

# Conservation Land Use Policy Toolkit

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# Outline

Purpose

Approach

State Policy Context

Case Studies

Motivations for Adopting Policies

Policy Tools

Lessons Learned



# Purpose

“Evaluation of Land Use policy options, incentives and planning tools to reduce the rate of conversion of agricultural lands, forest and wetlands.”



# Approach

- 1) Inventory best practice existing and legal land use policy options and existing studies
- 2) Stakeholder Interviews
- 3) Evaluation of Land Use Policy Options
- 4) GIS Mapping
- 5) Final Report and Presentation



# Conservation Land Use Policy Toolkit

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Available on June 1.

# State Policy Context

	Delaware	Maryland	New York	Pennsylvania	Virginia	West Virginia
Comprehensive Plans (Required)	✓	✓			✓	
Comprehensive Plans (Enabled)			✓	✓		✓
Zoning Ordinance (Required)						
Zoning Ordinance (Enabled)	✓	✓	✓	✓	✓	✓
Impact Fees	✓	✓	(case law limits)	✓	(proffers)	✓
Easements	✓	✓	✓	✓	✓	
Transfer of Development Rights	✓	✓	✓	✓	✓	✓

# State Level Conservation Programs

Delaware: *Agricultural Conservation Easements; Agricultural Land Preservation Districts; Forestland Preservation Program*

Maryland: *Maryland Agricultural Land Preservation Foundation; Rural Legacy Program; Maryland Environmental Trust; Program Open Space*

New York: *Agricultural District Program; Agricultural Assessment Program; Farmland Protection Program*

Pennsylvania: *Conservation Easement Program; C2P2.*

Virginia: *Agricultural and Forestry Districts; Virginia Land Conservation Foundation – tax credits; Purchase of Development Rights matching funds.*

West Virginia: *Voluntary Farmland Protection Act; West Virginia Agricultural Land Protection Authority*

# State Level Infill/Smart Growth Programs

Delaware: *Quality Growth Act; Downtown Development Districts*

Maryland: *Smart Growth Areas Act (Priority Funding Areas)*

New York: *Downtown Revitalization Initiative, Smart Growth Implementation Grants in targeted geographic areas.*

Pennsylvania: not a strong Smart Growth state.

Virginia: not a strong Smart Growth state.

West Virginia: not a strong Smart Growth state.



## 10 PRINCIPLES OF SMART GROWTH

- Mix land uses
- Take advantage of compact building design
- Create a range of housing opportunities and choices
- Create walkable neighborhoods
- Foster distinctive, attractive communities with a strong sense of place
- Preserve open space, farmland, natural beauty, and critical environmental areas
- Strengthen and direct development towards existing communities
- Provide a variety of transportation choices
- Make development decisions predictable, fair, and cost effective
- Encourage community and stakeholder collaboration in development decisions

