

COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION DAY 13-04

BILL NO. 2013 – 01 – AS AMENDED

Title of Bill: Purchase of Development Rights – Agricultural Preservation Districts

Synopsis: An Act to repeal and reenact Chapter A385 Purchase of Development Rights, §A385-3 Standards of the Code of Cecil County to establish Cecil County Agricultural Preservation Districts.

Introduced by: Council President on behalf of the County Executive

Introduced, read first time, and ordered posted on: February 19, 2013

Public hearing scheduled for: March 19, 2013

at: 7:00 p.m.

By: James Massey
Council Manager

PUBLIC HEARING

Notice of time and place of public hearing and title of Bill having been posted by February 22, 2013 at the County Administration Building, 200 Chesapeake Blvd., Elkton and having been published according to the Charter on March 6 and 13, 2013, a public hearing was held on March 19, 2013, and concluded on March 19, 2013.

By: James Massey
Council Manager

Explanation: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
Underlining indicates language added to a Bill by amendment.
~~Strike through~~ indicates language stricken out of a Bill by amendment.

Purchase of Development Rights – Agricultural Preservation Districts

WHEREAS, Cecil County Government may adopt, amend and delete sections of the County Code as permitted by law; and

WHEREAS, Section 10.01 of Article 66B of the Annotated Code of Maryland permits the County to exercise planning and zoning powers that facilitate orderly growth and encourage the preservation of natural resources; and

WHEREAS, the Cecil County Government believe it to be in the best interest of Cecil County to encourage the preservation and protection of agricultural land and implement and effect local government planning activities aimed at preserving agricultural land; and

WHEREAS, the Cecil County Government desire to establish Agricultural Preservation Districts on prime and productive agricultural land; and

WHEREAS, a public hearing on an Agricultural Preservation District program was held before the Planning Commission on Wednesday, January 23, 2013; and

WHEREAS, the Planning Commission recommended approval of amendments to Chapter A385 Purchase of Development Rights, §A385-3 Standards.

NOW, THEREFORE, BE IT HEREBY ENACTED by the County Council of Cecil County, State of Maryland that Chapter A385 Purchase of Development Rights, §A385-3 Standards of the Code of Cecil County shall be amended as follows:

§ A385-3. Standards.

[Parcels eligible for the County Purchase of Development Rights Program shall meet the following standards:

A. The parcel shall have a minimum size of 50 acres. Parcels less than 50 acres may be included at the discretion of the County if it is of exceptional value and contiguous to an existing district or easement property.

B. At least 50% of the soils shall be USDA Class I, II or III soils.

C. If the property is wooded, at least 50% of the soils shall be Woodland Group 1 or 2 soils.

(1) If the reasons the property could not meet the above soil conditions was due to floodplain or wetland soils, those areas could be excluded as a percentage of land; or
If there is an insufficient percentage of Class I, II or III soils or Woodland Group 1

31 or 2 soils alone, the land would qualify if the combination of the two exceeded
32 60%.

33 D. The properties shall be located outside of existing or planned water and sewer service
34 areas as shown in the current master water and sewer plan.]

35 **AGRICULTURAL PRESERVATION DISTRICTS.**

36 THE CECIL COUNTY PURCHASE OF DEVELOPMENT RIGHTS PROGRAM ALLOWS A LANDOWNER THE OPTION
37 OF ESTABLISHING AN AGRICULTURAL PRESERVATION DISTRICT. AN AGRICULTURAL PRESERVATION
38 DISTRICT IS A MINIMUM FIVE (5) YEAR ~~THREE (3) YEAR~~ AGREEMENT BY THE LANDOWNER NOT TO DEVELOP
39 THEIR LAND.

40 **A. CONDITIONS FOR ESTABLISHMENT. A LANDOWNER CREATING A DISTRICT AGREES:**

41 (1) TO MAINTAIN THE LAND IN AGRICULTURAL USE FROM THE DATE THAT THE DISTRICT IS RECORDED IN
42 THE LAND RECORDS OF CECIL COUNTY.

