Tools and Techniques for Protecting Farmlands

1. Agricultural Protection Zoning (APZ) refers to county and municipal zoning ordinances that support and protect farming by stabilizing the agricultural land base. APZ designates areas where farming is the desired land use, generally on the basis of soil quality as well as a variety of locational factors. Other land uses are discouraged. The density of residential development is restricted in agricultural zones.

APZ ordinances contain provisions that establish procedures for delineating agricultural zones and defining the land unit to which regulations apply. They specify allowable residential densities and permitted uses, and sometimes include site design and review guidelines. Some local ordinances also contain right-to-farm provisions and authorize commercial agricultural activities, such as farm stands, that enhance farm profitability. Occasionally, farmers in an agricultural zone are required to prepare farm management plans.

2. Purchase of Agricultural Conservation Easements (PACE) – refers to programs that pay property owners to keep land available for agriculture. PACE is known as Purchase of Development Rights (PDR) in many locations. Typically, landowners sell agricultural conservation easements to a government agency or private conservation organization. The agency or organization usually pays them the difference between the value of the land for agriculture and the value of the land for its “highest and best use,” which is generally residential or commercial development.

3. Transfer of development rights (TDR) programs allows landowners to transfer the right to develop one parcel of land to a different parcel of land. Generally, TDR programs are established by sections of local zoning ordinances. In the context of farmland protection, TDR is used to shift development from agricultural areas to designated growth areas closer to urban services. The parcel of land where the rights originate is called the “sending” parcel. When the rights are transferred from a sending parcel, the land is restricted with a permanent conservation easement. The parcel of land to which the rights are transferred is called the “receiving” parcel. Buying these rights generally allows the owner to build at a higher density than ordinarily permitted by the base zoning. TDR is known as transfer of development credits (TDC) in California and some regions of New Jersey.
4. Agricultural Tax Programs are widely used to maintain the economic viability of farming. Some tax relief programs were initiated specifically to protect farmland. All states have at least one program to reduce the amount of money farmers are required to pay in real property taxes.

Differential Assessment – Farmland enrolled in this program is assessed differently than other real property. Typically, the program allows officials to assess farmland at its agricultural use value, rather than its fair market value, which is generally higher. Agricultural use value represents what farmers would pay to buy land in light of the net farm income they can expect to receive from it. Full fair market value represents the amount a willing buyer – whether farmer or developer would pay for the land.

Circuit Breaker Tax Relief Credits – This program allows farmers to claim state income tax credits to offset their local property tax bills. These programs relieve farmers of real property taxes that exceed a certain percentage of their income.

Other Agricultural Tax Programs – These programs limit the ability of local governments to impose special taxes for services such as sewers and police protection on farmland. Tax credits are also sometimes offered for the construction and renovation of farm buildings. Other programs provide tax relief to dairy farms, orchards and vineyards. Tax relief programs are also sometimes established for owners of farmlands restricted by conservation easements.

In agricultural communities, the market value of farmland is determined primarily by its productivity. Real property taxes based on this value generally reflect the agricultural income received from the land. If, however, farmland values rise because of non-farm development pressures, taxes based on these values no longer reflect the current use of the land, nor farmer's ability to pay. Increasing property values and the corresponding rise in taxes can have a devastating impact on agricultural productivity.

5. Right-to-Farm Laws are designed to one or both of the following objectives. 1) to strengthen the legal position of farmers when neighbors sue them for private nuisance; and 2) to protect farmers for anti-nuisance ordinances and unreasonable controls on farming operations.
6. Agricultural District Programs allow farmers to form special areas where commercial agriculture is encouraged and protected. Programs are authorized by state legislatures and implemented at local levels. Enrollment is voluntary. In exchange for enrollment, farmers receive a package of benefits which varies from state to state. Such programs should not be confused with agricultural zoning, which imposes mandatory restrictions on the use of farmland.