

# **APPENDIX**

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- American Farmland Trust:
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- Summaries of Agricultural Planning Documents:
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  - Agricultural and Farmland Protection Plan summaries: Towns of Brant, Evans, and North Collins Agricultural and Farmland Protection Plan
  - Room at the Table: Food System Assessment of Erie County summary

## Web Links:

- Farmland Information Center: <http://www.farmlandinfo.org/>
  - Eden Agricultural and Farmland Protection Plan
  - Clarence Agricultural and Farmland Protection Plan
  - Brant/Evans/North Collins Agricultural and Farmland Protection Plan
  - Room at the Table: Food System Assessment of Erie County.
- Sowing the Seeds of Southtowns Agribusiness  
[http://www.regional-institute.buffalo.edu/Includes/UserDownloads/sowing\\_finalreport.pdf](http://www.regional-institute.buffalo.edu/Includes/UserDownloads/sowing_finalreport.pdf)
- NYS Dept. of Agriculture and Markets: Guidance documents  
<http://www.agriculture.ny.gov/AP/agsservices/agdistricts.html>
- Erie Niagara Framework for Regional Growth  
<http://www2.erie.gov/regionalframework/index.php?q=FrameworkPlan>

## Funding Sources

Program Name	Program Description	Eligible Applicants	Capital Equipment	Working Capital	Technical Assistance	Expected Due Date
Value-Added Producer Grant (USDA): <a href="http://www.rurdev.usda.gov/BCP_VAPG_Grants.html">www.rurdev.usda.gov/BCP_VAPG_Grants.html</a>	This grant program can be used directly by farmers and some intermediaries in the food system to support the working capital finance needs related to changes in the market or product development.	Farmers and agribusinesses with risks in production who are seeking to change marketing and/or manufacturing practices.	No	Yes	Yes	August 2013
Rural Business Enterprise Grant (USDA): <a href="http://www.rurdev.usda.gov/BCP_rbeg.html">www.rurdev.usda.gov/BCP_rbeg.html</a>	This program can be accessed by qualified not-for-profit and government agencies to support market feasibility studies, business planning, and other enterprise development activities related to profit making businesses.	Public bodies and qualified Exempt Organizations that have been through USDA Microenterprise training in communities with a population less than 50,000.	Yes	Yes	Yes	April 2013
Rural Business Opportunity Grant (USDA): <a href="http://www.rurdev.usda.gov/BCP_RBOG.html">www.rurdev.usda.gov/BCP_RBOG.html</a>	This program provides financial support to community level business assistance programs.	Public bodies and qualified Exempt Organizations that have been through USDA Microenterprise training in communities with a population less than 50,000.	No	No	Yes	July 2013
Community Facility Grant (USDA): <a href="http://www.rurdev.usda.gov/HAD-RCDI_Grants.html">www.rurdev.usda.gov/HAD-RCDI_Grants.html</a>	Communities can access funds through this program to develop community infrastructure such as water and sewer systems to support economic growth.	Public bodies and qualified Exempt Organizations that have been through USDA Microenterprise training in communities with a population less than 50,000.	Yes	No	No	On-going
Specialty Crop Grant (USDA/NY): <a href="http://www.agriculture.ny.gov/AP/slide/SpecialtyCrop.html">http://www.agriculture.ny.gov/AP/slide/SpecialtyCrop.html</a>  <a href="http://www.agriculture.ny.gov/RFPS.html">www.agriculture.ny.gov/RFPS.html</a>	This program is administered by the NY Department of Agriculture and Markets and is used to support business growth, development, marketing, and research in support of non-program crops.	For-profit and Exempt Organizations with a mission to support growth in the specialty crop sector.	Yes	Yes	Yes	April 2013

<b>Program Name</b>	<b>Program Description</b>	<b>Eligible Applicants</b>	<b>Capital Equipment</b>	<b>Working Capital</b>	<b>Technical Assistance</b>	<b>Expected Due Date</b>
Rural Microenterprise Assistance Program (USDA): <a href="http://www.rurdev.usda.gov/vBCP_RMAP.html">www.rurdev.usda.gov/vBCP_RMAP.html</a>	This program provides funding for government agencies and not-for-profits that provide direct technical and funding support for microenterprises.	Public bodies and qualified Exempt Organizations that have been through USDA Microenterprise training in communities with a population less than 50,000.	Yes	No	Yes	Ongoing
Farmers' Market Promotion Grant (USDA): <a href="http://www.ams.usda.gov/AMSV1.0/FMPP">www.ams.usda.gov/AMSV1.0/FMPP</a>	This program provides funds to support direct market expansion and market access. Often used to encourage greater access to farmers' markets by underserved populations.	Public bodies and qualified Exempt Organizations.	Yes	Yes	Yes	May 2013
Economic Adjustment Assistance and Community Trade Adjustment Assistance Grants (EDA): <a href="http://www.grants.gov/search/search.do;jsessionid=XfMNPYL_VtKZGfvLW3JwvdSK5pPRLXhYfvGW9cMTxNhDKM5QzmZ6x%21545677704?oppId=131493&amp;mode=VIEW">http://www.grants.gov/search/search.do;jsessionid=XfMNPYL_VtKZGfvLW3JwvdSK5pPRLXhYfvGW9cMTxNhDKM5QzmZ6x%21545677704?oppId=131493&amp;mode=VIEW</a>	Communities covered by a Comprehensive Economic Development Strategy, like Erie County, can access these funds to support industrial and entrepreneurial development projects.	Public bodies and Exempt Organizations with a compliant Comprehensive Economic Development Strategy on file with EDA.	Yes	No	Yes	Quarterly
New York Buy Local Campaign: <a href="http://www.agriculture.ny.gov/RFPS.html">www.agriculture.ny.gov/RFPS.html</a>	This program supports the development of regional branding programs through small grants.	Public bodies, Tourism Boards, and Exempt Organizations.	Yes	No	Yes	February 2013
Good Agricultural Practices (GAP) Certification Assistance Program: <a href="http://www.agriculture.ny.gov/RFPS.html">www.agriculture.ny.gov/RFPS.html</a>	This program provides financial assistance to farmers seeking to develop GAP plans.	Farmers.	No	No	Yes	Ongoing

<b>Program Name</b>	<b>Program Description</b>	<b>Eligible Applicants</b>	<b>Capital Equipment</b>	<b>Working Capital</b>	<b>Technical Assistance</b>	<b>Expected Due Date</b>
NY Fresh Connect Program: <a href="http://www.agriculture.ny.gov/RFPS.html">www.agriculture.ny.gov/RFPS.html</a>	This program is designed to fund projects that increase access to NY State grown agricultural products to low income and underserved communities.	Public bodies, Market Authorities, Public Benefit Corporations, and Exempt Organizations.	No	Yes	Yes	April 2013
Northeast Sustainable Agriculture Research Education: Sustainable Community Grants <a href="http://www.nesare.org/Grants/Get-a-Grant/Sustainable-Community-Grant">http://www.nesare.org/Grants/Get-a-Grant/Sustainable-Community-Grant</a>	Projects that strengthen the position of sustainable agriculture as it affects community economic development. Key issues: finance, marketing, land use, water use, enterprise development, value-added activities, labor.	Agriculture oriented organizations and local governments with expertise in sustainable agriculture enterprise development.	No	Yes	Yes	October 2013
USDA Natural Resources Conservation Service: Farm and Ranch Land Protection Program <a href="http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/farmranch">http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/farmranch</a>	Provides matching funds to help purchase development rights to keep productive farm and rangeland in agricultural uses.	Government or non-governmental entity.	No	No	No	April 2013

# Erie County Farmland Protection Plan

## Parcel Rating System and Resource Mapping

### Description and Methodology

The maps and database prepared for Erie County during the preparation of the Erie County Agricultural & Farmland Protection Plan identify agricultural parcels in Erie County and several attributes relating to their potential suitability for permanent protection.

The following maps were prepared:

- Agricultural Soils
- Natural Resource Value
- Agricultural Districts
- Relationship to Regional Growth Policy Areas (proxy for development pressures)
- Proximity to Protected Land
- Clustering of Agricultural Parcels

The Agricultural Parcel database, provided to Erie County as an Excel file, includes a list of Agricultural Parcels, the attributes used to prepare the maps and additional information for use in evaluating parcels for suitability for preservation. The database includes a row for each Agricultural Parcel. Columns include parcel data from the real property database as well as information derived from each of the maps.

This document describes the methodology used to generate the maps and rate and/or assign data to each parcel. Additional descriptions and illustrations are provided in the attached summary.

The gray text boxes present technical information relating to how the Geographic Information System (GIS) and other software were used to create the maps and the database.

#### Agricultural Parcels

The list of Agricultural Parcels was created using the following method:

- 1) Utilize GIS software to overlay the cropland and pasture coverage (Common Land Unit database) provided by NRCS onto a parcel base map.
- 2) Select all parcels that include cropland or pasture.
- 3) Remove parcels with a negligible (<1 acre) amount of cropland, unless the parcels had been assigned an agricultural property classification code in assessment records.
- 4) Remove parcels known to be non-agricultural, including parks and other public facilities

This method selected 5,471 parcels.

Acreage of cropland within each Agricultural Parcel was used to calculate Agricultural Soils Value. However, confidentiality requirements associated with the NRCS data prohibit the cropland shapefiles data from being published or attributed to a specific location.

As the parcel data incorporated into the GIS database includes duplicate records for many tax parcels (such as when the parcel consists of two or more non-contiguous parts), the parcel database was processed using Microsoft Access to remove duplicate records. A field was added to the master database to indicate total calculated acreage of the parcel.

### Agricultural Soils Rating

The Agricultural Soils Rating was based on the quality of the agricultural soils in the cropland and pasture delineated within each Agricultural Parcel.

For each parcel, GIS software was used to calculate the number of acres of cropland or pasture within each parcel with soils that are classified as Prime, Prime if Drained, and Soils of Statewide Significance based on the USDA Soil Survey. The number of acres in each category was multiply by the following weighting factors:

- Prime Soils: 2
- Prime When Drained: 1.5
- Soils of Statewide Importance: 1

The sum of the three scores is the Agricultural Soils rating.

The Clip tool in ArcGIS 9.3 created a shapefile for each soil category (Prime, Prime if Drained, Statewide Importance) within the cropland/ pasture portions of agricultural parcels. X-Tools Pro for ArcGIS Desktop calculated the acreage of each feature. The resulting data (SBL, calculated acreage) was exported to Excel, using X-Tools Pro. As multiple features were generated for many of the Agricultural Parcels, Microsoft Access was used to calculate the total number of acres of land within each agricultural soils classification for each Agricultural Parcel and generate a database of Agricultural Parcels without any duplicates, apply the weighting factors and calculate the Agricultural Soils Rating for each parcel. The updated parcel database was joined to the Agricultural Parcel shapefile. The thematic map based on the Agricultural Soils Rating value for each parcel was prepared using ArcGIS 9.3.

### Agricultural District

The Agricultural District Map depicts each of the Agricultural Districts in Erie County. Parcels located within in a certified County Agricultural District were identified by using the GIS software. The database includes a column that indicates whether a parcel is included in a certified Agricultural District.

### Natural Resource Value Rating

The Natural Resource Value Rating was based on the number of acres within each Agricultural Parcel that contained:

- A State- or Federally-regulated wetland, including a 100-foot buffer from wetlands regulated by the NYS Department of Environmental Conservation
- Land within 75 feet of a mapped stream or lake
- Land within 500 feet of the Lake Erie shoreline.

The acreage in each of these categories was added together to return the Natural Resource Value Rating.

The Intersect tool and the Buffer tool in ArcGIS 9.3 were used to create shapefiles for areas within wetlands and stream corridors located in Agricultural Parcels. The Union tool was used to combine the shapefiles for the NYS and Federal wetlands to avoid double-counting areas that are classified both as State and Federal wetlands. X-Tools Pro for ArcGIS Desktop was used to calculate the acreage of these shapefiles. The resulting data was exported to Excel, using X-Tools Pro, and incorporated into the master database using Microsoft Access.

### Development Pressure

The Regional Growth Policy Areas map depicts the location of Agricultural Parcels in relation to the Regional Growth Policy Areas identified in the Erie/Niagara Regional Framework for Regional Growth. This 2006 study delineated Developed Areas, Developing Areas, and Rural Areas as well as overlays for Development Centers and Corridors. This map is intended to indicate development pressure and to inform decisions regarding long-term preservation in the context of regional development policies.

The Parcel Database includes columns that contain Yes or No values for each of the five Policy Area categories.

The Parcel Database also includes a column that indicates the number of feet of road frontage along each Agricultural Parcel.