43 (2) THAT THE DISTRICT AGREEMENT CREATES AN ENCUMBRANCE UPON THE LAND AND BINDS FUTURE
44 OWNERS, HEIRS, SUCCESSORS OR ASSIGNS, AND WHICH PRECLUDES THE UTILIZATION OF THE LAND
45 FOR NON-AGRICULTURALLY RELATED USES FOR A MINIMUM OF FIVE (5) YEARS ~~THREE (3) YEARS~~. ANY
46 AGRICULTURAL USES CURRENTLY PERMITTED WOULD BE ALLOWED TO CONTINUE UNDER THIS
47 AGREEMENT AS PERMITTED BY THE CECIL COUNTY ZONING ORDINANCE.

48 (3) THAT THE CONSTRUCTION OF BUILDINGS OR STRUCTURES ON THE LAND OTHER THAN FARM
49 BUILDINGS IS CONTINGENT UPON THE WRITTEN APPLICATION AND APPROVAL BY THE DEPARTMENT
50 OF PLANNING AND ZONING, SUBJECT TO REVIEW BY AND RECOMMENDATION OF THE AGRICULTURAL
51 LAND PRESERVATION ADVISORY BOARD.

52 **B. LOCATION CRITERIA.** THE FOCUS OF THE PROGRAM WILL BE ON LANDS ZONED NORTHERN
53 AGRICULTURAL-RESIDENTIAL (NAR) AND SOUTHERN AGRICULTURAL-RESIDENTIAL (SAR), AND/OR
54 LOCATED WITHIN THE DESIGNATED PRIORITY PRESERVATION AREAS.

55 **C. SIZE CRITERIA.** THE PARCEL SHALL HAVE A MINIMUM SIZE OF 50 ACRES. PARCELS LESS THAN 50 ACRES
56 MAY BE INCLUDED AT THE DISCRETION OF THE COUNTY COUNCIL OF CECIL COUNTY IF IT IS OF
57 EXCEPTIONAL VALUE AND CONTIGUOUS TO AN EXISTING DISTRICT OR EASEMENT PROPERTY.

58 **D. SOIL CRITERIA.**

59 (1) PROPERTIES QUALIFIED FOR THE PROGRAM SHALL CONSIST OF LAND IN WHICH AT LEAST 50% OF THE
60 SOILS SHALL BE USDA CLASS I, II OR III SOILS.

61 **(2)** IF THE PROPERTY IS WOODED, AT LEAST 50% OF THE SOILS SHALL BE WOODLAND GROUP 1 OR 2
62 SOILS.

63 **(A)** IF THE REASONS THE PROPERTY COULD NOT MEET THE ABOVE SOIL CONDITIONS WAS DUE TO
64 FLOODPLAIN OR WETLAND SOILS, THOSE AREAS COULD BE EXCLUDED AS A PERCENTAGE OF LAND; OR

65 **(B)** IF THERE IS AN INSUFFICIENT PERCENTAGE OF CLASS I, II OR III SOILS OR WOODLAND GROUP 1 OR 2
66 SOILS ALONE, THE LAND WOULD QUALIFY IF THE COMBINATION OF THE TWO EXCEEDED 60%.

67 **(3)** A LANDOWNER/OPERATOR MUST HAVE A CURRENT CONSERVATION PLAN DEVELOPED BY THE CECIL
68 SOIL CONSERVATION DISTRICT IN PLACE ON THE LAND TO BE ENTERED IN THE DISTRICT, OR AT
69 MINIMUM HAVE REQUESTED A PLAN BE DEVELOPED.

70 **E. PERMITTED USES.** AN OWNER WHOSE LAND IS ENCUMBERED BY AN AGRICULTURAL PRESERVATION
71 DISTRICT SHALL BE PERMITTED TO:

72 **(1)** USE THE LAND FOR ANY AGRICULTURAL USE AS DEFINED IN ARTICLE V, PART I OF THE CECIL COUNTY
73 ZONING ORDINANCE.

74 **(2)** MAINTAIN THE LAND FOR FUTURE AGRICULTURAL USE.

