

## Community & Economic Development Committee Meeting AGENDA

April 4, 2017 - 12:00 Noon  
Conference Room A/B/C - Second Floor

**Committee Members:** Chairman Bob Thomas, Wendy Maurer, Gary Snellings

Agenda Item	
1.	Climate, Environment and Readiness Plan for Virginia's George Washington Region Discussion of Food and Agriculture
2.	QuIC Update
3.	Analysis of Change to Merchant's Capital Tax
4.	Proposed RFP for Development Advisor
5.	TIF Assignment Change for Aquia Town Center
6.	Proposed Change to PDR Ordinance to allow the Board to Waive the 20 Acre Minimum for Land Adjacent to Property Already in Conservation Easement
	Next CEDC meeting is scheduled for May 2, 2017

CED04042017agenda





# Food & Agriculture in the George Washington Region

April 2017

**Vision:** strengthen regional food and agriculture by improving connections among economic, environmental, and social drivers that support sustainable regional and community food systems

- Why this effort? Why now?
- Why do community planners need to be involved?
- What are the needs?
- What are the opportunities?



# What can we accomplish?

## Economic Goals

- Strengthen economic sustainability and resilience of the regional foodshed
- Develop innovative food system business models; capture a larger share of retail food sales; maintain local agriculture & food jobs
- Promote agritourism & build farm-community connections
- Promote “friendly” local policies and regulations
- Create local economic statistics to monitor change and improve local decisions

## Agriculture Goals

- Build vibrant, interconnected agricultural base for food and healthy environments
- Preserve working lands at risk of land conversion due to development pressures
  - Provide education and support sustainable environmental & economic practices
- Lead collaborative responses to climate change among agriculture, natural resources, and development stakeholders

## Food Access Goals

- Reduce food deserts and improve fresh food access for all, including vulnerable populations
- Enhance food access for emergency preparedness and community resilience
- Build reputation as a critical agent for local, sustainable food in DC area
- Build a robust food warehousing and distribution infrastructure

# Who are the stakeholders?

## Stakeholder Groups

- NGOs
- Academia
- For-profit organizations
- Faith-based communities
- Healthcare providers
- Land conservation organizations
  - Counties and Cities
- Local farmers and ranchers
  - Food supply chain
  - Food pantries
  - Service providers
    - Buyers
  - Consumers
  - Military

## Organizations

- George Washington Regional Commission
- University of Mary Washington
  - Virginia Community Food Connections
- Marstel-Day, LLC
- USDA Natural Resources Conservation Service, Rural Development, & Ag Market Service
- Tri-County Soil & Water Conservation Service
- Virginia Tech Cooperative Extension
- Virginia Dept. of Agriculture and Consumer Services
  - Many others



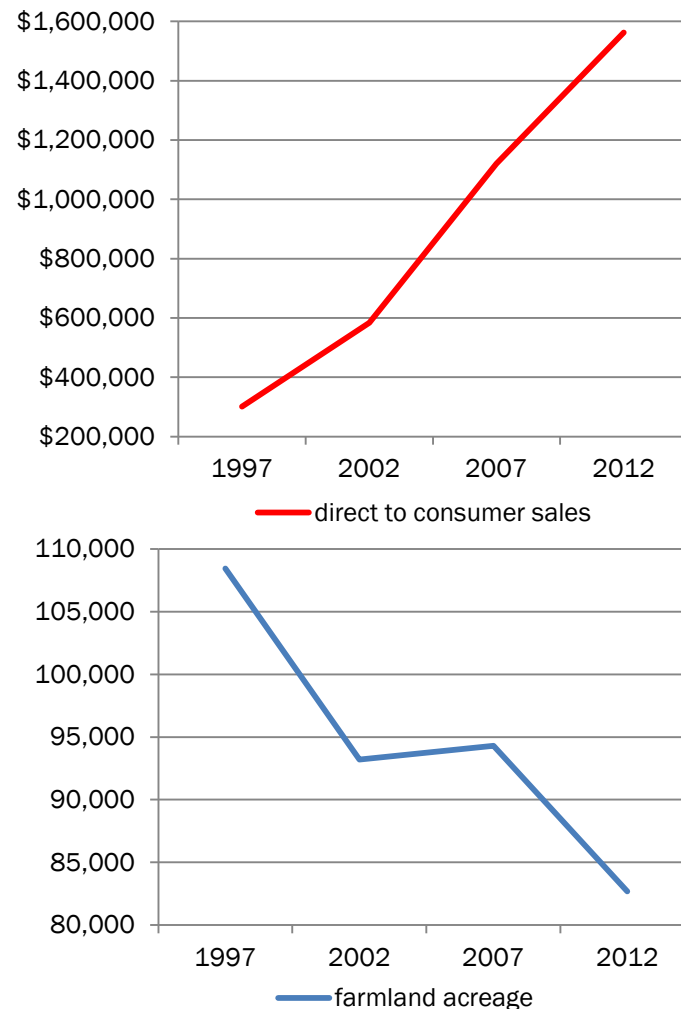
# Why this effort? Why now?

- Food insecurity is pervasive local concern for low-income families
  - 11.4% of local population is food insecure (Map the Meal Gap 2016)
  - High local SNAP participation rate, but lower enrollment and issuance
- Urgent need for improved food distribution networks
  - Vulnerable populations with limited healthy food access
  - No planning for food distribution plants
  - Local producers unable to maximize operations and revenue
- Obesity is a regional priority and can be offset by healthy food
  - #1 regional priority for MWHC



# Why this effort? Why now?

- George Washington Region
  - Dramatic increase in locally grown food demand
    - 519% increase in direct to consumer sales 1997-2012
    - Growing local “foodie” population & increased interest in agritourism
  - Rapidly changing conditions
    - 24% decrease in farm acreage 1997-2012
    - GW Region includes some of the fastest growing areas in the country
    - Trend for large industrial farms to persist, but loss of medium sized family farms as owners retire
    - Strategic conservation of working lands is vital, but more resources are necessary



GW Region Census of Agriculture Statistics

# The Challenge

**Urban Sprawl in Northern Virginia**



Source: National Geographic





# Cost of Community Services

- Cost of Community Services (COCS) metrics gauge the fiscal effects of different kinds of land development on a community (American Farmland Trust)

