

ORDINANCE NO. 17A-2

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 17A, PURCHASE OF DEVELOPMENT RIGHTS OF THE CODE OF THE COUNTY OF SPOTSYLVANIA, VIRGINIA.

BE IT ORDAINED By the Board of Supervisors of the County of Spotsylvania, Virginia, that Chapter 17A, Purchase of Development Rights, is hereby added, as follows:

Article I. General Provisions

- Sec. 17A-1. Title
- Sec. 17A-2. Purpose
- Sec. 17A-3. Applicability
- Sec. 17A-4. Program administrator; powers and duties
- Sec. 17A-5. Severability
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Article II. Definitions

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Article IV. Purchase of Development Rights Program

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Article V. Review Process

- Sec. 17A-30. Application and Evaluation Procedure
- Sec. 17A-31. Easement Purchase Procedure
- Sec. 17A-32. Conservation Easement Terms and Conditions
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EXHIBITS Exhibit 1 Sample Conservation Easement

Article I. General Provisions

Sec. 17A.1. Title.

This chapter shall be known and may be cited as the “Purchase of Development Rights (“PDR”) Program.”

Sec. 17A-2. Purpose

The purposes of this chapter include, but are not limited to:

- (a) Establishing a program to facilitate County acquisition of conservation easements voluntarily offered by owners to serve as one means of preserving Spotsylvania County’s character and resources;
- (b) Preserving farm and forest land and to protect and enhance family farms and the economic viability of the agricultural and forestal sectors of the local economy;
- (c) Conserving and protecting water resources and environmentally sensitive lands, waters and other natural resources;
- (d) Conserving and protecting biodiversity and wildlife and aquatic habitat;
- (e) Assisting in shaping the character and direction of the development of the community;
- (f) Improving the quality of life for the inhabitants of the County;
- (g) Promoting recreation and tourism through the preservation of scenic and historical resources.

Sec. 17A-3. Applicability.

The PDR program shall be available for all qualifying lands in the County, except those lands under the ownership or control of the United States of America, the Commonwealth of Virginia, or an agency or instrumentality thereof. The owner shall voluntarily offer any conservation easement acquired pursuant to this chapter.

Sec. 17A-4. Program administrator; Powers and duties.

- (a) *Powers and duties.* The administrator shall administer the PDR program and shall have powers and duties to:
 - (1) Establish reasonable and standard procedures and forms consistent with this chapter for the administration and implementation of the program.

- (2) Promote the PDR program, in cooperation with the PDR committee, by providing educational materials to the public and conducting informational meetings.
- (3) In conjunction with the County, state, federal and other programs, investigate and pursue, additional public and private resources to fund the PDR program and to maximize private participation.
- (4) Evaluate all applications to determine their eligibility and rank applications based on established criteria and make recommendations to the PDR committee.
- (5) Negotiate conservation easement terms and the consideration for the same.
- (6) Provide staff support to the Board and the PDR committee.
- (7) For each conservation easement accepted into the program, establish baseline data, and assure that the terms and conditions of the easement are monitored and complied with by coordinating a monitoring program with each easement holder.

Sec. 17A-5. Severability

If the provisions of any article, section, subsection, paragraph, or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, or clause of this chapter.

Secs. 17A-6 – 9. Reserved.

Article II. Definitions

Sec. 17A-10. Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

Administrator means the Director of Planning or other person appointed to manage the daily operations of the PDR program by the Board.

Agricultural Land means land used primarily for agriculture.

Agricultural and Forestal Use means any use of land which directly contributes to the production, processing, or storage of agricultural or forestal products as defined by the United States Department of Agriculture, including agriculture and silviculture.

Board means the Board of Supervisors of Spotsylvania County.

Certified Stewards or Forests means those that have implemented a significant number of practices recommended in a forest stewardship plan.

Conservation easement means a non-possessory interest in one or more parcels of land by a public body (as defined in the Open-Space Land Act Code of Va., §10.1-1700 et seq.), whether the easement is appurtenant or in gross, voluntarily offered by an owner and acquired by purchase, donation or bequest imposing limitations or affirmative obligations, for the purpose of retaining or protecting natural or open-space values of the parcel or parcels, assuring its availability for agricultural, forestal, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural or archaeological aspects of the parcel or parcels.

