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## SUBTITLE 2. LOCAL PROGRAM

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### § 17-10-201. Definitions.

In this subtitle, the following words have the meanings indicated:

(1) "Agricultural Land Coordinator" means an individual appointed by the Planning and Zoning Officer to assist the landowner concerning the establishment of a County agricultural district or the sale of an easement and to administer the provisions of this subtitle.

(2) "Agricultural Preservation Advisory Board" means a board that is established in accordance with the Agriculture Article, § 2-504.1, of the State Code, and contains at least one member with a forestry background or experience.

(3) "Agriculture" means the science, art, and business of cultivating the soil; producing crops; breeding, boarding, or training of animals; horticulture; apiaries; hydroponics; viticulture; forestry; and related agricultural activities as approved by the Agricultural Preservation Advisory Board.

(4) "County agricultural district" means a district that contains agricultural land or woodlands and is established in accordance with § [17-10-203](#).

(5) "Easement" means a covenant running with the land that limits the uses permitted on a property to agriculture and woodlands uses.

(6) "Foundation" means the Maryland Agricultural Land Preservation Foundation.

(7) "Landowner" means a person owning or having an interest in land situated within Anne Arundel County.

(8) "Productive agricultural land" means land eligible to be included in a State agricultural district in accordance with regulations promulgated by the Foundation.

(9) "State agricultural district" means an agricultural district established in accordance with the provisions of the Agriculture Article, Title 2, Subtitle 5, of the State Code.

(10) "Woodland" means a land area dominated by trees and other woody plants including trees and woody plants that have been cut but not cleared and managed under an approved forest management plan prepared by a registered forester.

(1985 Code, Art. 24, § 2-201) (Bill No. 45-90; Bill No. 56-99; Bill No. 20-00; Bill No. 3-05)

### § 17-10-202. Agricultural Preservation Advisory Board.

(a) **Establishment; duties.** There is an Agricultural Preservation Advisory Board with the following duties and responsibilities:

(1) to advise the County concerning the establishment of County agricultural districts and purchases of easements by the County;

(2) to assist the County government in reviewing the status of County agricultural districts and land under easement;

(3) to advise the County concerning County priorities for agricultural and woodland preservation;

(4) to promote preservation of agriculture within the County by fostering such activities as a farmers' market and by offering information and assistance to farmers concerning establishment of County agricultural districts and the purchase of easements;

(5) to make recommendations to the County Executive concerning budget and appropriation requests;

(6) to recommend the delineation of areas of productive agricultural land in the County;

(7) to recommend procedures concerning the determination of values of easements;

(8) to review and make recommendations to the County concerning proposed regulations for State and County agricultural districts;

(9) to prepare and review recommendations to the County concerning County policies and programs for agricultural and woodland preservation;

(10) to seek the advice of and cooperate with the Agricultural Extension Service, the Soil Conservation District and the State foresters in carrying out its responsibilities; and

(11) to perform other, duties as may be assigned by the County Council or County Executive.

(b) **Meetings.** The Board shall meet at the direction of the Chair or on the request of two members of the Board, but in no event less than once every three months.

(c) **Decisions.** Decisions of the Board shall be made if a majority of the members is present at a meeting and if a majority of the members present concurs.

(d) **Staff support.** The Office of Planning and Zoning shall provide staff support to the Board.

(e) **Public ethics issues.** Notwithstanding the provisions of [Article 7](#) of this Code, a person may be appointed to and may serve on the Agricultural Preservation Advisory Board even if the

person has a district agreement with the State or County or has sold an easement on the person's agricultural land or woodland to the State or County. Nothing in this subsection excuses a member of the Agricultural Preservation Advisory Board from compliance with § [7-3-101](#) of this Code.

(1985 Code, Art. 24, § 2-202) (Bill No. 45-90; Bill No. 56-99; Bill No. 20-00; Bill No. 45-00)

**§ 17-10-203. Procedures, requirements for establishment of County agricultural district.**

(a) **Establishment procedures.** The following procedures shall be used to establish a County agricultural district:

(1) Any landowner whose land either in whole or in part is devoted to agriculture or woodlands or otherwise meets the criteria of this subtitle may file a petition with the Office of Planning and Zoning requesting the establishment of a County agricultural district on that land.

(2) The petition shall include maps and descriptions of the current use of the land in the proposed district and the names and addresses of all adjacent property owners.

(3) All land proposed to be placed in a County agricultural district must:

(i) include at least 50 contiguous acres for agricultural land or at least 10 contiguous acres for woodlands;

(ii) be located outside water and sewer categories 1, 2, and 3 shown in the Anne Arundel County Master Plan for Water Supply and Sewerage Systems; and

(iii) have an approved soil and water conservation plan prepared by the Anne Arundel Soil Conservation District.

