CHAPTER 159: AGRICULTURAL LAND PRESERVATION

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GENERAL PROVISIONS

§ 159.01 PURPOSE AND AUTHORITY.

(A) The purpose of this chapter is to recognize the value of the county's heritage, agricultural and resource-based economy, rural and scenic characteristics, cultural resources, and natural and environmental resources and:

(1) to enhance natural resource, agricultural, forestry, and environmental protection while maintaining the viability of resource-based land usage and proper management of tillable and wooded areas through accepted agricultural and silvicultural practices for farm production and timber harvests;

(2) to improve, conserve, and manage the quality of the waters of the state and protect, maintain, and improve the quality of water for public supplies, propagation of wildlife, fish and aquatic life, and domestic, agricultural, industrial, recreational, and other legitimate beneficial uses;

(3) to preserve valuable open space in its natural, agricultural, or forestry use, which will not only help focus development in the county's designated growth areas but will also improve the water quality of the Chesapeake Bay and its tributaries; and

(4) to promote focusing of development in designated growth areas consistent with the county's master plan.

(B) This chapter is adopted pursuant to Md. Code, Agriculture Article, Title 2, Subtitle 5 and Md. Code, Natural Resources Article, §5-9B-02.

₽§ 159.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any term not defined in this chapter shall have the meaning as defined in any chapter of the County Code. Any term not defined in the County Code in any chapter shall have its generally accepted meaning.

ADVISORY BOARD. Agricultural Land Preservation Board appointed by the Carroll County Board of Commissioners to guide the County Agricultural Land Preservation Program.

AGRICULTURAL LAND. All real property within the boundaries of the county carried on the tax rolls of the State Department of Assessments and Taxation (SDAT) as agricultural and has been used as an agricultural purpose continuously for at least one year.

DEPARTMENT. The Department of Land and Resource Management, or its successor agency.

EASEMENT. A grant by a property owner for the use of land for a specific purpose by another person to establish a material interest in the property.

FARMING UNIT. Contiguous agricultural parcels under one ownership and farmed as one operation.

PROGRAM MANAGER. Carroll County Agricultural Land Preservation Program Manager.

WOODLAND AREAS. Land one (1) acre in size or greater that is at least ten percent (10%) stocked with trees or that had such tree cover prior to a recent harvest and is not currently developed for a non-forest use.

§ 159.03 AGRICULTURAL LAND PRESERVATION PROGRAM ADMINISTRATION.

(A) It is the intent of the county to permanently preserve agricultural land and open space by supporting programs that either compensate landowners for voluntarily restricting property from development through a perpetual deed of conservation easement ("easement") *or* for which an easement is granted to the county without compensation *and* the easement for either is recorded in the Land Records of Carroll County.

(B) Official maps of land preserved by a recorded deed of easement shall be kept on file at the Department in the County Office Building and shall be revised from time to time to reflect all preserved lands to date. The official maps shall be updated at least once a year.

(2004 Code, § 73-1) (Ord. 02-18, passed 11-21-2002)

§ 159.04 AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

(A) Pursuant to the authority contained in Md. Code, Agriculture Article, Title 2, Subtitle 5, Maryland Agricultural Land Preservation Foundation (MALPF), the County Commissioners established an Agricultural Land Preservation Advisory Board.

(B) **Establishment of Board, Appointment, Composition, Terms**. The Advisory Board shall consist of five members plus an alternate appointed by the Carroll County Board of Commissioners to each serve a four-year term. Advisory Board members shall be representatives of the Carroll County agricultural community.

(C) The Agricultural Land Preservation Advisory Board shall:

(1) Determine under advisement of the county Program Manager, county participation in the MALPF program in relation to other agricultural land preservation programs that may be administered by the county.

(2) Review and approve, where appropriate, applications for all land preservation easement acquisition programs.

(3) Review and approve requests for lots and allowed uses per delegated authority from the Board of County Commissioners.

(4) Perform any other duties as established in Title 2, subtitle 5 of the Agricultural Article of the Annotated Code of Maryland

(D) The function of the Advisory Board shall be governed by this chapter and the bylaws adopted by the Advisory Board.

