

ORDINANCE NO.: ORD-2018- 20

**AN ORDINANCE TO REPEAL AND TO REENACT, WITH AMENDMENTS, AN
ORDINANCE ENTITLED "ORDINANCE FOR THE ESTABLISHMENT OF
AGRICULTURAL LAND PRESERVATION DISTRICTS"**

RECITALS

On January 13, 2009, the Board of County Commissioners of Washington County (the "Board") adopted an ordinance entitled "Ordinance for the Establishment of Agricultural Preservation Districts" (Ordinance No. ORD-09-01) (the "Ordinance") for the establishment of agricultural preservation districts pursuant to Md. Code, Article 25, Section 9-I.

The Washington County Planning Department has requested that certain amendments be made to the text of the Ordinance.

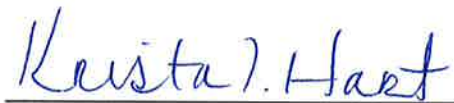
The Board believes it to be in the best interests of the citizens of Washington County for the Ordinance to be repealed and reenacted, with amendments.

A public hearing was held on the 24th day of July, 2018, following due notice and advertisement. Public comment was received, reviewed, and considered concerning the proposed amendments.

NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Washington County, Maryland, that other ordinances or parts of ordinances in conflict herewith are hereby repealed; and the attached ordinance entitled "Ordinance for the Establishment of Agricultural Land Preservation Districts" is hereby adopted this 28th day of August, 2018 and effective this same date.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND




Krista L. Hart, Clerk



Terry L. Baker, President

Approved:


Kirk C. Downey
Deputy County Attorney

Mail to:

County Attorney's Office
100 W. Washington Street, Suite 1101
Hagerstown, MD 21740-4735

**ORDINANCE FOR THE ESTABLISHMENT OF
AGRICULTURAL LAND PRESERVATION DISTRICTS**

Adopted January 13, 2009

Repealed and Reenacted - Adopted and Effective August 28, 2018.

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period of ten (10) years from the date the District Agreement is recorded in the land records of the county, with the option to terminate the District after five (5) years, or a minimum period of five (5) years in the event that the original ten (10)-year District Agreement has met or exceeded its ten (10)-year time frame and the landowner has exercised the right to enter into an additional five (5)-year District Agreement;

(b) Except as otherwise permitted in this Ordinance, the landowner agrees not to use the land for any commercial, industrial, or residential purpose except as indicated in any County Regulations associated with this Ordinance;

(c) The landowner agrees not to subdivide the land encumbered by a District for any purpose unless the County first has approved the proposed subdivision; and

(d) The landowner agrees not to construct buildings or structures on the land that are not designed or intended to be used for agricultural purposes, or any residential building unless the County first has approved the proposed construction.

(e) Any landowner who entered into a District Agreement that was recorded prior to August 28, 2018 is subject to the regulations and restrictions in effect when the District was established.

3.03 The landowner may apply for Maryland Agricultural Land Preservation Foundation easements and other County approved easements on land in a District.

4. Procedures.

4.01 After receipt of a petition to establish a District:

(a) The Ag Advisory Board shall inform the County whether the land in the proposed district meets the qualifications established in this Ordinance and associated regulations and whether the Ag Advisory Board recommends establishment of the District.

(b) After both the Ag Advisory Board and the Planning Commission have reviewed the request for District establishment, the Ag Advisory Board or the Planning Commission shall inform the County whether establishment of the District is compatible with existing and approved State and county plans, programs, and overall county policy, and whether the planning and zoning body recommends establishment of the district.

4.02 If either the Ag Advisory Board or the Planning Commission recommends approval, the County shall hold a public hearing on the petition. Adequate notice of the hearing shall be provided to landowners in the proposed District and to landowners adjacent to the proposed District.

1. Purpose.

1.01 The purpose of this Ordinance is to provide for the creation of agricultural preservation districts within Washington County, Maryland and to provide for the standards and guidelines under which real property in Washington County is eligible for inclusion within an agricultural land preservation district.

2. Definitions.

For the purpose of this Ordinance, the following words shall have the following meanings:

2.01 "County" shall mean the Board of County Commissioners of Washington County, Maryland, its departments, divisions and assigns.

2.02 "Planning Commission" shall mean the Washington County Planning Commission.

2.03 "Ag Advisory Board" shall mean the Washington County Agricultural Land Preservation Advisory Board.

2.04 "District" shall mean Agricultural Land Preservation District.

2.05 "District Agreement" shall mean Agricultural Land Preservation District Agreement.

3. Establishment of a District.

3.01 One or more owners of land located within Washington County which is used primarily (i) for the active production of food or fiber or (ii) is of such open space character and productive capability that continued agricultural production is feasible, may voluntarily file a petition with the Ag Advisory Board, in the form prescribed by the County, requesting the establishment of a District composed of the land owned by the petitioners. All land to be located within a District shall be titled the same.

