

## Massachusetts Agricultural Districts Proposal

### **Objective:**

To sustain and support the Commonwealth's farms and farmland by developing a mechanism to: (1) increase and target state investments in agriculture and farmland protection; (2) provide communities with a new tool to foster farmland protection and farm profitability; and (3) encourage farmers and landowners to reinvest in agriculture.

### **Basic framework:**

Agricultural districts or incentive areas are an approach used by many states to target farmland conservation funding and agricultural economic development assistance. Districts are typically locally designated areas, and farms within those districts are generally eligible for increased economic development incentives and priority enrollment in farmland protection programs, often in exchange for a commitment to keep their land in agricultural use for a period of years.

Currently, Massachusetts General Law (MGL) Chapter 40L authorizes the designation of Agricultural Incentive Areas by municipalities. Under Chapter 40L, land within a designated Agricultural Incentive Area that is actively devoted to agricultural or horticultural use receives priority for eligibility under the state Agricultural Preservation Restriction (APR) program, is subject to a right of first refusal when sold or converted out of agriculture, and may be assessed at MGL Chapter 61A rates. However, because the statute offers few tangible benefits to communities or farmers, and does not allow individual landowners to choose whether or not to enroll, few if any Agricultural Incentive Areas have ever been designated.

This proposal would replace existing Chapter 40L with a program that provides more incentives to communities and farmers to designate local agricultural districts, or Agricultural Incentive Areas. The basic framework would be as follows: Municipalities would designate Agricultural Incentive Areas, subject to certain requirements. These requirements would include a farm acreage threshold, an agricultural soils threshold, and limitations on the type of development that could occur within the Area. Once an Area is designated and certified by the state, farmers within the Area would receive priority for certain state programs and would be eligible to enroll in "Agricultural Incentive Agreements" for additional benefits. Towns that designate Agricultural Incentive Areas would receive credit for enacting a "smart growth" measure under the state's current Commonwealth Capital policy or any successor smart growth initiative. Land within designated Agricultural Incentive Areas would be immune from MGL Chapter 40B development proposals.

The concept of Agricultural Incentive Areas could also be extended to include *all* working lands, including forested land. This would require development of appropriate thresholds for forestland comparable to the thresholds proposed for agricultural land.

**Rationale:**

Between 1997 and 2002, Massachusetts lost 10% of its land in farms, the second highest rate of farmland loss among states. This escalating loss is a result not of increased population growth, which totaled just 5.5% from 1990 to 2000, but by unmanaged, sprawling development which is consuming land seven times as rapidly.

Current state programs are under funded and insufficient to reverse this trend. The cornerstone of the Commonwealth's farmland protection efforts, the Agricultural Preservation Restriction (APR) program, has been effective in permanently protecting approximately 58,000 acres of farmland and keeping that land affordable for current and future generations of farmers. The acreage protected through the APR program, however, represents less than 12% of the state's land in farms, leaving 450,000+ acres of unprotected farmland at significant risk of development. The Commonwealth's outdated zoning act limits towns' ability to promote compact development and discourage development of what remains of their agricultural land base. The state Farm Viability Enhancement program, which requires a short-term covenant on land owned by farmers who participate in the program, has been successful in helping farmers develop direct market opportunities, but excludes APR farms and is more effective as an economic development program than as a farmland protection tool.

This proposal would replace an unused state statute—MGL Chapter 40L—with a better tool to promote smart growth, further farmland protection, and foster farm viability. An updated Agricultural Incentive Area concept could encourage smart growth in rural areas by providing towns with the authority and the incentives to designate agricultural areas of town in which development would be discouraged and, where allowed, would be required to be compact. Thus, Agricultural Incentive Areas could more effectively promote rural smart growth than the Romney Administration's Commonwealth Capital and APR municipal grant program initiative, which has done little to facilitate land protection in rural communities. Second, this proposal would target state resources to farms in those towns that have made a commitment to support agriculture and the land that sustains it, ensuring that state funds are being wisely invested in land and farms that are most likely to remain in agriculture. By targeting state dollars, Agricultural Incentive Areas could help justify a substantial increase in state funding for farmland protection and agricultural economic development.

**Mechanics:**

*District Formation:* Agricultural Incentive Areas would be developed and designated by municipalities, subject to certain requirements and certification by the state that those requirements have been met. In those communities that fail to designate an Area within a certain period of time, farmers in areas zoned for agriculture could apply directly to the state to be certified as an Agricultural Incentive Area and be eligible to enroll in Agricultural Incentive Agreements, provided the district meets the acreage and soils requirements outlined below.

