



FREDERICK COUNTY GOVERNMENT

OFFICE OF THE COUNTY EXECUTIVE

Jan H. Gardner
County Executive

Rick Harcum, Chief Administrative Officer

TO: Frederick County Council

FROM: County Executive Jan H. Gardner

DATE: January 30, 2020

SUBJECT: Proposed Bill – Providing Additional Support for Agricultural Preservation by Increasing the Recordation Tax Rate and Reallocating Recordation Tax Revenues

ISSUE:

Should the County Council advance a significant investment to accelerate our agriculture preservation efforts to achieve our goal of preserving 100,000 acres of land by 2040 through legislation to increase the recordation tax rate and amend the allocation and use of recordation tax revenues?

BACKGROUND:

Frederick County residents value our rich history and our agricultural heritage. Frederick County is a leader in agricultural preservation in the country and has a long-standing goal to permanently preserve 100,000 acres of agricultural land to ensure a legacy of agriculture for future generations.

The agriculture industry is important to the economy of Frederick County. Preserving large blocks of agricultural land is key to ensuring the long-term viability of agriculture. In recent years, our farmers have experienced difficult challenges with low global commodity prices and bad weather. Many of our farmers are looking to diversify their operations and are pursuing new ideas to stay or achieve profitability.

Investment in agricultural preservation is an investment in the future of Frederick County. The Livable Frederick Master Plan includes an agricultural goal to support and protect Frederick County's agricultural community. All of the County's agriculture preservation programs are voluntary. Currently, applications for preservation far exceed the available dollars. By example, the County recently received 46 applications under the Maryland Agricultural Land Preservation Foundation (MALPF) program. Current funding is only sufficient to proceed with five or six of those preservation applications.

The time is now to take action to accelerate the acquisition of agriculture easements while there are willing property owners and before prime agricultural land is lost to development or speculators for future development.

In the early 2000's, the Board of County Commissioners increased the recordation tax and dedicated a portion to agriculture preservation. The Board of County Commissioners initiated a new county program called the Installment Purchase Program to secure permanent easements on agricultural land with the option of payments over time. This program has been very successful and over the past 15 years has permanently preserved 20,000 acres of farmland. The investment and the program have been very successful. The money delivered what was promised.

Frederick County: Rich History, Bright Future

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www.FrederickCountyMD.gov

The recordation tax is a one-time charge paid on certain real estate transactions. The Frederick County Treasury Department collects recordation tax on a wide range of documents such as deeds, deeds of trust, refinances and certain leases. While the County's current recordation tax rate is among the highest in the state, most counties also collect a transfer tax which is assessed on similar real estate instruments. Frederick County does not collect a transfer tax. The proposed recordation increase brings Frederick's total revenue in line with other counties that have both a recordation and transfer tax, including our peer counties of Harford, Howard, and Charles.

It has been estimated that the \$1.00 proposed increase in the recordation tax (per \$500) will annually generate approximately \$6.8 million of new revenue. This revenue will be dedicated to agriculture preservation and could support any of the existing agriculture preservation program. It could also potentially allow for the creation of new programs. Because the statewide MALPF program is popular and often secures easements on the best farmland, this change in the recordation rate may allow for the creation of a Frederick County version of the MALPF program.

Additionally, it is proposed that the first \$500,000 of revenue resulting from the \$1.00 change to the existing recordation rate be set aside annually for three related purposes: 1) agriculture diversification economic development grants; 2) rural historic preservation grants; and, 3) first-time homebuyer assistance. Amounts allotted to each purpose will be established annually in the budget.

The creation of a grant fund to assist farmers with diversifying their operations will be developed by our Agriculture Economic Development staff with the input of the local farm community. These dollars could be used to leverage grant programs available through the state MARBIDCo program. While preserving land is important to the long-term viability of agriculture, this additional grant program will assist farms with keeping their farm operations profitable.

