

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2014 Legislative Session

BILL NO. 2014-08

Introduced by: Charles County Commissioners

AGRICULTURAL PRESERVATION DISTRICTS

Date introduced: 10 / 07 / 2014

Public Hearing: 11 / 18 / 2014 @6:00 p.m.

Commissioners Action: 11 / 18 / 2014

Commissioner Votes: CQK: Y, RC: Y, KR: Y, DD: Y, BR: Y

Pass/Fail: Pass

Effective Date: 1 / 2 / 15

Remarks: _____

NOTE: CAPITALS indicate matter added to existing text.
[Brackets] indicate matter deleted from existing law.

1 **COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

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4 **2014 Legislative Session**

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6 Bill No. 2014-08

7 Chapter. No. 215

8 Introduced by Charles County Commissioners

9 Date of Introduction October 7, 2014

10
11 **BILL**

12 AN ACT concerning

13 **AGRICULTURAL PRESERVATION DISTRICTS**

14
15 FOR the purpose of

16 Amending the code to create guidelines and eligibility criteria for establishment of
17 agricultural preservation districts and the purchase of development rights.

18
19 BY repealing and adding with amendments:

20 Chapter 215 – AGRICULTURAL PRESERVATION DISTRICTS

21 SECTIONS 215-4, 215-8 and 215-9

22 *Code of Charles County, Maryland*

23 *(2013 Edition)*

24
25 By adding

26 Chapter 215 – AGRICULTURAL PRESERVATION DISTRICTS

27 SECTION 215-10 and 215-11

28 *Code of Charles County, Maryland*

29 *(2013 Edition)*

1 **SECTION 1. BE IT ENACTED BY THE COUNTY COMMISSIONERS OF**
2 **CHARLES COUNTY, MARYLAND, that the Laws of Charles County, Maryland read as**
3 **follows:**

4 Chapter 215. AGRICULTURAL PRESERVATION DISTRICTS

5
6 Section 215-4. Legislative guidelines AND ELIGIBILITY CRITERIA for establishment of
7 districts; maintenance of records.

8 A. Agricultural preservation districts shall be established in accordance with the terms of
9 this chapter, the current provisions of the Annotated Code of Maryland, Agricultural
10 Article, Section 2-501 through 2-515, and existing regulations adopted pursuant thereto
11 by the Maryland Agricultural Land Preservation Foundation, OR THE FOLLOWING
12 TERMS AND CRITERIA AS OF November 18, 2014:

