hands were often tied to be of much assistance with these inquiries. After sharing some of these concerns with County Executive Kittleman, he appointed an Agricultural Coordinator, a great step, but we thought there should be a broader group to give the ag community a place to bring questions, problems and disputes to and a place to help find solutions. Who better than the ALPB, which is already in place, with a diverse group of ag and ag related people to accomplish this? After discussions with many council members, and especially with the help and hard work of Council Chair Ms. Sigaty, who after much discussion and research on her own came up with this bill. I think if this can pass it will go along way to try to alleviate conflicts in the county pertaining to the business of agriculture. The only change I would like to see is the role of the ALPB board expanded a little more so that when it comes to actual ALP easement business that does not involve the exchange of funds, the board would have final say to request with out involving other personnel employed by county government in the final decisions.

Thank you,  
Ricky Bauer  
[rrfarm@verizon.net](mailto:rrfarm@verizon.net)

Testimony CB6-2018  
Modifications to the Ho Co Agricultural Land Preservation Act  
and Associated Reorganization  
September 17, 2018

Position: For

I would like to thank the administration and especially Amy Gowan, and Council Chair, Mary Kay Sigaty, for working hard for months on this legislation reorganizing the mission of the board and allowing the Agricultural Land Preservation Board to better listen to the issues concerning agriculture in the county.

The need for this change was initiated when a member of the community came to the ALP Board wanting to bring up an issue and was turned away because listening to the community was not, according to Ho Co code, in the stated purview of the board. The resulting work to remedy this brings us to this legislation. What this legislation does is to keep the agricultural land preservation program in tact while also allowing the board to look at the bigger picture of agriculture in Howard County. And it will allow citizens to bring issues concerning agriculture to the board for their input. Placing the board in the Office of Community Sustainability allows the board to bridge silos and to form new partnerships. If ecology has taught us anything it is that everything is connected. This proposed legislation will simply now allow communication to flow between the parts.

Someone once said, if farming were easy, everyone would do it. But it isn't easy and the field (pardon the pun) is constantly changing. Passing this legislation to allow better communication will allow agriculture to better meet the needs of our community in the future.

To: Howard County Council

From: Kathy Johnson

September 17, 2018

Council Bill 63-2018

Council Members,

The Agriculture Marketing Program of the Howard County Economic Development Authority is testifying in support of Council Bill 63-2018. This bill provides the agriculture community the opportunity to express concerns and issues to a group of their peers, who in many cases may have a better understanding of the issues that the farmer may be dealing with. The Agriculture Preservation Board can then assist in the issues of the agriculture community with recommendations to the County Council.

Thank you for the continued efforts to work with the agriculture community to improve relationships within the county.





# Howard County

## Internal Memorandum

**Subject:** Testimony on Council Bill No. 63-2018

**To:** Lonnie R. Robbins  
Chief Administrative Officer

**From:**  Valdis Lazdins, Director of the Department of Planning and Zoning  
 James Caldwell, Director Office of Community Sustainability

**Date:** August 30, 2018

Council Bill No. 63-2018 (CB 63) makes a series of changes within the Agricultural Land Preservation Act and throughout the Code to clarify which County agency is performing various duties related to agriculture. A summary of those changes is outlined below.

### Terminology and Minor Changes:

1. Changes the name of Title 15, Subtitle 5 to be "Agricultural Preservation".
2. Changes the short title to be the "Agricultural Sustainability and Land Preservation Act".
3. In the Act's purpose statement, adds language about advancing the sustainability of agriculture and a statement about County support under the Act.
4. Changes the name Agricultural Land Preservation Board (ALPB) to be the Agricultural Preservation Board.
5. Updates terminology throughout and updates obsolete references.

### Notable definition changes:

*Administrator*- This changes the definition of Administrator to be the Director of the Department of Planning and Zoning ("DPZ") or the Director's designee instead of the county employee assigned to administer the Agricultural Land Preservation Program.

*Agricultural Endeavors*- This new definition links agricultural activity with filing of a schedule F for tax purposes.

*Agricultural Land Preservation Program ("ALPP")*: The proposed definition expands the ALPP to be more consistent with current practice by including programs to support farming and agricultural endeavors on agricultural easements.

