



**APPENDIX F:**

**Sample Ordinance for Transferable Development Rights and Purchase of  
Development Rights  
Calvert County Zoning Ordinance, Calvert County, Maryland**

**4-2 AGRICULTURAL PRESERVATION & TRANSFER ZONE DISTRICTS  
(OVERLAY) (6/17/97)**

**4-2.01 Agricultural Preservation Districts**

Agricultural Preservation Districts (APDS) are part of the Agricultural Land Preservation Program. The purpose of this program shall be to:

- A. Offer an incentive for preservation of prime agricultural and forestry land;
- B. Provide reimbursement to the landowner who voluntarily agrees to place agricultural and forestry use covenants on his land;
- C. Utilize the free market system for financing agricultural and forestry preservation, thus avoiding direct cost to the taxpayers;
- D. Guide development away from prime agricultural and forestry lands on which viable farming and forestry endeavors are practical; and
- E. Act as a source of development rights for Transfer Zone Districts

Districts boundaries Agricultural Preservation Districts shall be established by the Agricultural Preservation Advisory Board following an application by a property owner.

The program shall be administered by the Agricultural Preservation Advisory Board which shall be responsible for the development of the guidelines for the approval of Agricultural Preservation Districts, as well as any changes to the guidelines.

Permitted uses are limited to agricultural and forestry and structures related to agriculture and forestry, as specified by the Agricultural Preservation Advisory Board.

**4-2.02 Agricultural Preservation Advisory Board**

- A. The Board of County Commissioners may appoint an Agricultural Preservation Advisory Board consisting of 5 members, at least 3 of whom shall be owner operators of commercial farms.
- B. The Board of County Commissioners may appoint 1 or more alternate members for the Agricultural Preservation Advisory Board who may be empowered to sit on the Board in the absence of any member of the Board. A quorum for meetings is 3 members of whom no more than 1 shall be an alternative.
- C. One member of the Board shall be a resident of each election district.
- D. The term of a member is 5 years.



## ***Alcovy River Watershed Protection Plan***

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- E. The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1985.
  - E. At the end of a term, a member continues to serve until a successor is appointed and qualifies.
- F. A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.
- G. A member may not serve for more than 2 consecutive full terms.
- H. The Board shall accept and approve or reject all applications, promulgate regulations, and develop procedures for the formation of Agricultural Preservation Districts and designated Agricultural Areas subject to the provisions of this subsection. The regulations shall include the following:
  - 1. The minimum acreage permitted to join an Agricultural Preservation District is 10 acres that are actively devoted to agricultural or forest use. However, the Board may admit parcels of less than 10 acres that are contiguous to an Agricultural Preservation District and are in a Designated Agricultural Area.
  - 2. Agricultural preservation District boundaries should follow as closely as possible, existing physical separations, such as streams, valleys, roads, etc.
  - 3. An Agricultural Preservation District shall remain effect for a minimum of 5 years. Subject to Section 4-2.07.B, an owner of a parcel of land enrolled in an agricultural Preservation District may withdraw the lad after 5 years in the program, by giving the Board a 1 year notice of the intent to withdraw.
- I. The Board may accept and use gifts and public or private grants for the exercise of its functions. The Board may expend the County share of development tax revenues and any other funds which may be provided by the County Commissioners, with the approval of the County Commissioners, for furtherance of the program to include:
  - 1. The purchase of development rights under provisions of the County Agricultural Land Preservation Program;
  - 2. Use as matching funds for County participation in the State Agricultural Land Preservation Program;
  - 3. Use of purchase of easements to protect specifically designed prime agricultural areas and Agricultural Preservation Districts; and
  - 4. Use for purchase of farmland strategically located with reference to established Agricultural Preservation Districts. The land purchased shall be places in the Agricultural Preservation District and the County Commissioners, with the advice of the Board, may sell the land and the development rights.
  - 5. The County Commissioners may appropriate money from the County general fund upon advice from the Agricultural Preservation Advisory Board, for implementation and furtherance of the County and State Agricultural Land Preservation Programs.



- K. The financial account of the Board shall be audited annually and all audit expenses shall be paid by the County Commissions. (Code 1981, Section 17-102; 1982, cs. 224, Section 1, 1985, cs. 715, Section 2.)

For state law as to Agricultural Preservation Advisory Boards, see Anno. Code of Md., 1957, AG. Section 2-504.1. As to approval of local programs of agricultural land preservation, see Anno. Code of Md., 1957, AG. Section 2-512.

