

CALVERT COUNTY  
AGRICULTURAL  
PRESERVATION  
RULES AND REGULATIONS

RECOMMENDED DRAFT

JULY 7, 2025

Previously Adopted by the Board of Calvert County Commissioners  
January 9, 2007

Previously Amended:  
January 20, 2017  
April 17, 2018

## Calvert County Agricultural Land Preservation Rules and Regulations

The following Rules and Regulations have been adopted by the Board of Calvert County Commissioners for implementation of the Calvert County Agricultural Land Preservation Program pursuant to § 12-101 of the Code of Public Local Laws for Calvert County, Maryland (hereinafter ‘Code of Public Local Laws’), and Md. Ann. Code, Land Use Art., Title 7, Subtitle 2.

### Section 1. Purpose and Legislative Intent.

The purpose of the Program, defined below, is the preservation of agricultural lands, forest lands, and open space for the benefit of future generations, allowing for the creation, modification, and continuation of Agricultural Preservation Districts (“APDs”), and the certification of Transferrable Development Rights (“TDRs”). This purpose shall serve as the express legislative intent guiding the interpretation and application of these regulations and reflects the resource conservation, rural preservation, and initiatives set forth in the Calvert County Comprehensive Plan, together with the following specific goals and objectives:

- (a) To offer an incentive for the preservation of prime agricultural and forestry land;
- (b) To compensate landowners who voluntarily agree to place agricultural and forestry use covenants on their 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 upon 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;
- (f) To minimize potential conflicts between agricultural and non-agricultural land use by providing for a functional separation of the two;
- (g) To support a Purchase and Retirement Fund (“PAR Fund”) to purchase, retire and permanently remove Transferrable Development Rights (“TDRs”) from the development rights market, thereby protecting additional farmland acres from development; and
- (h) To support the TDR Reserve Program to act as a revolving fund to allow citizens to sell and purchase TDRs through the county government.

### Section 2. Definitions.

For the purposes of the Program, the following terms shall have the meanings indicated:

- (a) “Active Working Farm” means a farm whose agricultural land and buildings are in active use for crop production, the raising of livestock, or both, with a current Agricultural Use Assessment.
- (b) “Administering Agency” means the Calvert County Department of Planning & Zoning, or its successor agency, responsible for implementing and managing the Program.
- (c) “Agricultural Preservation Advisory Board of Calvert County”, “APAB”, or “Board”, has that meaning ascribed by the Calvert County Zoning Ordinance, as amended from time to time (“CCZO”) in Section 2.2.

- (d) “Agricultural Preservation District” or “APD”, or “District”, has that meaning ascribed by the CCZO in Section 2-2, and includes a designated area of land meeting the eligibility criteria set forth by these Rules and Regulations, voluntarily placed under specific preservation conditions by the Property Owner(s) and approved by the Board of County Commissioners.
- (e) “Allocation Form” means an instrument in the form approved by the Board of County Commissioners, and recorded in the Land Records of Calvert County, that extinguishes TDRs after being used for a specified purpose.
- (f) “Applicant” means the Property Owner(s) applying for designation of their land as an Agricultural Preservation District or requesting any other formal approval as required by these Rules and Regulations.
- (g) “Certification of Development Options Form” means an instrument in the form approved by the Board of County Commissioners, and recorded in the Land Records of Calvert County, that calculates and grants TDRs to an APD based on a calculation submitted by the APD in accordance with Section 10 of these Rules & Regulations, as approved by the Agricultural Preservation Advisory Board and the Board of County Commissioners.
- (h) “Conveyance of Development Rights Form” means an instrument in the form approved by the Board of County Commissioners, and recorded in the Land Records of Calvert County, that sets forth the provisions related to the conveyance of TDRs.
- (i) “Development Option” means the right an APD landowner conveys to a person to increase the density of residential use of land in accordance with the Calvert County Zoning Ordinance. These options are also referred to as TDRs.
- (j) “Farm & Forest District”, or “FFD”, has that meaning ascribed by the CCZO in Section 2-2 and designated as the Farm & Forest District on the official Zoning Map of Calvert County, as amended from time to time.
- (k) “Forest Conservation Transferable Development Right, or “FC TDR”, has that meaning ascribed by the CCZO in Section 20-8(E).
- (l) “Forest Retention Area”, or “FRA” has that meaning ascribed by the CCZO in Section 2-2.
- (m) “Land Capability Class” means the classification system established by the United States Department of Agriculture, Natural Resources Conservation Service (USDA-NRCS), which groups soils based on their potential suitability and limitations for agricultural use. Classes 1 and 2 represent soils with the fewest limitations and greatest potential for sustained crop production. Class 3 represents soils with more limitations which may require special conservation practices for sustained production. Classes 4-6 represent soils with even greater limitations.
- (n) “Merchantable Quality Timber” means forest stands capable of producing wood products suitable for commercial sale, as determined by a Qualified Professional.
- (o) “Parcel” has that meaning ascribed by the CCZO in Section 2-2.
- (p) “Permanently Preserved” means the condition in which the land within an APD is preserved in perpetuity.
- (q) “Priority Preservation Area”, or “PPA”, (formerly known as “Designated Agricultural Area”), has that meaning ascribed by the CCZO in Section 2-2.
- (r) “Private Events/Rental Facilities on Farmland” has that meaning ascribed by the CCZO in Section 18-13.F.3.

