

Introduced \_\_\_\_\_  
Public hearing \_\_\_\_\_  
Council action \_\_\_\_\_  
Executive action \_\_\_\_\_  
Effective date \_\_\_\_\_

## County Council of Howard County, Maryland

2020 Legislative Session

Legislative day # 14

### **BILL NO. 58 – 2020 (ZRA – 190)**

**Introduced by:** The Chair  
at the request of John P. McDaniel

**AN ACT** amending the Howard County Zoning Regulations to allow the merger of adjoining preservation parcels under specific conditions; and generally relating to preservation parcels.

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Introduced and read first time \_\_\_\_\_, 2020. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Diane Schwartz Jones, 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 \_\_\_\_\_, 2020.

By order \_\_\_\_\_  
Diane Schwartz Jones, Administrator

This Bill was read the third time on \_\_\_\_\_, 2020 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2020

\_\_\_\_\_  
Calvin Ball, 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  
2 County Zoning Regulations are hereby amended as follows:

3  
4 *By Amending:*

5  
6 *Section 104.0: “RC (Rural Conservation) District”*  
7 *Subsection G. “Cluster Subdivision Requirements”*  
8 *Number 1. “Subdivision and Density Requirements”*  
9 *Number 4. “Requirements for Preservation Parcel Easements”*

10  
11 *Section 105.0: “RR (Rural Residential) District”*  
12 *Subsection G. “Cluster Subdivision Requirements”*  
13 *Number 1. “Subdivision and Density Requirements”*  
14 *Number 4. “Requirements for Preservation Parcel Easements”*

15  
16 *Section 106.0: “106.0 DEO (Density Exchange Option) Overlay District”*  
17 *Subsection B. “Criteria”*  
18 *Subsection F. “Requirements for Use of the Density Exchange Option or Cluster Exchange*  
19 *Option”*

20  
21  
22  
23 **Howard County Zoning Regulations**

24  
25 SECTION 104.0 RC (Rural Conservation) District

26  
27 G. Cluster Subdivision Requirements

28 1. Subdivision and Density Requirements

29 a. A cluster subdivision consists of cluster lots which are located on a portion or  
30 portions of the parcel being subdivided, and a preserved area, which is the entire  
31 residual area of the parcel being subdivided.

32 b. The preserved area should be retained as a single preservation parcel  
33 whenever possible. It may be divided into more than one preservation parcel  
34 only at the time that the preserved area is originally recorded and only in  
35 accordance with the purposes of the RC District. [[with the following

1 exceptions:]]

2 [[(1)] C. Subdivision of a preservation parcel after recordation of the preservation parcel  
3 easement may [[only]] be permitted if the subdivision is necessary to establish a  
4 boundary line respecting agricultural, historical, or environmental features or  
5 patterns of use; AND INVOLVES:

6 [[(2) Involves either:]]

7 [[(a)] (1)The transfer of land between adjoining parcels that are both  
8 entirely protected by an agricultural, environmental, or historic  
9 preservation easement held by Howard County or a State agency; or

10 [[(b)] (2) The exchange of equivalent acreage between adjoining  
11 parcels, one of which is a preservation parcel, created in accordance  
12 with Section 104.0, 105.0 or 106.0 of these Regulations, wherein the  
13 resulting configuration will better facilitate the purpose of the  
14 preservation parcel and better ensure its protection; [[and;]] or

15 (3) TWO OR MORE ADJOINING PRESERVATION PARCELS THAT MAY BE  
16 COMBINED TO CREATE A PRESERVATION PARCEL, WHEREIN THE  
17 RESULTING CONFIGURATION WILL BETTER FACILITATE THE PURPOSE  
18 OF THE PRESERVATION PARCEL, PROVIDED THAT:

19 (A) AT THE TIME OF THE COMBINATION, IF A DEVELOPMENT  
20 RIGHT OR AN EXISTING PRINCIPAL DWELLING UNIT EXISTS, A  
21 LOT MAY BE CREATED TO ACCOMMODATE THE EXISTING  
22 HOUSE OR A PROPOSED HOUSE ON A PRESERVATION PARCEL.

