

**Wayne County, Ohio Survey**  
**The American Farmland Trust & The Trust for Public Land**  
**American Viewpoint, Inc.**  
**June 28 - July 1, 2001**

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Q. 1 - Thinking about all elections, including state and local elections, would you say that you..... **(READ 1 THRU 4)**

49%	Always vote	<b>(Continue)</b>
35%	Vote in most elections	<b>(Continue)</b>
10%	Vote in about half of elections	<b>(Continue)</b>
7%	Vote in less than half	<b>(Continue)</b>
0%	Don't Know	<b>(Thank &amp; Terminate)</b>
0%	Refused	<b>(Thank &amp; Terminate)</b>

Q. 2 - Which of the following do you feel is the most important problem facing Wayne County at the present time?

**ROTATE 1 THRU 9**

3%	Maintaining The Quality Of Local Government Services
12%	Holding Down Taxes
5%	Cutting Government Spending
15%	Improving Education
8%	Fighting Crime And Drugs
8%	More And Better Programs For The Poor And The Elderly
6%	Traffic And Transportation Problems
11%	Controlling Growth And Development
23%	Preserving Open-Space And Farm Lands
2%	Other <b>(Specify)</b>
8%	Don't Know
*	Refused

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If there were a ballot proposal that read. . .

Q. 3 - The Board of County Commissioners of Wayne County proposes: to levy a sales and use tax in the amount of an additional one-quarter of one percent for the purpose of providing revenue for a period of ten years for the acquisition of agricultural easements to protect agricultural lands, including farmland, woodlands and pasture with all expenditures to be reviewed by a citizens advisory committee.

Shall the resolution of the Wayne County Commissioners proposing a one-quarter percent sales and use tax be approved?

Would you vote for or against this proposal?

27%	Definitely For	
23%	Probably For	
3%	Lean For	<b>52% TOTAL FOR</b>
15%	Undecided	<b>32% TOTAL AGAINST</b>
2%	Lean Against	
9%	Probably Against	
20%	Definitely Against	

Q. 4 - If you learned that passing this measure would cost the average household \$44 per year in additional taxes, would you be more or less likely to vote for this measure, or wouldn't it make a difference?

9%	Much More Likely	
9%	A Little More Likely	<b>18% TOTAL MORE LIKELY</b>
10%	A Little Less Likely	<b>23% TOTAL LESS LIKELY</b>
13%	Much Less Likely	
53%	No Difference	
6%	Don't Know	

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Q. 5 - Generally speaking, do you feel that Wayne County is growing and developing too fast, too slowly or at about the right pace?

25%	Strongly Too Fast	
18%	Too Fast	<b>42% TOTAL TOO FAST</b>
3%	Too Slowly	
3%	Strongly Too Slowly	
46%	Right Pace	
5%	Don't Know	
1%	Refused	

Q. 6 - How important do you feel that it is for Wayne County to have a program to protect agricultural land from development? Would you say that it is. . .

53%	Very Important
32%	Somewhat Important
6%	Not Too Important
6%	Not At All Important
4%	Don't Know
1%	Refused

Q. 7 - Generally speaking, how familiar are you with agricultural easements? Would you say that you are. . .

9%	Very Familiar
36%	Somewhat Familiar
32%	Not Too Familiar
21%	Not At All Familiar
2%	Don't Know
1%	Refused

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Q. 8 - As you may know, an agricultural easement program uses public tax dollars to pay landowners who voluntarily agree to keep their farm land in permanent agricultural use rather than selling it for development. Generally speaking, would you approve or disapprove of an agricultural easement program in your community?

39%	Strongly Approve	
26%	Somewhat Approve	<b>65% TOTAL APPROVE</b>
7%	Somewhat Disapprove	<b>21% TOTAL DISAPPROVE</b>
14%	Strongly Disapprove	
8%	Depends ( <b>Volunteered</b> )	
5%	Don't Know	
1%	Refused	

Now, I would like to read you some things that others have said about this proposal to purchase agricultural easements in your area and have you tell me if you agree or disagree with each one. Would you agree or disagree that. . .

ROTATE

Q. 9 - Because Wayne County has lost 34% of its farms in the past 30 years, it is clear that we must act now to preserve the county's remaining agricultural lands.

54%	Strongly Agree	
23%	Somewhat Agree	<b>77% TOTAL AGREE</b>
8%	Somewhat Disagree	<b>18% TOTAL DISAGREE</b>
10%	Strongly Disagree	
2%	Both/Neither	
2%	Don't Know	

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Q. 10 - Preserving farm land also protects important wildlife habitat, scenic views and historic landscapes.

61%	Strongly Agree	
24%	Somewhat Agree	<b>85% TOTAL AGREE</b>
4%	Somewhat Disagree	<b>11% TOTAL DISAGREE</b>
7%	Strongly Disagree	
1%	Both/Neither	
2%	Don't Know	

Q. 11 - The preservation of Wayne County's rural lifestyle and agricultural economy is dependent on **(Half Sample)** *slowing the rate of growth and development.*

37%	Strongly Agree	
35%	Somewhat Agree	<b>72% TOTAL AGREE</b>
9%	Somewhat Disagree	<b>19% TOTAL DISAGREE</b>
10%	Strongly Disagree	
1%	Both/Neither	
7%	Don't Know	

Q. 11b - The preservation of Wayne County's rural lifestyle and agricultural economy is dependent on **(Half Sample)** *preserving farm and rural lands..*

55%	Strongly Agree	
25%	Somewhat Agree	<b>80% TOTAL AGREE</b>
7%	Somewhat Disagree	<b>14% TOTAL DISAGREE</b>
8%	Strongly Disagree	
2%	Both/Neither	
3%	Don't Know	

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Q. 12 - We would be better off spending our money on more important issues such as more schools, better law enforcement, and better county services and worry about preserving farmlands later.

15%	Strongly Agree	
20%	Somewhat Agree	<b>35% TOTAL AGREE</b>
20%	Somewhat Disagree	<b>50% TOTAL DISAGREE</b>
30%	Strongly Disagree	
10%	Both/Neither	
4%	Don't Know	

Q. 13 - \$4 dollars a month is a very small price to pay to preserve farmlands in Wayne County.

47%	Strongly Agree	
28%	Somewhat Agree	<b>75% TOTAL AGREE</b>
10%	Somewhat Disagree	<b>18% TOTAL DISAGREE</b>
9%	Strongly Disagree	
2%	Both/Neither	
4%	Don't Know	

Q. 14 - Taxes in Wayne County are already too high, if the county wants a program like this they should find some other way to pay for it.

29%	Strongly Agree	
20%	Somewhat Agree	<b>49% TOTAL AGREE</b>
20%	Somewhat Disagree	<b>37% TOTAL DISAGREE</b>
17%	Strongly Disagree	
5%	Both/Neither	
7%	Don't Know	

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Now that you know a little more about this proposal. . .

If there were a proposal on the ballot that read. . .

Q. 15 - The Board of County Commissioners of Wayne County proposes: to levy a sales and use tax in the amount of an additional one-quarter of one percent for the purpose of providing revenue for a period of ten years for the acquisition of agricultural easements to protect agricultural lands, including farmland, woodlands and pasture with all expenditures to be reviewed by a citizens advisory committee.

Shall the resolution of the Wayne County Commissioners proposing a one-quarter percent sales and use tax be approved?

Would you vote for or against this proposal?

33%	Definitely For	
23%	Probably For	
5%	Lean For	<b>60% TOTAL FOR</b>
10%	Undecided	<b>28% TOTAL AGAINST</b>
2%	Lean Against	
8%	Probably Against	
18%	Definitely Against	

Q. 16 - Now, I would like to read you a statement and have you complete it in your own words, "If I have one hesitation in voting for this proposal, it is. . ."

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And now I have just a few questions for statistical purposes only . . .

Q. 17 - Do you think of yourself as a Republican, a Democrat, an Independent, or something else?

41% Republican  
27% Democrat  
27% Independent  
3% Other  
2% Don't Know  
2% Refused

Q. 18 - What is your age?

3% 18-24  
4% 25-29  
6% 30-34  
7% 35-39  
9% 40-44  
13% 45-49  
12% 50-54  
11% 55-59  
7% 60-64  
8% 65-69  
6% 70-74  
11% 75 And Over  
3% Refused

Q. 19 - Do you have any children under 18 years old living at home?

32% Yes  
66% No  
2% Refused / No Answer



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Q. 20 - About what percentage of your household income relies on farming or the agriculture industry?

**ASK AS AN OPEN END QUESTION - READ 1 THRU 5 IF NEEDED**

69% None  
13% 1% To 25%  
5% 26% To 50%  
2% 51% To 75%  
5% Over 75%  
4% Don't Know  
3% Refused

Q. 21 - Which of the following income groups includes your total household income in 2000 before taxes?

3% Under \$10,000  
3% \$10,000 - \$14,999  
4% \$15,000 - \$19,999  
7% \$20,000 - \$24,999  
9% \$25,000 - \$29,999  
13% \$30,000 - \$39,999  
12% \$40,000 - \$49,999  
17% \$50,000 - \$74,999  
6% \$75,000 - \$99,999  
5% \$100,000 And Over

Q. 22 - SEX OF RESPONDENT:

48% Male  
52% Female

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Q. 23 - Are you employed outside the home, are you a homemaker, or are you retired?

36% Male - Employed  
0% Male - Homemaker  
11% Male - Retired  
1% Male - Not Employed  
26% Female - Employed  
8% Female - Homemaker  
16% Female - Retired  
1% Female - Not Employed  
2% Refused

Geographical Breaks

**Cities**

7% Orrville  
5% Rittman  
24% Wooster

**Townships**

3% Baughman  
5% Canaan  
3% Chester  
10% Chippewa  
3% Clinton  
5% Congress  
5% East Union  
3% Franklin  
5% Green  
3% Milton  
1% Paint  
3% Plain  
2% Salt Creek  
6% Sugar Creek

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4% Wayne  
5% Wooster



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CONSERVATION PROVISIONS FACT SHEETS**

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## **Summary of NRCS Conservation Programs**

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July 2002

### ***Landmark Legislation for Conservation***

The Farm Security and Rural Investment Act of 2002 (Farm Bill) is landmark legislation for conservation funding and for focusing on environmental issues. The conservation provisions will assist farmers and ranchers in meeting environmental challenges on their land. This legislation simplifies existing programs and creates new programs to address high priority environmental and production goals. The 2002 Farm Bill enhances the long-term quality of our environment and conservation of our natural resources. The Natural Resources Conservation Service (NRCS) administers the following programs authorized or re-authorized in the 2002 Farm Bill.

### ***Conservation of Private Grazing Land Program***

The Conservation of Private Grazing Land Program (CPGL) is a voluntary program that helps owners and managers of private grazing land address natural resource concerns while enhancing the economic and social stability of grazing land enterprises and the rural communities that depend on them.

### ***Conservation Security Program***

The Conservation Security Program is a voluntary program that provides financial and technical assistance for the conservation, protection, and improvement of soil, water, and related resources on Tribal and private lands. The program provides payments for producers who historically have practiced good stewardship on their agricultural lands and incentives for those who want to do more. The program will be available in fiscal year 2003.

### ***Environmental Quality Incentives Program***

The Environmental Quality Incentives Program (EQIP) is a voluntary conservation program that promotes agricultural production and environmental quality as compatible National goals. Through EQIP, farmers and ranchers may receive financial and technical help to install or implement structural and management conservation practices on eligible agricultural land.

### ***Farmland Protection Program***

The Farmland Protection Program is a voluntary program that helps farmers and ranchers keep their land in agriculture. The program provides matching funds to State, Tribal, or local governments and non-governmental organizations with existing farmland protection programs to purchase conservation easements or other interests in land.

### ***National Natural Resources Conservation Foundation***

The National Natural Resources Conservation Foundation (NNRCF) promotes innovative solutions to natural resource problems and conducts research and educational activities to support conservation on private land. The NNRCF is a private, nonprofit 501(c)(3) corporation. The foundation builds partnerships among agencies and agricultural, public, and private constituencies interested in promoting voluntary conservation on private lands.

***Resource Conservation and Development Program***

The Resource Conservation and Development Program (RC&D) encourages and improves the capability of civic leaders in designated RC&D areas to plan and carry out projects for resource conservation and community development. Program objectives focus on "quality of life" improvements achieved through natural resources conservation and community development. Such activities lead to sustainable communities, prudent land use, and the sound management and conservation of natural resources.

***Wetlands Reserve Program***

The Wetlands Reserve Program is a voluntary program that provides technical and financial assistance to eligible landowners to address wetland, wildlife habitat, soil, water, and related natural resource concerns on private land in an environmentally beneficial and cost-effective manner. The program provides an opportunity for landowners to receive financial incentives to enhance wetlands in exchange for retiring marginal land from agriculture.

***Wildlife Habitat Incentives Program***

The Wildlife Habitat Incentives Program (WHIP) is a voluntary program that encourages creation of high quality wildlife habitats that support wildlife populations of National, State, Tribal, and local significance. Through WHIP, NRCS provides technical and financial assistance to landowners and others to develop upland, wetland, riparian, and aquatic habitat areas on their property.

***For More Information***

If you need more information about these and other conservation programs, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at:

<http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:  
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## **Conservation Provisions Overview**

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May 2002

The Farm Security and Rural Investment Act of 2002 (Farm Bill) represents the single most significant commitment of resources toward conservation on private lands in the Nation's history. The legislation responds to a broad range of emerging natural resource challenges faced by farmers and ranchers, including soil erosion, wetlands, wildlife habitat, and farmland protection. Private landowners will benefit from a portfolio of voluntary assistance, including cost-share, land rental, incentive payments, and technical assistance. The 2002 Farm Bill places a strong emphasis on the conservation of working lands, ensuring that land remain both healthy and productive.

The conservation provisions build upon past conservation gains and respond to the call of farmers and ranchers across the country for additional cost-share resources. The 2002 Farm Bill also ensures greater access to the programs by making more farmers and ranchers eligible for participation.

### ***Agriculture Management Assistance (AMA)***

- Provides additional funding for AMA, in addition to funds provided through the Agriculture Risk Protection Act of 2000

### ***Conservation Corridor Program***

- Requires the Secretary of Agriculture to establish a conservation corridor demonstration program on the Delmarva Peninsula in the states of Delaware, Maryland, and Virginia located on the east side of the Chesapeake Bay

### ***Conservation of Private Grazing Land (CPGL)***

- Provides policy for technical assistance relating to conservation on private grazing lands, and mandates establishment of a separate funding line-item for this purpose

### ***Conservation Reserve Program (CRP)***

- Reauthorizes the program through 2007
- Raises authorization for enrollment to an overall acreage cap of 39.2 million acres
- Expands the Farmable Wetland Pilot Program to become available Nationwide with an aggregate acreage cap of 1 million acres
- Allows landowners to continue with existing ground cover where practicable and consistent with wildlife reserve benefits of CRP
- Provides for managed haying (including for biomass) and grazing

### ***Conservation Security Program (CSP)***

- Establishes CSP for fiscal years 2003 through 2007 to reward stewardship and provide an incentive for addressing additional resource concerns on agricultural working lands

### ***Desert Terminal Lakes***

- Provides \$200 million in funds of the Commodity Credit Corporation to be transferred to the Secretary of the Interior to provide water to at-risk natural desert terminal lakes; prohibits the purchase or lease of water rights with the funds

### ***Environmental Quality Incentives Program (EQIP)***

- Reauthorizes the program through 2007 with greater funding resources
- Eliminates geographic priority areas
- Allows for expenditure of funds in the first year of the contract
- Eliminates the cap on large confined livestock operations
- Provides an overall payment limitation of \$450,000 per producer, regardless of the number of farms or contracts, over the authorized life of the 2002 Farm Bill
- Specifies contract length, from a minimum of one year beyond completion of the project to a maximum of 10 years
- Prohibits the process of bidding-down (competitive cost share reduction among program applicants)
- Allows up to 90 percent cost-share for beginning or limited resource farmers and ranchers
- Allows the Secretary of Agriculture to use a portion of EQIP funds in each of fiscal years 2003 through 2006 for innovation grants
- Provides an additional \$50 million in EQIP funding to assist producers in the Klamath Basin

### ***Farmland Protection Program (FPP)***

- Reauthorizes the program through 2007 with greater funding resources
- Removes the existing acreage limitation, expands the definition of eligible land, and makes agricultural land that contains historic or archaeological resources eligible for enrollment
- Includes nonprofit organizations as eligible entities for program participation
- Allows the Secretary of Agriculture to provide grants (through an authorization of appropriations) for use in carrying out farm viability programs

### ***Grasslands Reserve Program (GRP)***

- Authorizes enrollment of up to 2 million acres of restored, improved, or natural grassland, rangeland, and pastureland, including prairie

### ***Grassroots Sourcewater Protection***

- Authorizes an annual appropriation for fiscal years 2002 to 2006 to use technical capabilities of each state rural water association that operates a well-head or groundwater protection program

### ***Great Lakes Basin Program for Soil Erosion and Sediment Control***

- Authorizes the Secretary of Agriculture, in consultation with the Great Lakes Commission and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army, to carry out a program in the Great Lakes basin for soil erosion and sediment control

### ***Ground and Surface Water Conservation***

- Provides a special initiative through EQIP for ground and surface water conservation
- Institutes cost-share payments, incentive payments, and loans to producers to carry out eligible water conservation activities, including irrigation improvements, conversion to less water intensive crops, and dryland farming

### ***Partnerships and Cooperation***

- Authorizes the Secretary of Agriculture to enter into agreements to enhance technical and financial assistance provided to owners, operators, and producers to address natural resource issues related to agricultural production



***Resource Conservation and Development Program (RC&D)***

- Provides permanent reauthorization of the program and makes technical and conforming changes to the program

***Small Watershed Rehabilitation***

- Provides mandatory spending from the Commodity Credit Corporation in addition to existing authorization of appropriations

***Wetlands Reserve Program (WRP)***

- Reauthorizes the program through 2007
- Increases the overall program acreage cap to 2,275,000 acres
- Caps annual acreage enrollment at 250,000 acres

***Wildlife Habitat Incentives Program (WHIP)***

- Provides for up to 15 percent of annual WHIP funds for increased cost-share payments to producers to protect and restore essential plant and animal habitat using agreements with a duration of at least 15 years

***For More Information***

If you need more information about the Conservation Provisions of the 2002 Farm Bill, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at: <http://www.nrcs.usda.gov/programs/farmbill/2002/>



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## Fact Sheet

May 2002

# Farm Bill 2002

## *Conservation of Private Grazing Land Program*

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### *Overview*

The Conservation of Private Grazing Land Program (CPGL) is a voluntary program that helps owners and managers of private grazing land address natural resource concerns while enhancing the economic and social stability of grazing land enterprises and the rural communities that depend on them. CPGL is reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). The Natural Resources Conservation Service (NRCS) manages the program.

CPGL is available in all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

### *Benefits*

Grazing lands cover an immense area and provide a diversity of ecological and economic benefits to local residents and society in general. Healthy grazing lands provide water for urban and rural uses, livestock products, flood protection, wildlife habitat, purification of air, and carbon sequestration. These lands also provide aesthetic value, open space, and vital links in the enhancement of rural social stability and economic vigor.

### *How CPGL Works*

CPGL provides for technical assistance from NRCS to owners and managers of private grazing land to voluntarily conserve or enhance their resources to meet ecological, economic, and social demands. To receive technical assistance, a landowner or manager

may contact the local NRCS or conservation district office.

This assistance offers opportunities for:

- Maintaining and improving private grazing land and its management;
- Implementing grazing land management technologies;
- Protecting and improving the quality and quantity of water;
- Maintaining and improving wildlife and fish habitat;
- Enhancing recreational opportunities;
- Maintaining and improving the aesthetic character of private grazing land;
- Identifying opportunities and encouraging diversification; and
- Encouraging the use of sustainable grazing systems.

Requests for technical assistance through CPGL are prioritized by NRCS and the local conservation district to ensure that assistance is provided in a fair and equitable manner.

This program does not include financial assistance. However, financial assistance may be provided through other Federal, State, and local programs that address grazing land resource concerns.

### *Eligibility*

All owners and managers of private grazing land are eligible to receive technical assistance from NRCS.

***For More Information***

If you need more information about CPGL, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at:  
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## Conservation Reserve Program

### Authorization

The Food Security Act of 1985, as amended, authorized the Conservation Reserve Program (CRP), which is implemented through the Farm Service Agency (FSA) on behalf of the Commodity Credit Corporation (CCC). The program is also governed by the regulations published in 7 CFR part 1410.

### Overview

The CRP is a voluntary program that offers annual rental payments, incentive payments, and annual maintenance payments for certain activities, and cost-share assistance to establish approved cover on eligible cropland.

The program encourages farmers to plant long-term resource-conserving covers to improve soil, water, and wildlife resources. CCC makes available cost-share assistance in an amount equal to not more than 50 percent of the participant's costs in establishing approved practices. Contract duration is between 10 and 15 years.

CRP is administered by FSA. The Natural Resources Conservation Service, Cooperative State Research and Education Extension Service, state forestry agencies, and local soil and water conservation districts provide

technical support. Private sector technical assistance vendors may also be available.

### Eligible Land

To be eligible for placement in the CRP land must be:

- Cropland that is planted or considered planted to an agricultural commodity 2 of the 5 most recent crop years (including field margins) and which is physically and legally capable of being planted in a normal manner to an agricultural commodity; or
- Marginal pastureland that is either:
  - Certain acreage enrolled in the Water Bank Program; or
  - Suitable for use as a riparian buffer to be planted to trees.

### Additional Requirements for Cropland

In addition to the eligible land requirements, cropland must meet one of the following:

1. Have a weighted average Erosion Index (EI) of 8 or higher or be considered highly erodible land according to the conservation compliance provisions;
2. Be considered a cropped wetland;

3. Be devoted to any of a number of highly beneficial environmental practices, such as filter strips, riparian buffers, grass waterways, shelterbelts, wellhead protection areas, and other similar practices;
4. Be subject to scour erosion;
5. Be located in a national or state CRP conservation priority area;
6. Be cropland associated with or surrounding noncropped wetlands.

### Ranking Criteria

Offers for CRP contracts are ranked according to the Environmental Benefits Index (EBI).

The designated technical agency collects data for each of the EBI factors, based upon the relative environmental benefits for the land offered. Each eligible offer is ranked in comparison to all others and selections made from that ranking.

EBI factors include:

- Wildlife habitat benefits resulting from covers on contract acreage;
- Water quality benefits from reduced erosion, runoff, and leaching;
- On-farm benefits of reduced erosion;
- Benefits that will likely endure beyond the contract period;

- Air quality benefits from reduced wind erosion;
- Benefits of enrollment in conservation priority areas where enrollment would contribute to the improvement of identified adverse water quality, wildlife habitat, or air quality; and
- Cost.

### **Producer Eligibility Requirements**

A producer must have owned or operated the land for at least 12 months prior to close of the signup period, unless:

- The new owner acquired the land as a result of death of the previous owner;
- The only ownership change occurred due to foreclosure where the owner exercised a timely right or redemption in accordance with state law; or
- The circumstances of the acquisition present adequate assurance to CCC that the new owner did not acquire the land for the purpose of placing it in CRP.

### **Rental Rates**

The CCC bases rental rates on the relative productivity of soils within each county and the average dryland cash rent or the cash-rent equivalent.

The maximum CRP rental rate for each offer is calculated in advance of enrollment. Producers may offer land at that rate or may offer a

lower rental rate to increase the likelihood that their offer will be accepted.

In addition, CCC offers additional financial incentives of up to 20 percent of the annual payment for certain continuous signup practices.

### **Other Payments**

The CCC encourages restoration of wetlands by offering a one-time incentive payment equal to 25 percent of the cost of restoring the hydrology of the site. This is in addition to the 50-percent cost share provided to establish approved cover.

### **Continuous Signup**

Eligible acreage devoted to certain special conservation practices, such as riparian buffers, filter strips, grass waterways, shelterbelts, living snow fences, contour grass strips, salt tolerant vegetation, and shallow water areas for wildlife, may be enrolled at any time under the CCC's continuous signup and are not subject to competitive bidding. In addition, land within a designated public wellhead area may be eligible to be enrolled on a continuous basis. (*See FSA Fact Sheet: "Continuous Signup for High-Priority Practices" for further details.*)

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## Questions and Answers

February 2003

## ***Conservation Security Program***

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### **Q. What is the Conservation Security Program (CSP)?**

A. CSP is a voluntary program that will provide payments for producers who have historically practiced good stewardship on their agricultural lands and incentives for those who want to do more. CSP will help producers of working lands promote conservation and improve the quality of soil, water, air, energy, and plant and animal life. It will provide environmental benefits by addressing resource concerns on agricultural working land.

### **Q. How are you going to put this program together?**

A. The Farm Security and Rural Investment Act of 2002 (Farm Bill), although specific in some areas, left many details to be defined. We are going to reach out as broadly as possible to solicit views from as wide a range of interests as possible as we move forward. Our first step in this process is the recent publication of an Advanced Notice of Proposed Rulemaking.

### **Q. What is an Advanced Notice of Proposed Rulemaking (ANPR)?**

A. The ANPR is a method of soliciting public comments on some of the most important issues that must be resolved before we can proceed with a proposed rule. Comments received from the ANPR will help us determine the best alternatives for implementation strategies and processes to achieve the intended purpose of the program.

### **Q. When will the CSP be available?**

A. The Conservation Security Program is going through the formal rulemaking process. This process will include a significant period of public comment. We will make the rulemaking process fully collaborative. There are a number of significant issues that will need resolution. The program will be available after publication of the final rule.

### **Q. How does CSP fit in with the other conservation provisions?**

A. CSP complements the other programs. CSP is the latest component of our portfolio of conservation programs that address natural resource issues on working lands.

### **Q. What is the role of CSP?**

A. The role of CSP within USDA conservation programs is to identify and meaningfully reward farmers and ranchers who are meeting the highest standards of conservation and environmental management on their operations and to create incentives for others to do the same, while providing public benefits for generations to come.

### **Q. What is a resource concern?**

A. Resource concerns are the conditions of the natural resources that may be sensitive to change by natural forces and human

activity. Concerns are identified by predictive models, direct measurements, observation, or client objectives. Examples of resource concerns are water quantity, water quality, soil erosion, soil quality, air quality, animal management, and plant suitability.

**Q. What are quality criteria?**

- A. Quality criteria establish the minimum treatment level necessary to adequately address identified resource concerns for a particular land area. These criteria are established in the Natural Resources Conservation Service (NRCS) Field Office Technical Guide.

**Q. What land is eligible for CSP?**

- A. Private agricultural land, including cropland, grassland, prairie land, improved pasture land, and rangeland; land under the jurisdiction of an Indian Tribe; and forested land that is an incidental part of the agricultural operation are eligible for enrollment in CSP. Land enrolled in the Conservation Reserve Program (CRP), Wetlands Reserve Program, and Grassland Reserve Program is not eligible. Land converted to cropland after 2002 also is not eligible, unless it had been planted or considered planted in four of the years between 1997 and 2002; had been maintained as part of a long term crop rotation, as determined by USDA; or had been (but is no longer) enrolled in CRP.

**Q. Is CSP targeted to specific producers or available to anyone?**

- A. The CSP is available to all agricultural producers, including Tribes. CSP is available to all farm and ranch types and sizes in all regions of the country.

**Q. How are the payments determined?**

- A. Payments may include a base payment determined by the treatment level, management and maintenance payments for conservation practices, and enhanced payments for treatment that exceeds the minimum requirements. There are also provisions in the statute for cost-sharing practices for those who want to increase their conservation treatment.

**Q. How will the CSP program benefit the environment?**

- A. The CSP will help owners and operators of agricultural lands maintain conservation stewardship and implement and maintain additional needed conservation practices. The conservation benefits gained will keep farms and ranches more sustainable and increase the benefits provided to all Americans through improved natural resources.

**Q. Does conservation tillage or no-till automatically qualify a producer for participation?**

- A. No. Although conservation tillage or no-till goes a long way toward treating a resource concern, it may not be enough by itself to solve erosion problems, and there may be other resource concerns on the agricultural operation that conservation tillage does not address.

**Q. I am a Certified Organic Producer. Do I automatically qualify for participation?**

- A. No. Although being a certified organic producer goes a long way toward treating some resource concerns, there may be other resource concerns on the agricultural operation that a certified organic plan may not address.

**Q. Does my conservation compliance plan qualify for CSP?**

**A.** No. In fact, the practices or treatment required to meet minimum compliance criteria cannot receive cost-share for installation or maintenance. However, practices maintained under a conservation compliance plan do count toward satisfaction of the relevant quality criteria.

***For More Information***

If you need more information about CSP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at:  
<http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:  
<http://www.usda.gov/farmbill>

**Note:** This is not intended to be a definitive interpretation of farm legislation. Rather, it is preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.



## Fact Sheet

January 2003

## *Environmental Quality Incentives Program*

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### **Overview**

The Environmental Quality Incentives Program (EQIP) is a voluntary conservation program that promotes agricultural production and environmental quality as compatible National goals. Through EQIP, farmers and ranchers may receive financial and technical help to install or implement structural and management conservation practices on eligible agricultural land.

EQIP was reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). The Natural Resources Conservation Service (NRCS) administers EQIP. Funding for EQIP comes from the Commodity Credit Corporation.