(4) Within 60 days after receipt of a petition, the Planning and Zoning Officer shall determine whether to approve the establishment of a County agricultural district.

(5) In making a determination, the Planning and Zoning Officer:

(i) shall consider the provisions of the General Development Plan; and

(ii) may not approve the establishment of a district on property on which further development is precluded by law or by contract.

(b) **County's offer to purchase easement.** A landowner's acceptance of an offer from the County for the purchase of an easement under § [17-10-208](#)(d) may be the basis for establishment of a district, without the necessity of the landowner making application to establish a district.

(c) **Establishment of district.** Following approval by the Planning and Zoning Officer or on acceptance of an offer from the County for the purchase of an easement, a County agricultural

district shall be established on execution by the landowner of a district agreement that incorporates the conditions that are set forth in the regulations adopted under § [17-10-212](#).

(1985 Code, Art. 24, § 2-203) (Bill No. 45-90; Bill No. 56-99; Bill No. 20-00)

#### § 17-10-204. Use of land in County agricultural district.

(a) **Special exception and variance.** The establishment of a district or the sale of an easement does not alter special exception or variance requirements applicable to a zoning classification in which the County agricultural district is located.

(b) **Restrictions.** A person who owns land that has been included in a County agricultural district:

(1) may not subdivide the land except to provide owner or children's lots to the extent allowed by the easement; and

(2) shall be subject to the provisions of this article and [Article 18](#) of this Code.

(1985 Code, Art. 24, § 2-203.1) (Bill No. 45-90; Bill No. 56-99; Bill No. 3-05; Bill No. 4-05)

#### § 17-10-205. Procedure to terminate County agricultural or woodland district.

(a) **Withdrawal by notification.** Except when an easement has been purchased, a landowner may withdraw from a County agricultural district by giving notification in writing to the Office of Planning and Zoning:

(1) no earlier than five years after the date the landowner's land is included in a district or, if a landowner is receiving a tax credit under § [4-2-301](#) of this Code, no earlier than ten years after the landowner's land is included in a district;

(2) subject to the provisions of § [4-2-301](#) of this Code, after the County has rejected the purchase of an easement on the landowner's property; or

(3) if the Planning and Zoning Officer finds that continuation in the district will cause the landowner severe economic hardship, consisting of financial peril to the landowner, whether caused by natural disaster, the disability of the landowner, or some other occurrence.

(b) **Adjustment of acreage.** In a County agricultural district that contains land from more than one landowner, if a landowner's withdrawal from the district causes the district no longer to meet the requirements for a County district, the Office of Planning and Zoning may adjust the district to the remaining acreage.

(1985 Code, Art. 24, § 2-204) (Bill No. 45-90; Bill No. 56-99; Bill No. 20-00)

**§ 17-10-206. Program to purchase easements.**

(a) **Establishment.** There is a program to finance the purchase of easements.

(b) **Agreement.**

(1) The County Executive shall determine the methods of paying landowners for easements, and the appropriate terms and conditions for any agreement to purchase an easement in accordance with the requirements set forth in this subtitle or in other applicable provisions of law.

(2) The County may provide for the payment for easements by the execution and delivery of long-term obligations of the County, including long-term obligations in the form of installment purchase agreements for deferred payment of the purchase price.

(3) The execution and delivery of any such long-term obligations shall be authorized by ordinance, which shall prescribe the security for form, manner of execution, delivery, and sale, if applicable, the maturity and the other terms and conditions of such long-term obligations or, in each case, the manner of determining the same. The final maturity of such long-term obligations may not exceed 30 years.

(c) **Payment.** Payment for easements may be made from dedicated transfer tax revenues that are appropriated as provided under § [4-11-111](#) of this Code; from any other legally available appropriated funds or revenues; and as provided in subsection (b)(2).

(d) **Termination and release.**

(1) Subject to subsection (d)(2), an easement purchased by the County shall be given by the landowner in perpetuity and may not be terminated by the landowner, and may not be extinguished by the County without approval of the County Council.

(2) Except for an easement purchased under an installment purchase agreement and subject to the provisions of [Article 18](#) of this Code, a landowner may have one 40,000 square foot lot released from an easement.

(1985 Code, Art. 24, § 2-205) (Bill No. 45-90; Bill No. 79-94; Bill No. 56-99; Bill No. 4-05)

**§ 17-10-207. Application for sale of easement.**

(a) **Generally.** Any landowner whose land is devoted in whole or in part to agriculture or woodlands may file an application with the Office of Planning and Zoning requesting that the County purchase an easement if the land includes at least 50 contiguous acres for agricultural land or at least 25 contiguous acres for woodlands.