75 **(3)** OPERATE AT ANY TIME MACHINERY USED IN AGRICULTURAL PRODUCTION OR THE PRIMARY
76 PROCESSING OF AGRICULTURAL PRODUCTS. SUCH OPERATIONS SHALL NOT BE CONSIDERED A
77 NUISANCE, EITHER PUBLIC OR PRIVATE, AS A RESULT OF CHANGED LAND USES IN AND AROUND THE
78 PRESERVED PROPERTY.

79 **(4)** SELL AGRICULTURAL PRODUCTS AS IS PERMITTED UNDER THE CECIL COUNTY ZONING ORDINANCE.

80 **(5)** USE THE LAND FOR ADDITIONAL CONSERVATION EASEMENTS AND MITIGATION OFFSETS, SUCH AS BUT
81 NOT LIMITED TO WETLANDS AND AFFORESTATION, PROVIDED THAT THE USE DOES NOT IMPAIR ANY
82 AGRICULTURAL USE ON THE LAND, AND THAT THE USE IS APPROVED BY THE SOIL CONSERVATION
83 DISTRICT

84 **F. EXCLUSION OF LOTS UNDER DISTRICT.**

85 **(1)** IF THE PROPERTY IS ENCUMBERED BY AN EASEMENT WITH THE STATE, ALL APPLICABLE REGULATIONS
86 AND REQUIREMENTS AS ESTABLISHED BY THE STATE MUST BE MET. A LETTER MUST BE PROVIDED TO
87 THE OFFICE OF PLANNING AND ZONING FROM THE LANDOWNER REQUESTING THE RELEASE OF THE
88 BUILDING LOT. THIS REQUEST IS SUBJECT TO REVIEW AND RECOMMENDATION BY THE AGRICULTURAL
89 LAND PRESERVATION ADVISORY BOARD, PRIOR TO SENDING TO THE STATE FOR CONSIDERATION.

90 **(2)** IF THE PROPERTY IS ENCUMBERED BY AN EASEMENT WITH CECIL COUNTY VIA THE PURCHASE OF

91 DEVELOPMENT RIGHTS PROGRAM, NO BUILDING LOTS SHALL BE EXCLUDED FROM THE PROPERTY
92 AFTER THE EASEMENT HAS BEEN ACQUIRED.

93 **G. TENANT HOUSES.** THE LANDOWNER MAY REQUEST IN WRITING, THE PLACEMENT OF A TENANT HOME
94 AS PER THE CECIL COUNTY ZONING ORDINANCE. THIS REQUEST SHALL BE SUBMITTED TO THE
95 DEPARTMENT OF PLANNING AND ZONING AND WILL BE SUBJECT TO THE REVIEW AND
96 RECOMMENDATION OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD, WHO WILL
97 CONSIDER THE DOCUMENTED NEED FOR SUCH A STRUCTURE. THE TENANT HOME MAY NOT BE
98 SUBDIVIDED OFF OF THE PROPERTY.

99 **H. TERMINATION AND ALTERATION OF DISTRICTS.** THE FOLLOWING PROVISIONS ARE APPLICABLE ONLY TO
L00 LAND IN AGRICULTURAL PRESERVATION DISTRICTS ON WHICH AN EASEMENT IS NOT HELD BY THE
L01 COUNTY OR THE STATE.

L02 **(1)** A LANDOWNER MAY TERMINATE HIS PROPERTY'S INCLUSION IN AN AGRICULTURAL PRESERVATION
L03 DISTRICT AT ANY TIME AFTER FIVE (5) YEARS ~~THREE (3) YEARS~~ FROM THE ESTABLISHMENT OF THE
L04 DISTRICT. NOTICE OF INTENTION TO TERMINATE MUST BE SUBMITTED TO THE COUNTY AT LEAST SIX
L05 (6) MONTHS PRIOR TO DISTRICT TERMINATION.

