

**REGULATIONS FOR THE ESTABLISHMENT OF AGRICULTURAL
PRESERVATION DISTRICTS IN WASHINGTON COUNTY, MARYLAND**

Adopted January _____, 2008

1. Purpose.

1.01 The purpose of these Regulations is to provide for the standards and guidelines by which real property in Washington County is eligible for inclusion within an agricultural preservation district.

1.02 These Regulations shall be construed and applied in concert with the requirements of the Ordinance for the Establishment of Agricultural Preservation Districts.

2. Petition.

2.01 Any petition to establish or amend an agricultural preservation district or any notice to terminate a district shall be filed with the Agricultural Preservation Advisory Board.

2.02 A petition shall include a general description of each land parcel including acreage and the current use of the land and shall be accompanied by a map or plat of each subject parcel at a scale no smaller than 1 inch equals 600 feet (copy of tax map will meet requirement).

2.03 A petition to establish a district shall be accompanied by a district agreement for each subject parcel signed by the landowner or landowners.

3. Qualifying Criteria.

In order to be considered, the property must meet the following criteria:

3.01 Productive Capability Criteria.

(a) Agricultural preservation 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.

(b) Soils Criteria.

(i) The majority of the land of any district shall consist of U.S.D.A. Soil Capability Classes I, II, and III;

(ii) The majority of the land area of any district shall consist of U.S.D.A. Woodland Groups 1 and 2 which are applied to wooded areas only;

(iii) The majority of the land area of any district less the acreage contained within the 100-year floodplain as delineated on Flood Hazard Boundary Maps produced by the Federal Emergency Management Administration and State or federal designated wetlands shall consist of U.S.D.A. Soil Capability Classes I, II, and III on cropland and pasture or Woodland Groups 1 and 2 on wooded areas only;

(iv) A minimum of 60 percent of the land area of any district shall consist of U.S.D.A. Soil Capability Classes I, II, and III on cropland and pasture and Woodland Groups 1 and 2 on woodland areas; or

(v) A minimum of 60 percent of the land area of any district less the acreage contained within the 100-year floodplain and State or federal wetlands shall consist of U.S.D.A. Soil Capability Classes I, II, and III on cropland and pasture and Woodland Groups 1 and 2 on wooded areas.

(c) Exceptions to 3.02 (a) – (e) may include land areas of lower soil capabilities, but with a rating similar to Classes I, II, and III on cropland and pasture and Woodland Groups I and II on woodland areas. Land with lower soil capabilities may qualify to be in a district if the soils on the applicant's farm otherwise comply with all the requirements of this section and the applicant submits to the Planning Department a letter from the appropriate U.S. Department of Agriculture district conservationist that states that the soils on the applicant's farm have a cropland or pasture rating similar to Classes I, II, and III, or Woodland Groups I and II. Farm areas with extensive specialized production, including but not limited to dairying livestock, poultry, fruit, or berry production may also be considered by the County to be included in a district.

3.02 District Size Criteria.

(a) An agricultural preservation district shall be 50 contiguous acres. However, a parcel of less than 50 acres may qualify as a district if:

(i) It adjoins a 50-acre parcel which has been approved by the County as an agricultural preservation district;

(ii) It is added to one or more adjoining parcels which together have been approved by the County as agricultural preservation districts;

(iii) The land has extraordinary agricultural capability as provided by Section 3.04 of these Regulations and is of significant size; or

(iv) It adjoins land subject to a recorded instrument which permits agricultural activities and contains restrictions that are the same as or more stringent than those found in the Maryland Agricultural Land Preservation Foundation's deed of easement, and the collective mass of these lands total at least 100 acres.

(b) The applicant should also know that the Maryland Agriculture Land Preservation Foundation may not purchase an agricultural preservation easement from a landowner of a district of less than 50 acres unless:

(i) It is contiguous to a district or districts on which a 50-acre easement has been purchased;

(ii) The landowners in the adjoining districts which are each less than 50 acres but total at least 50 acres accept the Maryland Agricultural Land Preservation Foundation's offer to purchase an easement;

(iii) The land has extraordinary agricultural capability as provided by Section 3.04 of these Regulations and is of significant size; or

(iv) It adjoins land subject to a recorded instrument which permits agricultural activities and contains restrictions that are the same as or more stringent than those found in the Maryland Agricultural Land Preservation Foundation's deed of easement, and the collective mass of these lands total at least 50 acres.

