



*Horses in Marion County, Florida. ELCR photo.*

# **PURCHASE OF DEVELOPMENT RIGHTS PROGRAMS IN THE U.S.**

**A Guide to PDR Programs and How They Work to Protect  
Open Land**

**Equine Land Conservation Resource  
March, 2018**

*by Denise Y. O'Meara, PLA*

# Purchase of Development Rights Programs in the US – A Guide

By Denise Y. O'Meara for Equine Land Conservation Resource  
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View of a Horse Pasture. ELCR Photo.

Land easements have been around, in essence, for centuries. A component of English common law, the concept of a landowner's bundle of rights, of which certain rights could be separated out for restriction, was introduced to the US in the 1930's -utilized by the National Parks Service to purchase visual easements along the Blue Ridge and Natchez Trace Parkways in several states. The term conservation easement was coined by William H. Whyte, sociologist, anthropologist and writer, in the 1950's. (*"An Introduction to Conservation Easements in the United States: A Simple Concept and a Complicated Mosaic of Law"*, Federico Cheever and Nancy A. McLaughlin, University of Denver, 2015).

Since then, federal legislation enabled all states to institute their own legislation for Agricultural Conservation Easement programs (PACE), commonly known as Purchase of Development Rights (PDR). A PDR or similar program could be developed as a protective mechanism for open land. Conservation easements, as provided for in the programs, could be utilized by communities to protect productive agricultural land, safeguard ecologically sensitive and watershed lands, preserve scenic beauty and community identity, and help manage growth patterns. States have authorized conservation easement enabling laws that reflect the intent of the 1981 Uniform Conservation Easement Act adopted by the National Conference of Commissioners on Uniform State Laws.

As of 2017, 28 states have established Purchase of Agricultural Conservation Easement (PACE) or PDR programs, and three additional states have authorized but not developed their programs.

This is a substantial rise from 20 states in 1997. As mentioned above, some states refer to their programs as Purchase of Development Rights programs, while some have other names. Regardless of title, these programs function similarly. Counties and municipalities work within federal and state regulations, and in most cases, with funding from one or both, to establish their own local programs, or they may start up their own independent programs and funding. Either way, they must raise matching,

## **Definition - Conservation Easement:**

A conservation easement is a voluntary legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land, such as development, in order to protect its conservation values. Landowners retain many of their rights, including the right to own and use the land, sell it and pass it on to their heirs. (*Land Trust Alliance*)

supplemental or total funds for the program locally. Some states, such as Indiana, are just now considering implementation of development rights-based land protection programs.

In the decades since initial federal authorization, PDR programs have been gaining traction and popularity. Suffolk County, New York, on the eastern portion of Long Island, enacted the first PDR program in the nation when faced with the unparalleled growth of post WWII suburbia. PDR programs began to gain a foothold in state programs, community planning and land conservation efforts. As a major focus was on agricultural land, some programs began to include equine farm land.

The Lexington, Kentucky, quasi-governmental PDR program started in 2000 with substantial funding from the federal government, the State and Lexington-Fayette Urban County Government. The highly successful program is well on its way to permanently protecting its original goal of 50,000 acres. Horse farms comprise a majority of the current 30,000 acres conserved as of 2018.

The growth of PDR programs in states, counties and local communities around the country has had a profound and recent effect on the preservation of productive agricultural lands, urban planning, rural development and equine land protection. As communities compete for livability in order to attract business and talent, indications are that this will and should continue.

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#### Here Are Some Questions That We Address In This Article.

- What is a PDR program?
- What examples are there of other PDR or similar programs that have been successful at protecting agricultural lands, with at least some equine lands included?
- How have other programs been established or grown?
- Have these programs been successful when applied at the local level?
- What sources of funding at the federal, state and local level have been identified?
- How do programs qualify and prioritize PDR lands as eligible for their programs?
- Has there been substantial public support, within communities, for conserving open land in this manner?