Dwelling means any structure designed or intended for residential purposes.

Economic Hardship means a state of financial peril of a landowner, whether caused by natural disaster, the disability of a landowner, or some other occurrence. Economic hardship can be evidenced by bankruptcy proceedings or other documentation, but in each case the question of whether a severe economic hardship exists will be decided by the Board of Supervisors with advice from the Planning Department and PDR review committee.

Forest land means lands with at least a minimal stocking of forest trees as defined by the U.S. Forest Service.

Forest Stewardship Plan means a comprehensive forest management plan for a property, developed by a professional forester in consultation with other natural resource professionals that address management of timber, wildlife, soil, water, and recreational resources.

Landowner/Property Owner means an individual(s) who is the owner of record at time of easement sale or district establishment; and the owner(s) of the fee title interest of the parcel (see also: Trustee)

Parcel means a lot or tract of land, lawfully recorded in the clerk's office of the circuit court of the County of Spotsylvania. A conservation easement may contain one or more parcels, for purposes of this chapter, the term "parcel" shall include all parcels covered by, or proposed to be covered by, the conservation easement. If an easement covers only a portion of a parcel, the portion subject to the easement shall be delineated upon a survey provided by the applicant at time of application submission.

Trustee means a person to whom property is legally committed in trust, to be applied either for the benefit of specified individuals, or for public uses; one who is entrusted with property for the benefit of another; also, a person in whose hands the effects of another are attached in a trustee process.

Secs. 17A-11 – 14. Reserved

Article III. Review Committees Established

Sec. 17A-15. PDR Review Committee; powers and duties

(a) *Establishment.* The PDR committee is hereby established, as follows:

(1) The committee shall consist of at least five (5) members appointed by the board of supervisors. Each member shall be an owner of real property in Spotsylvania County. The committee should be comprised of members who are knowledgeable in the fields of conservation, biology, planning, history, real estate, farming and forestry, and may also include members of conservation organizations.

The PDR committee shall be comprised of at least two (2) members from the agricultural and forestal district advisory committee, the commissioner of revenue, and at least two (2) citizens at large who shall be appointed by the board of supervisors.

Notwithstanding the foregoing, the PDR review responsibilities may be assumed by the agricultural and forestal district advisory committee in the absence of the appointment of an independent PDR review committee.

(2) The terms of the committee members shall be four (4) years as specified by the board. The commissioner of revenue's term shall coincide with his/her respective elected term in office. The term of service for those members appointed from the county's agricultural and forestal district committee shall cease at such time that they resign from or are not reappointed to the agricultural and forestal committee.

(3) The members of the committee shall serve without pay, but the board may, in its discretion, reimburse any member for actual and necessary expenses incurred in the performance of his/her duties.

(4) The committee shall establish by-laws.

(5) The committee shall elect a chairman, vice chairman and secretary at its first meeting each calendar year.

(6) The secretary need not be a member of the committee.

(7) The administrator shall be an ex-officio member of the committee.

(b) *Powers and duties.* The PDR committee shall have the powers and duties to:

(1) Promote the PDR program, in cooperation and under the guidance of the administrator, by providing educational materials to the public and conducting informational meetings.

(2) Review the ranking of applications recommended by the administrator, and recommend to the administrator and the board as to which conservation easements should be purchased.

(3) Annually review the program's eligibility and ranking criteria and recommend to the administrator any changes needed to maintain the program's consistency with the comprehensive plan, or to improve the administration, implementation and effectiveness of the program.

A quorum shall consist of five (5) members in attendance that shall otherwise operate pursuant to bylaws, which shall be adopted and modified annually.

Secs. 17A-16 – 19. Reserved.