LAND PRESERVATION PROGRAMS

§ 159.05 MARYLAND AGRICULTURAL LAND PRESERVATION PROGRAMS.

The application to and administration of the Maryland Agricultural Land Preservation Foundation (MALPF) program in Carroll County is subject to the requirements of Md. Code, Agriculture Article, Title 2, Subtitle 5 and COMAR 15.15.01.01. The county may impose additional requirements.

➡ 159.06 CARROLL COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM.

The Advisory Board may establish a policy that is more restrictive than state policy. The requirements for the Carroll County Agricultural Land Preservation Program shall be subject to the MALPF eligibility criteria per §159.05 of this Chapter, except where the Carroll County program may be more restrictive.

(A) **Priorities for agricultural land preservation.**

(1) Pursuant to the authority contained in Md. Code, Agriculture Article, Title 2, Subtitle 5, priorities for the preservation of agricultural land in the county are established. These priorities shall be used by the Advisory Board and the County Commissioners in the approval of easement purchases, either in the state MALPF program, the County Agricultural Land Preservation Program, or other land preservation programs in operation. These priorities shall, however, be considered and applied as general guidelines that permit discretion in certain cases.

(2) The state has a policy of establishing the maximum number of applications that can be approved by a county. If this policy prevents the county from approving all applications, the

applications shall be ranked for approval according to a scoring system recommended by the Advisory Board and approved by the County Commissioners.

(3) The acceptance of easements in areas where none presently exist is encouraged. However, in recommending approval of any such easement, the Advisory Board shall seek to ensure that sufficient land is available for expansion of the easement block.

(4) The emphasis is on active, working farms; however, other attributes may be considered and may differ between programs. The active agricultural uses should make a significant contribution to the productive capabilities of the farm or significantly enhance its worth for preservation. Woodland areas shall qualify as active agricultural uses.

(B) Minimum eligibility.

(1) **Soil types.** Subject to the requirements of Md. Code, Agriculture Article, Title 2, Subtitle 5, and COMAR 15.15.01.01.

(2) **Size**. The proposed farm shall be a minimum of 60 acres in size. The Advisory Board may consider a farm with less acres if the proposed farm is contiguous to an existing farm in one of the land preservation programs administered by the county.

(3) **Whole farms.** The Advisory Board seeks the participation of and gives preference to complete farming units. The Advisory Board may choose to exclude portions of the property with certain uses from the deed of easement.

(4) **Subdivision/off conveyances.** In most cases, the Advisory Board shall not recommend approval for easements when all of the off conveyances and residential subdivision lots to which the property is entitled have been created. If some but not all of the off conveyances and/or subdivision lots allowed by the Zoning Chapter have been created, the Advisory Board shall consider the impact of this residential development on the agricultural use of the remaining land. In addition, the Advisory Board shall also consider the relative value of preserving property that has limited potential for future residential development. When considering property from which lots have been created since February 14, 1978, the Advisory Board may require an owner to relinquish future lot rights that he or she may have been entitled to under this section. Such agreement of the owner shall be made a part of the easement agreement. Every application for easement purchase shall contain a statement delineating the lots created, if any, since February 14, 1978.

(C) Ranking.

(1) Once minimum eligibility requirements have been met and the application for an individual farm is deemed complete, the Program Manager shall evaluate and score the farm, based on a priority scoring system in effect at the time of application and recommended by the Advisory Board and approved by the County Commissioners.

(2) The application shall be presented to the Advisory Board within 60 days of the Program Manager deeming it complete. The Advisory Board shall decide whether or not to include the farm in the ranking system.

(D) Lot approvals after easement purchase. Subject to the requirements of Md. Code, Agriculture Article, Title 2, Subtitle 5, and COMAR 15.15.01.01.

(E) **Restricted land.** Subject to the requirements of Md. Code, Agriculture Article, Title 2, Subtitle 5 and COMAR 15.15.01.01.

(F) **Sale of development rights easements**. Subject to the requirements of Md. Code, Agriculture Article, Title 2, Subtitle 5 and COMAR 15.15.01.01.

(1) **Offers to sell.** Subject to the requirements of Md. Code, Agriculture Article, Title 2, Subtitle 5 and COMAR 15.15.01.01.

