

Agricultural Land and Woodland  
Preservation Program  
Regulations

Anne Arundel County  
Maryland

Planning and Code Enforcement  
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## I. INTRODUCTION

This document contains regulations for the implementation of Anne Arundel County's Agricultural Land and Woodland Preservation Program as adopted by County Council Bill No. 56-99 .

## II. PURPOSE

The purpose of these regulations is to encourage the preservation of agricultural land and woodlands by discouraging their development. The regulations provide criteria for the establishment of County Agricultural Land and Woodland Districts and for the application, evaluation and prioritization of easement purchase. The regulations are intended to establish the framework for participation in the Program and to allow for a fair and equitable easement purchase process.

## III. DEFINITIONS

A. "Agriculture" means the science, art, or business of cultivating the soil and producing crops; breeding, boarding, or training of animals; horticulture; apiaries; hydroponics; viniculture; forestry; and related agricultural activities as approved by the Agricultural Preservation Advisory Board.

B. "Agricultural Designation" means land identified as Rural in the General Development Plan Land Use Map and located in the County's Residential Agricultural (RA) zoning classification.

C. "Agricultural Land Coordinator" means a person appointed by the Director to assist landowners in preserving agricultural land and woodlands through the administration of the provisions of Article 24, Title 2, Subtitle 2 of the County Code and the Maryland Agricultural Land Preservation Program.

D. "Agricultural Preservation Advisory Board" ("Board"), means a board established in accordance with 2-504.1 of the Agriculture Article of the State Code, with an additional local provision that one member must have background or experience in forestry.

E. "County" means Anne Arundel County, Maryland.

F. "County Agricultural District" means a district that contains agricultural land or woodlands established in accordance with Article 24, Title 2, Subtitle 2, Section 2-203 of the County Code.

G. "Department" means the Department of Planning and Code Enforcement.

- H. "Director" means the Director of Planning and Code Enforcement.
- I. "Easement" means a restrictive covenant running with the land that limits the uses permitted on a property to agriculture, woodlands and subdivisions created in accordance with the family conveyance provision.
- J. "Family Conveyance Subdivision" means a subdivision that is established in accordance with Article 26, Title 4, Subtitle 3 of the County Code.
- K. "Foundation" means the Maryland Agricultural Land Preservation Foundation.
- L. "Fund" means County funds allocated by the County Council for the Agricultural Land and Woodland Preservation Program.
- M. "Landowner" means a person or corporation owning or having an interest in land within Anne Arundel County.
- N. "Open Space designation" means a denotation of woodlands and other natural areas identified as natural features in the General Development Plan Land Use Map and which are not already protected from development by law.
- O. "Productive Agricultural Land" means land eligible to be included in a State Agricultural District in accordance with regulations promulgated by the Foundation.
- P. "Severe Economic Hardship" means financial peril to the landowner, whether caused by natural disaster, the disability of the landowner, or some other occurrence as determined by the Director.
- Q. "Soil and Water Conservation Plan" means a plan approved by the Anne Arundel Soil Conservation District outlining agricultural land use activities and associated conservation practices
- R. "Woodland" means land area dominated by trees and other woody plants, including trees and woody plants that have been cut but not cleared, and managed under an approved Forest Management Plan prepared by a registered forester.

#### AGRICULTURAL PRESERVATION ADVISORY BOARD

The Agricultural Preservation Advisory Board is appointed by the County Executive with the following duties and responsibilities:

- (1) To advise the County concerning the establishment of County agricultural districts and purchases of easements by the County;
- (2) To assist the County in reviewing the status and progress of the County's Agricultural Land and Woodland Preservation Program;
- (3) To advise the County concerning priorities for agricultural and woodland preservation;
- (4) To promote preservation of agriculture within the County by fostering activities such as a farmers' market and offer information and assistance to landowners interested in establishing County agricultural districts and/or the sale of easements;

- (5) To make recommendations to the County Executive concerning budget and appropriation requests related to agricultural and woodland preservation;
- (6) To recommend delineation of areas of productive agricultural land in the County;
- (7) To recommend procedures to determine the values of easements;
- (8) To review and make recommendations to the County concerning proposed regulations for State and County agricultural districts
- (9) To prepare and review recommendations to the County concerning County policies and programs for agricultural and woodland preservation;
- (10) To seek the advice of and cooperate with the Agricultural Extension Service, the Soil Conservation District and the State Foresters in carrying out its responsibilities; and
- (11) To perform other duties as may be assigned by the County Council or County Executive.