## Nationwide (125 studies)

1.18 Residential  
0.44 Commercial  
0.50 Agriculture

## Virginia (6 studies)

1.18 Residential  
0.40 Commercial  
0.35 Agriculture

- In Virginia, for every \$1 of residential use tax revenue, communities typically spend \$1.18 for associated services
- In Virginia, for every \$1 of agriculture use tax revenue, communities typically spend \$0.35 for associated services
- When farmland is converted to residential use, there is likelihood of a negative net fiscal impact for communities

Source: 2015 Fauquier County Cost of Community Services Study

# Why this effort? Why now?

- Significant funding available for agricultural planning / viability
  - Regional characteristics match grant requirements: food deserts, low-income, development threat
- Changing conditions require action
  - Development permanently replacing farms
  - Low income census tracts and food deserts are changing
  - New distribution and retail channels change the food access landscape
- Emerging opportunities for food-based agritourism



# What are the needs?

- Needs Assessment Plan
- Mobile food market / mobile pantry
- Hunger distribution web-map
- Food & agriculture agritourism trail
- Food hub study
- Community kitchen
- Economic impacts study
- Farmland conservation planning
- Incentive programs for producers
- Local policies to support agriculture
- Education and training
- Partial list only; many other needs



# What are the opportunities?

- \$70,000 Virginia Agriculture & Forestry Industries Grant<sup>1</sup>
- \$50,000 Private: Cultivating Healthy Communities Grant
- \$100,000 Private: Food and Farm Communications Grant
- \$500,000 USDA Farmers Market Promotion Program
- \$500,000 USDA Local Foods Promotion Program<sup>1</sup>
- \$50,000 NACD Urban Agriculture Conservation Grant
- varies Private: Oak Hill Fund Food Security Program
- \$400,000 Private: Surdna Regional Food Supply Grant
- \$700,000 USDA Small Business Innovation Grant
- \$400,000 USDA Community Food Projects Grant<sup>1</sup>
- \$500,000 Food Insecurity Nutrition Incentive Grant<sup>1</sup>
- up to \$10m USDA Regional Conservation Partnership Grant<sup>1</sup>
- varies USDA Community Facilities Loans/Grants<sup>1</sup>
- varies Chesapeake Bay Watershed Grants

<sup>1</sup>Matching funding required



- There are unmet needs and tremendous regional opportunities for food and agriculture
- The region is well-positioned for grant opportunities over time
- Holistic planned approach is important to connect economic, environmental, and social benefits
- More capacity and funding is needed to catalyze efforts



# Questions?

### Current Situation

- A Merchant's Capital Tax (MC) is an inventory tax on wholesalers and retailers.
- Stafford is one of forty-five counties in Virginia that levies an MC tax
- Stafford's tax is in the lower third of those that levy the tax (lower than 27 other counties)
- An comparison of Stafford to other counties with an MC shows Stafford is currently competitive, but it could be enhanced with a reduction of the tax
- Some counties with BPOL tax have an overall tax burden than is less than Stafford – a more comprehensive analysis will be conducted to understand the overall impact of taxes on our businesses

### Proposed End State

- A reduction in the MC tax of 25%
- Reducing the tax from \$0.5/ \$100 of inventory to \$0.375/\$100 of inventory

### Request for the CEDC Committee/Board of Supervisors

- Provide a recommendation to the Board on the reduction of the MC

### Benefits to the County

- Provide a business atmosphere that will make Stafford competitive to attract wholesale and retail businesses



*Memorandum  
County Administration*

**TO:** Tom C. Foley  
County Administrator

**FROM:** Michael T. Smith  
Deputy County Administrator

**DATE:** 3/31/17

**SUBJECT:** **Merchant's Capital Tax**

In response to the Board of Supervisor's request to review the Merchant's Capital (MC) tax, staff compared the MC and Business and Professional Occupation License (BPOL) taxes in Stafford with the other localities in Virginia. Stafford is currently positioned well to attract the retail and wholesale businesses that would pay this tax. The tax is based on the inventory in stock on the first of January each year.

In Virginia, forty-five of the ninety-five counties levy an MC tax. Thirty-eight of the remaining fifty counties levy a BPOL tax and four of them levy both. Stafford's MC tax is lower than twenty-seven of the forty-five counties which levy the tax.

Although Stafford is well positioned in the lower third of counties which levy the MC tax, it also has additional advantages which make it attractive to retail and wholesale businesses. Compared to the counties which levy the MC tax, Stafford is the most populace, it is situated on a major thorough fare for commerce and it is the closest county to the Washington DC metropolitan area.

In order to spur continued economic growth, the Board of Supervisors is considering a reduction to the MC tax. If the Board chooses to reduce the MC tax by twenty-five percent, it would drop Stafford below seven additional counties and would leave only ten counties with a lower MC tax. A fifty percent drop, would only increase that advantage over two additional counties. This indicates that a drop of Twenty-five percent may add a slight advantage; however, the continued reduction leads to diminishing returns.



The comparison analysis conducted by staff shows a reduction of the MC tax may help Stafford to be more competitive with the other counties which levy the MC tax. When the full business tax burden for wholesalers and retailers, including BPOL, is compared with our peer localities Stafford appears to be in an unfavorable position. In order to understand the overall economic competitiveness of Stafford, the new economic development staff should conduct a more comprehensive analysis of all of the business taxes levied in Virginia. This analysis can be completed before the next budget cycle to allow the Board to make a more informed decision. At this time if the Board would like to reduce the MC tax, based on the analysis provided above, staff recommends a maximum reduction of twenty-five percent until a more thorough evaluation can be conducted.

If you have any questions, please let me know.

**Current Situation**

- The County has put considerable effort into planning for the development and redevelopment of the Courthouse area.
- Designating the Courthouse area as a Target Growth Area (TGA) and Redevelopment Area (RDA)
- Investing or establishing plans to invest significant public funds in improvements in the area
- Marketing County-owned Fire Training Facility Parcel to developers interested in redevelopment.
- Soliciting private property owners to work with the County and a Master Developer for enhanced redevelopment opportunities on the southeast quadrant of the area.
- Supporting partnerships and incentives to promote development of the TGA with such projects as the Stafford Hospital and the planned new campus for Germanna Community College
- Planning to build a \$70.4M Courthouse facility
- Studying various scenarios over a number of years for the planned development/re-development of areas around the Courthouse
- While these efforts have begun to move development forward, the density necessary to create a walkable, attractive center for Stafford County that attracts retail, restaurant and commercial business has not been achieved. Given the significant amount of investment made and more importantly, the investment planned, as well as improved economic conditions, Stafford has an opportunity to leverage its planned public investment in infrastructure to attract a private partner in the development of a more urban place to meet both its public facility needs and to serve as a catalyst to spur economic development.