Article IV. Purchase of Development Rights Program

Sec. 17A-20. Purpose

(a) This program is designed to help preserve Spotsylvania County's agricultural, natural, historic, and scenic resources. In particular, the goals of the PDR Program include the following:

1. To preserve farms, forests, and grassland
2. To preserve the rural nature of the County
3. To protect natural resources important to water quality and natural habitat
4. To protect and preserve scenic and historic values important to tourism, community identity, and quality of life
5. To enhance the character of urban areas by preserving and protecting green buffers, and other natural areas in and around urban communities

Sec. 17A-21. Funding Categories

The Purchase of Development Rights program is divided into two categories for funding purposes:

Category I AGRICULTURAL RESOURCES

The Agricultural Resources Category shall also be entitled the Agriculture Preservation District Program. Any owner of real property in Spotsylvania County that is agricultural in character and by zoning designation and meets the qualifying criteria requirements of the program may apply for consideration in this category.

Category II NATURAL AND HISTORICAL RESOURCES

Any owner of real property in Spotsylvania County whose real property exhibits natural, scenic, or historic resources and meets the eligibility requirements may apply for consideration in this category.

Sec. 17A-22. General Eligibility Requirements

Conservation easements may be purchased only on parcels that meet the following general criteria. Each program category will have more specific eligibility requirements.

1. The property shall be located in Spotsylvania County;
2. The property shall be capable of being subdivided or developed for non-agricultural uses without rezoning approval;
3. The proposed use of the property as ~~permanent~~ open space shall conform with the policies set forth in Spotsylvania County’s Comprehensive Plan;
4. No uses or structures other than those permitted by the conservation easement shall be located on the parcel; and
5. The proposed easement terms shall be consistent with the requirements of the Virginia Open Space Land Act (Title 10.1, Chapter 17 of the Code of Virginia of 1950, as amended).

Sec. 17A-23. Priority Ranking System (Category I)

The following table is used to evaluate and prioritize Category I eligible agricultural land. The PDR Review Committee in accordance with the following Easement Priority Ranking System shall review each application.

**Easement Priority Ranking System
CATEGORY 1 --AGRICULTURE
(Total 300 pts)**

	Evaluation Criteria	Points	Score	Notes
1	Soil Productivity Score			
	A. State Land Evaluation Soil Ranking Index Score, average of all on-site cropland/pasture soils (100 pts. max)	Up to 100 pts		
2.	Farmland Capability (75 pts max)			
	A. Cropland			
	i. 75%-100% Cropland	=30 pts		
	ii. 50%-74% Cropland	=20 pts		
	iii. Less than 50% Cropland	=10 pts		
	B. Pasture			
	i. 75%-100% Pasture	=15 pts		
	ii. 50%-74% Pasture	=10 pts		
	iii. Less than 50% Pasture	=5 pts		
	C. Innovative Farming Practices	=0 to 30 pts		

	D. Active or Innovative Forest Management	=0 to 15 pts		
3	Development Factors (75 pts max)			
	A. Number of AG Development Rights Currently Remaining on Property			
	A. 1 to 5	=5 pts		
	B. 6 to 10	=10 pts		
	C. 11 to 15	=15 pts		
	D. 16+ or rezoning potential	=20 pts		
	Number of Potential Family Conveyances			
	A. 1 to 5	=5 pts		
	B. 6 to 10	=10 pts		
	C. 11 to 15	=15pts		
	D. 16+	=20 pts		
	B. Consistency w/ Comprehensive Plan (20pts)			
	i. existing zoning development (w/in 2 miles)	=10 pts		
	ii. Water/sewer service areas (w/in 2 miles)	=10 pts		
	C. Farm Size			
	i. 200 plus acres	=15 pts		
	ii. 100 – 199 acres	=10 pts		
4	Protected Land Contiguous to Site (20 pts max)			
	A. Site is contiguous to farmland which is protected by easements, deeds of trust, or restrictive covenants	=20 pts		
	B. Site is contiguous to nonagricultural, but permanently protected, floodplain or watershed areas	=15 pts		
	C. Land is within one mile of an existing Agricultural and Forestal District or contiguous to interim protected land (e.g. Land Use Tax Deferral Program)	=10 pts		
5	Existing approved Soil Conservation Plan (20 pts max)			
	A. An approved Federal or State conservation plan	=20 pts		
	B. Updated within 10 years	=10 pts		
	C. No current approved plans	=0 pts		
	D. Forest Stewardship Plan	=10 pts		
	E. Certified Stewardship Forest	=15 pts		
6	Ownership (20 pts max)			
	A. Full-time owner/operator	=20 pts		
	B. Land rented/leased by full-time farmer	=15pts		
	C. Part-time owner/operator	=10 pts		
	D. Absentee land owner	=0 pts		
	E. Preservation of family farm, parcel has been owned or controlled by members of the same family for	Years/pts 10-20 = 5 20-30 =10 30-50 =15 50+ =20		
7	Contribution to Continued Viability of Agricultural Community (15 pts max)			
	A. Substantial Contribution	=15 pts		
	B. Moderate Contribution	=10 pts		
	C. Minimal Contribution	=0 pts		