### Proximity to Protected Land

The Proximity to Protected Land map depicts parcels located within 500 feet of protected farmland, a public park, or other preserved land. Protected farmland includes land that is restricted from development due to a permanent conservation easement or owned by a municipality and leased for agricultural use.

The Parcel Database identifies those Agricultural Parcels that are permanently preserved. It also includes two columns that indicate (Yes or No) to indicate whether the Agricultural Parcel is located within 500 feet of: 1) a public park or natural area or 2) protected farmland.

The Western New York Land Conservancy provided a list of parcels, by SBL number, that are permanently protected. The selected parcels were exported to a separate shapefile. A new field was added to the database to designate these parcels as Preserved.

Parks and other publicly owned land were identified in the parcel shapefile database based on ownership and property classification code. These parcels were exported to a new shapefile. A new field was added to the database to designate these parcels as Preserved.

The two shapefiles were combined using the Merge Tool. The Buffer tool was used to identify Agricultural Parcels located within 500 feet of public or protected land.

To generate the Preserved Land columns in the Agricultural Parcels Database, XTools Pro was used to generate three Excel files with the SBL numbers of 1) preserved parcels, 2) parcels within 500 feet of a park or other public land, and 3) parcels within 500 feet of preserved land. Column headings were added and Y entered in each row. The three Excel files were incorporated as three columns of the Agricultural Parcel Database using Microsoft Access.

### Clustering of Cropland Acreage

The Clustering of Cropland Acreage map graphically depicts the proximity of agricultural parcels with high and low acreages of cropland. A mathematical tool in the GIS software ( ESRI Hot Spot Analysis GiZ Score) analyzed proximity and generated a thematic map.

### Agricultural Parcel Database

The final table was exported to Excel for use by decision-makers, in conjunction with the maps, to evaluate individual parcels for agricultural and natural resource value and suitability for protection.

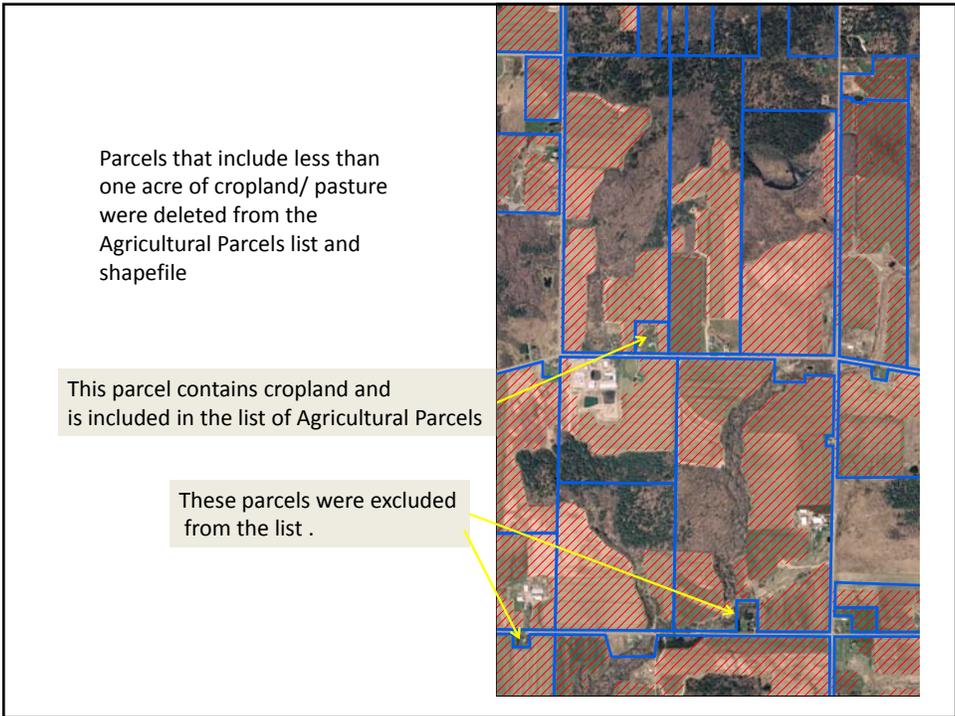
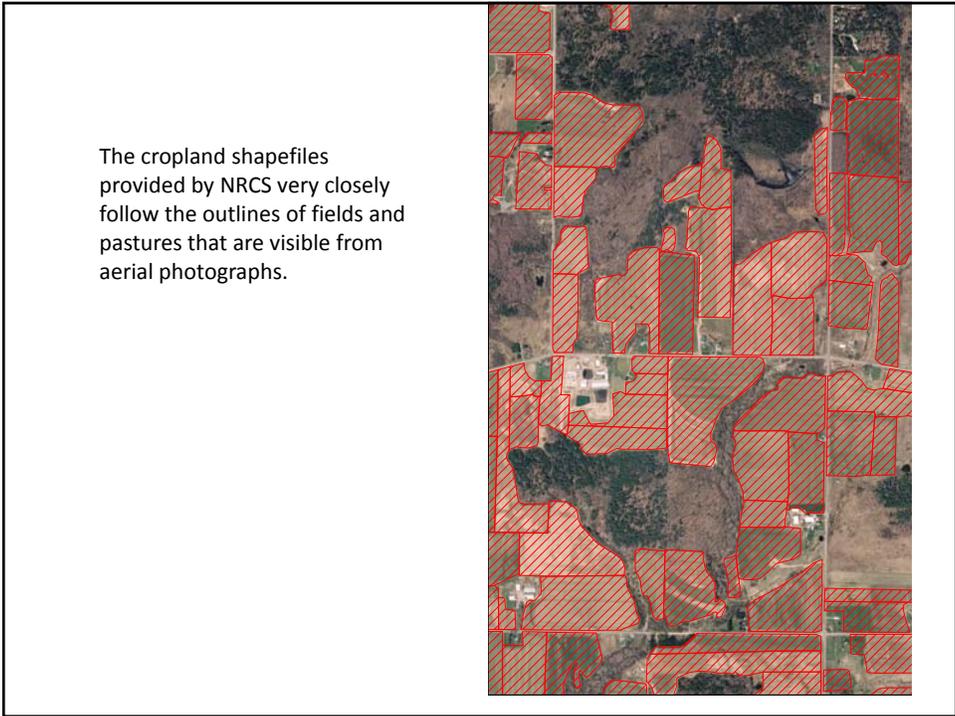
# Erie County Agricultural & Farmland Protection Plan

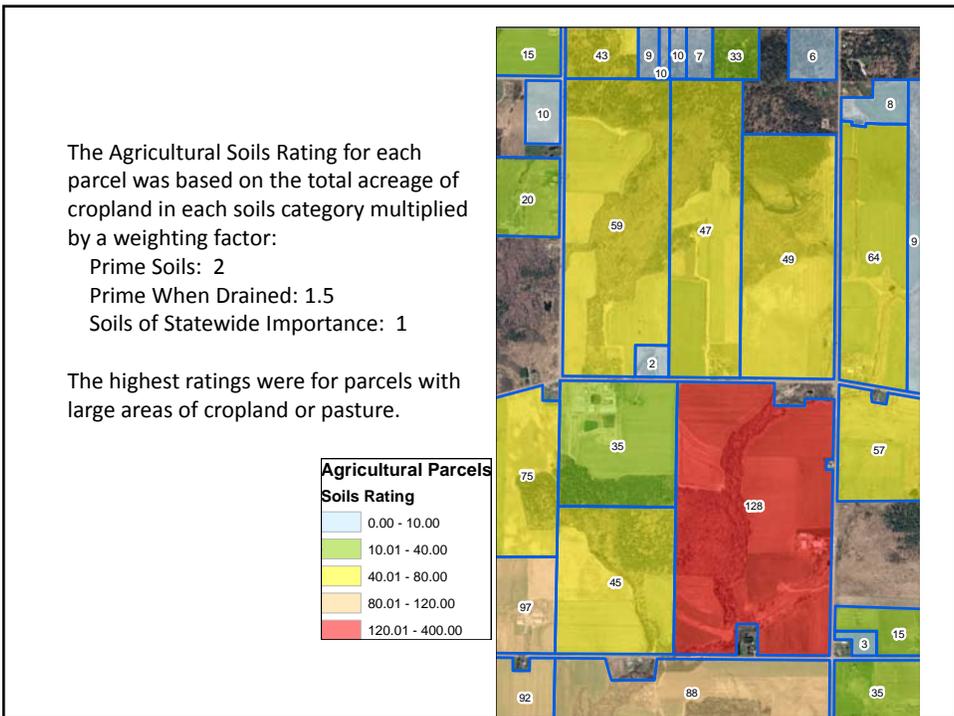
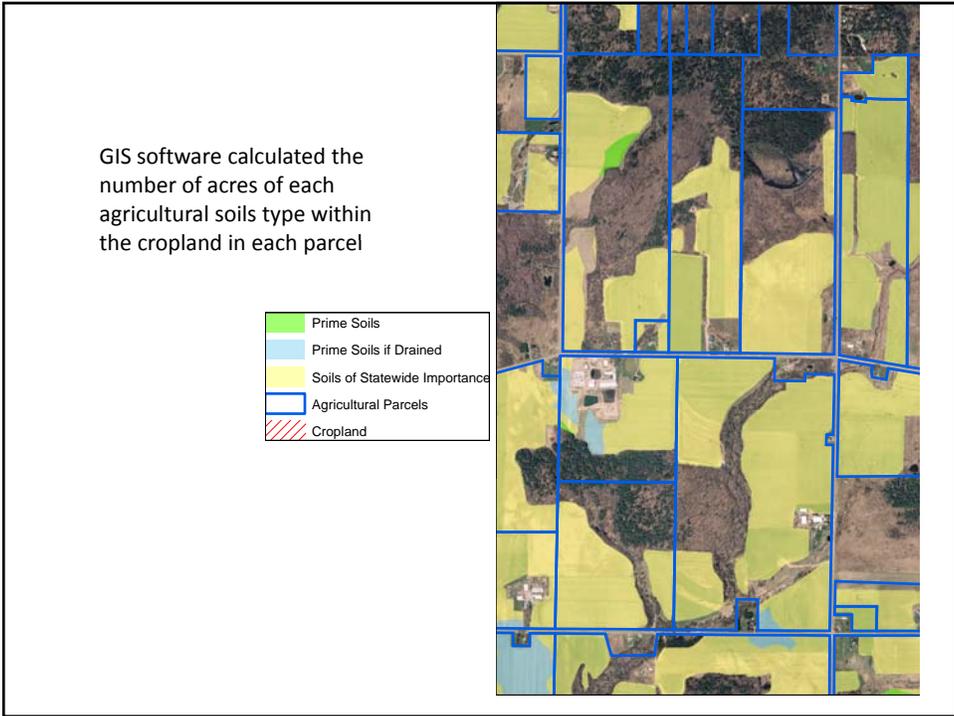
Methodology for Determining  
Agricultural Soils and Natural  
Resource Ratings