SMART GROWTH NETWORK, 1996



# Interviews

**Existing Policy Context:** what tools, how long in effect, motivations, citizen support, effectiveness

**Lessons Learned:** advice for other jurisdictions, steps in adopting policies, sustaining public support

**State Context:** role of state; how the state could be effective in helping reach conservation goals

# Case Studies (19)

Laurel, DE

Seaford, DE

Baltimore County, MD

Calvert County, MD

Kent County, MD

Montgomery County, MD

Steuben County, NY

Tioga County, NY

Chester County, PA

Lancaster County, PA

Lehigh Valley Region, PA

Caernarvon Township, PA

East Earl Township, PA

Albemarle County, VA

Clarke County, VA

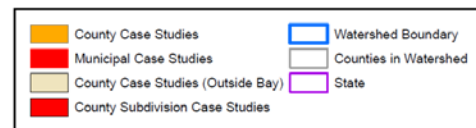
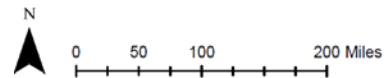
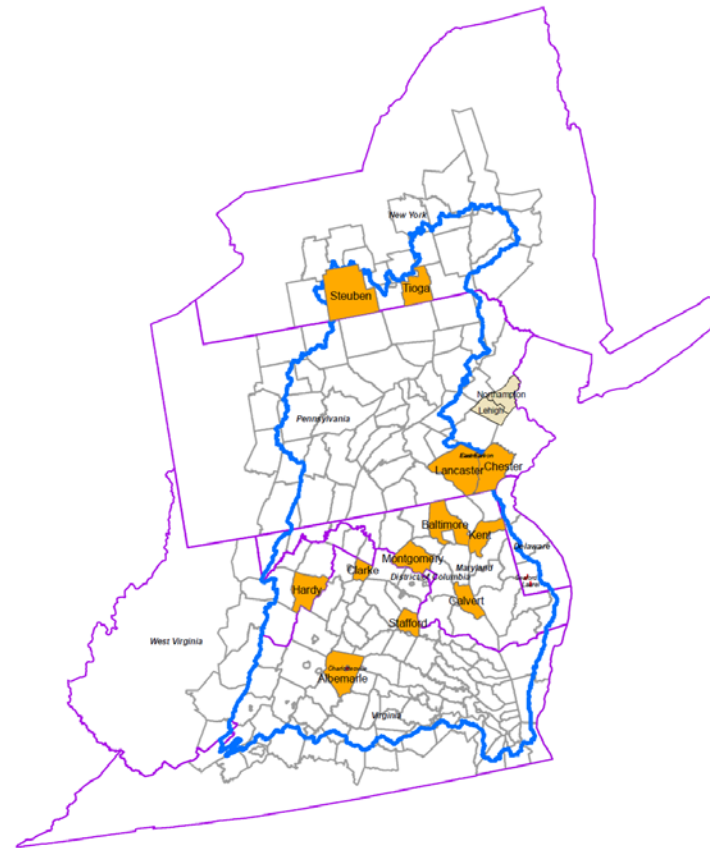
Charlottesville, VA

Stafford County, VA

Hardy County, WV

Lake Tahoe Region, CA

# Chesapeake Bay: Conservation Policy Toolkit Case Studies



# Policy Tools

## REGULATORY

Comprehensive Planning (17/19)

Zoning (11/19)

Subdivision Ordinance (10/19)

Impact Fees (4/19)

Urban Service Areas (2/19)

## INCENTIVE-BASED

Conservation Easements/ Purchase of Development Rights (10/19)

Transfer of Development Rights (5/19)



# How Do Jurisdictions Adopt Policy Tools?

The existing policy landscape

The complementarity of tools

The political landscape

Administrative capacity



# What Are the Intended Outcomes of These Tools?

Preserve economic vitality of farming and forestry.

Preserve rural character.

Protect the environment.

Improve water quality.

Development pays for itself.



# Overview of Policy Tools

What is it?

How does this tool slow the conversion of farmland, forestland, and wetlands?

Where do jurisdictions get the authority?

How do jurisdictions differ in implementation?

Pros and Cons

# Comprehensive Plan

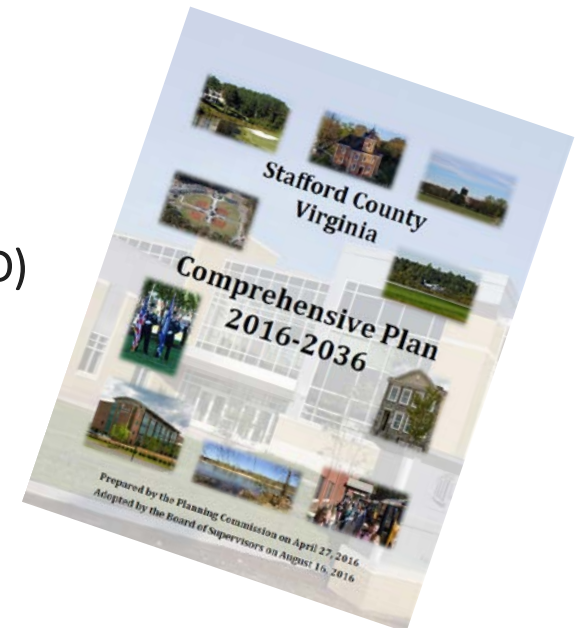
**What is it?** Strategy for guiding future development; policy document

**How does this tool slow the conversion of farmland, forestland, and wetlands?** Vision and goal statements that support preservation.

**Where do jurisdictions get the authority?** Enabling legislation from states; requirement for comprehensive plans and specific content.

