

State of Maryland
Department of Agriculture



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**MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION
APPLICATION FOR FAMILY LOT EXCLUSION**

NAME: _____
ADDRESS: _____
PHONE: _____
COUNTY: _____
FILE NO.: _____
ACRES: _____
STATUS OF PROPERTY: (Circle One) **DISTRICT** **EASEMENT**
APPLICATION FOR: (Circle One) **OWNER'S LOT** **CHILD'S LOT**
NAME OF CHILD (if child's lot): _____
NAME OF OWNER (if owner's lot): _____

PLEASE ANSWER THE FOLLOWING QUESTIONS AS THEY RELATE TO THIS PROPERTY:

- 1) Has the Foundation approved any prior lot exclusions on this property? Yes No
a. If yes, please indicate the type and number of lots released: Owner's Lot ___ Child's Lot ___
- 2) Have the previous lot exclusion(s) been recorded in the county land records? Yes No N/A
- 3) Have houses been fully constructed on the previously released lots? Yes No N/A
a) If not, when do you or your child plan to begin/complete construction? _____
b) If yes, do you or your children currently reside in the dwelling? Yes No N/A
- 4) Have any of the lots released from the District/Easement been sold? Yes No N/A
a) If yes, how long did owner/child reside in the dwelling after construction? _____
- 5) Does this property have any dwellings which existed prior to District Establishment? Yes No
a) How many? _____

Note: If the easement was approved by the Board of Public Works after September 30, 2003, existing dwellings may be excluded only by exercising a family or unrestricted lot right. Existing dwellings on properties with easements approved by the Board of Public Works prior to that date may be excluded without exercising family or unrestricted lot rights. If you are not certain when your easement was approved by the Board of Public Works, please contact your county program administrator.

- 6) Do you have any other District or Easement Properties in this program? Yes No
a) If yes, please list MALPF File #'s _____
b) Did the Foundation approve an owner's lot or child's lot(s) from any of your Yes No N/A
other district/easement properties ?
c) If you answered yes to 6.b, please list MALPF File #'s _____ Yes No N/A

Persuant to Agriculture Article 2-513(b) of the Annotated Code of Maryland, in signing this application, the landowner agrees with the items listed below :

- a) I/We understand that the lot requested is for the sole use of myself and/or my child for the construction of a dwelling intended for my/his/her personal use. I/We hereby acknowledge that if I am excluding a lot from an agricultural land preservation district, this will be the only owner's lot and/or child's lot exclusion granted for me or the above referenced child, regardless of whether my property remains in district status or if I

should sell an easement to the Foundation on this property in the future.

- b) I/We understand that this right may not be transferred to any person or entity

Landowner Signature/Date

Landowner Signature/Date

The following information is required to initiate the request:

1. This Application for Family Lot Exclusion signed by all titled landowners;
2. A signed statement from the Program Administrator (PA), which includes the following:
 - a) A recommendation of approval or denial of the lot by the local agricultural land preservation advisory board;
 - b) A statement of whether the proposed lot is in concurrence with local zoning regulations including whether the lot exceeds the density allowed under local zoning;
 - c) An explanation of the anticipated impact on the agricultural operation;
 - d) An explanation of the choice of the proposed lot location* (Guidelines for Lot Locations on MALPF District and Easement properties are attached to this application form); and
 - e) An explanation of the access to the proposed lot (see Guidelines for Lot Locations on MALPF District and Easement properties).
3. An aerial map of the entire property (please provide 20 color copies). The aerial map should clearly indicate: a) the location of the lot; b) the access to the lot; c) the existing dwellings on the property; and d) lots approved by the Foundation but not constructed.
4. If the request is for a child's lot, include a copy of the child's birth certificate.
5. If a lot size of greater than one acre is required, indicate the reason and the regulation or ordinance.**

*It is strongly recommended that the landowner consider the long-term impact of the lot when choosing the location. While a landowner has the right to apply for an owner's lot and/or child's lot, subject to meeting minimum size and density requirements, the Foundation's Board of Trustees has the discretion to deny the lot if, in the Board's view, the lot location may have a detrimental effect on the future agricultural or forestry operation of the farm. See Guidelines for Lot Locations on MALPF District and Easement Properties (attached to this form).

**For lot sizes greater than one acre: If a lot size of greater than one acre is required to satisfy local regulations, the PA's signed statement shall indicate the regulation or ordinance. If the additional acreage is required to satisfy Health Department (HD) regulations (examples of HD requirements for extra acreage include: a septic reserve area; less than 4 feet of unsaturated, unconsolidated soil material below the bottom of an on-site sewage disposal system; the proposed lot is located within 2,500 feet of the normal water level of an existing or proposed water supply reservoir, etc.), a statement from the HD indicating the minimum lot size required, and the reason for the additional acreage, shall be provided to the Foundation when requesting a preliminary release. While the Board may approve a lot size of up to two acres to meet HD requirements, additional acreage in excess of one acre will not be released until the Foundation receives the signed statement from the HD at the time of preliminary release.

Following the Foundation's Board meeting, the landowner will be notified in writing of approval or denial of the request. If the lot is approved by the Board, and the land is under easement, to begin the preliminary release process, the landowner should provide to the Foundation a metes and bounds description of the lot and the payback of the per acre amount which the landowner received for the easement. Once the preliminary release is signed and recorded, the landowner may begin the final release of the lot by providing to the Foundation a non-transferable building permit in the name of the person for whom the lot was released. If the lot was approved for a property in district status, the landowner is not required to go through the release process. Once the Foundation approves a lot on a district property, the landowner may proceed to construct a dwelling, subject to local regulations.

