

THE EFFECTIVE DATE OF THIS ORDINANCE IS DECEMBER 1, 2014

ORDINANCE NO. 14-30-685

**RE: Zoning Text Amendment ZT-14-02
Agricultural Rights Transfer Option**

The Board of County Commissioners for Frederick County, Maryland deems it necessary and in the best interests of the citizens of Frederick County to amend Chapter 1-19 of the Frederick County Code (the Zoning Ordinance) to add an Agricultural Transfer Rights Option (ARTO).

The ARTO is intended to: encourage the conservation of farmland by permitting the transfer of existing development rights from one agriculturally zoned parcel to another; to limit the parcels which will be eligible to receive the transfer of such rights to land zoned Agricultural and located in more densely developed areas of the County; and to provide an additional privately funded farmland preservation program.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that Section 1-19-7.300 of the Frederick County Code is hereby amended by adding a new subsection (D) as shown below:

(D) *AGRICULTURAL RIGHTS TRANSFER OPTION (ARTO)*

(1) *PURPOSE AND INTENT.*

(A) TO FURTHER ENCOURAGE THE CONSERVATION OF FARMLAND, PARTICULARLY IN AREAS OF THE COUNTY KNOWN FOR PRIME AGRICULTURAL SOILS, BY PERMITTING THE TRANSFER OF EXISTING DEVELOPMENT RIGHTS FROM ONE AGRICULTURALLY ZONED PARCEL TO

ANOTHER, AND FURTHER BY LIMITING THE PARCELS WHICH WILL BE ELIGIBLE TO RECEIVE THE TRANSFER OF SUCH RIGHTS TO LAND ZONED AGRICULTURAL AND LOCATED IN MORE DENSELY DEVELOPED AREAS OF THE COUNTY; AND TO PROVIDE AN ADDITIONAL PRIVATELY FUNDED FARMLAND PRESERVATION PROGRAM.

(2) *SENDING PARCELS.* PROPERTIES WITHIN THE AGRICULTURAL ZONE WHICH MEET THE FOLLOWING CRITERIA ARE ELIGIBLE TO BE SENDING PARCELS:

(a) THE PARCEL HAS MORE THAN ONE (1) AGRICULTURAL SUBDIVISION RIGHT.

(b) THE PARCEL MUST BE LOCATED WITHIN THE TIER IV AREA AS DEFINED IN THE SUSTAINABLE GROWTH & AGRICULTURAL PRESERVATION ACT OF 2012, AND AS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS (THE "TIER IV AREA").

(c) THE MINIMUM PRESERVATION PARCEL EASEMENT AREA FOR ALL SENDING PARCELS SHALL BE 50 ACRES.

(d) A PROPERTY CONSISTING OF ONE OR MORE CONTIGUOUS PARCELS OR LOTS MAY BE ELIGIBLE TO BE A SENDING PARCEL IF THE PARCELS, WHEN COMBINED, MEET THE SIZE CRITERIA SPECIFIED IN PARAGRAPH (2)(C) OF THIS SUBSECTION. ALL PARCELS THAT DO NOT MEET THE SIZE CRITERIA SPECIFIED IN PARAGRAPH (2)(C) OF THIS SUBSECTION MUST BE COMBINED AT THE TIME THAT THE PRESERVATION EASEMENT AGREEMENT FOR THE SENDING PARCEL IS RECORDED.

(3) *RECEIVING PARCELS.*

(a) ANY PROPERTY WITHIN THE AGRICULTURAL ZONE IN THE TIER IV AREA IS ELIGIBLE TO BE A RECEIVING PARCEL, EXCEPT PROPERTY THAT IS LOCATED IN A PRIORITY PRESERVATION AREA (PPA) OR IN A DESIGNATED RURAL LEGACY AREA.

(b) IF A PORTION OF A RECEIVING PARCEL IS ENCUMBERED WITH A RECORDED EASEMENT THAT REDUCES OR REMOVES ITS DEVELOPMENT RIGHTS, THE ENCUMBERED AREA SHALL BE SUBTRACTED FROM THE ACREAGE OF THE PARCEL TO DETERMINE THE POTENTIAL RECEIVING AREA AND DENSITY.

(4) *USES PERMITTED AS A MATTER OF RIGHT.* USES PERMITTED AS A MATTER OF RIGHT IN THE AGRICULTURAL ZONING DISTRICT SHALL BE PERMITTED ON THE PROPERTIES UTILIZING ARTO.

(5) *ACCESSORY USES.* ACCESSORY USES SHALL BE AS PERMITTED IN THE AGRICULTURAL DISTRICT.