23 1. FOR PARCELS WITH AN AGRICULTURAL  
24 PRESERVATION EASEMENT, THE MINIMUM LOT SIZE  
25 SHALL BE 3 ACRES; OR

26 2. FOR PARCELS WITH OTHER DEDICATED EASEMENTS,  
27 THE MINIMUM LOT SIZE SHALL COMPLY WITH THE  
28 CLUSTER LOT SIZE REQUIREMENTS.

29 (4) Such [[transfer]] RECONFIGURATIONS may not:  
30

- 1 (a) Result in a net increase in the number of farm tenant house rights  
2 for the parcel being enlarged; or  
3 (b) Undermine the original agricultural, environmental or historic  
4 preservation purpose for creating the preservation parcel; or  
5 (c) Reduce the preservation parcel to less than 20 acres, [[and]]  
6 UNLESS OTHERWISE PERMITTED IN SECTION 104.0.G.1.C; OR  
7 (D) ACHIEVE ANY ADDITIONAL RESIDENTIAL DEVELOPMENT RIGHTS.

8  
9 [[(4) Such transfer requires consent of all easement holders. All deed(s) of  
10 easement shall be amended to reflect the land transfer.]]

- 11 (5) SUCH LAND RECONFIGURATIONS REQUIRE CONSENT OF ALL EASEMENT  
12 HOLDERS. ALL DEED(S) OF EASEMENT SHALL BE AMENDED TO  
13 REFLECT THE LAND RECONFIGURATION AND ALL OF THE PROPERTY  
14 SHALL REMAIN SUBJECT TO THE PROVISIONS OF THE EASEMENT TO  
15 WHICH IT WAS SUBJECT PRIOR TO THE RECONFIGURATION.

16  
17 4. Requirements for Preservation Parcel Easements  
18

19 a. The easement agreement for each preservation parcel shall be approved by the  
20 County and executed by the property owner prior to recordation. The easement shall run  
21 with the land, shall be in full force and effect in perpetuity, and shall describe and  
22 identify the following:

23 (1) The location and size of the preservation parcel.

24 (2) Existing improvements on the preservation parcel.

25 (3) A prohibition on future residential, commercial or industrial  
26 development of the preservation parcel, other than the uses listed in  
27 Section 106.1. The easement must specify the primary purpose of the  
28 preservation parcel and prohibit the use of the preservation parcel for  
29 incompatible uses.

30 (4) A prohibition on future subdivision of the preservation parcel, EXCEPT  
31 AS PERMITTED IN SECTION 104.0.G.1.c.

1 (5) Provisions for maintenance of the preservation parcel.

2 (6) Responsibility for enforcement of the easement.

3 (7) Provisions for succession in the event that one of the parties to an  
4 easement agreement ceases to exist.

5  
6 SECTION 105.0 RR (Rural Residential) District

7  
8 G. Cluster Subdivision Requirements

9 I. Subdivision and Density Requirements

10 a. A cluster subdivision consists of cluster lots which are located on a portion or  
11 portions of the parcel being subdivided, and a preserved area, which is the entire  
12 residual area of the parcel being subdivided.

13 b. The preserved area should be retained as a single preservation parcel  
14 whenever possible. It may be divided into more than one preservation parcel  
15 only at the time that the preserved area is originally recorded and only in  
16 accordance with the purposes of the RC District [[with the following  
17 exceptions:]]

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19 easement may [[only]] be permitted if the subdivision is necessary to establish a  
20 boundary line respecting agricultural, historical, or environmental features or  
21 patterns of use; AND INVOLVES:

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23 [[(a)] (1)The transfer of land between adjoining parcels that are both  
24 entirely protected by an agricultural, environmental, or historic  
25 preservation easement held by Howard County or a State agency; or

26 [[(b)] (2) The exchange of equivalent acreage between adjoining  
27 parcels, one of which is a preservation parcel, created in accordance  
28 with Section 104.0, 105.0 or 106.0 of these Regulations, wherein the

1 resulting configuration will better facilitate the purpose of the  
2 preservation parcel and better ensure its protection; [[and;]] or

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4 BE COMBINED TO CREATE A PRESERVATION PARCEL, WHEREIN  
5 THE RESULTING CONFIGURATION WILL BETTER FACILITATE THE  
6 PURPOSE OF THE PRESERVATION PARCEL, PROVIDED THAT:

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8 RIGHT OR AN EXISTING PRINCIPAL DWELLING UNIT EXISTS, A  
9 LOT MAY BE CREATED TO ACCOMMODATE THE EXISTING  
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15 THE MINIMUM LOT SIZE SHALL COMPLY WITH THE  
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18 (4) Such [[transfer]] RECONFIGURATIONS may not:

19 (a) Result in a net increase in the number of farm tenant house  
20 rights for the parcel being enlarged; or

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22 historic preservation purpose for creating the preservation  
23 parcel; or

24 (c) Reduce the preservation parcel to less than 20 acres, [[and]]  
25 UNLESS OTHERWISE PERMITTED IN SECTION 104.0.G.1.C; OR

26 (D) ACHIEVE ANY ADDITIONAL RESIDENTIAL DEVELOPMENT  
27 RIGHTS.  
28

29 [[(4) Such transfer requires consent of all easement holders. All deed(s) of  
30 easement shall be amended to reflect the land transfer.]]

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2 EASEMENT HOLDERS. ALL DEED(S) OF EASEMENT SHALL BE  
3 AMENDED TO REFLECT THE LAND RECONFIGURATION AND ALL OF  
4 THE PROPERTY SHALL REMAIN SUBJECT TO THE PROVISIONS OF THE  
5 EASEMENT TO WHICH IT WAS SUBJECT PRIOR TO THE  
6 RECONFIGURATION.

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8 4. Requirements for Preservation Parcel Easements

9 a. The easement agreement for each preservation parcel shall be approved by the  
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- 14 (2) Existing improvements on the preservation parcel.
- 15 (3) A prohibition on future residential, commercial or industrial  
16 development of the preservation parcel, other than the uses listed in  
17 Section 106.1. The easement must specify the primary purpose of the  
18 preservation parcel and prohibit the use of the preservation parcel for  
19 incompatible uses.
- 20 (4) A prohibition on future subdivision of the preservation parcel, EXCEPT  
21 AS PERMITTED IN SECTION 105.0.G.1.c.
- 22 (5) Provisions for maintenance of the preservation parcel.
- 23 (6) Responsibility for enforcement of the easement.
- 24 (7) Provisions for succession in the event that one of the parties to an  
25 easement agreement ceases to exist.

1 B. Criteria

2 Residential density may be exchanged between properties which are eligible to be sending and receiving  
3 parcels based on the criteria given below.

4 1. Sending Parcels

5 Properties within the DEO Overlay District which meet the following criteria are eligible to be  
6 sending parcels:

7 a. The underlying zoning shall be RC;

8 b. The minimum preservation parcel easement area shall be 20 acres for all sending  
9 parcels, EXCEPT AS PERMITTED IN SECTION 106.0.F.10.

10 c. The sending area shall not be subject to a forest conservation easement, Agricultural Land  
11 Preservation Easement, gasline easement or other recorded easement that reduces or  
12 removes its development rights. If a portion of a parcel is encumbered with such an  
13 easement, the encumbered area shall be subtracted from the acreage of the sending parcel  
14 for density calculations. After the encumbered acreage is deducted, the sending parcel must  
15 still fulfill the size criteria specified in paragraph 1.b of this subsection. When calculating  
16 density sending rights, floodplain easements and driveway/access easements do not need to  
17 be deducted.

18 d. A property consisting of one or more contiguous parcels or lots may be eligible to be a  
19 sending parcel if the parcels, when combined meet the size criteria specified in paragraph  
20 1.b. All parcels that do not meet the size criteria specified in paragraph 1.b of this subsection  
21 must be combined at the time that the preservation easement agreement for the sending  
22 parcel is recorded.

23

24 F. Requirements for Use of the Density Exchange Option or Cluster Exchange Option

25

26 10. SUBDIVISION OF PRESERVATION PARCEL AFTER RECORDATION

27 A RECORDED PRESERVATION PARCEL BE MAY SUBDIVIDED IN ACCORDANCE WITH SECTIONS  
28 104.0.G.1.c AND 105.0.G.1.c.



1 **Section 2. Be it further enacted by the County Council of Howard County, Maryland, that**  
2 **Sections 104.0 and 105.0 be renumbered accordingly,**

3

4 **Section 3. Be it further enacted by the County Council of Howard County, Maryland, that this**  
5 **Act shall become effective 61 days after its enactment.**

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