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**A REVIEW: WHAT EXACTLY IS A PDR PROGRAM?** Protecting agricultural land involves a number of approaches and programs. One of the programs that have experienced increasing popularity is the Purchase of Agricultural Conservation Easement (PACE) program, commonly known in many areas as a

#### ***Definition - Purchase of Development Rights (PDR) program:***

Known originally as Purchase of Agricultural Conservation Easements (PACE), PDR programs are incentive based, voluntary programs, administered by a public or government agency or a land trust, that purchase conservation easements from landowners in order to remove the element of future development from eligible lands. PDR programs also seek to permanently protect productive, sensitive, or aesthetic landscapes.

The landowner is allowed to continue their farming activities as usual, and the landowner or heirs may sell the property. As the conservation easement is permanently recorded on the property title, it accompanies the land in perpetuity.

Purchase of Development Rights (PDR) program. PACE or PDR programs purchase development easements in order to remove the element of future development from eligible lands, while allowing the landowner to continue their farming endeavors as usual.

Agricultural landowners who have donated or sold conservation easements maintain certain rights - to carry on farming business practices on their properties, especially related to the production of food, fuel and fiber to support human communities. In many states and localities, equines are considered agricultural commodities with certain restrictions. In addition, a landowner can lease or sell the land, leave it to their heirs, harvest natural resources, use as loan security, place certain buildings on the property, etc., all in relation to local zoning regulations and their business and family needs

Without a conservation easement, a landowner also has the right to develop their land as they see fit, and as zoning allows. Residential and commercial subdivision are common end products as landowners sell the property outright to a developer. This is a common occurrence when farmers retire or pass away. Heirs, who may not have the desire or ability to carry on the farm's business or agricultural activities, put their inherited land up for sale, hoping to realize the highest possible sales value.



*Iowa Horse Land – Photo courtesy NRCS*

One way for the landowner to protect their land from development, should they desire to do so, is to place a conservation easement on some or all of the property. The easement is a legal document that, in essence, removes the development rights for the property, either through donation of the easement (which carries tax advantages) or through sale of the easement to a private conservation organization, such as a land trust, or purchase of development rights program, usually overseen and funded by a local, state or federal agency, or a combination of these. Selling the development rights may gain the landowner a critical inflow of cash for farming operations or improvements. The development rights are given up, through the easement, in perpetuity (forever) and must have oversight by the managing trust or agency, also in perpetuity. *But all of the other activities and rights may be continued by the land owner or purchaser of the land.*

To be approved for a PDR program, land must qualify for inclusion through a ranking system. One of the higher ranking qualifications is proximity to other productive farmland, which can include equine land. This results in massing of agricultural land for the future. Most programs will assess the quality of soils, historic value, and other value factors contributing to the wellbeing of the community or region. This can include horse farming and activities, as it too can be considered a factor in the wellbeing and identity of the community, providing economic benefits and ecosystem services.



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## FUNDING FOR PDR PROGRAMS

### ***Federal Funds***

The federal government funds farmland protection and conservation efforts and programs via the Agricultural Conservation Easement Program (ACEP) through the federal Farm Bill. Previous to 2014, the Farm and Ranch Lands Protection Program (FRPP) “provided matching funds to help purchase development rights to keep productive farm and ranchland in agricultural uses.” USDA partnered with existing “state, tribal, or local governments and non-governmental organizations’ programs to acquire conservation easements... from landowners, providing up to 50 percent of the fair market easement value of the conservation easement.”



*The Farm Bill is the source for the Conservation Easement Program (ACEP). The 2018 Farm Bill is currently being studied and negotiated. ELCR is monitoring the process for changes that may impact the protection of agricultural and equine lands. Image Courtesy USDA/NRCS.*

FRPP, the similarly repealed Grassland Reserve Program (GRP), which sought to protect grasslands from conversion to other uses, and the Wetlands Reserve Program (WRP) were combined to become the “Agricultural Land Easements (ALE) program that protects the agricultural use *and* conservation values of eligible farm and ranch land.”

### ***State Funds***

States generally fund conservation easement purchase programs through a variety of mechanisms. These may include sales taxes, bonds, property taxes, so-called vice taxes (e.g. cigarettes), grants, lottery programs or budget surplus monies. Some state programs require a local match or “bargain sale” purchase of eligible properties (where the landowner donates a portion of the property or another asset is included to greatly reduce the price per acre). Though some states do not, most states require a cap for the per acre payment amounts. There are allowable exceptions. Vermont, for example, allows an exception to the cap if the property in question is an “outstanding statewide resource”.