A summary of the proposed rule is available at [http://www.nrcs.usda.gov/programs/farmbill/2002/pdf/EQIP\\_rule\\_sum\\_030130.pdf](http://www.nrcs.usda.gov/programs/farmbill/2002/pdf/EQIP_rule_sum_030130.pdf)

### **How EQIP Works**

EQIP activities are carried out according to an EQIP plan of operations developed in conjunction with the producer. Contracts that include an animal waste storage system require the development and implementation of a Comprehensive Nutrient Management Plan (CNMP). Practices are subject to NRCS technical standards adapted for local conditions. Farmers and ranchers may elect to use an approved third-party provider for technical assistance.

EQIP applications are accepted throughout the year. NRCS evaluates each application using a state and locally developed ranking process. Higher priorities are given to applications that

encourage the use of cost-effective conservation practices, address National conservation priorities, and optimize environmental benefits.

State Technical Committees, Tribal representatives, and local working groups convened by the conservation district advise NRCS on implementation of the program to address identified resource needs and concerns.

EQIP may provide cost share assistance for implementing certain conservation practices important to improving and maintaining the health of natural resources in the area. Incentive payments may be made to encourage a producer to adopt land management practices, such as nutrient management, manure management, integrated pest management, irrigation water management, and wildlife habitat management, or to develop a CNMP. Although cost-share rates will vary, they will not exceed 75 percent. Cost share rates for limited resource producers and beginning farmers and ranchers will also vary, but will not exceed 90 percent.

EQIP offers contracts with a minimum term of one year after implementation of the last scheduled practice and a maximum term of ten years. These contracts provide incentive payments and cost share payments for implementing conservation practices.

Total cost-share and incentive payments are limited to \$450,000 per individual over the period of the 2002 Farm Bill, regardless of the number of farms or contracts.

### ***Conservation Innovation Grants***

EQIP provides opportunities for Conservation Innovation Grants, which are competitive grant awards to stimulate innovative approaches to environmental enhancement and protection, in conjunction with agricultural production.

The Secretary of Agriculture is authorized to use EQIP funds each fiscal year from 2003 to 2007 to award grants to government or non-government organizations or individuals that leverage Federal funds to implement innovative approaches to conservation. Grant amounts may not exceed 50 percent of the total cost of each project.

Conservation Innovation Grants provide the opportunity for the U.S. Department of Agriculture (USDA) to work with other public and private entities to accelerate technology transfer and implementation of promising technologies to address the Nation's most pressing agricultural related natural resource problems. Agricultural producers, particularly those facing the most difficult challenges, will benefit by having more options for enhancing the environment and meeting Federal, State, and local regulations.

### ***Ground and Surface Water Conservation***

EQIP provides for additional funding specifically to promote ground and surface water conservation activities to improve irrigation systems; convert to the production of less water intensive agricultural commodities; improve water storage through measures such as water banking and groundwater recharge; or institute other measures that improve groundwater and surface water conservation, as determined by the Secretary.

Assistance to a producer may be provided only to facilitate a conservation measure that results in a net savings in groundwater or surface water resources in the agricultural operation of the producer. This provision is funded for fiscal years 2002 through 2007.

### ***Eligibility***

Producers engaged in livestock or crop production on eligible land may apply for the program. Eligible land includes cropland; rangeland; pasture; private non-industrial forestland; and other farm or ranch lands, as determined by the Secretary.

The Adjusted Gross Income provision of the 2002 Farm Bill impacts eligibility for EQIP and several other 2002 Farm Bill programs. Individuals or entities that have an average adjusted gross income exceeding \$2.5 million for the three tax years immediately preceding the year the contract is approved are not eligible to receive program benefits or payments. However, an exemption is provided in cases where 75 percent of the adjusted gross income is derived from farming, ranching, or forestry operations. The final rule for this provision has not yet been published.

### ***For More Information***

If you need more information about EQIP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at: <http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:  
<http://www.usda.gov/farmbill>

**NRCS Q&A Legal Disclaimer:** These products are not intended to be definitive interpretations of farm legislation. Rather, they are preliminary and may change as USDA develops implementing policies and procedures. Please check back for updates.

## Fact Sheet

May 2002

## *Farmland Protection Program*

### *Overview*

The Farmland Protection Program (FPP) is a voluntary program that helps farmers and ranchers keep their land in agriculture. The program provides matching funds to State, Tribal, or local governments and non-governmental organizations with existing farmland protection programs to purchase conservation easements or other interests in land. FPP is reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). The U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) manages the program.

### *Benefit/Accomplishments*

Through 2001, more than 108,000 acres have been protected in 28 states.

### *How FPP Works*

USDA works through State, Tribal, and local governments and non-governmental organizations to conduct the FPP. These entities acquire conservation easements from landowners. Participating landowners agree not to convert their land to non-agricultural uses and to develop and implement a conservation plan for any highly erodible land. All highly erodible lands enrolled must have a conservation plan developed based on the standards in the NRCS Field Office Technical Guide and approved by the local conservation district. Landowners retain all rights to use the property for agriculture.

To participate, a landowner submits an application to an entity—a State, Tribal, or local government or a non-governmental organization—that has an existing farmland protection program. The NRCS State

conservationist, with advice from the State Technical Committee, awards funds to qualified entities to conduct their farmland protection programs. Although a minimum of 30 years is required for conservation easements, priority is given to applications with perpetual easements.

### *Eligibility*

To qualify for FPP, the land offered must be part or all of a farm or ranch and must:

- Contain prime, unique, or other productive soil or historical or archaeological resources;
- Be included in a pending offer from a State, Tribal, or local government or non-governmental organization's farmland protection program;
- Be privately owned;
- Be covered by a conservation plan for any highly erodible land;
- Be large enough to sustain agricultural production;
- Be accessible to markets for what the land produces; and
- Be surrounded by parcels of land that can support long-term agricultural production.

If the land cannot be converted to non-agricultural uses because of existing deed restrictions or other legal constraints, it is ineligible for FPP.

### *Funding*

FPP is funded through the Commodity Credit Corporation. The FPP share of the easement cost must not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in the land. A State,

Tribal, or local government or non-governmental organization may supplement its share of the easement cost through a landowner's donation, not to exceed 25 percent of the appraised fair market value of the conservation easement.

***For More Information***

If you need more information about FPP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at:  
<http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:  
<http://www.usda.gov/farmbill>



## Fact Sheet

May 2002

# Farm Bill 2002

## *Resource Conservation and Development Program*

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### *Overview*

The Resource Conservation and Development Program (RC&D) is reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). The purpose of the RC&D program is to encourage and improve the capability of volunteer local elected and civic leaders in designated RC&D areas to plan and carry out projects for resource conservation and community development. Program objectives focus on "quality of life" improvements achieved through natural resources conservation and community development. Such activities lead to sustainable communities, prudent land use, and the sound management and conservation of natural resources.

### *Benefits/Accomplishments*

The RC&D program pulls together people, communities, Indian tribes, and grassroots groups that unite in shared purpose and pool resources to get work done. More than 20,000 volunteers are serving on and with RC&D councils. They are committed to revitalizing and sustaining their communities through the RC&D program. To date, 368 areas across the Nation (plus the Caribbean and Pacific Basins) have been designated by the Secretary of Agriculture as RC&D areas. They serve more than 85 percent (2,614) of U.S. counties and over 77 percent of the U.S. population. NRCS' goal is to have nationwide coverage by 2005.

In fiscal year 2001, RC&Ds completed more than 3,000 projects. These resulted in 500 businesses created and 1,800 businesses expanded; 7,500 jobs created; 5,000 miles of streams and 880,000 acres of wildlife habitat improved. Over 283,000 people learned new job skills, and nearly 780,000 economically and socially disadvantaged people were served.

### *How RC&D Works*

Assistance is provided, as authorized by the Secretary of Agriculture, to designated RC&D areas through their organized RC&D councils (comprised of local leaders). RC&D councils and their sponsors, in association with State, local, and Federal governments and non-profit organizations, develop and implement local RC&D area plans. Councils also obtain assistance from other local, State, and Federal agencies; private organizations; and foundations. RC&D priorities are set by area residents to meet their needs.

### *Eligibility*

Technical assistance is available to RC&D areas designated by the Secretary of Agriculture. Technical assistance is available for the planning and installation of approved projects specified in RC&D area plans, for land conservation, water management, community development, and environmental enhancement elements.

***For More Information***

If you need more information about RC&D, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at:  
<http://www.nrcs.usda.gov/programs/farbill/2002/>



Visit USDA on the Web at:  
<http://www.usda.gov/farbill>

## Fact Sheet

May 2002

## Wetlands Reserve Program

### Overview

The Wetlands Reserve Program (WRP) is a voluntary program that provides technical and financial assistance to eligible landowners to address wetland, wildlife habitat, soil, water, and related natural resource concerns on private lands in an environmentally beneficial and cost-effective manner. The program provides an opportunity for landowners to receive financial incentives to enhance wetlands in exchange for retiring marginal land from agriculture. WRP is reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). The Natural Resources Conservation Service (NRCS) administers the program. Funding for WRP comes from the Commodity Credit Corporation.

### Benefits

WRP participants benefit by:

- Receiving financial and technical assistance in return for restoring and protecting wetland functions and values;
- Seeing a reduction in problems associated with farming potentially difficult areas; and
- Having incentives to develop wildlife recreational opportunities on their land.

Wetlands benefit the Nation by providing fish and wildlife habitat; improving water quality by filtering sediments and chemicals; reducing flooding; recharging groundwater; protecting biological diversity; as well as providing opportunities for educational, scientific, and recreational activities.

### How WRP Works

Landowners and Tribes may file an application for a conservation easement or a cost-share

restoration agreement with the U.S.

Department of Agriculture (USDA) to restore and protect wetlands. Participants voluntarily limit future use of the land, but retain private ownership.

The program offers three enrollment options:

*Permanent Easement.* This is a conservation easement in perpetuity. Easement payments for this option equal the lowest of three amounts: the agricultural value of the land, an established payment cap, or an amount offered by the landowner. In addition to paying for the easement, USDA pays 100 percent of the costs of restoring the wetland.

*30-Year Easement.* Easement payments through this option are 75 percent of what would be paid for a permanent easement. USDA also pays 75 percent of restoration costs.

For both permanent and 30-year easements, USDA pays all costs associated with recording the easement in the local land records office, including recording fees, charges for abstracts, survey and appraisal fees, and title insurance.

*Restoration Cost-Share Agreement.* This is an agreement (generally for a minimum of 10 years) to re-establish degraded or lost wetland habitat. USDA pays 75 percent of the cost of the restoration activity. This enrollment option does not place an easement on the property. Other agencies, conservation districts, and private conservation organizations may provide additional assistance for easement payments and wetland restoration costs as a way to reduce the landowner's share of the

costs. Such special partnership efforts are encouraged.

NRCS and its partners, including conservation districts, continue to provide assistance to landowners after completion of restoration activities. This assistance may be in the form of reviewing restoration measures, clarifying technical and administrative aspects of the easement and project management needs, and providing basic biological and engineering advice on how to achieve optimum results for wetland dependent species.

Applications are accepted through a continuous sign-up process. Applications may be obtained and filed at any time with your local USDA Service Center or conservation district office. Applications also may be obtained through USDA's e-gov Internet site at: [www.sc.egov.usda.gov](http://www.sc.egov.usda.gov). Enter "Natural Resources Conservation Service" in the Agency field, "Wetlands Reserve Program" in the Program Name field, and "CCC-1250" in the Form Number field.

### ***Eligibility***

To offer a conservation easement, the landowner must have owned the land for at least 12 months prior to enrolling it in the program, unless the land was inherited, the landowner exercised the landowner's right of redemption after foreclosure, or the landowner can prove the land was not obtained for the purpose of enrolling it in the program. To participate in a restoration cost-share agreement, the landowner must show evidence of ownership.

To be eligible for WRP, land must be restorable and be suitable for wildlife benefits. This includes:

- Wetlands farmed under natural conditions;
- Farmed wetlands;
- Prior converted cropland;
- Farmed wetland pasture;

- Farmland that has become a wetland as a result of flooding;
- Range land, pasture, or production forest land where the hydrology has been significantly degraded and can be restored;
- Riparian areas which link protected wetlands;
- Lands adjacent to protected wetlands that contribute significantly to wetland functions and values; and
- Previously restored wetlands that need long-term protection.

***Ineligible Land.*** Ineligible land includes wetlands converted after December 23, 1985; lands with timber stands established under a Conservation Reserve Program contract; Federal lands; and lands where conditions make restoration impossible.

### ***Uses of WRP Land***

On acreage subject to a WRP easement, participants control access to the land and may lease the land for hunting, fishing, and other undeveloped recreational activities. At any time, a participant may request that additional activities be evaluated to determine if they are compatible uses for the site. This request may include such items as permission to cut hay, graze livestock, or harvest wood products. Compatible uses are allowed if they are fully consistent with the protection and enhancement of the wetland.

### ***For More Information***

If you need more information about WRP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at: <http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:  
<http://www.usda.gov/farmbill>



## Fact Sheet

May 2002

## *Wildlife Habitat Incentives Program*

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### *Overview*

The Wildlife Habitat Incentives Program (WHIP) is a voluntary program that encourages creation of high quality wildlife habitats that support wildlife populations of National, State, Tribal, and local significance. Through WHIP, the Natural Resources Conservation Service (NRCS) provides technical and financial assistance to landowners and others to develop upland, wetland, riparian, and aquatic habitat areas on their property.

WHIP is reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill). Through WHIP, NRCS works with private landowners and operators; conservation districts; and Federal, State, and Tribal agencies to develop wildlife habitat on their property. Funding for WHIP comes from the Commodity Credit Corporation.

### *Benefits*

Since WHIP began in 1998, nearly 11,000 participants have enrolled more than 1.6 million acres into the program. Most efforts have concentrated on improving upland wildlife habitat, such as native prairie, but there is an increasing emphasis on improving riparian and aquatic areas. The 2002 Farm Bill greatly expands the available tools for improving wildlife habitat conditions across the Nation.

Species that have benefited from WHIP activities include the grasshopper sparrow, bobwhite quail, swift fox, short-eared owl, Karner-blue butterfly, gopher tortoise, Louisiana black bear, Eastern collared lizard,

Bachman's sparrow, ovenbird, and acorn woodpecker.

### *How WHIP Works*

Conservation districts convene local work groups to identify local wildlife habitat priorities. The local work groups then provide input to the State Technical Committee that advises the State conservationist in the development of a State WHIP plan. The State WHIP plan serves as a guide for the development of the State WHIP ranking criteria.

Persons interested in entering into a cost-share agreement with the U.S. Department of Agriculture (USDA) to develop wildlife habitat may file an application at any time. Participants voluntarily limit future use of the land for a period of time, but retain private ownership.

NRCS works with the participant to develop a wildlife habitat development plan. This plan becomes the basis of the cost-share agreement between NRCS and the participant. NRCS provides cost-share payments to landowners under these agreements that are usually 5 to 10 years in duration, depending upon the practices to be installed.

There are shorter-term agreements to install practices that are needed to meet wildlife emergencies, as approved by the NRCS State conservationist. NRCS also provides greater cost-share assistance to landowners who enter into agreements of 15 years or more for practices on essential plant and animal habitat. NRCS can use up to 15 percent of its available WHIP funds for this purpose.

NRCS does not place limits on the number of acres that can be enrolled in the program or the amount of payment made; however, some States may choose to establish such requirements. NRCS welcomes projects that provide valuable wildlife habitat and does not want to discourage any landowner who desires to implement practices that will improve habitat conditions for declining species.

NRCS continues to provide assistance to landowners after completion of habitat development activities. This assistance may be in the form of monitoring habitat practices, reviewing management guidelines, or providing basic biological and engineering advice on how to achieve optimum results for targeted species.

Applications are accepted through a continuous sign-up process. Applications may be obtained and filed at any time with your local USDA Service Center or conservation district office. Applications also may be obtained through USDA's e-gov Internet site at: [www.sc.egov.usda.gov](http://www.sc.egov.usda.gov). Enter "Natural Resources Conservation Service" in the Agency field, "Wildlife Habitat Incentives Program" in the Program Name field, and "CCC-1250" in the Form Number field. Applications also may be accepted by cooperating conservation partners approved or designated by NRCS.

### ***Eligibility***

Eligible lands under the program are:

- Privately owned land;
- Federal land when the primary benefit is on private or Tribal land;
- State and local government land on a limited basis; and
- Tribal land.

If land is determined eligible, NRCS places emphasis on enrolling:

- Habitat areas for wildlife species experiencing declining or significantly reduced populations;
- Practices beneficial to fish and wildlife that may not otherwise be funded; and
- Wildlife and fishery habitats identified by local and State partners and Indian Tribes in each State.

### ***For More Information***

If you need more information about WHIP, please contact your local USDA Service Center, listed in the telephone book under U.S. Department of Agriculture, or your local conservation district. Information also is available on the World Wide Web at: <http://www.nrcs.usda.gov/programs/farmbill/2002/>



Visit USDA on the Web at:  
<http://www.usda.gov/farmbill>

**DEPARTMENT OF AGRICULTURE****Rural Business-Cooperative Service****Notice of Funds Availability (NOFA) Inviting Applications for the Value-Added Agricultural Product Market Development Grant Program (VADG) (Independent Producers)**

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Rural Business-Cooperative Service (RBS) announces the availability of approximately \$33 million in competitive grant funds for fiscal year 2002 to help independent agricultural producers enter into value-added activities. RBS hereby requests proposals from eligible independent producers, agricultural producer groups, farmer or rancher cooperatives, and majority-controlled producer-based business ventures interested in a competitively awarded grant to fund one of the following two activities: (1) Developing feasibility studies or business plans (including marketing plans or other planning activities) needed to establish a viable value-added marketing opportunity for an agricultural product; or (2) acquiring working capital to operate a value-added business venture or an alliance that will allow the producers to better compete in domestic and international markets. In order to provide program benefits to as many eligible applicants as possible, applications can only be for one or the other of these two activities, but not both.

Value-added products are defined as follows: (1) A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam); (2) the production of a product in a manner that enhances its value, as demonstrated through a business plan (such as organically produced products); (3) the physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system). As a result of the change in physical state or the manner in which the agricultural commodity or product is produced or segregated, the customer base for the commodity or product is expanded and a greater portion of revenue derived from the marketing, processing, or physical segregation is made available to the producer of the commodity or product. Value-added also includes using any agricultural

product or commodity to produce renewable energy on a farm or ranch.

The maximum award per grant is \$500,000. In order to maximize the distribution of program benefits, smaller grant requests under \$500,000 will receive priority points. Priority is also being given to projects producing energy from biomass or demonstrating profitable use of innovative technologies.

**DATES:** Applications must be completed and submitted to the appropriate State USDA Rural Development office as soon as possible, but no later than 4:00 pm on August 8, 2002. Applications received after August 8, 2002 will not be considered. Late applications will not be accepted and will be returned to the applicant. Applicants must ensure that the service they use to deliver their applications can do so by the deadline. Due to recent security concerns, packages sent to the agency by mail have been delayed several days or even weeks.

**ADDRESSES:** Submit proposals and other required materials to your State USDA Rural Development Office. RBS is strongly encouraging the electronic submission of proposals. If proposals are electronically submitted, signed paper copies of the three required forms, SF-424 "Application for Federal Assistance," SF-424A "Budget Information—Non-Construction Programs," and SF-424B "Assurances—Non-Construction Programs," need to be mailed to the state office. A list of Rural Development State Offices, addresses, e-mail addresses, and telephone numbers follows.

**Note:** Telephone numbers listed are not toll free.

**U.S. Department of Agriculture Rural Development State Offices****Alabama**

Chris Harmon, USDA Rural Development, Sterling Center, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106-3683, (334) 279-3415, [chris.harmon@al.usda.gov](mailto:chris.harmon@al.usda.gov)

**Alaska**

Dean Stewart, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761-7722, [dstewart@rdmail.rural.usda.gov](mailto:dstewart@rdmail.rural.usda.gov)

**Arizona**

Gary Mack, USDA Rural Development, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012, (602) 280-8717, [gary.mack@az.usda.gov](mailto:gary.mack@az.usda.gov)

**Arkansas**

Tim Smith, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little

Rock, AR 72201-3225, (501) 301-3200, [tim.smith@ar.usda.gov](mailto:tim.smith@ar.usda.gov)

**California**

Karen Spatz, USDA Rural Development, 430 G Street, Agency 4169, Davis, CA 95616, (530) 792-5829, [karen.spatz@ca.usda.gov](mailto:karen.spatz@ca.usda.gov)

**Colorado**

Leroy W. Cruz, USDA Rural Development, 655 Parfet Street, Lakewood, CO 80215, (720) 544-2926, [leroy.cruz@co.usda.gov](mailto:leroy.cruz@co.usda.gov)

**Delaware-Maryland**

Vincent F. Murphy, USDA Rural Development, 4607 South DuPont Highway, Camden, DE 19934, (302) 697-4323, [vince.murphy@de.usda.gov](mailto:vince.murphy@de.usda.gov)

**Florida/Virgin Islands**

Joe Mueller, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606, (352) 338-3482, [joe.mueller@fl.usda.gov](mailto:joe.mueller@fl.usda.gov)

**Georgia**

J. Craig Scroggs, USDA Rural Development, 333 Phillips Drive, McDonough, GA 30253, (678) 583-0866, [craig.scroggs@ga.usda.gov](mailto:craig.scroggs@ga.usda.gov)

**Hawaii**

Timothy O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waiianuenue Avenue, Hilo, HI 96720, (808) 933-8313, [tim.oconnell@hi.usda.gov](mailto:tim.oconnell@hi.usda.gov)

**Idaho**

Dale Lish, USDA Rural Development, 9173 West Barnes Drive, Suite A1, Boise, ID 83709, (208) 785-5840, ext. 118, [dale.lish@id.usda.gov](mailto:dale.lish@id.usda.gov)

**Illinois**

Cathy McNeal, USDA Rural Development, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403-6210, [cathy.mcneal@il.usda.gov](mailto:cathy.mcneal@il.usda.gov)

**Indiana**

Jerry Hay, USDA Rural Development, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (812) 346-3411, ext. 4, [jerry.hay@in.usda.gov](mailto:jerry.hay@in.usda.gov)

**Iowa**

Jeff Jobe, USDA Rural Development, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309, (515) 284-5192, [jeff.jobe@ia.usda.gov](mailto:jeff.jobe@ia.usda.gov)

**Kansas**

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**FOR FURTHER INFORMATION CONTACT:** For further information contact your USDA State Rural Development Office. You may also obtain information from the RBS website at: [www.rurdev.usda.gov/rbs/coops/vadg.htm](http://www.rurdev.usda.gov/rbs/coops/vadg.htm).

**SUPPLEMENTARY INFORMATION:****Background**

This solicitation is issued pursuant to section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106-224) as amended by section 6401 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) authorizing the establishment of the Value-Added Agricultural Product Market Development grants. The Secretary of Agriculture has delegated the program's administration to USDA's Rural Business-Cooperative Service.

The primary objective of this grant program is to help eligible independent producers of agricultural commodities, agricultural producer groups, farmer and rancher cooperatives, and majority-owned producer-based business ventures develop business plans for viable marketing opportunities and develop strategies to create marketing opportunities. Eligible agricultural producer groups, farmer and rancher cooperatives, and majority-controlled



2002 Value-Added Agricultural Product Market  
Development Grant Selections

**Connecticut - \$12,500**

Burton H. Griffin, West Suffield, Ct.  
\$12,500

Purpose: To conduct a feasibility study, business plan and market research to determine the viability of an agri-tourism venture at Beaver Brook Farm.

**Maine - \$108,000**

Maine Sustainable Agriculture Society, Orono, Maine  
\$108,000

Purpose: For working capital for the operational costs of linking central Maine institutions with local agricultural producers to tap the emerging market for locally grown, organic and conventional foods.

**Massachusetts - \$1,110,000**

Pioneer Valley Milk Marketing, Bernardston, Mass.  
\$50,000

Purpose: To conduct market study and operational business plan for an expansion of "Our Family Farms" dairy products and sales.

National Grape Cooperative Association, Concord, Mass.  
\$450,000

Purpose: To launch a new and unique fruit based and granola breakfast product.

United Cooperative Farmers, Inc., Fitchburg, Mass.  
\$200,000

Purpose: To convert the Guilderland, N.Y. feed milling plant into a state-of-the-art, bio-secure, segmented livestock feed manufacturing plant.

New England Livestock Alliance, Hardwick, Mass.  
\$150,000

Purpose: To support marketing of a new meat product that is produced with solar energy rather than petroleum products.

Decas Cranberry Products, Inc., Wareham, Mass.  
\$240,000

Purpose: To develop new uses for cranberry byproducts.

United Cooperative Farmers, Inc., Fitchburg, Mass.  
\$50,000

Purpose: To complete a feasibility study and marketing and business plan to create a new, fully traceable, dedicated organic feed manufacturing venture.

**New York - \$620,688**

Northeast Cervid Cooperative, Candor, N.Y.

\$53,100

Purpose: To conduct a feasibility study and develop a business plan as part of the planning effort to begin marketing and selling deer and elk meat products on the East Coast.

Mohawk Valley Grown Association, Oriskany, N.Y.

\$40,000

Purpose: For legal fees, development of a trademark program for Mohawk Valley products, securing additional producers and buyer commitments and assessing the feasibility of establishing a cooperative business relationship with related N.Y. production facilities.

New York Natural Beef Cooperative, Forestville, N.Y.

\$248,258

Purpose: To purchase an existing brand, Lake Country Premium, and serve primarily as a standard setting and marketing organization for New York producers of high quality, naturally raised beef.

Martens Country Kitchen Products, Port Byron, N.Y.

\$249,330

Purpose: To develop, manufacture and market a new, ready to use, fresh, whole peeled potato product with extended shelf life using no sulfites for the foodservice industry.

Catskill Family Farms Cooperative, Inc., Delhi, N.Y.

\$30,000

Purpose: For working capital to enter new markets for small specialty potatoes and certified organic fingerling potatoes.

**Vermont - \$380,469**

Vermont Quality Meats Cooperative, Brattleboro, Vt.

\$75,469

Purpose: To offset cost of sales staff, delivery staff and marketing initiatives related to expanding and diversifying specialty markets in New York City and Boston for branded Vermont grown meat products produce by the 47 producer/member cooperative.

Adams Petting Farm, Wilmington, Vt.

\$5,000

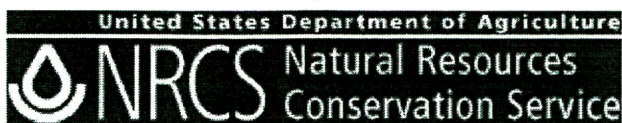
Purpose: To conduct a feasibility study and develop a business plan for marketing Merino Sheep wool products, maple syrup and related maple products.

Agri-Mark, Inc., Montpelier, Vt.

\$300,000

Purpose: To support the dairy cooperative's venture initial in-store sampling/introduction/marketing initiatives and direct mailing expenses.

USDA Rural Development serves as the lead federal entity for rural development needs and administers financial and technical assistance through three agencies: Rural Housing Service, Rural Business-Cooperative Service and Rural Utilities Service. Further information on USDA Rural Development can be obtained by contacting any USDA Service Center or by visiting USDA's web site at <http://www.rurdev.usda.gov/>.



## Agricultural Management Assistance

### Fact Sheet

*Note: Agricultural Management Assistance (AMA) is authorized under the Agricultural Risk Protection Act of 2000, Title I, Section 133 (Public Law 106-224).*

### Introduction

Agricultural Management Assistance (AMA) provides cost-share payments to agricultural producers to voluntarily address issues such as water management, water quality, and erosion control by incorporating conservation into their farming operations. Producers may construct or improve water management structures or irrigation structures; plant trees for windbreaks or to improve water quality; and mitigate risk through production diversification or resource conservation practices, including soil erosion control, integrated pest management, or transition to organic farming.

USDA's Natural Resources Conservation Service (NRCS) has leadership for the conservation provisions of AMA. The Agricultural Marketing Service (AMS) is responsible for an organic certification cost-share program and the Risk Management Agency (RMA) is responsible for mitigation of financial risk through an insurance cost-share program.

### How AMA Works

AMA is available in 15 states where participation in the Federal Crop Insurance Program is historically low. They are: Connecticut, Delaware, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming.

Applicants may request AMA assistance at any time by submitting an application to the local NRCS or conservation district office. The application (form CCC-1200) is available at the local USDA Service Center or on the Web at <http://www.sc.egov.usda.gov>.

A conservation plan is required for the area covered in the application and becomes the basis for developing the AMA contract. NRCS will work with the landowner to develop a conservation plan. Landowners must agree to maintain cost-shared practices for the life of the practice. Contracts are for five to ten years.

The NRCS state conservationist, in consultation with the State Technical Committee, will determine eligible structural and/or vegetative conservation practices using a locally led process. The Federal cost share is 75 percent of the cost of an eligible practice. Participants will be paid based upon certification of completion of the approved practice.

### Eligibility

Applicants must own or control the land and agree to implement specific eligible conservation practices. Applicants must meet the Food Security Act's definition of "person." Eligible land:

- Cropland



- Hayland
- Pasture and rangeland
- Land used for subsistence purposes
- Other land (such as forestland) that produces crops or livestock where risk may be mitigated through operation diversification or change in resource conservation practices.

**Funding**

AMA is budgeted at \$10 million per year. The total AMA payments (from NRCS, AMS, and RMA) shall not exceed \$50,000 per participant for any fiscal year.

**For More Information**

NRCS or your local conservation district can provide more information. Your [USDA Service Center](#) is listed in the telephone book under U.S. Department of Agriculture.





