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.

COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND

2014 Legislative Session

Bill No. 2014-08

Chapter. No. 215

Introduced by Charles County Commissioners

Date of Introduction October 7, 2014

BILL

AN ACT concerning

AGRICULTURAL PRESERVATION DISTRICTS

FOR the purpose of

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

BY repealing and adding with amendments:

Chapter 215 – AGRICULTURAL PRESERVATION DISTRICTS

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

Code of Charles County, Maryland

(2013 Edition)

By adding

Chapter 215 – AGRICULTURAL PRESERVATION DISTRICTS

SECTION 215-10 and 215-11

Code of Charles County, Maryland

(2013 Edition)

Asterisks *** mean intervening code language remaining unchanged
NOTE: CAPITALS indicate language added to existing law.
[Brackets] indicate language deleted from existing law.

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

Chapter 215. AGRICULTURAL PRESERVATION DISTRICTS

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

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

(1) THE MINIMUM ACREAGE REQUIREMENT FOR AN AGRICULTURAL PRESERVATION DISTRICT IS FIFTY (50) CONTIGUOUS ACRES, UNLESS THE PARCEL IS CONTIGUOUS WITH LAND ALREADY PROTECTED BY CONSERVATION EASEMENT, RESTRICTIVE LAND PRESERVATION COVENANTS OR FEE SIMPLE OWNERSHIP BY A CONSERVATION ORGANIZATION COMPRISING A TOTAL PRESERVATION AREA OF AT LEAST FIFTY CONTIGUOUS ACRES.

(2) USING THE USDA SOIL SURVEY OF CHARLES COUNTY, AT LEAST 50% OF THE LAND SHALL BE IN CAPABILITY CLASSES I, II, III AND IV.

(3) IF THE NATURAL SOIL CONDITION HAS BEEN ALTERED OR TOPSOIL HAS BEEN REMOVED, AN ON-SITE EVALUATION ADHERING TO USDA NATURAL RESOURCES CONSERVATION SERVICE (NRCS) APPROVED METHODS AND MAPPING PROCEDURES MUST BE PERFORMED BY A QUALIFIED SOIL SCIENTIST TO DEMONSTRATE THAT AT LEAST 50% OF THE LAND REMAINS AS PRODUCTIVE AS SOIL CAPABILITY CLASSES I, II, III, AND IV. THE ON-SITE EVALUATION MUST BE APPROVED BY THE CHARLES SOIL CONSERVATION DISTRICT.

(4) A LANDOWNER MAY WITHHOLD ACREAGE FROM THE AGRICULTURAL PRESERVATION DISTRICT SO LONG AS THE AMOUNT OF LAND WITHHELD DOES NOT EXCEED 10% OF THE TOTAL ACREAGE OF THE EXISTING PARCELS SUBJECT TO THE DISTRICT APPLICATION. WITHHELD ACREAGE SHALL BE LOCATED SO AS TO HAVE MINIMAL IMPACT TO THE FARM AND FOREST OPERATIONS OF THE AGRICULTURAL LAND PRESERVATION DISTRICT.

(5) THE OWNER OF THE PROPERTY MUST HAVE AND MAINTAIN AN AGRICULTURAL USE ASSESSMENT AS DETERMINED BY THE MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION (SDAT).

(6) THE ESTABLISHMENT OF THE DISTRICT SHALL NOT TAKE EFFECT UNTIL ALL LANDOWNERS OF THE PROPOSED DISTRICT HAVE EXECUTED A DISTRICT AGREEMENT, STIPULATING THAT THE LAND OWNERS AGREE TO THE PROVISIONS OF THIS CHAPTER AND TO KEEP THE LAND IN AGRICULTURAL OR FORESTRY USE FOR A MINIMUM PERIOD OF FIVE YEARS, AND THE AGREEMENT IS RECORDED AMONG THE LAND RECORDS OF CHARLES COUNTY.

(7) IN THE EVENT OF SEVERE ECONOMIC HARDSHIP, OR OTHER CHANGE IN CIRCUMSTANCE THAT WOULD WARRANT CONSIDERATION OF RELEASE, THE COUNTY COMMISSIONERS, WITH RECOMMENDATION FROM THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD, MAY RELEASE THE LANDOWNER'S PROPERTY FROM THE DISTRICT AGREEMENT. NOTHING IN THIS SECTION SHALL PRECLUDE THE LANDOWNER FROM SELLING THE PROPERTY.

B. WITH AT LEAST THIRTY (30) DAYS NOTICE, OWNERS OF PARCELS OF LAND ENROLLED IN AGRICULTURAL LAND PRESERVATION DISTRICTS FROM WHICH NO DEVELOPMENT RIGHTS HAVE BEEN CONVEYED MAY REQUEST TO TERMINATE THEIR DISTRICT AGREEMENT AFTER FIVE OR MORE YEARS FROM THE DATE THE DISTRICT AGREEMENT WAS EXECUTED. WRITTEN NOTICE OF SUCH INTENT SHALL BE ADDRESSED TO THE COUNTY COMMISSIONERS OF CHARLES COUNTY.

[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.]

SUBDIVISION OF RESIDENTIAL LOTS FROM AN AGRICULTURAL LAND PRESERVATION DISTRICT.

