

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2007 Legislative Session

Bill No. CB-24-2007

Chapter No. 11

Proposed and Presented by Council Members Dernoga and Bland

Introduced by Council Members Dernoga, Bland, Turner and Dean

Co-Sponsors _____

Date of Introduction July 2, 2007

BILL

1 AN ACT concerning

2 The Prince George's County Historic Agricultural Resource Preservation Program
3 For the purpose of establishing the Prince George's County Historic Agricultural Resource
4 Preservation program

5 BY adding:

6 SUBTITLE 29. PRESERVATION OF HISTORIC
7 RESOURCES.

8 Sections 29-126, 29-127, 29-128, 29-129, 29-130,
9 29-131, 29-132, 29-133, 29-134, 29-135, 29-136

10 The Prince George's County Code
11 (2003 Edition, 2006 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's
13 County, Maryland, that Sections 29-126, 29-127 29-128, 29-129, 29-130,
14 29-131, 29-132, 29-133, 29-134, 29-135, 29-136 of the Prince George's County
15 Code be and the same are hereby added:

16 SUBTITLE 29. PRESERVATION OF HISTORIC
17 RESOURCES

18 **DIVISION 9. HISTORIC AGRICULTURAL RESOURCE PRESERVATION**
19 **PROGRAM.**

20 **Sec. 29-126. Short Title.**

21 This section shall be known and may be cited as the "Historic Agricultural Resource

1 Preservation Program (“HARPP”).”

2 **Sec. 29-127. Purchase of Historic Agricultural Resource Preservation Easements.**

3 (a) Introduction. The purpose of this program is to implement the recommendations of
 4 Commission 2000, as adopted by CB-80-2000, and to provide regulatory incentives to preserve
 5 historic agricultural, rural and natural resources in the Rural Tier. The County Council
 6 recognizes the public value in protecting certain historic viewsheds, vistas, rural culture and
 7 character as well as longstanding agricultural enterprises in the Rural Tier in perpetuity through
 8 the acquisition of easements.

9 (b) Purpose. The regulations in this Part are established for the following purposes:

- 10 1. Implement the policies of the Prince George’s County General Plan and the Green
 11 Infrastructure Plan relating to the Rural Tier;
- 12 2. Preserve, protect and enhance properties that provide historic agricultural character,
 13 culture and practices;
- 14 3. Encourage others to preserve, protect and enhance properties that provide historic
 15 agricultural character, culture and practices;
- 16 4. Promote interest in and the study of historic properties and properties that provide
 17 historic agricultural character, culture and practices;
- 18 5. Maintain historic rural character and way of life through the limitation of non-
 19 agricultural uses and the preservation of scenic viewsheds, vistas and related natural resources.

20 (c) Nature of the Program. The Program is declared to be of general benefit to the citizens
 21 of this County and charitable in nature.

22 **Section 29-128. Applicability**

23 The HARPP program shall be available to all land zoned O-S, R-A, R-E or R-R in the
 24 Rural Tier. Any conservation easement acquired under the HARPP program shall be voluntarily
 25 offered by the landowner.

26 **Section 29-129. Definitions.**

27 (a) The following definitions shall apply to the interpretation and implementation of the
 28 HARPP program:

- 29 (1) Historic Property: A parcel, site, building, structure, or object located in the Rural
 30 Tier with historic agricultural, rural and natural qualities that is significant in the history, upland
 31 archaeology, architecture, engineering, and culture of the County (including remains related to a

1 parcel, site, building, structure, or object) or that provides significant viewsheds, vistas, character
 2 or otherwise contains unique agricultural qualities of significance to the community within the
 3 Rural Tier.

4 (2) Historic Agriculture Resource Preservation Program Easement. (“HARPP
 5 Easement”) The term “HARPP Easement” shall be defined as a non-possessory interest
 6 encumbering a qualifying property, whether the easement is appurtenant or in gross, and
 7 conveyed by a landowner in connection with the HARPP program for the purpose of restricting
 8 the development potential on the property in perpetuity.

9 (3) Parcel. The term “parcel” shall mean a lot or acreage parcel, lawfully recorded
 10 among the Land Records of Prince George’s County.

11 (4) Preservation. The identification, evaluation, recordation, documentation,
 12 acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, and
 13 reconstruction of an historic property as defined in this section.

14 (5) Program Administrator. The term “Program Administrator” shall mean the
 15 person designated by the Planning Board to administer the Program.

16 (b) Construction. A HARPP easement may encumber one or more lots, parcels or a
 17 portion thereof. For the purposes of the HARPP program the term “parcel” shall by its terms
 18 include all of the property described in the legal description attached to the historic conservation
 19 HARPP easement and recorded among the Land Records of Prince George’s County.

20 **Sec. 29-130. Administration.**

21 (a) The Program Administrator shall administer the daily activities of the County’s
 22 HARPP program and serve as the central clearing house for all HARPP related activities and
 23 shall have the following powers and duties:

24 (1) Propose program regulations and procedures for the proper administration and
 25 implementation of the HARPP program subject to Planning Board approval.

26 (2) Promote the HARPP program by providing educational materials to the public
 27 and conducting informational meetings.

28 (3) Investigate and pursue additional public and private resources to fund the HARPP
 29 Program and maximize private participation.

30 (4) Evaluate all applications to determine their eligibility and ranking score, rank
 31 applications and include the ranking in the recommendations to the Planning Board.

