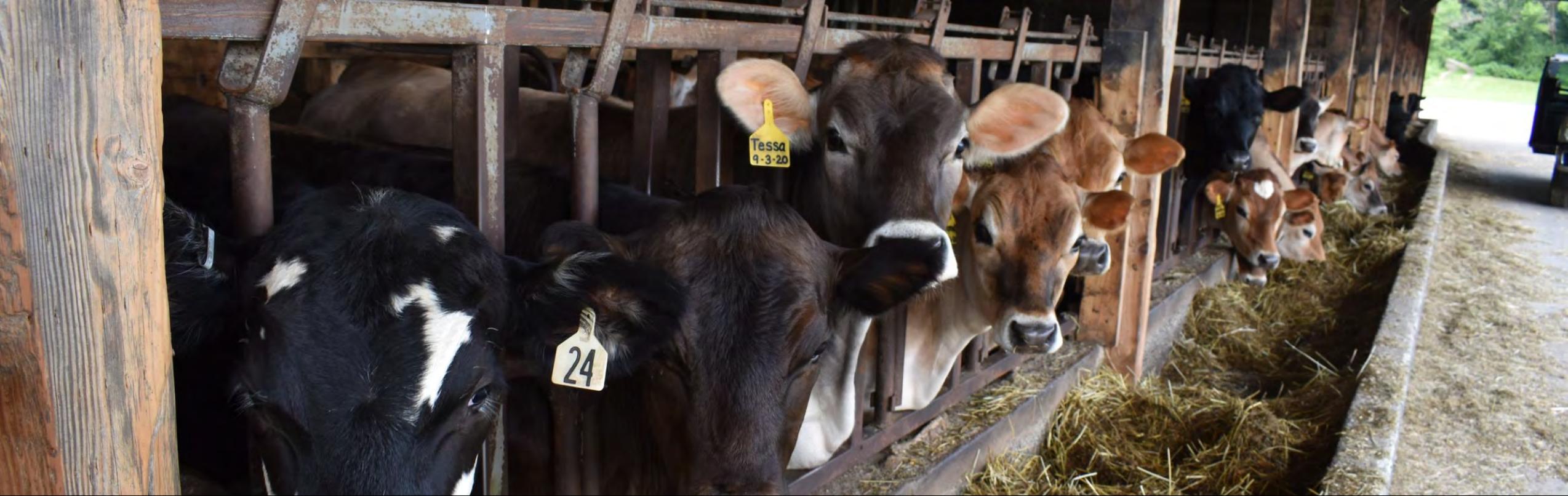


Protecting and Promoting Farmland in Your Town

A Special Webinar for Municipalities in Southeastern
Massachusetts

July 23, 2024





Who is in the room?



Presenters

Kathleen Doherty, American Farmland Trust
Farmland Easement Support Specialist

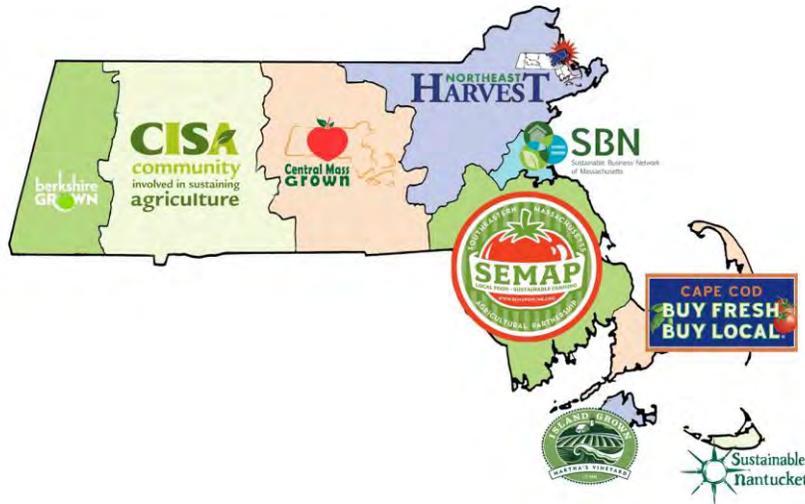
Deanna Levanti, Land for Good
Southeastern New England Field Agent

Susan Murray, Southeastern Massachusetts Agricultural Partnership
Executive Director