(2) **Local approval for state easements.** Subject to the requirements of Md. Code, Agriculture Article, Title 2, Subtitle 5 and COMAR 15.15.01.01.

(G) Acquisition of a land preservation easement by the county.

(1) The County Commissioners may acquire an agricultural preservation easement on a property (or land) if the acquisition is consistent with the policies and goals of the Carroll County Agricultural Land Preservation Program and the acquisition has been recommended by the Advisory Board and approved by the County Commissioners.

(2) The value of an easement acquired under this section shall be determined by the valuation method of the current easement acquisition program of MALPF or any other valuation method recommended by the Advisory Board and approved by the County Commissioners.

(3) The form and terms of the deed of easement shall be consistent with the deed of easement used by the concurrent MALPF program or any other form and terms recommended by the Advisory Board and approved by the County Commissioners. The Advisory Board may recommend, and the County Commissioners may approve, amended terms of the easement. Amended terms shall be included in a staff report for the Advisory Board's recommendation and County Commissioners' approval. The deed of easement may be held solely by the County Commissioners or held jointly by the County Commissioners and MALPF or another land preservation program.

§ 159.07 CRITICAL FARMS PROGRAM.

The application to and administration of the Critical Farms Program in Carroll County is subject to the requirements of Md. Code, Agriculture Article, Title 2, Subtitle 5 §2-517 and COMAR 15.15.01.01. The county may impose additional requirements for eligibility into the program.

(A) A Critical Farms Program has been created to provide preservation funding for contract purchasers and new owners who have purchased farms within the previous 12 months. The program protects certain specific agricultural property from subdivision or residential development through the use of options to purchase development rights easements on the property. An applicant for this program shall apply to the Program Manager, who will determine the eligibility of the farm pursuant to the provisions of (B) below.

(B) **Eligibility.** To be eligible for this program a farm must meet each of the following criteria:

(1) The farm must meet the requirements of the Maryland Agricultural Land Preservation Program for easement sale that are in effect at the time of the application and must receive a favorable recommendation from the Advisory Board.

- (2) The applicant must submit documentation demonstrating that:
 - (a) The applicant is the contract purchaser of the farm; or
 - (b) The farm has been purchased by the applicant within the previous 12 months.

(3) For the purpose of this section, property zoned "C" Conservation shall be appraised as if having the same lot yield as property zoned "A" Agricultural.

(C) Ranking.

(1) Once minimum eligibility requirements have been met and the application deemed complete, the Program Manager shall evaluate and score the farm, based on a priority scoring system in effect at the time of application and recommended by the Advisory Board and approved by the County Commissioners.

(2) The application shall be presented to the Advisory Board within 60 days of the Program Manager deeming it complete. The Advisory Board shall decide whether or not to include the farm in the ranking system.

(D) **Preliminary approval.**

(1) Whenever the uncommitted funds of the Carroll County Agricultural Land Preservation Program may be sufficient to allow the funding of an option to purchase a development rights easement, the Program Manager will provide the County Commissioners with the individual applicant or a list of the active applicants with ranking.

(2) The County Commissioners may grant preliminary approval to one or more applicants. The County Commissioners may also determine that a property does not have a score which is high enough to justify an option to purchase a development rights easement through this program.

(E) **Easement valuation.** After preliminary approval, the County Commissioners shall authorize an appraisal of fair market value of the land only, conducted according to the guidelines of the Maryland Agricultural Land Preservation Program and shall consider any appraisal obtained and submitted by the applicant. The appraisal shall be reviewed by a qualified reviewer and approved by the Program Manager. The appraisal shall then be used by the county as the basis for approving an easement value.

(F) Option to purchase easement.

(1) Upon final approval by the County Commissioners, the county shall agree in writing to extend to the applicant an option to purchase a development rights easement, in an amount equal to 52.5% of the agreed upon fair market value of the land only, which option shall extend for a period of five years.

(2) The option shall be recorded in the Land Records of Carroll County.

