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02

Department of Agriculture

POLICIES

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Farming creates jobs, contributes to the global food supply and increasingly provides fresh produce for local markets. It also helps to shape a state's character.

When agricultural land is converted to development, residents must obtain their food from more distant sources, agriculture industries suffer, open space disappears and communities often lose a sense of where they came from and who they are. The change also can place a burden on local and state governments. New land uses require new infrastructure, and developed land — particularly housing — tends to demand more services than farms do.

This section offers policy ideas that can help preserve farmland, so that agriculture continues to be a source of community stability, economic vitality and environmental sustainability for generations to come. Specifically, we discuss strategies to keep farmland in production, to reduce development pressure and to support conservation.

1

Protect farmland by coordinating state spending and permitting decisions

ACTION

The Governor can minimize the conversion of farmland to developed land by requiring state agencies to better coordinate their spending and permitting. Sometimes, for example, an economic development agency might fund a sewer project or the Transportation Department might fund a new road that inadvertently encourages the development of prime agricultural land into an industrial park. By coordinating spending and permitting, governors and their department heads can dodge such unintended consequences.

PROCESS

In many cases, a Governor can improve coordination simply by directing the Department of Agriculture to review state infrastructure and permitting decisions that could lead to the conversion of prime farmland. If the Governor has created an Office of Smart Growth, a Growth Cabinet or an equivalent entity responsible for cross-agency collaboration on development issues (*see Policies #7, Create a growth cabinet and #9, Create an office to coordinate growth issues in the Comprehensive Approaches section*), that entity could include among its duties the review of other agencies' infrastructure and permitting decisions for their impact on farmland conversion. Under that arrangement, relevant agencies would regularly submit a list of anticipated infrastructure projects and permits to the growth coordinating agency, which in turn would identify instances where state actions might result in lost farmland and would recommend appropriate action. The Governor might also require that each agency update its funding criteria to assess whether its spending decisions might result in a loss of farmland. Any of these actions could likely be put in force by executive order or simply through a gubernatorial directive.

EXAMPLE

Pennsylvania's Agriculture Land Preservation Policy

Gov. Edward Rendell issued an executive order in 2003 establishing the Pennsylvania Agriculture Land Preservation Policy, which requires all state agencies to review and amend their programs and actions to meet the goal of preserving prime farmland. Rendell designated Pennsylvania's Department of Agriculture as the lead agency to implement his order.

Pennsylvania's Agriculture Land Preservation Policy: *http://www.pabulletin.com/secure/data/vol33/33-29/1397.html*

2

Establish a program to purchase agricultural conservation easements

ACTION

The Department of Agriculture should establish a program to purchase of agricultural conservation easements. Many farmers want to keep their land in farming but could make more money by selling it for development. Conservation easement programs keep land in agriculture by paying farmers the difference between the farm value of their property and the market or development value. In return for the incentive, the farm owner must agree not to develop the property either for a specified period of time or in perpetuity. At least 27 states currently have such programs, which are sometimes called Purchase of Development Rights or Agricultural Preservation Restriction programs.

PROCESS

Conservation easements usually are administered by a state-appointed board. Governors typically name all or a portion of the members, although that authority varies by state. The board must establish funding criteria, make funding decisions and ensure that local conservation easement programs comply with state requirements. State requirements typically are set by enabling legislation that also establishes program parameters and authorizes the State, or local governments, to purchase development rights directly from landowners. Program funding can come from various sources, including bond sales, user fees, dedicated tax revenue (such as cigarette taxes or real estate transfer taxes), and federal programs (such as the Farm and Ranch Lands Protection Program).

In making easement purchases, agriculture boards typically consider the quality of the farmland, the risk of development, consistency with zoning and development plans, and the land's development potential. Easement purchases can get more "bang for the buck' — and may support the preservation of large, contiguous parcels of

farmland — if the land to be purchased is adjacent to other protected farmland or anchors farming in a region.

