



# Agricultural Land Preservation Program Howard County, Maryland



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## 50-ACRE MINIMUM PARCEL DIVISION OF AGRICULTURAL LAND PRESERVATION EASEMENTS

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### **Purpose**

The purpose of this document is to clarify when parcels that are subject to agricultural land preservation easements purchased by Howard County may be divided. This policy was adopted by the Department of Planning and Zoning on November 6, 2003.

### **Regulatory and Policy Background of Parcel Divisions**

Section 15.514 of the Howard County Code, as amended in 1993, states:

- (d) Parcel Subdivision: If the right to subdivide has not been relinquished under the terms of the deed of easement, a landowner may subdivide a larger parcel into smaller parcels if all the following conditions are met:
- (1) The board has reviewed the proposed subdivision and has determined that it meets requirements of this paragraph;
  - (2) Before subdivision the parcel is at least 100 acres;
  - (3) After subdivision, each parcel is at least 50 acres;
  - (4) After subdivision, the number of dwellings on each parcel does not exceed the numbers permitted by this section; and the deed of easement on the parcel is amended to allocate among the subdivided parcels any unexercised rights to create residential lots pursuant to this paragraph to ensure that no additional residential lots or dwellings are permitted as a result of the parcel subdivision.

Prior to the 1993 amendments, the Code did not address parcel divisions; however the deeds of easement included the provision that the grantor “relinquishes...the right to develop or subdivide...for any industrial, commercial, or residential use or purpose...” The Department of Planning and Zoning interpreted this provision to mean that the grantor could subdivide for agricultural purposes only, if the division complied with County zoning and subdivision requirements and if the division created no new residential development rights or lots.

Section 104.E.1.b. (RC-Rural Conservation) and Section 105.E.1.b. (RR-Rural Residential) of the Zoning Regulations allow for large parcel subdivisions with a minimum parcel size of 50 acres. When such divisions occur no parcel created by such division can be less than 50 acres.

### **Policy for Howard County Easements**

The following policy shall apply to all Howard County agricultural land preservation easements, whether created prior to or after the 1993 Code cited above. Unless expressly prohibited, parcel division will be allowed on easements granted to the Howard County Agricultural Land Preservation Program if they comply with the following:

1. Parcel divisions may not negatively impact the agricultural nature and value of the property. Parcel divisions must respect natural or agricultural features. For example, new property lines should follow the edges of fields or pastures or other agricultural improvements, fence lines, woodland edges, streams or driveways. Divisions should not bisect established fields or pastures.
2. Division may not create additional new residential dwellings or building lots. Proposals for division must calculate the dwelling rights (principal dwellings, pre-existing dwellings and tenant houses) and lot rights

(owner's, children's and unrestricted) associated with the easement and must designate which rights are to be allocated to each parcel. The County policy of not creating unbuildable parcels must also be addressed when the division is proposed:

- a. If unrestricted lot rights are available, DPZ will request that a lot right be used to ensure that all vacant parcels have the right to build a principal dwelling. To achieve this, the owner will relinquish the right to create an unrestricted lot in exchange for the right to build a principal dwelling that may not be subdivided from the land. If applicable, grantors are encouraged to exchange owner's and children's lot rights for unrestricted lot rights. Alternatively, grantors may be asked to relinquish the right to subdivide pre-existing dwellings if such subdivisions could render parcels unbuildable.
  - b. If lot rights have already been exercised, DPZ will request the property owner to merge the released lots so that each parcel created will have a principal dwelling associated with it.
  - c. If future lots may be subdivided from a proposed 50-acre parcel, the size of that parcel must be increased to ensure that land is available for such future subdivisions.
  - d. Owners are encouraged to ensure that adequate acreage is available for potential future releases for public interest use; although such a release may not cause a violation of the requirement for minimum 50-acre lots, it could inhibit the owner's ability to build a tenant house.
3. Parcel divisions must be reviewed and approved by the Agricultural Land Preservation Board.
  4. Subdivision plans for the parcel division must comply with all required State and County regulations.
  5. An amended deed of easement must be prepared with a metes and bounds description of the new parcels and associated rights and restrictions. It must be recorded simultaneously with the subdivision record plat.

### **MALPF Easements**

For all properties in the State agricultural preservation program, the Maryland Agricultural Land Preservation Foundation (MALPF) must grant final approval for the parcel division prior to recordation. The applicant should obtain a copy of the MALPF application and their guidelines for parcel division. Proposed parcel divisions on MALPF easement properties must be reviewed by the Howard County Agricultural Preservation Advisory Board (APAB) prior to MALPF approval. The County staff report and APAB action will be based on County zoning requirements and the criteria listed above as well as MALPF criteria.

### **Dedicated Preservation Parcels**

This policy does not apply to dedicated agricultural preservation easements (preservation parcels) created through the density sending or cluster subdivision process. Division of those parcels must be established during the subdivision process that created those parcels. No further subdivision of dedicated preservation parcels is allowed.

### **For More Information**

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