- (s) “Program” means the Calvert County Agricultural Land Preservation Program
- (t) “Property” has that meaning ascribed by the CCZO in Section 2-2.
- (u) “Property Owner” has that meaning ascribed by the CCZO in Section 2-2.
- (v) “Public Events/Public Assemblies on Farmland” has that meaning ascribed by the CCZO in Section 18-13.F.2.
- (w) “Purchase & Retirement Fund Program”, or “PAR”, means a program whereby the County may purchase and retire TDRs, thus permanently removing them from the market.
- (x) “Qualified Professional” has that meaning as related Forest Conservation and Forestry and ascribed by the CCZO in Section 2-2.
- (y) “Recording of Agricultural Preservation District (APD) Form” means that instrument recorded in the Land Records of Calvert County which establishes an APD and its boundary.
- (z) “Recording of Covenants Form” refers to an instrument in the form approved by the Board of County Commissioners, that is approved by the Director of Planning & Zoning, or designee, and recorded in the Land Records of Calvert County after TDRs are conveyed from an APD, whereupon the APD is Permanently Preserved.
- (aa) “Release from Recording of Agricultural Preservation District Form” refers to an instrument in the form approved by the Board of County Commissioners, that is approved by the Director of Planning & Zoning, or designee, and recorded in the Land Records of Calvert County which extinguishes an APD and its boundary. The APD is withdrawn from the program only after this form is recorded. prior to its expiry.
- (bb) “Rural Legacy Area”, or “RLA”, means a region designated by the Board of County Commissioners, and approved by Maryland’s Rural Legacy program, as being rich in a multitude of agricultural, natural, forestry or cultural resources. The program provides funding to preserve large, contiguous tracts of land within the RLA and enhance natural resource, agricultural, forestry and environmental protection while supporting a sustainable land base for natural resource-based industries.
- (cc) “Soil Conservation and Water Quality Plan” has that meaning ascribed by the CCZO in Section 2-2.
- (dd) “Steep Slopes” has that meaning ascribed by CCZO Section 2-2.
- (ee) “Tillable Land” means the greater of either the acreage of actually devoted agricultural land approved by the Maryland Department of Assessments and Taxation for the Class 3 land use based on agricultural activity, or all acreage identified by the USDA Farm Service Agency (FSA) as open agricultural fields on the official FSA common land unit map. FSA fields designated as farm headquarters, or woodland acres, are not included.
- (ff) “TDR Reserve Program” means a program which acts as a revolving fund in which TDRs are purchased, reserved, and resold by the County. The fund provides a mechanism for developers and individuals to purchase and sell TDRs through the county government instead of private negotiations between buyers and sellers.
- (gg) “Transfer Zone” has that meaning ascribed by the CCZO in Section 2-2.
- (hh) “Transferable Development Right”, or “TDR”, has that meaning ascribed by the CCZO in Section 2-2. TDRs may also be referred to as “Development Options”, as defined above.

**Section 3. Establishment of the Calvert County Agricultural Land Preservation Program**

There is hereby established within Calvert County a voluntary Agricultural Preservation Land Preservation Program, to be administered by the Department of Planning & Zoning, for the purpose of encouraging the preservation of viable agricultural and forest lands.

**Section 4. General Requirements of Agricultural Preservation District Designation.**

- (a) The determination of eligibility and designation of an Agricultural Preservation District by the Board shall be based on a written application signed by the Property Owner(s) involved.
- (b) In order to be eligible for approval as an APD, there must be a net reduction in density as a result of the designation. Credit for the reduction in density shall be taken and existing residential density accounted for at the time of APD recording.
- (c) The property subject to the application must have a current Soil Conservation and Water Quality Plan, approved by the Calvert Soil Conservation District or Forest Resource Management Plan prepared by a Qualified Professional, as applicable, or the Applicant must agree to develop such a plan within a timeframe specified by the Administering Agency as a condition of approval. Such plans 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.
- (d) The owner(s) of property designated an Agricultural Preservation District shall voluntarily agree to limit development of their property as indicated in Section 12 of these Rules and Regulations.
- (e) An Agricultural Preservation District shall remain in effect for a minimum of five years, unless terminated as provided in Section 9.
- (f) All property within an APD including individual lots and parcels of record are Permanently Preserved once bound by the covenants in perpetuity. The recordation of covenants is required by any act accounting for the use of TDRs. This includes, but is not limited to, subdivision of the APD, conveyance of TDRs and allocation of TDRs.