## V. AGRICULTURAL LAND AND WOODLAND DISTRICTS

### A. Eligibility Requirements

Land eligible for inclusion in a County Agricultural District must meet the following criteria:

- 1. Agricultural Districts shall consist of land which is either used primarily for the production of food or fiber or is of such open space character and productive capability that continued agricultural production is feasible.
- 2. The area to be included must contain at least 50 contiguous acres of agricultural land. Contiguous properties which have different owners and are no less than 10 acres in size meet this requirement if the aggregate totals at least 50 acres.
- 3. At least 50 percent of the agricultural land must be in USDA Soil Capability Classes I, II, III, and Class IV Soils if the Class IV Soils also meet the C3 and D2 slope classification. In addition, all eligible land must have an approved Soil and Water Conservation Plan.
- 4. Only agricultural land zoned Residential Agricultural (RA), Residential Low Density (RLD), Open Space(OS), and/or R1-Residential is eligible for inclusion in an Agricultural District.
- 5. All land must be located outside Water and Sewer Categories 1, 2, and 3 as indicated by the Master Plan for Water Supply and Sewerage Systems.

6. Agricultural land which is otherwise qualified for district establishment and is comprised predominately of land of lower general capability, also may be eligible for inclusion into a district if approved by the Director. The landowner, as a condition of acceptance into the County District, must implement an approved Soil and Water Conservation Plan. Any recommendation by the Board shall be based on information obtained from the University of Maryland Cooperative Agricultural Extension Service, Anne Arundel Soil Conservation District and any other relevant source and shall contain information that addresses the long term productivity of the land and farm management practices.

7. The Districts shall be comprised of a legally subdivided parcel or parcels of land, however, in the case of illegal parcels, acreage used for assessment purposes may be accepted to form a District. Before applying to sell an easement on the property, the landowner will have to resolve any issues related to the legality of the parcel.

Land eligible for inclusion in a County Woodland District must meet the following criteria:

1. The area to be included shall contain at least 10 contiguous acres of woodlands per landowner. When adding woodland to an existing district, there is a 10 acre minimum size requirement of woodland per landowner. A minimum of 25 acres, that will be contiguous in nature and classified as a Woodland District, will be required for consideration of an easement offering.

2. All Woodland District applicants shall have a Forest Management Plan, prepared by a Registered Forester, in effect. The plan must be reviewed and approved by the Anne Arundel County Forest District Conservation Board and the County Project Forester.

3. Woodlands located in Open Space(OS), Residential Agricultural(RA) and/or Residential Low Density(RLD) zoning classifications *only* are eligible for inclusion in a Woodland District.

4. All land shall be located outside Water and Sewer Categories 1, 2, and 3 as indicated by the Master Plan for Water Supply and Sewerage Systems.

5. The Districts shall be comprised of a legally subdivided parcel or parcels of land, however, in the case of illegal parcels, acreage used for assessment purposes may be accepted to form a District. Before applying to sell an easement on the property, the landowner will have to resolve any issues related to the legality of the parcel.

#### B. Petition Process

1. Any landowner that is interested in entering an existing district or is interested in establishing a new district and meets the criteria listed above, shall submit a completed

County Agricultural District Petition to the Agricultural Land Coordinator. The Agricultural Land Coordinator will assist the landowner in completing the petition.

2. The Agricultural Land Coordinator will review the petition to determine if the land meets the criteria for inclusion in a district. In addition, the Coordinator will determine if any illegal lots exist on the property. If any illegal lots do exist, acreage used for assessment purpose may be accepted to form a district.

3. After determining that the petition is complete and meets the established criteria, the Director shall ask the Board for its recommendations. The Director shall then approve or disapprove the petition after receiving the Board's recommendation.

4. Within 60 days after receiving the completed petition for a district, the Director must approve or disapprove the petition. At that time, the Director must notify the Board, the County Council and the petitioner of the decision. Notification shall be in writing and shall state the reason(s) for disapproval or in the case of an approval, adjacent landowners shall also be notified.

5. Once the petition has been approved, the petitioner will be required to sign an Agricultural District Agreement. This Agreement will be recorded in the Land Records of Anne Arundel County and shall subject the land to its terms and conditions.

#### C. Permitted Activities

1. Land in a County Agricultural District is subject to the limitations and conditions set forth in Article 24, Title 2, Subtitle 2 (Agricultural Land Preservation Areas) and Article 28, Title 2 (Residential Districts of the Anne Arundel County Code) except as modified below. Land may not be subdivided for commercial, industrial, or residential uses except, with the approval of the Director, a landowner may:

(a) exclude from the County Agricultural District a lot that is 40,000 square feet, or larger if required by health regulations, for the construction of a dwelling for the original landowner and

(b) exclude from the County Agricultural District lots in a family conveyance subdivision in accordance with Article 28, Title 2, however, the creation of such lots shall not exceed a residential density of one dwelling unit per 20 acres, excluding lots for the original landowner's dwelling and tenant dwellings.