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

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

1. ONE (1) LOT IF THE SIZE OF THE AGRICULTURAL LAND PRESERVATION DISTRICT IS 20 ACRES OR MORE BUT FEWER THAN 70 ACRES;
2. TWO (2) LOTS IF THE SIZE OF THE AGRICULTURAL LAND PRESERVATION DISTRICT IS 70 ACRES OR MORE BUT FEWER THAN 120 ACRES;
3. THREE (3) LOTS IF THE SIZE OF THE AGRICULTURAL LAND PRESERVATION DISTRICT IS 120 ACRES OR MORE.

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

Section 215-9. [Applicability of other laws.]

SUBDIVISION OF AN AGRICULTURAL LAND PRESERVATION DISTRICT FOR AGRICULTURAL PURPOSES (AGRICULTURAL SUBDIVISION).

THE SUBDIVISION OF AN AGRICULTURAL LAND PRESERVATION DISTRICT FOR AGRICULTURAL PURPOSES SHALL BE IN ACCORDANCE WITH THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION'S REGULATIONS FOR AGRICULTURAL SUBDIVISION WITH APPROVAL BY THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

SECTION 215-10. SALE AND PURCHASE OF TRANSFERRABLE DEVELOPMENT RIGHTS BY THE COUNTY COMMISSIONERS.

A. SUBJECT TO THE AVAILABILITY OF FUNDS, THE COUNTY COMMISSIONERS MAY PURCHASE AND RETIRE TRANSFERRABLE DEVELOPMENT RIGHTS (TDRS) FROM AGRICULTURAL LAND PRESERVATION DISTRICTS. THESE RETIRED TDRS SHALL BE TERMINATED AND EXTINGUISHED AND SHALL NOT BE USED OR TRANSFERRED TO ANY PORTION OF THE PROPERTY FROM WHICH THEY CAME, OR TO ANY OTHER PROPERTY, NOR USED FOR THE PURPOSE OF CALCULATING PERMISSIBLE LOT YIELD OF THE PROPERTY FROM WHICH THEY CAME OR ANY OTHER PROPERTY. THE COUNTY COMMISSIONERS SHALL DETERMINE AND ANNOUNCE, ON AN ANNUAL BASIS, THE APPLICATION SCHEDULE AND THE AMOUNT OF FUNDING AVAILABLE FOR THE PURCHASE AND RETIREMENT OF TDRS (PAR FUND).

B. THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD SHALL RECOMMEND, FOR APPROVAL BY THE COUNTY COMMISSIONERS, THE PRICE TO BE OFFERED FOR THE ANNUAL PURCHASE AND RETIREMENT OF TDRS BY THE PAR FUND. THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD SHALL CONSIDER THE VALUE OF TDR SALES AND TRANSFERS DURING THE PRIOR YEAR IN RECOMMENDING THE OFFERING PRICE.

C. THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD SHALL REVIEW AND PRIORITIZE APPLICATIONS ACCORDING TO THE CHARLES COUNTY EASEMENT SALE PRIORITIZATION SYSTEM FOR THE MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION AS APPROVED BY THE COUNTY COMMISSIONERS AND THOSE APPLICATIONS RECEIVING THE HIGHEST RANKING SHALL RECEIVE PRIORITY FOR PAR FUND PURCHASES.

D. THE COUNTY COMMISSIONERS SHALL ACCEPT APPLICATIONS FOR THE SALE OF A MAXIMUM OF TWENTY (20) TDRS PER YEAR FROM THE OWNER OF A RECORDED AGRICULTURAL PRESERVATION DISTRICT.

E. NO INDIVIDUAL, GROUP OF INDIVIDUALS, PARTNERSHIP, CORPORATION OR OTHER LEGAL ENTITY SHALL HAVE ANY VESTED INTEREST IN THE SALE OF MORE THAN TWENTY (20) TDRS THROUGH THE PAR FUND PER CALENDAR YEAR. THIS PROVISION SHALL NOT LIMIT THE NUMBER OF APPLICATIONS THAT MAY BE MADE BY ANY SUCH ENTITY.

F. THE AGRICULTURAL LAND PRESERVATION DISTRICT FROM WHICH TDRS ARE PURCHASED BY THE COUNTY COMMISSIONERS THROUGH THE PAR FUND SHALL BE ENCUMBERED BY RESTRICTIVE COVENANTS THAT RESTRICT THE USE OF THE LAND IN ACCORDANCE WITH THIS CHAPTER AND THE AGRICULTURAL LAND PRESERVATION DISTRICT AGREEMENT. ONCE AT LEAST FIFTY (50%) PERCENT OF THE TDRS HAVE BEEN RETIRED, THESE COVENANTS SHALL BE PERPETUAL AND AS SUCH SHALL BE INHERITABLE AND ASSIGNABLE AND RUN WITH THE LAND AS AN INCORPOREAL INTEREST AND ARE ENFORCEABLE BY THE COUNTY COMMISSIONERS AGAINST THE OWNER OF THE AGRICULTURAL LAND PRESERVATION DISTRICT AND THEIR RESPECTIVE PERSONAL REPRESENTATIVES, HEIRS, SUCCESSORS AND ASSIGNS.

SECTION 215-11. APPLICABILITY OF OTHER LAWS.

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

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

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

ADOPTED this 18th day of November, 2014.

COUNTY COMMISSIONERS
CHARLES COUNTY, MARYLAND

Candice Quinn Kelly, President

Reuben B. Collins, II, Esq., Vice President

Ken Robinson

Debra M. Davis, Esq.

Bobby Rucci

ATTEST:

Danielle E. Mitchell, Esq.
Clerk to the Commissioners

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