# PLANNING NEWS

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## LOT SIZES AND RESIDENTIAL DENSITY

### Why Density Regulation Makes Sense?

by Joel Russell, Woodlea Associates

Residential density was originally regulated by zoning as a health and safety measure to deal with serious overcrowding in urban slums. Bulk regulations dealing with setbacks and coverage were instituted to assure minimal natural light and air circulation in buildings. This evolved into a system of segregating neighborhoods by lot size to maintain property value. Such segregation by lot size has remained a major rationale for density regulation in urban and suburban areas where water and sewer infrastructure make high density development possible without threatening public health and safety.

Most rural communities had no zoning until the 1970s. Lot sizes were to a large degree controlled by health regulations governing on-site wells and septic systems. It became clear, however, that even though individual wells and septic systems might work within individual lots, if enough of those lots were developed in an area the groundwater resource could become polluted and/or depleted. As long as development pressure in rural areas remained low, there was little need for regulation of density. However, if full build-out of an area occurred using wells and septic systems, the total density of population would have to be limited to protect the integrity of groundwater resources.

As the construction of highways and the

deterioration of cities spawned a mass migration of people and jobs away from cities and older suburbs, many rural towns without water and sewer utilities found themselves deluged with new residential development. They responded by enacting standard suburban-type zoning laws that generally established one-acre or two-acre minimum lot sizes. This is the "suburban sprawl" pattern that has consumed much of the countryside in New York State and elsewhere. These minimum lot sizes were designed not only to protect water resources, but also to limit population growth and its impacts on roads, schools, and other municipal services.

Finding that one and two-acre zoning did not effectively control growth, some towns went to three, four and five-acre minimum lot sizes in the name of preserving "open space". The hidden agenda in much of this large-lot regulation was perceived to be exclusion of people who could not afford large lots. Because of this, large-lot zoning came to be criticized as "exclusionary" or "snob" zoning. Such zoning has also been questioned because it does not really preserve open space; it actually consumes such spaces faster (unless it is coupled with clustering provisions). However, five-acre zoning has been upheld by the New York Court of Appeals where there is a properly balanced and well-ordered plan for the

community and consideration has been given to regional needs and requirements.

### The Rationale for Density Regulation Today

By the 1980s people began to realize that they were actually losing what they valued most in their communities: identifiable village centers, a mix of residential and non-residential uses, expanses of farmland and forest land, unique historic and natural areas, and sensitive ecological resources. The

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## Lot Sizes & Density (from page 1)

problems with sprawl zoning are finally being understood, now that so much of it has actually been implemented. The monolithic strip mall/sprawl subdivision/office park form of development which had so successfully built out huge acreages in the 1970s and 80s has become increasingly unpopular in the early 90s. Instead of being welcomed, new development is now often bitterly opposed by local residents.

Out of the dissatisfaction with the development of the past 20 years, a new planning approach has emerged which focuses on the preservation of open space, environmental resources, and community character as an essential purpose of planning. Population and economic growth can and must be accommodated, but within the context of these objectives. However, in order to do this successfully, the following are required:

1. Sufficient water, sewer, and transportation infrastructure in settlement centers so that they can grow in a high-density, mixed-use pattern.
2. Guidelines on design and layout of settlements so that they enhance rather than despoil their surroundings.
3. Techniques to protect large tracts of rural open land for protection of farmland, water and other environmental resources, and areas of scenic and historic value. (Such techniques include clustering, transfer of development rights, purchase of development rights, and density regulation.)

4. A Master Plan that clearly articulates both protection objectives and strategies to accommodate growth.

In most New York communities the primary rationale for density regulation is to protect open space, community character, and environmental and cultural resources. Within hamlets and villages these rationales are also applicable, supplemented by the traditional ones of preventing overcrowding and maintaining property values in a higher density setting. An additional rationale for density regulation is to control the total "build-out" population of a community and the total demand for water and sewer, schools, and other municipal services. This rationale must be approached carefully, with due regard for regional population growth if it is to be legally justifiable. Whatever densities may be selected, **density regulation must be tied to specific protection objectives and must have a rational relationship to the accomplishment of these objectives.** The more restrictive the regulation, the more clearly it has to be tailored to achieving a legitimate public objective.

For example, McHenry County, Illinois, enacted a 160-acre minimum lot size in its agricultural zone pursuant to clearly articulated farmland preservation objectives in its Master Plan. This county lies only 55 miles from Chicago, but it has excellent farmland and an economically strong farming industry. Preservation of farmland in viable agricultural areas is a legitimate object of zoning. This zoning ordinance has been upheld by the Illinois Supreme Court because it was enacted in furtherance of a valid governmental purpose and did not deprive landowners of economically viable use of their land. Similarly, many townships in Lancaster County, Pennsylvania have enacted 50-acre density in their agricultural protection areas for the same reason. Very low density zoning is justifiable to maintain a healthy farming economy because the

introduction of any significant population density into an agricultural area incompatible with the public purpose of maintaining commercial agriculture.

In order to establish densities, therefore, it is essential to consider what the community is trying to protect, and to devise density standards that actually fulfill its protection goals. This requires clarity about both the protection objective and the means to achieve it. Flexibility in density regulation may also be appropriate to take account of design considerations and the fact that small housing units have less impact than large ones.

*Joel Russell, a principal in Woodlea Associates, is an attorney and planner based in Salt Point, Dutchess County.*

### Adirondack Park Density Controls

The Adirondack Park Agency Act of 1973 provides for density control guidelines. All private lands in the Park are divided into one of six land use areas based on the carrying capacity of the land. Each area has an overall intensity guideline establishing the approximate number of new principal buildings (e.g. houses) allowed per square mile. The guidelines range from no limit in hamlet areas, 500 buildings in moderate intensity areas and down to 15 in resource management areas. *(the editor)*

Copies of the Act as well as a "citizen's guide" to the region's land use regulations are available from the Adirondack Park Agency in Ray Brook, NY (518) 891-4050.

## A New Generation of Rural Land-Use Laws

By Joel S. Russell

Last month's issue of *Zoning News* discussed principles for rural zoning (sidebar). I have worked with several rural towns in New York and New England that have taken these principles seriously. They have devised workable land-use regulations that protect the character of their communities and allow needed development. Three New York towns—Washington, Hillsdale, and Reading—exemplify different approaches to implementing these principles. This issue examines their experiences.

### Washington

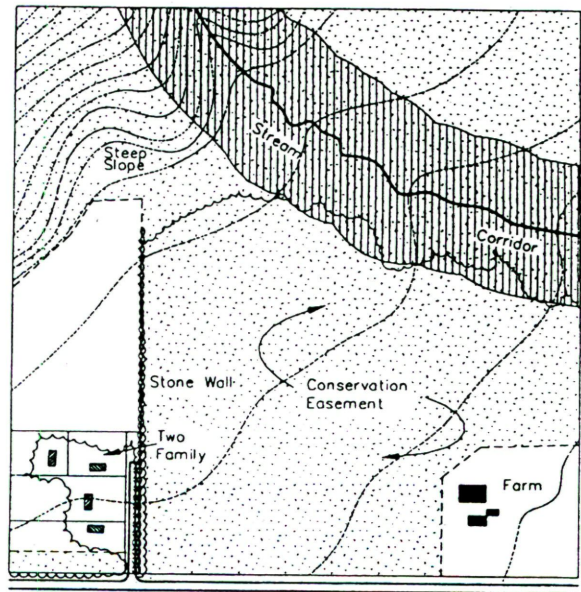
Washington is a doughnut-shaped rural town 15 miles northeast of Poughkeepsie, New York, with the village of Millbrook in the center. It is composed largely of estate farms, institutional holdings, and small-scale residential developments. For years, it has had the highest rural land values in the area because of both the prestige associated with the Millbrook address and highly restrictive zoning, which has helped maintain property values. It is one of the best examples in the region of a town that has chosen to remain rural while successfully channeling intensive development into a traditional pedestrian-oriented village, where water, sewer, transportation, schools, offices, shopping, and other services are available.

An opinion survey conducted in connection with a 1987 master plan revision showed that Washington residents clearly desire to keep the countryside undeveloped while allowing intensive development in the village of Millbrook, a separate municipality with its own complementary zoning regulations. The town's previous zoning, enacted in 1971, would have allowed cookie-cutter subdivisions of one-, two-, five-, and 10-acre lots, as well as a limited amount of strip commercial and industrial development. While more restrictive than any other in Dutchess County, this zoning law allowed a type of development that would have turned the town into an exclusive suburb of extra-large lots, destroying the rural sense of place and undermining the village's efforts to maintain a vital commercial and residential core. The town adopted a new zoning law in 1989 with assistance from a team of consultants that included a nationally known law firm, a landscape architect, and the Dutchess Land Conservancy, of which I was executive director.

**Clustering and Overlay Zones.** The new ordinance rezoned much of the land that was in five-acre zoning to 10-acre and eliminated all strip commercial zoning. Over two-thirds of the town is now zoned 10 acres per dwelling unit. More important, however, is that the new zoning law and subdivision regulations make an important distinction between lot size and density. If all of the town were to develop as 10-acre lots, the result could be disastrous. Instead, 10 acres per unit is the basic density that must be maintained in the countryside. Lots may vary greatly in size.

The planning board can require, through clustering, the protection of contiguous stretches of farmland, forests, and wetlands.

Washington's regulations set clear guidelines to determine when clustering should be required and to ensure that it accomplishes its primary goal of land preservation. Land set aside as open space must be protected by perpetual conservation easements to prevent future development. It must be a coherent piece of land, owned and managed in a way that is sensitive to its conservation value. The regulations encourage farmland to be owned and used by private farmers, rather than being placed in the cumbersome and inexperienced hands of a homeowners association. A farmer who needs to sell off a couple of lots can do this by selling lots of less than one acre while preserving enough farmland to maintain the district's overall density. In this way, the farmer will not have to sell out to a developer.



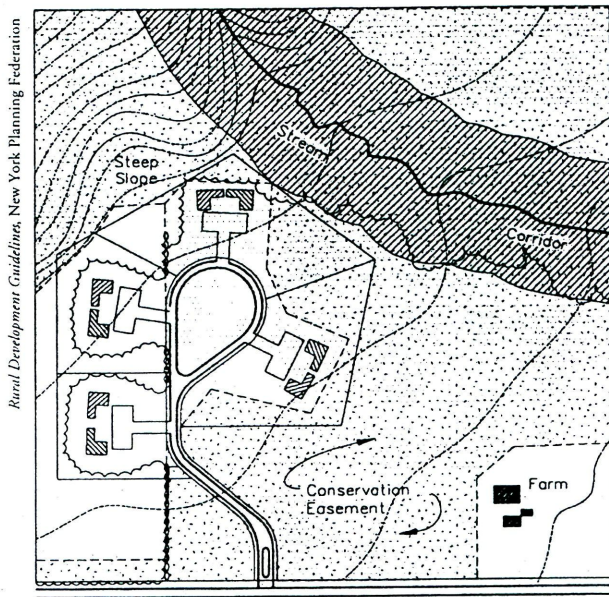
Rural Development Guidelines, New York Planning Federation

**Flexible Lot Subdivision:** *Eighty percent of this 60-acre parcel is protected by conservation easements, which include a stream corridor, hillside, and working farm field.*

The clustering technique can also be used to protect land in resource protection overlay zones such as stream corridors, lake or water supply watersheds, or unique habitats. The regulations require that development be clustered away from mapped farmland and aquifer overlay zones wherever possible. Even when subdivisions are not clustered, the planning board may require perpetual conservation easements to protect identified environmental resources as part of the subdivision process. Sometimes areas designated for preservation, such as scenic farmland, are also the best development sites. When this occurs, mandated clustering can reduce the land's value. In order to mitigate this economic impact, Washington offers a 25 percent density bonus for a cluster subdivision.

Many towns now allow clustering, and several also let the planning board mandate clustering. In practice, however, clustering has only rarely been successful in producing a pattern of development that fits well into the rural landscape. Too often, the result is just a series of scrunched-up cookie-cutter (or golf course) subdivisions with buffers around them—a modified form of sprawl. Clustering provisions must incorporate meaningful open space preservation and site design standards if they are to fulfill their promise.

**Conservation Density Subdivision.** Clustering can help prevent large developments from destroying open space resources. Incentives that encourage truly rural densities, such as conservation density subdivisions, can be even more effective. Under Washington's provisions, landowners who agree to restrict their land to one-fifth of the allowable density are allowed to use private, narrow gravel roads instead of the wide, paved roads the town normally requires. This provides an incentive for very low-density subdivision, since the cost of building town roads often forces a landowner to maximize lot count. The average lot size in many of these subdivisions is 50 acres, the same density to which many landowners have reduced their land using conservation easements. It was also the size of the typical area farm 100 years ago.



**Unacceptable Flexible Lot Plan:** *Although 80 percent of the land is preserved by a conservation easement, these condominiums do not protect the most important open space of conservation value.*

Any landowner who voluntarily agrees to limit density to the one-fifth level is also relieved of having to comply with other lot dimension requirements, such as minimum road frontage. Since the minimum town road frontage for a conventional subdivision is 400 feet in the 10-acre zone, allowing gravel roads with smaller frontage provides a strong incentive to avoid conventional subdivisions and their associated road costs. The

*Joel Russell, planner and attorney, is principal of Woodlea Associates, a planning and zoning consulting firm in Salt Point, New York, that specializes in drafting land-use regulations that protect community character and allow compatible growth.*

first two large subdivisions proposed under the new zoning, covering tracts of approximately 500 acres each, were conservation density subdivisions of seven and 11 lots.

The regulations also encourage the use of rear (flag) lots on a limited basis, provided they are spaced far enough apart and are at least 150 percent of the minimum lot size in the zone. This encourages preservation of large tracts, keeps new houses away from existing roads, and discourages the construction of large-scale subdivision roads.

Several other rural New York and New England towns have adopted similar private road and flag lot provisions. These techniques discourage the conventional suburban subdivisions that would otherwise be developed. Unfortunately, many communities resist private roads because they have had bad experiences with developers who walked away from partially completed roads that were intended for dedication. These municipalities fear that a conservation density subdivision, even with a properly constituted homeowners association, would create the same problems.

**Agricultural Preservation Overlay Zones.** Washington's agricultural preservation overlay zone, in addition to requiring clustering and encouraging conservation density subdivision to protect farmland, allows farmers greater flexibility in operating their businesses than they would have under more conventional zoning. For example, farm owners may build employee housing and run farm-related businesses, such as food processing, equipment sales and service, and manure composting. This is not permitted in many towns, forcing farmers to sell to developers because they cannot house workers or run related retail businesses that enable them to make ends meet.

This zone is only a small step toward deregulating private small business in the countryside. Many farm families need to be able to run unrelated businesses on their properties as well. Family members may want to have an antique shop or car repair operation on their properties to supplement unpredictable farm income. If such businesses harm no one and are small in scale, why not permit them under careful guidelines? Allowing more freedom for small business enterprises enables rural landowners to have their constitutionally protected economically viable use without having to sell out for development. While Washington was not willing to expand the range of allowable uses in this way, Hillsdale, Reading, and many other towns have done so.

## Hillsdale

Hillsdale, in the Berkshire foothills of Columbia County, has taken the next step toward use deregulation in rural areas, allowing far greater flexibility of uses than conventional zoning permits. It is less densely populated than Washington, with only a small hamlet as its town center. Its population is more diverse, including many who grew up locally as well as retirees, commuters, and weekenders from New York City. Hillsdale still has several dairy farms, as well as some horse and other livestock operations, crop farms, and a few estate properties.

Under a new zoning law adopted in 1995, Hillsdale's planning board also has the authority to mandate clustering (called flexible lot subdivision), but at a density of three acres per unit with 80 percent of the land protected as open space. Relatively low development pressure makes it unlikely that the town will actually build out at that density for the foreseeable future. The law includes illustrated rural development guidelines.

Hillsdale is more typical than Washington of rural towns in the Northeast. It is composed primarily of people of modest

means, earning a living locally or commuting to jobs in the region. The characteristic rural attitude—"nobody can tell me what to do with my land"—is stronger. For locals, the flexibility to run small businesses out of their home properties is critical. Under its previous zoning, many such businesses were illegal. Hillsdale now allows a wide variety of business uses in its rural district. Small-scale home occupations are allowed by right. For more intrusive businesses, the landowner must go through a permitting and site plan review process to show the proposed use will not negatively affect neighbors. The process has one tier for large-scale projects, which undergo a thorough and comprehensive review, and an easier and quicker one for small projects.

Allowing home-based businesses enables people with young children to work at home, reduces automobile commuting, and adds economic value to rural land. If these home-based businesses become more successful, they normally would be forced to relocate to commercial zones. Hillsdale allows them to expand where they are, as long as their expansion can meet compatibility criteria. This solution is often preferable to forcing such businesses into single-use office developments, industrial parks, or commercial strips.

Other towns with which I have worked have also instituted flexible use regulations in their rural areas, often coupled with

limits on the footprint size of buildings. They can allow a small well-screened auto body shop, but keep out Wal-Mart. They also have restricted commercial uses along highways to protect downtown business districts, while encouraging higher densities and mixed uses in their village centers.

When Hillsdale was considering how to channel growth into its hamlets, hamlet residents complained that they did not want all the new development "dumped" in their neighborhoods. They envisioned new development looking like the suburban sprawl and strip development that the previous zoning had mandated. To respond to that concern, illustrated design guidelines for hamlet development were added to the new zoning law. These guidelines follow many new urbanist principles and are intended to ensure that what is built in the hamlet or village will reinforce, rather than detract from, the community's historic character. (Three volumes illustrate the clustering and conservation density principles discussed above. All were reviewed in "Zoning Reports," March.)

When the owner of the small supermarket fronting on the main street in the town center wanted to expand it (under the old zoning), he faced the obstacle of needing variances because the building could not comply with the suburban strip commercial requirements. The existing building would have

## Rural Zoning Principles

*In the last issue of Zoning News, I examined the need for new models of rural zoning and suggested some directions for reform. These can be summarized in the following principles:*

1. Impact is more important than use. Rural land-use regulations should permit a wide variety of uses with impact criteria to assist a review board in determining whether to allow a use in a particular location. This maintains the rural tradition that landowners have flexibility in land use as long as they do not negatively affect their neighbors or the community.
2. Density is more important than lot size. Although low densities are appropriate outside settlement centers, large minimum lot sizes consume the landscape faster than small lots. Therefore, land-use controls should separate density from lot size, allowing very small lots as long as overall density guidelines are maintained. This is usually done through some form of clustering.
3. Design is more important than density. The impact of development and its profitability for the landowner are not simply a "numbers game." Attractive, well-planned low-density development may be more profitable than high density, especially in rural areas. Well-planned compact village developments fit in better with historic town character than low-density sprawl. Open space protection and good site design are often more important than density to both the landowner's bottom line and a town's attractiveness.
4. The countryside should remain largely undeveloped, but not by destroying the land's economic value. With a choice of uses, landowners can make a living on their land without having to sell it for residential development. Regulations should provide several options that combine protection of open space with compatible development, including mixed housing types, mixed uses, and density incentives. In some markets, transfer or purchase of development rights may be needed to compensate rural landowners for density reductions on their land.
5. Development should generally be concentrated in and near existing or new village centers, following the traditional pattern and layout of hamlets and villages. Significantly higher densities should be allowed within these limited areas, provided that public water and sewer services are available.
6. Development should satisfy illustrated design standards that maintain local community character. When everything was built by local builders using local materials, towns had a special look and feel. That distinctiveness of place is gradually being lost to a standardized form of development found throughout suburban America. Illustrated design standards for streets, lot layout, site plans, and buildings maintain the traditional small-town feeling.
7. Review boards need written criteria that enable them to say yes to what fits into the community and no to what does not, while conditioning approvals to ensure that standards are implemented. Instead of applying rigid use and bulk requirements, review boards should have both clear design standards and flexibility to work with applicants and neighbors to come up with plans that fit the town. They also should have sufficient authority and resources to ensure that plans are properly implemented.
8. Small-scale projects need less complicated review than large-scale ones. Elaborate review is necessary for large complex projects, but there is no need to subject three-lot subdivisions or small shops to the same process. However, even small-scale development should satisfy design standards.
9. Land-use regulations should be simple enough to understand, but adequate to fulfill their objectives. They should be clear, flexible, and understandable. They should be strict on important design principles but flexible on use regulations, while imposing on landowners the minimum burden necessary to achieve community goals. Illustrations should show the development patterns and options allowed.

been torn down and a new one built behind a large parking lot. The frustrations of trying to work with the old zoning had nearly forced the owner to move the market out of the village center and onto a commercial strip. The new zoning allowed the building to remain in the hamlet along the sidewalk with parking to the side and behind. It also required design improvements such as windows along the street, a traditional roofline, and an articulated facade.

Thus, Hillsdale was able to get what it wanted: compatible growth in the town center, flexible uses in the countryside, and protection of rural open space.

## Reading

Reading is a very rural town on Seneca Lake, in New York's Finger Lakes region. It has never had zoning because of its citizens' strong belief in landowners' rights. Yet many townspeople are concerned about the possibility of inappropriate development adversely affecting the lake, their rural way of life, and the beauty of the town's setting.

In the course of an intensive three-day citizen planning charrette held in 1993, it became clear that Reading needed some form of land-use regulation, although not necessarily zoning. As a result, I developed a 15-page land-use law that has no zones and few use or bulk regulations. Instead, it regulates land according to a three-tier permit system. The least intrusive uses, such as one- and two-family houses and very small-scale businesses, are allowed by right. Large-scale and intrusive uses and those occurring within a lakeshore protection area require a special permit, involving a thorough review following specified criteria. Development proposals falling between these two categories undergo an intermediate level of streamlined site plan review. Additional criteria are included for signs, stormwater control, lake protection, resource extraction, and other issues townspeople felt were important.

The Reading law is so flexible that it does not need variance provisions. It relies more on common sense than on the rigid rules typically found in zoning ordinances. To avoid illegal delegation of legislative power or the arbitrary exercise of administrative powers, it contains standards and criteria and the requirement of written findings to support board decisions. These criteria require the exercise of judgment without conferring unfettered discretion.

Reading's unusual approach would not be allowed in many states with narrowly drawn enabling legislation. New York's generous home rule powers permit local municipalities to diverge from conventional land-use regulation and break some

of the arbitrary confines imposed by the state zoning enabling act. This flexibility (which can be misused) has helped make it possible to devise land-use regulations that truly meet the needs of different types of rural communities.

## Meeting Rural Needs

Washington, Hillsdale, and Reading have reinvented rural land-use regulation in different ways, tailored to the circumstances of each community. All are substantially different from conventional zoning. Washington's approach may work in similar metropolitan fringe communities that have adopted a land stewardship ethic and tend to attract wealthier residents. Hillsdale's emphasis on use and dimensional flexibility, supplemented by new urbanist design standards, may be appropriate for more typical rural communities that have an economically diverse population

with differing values about land. Reading's minimalist approach may be workable for very rural communities that would otherwise have little or no land-use regulation at all.

Zoning designed for a rural community's special needs sends a clear signal to prospective developers of the countryside and offers significant leverage in shaping development. Smart developers realize that protecting the rural qualities that attract buyers will make

their developments more valuable. If towns and counties rewrite the invitation to suburban sprawl development in their current zoning ordinances, developers might then bring in plans that give the community what it wants, rather than continuing the development wars described in last month's issue of *Zoning News*.

Much of the United States still has landscapes and natural areas well worth preserving. These places can be maintained for future generations by avoiding the mistakes that have resulted from applying suburban blueprints to the rural countryside. Rural municipalities can create the future they envision in their master plans rather than the one inexorably charted for them by conventional zoning laws. The key ingredient is well-crafted land-use laws that produce the desired results and that are grounded in the distinctive culture and values of each rural community.

## Call for Information

*Zoning News* is seeking information for a future issue on regulations and review procedures communities have used in dealing with proposals for multiplex theaters, namely those movie theater complexes that involve anywhere from 10 to 20 screens or more in a single facility. Send information to: Fay Dolnick, APA, 122 S. Michigan Ave., Suite 1600, Chicago, IL 60603; faxed materials to 312-786-6700.

## Resources

Washington's zoning law and subdivision regulations are available from the Town Clerk, Town of Washington, P.O. Box 667, Millbrook, NY 12545. (914) 677-3419. The three-volume set of design standards adapted from the Hillsdale zoning law are available from the New York Planning Federation, 488 Broadway, Suite 313, Albany, NY 12207.

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UNIVERSITY of NEW HAMPSHIRE  
Cooperative Extension

## Preserving Rural Character Through Agriculture

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UNH Cooperative Extension in cooperation with the New Hampshire Coalition for Sustaining Agriculture has produced a resource for communities entitled "Preserving Rural Character Through Agriculture: A Resource Kit For Planners". This resource kit is

intended to inspire individuals to take steps toward making their communities more farm friendly - and as a consequence, make an important contribution to preserving the community's rural character. These kit were published through the generosity of many organizations, and our intention is to make one or more copies available to each NH community through someone that will see that it is used to help preserve rural character in their town.

The resource kit contains the following sections:

1. Preserving Rural Character through Agriculture
2. Promoting Agriculture in Your Community
3. A Checklist: Is Your Town Farm Friendly
4. Agriculture Friendly Planning Regulations
5. Resource Directory
6. Appendix, including : Developing An Agricultural Profile for Your Town Guidelines for Space and Housing of Farm Animals
7. Video: Preserving Rural Character Through Agriculture

For more information Contact: Nada Haddad, Extension Educator,  
Agricultural Resources, UNH Cooperative Extension, Rockingham  
County, 679-5616 or [nada.haddad@unh.edu](mailto:nada.haddad@unh.edu).

# Agriculture Friendly Planning Regulations

by Glenn Greenwood

*Glenn Greenwood is the Assistant Director of the Rockingham Regional Planning Commission. The issues presented reflect the experience and expertise of a committee of farmers, agricultural professionals, land-use planners and planning board members who worked together to understand the basis of regulatory conflict and recommend strategies to prevent inadvertent adverse impacts on agriculture and community character.*



## PROTECTING NH'S AGRICULTURAL TRADITION: A REGULATORY FRAMEWORK

Agriculture has occupied such a central role in the history and economy of New Hampshire that it is impossible to envision the state without active farming enterprises. Many of the state's most valued attributes, its rural character, open fields and pastoral vistas, exist in large measure because farmers continue to work their lands. The most direct way to ensure that the state's agricultural tradition continues is for municipalities to acknowledge its importance and allow agriculture as a permitted use within all zoning districts. Municipalities that take this step help diffuse the common contention that agricultural enterprises are commercial uses and suitable only in commercial zones.

Towns and cities that want to encourage and support local agricultural enterprises as part of a strategy to maintain their rural character should undertake a thorough review of their regulatory framework to ensure agriculture friendly land use regulation. While not a complete listing, conflicts between community regulations and agriculture typically involve the issues listed in the matrix below and detailed in the discussion section which follows.

Issue	Regulatory Framework						
	Master Plan	Zoning	Sub-Division	Site Plan Review	Historic District	Building Code	Other
<b>Signage</b>	✓	✓		✓	✓		
Off-premise (seasonal and permanent)							
Seasonal (on and off-premise)							
On-premise (permanent)							
<b>Agricultural Structures</b>	✓	✓		✓	✓	✓	
Definitions							
Setbacks							
Type of Construction							
Height							
Use							
Seasonal or temporary							
Historic							
Density and location of structures							
<b>Housing</b>	✓	✓	✓	✓	✓	✓	
Temporary							
Permanent (employees)							
Extended Family							
<b>Nuisance: Odor, noise, etc.</b>	✓	✓					
<b>Animal Density</b>	✓	✓		✓			
<b>Transportation</b>	✓		✓	✓			✓
Slow-moving vehicles							✓
Access to property (seasonal/permanent)							
Culverts and ditches							
<b>Parking</b>	✓	✓		✓			✓
On-site (seasonal, permanent, size, design, etc.)							
On-street							
Paving							
<b>On-farm Retail Sales</b>	✓	✓		✓			
<b>Agricultural Buffers</b>	✓	✓	✓				
<b>Prime Agriculture Lands</b>	✓	✓	✓				
<b>Cluster Development</b>	✓	✓	✓	✓			

Land-use regulations designed principally to control commercial, industrial or residential uses frequently conflict with the operational needs of an agricultural enterprise. This is complicated by the diversity and extent of what constitutes agriculture. Municipalities should refer to and incorporate the state definition of agriculture (RSA 21:34a). See Definitions on p. 10.

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## SIGNAGE

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*Issue:* Agricultural enterprises located off main roads depend on off-premise signage (seasonal or permanent depending on farm type) to direct consumers and suppliers to the farm, and on-premise signage (seasonal or permanent) to identify the operation. Signage pointing the way to an orchard or vegetable farm lends a rural sensibility to a community.

*Recommendations:* The Master Plan should be clear about the value of agriculture to the community, and that signage is a valuable asset for the economic success of many agricultural activities. Under the zoning ordinance the community could include an exemption for signage associated with agricultural activity, or reduced standards for such signage. In the ordinance there should be a clarification that seasonal and off-site signage is permitted.

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## AGRICULTURAL STRUCTURES

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*Issue:* Any number of permanent and temporary structures are required to support the production and marketing components of the farm enterprise. Defined by the Internal Revenue Service as "single purpose agricultural structures", these include (but aren't limited to) : barns, silos, farm stands, greenhouses, stables, coolers, etc. The design criteria for these structures relate to the purpose served in the farm operation, which can be in conflict with site review regulations for commercial or industrial buildings. Examples include the height required for a silo or a slab foundation appropriate to a barn.

