

## Issues at the Rural-Urban Fringe: Land Use -- Agricultural Districts<sup>1</sup>

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### Introduction

This fact sheet is one in a series intended to familiarize readers with land use issues at the rural-urban fringe. Several of the fact sheets specifically address techniques used in various states, including Florida, to encourage the long-term stability of land in agricultural production. Many states use more than one technique in an attempt to prevent land from converting from agricultural to non-agricultural use. Other techniques used to sustain agricultural land, explicitly addressed in forthcoming fact sheets, include Fee Simple Purchase and Purchase of Development Rights, Transfer of Development Rights, Clustering of Development, and Conservation Easements. Other fact sheets addressing rural-urban land use issues are available through the UF/IFAS Electronic Data Information System (EDIS) at <http://edis.ifas.ufl.edu>.

### Definition

Agricultural districts are a voluntary method used to encourage agricultural landowners to maintain land in agricultural production. Typically, rural landowners must contract with a unit of local

government for inclusion in an agricultural district. Once inclusion in a district is established the local government often provides both tax and non-tax benefits to the agricultural landowner and also abstains from actions that could encourage nonagricultural development. The agricultural districts created form a specialized area where bona fide agriculture production is encouraged. Districts may require minimum acreages and enrollment periods for inclusion as a district. In general, districts are established to reduce conflicts between rural and urban landowners. However, agricultural district programs also discourage investments in infrastructures that often encourage non-agricultural development (e.g., roads, water and sewage lines) by units of local government and may discourage local governments from passing restrictive ordinances regarding farm production practices.

### Program Requirements

Agricultural district programs have been adopted in 16 states (American Farmland Trust) and a total of 18 programs currently exist (Minnesota and Virginia have state, as well as local, agricultural district

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programs). Geographically, agricultural district programs are dispersed throughout the United States. The largest number of programs are located in the Northeast and Mid-Atlantic areas (Delaware, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania), followed by the Midwest (Illinois, Iowa, Minnesota, and Ohio), South (Kentucky, North Carolina, Tennessee, and Virginia) and Western areas (California and Utah). Requirements to participate in agricultural district programs vary by locality, but some common elements exist across several states (Clouser and Mulkey, 1987; American Farmland Trust, 2001):

1. Eminent domain (condemnation and purchase) powers of local governments and other public bodies are limited. For example, Minnesota and New Jersey prohibit eminent domain; Pennsylvania and Utah can prohibit eminent domain subject to state-level review; and in states where eminent domain cannot be prohibited, requirements for public hearings, alternative proposals and impact statements are often required.
2. The right of government agencies to fund sewer, water, road, and other facilities that might encourage non-farm development is either significantly limited or in some instances prohibited. This provision is present in all states except Massachusetts, New York, Ohio, Pennsylvania, and Tennessee.
3. State agency policies must support farming. Units of government may be required to modify administrative rules and regulations to encourage commercial agricultural production within limits of health and safety standards and federal rules and laws. These types of provisions exist in all states except Maryland, Massachusetts, North Carolina, Ohio, and Tennessee.
4. Local plans or planning bodies must be involved in the establishment of the districts.
5. There are significant limits on special assessments that can be imposed on land in agricultural districts. This would include special assessments for government services such as sewer, water, non-farm drainage, solid waste disposal, and fire and emergency management.

6. Contractual agreements are required for a specified period of time in order to participate in the program, which implies that the conversion of the land to other uses is restricted. The typical agreement varies among states and ranges between 3 and 20 years. The most common agreements are for 5 years (Kentucky, Maryland, and Ohio), 8 years (Minnesota, New Jersey, and New York), and 10 years (California, Delaware, Illinois, and North Carolina).
7. Some minimum amount of contiguous acreage is required, either individually or collectively, in order to form a district. Acreage requirements in the United States currently range between 10 and 500 acres. Delaware, Illinois, Iowa, Kentucky, Pennsylvania, Tennessee, and the state portion of the program in Virginia require minimum acreage between 200 and 350 acres. New York has the largest requirement at 500 acres.

Other elements also exist but in fewer states. For example, some states tie use-value assessment of agricultural lands to enrollment in districts (Virginia and California) and several states require use of acceptable conservation practices and management.