**Proposed End State**

- The careful exploration and consideration of a successful public/private partnership requires a variety of skills and expertise best provided by an experienced development professional. Given the County's considerable assets and planned investments, and the challenge of funding a new Court facility, staff believes that the services of a Development Advisor will create the best opportunity to address many of the Board's highest priorities and other pressing needs in the most cost effective manner.

**Request for the CEDC Committee/Board of Supervisors**

- Staff recommends that the Committee provide feedback regarding the proposed approach and direct staff to proceed to the full Board with a recommendation to procure a Development Advisor.

**Benefits to the County**

- The benefits of exploring public/private partnership possibilities include:
- Potential savings in project costs and debt service through partnership
- Opportunity for investment of capital funding into urban development and revitalization to expand the County's commercial and overall business tax base
- Prospect for establishing a new community focal point and commercial hub that fully benefits the residents of the county in the most cost efficient manner

## **BACKGROUND REPORT**

### **BACKGROUND:**

Over the past several years, the County has put considerable effort into planning for the development and redevelopment of the Court House area. These efforts include:

- Designating the Courthouse area as a Target Growth Area (TGA) and **Redevelopment Area** (RDA)
- Investing or establishing plans to invest significant public funds in improvements in the area
- Marketing County-owned Fire Training Facility Parcel to developers interested in redevelopment
- Soliciting private property owners to work with the County and a Master Developer for enhanced redevelopment opportunities on the southeast quadrant of the area
- Supporting partnerships and incentives to promote development of the TGA with such projects as the Stafford Hospital and the planned new campus for Germanna Community College
- Planning to build a \$70.4M Courthouse facility
- Studying various scenarios over a number of years for the planned development/re-development of areas around the Courthouse

While these efforts have begun to move development forward, the density necessary to create a walkable, attractive center for Stafford County that attracts retail, restaurant and commercial business has not been achieved. Given the significant amount of investment made and more importantly, the investment planned, as well as improved economic conditions, Stafford has an opportunity to leverage its planned public investment in infrastructure to attract a private partner in the development of a more urban place to meet both its public facility needs and to serve as a catalyst to spur economic development.

**BOARD PRIORITIES:** Economic Development; Infrastructure; Public Safety; Fiscal Responsibility

### **DISCUSSION:**

Because of the significant cost of the planned Courthouse facility and the Board's goals for economic development and creating a vibrant mixed use urban center, staff has developed a proposed process for moving forward with the exploration of a public/private partnership to relocate the courts and at the same time explore how public investments already planned can become a catalyst for economic development and support for the development/redevelopment of the County's Courthouse Targeted Growth Area (TGA). The benefits of exploring public/private partnership possibilities including:

- Potential savings in project costs and debt service through partnership
- Opportunity for investment of capital funding into urban development and revitalization to expand the County's commercial and overall business tax base
- Prospect for establishing a new community focal point and commercial hub that fully benefits the residents of the county in the most cost efficient manner

While great potential exists for the development and redevelopment of the Courthouse area, the expertise, focused attention and time needed to develop partnerships to accelerate the pace of that development typically does not exist within the local government staff. For these reasons, other localities have sought the services of a development advisor to provide the following services:

- **Development Advisory** - Assist county staff in the identification and evaluation of county and/or privately-owned properties that present development and/or redevelopment opportunities, wherein such opportunities may be leveraged to assist in financing the construction of county-owned facilities.
- **Real Estate Advisory** - Provide real estate advisory services in connection with developing, modeling and evaluating project financing plans; the acquisition, sale or lease of public lands; implementation and evaluation of neighborhood residential and commercial revitalization strategies; the privatization and adaptive reuse of underused public facilities; multi-family new construction, rehabilitation, and redevelopment projects; infrastructure financing strategies; and long term strategic planning;
- **Market Analysis and Valuation** - Conduct market analysis in conjunction with generally accepted methods for market valuation, feasibility, modeling, trending and/or forecasting, and research assistance for development potential of county owned or partnership properties and in furthering the County's stated

goals for economic success. Such analysis may include the appraised value of all aspects of a property's development potential.

- **Financial Analysis** – Develop and/or review pro forma and perform financial analyses, as required, for selected transactions including advising on the appropriate form of public financing or investment to achieve county goals (such as Tax increment financing or use of Commercial Development Area Districts).
- **Fiscal Impact Analysis** - Develop and/or review pro forma and perform analyses, as required, for selected transactions including assessment of direct and secondary economic benefits of proposed developments, during construction phase and for recurring annual operations. These may include, cost-benefit analysis comparing projected public revenues to public service costs accrued.
- **Request for Proposals** - Assist in all aspects of drafting, evaluating and negotiating Requests for Proposals for development projects including, but not limited to, preparing RFP documents, developing evaluation criteria, assisting with proposal evaluations, proposed development budgets, internal rates of return (IRR) calculations, buy-out options, and assisting with the developer selection process.

**Other Services:**

- **Public Outreach** - Public presentations and outreach services as requested.
- **Development Negotiations** - Assist in negotiations for selected transactions with selected offerors.
- **Third Party Performance Evaluation** - Assist in analyzing developer or contractor performance.
- **Preparation of Legal Documents** - In conjunction with the County's legal advisors, assist in review and preparation of legal documentation
- **Research** - Be available for research queries as requested from staff.
- **Additional Expertise** - Recommend and obtain the services of qualified experts as necessary to assist in any aspect of these tasks.
- **Land Acquisition** - Assist county land acquisition staff in identifying/negotiating acquisition of land.

The careful exploration and consideration of a successful public/private partnership requires a variety of skills and expertise best provided by an experienced development professional. Given the County's considerable assets and planned investments, and the challenge of funding a new Court facility, staff believes that the services of a Development Advisor will create the best opportunity to address many of the Board's highest priorities and other pressing needs in the most cost effective manner.

**RECOMMENDATION:**

Staff recommends that the Committee provide feedback regarding the proposed approach and direct staff to proceed to the full Board with a recommendation to procure a Development Advisor.