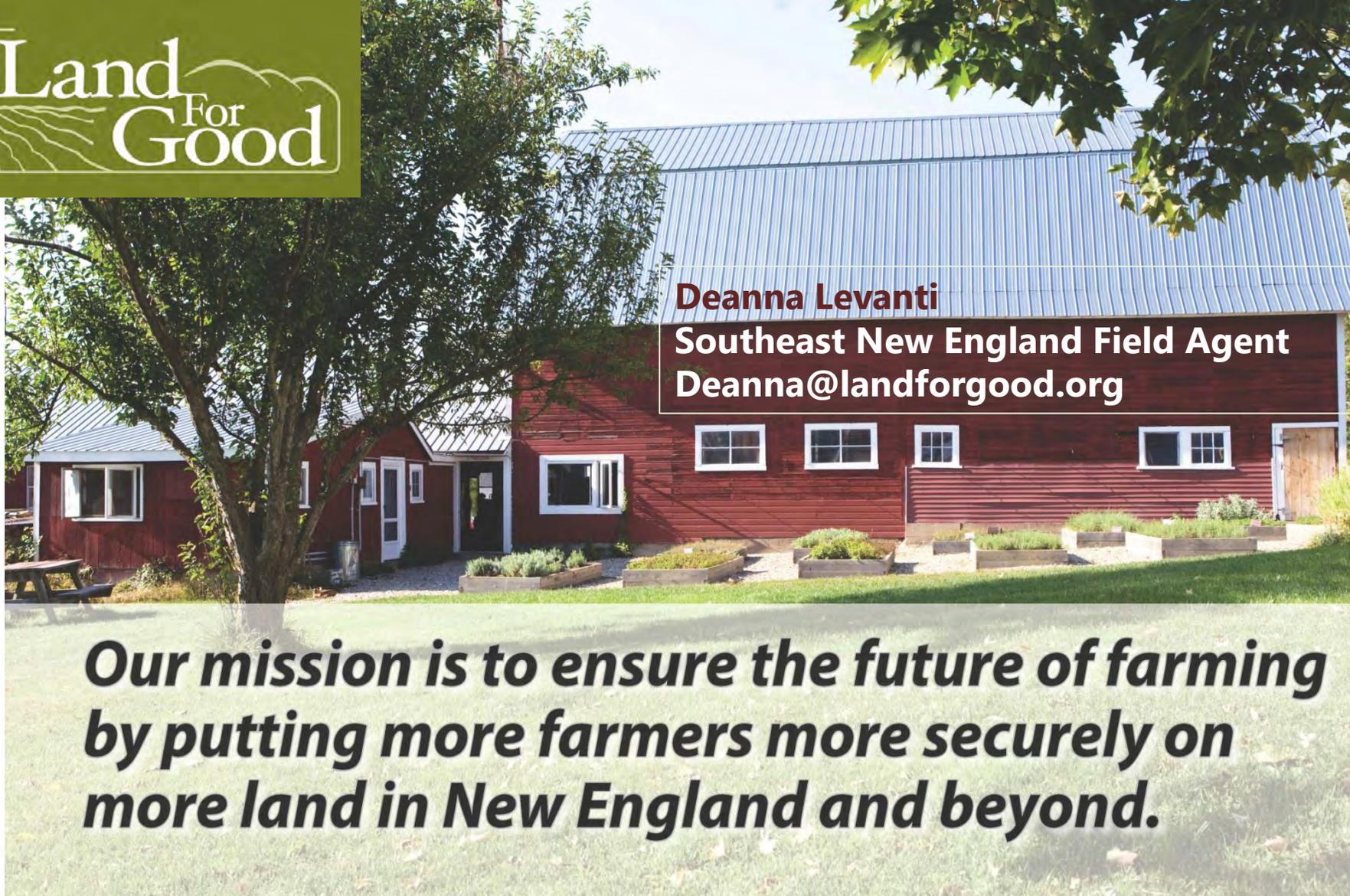


Who is SEMAM & What do we do?

- Buy Local Nonprofit Organization serving Bristol, Plymouth & Norfolk Counties.
- Support farmers in building thriving and sustainable agricultural businesses, through education, business technical assistance, advocacy and local food promotion.
- Help create a regional food system that is equitable, resilient, sustainable and accessible to all.



Susan Murray, Executive Director
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508-289-1814
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Deanna Levanti

Southeast New England Field Agent

Deanna@landforgood.org

***Our mission is to ensure the future of farming
by putting more farmers more securely on
more land in New England and beyond.***

Access

Tenure

Transfer

American Farmland Trust

Saving the land that sustains us by:
protecting farmland,
promoting sound farming practices,
and keeping farmers on the land.

Outline

1. Why protect farmland?
2. Tools for supporting farmers in your town
3. Farmland protection tools and funding sources
4. Farmland access tools
5. Success stories
6. Take action!



Why protect farmland?



Why care about farms?

- Farmland soil is a unique natural resource
- Farms provide jobs and over \$600 million in agricultural goods!
- Farmland is green infrastructure
- Farms produce food!

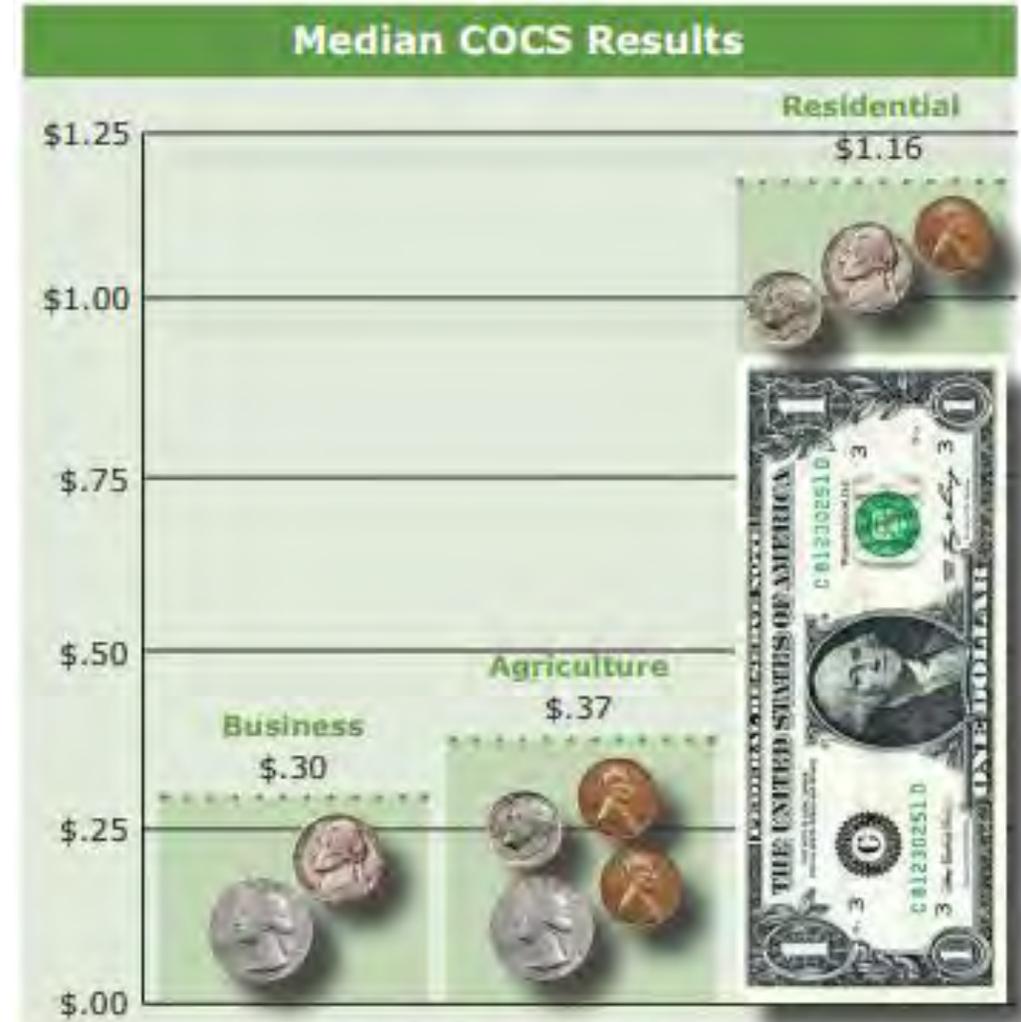
Once it's gone... it's gone.



