

# SENATE BILL 128

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(PRE-FILED)

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By: **Senator Ellis**

Requested: October 29, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Charles County – Program Open Space – Waldorf Core Zone**

3 FOR the purpose of requiring that all proposed acquisition and development projects and  
4 any revisions submitted by the Charles County Board of Commissioners under  
5 Program Open Space for certain fiscal years be planned to take place in the Waldorf  
6 Core Zone; defining the term “Waldorf Core Zone”; and generally relating to Program  
7 Open Space acquisition and development projects in the Waldorf Core Zone in  
8 Charles County.

9 BY repealing and reenacting, with amendments,  
10 Article – Natural Resources  
11 Section 5–905(a)  
12 Annotated Code of Maryland  
13 (2018 Replacement Volume and 2021 Supplement)

14 BY repealing and reenacting, without amendments,  
15 Article – Natural Resources  
16 Section 5–905(b)  
17 Annotated Code of Maryland  
18 (2018 Replacement Volume and 2021 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
20 That the Laws of Maryland read as follows:

21 **Article – Natural Resources**

22 5–905.

23 (a) (1) On or before May 1 of each year, the Department shall notify each local  
24 governing body of its allocation of local acquisition and development funds for the next

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 fiscal year within the limits imposed by the formula developed for the apportionment of the  
2 annual appropriations for Program Open Space.

3 (2) (i) 1. [By] **SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS**  
4 **SUBPARAGRAPH, BY** the first of July each year, a participating local governing body shall  
5 submit an annual program of proposed acquisition and development projects, together with  
6 a list of projects submitted by any municipal corporation to the local governing body and  
7 not included in the local governing body's annual program, to the Department of Planning  
8 for review and to the Department for approval.

9 2. A. **IN THIS SUBSUBPARAGRAPH, "WALDORF CORE**  
10 **ZONE" MEANS THE AREA IN CHARLES COUNTY LOCATED SOUTH OF MATTAWOMAN**  
11 **CREEK, WEST OF MARYLAND ROUTE 5, NORTH OF BILLINGSLEY ROAD, AND EAST**  
12 **OF BENSVILLE ROAD.**

13 B. **FOR FISCAL YEARS 2023 THROUGH 2032, INCLUSIVE,**  
14 **BY JULY 1 EACH YEAR, THE CHARLES COUNTY BOARD OF COMMISSIONERS SHALL**  
15 **SUBMIT AN ANNUAL PROGRAM OF PROPOSED ACQUISITION AND DEVELOPMENT**  
16 **PROJECTS TO THE DEPARTMENT OF PLANNING FOR REVIEW AND TO THE**  
17 **DEPARTMENT FOR APPROVAL.**

18 C. **ALL PROPOSED ACQUISITION AND DEVELOPMENT**  
19 **PROJECTS AND ANY REVISIONS SUBMITTED BY THE CHARLES COUNTY BOARD OF**  
20 **COMMISSIONERS UNDER THIS SUBSUBPARAGRAPH SHALL BE PLANNED TO TAKE**  
21 **PLACE IN THE WALDORF CORE ZONE, INCLUDING ACQUISITIONS MADE THROUGH A**  
22 **LOCAL ADVANCE OPTION AND PURCHASE FUND OR A LOCAL LAND TRUST GRANT**  
23 **FUND.**

24 (ii) [A] **SUBJECT TO SUBPARAGRAPH (I)2 OF THIS PARAGRAPH,**  
25 A municipal corporation may submit an annual program through its local governing body.

26 (iii) A subdivision, for each proposed project under this subsection,  
27 shall consider whether it is feasible to provide public access to the proposed project.

28 (iv) When considering whether it is feasible to provide public access  
29 to a proposed project under this paragraph, a subdivision may consider:

30 1. The availability of funds available under this program or  
31 from other sources to provide public access to the proposed project;

32 2. Public safety and liability issues if public access were  
33 provided to the site;

1                   3.     Whether the site for the proposed project was acquired as  
2 a part of a larger recreational and open space project that is not yet completed and ready  
3 for public access; and

4                   4.     The existence of a contractual commitment on the site for  
5 a proposed project that would limit public access for a period of time, including a home,  
6 agricultural, or hunting lease.

7                   (3)    (i)     Upon review by the Department of Planning and approval by the  
8 Department and the Board of Public Works, the allocated funds shall be encumbered for  
9 the purposes of §§ 7–305(d)(3) and 8–128(c) of the State Finance and Procurement Article,  
10 and the annual program shall become the basis for a grant agreement for the total  
11 allocation to each of the local governing bodies.

12                   (ii)    Prior to approval of a local annual program, or any revision  
13 thereof, the Department shall provide the legislators from the district within which any  
14 part of the local jurisdiction is located the opportunity to review and comment on the annual  
15 program or its revisions.

16                   (4)    Any program may be revised by the local governing body and the  
17 revised program, after the Department of Planning reviews and the Department approves  
18 it, shall be substituted for the original program in the grant agreement.

19                   (5)    (i)     In accordance with the Department’s regulations, upon receipt of  
20 evidence from the local governing body of a county or municipal corporation that funds have  
21 been spent on a project that is approved in the grant agreement, the Department shall  
22 cause the requested amount of funds from the local governing body’s allocation to be  
23 reimbursed to the local governing body.