### ***Local Funds***

Counties and municipalities may use some of the same mechanisms to provide the local funding needed to complement the monetary requirements of a local PDR program. These might include bonds, use taxes, property taxes, and/or be included as part of the general budget.

### ***Public Support***

Support for initiating these programs has been positive from the beginning in the majority of communities. In some cases, community members and grassroots groups have approached municipal

and county government planning entities to create a process to preserve open space, productive land and the landscapes that they associate with their community identity and user needs. For government initiated programs, once established, the community quickly catches on to the value and meaning of preserved agricultural and natural lands to their economy and wellbeing, creating a more likely environment for support of long-term funding and expanded programs.

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## **What PDR Programs Mean for Your State, County and Local Community – And Your Equine Endeavors**

Any state or community considering the implementation of a farmland protection program may grasp the importance and necessity of a formalized program, from the state to the local level, from this statements:

“Planners for Farmland Preservation - The American Planning Association’s Policy Guide on Agricultural Land Preservation”, adopted in 1999, offers strong support for programs such as purchase of development rights. Among the key points noted in the Policy Guide:

- Most traditional zoning tools have minimal efficacy to protect against the development of agricultural lands.
- Communities must develop, implement and enforce multiple mechanisms for the effective preservation of productive agricultural land (i.e. urban growth boundaries, purchase of development rights, exclusive agricultural zoning).
- Agricultural land should be protected and preserved in large, contiguous blocks in order to maintain a ‘critical mass’ of farms and agricultural land.
- Agricultural land preservation programs, projects and policies are best implemented and enforced when they are done so at the local level with technical and financial support from state and federal sources.

Equine landowners, when considering taking their ranch or farm’s development rights off the table for the future usually have a strong desire to preserve the property and use for future generations and for the benefit of their community. Regardless of reason, it is a decision that requires much thought and good advice on the process. Landowners can apply for inclusion in these programs where funding and land eligibility match their needs and property. Monies received through a purchase of development rights program may help an equine farm/facility to recover from hardships and boost operational funding, thus allowing them to continue their equine business.

Owners of horse lands and equine activity spaces can consider partial or full donation of conservation easements where their land does not qualify for a local or state program. It is critical to understand the

### ***Easements – Sell or Donate?***

As a landowner, you can apply for inclusion in these programs where funding and land eligibility match your needs and property. You can consider partial or full donation of conservation easements if your land does not qualify for a local or state program. Understand the requirements and regulations in your state and locality, and communicate and work with both government and private land trust entities to accomplish your land conservation goals.

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## EXAMPLE PURCHASE OF DEVELOPMENT RIGHTS PROGRAMS

### **State of Pennsylvania**

The Pennsylvania Agricultural Conservation Easement Purchase Program (ACEPP) is a voluntary program that enables county governments to protect active farmland by purchasing agricultural conservation easements from willing landowners. ACEPP is Pennsylvania's version of a purchase of development rights program. 57 counties participate, either with county or state funds, selecting farms with high quality soils and other preferred characteristics. At last count, easements on over 5,000 farms with over 530,000 acres had been purchased.

Funding for the ACEPP has been provided in several ways since its inception in 1987. The Pennsylvania Legislature began with \$100 million for ACEPP purchases, subsequently providing additional resources with cigarette taxes. A yearly appropriation of about \$20.5 million to offset fluctuations in the cigarette tax was added and in 2008 a share of the state's Environmental Stewardship Fund provided an additional \$6.9M to the program. Later, county funding allocations were contingent on the county having an approved conservation easement purchase program. (T. Daniels)

### **Chester County, PA**

The Chester County conservation easement program was created in 1989 as part of the State ACEPP program which makes annual grants to counties to purchase development rights to farmland. Chester County is home to the famous Devon Horse Show and is Pennsylvania's leader in the number of horse farms. The County Farm Bureau recognizes the horse industry as world-class and of high economic value to the community. (T. Daniels)



*Crebilly Farm - Slated for Development, Westtown Township, Chester Co, PA. (Photo Courtesy Neighbors for Crebilly, by Tom Maher (permission pending))*

Like most communities in this region, even with the efforts of the County and land trusts, plenty of development has occurred and continues apace. Many equine farms have gone the way of subdivision. Conservation is not easy, or quick.