8	Special Conditions (15 pts max)			
	A. Economic Hardship	=15 pts		
	B. Young Farmers	=15 pts		
	C. Threatened by Development	=15 pts		
	D. Adjacent to National Park/Historical Battlefields or Property contains related Civil War Battlefield sites as delineated by the National Park Service	=15pts		
	E. Other	=0-15 pts		
	TOTAL SCORE			

Sec. 17A-24. Natural and Historical Resources (Category II)

(a) The purpose of the Category 2 element of the PDR program is to direct funding of conservation easements that will directly benefit the protection of the County’s Natural and Historical Resources. The County has valuable historic and prehistoric sites, scenic resources, farms and open spaces that are major components of unique rural character and economy. Along with the rural landscape in which they are set, historic sites represent the County’s largest tourist attraction. The identification and preservation of historic, archaeological and scenic resources will enrich to perpetuate the County’s heritage.

(b) In order to protect family farms, preserve unique open spaces and historical sites, the following Easement Priority Ranking System shall be utilized to evaluate PDR applications. This system shall award points for a number of different values including:

1. Natural, environmental, historic, cultural, and/or scenic resources
2. Preservation of Agriculture
3. Potential conversion to development

Sec. 17A-25. Category II Eligibility Requirements

In addition to the General Eligibility Requirements (Sec. 17A-22) Category II easements must contain at least one of the following features:

1. The property contains agricultural resources such as valuable soils or family operated farms.
2. The property is adjacent to or contains perennial streams, rivers, or wetlands associated with Chesapeake Bay Resource Protection Areas.
3. The property contains 1) an historic feature; or 2) lands related or adjacent to National Park Service historic sites.

Sec. 17A-26. Priority Ranking System (Category II)

Applications will need to score in at least two (2) of the three (3) values to achieve the minimum point value needed for consideration. An application, which is awarded a minimum of fifty (50) points, is eligible for consideration. However, the properties with the highest point total will have the highest priority, subject to budget limitations.

**Easement Priority Ranking System
CATEGORY II –NATURAL & HISTORICAL**

	Evaluation Criteria	Points	Score	Notes
1	Agricultural Resources			
	A. Working Family Farm, Including Forestry operations			
	i. 51% of at least one family member’s principal occupation and income is derived from farming or foresting the parcel	= 5 pts		
	ii. Preservation of family farm or forest, parcel has been owned or controlled by members of the same family for	Years/pts 10-20 = 5 20-30 = 10 30-50 = 15 50+ = 20		
	B. If the soil survey of Spotsylvania County identifies valuable agricultural or woodland soils located on the property			
	i. 10% to 30% agriculturally valuable soils	= 3 pts		
	ii. 31% to 50% agriculturally valuable soils	= 5 pts		
	iii. 51% to 70% agriculturally valuable soils	= 7 pts		
	iv. 71% to 100% agriculturally valuable soils	= 9 pts		
	v. If an application has a recently prepared parcel specific soil survey	= 5 pts		
2	Natural, Environmental, Historic, Cultural and/or Scenic Resources			
	A. Natural & Environmental Resources			
	i. Parcel adjacent to the Rappahannock, Mat, Matta, Ni, or Po Rivers (per 1/10 of a mile)	=1 pt		
	ii. The parcel is adjacent to the Massaponax Creek (per 1/10 of a mile)	= 1 pt		
	iii. Adjacent to lake or reservoir	= 2 pts		
	iv. Located in the River Protection Overlay District	= 5 pts		
	v. Located within Reservoir Protection Overlay District	= 2 pts		
	vi. Adjacent to a perennial stream (per 1/10 of a mile)	= 1 pt		
	vii. The parcel contains perennial springs	=3 pts		
	viii. The parcel is within a sensitive groundwater recharging area.	= 5 pts		
	ix. The parcel contains a Chesapeake Bay Resource Protection Area, floodplain and/or wetland as identified on NEPA maps	= 10 pts		
	x. The parcel contains habitats of threatened or endangered species as identified by the VA Dept of Conservation & Recreation or U.S. Fish and Wildlife Service	= 10 pts		
	xi. The parcel(s) are adjacent to or connect with existing natural wildlife corridor	= 5 pts		
	xii. Parcel has slopes greater the 15% *(1 pt for each area which is at least 2 acres in area or fraction thereof).	*		
	xiii. Natural History (such as dinosaur footprints)	5 pts		
	B. Historic Resources – property can score in only one category			
	i. Parcel is a National Historic Landmark	= 50 pts		
	ii. A structure or site is listed on the National Register of Historic Places	= 50 pts		