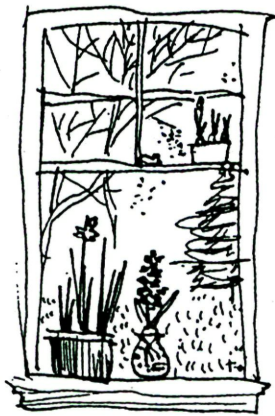
*Recommendations:* By definition (RSA 21:34-a) a farm is "any land or buildings or structures on or in which agriculture and farming operations are carried on...". Local boards can grant a waiver from building and site requirements to the extent necessary to reasonably permit the agricultural use. The zoning ordinance could exempt agriculture from the provisions of lot coverage and dimension requirements. Agricultural structures, other than year-round retail operations, could be exempt from the site plan review process. Municipalities should understand the importance of code requirements for agricultural structures, but should not exceed national standards for these structures in their building codes. Adopting the state definition in the Master Plan and in land use regulations places these structures in their appropriate context.





## HOUSING

**Issue:** Housing is an integral component of an agricultural enterprise. Agricultural related housing takes several different forms and raises several different issues from the perspective of municipal government. Farms have historically been and continue to be most often operated by the members of a single extended family. This often results in the need for housing units in excess of the single dwelling unit allowed by most zoning ordinances. It is not unusual for a farm to enlist the labor of several generations of a family group. Communities should build flexibility into their ordinances to allow additional dwelling units utilized by families engaged in the specific agricultural endeavor involved.



In addition to family members there is a need for agricultural related housing for non-family employees. Full time farm employees are necessary on many agricultural operations and on-site housing is critical in light of the work schedule associated with farming activities. Many agricultural operations require temporary labor, (e.g. migrant workers) during certain times of the year. Low cost housing may be necessary, and this is most easily achieved on site. It is not difficult to see how these issues cause conflict with local housing provisions. Most local land use policies categorize any housing greater than a duplex as commercial operations and often use the local zoning power to regulate its location to commercial areas. It is also common for local regulations to require site plan review on any multi-family activity proposed within the community. This places a burden on the farm operator that is not the same as the typical commercial landlord activity for which the zoning was designed.

**Recommendations:** Housing is an "incident use" to an agricultural operation. By definition (RSA 21:34-a) farm buildings "shall include the residence or residences of owners, occupants, or employees located on such land." The town that wishes to encourage agricultural enterprises should take several steps with regard to farm-related housing to accomplish this. The master plan chapter on housing should include policy statements regarding agricultural housing. The plan should allow more than a single structure for the purposes of dwelling on agricultural properties. The clustering of farm dwellings should be encouraged. Non-related farm employees should be allowed to live in dwelling units provided on site. Alternative housing stock such as accessory units (sometimes called in-law apartments) should be allowed on agricultural properties. Next, the community should take the steps necessary to implement these master plan policies through zoning, subdivision and site plan review regulations.

Zoning should be made more flexible, so that restrictive ordinances allowing only single structures on any lot transition to clustering provisions for agricultural properties that permit farmstead clustering of dwelling units used by extended families and other farm employees. The community should adopt accessory unit provisions that allow the modification of existing structures to provide

additional independent living space. In coordination with community zoning amendments, the town should ensure that *subdivision regulations* that require sole dwelling unit lot configurations are relaxed to facilitate agricultural activities. The municipality should also take steps to amend any *site plan review regulations* that would place farm housing in the same land use category as standard multi-family operations (such as apartments and condominium developments) which typically require planning board review and approval.



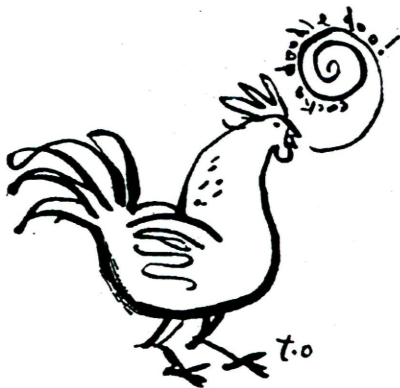
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## NUISANCE (ODOR, NOISE, DUST, ETC.)

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**Issue:** An agricultural enterprise is a working use of the landscape. Odor, noise, dust, etc., created by farm activities may be regarded by neighboring residences, schools or other uses as a nuisance.

**Recommendations:** State law (RSA 672:1, III-b) provides right-to-farm protection by stating that farming "shall not be unreasonably limited by use of municipal planning and zoning power." Best management practices developed by agriculture and natural resource professionals address public health and safety concerns. By referring to standards of performance embodied in best management practices, towns can identify when a nuisance is occurring on a farm. Further, RSA 432:33 provides that "no agricultural operation shall be found a public or private nuisance as a result of changed conditions in or around the locality of the agricultural operation, if such agricultural operation has been in operation for one year or more and if it was not a nuisance at the time it began operation."



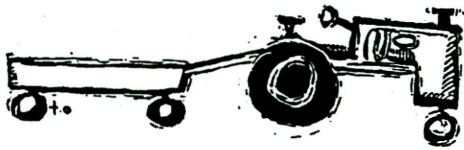
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## TRANSPORTATION

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**Issue:** Supporting a farming enterprise frequently requires the use of property (rented or owned) that is not contiguous with the farmstead. Separation of locations often results in the public road network being utilized by slow-moving farm equipment. This is one of the most important considerations with respect to the public perception of farms. The conflicts arising between farm-related use of the roads and the general public can in some instances be the only interaction the public-at-large has with local individuals engaged in agricultural endeavors – and unfortunately, this interaction is often negative. A community supportive of agricultural activity should take proactive steps to diffuse the antagonism that can develop between agriculture-related traffic and other public traffic on the local road network.

A second transportation-related issue involving agricultural activity is access to farm lands from local roads. The activities involved with maintaining a farm often require numerous access points to farm lands. Unlike the typical residential or commercial land use that is perfectly suited to single points of access, the farm enterprise often requires several outlets for any given piece of land.



**Recommendations:** These issues should be addressed in the transportation chapter of the local master plan. Policy statements should be developed that indicate the town's support of agricultural activity. The transportation chapter should provide an inventory of roads utilized by farmers and the town should consider erecting appropriate signage designating the roads frequently used by farm-related vehicles. These actions would accomplish two things. First, as a public relations tool, this would help raise the awareness of the general public as to the proximity of active agricultural uses; and more importantly, this signage would address the safety issues raised by the potential conflicts of agricultural and non-agricultural traffic.

The town's master plan should also include a policy statement acknowledging the potential need for several access points on agricultural lands. The town should prepare criteria to assist the local public safety personnel (police, road agent, planning boards responsible for reviewing potential curb cuts) as to when additional access points are warranted. Because additional curb cuts have the potential to degrade the safety and capacity of a roadway there should be adequate review to insure that the necessary farm-related access points are established in the most appropriate locations.



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## PARKING

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**Issue:** Farm operations often require on-site retail activity to remain economically viable. This usually takes the form of farm stands or markets that sell a combination of farm products and associated goods. Attendant to such facilities is the need to provide adequate area for customer parking. The provision of parking facilities is one of the most highly regulated aspects of site design in many New Hampshire communities. Site review standards for parking design (pavement, number of spaces, etc.) are often inappropriate for seasonal pick-your-own or farm stand operations. By state definition (RSA21:34-aIII) "a farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner." Planning boards should recognize their ability to waive design standards for site plan review regulations.

**Recommendations:** The community master plan should refer to or incorporate the state definition of farming as a starting point in establishing the position of farming in the town. With this definition in place as a policy of the town, the regulatory framework should then be created that applies this philosophy to the landscape.

The zoning ordinance should provide farm enterprises with the flexibility to operate seasonal farm stands free of the regimented parking space ratios typical in local ordinances. For farm stands that are not temporary in nature, the municipality should

determine on a case by case basis if the ratios for parking and the design standards for parking lot construction are necessary for the proposed enterprise.

For pick-your-own operations it is likely that local parking lot design and construction standards are excessive. The local planning board should consider waiving these standards in favor of unpaved graded surfaces more characteristic of rural agricultural settings. It is also realistic for a community to allow on-street parking along rural roads to facilitate farm stand operations, but such an allowance should be done in conjunction with a review by local public safety officials to insure unobstructed passage remains along these roadways.



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## ANIMAL DENSITY

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**Issue:** How many animals should be allowed on a particular property?

**Recommendations:** Animal density is determined by best management practices for manure handling, as specified by the NH Department of Agriculture, Food and Markets, UNH Cooperative Extension and the Natural Resources Conservation Service. Contact the NH Department of Agriculture, Markets & Food for a copy of the manual of best management practices for agriculture in New Hampshire: *Best Management Practices for the Handling of Agricultural Compost, Fertilizer and Manure*. See also "Guidelines for Space and Housing of Farm Animals" elsewhere in this Kit.



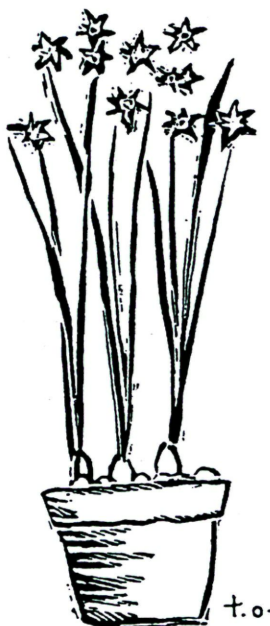
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## ON-FARM RETAIL SALES

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**Issue:** The ability to sell products from the farm is an increasingly important element in farm profitability. Having the opportunity to buy products at the farm is an important reason why people like having farms in their community. To satisfy customer needs for variety and convenience and to better merchandise farm-grown products, items produced off the farm are often included in the retail mix. For example, a greenhouse might sell planters, potting soil and peat moss, an apple orchard might sell pumpkins and corn stalks, or a Christmas tree farm might sell crafts. By definition (RSA 21:34-a) agriculture in New Hampshire includes "the marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm." Conflicts with municipal regulations occur over hours of operation, parking lot design criteria, on-street parking, signage, farm produced and off-farm produced retail mix.

**Recommendations:** A farm friendly community will do everything possible to encourage on-farm retail sales. Flexibility in site plan review regulations can be used to exempt farm stands from inappropriate commercial regulation, or can allow a community to develop a tiered approach to the regulating of farm stands. Communities are encouraged to exempt seasonal farm stands from municipal



regulations other than proof of safe site access. Year round operations warrant review by the local authorities to address the safe operation of the site. However, the review should be modified to provide for reduced standards from those applied to commercial and industrial uses.



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## BUFFERS

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*Issue:* When a non-agricultural use locates next to a farm, conflicts are bound to follow.

*Recommendations:* Planning Boards are advised to consider a buffering requirement on uses adjacent to a farm when reviewing plans for subdivisions.



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## PRIME AGRICULTURAL LANDS

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*Issue:* Prime agricultural lands are a key natural resource.

*Recommendations:* Inventory the prime agricultural lands in the community as part of the master planning process. Adopt policies (e.g. economic development, transportation, housing, etc.) which protect prime agricultural lands from development and development pressures. This may discourage the subdivision and piecemeal development of these significant lands.



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## CLUSTER

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*Issue:* Development of large parcels of land, which include agricultural lands.

*Recommendations:* When laying out a cluster subdivision, recognize agricultural land not only as open space, but as farmable land and ensure that it can in fact be farmed. Clustering could be required in some zones where the preservation of agricultural land is most important. Using the site plan review process, be aware that conflict is being created and plan for it through buffering, building placement and roadway access.





## PLANNING AND ZONING STATUTES RELATED TO FARMING



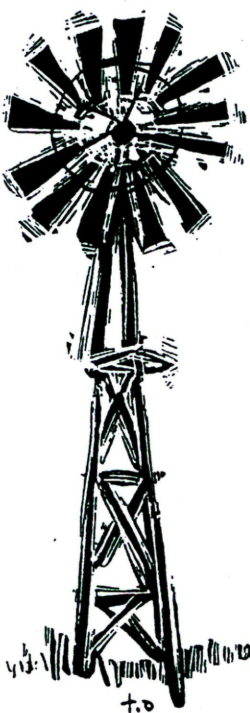
### THE BASICS

Title 64 begins with Chapter 672, which lays out the basic premises of planning and zoning. The prose is descriptive and instructive as it deals with generalities rather than specifics. This section includes language (paragraph III-b) that says "Agricultural activities...shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers".

#### § 672:1 Declaration of Purpose

The general court hereby finds and declares that:

- I. Planning, zoning and related regulations have been and should continue to be the responsibility of municipal government;
- II. Zoning, subdivision regulations and related regulations are a legislative tool that enables municipal government to meet more effectively the demands of evolving and growing communities;
- III. Proper regulations enhance the public health, safety and general welfare and encourage the appropriate and wise use of land;
- III-a. Proper regulations encourage energy efficient patterns of development, the use of solar energy, including adequate access to direct sunlight for solar energy uses, and the use of other renewable forms of energy, and energy conservation;
- III-b. Agriculture makes vital and significant contributions to the food supply, the economy, the environment and the aesthetic features of the state of New Hampshire, and the tradition of using the land resource for agricultural production is an essential factor in providing for the favorable quality of life in the state. Natural features, terrain and the pattern of geography of the state frequently place agricultural land in close proximity to other forms of development and commonly in small parcels. Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape and shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;
- III-c. Forestry, when practiced in accordance with accepted silvicultural principles, constitutes a beneficial and desirable use of New Hampshire's forest resource. Forestry contributes greatly to the economy of the state through a vital forest products industry; and to the health of the state's forest and wildlife resources through sustained forest productivity, and through improvement of wildlife habitats. New Hampshire's forests are an essential component of the landscape and add immeasurably to the quality of life for the state's citizens. Because New Hampshire is a heavily forested state, forestry activities, including the harvest and transport of forest products, are often carried out in close proximity to populated areas. Further, the harvesting of timber often



represents the only income that can be derived from property without resorting to development of the property for more intensive uses, and, pursuant to RSA 79-A:1, the state of New Hampshire has declared that it is in the public interest to encourage preservation of open space by conserving forest and other natural resources. Therefore, forestry activities, including the harvest and transport of forest products, shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;

**III-d.** For purposes of paragraphs III-b, III-c, and III-e, "unreasonable interpretation" includes the failure of local land use authorities to recognize that agriculture, forestry, and commercial and recreational fisheries, when practiced in accordance with applicable laws and regulations, are traditional, fundamental and accessory uses of land throughout New Hampshire, and that a prohibition upon these uses cannot necessarily be inferred from the failure of an ordinance or regulation to address them;

**III-e.** All citizens of the state benefit from a balanced supply of housing which is affordable to persons and families of low and moderate income. Establishment of housing which is decent, safe, sanitary and affordable to low and moderate income persons and families is in the best interests of each community and the state of New Hampshire, and serves a vital public need. Opportunity for development of such housing, including so-called cluster development and the development of multi-family structures, should not be prohibited or discouraged by use of municipal planning and zoning powers or by unreasonable interpretation of such powers;

**III-f.** New Hampshire commercial and recreational fisheries make vital and significant contributions to the food supply, the economy, the environment, and the aesthetic features of the state of New Hampshire, and the tradition of using marine resources for fisheries production is an essential factor in providing for economic stability and a favorable quality of life in the state. Many traditional commercial and recreational fisheries in New Hampshire's rivers and estuarine systems are located in close proximity to coastal development. Such fisheries are a beneficial and worthwhile feature of the New Hampshire landscape and tradition and should not be discouraged or eliminated by use of municipal planning and zoning powers or the unreasonable interpretation of such powers.

**IV.** The citizens of a municipality should be actively involved in directing the growth of their community;

**V.** The state should provide a workable framework for the fair and reasonable treatment of individuals;

**V-a.** The care of up to 6 full-time preschool children and 3 part-time school age children in the home of a child care provider makes a vital and significant contribution to the state's economy and the well-being of New Hampshire families. The care provided through home-based day care closely parallels the activities of any home with young children. Family based care, traditionally relied upon by New Hampshire families, should not be discouraged or eliminated by use of municipal planning and zoning powers or the



unreasonable interpretation of such powers; and  
VI. It is the policy of this state that competition and enterprise may be so displaced or limited by municipalities in the exercise of the powers and authority provided in this title as may be necessary to carry out the purposes of this title.

(Source. 1983, 447:1. 1985, 68:1; 335:3; 369:1. 1989, 42:1; 170:1. 1990, 174:1; 180:1, 2. 1991, 198:1, 2, eff. July 27, 1991.)



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## THE RIGHT TO FARM

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The general limitations on municipal planning and zoning powers in the above Section 672:1 are extended in Section 432:33, which limits civil lawsuits by either public or private entities. This "Right to Farm" language protects against local or state government claims that a farm is a nuisance, with exception for enforcement of public health ordinances under the authority of the local health officer or rules made under the Department of Health and Human Services.

§ 432:33 **Immunity from Suit.** – No agricultural operation shall be found a public or private nuisance as a result of changed conditions in or around the locality of the agricultural operation, if such agricultural operation has been in operation for one year or more and if it was not a nuisance at the time it began operation. This section shall not apply when any aspect of the agricultural operation is determined to be injurious to public health or safety under RSA 147:1 or RSA 147:2.

(Source. 1985, 72:1, eff. July 1, 1985.)



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## THE NEW DEFINITION OF FARMING

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Chapter 21 is the place to look in New Hampshire law for definitions of terms used elsewhere in the statutes. The following Section 21:34-a is the new definition created by action of the legislature in 1999. The intent of the legislature was to modernize the definition of farming and agriculture to more accurately reflect the scope of agriculture as practiced today. This new definition specifically describes many more activities which are now considered farming. It also expands farming to include practices related to farming, and specifies when a farm roadside stand becomes a commercial enterprise rather than part of a farm.

### 21:34-a Farm, Agriculture, Farming.

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock, and in the production



and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in operations named in paragraph II of this section.

II. The words "agriculture" and "farming" mean all operations of a farm, including:

- (a)
  - (1) The cultivation, conservation, and tillage of the soil.
  - (2) The use of and spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.
  - (3) The use of and application of agricultural chemicals.
  - (4) The raising and sale of livestock, which shall include, but not be limited to, dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elephus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*).
  - (5) The breeding, boarding, raising, training, riding instruction, and selling of equines.
  - (6) The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products.
  - (7) The raising, breeding, or sale of poultry or game birds.
  - (8) The raising of bees.
  - (9) The raising, breeding, or sale of domesticated strains of fur-bearing animals.
  - (10) The production of greenhouse crops.
  - (11) The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, or any other plant that can be legally grown and harvested extensively for profit or subsistence.
- (b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:
  - (1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.
  - (2) The transportation to the farm of supplies and materials.
  - (3) The transportation of farm workers.
  - (4) Forestry or lumbering operations.
  - (5) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.
  - (6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

III. A farm roadside stand shall remain an agricultural operation and



not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

IV. Practices on the farm shall include technologies recommended from time to time by the University of New Hampshire Cooperative Extension, the New Hampshire Department of Agriculture, Markets, and Food, and appropriate agencies of the United States Department of Agriculture.

(Approved: July 6, 1999)

(Effective Date: September 4, 1999)

## IS YOUR TOWN FARM FRIENDLY? A CHECKLIST FOR SUSTAINING RURAL CHARACTER

by Gary Matteson

### Take the Test!

YES  NO

YES  NO

YES  NO

YES  NO

YES  NO

YES  NO

YES  NO

YES  NO

### Does your town...

- *...have a detailed section on agriculture in the Town Master Plan?* The Master Plan is the big picture view of what land uses are encouraged, protected, or excluded within a town. Does your town's Master Plan refer to "maintaining rural character", but overlook agriculture as the primary component? Agriculture shouldn't be an afterthought!
- *...allow agricultural uses in more than one zoning district?* Agricultural businesses are not the same as other commercial development. Some towns confine agricultural businesses to the commercial zone only, while other towns prohibit such uses in the commercial zone! Farm enterprises are often hybrids of several different uses; ordinances and regulations should allow farm businesses flexibility.
- *...allow simpler design standards for Site Plan Review regulations on agricultural businesses limited to seasonal use?* Simpler standards for certain aspects of Site Plan Review regulations make sense for agricultural uses, such as parking requirements for seasonal retailing or events. When agricultural uses are limited in scope and impact, they need not be treated as if they were year-round permanent businesses. Does your town apply the same site design requirements to a seasonal farm stand as to a grocery store?
- *...allow flexibility in regulations to accommodate the unusual needs of agricultural businesses?* Both the land use impact and the off-site impact of a seasonal farm business is much less than that of a full-time business. Pick-your-own strawberries or Christmas tree farm businesses can't be viable in a town that treats farms like all other retailers. Do your town's regulations provide for reduced restrictions such as expanded hours of business operation, temporary signs, parking near pick-your-own fields, or on street parking?
- *...require buffer zones between farmland and residential uses?* The old saying "good fences make good neighbors" has a modern corollary that says "good buffer zones make new neighbors good neighbors." New development should not place the burden on existing farms to give up boundary land as a buffer zone between agricultural and residential uses. New residential development should provide for its own buffer zone and/or landscape plantings for screening when necessary.
- *...provide for the agricultural use of open space land created by innovative residential subdivisions?* Many towns have adopted innovative subdivision regulations like cluster housing, which provide for setting aside open space land within the subdivision. Ideally, such land should be the most valuable agricultural land, be big enough for commercial agricultural purposes, and specifically allow long term agricultural use to provide consistent resource management. Smaller plots of set aside land could accommodate community gardens. Land set aside for open space can stay productive agricultural land and at the same time contribute to the ecological health and scenic quality of the area – instead of becoming grown over with brush.
- *...allow off-site signs to attract and direct farm stand customers?* Farm stands are often seasonal businesses that need to capture potential sales at harvest time. Signs that give directions to the farm stand and let customers know what's available (such as strawberries, corn, apples) are vitally important.
- *...allow accessory uses to agriculture?* Remember, it's not just the farmland that makes farming possible: businesses related to agriculture (veterinarians, equipment and supply dealers, custom farm providers, feed milling and delivery, etc.) have to be close enough to serve farmers' needs.

**Take the Test!**

YES    NO

YES    NO

YES    NO

YES    NO

YES    NO

YES    NO

YES    NO

YES    NO

**Does your town...(continued)**

- *...have a consistent policy approach for local land use procedures that deal with agriculture?* Planning Boards, Zoning Boards, and Conservation Commissions have different responsibilities, but a common regulatory outlook is possible. Update your Master Plan to express the value agriculture contributes to your town's quality of life through open space, wildlife habitation, watershed purification and natural resource preservation. Establish a policy presumption that agriculture is of beneficial use in your town, and fairness will follow.
- *...have a good idea of how much agriculture there is in town?* Consider having a Town appointed committee formulate an Agricultural Profile to demonstrate the economic, cultural, and resource stewardship value of agriculture in your Town. People often carry the misconception that "there's no agriculture in our town" if they don't see cows and red barns. Agriculture in New Hampshire stretches from apples and bees to yaks and zinnias!
- *...allow roadside stands or pick-your-own operations by right?* Consider amending your Town's zoning ordinance so that certain agricultural operations don't need a Special Exception or Variance. Write flexibility into ordinances or regulations that may apply to agricultural land uses so the intent is clearly to promote such use, not to deny because the rules don't fit the unique situations that frequently arise with agricultural businesses.
- *...use zoning definitions such as "agricultural accessory uses" in a broad and inclusive manner?* "Agricultural accessory uses" refers to everything from machinery sheds to housing for seasonal workers. Various agricultural businesses have very different needs that can test the balance of rule and exceptions. Flexibility written into the ordinances and regulations can prevent many denials of the sort where "the rules don't fit".
- *...allow farm stands to sell produce purchased elsewhere?* Many towns have rules that a certain percentage of farm stand produce be grown on the farm. The unintended consequence of such regulation is to penalize farm operators who have a crop failure! The rational basis for allowing a farm stand shouldn't only be how much is grown on the farm, but what benefit the farm provides to the town from the open space, wildlife habitation, watershed purification and natural resource preservation it accomplishes.
- *...properly assess specialized agricultural structures?* Specialized structures such as silos, milking parlors, and permanent greenhouses depreciate in value over time. Providing assessors with depreciation schedules may enable more accurate valuations, which can lead to lower assessments. If your town frequently overvalues agricultural structures, this can have a chilling effect on all types of farm investment.
- *...allow non-traditional or retail-based farm businesses in an agricultural zoning district?* Agricultural businesses don't all look alike. Trying to decide what constitutes an agricultural business can involve splitting hairs to make unfamiliar distinctions between what is "commercial" and what is "agricultural". Ordinances defining agriculture based on state law may be accurate, yet need local interpretation. Your town should recognize that newer types of farm businesses such as horse arenas, landscape nurseries, or greenhouses are more intensive in land use, but still carry valuable elements of rural character that benefit the town.
- *...address agricultural structures in building and safety codes?* Building practices that are state of the art for a specialized use in agriculture may not fit the specifics of codes meant for housing or commercial structures. Bringing up to code agricultural buildings that are historic structures may destroy the very qualities that make them special.

**Take the Test!**

YES     NO

YES     NO

YES     NO

YES     NO

YES     NO

YES     NO

YES     NO

**Total Your Score!**

Yes on 20-23

Yes on 16-19

Yes on 12-15

Yes on 8-11

Yes on 4-7

Yes on 0-3

**Does your town...**

- *...consider farmland a natural resource and encourage conservation easements, discretionary easements, and purchase of farmland?* Easements and outright purchases of farmland ensure preservation of the natural resource base for agriculture. Once a town has applied these techniques, the benefits of keeping farmland in private ownership can be more clearly appreciated. By understanding and allowing for the peculiarities of agricultural land use, towns can encourage working farms that contribute to the town's well-being at no cost to the taxpayers.
- *...have any visible demonstration of the value of agriculture?* Does your town have a county fair, an apple festival, or an Old Home Day parade? Making agriculture visible to the general public helps establish the economic, cultural, and resource stewardship value of having active farms in a town.
- *...respect the state Right to Farm law, which has specific exemptions for odor and noise?* Local control is an important tradition for New Hampshire towns. The state Right to Farm law provides a backstop to farmers if local officials overreach their regulatory authority. Conflicts between agriculture and other land uses can be reduced when town officials are informed about Best Management Practices (BMP's) that may alleviate nuisance complaints. University of New Hampshire's Cooperative Extension Service writes BMP's about various agricultural practices based on sound scientific research.
- *...encourage farmers to use the Soil Productivity Index (SPI) calculations to reduce Current Use tax burdens?* Using Soil Productivity Index (SPI) information may reduce the Current Use assessment on less productive agricultural land. By reducing the tax burden on agricultural land, towns can encourage the maintenance of open space at a relatively low cost.
- *...have farmers serving on local land use Planning and Zoning Boards, Conservation and Heritage Commissions?* There are few better ways to incorporate agricultural concerns into local land use ordinances and regulations than having farmers serve. Help your town's land use boards keep a broad perspective by asking "Have you thought of the consequences...?"
- *...have farmers serving on the local Economic Development Committee?* Agricultural businesses are frequently undervalued in terms of their effect on the community. Most of the economic activity generated by farms stays within the community. Negative impressions about the strength of New Hampshire agriculture may have a similar impact on the availability of credit to viable farm operations. Having successful farmers on Economic Development Committees can change these misperceptions.
- *...know where to go to get advice and assistance on farm questions?* Make the connection to resources such as the Department of Agriculture, Markets and Food (industry regulator, statewide perspective); UNH Cooperative Extension (technical questions, BMP's); New Hampshire Farm Bureau (non-governmental farm lobby, broad experience); Natural Resource Conservation Service (land and water resource management).

**Your Results...**

- Your town is exceptionally friendly and helpful to its farmers.
- Your town knows that farmers are good neighbors who provide lots of benefits to the quality of life, but you're not sure what to do to encourage them.
- Careful! Your town may be less farm friendly than you think...even inadvertently unfriendly.
- Time to get to work helping your fellow citizens understand the importance of protecting its agricultural base.
- Yours is not a farm friendly town, but there might still be hope. Seek help immediately from farmers, farm groups and related organizations!
- Ask yourself what you like about your town, and then what it would be like without any agriculture whatsoever. If there are any farmers left in town, take them out to dinner and ask them to help you turn over a new leaf.





*American Farmland Trust*

**CASE STUDY**

**NEW JERSEY'S AGRICULTURAL DISTRICTS PROGRAM**

May 2001

**DESCRIPTION**

The state legislature established New Jersey's agricultural districts program in 1983 with the passage of the Agriculture Retention and Development Act. The law authorized the creation of "farmland preservation programs" and "municipally approved farmland preservation programs" within agricultural development areas. These "farmland preservation programs" are voluntary areas where agriculture is encouraged and protected. For the purposes of this case study we will refer to farmland preservation programs and municipally approved farmland preservation programs as agricultural districts.

Within established districts landowners receive a package of benefits that support agriculture. Landowners in municipally approved districts receive additional benefits including limits on the use of eminent domain, and extra protection from nuisance lawsuits. Perhaps the most important benefit—available to farmers in standard and municipally approved districts—is eligibility for state matching grants for soil and water conservation projects. In exchange, farmers sign covenants restricting non-farm development for at least eight years (the program is often referred to as the eight-year program). Farmers also must comply with agricultural management practices recommended by the State Agriculture Development Committee (SADC or the Committee).

As of March 2001, there were more than 30,238 acres enrolled in agricultural districts and the state has funded 832 conservation projects—including the installation of water-saving irrigation systems, construction of waterways and livestock waste management facilities—totaling about \$9.5 million.

**ADMINISTRATION**

To be eligible to enroll in a district, land must qualify for differential assessment, be located in an agricultural development area and meet eligibility criteria set by the local board.