3.02 If the petition is approved, the petitioners shall execute a District Agreement in the form prescribed by the County, agreeing, among other things, that the following covenants, conditions, and restrictions shall run with the land for so long as the District Agreement remains in effect:

(a) The landowner agrees to keep the land in agricultural use in a district for, except as otherwise permitted by this Ordinance or other law, a minimum

4.03 If neither the Ag Advisory Board nor the Planning Commission recommends approval, the petition shall be deemed denied and the County shall notify the landowner or landowners stating the reasons for the denial.

4.04 The County may approve a petition for the establishment of a District only if:

(a) The land within the proposed District meets the qualifying criteria established under this Ordinance and any regulations associated herewith;

(b) Approval of the petition has been recommended by either the Ag Advisory Board or the Planning Commission; and

(c) The County has held a public hearing as indicated in Section 4.02.

4.05 Establishment of a District shall not occur until:

(a) The County approves the petition;

(b) All parties have executed a District Agreement; and

(c) The District Agreement is recorded, by the County, in the Land Records of Washington County.

5. Qualifying Criteria.

5.01 The criteria necessary to qualify land for consideration as an Agricultural Land Preservation District shall be determined by regulations adopted by the County. The regulations may include, but need not be limited to, criteria for District size, productive capability and location. The regulations may be amended from time to time by the County.

5.02 Amendments to qualifying criteria in the regulations occurring after the establishment of a District shall not cause disqualification of the district so long as the District Agreement remains in effect.

6. Addition to an Existing District.

6.01 The procedures for adding land to existing Districts shall be the same as for the initial establishment of Districts.

6.02 There shall be no minimum size criteria for the addition of land parcels contiguous to an existing agricultural land preservation district.

7. Exclusion of Property within a District.

7.01 Subject to the limitations of Section 7.02 and any regulations associated with this Ordinance, the original owner for which the District was established may request to have excluded from a District certain portions of the owner's property, constituting lots of either two (2) acres or less, if the purpose for excluding the property is to construct a dwelling house for the owner or the owner's children.

7.02 The number of lots allowed to be released under this Section 7 may not exceed:

- (a) 1 lot per District if the size of the District is 20 acres or more but fewer than 70 acres;
- (b) 2 lots per District if the size of the District is 70 acres or more but fewer than 120 acres; or
- (c) 3 lots per District if the size of the District is 120 acres or more.

7.03. If a landowner sells a land preservation development rights easement after entering into a District Agreement, the terms and conditions of the deed of easement shall take precedence over the District Agreement.

7.04 Any request for exclusion under this Section 7 shall be made in accordance with the procedures described in Sections 3 and 4 of this Ordinance.

8. Continuation of a District.

8.01 After the initial five (5) years is reached, the landowner must enter into a subsequent five (5) year District Agreement, unless they elect to terminate the District as provided in this Ordinance or regulations associated herewith.

8.02 Nothing in this Ordinance shall preclude a landowner from selling land within an agricultural land preservation district. A landowner that sells land within an agricultural land preservation district shall notify the County within thirty (30) days after the sale.

9. Termination and Alteration of a District.

9.01 The provisions of this Section 9 are applicable only to land in Districts on which an agricultural land preservation easement has not been purchased.

9.02 Districts may be terminated as follows:

- (a) After the establishment of the District, a landowner may terminate

the property's inclusion in a District by giving written notice to the County as provided herein. The termination must occur either at the end of the initial ten (10) year District Agreement, or at the end of a five (5) year District Agreement renewal. Notice of intention to terminate may be submitted to the County in writing at the end of the tenth (10th) year of the District's establishment, or at the end of a five (5) year District Agreement renewal.

(b) A landowner may also terminate the initial ten (10) year District Agreement, with no penalty, after a period of five (5) years for significant personal reasons (including a death in the family, estate settlement issues, severe or chronic illness, or the need for additional family lots) if the County is notified in writing prior to the fifth (5th) anniversary of the recordation of the District Agreement. If written notice of termination is not provided to the County prior to the fifth (5th) anniversary of the recordation of the District Agreement, then the District remains in place for the remainder of the ten (10) year term.

9.03 If severe economic hardship occurs, the County may release the landowner's property from a District at any time upon petition by the landowner. The petition shall be in a form prescribed by the County and the County may require such information necessary to determine whether severe economic hardship exists. If the County approves the petition to release the landowner's property from a District, the County shall prepare the release.

9.04 If a District is terminated prior to the fifth (5th) anniversary of the recordation of the District Agreement, then the current landowner will be liable to reimburse the County the property taxes that would have been due if the property tax credit had not been granted as well as applicable interest on those taxes.

9.05 The County may approve alteration or abolishment of the District, if the following occur:

(a) The use of land within the District has so changed as to cause land within the District to fail to meet the qualifications under this Ordinance or the regulations associated herewith;

(b) The County has assessed the potential impacts of alteration on remaining lands in the District;

(c) The alteration or abolition of the District has been recommended by the Ag Advisory Board and the Planning Commission, and a public hearing has been held; and

(d) The alteration or abolition is approved by the County Commissioners.