

Calvert County Agricultural Preservation Rules and Regulations



Adopted by the Calvert County Board of County Commissioners:
January 9, 2007
Amended:
January 20, 2017
April 17, 2018

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AGRICULTURAL PRESERVATION RULES AND REGULATIONS

The following Rules and Regulations are adopted for implementation of the Calvert County Agricultural Land Preservation Program under provisions of Article 12, Agricultural Land Preservation Program, Public Local Laws of Calvert County, Maryland.

I. PURPOSE OF THE PROGRAM.

- A. To offer an incentive for preservation of prime agricultural and forestry land.
- B. To provide reimbursement to the landowner who voluntarily agrees to place agricultural and forestry use covenants on his land.
- C. To utilize the free market system for financing agricultural and forestry preservation, thus avoiding direct cost to the taxpayers.
- D. To guide development away from prime agricultural and forestry lands on which viable farming and forestry endeavors are practical.
- E. To promote and preserve the identity of intact rural agricultural communities where working farms and managed woodlands predominate. (11/4/91)
- F. To minimize potential conflicts between agricultural and non-agricultural land use by providing for a functional separation of the two. (11/4/91)
- G. The purpose of the PAR Fund shall be to purchase, retire and permanently remove TDRs from the development rights market, thereby protecting additional farm land acres from development. (6/1/92)

II. DEFINITIONS USED IN THESE REGULATIONS.

- A. Agricultural Preservation Advisory Board of Calvert County: A five (5) member Board appointed by the County Commissioners with duties and responsibilities as specified in Public Local Laws and these Regulations.
- B. Agricultural Preservation District: An area of prime agricultural or forestry land voluntarily placed in this Program by the owner with approval of the Board.
- C. Designated Agricultural Area: An area of the County identified by the Board as having the greatest potential for maintaining a viable level of agricultural or forest production.

- D. Development Option: The right of a landowner in an Agricultural Preservation District to convey the privilege that permits a person to increase the density of residential use of land in a designated Transfer Zone.
- E. Development Right: The right an agricultural land owner conveys to a person that permits a person to increase the density of residential use of land in a designated Transfer Zone. A development right comes into existence only after a development option has been conveyed by an owner in an Agricultural Preservation District.
- F. Program: The Calvert County Agricultural Land Preservation Program.
- G. Transfer Zone: An area in Calvert County designated by the County Commissioners as an area where development rights may be used to increase the density of residential use. No Transfer Zone shall be created within a Designated Agricultural Area. (11/4/91)
- H. Development Option Agreement: A recorded instrument which sets forth the provisions of the conveyance of the development options. The format and minimum contents shall be established by the County Commissioners.
- I. Parcel: Any area of land described within a deed recorded prior to APD designation. (7/1/96)

III. ORGANIZATION AND MEETINGS OF THE BOARD.

- A. The Board shall hold one regular meeting each calendar month, and special meetings as called by the Chairman or Vice-Chairman.
- B. At the regular meeting in January or February, the members of the Board shall elect a Chairman, Vice-Chairman and Secretary to serve for a period of one (1) year. Duties of the officers shall be as described for such positions in Robert's Rules of Order as are appropriate for the Board.
- C. All meetings of the Board shall be open to the public, and notice shall be given of the time, date and place of such meetings.
- D. Business of the Board shall be conducted in accordance with the procedures outlined in Robert's Rules of Order, Article IX.
- E. Order of Business for Regular Meetings shall be:

- Call to Order
- Approval of Agenda
- Reading of Minutes of previous meeting(s) and their approval
- Review of Board Correspondence
- Report of Committees
- Unfinished Business
- New Business
- Adjournment