1 (5) Prepare a report on the development potential for each parcel subject to an
 2 application, based on the development certification provided by the Department of Planning and
 3 include the report in the recommendations to the Planning Board.

4 (7) Provide the staff support, report and recommendation to the Planning Board for
 5 each application.

6 (8) Monitor HARPP easements purchased to assure compliance with the terms and
 7 conditions of each easement.

8 (b) The Planning Board shall have the following powers and duties;

9 (1) The Planning Board shall review the report and recommendation for each
 10 application provided by the Program Administrator and the Planning Board shall determine
 11 which easements should be purchased.

12 (2) Periodically review the program regulations and procedures and make
 13 recommendations to the Program Administrator and the County Council of any changes needed
 14 to maintain the program's consistency with the Prince George's County General Plan and the
 15 Green Infrastructure Plan relating to the Rural Tier.

16 **Sec. 29-131. Eligibility Criteria.**

17 (a) A parcel must meet the following criteria to be eligible to participate in the program:
 18 the parcel must be zoned O-S, R-A, R-E or R-R and located in the Rural Tier; privately owned;
 19 the parcel shall be capable of being further developed; include a minimum of 35 acres with no
 20 more than one single family dwelling; include a minimum of 20 acres with no more than one
 21 single family dwelling and be contiguous to property held as a public park or preserve or
 22 property otherwise permanently protected from development by easement or otherwise.

23 (b) A parcel shall not be eligible to participate in the program if the development rights
 24 have been extinguished by the donation or sale of an easement to any other party, or if the
 25 property is encumbered by a tree conservation easement or any other easement which would
 26 prevent the property from being developed.

27 **Sec. 29-132. Ranking Criteria.**

28 In order to effectuate the purposes of the HARPP program, parcels for which conservation
 29 applications have been received shall be ranked according to criteria and the point values
 30 established in the regulations. The criteria shall include the size of the parcel; natural, cultural
 31 and scenic resources including, but not limited to viewsheds, vistas, cultural significance;

1 development pressures; proximity to other preserved land and deferral from prior funding cycle
 2 as a result of insufficient funding. The Planning Board may consider the rankings provided by
 3 the Prince George's Soil Conservation District pursuant to CB-47-2006.

4 **Sec. 29-133. HARPP Easement terms and conditions.**

5 (a) Each HARPP Easement shall be in a form recommended by the Program Administrator
 6 and approved by the Planning Board, and shall contain, at a minimum, the following provisions:

7 (1) Restriction on division. The parcel shall be restricted from any further division
 8 except as may provided in the program regulations.

9 (2) No buy-back option. The owner shall not have the right to re-acquire the
 10 development potential extinguished by the HARPP Easement.

11 (3) Agricultural uses. Agricultural uses and commercial uses related to agriculture
 12 shall be permitted on a parcel subject to a HARPP Easement.

13 (4) Prohibited uses. Industrial or non-agricultural commercial uses shall not be
 14 permitted on a parcel encumbered by a HARPP Easement.

15 (5) Designation of HARPP Easement Holders. The Planning Board shall hold the
 16 easement or may designate the easement holder of each HARPP Easement subject to applicable
 17 State law.

18 (b) The HARPP Easements shall be recorded in the Land Records of the County.

19 (c) HARPP Easements may be transferred and, or assigned to another governmental body,
 20 land trust or non-profit with a demonstrated ability to monitor easements of this kind subject to
 21 applicable State law.

22 **Sec. 29-134. Offer to Purchase.**

23 (a) The Planning Board shall make offers to purchase HARPP Easements based on the
 24 ranking and recommendations of the Program Administrator.

25 (b) If funding is insufficient during a program year to purchase easements from all of the
 26 HARP Program applicants, the Program Administrator may recommend that some or all of the
 27 remaining applications be considered for acquisition in the next program year.

28 **Sec. 29-135. Enforcement/Penalties.**

29 (a) Inspection. The Program Administrator or his designee shall have the right, upon prior
 30 written notice to the landowner, to enter upon the land subject to a HARPP Easement annually to
 31 inspect for compliance with the terms and conditions of the HARPP Easement.

1 (b) Damages. The Program Administrator on behalf of the Planning Board shall be
2 responsible for enforcing the HARPP Easement if the landowner engages in practices or
3 activities on the parcel, which are inconsistent with the spirit and intent of the HARPP Easement.

4 (c) Injunction. In addition to other remedies available, the Program Administrator on
5 behalf of the Planning Board may seek an injunction to halt the practices or activities which
6 violate the terms and conditions of the easement.

7 **Sec. 29-136. Rights of landowner.**

8 (a) General. The landowner retains all of the rights of a fee simple owner, except for the
9 development rights, which shall be extinguished by the HARPP Easement pursuant to this
10 Subtitle. The HARPP Easement shall not grant the public any rights of access or rights to use
11 the land whatsoever.

12 (b) Limited Number of Dwellings. This section applies to parcels of 50 acres or more. A
13 landowner shall be entitled to create one additional dwelling in connection with an inter-family
14 transfer per 25 acres pursuant to requirements of the program regulations.

15 * * * * * * * *

16 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby
17 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,
18 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of
19 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining
20 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this
21 Act, since the same would have been enacted without the incorporation in this Act of any such
22 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

23 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect on forty-five (45)
24 calendar days after it becomes law.

Adopted this 24th day of July, 2007.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Camille A. Exum
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.

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