Landowners petition county agriculture development boards or sub-regional agricultural retention boards. County and sub-regional boards can approve standard districts. However, "municipally approved" farmland preservation programs or districts also require review by county and local officials and notification of adjacent landowners.

Once the local entities have approved the district landowners sign an agreement to retain the land in agricultural production for a minimum period of eight years. At a minimum, the covenant contains the deed restrictions established by SADC. More restrictive provisions may be added subject to Committee review.

The Committee must review and certify all proposed districts. Upon receipt of Committee approval, the district agreement is recorded with the county clerk *or* the county and municipal clerk and copies are sent to the landowner, local officials, and the local soil conservation district.

Once enrolled in a district, farmers are eligible to receive reimbursement for up to 50 percent of the cost of installing a soil and water conservation project. The Committee caps grants using a sliding scale: Farms of up to 50 acres can receive up to \$400 per acre; farms larger than 50 acres up to 100 acres can receive \$20,000 plus \$100 per acre above 50 acres; farms greater than 100 acres up to 516.7 acres can receive \$25,000 plus \$60 per acre above 100 acres; and farms larger than 515.7 acres can receive \$50,000.

Farmers typically work with NRCS field staff to develop potential projects. Applications are submitted to local soil and water conservation districts for initial review. SWCDs then forward approved applications to the State Soil Conservation Commission, a division of the New Jersey Department of Agriculture. The State Soil Conservation Committee reviews and approves applications and makes funding recommendations to SADC. Upon project completion SADC makes payments to farmers. The applicant is responsible for maintaining the project for at least eight years following completion.

#### **Relationship to the Easement Acquisition Program**

Enrollment in the agricultural district program initially was required to be eligible to sell an easement. However, in 1989, the legislature amended the law to uncouple district enrollment and the sale of easements at the request of SADC. At the same time, the law was revised to give SADC the first right and option to purchase land subsequently enrolled in districts in fee. Land acquired through the exercise of SADC's right of first refusal must subsequently "...be offered for sale by the committee with a deed restriction permanently prohibiting nonagricultural development."

Farmers who sell agricultural conservation easements also are eligible for matching grants. But farmers who sell easements typically don't apply for conservation cost share grants. To date, participation has been highest in the southern half of the state, where there has been little interest in the easement program.

State agency staff believe that this difference is driven by land values. Where values are low, such as in southern New Jersey, farmers have less incentive to sell permanent easements. One official admits that this inequity was the primary factor behind the creation of the cost share program. Legislators and state officials wanted to offer something to farmers who would not be likely to sell permanent easements. In exchange, the state gets a term easement and a right of first refusal.

Sam Race, Executive Secretary of the New Jersey Soil Conservation Committee goes on to say "If you're going to preserve farmland, you'd better take care of it." He thinks tying conservation funding to land protection helps safeguard the public investment in farmland. It

also can facilitate communication between soil conservation and farmland protection agencies.

**CONTACT**

New Jersey State Agriculture Development Committee, Market and Warren Streets,  
P.O. Box 330, Trenton, New Jersey 08625. Telephone: (609) 984-2504; Fax: (609) 633-2004

# TOWN OF HATFIELD, MASS BY-LAWS

projects which have not been so approved by the town through appropriation of sums in the current year or in prior years, or for preliminary planning for projects to be undertaken more than five years in the future.

Section 5. The Committee's report and the Selectmen's recommended Capital Budget shall be published and made available in a manner consistent with the distribution of the Finance Committee report. The Committee shall deposit its original report with the Town Clerk.

Section 6. At the close of each fiscal year the Capital Improvement Planning Committee shall determine the amount of any unencumbered funds remaining in the Capital Improvement Budget. The Committee shall notify the Town Accountant and Town Treasurer to transfer such funds to the Stabilization Fund.

Note: Pursuant to Chapter 41, section 106B.

## Section 1.17: Conservation Fund/Hatfield Land Preservation Advisory Committee

A Conservation Fund is hereby established in the Town treasury in accordance with M. G. L. Chapter 40, Section 8C to be used solely for the acquisition of land or water rights, conservation restrictions, agricultural preservation restrictions, easements, or other contractual rights including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, protect, limit the future use of or otherwise conserve and properly utilize open spaces in land and water areas and agricultural lands within the Town of Hatfield, and under the following conditions:

a. The Town Moderator shall appoint a Hatfield Land Preservation Advisory Committee, comprised of representatives from the public and private sector, to advise the Conservation Commission on land preservation issues;

b. Expenditure of funds from the Land Preservation account shall be authorized by a majority vote of the Hatfield Conservation Commission, which may consider a recommendation from the Hatfield Land Preservation Advisory Committee;

c. Farmland and open space to be preserved must be consistent with Hatfield's planning objectives including the open space plan, agricultural preservation goals, natural resources inventory, and zoning; and

d. The Town Treasurer shall be the custodian of the Conservation Fund, in accordance with M.G.L Chapter 40, Section 8C.

## Section 1.18: Agricultural Advisory Commission

An Agricultural Advisory Commission shall be established to address and represent agricultural issues and interests in the Town. The Board of Selectmen shall appoint a five-member commission comprised of one representative of the Hatfield Land Preservation Advisory Committee and

four at-large citizen representatives. At least three of the members of the commission shall be engaged in the business of farming or related agricultural industries. The duties and responsibilities of the commission shall include, but not be limited to:

1) advising the Hatfield Land Preservation Advisory Committee on transactions and acquisitions involving agricultural lands in town;

2) advising the Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health and Historic Commission on projects and activities involving agricultural lands in town;

3) engaging in projects and activities to promote the business of farming activities and traditions, and farmland protection in town including educational programs and community events.;

4) reporting on its projects and activities on an annual basis within the Town Report;

## ARTICLE TWO - GENERAL POLICE REGULATIONS

Conduct in or near Streets and Public Places

Section 2.01: No person shall ride or drive a motorcycle or other motor vehicle or bicycle on any sidewalk in this town.

Section 2.02A: No person shall place or cause to be placed any waste, refuse or rubbish of any kind or description in any street or public place in the town except in receptacles provided by the town for said purpose except at the designated locations at the Town Transfer Station and Landfill, or at such times as the Board of Selectmen may request that any or all of the aforementioned articles be so deposited for removal by it or others as part of a rubbish removal program.

Section 2.02AA: No person, other than a person removing snow and/or ice under the direction of state or local government, shall place or cause to be placed any snow or ice on any public way or on any private way which serves as access to any building. The penalty provisions of Section 2.02B of the Town By-laws shall apply, and this Section may be enforced under the provisions of Massachusetts General Laws Chapter 40, Section 21D.

Section 2.02B: Any person violating this By-law shall be liable to a penalty of not less than twenty nor more than fifty dollars for each and every offense.

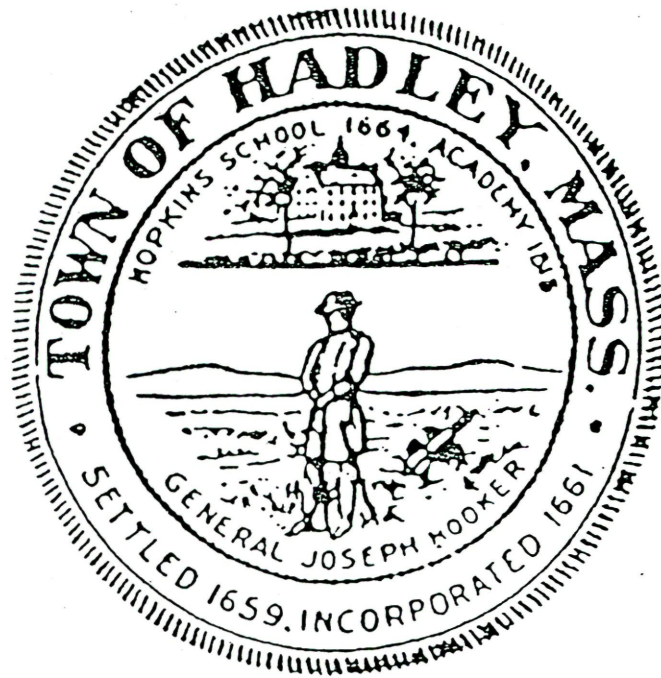
Section 2.03: No person shall loiter upon any sidewalk or street after having been requested by any constable or police officer to move on.

Section 2.03A: No minor under the age of sixteen shall discharge any firearms, airguns, beebee rifles or any other dangerous weapon in the Town of Hatfield, except or unless such minor is at the time and place accompanied by and under the control and supervision of an adult.

Section 2.03AA: No person shall consume any alcoholic beverage nor possess nor transport any open can, bottle or other container, containing an alcoholic beverage on any town street, sidewalk, school property or while in any town park.

The operation of the Section may be temporarily suspended to the extent necessary by the Board of Selectmen to permit the public sale, use and possession of alcoholic beverages and the consumption thereof.

# Town of Hadley Zoning Bylaws



May 2001

- B. Access frontage on an existing Town Way at the time of adoption of this By-Law, of at least fifty (50) feet, and
- C. Access width from front line to the principal structure, of at least fifty (50) feet, and
- D. The sub-division of a single lot in existence at the time of adoption of the By-Law, there may not be more than one (1) Flag Lot. Appropriate easements shall be delineated on the Plot Plan and on the deed to the lot including a clear provision for the responsibility for the private maintenance of the common driveway, common utilities and snow removal running with the land.
- E. The Flag Lots must meet all other requirements of the Hadley Zoning By-Laws.

At the time of the Special Permit the applicant shall submit a Plot Plan stamped by a Registered Surveyor showing location of access driveway, utilities, and house. The Planning Board shall address, but not be limited to, drainage, storm water runoff, deed easements, road construction, house location, vehicular and pedestrian safety, and fire protection. The Planning Board may periodically amend or add rules and regulations relating to the procedures and administration of this section.

## **SECTION XVII FARMLAND PRESERVATION BYLAW**

(ADOPTED MAY 4, 2000)

### *SECTION A. PURPOSES*

- (I) The purposes of this bylaw are:
  - (a) to permanently protect farm land and agricultural soils in the Town of Hadley;
  - (b) to protect farmland property values and provide a fair economic return to owners of property restricted from further development;
  - (c) to foster compact commercial and industrial development in central areas served by public infrastructure;

## ***SECTION B. DEFINITIONS***

- (1) "Developable farmland" - is defined as land that is enrolled under Mass. General Laws Chapter 61A "Assessment and Taxation of Agricultural and Horticultural Land" and is covered by soils in USDA land capability classes I-IV. Where public sewer service is not immediately available to a lot, only 50% of soils identified by the USDA soils maps as hydric (wetland) within classes I-IV may be counted as developable farmland. However, a landowner may submit to the Planning Board percolation test data consistent with Title V, or a soils test prepared by a registered engineer, to demonstrate that soils should be counted as developable farmland.

## ***SECTION C ESTABLISHMENT OF FARMLAND PRESERVATION DISTRICT AND RECEIVING DISTRICT***

- (1) The following overlay zoning districts are hereby established:
  - (a) Farmland Preservation District: This district shall consist of all land within the Agricultural/Residential Zone. Within the Farmland Preservation District, all parcels of developable farmland, as defined herein, of at least five acres will be eligible for transfer of development rights.
  - (b) Receiving District: This district shall consist of all lots within the Business and Industrial Zones with frontage on Route 9, Mill Valley Road or North Maple Street.

## ***SECTION D. TRANSFER OF DEVELOPMENT RIGHTS***

- (1) Transfer of Development Rights provides for increased density of commercial or industrial development in the designated Receiving District when suitable open space land in the Farmland Preservation District is permanently preserved from development. The transfer of development rights is accomplished by the execution of a Agricultural Preservation Restriction, and the increased density is permitted by the issuance of a special Permit, both as hereinafter provided.



### *SECTION E. ELIGIBILITY*

- (1) All lots shown on a plan, or described in a deed, recorded at the Registry of Deeds in the Farmland Preservation District, and meeting the criteria described in Section B, are eligible to apply for a Special Permit from the Planning Board to transfer all or part of the development rights, certified under Section F of this bylaw, on the lot to a lot in a Receiving District.

### *SECTION F. RECEIVING DISTRICT REGULATIONS*

- (1) To be eligible for Transfer of Development Rights, a Special Permit with Site Plan Approval from the Planning Board is required.
- (2) The Planning Board may permit an increased number and density of buildings in the Receiving District as part of a Special Permit for Transfer of Development Rights, in accordance with Sections H-1 of this bylaw.

### *SECTION G. PROCESS FOR CERTIFYING DEVELOPMENT RIGHTS*

- (1) Eligible landowners (individuals that own land in the Farmland Preservation District) may submit an application to the Planning Board for certification of available development rights on their property. The applicant shall determine the number of acres of land eligible for transfer from the parcel in the Farmland Preservation District, using the following process:
  - (a) determining the number of acres of "developable farmland" in the Farmland Preservation District. "Developable farmland" is defined in Section B;
  - (b) after conferring with the Conservation Commission, subtracting all acreage which is identified as wetlands. The Conservation Commission may require the applicant to complete a wetland delineation;
  - (c) subtracting 5% of the total remaining parcel acreage, to account for land which would be used for roads if the parcel had been developed.
- (2) The Planning Board shall review the applicant's assessment of acreage eligible for transfer, and shall make a final determination of such acreage eligible for transfer. Within 45 days of receiving an application, the Planning Board shall

issue a TDR certificate to the applicant that states the number of certified development rights that are available for transfer. This certification shall in no way serve as determination of the number of lots in a standard development. Each acre so certified shall constitute one certified development right unit.

***SECTION H. SPECIAL PERMIT PROCESS FOR TRANSFER OF DEVELOPMENT RIGHTS***

- (1) The applicant proposing to develop specified land in the Receiving District at a density allowed by this bylaw with a transfer of development rights shall make application to the Planning Board for a Special Permit with Site Plan Approval. The application shall clearly illustrate a land parcel or parcels in the Farmland Preservation District and a land parcel or parcels in the Receiving District proposed for transfer of development rights, and the number and form of development rights proposed for transfer, in accordance with the provisions of Section I. The application shall also show that the applicant has an option to purchase certified development rights for the proposed transfer.
- (2) The applicant shall submit to the Planning Board a transaction fee, to be used for the administration, recording and monitoring of the transferred development rights and preserved Agricultural Preservation Restriction. The Planning Board may employ a consultant for these administrative purposes. This fee may be in addition to an application fee.
- (3) The applicant shall also file with the Planning Board a preliminary development plan for the parcel in the Receiving District, illustrating how the transferred development rights will be used.
- (4) Prior to final approval of a Special Permit, the applicant shall tender to the Planning Board a valid instrument granting to the Town a permanent Agricultural Preservation Restriction for eligible land in the Farmland Preservation District. The developer shall furnish to the Planning Board a certificate of title by a duly licensed attorney and such other evidence or assurance of title as may be satisfactory to the Town Counsel.
- (5) Upon advice of the Town Counsel that the Agricultural Preservation Restriction document is valid and sufficient, there must be a vote by the Board of Selectmen authorizing Conservation Commission acceptance of the Agricultural Preservation Restriction. If the Special Permit application is valid and sufficient, the Conservation Commission, acting on behalf of the Town, shall accept the Agricultural Preservation Restriction, for signature of the Massachusetts Commissioner of Agriculture in the same manner as other

APRs, and for recording in the County Registry of Deeds Upon final approval of site plans, the Planning Board shall issue a Special Permit permitting development of the specified land at the approved density, based on the table in Section I.

**SECTION I. DIMENSIONAL AND DENSITY REGULATIONS**

- (1) Each acre of developable farmland within the Farmland Preservation District is equivalent to one of the development rights in the Receiving District shown in the Table of Exchange Standards for Transfer of Development Rights, found below in this section.
- (2) The maximum limits on density, lot coverage, and parking reductions permitted to be developed by Special Permit in the Receiving District shall be determined by reference to the Table of Exchange Standards for Transfer of Development Rights found below in this section.

**TABLE OF EXCHANGE STANDARDS FOR TRANSFER OF DEVELOPMENT RIGHTS**

Farmland Preservation District (Sending District)	Business and Industrial Zoning (Receiving District)	Notes
1 acre of "developable farmland" <sup>1</sup> equals	2000 s.f. of additional commercial or industrial floor area <sup>2</sup> , plus a reduction in parking requirement of 20 spaces <sup>3</sup>	<ul style="list-style-type: none"> <li>1) The Planning Board may allow an increase in lot coverage from the 30% maximum lot coverage required in Section IV of the Zoning Bylaw, up to a maximum 70% lot coverage<sup>4</sup></li> <li>2) The Planning Board may reduce the</li> </ul>

<sup>1</sup> "Developable farmland" is defined in Section P.

<sup>2</sup> "Additional commercial or industrial floor area,, shall be defined as floor *area* above that which would normally be permitted under the Hadley Zoning Bylaw. The increased floor area shall be accommodated through either increased lot coverage or reduced parking requirements as noted in the table above.

<sup>3</sup>one parking space is equal to 200 square feet.

<sup>4</sup> The requirement in Section V-E of the Hadley Zoning Bylaw for a minimum of 20% open space on a lot must be maintained.

parking requirements in Section V-fl of the Zoning Bylaw for off-street parking area, which is equal to twice the floor area of any commercial or industrial building to be constructed. The Planning Board may reduce this requirement for offstreet parking area to a minimum of 1.5 times the floor area of any commercial or industrial building to be constructed.

- (3) when a landowner wishes to sell less than the total number of development rights available to a tax parcel, he may do so provided that:
  - (a) The tax parcel is subdivided;
  - (b) No new parcel less than 10 acres may be created through such subdivision;
  - (c) The subdivision plan shall specify the agricultural class of all the soils on the site;
  - (d) The landowner must sell the development rights from the best agricultural soils first. In no event shall areas of nonbuildable floodplain, wetland, or slope be approved for transfer before all farmland on the tax parcel is first protected.

#### ***SECTION J. DESIGN STANDARDS***

- (1) All uses developed under this bylaw must meet the following standards:
  - (a) The height of buildings shall not exceed the maximum height allowed in the underlying district;
  - (b) To the extent feasible, adjacent uses shall utilize shared parking areas and shared curb cuts to minimize vehicular safety impacts on roads.
  - (c) Pedestrian and bicycle amenities, such as sidewalks, shall be provided.
- (2) The Planning Board may consider, in making its Special Permit decision, whether the project meets the following design standards:

- (a) The exterior facades of buildings shall be constructed of clapboards, brick, stone or other materials, and shall include exterior windows, consistent with the historic character of the town;
- (b) All roofs shall be peaked;

***SECTION K. SPECIAL PERMIT CRITERIA***

- (1) The Planning Board shall not grant any special permit for transfer of development rights unless it finds the following criteria are met:
  - (a) The proposed use is in harmony with the purposes in Section A of this bylaw:
  - (b) The proposed use meets all of the procedural, dimensional and density requirements, and design standards in Sections H-J of this bylaw.

***SECTION L. REPORTING OF TDR TRANSACTIONS***

- (1) Buyers and sellers must report all TDR transactions (options, sales, gifts, donations) to the Planning Board within ten business days.

***SECTION M. RELEASE OF AGRICULTURAL PRESERVATION RESTRICTION***

- (1) No Agricultural Preservation Restriction, which has been conveyed under this bylaw, may be released unless the provisions for release of Agricultural Preservation Restrictions in M.G.L. Chapter 184, Section 32 have been met, which include:
  - a) The restriction must be repurchased from the Town by the land owner at its then fair market value, and funds must be returned only to the Town bank for development rights;
  - b) The restriction shall only be released by its holder only if the land is no longer deemed suitable for agricultural or horticultural purposes and unless approved by a two-thirds vote of both branches of the Massachusetts general court.

***SECTION N. ALTERNATE METHOD FOR TDR TRANSACTIONS***

- (1) In lieu of transferring development rights using the process described in Sections D-M above, an applicant for a Special Permit in Section H may make a cash contribution to the Town of Hadley to be used for the purpose of

purchasing agricultural preservation restrictions. The contribution shall be of a value equal to the value of the required development rights, as determined in the Table of Exchange Standards for Transfer of Development Rights. This value shall be determined by multiplying the number of acres of developable farmland required by the average cost for the purchase of Agricultural Preservation Restrictions in the Town of Hadley over the last three years, as determined by the Conservation Commission.

**SECTION O. BI-ANNUAL REVIEW**

- (1) The Planning Board shall conduct a bi-annual review of this bylaw at an advertised public meeting in order to assess the bylaw. The Planning Board shall make recommendations to the Town for any changes needed in the bylaw structure or process.

**SECTION P. RELATIONSHIP TO "RATE OF DEVELOPMENT" BYLAW**

- (1) lots the Farmland Preservation District which receive a Special Permit for Transfer of Development Rights are exempt from building permit limits in the Zoning Bylaw, Section XV, "Rate of Development", only for purposes of a Transfer of Development Rights.
- (2) Building permit limits shall remain in effect in Farmland Preservation District, except for those development rights which are transferred as part of a Special Permit under this section.

**SECTION Q. BANK FOR DEVELOPMENT RIGHTS**

- (1) The Town may purchase development rights for purposes of sale for use in the Receiving District, or for retirement, after a vote of Town Meeting.
- (2)

**SECTION XVIII MUNICIPAL OVERLAY DISTRICT**

[ADOPTED AUGUST 28, 2000]

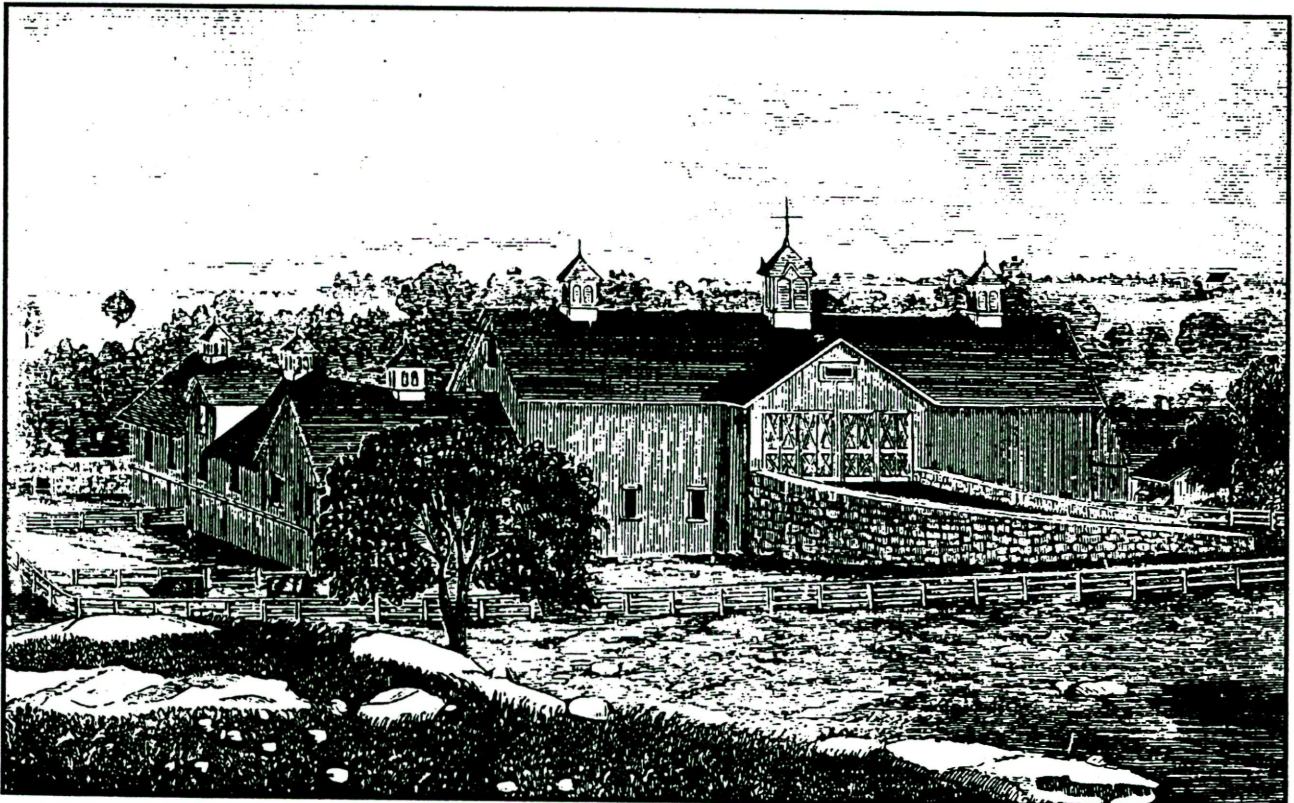
**A. PURPOSE**

The purpose of the Municipal Overlay District is to protect the health, safety, convenience and welfare of the public by facilitating the siting of municipal uses and facilities required for the safe and efficient operation of Town government.



# **Farmland Transfer & Protection in New England:**

*A GUIDE FOR ENTERING & EXITING FARMERS*



*The "Echo Farm" barn, Litchfield, CT*

*New England Small Farm Institute  
Belchertown, Massachusetts  
1999*

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# **Farmland Transfer & Protection in New England:**

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# Farmland Transfer & Protection in New England:

A GUIDE FOR ENTERING & EXITING FARMERS

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# Farmland Transfer & Protection in New England:

*A GUIDE FOR ENTERING & EXITING FARMERS*



## INTRODUCTION

### A. Purpose

Whether you are starting to farm, building a successful farm enterprise or contemplating an exit from farming, you recognize the critical importance of farmland. Today more than ever, with high costs, uncertain profitability and complex legal and financial considerations, New England farmers must be knowledgeable about strategies to access, protect and transfer farm businesses and farmland. With twice as many farmers over the age of 65 as under 35,<sup>1</sup> we have a national crisis in the making, and we cannot simply assume that “the next generation” will be able and available to take over and manage our active farms. Many farm children are choosing non-farming careers. Many farms must be sold for development to pay inheritance, estate and other taxes. Young farmers rarely have the equity to purchase expensive acreage. And farm profit margins may not support two generations during a transition process. In all cases, complex interpersonal, legal and financial considerations can constrain or derail a transfer and jeopardize a farm’s future viability. In short, our farmers need to know how to get on the land, how to keep it in farming, and how to pass it along.

In many cases, traditional models of farm succession are not sufficient to address current barriers. Attorneys and accountants may not have the specific expertise needed to explore all possible strategies to assure successful protection and transfer of family farms. But neighbors, community members, town officials, land trusts and state agencies all have a keen interest in keeping farms on our landscape. They all value the multiple benefits that productive farms provide—open space, diverse habitat, rural quality of life, tourist

attractions, and, most importantly, a diversity of agricultural products. It is increasingly clear that our effort to keep farms in farming should be a shared one. Both technical assistance providers and community members have important roles to play in the effort to assure successful succession on our farms.

The purpose of this Guide is to assist New England farmers in the process of accessing, protecting and transferring farmland. It is intended for several audiences: beginning, exiting and relocating farmers; technical assistance providers; land trusts, community groups, and others concerned about the future of farming in our region. While farmers will be most deeply engaged in farm protection and transfer, others will play essential roles in the success of their efforts. Thus, the Guide offers a variety of perspectives and strategies, and includes worksheets to help users of all types think through critical issues. Informational resource and referrals identify sources of more technical information. While use of this Guide cannot automatically result in a completed business plan, estate plan, or legal document, it can jump start the planning process, guiding the user in the process of understanding and acquiring these essential farm protection and transfer tools.

For some farm families, farm transition planning will focus on arranging succession, within the family, to the next generation. For others, the situation requires that non-related parties negotiate successful transfer of both the farm business and the farm property. This Guide addresses both scenarios; it explores commonalities and examines differences between them. Each has its own set of challenges, difficulties and opportunities.

## **B. How to Use This Guide**

The Guide is divided into four parts. Some sections will be of greater interest than others, depending on where you fit into the farmland transfer picture. However, you are likely to learn from reviewing all of it. For example, as a beginning, "landless" farmer, you may think that strategies to protect farmland do not concern you. However, at some point you may consider getting onto a farm that has been "protected," or you may want to explore protection as one of your acquisition strategies. Regarding transfers, both beginning and exiting farmers are well advised to read about the concerns of the folks on the "other side of the equation." For some farmers, the land protection tools discussed in Section II will play an important role in the transfer processes described in Section I.

Section I deals with farm transfer issues. Separate sections address the needs and interests of entering farmers, exiting farmers, and non-farming landowners. Discussions of various farm transfer and business arrangements are followed by information about other tenure options.

Section II focuses on farmland protection strategies that can be pursued by individual farmers—strategies that may play a critical role in the farm transfer process. As used in this Guide, "farmland protection" means preserving farmland for farming by preventing its conversion to non-farm uses. Several legal devices to accomplish this will be examined. These strategies may offer signifi-

*The purpose of this Guide is to assist New England farmers in the process of accessing, protecting and transferring farmland.*

cant financial advantages to your transfer and estate plans, and can play a crucial role in affordability for the next generation.

Section III lists resources to assist in planning next steps. Although the Guide focuses most closely on the needs and concerns of the farmer, it acknowledges the role of other players and new partners in successfully addressing the challenges of farmland protection and transfer. Both traditional and non-traditional partners and tenure models are listed; many conservation land trusts, state departments of agriculture, public and private lenders, business and estate planners and non-governmental organizations, for example, have interests and specialized skills to contribute to farmland transfers.

Section IV contains worksheets and a selection of sample documents. These worksheets are referenced in the text of the Guide.

As you use the Guide, you are encouraged to keep notes in the margins. After you become familiar with its contents, consider sharing it with your family, your professional advisors or colleagues, potential parties to a farm transfer, and interested others. **Above all, be sure to consult with your own business and legal advisors before you take action.** The successful transfer and protection of New England's farm businesses and farmland is of critical importance, and working with experienced professionals can maximize your chances for success.