IV. DUTIES OF THE BOARD

- A. Promulgate rules and regulations, and develop procedures for formation of Agricultural Preservation Districts and Designated Agricultural Areas.
- B. Hold a public hearing to present the proposed Program prior to implementation of the Program.
- C. Accept, and approve or reject all applications for Agricultural Preservation Districts and Designated Agricultural Areas.
- D. Promote an open enrollment program annually to attract new landowners to join existing or new Agricultural Preservation Districts.
- E. Record with the Clerk of the Circuit Court in appropriate map of plat form, or by metes and bounds descriptions, all identifications of Designated Agricultural Areas and all designations of Agricultural Preservation Districts.
- F. Record and maintain in the form of an annual summary, all sales of development rights in order to monitor the success and progress of the Agricultural Preservation Program. The identities of individual buyers and sellers of development rights shall not be specified in this summary. (11/4/91)
- G. Conduct a comprehensive review of the Agricultural Preservation Program on the tenth anniversary of the program, or as soon thereafter as is reasonably possible, and to repeat such a comprehensive review at the end of each succeeding five-year period. (11/4/91)
- H. Develop rules, regulations, and procedures for the creation and operation of a Purchase and Retirement Fund for Development Rights. (6/1/92)
- I. Accept, review, and approve or reject all applications for sale of TDRs to the Purchase and Retirement Fund and otherwise administer the operation of the Fund. (6/1/92)

V. PROCEDURES OF THE BOARD.

- A. Designated Agricultural Areas.
 - 1. The Board, with assistance of its staff support, and with the aid of appointed committees and County, State and Federal agencies, shall make an inventory of those lands of the County having the greatest potential for maintaining a viable level of agricultural or forestry production.
 - 2. The board shall accept, and shall approve or reject applications from landowners for identification of land as Designated Agricultural Areas. Applications shall be submitted by landowners on forms prescribed by the Board.

3. The Board shall accept, and shall approve or reject applications from farmer organizations and citizen groups or associations for the identification of land as Designated Agricultural Areas.
4. When an application for a Designated Agricultural Area is approved, notice of the approval shall be furnished to the Department of Planning and Zoning, the Soil Conservation District, the County Commissioners' Office, and the Assessors' Office.

B. Agricultural Preservation Districts.

1. The Board shall at any time accept, and either approve or reject, applications from landowners for designation of land as new APDs or additions to existing APDs. Applications shall be submitted by landowners on forms prescribed by the Board.
2. When an application for an Agricultural Preservation District is approved, notice of the approval shall be furnished to the Department of Planning & Zoning, the Soil Conservation District, the County Commissioners' Office, and the Assessors' Office.

C. Purchase and Retirement Fund

1. The Board shall determine and announce the schedule to be followed for the annual PAR Fund cycle of TDR purchases.
2. The Board shall determine and announce, on an annual basis, the amount of funding available for the purchase and retirement of TDRs.
3. The Board shall recommend, for the approval of the Board of County Commissioners, the price to be offered for the annual purchase of TDRs by the PAR Fund. The Board shall consider the value of TDR sales and transfer during the prior year in recommending the offering price.
4. The Board shall recommend, for the approval of the Board of County Commissioners, the number of TDRs to be sold per application per PAR Fund cycle. The Board shall consider the number of applications received during the prior year and the amount of funding available.
(4/17/18)
5. The Board shall review and rank applications according to established criteria in order to determine which applications are to be accepted.
6. The investment of PAR Fund monies shall be administered by the Board of County Commissioners.
(6/1/92)

VI. GUIDELINES FOR ACCEPTANCE OF APPLICATION
DESIGNATED AGRICULTURAL AREA - (DAA)

- A. Present land use must be of a type which will permit continuation or initiation of viable agricultural or forestry production.
- B. At least fifty (50) percent of the total acreage in a proposed area shall be suitable for cropland and/or managed forest land. (11/4/91)
- C. Suitability of soils. Using the USDA Soil Survey of Calvert County as a guide, at least fifty (50) percent of the proposed area shall be in Capability Classes I, II, III and IV, or Woodland Suitability Group I or II. (11/4/91)
- D. Amount of contiguous farmland. The proposed area shall be sufficient to comprise a viable agricultural unit. (11/4/91)
- E. Boundaries of Designated Agricultural Areas should follow, as closely as possible, existing physical separations, such as streams, valleys, roads, etc. (11/4/91).