#### **4-2.03 Local Ordinances; Eminent Domain: Special Assessment**

- A. Local ordinances inconsistent with normal efficient agricultural or forestry practices, may not be enacted within an Agricultural Preservation District.
- B. Within an Agricultural Preservation District, the right of eminent domain is limited to those rare instances where no other viable alternative exists.
- C. Within an Agricultural Preservation District, special assessments may not be permitted for the support of any public service including, but not limited to, water and sewer service.
- D. (Code 1981, Section 17-103; 1985, ex. 715, Section 2.)

#### **4-2.04 Designated Agricultural Areas**

- A. The Agricultural preservation Advisory Board shall designate certain portions of the County as having the greatest potential for maintaining a viable level of agricultural or forest production. The criteria the Board uses shall include, but not be limited to:
1. Present land use
  2. Percent of cropland
  3. Suitability of the soil
  4. Amount of contiguous farm land
- B. The area specified in this section shall be called the “Designated Agricultural Area”. Wooded parcels may be included in the Designated Agricultural Area.
- C. Any person who owns land within a Designated Agricultural Area is not required to join an Agricultural Preservation District. The program is entirely voluntary.

#### **4-2.05 Transfer Zones (TZ's)<sup>1</sup>**

- A. The Board of County Commissioners shall designate certain portions of the County, not in a Designated Agricultural Area, where TZs are permitted. The Board of

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<sup>1</sup> NOTE: This Section replaces Section 4-3 TRANSFER ZONE DISTRICTS (OVERLAY) of the Calvert County Zoning Ordinance.

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County Commissioners shall consider the recommendations from the Planning Commission of Calvert County.

- B. The purpose of a TZ is to serve as a receiving area for lots that are being transferred from prime farm and forest land under the Calvert County Agricultural Preservation Program (see Section 4-2.01) to less productive land within the RUR Rural Zoning District (and in some cases, within other districts).
- 4/20/99 C. TZs include Town Centers (subject to Town Center Zoning District (and in some cases, within other districts).

*Drafters notes: The program does not affect the overall permitted density within the County since it merely relocates development away from the most productive land. Thus TZs help preserve prime farmland and forestland. This is in concert with the Comprehensive Plan which recommends that residential development be concentrated in and near Towns. Therefore, by locating Transfer Zone Districts on less viable farmland, the demand for housing can be satisfied without usurping important productive resources.*

- D. The following criteria must be met if an area is to be acceptable as a Transferable Zone in a Rural Community District.
1. TZs shall not be located in a Designated Agricultural Area or Designated Farm Community.
  2. TZs shall not be located in a Resource Preservation district or the Limited Developed portions of the Critical Area or in areas designated as Critical Natural Areas of the Conservation Districts.
  3. Development within a TZ shall comply with applicable County requirements, including the following ordinances and regulations:
    - a) Subdivision Regulations
    - b) Stormwater Management Ordinance
    - c) Sediment Control Ordinance
    - d) Road Ordinance
  4. TZs are not permitted within a major subdivision unless all owners in the subdivision sign the application. Those subdivisions which are only considered major subdivisions because of the creation of a right-of-way are exempt from this regulation.
  5. The property shall be developed as per Section 5-1.03 Layout and Design of Residential Communities, except that a minimum of 50% of the property shall be designated open space.
- E. Five development rights shall be used by the developer for each lot or dwelling unit which is created in excess of the number permitted, using minimum lot sizes described in Section 5-1.
1. If recording occurs in sections, then the developer shall be required to apply a proportionate number of the total development rights



required for the entire subdivision to that section. When a parcel is developed in sections, a note shall be placed on the initial subdivision plat and all subsequent plats reserving for the remainder of the parcel the density available at the time the initial

subdivision plat was approved. The density shall be expressed as dwelling units per acre. If, for whatever reason, a developer uses more development rights than necessary to complete the development of a parcel, the number of such excessive development rights shall be determined by the Department of Planning and Zoning and recertified as development rights pursuant to the procedure set forth in this Section and elsewhere. Upon such recertification, the development rights shall enjoy the same status as conventionally created development rights.

2. Except for Town Centers where the Town Center Ordinances shall control, the density permitted in the TZ shall average not more than one dwelling per 2 acres gross, for any portion of a TZ more than one mile from:

- a. The perimeter of major Town Centers (the Twin Beaches, Prince Frederick and Solomons), and

- b. The center of minor Town Centers as identified as follows:

Huntingtown – Intersection of Rte. 521 and Rte. 524.

Owings – Intersection of Rte, 260 and Thomas Road

Dunkirk – A point on Ward Road, 50 feet east of the intersection with Route 4.