	iii. A contributing structure is in a district on the National Register	= 40 pts		
	iv. A structure or site is deemed eligible for listing on the National Register by the Virginia Dept. of Historic Resources	= 30 pts		
	v. A structure or site is determined eligible for listing on the National Register by the Spotsylvania County Historic Preservation Commission	= 20 pts		
	C. Cultural & Scenic Resources			
	i. Parcel is adjacent to National Battlefield	= 10 pts		
	ii. Parcel is identified as a related land in the "Study of Spotsylvania County Civil War Battlefield Sites Related to Fredericksburg and Spotsylvania National Military Park" (Priority I, II or III)	Pr. I = 20 Pr. II = 5 Pr. III = 2		
	iii. Parcel is adjacent to a State or County Park	= 5 pts		
	iv. Parcel has frontage on a State Primary or Secondary Highway or a highway designated as a scenic byway (per 1/10 of a mile)	= 1 pt		
	v. Parcel has frontage on a river which has been designated or eligible as a state scenic river * (0.5 point for each 1000 feet of frontage or portion thereof)	*		
	vi. Parcel is utilized primarily for the boarding and pasturing of animals including but not limited to horses, oxen, mules, sheep, goats, etc.	= 5 pts		
	vii. Local Architectural & Cultural Resources	5 pts		
	viii. Prehistoric Resources (such as cave paintings)	5 pts		
3	Threat of Development			
	A. Open Space Resources			
	i. Parcel adjoins an existing property in the PDR program, a national, state or local park, or other permanently protected open space * (1 pt for every 500 ft of shared boundary)	*		
	ii. Parcel is identified in the 2002 Comprehensive Plan (and/or Open Space Plan) as an area, which should be reserved as open space (High, Moderate or Low Priority)	H = 10 pts M = 5 pts L = 3 pts		
	iii. For every additional 10 contiguous acres placed in the program	= 2 pts/10 ac		
	B. Conversion to Developed Use			
	i. The parcel is threatened with forced sale	= 5 pts		
	ii. The parcel is threatened with other hardship	= 5 pts		
	iii. The number of usable development rights on the parcel = * 0.5 point for each usable developable right to be eliminated, which shall be determined by subtracting the number of usable development rights to be retained from the total number of usable development rights	*		
	iv. Property is zoned non-agriculture	= 5 pts		
	TOTAL SCORE			

Secs. 17A-27 – 29. Reserved

Article V. Review Process

Sec. 17A-30. Application and Evaluation Procedure.