- 13 (1) THE MINIMUM ACREAGE REQUIREMENT FOR AN AGRICULTURAL
14 PRESERVATION DISTRICT IS FIFTY (50) CONTIGUOUS ACRES,
15 UNLESS THE PARCEL IS CONTIGUOUS WITH LAND ALREADY
16 PROTECTED BY CONSERVATION EASEMENT, RESTRICTIVE LAND
17 PRESERVATION COVENANTS OR FEE SIMPLE OWNERSHIP BY A
18 CONSERVATION ORGANIZATION COMPRISING A TOTAL
19 PRESERVATION AREA OF AT LEAST FIFTY CONTIGUOUS ACRES.
- 20 (2) USING THE USDA SOIL SURVEY OF CHARLES COUNTY, AT LEAST 50%
21 OF THE LAND SHALL BE IN CAPABILITY CLASSES I, II, III AND IV.
- 22 (3) IF THE NATURAL SOIL CONDITION HAS BEEN ALTERED OR TOPSOIL
23 HAS BEEN REMOVED, AN ON-SITE EVALUATION ADHERING TO USDA
24 NATURAL RESOURCES CONSERVATION SERVICE (NRCS) APPROVED
25 METHODS AND MAPPING PROCEDURES MUST BE PERFORMED BY A
26 QUALIFIED SOIL SCIENTIST TO DEMONSTRATE THAT AT LEAST 50%
27 OF THE LAND REMAINS AS PRODUCTIVE AS SOIL CAPABILITY
28 CLASSES I, II, III, AND IV. THE ON-SITE EVALUATION MUST BE
29 APPROVED BY THE CHARLES SOIL CONSERVATION DISTRICT.
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- 1 (4) A LANDOWNER MAY WITHHOLD ACREAGE FROM THE
2 AGRICULTURAL PRESERVATION DISTRICT SO LONG AS THE AMOUNT
3 OF LAND WITHHELD DOES NOT EXCEED 10% OF THE TOTAL
4 ACREAGE OF THE EXISTING PARCELS SUBJECT TO THE DISTRICT
5 APPLICATION. WITHHELD ACREAGE SHALL BE LOCATED SO AS TO
6 HAVE MINIMAL IMPACT TO THE FARM AND FOREST OPERATIONS OF
7 THE AGRICULTURAL LAND PRESERVATION DISTRICT.
- 8 (5) THE OWNER OF THE PROPERTY MUST HAVE AND MAINTAIN AN
9 AGRICULTURAL USE ASSESSMENT AS DETERMINED BY THE
10 MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION
11 (SDAT).
- 12 (6) THE ESTABLISHMENT OF THE DISTRICT SHALL NOT TAKE EFFECT
13 UNTIL ALL LANDOWNERS OF THE PROPOSED DISTRICT HAVE
14 EXECUTED A DISTRICT AGREEMENT, STIPULATING THAT THE LAND
15 OWNERS AGREE TO THE PROVISIONS OF THIS CHAPTER AND TO
16 KEEP THE LAND IN AGRICULTURAL OR FORESTRY USE FOR A
17 MINIMUM PERIOD OF FIVE YEARS, AND THE AGREEMENT IS
18 RECORDED AMONG THE LAND RECORDS OF CHARLES COUNTY.
- 19 (7) IN THE EVENT OF SEVERE ECONOMIC HARDSHIP, OR OTHER CHANGE
20 IN CIRCUMSTANCE THAT WOULD WARRANT CONSIDERATION OF
21 RELEASE, THE COUNTY COMMISSIONERS, WITH RECOMMENDATION
22 FROM THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD,
23 MAY RELEASE THE LANDOWNER'S PROPERTY FROM THE DISTRICT
24 AGREEMENT. NOTHING IN THIS SECTION SHALL PRECLUDE THE
25 LANDOWNER FROM SELLING THE PROPERTY.
- 26 B. WITH AT LEAST THIRTY (30) DAYS NOTICE, OWNERS OF PARCELS OF LAND
27 ENROLLED IN AGRICULTURAL LAND PRESERVATION DISTRICTS FROM
28 WHICH NO DEVELOPMENT RIGHTS HAVE BEEN CONVEYED MAY REQUEST
29 TO TERMINATE THEIR DISTRICT AGREEMENT AFTER FIVE OR MORE YEARS
30 FROM THE DATE THE DISTRICT AGREEMENT WAS EXECUTED. WRITTEN
31 NOTICE OF SUCH INTENT SHALL BE ADDRESSED TO THE COUNTY
32 COMMISSIONERS OF CHARLES COUNTY.
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[B] C. All records concerning the establishment of agricultural preservation districts shall be maintained in the office of the Charles County Department of Planning and Zoning.

Section 215-8. [Lots established for family transfer.

The owner of property located in an agricultural preservation district may create a residential building lot for himself/herself and for each of his/her children provided that:

- A. He/she was the owner of the property at the time of the establishment of the agricultural preservation district.
- B. The lots are at least one (1) acre in size.
- C. The lots do not exceed one (1) lot per twenty acre density for the agricultural preservation district.
- D. There are not more than ten (10) lots created per agricultural preservation district. The creation of more than five (5) lots shall meet all requirements of the Charles County Subdivision Regulations.
- E. The owner obtains written permission from the foundation.
- F. The lot is created for the purpose of construction of one (1) dwelling unit intended for his/her or their personal use.
- G. The creation of said lots shall meet all other criteria as established by the Maryland Agricultural Land Preservation Foundation and the Annotated Code of Maryland, Agricultural Articles, §§2-501 through 2-515.
- H. In the event of the termination of an agricultural preservation district, the owners of any residential lot created after the date of the agricultural preservation district agreement that does not conform to current zoning regulations for the property shall file a revised subdivision plan that brings the lot into conformation with the existing zoning district. The revised plan shall be submitted to the Department of Planning and Zoning within thirty (30) days of the termination date of the district agreement. No further subdivision of the original parcel that constituted the agricultural preservation district shall be permitted until all residential lots conform to the existing zoning regulations.]