**How do jurisdictions differ in implementation?**

- Agriculture or woodland as a preferred use (Kent County, MD)
- Project and plan for development: align forecasting to capacity (Calvert County, MD)
- Incentives for municipal planning (Chester County, PA)





# Comprehensive Plan

## PROS

- Reference point for *all* physical development decisions in a jurisdiction
- High level policy document – allows flexibility in implementation

## CONS

- Startup and update costs are high – analytic work and public engagement
- Easy to let it sit on a shelf, so it's important to get buy-in through robust engagement and training



# Zoning

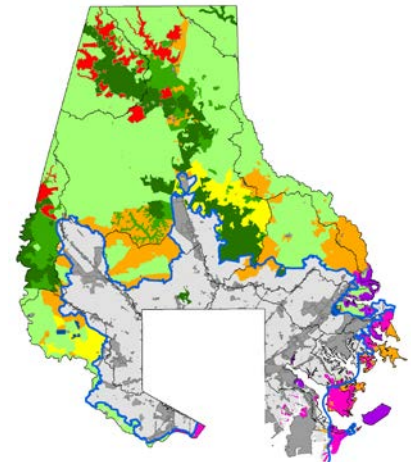
**What is it?** Regulatory tool to control physical development; regulates current development; use and density zoning

**How does this tool slow the conversion of farmland, forestland, and wetlands?** Assign farmland, forestland, and wetlands to zoning and restrict uses that occur in these zonings (use zoning). Restrict number of units per acre in these zones (density zoning).

**Where do jurisdictions get the authority?** Enabling legislation. Authority may be granted to county or municipal government.

**How do jurisdictions differ in implementation?**

- Define zones based on characteristics (Land Capability System) (Tahoe Regional Planning Agency)
- Density Zoning (1 unit/25 acres)
- Sliding Scale Zoning



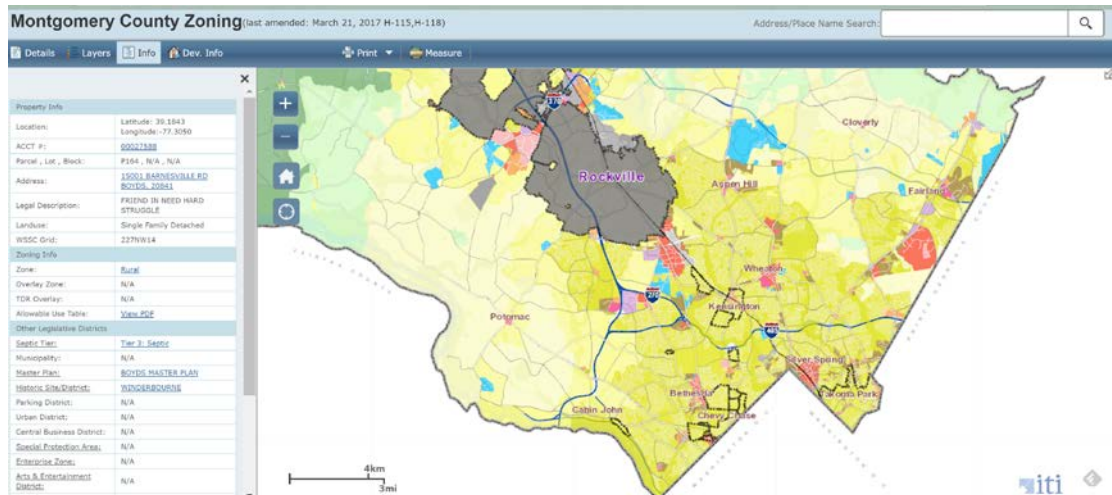
# Zoning

## PROS

- Compatible with other land use tools.
- Once established, does not require significant staff time to manage.
- Formal, public process to change zoning ordinance. Requires intentionality.

## CONS

- Startup costs are high. Requires analytical work and public involvement.
- Administration requires resources for amendments and during periods of high growth.
- Major changes to zoning ordinances are difficult to implement. Important to get it right the first time.



# Subdivision Ordinance

**What is it?** Regulates the division, consolidation, boundary change, or development of parcels.

**How does this tool slow the conversion of farmland, forestland, and wetlands?** Permit residential and agricultural development on rural lands, but prevent that development from achieving urban densities.

**Where do jurisdictions get the authority?** State enabling legislation.

**How do jurisdictions differ in implementation?** More common when jurisdiction have large plats of land available for development.



# Subdivision Ordinance

## PROS

- Additional regulation for parcels within a zone.
- Helpful for jurisdictions without zoning ordinances.