NOTE: THIS REQUEST WILL NOT BE PROCESSED BY THE FOUNDATION UNLESS THE INFORMATION REQUESTED IS COMPLETE AND NECESSARY ATTACHMENTS ARE SUBMITTED. INCOMPLETE APPLICATIONS WILL BE RETURNED.

GUIDELINES FOR LOT LOCATIONS ON MALPF DISTRICT/EASEMENT PROPERTIES

The Maryland Agricultural Land Preservation Foundation (MALPF) allows landowners to apply for the release of an owner's lot, child's lot, or an unrestricted lot under certain conditions. Lot locations on properties with MALPF districts and easements should be selected so that there is minimal impact on the current and future agriculture and forestry operations on the property.

An application for the release of a lot is first made to the local agricultural advisory board. If approved, the application is submitted to the MALPF staff for review and recommendation to the MALPF Board of Trustees.

When applying for the release of a lot from a district or easement property, the landowner should consider the following location criteria:

- A. Impact on agriculture and forestry operations:
 - 1. Current –operations and designation (both MALPF & County) of existing residential units;
 - 2. Future –operations and residential units

- B. Options for geographical location (in priority order from most to least desirable):
 - 1. Along public roadway and (if they exist) clustered with other dwellings;
 - 2. Along boundary lines, natural boundaries, or the edge of tillable land, and clustered with other dwellings (if they exist);
 - 3. Clustered with farmstead dwellings and buildings
 - 4. Other

- C. Options for Access (in priority order from most to least desirable):
 - 1. Direct road frontage access from public roadway;
 - 2. Use of an existing access, e.g., farm lane or right-of-way. If other dwellings exist, access should be on a shared drive if feasible;
 - 3. Along property boundary lines, natural boundaries, or the edge of tillable land. If other dwellings exist, access should be on a shared drive if feasible.

If the proposed location or access is not the most desirable option listed above (see B and C), the landowner should explain how more desirable alternatives were considered, and why they were not feasible:

When reviewing a request to release a lot from a district/easement property, the local Agricultural Advisory Board, MALPF staff, and the MALPF Board of Trustees shall consider the following guidelines:

- A. Lots allowed under MALPF statute and regulations must be a maximum of 1.0 acre unless county regulations or the Health Department requires additional acreage. When this happens, MALPF statute and regulations allow for the lot to be increased by such acreage as is necessary, up to a maximum lot size of 2.0 acres, with appropriate documentation. Therefore, all requests for lot exclusions should be for '**up to 2.0 acres**' to minimize the possibility of the lot request coming back to the Board at a later date to receive approval for an increase in size. After MALPF Board approval, the specific lot size will be reflected in the legal description (if an easement property) that is provided by the landowner to MALPF staff. The legal description will be recorded with the preliminary release document.

- B. Program Administrators are required to provide property outlines, e.g. tax maps which show the location of the proposed lot and its access, and are encouraged to provide documents that

will identify the requested lot location clearly (color aerial maps that show the proposed lot location, its access, the dimensions from property lines, and the location of failed perc tests, if any). Photographs and site plans (may be hand drawn) also help identify the lot location and should be provided when available.

- C. When a lot is proposed to be located in an area that is not optimal but is the only place an acceptable perc can be located, the application must be accompanied by a site plan (showing failed locations) from the Health Department, a licensed sanitarian, or an engineer who is authorized to conduct perc tests or site preparation for perc tests.
- D. If direct road frontage access to a public road is not possible, the county should encourage right-of-way access unless the county has regulations that require lots to have fee-simple access. [NOTE: If fee simple access is required by County regulation, it must be included in the allowable acreage of the lot.] If access is to be in fee, and not along a property line, MALPF will 1) approve the lot only with the condition that “the owner grants a right-of-way back to the farm over top of the access to the lot” and 2) list a requirement on the approval letter to the landowner that the plat (survey or legal description) must include this right-of-way before it can be recorded.
- E. If an approved lot area does not perc after MALPF Board approval, as long as the new location overlaps the approved lot area, and the new location will not significantly interfere with farming or forestry more than the approved lot location, the new location can be reviewed and approved administratively by MALPF staff after it receives local agricultural advisory board approval. MALPF staff reserves the right to refer any request to the Board of Trustees for their review.
- F. If, just prior to a MALPF Board of Trustees meeting it is determined that a lot location must be changed, the request will be withdrawn from the agenda until such time as the local ag advisory board and MALPF staff have had an opportunity to review the new location.
- G. The MALPF Board of Trustees will not attempt to change the location or review any request that changes the location of a lot during the meeting. The application will be withdrawn to allow the local agricultural advisory board and MALPF staff to first review the new location. However, the Board can make suggestions on where the lot should be located and the new location must be resubmitted at a subsequent meeting. To avoid a resubmission, when initially applying for a lot, a property owner may submit two locations for approval by the local agricultural advisory board, MALPF staff, and the MALPF Board of Trustees, designating one as the primary preference. Upon receiving a successful perc, the landowner will notify MALPF staff of which location will be used.
- H. The landowner and Program Administrator are **strongly encouraged** to be present at the MALPF Board meeting when the lot application is presented to answer any questions that may arise. Both landowners and Program Administrators must recognize that if they are not present, circumstances might arise that will require the request be tabled until they can be present.