1 SUBDIVISION OF RESIDENTIAL LOTS FROM AN AGRICULTURAL LAND
2 PRESERVATION DISTRICT.

3 THE SUBDIVISION OF RESIDENTIAL LOTS FROM AN AGRICULTURAL LAND
4 PRESERVATION DISTRICT SHALL BE LIMITED TO THE FOLLOWING CRITERIA:

5 A. THE TOTAL NUMBER OF RESIDENTIAL LOTS SHALL NOT EXCEED THE
6 FOLLOWING DENSITIES:

- 7 1. ONE (1) LOT IF THE SIZE OF THE AGRICULTURAL LAND
8 PRESERVATION DISTRICT IS 20 ACRES OR MORE BUT FEWER THAN 70
9 ACRES;
- 10 2. TWO (2) LOTS IF THE SIZE OF THE AGRICULTURAL LAND
11 PRESERVATION DISTRICT IS 70 ACRES OR MORE BUT FEWER THAN
12 120 ACRES;
- 13 3. THREE (3) LOTS IF THE SIZE OF THE AGRICULTURAL LAND
14 PRESERVATION DISTRICT IS 120 ACRES OR MORE.

15 B. THE SUBDIVISION OF PRE-EXISTING DWELLINGS COUNTS AGAINST THE
16 DENSITY ALLOWANCES IN 215-10 (A).

17
18 Section 215-9. [Applicability of other laws.]
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20 SUBDIVISION OF AN AGRICULTURAL LAND PRESERVATION DISTRICT FOR
21 AGRICULTURAL PURPOSES (AGRICULTURAL SUBDIVISION).

22 THE SUBDIVISION OF AN AGRICULTURAL LAND PRESERVATION DISTRICT FOR
23 AGRICULTURAL PURPOSES SHALL BE IN ACCORDANCE WITH THE MARYLAND
24 AGRICULTURAL LAND PRESERVATION FOUNDATION'S REGULATIONS FOR
25 AGRICULTURAL SUBDIVISION WITH APPROVAL BY THE AGRICULTURAL LAND
26 PRESERVATION ADVISORY BOARD.
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1 SECTION 215-10. SALE AND PURCHASE OF TRANSFERRABLE DEVELOPMENT
2 RIGHTS BY THE COUNTY COMMISSIONERS.