**Current Situation**

- In 2015, the Board entered a Tax Increment Financing Memorandum of Understanding (MOU) with the County's Economic Development Authority (EDA) and Mosaic Aquia Capital LLC (Mosaic) to provide financial assistance for the Town Center at Aquia
- Mosaic is working to finalize their funding and would like to amend the TIF assignment agreement to allow payments of the TIF to their lender in case of default

**Proposed End State**

- An amended TIF assignment agreement that will satisfy the lender and add no liability to the County

**Request for the CEDC Committee/Board of Supervisors**

- Staff requests the CEDC support resolution R17-109 which will be on the Board's consent agenda this afternoon.
- R17-109 will authorize the County Administrator to sign the TIF assignment agreement.

**Benefits to the County**

- This TIF assignment agreement does not change any of the terms in the original MOU, only who the EDA will pay in the event of a default
- This will allow for progress on the completion of the Town Center at Aquia

**Current Situation**

- The Ag/PDR Committee has recommended a change to the PDR Ordinance (Chapter 22A of the County Code).
- The current ordinance requires a minimum parcel size of 20 acres to be eligible for the program (A-1 and A-2 zoned properties).
- The Committee has recommended waiving the minimum 20 acres for tracts adjoining an existing PDR easement property, if owned by the same owner.

**Proposed End State**

- The Ordinance would amend Sec. 22A-6. Eligibility criteria, subsection (b) and Sec. 22A-7. Property ranking system (See attached).
- Additional minor clerical corrections would be made throughout the ordinance.

**Request for the CEDC Committee/Board of Supervisors**

- Staff requests the CEDC forward the ordinance amendment to the full Board for consideration.
- The Board would authorize a public hearing, potentially for the May 16 meeting.

**Benefits to the County**

- The ordinance amendment would permit property owners to add parcels less than 20 acres and adjoining existing PDR easements to be added to PDR easements.

## **Chapter 22A - PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**

[Sec. 22A-1. - Purpose](#)

[Sec. 22A-2. - Applicability.](#)

[Sec. 22A-3. - Definitions.](#)

[Sec. 22A-4. - Designation of program administrator; power and duties.](#)

[Sec. 22A-5. - Agricultural/purchase of development rights committee established; powers and duties.](#)

[Sec. 22A-6. - Eligibility criteria.](#)

[Sec. 22A-7. - Property ranking system.](#)

[Sec. 22A-8. - Purchase development terms and conditions.](#)

[Sec. 22A-9. - Purchase of development rights procedure.](#)

[Sec. 22A-10. - Outreach.](#)

[Sec. 22A-11. - Inspection and enforcement.](#)

### **Sec. 22A-1. - Purpose**

The purpose of the Stafford County Purchase of Development Rights Program (PDR) includes, but is not limited to, the following:

- (1) Establishing a program that enables the county to acquire conservation easements voluntarily offered by property owners to serve as one means of assuring that Stafford County's resources are protected and efficiently used;
- (2) Establishing and preserving open space and the continuing rural character of the county;
- (3) Preserving farm and forest land;
- (4) Conserving and protecting water resources and environmentally sensitive lands, waters and other natural resources;
- (5) Conserving and protecting biodiversity, wildlife and aquatic habitat;
- (6) Assisting in shaping the character, direction, and timing of development in the county;
- (7) Improving the quality of life for the inhabitants of the county;
- (8) Promoting recreation and tourism through the preservation of scenic and historical resources.
- (9) Working cooperatively with the federal government, state government, and/or non-profit organizations to locate funding and leverage financial and other resources; and
- (10) Working cooperatively with Quantico Marine Corps Base to promote their encroachment control program for lands located near the Base that meet the intent of the County's PDR Ordinance and program.

Goals of the county's comprehensive plan include to "preserve and enhance opportunities for agricultural uses, agribusiness, and silviculture operations", "continue emphasis on the Urban Services Area concept

and on the preservation of a rural character in areas outside of the Urban Services Area", and "preserve and enhance the county's natural resources." All three of these goals will be enhanced through the county's purchase of development rights (PDR) program.

The PDR program shall be a program by which the county acquires, in accordance with the provisions set forth herein, and to the extent of available funding, the development rights on eligible parcels of rural land in areas of the county described in section 22A-3 below. The purchase of development rights shall be accomplished by the acquisition of conservation easements upon such parcels.

The PDR program shall be directed toward property that lies outside the designated urban services area as depicted on the most recent land use map except in those areas under the ownership or control of the United States of America, or the Commonwealth of Virginia, or an agency or instrumentality thereof. However, if property within the designated urban services area meets the intent of the program, the landowner may apply to the program and the board shall consider the merits of the application.

The county should work cooperatively with Quantico Marine Corps Base to promote their encroachment control program for lands located near the base that meet the intent of the county's PDR ordinance and program.

Nothing in this chapter shall be construed as a limitation upon the county's authority to acquire land for public purposes other than those set forth in this chapter.

(Ord. No. 007-02, § I, 2-20-07; Ord. No. 009-02, 1-6-09; Ord. No. 011-30, 6-7-11)

**State law reference—** Code of Virginia, § 10.1-1700 et seq.

#### **Sec. 22A-2. - Applicability.**

The PDR program shall be available for all qualifying lands in the county, except those lands under ownership or control of the United States of America, the Commonwealth of Virginia, or an agency or instrumentality thereof. Any conservation easement acquired pursuant to this program shall be voluntarily offered by the owner.

(Ord. No. 007-02, § II, 2-20-07)

#### **Sec. 22A-3. - Definitions.**

For the purpose of this chapter, the following words and phrases shall have meanings respectively ascribed to them by this section:

*Administrator* means that person placed in the managerial capacity over the daily operations of the PDR program. The administrator shall serve as a direct liaison for the program.

*Accessory use* means a use which is clearly incidental to, and customarily found in connection with, the principal use of the same parcel or group of contiguous parcels under common ownership and operated as an agricultural enterprise.

*Agricultural uses* means those land uses including farms (and farm residences), the tilling of soil, the bona fide growing and production of crops, horticulture, silviculture, aquaculture, forestry, orchards, vineyards, nursery operations, and truck farming; the raising of livestock, fowl, dairy cattle, horses or poultry. Nursery operations are considered agricultural uses. The term also includes the repair, expansion or replacement of no more than one bona fide dwelling occupied by the landowner or tenant as



of the date of application for entry in the PDR program, as permitted by section 28-35 of the zoning ordinance; accessory uses directly related to agricultural activities conducted on the same property, including the sale of agricultural products; equestrian uses; recreational activities; feed lots; and septic tanks and drain fields approved by the health department and which cannot be located within an area not encumbered by an agricultural land preservation easement. The term does not include the processing of agricultural, silvicultural, horticultural or aquacultural products, except as an accessory use.