## C. What is a Farm? Who is a Farmer?

Today, the answers to these two questions are not as obvious as they might at first appear. And as the profile of our farms and farmers changes, so must our thinking about farmland protection, tenure and transfer.

Farms come in all sizes here in New England. Many farm enterprises cover several hundred acres, although very few are "large" by national standards. And many, producing on a commercial scale on just a few acres, are extremely small. "Bigger is better" does not necessarily hold true in our farm sector. For example, two young farm partners recently grossed over \$80,000 from less than two acres, intensively managed as a market garden.<sup>2</sup>

A farm's soils, location and infrastructure are among key factors to consider when thinking about farm transfer. Their relative importance will be shaped by their current and future use. Land requirements for hay, for example, will be very different from requirements for strawberries—in terms of accessibility, soil capability, access to water for irrigation and frost protection, and protection against vandalism or theft. Even though a parcel has been farmed, or a landowner would like to see active agriculture reclaim an abandoned field, there may be certain, sometimes severe limitations on its productive potential. On the other hand, land that has long been in corn, or a farm that has historically been a dairy, may be well suited to a change in enterprise. For example, with some adaptation of infrastructure, a young couple in Massachusetts has successfully converted a small cow dairy into a sheep farm.

Here in New England, blessed with both a strong farming heritage and



*The fabric of our region's agriculture is woven with farms of all shapes and sizes, and with farmers of diverse heritage and management schemes.*

enormous opportunity for innovation, we enjoy a truly diverse agricultural sector. While some farmers work to insure the successful futures of third or even sixth generation crop and/or livestock operations, others are aggressively investigating new approaches, new crops, and new customers. For both land owner and land seeker, all farms present certain given constraints as well as abundant possibility.

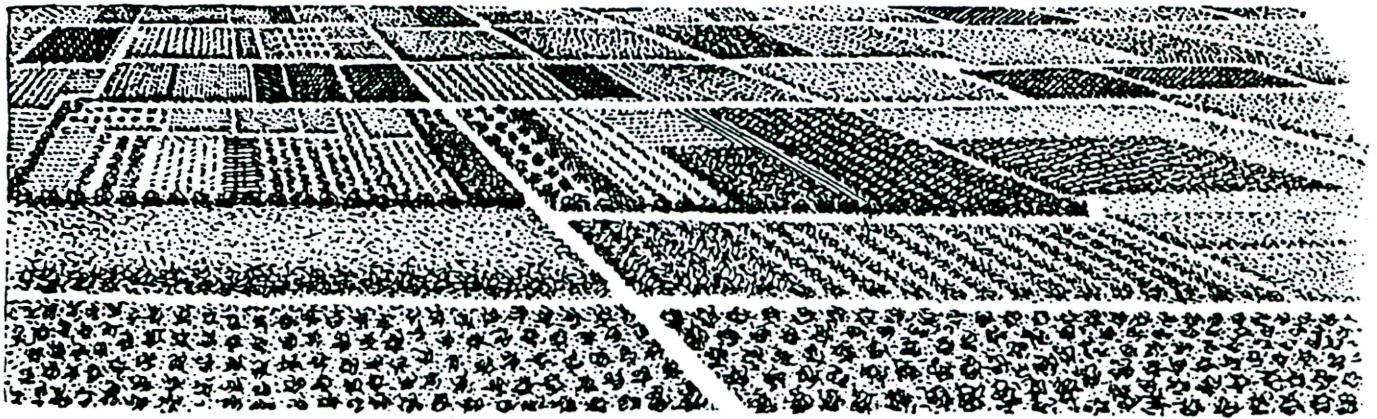
Regarding land tenure, ownership is not a farmer's only, or even most desirable, relationship to farmland. The data show that nearly one third of farms in New England are rented or leased, rather than owned, by the people who farm them.<sup>3</sup> Some farmers own "the home farm" and rent many additional acres, often from more than one landlord. As we will explore in this Guide, access, security and affordability are the key considerations in any farmland tenure arrangement.

Who is a farmer? The realities about "who is farming" today challenge traditional stereotypes. According to a recent report released by the USDA Commission on Small Farms, only 41% of farms (nationally) are operated by full-time farmers. An equal 41% are operated by farmers who "work part-time on the farm and rely on non-farm jobs as their primary source of income."<sup>4</sup> These part-time farmers may be starting out, building to a full-time farming career, or making a conscious choice to include agriculture as only one part of their total household income.

Moreover, an increasing number of "next generation" farmers do not come from farm backgrounds. Many are promising entrepreneurs with a range of skills gleaned from farm apprenticeships, academia and specialized training programs. And many young farmers from farm families plan to "do things differently" when they move into management of the family farm. These farmers are as likely to have laptop computers, satellite mapping and biocontrols in their management toolbox as the more traditional agricultural tools.

Finally, young and old, New England farmers are exploring new commodities: bait fish, organic milk, ostrich products, commercial compost, and medicinal herbs are among those on the cutting edge of our region's agricultural economy.

In short, *the fabric of our region's agriculture is woven with farms of all shapes and sizes, and with farmers of diverse heritage and management schemes.* Our large, established farms are a source of immense pride and stability in every farming community. Our smaller and part-time farmers keep thousands of acres of open space in agricultural production and make substantial contributions to our local and regional economies. All New England farmers have important roles to play in stewarding our productive agricultural resources. As we consider farm succession and transfer, we all benefit from evaluating the widest possible range of farming strategies. The farm transfer process challenges all parties to go beyond what each considers to be, and expects from a "farmer" and a "farm."



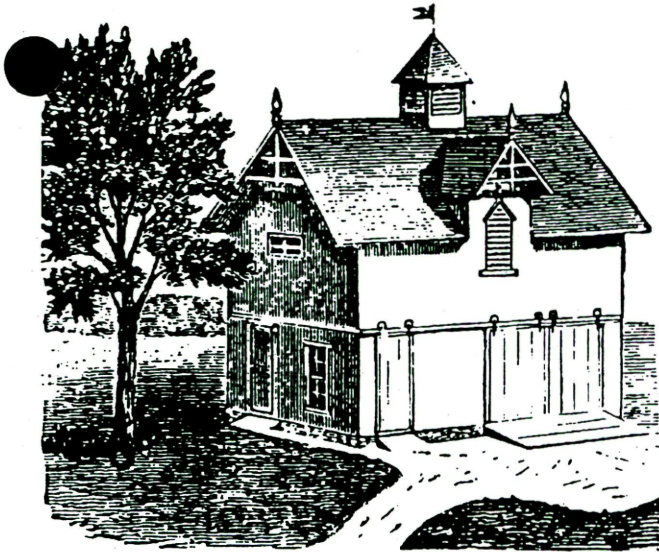
## I. KEEPING THE LAND IN FARMING: STRATEGIES TO TRANSFER FARMS & FARMLAND

### A. Introduction

What can we do to keep our farm actively farmed? How can we pass our farm along and be financially secure? How can we access farmland to start farming? These are hard questions, but there are answers. We realize that the standard ways of transferring farms—children inheriting from parents, or one farmer selling to another—may work for some, but not for all exiting and entering farmers. Farm transfer is an increasingly complex financial, legal, social and emotional transaction that requires increasingly creative strategies.

When any family contemplates transferring a family *business* to the next generation, or selling the business to another party, lawyers, accountants, financial advisors and others are called upon to provide sophisticated advice on tax implications, legal issues and other concerns. Many attorneys and other advisors are well versed in succession planning for family businesses. Planning for the transfer of family *lands* requires additional expertise and has, in fact, become a “growth industry,” according to Attorney Stephen Small, author of *Preserving Family Lands*.<sup>5</sup> Estate planners, lawyers and accountants may be called upon to provide information and technical support for land succession planning, requiring the same level of sophistication, with some additional creativity, to meet the family’s personal, agricultural, and financial goals.

In this regard, a farm is a unique hybrid—it is both *land* and *business*. That is why planning for the future of a farm is particularly challenging—at some point, the farm family must make decisions about the future of both. In some situations, it is clear that the next generation is poised to carry on the farm, and the focus is on the mechanics and timing of the transition. In other



*Whatever the scenario, creative solutions can be found to keep the land farmed.*

situations, there are no heirs to take over the farm. In order to keep the farm going, someone outside the family must be located and arrangements for a transfer of the farm must be initiated.

As used in this Guide, *farm transfer* refers to any transaction that involves the transfer of farm property (or significant tenure rights for use of the land) between two parties, whether within or outside the family, whether between one generation and another, or between non-farming landowners and relocating or expanding farmers. *Farm succession* refers to the passing of the farm from one generation to the next with a particular focus on the social and emotional aspects of the transfer. But, often, the situation is even more complicated—parcels may be divided off; heirs may inherit the farm, but it may be farmed by someone else. Innovative tools such as conservation easements,

which protect the land from development may play an important role in estate planning and transfer arrangements. **Whatever the scenario, creative solutions can be found to keep the land farmed.**

In any farm transfer between related parties, the interests of all affected must be considered. Sometimes families struggle over the distribution of assets among several offspring. Often, there are non-farming heirs to consider in such a distribution. In the experience of advisors who have assisted in such planning, personal values, family dynamics and interpersonal relations are bound into the process. In fact, such matters often shape (or destroy) the planning process and outcomes.

In the case of a farm transfer between unrelated parties, there are similar considerations. Issues of trust and communication inevitably surface as part of the planning process. For exiting farmers, even locating an interested farmer can seem like an insurmountable obstacle. (Read about the possibilities in Section I H.)

Whatever the situation, the needs and interests of the exiting farm family (or non-farming landowner) as well as those of the entering farmer must be articulated, considered and negotiated. And because there are so many variables to consider, the chances are that the parties involved will look for outside assistance somewhere along the way. As noted, attorneys, accountants, financial advisors, estate planners, business consultants and lenders are useful team members. In addition, because such transactions often require creative approaches, not to mention a bit of soul-searching, ideas and assistance from land use planners, land trusts, mediators and non-traditional lenders may be sought out by exiting and entering parties alike. Perhaps the most important ingredient is sufficient lead time to work through all desired transactions, and above all, all parties must be patient and persistent with their dreams.



## **B. Issues for Entering Farmers: Getting on the Farm**

### **1. PERSONAL PLANNING**

Whether you hope to take over the family farm operation or are looking for farmland on which to start your own enterprise, the first step is careful examination of both your personal and your family's values and goals. According to *Small Acreage Farming Decision Guide #1: Starting Your Small Farm*, "all family members need to come to the table with their list of wants and needs. These are actually rooted in their values—those things that people hold as important... including spiritual well-being, family strength, education/inquiry, recreation, ecological health, financial security, community health and so on. It's essential to take time to let everyone share what's most important to them."<sup>6</sup> This is a critical component of your farm planning process. But, when it comes to farm planning and getting on a farm, the chicken-egg comparison rings true—how can you plan the farm enterprise before you know the farm? On the other hand, how do you know what to look for before you have stated your vision and begun to plan?

Personal planning may be further complicated by the fact that, as an entering farmer, your goals and approaches may differ from those of the exiting farmer or current landowner. For example, a retiring dairy farmer may not share your interest in rotational grazing or organic ice cream production. You may have different priorities concerning profitability, family time and non-farming pursuits. Whether the exiting farmer is your parent or a stranger, these concerns must be carefully addressed.

The Worksheets provided in Section IV, Part A are tools to help you articulate values and goals. You are encouraged to complete these worksheets before moving ahead with your farm planning.

### **2. BUSINESS PLANNING**

Regardless of your personal values and goals, and regardless of whether you are the fourth generation on the farmstead or the first person to clear new land, your next concern is with developing a business plan that will support your decision to farm. You need to start by reviewing your current financial situation. "If you cannot manage your finances, the finances will manage you." It is important to take an inventory of all property and possessions owned and all debts owed. An accurate assessment of debts and assets will let you know if there is enough equity available to borrow additional funds or survive tough financial situations. You need to look carefully at the existing or proposed operation's cash income, operating expenses, debt servicing, capital replacement and family living expenses.

The enterprise you hope to take over or take on must be viable. According to George L. Casler, Cornell University, viability is defined as "the ability of the receipts of the business to pay the expenses (before debt pay-

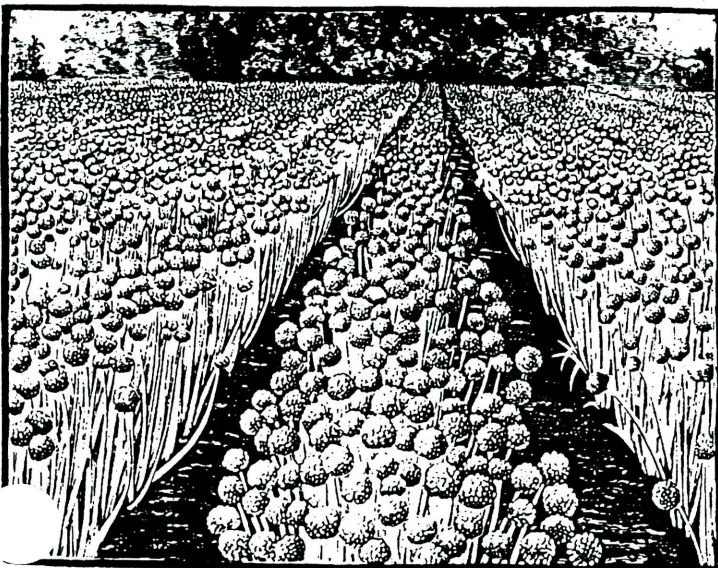
*The first step is careful examination of both your personal and your family's values and goals.*

ments), make the debt payments, and provide for family living for those who own and operate the business. Viability depends on the quantity and quality of the resources of the farm business, how well the farm is managed, the debt load of the business, and the standard of living desired. Therefore, viability of a farm business is interrelated with the goals and objectives of the owners and operators.”<sup>7</sup>

Clearly, the viability of a farm business depends on a number of factors. In Casler’s opinion, a farm with rather limited resources and low profitability can be viable if there is little or no debt and the owners live rather frugally. On the other hand, a farm with excellent resources and high profitability may not provide sufficient money for family living if the business is heavily in debt. Moreover, some farm business with low profitability, high debt, or both, survive because one or more family members contribute non-farm income to the household.

In fact, most New England farm families are “part-time” farmers as defined by the U.S. Department of Agriculture; that is, the farmer or spouse works some days off the farm. Sometimes this is because, as Casler points out, farm profitability is low and additional income is needed. On the other hand, the spouse may choose to work off-farm, or the farm enterprise may be part of an “income patching” strategy consciously employed by the family. Although farming may provide only one of multiple income streams for such families, these operations contribute significantly to the family economy, the larger farm economy and the local community.

In short, business planning is important in farm transition. If you don’t have all the skills to put together a business plan, it is advisable to get help. In some states, university cooperative extension professionals offer business training and technical assistance. Organizations such as Small Business Development Centers, State Farm Bureau Federations, the New England Small Farm Institute, the Farm Credit System, Family Business Centers, and the Women’s Ag Network at the University of Vermont offer such assistance as well. (See Section III, Resources.)



### 3. TO OWN OR NOT TO OWN—IS THAT THE QUESTION?

Ownership” is not the same as “use” and, with respect to land tenure, ownership of farmland can be less important than what rights are granted the person who actually uses it. The concept of land ownership is a creature of culture—not all societies embrace private land ownership the way ours does. This is not a recommendation for or against private land ownership; it is recognition that land ownership need not be a “given.”

The word *tenure* comes from the Latin word

“tenir” which means “to hold.” There are several ways to hold land, and land use professionals often speak of a “bundle of rights” associated with land tenure. Even on private property, an individual does not hold the rights to do everything; he or she must yield to zoning laws, eminent domain, etc.

There are good reasons to own farmland, and certainly those who stand to take over family farmlands know full well the depth of feeling that is associated with owning that precious piece of earth. Owning the land you farm may be important in creating a sense of identity, empowerment, belonging (a place to put down roots), security (once it is paid for!) and accountability. Land is an investment, and can be used as collateral. And, owning farmland tends to promote stewardship—you are more likely to take good care of what is yours.

On the other hand, for some new-entry farmers here in the New England, much of the best farmland is priced out of reach because of the market pressures from competing uses such as development. Other options besides ownership may be preferred or, in fact, the only possibility.

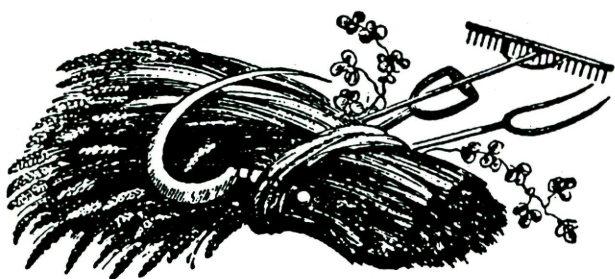
In “Why Farmland Cannot, Will Not and Should Not Pay for Itself,” author Arnold Oltmans, an agricultural economist at North Carolina State University, states that farmland will rarely generate sufficient income to meet cash flow requirements to pay for it. According to USDA, in the last 30 years, farmland assets have accounted for 70-80% of total farm assets and approximately 55% of farm debt. This underscores the importance of understanding the nature and implications of any farmland investment decision. Oltmans points out that land is both a means for producing current earnings as well as an investment vehicle for accumulating wealth. These two management goals must be evaluated and acted upon accordingly.

“If the most important and limiting factor in a farm business operation is cash flow, then land ownership is likely not a good decision. Renting instead of owning may be a better strategy for survival and growth. With cash flow as a driving force, it is more important and feasible to *gain access for the use of land than to own it*,” states Oltmans.<sup>8</sup> If long term wealth accumulation is highly important, land ownership may be more attractive than renting. Another consideration in deciding whether or not to own will be capital financing. If debt financing (i.e. borrowing money, usually from a private lender) is used, the downpayment drains liquid reserves; whatever the repayment terms, there are impacts on cash flow and farm viability. Equity financing (i.e. selling part of the ownership of the business to investors in exchange for capital) usually carries a lower demand on current cash flow than debt financing, and may be more suited to acquiring land as a growth asset. The trade-off is shared ownership of the farm.

In later sections, non-ownership options will be discussed in greater detail. What is important in non-ownership tenure agreements is that the arrangement considers access, agreed upon uses, security and return on investment. Short term rentals offer different kinds of security and flexibility than longer term leases, which can be mortgageable and thus allow for investment in infrastructure such as permanent fencing, and in stewardship practices such as crop rotation and soil building.

*The word tenure comes from the Latin word “tenir” which means “to hold.”*

Of course, there are hybrid tenure arrangements—renting to own, contract purchases, lease share, owner financing, installment sales, and partnerships, to name a few. These will also be discussed in later sections of this Guide. What is important here is that land tenure preferences will be individual and may change over time. They will reflect personal as well as business goals all along the way. A farmer starting out without land, for example, may begin on rented land and then, with accumulated equity, decide to purchase a farm. Farmers who own or inherit the family farm may decide to rent or lease when they need additional acreage. The important thing is to keep good farmland in farming, whether it is owned outright by its farmer or owned by a land trust, a neighbor, or a public agency.



## 4. FINANCING YOUR FARMLAND PURCHASE

### A. PRIVATE LENDERS

If you have the equity to purchase a farm or some farmland, traditional lenders such as banks will consider your request for a mortgage. They will, of course, look at your assets, your debts and your income. Often, the best place to look for a loan is a small, locally owned bank in an agricultural community. Unfortunately, many banks in New England have lost their agricultural roots, and do very little agricultural lending. According to Chris Elmendorf, author of *Montana FarmLink Tool Box*, “for some aspiring farmers, the choice may not be whether to borrow from a private or a public lender, but how to best combine public and private lending programs. Likewise, private lenders who learn to navigate the [USDA Farm Service Agency] bureaucracy can offer special products to new farmers, using FSA’s loan guarantees, down payment Farm Ownership program, and joint financing plans.”<sup>9</sup>

Another source of credit is the Farm Credit System, a national network of banking cooperatives. Farm Credit was chartered by Congress, but is now privately owned. Nationally, the Farm Credit System provides about 25% of all agricultural loans, plus an array of financial services to farmers and other rural residents. It offers long term loans for such things as real estate purchases, as well as shorter term loans for machinery or production. Farm Credit’s interests rates are “competitive with” terms offered by commercial banks. The bulk of Farm Credit’s clientele is established, larger-scale farmers.

### B. FEDERAL LOAN PROGRAMS

There are several federal loan programs targeted to land purchases by beginning farmers. This means that beginning farmers don’t have to compete with established farmers for very limited funds. As used by the federal government, “beginning farmer” has a broad definition—one who has operated a

farm or ranch for not less than 3 but not more than 10 years. Both programs are offered by the USDA Farm Service Agency (formerly FmHA, or "Farmers' Home"). In recent years, FSA has further targeted its ownership loan programs to limited resource farmers (including beginning farmers) and to members of socially disadvantaged, "under-served" groups, including women and minorities. There are several requirements for these programs, including demonstrating one's inability to obtain sufficient credit elsewhere, and completing a borrower training program. First, beginning farmers can get a "regular" or direct farm ownership loan by using funds set aside especially for them. These loans can finance up to 100% of the land's purchase price and the term of the loan can be up to 40 years. There is a "regular" interest rate, and a "limited resource" rate that is about 2 points lower. There is a \$200,000 limit on these loans.

A second program, the beginning farmer "downpayment farm ownership" loan program, allows a beginning farmer to borrow up to 30% of the purchase price (or appraised value, whichever is lower) of the farm. The farm's price or value cannot be more than \$250,000 and the farmer must put up at least 10% cash. The term of the downpayment loan is ten years and carries a 4% fixed interest rate. The downpayment loan will be secured by a second mortgage for the remaining 60%.

Beginning farmers may also choose to participate in a joint financing plan. In this program, FSA lends up to 50% of the amount financed, and another lender provides 50% or more. FSA may charge an interest rate of not less than 4%.

Finally, to encourage private agricultural lending, FSA may guarantee up to 95% of a private loan, on real estate as well as production. Such loans are made by commercial lenders and then guaranteed against most loss by FSA. If a beginning farmer has difficulty locating a cooperating bank, FSA will provide a list of private lenders with whom they have worked in the past.

Since 1980, thirty-six states have offered "Aggie Bond" programs, including beginning farmer loan and loan guarantee programs that are based on the use of tax-exempt bonds. Popular in the Midwest, the only state in New England with this type of program is Maine, where the Finance Authority offers an "entrants loan insurance program." Other states might be encouraged to consider similar initiatives.

### **C. OWNER FINANCING**

A long term installment land contract, this is both a method of finance and an instrument of transfer. It is an agreement to transfer land ownership in exchange for a comparatively small down payment and a series of principal and interest payments. The size and number of payments depend on the total price of the property being transferred, frequency of payments, number of years specified in the contract, the interest rate, and whether a large ("balloon") payment is called for at the end of the contract period. (See Section I E, Farm Transfer and Tenure Arrangements.)

*Beginning farmers don't have to compete with established farmers for very limited funds.*

# **The New York FarmLink Program**

Compiled by the New York FarmNet Program, Cornell University

Transferring management responsibility and farm assets to the next generation or a non-family member is an important, but sometimes confusing process. In addition, exiting farmers face a limited amount of choices for retirement and new farmers face a tremendous uphill battle in order to obtain the necessary knowledge, skill, and finances. NY FarmLink provides educational resources, consulting, and opportunities that enable more farms to be transferred and joint ventures to be developed for the economic enhancement of New York State agriculture.

From 1996 until 2001, the NY FarmLink program was mainly a matching service; providing a database of new farmers, termed “farm seekers” and retiring farmers termed “farm owners”. The challenges faced during this time were those of staffing and funding—FarmLink had few staff and little budget for further program development, outreach or advertising.

In 2002, this program changed dramatically, as more resources were put to use to help FarmLink succeed in New York State. The following is a brief history of NY FarmLink and how it has met its challenges to date.

## **A Turning of the Tide 2001-2002**

The Challenges mentioned above were the critical constraints to achieving success with the NY FarmLink program in New York State. Key events in 2001 and 2002 allowed NY FarmNet to finally give NY FarmLink a boost, both in terms of staff and funds:

- Professor Wayne Knoblauch, faculty advisor to the NY FarmNet program successfully argued for the Cornell Department of Applied Economics to fund one half of a new position within NY FarmNet: a Director of NY FarmLink.
- Cathy Sheils and the Board of Directors successfully used this support from Cornell to convince the NYS Dept. of Agriculture and Markets to increase NY FarmNet’s operating budget by close to 50%.
- Wayne and Cathy hired Steve Richards, a Cornell Cooperative Extension Regional Farm Management Agent, to become the Director of NY FarmLink.
- In July 2002, Karin Jantz was hired as the Program Coordinator of NY FarmLink, taking charge of the Farm Opportunities database and NY FarmLink program promotion.

**\*\*NY FarmLink now had a staff and a program budget to more effectively meet the challenges faced by its mission!\*\***

## **Challenges Faced by the *New NY FarmLink Program: 2002***

Need to update farm transfer information: With the retirement of key farm transfer focused faculty at Cornell, the supporting literature quickly became out of date. Legal and tax issues were especially lacking in usefulness due to many changes in business and tax law since 1996.

Need for easy to use materials: While some materials were usable, the majority of literature on farm transfer was very technical in nature. Not only did this intimidate farm families looking to transfer the farm, but it even intimidated the NY FarmNet consultants and Cooperative Extension personnel that were working with the farm families.

Cornell support for consultants and Cornell Cooperative Extension: The Department of Applied Economics and Management at Cornell University had lost its faculty involved in farm transfer through retirement. Dr. George Conneman, Jane McGonigal, Stuart Smith, and Dr. John Brake all retired within the same 5 year period that NY FarmLink was piloted (1996 – 2001).

Training for Cornell Cooperative Extension and NY FarmNet Consultants: With the loss of faculty involved with farm transfer issues, the annual extension in-services and FarmNet trainings ceased to offer training in the area of farm transfer.

What happened after the “match”: Unlike a dating service, farmers that found someone to work with didn't know how to take the next step. Or, even worse, a match could occur without the proper mechanisms to insure that both parties were financially and legally protected by sound business contracts.

Farm families were having the same problems as the FarmLink participants: just as FarmLink participants didn't know what to do after they were “matched”, farm families did not know what the next step was after the farm transfer decision was made.

New farmers had a difficult time getting started: The three well-known constraints still exist: access to knowledge, access to finances, and access to markets. However, it was discovered that the access to knowledge or practical farming experience was the critical constraint among most new farmers.

Unrealistic expectations: New farmers, especially those considered as “dreamers”, had some unrealistic expectations about farming and how easy it was to get started farming. They became the most disgruntled group of participants in the matching program offered by NY FarmLink. In addition, the farm owner participants had unrealistic expectations of how long the process would take.

## Meeting the Challenges: A Recap of 2002 Activities

Challenge	Response
Out of date farm transfer information.	The entire database of farm transfer information was scrapped. New legal and financial articles were obtained quickly by purchasing permission to reprint copyrighted articles under the NY FarmLink name and logo.
Materials too technical and hard to use.	Two farm transfer workbooks were created: one for the junior and senior generations. These step-by-step guides are easy to use, clarify the transfer process, and break it down into smaller steps.
Cornell Cooperative Extension and NY FarmNet Consultants needed training and support for facilitating farm transfers.	A facilitator's guide was created to accompany the two farm transfer workbooks. A two-day training event was held to train both Cornell Extension Agents and NY FarmNet consultants in September 2002.
No Cornell support for NY FarmNet Consultants and Cornell Cooperative Extension Agents.	After the September workshop, it became clear that NY FarmLink could be called upon to support the farm transfer information needs of Cooperative Extension and NY FarmNet consultants.
Non-family farmers did not know what to do after they were "matched." Likewise, family farms were having the same problems getting started on their own farm transfers.	From October 2002 until March 2003, 17 regional workshops were held for farm families and NY FarmLink participants. The farm transfer workbooks were handed out and the participants were teamed up with a facilitator (either NY FarmNet or Cooperative Extension) at the meeting.
The new farmer audience, as a whole, is hard to please. The needs of the individual vary drastically across the range of beginning farmers.	The NY FarmLink database was expanded to include options for those beginning farmers not ready to own a farm. These include apprenticeships, management opportunities, partnerships, and farm rental properties.
New farmers are the most constraining factor in the linking process. More focus is needed to bring new farmers up to speed in order for them to start farming.	Access to financing grant for a new producer milk marketing contract was awarded to NY FarmLink. Also participating in writing the business planning workbook for new farmers (with Monika Roth) and the mentor/apprenticeship SARE grant proposal by Ora Rothfuss and Cathy Sheils.
Unrealistic Expectations of new farmers and retiring farmers.	Making it abundantly clear in all outreach advertising that the linking process takes time and new farmers need more skill development in order to get started.



## **Successes**

The responses to the challenges above have been a success, in particular:

1. The farm transfer workbooks and the facilitator's guide. Cooperative Extension Educators and NY FarmNet Consultants have had rave reviews about the usefulness in helping families with business transfers.
2. Regional programs have very effective. Not only has there been a meeting in every region of the state in 2002, but 2003 looks to have even more meetings scheduled already!
3. Established the program as a state-wide resource for farm transfer information: Cornell Cooperative Extension, NY FarmNet consultants, and other agribusiness professionals provide for the majority of phone calls to NY FarmLink.
4. Farmers more aware of FarmLink and farm transfer: The NY FarmLink name has gained even greater recognition in NY State as a result of having both an expanded service and a product to accompany that service. NY FarmLink is seen as more than just a "matching service."
5. Agricultural service providers more aware of farm transfer issues: An advertising campaign focusing on trade shows and agricultural business meetings was launched in the beginning of 2003. Already (January, 2003), over 1000 direct mailings have been made, 10 trade show exhibits are scheduled, and invitations to 5 agricultural business meetings have been received.
6. Successful Matches: There were at least 6 successful matches made during 1996-2001 and 9 successful matches in 2002. These matches served as high profile promotional pieces in magazines and newsletters. One of these "matches" still serves on the NY FarmNet board of directors.