(b) **Application.** The application shall be filed in the manner and with the supporting documentation required by the Office of Planning and Zoning.

(c) **Review by Agricultural Land Coordinator.** On receipt of an application, the Agricultural Land Coordinator shall review the application, meet with the landowner, and recommend to the Planning and Zoning Officer whether to purchase an easement.

(d) **Planning and Zoning Officer.** Within 60 days after receipt of an application, the Planning and Zoning Officer shall determine whether the property is eligible for purchase by the County of an easement and, if an eligibility determination is made, direct the Agricultural Land Coordinator to order an appraisal.

(e) **Ineligibility.** Among other factors, a property may not be eligible for the purchase of an easement if:

(1) the landowner fails to provide the information requested by the County or to cooperate with the Agricultural Land Coordinator or any State or County agency with regard to admission into a program; or

(2) the property does not meet the minimum qualifications for acreage, soil classification, water and sewer service designation, and applicable zoning as set forth in regulations adopted under § [17-10-212](#).

(f) **Purchase price.** The purchase price of the proposed easement shall be established in accordance with § [17-10-208](#)(a).

(g) **State program.** If a property is eligible for the State program, the Agricultural Land Coordinator shall refer the landowner to the State program instead of processing the application through the County program.

(1985 Code, Art. 24, § 2-206) (Bill No. 56-99; Bill No. 20-00)

#### § 17-10-208. Valuation, priority of easement purchase.

(a) **Purchase price.** Except as provided in subsection (b) for easements purchased by the execution and delivery of long-term obligations, including installment purchase agreements, the purchase price of an easement shall be based on:

(1) an appraisal obtained by the County; or

(2) if the landowner is dissatisfied with the appraisal obtained by the County, the average of the amount set forth in the County's appraisal and an appraisal obtained by the landowner at the landowner's sole expense from a list of appraisers approved by the County, but in no event less than the amount set forth in the County's appraisal.

(b) **Long-term obligation.** Except as otherwise provided by ordinance, for easements purchased by installment purchase agreements, the Planning and Zoning Officer, with the advice of the Controller, may negotiate the terms of a long-term obligation, including the stated purchase price or amount, the interest rate, and other appropriate provisions such that, in the

reasonable determination of the Planning and Zoning Officer, the face value of the long-term obligation is less than or commensurate with the value of the easement based on an appraisal.

(c) **Priorities for easement purchases.** For properties referred into the County program, the Planning and Zoning Officer shall set priorities for the purchase of easements, based on factors the Planning and Zoning Officer determines are necessary to preserve agricultural land or woodlands, including the purchase price, whether the land is in the General Development Plan as agricultural or open space, and whether the land borders a municipality or other developing area.

(d) **Terms for payment.** The purchase price shall be paid to the landowner immediately on execution of an easement or on such terms as the County and the landowner agree, provided that the purchase price under an installment purchase agreement shall be available and encumbered in the fiscal year that the easement is purchased, unless otherwise authorized by ordinance of the County Council.

(e) **County not obligated.** Neither the determination by the Planning and Zoning Officer that a property is eligible for the purchase of an easement nor the obtaining of an appraisal obligates the County to purchase an easement.

(1985 Code, Art. 24, § 2-207) (Bill No. 45-90; Bill No. 79-94; Bill No. 56-99; Bill No. 20-00)

#### § 17-10-209. Easement donation.

(a) **Acceptance of donation.** In addition to its authority to purchase easements under this subtitle, the County or the County's designee may accept the donation of an easement or other interest in property for agricultural land or woodland preservation purposes.

(b) **When prohibited.** The County may not accept the grant of a gift of residual interest in a property on which the County has accepted an easement or of a life estate or of any interest that would result in the merger of the easement with the gift and thereby extinguish the easement held by the County.

(1985 Code, Art. 24, § 2-207.1) (Bill No. 56-99)

#### § 17-10-210. Right to sell.

This title does not restrict the right of an owner to sell land located in a County agricultural district or land on which the County holds an easement, provided that the sale is subject to the easement.

(1985 Code, Art. 24, § 2-208) (Bill No. 45-90)

#### § 17-10-211. Public access.

Purchase of an easement by the County does not create a right of public access to the land unless the easement contract specifically provides for public access.

(1985 Code, Art. 24, § 2-209) (Bill No. 45-90)

 **§ 17-10-212. Executive regulations.**

The regulations "Anne Arundel County Agricultural Land and Woodland Preservation Program" prepared by the Department and dated August, 1999 are approved and adopted as the regulations governing the County agricultural land and woodland preservation program.

(1985 Code, Art. 24, § 2-210) (Bill No. 45-90; Bill No. 79-94; Bill No. 56-99)