*Batch* means a grouping of contiguous parcels for purposes of making application for the sale or transfer of development rights.

*Biodiversity* means the interconnectedness of all life forms on Earth, diversity of plant and animal life in a particular habitat.

*Board* means the Board of Supervisors of Stafford County.

*Commissioner* means the Commissioner of the Revenue of Stafford County or his/her designee.

*Committee* means the Stafford County Agricultural/Purchase of Development Rights Committee.

*Conservation easement* means a nonpossessory interest of the county in real property, whether easement appurtenant or easement in gross, acquired through gift, purchase, devise or bequest, perpetual in duration, imposing certain limitations or affirmative obligations, for the purposes of which include retaining or protecting natural or open space values of real property, assuring its availability for agricultural, forestall, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, or archeological aspects of real property pursuant to which the exercise of development and other specified rights on the subject property is prohibited. This definition shall not apply to any other chapter, section or part of the County Code, outside of this chapter, unless specifically stated otherwise.

*County administrator* means the County Administrator of Stafford County or his/her designee.

*County attorney* means the County Attorney of Stafford County or his/her designee.

*Development rights* means the rights to develop agriculturally zoned property for use other than an agricultural use. The term includes, but is not limited to, the right to develop property for any commercial, industrial or residential use except as expressly permitted by this chapter.

*Director* means the director of the department of planning and zoning or his/her designee.

*Dwelling* means a structure which is designed and used for residential purposes.

*Landowner* means the equitable owner of the fee simple title to a parcel of land or, with respect to a parcel not encumbered by a deed of trust or mortgage, the legal owner of such title. Where more than one person or entity is the legal and/or equitable owner, the term refers to all such persons or entities jointly.

*Open space* means any land which is provided or preserved for:

- (i) Park or recreational purposes,
- (ii) Conservation of land or other natural resources,
- (iii) Historic or scenic purposes,

- (iv) Assisting in the shaping of the character, direction, and timing of community development, or
- (v) Wetlands as defined in Code of Virginia, § 28.2-1300.

*Parcel* means a lot or tract of land, lawfully recorded in the clerk's office of the Circuit Court of the County of Stafford.

*PDR program* or *program* means the purchase of development rights program established by this chapter.

*Property ranking system* or *system* means the matrix by which applications for the sale of development rights are ranked and prioritized for acquisition of such rights.

*Public body* or *public bodies* means any state agency having authority to acquire land for a public use, or any county or municipality, any park authority, any public recreational facilities authority, any soil and water conservation district, any community development authority formed pursuant to [Code of Virginia] article 6 (§ 15.2-5152 et seq.) of chapter 21 of title 15.2, or the Virginia Recreational Facilities Authority.

*Timber harvest* means a merchantable harvest for the commercial market. The term does not include minor harvests for such things as firewood, poles, posts, blind material or greenery.

*Wetlands* means both vegetated and nonvegetated wetlands.

(Ord. No. 007-02, § III, 2-20-07; Ord. No. 011-30, 6-7-111)

**Sec. 22A-4. - Designation of program administrator; power and duties.**

- (a) *Designation.* The board shall appoint a program administrator.
- (b) *Power and duties.* The administrator shall administer the program and shall have powers and responsibilities to:
  - (1) Establish reasonable and standard procedures and forms consistent with this program for the administration and implementation of the program.
  - (2) Promote the program, in cooperation with the committee, by providing educational materials to the public and conducting informational meetings.
  - (3) Investigate and pursue, in conjunction with county, state, federal and other programs, additional public and private resources to fund the program and maximize private participation.
  - (4) Evaluate all applications to determine their eligibility and their ranking score. Rank applications based on their ranking score as determined by the property ranking system and make recommendations thereon to the committee.
  - (5) Negotiate with the landowner relating to conservation easement terms.
  - (6) Provide staff support to the committee.
  - (7) For each conservation easement accepted into the program, establish baseline data and assure that the terms and conditions of the easement are monitored and complied with by coordinating a monitoring program with each easement holder.

(Ord. No. O07-02, § IV, 2-20-07; Ord. No. O09-02, 1-6-09; Ord. No. O11-30, 6-7-11)

**Sec. 22A-5. - Agricultural/purchase of development rights committee established; powers and duties.**

(a) *Establishment.* The committee is hereby established, as follows:

(1) The committee shall consist of seven (7) members appointed by the board. Each member shall reside in Stafford County. The committee should, but is not required to be, comprised of members who are knowledgeable in fields of conservation, conservation biology, planning, real estate, land appraisal, farming and/or forestry.

(2) The members of the committee shall serve at the pleasure of the board. The terms of the members shall coincide with the terms of appointment for the board.

(3) The members of the committee shall serve without pay, but the board may, at its own discretion, reimburse members for actual and necessary expenses incurred in the performance of his/her duties.

(4) The committee shall elect a chairman, vice chairman and secretary at its first meeting each calendar year. The secretary need not be member of the committee.

(b) *Power and duties.* The committee shall have the powers and duties to:

(1) Promote the program in cooperation with and under the guidance of the administrator, by providing educational materials to the public and conducting informational meetings.

(2) Review rankings of applications recommended by the administrator and make recommendations to the administrator and the board as to which conservation easements should be purchased as determined by the property ranking system, and other applicable information.

(3) Annually review the program's eligibility and ranking criteria and recommend to the administrator any changes needed to maintain the program's consistency with the comprehensive plan, or to improve the administration, implementation, and/or effectiveness of the program.

(4) The presence of at least four (4) members of the committee at a regularly scheduled meeting shall constitute a quorum for purposes of conducting business and the committee shall make decisions on a "majority rule" basis.

(Ord. No. O07-02, § V, 2-20-07; Ord. No. O09-02, 1-6-09; Ord. No. O11-30, 6-7-11)

**Sec. 22A-6. - Eligibility criteria.**

In order for a parcel to be eligible for the program, it must meet the following criteria:

(a) The property(s) must be located in Stafford County within that portion of the county as described in County Code section 22A-1.

(b) The property(s) must be no less than twenty (20) acres in area or be included in a batch in which the combined area of contiguous parcels is no less than twenty (20) acres in area. A property owner who has a parcel of land currently designated as a Stafford County PDR easement may apply through the PDR application process to move additional acreage into the current

easement. If the acreage meets all other criteria for inclusion in the PDR program, the Board and the PDR Committee can waive the minimum of 20 acres restriction. The additional acreage must be capable of supporting at least one development unit. Any additional acreage of less than one development unit may be voluntarily donated by the property owner for the purpose of accruing tax credits.

