

Maryland Agricultural Land Preservation Program

ALLOWABLE USES OF MALPF EASEMENT PROPERTIES

This Fact Sheet describes the allowable uses of Maryland Agricultural Land Preservation Foundation (MALPF) easement properties and the process for requesting farm-related and farm-supporting uses and home occupations.

Introduction

A statutory requirement for county participation in the Maryland Agricultural Land Preservation Foundation (MALPF) Program is that the county adopts regulations permitting *at minimum* the following uses of MALPF-preserved properties:

- Any farm use;
- The operation at any time of any machinery used in farm production or primary processing of agricultural products; and
- All normal agricultural operations performed with good husbandry practices that do not cause bodily injury or directly endanger human health, including but limited to, sale of farm products produced on the farm where such sales are made. (See Section 2-513(a) of the Agriculture Article of the Maryland Annotated Code.)

Beyond these mandated allowable uses, MALPF's broad discretion over the use of MALPF-preserved properties has been confirmed and clarified by the Maryland General Assembly to permit the landowner to use the land for farm- and forest-related uses and home occupations compatible with agriculture and forestry (Senate Bill 626, 2003). To insure the continued production of food and fiber in Maryland, the Foundation is instructed by statute to take into account changing conditions in the agricultural and forestry economy and permit the diversification of farming and forestry activities, including related uses such as on-site retail sales and/or value-added processing that enhance or complement the primary farming and/or forestry use of the property while minimizing the impact of such uses or activities on the farm itself.

Criteria for Approval of Farm-Related and Farm-Supporting Uses and Activities and Home Occupations

Commercial agricultural uses of MALPF-preserved properties and the farm structures necessary to support those commercial uses are allowed without question. These include, of course, the growing of field crops, vegetables, and fruit; dairy and livestock, including chickens; and managed forest land.

The MALPF Board of Trustees may also approve requests for farm-related and forest-related uses and activities, farm- and forest-supporting uses and activities, or home occupations of eligible landowners on a farm subject to easement restrictions. Each request shall be reviewed on a case-by-case basis by the Foundation using the following criteria to determine if a landowner's requested use or activity conflicts with the overall purpose of the easement to preserve the farm for agricultural use and as open-space land:

- The proportion or size of the proposed use or activity compared to total farm operation;
- The compatibility of the proposed use or activity with farm or forest production (does it complement or even enhance farm and/or forest production?);
- Any potential damage to soil productivity;
- The extent of use of existing farm structures or buildings and impact on the value of the existing structures for farm or forestry use;
- Whether any new structure or parking necessary to support the proposed use or activity meets the Foundation's guidelines for location, scale, and impervious surfaces;
- The general compatibility of the proposed use or activity with the rural character of the farm and the surrounding area;
- The recommendation of the county agricultural land preservation advisory board;
- The compatibility of the proposed use or activity with the implementation or maintenance of a best management practice provided in a soil conservation and water quality plan for the farm and, if applicable, a Forest Stewardship Plan or a nutrient management plan; and
- The impact of the proposed use or activity on sensitive natural resources on the farm, such as steep slopes, highly erodible soils, wetlands or stream buffers.

If the proposed use or activity falls outside the allowable uses mandated of the county as a condition for participation in the MALPF Program and is not allowed by county regulations, county regulations will take precedence over any uses or activities allowed by the Foundation. Further, if the property was preserved in part with federal funds and the proposed use or activity would result in greater total impervious surface than allowed under federal easement language, the proposed use or activity will be denied.

The Application Procedure for Approval of Farm-Related and Farm-Supporting Uses and Activities and Home Occupations

Before the Foundation may consider a request for approval of any use or activity provided by this chapter, all of the following information shall be submitted by the county on behalf of the landowner:

- An application letter requesting approval of a proposed use or activity that has been completed and signed by all titled landowners that fully and completely describes the proposed use or activity on the farm (a formal application form may be developed at a later date);
- A letter of recommendation from the local agricultural land preservation

- advisory board or program administrator;
- A written statement from the local planning and zoning office, or the county program administrator, indicating that the proposed use or activity is permitted as of right or by special exception under local zoning; and
- A written statement from the local soil conservation district that the use or activity does not (1) interfere in the implementation or maintenance of a best management practice for the farm provided in its soil conservation and water quality plan, or (2) adversely impact sensitive natural resources on the farm, if such statement is requested by the Foundation.

Some requests that clearly fall within Board guidelines for approved uses and activities may be approved administratively by Foundation staff. Any proposed farm-related or farm-supporting uses or activities or home occupations that require new construction; parking; public access, events, tours, or agricultural tourism; value-added processing; or the processing, sale, or other use of off-site production will require review and approval by the MALPF Board of Trustees. Your county program administrator will assist you with your request.

Use or Activity Violations

Any landowner who violates an approval by the Foundation or fails to seek approval of a farm-related, farm-supporting, or non-agricultural use or activity or home occupation may also be in violation of the district agreement or the agricultural preservation easement. Such a violation may result in the rejection of the landowner's offer to sell an easement if the property is under district agreement and/or in the enforcement of easement restrictions. **If you have any question concerning an ongoing or possible use or activity on your property, please contact your county program administrator or the MALPF office.**

This fact sheet is a public document and is provided for general information only. If you have a question about a specific law, regulation, or provision of the district agreement, option contract, or deed of easement, please consult legal counsel.

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<http://www.malpf.info/facts/fact11.pdf>