An Agricultural Incentive Area must meet minimum standards for acreage and soil quality. Setting soil quality standards and minimum acreage requirements ensures that state resources are targeted to areas with a high quality and quantity of productive farmland. In addition, a town

must enact certain zoning provisions applicable to the Area in order to minimize the impact of additional development on farms within the Area.

- *Acreage Requirements:* An Agricultural Incentive Area must include at least 300 acres of land in active agricultural or horticultural use. The Area need not be contiguous, and may consist of a number of separate parcels. Towns that do not have 300 acres of land in active farmland may designate a smaller Area, provided the Area as a whole generates at least \$100,000 annually in agricultural sales.
- *Soil Quality Requirements:* A minimum of 30% of the acreage in each parcel in the Area must be made up of prime, unique, or statewide important soils. At least 75% of the prime, unique, or statewide important soils in the town that are in active agricultural or horticultural use must be included in the Area.
- *Zoning Requirements:* A town's zoning code must support the Agricultural Incentive Area in the following ways:
  - Mandated clustering of any residential subdivision, with a maximum lot size for new homes and a minimum set-aside of the subdivision acreage as permanently protected open space available for agricultural use
  - Site plan review of any development within the Area
  - Buffer requirements on any non-farm development adjacent to the Area
  - Prohibition on siting of schools or other public facilities within the Area
- *Other Requirements:* A town must agree not to extend public water or sewer service to areas within the Area. Additionally, the use of eminent domain in Agricultural Incentive Areas will be subject to review and approval by the state Department of Agricultural Resources and the Legislature.

*Benefits for Towns:* Once a town designates an Agricultural Incentive Area and the Area is certified by the state, land within the Area would be immune from Chapter 40B development proposals. Additionally, towns that designate Agricultural Incentive Areas would receive credit for doing so under the state's current Commonwealth Capital policy or any successor smart growth initiative, and would receive the maximum score under the APR municipal grant program criteria.

*Benefits for Farmers:* Once a town designates an Agricultural Incentive Area and the Area is certified by the state, farms within the district would receive priority for certain state programs, including:

- Agricultural Preservation Restriction (APR) program
- Farm Viability Enhancement program
- Agricultural Environmental Enhancement program

Additionally, farms within the Area would be eligible to enroll in ten-year "Agricultural Incentive Agreements." These agreements would work as follows.

Farmers who enroll in Agricultural Incentive Agreements would receive a rebate on local property taxes, beginning at 50% and declining over the next four years. The rebated taxes would include the following:

- Property taxes paid on land enrolled in Chapter 61A;

- Property taxes paid on agricultural structures (barns, permanent greenhouses, etc);
- Property taxes paid on a farmhouse and lot, up to a maximum of \$350,000 assessed valuation; and
- Excise taxes paid on livestock and farm machinery and equipment.

Agreements would be “rolling,” meaning that farmers could elect to re-enroll every year and remain in the first year of the agreement, providing maximum property tax relief. The state would reimburse towns for all property tax rebates paid to participating farmers.

Farmers who enroll in Agricultural Incentive Agreements would also be eligible for a state income tax credit for investments made in permanent agricultural infrastructure on land enrolled in an agreement, up to a maximum of \$50,000. The tax credit would represent 10% of the value of the investment, capped at \$5,000. The credit could not exceed a farmer’s state income tax liability in any single year, but could be carried forward up to 5 years.

In exchange, the 10-year agreement would:

- Prohibit the sale, development, subdivision or conversion of land covered by the agreement out of agricultural use during the first five years of the agreement;
- Require a threshold for agricultural activity on the land covered by the agreement during the first five years (\$5,000 in sales for the first 5 acres plus \$50 for each additional acre); and
- Gives the town a right of first refusal and option to purchase the property in the event the landowner chooses to sell, develop or subdivide the land in years six through ten of the agreement.

Additional details about *Agricultural Incentive Agreements* can be found on the Massachusetts page of American Farmland Trust’s website, at [www.farmland.org](http://www.farmland.org).

**Implementing elements of agricultural district proposal administratively:**

While some aspects of this proposal would require legislation to implement, elements of it could be implemented administratively. For example, designation by a municipality of an agricultural district, subject to the acreage, soils and zoning requirements of the proposal, could substitute for the current criteria under the APR municipal grant program in addition to counting as a smart growth measure under Commonwealth Capital. Towns could also choose to offer Agricultural Incentive Agreements on their own initiative, and the state could consider town revenues used for this purposes as a local match for APR program purposes.

**Incorporating agricultural districts as element of statewide smart growth policy:**

Agricultural districts could easily be incorporated into a larger rural smart growth policy. Such a policy might encourage communities to designate Agricultural Incentive Areas (or Areas that include working farm and forest lands) as well as growth centers that would accommodate additional density, in exchange for which communities would receive funding priority for an array of state economic development and infrastructure programs.