### **Kentucky and Virginia Examples**

Kentucky's agricultural district law was adopted by the state general assembly in 1982. An individual landowner or a collective group of landowners owning 250 acres of land in active farm production can petition their local conservation district to form a district. Individual land-only parcels in the district must contain at least 10 acres of land and homesteads must contain 11 acres of land. The request to form a district is reviewed by the local conservation district board. The local board makes a recommendation and forwards the recommendation to the Kentucky Soil and Water Commission (KSWC) whose responsibility it is to certify the petition for formation of the agricultural district. The initial enrollment term for the district is for 5 years but land can be withdrawn from the district at any time without permission of the KSWC. The remainder of the land remains in the district even if the acreage is no longer contiguous or the threshold acreage falls below 250 acres. In exchange for enrolling in districts,

landowners receive the benefits of limited eminent domain, limits on non-farm development, and limits on special assessments, and are eligible for soil and water conservation cost sharing programs. As of 2003, there were 426 certified districts with a total enrollment of almost 381,500 acres (Kentucky Division of Conservation). This represents approximately 3% of land in farms reported in the state in 2002.

Virginia passed the Agricultural/Forestral Districts Act in 1977. The Virginia Act requires a district of at least 200 acres at the state level, but the number of acres required for a district at the local level can be as small as 20 acres. Districts are initially established for a term of 4 to 10 years. Property owners participating in the program agree to not convert “farm, forest, or open space lands to more intense commercial, industrial or open space uses” (Virginia Conservation Council). In return, the state and counties agree to not invest in infrastructure during the initial term of the district that might lead to increased pressure to convert the agricultural land to other uses. Applications for formation of agricultural districts are filed with the county and submitted to the county board of supervisors. The application is then reviewed by an agricultural district advisory board, the planning commission, and the board of supervisors. Final action on the application is made by the board of supervisors. The agricultural district advisory board is composed of 9 members, with 4 members required to be farmers engaged in farming, 4 other landowners, and 1 member from the board of supervisors. Land can be removed from a district based on “good and reasonable cause”, such as economic hardships, death of a landowner, or at the end of the district agreement (4 to 10 years). Approval of a district is required within 180 days of a submitted application and land can be withdrawn from a proposed district during this time-frame. Under the Virginia state program, benefits received by the landowner include items such as limited eminent domain, limits on non-farm development, and limits on special assessments, and land-use controls on land adjacent to districts must consider the established district in decisions. It is estimated that approximately 660,000 acres, or about 7.5% of

all lands in farms in the state, are enrolled in the agricultural district program.

## Policy Implications

In general, agricultural districts have proven to be a popular method for sustaining land in agricultural use. The popularity of the program in states where it has been adopted can be traced to some common elements. First, since the program is voluntary in nature and is formed by farm landowners, it is not viewed as regulatory or forced on the landowner. Second, the costs of establishing agricultural districts are relatively modest—the primary costs are in staff reviews of the districts to be formed and in some instances some property tax breaks. Third, agricultural districts provide farm, rural, and open-space landowners a mechanism to stop unwanted urban encroachment. Agricultural district formation represents an action where the landowner can be “proactive” rather than “reactive.” Fourth, agricultural districts help protect critical masses of land, which should make it more attractive for allied farm businesses to remain viable as well. Finally, agricultural districts also help maintain a “farming community” in areas of growth where many producers share similar values, lifestyles, and concerns.

Benefits from programs vary according to the forms of districts adopted at the state and local levels. For example, some states limit concerns with eminent domain, some states limit the investment in infrastructure that encourages future and faster development, and other states limit annexation. Many producers view these actions as “farm production friendly.”

There are also some shortcomings associated with agricultural districts. In many states, it is easy to remove land from the district without significant penalty. Some argue this still allows easy conversion of the land to more intensive residential and commercial purposes. It is also common to hear concerns voiced about the length of time required to establish a district. In general, 3 to 6 months for district establishment is not uncommon. Agricultural districts by no means ensure the best land is sustained in production and, unlike agricultural zoning, the

land sustained within a district can be modest and consist of only a few hundred acres. Finally, many people question whether the incentives provided to agricultural landowners are large enough to encourage the formation of districts in the long term. Data on this area of concern have been mixed. Early studies in New York indicated that farm landowners closer to fast growth and urbanizing areas were less likely to form districts. More current information from Virginia is just the opposite, with between 60% and 70% of agricultural district enrollment in or near fast-growing urban areas.

## References

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