(G) **Easement sale.** The recorded option to purchase will require that the applicant and any heirs or assigns actively pursue for a period of five years the sale of an easement to the MALPF or other non-county agency approved by the Program Manager at an asking price no lower than the amount of the option to purchase the easement extended by the county. Any offer from the Foundation or other agency that equals or exceeds the amount of the option must be accepted by the applicant.

(1) If MALPF or other agency purchases a development rights easement from the applicant during this five-year period, the full amount of the county option shall be repaid at the settlement of the easement. Settlement of an easement and payment of the proceeds to the county shall release the applicant from any additional obligation of the option to purchase by the county.

(2) If a development rights easement has not been purchased by MALPF or other agency within five years, the applicant may rescind the option to purchase by repaying to the county within 30 days the full selling price of the option, plus interest for the entire period of the option, at the legal rate in effect at the time of rescission. If the applicant does not cancel the option, the county will exercise the option contained in the agreement and purchase the development rights easement for such consideration as has already been established. The terms of the easement agreement will be the standard easement terms of MALPF, the county, or other agency standard deed of easement.

§159.08 OTHER EASEMENT ACQUISITION PROGRAMS.

Whenever matching funds are available from the Maryland Rural Legacy Program, the Federal Farmland Protection Program, and other programs or sources for the long-term protection of agricultural land and open space, the County Commissioners may participate in these programs.

(A) The County Commissioners will consider recommendations from the Advisory Board with regard to policies and procedures for application and implementation.

(B) The County Commissioners may determine an amount to be spent for easement acquisitions from money budgeted for agricultural land preservation.

(C) The deed of conservation easement may be granted to the County Commissioners or another organization approved by the County Commissioners or a combination of the County Commissioners and an approved organization.

↓§ 159.09 ACQUISITION OR ACCEPTANCE OF OTHER EASEMENTS BY COUNTY.

(A) Acquisition of a land preservation easement

(1) Reasonable public notice of intent to purchase the easement shall be given at least 15 calendar days before a public meeting held to consider final approval of the proposed acquisition.

(2) Installment Purchase Agreement (IPA). The County Commissioners may offer to purchase an easement through the use of an IPA. The form and terms approved and recommended by the Advisory Board and approved by the County Commissioners. The deed of easement may be held by the County Commissioners.

(B) Acceptance of donated easements.

(1) In addition to its authority to purchase easements under this chapter, the county or the county's designee may accept the donation of an easement or other interest in property for agricultural land or conservation purposes.

(2) Deeds of conservation easement granted to the county per the requirements of §159.153(E) Community solar energy generating systems in the Agricultural zone, of this Code will be administered by the Program Manager.

■§ 159.99 PENALTY; APPEALS.

(A) Whenever the Director of the Department finds the easement grantor or owner of a property subject to an easement has failed to comply with the terms of the easement agreement, the Department may refuse to review any plans and refuse to grant any approvals

applicable to the subject property until compliance with the terms of the easement have been achieved.

(B) The county may impose a civil penalty on an owner of a property whose farm is subject to the terms of an easement granted under this Chapter, who violates the terms of the easement.

(C) A civil penalty may be imposed by the county instead of, or in addition to, any remedies at law or in equity.

(D) Fines shall be imposed based upon the following schedule:

- (1) First offense: \$50;
- (2) Second offense: \$100;
- (3) Third offense: \$200; and
- (4) Subsequent offenses: \$500 each.

(E) A fine may be imposed for each day a violation exists, as each day the violation exists is a separate offense.

(F) Failure to correct a violation after expiration of the time period for correction stated in a citation is a separate offense.

(G) Any person who receives a citation for an easement violation which imposes a fine shall pay the fine as set forth on the citation, within 15 days after receipt of the citation, to the County Commissioners, Collections Office, 225 North Center Street, Westminster, Maryland, 21157.

(H) Any person who fails to pay a fine imposed under this section within 15 days after the date notice was sent to such person pursuant to Md. Code, Land Use Article, § 11.205, shall be liable for twice the fine which that person had failed to pay.

(I) Any person aggrieved by a decision of an administrative official or board under this chapter, the levying of any fines, penalties, or the failure to grant a variance may appeal the action to the County Commissioners or a Board of Appeals appointed by the County Commissioners, which shall hold a hearing.