Chester County is the home of the private nonprofit Brandywine Conservancy which has received donations of development rights on thousands of acres, including horse farms. All told, Chester County

and Brandywine have preserved about 70,000 acres of farmland, about 40% of the total farmland in the County! (T. Daniels)

Other funding sources are available to farmers to assist in the design and implementation of best management practices to improve water quality in the highly impacted Chesapeake Bay Watershed. Chester County is located along the Chesapeake Bay. As such, it is subject to strict Stormwater runoff requirements to protect the watershed from pollution. Through the Natural Resources Conservation Service's (NRCS) Regional Conservation Partnership Program (RCPP) for 2018, two conservation programs will be implemented:



Photo Courtesy USDA-NRCS

- To address the number of Farm Bill financial assistance applicants for Best Management Practice assistance in the Chesapeake Bay Watershed, The Chester County Conservation District (CCCD) is planning for and installing conservation practices, providing incentives to private consultants to write comprehensive nutrient management plans. Landowner applicants willing to implement or maintain a stream buffer, and commitment to work with one or more of the listed partners to develop plans and/or best management practices (BMPs) will receive a higher score.
- The Pennsylvania Department of Agriculture will identify producing farms and work with NRCS conservation planning staff for installing best management conservation practices and implementing comprehensive nutrient management plans. Priority will be by current farmland preservation status. The project will assist producers to ensure that livestock and crop production are compatible with natural resource protection.

### **State of Maryland**

#### ***Maryland's Easement Programs***

- Maryland Agricultural Land Preservation Foundation (MALPF) – Purchase of Easements
- Maryland Environmental Trust (MET) – Donated easements
- Maryland Rural Legacy Program – Purchase of Easements
- Green Print Program – Purchase of Easements

Like Pennsylvania, the Maryland program is a state and county partnership. Both Baltimore County and Montgomery County started PDR programs in the late 1970s after Maryland created the nation's first statewide farmland preservation program in 1977. The state and a number of counties have easement purchase programs. The MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION (MALPF) was one of the first state easement purchase land preservation programs in the country and it continues to be one of the most successful, with strong public support. By the end of FY 2017, MALPF had preserved over 316,000 acres of farmland. The state holds MALPF easements in every county.

Subtitle 5 of the Maryland Agricultural Land Preservation Foundation legislation provides that funding for MALPF



comes from the Maryland Agriculture Land Preservation Fund, from general or specific fund appropriations, grants or transfers for government or private sources, other funds from S2-513(c) of the legislation.

Subtitle 5 describes the regulations and requirements for purchasing development rights and for distribution to the counties. The counties prioritize land submitted for inclusion in the easement program by their own county ranking systems. Two independent fee appraisers establish a Fair Market Value for a submitted property, and the Foundation calculates an Agricultural Value for the property which is its agricultural production value.



*The MET program, along with Maryland's other land preservation mechanisms, have been highly successful in protecting open farm and equine lands. Image Courtesy MET.*

Established by state statute in 1967, the MARYLAND ENVIRONMENTAL TRUST (MET) is part of the Maryland Department of Natural Resources, but is governed by a private Board of Trustees. The Trust is active in assisting and partnering with local land trusts. Funding comes from the state and private donations.

The Trust administers donated easements on over 132,000 acres as of 2015, providing easement monitoring and stewardship, Local Land Trust Assistance, and the Keep Maryland Beautiful Grants Program.

The MARYLAND RURAL LEGACY PROGRAM, established in 1997 during Smart Growth planning, is funded by the state through the Department of Natural Resources. It seeks to preserve farmland with a high priority on protecting the environment through the use of easements. Rural Legacy preserves large, contiguous farm and forest areas to the benefit of natural resource and environmental protection as well as agricultural and forest land. Counties must establish Rural Legacy Areas. Once approved, landowners within that Rural Legacy Area may apply to sell an easement to their land.