3.03 Agricultural land which is otherwise qualified for district establishment and is comprised predominantly of land of lower general capability also may meet minimum qualifying criteria if the following conditions are met to the satisfaction of the County:

(a) The agricultural preservation advisory board shall obtain general information from the Agricultural Extension Agent and specific written information from the soil conservation district in the county, and such other sources as might be applicable, addressing the long-term productivity of the land and farm management practices, and shall forward this documentation to the

Agricultural Preservation Advisory Board; and

(b) The agricultural preservation advisory board shall state in its recommendations, with the advice of the applicable soil conservation district, that an approved soil conservation plan is being implemented.

3.04 For the purpose of these Regulations, land has "extraordinary agricultural capability" if it:

(a) Has a soil conservation plan approved by a local soil conservation district, fully implemented according to a schedule in the plan;

(b) Is located in an area designated by a county for agricultural preservation;

(c) Meets either of the following:

(i) Has at least 60 percent of the land area consisting of U.S.D.A. Soil Capability Classes I, II, and III, or U.S.D.A. Woodland Groups 1 and 2 which are applied to wooded areas only, or

(ii) Has a minimum of 72 percent of the land area less any acreage included within the 100-year floodplain and less any acreage included in State or federal wetlands consisting of a combination of U.S.D.A. Soils, Class I, II, and III on cropland and pasture and Woodland Groups 1 and 2 on wooded areas.

4. Use of the Land

4.01 The following uses are permitted on land within an agricultural preservation district:

(a) Any farm use of land.

(b) Operation at any time of any machinery used in farm production or the primary processing of agricultural products.

(c) All normal agricultural operations performed in accordance with good husbandry practices which do not cause bodily injury or directly endanger human health including, but not limited to, sale of farm products produced on the farm where such sales are made.

4.02 Land within a district may not be used for any commercial, industrial, or residential purpose, except as determined by the County for farm and forest related uses and home occupations.

5. Exclusion of Lots.

5.01 In reviewing the landowner's request for exclusion of a lot(s) from a district, the County shall examine the:

- (a) Location of the land to be excluded
- (b) Potential impact the lot's exclusion may have on the agricultural use of the remaining property; and,
- (c) Owner's future right, if not already forfeited, to have lots released from the Foundation's easement, should an easement be subsequently acquired by the Foundation.

6. Access.

6.01 In determining questions about easements, rights-of-way, licenses, and other similar servitudes in land subject to a district agreement, the County shall follow the same rules that are applicable to the establishment of these servitudes in land subject to a preservation easement set forth under COMAR 15.15.01.17F.

7. Sever Economic Hardship

7.01 To obtain the relief under the Ordinance for sever economic hardship, the landowner shall petition the County, stating succinctly the severe economic hardship that the landowner is sustaining, and providing the County with the following information:

- (a) A recent financial statement which shows the owner's complete assets and liabilities and a statement that the information contained in the financial statement is true and accurate;
- (b) Other information attesting to the severe economic hardship that the landowner is sustaining, including by way of example, information from mortgagees, lien holders, creditors, attorneys, the Internal Revenue Service, or other third-party interests who are qualified to address the economic condition of the landowner.

7.02 Disclosure of Information. To the extent permitted by law, the County shall deny public access to the information the landowner has supplied the County under this regulation.

8. Relocation of a Dwelling.

8.01 The County may approve a landowner's request to relocate the site of an existing dwelling to another location on a farm subject to an Agricultural Preservation District Agreement, provided that:

- (a) The new location does not interfere with any agricultural use; and
- (b) Subject to the County's approval, the landowner agrees either to demolish the existing dwelling at the current location or permanently convert the existing dwelling at the current location to a use that is nonresidential and integral to the farm operation.