L06 **(2) SEVERE HARDSHIP.** IF SEVERE ECONOMIC OR PERSONAL HARDSHIP OCCURS, THE COUNTY MAY, ON AN
L07 INDIVIDUAL BASIS, RELEASE THE LANDOWNER'S PROPERTY FROM AN AGRICULTURAL PRESERVATION
L08 DISTRICT AT ANY TIME. THE LANDOWNER SHALL PETITION THE COUNTY, STATING SUCCINCTLY THE
L09 SEVERE HARDSHIP THAT THE LANDOWNER IS SUSTAINING AND PROVIDING THE COUNTY WITH THE
L10 FOLLOWING:

L11 **(A)** A RECENT FINANCIAL STATEMENT WHICH SHOWS THE OWNER'S COMPLETE ASSETS AND LIABILITIES
L12 AND A STATEMENT UNDER THE PENALTY OF PERJURY THAT THE INFORMATION CONTAINED IN THE
L13 FINANCIAL STATEMENT IS TRUE AND ACCURATE.

L14 **(B)** OTHER INFORMATION ATTESTING TO THE SEVERE HARDSHIP THAT THE LANDOWNER IS
L15 SUSTAINING, INCLUDING BY WAY OF EXAMPLE INFORMATION FROM THE MORTGAGES, LIEN
L16 HOLDERS, CREDITORS, ATTORNEYS, THE INTERNAL REVENUE SERVICE AND OTHER PARTY INTERESTS
L17 WHO ARE QUALIFIED TO ADDRESS THE CONDITION OF THE LANDOWNER.

L18 **(C)** TO THE EXTENT PERMITTED BY LAW, THE COUNTY SHALL DENY PUBLIC ACCESS TO THE
L19 INFORMATION THE LANDOWNER HAS SUPPLIED THE COUNTY.

L20 **(D)** THE QUESTION OF WHETHER SEVERE ECONOMIC HARDSHIP EXISTS WILL BE DECIDED BY THE

Purchase of Development Rights - Agricultural Preservation Districts

L21 DEPARTMENT OF PLANNING AND ZONING WITH CONCURRENCE FROM THE COUNTY ATTORNEY
L22 AND THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

L23 **(3) NO DEVELOPMENT PLANS MAY BE APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING PRIOR**
L24 **TO THE FORMAL TERMINATION OF THE DISTRICT.**

L25
L26 **SECTION I. EFFECTIVE DATE:** All provisions of Bill 2013-01 shall be in full force and effect on and after

L27 June 1, 2013.
L28 (Charter, Section 307)

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.


BY: Council Manager

Purchase of Development Rights - Agricultural Preservation Districts

CECIL COUNTY BILL NO: 2013-01

Title of Bill: Purchase of Development Rights – Agricultural Preservation Districts

is hereby submitted to the County Council of Cecil County, Maryland for enrollment as being the text as finally passed .

CERTIFIED TRUE AND CORRECT

James Massey
Council Manager

Date: 4-2-13

ENROLLED
[Signature]
Council President

Date: APRIL 2, 2013

BY THE COUNCIL

Read the third time.

Passed - LSD 13-07

Failed of Passage - LSD _____

BY: James Massey
Council Manager

SEALED WITH THE COUNTY SEAL AND PRESENTED TO THE COUNTY EXECUTIVE for approval this 8 day of APRIL, 20 13 at 12:00 p.m.
(10 business days from adoption §306)

BY: James Massey
Council Manager

BY THE EXECUTIVE:

[Signature]
Cecil County Executive

APPROVED Date: 4-9-13

VETOED Date: _____
(10 business days from presentation §306)

BY THE COUNCIL

This Bill No. 2013-01 having been approved by the Executive and returned to the Council becomes law on JUNE 1, 2013 with an effective date of JUNE 1, 2013.

BY: James Massey
Council Manager

AMENDMENT

Bill No. 2013-01

Amendment No. 1

Date of Introduction: April 2, 2103 LSD 13-07

Introduced by: Council Member Broomell

On Page 3: line 38, delete "THREE (3)" and insert "FIVE (5)"

On page 3: line 45, delete "THREE (3)" and insert "FIVE (5)"

On page 5: line 103, delete "THREE (3)" and insert "FIVE (5)"

Motion by: Council Member Broomell

Seconded by: Vice President McCarthy

Vote on amendment: 5 to approve; 0 to reject