Source: Farms Under Threat: State of the States, 2020.

Why care about farms?

- Agritourism brings jobs and visitors
- Farms require fewer public services than residential land use (even with lower tax rates on farmland)

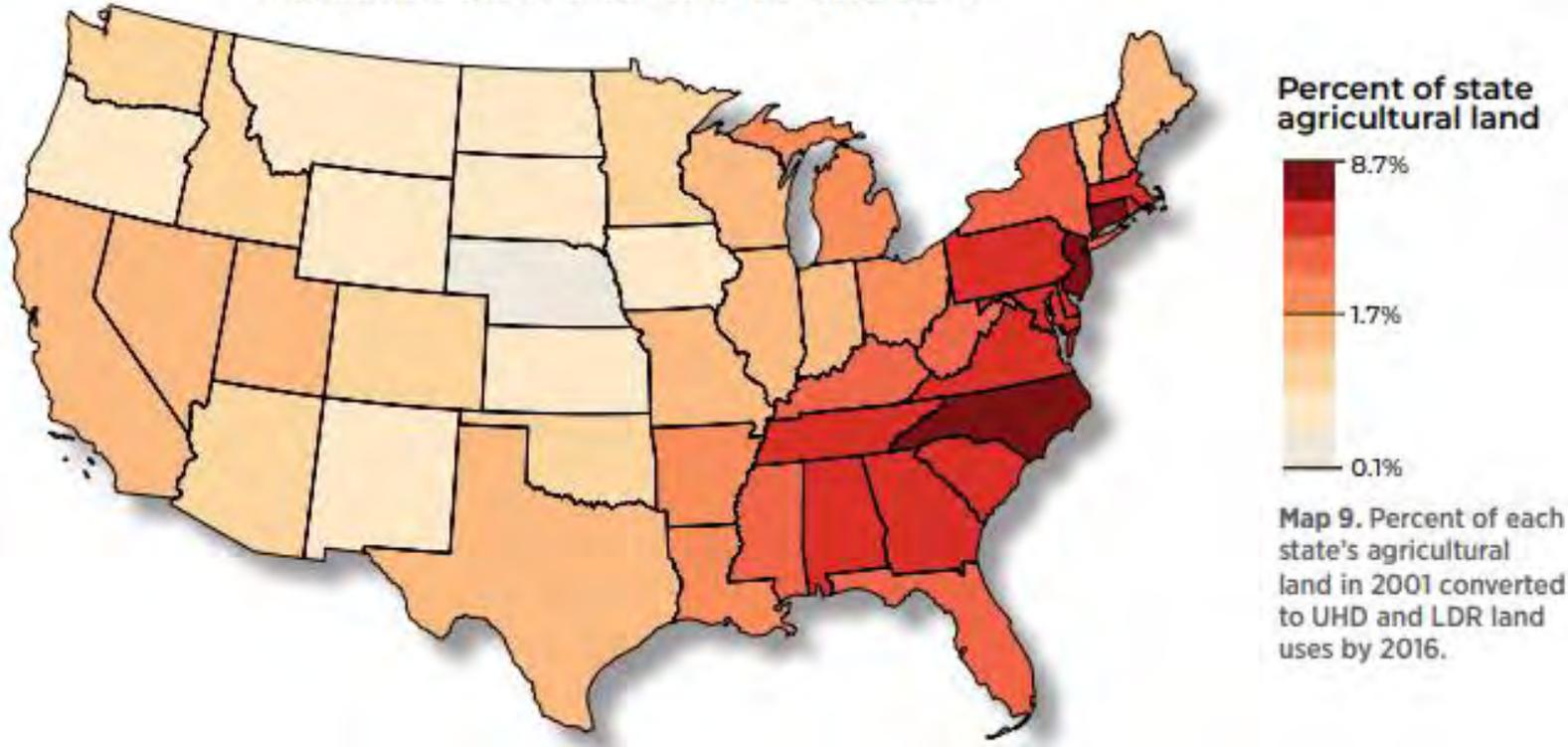


Median cost to provide public services for each dollar of revenue raised.

Source: American Farmland Trust, 2016

Farmland loss

Percent Conversion to UHD and LDR



UHD = urban and highly developed land use
LDR = low-density residential land use

From 2001 to 2016, MA was 6th in the country for percentage of farmland converted.

(AFT [Farms Under Threat: State of the States, 2020](#))

From 2017 to 2022, MA lost 27,202 acres in farms (or 5.5%).