**Section 5. Eligibility Criteria for Agricultural Preservation District Designation.**

Property Owner(s), may apply to have their land designated as an Agricultural Preservation District if the proposed land meets the following criteria and requirements:

- (a) For a Non-Contiguous APD Designation:
  - 1. Land proposed as a stand-alone, non-contiguous Agricultural Preservation District must be:
    - i. Located within a PPA, RLA, Farm & Forest District (FFD), or Rural Community District (RCD); or
    - ii. Shall consist of Fifty (50), or more, contiguous acres meeting the criteria for the Agricultural Preservation District set forth in this Section 5(a); and
    - iii. Working farms with Agricultural Use Assessment adjacent to Routes 2, 4, 231, and 260 shall be deemed eligible regardless of acreage; and
  - 2. At least seventy-five percent (75%) of the total acreage of a proposed APD shall be suitable for cropland, managed forest land, or a combination of the two. The land use at the time of application must be of a type which will permit continuation, or initiation, of viable agricultural or forestry production.

3. No more than fifty percent (50%) of an APD may be comprised of floodplain soils having any of the following soil series classifications singly, or in combination:
  - i. MZA Mispillion and Transquaking soils;
  - ii. NMA Nanticoke and Mannington soils;
  - iii. WBA Widewater and Issue soils; or
  - iv. ZBA Zekiah and Issue soils.
4. Applicants must demonstrate that at least Fifty percent (50%) of the proposed area is certified as suitable for the production of timber of merchantable quality when seeking designation of land based upon its potential forest productivity. The determination of merchantable quality shall be made by a qualified forest conservation professional.
  - i. A letter of certification shall be provided with an accompanying forestry management plan prepared and approved by a Qualified Professional.
  - ii. Site indexes for the sampled plots shall be included in the plan demonstrating a minimum site index of 85 for Tulip Poplar or equivalent rating for the dominant species.
5. Applicants seeking designation of land based upon its agricultural use, that has not had topsoil removed, must, using the USDA Web Soil Survey, meet at least one of the following criteria:
  - i. At least fifty percent (50%) of the soils in the proposed area shall be in Land Capability Classes 1 or 2; or
  - ii. If the property is located within the PPA, a RLA, or if the application consists of at least 300 contiguous acres (which may be under several different ownerships), at least fifty percent (50%) of the soils in the proposed area shall be in Land Capability Classes 1, 2 or 3.
6. Where an applicant seeks designation of land based upon its agricultural use, and the land has had topsoil removed, the Board may require that a new soil survey be conducted by the applicant, in order to determine eligibility pursuant to subpart 5, immediately above.
7. The Board may recommend APD designation for properties seeking designation based upon its agricultural use in the PPA or RLA where the applicant can demonstrate that, through good management and operational practices, the land meets or exceeds the productivity normally associated with the above-mentioned soils.
8. The Board may recommend APD designation of land based upon its agricultural use for areas of existing, extensive, and/or specialized production, including, but not limited to, dairying, livestock, poultry, fruit, tobacco, and vegetables, that does not meet the criteria pursuant to subpart 5, above, if:
  - i. The Applicant has or obtains an assessment of agricultural use by the Maryland Department of Assessments and Taxation based on the current agricultural activity; and
  - ii. At least fifty percent (50%) of the soils in the proposed area are in Land Capability Classes 1 through 6; and

- iii. No more than twenty-five percent (25%) of the land is comprised of Steep Slopes as defined by the Calvert County Zoning Ordinance.
  - 9. In assessing any of the criteria herein, the Board may request crop reports in order to verify the viability of the farming operation, and suspend, or deny, the application until such information is received.
- (b) For APD Designation Contiguous to Existing Permanently Preserved Land:
  - 1. For property subject to an application that is located outside a PPA, RLA, FFD, or RCD, but is contiguous with an existing APD or another property that is Permanently Preserved, the minimum acreage to apply for APD designation is 25 acres actively devoted to agricultural or forestry use and meeting all other applicable requirements of Section 5(a).
  - 2. For property subject to an application that is located, in whole or in part, within a PPA, RLA, FFD or RCD, but is contiguous with an existing APD or another property that is Permanently Preserved, there is no minimum acreage to apply for APD designation if the property is actively devoted to agricultural or forestry use and can meet all other applicable the requirements of Section 5(a).
- (c) Minimum Acreage Summary

<b>Designated Area or District</b>	<b>Contiguous to Preserved APD</b>	<b>Non-Contiguous to Preserved APD</b>
Located Inside the Priority Preservation Area (PPA), Farm & Forest District (FFD), Rural Community District (RCD), or a Rural Legacy Area (RLA)	Less than 50 acres with APAB Approval	50 acres, with exceptions only made for working farms adjacent to Routes 2,4,231 and 260 or contiguous acreage
Located Outside the Priority Preservation Area (PPA), Farm & Forest District (FFD), Rural Community District (RCD), or a Rural Legacy Area (RLA)	25 acres or more with APAB Approval	50 acres, with exceptions only made for working farms adjacent to Routes 2,4,231 and 260 or contiguous acreage.