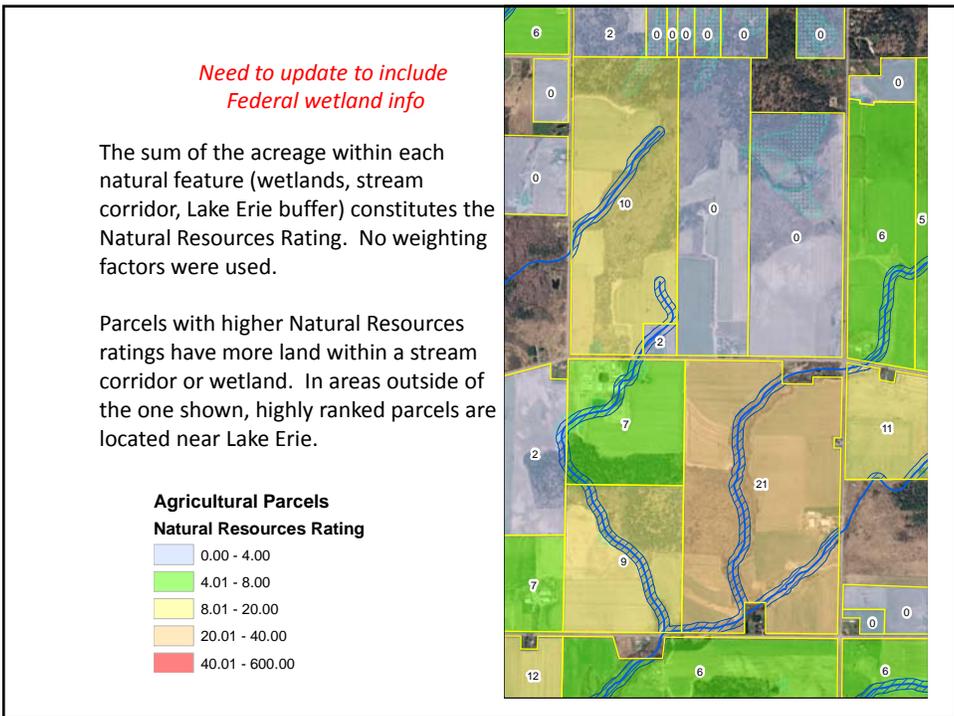
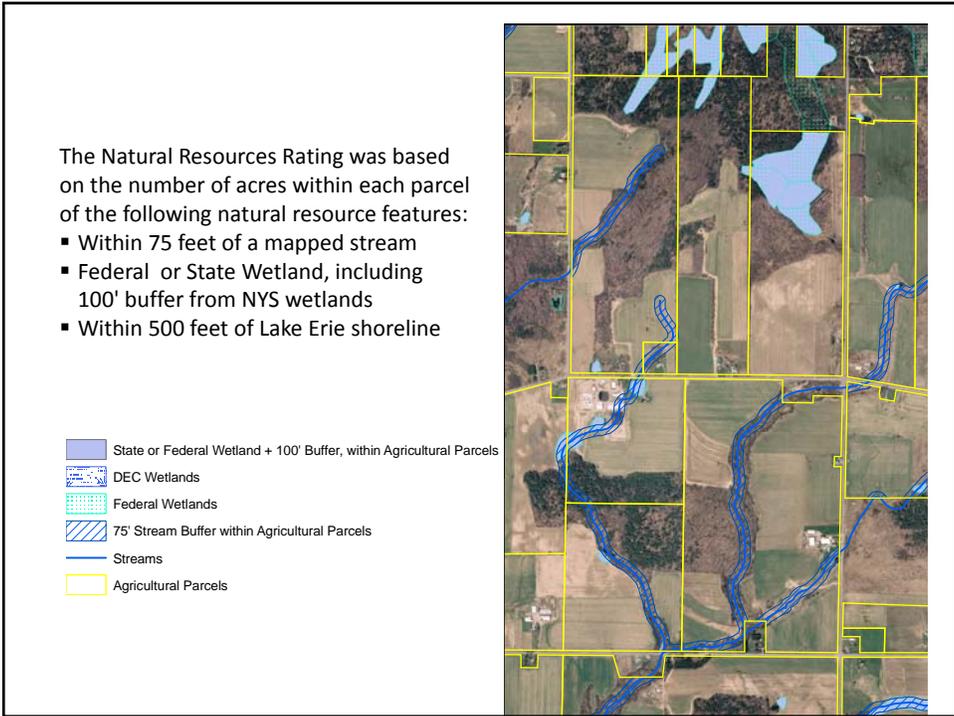


This document demonstrates how the rating system methodology applies to a small area within Erie County. Due to confidentiality of the cropland data, the area is not identified.









# Erie County right to farm law

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COUNTY OF ERIE  
LOCAL LAW NO. 1- 1999

A LOCAL LAW in relation to the right to farm in the county of Erie.

Section 1. Title. This local law shall be known as the "Erie county right to farm law".

Section 2. Legislative policy. The Erie county legislature hereby finds, declares, and determines that farming is important to Erie county because it is a major occupation within the county, providing a livelihood and employment for thousands of residents; farming remains the single-largest industry in New York state; farming provides locally produced, fresh commodities; agricultural diversity promotes economic stability; agriculture promotes open space and promotes environmental quality; agricultural land does not increase the demand for services provided by county or local governments. In order to maintain a viable agricultural economy in Erie county, farmers must be afforded protection allowing them the right to farm. When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance lawsuits. As a result, agricultural operations are sometimes forced to cease operations or are discouraged from making investments in farm improvements.

It is the policy of the county to reduce the loss of agricultural resources by limiting the circumstances under which agricultural and residential purposes may conflict and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

The county legislature finds, declares and determines that chapter 797 of the laws of 1992 provides an important foundation for achieving the right to farm protection sought in Erie county and that in order to address the unique circumstances facing agriculture in Erie county, it is necessary to provide for more comprehensive local right to farm protection.

Section 3. Definitions. As used in this local law, the following terms shall have the following meanings:

"Agricultural practices" shall mean all activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to

the operation of a farm including, but not limited to, the collection, transportation, distribution, storage and land application of animal wastes; storage, transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization and pesticide application; storage and use of legally permitted fertilizers, limes and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products and livestock, for the processing of animal wastes and agricultural products, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations; including construction and maintenance of fences and lanes;

"Agricultural products" shall mean those products as defined in subdivision 2 of section 301 of the agriculture and markets law;

"Farm" shall mean the land, buildings and machinery usable in the production, whether for profit or otherwise, of agricultural products;

"Farmer" shall mean any person, organization, entity, association, partnership or corporation engaged in the raising of crops, or the raising of livestock or livestock products as defined in subdivision 2 of section 301 of the agriculture and markets law, or the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of poultry, fish, or fur-bearing animals, the harvesting of timber or the practice of horticulture, aquaculture, apiculture or viticulture; "Generally accepted agricultural practices" shall mean those practices which are lawful, customary, reasonable, safe and necessary to the industry as they pertain to the practices listed in subdivision a of section 3 of this local law.

#### Section 4. Right to farm declaration.

Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within Erie county at all such times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, due weight and consideration shall be given both to traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

Agricultural practices conducted on farmland shall not violate the public policy of Erie county if such agricultural practices are: (i) reasonable and necessary to the particular farm or farm operation; (ii) conducted in a manner which is not negligent or reckless; (iii) conducted in conformity with generally accepted

agricultural practices; (iv) conducted in conformity with all local, state and federal laws, ordinances and regulations; (v) conducted in a manner which does not constitute a threat to public health and safety or cause injury to health and safety of any person; and (vi) conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this local law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to negligence or recklessness.

#### Section 5. Real Property Sale Disclosure Notice.

When any purchase and sale contract is presented for the sale, purchase, or exchange of residential real property located within the county of Erie, the contract of sale shall include a disclosure notice, which states the following:

It is the policy of Erie county to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that farming activities occur within Erie county. Such farming activities may include, but not be limited to, activities that cause noise, dust, fumes, odors, smoke, insects, operation of machinery during any hour of the day or evening, storage and disposal of plant and animal waste products, and the application of fertilizers, soil amendments, and pesticides by ground or aerial spraying or other method. Property owners and residents of Erie county should be aware that farmers have the right to undertake generally accepted practices and one should expect such conditions as a normal and necessary aspect of living in an agricultural area.

The failure to include such disclosure notice shall not affect the validity of such purchase and sale contract.

Section 6. Severability. If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof directly involved in the proceeding or action in which such adjudication has been rendered.

Section 7. Review committee. No later than December 31, 2000, the chairman of the Erie county legislature shall appoint and convene a review committee to evaluate this local law. The review committee shall be comprised of a cross-

section of the community that will include, but not be limited to representatives of the legislature and other appropriate representatives. The review committee shall provide the legislature with its findings and recommendations with respect to this local law no later than the first day of July 2001.

Section 8. This local law shall be effective the first day of January 2000.

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**NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES**

**AGRICULTURAL ASSESSMENT PROGRAM  
UPDATE**

**Notice: To Landowners applying for an Agricultural Assessment**

By filing this application, the landowner agrees that the lands that benefit from an agricultural assessment will be liable for payment in the event that the land is converted to a nonagricultural use. This provision is explained below.

**CONSEQUENCE OF CONVERTING LAND TO A NONAGRICULTURAL USE:**

The consequence of a conversion is a payment based on five times the taxes saved in the most recent year of benefit. The payment also includes a six percent interest charge compounded annually for each year during the last five, in which the land received an agricultural assessment. An encumbrance for this potential payment runs with the land from the last time the parcel benefited for five years in an Agricultural District and for eight years outside a district.

For land located outside an agricultural district the obligation to make a payment for conversion creates a lien against the entire parcel, even if only a portion of the parcel benefited from the agricultural assessment.

**Recent Program Changes**

The land under an “agricultural amusement” such as a corn maze or a hay bale maze may be eligible for an agricultural assessment if the maze is produced from crops grown on the farm and those crops are harvested and marketed in the same manner as other crops that are produced on the farm.

“Commercial equine operations” have been included in the definition of “farm operations” for purposes of the Agricultural Districts Law. Such a change now enables such enterprises to receive agricultural assessments and gain agricultural district protections. To be a commercial equine operation for this purpose, the enterprise must consist of at least seven acres, must stable at least 10 horses, regardless of ownership, and must receive at least \$10,000 in gross receipts annually from fees generated through (1) commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses – but **not horse racing** – or through (2) the production for sale of crops, livestock, and livestock products, or through both (1) and (2). An otherwise eligible enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least 10 horses, regardless of ownership, by the end of the first year of operation.

*This brief explanation of major provisions of the amended agricultural districts law should be fully understood by you prior to application. If you do not understand, contact your attorney.*



NYS DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

AGRICULTURAL ASSESSMENT APPLICATION
FOR THE 20\_\_ ASSESSMENT ROLL

Renewal Form RP-305-r may be filed with the Assessor for each year hereafter if this application is approved and there are no changes in any information entered on this application form.

TO BE COMPLETED BY THE ASSESSOR

Form section for Assessor completion, including fields for Application Date, Tax Map Number, Exemption Amount, Exemption Code, and Assessor's Signature.

INFORMATION TO BE COMPLETED BY APPLICANT

Form section for Applicant completion, including fields for Tax Map Number, Acres, Mailing Address, Property Location, and contact information.

CERTIFICATION OF APPLICANT

Certification statement box for the applicant to sign and date, certifying the accuracy of the information provided.

PENALTY FOR FALSE STATEMENTS: A person making false statements on an application for exemption is guilty of an offense punishable by law.

(Continued on next page)

**General information** can be found on pages 6 and 7. **Instructions** for the completion of Parts 1 through 9 can be found on pages 7, 8 and 9 of this form. All applicants must complete Parts 1 and 9. Applicants seeking an agricultural assessment for land used to support a commercial horse boarding operation must complete Part 5. Applicants seeking similar benefits on land used to support a commercial equine operation must complete Part 6. Applicants whose land was rented and used in the preceding two years to produce for sale crops, livestock or livestock products, but which does not independently satisfy the gross sales value requirement of the Agriculture and Markets Law, must complete Part 8. Complete all other Parts that apply.

**Part 1. Use of Land:** Refer to Soil Group Worksheet (APD-1) to complete Part 1.

(1) **Agricultural Land**

- a. **Land used to produce crops, livestock or livestock products.** Amount of land actually used to produce for sale crops, livestock or livestock products (not including woodland products) in the preceding two years.
- b. **Land used to support a commercial horse boarding operation.** Amount of land used to support a commercial horse boarding operation during the past two years.
- c. **Land used to support a commercial equine operation.** Amount of land used to support a commercial equine operation during the past two years.
- d. **Support Land.** Amount of land which was not used to produce crops, livestock or livestock products but was used in support of the farm operation or in support of land used to produce crops, livestock or livestock products. (Does not include land used under agricultural amusements – see instructions).
- e. **Land participating in federal conservation program.** Amount of land set aside through participation in a U.S. government conservation program established pursuant to Title 1 of the Federal Food Security Act of 1985 or any subsequent federal program. (Assessor will need Farm Service Agency documentation.)
- f. **Land under a structure in which crops, livestock or livestock products are produced.** Amount of land located under a structure in which crops, livestock or livestock products have been produced during the preceding two years.

a.	Acres
b.	Acres
c.	Acres
d.	Acres
e.	Acres
f.	Acres
<b>TOTAL acres in agricultural land</b> (sum of a, b, c, d, e, f)	(1) Acres
(2) <b>Farm Woodland (up to 50 acres)</b> Amount of land used for the production for sale of woodland products in the preceding two years. <i>Acreage consisting of sugarbush or Christmas tree cultivation should be included in Part (1)a above.</i>	(2) Acres
(3) <b>Excess Farm Woodland</b> (woodland exceeding 50 acre limit on any parcel)	(3) Acres
(4) <b>Newly planted orchards, vineyards or Christmas trees of a newly established farm operation.</b>	(4) Acres
(5) <b>Nonagricultural land.</b> Include any land in the parcel which is not included above	(5) Acres
<b>TOTAL acres in parcel</b> (The figure entered in this box should equal the sum of the amounts entered in the boxes 1, 2, 3, 4, and 5 above.)	Acres

**Part 2. Other agricultural land owned by the applicant:** Identify any other land owned by the applicant which is used in conjunction with land identified in Part 1 above to produce crops, livestock or livestock products or to support a commercial horse boarding or commercial equine operation. *Use additional sheets if necessary.*