VII. CRITERIA FOR ACCEPTANCE OF APPLICATION -
AGRICULTURAL PRESERVATION DISTRICT (APD)

A. General Requirements

- 1. The process of creating or joining an Agricultural Preservation District is entirely voluntary. The determination of eligibility and designation of an APD by the Board shall be based on a written application signed by the owner(s) of the property involved. (11/4/91)
- 2. An Agricultural Preservation District shall remain in effect for a minimum of five years, unless terminated as provided in these Rules and Regulations. (1/20/17)
- 3. Owners of parcels of land enrolled in districts from which no development options have been used or conveyed, may withdraw their land within five years from the date of enrollment in the program by giving the Board a written notice of such intent at least one (1) year prior to withdrawal. (1/20/17)
- 4. Owners of parcels of land enrolled in districts from which no development options have been used or conveyed may withdraw their land after five or more years in the program by giving the Board a written notice of such intent at least thirty (30) days prior to withdrawal. (1/20/17)
- 5. In the event of individual parcels being withdrawn from an APD, any remaining parcels may retain designation as a District, provided they continue to meet all criteria specified in these Rules and Regulations. If the criteria cannot be met by the remaining parcels, then the entire District shall be terminated upon the withdrawal creating noncompliance.

- (11/4/91)
(9/1/92)
(1/20/17)
6. After meeting the applicable notice period, the release of an APD shall be executed and recorded in Calvert County Land Records to complete the withdraw process. (1/20/17)
 7. The owner(s) of property designated an Agricultural Preservation District shall voluntarily agree to limit subdivision of their property as indicated in Section IX. of these Rules and Regulations. (11/4/91)
(1/20/17)
 8. In determining eligibility of a proposed APD, the Board shall consider the present land use, the amount of contiguous farmland, and the uses of adjoining properties as may affect or be affected by the designation. (11/4/91)
 9. A current Soil Conservation Plan, and/or a current Forest Resource Management Plan shall be in effect on all parcels designated as Agricultural Preservation Districts. Compliance with these plans shall be maintained as long as the Agricultural Preservation District remains in effect. (6/1/92)
 10. Once a development right is removed from the District, all parcels within that District are bound by the covenants set forth in the Agreement in perpetuity. (7/1/96)
- B. Initial Requirements for APD Designation
- The initial minimum requirement to form an Agricultural Preservation District was 300 acres of contiguous land or 500 acres of noncontiguous land. This requirement has been met and no longer pertains to new applications. (11/4/91)
- C. Current Requirements for APD Designation
1. Land proposed as an Agricultural Preservation District shall be located within a Designated Agricultural Area (DAA), Farm Community District (FCD), and Resource Preservation District (RPD) or shall consist of fifty (50) or more contiguous acres meeting the criteria for the Agricultural Preservation District, as described below. Exception can only be made for working farms (with Agricultural Use Assessment) along Routes 2, 4, 231, and 260. (7/7/03)
(12/13/04)
 2. For approval as an APD, present land use must be of a type which will permit continuation or initiation of viable agricultural or forestry production.
 3. At least seventy-five (75) percent of the total acreage of a proposed APD shall be suitable for cropland and/or managed forest land. (11/4/91)