The rural historic preservation grants will expand county historic preservation efforts outside of urban settings to allow for investment in historic and cultural assets in rural areas. This program will be developed with input from our Historic Preservation Commission.

Because this proposal adds to closing costs, some funding will be provided to first-time homebuyers to offset this cost. The county already has a first-time homebuyer program through our Department of Housing and Community Development.

It is important to seize the opportunity to acquire agriculture easements now before this land is lost to development. Securing preservation easements for agriculture will ensure a bright future for Frederick County and will protect our treasured agricultural heritage.

Increasing the current recordation tax rate by \$1.00 from \$6.00 to \$7.00 per \$500 of consideration will support a meaningful increased investment in agricultural preservation to accelerate progress toward permanently preserving 100,000 acres of farmland by 2040.

A one-page summary of the agriculture preservation initiative is attached ([Attachment 1](#)) along with a comparison of total revenue (recordation and transfer tax) with peer counties.

RECOMMENDATION:

The County Executive recommends changing the existing recordation tax rate by \$1.00 from \$6.00 to \$7.00 per \$500 of consideration, and dedicating the resulting revenue increase toward the purpose of agricultural preservation. The proposed bill is attached (Attachment 2) for your information.

The current and proposed allocation percentages are displayed in the table below. These percentage changes hold harmless the investment in other areas such as parks, school construction, and housing. The percentages do change because of the influx of additional total revenue.

| <u>Recordation Rate and Uses:</u> | <u>Current</u> | <u>Proposed</u> | <u>Change</u> |
|-----------------------------------|----------------|-----------------|---------------|
| Total | \$6.00 | \$7.00 | \$1.00 |
| Agricultural Preservation | \$0.75 | \$1.75 | \$1.00 |
| Park Acquisition & Development | \$0.75 | \$0.75 | \$0.00 |
| School Construction | \$1.00 | \$1.00 | \$0.00 |
| Housing Initiatives Fund* | <u>\$0.09</u> | <u>\$0.09</u> | <u>\$0.00</u> |
| Restricted Use | \$2.59 | \$3.59 | \$1.00 |
| Unrestricted Use | \$3.41 | \$3.41 | \$0.00 |

| <u>Legislative Allocations:</u> | <u>Current</u> | <u>Proposed</u> |
|---------------------------------|-----------------|-----------------|
| Agricultural Preservation | 12.500% | 25.000% |
| Park Acquisition & Development | 12.500% | 10.710% |
| School Construction | 16.667% | 14.290% |
| Housing Initiatives Fund* | <u>1.500%</u> | <u>1.290%</u> |
| Restricted Use | 43.167% | 51.290% |
| Unrestricted Use | 56.833% | 48.710% |
| Total | <u>100.000%</u> | <u>100.000%</u> |

*Because there was a phased increase in the Housing Initiatives Fund, the percentage allocation for this purpose will change consistent with the prior adopted legislation.

ATTACHMENT(S):

Attachment 1 – Comparison of Revenue Formulas in Peer Counties

Attachment 2 – Proposed Bill – Providing Additional Support for Agricultural Preservation by Increasing the Recordation Tax Rate and Reallocating Recordation Tax Revenues

Comparison of Revenue Formulas
In Peer Counties*
Recordation/Transfer Tax

Harford County Rates

| | |
|--------------------------|----------------------|
| Rec Tax \$3.30 per \$500 | \$ 22,616,712 |
| Transfer Tax 1% | <u>\$ 27,308,348</u> |
| Total | \$ 49,925,059 |

Howard County Rates

| | |
|--------------------------|----------------------|
| Rec Tax \$2.50 per \$500 | \$ 17,133,873 |
| Transfer Tax 1% | <u>\$ 27,308,348</u> |
| Total | \$ 44,442,220 |

Talbot County Rates

| | |
|-----------------------|----------------------|
| Rec Tax \$6 per \$500 | \$ 41,121,294 |
| Transfer Tax 1% | <u>\$ 27,308,348</u> |
| Total | \$ 68,429,642 |