Tax Map No. \_\_\_\_\_ Location \_\_\_\_\_ No. of Acres \_\_\_\_\_

Tax Map No. \_\_\_\_\_ Location \_\_\_\_\_ No. of Acres \_\_\_\_\_

**Part 3. Other agricultural property rented by applicant:** Identify any other land rented from another and used to produce crops, livestock or livestock products in conjunction with the land described in Part 1 above. *Use additional sheets if necessary.*

Tax Map No. \_\_\_\_\_ Location \_\_\_\_\_ No. of Acres \_\_\_\_\_

**Part 4. Average gross sales value:**

**Note: Newly established farm operations should enter annual gross sales only for the first or second year of production.**

		Year One	Year Two
a.	Enter the gross sales value of any agricultural products (not including woodland products) produced for sale in the preceding two years on land owned by the applicant (see Part (1) a and Part (2). For land rented by the applicant from another see Part 3. (Include federal farm program payments if applicable.)	\$	\$
b.	Enter the gross sales value up to a maximum annual amount of \$2,000 of any woodland products produced for sale in the preceding two years on land owned by the applicant (see Part 1 (2) and Part 2). Note: The gross sales value of maple syrup/sap and Christmas trees produced on the applicant's land should be included in Part 4a above.	\$	\$
c.	Enter the market value of crops in their unprocessed state which were produced during the preceding two years on land owned by the applicant or rented by the applicant from another which were not sold unprocessed but were processed on the farm to make other products and thereafter sold.	\$	\$
d.	Enter the gross sales value up to a maximum of \$5,000 of the farm operation's annual gross sales value derived from the operation's sale of its compost, mulch or other organic biomass crops.	\$	\$
<b>TOTAL GROSS SALES VALUE FOR TWO YEAR PERIOD</b>		<b>\$</b>	<b>\$</b>
<b>TWO YEAR AVERAGE GROSS SALES VALUE</b>		<b>\$</b>	<b>\$</b>

**Part 5. Land used to support a commercial horse boarding operation:**

- (a) Number of acres in parcel used to support a horse boarding operation: \_\_\_\_\_ acres.  
If the number of acres is less than seven, Part 2 above must be completed to establish eligibility for an agricultural assessment.
- (b) Did the boarding operation board ten or more horses throughout the preceding two years?  Yes  No
- (c) Gross receipts collected by horse boarding operation during the preceding two years \$ \_\_\_\_\_

**Note: Newly established farm operations should enter annual gross sales only for the first or second year of production.**

	Year one	Year two
Fees generated through boarding of horses	\$	\$
Fees generated through production of sale of crops, livestock and livestock products	\$	\$
<b>TOTALS</b>	<b>\$</b>	<b>\$</b>

**Part 6. Land used to support a commercial equine operation**

- (a) Number of acres in parcel used to support an equine operation: \_\_\_\_\_ acres.  
If the number of acres is less than seven, Part 2 above must be completed to establish eligibility for an agricultural assessment.
- (b) Did the equine operation stable ten or more horses throughout the preceding two years?  Yes  No
- (c) Gross receipts collected by equine operations during the preceding two years? \$ \_\_\_\_\_

**Note: Newly established farm operations should enter annual gross sales only for the first or second year of production.**

	Year one	Year two
Fees generated through equine operations	\$	\$
Fees generated through production of sale of crops, livestock and livestock products	\$	\$
<b>TOTALS</b>	<b>\$</b>	<b>\$</b>

**Part 7. Land under a structure within which crops, livestock or livestock products are produced:**

**Note: Newly established farm operations should enter annual gross sales only for the first or second year of production.**

	Year one	Year two
(a) Gross sales value of the crops, livestock or livestock products produced in the structure(s) in the preceding two years	(b) \$	(c) \$
(d) Total gross sales value for two year period (b) + (c)	(d) \$	
(e) Average gross sales value for preceding two years (d / 2)	(e) \$	

**Part 8: Land rented to others:**

- (a) Is any portion of the parcel rented to another party?  Yes  No *(If the answer is No, proceed to Part 9 on page 4.)*
- (b) Has the land been used during the preceding two years to produce crops, livestock or livestock products exclusive of woodland products and is such production continuing during the current year?  Yes  No
- (c) Average gross sales value: \$ \_\_\_\_\_

**Note: Newly established farm operations should enter annual gross sales only for the first or second year of production.**

		Year one	Year two
1. Gross sales value of the crops, livestock or livestock products (exclusive of woodland products) produced on the rented land which can be independently verified	(a)	\$ _____	(b) \$ _____
2. Total gross sales value for two year period (a) + (b)	(c)	\$ _____	
3. Average gross sales value for preceding two years (c / 2)	(d)	\$ _____	

If amount is less than \$10,000 or cannot be independently verified, complete items d, e, f and g of Part 8 below.

(d) Name and mailing address of party to whom land is rented: \_\_\_\_\_  
 \_\_\_\_\_

(e) Number of acres rented to party identified in Part 8d and used in agricultural production: \_\_\_\_\_ (acres).

(f) Is the land leased pursuant to a written rental arrangement?  Yes  No  
 Period of time for which lease is in effect: \_\_\_\_\_ years  
 Attach a copy of the lease or an affidavit (Form RP-305-c) attesting to the existence of the lease.

(g) Does the party to whom the land is rented own or operate other land that is used in conjunction with this rented land and which qualifies for an agricultural assessment?  Yes  No

If the answer is *Yes*, provide the following information for the other land being used in conjunction with the land which is the subject of this application.

Owner: \_\_\_\_\_

Location of property: \_\_\_\_\_ Tax Map No.: \_\_\_\_\_

If the other land is located in a different town or assessing unit, enter the date that an application for an agricultural assessment was submitted to the local assessor: \_\_\_\_\_

**Part 9. Certified Value on Eligible Agricultural Lands:**

The applicant must complete column 2 below of the chart "CERTIFIED VALUE ON ELIGIBLE AGRICULTURAL LANDS." The number of acres in each mineral or organic soil group is to be copied from the soil group worksheet APD-1 prepared by the Soil and Water Conservation District Office. **Note:** The number of acres of qualified farm woodland is given on the soil group worksheet. The maximum number of acres of farm woodland eligible for an agricultural assessment is 50 acres per parcel. Where the applicant completes Part 8d through 8g on page 3, the total number of acres in the mineral and organic soil groups may not exceed the number of acres indicated in Part 8e, and the number of acres of farm woodland must be zero.

**CERTIFIED VALUE ON ELIGIBLE AGRICULTURAL LANDS**

**Applicant, please fill in shaded area of column 2.**

APPLICANT		ASSESSOR'S USE ONLY		
1	2	3	4	5
MINERAL SOIL GROUP	ACRES	ACRE/RATING MODIFICATIONS	CERTIFIED VALUE PER ACRE	COL. 2 OR 3 TIMES COL. 4
1	a			
	b			
2	a			
	b			
3	a			
	b			
4	a			
	b			
5	a			
	b			
6	a			
	b			
7				
8				
9				
10				
<b>ORGANIC SOIL GROUP (MUCK)</b>				
<b>A</b>				
<b>B</b>				
<b>C</b>				
<b>D</b>				
<b>SOIL GROUP TOTAL</b>				
<b>ELIGIBLE FARM WOODLAND 50 ACRES MAXIMUM</b>				
<b>Newly Planted Orchards, Vineyards or Christmas Trees</b>			0	0
<b>TOTAL ELIGIBLE ACRES</b>				
			<b>TOTAL CERTIFIED VALUE</b>	

ASSESSOR'S USE ONLY				
Assessor's agricultural assessment calculation on eligible agricultural lands				
Total Certified Value	x	Equalization Rate	=	Total Agricultural Assessment
_____	x	_____	=	_____
Additional Calculations:				

**ASSESSOR'S USE ONLY**

**WORKSHEET FOR APPORTIONMENT OF FARM ASSESSMENT**

Assessor may use RPS 4 to complete these calculations.

	ACRES	LAND	IMPROVEMENTS	TOTAL
A. Total Assessment		\$	\$	\$
B. Assessed Value of Parcel Excluding Eligible Agricultural Land				
1. Owner's residence and associated land	_____	\$ _____	\$ _____	\$ _____
2. Farm structures (barns and other farm improvements including fruit tree/vine support structures) not qualified for RPTL Sec. 483 exemption.....	.....	.....	\$ _____	\$ _____
3. Other structures (processing plant, retail store, etc.)	_____	_____	\$ _____	\$ _____
4. Ineligible land (include excess woodland acreage)	_____	\$ _____		\$ _____
5. Total (lines 1, 2, 3 and 4)	_____			\$ _____
C. Agricultural Assessment of Parcel				
1. Assessed value of eligible land before agricultural assessment (line A minus line B5)				\$ _____
2. Assessed value of fruit tree/vine support structures on eligible land not qualified for RPTL Sec. 483 exemption				\$ _____
3. Total lines C1 and C2				\$ _____
4. Total agricultural assessment on eligible land (from page 4)				\$ _____
5. Excess value, if any (line 3 minus line 4)				\$ _____
D. Total Taxable Assessment Before Adjustment for Other Exemptions (line B5 plus line C1 or B5 plus line C4, whichever is lower)				\$ _____
E. Other Exemptions				
1. Veterans				\$ _____
2. RPTL Sec. 483 New Construction				\$ _____
3. RPTL Sec. 483-a				\$ _____
4. Other				\$ _____
5. Total				\$ _____
F. Total Taxable Assessed Value (line D minus line E5)				\$ _____

- G. 1.  Application Approved
- 2.  Approved as Modified
- 3.  Disapproved

Reason for Modification or Disapproval \_\_\_\_\_

Amount of Exemption (from line C5 of Apportionment Worksheet above)

Enter this amount in exempt column of assessment roll, and on top of page 1, \$ \_\_\_\_\_

**GENERAL INFORMATION AND FILING REQUIREMENTS**

**Extent of exemption.** The agricultural assessment value per acre certified by the Office of Real Property Tax Services when equalized by the assessor becomes an agricultural assessment. If the application is approved, the portion of the assessed value of eligible agricultural lands which exceeds the agricultural assessment, if any, will be exempt. No exemption results unless the assessed value of land described in the application exceeds its agricultural assessment.

**Application.** To qualify agricultural land for an agricultural assessment, the landowner must annually file an application for each separately assessed parcel with the local assessor. If an initial application is approved and an agricultural assessment granted, renewal Form RP-305-r may be filed in succeeding years to renew the application provided no changes regarding the parcel have occurred since the last submission of Form RP-305. A soil group worksheet and soil map prepared by the Soil and Water Conservation District Office must be filed as part of the application, unless as a result of a prior application, the assessor has a soil group worksheet and soil map on file which accurately describes the parcel. A landowner may exclude from the applications any portion of a parcel which is capable of being separately identified.

**Place of filing application.** The application must be filed with the city, town or village assessor (if the village assesses). If the property is located in a village that assesses, an

application must be filed with both the town and the village assessor. In Nassau and Tompkins Counties, the application must be filed with the county assessors.

**Time of filing application.** The application must be filed on or before the taxable status date of the city, town or village (if the village assesses). **EXCEPTIONS:** In year of a revaluation or update of assessments, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law. In the case of land located within an agricultural district, the application may be filed with the assessor no later than the last date on which an assessment complaint may be filed when (1) a licensed physician certifies that the failure to file the application by taxable status date resulted from the death of the applicant’s spouse, child, parent, brother or sister, or the illness of the applicant or the applicant’s spouse, child, parent, brother or sister; or (2) the failure to file the application by taxable status date resulted from the occurrence of a natural disaster, including, but not limited to, a flood, or the destruction of the applicant’s residence, barn or other farm building by wind, fire or flood.

**Notice of approval, denial or modification of application.** The applicant must provide the assessor with a stamped, self-addressed envelope at the time of application in order to receive notice of the approval, denial or modification of the application.

**ELIGIBILITY REQUIREMENTS FOR AGRICULTURAL ASSESSMENT**

1. Agricultural land is eligible for an agricultural assessment if it satisfies all the requirements set forth in any one of the following alternatives:

(A) The land consists of at least seven acres which have been used to produce crops, livestock or livestock products for sale in the preceding two years.

The crops, livestock or livestock products produced on such land, including land rented by the applicant from another and used in conjunction with agricultural land owned by the applicant, must have an average gross sales value of at least \$10,000 for the two years preceding the application. Whenever a crop is processed prior to sale, average gross sales value shall be based upon the market value of the crop in its unprocessed state.

or

(B) The land consists of less than seven acres which have been used to produce crops, livestock or livestock products for sale in the preceding two years.