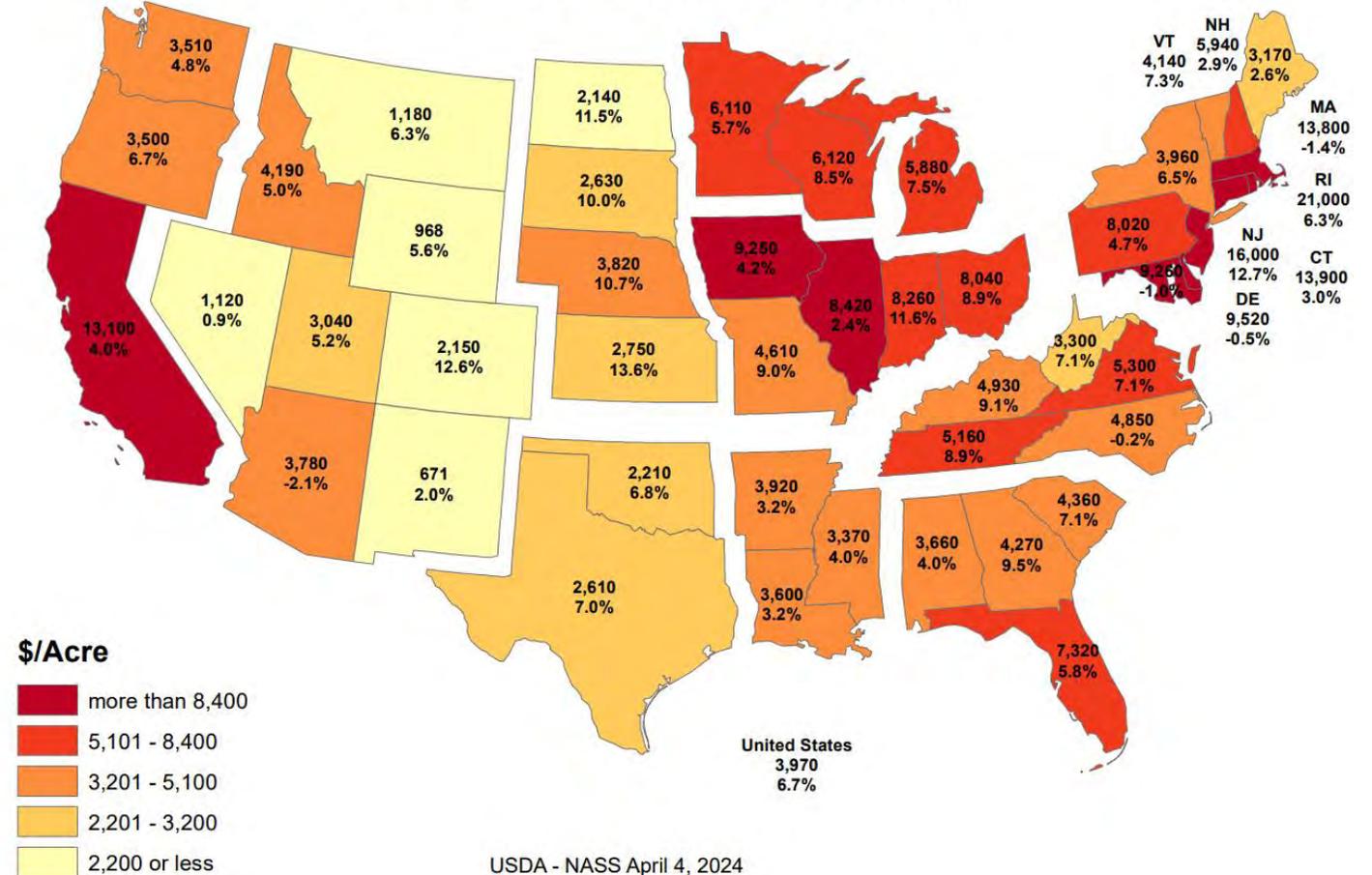
(USDA [Census of Ag, 2022](#))

Farmland affordability

At **\$13,800** per acre, MA has the 4th highest farm real estate values in the country.
([NASS](#), 2023)

2023 Farm Real Estate Value by State

Dollars per Acre and Percent Change from 2022



USDA - NASS April 4, 2024

Farmers and Farmland

- Farmers aged 65 and older own more than 1/3 of the farmland in MA. (2016)
- Farm succession is passing the farm from one generation or owner to another, also called farm transfer or transition.
- Farm succession and farmland access for entering farmers are two sides of the same coin.

*[Keeping Farmers on the Land](#). AFT & LFG, 2016 ([Gaining Insights, Gaining Access research](#))



Farmers and Farmland

- The average age of a US farmer is 58. (2022 US Census)
- Nationally, only 30% of the total farming population is classified as Beginning Farmers (within the first ten years of operating a farm business). (2022 US Census)
- “Farmland value is cited as a factor limiting the entry of new farmers...land value is not set by its agricultural value but rather by its potential development value for housing or commercial activity.” ([Gaining Insights Research](#))



Farmers and Farmland

- Over 90% of Massachusetts' 2,333 senior farmers do not have a young operator working with them.
- Out of 67 senior generation farmers surveyed by LFG and AFT in 2016, ALL wanted to see their land remain in farming "if at all possible."
- Most indicated that they see farmland protection as an important tool for farmland succession and transfer.

*[Keeping Farmers on the Land](#). AFT & LFG, 2016 ([Gaining Insights, Gaining Access research](#))





Tools for supporting farmers in your town



Ways Towns Can Support Agriculture

- Informed town officials and commissions
- Ensure farm friendly permitting, zoning
- **Establish an Ag Com; adopt a Right to Farm By-law**
- Conduct a farmland inventory
- Supportive tax policies
- Limit farmland conversion
- **Secure tenure arrangements on town-owned farmland**
- Include farmers in long term planning efforts; Master Plan, Open Space Plan include farmland protection



Existing State Regs Protect Agriculture

- **“Article 97 of the Massachusetts Constitution ensures “the protection of the people in their right to the conservation, development and utilization of the agricultural... and other natural resources”**
- **Massachusetts General Laws**
 - Chapter 111, Section 125A (nuisance complaints and generally accepted farming procedures)
 - Chapter 40A, Section 3, Paragraph 1 (zoning regulation and special permits, farm stand protection)
 - Chapter 90, Section 9 (protection of Farm equipment and tractors on roadways)
 - Chapter 128 Section 1A (farming, agriculture definitions)
- **Article 89 of the Articles of Amendment of the Massachusetts Constitution, (“Home Rule Amendment”) under protection of which towns may establish Right to Farm By-law**



Right to Farm By-law: Westport

- *“This By-Law does not seek to change these State laws, but to bring them together into one local By-Law to enhance local understanding of “the right to farm.” This General By-Law section encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Westport by allowing agricultural uses to function with minimal conflict with abutters and Town agencies. This section shall apply in all areas in the Town.”*
- *The word "farm" shall include any parcel or contiguous parcels of land used for the primary purpose of agriculture as defined by the Commonwealth. The Commonwealth definition is at present that of Chapter 61A: a farm must contain at least five acres and have annual revenues of at least \$500.*
- MDAR Model Right To Farm By-law <https://www.mass.gov/doc/model-right-to-farm-by-law/download>



Right to Farm By Law

- “Right to Farm By-law protects farmers’ rights to engage in normal agricultural operations
- Types of activities: use of roads for farm equipment, pest and disease management, processing and sales of farm products/farm stands, education and farm-based recreation, _____.
- Procedure for complaints leans into conversations with appropriate town boards before a formal filing.
- *As we continue to lose farmland to development, the amount of space between farms and houses dwindles. Residential and agricultural uses may be conflicting. Newer residents may not be used to the sights, sounds, and smells of agriculture, and neighborly complaints are common. Folks may be unfamiliar with newer farming practices.*
- *Right to Farm By-law underscores the need to prioritize farming and food production within the town.*



