

Lease of Development Rights (LDR) Programs

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*VIRGINIA DEPARTMENT
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Office of Farmland Preservation

- Established in 2001 by General Assembly
- Officially opened in January 2007
- Code of Virginia charges with five missions:
 - Establish and support local PDR programs
 - Educate public about farmland preservation
 - Help farmers with farmland preservation efforts
 - Assist local governments with additional efforts
 - Administer Virginia Farm Link program

Conservation Easements

- Legal agreements designed to permanently protect a desired conservation purpose
- Between landowners and a qualified conservation organization or public agency
- Deed of easement recorded locally and runs with the land
- Landowner retains all other ownership rights and allowed continued use of the property
- Generally in perpetuity, but also can be created for a specific period of time.
- Lease of Development Rights (LDR) programs- compensate landowners for a less-than-perpetual conservation easement (term easement)

Open-Space Land Act

(§10.1-1700 thru 1705)

- Code allows “public bodies” to hold “open-space easements” in Virginia
- Public body may do the following:
 - Acquire title of not less than five years duration in real property (may also be perpetual)
 - Retain and use for the preservation and provision of open-space land
- Use of property shall conform to the official comprehensive plan

Conversion and Diversion

(§10.1-1704)

- No open-space land shall be converted or diverted from open-space land use unless:
 - Determined by the public body to be essential to the orderly development and growth of the locality
 - In accordance with the official comprehensive plan at the time of conversion or diversion
 - Other real property is substituted that is
 - At least equal fair market value
 - Of greater value as permanent open-space land than the land converted or diverted
 - Of as nearly as feasible equivalent usefulness and location

Virginia Conservation Easement Act

(§10.1-1009 thru 1016)

- Code allows non profit conservation organizations to be a “holder” of a “conservation easement” in Virginia
- Conservation easement shall be perpetual in duration unless the instrument creating it otherwise provides a specific time
- Easement holder must have an office in Virginia for at least five years
- Until a holder has met these requirements, the holder may co-hold a conservation easement with another holder that meets the requirements
- Easement must conform to the comprehensive plan at the time the easement is granted

Benefits of LDR Programs

- Landowners may be more willing to participate if the easement term is less than perpetual
- Can provide short-term protection as locality enacts more permanent farmland preservation options
- Allows locality to decide at a future time whether it makes sense to continue protecting

Drawbacks of LDR Programs

- Do not permanently protect land
- Concerns over what the public is getting in return
- May cost more over time to protect the same property
- Landowner not eligible for federal or state tax benefits

LDR Program Examples

- Lancaster County, PA
 - 19 term easements negotiated in mid-1980s
 - Some donated, others were paid \$250 per acre
 - If not protected, funds must be paid back with interest after 25-year term expires
- Pennsylvania PACE program
 - Authorized in 1989, and discontinued in 1994
 - Ten percent of FMV of easement for 25 years
- North Carolina Agricultural Development and Farmland Preservation Program
 - Four term easements during past two funding rounds
 - ≥ 50 years = 60 percent of FMV; < 50 years = same percent of FMV
 - 15-year, 25-year and two 50-year term easements so far
- Spotsylvania County, VA
 - PDR ordinance allows for less than perpetual easements ≥ 20 years

For Additional Information

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