The crops, livestock or livestock products produced on such land, and on any land rented by the applicant from another and used in conjunction with the applicant’s land to produce for sale crops, livestock or livestock products, must have an average gross sales value of at least \$50,000 for the two years preceding the application. For a crop processed prior to sale, the average gross sales value shall be based upon the market value of the crop in its unprocessed state.

or

(C) The land consists of at least seven acres and has been used during the preceding two years to support a commercial horse boarding operation with annual gross receipts of \$10,000 or more.

A commercial horse boarding operation is defined as an agricultural enterprise consisting of at least seven acres and boarding at least ten horses, regardless of ownership, which receives \$10,000 or more in gross receipts annually from fees generated through the boarding of horses, the production for sale of crops, livestock or livestock products, or both such boarding and such production.

or

(D) The land consists of at least seven acres of which all or part has been set aside through participation in a U.S. government conservation program established pursuant to Title 1 of the Federal Food Security Act of 1985 or any subsequent federal farm program. No minimum gross sales is required for the participating lands. Non-participating lands still must meet the \$10,000 gross sales minimum and federal program payments may be applied to establish the minimum gross sales value.

or

(E) The land used in agricultural production is a newly established farm operation and has annual gross sales of \$10,000 and seven or more acres in agricultural production, or annual gross sales of \$50,000 and less than seven such acres, in the first or second year of production, and meets the other

eligibility requirements of A, B, or C above. If the newly established farm is a commercial horse boarding operation, no less than seven acres must be used to support the horse boarding operation, at least ten horses must be boarded, and the operation must have annual gross receipts of \$10,000 or more.

or

(F) The land used in agricultural production consists of at least seven acres, is owned or rented by a newly established farm operation, and is used solely for the production for sale of orchard or vineyard crops or Christmas trees. Such land may be eligible for an agricultural assessment, notwithstanding the fact that the new orchard or vineyard does not produce crops for sale for four years after planting or the Christmas trees are not harvested for sale for five years after planting.

or

(G) The land used in agricultural production supports an apiary products operation, is owned by the operation, and consists of not less than seven and not more than ten acres with an average gross sales value of \$10,000 or more, or comprises less than seven acres with an average gross sales value of \$50,000 or more.

or

(H) Rented land located within an agricultural district used by a not for profit institution for agricultural research intended to improve the quality or quantity of crops, livestock or livestock products.

or

(I) The land consists of at least seven acres and has been used during the preceding two years to support a commercial equine operation with annual receipts of \$10,000 or more. A

commercial equine operation is defined as an agricultural enterprise consisting of at least seven acres and stabling at least ten horses, regardless of ownership that receives \$10,000 or more in gross receipts annually from fees generated through 1) the provisions of commercial equine activities including but not limited to riding lessons, trail riding activities or training horses (but not horse racing), 2) production for the sale of crops, livestock and livestock products, or through both 1) and 2). An otherwise eligible operation proposed in its first or second year of operation may qualify as a commercial operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

2. Agricultural land rented to another and used during the preceding two years to produce for sale crops, livestock or livestock products, but which does not independently satisfy the gross sales value of the Agriculture and Markets Law, may nevertheless be eligible for an agricultural assessment, if the following conditions are satisfied:

- The land must consist of at least seven acres and be used as part of a single operation to produce crops, livestock or livestock products (exclusive of woodland products) in the preceding two years;
- The land must currently be used to produce crops, livestock or livestock products (exclusive of woodland products) under a written rental arrangement of five or more years; and
- The land must be used in conjunction with other land which qualifies for an agricultural assessment.

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**INSTRUCTIONS FOR APPLICANT**

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**For Questions on page 2  
Part 1 Use of Land**

**For Part 1, the data from the Soil Group Worksheet (APD-1) should be used. Further breakdowns of the “(1) Agricultural Land” category by land use should be shown in (1) a through (1) f explained below.**

**(1) a. Land actually used to produce crops, livestock or livestock products** may include cropland, muck, orchards, vineyards and pasture. For this purpose crops, livestock and livestock products include, but are not limited to, the following: field crops, fruits, vegetables, horticultural specialties, Christmas trees, cattle, horses, poultry, ratites, wool bearing animals such as alpacas and llamas, milk, eggs, furs, maple sap or syrup, honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs, queens, aquacultural products and woody biomass.

**(1) b. Land used to support a commercial horse boarding operation.** Amount of land used to support a commercial horse boarding operation during the past two years.

**(1) c. Land used to support a commercial equine operation.** Amount of land used to support a commercial equine operation during the past two years.

**(1) d. Support land** may include farm ponds, swamps used for drainage, land used for erosion control, hedgerows, access roads, land under farm buildings, dikes and levies used for flood protection, drainage ditches and land used for farm waste management. Support land may also include any other minor acreage that is located amid, between or on the perimeter of cropland, orchards, vineyards and land used to pasture livestock, so long as the land is not farm woodland or nonagricultural land (see instructions below for line (1) e.). Support land further may include a buffer area owned and maintained by an apiary products operation between the operation and adjacent landowners. (The total area of an apiary products operation, including support land, may not exceed ten acres. (Support land does not include land used under agricultural amusements).

**(1) e. Land participating in federal conservation program.** Amount of land set aside through participation in a U.S. government conservation program established pursuant to Title 1 of the Federal Food Security Act of 1985 or any subsequent federal program.

**(1) f. Land under a structure in which crops, livestock or livestock products are produced.** Amount of land located under a structure in which crops, livestock or livestock products have been produced during the preceding two years.

**(1) Agricultural Land - total from Soil Group Worksheet.**

**(2) Farm woodland** means land, primarily used for the production for sale of woodland products (logs, lumber, posts, firewood, etc.), where such land is used as a single operation and is contiguous with cropland, orchards, vineyards or land used to pasture livestock. Lands divided by state, county or town roads, railroads or energy transmission corridors will be considered contiguous. Woodland acreage exceeding 50 acres on any parcel should be in Part 1 (3), excess farm woodland. Enter number of acres from section D (2) of the Soil Group Worksheet.

**(3) Excess Farm Woodland (over 50 acres) - enter number of acres from section D (3) of the Soil Group Worksheet.**

**(4) Newly Planted Orchards, Vineyards or Christmas Trees of a Newly Established Farm Operation.** Land of not less than seven acres used solely by a newly established farm operation for new orchards or vineyards may qualify for an agricultural assessment for four years after planting, notwithstanding the fact that no crops are produced for sale. Land of not less than seven acres used solely by such a farm operation for new Christmas trees may qualify for an agricultural assessment for five years after planting, notwithstanding the fact that no trees are harvested for sale. Eligible fruit trees, grape vines or Christmas trees may be planted in the new farm's first or second year of operation.

**(5) Nonagricultural land** - Ineligible land uses, including but not limited to the following: landowner's residence and lot, gravel quarry or other mineral, oil or natural gas extraction, commercial hunting and game preserves as well as any other commercial recreational uses such as camping and athletic facilities and parks, retail establishments of any kind including restaurants, lodging facilities and roadside stands used for sale of crops, livestock, or livestock products, processing facilities, sawmills, and fertilizer plants. Nonagricultural land does not include qualified farm woodland or support land. Also, any acreage withheld from the agricultural assessment program by the landowner should be entered in the nonagricultural category.

**Part 2. Other agricultural land owned by the applicant.** Land contained within separately assessed parcels owned by the applicant and used for agricultural production in conjunction with the subject parcel is considered part of the applicant's farm unit for purposes of satisfying any minimum acreage or gross sales requirements.

**Part 3. Other agricultural land rented by the applicant.** The gross sales value of agricultural products produced on land rented by the applicant from another person and used in conjunction with the subject parcel may be included when determining whether the gross sales requirement is satisfied.

**Note: For parts 4, 5, 6, 7 & 8 newly established farm operations should enter annual gross sales only for the first or second year of production.**

**Part 4. Average Gross Sales Value.** To qualify for an agricultural assessment, an applicant must show that the crops, livestock or livestock products produced for sale in the preceding two years on the land for which application is being made had an average gross sales value of at least \$10,000. Gross sales value may include sales of agricultural products or market value of crops processed prior to sale in their unprocessed state produced on (1) agricultural land described in this application; (2) other parcels owned by the applicant and used in conjunction with the subject parcel; and (3) land rented by the applicant from another person and used in conjunction with the subject parcel. Also, certain federal farm program and thoroughbred breeder payments may be included. To calculate average gross sales value for the preceding two years the applicant should add the actual gross receipts derived from the sale, or, where applicable, the market value of agricultural products produced on the land described above, and divide the sum by two. Sales are to be reported on the basis of the most recent two income tax years prior to the date of the application. Market value should be based on the value at time of harvest in the preceding two years. The assessor may ask for substantiation of gross sales value, which may be made by bookkeeping records, income tax returns, types of crops used for processing, etc.

**NOTE:** If an Act of God, natural disaster or continued adverse weather conditions results in the destruction of a significant portion of the agricultural production on any of the property for which application is being made such that the average gross sales value of the two preceding years is less than \$10,000, the applicant is advised to submit with this application a completed Form RP-305-b: *Application for Exception From Minimum Average Gross Sales Value Requirement*, of Article 25AA of the Agricultural and Markets Law.

**For Questions on Page 3**

**Part 5. Land used to support a commercial horse boarding operation.** “Commercial horse boarding operation” means an agricultural enterprise, consisting of at least seven

acres and boarding at least ten horses regardless of ownership, that receives ten thousand dollars (\$10,000) or more in gross receipts annually from fees generated either through the boarding of horses, the production for sale of crops, livestock, and livestock products, or both such boarding and such production. Such operations shall not include operations whose primary on site function is horse racing.

**Part 6. Land used to support a commercial equine operation.** “Commercial equine operation” means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses regardless of ownership that receives \$10,000 or more in gross receipts annually from fees generated through 1) the provisions of commercial equine activities including, but not limited to, riding lessons, trail riding or training of horses (but not horse racing), 2) production for sale of crops, livestock or livestock products, or through both 1) and 2). An otherwise eligible operation proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

**Part 7. Land under a structure within which crops, livestock or livestock products are produced.**

**Part 8. Land rented to others.** Land that the applicant rents to another person, used as a single operation for the production for sale of crops, livestock or livestock products (exclusive of woodland products) in the preceding two years with an average gross sales value of less than \$10,000 may be eligible to receive an agricultural assessment if certain requirements are satisfied. To qualify for an agricultural assessment the applicant must rent to another person at least seven acres of land used to produce crops, livestock or livestock products, exclusive of woodland products. Land actually used to produce crops, livestock or livestock products may include cropland, muck, orchards, vineyards and pasture.

**8f.** To qualify for an agricultural assessment the rented land must be used in agricultural production under a five year written rental arrangement. NOTE: Rental arrangement is defined as a “written lease signed by both of the parties to the agreement.” The applicant must provide documentation concerning the existence and term of the rental arrangement (a copy of the lease or an affidavit attesting to the existence of such a lease (Form RP-305-c).

**8g.** To qualify for an agricultural assessment the rented land must be used in conjunction with other land which qualifies for an agricultural assessment. The applicant should indicate the owner, tax map number and location of this other land. The assessor may require substantiation of the fact that the other land qualifies for an agricultural assessment. Use side 2 of Form RP-305-c.

**For Questions on Page 4**

**Part 9. Certified value on eligible agricultural lands.** Applicants must complete column 2 of Part 9 on page 4. See instructions on page 4.

**CERTIFICATION BY APPLICANT**

*The applicant must complete the certification on the bottom of page 1.*

# Is Your COUNTY Planning a Future for Farms?

## A Checklist for Supporting Farms at the County Level in New York

### Encourage Public Appreciation for Agriculture

*Does your county...*

YES  NO

**...support farm festivals, fairs and other events that encourage public appreciation for agriculture?** Most New Yorkers did not grow up on a farm, and many have never visited a farm. Giving people a chance to learn about farming and celebrate local farms is an important, and enjoyable, learning experience!

YES  NO

**...host tours, farmer forums or events aimed at educating local, state and federal officials about agriculture?** Public officials are key players in deciding the future of farming in New York. It's important that these leaders have the chance to learn about agriculture and better understand how they can support farming in their role as community leaders.

YES  NO

**...regularly distribute information about agriculture to the media?** The media is a key ally in educating the public about the importance of agriculture and issues facing local farmers. Providing statistics, perspectives and resources to local media can generate informed coverage of agricultural issues.

YES  NO

**...support efforts to educate children about their food and how it is grown?** Educating kids about eating healthy food is critical to solving many public health problems and ensuring that future generations appreciate the importance of local farms.