### Policy Changes:

1. **Section 6.407.** Pursuant to the reorganization process set forth in the Howard County Charter and consistent with the County Executive's letter of August 22, 2018, this Bill revises the duties and responsibilities of the Office of Community Sustainability ("OCS") to:
  - a. Establish OCS as the Executive Secretary of the Agricultural Preservation Board; and
  - b. Administer the Act, except those functions related to easement acquisition and stewardship- which will continue to reside in DPZ.
2. **Section 15.503(h).** This new section moves the existing Section 15.518 to the beginning of the act and

expands the roles of the ALPB. It also organizes the Board's duties according to their advisory role. New duties include advising:

- a. The County Executive and County Council by:
    - i. Providing testimony on agricultural and agricultural preservation issues; and
    - ii. Listening to concerns of individuals, institutions, and organizations on agricultural issues affecting the County.
  - b. The Department of Planning and Zoning by:
    - i. Reviewing and making recommendations on easement requests and enforcement; and
    - ii. Conducting outreach and education.
  - c. The Hearing Examiner: by reviewing and making recommendations on conditional uses on easements.
3. **Section 15.503(a) through (c).** Creates new criteria for the County Executive and Council to consider when appointing members to the ALPB and allows the Board to recommend new members to the County Executive.
- a. Criteria to consider for farmer members of the Board includes: size of the agricultural operation, diversity in location, and diversity in type of farming and type of easement.
  - b. Criteria to consider for non-farmer members of the Board includes: experience or knowledge about land easements, real estate, agricultural economic development, sciences that relate to agriculture, or other relevant experience.
4. **Section 15.515.** Allows donated easement to exchange land of equal or greater value, which is currently allowed on purchased and donated easements.

**Fiscal Impact:**

Based on the reallocation of staffing responsibilities for the ALPB outlined under #1 above, the financial impact is a \$5,595 savings to the Agricultural Land Preservation Fund. The Reorganization Plan submitted on August 22, 2018 expands upon the fiscal impacts associated with CB 63-2018.

DPZ and OCS support CB 63, which was developed in conjunction with Councilwoman Sigaty and the ALPB through a series of meeting between February and August 2018. This bill helps to support long-term sustainability of our county's agriculture sector and the Reorganization Plan provides the necessary tools for the ALPB to guide agricultural programs and activities. We appreciate Council's support and consideration of this important bill for our farming community.

cc: Jennifer Sager, Legislative Coordinator, Department of Administration  
B. Diane Wilson, Chief of Staff to County Executive Kittleman



# HOWARD COUNTY OFFICE OF COUNTY EXECUTIVE

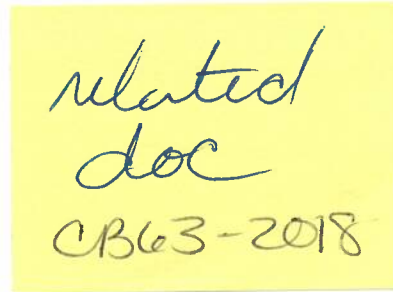
3430 Court House Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2013

Allan H. Kittleman  
Howard County Executive  
akittleman@howardcountymd.gov

www.howardcountymd.gov  
FAX 410-313-3051  
TDD 410-313-2323

August 22, 2018

The Honorable Mary Kay Sigaty, Chairperson  
Howard County Council  
3430 Courthouse Drive  
Ellicott City, MD 21043



2018 AUG 22 PM 4: 14  
HOWARD COUNTY COUNCIL  
RECEIVED

Dear Chairperson Sigaty:

I am submitting this reorganization plan to the County Council in accordance with Section 403 of the Howard County Charter.

### Charter Requirement

Section 403 of the Howard County Charter requires the County Executive to submit to the County Council, "a detailed explanation of the reasons for reorganization and an evaluation of the financial impacts. For purposes of this Section, 'reorganization' shall mean any change which prescribes, alters or defines functions and responsibilities and advocates, reallocates, expands or deletes powers of various departments, agencies, boards and other bodies of the Executive Branch."

The Executive Reorganization Plan must be submitted to the Council at least 120 days prior to submission of the next current expense budget, and the legislation implementing the Plan must be introduced within 60 days of submission of the Plan to the Council.