**Section 6. Amending an APD.**

- (a) Agricultural Preservation Districts may only be amended in the following circumstances with the approval of the Board:
  - 1. To join or add contiguous unreserved acreage to the APD;
  - 2. To correct errors, acreage or adjust property lines as a result of a legally updated boundary survey;
  - 3. To satisfy a court order or judgement.
- (b) If there is an application to amend an existing APD the following shall apply:

1. The District must, following the requested amendment, continue to meet all requirements for APD designation as set forth in Sections 4 & 5, above, in order to be eligible.
  2. Once approved by the Board the Recording of Agricultural Preservation District form shall be re-recorded in the Land Records with a full description of the encumbered property, an accompanying boundary survey, and either: all documents, certifications, and covenants pertaining to the APD of record; or a certification of title listing, with recording references, all documents, certifications, and covenants pertaining to the APD of record.
  3. The minimum time period the APD must remain in the program shall run five years from the originally recorded date.
- (c) If there is an application for the creation of a new APD involving part or all of an existing APD, the original APD must first be withdrawn from the program according to the procedures set forth herein. Only Agricultural Preservation Districts for which no covenants have been recorded are eligible to be withdrawn. The recordation of covenants is required by any act accounting for the use of TDRs. This includes, but is not limited to, subdivision of the APD, conveyance of TDRs, and allocation of TDRs. The following additional criteria shall also apply:
1. If the application pertains to only a portion of an APD:
    - i. The withdrawal of the original APD and creation of the new APD effectively removes and terminates that portion from the existing district.
    - ii. Once approved, the new APD shall be recorded in the Land Records with a full description of the encumbered property and an accompanying boundary survey. All documents, certifications, and covenants pertaining to the remainder of the original APD shall be re-recorded, including an updated boundary survey.
    - iii. The remainder of the original district shall be amended and must continue to meet all requirements for APD designation in order to be eligible.
    - iv. 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.
  2. If the application pertains to the entire APD, the minimum time period the new APD must remain in the program shall be five years from the re-recorded date. Where re-recording is necessitated only to correct an error, the APD time period will run from the original recording date.
- (d) Any proposed addition to an existing APD shall meet all requirements of a new APD as set forth in Sections 4 & 5, above.
- (e) Notwithstanding any other provisions, the amendment of an APD shall not result in greater residential density or development than is permitted in Section 12 of these Rules and Regulations, subject to the following:
1. The amended District continues to meet all requirements for APD designation in Sections 4 & 5, above, including a reduction in density of the added lot, parcel or acreage and the overall amended APD.

2. This provision does not apply to a corrective re-recording of an APD where an existing parcel or lot has been demonstrated to be larger than the original recording, as allowed by (a), above.

**Section 7. Application Process APD Designation.**

- (a) The process of creating or joining an Agricultural Preservation District is entirely voluntary. Property Owners seeking designation shall submit a formal application to the Administering Agency on forms provided by the Agency.
- (b) The application shall include, at a minimum:
  1. Name(s), address(es), and contact information of all Property Owners.
  2. Proof of ownership (e.g., copy of current deed).
  3. A metes and bounds description of the property proposed for designation.
  4. A boundary survey or plat acceptable to the Administering Agency, clearly showing the boundaries, total acreage, tax map/parcel numbers, and location of the property proposed for designation.
  5. Documentation demonstrating compliance with the eligibility criteria set forth in Sections 5(a)-(f) and 6(a), including relevant soil maps/reports or letter of certification of merchantable quality by a Qualified Professional.
  6. Documentation demonstrating compliance with or commitment to Section 4(c) regarding the Soil Conservation and Water Quality Plan or Forest Resource Management Plan.
  7. A statement signed by all Property Owners affirming their voluntary intent to place the land into an Agricultural Preservation District and maintain it primarily in agricultural or forestry use consistent with the Program's goals and any associated restrictions.
  8. Any applicable application fee as established by the Board of County Commissioners for Calvert County, Maryland.
  9. All supporting information as the Agency or Board may request.

**Section 8. Review and Approval of APDs.**

- (a) The Administering Agency shall review applications for completeness and verify eligibility based on the criteria in Sections 4 & 5. The Agency may request additional information from the Applicant as needed.
- (b) The Administering Agency may conduct site visits to confirm site conditions and eligibility.
- (c) Upon determining an application is complete and eligible, the Administering Agency shall forward the application and its recommendation to the Calvert County Agricultural Preservation Advisory Board for review and approval.
  1. The Board shall at any time, accept and recommend, recommend with conditions, or decline the recommendation of applications from landowners for the designation of land as new APDs or additions to existing APDs.
  2. Applications shall be submitted by landowners on forms prescribed by the Board meeting the minimum requirements set forth in Section 7(b), above, with all supporting information as the Board may request.
  3. In each case a staff report shall be prepared for consideration by the Board.

4. In determining the 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.
  5. The Board shall consider each case on its own merits, and in conjunction with contiguous or nearby areas previously approved as PPAs, RLAs or APDs.
- (d) Each applicant shall be notified by email of the meeting at which the application will be considered and will have the opportunity to appear before the Board at that time.
  - (e) Following receipt of recommendations from the Board, the Administering Agency shall present the application and all recommendations to the Board of County Commissioners for consideration.
  - (f) The Board of County Commissioners may consider an application only in open session and in accordance with applicable County procedures.
  - (g) The Board of County Commissioners shall make the final determination to approve, approve with conditions, or deny the application for designation as an Agricultural Preservation District.
  - (h) Upon approval by the Board of County Commissioners, the Recording of Agricultural Preservation District form shall be recorded in the Land Records of Calvert County, Maryland, at the Applicant's expense with a full description of the encumbered property, and an accompanying boundary survey.
  - (i) An extract of the accompanying boundary survey shall be submitted to the Administering Agency in electronic format meeting the requirements of the Calvert County Department of Technology Services for the purpose of integrating the APD boundary data into the county's Geographic Information System (GIS). The electronic submission shall conform to the Official Digital Data Submission Requirements Document, as amended from time to time.
  - (j) Notice of the recording shall be provided by the Administering Agency to the Calvert Soil Conservation District as well as the Maryland State Department of Assessments and Taxation.