YES  NO

**...celebrate excellence in local agriculture?** The contributions made by farmers to the local economy, environment and community are often overlooked. Awards, media events and other efforts to recognize

these contributions help encourage local farmers, while reinforcing the many benefits that agriculture provides to New York communities.

YES  NO

**...provide resources to municipalities about local agriculture?** Counties can provide important data, maps and other information to towns that are looking for information. Cost of Community Services studies, economic reports, land use maps and other resources that are provided by counties can help municipalities make informed decisions.

### Strengthen Economic Opportunities for Farmers and Related Businesses

*Does your county...*

YES  NO

**...treat farms as businesses?** Agriculture supports thousands of jobs across New York. Food processors and other agribusinesses are also critical parts of the state's economy. These farm and food businesses should be treated like other sectors of the economy and provided with business planning services, financing and other incentives to retain and expand jobs in these industries.

YES  NO

**...support "buy local" campaigns that encourage people to purchase food and farm products produced nearby?** Consumers can have a big impact on the bottom line of many farmers by choosing to buy local farm products. Buy local marketing campaigns can educate people about the benefits of local products and how they can be purchased.

YES  NO

**...facilitate connections between farmers and area restaurants, schools, hospitals and other institutions?** Public and private institutions that

purchase local farm products can make a real difference in the farm economy due to the scale of their purchasing power. Encouraging, or requiring, local food purchasing by institutions can help keep food dollars in a community and magnify the impact of this spending.

YES  NO

**...incorporate agritourism into tourism promotions?** Farms are not only a beautiful part of New York's scenic landscape, many also offer enjoyable experiences for families and tourists. U-pick farms, corn mazes, pumpkin patches, horse riding, wine tasting and other on-farm experiences should be marketed along with other area tourism activities.

## Encourage Long-term Viability of Farming and Food Production

*Does your county...*

YES  NO

**...support agricultural education programs such as FFA, 4-H and other workforce development programs for farmers and farm workers?** Such programs not only teach young people important leadership skills, they ensure a skilled workforce for area farms and related businesses.

YES  NO

**...make agriculture a priority in local and regional economic development strategies?** Too often, agriculture is overlooked as a major component of the economy in New York. Local and regional economic development strategies should make farm and food jobs a priority and identify strategies for retaining existing jobs and expanding new jobs in these sectors.

YES  NO

**...encourage farmers to participate in New York's Agricultural Environmental Management program and other environmental stewardship programs?** Farmers manage roughly seven million acres of land in New York—roughly 25 percent of the land in the state. Encouraging environmentally sound stewardship of soil, water and other natural resources will encourage a healthy environment and better opportunities for future generations of farmers.

YES  NO

**...have a current agricultural and farmland protection plan and annually review progress towards accomplishing its recommendations?**

Currently, 50 New York counties have developed agricultural and farmland protection plans to direct county action in support of local farms and protecting irreplaceable farmland. However, these plans shouldn't sit on a shelf! Counties should keep them up-to-date and make an ongoing commitment of time and resources to implementing them.

## Support Positive Relationships Between Farmers and Others in Your Community

*Does your county...*

YES  NO

**...support trainings and dialogue about agricultural issues among assessors, code enforcement officers, sheriff, police and other local staff that interact with farmers?** Farming has unique circumstances that frequently require alternative rules, regulations or approaches than other businesses and land uses. Public officials need to understand these unique circumstances and applicable regulations and apply them fairly to farm businesses.

YES  NO

**...support New York's Agricultural Districts program and update districts on a regular basis?**

The Agricultural Districts program is one of New York's oldest farmland protection tools, and it provides important right-to-farm protections to New York farmers. Counties should keep districts current and use the renewal process as an opportunity to engage local officials about issues facing farmers in these districts.

YES  NO

**...offer trainings for town boards, county legislators and others about the Agricultural Districts law and its "unreasonably restrictive local ordinance" provision?** New York's

Agricultural Districts law requires that local governments not be unreasonably restrictive

in regulating farmers operating in state-certified agricultural districts. The New York State Department of Agriculture and Markets (NYSDAM) has developed guidance for local governments about how this standard applies to a variety of topics related to agriculture. Local governments are well-advised to use these guidance documents and contact NYSDAM prior to adopting new regulations that could impact agriculture.

YES  NO

**...encourage municipal governments to make agriculture a priority in local comprehensive plans, zoning ordinances and other land use plans?**

Thoughtful siting of new houses and developments, buffers between new houses and neighboring farms, and other planning measures can help prevent future conflicts between farmers and neighbors.

YES  NO

**...have a right-to-farm law?** Local right-to-farm laws can be an important statement in support of agriculture, while also establishing strategies for preventing and addressing conflicts between farmers and non-farm neighbors. These laws can reinforce protections provided by New York's Agricultural Districts program, while offering additional planning and dispute resolution measures that can prevent misunderstandings from becoming expensive conflicts.

## Protect Agricultural Land and Keep It Actively Farmed

*Does your county...*

YES  NO

**...educate farmers and landowners about estate and farm transfer planning?** The process of transferring a farm from one generation to another is a complicated endeavor. Without proper planning, the transfer process can result in unnecessary taxes, family conflict or other complications that can push a farm into being developed.

YES  NO

**...pro-actively steer new water, sewer and road infrastructure towards cities, villages and hamlets and away from priority farming areas?**

Building such infrastructure in farming areas sends a strong signal that farming has a limited future and that new non-farm development is expected. If infrastructure expansions are necessary, be sure to establish mitigation measures, such as lateral restrictions, to limit the spread of development on productive farmland.

YES  NO

**...help farmers and landowners who want to permanently protect their land?**

Since the 1970s, New York counties have played an important role in protecting farms from being lost to development. Some counties have provided funding to purchase conservation easements on farms, while others have facilitated such projects in partnership with local land trusts and municipalities. While the approach may differ, all county governments can help ensure that farmland is protected for future generations.

YES  NO

**...act as a resource for planning and zoning boards?**

County governments can be a key ally for municipal governments that are considering zoning, subdivision or other codes related to agriculture. Counties can provide maps, statistics and other resources to support informed decision-making at a local level.



## *Total Your Score!*

### **Your results...**

#### **Yes on 20-23**

Congratulations! You've accomplished a great deal in supporting local farms. But, don't stop now. Issues facing agriculture are always changing—stay diligent!

#### **Yes on 15-19**

Your county has made important progress. Keep engaging farmers and others in doing more to support local agriculture.

#### **Yes on 10-14**

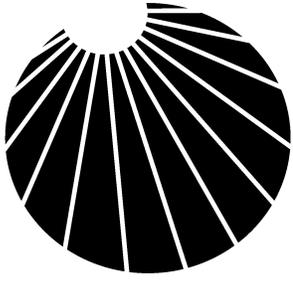
You clearly value local farms but haven't done everything necessary to support them. Look again at the benefits farms provide to your county and redouble your efforts to support agriculture.

#### **Yes on 5-9**

It's time to get going! Your county has many opportunities to do more in support of farming.

#### **Yes on 0-4**

Your county has a long way to go in supporting agriculture. But, it's better to start now than never at all! Engage local farmers and begin to take action.



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## DESCRIPTION

Cost of Community Services (COCS) studies are a case study approach used to determine the fiscal contribution of existing local land uses. A subset of the much larger field of fiscal analysis, COCS studies have emerged as an inexpensive and reliable tool to measure direct fiscal relationships. Their particular niche is to evaluate working and open lands on equal ground with residential, commercial and industrial land uses.

COCS studies are a snapshot in time of costs versus revenues for each type of land use. They do not predict future costs or revenues or the impact of future growth. They do provide a baseline of current information to help local officials and citizens make informed land use and policy decisions.

## METHODOLOGY

In a COCS study, researchers organize financial records to assign the cost of municipal services to working and open lands, as well as to residential, commercial and industrial development. Researchers meet with local sponsors to define the scope of the project and identify land use categories to study. For example, working lands may include farm, forest and/or ranch lands. Residential development includes all housing, including rentals, but if there is a migrant agricultural work force, temporary housing for these workers would be considered part of agricultural land use. Often in rural communities, commercial and industrial land uses are combined. COCS studies findings are displayed as a set of ratios that compare annual revenues to annual expenditures for a community's unique mix of land uses.

COCS studies involve three basic steps:

1. Collect data on local revenues and expenditures.
2. Group revenues and expenditures and allocate them to the community's major land use categories.
3. Analyze the data and calculate revenue-to-expenditure ratios for each land use category.

The process is straightforward, but ensuring reliable figures requires local oversight. The most complicated task is interpreting existing records to reflect COCS land use categories. Allocating revenues and expenses requires a significant amount of research, including extensive interviews with financial officers and public administrators.

## HISTORY

Communities often evaluate the impact of growth on local budgets by conducting or commissioning fiscal impact analyses. Fiscal impact studies project public costs and revenues from different land development patterns. They generally show that residential development is a net fiscal loss for communities and recommend commercial and industrial development as a strategy to balance local budgets.

Rural towns and counties that would benefit from fiscal impact analysis may not have the expertise or resources to conduct a study. Also, fiscal impact analyses rarely consider the contribution of working and other open lands, which is very important to rural economies.

American Farmland Trust (AFT) developed COCS studies in the mid-1980s to provide communities with a straightforward and inexpensive way to measure the contribution of agricultural lands to the local tax base. Since then, COCS studies have been conducted in at least 151 communities in the United States.

## FUNCTIONS & PURPOSES

Communities pay a high price for unplanned growth. Scattered development frequently causes traffic congestion, air and water pollution, loss of open space and increased demand for costly public services. This is why it is important for citizens and local leaders to understand the relationships between residential and commercial growth, agricultural land use, conservation and their community's bottom line.

COCS studies help address three misperceptions that are commonly made in rural or suburban communities facing growth pressures:

1. Open lands—including productive farms and forests—are an interim land use that should be developed to their “highest and best use.”
2. Agricultural land gets an unfair tax break when it is assessed at its current use value for farming or ranching instead of at its potential use value for residential or commercial development.
3. Residential development will lower property taxes by increasing the tax base.

While it is true that an acre of land with a new house generates more total revenue than an acre of hay or corn, this tells us little about

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
<b>Colorado</b>				
Custer County	1 : 1.16	1 : 0.71	1 : 0.54	Haggerty, 2000
Sagauche County	1 : 1.17	1 : 0.53	1 : 0.35	Dirt, Inc., 2001
<b>Connecticut</b>				
Bolton	1 : 1.05	1 : 0.23	1 : 0.50	Geisler, 1998
Brooklyn	1 : 1.09	1 : 0.17	1 : 0.30	Green Valley Institute, 2002
Durham	1 : 1.07	1 : 0.27	1 : 0.23	Southern New England Forest Consortium, 1995
Farmington	1 : 1.33	1 : 0.32	1 : 0.31	Southern New England Forest Consortium, 1995
Hebron	1 : 1.06	1 : 0.47	1 : 0.43	American Farmland Trust, 1986
Lebanon	1 : 1.12	1 : 0.16	1 : 0.17	Green Valley Institute, 2007
Litchfield	1 : 1.11	1 : 0.34	1 : 0.34	Southern New England Forest Consortium, 1995
Pomfret	1 : 1.06	1 : 0.27	1 : 0.86	Southern New England Forest Consortium, 1995
Windham	1 : 1.15	1 : 0.24	1 : 0.19	Green Valley Institute, 2002
<b>Florida</b>				
Leon County	1 : 1.39	1 : 0.36	1 : 0.42	Dorfman, 2004
<b>Georgia</b>				
Appling County	1 : 2.27	1 : 0.17	1 : 0.35	Dorfman, 2004
Athens-Clarke County	1 : 1.39	1 : 0.41	1 : 2.04	Dorfman, 2004
Brooks County	1 : 1.56	1 : 0.42	1 : 0.39	Dorfman, 2004
Carroll County	1 : 1.29	1 : 0.37	1 : 0.55	Dorfman and Black, 2002
Cherokee County	1 : 1.59	1 : 0.12	1 : 0.20	Dorfman, 2004
Colquitt County	1 : 1.28	1 : 0.45	1 : 0.80	Dorfman, 2004
Columbia County	1 : 1.16	1 : 0.48	1 : 0.52	Dorfman, 2006
Dooly County	1 : 2.04	1 : 0.50	1 : 0.27	Dorfman, 2004
Grady County	1 : 1.72	1 : 0.10	1 : 0.38	Dorfman, 2003
Hall County	1 : 1.25	1 : 0.66	1 : 0.22	Dorfman, 2004
Jackson County	1 : 1.28	1 : 0.58	1 : 0.15	Dorfman, 2008
Jones County	1 : 1.23	1 : 0.65	1 : 0.35	Dorfman, 2004
Miller County	1 : 1.54	1 : 0.52	1 : 0.53	Dorfman, 2004
Mitchell County	1 : 1.39	1 : 0.46	1 : 0.60	Dorfman, 2004
Morgan County	1 : 1.42	1 : 0.25	1 : 0.38	Dorfman, 2008
Thomas County	1 : 1.64	1 : 0.38	1 : 0.67	Dorfman, 2003
Union County	1 : 1.13	1 : 0.43	1 : 0.72	Dorfman and Lavigno, 2006
<b>Idaho</b>				
Booneville County	1 : 1.06	1 : 0.84	1 : 0.23	Hartmans and Meyer, 1997
Canyon County	1 : 1.08	1 : 0.79	1 : 0.54	Hartmans and Meyer, 1997
Cassia County	1 : 1.19	1 : 0.87	1 : 0.41	Hartmans and Meyer, 1997
Kootenai County	1 : 1.09	1 : 0.86	1 : 0.28	Hartmans and Meyer, 1997
<b>Kentucky</b>				
Campbell County	1 : 1.21	1 : 0.30	1 : 0.38	American Farmland Trust, 2005
Kenton County	1 : 1.19	1 : 0.19	1 : 0.51	American Farmland Trust, 2005
Lexington-Fayette County	1 : 1.64	1 : 0.22	1 : 0.93	American Farmland Trust, 1999
Oldham County	1 : 1.05	1 : 0.29	1 : 0.44	American Farmland Trust, 2003
Shelby County	1 : 1.21	1 : 0.24	1 : 0.41	American Farmland Trust, 2005

