



Bill No. 20-13
 Concerning: Revisions to Clarify and Update the
Impact Fee Exemption for Farm Lots

 Introduced: July 21, 2020
 Revised: _____ Draft No. _____
 Enacted: _____
 Effective: _____
 Expires: October 19, 2020
 Frederick County Code, Chapter 1-22
 Section(s) 7 (G)

COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council Member M. C. Keegan-Ayer on behalf of County Executive Jan Gardner

AN ACT to: Amend §1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers.

Executive: _____ Date Received: _____

Approved: _____ Date: _____

Vetoed: _____ Date: _____

By amending:

Frederick County Code, Chapter, 1-22 Section(s) 7 (G)

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>

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In 2014, the former Board of County Commissioners of Frederick County adopted Ordinance No. 14-19-674, which added §1-22-7(G) to the County Code. Subsection 1-22-7(G) provides for an impact fee waiver for certain farm lots when transferred directly from a farmer to the farmer's child or grandchild, if certain conditions were met.

In the years since §1-22-7(G) was adopted, certain questions related to the conditions of this waiver have been raised. The attached Bill updates and amends §1-22-7(G) to answer those questions, specifically related to the activities of the farmer and the farmer’s child or grandchild in connection with the farm. In addition, language has been added to allow for transfers from and to trusts or similar entities, so long as these entities are controlled by the farmer or the farmer’s child or grandchild.

The County Council held a duly advertised public hearing concerning this Bill on _____, 2020, during which the public had an opportunity to comment on this Bill.

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend §1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers.

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

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

§ 1-22-7. EXEMPTIONS/WAIVERS.

(G) *Impact fee waiver for farm lots.*

(1) *Definitions.* For the purposes of this subsection, the following terms shall have the designated definitions:

CHILD. A Full-Time Farmer's [person's] offspring, whether natural or legally adopted.

FARM. A parcel of land not less than 25 acres in size on which an agricultural activity, as defined in § 1-19-11.100 of the Zoning Ordinance, is being actively conducted as of the date of application for the farm lot waiver.

FULL-TIME FARMER. An individual who owns and operates a farm, and who has derived the majority of his or her gross income from agricultural activity during each of the three (3) years prior to filing an application for the farm lot waiver.

FARM LOT. A lot which is a maximum of two (2) acres in size and has been legally subdivided from a farm by a full-time farmer. Lot size modifications may be approved by the County based on subdivision, percolation and other governmental requirements.

GRANDCHILD. The offspring of a child, as defined herein, whether natural or legally adopted.

PARENT. The parent of a full-time farmer.

SIBLING. The sibling of a full-time farmer.

(2) Impact fees collected under this chapter may be waived for farm lots if the following conditions are met at the time that the waiver is applied for:

(a) The farm lot must have been transferred directly from a full-time farmer or a trust or similar entity controlled (more than 50%) by the full-time farmer to the full-time farmer's parent, sibling, child or grandchild or to a trust or similar entity controlled (more than 50%) by the full-time farmer's parent, sibling, child or grandchild; and

Underlining indicates matter added to existing law.
[Single boldface brackets] indicates matter deleted from existing law.
*** - indicates existing law unaffected by bill.

1 (b) The full-time farmer's parent, sibling, child or grandchild must show proof that he or
2 she currently provides substantial support to the farm, whether by physical or administrative work,
3 or by significant financial support. In this subsection, "substantial support", as it applies to
4 physical or administrative support, must equate to an average of at least 20 hours per week for all
5 weeks in the calendar year.

6 (3) If the full-time farmer's parent, sibling, child or grandchild sells or otherwise transfers the
7 farm lot (except by reason of his or her death) within 5 years after the date of issuance of the
8 building permit to which the impact fee waiver has been applied, then the full-time farmer's parent,
9 sibling, child or grandchild shall be obligated to repay the total amount of the waived impact fees
10 to the county.

11 (4) If the full-time farmer's parent, sibling, child or grandchild sells or otherwise transfers the
12 farm lot more than 5 years after the date of issuance of the building permit to which the impact fee
13 waiver has been applied, then the obligation to repay the waived impact fees to the county shall
14 not apply.

15 (5) The obligation to repay the waived impact fees to the county shall be memorialized by a
16 recorded lien on the farm lot, which shall, by its terms, expire 5 years after the date of issuance of
17 the building permit to which the impact fee waiver has been applied.

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