Dorchester County Rates

| | |
|-----------------------|----------------------|
| Rec Tax \$5 per \$500 | \$ 34,267,745 |
| Transfer Tax .75% | <u>\$ 20,481,261</u> |
| Total | \$ 54,749,006 |

Charles County

| | |
|-----------------------|----------------------|
| Rec Tax \$5 per \$500 | \$ 34,267,745 |
| Transfer Tax .5% | <u>\$ 13,654,174</u> |
| Total | \$ 47,921,919 |

Washington County

| | |
|--------------------------|----------------------|
| Rec Tax \$3.80 per \$500 | \$ 26,043,486 |
| Transfer Tax .5% | <u>\$ 13,654,174</u> |
| Total | \$ 39,697,660 |

Frederick County (Proposed)

| | |
|-----------------------|---------------|
| Rec Tax \$7 per \$500 | \$ 47,974,843 |
| No Transfer Tax | \$ _____ - |
| Total | \$ 47,974,843 |

* Totals are based on the actual value of transactions recorded in Frederick County during Fiscal Year 2019



Bill No. _____
 Concerning: Providing Additional Support for
Agricultural Preservation by Increasing the
Recordation Tax Rate and Reallocating
Recordation Tax Revenues
 Introduced: _____
 Revised: _____ Draft No. _____
 Enacted: _____
 Effective: _____
 Expires: _____
 Frederick County Code, Chapter 1-8
 Section(s) 51

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Members Michael Blue, Jerry Donald, and Kai Hagen on behalf of County Executive Jan Gardner

AN ACT to: Provide additional support for agricultural preservation by increasing the recordation tax rate and reallocating recordation tax revenues, including dedicating a portion of the new tax revenues to:
 1) agriculture diversification economic development grants; 2) rural historic preservation; and 3) first-time homebuyer assistance.

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter, 1-8 Section(s) 51

Other: _____

| | |
|----------------------------|---|
| Boldface | <i>Heading or defined term.</i> |
| <u>Underlining</u> | <i>Added to existing law.</i> |
| [Single boldface brackets] | <i>Deleted from existing law.</i> |
| *** | <i>Existing law unaffected by bill.</i> |

Bill No. _____

Investment in agricultural preservation ensures a legacy of agriculture for the future of Frederick County. The Livable Frederick Master Plan includes an agricultural goal to support and protect Frederick County's agriculture land to ensure the economic vitality of the agriculture industry. Increasing the current recordation tax rate by \$1.00 from \$6.00 to \$7.00 per \$500 of consideration will support an increased investment in agricultural preservation to accelerate progress toward permanently preserving 100,000 acres of farmland by 2040.

Additionally, it is proposed that the first \$500,000 of revenue resulting from the \$1.00 change to the existing tax rate be set aside annually for three related purposes: 1) agriculture diversification economic development grants; 2) rural historic preservation; and, 3) first-time homebuyer assistance. Amounts allotted to each purpose will be established annually in the budget.

NOW, THEREFORE, the County Council of Frederick County, Maryland, finds it necessary and appropriate to amend Chapter 1-8 of the Frederick County Code to increase and reallocate recordation tax revenues.

BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code is hereby amended as shown on the attached Exhibit 1.

M.C. Keegan-Ayer, President
County Council of Frederick County,
Maryland

ARTICLE III.A: RECORDATION TAX

§ 1-8-51. RECORDATION TAX RATE AND ALLOCATION OF PROCEEDS.

(A) *Definitions.* In this section, the following terms shall have the meanings indicated.

AG. The Agriculture Article of the Maryland Code Annotated.

CODE. The Frederick County Code.

COUNTY. Frederick County, Maryland.

CRITICAL FARMS PROGRAM. The Frederick County Critical Farms Program, created by Ord. 94-02-097, codified at § 1-13-34 of the Code.