## CONS

- Development and amendment requires significant staff time.



**SUBDIVISION REGULATIONS**  
**REWRITE**



# Impact Fees

**What is it?** Charge new development projects to provide public capital facilities that serve those developments.

**How does this tool slow the conversion of farmland, forestland, and wetlands?**

1) Developers finance infrastructure – incentivize infill. 2) Assess impact fees for parks and open space.

**Where do jurisdictions get the authority?** Federal case law requires rational nexus and rough proportionality. 29 states have adopted enabling legislation.

**How do jurisdictions differ in implementation?**

- Types of facilities funded



# Impact fees

## PROS

- Shift cost to developer instead of general taxpayer.
- Case law to support implementation, if based on rough proportionality and rational nexus.
- Encourage development in desired locations (with zoning ordinance).

## CONS

- Increase cost for developers – could lead to deflection of growth.
- Not guaranteed in perpetuity – may be altered during economic downturn.
- Requires staff time to calculate and administer collection of fees.

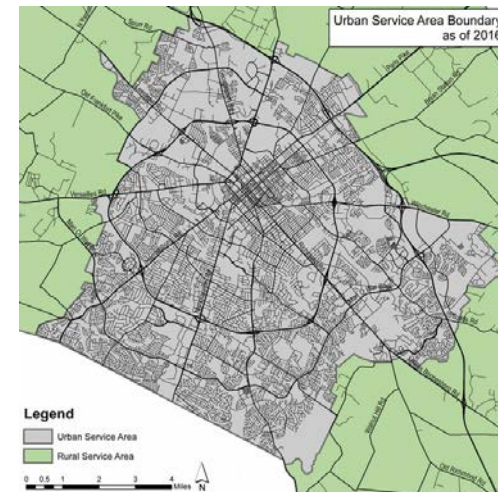


# Urban Service Areas

**What is it?** Limit the extension of public services, like water and sewer infrastructure into specific areas. Disincentive to development outside boundary.

**How does this tool slow the conversion of farmland, forestland, and wetlands?** Limit amount, type and density of development into defined spatial areas. Prevent fragmentation.

**Where do jurisdictions get the authority?** Locally designated. Maryland requires Priority Funding Areas (sewer service criteria).





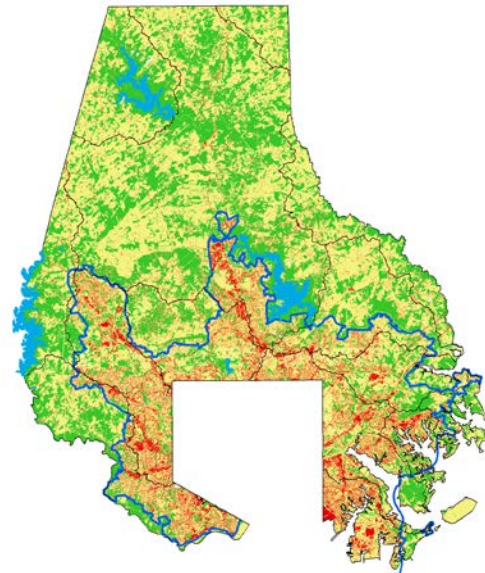
# Urban service areas

## PROS

- Low-cost way to slow conversion.
- Compatible with other land use tools and complement comprehensive plans and zoning ordinances.

## CONS

- Require coordination between local government and municipal service providers.
- Require periodic updates.
- Low density development can still occur on private well and septic.



# Purchase of Development rights/Conservation Easements

**What is it?** Voluntary agreement to protect specific resources on landowner's property. Funded by tax incentives or cash payments.

**How does this tool slow the conversion of farmland, forestland, and wetlands?** Guarantee protection of farmland, forestland, and wetlands by restricting development on sensitive lands.

**Where do jurisdictions get the authority?** Fiscal incentives from federal and state governments. States enact enabling legislation to allow local governments to create programs.

**How do jurisdictions differ in implementation?**

- Funding sources vary (use of transfer taxes)
- Partner with state and federal government or land trusts
- Intended purpose varies



# Purchase of Development rights/Conservation Easements

## PROS

- Legally binding.
- Alleviate concern regarding downzoning.
- Voluntary, so more politically palatable.
- Rely on funds from state and federal government.