- (c) The property must be wholly located within an agricultural or rural residential zoning district, including A-1 or A-2, or any combination of such zoning districts;
- (d) The property must be capable of being subdivided or developed for nonagricultural uses without legislative approval;
- (e) The proposed use of the property as permanent open space shall comply with the policies set forth in Stafford County's Comprehensive Plan;
- (f) No uses or structures shall be located upon the parcel other than those permitted by the deed of conservation easement; and
- (g) If any portion of the property being considered contains any land that is currently reserved or set aside for open space, recreation or similar purposes pursuant to the provisions of a conditional use permit, variance, or other action by the board, or any ordinance or regulation; that portion shall be excluded from the evaluation process.

(Ord. No. 007-02, § VII, 2-20-07; Ord. No. 009-02, 1-6-09; Ord. No. 011-30, 6-7-11)

**Editor's note—** Ord. No. 009-02, adopted Jan. 6, 2009, deleted § 22A-6 and renumbered the remaining sections, 22A-7 through 22A-13, as 22A-6 through 22A-12. The original § 22A-6 pertained to appraisal review committee established; powers and duties and derived from Ord. No. 007-02, § VI, adopted Feb. 20, 2007.

#### **Sec. 22A-7. - Property ranking system.**

In order to effectuate the purposes of this chapter, parcels for which conservation easement applications have been received shall be evaluated by using a ranking system. The initial ranking system and any changes to the ranking system shall be approved by the board.

- (a) The property ranking system is hereby adopted. The system shall be the sole means by which the priority of acquisition of development rights under the program is determined when available funding is insufficient to purchase the development rights on all property that is the subject of received applications for the sale of development rights. The number of property ranking system points assigned to a particular property shall not be used in determining the value of development rights or the amount of any offer to purchase such rights but used solely as a means for prioritizing the properties for further consideration.
- (b) There shall be five (5) categories of criteria for evaluation under the system. In each category, certain factors descriptive of the characteristics of property sought to be included in the purchase of development rights program are included. Each factor is stratified into a range of possible point values ranging from zero (0) to thirty (30). To determine the total points assigned to such property, the values for all five (5) categories are added. Property having the highest total scores shall rank highest in priority of acquisition. The maximum total score is two hundred seventy (270) points. The categories, with their respective factors, are as follows:

CODE OF THE COUNTY  
Chapter 22A - PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

PDR RANKING CRITERIA POINT SYSTEM—SECTION A	Possible Points	Total Points
(A) Quality of the parcel (productivity capability) (90 Maximum Points)		
(1) Size of property  •100 acres or more—10 •90 to 99.99 acres—9 •80 to 89.99 acres—8 •70 to 79.99 acres—7 •60 to 69.99 acres—6 •50 to 59.99 acres—5 •40 to 49.99 acres—4 •30 to 39.99 acres—3 •20 to 29.99 acres—2 • <u>Less than 20 acres (if eligible) - 1</u>	10	
(2) Soils—Percentage Identified as Prime Farmland or Farmland of Statewide Importance?  •80% or more—20 •60 to 79%—16 •40 to 59%—12 •20 to 39%—6 •Less than 20%—0	20	
(3) Parcel contains active farm land <i>(Active farm land: Cropland or pastureland that has been harvested or grazed during the proceeding year or in 3 of the previous 5 years)</i>  •2 points per 10 acres or fraction thereof with a maximum of 20 total points	20	
(4) Parcel contains active timber land <i>(Active timber land: timber land that has an executed forestry commitment or an approved professional forest plan)</i>  •2 points per 10 acres or fraction thereof with a maximum of 20 total points	20	
(5) Soil and Water Quality Conservation Assessment (Maximum of 20 points)  •Owner has implemented a plan through Tri-County/City Soil and Water Conservation District, NRCS or other applicable agency—20 •Owner has filed a plan through Tri-County/City Soil and Water Conservation District, NRCS or other applicable agency—10 •No plan developed—0	20	



CODE OF THE COUNTY  
Chapter 22A - PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

SUBTOTAL POINTS—SECTION A	90	

PDR RANKING CRITERIA POINT SYSTEM—SECTION B	Possible Points	Total Points
(B) Likelihood of parcel being threatened (development pressure) (90 maximum Points)		
(1) Urgency of circumstances favoring conversions <ul style="list-style-type: none"> <li>•Parcel subject to potential forced sale—30</li> <li>•Parcel subject to estate settlement sale—24</li> <li>•Parcel has approved preliminary subdivision plan—18</li> <li>•Parcel owner is older than average of the Stafford County farmers according to the most recent Ag Census—12</li> </ul>	30	
(2) Acreage suitability for residential conversion—Percentage of well or moderately well-drained soils on the parcel <ul style="list-style-type: none"> <li>•80% or more—30</li> <li>•60 to 79%—24</li> <li>•40 to 59%—18</li> <li>•20 to 39%—9</li> <li>•Less than 20%—0</li> </ul>	30	
(3) Fund Leveraging—Additional development rights received through funding sources provided by the applicant or through a donation (maximum of 10 points): <ul style="list-style-type: none"> <li>•5 points for each ten (10) percent of the total purchase price of the easement for which those funds can be applied</li> <li>•2 points for each additional number of development rights to be donated</li> </ul>	10	
(4) Amount of public road contiguous to parcel <ul style="list-style-type: none"> <li>•1,000 linear feet or more—10</li> <li>•600 to 999 feet—8</li> <li>•300 to 599 feet—7</li> <li>•100 to 299 feet—4</li> <li>•Less than 100 feet—0</li> </ul>	10	
(5) Landowners have agreed to any of the following restrictions (maximum of 10 points): <ul style="list-style-type: none"> <li>•Timber buffers along streams—10</li> <li>•No new dwellings may be located on the property—6</li> </ul>	10	

CODE OF THE COUNTY  
Chapter 22A - PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

