Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2007 Legislative Session Legislative Day No. **15**

Bill No. 81 -2007

Introduced by: The Chairperson at the request of the County Executive

AN ACT substituting the term "tenant housing" with the term "farm tenant house" to be consistent with the Howard County Zoning Regulations; adding certain definitions; amending criteria for easements that may be donated to the County; clarifying certain rights related to dwellings permitted on land subject to an easement; amending the duties of the Agricultural Land Preservation Board; and generally relating to agricultural land preservation in Howard County.

Introduced and read first time _____, 2007. Ordered posted and hearing scheduled.

By order_____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2007.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2008 and Passed ___, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___day of _____, 2008 at ___ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved/Vetoed by the County Executive _____, 2008

_____
Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

Section 1. Be It Enacted *by the County Council of Howard County, Maryland, that Section 15.502 "Definitions" is amended; subsection (c) of Section 15.506 "Eligibility criteria" is amended; subsection (c) of Section 15.514 "Rights" is amended; and subsection (h) of Section 15.518 "Agricultural Land Preservation Board" is amended; all of Subtitle 5 "Agricultural Land Preservation" of Title 15 "Natural Resources" of the Howard County Code to read as follows:*

Title 15. Natural Resources.

Subtitle 5. Agricultural Land Preservation.

Section 15.502. Definitions.

(a) *Administrator*: "Administrator" means the county employee assigned to administer the provisions of this subtitle.

(b) *Agricultural Use*: "Agricultural use" means farming and includes:

(1) Dairying, pasturage, growing crops, bee keeping, horticulture, floriculture, orchards, plant nurseries, viticulture, silviculture, aquaculture, and animal and poultry husbandry;

(2) The breeding, raising, training and general care of livestock for uses other than food, such as sport or show purposes;

(3) Construction and maintenance of barns, silos and other similar structures, the use of farm machinery, the primary processing of agricultural products and the sale of agricultural products produced on the land where the sales are made; and

(4) Other uses directly related to or as an accessory use of the premises for farming and agricultural purposes.

(c) *Board*: "Board" means the Howard County Agricultural Land Preservation Board as described in section 15.518 of this subtitle.

(d) *Dedication; Dedicated*: "Dedication" or "dedicated" refers to the process by which a landowner places a preservation parcel under a restrictive easement of the Howard County Agricultural Land Preservation Program.

(e) *Department*: "Department" means the Department of Planning and Zoning.

(f) *Development Right*: "Development right" means the right to develop the parcel for purposes other than agricultural uses. "Development right" includes, but is not limited to, the right to use the property for industrial or commercial uses, for residential purposes (except as set forth in this subtitle), or the storage or depositing of trash, junk, rubbish or debris.

(g) *Director*: "Director" means the director of planning and zoning.

(h) *Easement*; *Agricultural Land Preservation Easement*: "Easement" means a recorded restriction on exercising the development rights on land.

(I) *FARM TENANT HOUSE*: "FARM TENANT HOUSE" MEANS A DWELLING THAT IS:

(1) LOCATED ON A PARCEL OF LAND USED FOR FARMING; AND

(2) OCCUPIED BY AT LEAST ONE PERSON WHO IS EMPLOYED BY THE OWNER OR OPERATOR OF THE FARM ON WHICH THE DWELLING IS LOCATED TO ENGAGE IN FARMING ON A FULL-TIME OR PART-TIME BASIS.

[[(i)]] (J) Grantor: "Grantor" means the landowner who conveyed an easement on a parcel to the county.

[[(j)]] (K) *Landowner*: "Landowner" means the legal owner or owners of a parcel.

[[(k)]] (L) *Preservation Parcel*: "Preservation parcel" means a parcel of land which is created:

(1) In a subdivision after clustering; or

(2) On a density exchange option sending parcel or on a cluster exchange option sending parcel pursuant to section 104.3 of the zoning regulations.

[[(l)]] (M) *Pricing Formula*: "Pricing formula" means a formula adopted by resolution of the county council to assign point values for various characteristics of a farm which make its preservation as agricultural land more or less valuable to the county.