## **Future Challenges**

There are still many challenges or barriers to success. Among these are:

1. Bringing new farmers (type 3) up to the level required to start farming.
2. What to do about new farmers labeled "dreamers?" These are the folks that need exposure to farming on a more basic level. This takes a lot of resources and time—and successes are few.
3. Increasing the capacity and open mindedness of farm owners: options such as flexible business arrangements and training their successors need to be explored.
4. Continued funding of the NY FarmLink project through state funds and grants.
5. More research and publication for other varieties of farm transition: researching options other than farm transfer such as partnerships, exiting farming, and starting a farm on your own). During 2003, there will be more workbooks forthcoming: exiting farming, beginning farming, and farm joint business agreements.
6. How to reach the farm families that do not attend Cornell or FarmLink workshops.

## **Next Steps**

To meet the challenges stated above, to discover new challenges, and to increase the capacity of NY FarmLink's staff, consultants, and cooperators.

**American Farmland Trust** (AFT) works to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment.

American Farmland Trust  
National Office  
1200 18th Street, NW, Suite 800  
Washington, DC 20036  
(202) 331-7300  
www.farmland.org

The **Farmland Information Center** (FIC) is a clearing-house for information about farmland protection and stewardship. The FIC is a public/private partnership between USDA's Natural Resources Conservation Service and AFT.

For fact sheets on agricultural conservation easements, estate planning and related topics, visit us on the Web. Or call us for technical assistance.

American Farmland Trust  
Farmland Information Center  
1 Short Street, Suite 2  
Northampton, MA 01060  
(800) 370-4879  
www.farmlandinfo.org

Do you want to know more about how to protect your land and ensure your family's financial future? The book *Your Land is Your Legacy* will guide you through the maze of estate planning options and pitfalls. For more information or to order a copy, call (800) 370-4879.

# Your Land is Your Legacy



Would you like to save your land for future generations?

Have you made retirement plans?

Do you have heirs who want to farm and others who don't?

*Secure the future of your family and your land by starting to plan your estate today!*



## Have You Planned for the Future?

You've made a big investment in your land. It's been hard work, and the land has given you and your family a good life. What happens to your farm or ranch when you retire—or if you become disabled, need long-term care, or die?

Are you like many producers, land-rich and cash-poor? This makes it hard to plan for retirement and your family's future. With good estate planning, you can give your family and your farm financial stability—without cashing in on your land.

Creating a good estate plan will cost some money. But leaving your family without a plan will eventually cost them much more—maybe even your farm. So call a trusted advisor, convene a kitchen-table meeting, hire an expert, whatever it takes. Just do it!



Photo Bob Wagner

## What Are Your Goals?

Estate planning is important—for your family, your business and your land. It is one of the most personal things you will ever do. Part of the process is figuring out what your goals are so you can develop strategies to accomplish them. Over time you must update your plan as your financial circumstances, your family relationships and the tax laws change.

Your estate is all the assets you accumulate over your lifetime and own when you die, such as your home, land, livestock, buildings and equipment, bank accounts, stocks, bonds and life insurance. More than a will, an estate plan also protects you and your family while you're alive. A will is not enough!

With careful planning, farmers and ranchers also can take advantage of conservation options that support their agricultural enterprises. In addition to tax and transfer issues, consider conservation options to protect the future of your land, as well as your farm or ranching business.

## A GOOD ESTATE PLAN SHOULD ACCOMPLISH AT LEAST FOUR GOALS

1. Transfer ownership and management of the agricultural operation, land and other assets;
2. Avoid unnecessary income, gift and estate taxes;
3. Ensure financial security and peace of mind for all generations;
4. Develop the next generation's management capacity.



# Your Conservation Options

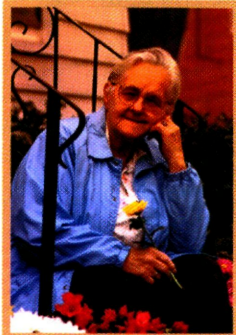


Photo Jeremy Green

Farmers often say, "The best way to protect my land is to farm it." This is true—but farming and ranching are risky enterprises. Land's market value often is higher for development than for agriculture, so it's tempting to sell out to retire or move. Land is especially vulnerable to conversion pressures when it passes from one owner to the next. Even families that plan to pass it on can lose their land without sound estate planning. And what about producers who have no heirs to take over?

Balancing commercial and conservation goals is a challenge. But it can work! For most farms and ranches the most common tool is a conservation easement. Depending upon where you live, you may be able to sell a conservation easement, which can be a good option for families who have some heirs who want to farm and others who don't.



Photo Jeremy Green

## Conservation Easements

Conservation easements are voluntary deed restrictions landowners place on their properties to protect natural resources such as agricultural land, ground and surface water, wildlife habitat, historic sites or scenic views. Easements are flexible documents tailored to each property and the needs of individual landowners. Landowners retain title to their land and can restrict public access, use it as collateral for a loan or sell it with the restrictions in place.



**Agricultural conservation easements** are designed to keep land available for commercial farming or ranching. Used with other estate and financial planning techniques, agricultural conservation easements can help you transfer your farm or ranch to the next generation and reduce transfer taxes. Generally, landowners who donate or sell them continue to be eligible for state and federal farm programs. **Wetlands easements** are designed to restore and protect wetlands and their associated upland acreage. They are drafted specifically to enhance wildlife habitat and achieve other wetlands functions, such as protecting water quality. **Floodplain easements** permit activities that will protect and enhance normal floodplain functions. Compatible uses may include managed timber harvest, periodic haying or grazing.

## Transfer and Tax Reduction Strategies

- **Agricultural conservation easements** permanently protect farmland from non-farm development and can significantly reduce estate taxes in cases where the market value of the land is much greater than its restricted value.
- **Annual gifts of assets** can help transfer the business and reduce estate taxes.
- **Buy/sell agreements** can ensure an orderly transfer of the farm business.
- **Estate splits** between spouses enable both estates to use unified federal credits.
- **Life insurance** can be used to fund buy/sell agreements, establish trusts, provide for non-farming heirs or pay estate taxes.
- **Limited partnerships or corporations** can allow separation of management and ownership of the business, if desired.
- **Long-term care insurance** can protect family assets from being used to pay for nursing home costs.
- **Minority discounts** can substantially reduce gift and real estate tax liability when minority interests of family farm businesses are transferred.
- **Purchase of agricultural conservation easements** (also known as purchase of development rights) programs can protect farmland, reduce taxes and provide cash for retirement and estate planning needs.
- **"Special Use Valuation"** can significantly reduce estate tax liability when farm real estate owned by family members is transferred.
- **Transferring management responsibility and asset ownership** gradually can provide a smooth transition for the agricultural operation from one generation to the next.
- **Trusts** can provide financial security for surviving spouses, children and grandchildren.

## It's never too soon—but it can be too late

Estate planning and farm transfer involve some of the most important personal decisions you will ever make. Your choices will affect you, your family and your farm. Successful estate planning and farm transfer require effective communication and a team effort—including financial, farm management, tax and legal expertise. Because plans must be tailored to individual circumstances, they must be designed to meet a variety of unique situations. Make sure you find the professional assistance you need to accomplish your goals.

One thing is certain: You can't take it with you. The question is, do you want to have a say in its ultimate outcome? If so, take the next step.

*Get started on your estate plan today!*

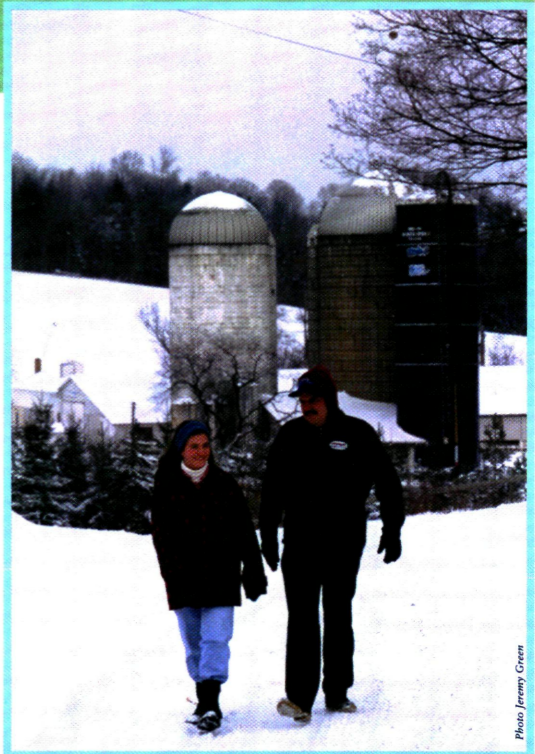


Photo Jeremy Green



# Sustaining the Economic Benefits of Farms

**A**t first glance, the economic impact of agriculture may seem modest when compared to other industries. However, farms tend to demand very little public infrastructure—roads, schools, sewers, etc.—and therefore provide low-cost economic development. Farms also perform ecological services, such as groundwater recharge and wildlife habitat, that are difficult to quantify economically but are extremely valuable nonetheless. In addition, Vermont's tourism industry depends on farms, which provide the pastoral landscapes and rural charm that draw tourists.

Early on, Vermont recognized the importance of conserving its land and agricultural heritage. Enacted in 1987, Vermont's Farmland Conservation Program permanently protects land for agriculture. The state consistently invests more per capita on farmland conservation than any other state in the nation.

This study found that 13 percent of the farmland in Addison and Franklin counties was lost between 1982 and 1997; however, that figure was lower than the Vermont average of 20 percent. By comparison, two neighboring counties in New York lost 26 percent of their farmland during the same time period. In part, Addison and Franklin counties have experienced less farmland loss because the state Farmland Conservation Program has protected significant amounts of farmland in the two counties thus far (35,000 acres in Addison County and 25,000 acres in Franklin County).

By protecting land, Vermont's Farmland Conservation Program also is helping farmers stay in business. A 2000 study, *From the Field: What Farmers Have to Say About Vermont's Farmland Conservation Program*—conducted by American Farmland Trust, Vermont Housing & Conservation Board, Vermont Land Trust, and Vermont Department of Agriculture, Food and Markets—found that the Vermont Farmland Conservation Program gives many Vermont farmers a greater level of financial security. The *From the Field* study demonstrated that 75 percent of farmers who receive state funding to conserve their land reinvest the proceeds in their businesses and local communities.

The *From the Field* study also determined that the Vermont Farmland Conservation Program is an important part of efforts to keep the state's farmers in business. Given the importance of agriculture to local economies throughout Vermont, it stands to reason that the Vermont Farmland Conservation Program should continue to be viewed as both an economic and environmental investment for the state, rather than as just another expenditure.

To obtain a copy of this study's technical report or a copy of *From the Field*, contact American Farmland Trust at (518) 581-0078.

#### Photography

Cover: Jim Newton; page one: (top) Brett Poirier, (bottom, left to right) Kirsten Ferguson, Jim Newton, Brett Poirier; page two: Jim Newton; back cover: Brett Poirier.

## AMERICAN FARMLAND TRUST

is a private, nonprofit farmland conservation organization founded in 1980 to stop the loss of productive farmland and to promote farming practices that lead to a healthy environment.

Telephone:  
(518) 581-0078

Website:  
[www.farmland.org](http://www.farmland.org)

*This study was funded by the Vermont Community Foundation, the Maverick Lloyd Foundation, the Arcadia Fund and members of American Farmland Trust.*

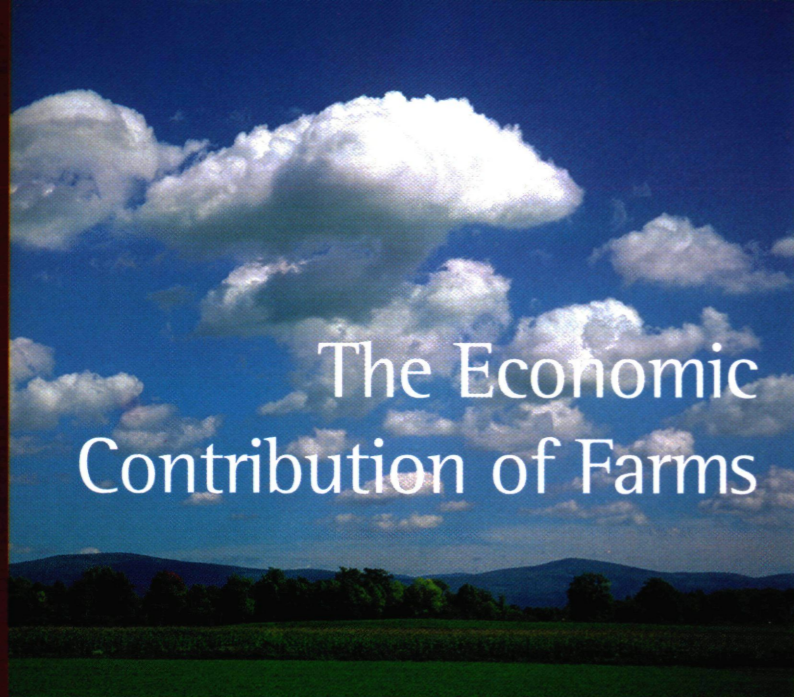


American Farmland Trust

# The Economic Importance of Agriculture

*A Profile of Addison and Franklin Counties, Vermont*





# The Economic Contribution of Farms

*Farms generate significant local economic activity*



## Findings

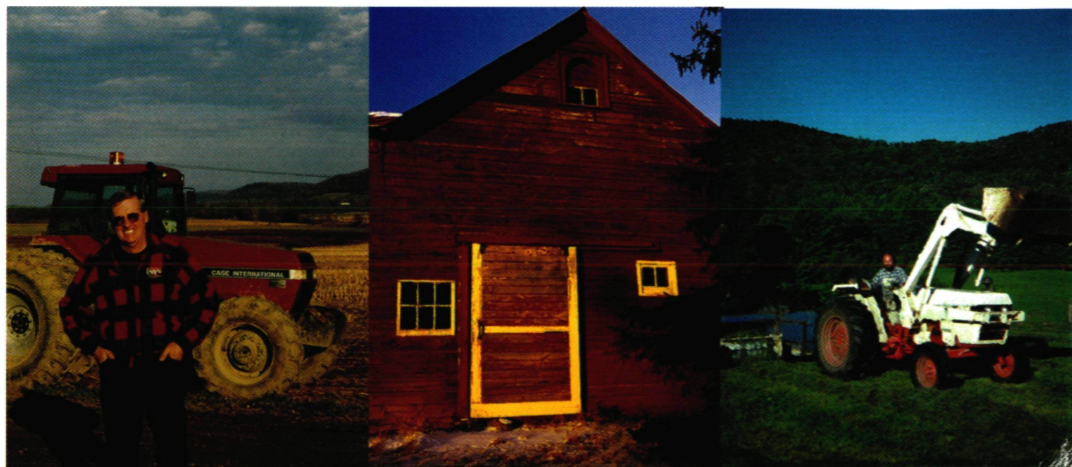
*Economic activity generated by the agricultural sector tends to have a larger impact on the local economy than dollars produced by other industries. Farmers typically spend more locally than other businesses, since they rely on a variety of local businesses: feed and seed dealers, fertilizer and fuel companies, machinery dealerships and repair shops, veterinarians, grain haulers, etc.*

**A**s farmers across the nation struggle against unfavorable economic conditions and increased pressure from sprawling development, communities must decide whether to enact measures that protect farmland and help keep farmers in business. In making such decisions, community leaders often weigh the scenic and environmental benefits of farms against the perceived economic benefits of further residential and commercial development. Often lost in the debate, however, is a discussion of the economic impact that farms have on their surrounding communities.

To get a better glimpse of how much farms contribute to their local economies, American Farmland Trust undertook a study of two counties in Vermont—Addison and Franklin—where agriculture is a significant industry. Farming is one of the largest land uses in both counties. In 1997, Addison County had 205,000 acres in farms, on 42 percent of the county's land base, while Franklin County had 190,215 acres in farms, covering 47 percent of the county.

The study showed that Addison and Franklin county farms:

- Add hundreds of millions of dollars a year to the local economy
- Provide one out of every ten jobs
- Generate more than one-tenth of all the farm sales in New England



### Addison and Franklin County Farms:

#### Added \$450 million annually to the local economy

The total economic impact of agriculture was determined by farm sales and the "multiplier effect," which takes into account the impact of farm spending on local agricultural businesses. Related industries that depend in part on agriculture—such as recreation, tourism, forestry and food processing—were not included in these figures, making this a conservative estimate.

#### Were responsible for more than one-tenth of all the farm sales in New England

Combined, farms in the two counties sold more than \$212.3 million in farm products in one year. Dairy farms generated the largest portion of total agricultural sales in each county—more than 75 percent.

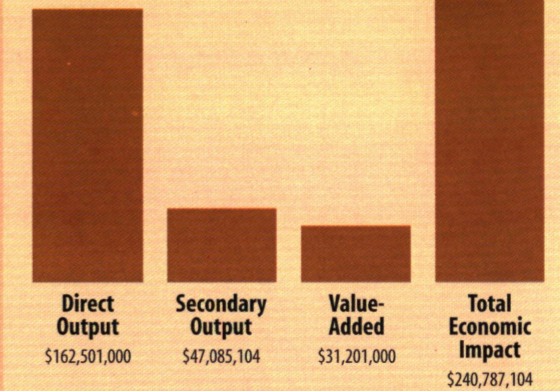
#### Supported local businesses by spending \$169.6 million\* on farm expenses

Much of this money was spent on animal feed, fertilizers, fuel, machinery repairs and other goods and services from local businesses. (\*Figure from 1997)

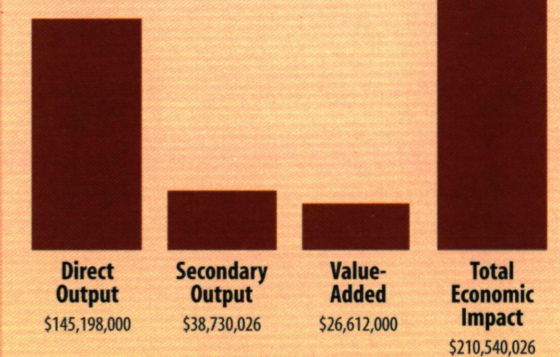
#### Provided more than ten percent of all the jobs in the region

The agricultural industry created approximately 4,150 full- and part-time jobs, generating income of more than \$36 million. This figure did not consider jobs in industries such as tourism and recreation that also rely on agriculture, making this a conservative estimate.

### Agricultural Industry Economic Impact Addison County, Vermont



### Agricultural Industry Economic Impact Franklin County, Vermont



- Direct output is the total industry production for a given year. It includes shipments and net additions to inventory.
- Secondary impacts include local industry purchases from other local industries, as well as final demand resulting from the interaction of institutions. Secondary impacts typically reflect household spending from income that varies directly with output.
- Value-added is the value added to intermediate goods and services. It includes employee compensation, proprietor income, other property income and indirect business taxes.

Source: 1998 IMPLAN Multiplier Reports, Minnesota IMPLAN Group, Inc.

Figures are from 1998, unless otherwise noted. Primary sources of study data: the United States Census of Agriculture, United States Bureau of the Census County Business Patterns, Regional Economic Information System, United States Bureau of Labor Statistics and IMPLAN (Impact Analysis for Planning).



*American Farmland Trust*

**CASE STUDY**

**FARM VIABILITY ENHANCEMENT PROGRAM**

**COMMONWEALTH OF MASSACHUSETTS**

May 2001

**DESCRIPTION**

The Massachusetts Farm Viability Enhancement program was created in 1994 to improve the economic productivity and environmental integrity of participating farms. The program has two phases. In Phase I, a participating farmer will work with a planning team to develop a plan to increase on-farm income and preserve the farm's environmental resources. Consultants analyze the current operation and may recommend ways to improve efficiency and increase on-farm income, such as improved management practices, diversification, direct marketing, value-added initiatives and agri-tourism. The team also makes recommendations to prevent pollution and conserve resources.

In Phase II, funding is available to participating farmers to implement the plan. Farmers may apply for grants of \$20,000 or \$40,000 in exchange for five- or ten-year term easements.

The program has helped farmers introduce value-added initiatives including new or expanded farm stands, ice cream production and retailing, maple sugar houses, restaurants, processing facilities and finished wool products. The program director estimates that participants realize an average net increase on-farm income of \$18,000-\$19,000 per year. The program has served as a model for other similar state programs, including those in Connecticut, New Jersey and New York.

**HISTORY**

The program was developed primarily to help Massachusetts' struggling dairy farmers. The idea was also promoted by Massachusetts Farm Bureau as an alternative to the Agricultural Preservation Restriction (APR) program—the state's purchase of development rights program.

An advisory committee was formed in 1994 to oversee a pilot program. A Farm Status Questionnaire was distributed to 18 possible candidates from five different categories of farms: dairies, vegetable/small fruit operations, orchards, livestock operations, and public ownership. The committee used information from this questionnaire to select five geographically diverse farms to participate.

The first participants included a sheep farm supported by off-farm income and four dairy farms. Business plans were prepared and implemented for each pilot farm, a process that took about 10 months. Members of the program's advisory committee met in 1996 to review the pilot phase of the program. The findings from the pilot farms showed a need for business planning assistance, and helped to secure funding for the program.

As of December 29, 2000, 142 farms have participated in the program, covering 25,714 acres. Roughly half (12,586) of these acres are under covenant, and 3,328 acres are protected under the Agricultural Preservation Restriction (APR) program. Participating farms are located in 12 of the

state's 14 counties (every county except Suffolk and Nantucket). However, 42 percent of participating farms are clustered in the Pioneer Valley—a three-county region situated along the Connecticut River. These farms represent 45 percent of the total acreage in the program.

#### **ADMINISTRATION**

Historically, one full-time director under the direction of the Massachusetts Commissioner of Agriculture administered the program. A second full-time employee was hired in spring 2001. In addition, a network of consultants located throughout the state make up the planning teams during Phase I.

The consultants are paid on an hourly basis and include farmers, commodity experts, financial analysts, builders, natural resource managers and other individuals with relevant expertise from universities, private businesses, federal or state government, non-profit conservation organizations.

A “point-person” is assigned to each participating farm to coordinate the business planning process. The point-person meets with farmers to understand the farm operations and the types of changes farmers want to make. The point-person then assembles a planning team from the network of consultants. The point-person ensures that all team members do their part in meeting with the farmer and providing input to the plan. The point-person makes sure that the farmer understands and agrees with the implementation steps and timeline outlined in the plan.

Participating farmers are required to submit documentation to the program administrator to ensure that the funds are spent according to the implementation steps outlined in the plan. Farmers also must submit financial information for five years following implementation so that program staff can evaluate the effectiveness of the program.

#### **ELIGIBILITY CRITERIA**

Any Massachusetts farmer who owns at least five acres of land in agricultural use, intends to continue farming and wishes to enhance the economic and environmental viability of their farm is eligible to apply to the program.

#### **RANKING CRITERIA**

A 15-member review committee, appointed by the Commissioner of Agriculture, evaluates program applications. The review committee includes farmers, Farm Bureau members and representatives of the banking industry. They use a 15-point system to rank each applicant according to the following six criteria, in order of priority:

- Degree of threat to the continuation of agriculture on the land (up to five points)
- Number of acres of land to be placed in the program (up to three points)
- Degree to which the project would accomplish environmental objectives (up to two points)
- Number of years and type of agricultural experience of the applicant (up to two points)
- Interest of farmer in doing value-added or retail (up to two points)
- Suitability and productivity of the land for agricultural use based on its soil classification, physical features, and location. (up to one point)



Other factors included on the application, and therefore given some consideration, include:

- Enrollment in Chapter 61 or Chapter 61A – the state program that assesses and taxes agricultural land based on its current use value—in order to determine the type of farming that takes place on the applicant’s farm
- Geographic location – in order to attempt to represent a wide geographic distribution through the program.
- Prior participation in the state’s Agricultural Preservation Restriction (APR) program – see discussion of APR program below.
- Diversity of operations – the program is intended to aid all types of farms in Massachusetts.

## **FUNDING**

The pilot phase of the Farm Viability program was funded by money from the Agricultural Preservation Restriction program. In 1996, the Massachusetts Farm Viability Enhancement Program officially was launched with a \$5 million allocation from a \$150 million statewide open space bond bill. In 2000, the program received a two-year appropriation. By June 30, 2001, the state will have invested \$6.8 million. According to program staff, there are currently more than twice as many applicants as available funding.

## **RELATIONSHIP TO AGRICULTURAL PRESERVATION RESTRICTION PROGRAM**

The Massachusetts Farm Viability Enhancement Program and the Massachusetts Agricultural Preservation Restriction (APR) program are both administered by the Massachusetts Department of Food and Agriculture. Initially, the two programs operated independently of one another; farmers with land protected with an APR *were not* eligible for the Farm Viability program. The lack of cooperation was due in part to an ebb in political support for the permanent farmland protection program. Farm Bureau and others argued that there should be an alternative to APR (i.e., state funds spent on farmers for less than permanent restrictions). Another issue was the fact that the two programs competed for funding under annual bond caps.

The programs now work hand in hand to support agriculture and protect farmland. APR farmers became eligible for the viability program in 1996 and now are given special consideration during the application process. APR farmers receive business planning assistance, which protects the state’s investment in a permanent restriction (they are not able to apply for implementation grants in exchange for term easements). At the same time, farm viability participants who receive implementation grants agree to term restrictions, which provide short-term protection. Out of the 25,714 acres that have participated in the Farm Viability program, 3,328 are protected through the APR program.

## **CONTACTS**

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# *American Farmland Trust*

## **Massachusetts Food and Farmland Protection Act (as originally proposed)**

### ***Summary of Provisions:***

#### **Sections 1-2: Procurement of Locally-Grown Food**

Establishes a preference for Massachusetts-grown agricultural products in state procurement and, at local option, in local procurement. Massachusetts-grown food would be given preference over out-of-state food when of equal quality and priced up to 10% more than out-of-state food.

#### **Section 3: Truth in Labeling**

Requires that when food is labeled or advertised as “local” or “native,” the state of origin be identified.

#### **Section 4: Farmstands as Sources of Locally Grown Food**

Updates Zoning Enabling Act provision governing farmstands. Adds alternative standard to provision exempting farmstands from zoning to account for sales of goods grown in Massachusetts but on farms other than the one where the farmstand is located, thereby encouraging farmstands to offer goods from other area farms.

#### **Section 5: Progressive Farm Loan Program**

Authorizes a loan program for farmers who are qualified beginning farmers or who need loans for certain purposes such as marketing, undertaking innovative forms of agriculture, developing value-added products, creating cooperatives, or complying with environmental laws. Calls for Mass Development, in consultation with Department of Food and Agriculture, to administer program and make arrangements that enable private lenders to make loans at low interest rates and on otherwise favorable terms.

#### **Section 6: Risk-Based Water Quality Testing**

Tailors water quality requirements for producers of maple syrup and other agricultural products to public health risks.

## **Sections 7-10: Taxation of Farmland at Open Space Rate**

Changes classification of farmland from commercial to open space in state law provisions applicable to those municipalities that set different property tax rates for different classes of property.

## **Section 11: “Circuit Breaker” Income Tax Credit**

Provides an income tax credit in the amount by which a farmer’s property taxes for land subject to Chapter 61A (current use assessment) exceed 7% of his or her income.

## **Section 12: Property Tax Relief to Promote Investment in Farm Buildings**

Provides an exemption from property taxes for new or reconstructed barns and other farm buildings for ten years after construction and for assessment at their depreciated value thereafter, complementing Chapter 61A’s property tax relief for farmland.

## **Section 13: Sales Tax Relief to Promote Investments in Farms**

Exempts from sales tax materials and supplies used in the construction, improvement or repair of farm structures.

## **Section 14: Integrated Pest Management Fund**

Establishes a separate Integrated Pest Management Fund where revenues from certain fees and other sources will be deposited to support education, outreach and promotion of IPM.

## **Sections 15-19: Excise Tax Relief for Farm Machinery and Animals**

Authorizes, at local option, removal of farm machinery and animals from the scope of local excise taxes.

## **Section 20: Farm Vehicle License Plate Renewal**

Provides for renewal of farm vehicle license plates every three years rather than annually and in January-March rather than during September.

## **Sections 21-25: Conservation Tax Credit**

Establishes a income tax credit in an amount equal to one-half the value of land or interest in land donated to a public or private non-profit entity for conservation or preservation – including agricultural preservation – purposes.

**Section 26: Tax Credit to Encourage Rentals and Sales to Beginning Farmers**

Establishes an income tax credit for income received from rental of farmland or farm buildings or equipment, or sale of farmland, to qualified beginning farmers.

**Section 27: Agricultural Impact Assessment**

Requires state and local government bodies to determine whether their rules and regulations will have an impact on commercial agricultural operations and, if so, to assess the extent of such impact.

**Section 28: Agricultural Preservation Restriction In Lieu of Estate Taxes**

Permits landowners to give the Commonwealth an APR (agricultural conservation easement) in lieu of paying state estate taxes.

**Sections 29, 37: Co-holders of Agricultural Preservation Restrictions**

Authorizes municipalities and non-profit organizations to co-hold an APR when they contribute more than a nominal amount to the cost of acquiring the APR.