Maryland's GREEN PRINT PROGRAM, an easement purchase program, differs from the other programs "in that it is part of a state effort to delineate and protect the most ecologically significant lands in the state using up-to-date mapping techniques and targeted acquisitions and easements." (Maryland FarmLINK).

### **Baltimore County, MD**

Baltimore County, home of thoroughbred racing's Triple Crown Preakness Stakes at Pimlico Race Track, has long been a major horse breeding area, and is a national leader in land preservation. To date, Baltimore County has preserved almost 65,000 acres of farmland, waterfront, stream valleys and natural lands, including equine lands, working forward from its first easement of 34 acres in 1975. Many of the original easements were initiated by and functioned for horse landowners and equine activities.

This successful effort is built upon the County's growth management program, community and government support for the farm industry and collaboration with the land preservation community.

According to Wally Lippincott, Jr. with the Baltimore County Dept. of Planning, at the current time, and in broadly approximate numbers, the County's Agricultural Land Preservation Program, is about 25% in equine properties. Donated equine property easements in the Maryland Environmental Trust holdings total around 40%. And, equine land easements in the state Rural Legacy program are at a percentage balanced somewhere between the other two programs.

The City of Baltimore has adopted and funded the Rural Legacy Program to benefit the city and county. The Program, in turn, provides funding to both land trusts and governmental agency programs.



*Photo Courtesy Gunpowder Valley Conservancy, Baltimore County, Pennsylvania. (Permission pending)*

### **Montgomery County, MD**



A goal of the Agricultural Land Preservation Foundation (MALPF) program is to overlay existing Transfer of Development Rights agreements, which retain a much lower density but still developable right for the landowner, with permanent easement purchases or donations. In addition, the Building Lot Termination program (BLT) can provide "enhanced compensation to

Montgomery County has an equine industry estimated to be worth tens of millions of dollars each year. The County has protected over 74,000 acres of farmland, but most of that land has been preserved through the state's Transfer of Development Rights program, paid for by the private sector rather than through government purchases of development rights.

#### ***Definition - Transfer of Development Rights (TDR) program:***

The TDR program is a land protection mechanism employed to steer development away from areas identified for preservation toward areas identified for development. The right to develop land becomes a marketable credit, separate from land ownership. The community designates preservation areas through zoning restrictions, and development areas where permitted densities for development may be exceeded. Developers purchase development rights from owners in the preservation areas.

landowners for the extinguishment of potential lots in the RDT zone.”(Montgomery County Farmland Preservation Annual Report-2013)

The 2014 ALP Report doesn’t specifically mention equine properties. But in recognition of the prevalence and economic importance of equine industry lands, the phrase commercial equine activity is included in all criteria for inclusion of properties in the program.

To identify what land to preserve, each County utilizes a ranking system based on the attributes of the land, such as parcel size, soil quality, and proximity to already preserved land.

### **New York State**

New York’s Agricultural and Farmland Protection Program was formed under Article 25-AAA of the Agriculture and Markets law. Public PDR funding programs are administered by the Department of Agriculture and Markets, USDA’s National Resource Conservation Service, and individual counties. Some local towns contribute toward PDR projects, too. Occasionally, a private foundation with a particular conservation interest helps with matching funds.

According to the Department, the state administers three farmland protection grant programs: Planning grants, Implementation grants, and grants aimed at land trusts “for activities that will assist counties and municipalities with their agricultural and farmland protection efforts”.

### **Suffolk County, Long Island**

The first PDR program in the U.S. began in Suffolk County, and it’s a good example of how a group of programs evolve over time. Currently, according to Suffolk’s Peconic Land Trust, “there are 19,000 acres of protected farmland and 15,000 acres of unprotected farmland in Suffolk County.” The 2011 Suffolk County Equestrian Task Force Report states that equine properties located within Suffolk County are often “inherently ineligible for inclusion” in the program because they are “less than seven acres in size and/or do not constitute commercial livestock husbandry and/or commercial horse boarding operations, nor involve standard agriculture.”