4. Using the USDA Soil Survey of Calvert County as a guide, land proposed as an Agricultural Preservation District must meet one of the following criteria:
 - a. At least fifty (50) percent of the proposed area shall be in Soil Capability Classes I or II, or Woodland Suitability Group 1 or 2.
 - b. If the property is located within the DAA, or if the application consists of at least 300 contiguous acres (which may be under several different ownerships), at least fifty (50) percent of the proposed area shall be in Soil Capability Classes I,II or III, or Woodland Suitability Group 1 or 2.
 - c. Exceptions may include land areas of lower general capabilities or areas of existing, extensive, specialized production, including but not limited to dairying, livestock, poultry, fruit, tobacco and vegetables.
(5/1/00)
 - d. If topsoil has been removed from land proposed as an APD, then the Board may require that a new soil survey be conducted by the owner, in order to determine current eligibility under these regulations.
(9/1/92)
 - e. The Board may approve APD designation for properties in the DAA where an applicant can demonstrate that, through good management and operational practices; his land meets or exceeds the productivity normally associated with the above-mentioned soils.
 - f. In assessing any of the criteria specified in sub-paragraphs (a) through (e) above, the Board may request crop reports in order to verify the viability of the farming operation. Site indices may be needed to determine woodland suitability.
(11/4/91)
5. No more than fifty (50) percent of an APD may be comprised of floodplain soils having the soils series classification "My" (mixed alluvial).
(5/3/04)
6. If there is an application for a new APD involving part or all of an existing APD, then the following shall apply:
 - a. If the application pertains to only a portion of an APD:
 - i. The act of creating the new APD shall effectively remove and terminate that portion from the existing district.
 - ii. The remainder of the original district shall meet the requirements for an APD.
 - iii. The time period for which the remainder of the original district is in an APD shall run independently of the new APD, and shall run from the original recording date.
 - iv. The development rights shall be certified and sold as separate tracts.
 - b. If the application pertains to the entire APD, the time period the property must remain in an APD shall be five years from the new date, except in cases where the APD is being re-recorded merely to

correct an error. In that case, the APD time period will run from the original recording date. (4/4/94)

D. Requirements for Joining an Existing APD

1. If a property is located outside a DAA, FCD, or RPD, and adjoins an existing preserved APD, then the minimum acreage to apply for an APD is 25 acres that are actively devoted to Agricultural or Forestry use. However, parcels of less than twenty-five (25) acres may be approved by the Board if the parcel is contiguous with an established Agricultural Preservation District, and located within the DAA, FCD or RPD. (11/4/91)
(12/13/04)
2. The proposed addition to an existing APD shall meet all other requirements of a new APD as specified in Section C above. (11/4/91)

VIII. CRITERIA FOR ACCEPTANCE OF PAR FUND APPLICATIONS

- A. The Board shall accept applications for the sale of TDRs from the owner of any recorded Agricultural Preservation District. (4/17/18)
- B. TDRs shall be certified before applications to sell to the PAR Fund will be accepted by the Board.
- C. No individual, group of individuals, partnership, corporation, or other legal entity shall have any vested interest in more than one TDR sale to the PAR Fund per cycle. This provision shall not limit the number of PAR Fund applications that may be made by any such entity. (5/1/00)
(4/17/18)
- D. PAR Fund applications shall be ranked according to the following formula, with those applications receiving the highest ranking being first considered for PAR Fund purchases.

1.	LAND USE	33 pts
	Active working farm	
	60% Tillable	33 pts
	40% Tillable	25 pts
	20% Tillable	17 pts
	Active Tree Farm	13 pts
	Undesignated Land	0 pts

Note: An "Active Working Farm" shall be defined as a farm which has been entitled to the Agricultural Use Assessment at least

once in the previous five tax years.

"Tillable" shall be defined as that land which is given the Tillable Class A, B, and C, and Class D Land Valuation by the State Department of Assessments and Taxation.

2.	LOCATION (a. plus b.)	25 pts
	a. In DAA	15 pts
	Not in DAA	0 pts
	b. Adjacent to preserved APD	10 pts
	Adjacent to Unprotected APD	5 pts
	Not adjacent to an APD	0 pts
3.	SIZE	25 pts
	100+ acres	25 pts
	75+ acres	20 pts
	50+ acres	15 pts
	25+ acres	10 pts
	10+ acres	5 pts
	-10 acres	0 pts
4.	SOILS	17 pts
	50% Class I	17 pts
	50% Class I and II	11 pts
	50% Class I, II, III	5 pts
	50% Class I, II, III	0 pts

5. BONUS POINTS

Ten bonus points shall be given to any property that has not sold any development rights to any purchaser.