**Section 9. Effect and Duration of Designation.**

- (a) Duration: No Agricultural Preservation District may be extinguished before the fifth anniversary of its formation; and no APD may be extinguished once Permanently Preserved.
- (b) Withdrawal of APDs Not Permanently Preserved:
  1. Owners of parcels of land enrolled in APDs which are not permanently preserved and for which no covenants have been recorded may withdraw their land after five or more years in the program by providing written notice of such intent to the Board.
  2. Written notice of the intent to withdraw shall be provided to the Board for review at the next regularly scheduled meeting, with deadlines for submission in accordance with the approved meeting schedule.
  3. The Board shall at any time, accept written notice from owners of parcels of land meeting the qualifications of Section 9(b)-1, above, to withdraw their land after five or more years in the program.
  4. The Board shall verify that the APD in which the parcels are enrolled have not been permanently preserved through the program and meet the criteria for release.

5. After verifying the eligibility of the APD to withdraw the Release from Recording of Agricultural Preservation District form shall be approved and forwarded to the Board of County Commissioners for review and signature.
  6. The Release from Recording of Agricultural Preservation District form shall be recorded in the Calvert County Land Records within 30 days of signature by the Board of County Commissioners in order to complete the withdrawal process. Recordation is the responsibility of the applicant to complete.
  7. In the event that individual parcels are being withdrawn from the APD any remaining parcels retain designation as an APD, provided they continue to meet all applicable criteria set forth in Section 4 & 5, above, to be eligible. If the criteria cannot be met by the remaining parcels, then the entire APD shall be terminated upon the withdrawal creating noncompliance.
- (d) Enforcement: The Board or Administering Agency may, after appropriate notice to the landowner or his designated representative, enter the property from time to time for the sole purpose of inspection and enforcement of the terms of the covenants.

**Section 10. Certification of Transferrable Development Rights.**

- (a) An owner of an APD may apply to the Department of Planning and Zoning for the certification of TDRs by the County Commissioners. Certified TDRs shall run with the APD as a whole unless said TDRs are legally severed from the APD and allotted to an individual person or property.
- (b) One TDR shall accrue per net acre of land in an APD created in the Residential District, Rural Neighborhood District, Rural Community District and Farm & Forest District as determined by the application of 5 below, except that:
  1. For APDs in existence as of the adoption of the Calvert County Zoning Ordinance on February 18, 2025 that have not yet certified TDRs, they shall have one year after the adoption of the Ordinance to certify and record in the land records TDRs to be exempt from the net acreage regulation. A field survey is required to determine the net acreage of the property.
  2. Five (5) TDRs shall be subtracted for each residence located on a lot or parcel within the APD.
  3. Five (5) TDRs shall be granted for each one-acre exception lot authorized in the Rural Community District, Rural Neighborhood District, and Farm & Forest District under the provisions of Section 31-5.A of the Calvert County Zoning Ordinance as adopted February 18, 2025 and not previously used. However, two years after the effective date of the Ordinance on March 1, 2027, the ability to create exception lots is null and void, and TDRs for exception lots will no longer be granted.
  4. No TDRs 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 TDRs 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.

5. No TDRs shall be granted on acreage designated as tidal wetlands, non-tidal wetlands, zoned wetlands, or State wetlands. The boundaries of the wetland's shall be defined with the best available data by one or more of the following:
  - i. those areas mapped as wetlands by the Maryland Department of Natural Resources;
  - ii. those areas mapped as wetlands on the National Wetlands Inventory by the US Fish and Wildlife Service;
  - iii. as delineated and verified by qualified professionals as meeting the definition of jurisdictional wetlands according to State and/or Federal regulation; or
  - iv. as those areas meeting the definition of State and/or Federal jurisdictional wetlands.