FREDERICK COUNTY AGRICULTURAL LAND PRESERVATION PROGRAM. The Frederick County Agricultural Land Preservation Program created on May 28, 1991, pursuant to the provisions of AG § 2-512.

HOUSING INITIATIVE FUND. A fund established by the county to facilitate affordable housing. See § 1-6A-3 of the Code.

INSTRUMENT OF WRITING. The meaning set forth in TP § 12-101(c).

MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION PROGRAM. The Maryland Agricultural Land Preservation Foundation Program established and codified in AG §§ 2-501 *et seq.*

NR. The Natural Resources Article of the Maryland Code Annotated.

PROCEEDS FROM THE RECORDATION TAX. The proceeds the County receives from the recordation tax after any payment required by law to the State of Maryland.

RECORDATION TAX. The recordation tax authorized by TP §§ 12-102 *et seq.*

RURAL LEGACY PROGRAM. The Rural Legacy Program established and codified in NR §§ 5-9A-01 *et seq.*

TP. The Tax-Property Article of the Maryland Code Annotated.

(B) *Recordation tax rate.* Pursuant to TP § 12-103(B)(1), the county hereby sets the recordation tax rate at ~~[\$6]~~ \$7 for each \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt secured for an instrument of writing. The consideration includes the amount of any mortgage or deed of trust assumed by the grantee(s).

(C) *Allocation of unrestricted proceeds from the recordation tax.* For Fiscal Year 2021 ~~[56.833%]~~ 48.710%, For Fiscal Year 2022 ~~[56.333]~~ 48.290% and for Fiscal Year 2023 and thereafter ~~[55.833%]~~ 47.860% of the proceeds from the recordation tax shall be unrestricted and shall go to the County General Fund.

(D) *Allocation of restricted proceeds from the recordation tax.* The county hereby restricts for Fiscal Year 2021 [43.167%] 51.290%, For Fiscal Year 2022 51.710% and for

Underlining indicates matter added to existing law.

[Single boldface brackets] indicates matter deleted from existing law.

*** - indicates existing law unaffected by bill.

Fiscal Year 2023 and thereafter 52.140% of the proceeds from the recordation tax. The use of the funds from the ~~[43.167%]~~ restricted portion of the proceeds from the recordation tax is limited as follows.

(1) ~~[12.5%]~~ 25.000% of the proceeds from the recordation tax shall be used for:

(a) The County's matching contribution toward the purchases of agricultural land preservation easements under the Maryland Agricultural Land Preservation Fund Program as set forth in AG §§ 2-501 *et seq.*;

(b) The purchase of development rights and to guarantee loans that are collateralized by development rights for agricultural lands under the Frederick County Agricultural Land Preservation Program pursuant to AG § 2-512(E)(2);

(c) The purchase of options to purchase development rights easements pursuant to § 1-13-34(H) of the Critical Farms Program and to purchase development rights easements pursuant to § 1-13-34(I) of the Critical Farms Program;

(d) The purchase of development rights, easements, or fee estates under the Rural Legacy Program;

(e) Other agricultural land preservation programs approved by the county; or

(f) Some combination of the above programs including: setting aside \$500,000 annually for 1) agriculture diversification economic development grants; 2) rural historic preservation; and, 3) first-time homebuyer assistance. Amounts allotted to each purpose will be established annually in the budget.

(2) ~~[12.5%]~~ 10.710% of the proceeds from the recordation tax shall be used for the County's acquisition and development of recreational and open space land.

(3) ~~[16.667%]~~ 14.290% of the proceeds from the recordation tax shall be used to support school construction to include, but not be limited to, payment of debt service on general obligation debt issued to fund school construction.

(4) For Fiscal Year 2021 ~~[4.5%]~~ 1.290%, For Fiscal Year 2022 ~~[2.0%]~~ 1.710% and for Fiscal Year 2023 and thereafter ~~[2.5%]~~ 2.140% of the proceeds from the recordation tax shall be deposited into the Housing Initiative Fund and used to facilitate affordable housing in the county.

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