2. A landowner's request for exclusion of a lot under Section V.C.1. of these regulations will be evaluated based on the location of the lot and its potential impact on the agricultural or woodland use of the remaining property.

3. Land on which tenant dwellings are constructed may not be subdivided or conveyed or maintained separately from the original parcel.



4. The provisions of this section shall not prohibit the conveyance of an interest to a third party as security for a mortgage or deed of trust in a lot or parcel of land created through the procedures outlined in this Section.

#### Termination or Modifications

A landowner may request termination of a District if (a) the County has rejected the purchase of an easement on the landowner's property, or (b) the landowner is able to demonstrate to the County that the continuation of the District will cause him/her severe economic hardship.

A landowner's participation in a District may be terminated at the discretion of the Director if determined that the property is not in compliance with an approved Soil and Water Conservation Plan and/or Forest Management Plan.

In a District that contains land from more than one landowner, if a landowner's withdrawal from the District causes the acreage to fall below the minimum requirements, the Director may adjust the District to the remaining acreage.

### VI. EASEMENT PURCHASE PROGRAM

#### A. Eligibility Requirements

All land in a County Agricultural District is eligible for the County easement purchase program unless further development is already precluded by law or contract. In addition, any lot excluded from the District in accordance with Section V.C of these regulations is not eligible for an easement purchase.

This program allows the County to purchase a development rights easement from a landowner for the price determined by an appraisal or appraisals. The property owner may retain title to the land and sell the property in the future for agricultural purposes or woodland preservation. Future development of the property is limited to agricultural and woodland preservation, as defined under

Section III, of these regulations.

Where an agricultural land district or woodland district has been formed by more than one landowner in order to meet the minimum size requirement, the County will not purchase an easement or easements from those landowners unless the total land purchase meets the minimum easement acreage requirement (50 acres and 25 acres, respectively) . Rejection by one or more landowners of a County offer to purchase forfeits the landowner's right to sell an easement for a period of 12 months. Those landowners in the above described circumstance who did not reject a County offer to purchase may reapply at any time providing all requirements for purchase are met and an updated opinion of value is prepared if there have been significant market changes.

B. Application Process

1. Application to sell an easement shall be submitted to the Agricultural Land Coordinator. The landowner shall indicate whether lump sum or installment payment is desirable. The application shall be accompanied by an approved and activated Soil and Water Conservation Plan or a Forest Management Plan.

2. Applications for easement sales will be accepted during the 30 days prior to the filing dates of April 1 and November 1 of each year. Filing dates may be extended, as determined necessary by the Director, with notice by public advertisement at least thirty(30) days prior to the stated filing dates.

3. The Agricultural Land Coordinator will determine if the application is complete; review and evaluate the application and meet with the landowner within 60 days of the filing date. Based on these actions, the Agricultural Land Coordinator will determine if the land is eligible for purchase. If the Agricultural Land Coordinator determines that the land is eligible for purchase through the State's program, the application will be referred to the Foundation, prior to any further action by the County.

4. If the parcel is in an Agricultural District, it becomes eligible for purchase only after any outstanding subdivision and out-conveyance issues have been resolved by the property owner. Thereafter, an appraisal and title search will be ordered through the Anne Arundel County Department of Public Works Right of Way Division.

5. Within 15 days after receiving the appraisal and the results of the title search, the Agricultural Land Coordinator at the direction of the Director will notify the landowner, if the landowner's application has been rejected for reasons of qualification. The remaining applications, in addition to any applications remaining from the previous filing periods, will be ranked according to the established rating criteria.

6. Based on the ranking of each application, an offer to purchase along with an easement agreement may be tendered by the County to the landowner within 30 days of receiving the appraisal and results of the title search. The offer shall contain the specific terms of purchase including the form of payment (whether by lump sum or installment), and additional terms, contingencies and conditions not contained in the original application.

7. The landowner shall have 30 days following the County's offer to accept the offer or to notify the County that he/she rejects the County's appraisal and is requesting a second appraisal. Failure to respond in writing within 30 days constitutes a rejection of the offer. Further, a landowner may reject the offer to purchase up to the point of settlement. A landowner who rejects a County offer to purchase, forfeits the right to sell an easement to the County for a period of 12 months.

8. If the landowner rejects the offer and requests a second appraisal, the second appraisal must be submitted to the County within 45 days following the County's offer.