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
<b>Maine</b>				
Bethel	1 : 1.29	1 : 0.59	1 : 0.06	Good, 1994
<b>Maryland</b>				
Carroll County	1 : 1.15	1 : 0.48	1 : 0.45	Carroll County Dept. of Management & Budget, 1994
Cecil County	1 : 1.17	1 : 0.34	1 : 0.66	American Farmland Trust, 2001
Cecil County	1 : 1.12	1 : 0.28	1 : 0.37	Cecil County Office of Economic Development, 1994
Frederick County	1 : 1.14	1 : 0.50	1 : 0.53	American Farmland Trust, 1997
Harford County	1 : 1.11	1 : 0.40	1 : 0.91	American Farmland Trust, 2003
Kent County	1 : 1.05	1 : 0.64	1 : 0.42	American Farmland Trust, 2002
Wicomico County	1 : 1.21	1 : 0.33	1 : 0.96	American Farmland Trust, 2001
<b>Massachusetts</b>				
Agawam	1 : 1.05	1 : 0.44	1 : 0.31	American Farmland Trust, 1992
Becket	1 : 1.02	1 : 0.83	1 : 0.72	Southern New England Forest Consortium, 1995
Dartmouth	1 : 1.14	1 : 0.51	1 : 0.26	American Farmland Trust, 2009
Deerfield	1 : 1.16	1 : 0.38	1 : 0.29	American Farmland Trust, 1992
Deerfield	1 : 1.14	1 : 0.51	1 : 0.33	American Farmland Trust, 2009
Franklin	1 : 1.02	1 : 0.58	1 : 0.40	Southern New England Forest Consortium, 1995
Gill	1 : 1.15	1 : 0.43	1 : 0.38	American Farmland Trust, 1992
Leverett	1 : 1.15	1 : 0.29	1 : 0.25	Southern New England Forest Consortium, 1995
Middleboro	1 : 1.08	1 : 0.47	1 : 0.70	American Farmland Trust, 2001
Southborough	1 : 1.03	1 : 0.26	1 : 0.45	Adams and Hines, 1997
Sterling	1 : 1.09	1 : 0.26	1 : 0.34	American Farmland Trust, 2009
Westford	1 : 1.15	1 : 0.53	1 : 0.39	Southern New England Forest Consortium, 1995
Williamstown	1 : 1.11	1 : 0.34	1 : 0.40	Hazler et al., 1992
<b>Michigan</b>				
Marshall Twp., Calhoun County	1 : 1.47	1 : 0.20	1 : 0.27	American Farmland Trust, 2001
Newton Twp., Calhoun County	1 : 1.20	1 : 0.25	1 : 0.24	American Farmland Trust, 2001
Scio Twp., Washtenaw County	1 : 1.40	1 : 0.28	1 : 0.62	University of Michigan, 1994
<b>Minnesota</b>				
Farmington	1 : 1.02	1 : 0.79	1 : 0.77	American Farmland Trust, 1994
Independence	1 : 1.03	1 : 0.19	1 : 0.47	American Farmland Trust, 1994
Lake Elmo	1 : 1.07	1 : 0.20	1 : 0.27	American Farmland Trust, 1994
<b>Montana</b>				
Carbon County	1 : 1.60	1 : 0.21	1 : 0.34	Prinzing, 1997
Flathead County	1 : 1.23	1 : 0.26	1 : 0.34	Citizens for a Better Flathead, 1999
Gallatin County	1 : 1.45	1 : 0.16	1 : 0.25	Haggerty, 1996
<b>New Hampshire</b>				
Brentwood	1 : 1.17	1 : 0.24	1 : 0.83	Brentwood Open Space Task Force, 2002
Deerfield	1 : 1.15	1 : 0.22	1 : 0.35	Auger, 1994
Dover	1 : 1.15	1 : 0.63	1 : 0.94	Kingsley, et al., 1993
Exeter	1 : 1.07	1 : 0.40	1 : 0.82	Niebling, 1997
Fremont	1 : 1.04	1 : 0.94	1 : 0.36	Auger, 1994
Groton	1 : 1.01	1 : 0.12	1 : 0.88	New Hampshire Wildlife Federation, 2001
Hookset	1 : 1.16	1 : 0.43	1 : 0.55	Innovative Natural Resource Solutions, 2008
Lyme	1 : 1.05	1 : 0.28	1 : 0.23	Pickard, 2000
Milton	1 : 1.30	1 : 0.35	1 : 0.72	Innovative Natural Resource Solutions, 2005

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
<b>New Hampshire (continued)</b>				
Mont Vernon	1 : 1.03	1 : 0.04	1 : 0.08	Innovative Natural Resource Solutions, 2002
Stratham	1 : 1.15	1 : 0.19	1 : 0.40	Auger, 1994
<b>New Jersey</b>				
Freehold Township	1 : 1.51	1 : 0.17	1 : 0.33	American Farmland Trust, 1998
Holmdel Township	1 : 1.38	1 : 0.21	1 : 0.66	American Farmland Trust, 1998
Middletown Township	1 : 1.14	1 : 0.34	1 : 0.36	American Farmland Trust, 1998
Upper Freehold Township	1 : 1.18	1 : 0.20	1 : 0.35	American Farmland Trust, 1998
Wall Township	1 : 1.28	1 : 0.30	1 : 0.54	American Farmland Trust, 1998
<b>New York</b>				
Amenia	1 : 1.23	1 : 0.25	1 : 0.17	Bucknall, 1989
Beekman	1 : 1.12	1 : 0.18	1 : 0.48	American Farmland Trust, 1989
Dix	1 : 1.51	1 : 0.27	1 : 0.31	Schuyler County League of Women Voters, 1993
Farmington	1 : 1.22	1 : 0.27	1 : 0.72	Kinsman et al., 1991
Fishkill	1 : 1.23	1 : 0.31	1 : 0.74	Bucknall, 1989
Hector	1 : 1.30	1 : 0.15	1 : 0.28	Schuyler County League of Women Voters, 1993
Kinderhook	1 : 1.05	1 : 0.21	1 : 0.17	Concerned Citizens of Kinderhook, 1996
Montour	1 : 1.50	1 : 0.28	1 : 0.29	Schuyler County League of Women Voters, 1992
North East	1 : 1.36	1 : 0.29	1 : 0.21	American Farmland Trust, 1989
Reading	1 : 1.88	1 : 0.26	1 : 0.32	Schuyler County League of Women Voters, 1992
Red Hook	1 : 1.11	1 : 0.20	1 : 0.22	Bucknall, 1989
Rochester	1 : 1.27	1 : 0.18	1 : 0.18	Bonner and Gray, 2005
<b>North Carolina</b>				
Alamance County	1 : 1.46	1 : 0.23	1 : 0.59	Renkow, 2006
Chatham County	1 : 1.14	1 : 0.33	1 : 0.58	Renkow, 2007
Henderson County	1 : 1.16	1 : 0.40	1 : 0.97	Renkow, 2008
Orange County	1 : 1.31	1 : 0.24	1 : 0.72	Renkow, 2006
Union County	1 : 1.30	1 : 0.41	1 : 0.24	Dorfman, 2004
Wake County	1 : 1.54	1 : 0.18	1 : 0.49	Renkow, 2001
<b>Ohio</b>				
Butler County	1 : 1.12	1 : 0.45	1 : 0.49	American Farmland Trust, 2003
Clark County	1 : 1.11	1 : 0.38	1 : 0.30	American Farmland Trust, 2003
Hocking Township	1 : 1.10	1 : 0.27	1 : 0.17	Prindle, 2002
Knox County	1 : 1.05	1 : 0.38	1 : 0.29	American Farmland Trust, 2003
Liberty Township	1 : 1.15	1 : 0.51	1 : 0.05	Prindle, 2002
Madison Village, Lake County	1 : 1.67	1 : 0.20	1 : 0.38	American Farmland Trust, 1993
Madison Twp., Lake County	1 : 1.40	1 : 0.25	1 : 0.30	American Farmland Trust, 1993
Madison Village, Lake County	1 : 1.16	1 : 0.32	1 : 0.37	American Farmland Trust, 2008
Madison Twp., Lake County	1 : 1.24	1 : 0.33	1 : .030	American Farmland Trust, 2008
Shalersville Township	1 : 1.58	1 : 0.17	1 : 0.31	Portage County Regional Planning Commission, 1997
<b>Pennsylvania</b>				
Allegheny Twp., Westmoreland County	1 : 1.06	1 : 0.14	1 : 0.13	Kelsey, 1997
Bedminster Twp., Bucks County	1 : 1.12	1 : 0.05	1 : 0.04	Kelsey, 1997
Bethel Twp., Lebanon County	1 : 1.08	1 : 0.17	1 : 0.06	Kelsey, 1992
Bingham Twp., Potter County	1 : 1.56	1 : 0.16	1 : 0.15	Kelsey, 1994
Buckingham Twp., Bucks County	1 : 1.04	1 : 0.15	1 : 0.08	Kelsey, 1996

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
<b>Pennsylvania (continued)</b>				
Carroll Twp., Perry County	1 : 1.03	1 : 0.06	1 : 0.02	Kelsey, 1992
Hopewell Twp., York County	1 : 1.27	1 : 0.32	1 : 0.59	The South Central Assembly for Effective Governance, 2002
Kelly Twp., Union County	1 : 1.48	1 : 0.07	1 : 0.07	Kelsey, 2006
Lehman Twp., Pike County	1 : 0.94	1 : 0.20	1 : 0.27	Kelsey, 2006
Maiden Creek Twp., Berks County	1 : 1.28	1 : 0.11	1 : 0.06	Kelsey, 1998
Richmond Twp., Berks County	1 : 1.24	1 : 0.09	1 : 0.04	Kelsey, 1998
Shrewsbury Twp., York County	1 : 1.22	1 : 0.15	1 : 0.17	The South Central Assembly for Effective Governance, 2002
Stewardson Twp., Potter County	1 : 2.11	1 : 0.23	1 : 0.31	Kelsey, 1994
Straban Twp., Adams County	1 : 1.10	1 : 0.16	1 : 0.06	Kelsey, 1992
Sweden Twp., Potter County	1 : 1.38	1 : 0.07	1 : 0.08	Kelsey, 1994
<b>Rhode Island</b>				
Hopkinton	1 : 1.08	1 : 0.31	1 : 0.31	Southern New England Forest Consortium, 1995
Little Compton	1 : 1.05	1 : 0.56	1 : 0.37	Southern New England Forest Consortium, 1995
West Greenwich	1 : 1.46	1 : 0.40	1 : 0.46	Southern New England Forest Consortium, 1995
<b>Tennessee</b>				
Blount County	1 : 1.23	1 : 0.25	1 : 0.41	American Farmland Trust, 2006
Robertson County	1 : 1.13	1 : 0.22	1 : 0.26	American Farmland Trust, 2006
Tipton County	1 : 1.07	1 : 0.32	1 : 0.57	American Farmland Trust, 2006
<b>Texas</b>				
Bandera County	1 : 1.10	1 : 0.26	1 : 0.26	American Farmland Trust, 2002
Bexar County	1 : 1.15	1 : 0.20	1 : 0.18	American Farmland Trust, 2004
Hays County	1 : 1.26	1 : 0.30	1 : 0.33	American Farmland Trust, 2000
<b>Utah</b>				
Cache County	1 : 1.27	1 : 0.25	1 : 0.57	Snyder and Ferguson, 1994
Sevier County	1 : 1.11	1 : 0.31	1 : 0.99	Snyder and Ferguson, 1994
Utah County	1 : 1.23	1 : 0.26	1 : 0.82	Snyder and Ferguson, 1994
<b>Virginia</b>				
Augusta County	1 : 1.22	1 : 0.20	1 : 0.80	Valley Conservation Council, 1997
Bedford County	1 : 1.07	1 : 0.40	1 : 0.25	American Farmland Trust, 2005
Clarke County	1 : 1.26	1 : 0.21	1 : 0.15	Piedmont Environmental Council, 1994
Culpepper County	1 : 1.22	1 : 0.41	1 : 0.32	American Farmland Trust, 2003
Frederick County	1 : 1.19	1 : 0.23	1 : 0.33	American Farmland Trust, 2003
Northampton County	1 : 1.13	1 : 0.97	1 : 0.23	American Farmland Trust, 1999
<b>Washington</b>				
Okanogan County	1 : 1.06	1 : 0.59	1 : 0.56	American Farmland Trust, 2007
Skagit County	1 : 1.25	1 : 0.30	1 : 0.51	American Farmland Trust, 1999
<b>Wisconsin</b>				
Dunn	1 : 1.06	1 : 0.29	1 : 0.18	Town of Dunn, 1994
Dunn	1 : 1.02	1 : 0.55	1 : 0.15	Wisconsin Land Use Research Program, 1999
Perry	1 : 1.20	1 : 1.04	1 : 0.41	Wisconsin Land Use Research Program, 1999
Westport	1 : 1.11	1 : 0.31	1 : 0.13	Wisconsin Land Use Research Program, 1999