St. Leonard – Intersection of Calvert Beach Road and Rte. 765.

Lusby - Intersection of Rousby Hall Road and Rte.765.

Any portion of a TZ that is within one mile of the areas specified in A and B above may have one-half acre-lot sizes with a maximum density of one dwelling unit per acre gross area.

3. The owner of the development right is permitted to increase the density of residential use of the property he owns within the TZ in accordance with County subdivision and zoning regulations.

#### **4-2.06 Development Rights**

- A. One development right per acre of land is allocated within an Agricultural Preservation District.
- B. Five development rights shall be subtracted for each residence located on a parcel in an Agricultural Preservation District.
- C. The Board of Commissioners shall grant 5 development rights for each 1 acre lot authorized in the RUR Rural District under the provisions of the County Zoning ordinance and not previously used.

#### **4-2.07 Conveyance of Development Rights**

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- A. The conveyance of a development right does not affect the ownership of that property. Once the development right of a property has been conveyed, that property shall be used for agricultural, forestry, or other closely related uses permitted by the Board.
  
- B. The conveyance of a development right restricts the use of that land by all future purchasers, owners, heirs, and assigns to the same extent as the use was restricted by the original conveyer of the development.
  
- C. An owner of property located within an Agricultural Preservation District is not required to convey development rights. However, once an owner of a parcel located within an Agricultural Preservation District conveys any development rights on a designated parcel, the owner may not remove that designated parcel from the Agricultural Preservation District. This restriction applies only to the designated parcel from which the development right was conveyed and not to other parcels of land owned by the conveyor.

### TRANSFER ZONE DISTRICTS (OVERLAY)<sup>2</sup>

#### 4-4 CONSERVATION DISTRICTS (OVERLAY) 12/13/88

##### **4-4.01 Purpose**

This district is created to protect environmental features which may be adversely affected by normal development of permitted and special exception uses in the underlying district. Areas to be protected include cliffs and sensitive headwaters of creeks; at the minimum, the first 100 feet landward from the Mean High Water line of tidal waters, tributary streams, and tidal wetlands; non-tidal wetlands, threatened and endangered species and species in need of conservation, plant and wildlife habitat and anadromous fish propagation waters.

##### **4-4.02 District Boundaries**

Boundaries are to be delineated by the Department of Planning & Zoning and the Planning Commission during the subdivision, site plan, and building permit processes. In addition, the boundaries of Critical Natural Heritage Areas and Habitat Protection Areas must be delineated by the State, and adopted by the Board of County Commissioners.

##### **4-4.03 Permitted Uses**

Uses permitted in the underlying district are permitted as long as they meet the conditions in Section 4-4.05 through 4-4.09.

##### **4-4.04 Special Exception Uses**

Uses permitted in the underlying district are permitted as long as they meet the conditions in Section 4-4.05 through 4-4.09.

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<sup>2</sup> NOTE: This Section has been replaced by Section 4-2 Agricultural Preservation & Transfer Zone Districts (Overlay)

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**4-4.05 Administration**

(1/4/93)

- A. Resource Preservation Districts –  
Properties identified as County Resource Preservation Districts are those which have unique or significant environment features whose preservation is of concern to the general public.  
These properties are subject to the following development criteria.
1. For all new subdivisions, development shall be clustered onto no more than 20% of the site. If a property is partially within a Resource Preservation District, clustering of allowable lot density to portions of the property not so designated is encouraged.
  2. All requirements for clustered subdivisions as directed in Section 5-1/03 apply to subdivision of properties in this district.
  3. Transfer Zones are not allowed in the Resource preservation District.
  4. Transfer of development rights to properties outside the Resource Preservation District is permitted. Property owners within this district may transfer the number of development rights to which they are entitled under Rural zoning to zoning districts which are eligible for Transfer Zone development under the County's Agricultural preservation Program, provided that these properties meet the criteria outlined for inclusion in the Agricultural preservation Program.
  5. All development activities shall be designated and implemented to protect significant environmental features and important wildlife habitats. These features and habitats to be protected include, but we are not limited to, steep slopes, streams, wetlands, flood plains, threatened and endangered species and species in need of conservation, anadromous fish propagation water, waterfowl staging areas, and large tracts of mature forests which serve as wildlife habitat and corridors, where complete protection of these areas is not possible, every effort must be made to minimize impacts through appropriate design and construction techniques, with recommendation where appropriate by the County Dept. of Public Works, Soil Conservation Service, Maryland Department of natural Resources, and as approved by the Department of Planning and Zoning.