The following reorganization plan ("Plan") reallocates staffing responsibilities for the Agricultural Land Preservation Board ("ALPB"). The Plan reallocates certain duties currently performed by the Department of Planning and Zoning ("DPZ") to the Office of Community Sustainability ("OCS") in the Department of County Administration ("DCA"). The reallocation of staffing duties for the ALPB will be part of a broader legislative proposal to update the policy focus of the Agricultural Land Preservation Act for the 21<sup>st</sup> century. For context, the background of the broader legislative proposal, which is not subject to Section 403, is discussed below.



## Background

In 2016, the County Executive appointed an Agricultural Coordinator in OCS to be the County's liaison to the agricultural community and oversee the Roving Radish program. Prior to the Agricultural Coordinator position, the County did not have a centralized agricultural function; rather individual departments engaged in independent efforts and DPZ administered the Agricultural Land Preservation Program (ALPP) that primarily focused on acquiring and stewarding easements. The Agricultural Coordinator was initiated to better coordinate these efforts and in response, started an agricultural sub-cabinet, comprised of internal county departments as well as the Economic Development Authority, University of Maryland, and Soil Conservation District. The Agricultural Coordinator chairs regular sub-cabinet meetings, where the group collaborates on initiatives to increase profitability and productivity of local farms and to advance agricultural education. Examples of sub-cabinet programs and initiatives include: right to farm and nuisance legislation; review of zoning issues related to mulch, composting and agricultural trucking; forums on countywide agricultural initiatives; HoCo Fresh certification; and the Farm Academy.

In February 2018, the ALPB began discussing expanding their duties under Title 15, Subtitle 5 of the County Code, the Agricultural Land Preservation ("the Act"). Specifically, the ALPB sought to expand their roles and responsibilities as set forth in current Section 15.518. An expanded role would allow the ALPB to engage in broader discussions about sustaining the industry of agriculture, in support of their current focus on preserving agricultural land through easement acquisition and stewardship. As discussions about an expanded role for the ALPB evolved, it became evident that their new duties more closely aligned with the programs and activities in OCS and that the ALPB could serve as a resource to the sub-cabinet.

Additionally, based on the existing easement acquisition criteria, the amount of land available for easement purchase is less than 4,000 acres. Accordingly, the ALPB has already started to focus on the long-term sustainability of agriculture as a viable sector of the County's economy. The Administration expects this trend to continue and views the ALPB as a valuable resource to provide guidance on a sustainable agricultural economy.

Considering the circumstances described above, the Administration is proposing changes to the Act to: broaden the scope of the Act; change the name of the Act; expand the roles and responsibilities of the ALPB; change the name of the ALPB to the Agricultural Preservation Board; and update the Act to be consistent with current practices. The Plan to reallocate the staffing responsibilities for the ALPB is part of these changes.

## Reorganization Synopsis

The proposed Plan transfers the staffing responsibilities and the Executive Secretary function for the Agricultural Preservation Board from DPZ to OCS in DCA. DPZ will continue to administer duties related to the acquisition and stewardship of Agricultural Land Preservation. The reallocation of the staffing

responsibilities for the ALPB will further centralize agricultural functions and facilitate coordination among internal and external stakeholder on agricultural issues affecting the county.

Fiscal Impact

DPZ currently has a vacant administrative support position budgeted and funded by the Agricultural Land Preservation Fund. This support position is budgeted at \$57,332 for FY19 (available budget \$43,382). The ALPP Administrator in DPZ, in conjunction with the support position, staffs the Agricultural Land Preservation Board and implements the Agricultural Land Preservation Program, consisting of acquiring and managing agricultural preservation easements. Board related duties handled by both positions will be transferred from DPZ to OCS in DCA. Reallocating these Board responsibilities will allow DPZ's Administrator to focus on acquiring new easement properties and managing the County's existing easements and should not impact the basic functioning of the easement program.

OCS anticipates partially funding two positions to support the current and expanded board related duties. The estimated total cost of \$37,787 consists of:

- Agricultural Coordinator salary and fringe: \$21,372
- Administrative Support salary and fringe: \$15,415
- Incidental Expenses (printing, supplies, equipment, etc.): \$1,000

Based on the reallocation of staffing responsibilities for the ALPB outlined above, the financial impact of the Plan is a \$5,595 savings to the Agricultural Land Preservation Fund.

I appreciate your consideration of this reorganization plan and look forward to working with you and your colleagues on this important matter for our farming community.

Sincerely,



Allan H. Kittleman  
County Executive

cc: County Councilmembers  
Jessica Feldmark