Examples of Town Ag Comm By-law Language

- serve as facilitators for encouraging the pursuit of agriculture
- promote agricultural-based economic opportunities in the Town
- develop a work plan to guide its activities
- act as mediators, advocates, educators, and/or negotiators on farming issues
- work for preservation of prime agricultural lands
- pursue all initiatives appropriate to creating a sustainable agricultural community
- advise (Town) Land Preservation Advisory Committee on transactions and acquisitions involving agricultural lands in town
- advise the Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health and Historic Commission on projects and activities involving agricultural lands in town
- engage in projects and activities to promote the business of farming, farming activities and traditions, and farmland protection in town including educational programs and community events
- report on its projects and activities on an annual basis within the Town Report



Resources for Ag Coms

- MDAR Handbook for establishing an Ag Com: <https://www.mass.gov/files/documents/2016/08/ra/handbook-for-agricultural-commissions-full-doc.pdf>
- Ag Com Tool kit, MA Association of Ag Coms: <https://www.massagcom.org/AgComToolkit.php>
- Creating useful work plans for Ag Coms: <http://grafton-ma.gov/DocumentCenter/View/2901/Creating-Useful-Work-Plans---A-Guide-PDF>





Farmland protection tools



Farmland protection tools

- Chapter 61A
- Permanent land protection: CRs/APRs
- Farmland of Local Importance designation

Chapter 61A

- Agricultural land provides public benefits and uses fewer public services! Ch. 61A taxes farms accordingly.
- Get to know the farms in your town
 - Strengthen the Ag Commission and invite farmers to serve on Town boards
 - Share list of Chapter 61A properties among Town boards
 - Include farms in town planning, especially open space plan
- Limitations of Ch. 61: Property values are high! Penalties from Ch. 61 may not be enough of a disincentive for people selling to developers

Chapter 61A – ROFR

- Chapter 61A gives towns a unique opportunity to protect priority properties when they come up for sale
 - Use town open space plan to identify priority parcels BEFORE they come up for sale/conversion
 - Right of First Refusal (ROFR) gives town 120 days to meet a bona fide offer (or, if land is not for sale, to purchase the land for FMV)
 - CPA + Chapter 61 ROFR = a powerful tool for land protection!
- Towns may assign the option to a land trust or partner
 - 70% of the land must be preserved as forest, ag, or recreation land
 - Limited development allowed on the remainder

Permanent land protection

- Best tool: Conservation Restriction (CR) or Ag Preservation Restriction (APR)
 - Even land that is owned by a town or land trust may not be permanently protected
 - Some CRs/APRs are more farm-friendly than others
- Purpose of CR/APR: protect agricultural use and future ag viability
- Permitted uses
 - Agricultural structures, with limits on size and location
 - Agritourism and commercial use
 - Dwellings, including farm worker housing (when possible)

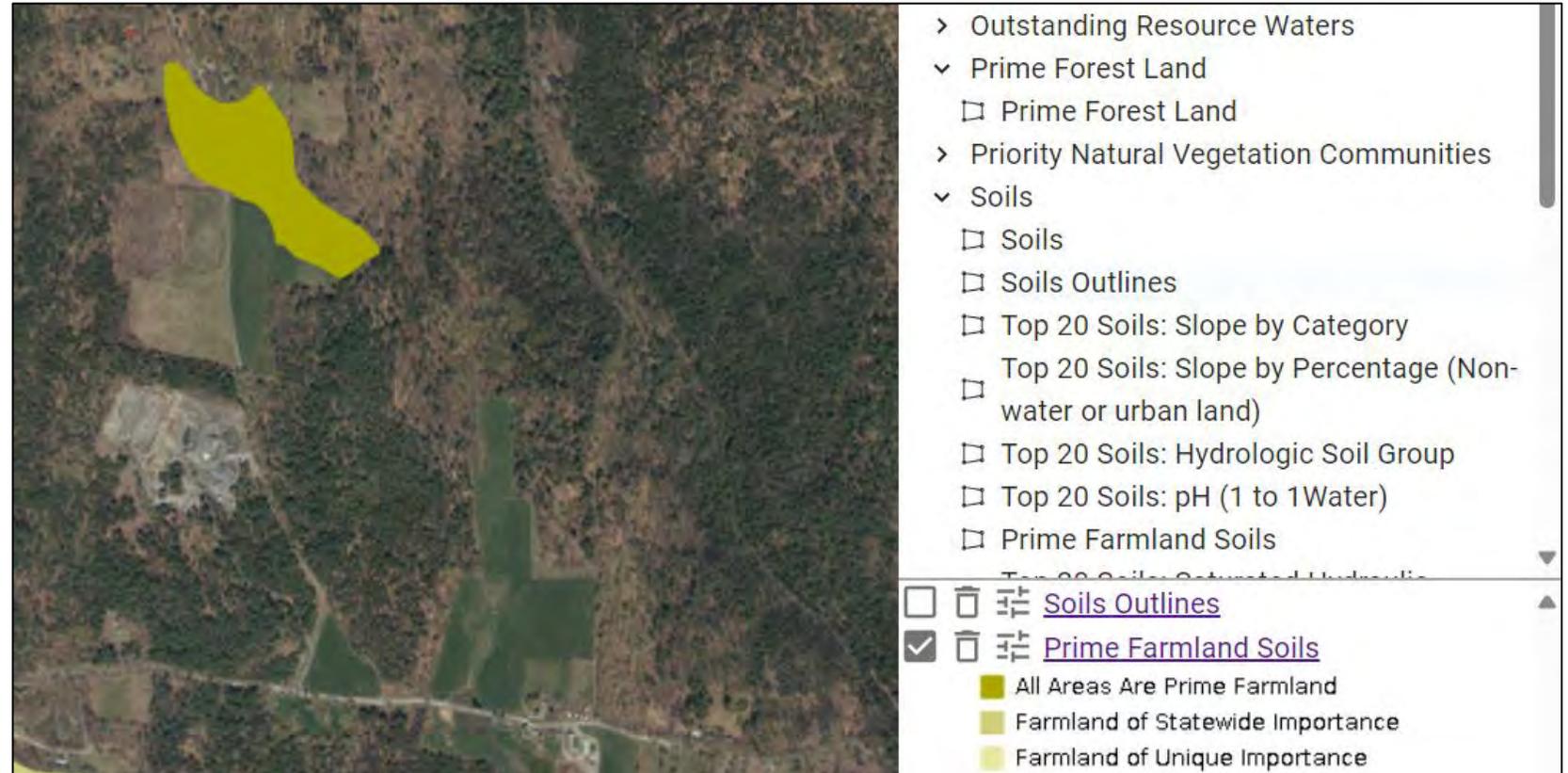
CR/APR terms for farm viability

- OPAV (Option to Purchase at Ag Value)
 - Farm must be sold to a “qualified farmer” at the “agricultural value”
- Affirmative ag covenant
 - Land must be used for commercial agriculture