(6) *BULK REQUIREMENTS.*

(a) ONE DEVELOPMENT RIGHT MUST BE RETAINED FOR THE SENDING PARCEL. OTHERWISE, ALL DEVELOPMENT RIGHTS ASSOCIATED WITH THE SENDING PARCEL MAY BE TRANSFERRED, SUBJECT TO SECTION 1-19.7.300. (D) (6) (d) BELOW. IN THE EVENT DEVELOPMENT RIGHTS ARE TRANSFERRED FROM MULTIPLE CONTIGUOUS SENDING PARCELS, THE SENDING PARCELS MAY BE CONSOLIDATED INTO ONE OR MORE PARCELS, PROVIDED THAT AT LEAST ONE DEVELOPMENT RIGHT IS RETAINED ON EACH RESULTANT SENDING PARCEL.

(b) THE MAXIMUM DENSITY FOR THE RECEIVING PARCEL SHALL BE ONE DWELLING UNIT FOR EVERY TWO GROSS ACRES.

(c) THE DENSITY OF THE RECEIVING PARCEL SHALL BE BASED ON SECTION 1-19-7.300(B) OR (C). IF ADDITIONAL DENSITY IS TRANSFERRED FROM THE SENDING PARCEL TO THE RECEIVING PARCEL BASED UPON THE UTILIZATION OF THE CLUSTERING PROVISIONS SET FORTH IN SECTION 1-19-7.300(C), THEN ALL PROCEDURAL REQUIREMENTS OF SECTION 1-19-7.300(C) SHALL APPLY TO THE DEVELOPMENT ON THE RECEIVING PARCEL.

(d) IF THE SENDING AND RECEIVING PARCELS ARE BOTH "USED FOR AGRICULTURAL ACTIVITIES" AS DEFINED IN MD. ANN. CODE, ENVIRONMENT ARTICLE, § 9-206(M), A SENDING PARCEL MAY ONLY TRANSFER UP TO SEVEN (7) DEVELOPMENT RIGHTS TO THE RECEIVING PARCEL OR PARCELS, AND THE RECEIVING PARCEL MAY ONLY BE SUBDIVIDED TO YIELD A TOTAL OF UP TO FIFTEEN (15) LOTS.

(7) AN APPLICANT WISHING TO UTILIZE THE ARTO SHALL SUBMIT AN APPLICATION SEEKING APPROVAL OF THE TRANSFER ON A FORM PROVIDED BY THE COUNTY.

(a) IF NO AGRICULTURAL CLUSTERING DEVELOPMENT IS PART OF THE ARTO APPLICATION, THEN DPDR SHALL PROCESS AND

APPROVE THE ARTO APPLICATION AS PART OF THE APPROPRIATE STAFF LEVEL REVIEW OF THE SUBDIVISION PLAT.

(b) IF AGRICULTURAL CLUSTERING DEVELOPMENT IS PART OF THE ARTO APPLICATION, THEN THE SAME PROCEDURE SET FORTH IN SECTION 1-19-7.300(C) SHALL APPLY.

(c) IF THE SENDING AND RECEIVING PARCELS ARE BOTH "USED FOR AGRICULTURAL ACTIVITIES" AS DEFINED IN MD. ANN. CODE, ENVIRONMENT ARTICLE, § 9-206(M), THEN CLUSTERING DEVELOPMENT OF THE LOTS, AS SET FORTH IN SECTION 1-19-7.300(C), MUST BE USED FOR THE RECEIVING PARCEL.

(8) A DEED OF EASEMENT, IN A FORM PROVIDED BY THE COUNTY, SHALL BE REQUIRED TO BE RECORDED FOR THE SENDING PARCEL.


(9) THE EXCHANGE OF DEVELOPMENT RIGHTS SHALL TAKE PLACE AS A PRIVATE EXCHANGE BETWEEN PROPERTY OWNERS, SUBJECT TO APPROVAL OF THE SENDING AND RECEIVING PARCELS BY THE COUNTY IN ACCORDANCE WITH THE PROCEDURES SET FORTH HEREIN.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on December 1, 2014.

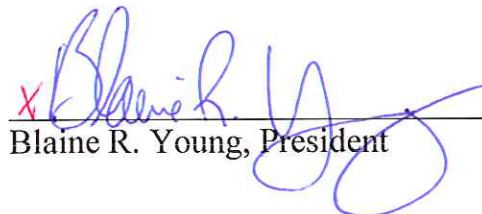
The undersigned hereby certifies that this Ordinance was approved and adopted on the 18th day of November, 2014.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND



Lori L. Depies, CPA
County Manager, Acting
Michael G. Marschner



Blaine R. Young, President

KCM
11/21/14