### **Section 11. Use of Transferrable Development Rights.**

- (a) The owner of property designated as an Agricultural Preservation District is entitled to convey TDRs for use in a designated Transfer Zone or to allocate to an APD for the creation of a residential building lot or construction of a family or tenant house.
- (b) The use of TDRs in eligible receiving areas to increase residential density in a designated Transfer Zone is prescribed in Article 17 of the CCZO.
- (c) TDRs may be conveyed only by use of a Conveyance of Development Rights form with format and minimum contents established by the Board of County Commissioners. A title search shall be conducted by a licensed attorney authorized to practice in the State of Maryland immediately prior to the transfer of development rights.
- (d) TDRs may be allocated only by use of a development rights Allocation Form with format and minimum contents established by the Board of County Commissioners. A title search shall be conducted by a licensed attorney authorized to practice in the State of Maryland immediately prior to the allocation.
- (e) Development Rights may not be conveyed or allocated without the consent of the owners of record of the TDRs. All owners or their legal representative must sign the Conveyance of Development Rights and Allocation forms.
- (f) The first sale or use of TDRs from an APD must entail prior written consent of the owners of all parcels of record located within the district. The conveyance of these development rights is only effective if all owners of each parcel within the Agricultural Preservation District have signed and recorded the "Certification of Development Options" and "Recording of Covenants" forms.
- (g) The APD is permanently preserved when all owners and parties having a proprietary interest in said property have voluntarily placed restrictive covenants on the land by signing and recording the "Recording of Covenants" form. The recordation of covenants is required by any act accounting for the use of the TDRs, including but not limited to, conveyances and allocations.
- (h) The recording of covenants and the conveyance of TDRs from any property within an APD shall encumber all lots and parcels of record within that district and permanently preserves said property in the program.

- (i) The “Recording of Covenants Form” details the terms, conditions, and restrictions of the Agricultural Preservation District and shall be executed by the Property Owner(s) and recorded among the Land Records of Calvert County, Maryland, at the Applicant’s expense, running with the land for the land in perpetuity.

**Section 12. Residential Uses and Creation of Residential Building Lots, Additional Dwellings and Non-Residential Lots or Parcels.**

Except as provided herein, no major or minor subdivision, as defined by the Calvert County Zoning Ordinance, as amended, may be created within an existing Agricultural Preservation District.

- (a) Within an approved APD, no more than the following residential building lots or additional dwellings shall be permitted based on the APD size:
  - 1. APDs having 75 acres or more - 3 lots or dwellings in addition to the existing house.
  - 2. APDs having less than 75 acres and at least 50 acres - 2 lots or dwellings in addition to the existing house.
  - 3. APDs having less than 50 acres and at least 25 acres - 1 lot or dwelling in addition to the existing house.
  - 4. APDs having less than 25 acres - no additional lots or dwellings are allowed.
- (a) These dwelling/residential lot entitlements shall run with the APD as a whole unless said entitlements are legally severed from the APD and allotted to an individual person or property within the APD. Any use of entitlements not legally severed must entail prior written consent of the owners of all parcels within the APD.
- (b) All platted lots and parcels of record, whether developed or not, which are included in the application, are counted against the number of entitlements permitted in “a” above.
- (c) Existing lots and parcels of record within the boundary of an APD shall not be utilized to increase the density allowed by application of “a”, above.
- (d) Density is not to exceed one (1) dwelling per 25 acres as a result of the additional density allowed by the application of “a”, above; for the purposes of this provision primary residences, buildable residential lots, and tenant houses are all counted towards density.
- (e) Tenant houses are considered accessory to the farm and its primary residence and are counted against the number of entitlements permitted in “a” above.
- (f) Tenant houses shall remain in contiguous ownership as the primary residence and owner, or operator, of the farm.
- (g) All subdivision of land must comply with the CCZO and subdivision regulations.
- (h) Where these provisions conflict with Local, State, or Federal regulations, the more restrictive, or limiting development within an APD, provision shall prevail.
- (i) To reduce the impact on farming and forestry, buildable residential lots or parcels created within the APD are to be either less than, or equal to, three (3) acres in size, or not less than twenty-five (25) acres.
- (j) A property included in an APD may not be subdivided without the specific and written approval of the Board.
- (k) All parcels of a district are bound by the district agreement and recorded covenants.
- (l) Board approval is required prior to a lot, or parcel, being designated as buildable.
- (m) Non-buildable parcels or lots are not for residential building purposes.

- (n) If a person who owns land within an APD has sold all the development rights from the property but desires to create a lot or dwelling for which he or she is entitled under the above provisions, the owner shall acquire 5 development rights for each buildable lot or dwelling to be created, not to exceed that allowed by “a”, above.

**Section 13. Industrial and Commercial Uses.**

- (a) No industrial or commercial activities, except as directly relate to on-premise farming and/or forestry, may be conducted on the property, except activities which can be carried on from a residential or farm building without the obtaining of an exception from applicable zoning laws, including sales of farm products and agricultural services by the owner to the public.
- (b) Minerals may be extracted from the property, provided that the sand, gravel or mineral extraction operation meets the following:
  - 1. the conditions for a sand, gravel, or mineral extraction operation as set forth in the Calvert County Zoning Ordinance.
  - 2. any conditions on the approval applied by the Board to minimize impact on the farming operation and surrounding properties.
- (c) No topsoil may be removed from an APD without approval from of the Board.
- (d) A commercial tower with antennas is allowed on an APD as long as the tower location receives Board 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.
- (e) Public events within an APD require prior approval from Board and shall meet the following:
  - 1. Approved Public Events shall be limited to agritourism enterprises as defined in the Calvert County Zoning Ordinance. Agritourism events and activities shall have a clear and direct link to local agriculture.
  - 2. The agritourism activities shall be secondary to the agricultural operation of the APD.
  - 3. The property owner shall obtain prior written approval from the Agricultural Preservation Advisory Board. The Board may apply conditions on the approval to minimize the impact on the farming operation and surrounding properties.
  - 4. The maximum number of public events permitted per year and maximum duration of each permitted event shall be set forth by the Calvert County Zoning Ordinance.
  - 5. The application shall meet all requirements and conditions stipulated in the ordinance.
  - 6. The Board’s consideration of the application shall include, but is not limited to, the following: size of the property, size of the event, level of access to the property, impact to the agricultural operation and impact to the surrounding properties.
- (f) Private events on APDs shall be limited to those defined as Rental Facilities on Farmland permitted in the CCZO which do not conflict with these Rules & Regulations and shall meet the following:
  - 1. The property owner shall obtain prior written approval from the Board.
  - 2. The events and activities shall be secondary to the agricultural operation of the APD.