**Sections 30, 37: Installment Payments For Agricultural Preservation Restrictions**

Authorizes the Commonwealth to make payments for an APR in installments, at the landowner's option.

**Sections 31-34: Protections Against Loss of Agricultural Preservation Restrictions**

Provides protections comparable to those under Article 97 of the Amendments to the Massachusetts Constitution in the event of a proposed release of an APR, and clarifies that APRs survive invocation of the common law doctrine of merger by a public body.





*American Farmland Trust*

**FARMLAND INFORMATION CENTER  
FACT SHEETS  
ON LAND USE AND FARMLAND POLICY**

Farmland Information Center fact sheets are grouped by category and provided here in “camera-ready” format for reprint. Updated fact sheets can be downloaded free of charge at [www.farmlandinfo.org](http://www.farmlandinfo.org).

**Overview of Tools**

Farmland Protection Toolbox	Aug. 1999
Glossary	Sep. 1998
Cost of Community Services Studies	Nov. 2002
Farmland Protection Policy Act (Federal)	Sep. 1998
Why Save Farmland?	Jan. 2002

**Agricultural Conservation Easements**

Agricultural Conservation Easements	Nov. 2001
Purchase of Agricultural Conservation Easements	Sep. 1998
Status of Local PACE Programs	July 2002
Status of State PACE Programs	July 2002
Purchase of Agricultural Conservation Easements: Sources of Funding	Jan. 1999
Installment Purchase Agreements	Sep. 1999

**Community Planning for Agriculture**

Agricultural District Programs	Dec. 2001
Agricultural Protection Zoning	Sep. 1998
Differential Assessment & Circuit Breaker Tax Programs	Sep. 1998
Growth Management Laws	Sep. 1998
Right-to-Farm Laws	Sep. 1998
Transfer of Development Rights	Jan. 2001

**Farm Succession and Transfer**

Farm Transfer and Estate Planning	Nov. 2001
2002 Farm Conservation Tax Update	

**Agricultural Economic Development**

Agricultural Economic Development	Sep. 1998
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# FACT SHEET

## THE FARMLAND PROTECTION TOOLBOX



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October 2002

### DESCRIPTION

This fact sheet provides a brief description of the tools and techniques that state and local governments are using to protect farmland and ensure the economic viability of agriculture. Some of the techniques result in programs that are enacted and administered at the state level, others are used primarily by local governments. Sometimes, municipal governments adapt and strengthen state laws to meet unique local needs. Many of the most effective farmland protection programs combine regulatory and incentive-based strategies.

### PROGRAMS THAT ARE GENERALLY ENACTED AT THE STATE LEVEL

#### Agricultural District Programs

Agricultural district programs allow farmers to form special areas where commercial agriculture is encouraged and protected. They stabilize the land base and support the business of farming by providing farmers with an attractive package of incentives. Typically, programs are authorized by state law and implemented at the local level. An exception is Calvert County, Md., which has its own independent agricultural district program.

There are a total of 18 state agricultural district laws in 16 states. Minnesota and Virginia authorize statewide and local agricultural district programs. Provisions vary widely, but most agricultural district laws are intended to be comprehensive responses to the challenges facing farmers in developing communities.

To maintain a land base for agriculture, some agricultural district laws protect farmland from annexation and eminent domain. Many laws also require that state agencies limit construction of infrastructure, such as roads and sewers, in agricultural districts. Three states offer participants eligibility for purchase of agricultural conservation easement programs, and two states include a right of first refusal in district agreements to ensure that land will continue to be available for agriculture.

Agricultural district laws help create a more secure climate for agriculture by preventing local governments from passing laws that restrict farm practices, and by providing enhanced protection from private nuisance lawsuits.

To reduce farm operating expenses, seven programs offer either automatic eligibility for differential tax assessment or property tax credits to farmers who enroll in agricultural districts.

Some states encourage local planning by limiting district authorization to jurisdictions with comprehensive or farmland protection plans; requiring the adoption of land use regulations to protect farmland; involving planning bodies in the development and approval of districts; and limiting non-farm development in and around agricultural districts.

#### Conservation Easements

Every state in the nation has a law pertaining to conservation easements. The National Conference of Commissioners on Uniform State Laws adopted the Uniform Conservation Easement Act in 1981. The Act was designed to serve as a model for state legislation to allow qualified public agencies and private conservation organizations to accept, acquire and hold less-than-fee-simple interests in land for the purposes of conservation and preservation. Since the Uniform Act was approved, 21 states have adopted conservation easement-enabling legislation based on this model and 23 states have drafted and enacted their own conservation easement-enabling laws. In Pennsylvania, conservation easements are authorized by common law. Oklahoma and Wyoming do not have separate provisions of state law authorizing the conveyance of conservation easements, but state agencies are given the power to hold title to easements in their authorizing legislation.#

# Stefan Nagel, State Conservation Easement Legislation (Washington, D.C.: National Trust for Historic Preservation, 1995).

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Agricultural conservation easements are designed specifically to protect farmland. Grantors retain the right to use their land for farming, ranching and other purposes that do not interfere with or reduce agricultural viability. They continue to hold title to their properties and may restrict public access, sell, give or transfer their property as they desire. Producers also remain eligible for any state or federal farm program for which they qualified before entering into the conservation agreement.

Conservation easements limit land to specific uses and thus protect it from development. These voluntary legal agreements are created between private landowners (grantors) and qualified land trusts, conservation organizations or government agencies (grantees). Grantors can receive federal tax benefits as a result of donating easements. Grantees are responsible for monitoring the land and enforcing the terms of the easements.

Easements may apply to entire parcels of land or to specific parts of a property. Most easements are permanent; term easements impose restrictions for a limited number of years. All conservation easements legally bind future landowners. Land protected by conservation easements remains on the tax rolls and is privately owned and managed. While conservation easements limit development, they do not affect other private property rights.

Agricultural conservation easements are a flexible farmland protection tool. Private land trusts and other conservation organizations educate farmers about the tax benefits of donating easements, and state and local governments have developed programs to purchase agricultural conservation easements from landowners. In addition, agricultural conservation easements can be designed to protect other natural resources, such as wetlands and wildlife habitat.

**Executive Orders**

Governors of at least 10 states have issued executive orders that document the importance of

agriculture and farmland to their states' economy, environment and culture. Some executive orders direct state agencies to withhold funding from projects that would result in farmland conversion. Others have created task forces to investigate farmland conversion. State executive orders have the potential to build public and institutional support for other farmland protection programs. By restricting the use of state funds for projects that would result in the loss of agricultural land, executive orders also can influence the actions of local governments. To the extent that they call attention to the problem of farmland conversion and facilitate discussion about solutions, executive orders can serve as a building block of a comprehensive farmland protection program.

**Growth Management Laws**

Growth management laws are designed to control the timing and phasing of urban growth and to determine the types of land use that will be permitted at the local and regional levels. At least 12 states have laws that control development or set planning standards for local governments, but only seven - Hawaii, Maryland, Minnesota, New Jersey, Oregon, Vermont and Washington - address the issue of farmland conversion. These seven laws vary in the controls that they impose on state and local governments and in the extent to which they protect agricultural land from development.

Growth management laws take a comprehensive approach to regulating the pattern and rate of development and set policies to ensure that most new construction is concentrated within designated urban growth areas or boundaries (UGBs). They direct local governments to identify lands with high resource value and protect them from development. Some growth management laws require that public services such as water and sewer lines, roads and schools be in place before new development is approved. Others direct local governments to make decisions in accordance with comprehensive plans that are consistent with plans for adjoining areas.



Oregon has one of the nation's strongest growth management laws. As a result of the state's 1972 Land Conservation and Development Act, every county in Oregon has implemented agricultural protection zoning, protecting more than 16 million acres of agricultural land. Washington's Growth Management Act (GMA), passed in 1990 and strengthened in 1991, also is proving to be an effective farmland protection tool. Most of Washington's counties have developed inventories of important agricultural land, and several have implemented farmland protection techniques, such as agricultural protection zoning, purchase of agricultural conservation easement programs and transfer of development rights programs since the enactment of the GMA. Growth management laws in Hawaii, Vermont, New Jersey and Maryland have been somewhat less effective in preventing farmland conversion and promoting the development of local farmland protection programs.

#### **Purchase of Agricultural Conservation Easement Programs**

Purchase of agricultural conservation easement (PACE) programs pay property owners to protect their land from development. PACE is known by a variety of other terms, the most common being purchase of development rights. Landowners sell agricultural conservation easements to a government agency or private conservation organization. The agency or organization usually pays them the difference between the value of the land for agriculture and the value of the land for its "highest and best use," which is generally residential or commercial development. Easement value is most often determined by professional appraisals, but may also be established through the use of a numerical scoring system that evaluates the suitability for agriculture of a piece of property.

State and local governments can play a variety of roles in the creation and implementation of PACE programs. Some states have passed legislation that allows local governments to create

PACE programs. Others have enacted PACE programs that are implemented, funded and administered by state agencies. Several states work cooperatively with local governments to purchase easements. A few states have appropriated money for use by local governments and private nonprofit organizations. Finally, some local governments have created independent PACE programs in the absence of any state action.

Cooperative state-local PACE programs have some advantages over independent state or local programs. Cooperative programs allow states to set broad policies and criteria for protecting agricultural land, while county or township governments select the farms that they believe are most critical to the viability of local agricultural economies, and monitor the land once the easements are in place. Involving two levels of government generally increases the funding available for PACE. Finally, cooperative programs increase local government investment in farmland protection.

PACE programs allow farmers to cash in a fair percentage of the equity in their land, thus creating a financially competitive alternative to selling land for non-agricultural uses. Permanent easements prevent development that would effectively foreclose the possibility of farming. Removing the development potential from farmland generally reduces its future market value. This may help facilitate farm transfer to the children of farmers and make the land more affordable to beginning farmers and others who want to buy it for agricultural purposes. PACE provides landowners with liquid capital that can enhance the economic viability of individual farming operations and help perpetuate family tenure on the land. Finally, PACE gives communities a way to share the costs of protecting agricultural land with farmers.

#### **Right-to-Farm Laws**

State right-to-farm laws are intended to protect farmers and ranchers from nuisance lawsuits. Every state in the nation has at least one

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right-to-farm law. Some statutes protect farms and ranches from lawsuits filed by neighbors who moved in after the agricultural operation was established. Others protect farmers who use generally accepted agricultural and management practices and comply with federal and state laws. Twenty-three right-to-farm laws also prohibit local governments from enacting ordinances that would impose unreasonable restrictions on agriculture.

Right-to-farm laws are a state policy assertion that commercial agriculture is an important activity. The statutes also help support the economic viability of farming by discouraging neighbors from filing lawsuits against agricultural operations. Beyond these protections, it is unclear whether right-to-farm laws help maintain the land base.

## Tax Relief

### *Circuit Breaker Tax Relief Credits*

Circuit breaker tax programs offer tax credits to offset farmers' property tax bills. Four states have circuit breaker programs. In Michigan, Wisconsin and New York, farmers may receive state income tax credits based on the amount of their real property tax bill and their income.

In Iowa, farmers receive school tax credits from their local governments when school taxes exceed a statutory limit. The counties and municipalities are then reimbursed from a state fund. In Michigan, landowners that wish to receive circuit breaker credits must sign 10-year restrictive agreements with their local governments to prevent farmland conversion. In Wisconsin, counties and towns must adopt plans and enact agricultural protection zoning to ensure that tax credits are targeted to productive agricultural land. The Wisconsin program has facilitated the adoption of agricultural protection zoning in more than 400 local jurisdictions.

Like differential assessment laws, circuit breaker tax relief credits reduce the amount farmers are

required to pay in taxes. The key differences between the programs are that most circuit breaker programs are based on farmer income and are funded by state governments.

### *Differential Assessment Laws*

Differential assessment laws direct local governments to assess agricultural land at its value for agriculture, instead of its full fair market value, which is generally higher. Differential assessment laws are enacted by states and implemented at the local level. With a few exceptions, the cost of the programs is borne at the local level.

Every state except Michigan has a differential assessment law. Differential assessment is also known as current use assessment, current use valuation, farm use valuation, use assessment and use value assessment.

Differential assessment programs help ensure the economic viability of agriculture. Since high taxes reduce profits, and lack of profitability is a major motivation for farmers to sell land for development, differential assessment laws also protect the land base. Finally, these laws help correct inequities in the property tax system. Owners of farmland demand fewer local public services than residential landowners, but they pay a disproportionately high share of local property taxes. Differential assessment helps bring farmers' property taxes in line with what it actually costs local governments to provide services to the land.

## PROGRAMS THAT ARE ENACTED AT THE LOCAL LEVEL

### **Agricultural Protection Zoning**

Zoning is a form of local government land use control. Zoning ordinances segment counties, cities, townships and towns into areas devoted to specific land uses and establish standards and densities for development.

Agricultural protection zoning (APZ) ordinances designate areas where farming is the

primary land use and discourage other land uses in those areas. APZ limits the activities that are permitted in agricultural zones. The most restrictive regulations prohibit any uses that might be incompatible with commercial farming.

APZ ordinances also restrict the density of residential development in agricultural zones. Maximum densities range from one house per 20 acres in the eastern United States to one house per 640 acres in the West. Some local ordinances also contain right-to-farm provisions and authorize commercial agricultural activities, such as farmstands, that enhance farm profitability. Occasionally, farmers in an agricultural zone are required to prepare farm management plans.

In most states, APZ is implemented at the county level, although towns and townships may also have APZ ordinances. Zoning can be modified through the local political process. Generally, the enactment of an APZ ordinance results in a reduction of permitted residential densities in the new zone. This reduction in density, also called downzoning, is generally controversial because it can reduce the market value of land. A change in zoning that increases permitted residential densities is known as upzoning. A change in the zoning designation of an area—from agricultural to commercial, for example—is known as rezoning. Successful petitions for upzoning and rezoning in agricultural protection zones often result in farmland conversion.

APZ stabilizes the agricultural land base by keeping large tracts of land relatively free of non-farm development. This can reduce the likelihood of conflicts between farmers and their non-farming neighbors. Communities can use APZ to conserve a “critical mass” of agricultural land, enough to keep individual farms from becoming isolated islands in a sea of residential neighborhoods. Maintaining a critical mass of agricultural land can ensure that there will be enough farms to support local

agricultural service businesses. By restricting the development potential of large properties, APZ limits land speculation and helps keep land affordable to farmers and ranchers. Finally, APZ helps promote orderly growth by preventing sprawl into rural areas, and benefits farmers and non-farmers alike by protecting scenic landscapes and maintaining open space.

### **Cluster Zoning**

Cluster zoning ordinances allow or require houses to be grouped close together on small lots to protect open land. The portion of the parcel that is not developed may be restricted by a conservation easement. Cluster developments are also known as cluster subdivisions, open space or open land subdivisions.

Cluster subdivisions can keep land available for agricultural use, but generally they are not designed to support commercial agriculture. The protected land is typically owned by developers or homeowners’ associations. Homeowners may object to renting their property to farmers and ranchers because of the noise, dust and odors associated with commercial agricultural production. Even if the owners are willing to let the land be used for agriculture, undeveloped portions of cluster subdivisions may not be large enough for farmers to operate efficiently, and access can also be a problem. For these reasons, cluster zoning has been used more successfully to preserve open space or to create transitional areas between farms and residential areas than to protect farmland.

### **Comprehensive Planning**

Comprehensive planning allows counties, cities, towns and townships to create a vision for their joint future. Comprehensive plans, which are also known as master or general plans, outline local government policies, objectives and decision guidelines, and serve as blueprints for development. They typically identify areas targeted for a variety of different land uses, including agriculture, forestry, residential, commercial, industrial

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*For additional information on farmland protection, the Farmland Information Center offers publications, an on-line library and technical assistance. To order AFT publications, call (800) 370-4879. The farmland information library is a searchable database of literature, abstracts, statutes, maps, legislative updates and other useful resources. It can be reached at [www.farmlandinfo.org](http://www.farmlandinfo.org). For additional assistance on specific topics, call the technical assistance service at (413) 586-4593.*

and recreational activities. Comprehensive plans provide a rationale for zoning and promote the orderly development of public services.

A comprehensive plan can form the foundation of a local farmland protection strategy by identifying areas to be protected for agricultural use and areas where growth will be encouraged. It may include policies designed to conserve natural resources and provide affordable housing and adequate public services. Some counties have used the comprehensive planning process to encourage their cities and towns to develop urban growth boundaries and adopt agricultural protection zoning. Others have incorporated the use of PACE and transfer of development rights into their master plans.

## Mitigation Ordinances and Policies

Mitigation ordinances are a new farmland protection technique. In 1995, city officials in Davis, Calif., enacted an ordinance that requires developers to permanently protect one acre of farmland for every acre of agricultural land they convert to other uses. Developers can place an agricultural conservation easement on farmland in another part of the city or pay a fee to satisfy mitigation. While most of the regulatory farmland protection techniques restrict the property rights of farmers, the Davis mitigation ordinance makes developers pay for farmland protection.

In 2000, Yolo County, Calif., where the City of Davis is located, adopted an agricultural land mitigation program that is modeled on the 1995 City of Davis ordinance.

In Massachusetts, Executive Order 193 seeks to lessen the extent to which state activities contribute to the conversion of agricultural land. The Massachusetts Department of Food and Agriculture, based on its interpretation of EO 193, seeks mitigation for projects involving state funds. It has negotiated the removal of top soil from development sites for use by local farmers and funds for agricultural land protection.

King County, Wash. has a “no net loss of farmland” policy in its comprehensive plan. The policy prohibits removal of land from the agricultural production district (APD) unless an equal amount of agricultural land of the same or better quality, adjacent to the APD, is added.

## Right-To-Farm Ordinances

Local governments around the nation are enacting their own right-to-farm laws to strengthen and clarify weak language in state laws. Local right-to-farm laws are most widespread in California, where the state farm bureau developed and distributed a model right-to-farm ordinance during the 1980s.

A local right-to-farm ordinance can serve as a formal policy statement that agriculture is a valuable part of the county or town economy and culture. Some require that a notice be placed on the deed to all properties in agricultural areas, cautioning potential buyers that they may experience noise, dust, odors and other inconveniences due to farming and ranching operations. Local ordinances help educate residents about the needs of commercial agriculture and reassure farmers that their communities support them.

## Transfer of Development Rights

Transfer of development rights (TDR) programs allow landowners to transfer the right to develop one parcel of land to a different parcel of land. Generally, TDR programs are established by local zoning ordinances. In the context of farmland protection, TDR is used to shift development from agricultural areas to designated growth zones closer to municipal services. The parcel of land where the rights originate is called the “sending” parcel. When the rights are transferred from a sending parcel, the land is restricted with a permanent conservation easement. The parcel of land to which the rights are transferred is called the “receiving” parcel. Buying these rights generally allows the owner

to build at a higher density than ordinarily permitted by the base zoning. TDR is known as transfer of development credits (TDC) in California and in some regions of New Jersey.

TDR is used by counties, cities, towns and townships. Two regional TDR programs for farmland protection were developed to protect New Jersey's Pinelands and the pine barrens of Long Island, N.Y. TDR programs are distinct from PACE programs because they involve the private market. Most TDR transactions are between private landowners and developers. Local governments approve transactions and monitor easements. A few jurisdictions have created "TDR banks" that buy development rights with public funds and sell them to developers and other private landowners.

Some states, such as New Jersey, have enacted special legislation authorizing local governments to create TDR programs. Other states have consistently refused to give local governments such authorization. Counties and towns have created TDR programs without specific state authorizing legislation; municipal governments must work with their attorneys to determine whether other provisions of state law allow them to use TDR.

TDR programs can be designed to accomplish multiple goals including farmland protection, conservation of environmentally sensitive areas and the preservation of historic landmarks. They prevent non-agricultural development of farmland, reduce the market value of protected farms and provide farmland owners with liquid capital that can be used to enhance farm viability.

TDR programs also offer a potential solution to the political and legal problems that many communities face when they try to restrict development of farmland. Landowners often oppose agricultural protection zoning (APZ) and other land use regulations because they can reduce equity. APZ can benefit farmers by preventing urbanization, but it may also reduce the fair

market value of their land. When downzoning is combined with a TDR program, however, landowners can retain their equity by selling development rights.

While dozens of local jurisdictions around the country allow the use of TDR, only a few of them have used the technique successfully to protect farmland. TDR programs are complex and must be carefully designed to achieve their goal. Communities that have been most successful in using TDR are characterized by steady growth, with the political will to maintain and implement strong zoning ordinances and planning departments that have the time, knowledge and resources to administer complex land use regulations.

#### OTHER STRATEGIES TO PROTECT FARMLAND AND SUPPORT AGRICULTURE

Most farmers say the best way to protect farmland is to keep farming profitable. State and local governments have created a variety of initiatives to support the economics of agriculture.

For example, the Massachusetts Farm Viability Enhancement program was created in 1994 to improve farm income and environmental stewardship. The program has two phases. In Phase I, participating farmers work with a team of consultants to evaluate the current operation and develop a plan. Plans may call for product diversification, direct marketing, value-added products and/or agri-tourism. They also may recommend conservation practices. In Phase II, funding is available to implement the plan. Farmers may apply for grants of \$20,000 or \$40,000 in exchange for five or ten year term easements.

The Massachusetts program has served as a model for initiatives in Connecticut, New Jersey and New York.

FARMLAND PROTECTION ACTIVITIES BY STATE

State	Agricultural Districts	Agricultural Protection Zoning	Circuit Breaker	Differential Assessment	PACE	Right-to-Farm*	TDR
Alabama				▲		▲	
Alaska				▲		▲	
Arizona				▲	▲	▲	
Arkansas				▲		▲	
California	▲	❖		▲	▲❖	▲	❖
Colorado		❖		▲	▲❖	▲	❖
Connecticut				▲	▲	▲	❖
Delaware	▲			▲	▲	▲	
Florida		❖		▲	▲	▲	❖
Georgia				▲		▲	
Hawaii		▲		▲		▲	
Idaho		❖		▲		▲	❖
Illinois	▲	❖		▲	❖	▲	
Indiana		❖		▲		▲	
Iowa	▲	❖	▲	▲		▲	
Kansas		❖		▲		▲	
Kentucky	▲	❖		▲	▲❖	▲	
Louisiana				▲		▲	
Maine				▲	▲	▲	❖
Maryland	▲❖	❖		▲	▲❖	▲	❖
Massachusetts	▲			▲	▲	▲	❖
Michigan		❖	▲		▲❖	▲	
Minnesota	▲❖	❖		▲		▲	❖
Mississippi				▲		▲	
Missouri				▲		▲	
Montana		❖		▲	▲❖	▲	❖
Nebraska		❖		▲		▲	
Nevada				▲		▲	
New Hampshire				▲	▲❖	▲	
New Jersey	▲			▲	▲❖	▲	❖
New Mexico				▲		▲	
New York	▲		▲	▲	▲❖	▲	❖
North Carolina	▲			▲	▲❖	▲	
North Dakota		❖		▲		▲	
Ohio	▲	❖		▲	▲	▲	
Oklahoma				▲		▲	
Oregon		❖		▲		▲	
Pennsylvania	▲	❖		▲	▲❖	▲	❖
Rhode Island				▲	▲	▲	
South Carolina				▲		▲	
South Dakota		❖		▲		▲	
Tennessee	▲			▲		▲	
Texas				▲		▲	
Utah	▲	❖		▲	▲	▲	❖
Vermont				▲	▲	▲	❖
Virginia	▲❖	❖		▲	▲❖	▲	❖
Washington		❖		▲	▲❖	▲	❖
West Virginia				▲	▲	▲	
Wisconsin		❖	▲	▲	❖	▲	
Wyoming		❖		▲		▲	
<b>TOTAL</b>	<b>16</b>	<b>25</b>	<b>4</b>	<b>49</b>	<b>26</b>	<b>50</b>	<b>17</b>

▲ State program

❖ Local program

\*A number of local jurisdictions also have enacted right-to-farm ordinances. We do not have a complete inventory.



# FACT SHEET

## GLOSSARY



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### ADEQUATE PUBLIC FACILITIES ORDINANCE

A form of comprehensive growth management that prevents new homes from being built in a community until municipal services such as sewers, roads, public water supplies and schools are available to serve the new residents.

### AGRICULTURAL CONSERVATION EASEMENT

A legal agreement restricting development on farmland. Land subjected to an ACE is generally restricted to farming and open space use. See also conservation easement.

### AGRICULTURAL DISTRICT

A legally recognized geographic area formed by one or more landowners and approved by one or more government agencies, designed to keep land in agriculture. Agricultural districts are created for fixed, renewable terms. Enrollment is voluntary; landowners receive a variety of benefits that may include eligibility for differential assessment, limits on annexation and eminent domain, protection against unreasonable government regulation and private nuisance lawsuits, and eligibility for purchase of agricultural conservation easement programs. Also known as agricultural preserves, agricultural security areas, agricultural preservation districts, agricultural areas, agricultural incentive areas, agricultural development areas and agricultural protection areas.

### Agricultural Protection Zoning (APZ)

Zoning is a form of local land use regulation. Agricultural protection zoning ordinances protect the agricultural land base by limiting non-farm uses, prohibiting high-density development, requiring houses to be built on small lots and restricting subdivision of land into parcels that are too small to farm.

APZ takes many forms:

#### *Exclusive agricultural zoning*

This form of zoning prohibits non-farm residences and most non-agricultural activities; exceptions are made for parcels of land that are not suitable for farming.

#### *Large minimum lot size zoning*

These ordinances require a certain number of acres for every non-farm dwelling, typically at least 20 acres in the eastern United States or at least 35 acres in other regions.

#### *Area-based allowance zoning*

These ordinances establish a formula for the number of non-farm dwellings permitted per acre, but houses are typically built on small lots.

#### *Fixed area-based allowance zoning*

These ordinances specify a certain number of units per acre.

#### *Sliding scale area-based allowance zoning*

Under these ordinances, the number of dwellings permitted varies with the size of the tract. Owners of smaller parcels are allowed to divide their land into more lots on a per-acre basis than owners of larger parcels.

### ANNEXATION

The incorporation of land into an existing community that results in a change in the community's boundary. Annexation generally refers to the inclusion of newly incorporated land but can also involve the transfer of land from one municipality to another.

### APPRAISAL

A systematic method of determining the market value of property.

### BARGAIN SALE

The sale of property or an interest in property for less than fair market value. If property is sold to a qualifying public agency or conservation organization, the difference between fair market value and the agreed-upon price can be claimed as a tax-deductible charitable gift for income tax purposes. Bargain sales also are known as conservation sales.

### BUFFERS

Physical barriers that separate farms from land uses that are incompatible with agriculture. Buffers help safeguard farms from vandals and

## GLOSSARY

trespassers, and protect homeowners from some of the negative impacts of commercial farming. Vegetated buffers and topographic barriers reduce the potential for clashes between farmers and their non-farming neighbors. Buffers may be required by local zoning ordinances.

### CIRCUIT BREAKER TAX RELIEF

A tax abatement program that permits eligible landowners to take some or all of the property tax they pay on farmland and farm buildings as a credit to offset their state income tax. Generally, farmers are eligible for a credit when property taxes exceed a set percentage of their income.

### CLUSTER ZONING

A form of zoning that allows houses to be built close together in areas where large minimum lot sizes are generally required. By grouping houses on small sections of a large parcel of land, cluster zoning can be used to protect open space. Also known as cluster development, land preservation subdivision, open land subdivision and open space subdivision.

### COMMUNITY SUPPORTED AGRICULTURE (CSA)

A form of direct marketing of farm products that involves customers paying the farmer in advance for a weekly share of the harvest. Customers are often called shareholders. In some cases, shareholders may participate in farm work and farm decisions. Farms that use this marketing strategy are called "CSA farms" or "CSAs." CSA is also known as subscription farming.

### COMPREHENSIVE GROWTH MANAGEMENT

A state, regional, county or municipal government program to control the timing, location and character of land development.

### COMPREHENSIVE PLAN

A regional, county or municipal document that contains a vision of how the community will grow and change and a set of plans and policies to guide land use decisions. Comprehensive plans also are known as general plans and master plans.

### CONSERVATION EASEMENT

Legally recorded, voluntary agreements that limit land to specific uses. Easements may apply to entire parcels of land or to specific parts of the property. Most are permanent; term easements impose restrictions for a limited number of years. Land protected by conservation easements remains on the tax rolls and is privately owned and managed; landowners who donate permanent conservation easements are generally entitled to tax benefits. See also agricultural conservation easement and purchase of agricultural conservation easements.

### CORN SUITABILITY RATING (CSR)

A numerical system for rating the productivity of farmland, used primarily in Iowa.

### COST OF COMMUNITY SERVICES (COCS) STUDY

A case study method of allocating local revenues and expenditures to different land use categories. COCS studies reveal the net contribution of residential, commercial, industrial, forest and agricultural lands to local budgets.

### CURRENT USE ASSESSMENT

See differential assessment.

### DEFERRED TAXATION

A form of differential assessment that permits eligible land to be assessed at its value for agriculture. Deferred taxation is similar to preferential assessment, but landowners must pay some or all of the taxes that were excused if they later convert land to ineligible uses. Rollback taxes assess the difference between taxes paid under differential assessment and taxes that would have been due if the land was assessed at fair market value.

### DEVELOPMENT RIGHTS

Development rights entitle property owners to develop land in accordance with local land use regulations. In some jurisdictions, these rights may be sold to public agencies or qualified nonprofit organizations through a purchase of agricultural conservation easement or purchase of development rights program. Sale of development