

**ANALYSIS and RECOMMENDATIONS**  
**Making the Best Use of AFDs, Land Use Taxation, and Other Options**  
**Valley Conservation Council**

**ANALYSIS**

From its work on the statewide survey of agricultural and forestal districts, related research, and discussions at the October 2009 workshop, Valley Conservation Council (VCC) offers this analysis of the trends, challenges, and outlook for the most basic conservation tools—land use taxation (LUT) and agricultural and forestal districts (AFDs).

**Land Use Taxation (LUT)**, the most widely used tool, does provide an incentive for land conservation but is not enough to assure it. Its primary advantage is easy tax relief to all legitimate farm and forest producers. That it also provides tax relief to a broad land ownership (i.e., almost all parcels in a rural area) does discourage sprawl but also dilutes the focus on farming and conservation. Being administered through the Commissioner of the Revenue according to strict state requirements, LUT programs are not necessarily well integrated with other local planning tools.

**Agricultural and Forestal Districts (AFDs)** cover more than 600,000 acres statewide and are effective at delineating and protecting productive land. This tool is available to all localities. There is potential for much greater use. However, AFDs require much greater locality and landowner commitment than LUT. Landowners have few incentives to enroll in AFDs and not all farm and forestry operations fit into the program.

AFDs and LUT programs have an interactive relationship. Almost all of the counties with AFDs also have LU tax programs (although not all use all four categories). Any changes to tighten qualification for LUT can spark greater interest in forming AFDs.

**Agriculture and Forestry vs. Open Space Categories**

Reflecting past zoning, many counties have a large supply of 20+acre lots. Many serve as house lots but meet the minimum for land use taxation. Increasingly, counties will have to decide how to deal with these lots (only some of which are agricultural or forestal) in terms of tax relief. The considerations can be complex:

- Agricultural viability varies widely (small lots can be viable in some cases).
- Open space is the category where issues most often surface.
- Limiting tax relief is politically difficult, as a growing proportion of voters are non farmers and farmers have even more need for tax relief.
- While it may seem it would help farmers to limit LUT to those in AFDs, not all farm operations can fit neatly into AFDs.
- Greater education is needed to increase awareness of the value of rural areas and the support that farmers need.

**Relationship Between AFDs and Emerging Tools**

Emerging growth management tools like UDAs, LDRs, and TDRs all have the purpose of directing growth and reducing sprawl. “Green infrastructure” is a concept for protecting environmental systems as part of sustainable growth plans.

UDAs/USAs – Counties can use AFDs to help define their growth boundaries and make other planning decisions. AFDs can be a means for landowners to communicate their long term commitment and this information can help planners evaluate boundaries for growth areas and location of infrastructure. On the other hand, rigid paper boundaries can leave productive farms and conservation minded landowners on the wrong side of a line and prematurely remove tax relief and other supports.

AFDs and TDRs - Localities might consider AFDs in choosing sending areas. This designation might provide a potential financial incentive to participate in an AFD.

AFDs and Strategic Land Conservation - For a community wanting to set long-term conservation goals, the term green infrastructure can cover the range: maintaining farmland, sustaining environmental systems, protecting natural and cultural resources, providing recreation, and retaining rural character and the basis for ecotourism. The concept is to consider what areas to conserve while also making plans for growth and development. AFDs can help this process.

First, AFDs could be the key to delineating contiguous blocks of farmland that would provide a critical mass for a sustained farm and forest economy. However, this strategy would require a more proactive approach to promoting AFDs than is currently common. Also, AFDs rely on landowner initiative and commitment, but there are few incentives to participate in the planning process or in AFDs.

For additional green infrastructure elements such as riparian protection and open space protection, each locality would have to decide what parcel sizes and uses will benefit local goals. The tax incentive of AFDs might be a way to provide incentives, but can be a complex and politically charged exercise. Local AFDs are authorized in a number of localities and can be as small as 20 acres. These might offer a potential way to encourage landowner commitment on a smaller scale in order to help achieve community conservation goals.

### **Outlook: More Diverse AFDs?**

If, as seems likely, the future brings both increased pressure on local budgets and continued development pressure on rural areas, there will be more conflicts over who gets tax relief. This might result in 1) greater interest in AFDs and 2) a divergence between traditional farm-oriented AFDs and newer versions based on environmental protection:

- Historically, AFDs have been started by landowners committed to long term mainstream farming and forestry. Generally these districts are large and contain sizeable tracts. Many formed in the 1980s and 1990s and are still in existence.
- A foreseeable trend is interest in AFDs by landowners who have smaller tracts and may not fit traditional farming. Open space may be the category often used. From the locality's point of view, land committed to AFDs can help continue environmental services or other goals. Protection of resources and prevention of further subdivision would be the major benefits.
- In sum, different types of AFDs might emerge as a means for both landowners and localities to meet their conservation goals in a complex and changing landscape.

## **SUGGESTIONS and STEPS FOR MORE EFFECTIVE TOOLS**

### **LAND USE TAXATION**

- Sharing effective policy ideas among programs (such as setting qualifications and reducing abuses)
- Improving accuracy and relevance of land use rates. Some localities are developing their own rates (ex: Frederick's developing its own model)
- Educating the public on why land conservation is important and why farmers need tax relief. There might be opportunities for the farm community to work with others to make the case for protecting rural areas and to tie this to supporting farmers.
- Using conservation tools in mutually reinforcing ways. For example, rollback taxes can be used to offset program costs and encourage further conservation (one locality puts bonus rollback into a fund to help landowners with the legal and other costs of doing conservation easements).

### **AGRICULTURAL AND FORESTAL DISTRICTS**

- Modernizing and streamlining the state code to make the AFD program more accessible for landowners and more cost effective for localities
- Providing more incentives to landowners, especially monetary ones
  - Possible incentive: Offering a marginally lower tax rate in AFDs. Would it be possible to combine the concepts of lease of development rights and the sliding scale land use taxation option (or other method) to give those in AFDs a reduction beyond standard land use rates? One suggestion was to work with counties to approach VACO on this.
  - Possible incentive: Excusing those in AFDs from LUT revalidation during the term. Reducing hassles for farmers can be an incentive.
- Sharing good practices among program managers (ex: renewal strategies, ways to engage landowners)
- Exploring opportunities to use Local AFDS (counties already authorized and potential additional counties)
- Highlighting benefits of incorporating AFDs into planning (ex: recognizing AFDs to reaffirm rural areas and avoid in growth areas; other cases when infrastructure or other projects have taken AFDs into consideration)
- Working out potential conflicts between easements and AFD
- Developing an agricultural easement template
- Having a support network for localities with ag district programs
  - share experiences (ex: process, engaging landowners: potluck, newsletters)
  - committee to address streamlining proposal
  - forum for questions and issues (list serve?)
  - source of information for counties that don't yet have AFDs
- Researching landowner perspectives