Thereafter:

(a) if the purchase is to be made by lump sum payment, the purchase price shall be determined by averaging the amount set forth in the County's appraisal and the appraisal obtained by the landowner; or

(b) if the purchase is to be made by installment payments, the County and the landowner may take an additional 30 days to negotiate the final terms, including the purchase price.

9. Within fifteen days of the landowner's acceptance in writing, the Director shall notify the Board and the County Council. Settlement will occur following the landowner's written acceptance of the County's offer to purchase once all contingencies and/or conditions have been cleared and if payment is to be made by installments, on approval by the County Council.

10. If there are insufficient funds available to purchase all of the easements offered, then the County may make offers according to the ranking system established by these regulations. Offers to sell that do not receive an offer to purchase from the County will automatically be held open and considered during the next filing period if funds are available at that time.

11. The County is not obligated to proceed with the processing of an easement application if the landowner fails to provide information requested by all County or State agencies nor is the County obligated in any manner to make any easement purchase.

#### C. Permitted Activities

1. Activities permitted on a parcel of land after an easement has been purchased are the same as those activities outlined in Section V.C. of these regulations.

2. A landowner may have a lot released from an easement in accordance with Section V.C. if the landowner (1) repays the County for the value of the easement to be released and (2) prior to the release, the landowner enters into a written agreement with the County not to further subdivide the lot that is released. This agreement shall be recorded with the deed and be binding on all future owners.

3. If a larger parcel of land for residential construction than the one that was released is required for approval of a building permit by the County Health Department, the landowner may add sufficient land to the released parcel if the landowner repays the County and enters into a written agreement as outlined in Section V.D.2. of these regulations.

4. Purchase of an easement by the County does not create a right of public access to the land unless the easement specifically provides for public access.

5. There is no restriction on the right of an owner to sell land on which the County holds an easement provided that the sale is subject to the easement.

#### D. Termination

An easement purchased by the County shall be given by the landowner *in perpetuity* and may not be terminated.

#### E. Easement Value

The easement value, which is the purchase price to be paid to the landowner by the County upon execution of an easement agreement, shall be based on an appraisal obtained by the County and will be calculated as follows: Easement Value = Fair market value of fee simple land x 60% ratio. This ratio shall be reviewed annually by the Agricultural Land Coordinator. After review and recommendation, the Director may authorize a change in the easement value. If the landowner is dissatisfied with the easement value, the landowner may, at their sole expense, obtain an appraisal prepared by a County-approved appraiser. The price paid for the easement shall be the average of the two appraised easement values, but in no event less than the County's easement value.

#### F. Easement Purchase Priority Rating

The priority for the purchase of easements is based on factors which are necessary to preserve the County's agricultural lands and woodlands as determined by the Director. These factors include: land capability; size; purchase price; agricultural and open space designations; proximity to agricultural zone boundary; proximity to developed or developing areas and other easements; and the possibility of an extraordinary opportunity for preservation. The following is an explanation of how each of these factors will be rated. The sum of these factors shall constitute the total rating that is used to determine the order in which easements will be purchased, with the higher rated easements receiving priority.

##### 1. Land Capability

Land capability is based on the U.S. Department of Agriculture Soil Capability Classes and Woodland Suitability Groups. After subtracting one acre for each dwelling from the proposed easement's total area, the rating of the remaining acreage is determined by multiplying the weight of each Unit and/or Group by the percent of the total land which is in the proposed Unit or Group and then adding the points for the whole easement. The weights are outlined below.

##### a. For agricultural land easements

<u>Unit or Group</u>	<u>Weight</u>
Percent in Soil Class I	x 3.0
Percent in Soil Class II	x 2.0
Percent in Soil Class III	x 1.0
Percent in Soil Class IV (C3,D2)	x 1.0

Percent in Other x .0

b. For woodland easements

<u>Group</u>	<u>Weight</u>
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Percent in Woodland Group 1x 3.0	
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Percent in Woodland Group 2x 2.0	
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Percent in Woodland Group 3x 1.0	
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2. Size

After subtracting one acre for each dwelling located in the easement, one point shall be awarded for each acre in a proposed agricultural land or woodland easement.

3. Purchase Price

After the purchase price is set forth in an appraisal, rating points shall be awarded as follows:

<u>Purchase Price/Acre</u>	<u>Points</u>
less than \$2,999	150
\$3,000 to \$3,999	100
\$4,000 to \$4,999	50
\$5,000 or more	0

4. Agricultural and Open Space Designation

An easement located in an area defined as Agricultural Designation shall be awarded 25 points.