## CONS

- Need resources to enforcement easements.
- Funding fluctuates (especially if funded by transfer taxes).
- May be perpetual or temporary.
- Scattered easements may not prevent residential or commercial development on adjacent lands.



# Transfer of Development Rights

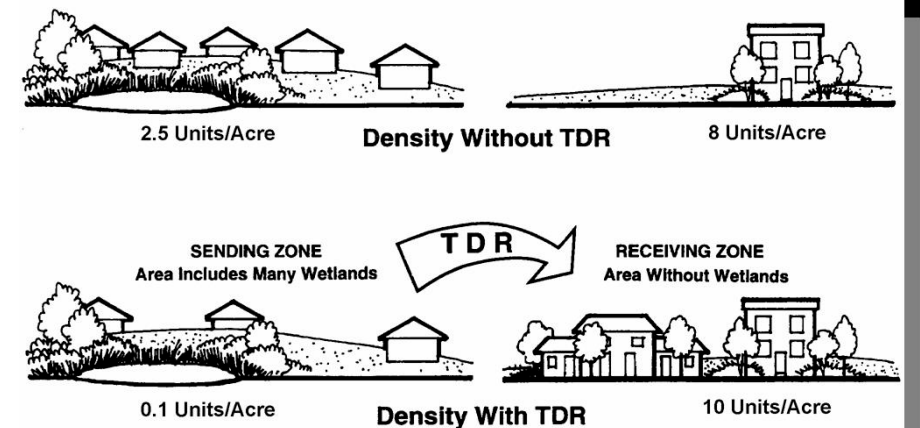
**What is it?** A transfer of development rights (TDR) program allows a landowner to sell the development rights from her land to a buyer for use on her land. Developers pay landowners for their development rights.

**How does this tool slow the conversion of farmland, forestland, and wetlands?** Incentivize owners of sensitive lands to sell development rights, thus preserving lands from development.

**Where do jurisdictions get the authority?** State enabling legislation. Adopt local ordinance.

**How do jurisdictions differ in implementation?**

- Incentives to protect preferred land uses (Building Lot Termination – Montgomery County, MD)
- Intended purpose varies
- Use of technology to facilitate TDR purchases varies



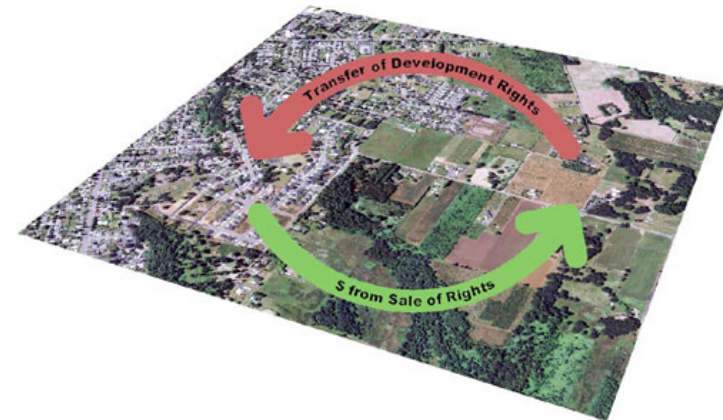
# Transfer of Development Rights

## PROS

- Accomplish multiple goals at once – redirect growth and preserve farm and forestland.
- Mitigate impacts of downzoning on landowners.
- Inexpensive to operate because developers are paying for development rights.

## CONS

- Pose legal challenges if regional.
- Market conditions are important. Need to have a market for TDRs.
- Can be complicated to set up and administer.



# Lessons Learned: Local Governments

Tool selection, design, and implementation

Conduct a baseline conditions assessment to set the stage for tool selection

Invest the necessary resources in program design.

Solicit assistance from state and local governments, universities, and nonprofit organizations in tool development and evaluation.

Get broad support for policy tools during the design and evaluation process

Allocate sufficient resources for implementation.



# Lessons Learned: Local Governments

Ongoing management and monitoring

**Diversify funding streams**

Fund monitoring

Respond to problems.



# Lessons Learned: State governments

Incentivize local planning

Provide training and technical assistance.

Fund conservation programs.

Allow and promote compatible uses on preserved lands.





# Takeaways

Collaboration is key.

Not choosing one tool from a menu of options, but considering complementary tools.

Rely on state incentives and technical assistance.

Understand state policy context.

# QUESTIONS?

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