All MDAR APRs include OPAV and affirmative ag covenant

Farmland of Local Importance (FLI)

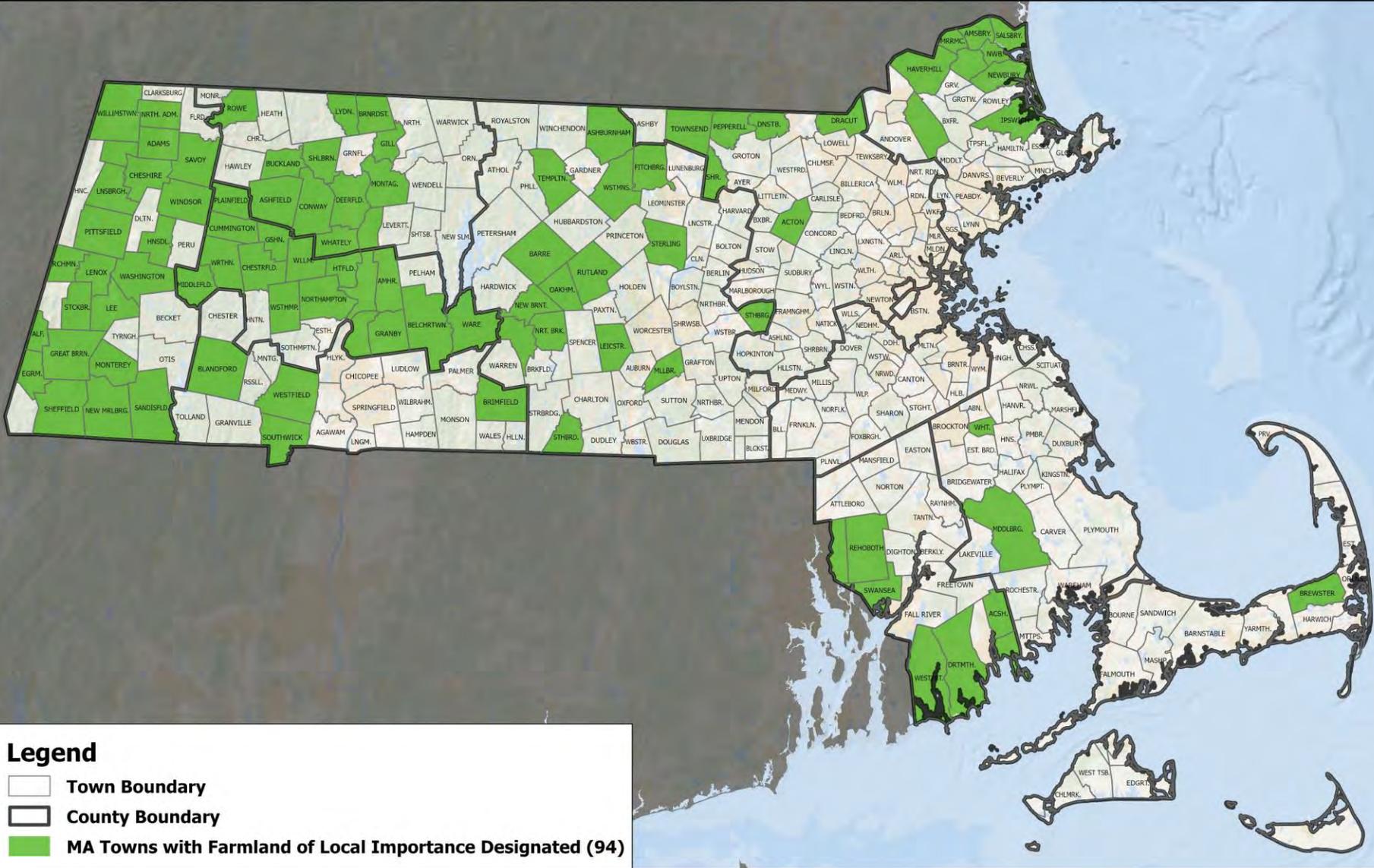
Many New England farms are growing crops in areas not identified as “prime farmland soil.”



Farmland of Local Importance (FLI)

- Definition: Land/soils that are not recognized as prime/unique/statewide important farmland, but are **suited for crop production**
- Benefit: Farms with FLI can qualify for more land protection programs!
- Municipality must **formally designate FLI soils** with sign-off from USDA-NRCS

Massachusetts Towns with Farmland of Local Importance Designated



Legend

- Town Boundary
- County Boundary
- MA Towns with Farmland of Local Importance Designated (94)

Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

USDA is an equal opportunity provider, employer, and lender.



Last updated on 6/7/2024

Massachusetts Towns with Farmland of Local Importance Designated

Farms with FLI soils can qualify for more farmland protection programs!

[Current list of towns](#)

Legend

-  Town Boundary
-  County Boundary
-  MA Towns with Farmland of Local Importance Designated (94)

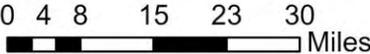


New FLI Screening Tool!