(a) Each application for a conservation easement shall be processed and evaluated as follows:

- (1) *Application; program materials to be provided to owner.* The application materials provided by the administrator to an owner shall include, at a minimum, a standard application form and information about the PDR program.
- (2) *Application form.* Each application shall be submitted to the administrator on a standard form prepared by the administrator. The application form shall require, at a minimum, that the owner provide: the names of all owners of the parcel, the address and telephone number of each owner, the acreage of the parcel, the Spotsylvania County tax map and parcel number, the zoning designation of the parcel, the number of development rights offered for sale and permission for the administrator and an independent appraiser and such other staff as may be appropriate to enter the property after reasonable notice to the owner to evaluate the parcel. The application form shall also include a space for an owner to indicate whether he/she volunteers to have his parcel be subject to greater restrictions than those contained in the standard deed of easement, and to delineate those voluntary, additional restrictions.
- (3) *Additional application information required by administrator.* The administrator may require an owner to provide additional information deemed necessary to determine:
 - (a) whether the proposed easement is eligible for purchase; and
 - (b) ranking of the parcel.
- (4) *Application period.* The administrator shall establish the application period.
- (5) *Evaluation by administrator.* The administrator shall evaluate each application received and determine whether the application is complete. If the application is incomplete, the administrator shall inform the owner in writing of the information that must be submitted in order for the application to be deemed complete. When an application is deemed complete, the administrator shall determine whether the parcel satisfies the eligibility criteria and, if it does, shall determine the number of points to be attributed to the parcel by applying the ranking system. The administrator shall then rank each parcel according to points accrued under the Priority Ranking System for Category I or II as appropriate. The administrator shall submit the list of ranked parcels to the PDR committee after each open application period.
- (6) *Evaluation by PDR committee.* The PDR committee shall review the list of ranked parcels submitted by the administrator. The PDR committee shall forward to the administrator and the Board recommendations of which conservation easements should be purchased.
- (7) *Evaluation by Board.* The Board shall review the list of ranked parcels submitted by the PDR committee. The Board shall then prioritize the parcels on which it will seek to purchase conservation easements. Nothing in this chapter shall

obligate the Board to purchase a conservation easement on any property that is eligible for purchase.

- (8) *Requirements and deadlines may be waived.* Any requirement or deadline set forth in this chapter may be waived by the Board if, for good cause, it is shown that urgent circumstances exist that warrant consideration of an application. Under such circumstances, the Board may purchase a conservation easement at any time it deems necessary.
- (9) *Reapplication.* An owner of a parcel not selected by the Board for purchase of a conservation easement may reapply in any future open application period.

Sec. 17A-31. Easement Purchase Procedure.

- (a) Each purchase of a conservation easement shall proceed as follows:
 - (1) *Identification of initial pool.* From the applications received during the application period meeting the eligibility criteria and ranked by the administrator and recommended by the PDR committee, the Board shall designate the initial pool of parcels identified for conservation easements to be purchased.
 - (2) *Determining purchase price.* The value of the development rights of the property, which value shall be equal to the difference between the fair market value of the property without encumbrance by a preservation easement and the fair market value of the property so encumbered, shall be as determined by an appraisal prepared by a certified general real estate appraiser or certified residential real estate appraiser, as the case may be. The appraiser shall be chosen by the administrator.
 - (3) *Invitation to sell.* The administrator shall invite the owner of each parcel included in the pool of parcels to sell to the county a conservation easement on that parcel for the value as determined pursuant to Section (2) hereinabove, subject to the terms and conditions of a proposed deed of easement. The invitation to sell shall be in writing and shall include the purchase price, the proposed deed of easement, and the date by which a written offer must be received by the administrator in order to be considered. The invitation may contain a form offer to be returned by the owner if the owner desires to sell a conservation easement.
 - (4) *Offer to sell.* Each owner who desires to sell and/or donate a conservation easement shall submit a written offer that must be received by the administrator by the date contained in the invitation to sell. The offer should include a statement that substantially states the following: “(The owner) offers to sell and/or donate a conservation easement to the County of Spotsylvania, Virginia for the sum of (purchase price), subject to the terms and conditions set forth in the proposed deed of easement enclosed with the invitation to sell.” Nothing in this chapter shall compel an owner to submit an offer to sell.