An easement located in an area defined as designated Open Space as set forth in the County's General Development Plan shall be awarded 25 points.

5. Proximity to Agricultural Zone Boundary

To preserve the integrity of the County's agricultural zone, 100 points will be awarded to a proposed easement located in a Residential Agricultural zone (RA) if the boundary of the easement area is within one-half mile of the RA boundary where the adjoining property that is zoned residential, commercial, industrial, or deferred development as indicated on County zoning maps.

#### 6. Proximity to Developed or Developing Areas

An easement located in proximity to an existing or proposed residential development that has received sketch plan approval and that contains at least 50 contiguous acres shall qualify for points as follows:

<u>Proximity</u>	<u>Points</u>
Contiguous to development	100
Within one-half mile	50
Within one mile	25

#### 7. Proximity to Other Easements

To encourage the acquisition of contiguous easements, points will be awarded to a new easement, on either agricultural land or woodland, that is located in close proximity to an existing easement in which development rights have been sold to the State of Maryland or the County. A proposed easement meeting these criteria will qualify for points as follows:

<u>Proximity</u>	<u>Points</u>
Contiguous to easement	100
Within one-half mile	50
Within one mile	25

#### 8. Extraordinary Opportunities

Extraordinary opportunities to acquire easements on agricultural land or woodland which are deemed very beneficial to the public interest may arise. Such opportunities might include, but are not limited to maintaining an agricultural use or preserving an endangered species. In such cases, the Director may award 100 points.

In addition, easement applications carried over from a previous filing period as described in Section VI.B.10. of these regulations shall receive an extra 50 points.

#### G. Acceptance of Easements by Donation, Gift, Bequest or Grant

In addition to its authority to purchase easements under this subtitle, the County may accept the donation of an easement or other interest in property for agricultural land or woodland preservation purposes, including the difference between the accepted value and the appraised value.

### VII. TAX CREDIT PROGRAM

#### A. Eligibility Requirements

A landowner is eligible for a ten (10) year tax credit from County real property taxes if:

The property is included in a State or County Agricultural or Woodland District or

The County or State has purchased an easement on the property

The landowner agrees to remain in the agricultural or woodland district for a ten (10) year period.

**B. Application Process**

A completed application for a tax credit must be submitted to PACE on or before October 1 of the first taxable year for which the ten (10) year tax credit is sought. The tax year runs from July 1 to June 30. Filing by the October 1 date will allow applicants to receive tax credit for the year beginning the previous July 1.

If applications are received after the October 1 deadline, they will be treated as applications for the tax year which will begin the next July 1.

The tax credit will be based on the total taxable assessment of land that is subject to an agricultural use assessment, and up to \$100,000 of the total taxable assessment of all buildings on the property pursuant to Bills # 49-89, 46-90, 54-90.

The application for the tax credit must be submitted by PACE to the Controller on forms provided by the Office of Finance.

The application for the tax credit must be accompanied by proof that the landowner has entered into a binding agreement with the State or County to retain the landowner's property in a State or County Agricultural or Woodland District for ten (10) years beginning with the year in which the application for tax credit is made.

The Department is responsible for reviewing the applications for tax credit and certifying that the property qualifies for the credit.

**C. Termination**

If a landowner terminates a property as an agricultural preservation district before the expiration of any ten (10) year period without the approval of the State, the landowner shall be liable for:

(1) all property taxes that any owner of the property would have been liable for if the property tax credit had not been granted pursuant to Article 6 Section 1-103 of the Anne Arundel County Code, and

- (2) interest on those taxes computed as provided under Article 6, Section 1-102.

#### VIII. MINERAL EXTRACTION

A County Agricultural District Petition or County Easement Application may not be approved if surface or subsurface mineral extraction (sand, gravel, shale, limestone, crude petroleum, natural gas, clay, fertilizer minerals, deep mined minerals, including bituminous coal) may occur in the future or currently takes place, or where extraction has occurred but the land has not been reclaimed in accordance with State and County law.

Before the County will consider such property for inclusion in its Agricultural Preservation Program, the reclamation of the property shall be implemented by the landowner in accordance with State and County law. In addition, a Soil and Water Conservation Plan must be approved and implemented for the property.

#### IX. RECORDING AND MONITORING

An executed Agricultural District Agreement and a Deed of Easement shall be recorded in the Land Records of Anne Arundel County. In addition, each January the Director shall prepare an annual report to the County Executive and the County Council that reports all activities dealing with County Agricultural Districts and Easements.

#### X. AUTHORITY

As necessary in the public interest, the Director may extend the time periods provided in these regulations.

July 27, 1999