•Parcel shall not further be divided—3		
SUBTOTAL POINTS—SECTION B	90	

PDR RANKING CRITERIA POINT SYSTEM—SECTION C	Possible Points	Total Points
(C) Circumstances supporting agriculture (40 Maximum Points)		
(1) Number of nonfarm rural residences within one-half mile of the property boundary  •0 to 7 dwelling units—13 •8 to 12 dwelling units—9 •13 to 18 dwelling units—6 •19 to 24 dwelling units—3 •More than 25 units—0	13	
(2) Proximity of parcel to other properties with PDR or other perpetual easements  •Contiguous—10 •Within ¼ mile—8 •Within ½ mile—6 •Within 1 mile—4 •Greater than 1 mile—0	10	
(3) Proximity to another existing farm of 20 acres or greater  •Contiguous—12 •Within 1 mile—9 •Within 2 miles—6 •Within 3 miles—3 •Greater than 3 miles—0	12	
(4) Batch application with contiguous parcels  •Contiguous—5 •Not contiguous—0	5	
SUBTOTAL POINTS - SECTION C	40	

PDR RANKING CRITERIA POINT SYSTEM—SECTION D	Possible Points	Total Points

CODE OF THE COUNTY  
Chapter 22A - PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

(D) Environmental and aesthetic quality (30 Maximum Points)		
(1) Virginia Division <u>Department</u> of Conservation and Recreation Ranking (as identified in the Ecological Cores portion of the Virginia Conservation Land Needs Assessment model and scored as a weighted average)  •C-1 Outstanding Conservation Significance—10 •C-2 Very High Conservation Significance—8 •C-3 High Conservation Significance—6 •C-4 Moderate Conservation Significance—4 •C-5 General Conservation Significance—2	10	
(2) Percentage of parcel in forest  •80% or more—6 •50 to 79%—4 •20 to 49%—2 •Less than 20%—0	6	
(3) Proximity to areas identified as having high environmental value, such as state or federal parks, wetlands, designated wildlife refuge, or threatened or endangered species habitat  •Contains or is contiguous—8 •Within ½ mile—6 •Within 1 mile—4 •Within 1½ miles—2 •Greater than 1½ miles—0	8	
(4) Proximity of parcel to perennial stream or waterway  •Parcel either includes or is adjacent to perennial waterway with an intact buffer or compliant with the Chesapeake Bay Code—4 •Other perennial waterways—2 •All other—0	4	
(5) Contiguous to a wildlife corridor as identified in either the VCLNA model or in the Stafford County Comprehensive Plan—2	2	
SUBTOTAL POINTS—SECTION D	30	

PDR RANKING CRITERIA POINT SYSTEM—SECTION E	Possible Points	Total Points
Cultural resources (20 maximum Points)		

CODE OF THE COUNTY  
Chapter 22A - PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

(1) Proximity to historic or cultural features  •Property is located on or adjacent to feature designated or deemed eligible for listing on National or State historic registers, or within Stafford County Historic District—15 •Property is associated with or adjacent to property associated with an important historic place, event, person or activity (listed in Stafford County database, or through documentation presented to the county)—10 •Property is within or adjacent to an established or familiar visual feature that is part of an historic landscape (as confirmed by county)—5	15	
(2) Property is designated as or associated with a Century Farm—5	5	
SUBTOTAL POINTS—SECTION E	20	
TOTAL POINTS	270	

(Ord. No. O07-02, § VIII, 2-20-07; Ord. No. O09-02, 1-6-09; Ord. No. O11-30, 6-7-11)

**Editor's note—** See the editor's note following § 22A-6.

**Sec. 22A-8. - Purchase development terms and conditions.**

Each conservation easement shall comply with the requirements of the Virginia Open-Space Land Act (Code of Virginia, § 10.1-1700 et seq.) and this chapter. The deed of easement shall be in a form approved by the county attorney and shall contain, at a minimum, the following provisions:

(a) *Restrictions on dwellings.* No new dwellings may be constructed on a parcel except as provided in this section. The deed of easement may allow for one dwelling, either existing or new, per one hundred (100) acres. For properties less than one hundred (100) acres in size, one dwelling, either existing or new, would be allowed. The location of the dwelling and all appurtenances must be specified on a plat of record approved by the county and recorded before or contemporaneously with the execution and recordation of the deed of conservation easement.

(b) *Conservation easement duration.* A conservation easement acquired under the terms of this chapter shall be perpetual and shall run with the land.

(c) *Other restrictions.* In addition to the foregoing, the parcel shall be subject to standard restrictions contained in conservation easements pertaining to the uses and activities allowed on the parcel. These standard restrictions shall be delineated in the deed of easement and shall include, but not necessarily be limited to restrictions pertaining to:

- (i) The accumulation of trash, debris, inoperable motor vehicles, and other junk;
- (ii) Grading or clearing, blasting or earth removal for purposes unrelated or not connected with the bona fide agricultural use of the property;

(iii) Conducting of industrial or commercial activities on the parcel other than specified limited commercial activities associated with the bona fide agricultural use of the property and/or;

(iv) The display of billboards, signs, and modes of advertisement upon the property unrelated to bona fide agricultural activities located on the property. The deed of conservation easement shall include provisions concerning billboards, signs, and modes of advertisement located on the property at the time that an application is submitted that are unrelated to agricultural activities located on the existing property. The deed of conservation easement shall include provisions concerning establishing and/or maintaining reasonable signage/advertising related to agricultural activities located on the property.

(d) *Designation of easement holder.* Stafford County shall be the easement holder, and, at its discretion, one or more additional public bodies, one or more organizations then qualifying as an eligible done as defined by section 170(h)(3) of the Internal Revenue Code of 1986, as amended, or the federal government may also be an easement coholder.

(Ord. No. O07-02, § IX, 2-20-07; Ord. No. O09-02, 1-6-09; Ord. No. O11-30, 6-7-11)

**Editor's note**— See the editor's note following § 22A-6.

**Sec. 22A-9. - Purchase of development rights procedure.**

(1) *Application submission.* Applications to sell development rights shall be on a form prescribed by the administrator and shall be signed by the landowner and submitted to the administrator. An application fee may be required. The administrator may require supporting documentation, including, but not limited to, deeds, surveys, or other legal instruments, to be submitted with the application. A landowner may submit an application for each parcel or may submit a single application for more than one contiguous parcel. Applications for batched parcels shall follow the same procedure, but shall be signed by all landowners. Applications must be received in the county administrator's office by close of business on the last day of an open application period to be eligible for consideration during that open application period.