An amendment to Chapter 8 of the Suffolk County Code, (2012, which describes agricultural land eligible for inclusion in their Farmland Preservation Program, authorizes the County’s acquisition of development rights to properties being used for commercial equine operations as follows:

This Legislature hereby finds and determines that there is a strong equestrian industry in the County of Suffolk.

- This Legislature determines that commercial equine operations include horse riding lessons, trail riding activities, and horse training.
- This Legislature further finds and determines that Chapter 8 of the Suffolk County Code sets forth the County’s program to acquire development rights to agricultural properties.
- This Legislature finds that the State of New York recently amended § 301 of the Agriculture and Markets Law to include commercial equine operations in the definition of farm operations.
- This Legislature also finds that Chapter 8 of the Suffolk County Code should be amended to reflect the updated language in State Law and allow the County to acquire the development rights to commercial equine operations.

- This Legislature further finds that including commercial equestrian operations in the farmland development rights program will preserve and strengthen the County's equestrian industry.



*Two Trees Farm, Bridgehampton, Suffolk County, NY. Originally 115 acres, the farm was subdivided for development with a 65 acre agricultural reserve that protects the equine stable. Photo by and courtesy of Jake Rajjs.*

Within the county, the Town of Southampton's zoning code includes an article for an agricultural overlay district, which goal is to preserve areas of highly productive soils for future agricultural use. In an effort to remedy disparities caused by increasing subdivision of farmlands, the 1999 Comprehensive Plan stated that when a farm was to be developed, at least 80% was to remain as agricultural land with a reduction of the overall development density to 50%, with an emphasis on cluster type development. While this approach, in combination with PDR, TDR and easement donations through land trusts have helped to curb conversion of farmland, the cost per acre of these open lands has increased to such an extent as to make farmland unaffordable to farmers.

### ***Saratoga County***

Saratoga County has developed several programs that work for the protection of their scenic, agricultural, open space and natural heritage. These programs work together to provide a very successful and continuous conservation effort.

The Saratoga County Purchase of Development Rights Program was initiated in 2003 to help farmers meet the New York State Farmland Protection Implementation Grant (Purchase of Development Rights matching local requirement. The Board of Supervisors allocated substantial funds to start the program and continues to support it with continued allocations in order attract "federal, state, local and private matching funds to achieve the goal of protecting as much of our high quality open space as possible", according to the program's web page at [saratogacountyny.gov](http://saratogacountyny.gov).

As stated on the Saratoga County Farmland Protection and Open Space Grant Program form and application, "The purpose of the funding has been expanded beyond farmland to include lands for natural areas, wildlife habitats, parks and other types of open spaces." "In 2016, the Saratoga County Board of Supervisors allocated \$250,000 to the matching grant program for the purchase development rights in productive agricultural lands and acquire open space lands whose preservation is deemed to be of significant public benefit. The County Board of Supervisors as well as the Land Preservation Committee encourages all municipalities within the County to consider applying for project funding. The County Planning Staff is available to assist potential applicants with the application process and questions they may have regarding project eligibility. "





*This photo, courtesy the Saratoga County Green Infrastructure Plan, illustrates the importance of horse pasture in keeping land open, and recognizes the benefit of this industry to the local economy.*

As the program has grown, the formation of the Green Infrastructure Program has allowed the county to work more directly and at the local level with the municipalities to protect farmland and open space at the local level. The executive summary in “The Green Infrastructure Plan for Saratoga County” states that the program “is a regional initiative to identify and safeguard valued community open space resources. The plan brings together the county’s most important open space resources, including natural systems such as streams, wetlands and watersheds; working landscapes such as farms and managed forests; recreational and trail opportunities such as multi-use trails and fishing access; and cultural resources such as scenic and historic corridors.