3. The Board may apply conditions on the approval to minimize the impact on the farming operation and surrounding properties.
4. The application shall meet all requirements and conditions stipulated in the ordinance.
5. The Board's consideration of the application shall include the following: size of the property, size of the event, level of access to the property, the impact to the agricultural operation and surrounding properties, and such further information as the Board may determine is germane for a specific application.
6. Where these provision conflict with Local, State, or Federal regulations the more restrictive shall prevail.

#### **Section 14. Wetland Mitigation Sites.**

Wetland mitigation sites are a permitted use in Agricultural Preservation Districts provided that the property owner obtains prior written approval from the Board. A mitigation site must meet County, State, and Federal regulations. The proposed wetland mitigation site is restricted to five percent (5%) of the APD.

- (a) Must receive prior approval from the Soil Conservation District, address a water quality issue, and have a water control benefit for the APD.
- (b) Up to 10% of an APD may be included in a wetland mitigation site. For proposed wetland mitigation sites greater than 10% of an APD, the 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 APD having a land capability subclass that is not w are included in the additional area.
- (c) If the mitigation site is approved by the Board, the practice must be included in the landowner's Soil Conservation and Water Quality Plan (SCWQP). Compliance with the plan shall remain current and be maintained as long as the Agricultural Preservation District remains in effect.

#### **Section 15. Public Acquisition of TDRs.**

The following programs have been established for the purpose of acquiring TDRs:

- (a) PAR Fund. There is a Purchase and Retirement Fund for the County to acquire, and subsequently retire, TDRs from APDs.
  1. The following process shall be utilized for the PAR Fund cycle of TDR purchases:
    - i. The Board shall determine and announce the amount of funding available for the purchase and retirement of TDRs on an annual basis.
    - ii. The Board shall recommend, for the approval of the Board of County Commissioners, the price to be offered for each PAR cycle. If this does not occur, the last cycle price approved by the County Commissioners shall be utilized.
    - iii. The Board shall consider a variety of criteria including, but not limited to, the value of TDR sales and transfer during the prior year in forming its recommendation for the purchase price of TDRs for the annual cycle.

- iv. The Board shall announce the opening of the PAR cycle and availability of applications.
  - v. The Board shall accept all completed applications and review, rank, and approve the purchase of TDRs from those eligible in rank order until funding is exhausted.
  - vi. The Board shall offer to buy development rights from the approved applications, distribute offer letters, accept responses and conclude transactions.
2. Subject to available appropriations, and at the rate per TDR set by the Board of County Commissioners in effect at the time of application, the Board may approve the Purchase and Retirement of TDRs in accordance with applications meeting the following criteria:
- i. The Board shall accept completed applications from all owners of TDRs for sale to the PAR fund, including the owner of any recorded APD or initial APD owners who have sold the land but expressly retained TDR ownership in the conveyance of an interest in the land within the APD.
  - ii. TDRs shall be certified before applications to sell to the PAR Fund will be accepted by the Board.
  - iii. No individual, group of individuals, partnership, corporation, or other legal entity shall be allowed more than one sale of TDRs 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. In the event that two or more such applications are made, only the application receiving highest ranking shall be considered for approval by the Board.
  - iv. There is no cap on the number of TDRs eligible to be purchased from an individual, group of individuals, partnership, corporation, or other legal property owner of an APD.
  - v. The applicants are responsible for all settlement costs, which include preparation of a title report and the Conveyance of Development Rights documents.
  - vi. The conveyance shall be recorded in the Calvert County Land Records in order to complete the transaction. Recordation is the responsibility of the applicant to complete.
  - vii. Applications shall be ranked according to the following table, with first priority given to applications made by the owner of any recorded Agricultural Preservation District and initial APD owners who have expressly retained TDR ownership in the conveyance of an interest in the land within the APD. Applications made by owners of TDRs which have been conveyed from the original APD shall be ranked separately and shall be considered as funding allows. Those applications receiving the highest ranking within each group shall first be considered for PAR Fund purchases.