(a) *Application form.* The application form shall require, at a minimum, that the owner provide:

- The names of all owners of the parcel;
- The address and telephone number of all owners;
- The acreage of the parcel;
- The tax map and assessor's parcel number;
- The zoning designation of the parcel;
- A grant of permission to the administrator and such other staff as may be appropriate, to enter the property, after reasonable notice to the owner, to evaluate the property; and
- The application form shall also include a space for the owner to indicate whether he/she volunteers to have his/her parcel subject to greater restrictions than those contained in the standard deed of easement, and to delineate those voluntary, additional restrictions.

(b) *Additional application information required by administrator.* The administrator may require the owner to provide additional information deemed necessary to determine:



- (i) Whether the proposed easement is eligible for purchase; and
- (ii) The ranking of the parcel.

(c) The submission of an application shall not be deemed to constitute a binding contractual offer to convey any interest in the landowner's property, but shall be revocable at will by the landowner prior to the execution of a conservation easement agreement, without penalty.

(2) *Evaluation by administrator.*

(a) The administrator shall review each application to determine whether the eligibility criteria set forth in county code section 22A-6 are met. In the event a parcel, or portion thereof, fails to meet the eligibility criteria set forth in county code section 22A-6, such parcel, or portion thereof, shall not be considered for inclusion in the program. In the event the ineligibility of a parcel or portion thereof, renders the remaining property which is the subject of the application ineligible, none of the property shall be considered for inclusion.

(b) The administrator shall evaluate each application received and determine whether the application is complete. If the application is incomplete, the administrator shall inform the owner of the information that must be submitted in order for the application to be deemed complete.

(c) When the application is deemed complete, and the administrator has determined that the parcel satisfies the eligibility criteria set forth in county code section 22A-6, the administrator shall determine the number of points to be attributed to the parcel by applying the ranking system in accordance with section 22A-7. The administrator shall notify each applicant of the total number of points attributed to their respective property.

(d) The administrator shall rank each parcel with the parcel scoring the most points being the highest ranked and descending in order therefrom. The administrator shall submit the list of ranked parcels to the committee after each open application period.

(e) In the event available funding is insufficient to purchase the development rights on all properties which are the subject of pending applications under this chapter, the director shall evaluate each application, using the criteria of the property ranking system set forth in county code section 22A-7, and shall ascertain all necessary facts and information for ranking the priority of acquisition of the lands included in the application. In performing such evaluation, the administrator may request the assistance of the commissioner of revenue or his/her designee and such other county departments as may be appropriate and beneficial. The evaluation shall include a recommendation for the number of agricultural ranking system points to be assigned to the application.

(f) The administrator shall notify each applicant of the evaluation of their property(s). An applicant shall have ten (10) business days from the date of the administrator's notice to respond to the administrator's evaluation of their property(s), including, but not limited to, correcting and/or supplementing their application. Within the ten-business-day period, an applicant may request, in writing, a meeting with the administrator and/or other county staff to discuss the administrator's evaluation.

(3) *Evaluation by committee.* The committee shall review the list of ranked parcels submitted by the administrator. The committee shall forward to the administrator and to the board its recommendations as to which conservation easements should be purchased under the provisions of this chapter.

(4) *Evaluation by board.* The board shall review the list of ranked parcels submitted by the committee and identify by resolution which conservation easements should be purchased and their priority of purchase. Nothing in this chapter shall obligate the board to purchase a conservation easement on any property that is deemed eligible for purchase and that the board identifies for purchase under this subsection.

(5) *Requirements and deadlines may be waived.* Any requirement or deadline set forth in this chapter may be waived by the board if, for good cause, it is shown that exigent circumstances exist that warrant consideration of an otherwise untimely application or it is shown that the requirements of this chapter unreasonably restrict the purchase of an easement. Under such circumstances, the board may authorize purchase of a conservation easement at any time it deems necessary so long as the purchase meets the intent of the program as identified in the comprehensive plan and the purchase complies with the specific purposes and applicability of this ordinance as set out herein.

*Reapplication.* An owner of a parcel not selected by the board for purchase of a conservation easement may reapply in any future open application period.

(Ord. No. O07-02, § XI, 2-20-07; Ord. No. O09-02, 1-6-09; Ord. No. O11-30, 6-7-11)

**Editor's note—** Ord. No. O11-30, adopted June 7, 2011, repealed § 22A-9, then renumbered §§ 22A-10—29-12 as 22A-9—22A-11. The original § 22A-9 pertained to application and evaluation procedure and derived from Ord. No. O07-02, § X, adopted Feb. 20, 2007; and Ord. No. O09-02, adopted Jan. 6, 2009.

See also the editor's note following § 22A-6.

#### **Sec. 22A-10. - Outreach.**

The committee envisions a regular process to solicit applications for the sale of development rights to the county. As part of that process, an effective outreach effort to the public would inform those who may be interested in the program of the goals and benefits of the program, the application process, the nature of the rights to be purchased, the requirements, criteria and ranking system, and other program details. The effort should be aimed at encouraging applications and making the process user friendly.

An ongoing outreach effort shall be a part of the program in order to solicit interest and assist those participating in the program and for the purposes of promoting the program.

(Ord. No. O07-02, § XII, 2-20-07; Ord. No. O09-02, 1-6-09)

**Editor's note—** See the editor's note following § 22A-9.

See also the editor's note following § 22A-6.

#### **Sec. 22A-11. - Inspection and enforcement.**

An effective easement program involves periodic inspection to ensure that the rights acquired are protected. The county also has the ability to coordinate this effort with its land development process for approving subdivisions and building permits. In the event enforcement action is necessary, the staff responsible for administration of the program and inspection of property will work with the county attorney. Staff may assist landowners in determining whether proposed uses or activities are consistent with easement restrictions on particular properties. In the event that an easement is held jointly by the county and another organization, these inspection and enforcement efforts would need to be coordinated.

CODE OF THE COUNTY  
Chapter 22A - PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

The local soil and water conservation district may be able to provide assistance in this regard. The district currently helps landowners to prepare and implement soil and water conservation plans required by grant program criteria or the state or county guidelines in conjunction with its land use tax program. It also assists in the design and cost sharing of best management practices and verified compliance with BMPs and farm management plans.

The county should fund a periodic inspection program but seek as much assistance as possible in this regard from any organizations holding easements jointly in the county. In addition, the inspection program should be closely coordinated with, and seek the assistance of the soil and water conservation district where applicable.

(Ord. No. O07-02, § III, 2-20-07; Ord. No. O09-02, 1-6-09; Ord. No. O11-30, 6-7-11)

**Editor's note—** See the editor's note following § 22A-9.

See also the editor's note following § 22A-6.