Contact AFT to get started

Legend

-  **Town Boundary**
-  **County Boundary**
-  **MA Towns with Farmland of Local Importance Designated (94)**





Farmland protection funding programs



Farmland protection funding programs

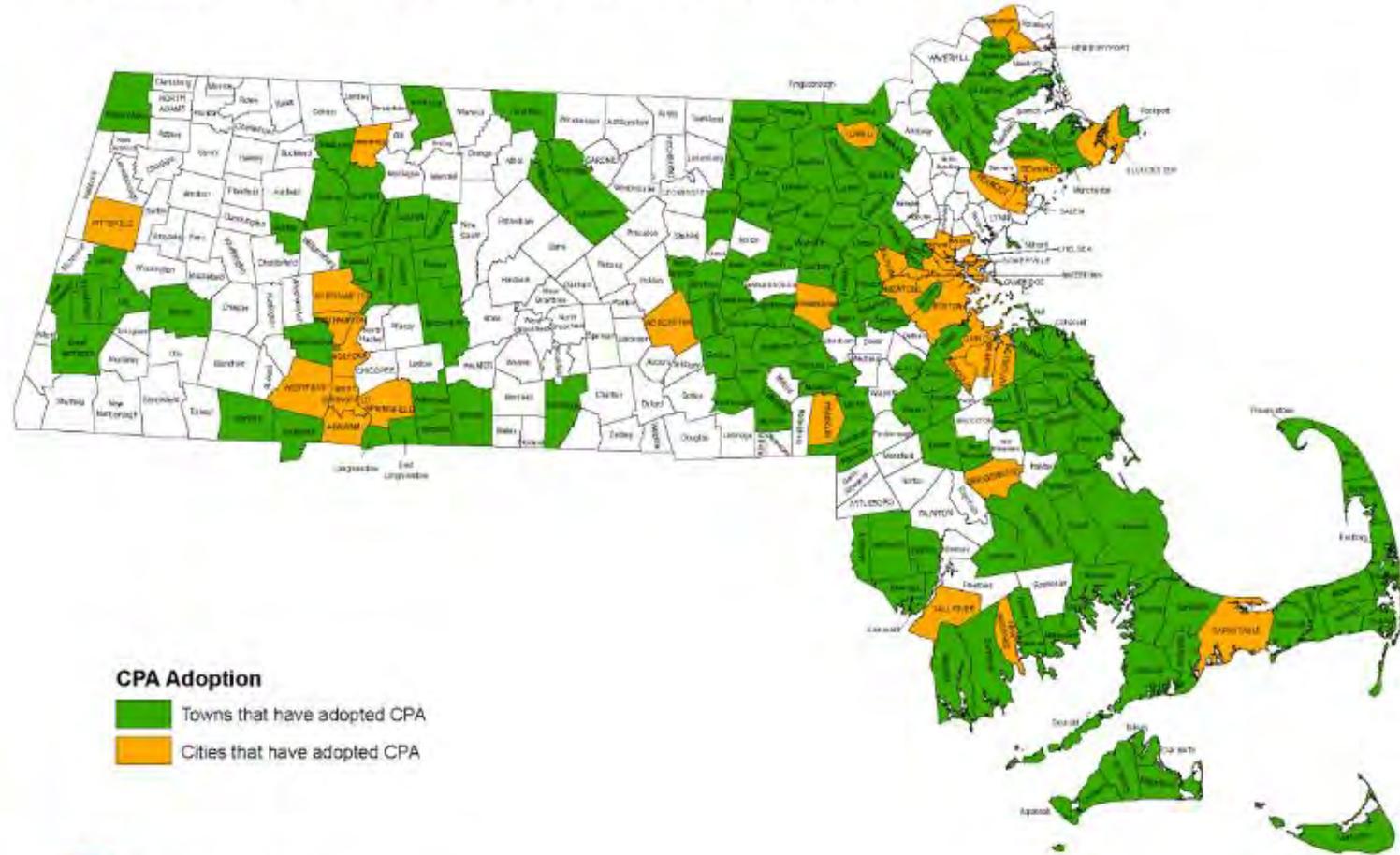
- Community Preservation Act (CPA)
- Mass Dept. of Agricultural Resources (MDAR) APR program
- “Private” APR
- USDA-NRCS ACEP-ALE program
- USDA-NRCS ACEP-WRE program
- Mass. Division of Conservation Services (DCS) grant programs

CPA

Adopt CPA
to fund farmland
protection in your
town!

Community Preservation Act Adoption

November 2023



CPA Adoption

-  Towns that have adopted CPA
-  Cities that have adopted CPA



Source: Community
Preservation Coalition, 2023.

Using CPA for farmland protection

- Make CPA dollars go further
 - Partner with your local land trust!
 - State funds are a great match for CPA
- Get creative
 - Can raise funds by bonding against future CPA funds
 - Can establish a Conservation Fund using CPA funds for future open space purchases
- Public funds must have a public benefit
 - “Public benefit” does NOT require town ownership or public access
 - Town may hold CR or APR, or be a co-holder

MDAR Ag Preservation Restriction (APR) program



- Applicant = landowner, restriction holder = MDAR (Towns may co-hold)
- MDAR covers most costs for the APR and transaction costs
 - 5-10% local match or bargain sale component
 - Reduced local match requirement for right-to-farm towns!
- Eligibility: Similar to Chapter 61A
- Advantages:
 - Well-funded program with minimal local match
 - MDAR has a robust APR stewardship program!

“Private” APR



- An APR held by the land trust or town (not MDAR)
- No funding from MDAR for Private APRs currently
 - Funds may be raised from other sources, including ACEP-ALE, DCS grants, private fundraising, etc.
- Advantages
 - **No easement template!**
 - Dwellings and farm buildings may be included
 - Approved and signed by Commissioner of MDAR, not Secretary of EEA

Agricultural Conservation Easement Program – Agricultural Land Easement (ACEP-ALE)



- Funded by the Farm Bill, designed for private farmland protection
- Applicant = town, land trust, state government, or Indian tribe, working with a landowner
- NRCS pays 50% of the CR/APR value
 - 50% local match or bargain sale component
 - Applicant pays transaction costs
 - MDAR often uses ACEP-ALE as a cost-share for APRs
- Advantages:
 - CR/APR deed terms can be more flexible than MDAR
 - Dwelling may be included within CR/APR area
 - Lots of \$\$ right now! [Link for ACEP-ALE toolkit](#)

Agricultural Conservation Easement Program – Wetlands Reserve Easement (ACEP-WRE)



- Protect, restore, and enhance wetlands that were previously degraded due to agricultural uses
 - Includes payments for former cranberry bogs
- Applicant = private or tribal landowners
- NRCS pays to restore wetlands, then purchases an easement
 - NRCS may cover up to 100% of costs
- [Link for new WRE toolkit](#)

DCS grants

- Overview of grant programs
 - LAND, Conservation Partnership, Landscape Partnership
- Considerations for farmland parcels:
 - Public access required – won't work for all farms
 - Timeline to close may not align with APR and/or ALE
 - Funds targeted for biodiversity and recreation – farms may not rank as high



Farmland access tools



We preserved the farmland, now what?