EXAMPLE
Maryland's Agricultural Land Preservation Program

In 1977, the Maryland General Assembly created the Maryland Agricultural Land Preservation Foundation (MALPF). The Foundation, which falls under the Maryland Department of Agriculture buys agricultural preservation easements that forever restrict development on prime agricultural lands. MALPF has permanently protected more than 265,000 acres from development on close to 2,000 farms in all of Maryland's 23 counties.

Maryland's Agricultural Land Preservation Program: *http://www.malpf.info*

3

Provide grants to develop Farmland Protection Plans

ACTION

The State can help communities protect working farms and other land by giving grants to cities and counties to develop Farmland Protection Plans. Farmland Protection Plans are valuable tools in local land preservation efforts, often encouraging predictable, coordinated and strategic preservation. They also can work with economic development plans to promote local agriculture.

Local officials often want to develop protection plans but lack the resources. Grants can help them develop plans and, at the same time, provide an opportunity for the State to partner with communities in developing and implementing a successful farmland preservation strategy.

PROCESS

The Department of Agriculture must establish the criteria for awarding farmland protection planning grants to local governments, set up an application process and develop a list of expenses eligible for reimbursement. The State should consider reimbursing expenses most clearly related to the development of Farmland Protection Plans (e.g., consultant, secretarial and legal services; conducting public hearings; travel; and printing.). The State also may wish to develop procedures for approving protection plans.

EXAMPLE
New York's County Farmland Protection Planning Grants

Under its County Farmland Protection Grant program, the New York Department of Agriculture & Markets provides up to $50,000 to counties to cover up to 50 percent of costs related to the development of Farmland Protection Plans. Grants are awarded each year on a rolling basis. Since the program's creation in 1994, the Department has awarded more than $2 million to approximately 50 counties. Many counties are now implementing recommendations from their plans, which range from hiring Ag Protection Planners in county planning offices to setting up local Purchase of Development Rights programs to protect viable farms. Recent legislation permits any county with a plan that is at least 10 years old to reapply to the Department of Agriculture & Markets for up to $50,000 in matching funds to develop a new plan or to update its existing one.

New York also has developed an agriculture planning grant program to help municipalities with revisions of the agricultural sections of their local planning documents. The grants will fund up to $25,000 or 75 percent of the cost (whichever is less) of developing a local protection plan. Since the start of the municipal program in late 2007 the New York State Department of Agriculture and Markets has awarded 47 municipal agricultural protection planning grants.

New York's County Farmland Protection Program: *http://www.agmkt.state.ny.us/APIagservices/farmprotect.html*

4

Establish an agricultural district program

ACTION

Agricultural district programs address the challenges that farmers face in developing areas. Agricultural districts are designated areas where commercial agriculture is encouraged and protected. Farmers enroll in these programs voluntarily and receive a package of locally tailored benefits, such as tax relief, protection from local regulation and nuisance suits, and eligibility for Purchase of Agricultural Conservation Easement programs (*see Policy #2, Establish a program to purchase of agricultural conservation easements, in this section*).

In return, enrolled farmers agree to restrict use of their land to agricultural use or open space for the term of the contract. The programs are authorized by state legislatures and implemented locally.

PROCESS

In designing the program, the State must first decide where it wants to develop agricultural districts, based on the importance and value of the agricultural land, development pressure, and other relevant factors. The State will also have to determine the package of benefits that will be made available to the landowners, as well as which farmers will be eligible to enroll in the program and the procedures and incentives for enrollment. Another important element for the State to determine is how farmers will be able to withdraw land from an agricultural district, and who has the authority to terminate agricultural district agreements.

EXAMPLE

Pennsylvania's Agricultural Security Area Program

In 1981 the Pennsylvania Department of Agriculture created the Agricultural Security Area program to protect agricultural land. The program allows municipalities to create security areas with the cooperation of landowners. Agriculture is the designated primary activity within the security areas and farms within the areas are given special consideration by state and local government agencies and are protected from nuisance challenges.