- 3 A. SUBJECT TO THE AVAILABILITY OF FUNDS, THE COUNTY COMMISSIONERS
4 MAY PURCHASE AND RETIRE TRANSFERRABLE DEVELOPMENT RIGHTS
5 (TDRS) FROM AGRICULTURAL LAND PRESERVATION DISTRICTS. THESE
6 RETIRED TDRS SHALL BE TERMINATED AND EXTINGUISHED AND SHALL
7 NOT BE USED OR TRANSFERRED TO ANY PORTION OF THE PROPERTY FROM
8 WHICH THEY CAME, OR TO ANY OTHER PROPERTY, NOR USED FOR THE
9 PURPOSE OF CALCULATING PERMISSIBLE LOT YIELD OF THE PROPERTY
10 FROM WHICH THEY CAME OR ANY OTHER PROPERTY. THE COUNTY
11 COMMISSIONERS SHALL DETERMINE AND ANNOUNCE, ON AN ANNUAL
12 BASIS, THE APPLICATION SCHEDULE AND THE AMOUNT OF FUNDING
13 AVAILABLE FOR THE PURCHASE AND RETIREMENT OF TDRS (PAR FUND).
- 14 B. THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD SHALL
15 RECOMMEND, FOR APPROVAL BY THE COUNTY COMMISSIONERS, THE
16 PRICE TO BE OFFERED FOR THE ANNUAL PURCHASE AND RETIREMENT OF
17 TDRS BY THE PAR FUND. THE AGRICULTURAL LAND PRESERVATION
18 ADVISORY BOARD SHALL CONSIDER THE VALUE OF TDR SALES AND
19 TRANSFERS DURING THE PRIOR YEAR IN RECOMMENDING THE OFFERING
20 PRICE.
- 21 C. THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD SHALL
22 REVIEW AND PRIORITIZE APPLICATIONS ACCORDING TO THE CHARLES
23 COUNTY EASEMENT SALE PRIORITIZATION SYSTEM FOR THE MARYLAND
24 AGRICULTURAL LAND PRESERVATION FOUNDATION AS APPROVED BY THE
25 COUNTY COMMISSIONERS AND THOSE APPLICATIONS RECEIVING THE
26 HIGHEST RANKING SHALL RECEIVE PRIORITY FOR PAR FUND PURCHASES.
- 27 D. THE COUNTY COMMISSIONERS SHALL ACCEPT APPLICATIONS FOR THE
28 SALE OF A MAXIMUM OF TWENTY (20) TDRS PER YEAR FROM THE OWNER
29 OF A RECORDED AGRICULTURAL PRESERVATION DISTRICT.
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- 1 E. NO INDIVIDUAL, GROUP OF INDIVIDUALS, PARTNERSHIP, CORPORATION OR
2 OTHER LEGAL ENTITY SHALL HAVE ANY VESTED INTEREST IN THE SALE
3 OF MORE THAN TWENTY (20) TDRS THROUGH THE PAR FUND PER
4 CALENDAR YEAR. THIS PROVISION SHALL NOT LIMIT THE NUMBER OF
5 APPLICATIONS THAT MAY BE MADE BY ANY SUCH ENTITY.
- 6 F. THE AGRICULTURAL LAND PRESERVATION DISTRICT FROM WHICH TDRS
7 ARE PURCHASED BY THE COUNTY COMMISSIONERS THROUGH THE PAR
8 FUND SHALL BE ENCUMBERED BY RESTRICTIVE COVENANTS THAT
9 RESTRICT THE USE OF THE LAND IN ACCORDANCE WITH THIS CHAPTER
10 AND THE AGRICULTURAL LAND PRESERVATION DISTRICT AGREEMENT.
11 ONCE AT LEAST FIFTY (50%) PERCENT OF THE TDRS HAVE BEEN RETIRED,
12 THESE COVENANTS SHALL BE PERPETUAL AND AS SUCH SHALL BE
13 INHERITABLE AND ASSIGNABLE AND RUN WITH THE LAND AS AN
14 INCORPOREAL INTEREST AND ARE ENFORCEABLE BY THE COUNTY
15 COMMISSIONERS AGAINST THE OWNER OF THE AGRICULTURAL LAND
16 PRESERVATION DISTRICT AND THEIR RESPECTIVE PERSONAL
17 REPRESENTATIVES, HEIRS, SUCCESSORS AND ASSIGNS.

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19 SECTION 215-11. APPLICABILITY OF OTHER LAWS.

20 THE ESTABLISHMENT OF AGRICULTURAL PRESERVATION DISTRICTS AND THE
21 SALE OF AGRICULTURAL PRESERVATION EASEMENTS SHALL BE SUBJECT TO THE
22 TERMS OF THE CHARLES COUNTY ZONING ORDINANCE AND THE CHARLES
23 COUNTY SUBDIVISION REGULATIONS.

24 EDITORS NOTE: SEE CH. 297, ZONING REGULATIONS, AND CH. 278, SUBDIVISION
25 REGULATIONS AND ALL OTHER LAWS AND REGULATIONS OF CHARLES COUNTY,
26 MARYLAND, EXCEPT AS OTHERWISE PROVIDED IN §§215-1 THROUGH 215-10 OF
27 THIS CHAPTER.

1 **SECTION 2. BE IT FURTHER ENACTED, that this act shall take effect forty-five**
2 **(45) calendar days after it becomes law.**

3 ADOPTED this 18th day of November, 2014.

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5 COUNTY COMMISSIONERS
6 CHARLES COUNTY, MARYLAND

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9 _____
10 Candice Quinn Kelly, President

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13 _____
14 Reuben B. Collins, II, Esq., Vice President

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17 _____
18 Ken Robinson

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20 _____
21 Debra M. Davis, Esq.

22
23
24 _____
25 Bobby Rucci

26 ATTEST:

27 _____
28 Danielle E. Mitchell, Esq.
29 Clerk to the Commissioners
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