[[(m)]] (N) *Public Interest Use*: "Public interest use" means a use which:

(1) Does not unduly interfere with the agricultural use of property subject to an easement; and

(2) Has been determined by the county council to be a public interest use.

[[(n) *Tenant Housing*: "Tenant housing" means housing for workers fully engaged in operation of the agricultural use and their families.]]

Section 15.506. Eligibility criteria.

(c) *Donated Acquisitions*:

(1) The criteria for the acceptance of donated development rights on any parcel are that the parcel:

(i) If farmed, have a complete soil conservation and water quality plan approved by the local soil conservation district and verification that the plan reflects current conditions and activities on the land.

(ii) The parcel shall be capable of being further developed to a greater residential density than presently exists or for nonagricultural uses. To meet this criteria, the parcel shall:

a. Be in a zoning district which permits development to a higher residential density than presently exists; and

b. Be capable of being subdivided or developed for nonagricultural uses by right.

(2) Notwithstanding paragraph (1) of this subsection, an easement on real property may be donated to the county if the real property was released from an agricultural land preservation easement:

(i) To create a lot under section 15.514 of this subtitle; [[or]]

(ii) For a public interest use under section 15.516 of this subtitle[[.]] ; OR

(III) TO CREATE A LOT FOR A DWELLING FOR THE ORIGINAL OWNER, OR HEIR OF THE ORIGINAL OWNER, WHO SOLD THE DEVELOPMENT RIGHTS ON AN EASEMENT CREATED PRIOR TO MAY 1, 1993.

Section 15.514. Rights.

(c) *Limited Number of Dwellings*: Only the following dwellings, which may not be subdivided from the land, may be constructed on land subject to an agricultural land preservation easement, after the board has determined that they are located so as to minimize disruption of existing or potential future agricultural activities:

(1) An existing dwelling which is no longer habitable may be replaced, provided that the existing dwelling is demolished;

(2) If permitted under the deed of easement[[;]] ON PARCELS CONTAINING 50 ACRES OR MORE, FARM tenant [[housing]] HOUSES may be constructed at a density of 1 [[tenant]] dwelling per 25 acres[[; this]] AND, FOR PURPOSES OF THIS SUBSECTION, density includes FARM tenant [[housing]] HOUSES EXISTING [[which existed]] when the county acquired the easement;

(3) A landowner's dwelling, if:

(i) There were no dwellings other than FARM tenant [[housing]] HOUSES on the parcel when the county acquired the easement; and

(ii) The parcel is 50 acres or larger; and

(iii) The parcel is not a subdivision or separate portion of the parcel on which the county acquired the easement, unless the landowner has relinquished the right to subdivide one of the 1-acre lots allowed pursuant to section 15.517.

Section 15.518. Agricultural Land Preservation Board.

(h) *Duties and Responsibilities*: The board shall:

(1) Make recommendations to the County Executive on the acquisition of easements as provided in this subtitle.

(2) Review proposals for the location of permitted lots [[and the construction of tenant housing]] on land subject to an agricultural land preservation easement.

(3) REVIEW PROPOSALS FOR THE CONSTRUCTION OF FARM TENANT HOUSES TO DETERMINE IF A PROPOSED FARM TENANT HOUSE IS OF AN APPROPRIATE SIZE AND IS NECESSARY BASED ON THE NATURE OF THE FARMING OPERATION ON AN AGRICULTURAL LAND PRESERVATION EASEMENT.

[[(3)]] (4) Review proposals for proposed subdivisions on land subject to an agricultural land preservation easement.

[[(4)]] (5) Make recommendations to the County Executive concerning its budget and appropriations requests.

[[(5)]] (6) Report annually on the status of the program to the County Executive and the County Council.

[[(6)]] (7) Recommend to the county executive and the county council the criteria and method for calculating the price for purchase of an agricultural land preservation easement.

[[(7)]] (8) Solicit donations of funds to be used in this program from all appropriate sources and to solicit donations of easement on land.

Section 2. And Be It Further Enacted *by the County Council of Howard County, Maryland, that this Act shall become effective 61 days after its enactment.*