<b>Category</b>	<b>Criteria/Description</b>	<b>Points Awarded</b>	<b>Maximum Category Points</b>
<b>1. Land Use</b>			<b>33 pts</b>
	Active working farm 60% or more Tillable	33 pts	
	Active working farm 40% or more Tillable	25 pts	
	Active working farm 20% or more Tillable	17 pts	
	Active Tree Farm	13 pts	
	Undesignated Land	0 pts	
<b>2. Location</b>	<b>(a. plus b.)</b>		<b>25 pts</b>
<b>a.</b>	In PPA	15 pts	
	Not in PPA	0 pts	
<b>b.</b>	Contiguous to a Permanently Preserved APD	10 pts	
	Contiguous to an APD not Permanently Preserved	5 pts	
	Not contiguous to an existing APD	0 pts	
<b>3. Size</b>			<b>25 pts</b>
	100 acres or more	25 pts	
	75 acres or more	20 pts	
	50 acres or more	15 pts	
	25 acres or more	10 pts	
	10 acres or more	5 pts	
	Less than 10 acres	0 pts	
<b>4. Soils</b>			<b>17 pts</b>
	50% or more Class 1	17 pts	
	50% or more Class 1 and 2	11 pts	
	50% or more Class 1, 2, 3	5 pts	
	Less than 50% Class 1, 2, 3	0 pts	
<b>5. Bonus Points</b>	Property has not sold any development rights	10 pts	<b>10 pts</b>

- viii. 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. If necessary, additional preference will be given to property enrolled in an APD for the longest time.
- ix. The Board may, in any given PAR cycle, offer up to an additional \$200 per TDR sold to applicants who are first time sellers of TDRs that wish to recoup the survey cost associated with the initial boundary survey required for recording the APD as an additional incentive to remove development options from the TDR market.

- a. The total amount of additional compensation may not exceed the full cost of the survey paid by the applicant as documented by paid invoices submitted with the application. Invoices shall be presented for authorized services in a format as prescribed by the Board and with all supporting information the Board may request.
  - b. The Board shall determine and announce the amount of funding designated for the additional incentive as it is available.
  - c. The Board shall consider a number of factors, including but not limited to, the total level of funding available for the PAR cycle, the number of Districts not permanently preserved, and the level of interest anticipated when deciding to offer the additional incentive.
3. The Board shall establish, and review as necessary, criteria in order to determine which applications are to be accepted.
4. The investment of PAR Fund monies shall be administered by the Board of County Commissioners.
- (b) TDR Reserve Program. The County may acquire, and subsequently resell in the form of a revolving bank, TDRs from APDs, allowing for the sale and purchase TDRs through the county government instead of private negotiations.
  1. The following process shall be utilized for TDR Reserve Program transactions:
    - i. The Board shall recommend, for approval of the Board of County Commissioners, a price to be offered for the purchase and resale of TDRs through the TDR Reserve Program. If this does not occur, the last price approved by the County Commissioners shall be utilized.
    - ii. In forming its recommendation for the purchase price of TDRs, the Board shall consider a variety of criteria including, but not limited to, the value of TDR sales and transfer during the prior year. The price shall be presumptively equal to the fair market value for purchase of the development right.
    - iii. The Board shall annually announce any changes in the purchase price and the availability of applications.
    - iv. The Board shall accept all completed eligible applications on a continuously rolling basis as funding and TDR availability allows in the order received.
    - v. The Board shall offer to buy development rights from eligible applications, distribute offer letters, accept responses and conclude transactions.
  2. Subject to available appropriations, and at the rate per TDR set by the Board of County Commissioners in effect at the time of application, the Administering Agency may acquire TDRs from applicants meeting the following procedures and criteria:
    - i. The Board shall accept completed applications from all owner(s) of Transferable Development Rights for sale to the TDR Reserve Program.

- ii. TDRs shall be certified before applications to sell to the TDR Reserve Program will be accepted by the Board.
- iii. All owners of record of the TDRs must approve of and sign the application.
- iv. Applications for the sale of TDRs to the TDR Reserve Program shall include the number of TDRs offered for sale.
- v. Owners of TDRs to be sold to the TDR Reserve Program are responsible for all settlement costs, including, but not limited to, preparation of a certified title report and the conveyance of development rights documents.
- vi. Applications for the sale of TDRs to the TDR Reserve Program shall not be approved unless sufficient funds are available to complete the purchase.
- vii. The Board shall accept completed applications for the purchase of TDRs from the TDR Reserve Program from individuals, groups of individuals, partnerships, corporations, or other legal entities for use in eligible receiving areas.
- viii. The rate to purchase TDRs from the TDR Reserve Program shall include a 1% administration fee, plus the cost to the TDR Reserve Program to acquire the subject TDRs, which shall be the approved TDR purchase price set by the Board of County Commissioners in effect at the time of application.
- ix. Completed applications for the purchase of TDRs from the TDR Reserve Program shall include the number of TDRs to be purchased and the intended location of the receiving site.
- x. Applicants purchasing TDRs from the TDR Reserve Program are responsible for all settlement costs and preparation of the conveyance of development rights documents. A certified title report for the TDRs purchased from the TDR Reserve Program will not be required.
- xi. Recordation of the conveyance documents is the responsibility of the applicant to complete.

- 3. The investment of Reserve Fund monies shall be administered by the Board of County Commissioners.

A 1% administrative fee will be applied to the resale price for all TDRs purchased from the TDR Reserve.

**Section 16. Severability.**

If any section, subsection, sentence, clause, phrase, or portion of these Rules & Regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**Section 17. Effective Date.**

The above program Rules & Regulations are effective upon recordation and publication of a fair summary...