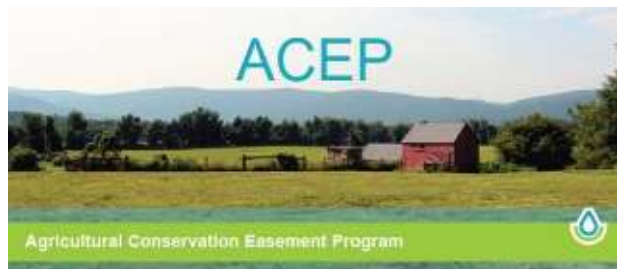
Along with the county-initiated programs, land trusts work cooperatively and in partnership with government agencies to conserve farmland and open space, protect natural resources and promote the development of trail systems. Saratoga PLAN does this and more.

Saratoga PLAN’s mission is in their name – “Preserving Land and Nature”. They are a non-profit land trust, started in 2003. Roughly half of their funding is derived from private and corporate community partners. The remainder comes from foundation grants, government grants and contracts, and their successful annual fundraiser, Feast of Fields. According to “Using Conservation Easements to Conserve Agricultural Lands”, Saratoga County landowners often contribute something toward project costs. The Saratoga County Planning Department and Saratoga PLAN collaborate closely on conservation projects with landowners, developers and partnering municipalities to make it all work for the landowner.

Saratoga PLAN helps landowners, organizations and community governments to think through site planning, easement restrictions, finances, and future land ownership aspects of conservation easement projects. The trust strives for coordinated and cooperative land use efforts, pressing for open space and recreational trails planning. Saratoga PLAN manage the easement process, which includes easement drafting, title search and clearances, mortgage subordination, appraisal, survey, environmental site assessment, approvals, mapping, photographing and describing in a property baseline report.

### **State of Colorado**

Though Colorado does not have a state administered farm or ranchland protection program or funding per se, federally recognized counties, non-governmental organizations and Native American Tribes with



*Images courtesy USDA/NRCS*



farm protection programs already set up, may apply for funds through the Colorado NRCS Agricultural Land Easement (ACEP-ALE) program when monies are available. Colorado does support the acquisition of development rights easements by these local entities at their own expense, and recognizes the value and importance of open space and agricultural land. Colorado also provides tax benefits for donated easements.

### **Yampa Valley – Routt County**

According to the Routt County Purchase of Development Rights Program Progress Report of January 2017, funding for the Routt County program is derived from a \$1.5 M increase in County property taxes approved by voters for a twenty-year period beginning in 2006, in recognition of the value of Routt County's agricultural lands and natural areas.

The PDR program provides only a portion of the total funding needed to complete the transaction, with the landowner donating, on average, 50.51 percent of the easement's value in 60 completed projects. Other federal, state, and local agencies have also contributed funds, with 22.9 percent of the total PDR project funding to date coming from these agencies. The PDR funds have thus been used as leverage to secure an average of nearly three dollars of additional value for every one dollar of County funds.



*The Knott Family recently conserved 630 acres of their Steamboat Springs, CO, Knott Ranch, adding to 1310 acres conserved in 2011. The easements were sold through the Routt County Purchase of Development Rights program. Photo permission pending article author)*

Since initiation of the PDR Program in 1997, and upon completion of 6,886 project acres, the program will have preserved over 55,000 50,768.18 acres at a PDR funds cost of over \$25 Million dollars. By using PDR funds to leverage funding from other agencies, the cost to the County for preserving these lands have to date averaged only \$510 per acre!

Over 1900 acres and five of the fifty projects listed for 2016 specifically list horse operations incorporated in their other ranching activities. A large majority of the other projects are cattle operations, with horses a general part of their management activities.

Routt County residents continue to support this program, having reaffirmed funding in 2005, approving a larger allocation through 2025. Clearly, Routt Countians recognize the importance of their open land and ranches to the local economy, to tourism and for protection of their visual and natural resources.