- (5) *Acceptance.* Acceptance of an offer to sell a conservation easement shall be by resolution of the Board of Supervisors.
- (6) *Conservation easement established.* A conservation easement shall be established when the owner and an authorized representative of the holder of the easement have each signed the deed of easement and the same is delivered to the holder. The deed shall be recorded in the office of the Clerk of the Circuit Court of the County of Spotsylvania. A single conservation easement may be established for more than one parcel under the same ownership.
- (7) *Offers not made; offers not accepted; invitation to other owners.* If an owner invited to sell elects not to do so, or if the offer to sell is not accepted by the Board, then the administrator shall send an invitation to sell to the owner(s) of the next highest prioritized parcel(s) remaining on the list of parcels designated by the Board to the extent to which funding is available.
- (8) *Costs.* If the Board accepts an offer to sell a conservation easement, the County may pay costs associated with the transaction as allowed by law, including but not limited to environmental site assessments, surveys, recording fees, and other charges associated with closing. However, the County shall not pay expenses or fees incurred by the property owner for independent appraisals, legal, financial, or other advice, or expenses or fees in connection with the release and subordination of liens to the easement purchased by the County.

Sec. 17A-32. Conservation Easement Terms and Conditions.

(a) Each conservation easement shall conform with the requirements of the Open-Space Land Act of 1966 (Code of Va., §10.1-1700 et seq.) and this chapter. The deed of easement shall be in a form approved by the County attorney, and shall contain, at a minimum, the following provisions:

- (1) Except as provided hereafter; the deed of easement shall allow no more than one new dwelling per **100** acres, with the dwelling location specified by plat on or before the conservation easement is established.
- (2) Conservation easement duration. Unless otherwise agreed by both the applicant and the county, a conservation easement acquired under the terms of this chapter shall run with the land in perpetuity. In no event shall a conservation easement acquired under the terms of this chapter be for a term of less than twenty years.
- (3) At any time after a conservation easement on a parcel has been acquired, the landowner may petition the Board for the extinguishment of such easement in exchange for the conveyance to the County of a conservation easement meeting all of the eligibility criteria set forth in this Chapter. The Board may approve such exchange upon a finding that:

- (a) The acquisition of the proposed conservation easement in lieu of the existing easement does not adversely affect the County's interests in accomplishing the purposes of this Ordinance;
- (b) The proposed easement area meets all of the eligibility requirements set forth in this Chapter; and
- (c) The exchange complies with the following requirements:
 - (i) the conversion or diversion is determined by the Board to be:
 - (a) essential to the orderly development and growth of the locality; and
 - (b) in accordance with the official comprehensive plan for the locality in effect at the time of conversion or diversion; and
 - (ii) there is substituted other real property which is:
 - (a) of at least equal fair market value; and
 - (b) of greater value as permanent open-space land than the land converted or diverted; and
 - (c) of as nearly as feasible equivalent usefulness and location for use as permanent open-space land as is the land converted or diverted. The Board shall assure that the property substituted will be subject to the provisions of Chapter 10.1-1700, et. seq. of the Code of Virginia.
- (4) The consideration for any acquisition of a conservation easement pursuant to subsection (3) shall consist solely of the extinguishment of the existing conservation easement.
- (5) *Other restrictions.* In addition to the foregoing, the parcel shall be subject to standard restrictions contained in conservation easements pertaining to uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and may include, but not necessarily be limited to, restrictions pertaining to:
 - (i) accumulation of trash and junk;
 - (ii) display of billboards, signs and advertisements;
 - (iii) grading, blasting or earth removal;
 - (iv) conduct of industrial or commercial activities on the parcel; and
 - (v) monitoring of the easement.

- (6) *Designation of easement holders.* The County shall be the easement holder and, if designated by the Board, one or more other public bodies, as defined in Section 10.1-1700 of the Code of Virginia, or one or more organizations then qualifying as an eligible donator as defined by Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, shall also be an easement holder.

Sec. 17A-33. Payment

The County shall purchase development rights from funds appropriated and available at the time of approval by the Board. A request to purchase development rights in up to three equal annual installments may be approved by the Board provided that adequate funds are available at the time of approval to allow for earmarking of the entire purchase amount by the Board. No interest shall be paid by the Board on installment purchases.

Secs. 17A-34 – 35. Reserved.