Pennsylvania's Agricultural Security Area Program: *http://www.agriculture.state.pa.us/agriculture/cwp/view.asp?a=3&q=129076*

5

Help localities adopt right-to-farm ordinances

ACTION

All 50 states have some version of a "right-to-farm" statute. Such statutes are implemented to protect established agricultural operations that use good management practices from nuisance lawsuits. Not all statutes have the same requirements, but most say that if an agricultural operation is in compliance with environmental regulations, is properly run, and existed at least a year before a change in the area surrounding the operation, then it cannot be found to be a nuisance under tort law. The Department of Agriculture can strengthen the right of farms to operate by helping local governments implement right-to-farm ordinances to supplement the protection provided by the state law.

PROCESS

The Department of Agriculture should create a model local right-to-farm ordinance, and can assist towns and counties in drafting or revising right-to-farm ordinances that work for them. In addition, the Department can create a Web site that provides information on all the right-to-farm ordinances established by the State's towns and counties.

EXAMPLE

New Jersey's Department of Agriculture's Right to Farm Program

New Jersey's Right to Farm Program assists municipalities in drafting and revising local right-to-farm ordinances, has developed a model right-to-farm ordinance and maintains a statewide list of New Jersey's local right-to-farm ordinances.

New Jersey Department of Agriculture, Local Right-to-Farm Ordinances: *http://elktwp.org/agriculture/sadc/rtfprogram/resources/localordinances.html*

New Jersey Department of Agriculture, Model Right-to-Farm Ordinance: *http://www.state.nj.us/agriculture/sadc/rtfprogram/resources/modelrtfordinance.pdf*

6

Help localities adopt zoning codes that support agricultural tourism

ACTION

Farms, orchards, wineries, greenhouses, hunting preserves, and animal or livestock shows are becoming increasingly popular destinations for recreation and education. Agricultural tourism supports working farms by providing farmers with an additional source of revenue.

Local zoning codes can be an impediment for farmers who want to expand their operations to include agri-tourism. In many localities, farmers are required to obtain variances or special-use permits before they can offer agri-tourism. Just applying for a permit can be

time-consuming and costly enough to discourage the effort. States can help by supporting efforts by local governments to zoning codes that are friendly to agri-tourism.

PROCESS

Departments of agriculture can assist interested localities by helping to review their codes and in drafting changes to permit agri-tourism where appropriate. Departments also can choose to take a more proactive role by crafting model language supporting agri-tourism that local governments can insert in existing codes. The Farmland Information Library includes an online compilation of tourism-friendly codes.

Because it is important to make sure the code is permitted under state zoning law, the Department of Agriculture should work with the state planning agency in developing a model code. The Department should also ask for input from farmers, small business owners, business organizations, municipal officials and other stakeholders.

Another way departments can support agri-tourism is by responding directly to requests from farmers who are interested in expanding their operations but are limited from doing so because of local zoning. In this instance, the department should work with farmers on a case-by-case basis to review local requirements and to propose changes.

EXAMPLE

Michigan's Model Zoning Ordinance for Agricultural Tourism

In 2007, the Michigan Agricultural Tourism Advisory Commission developed a model ordinance to assist local governments that wish to adopt zoning practices to support agri-tourism. The ordinance also discusses the benefits of agri-tourism and its impact on the Michigan economy.

Michigan's Agricultural Tourism Advisory Commission: *http://www.michigan.gov/agtourism*

7

Establish direct marketing and institutional purchasing programs

ACTION

Economically viable small and mid-sized farms are crucial to preserving agricultural land. States can assist family farmers by establishing direct marketing programs that help the farmers reach consumers and retailers, promote their products, and diversify their operations. By requiring state agencies and facilities to purchase a certain percentage of the food they buy from local sources, states also can provide small and mid-sized farms with stable customers.

PROCESS

Agriculture departments can support direct marketing of farm products by partnering with other agencies to allow for the use of state properties, such as parking lots, for farmers' markets. They also can develop model contract language to be used by organizers to set up and operate farmers' markets.