24                   (ii)    Any municipal corporation may submit evidence of expenditures  
25 for approved projects through its local governing body to the Department.

26                   (b)    (1)     Except as provided in subsection (c)(1) of this section and except in  
27 Baltimore City, at least one half of a local governing body’s annual apportionment shall be  
28 used for acquisition projects. Local matching funds are not required for acquisition projects.  
29 If the local governing body is unable to obtain federal funds pursuant to § 5–906 of this  
30 subtitle, for an approved local acquisition project, the total cost of the project shall be  
31 defrayed out of the local governing body’s annual apportionment of State funds for open  
32 space. In Baltimore City any portion of the annual apportionment may be used either for  
33 acquisition or development.

34                   (2)    A local governing body shall prepare a local land preservation and  
35 recreation plan with acquisition goals based upon the most current population data  
36 available from the Department of Planning and submit it to the Department and to the  
37 Department of Planning for joint approval according to the criteria and goals set forth in  
38 guidelines prepared by the Department and the Department of Planning. A local governing  
39 body shall revise its local land preservation and recreation plan at least every 5 years and

1 submit the revised local plan to the Department and to the Department of Planning for  
2 joint approval 1 year prior to the revision of the Maryland Land Preservation and  
3 Recreation Plan. Prior to approval of a revised local plan, the Department shall provide the  
4 legislators from the district within which any part of the local jurisdiction is located the  
5 opportunity to review and comment on the revised local plan.

6 (3) Subject to the approval of the Department, a local governing body may  
7 use part of its acquisition funds for initial or periodic updating of local land preservation  
8 and recreation plans. The amount that may be used by a subdivision for planning purposes  
9 in the local land preservation and recreation plan shall not exceed \$25,000 for any one fiscal  
10 year. Local matching funds are not required for planning or updating the local land  
11 preservation and recreation plan.

12 (4) If federal funds are provided on any acquisition project, the State shall  
13 provide 100 percent of the difference between the total project cost and the federal  
14 contribution.

15 (5) (i) A local governing body shall use part of its funds reserved for  
16 acquisition for a local advance option and purchase fund. The funding level of the local  
17 advance option and purchase fund shall be determined on an annual basis and submitted  
18 as part of the annual program under subsection (a) of this section. The local advance option  
19 and purchase fund may be used to obtain an option on any parcel of land identified by the  
20 local governing body as facing intense development pressure within that county in advance  
21 of purchase or to purchase specific tracts of land.

22 (ii) Funds available in a local advance option and purchase fund  
23 shall be allocated in the following order of priority:

24 1. First to obtain an option on any parcel of land identified  
25 by the local governing body as facing intense or immediate development pressure within  
26 that county in advance of purchase, or to purchase a specific tract of land identified by the  
27 local governing body as facing intense development pressure within that county; and

28 2. Then to purchase property on which an option has been  
29 obtained or any other parcel of land.

30 (6) (i) A local governing body may use part of its funds reserved for  
31 acquisition for a local land trust grant fund.

32 (ii) A local land trust grant fund may be used to:

33 1. Make matching or reimbursable grants to land trusts for  
34 the acquisition of interests or rights in real property for recreational or open space  
35 purposes; or

1                                   2.     Acquire, under an agreement with a land trust, title to or  
2 an interest or right in property owned by a land trust or property on which the land trust  
3 holds an option or a contract to purchase.

4                                   (iii)   As a condition to any agreement under which a local government  
5 agrees to acquire title to or an interest or rights in property owned by a land trust or  
6 property on which the land trust holds an option or a contract to purchase, a perpetual  
7 conservation easement on the land shall be donated.

8                                   (iv)   A project may not receive funds from a local land trust grant fund  
9 unless:

10                                  1.     The project is approved in the local governing body's grant  
11 agreement; or

12                                  2.     The Department and the Board of Public Works approve  
13 the project as being in conformity with criteria governing land acquired under a local grant  
14 from Program Open Space.

15                                  (v)   The Department may approve a grant from a local land trust  
16 grant fund conditional upon modifying its terms.

17                                  (7)   (i)    Except as provided in subparagraph (iii) of this paragraph, if any  
18 portion of an annual apportionment to a local governing body is not encumbered within 5  
19 years of the allocation, the unencumbered funds shall revert to the Department, to be held  
20 by the Department in a special account until the beginning of the next fiscal year.

21                                  (ii)   At the beginning of the next fiscal year, the funds held in the  
22 special account under subparagraph (i) of this paragraph shall be added to the funds  
23 appropriated under § 5–903(b) of this subtitle to assist local governing bodies in acquisition  
24 and development of land for recreation and open space purposes.

25                                  (iii)  If a local governing body demonstrates to the Department that  
26 unencumbered funds have been designated for a specified purpose, subparagraph (i) of this  
27 paragraph does not apply to the funds.

28                                  SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
29 1, 2022. It shall remain effective for a period of 10 years and 1 month and, at the end of  
30 June 30, 2032, this Act, with no further action required by the General Assembly, shall be  
31 abrogated and of no further force and effect.