Get the land into the hands of a
farmer and keep it working!



Support organizations can help!

- Clarify Goals, Identify Partners
- Assess a property
- RFP Review
- Lease Drafting
- Resources to support along the way – multiple orgs
- [New England Farmland Finder](#)—post a property for sale or lease, connect with farm seekers

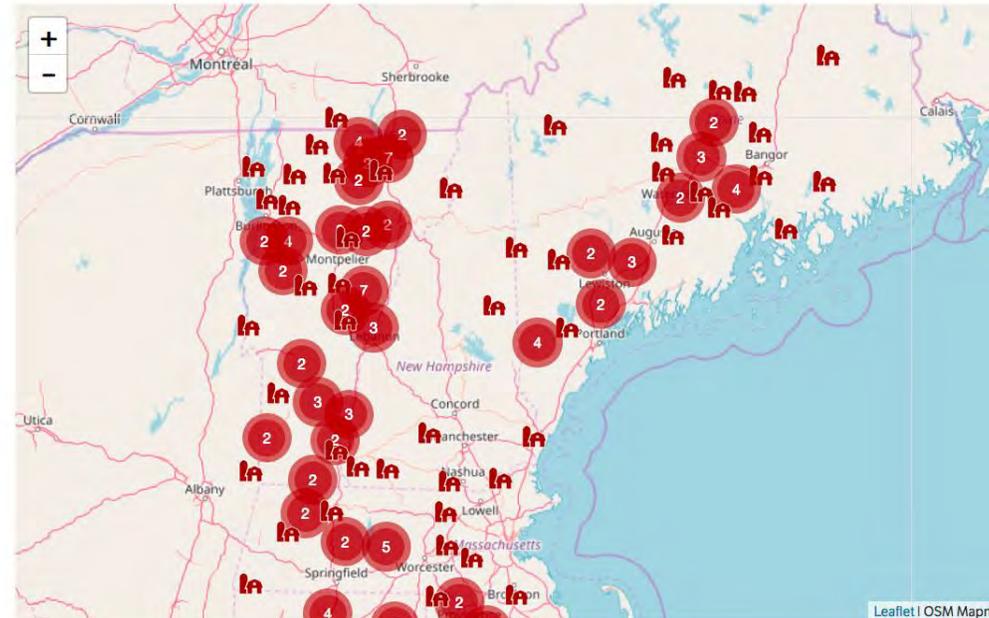


Available Farms and Land

USING THE MAP: Click on the icons for a link to more information about each posting. Use the filters to narrow your search. Note that the map excludes some properties at the owners' request; all properties are listed (by state) below the map.

TOTAL NUMBER OF ACRES - Any -	ACRES OF CROPLAND/TILLABLE LAND - Any -	ACRES OF PASTURE - Any -
TENURE ARRANGEMENT - Any -	WATER SOURCES PRESENT - Any -	BARN AND SHEDS - Any -
FARMER HOUSING - Any -	EQUIPMENT AND MACHINERY - Any -	STATE - Any -

Search



Leasing Land to Farmers: A Handbook for New England Towns and Municipalities

- [*35 page detailed guide*](#) walks through the steps and considerations of leasing farmland specifically from the vantage point of towns
- Before You Start: Thinking through leasing farmland before searching for a farmer, assessing the physical suitability of the property, confirming mission alignment, Leasing versus Licensing
- Tips on communication with the public when land is leased, potential restrictions or constraints for organizations or towns, finding a farmer
- The Lease Agreement and Document
- Insurance and Legal considerations
- Examples/Case Studies including a Chapter on Community Farms
- Many Appendices:
 - Agricultural Leasing Checklist
 - Checklist for Land Trusts, Institutions, and Municipalities
 - Typical Conservation Provisions
 - Sample RFP (Request for Proposal)
 - Sample lease for Town owned land



Land For Good Resources

- New England Farmland Finder
<https://www.newenglandfarmlandfinder.org/>
- Handbook for towns
<http://landforgood.org/resource/group/making-land-available/>
- Recorded workshops, including 4-part on succession
<https://www.youtube.com/@landforgood>
- Contact us! Email me or fill out our intake form at
<http://landforgood.org/how/landowners/>





Success stories



Success Stories

Know your Farmers

Know your Partners

Know your Funding

Know your RFR Process



Berry Hill Farm - WLCT - 2022

- The Berry Hill Farm Conservation Project was a \$1.3 million endeavor.
- The Town of Westport partnered with WLCT, approving a \$350,000 Community Preservation Act grant.
- The Town and WLCT co-own the conservation restriction, preserving this farm, forest, and wetlands forever.
- Additional funding was provided by a \$350,000 grant from a local foundation
- Many generous donors contributed an additional \$300,000 in donations to WLCT during its 50th Anniversary Campaign.
- <https://westportlandtrust.org/>





Dutch Belt to Copicut Farms

- Dairy to Pasture based livestock farm
- ~80 acres in North Dartmouth
- First Right of Refusal
- House lot tied to farm
- Preserved through CR and APR
- Financed through Town and local land trust
- RFR to find farmers
- Farmers purchased the farm



Dutch Belt to Copicut Farms

1. Know your farmer
2. Know your partners
3. Know your funding
4. Know your RFR process

Doggett Brook Farm to Elliot Farm

1. Know your farmer
2. Know your partners
3. Know your funding
4. Know your RFR process





Take action!



Call to action

- Engage with farmers and connect them with resources
- Improve communication between Town boards and departments, including Ag Comm
- Adopt right-to-farm by-laws and farm-friendly zoning
- Be proactive with Chapter 61A properties, including exercising ROFR
- Designate Farmland of Local Importance soils
- Adopt and utilize CPA for farmland protection
- Partner with your local land trust!
- Lease municipal land to farmers

Call to action

- Stay in the loop!
 - Sign up for updates from [SEMAP](#) and [Land for Good](#)
 - Sign up for the National Ag Lands Network ([NALN](#)) – resources and networking from around the country!
 - Other helpful e-newsletters:
 - [USDA-NRCS](#) (choose “MA-State NRCS Farmland Protection” list)
 - [Mass Land Trust Coalition](#) e-news
 - MDAR [Farm and Market Report](#)
- Make the case for farmland protection!
 - AFT [Farms Under Threat](#) is a great resource
 - MA [Farmland Action Plan](#) was just released



Contact us any time!



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