### **State of California**

The American Farmland Trust 2009 publication, "California Agricultural Land Loss & Conservation: The Basic Facts", noted the following statistics concerning the loss of agricultural land in California:

- “3.4 million acres of land in California’s agricultural counties are now urbanized. (Another 2 million acres are in areas that are so urbanized that there is no more agricultural production).”
- “Development is now consuming an average of 40,000 acres of agricultural land per year.”
- Since 1990, 538,000 acres have been developed; of this, 28% or 152,000 acres of land, were prime, unique or statewide important farmland (farmland categories are discussed below).
- “In the San Joaquin Valley, which accounts for over half of California’s total agricultural output, more than 60% of all land developed was prime, unique or of statewide importance.”
- “If current development trends continue, 1.3 million acres of California’s agricultural land, including 670,000 acres of prime, unique and statewide important farmland, will be developed by 2050. For irrigated cropland alone, this would entail an annual loss of an estimated \$2 billion in agricultural production in current dollars” (American Farmland Trust, 2009).



*Photo Courtesy American Farmland Trust*

California began its farmland conservation efforts with the California Land Conservation Act of 1965 (the Williamson Act). The purpose of the Act was “to facilitate orderly growth, offering tax incentives to keep land in agricultural use with minimum ten year conservation agreements.” Farmland Security Zones, with longer commitment periods, provided for a 20 year planning period. The California Farmland Conservancy Program (CFCP) in 1996 broadened options for agricultural land conservation with permanent agricultural conservation easements. The ag land conservation programs are administered by the state’s Department’s Division of Land Resource Protection. (State of California Department of Conservation).

### ***Marin County***

Each year, Marin County’s Measure A quarter-cent sales tax supports projects to protect and benefit parks, open spaces and farmland throughout the county. Measure A, which emanates from the County’s Ordinance No. 358620, dedicates about 20% of its funding to farm and ranchland protection through the purchase of agricultural conservation easements. Through this program, Marin County has awarded \$2.9 million in grants for farmland preservation since 2014. This is accomplished through a coordinated process with the Marin Agricultural Land Trust (MALT), one of the most successful land trusts in California.

When Marin County was faced with a large scale planning change to their farmland environment in the 1960’s, local activists began efforts to protect not only the farmland from development, but the farming lifestyle and ability to farm for its agriculturally inclined residents. Formed in 1980, MALT became official. The first land trust to focus on agricultural land and farming, the trust has saved over 50,000 acres, working with more than 80 farm owners. MALT offers a framework that has been successfully

replicated across the country, and continues to address the issue of farmland loss, which is no less a threat than in 1960.

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## **CONCLUSION**

Conservation easements, and the programs that fund and administer them, are a tool of land protection that should not be overlooked by counties, towns and municipalities. In states that do not have enabling legislation, it is something to be sought after and supported by the Farm Bill and other programs. For states that have the legislation, but have not allocated funding, efforts should be made to approach legislators for just that.

Learn about the existence of PDR/PACE programs in your state. If your state has enabling legislation but your county or community has not taken advantage of these programs due to lack of funding, approach your local budgetary and planning offices to get the ball rolling. It's important for you, as an equine enthusiast, to do everything you can in your local community to initiate programs and funding that will benefit horse-keeping and other equine activities.

### **Why do we need Conservation Easements and the PDR/PACE programs that enable them?**

It's a common misconception that planning and zoning, which are necessary components of establishing and regulating land use in local communities, will take care of protecting our farmlands and open space. In many cases, this is exactly what is included in comprehensive plans and zoning codes. Protection of important agricultural, natural resource and open space lands is built in to the language.

But...comprehensive plans and zoning regulations are produced by decision makers within the community – planning departments, commissioners, mayors and other officials. The people in these positions change on a frequent basis, through appointment and election, and their views about land use also change. Even with constant monitoring and input by citizens, and especially the equine community, code and intent can also change.

Conservation easements offer a permanency to land protection that cannot be replicated through community planning. Rather they offer a complementary method of saving these important lands for the future – in perpetuity.

**About the Equine Land Conservation Resource (ELCR):** *ELCR builds awareness about the loss of lands available for horse-related activities and facilitates the protection and preservation of those lands. We provide education and information to assist equine advocates and communities in protecting horse lands and equine access. America's equine heritage embodies the emotional, physical, environmental and economic benefits that evolve from the horse-human relationship. Ultimately, ELCR works to ensure that these benefits are safeguarded. For more information about the ELCR visit [www.elcr.org](http://www.elcr.org) or call (859) 455-8383*