- E. In the event that two or more PAR Fund Applications are tied in rank, first priority will be given to the application which has least recently conveyed TDRs to the PAR Fund and second priority will be given to property enrolled in an APD for the longest time.
(6/1/92)

IX. CREATION OF RESIDENTIAL AND NON-RESIDENTIAL LOTS/PARCELS, COMMERCIAL AND INDUSTRIAL USES, AND WETLAND MITIGATION SITES IN APDS.

(10/6/81)

(2/1/89)

(4/4/05)

(1/9/07)

A. Creation of Residential Lots and Non-Residential Lots/Parcels in APDS.

(4/4/05)

With the exception of the following provisions, no major or minor subdivision, as defined by the Calvert County Zoning Regulations, may be created within an existing Agricultural Preservation District.

(6/1/92)

1. Within an approved district, parcels that meet all the criteria for district establishment shall be allowed no more than a given number of residential lots based on the parcel size.

(7/1/96)

a. Parcels having 75 acres or more - 3 lots in addition to the existing house.

b. Parcels having less than 75 acres and at least 50 acres - 2 lots in addition to the existing house.

c. Parcels having less than 50 acres and at least 25 acres - 1 lot in addition to the existing house.

d. Parcels having less than 25 acres - no additional lots or houses are allowed.

(7/1/96)

(12/13/04)

2. All platted lots, whether developed or not, which are included in the application, are counted against the number of lots permitted in "1" above.

3. Tenant houses are not considered as residential lots; however, a tenant house can be used as one of the lots.

(7/1/96)

4. All subdivision of land must comply with the County Zoning Ordinance. As a guideline (to reduce the impact of lot creation on farming and forestry), residential lots are to be less than or equal to three (3) acres in size or twenty-five (25) acres or greater.

(12/13/04)

(4/4/05)

5. A property recorded as a County Agricultural Preservation District may not be subdivided without the specific and written approval of the Agricultural Preservation Advisory Board. All parcels of a district are bound by the district agreement and/or recorded covenants. Board approval is required prior to a lot being designated as a residential building lot. Non-residential parcels/lots are not for residential building purposes.

(7/1/96)

(4/4/05)

6. If a person who owns land within an Agricultural Preservation District has sold all the development rights from the property, but desires to create a lot

for which he is entitled under the above provisions, the owner shall acquire 5 development rights for each lot created. (7/1/96)

B. Commercial and Industrial Uses. (2/1/89)

1. No commercial or industrial use which would require commercial zoning and/or a special exception, other than those directly related to farming or forestry, are allowed in Agricultural Preservation Districts. However, minerals may be extracted from the property provided that the property owner obtains prior approval from the Agricultural Preservation Advisory Board. The Board may apply restrictions on the approval to minimize impact on the farming operation and surrounding properties.
2. No topsoil may be removed from an APD without approval from the Agricultural Preservation Advisory Board. (9/1/92)
3. The operation of a land-clearing debris landfill is allowed on an APD, as long as it meets the following:
 - a. the conditions for a land-clearing debris landfill as set forth in the Calvert County Zoning Ordinance;
 - b. unless debris originates on the site, the landfill must be approved by the Agricultural Preservation Advisory Board;
 - c. the landfill covers no more than five percent of the Agricultural Preservation District;
 - d. the landfill will not be within sight of a public road. (5/1/95)
4. A Commercial Tower with Antennas are allowed on an APD, as long as the tower location receives APAB approval, with the intent that the location will not affect farming or forestry operations and that the access to the tower follows existing farm roads or field edges. (7/7/03)

C. Application for Non-conforming Uses of APD Land.

While an Agricultural Preservation District is in effect, the owners of property enrolled in that District may not make application to any State or County agency for any current or future use of that property which is prohibited by these Rules and Regulations. (6/1/92)

D. Wetland Mitigation Sites in APDs (1/9/07)

Wetland mitigation sites are a permitted use in Agricultural Preservation Districts provided that the property owner obtains prior approval from the Agricultural Preservation Advisory Board. A mitigation site must meet County, State, and Federal regulations. The proposed wetland mitigation site:

1. Must receive prior approval by the Soil Conservation District and must address a water quality issue and have a water control benefit for the Agricultural Preservation District, and
2. Up to 10% of an APD may be included in a wetland mitigation site. For wetland mitigation sites greater than 10% of an APD, the Agricultural Preservation Board may approve the additional percentage if the Soil Conservation District recommends that the additional acreage is needed to adequately address a water quality issue and provided that not more than 5% of the soils in the District having a capability subclass that is not w* are included in the additional area.
3. If the mitigation site is approved by the Agricultural Preservation Advisory Board, then the practice must be included in the land owner's soil conservation and water quality plan for that parcel.

*Capability subclass "w shows that water in or on the soil interferes with plant growth or cultivation", Calvert County, Maryland Soil Survey, July 1971, Page 23.

X. DEVELOPMENT OPTIONS (RIGHTS) (10/6/80)

- A. The owner of property designated as an APD is entitled to convey Development Options (rights) for use in a Transfer Zone or in an Agricultural Preservation District for construction of a family or tenant house under provision of paragraph 285, Article 5, Public Local Laws of Calvert County.
- B. An owner of APD designated land may apply to the County Commissioners' Office for certification of Development Options.
- C. One development option shall be allocated per acre of land in an Agricultural Preservation District, except that:
 1. Five (5) development options shall be subtracted for each residence located on a parcel in an Agricultural Preservation District.
 2. Five (5) development options shall be allocated for each one-acre lot authorized in the Rural District under the provisions of the County Zoning Ordinance and not previously used. Five (5) development options shall be allocated for each recorded buildable lot in a district provided that this lot is then subject to all other density criteria under these rules and regulations.
(7/1/96)
 3. No development options shall be granted on land which previously has been subjected to recorded restrictive development covenants (indentures) which preclude the subdivision and/or residential development of the land. However, the Board, with the approval of the County Commissioners, may grant development options in those cases where a property can only be preserved through the combined action of state and local land preservation programs, and where such restrictive development covenants (indentures) are

recorded contemporaneously with the Agricultural Preservation documents.
(8/31/99)

D. Development Options may be conveyed only by use of a Development Option Agreement with format and minimum contents established by the County Commissioners. A title search shall be conducted immediately prior to transfer of Development Rights.
(11/2/81)

E. Any sale of Development Rights must entail prior written consent of the owners of all parcels within the Agricultural Preservation District. The recording of covenants and the conveyance of Development Options for any parcel within an Agricultural Preservation District shall encumber all parcels within that District.
(11/4/91)

Development Options may not be conveyed unless all owners of each parcel within the Agricultural Preservation District have signed the "Certification of Development Options" and the "Recording of Covenants" forms.

XI. PROCESSING OF APPLICATIONS.

- A. In each case of an application for Designated Agricultural Area or Agricultural Preservation District, a staff report shall be prepared for consideration by the Board.
- B. Each applicant shall be notified of the meeting at which his case will be considered, and the applicant will have an opportunity to appear before the Board at that time.
- C. The Board shall consider each case on its own merits, and in conjunction with contiguous or nearby areas previously accepted.
- D. All actions of the Board to approve or reject applications shall be by majority (3) vote, and a resolution shall be adopted for all actions on applications.
- E. Notification of approval or rejection of an application shall be furnished the following:
 - 1. Applicant
 - 2. County Commissioners
 - 3. County Department of Planning & Zoning
 - 4. County Department of Inspections & Permits
 - 5. County Assessor
- F. An official County "Agricultural Land Preservation Program" map, scale 1" = 600', shall be maintained by the Staff Support Office, with copies recorded periodically in the Office of the Clerk of the Circuit Court.

XII. APPEAL PROCEDURE.

Any person or persons, jointly or severally aggrieved by a decision of the Board, may appeal the decision to the County Circuit Court in a manner as set forth in Chapter 1100, Subtitle B of the Maryland Rules. The decision of the Circuit Court may be appealed to the Maryland Court of Appeals.