Many agriculture departments have developed branding programs that market meats, seafood, produce and other products from small and mid-sized farms. In most states, such programs are facilitated by the Department of Agriculture in partnership with the food industry and small-farm interests. A branding program can be supplemented by grants that provide seed money for farmers' cooperatives or other organizations that can in turn bolster the marketing programs.

States are large food purchasers. Agriculture departments often work with other agencies to encourage or even require them to purchase homegrown agricultural products. An executive order can put some muscle behind that effort. Some states also offer financial incentives to school districts for buying from local farmers.

EXAMPLES

Kentucky's Kentucky Proud Program

Established in 2004, the Kentucky Proud program promotes the sale of Kentucky-produced agricultural products and helps farmers diversify. The state's Department of Agriculture has focused on getting Kentucky-grown produce into retail stores, from local groceries to Wal-Mart, and on establishing farmers' markets. The Department developed an aggressive marketing campaign, which utilizes point-of-sale

materials, as well as television and radio commercials. In addition, the State helps farmers conduct direct-to-consumer marketing through the Kentucky Proud Country Store, an online directory of in-state producers.

Kentucky Proud: *http://www.kyagr.com/kyproud*

Maryland's Agtrader and Foodtrader Websites

In 2008, the Environmental Finance Center, a unit of the University of Maryland's National Center for Smart Growth Research and Education, launched two Web sites that immediately became popular with Maryland farmers and consumers. The first, the Maryland Agricultural Exchange, provides farmers with an online marketplace that can help them buy, sell, and trade. Farmers use the website to exchange anything from fruits and vegetables to equipment, livestock, hay and manure.

The other site, Foodtrader.org, is a virtual farmers' market that allows consumers to buy the freshest food Maryland farms have to offer. Using the site, independent farmers can create listings describing their produce, prices and the location. Both sites provide the services at no cost.

Maryland Agricultural Exchange: *http://www.agtrader.org*

Maryland Food Trader: *http://www.foodtrader.org*

8

Establish an Agricultural Viability Program

ACTION

Agricultural Viability Programs assist farmers in developing business plans to diversify and modernize their operations. In addition, some states provide funding to help farmers implement their business plans.

PROCESS

The Department of Agriculture must first determine the type of farmers and farms it wishes to assist with an Agricultural Viability Program. Eligibility criteria can target agricultural operations that, for example, are threatened by urban encroachment, are particularly well-suited for direct-to-consumer marketing, serve environmental objectives or have historical significance.

To provide direct assistance to farmers in developing their plans, the State will have to assemble and train advisers from a variety of disciplines, including marketing, finance, management and environmental sciences.

The State also can provide seed money to farmers to assist them with the implementation of their plans. To ensure that the program actually helps preserve farmland, the State should obtain commitments from the farmers in return for the funding. Some states, for example, require farmers to sign an Agricultural Use Only Covenant before receiving funding, with the amount of money calibrated to the length of the covenant.

EXAMPLE

Massachusetts' Farm Viability Enhancement Program

Massachusetts' Farm Viability Enhancement Program was created in 1996 to assist farmers with modernizing their operations. The program helps them develop business plans. If the farmer is willing to implement the recommended changes, as well as sign a limited term agricultural-use-only covenant, the Department of Agriculture may make money available to implement the changes. Since the Farm Viability Program was initiated, more than 300 farms have received grant funding and been protected by covenants.

Massachusetts' Farm Viability Enhancement Program: *http://www.mass.gov/agr/programs/farmviability/index.htm*

Help Desk

The following resources are available on our Web site at *http://www.govinstitute.org/policyguide/Agriculture/helpdesk.html*

Reports

Agricultural Sustainability and Smart Growth: Translation Paper #5; *Purchase of Development Rights Fact Sheet*, American Farmland Trust; *Agricultural Districts Fact Sheet*, American Farmland Trust; *Protecting Farmland Fact Sheet*, American Farmland Trust; *New York State Farmers Direct Marketing Association – Model Zoning Laws for Farm Direct Marketing*

Organizations

American Farmland Trust; American Farm Bureau

Websites

Agriculture Innovation Center Program; Farmland Information Center