Note: Some studies break out land uses into more than three distinct categories. For these studies, AFT requested data from the researcher and recalculated the final ratios for the land use categories listed in this table. The Okanogan County, Wash., study is unique in that it analyzed the fiscal contribution of tax-exempt state, federal and tribal lands.

American Farmland Trust's Farmland Information Center acts as a clearinghouse for information about Cost of Community Services studies. Inclusion in this table does not necessarily signify review or endorsement by American Farmland Trust.

# COST OF COMMUNITY SERVICES STUDIES

a community's bottom line. In areas where agriculture or forestry are major industries, it is especially important to consider the real property tax contribution of privately owned working lands. Working and other open lands may generate less revenue than residential, commercial or industrial properties, but they require little public infrastructure and few services.

COCS studies conducted over the last 20 years show working lands generate more public revenues than they receive back in public services. Their impact on community coffers is similar to that of other commercial and industrial land uses. On average, because residential land uses do not cover their costs, they must be subsidized by other community land uses. Converting agricultural land to residential land use should not be seen as a way to balance local budgets.

The findings of COCS studies are consistent with those of conventional fiscal impact analyses, which document the high cost of residential development and recommend commercial and industrial development to help balance local budgets. What is unique about COCS studies is that they show that agricultural land is similar to other commercial and industrial uses. In nearly every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for

public services. This is true even when the land is assessed at its current, agricultural use. However as more communities invest in agriculture this tendency may change. For example, if a community establishes a purchase of agricultural conservation easement program, working and open lands may generate a net negative.

Communities need reliable information to help them see the full picture of their land uses. COCS studies are an inexpensive way to evaluate the net contribution of working and open lands. They can help local leaders discard the notion that natural resources must be converted to other uses to ensure fiscal stability. They also dispel the myths that residential development leads to lower taxes, that differential assessment programs give landowners an "unfair" tax break and that farmland is an interim land use just waiting around for development.

One type of land use is not intrinsically better than another, and COCS studies are not meant to judge the overall public good or long-term merits of any land use or taxing structure. It is up to communities to balance goals such as maintaining affordable housing, creating jobs and conserving land. With good planning, these goals can complement rather than compete with each other. COCS studies give communities another tool to make decisions about their futures.

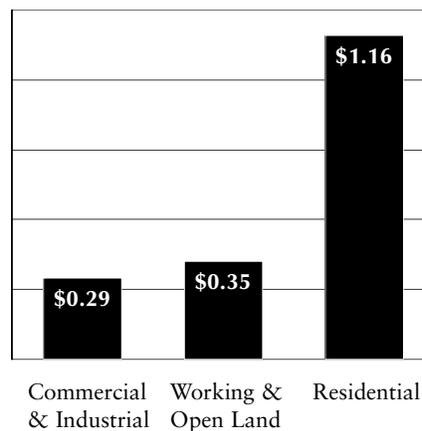
For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service and online library with fact sheets, laws, sample documents and other educational materials.

[www.farmlandinfo.org](http://www.farmlandinfo.org)  
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Median COCS Results



Median cost per dollar of revenue raised to provide public services to different land uses.



~~~~~  
**New York State**

**Department of Agriculture and Markets**

**10B Airline Drive**

**Albany, New York 12235**  
~~~~~

**CIRCULAR 1150**

**ARTICLE 25AA -- AGRICULTURAL DISTRICTS**

**AGRICULTURE AND MARKETS LAW**

**(AS AMENDED THROUGH October 1, 2011)**

**AGRICULTURAL DISTRICTS LAW**

Summary of **1999 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)(e) and §301(9)(e)

Description: Provides that land set aside through participation in a federal conservation program, regardless of the income derived from the land, shall be eligible for an agricultural assessment.

Effective Date: 9/7/99

Section Amended: §301(9)(e)

Description: Adds a new paragraph (e) to allow payments received for land set aside under a federal conservation reserve program to be included in calculating the average gross sales value of products produced in determining whether land used as a single farm operation qualifies as "land used in agricultural production."

Effective Date: 9/7/99

Section Amended: §303-a(4)

Description: Renumbers subdivision (4) to subdivision (5)

Effective Date: 7/20/99

Section Amended: §303-a(4)

Description: Adds a new subdivision (4) that states that if the county legislative body does not review a district upon its anniversary date, the agricultural district remains as originally constituted or until such time that the agricultural district is modified or terminated.

Effective Date: 7/20/99

Section Amended: §305(7)

Description: Provides that the real property tax exemption for agricultural land which is used solely for the purpose of replanting or crop expansion as part of an orchard or vineyard may be greater than 20% of the total acreage of such orchard or vineyard when such orchard or vineyard is located within an area declared by the Governor to be a disaster emergency.

Effective Date: 9/7/99 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after 9/7/99.

Section Amended: §308(3)

Description: Renumbers subdivision (3), which was added by Chapter 362 of the Laws of 1998, to subdivision (4)

Effective Date: 4/6/99

Section Repealed: §309(8) & (9)

Description: Repeals the two subdivisions

Effective Date: 7/20/99

Section Amended: §309(10)

Description: Renumbers subdivision (10) to subdivision (8)

Effective Date: 7/20/99

Section Amended §310(1)

Description: Adds language to the agricultural district disclosure statement to notify a prospective buyer of land within an agricultural district that under certain circumstances, the availability of water and sewer services may be limited.

Effective Date: 7/1/00

Summary of **2000 Amendments** to the Agricultural Districts Law

Section Amended: §305(1)(d)(v) and §306(2)(b)(iii)

Description: Revises reporting requirement of assessors to the State Board of Real Property Services when land receiving an agricultural assessment is converted to non-agricultural uses.

Effective Date: 7/11/00

Section Amended: §308(1)(b)

Description: Requires the Commissioner to give consideration to a practice conducted under the Agricultural Environmental Management (AEM) Program when making a sound agricultural practice determination.

Effective Date: 11/8/00

Summary of **2001 Amendments** to the Agricultural Districts Law

Section Amended: §301(11)

Description: Includes manure processing and handling facilities as part of a "farm operation" for purposes of administering the Agricultural Districts Law.

Effective Date: 10/23/01

Section Amended: §301(11)

Description: Includes "commercial horse boarding operations" as part of a "farm operation" for purposes of administering the Agricultural Districts Law.

Effective Date: 10/31/01

Summary of **2002 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)

Description: Eliminates county legislative body approval for the designation of eligible horse boarding operations as land used in agricultural production.

Effective Date: 1/30/03

Sections Amended: §301(4), §301(4)(b), and §301(4)(f)

Description: Reduces the number of acres needed to qualify for agricultural real property assessment from ten acres to 7 or more acres as long as the value of crops produced exceeds \$10,000 on average in the preceding two years. The size of rented land eligible for an agricultural assessment is reduced from 10 acres to 7 acres as long as the smaller parcel yields at least \$10,000 in average annual gross sales independently or in conjunction with land owned by the farmer renting the parcel. The amendment also reduces the number of acres needed to qualify as land used in agricultural production from not less than ten acres to seven or more acres and average gross sales of \$10,000 or more in the preceding two years or less than seven acres and average gross sales \$50,000 or more in the preceding two years.

Effective Date: 1/1/03

Section Added: §301(9)(f)

Description: Allows payments received by thoroughbred breeders pursuant to Section 247 of the racing pari-mutuel wagering and breeding law to be included in the definition of "gross sales value" for agricultural assessment purposes.

Effective Date: 9/17/02

Section Amended: §301(11)

Description: Amends the definition of farm operation to indicate that such operation may consist of one or more parcels of owned or rented land and such parcels may or may not be contiguous to each other.

Effective Date: 1/1/03

Section Amended: §301(13)

Description: Reduces the minimum acreage required for a commercial horse boarding operation from ten to seven acres.

Effective Date: 1/1/03

Sections Amended: §303(2)(a)(1), §303(4), §303(5)(a) and (b), §303(6)(a) and (b), §303(7) and §303(8)

Description: Amends various sections of the law to allow a landowner to include viable agricultural land within a certified agricultural district prior to its eight, twelve or twenty year review period.

Effective Date: 12/20/02

Summary of **2003 Amendments** to the Agricultural Districts Law

Section Added: §301(4)(h)

Description: Adds a new paragraph (h) to allow first year farmers to receive an agricultural assessment if they meet the gross sales value requirements during their first year of operation.

Effective Date: 9/9/03

Sections Amended: §301(5), §305(1)(d)(iv), and §306(2)(c)

Description: Amends various sections of the law so that conversion penalties are not assessed on farmland that is being used in agricultural production and receives an agricultural

assessment when such land is converted to wind energy generation facilities.

Effective Date: 9/22/03

Sections Amended: §303-b, §303(2)(a)(1) and §303(4)

Description: Adds a new section 303-b to establish an annual 30-day period during which a farmer can submit proposals to include viable land within a certified agricultural district.

Effective Date: 9/17/03

Sections Amended: §303(5)(b), §303(6)(b) and §303(8)

Description: Repeals various sections of the law to conform with the provisions of a new section 303-b.

Effective Date: 9/17/03

#### Summary of **2004 Amendment** to the Agricultural Districts Law

Section Amended: §301(4)(h)

Description: Amends paragraph (h) to allow a farm operation to receive an agricultural assessment if it meets the acreage and gross sales value requirements during its first or second year of agricultural production.

Effective Date: 2/24/04

Section Amended: §301(4)(i)

Description: Adds a new paragraph (i) to allow start-up farm operations that plant orchard or vineyard crops to immediately become eligible to receive an agricultural assessment in its first, second, third or fourth year of production.

Effective Date: 1/1/05

#### Summary of **2005 Amendments** to the Agricultural Districts Law

Section Amended: §301(2)(e)

Description: Amends paragraph (e) by adding wool bearing animals, such as alpacas and llamas, to the definition of "livestock and livestock products."

Effective Date: 7/12/05

Section Amended: §301(4)(h) and §301(13)

Description: Amends paragraph (h) to allow a "commercial horse boarding operation" to receive an agricultural assessment if it meets the acreage and gross sales value requirements during its first or second year of agricultural production. The definition of "commercial horse boarding operation" is amended by stating that such operations may qualify as a "farm operation" in its first or second year of operation if it meets the acreage and number of horse requirements.

Effective Date: 8/23/05

Section Amended: §301(11) and §301(14)

Description: Includes "timber processing" as part of a "farm operation" for purposes of administering the Agricultural Districts Law and adds a new section by defining the term "timber processing."

Effective Date: 8/23/05

Section Amended: §305-b

Description: Adds a new section that authorizes the Commissioner to review and comment upon the proposed rules and regulations of other State agencies which may have an adverse impact on agriculture and farming operations in the State.

Effective Date: 10/4/05 (Shall apply to proposed rules and regulations publicly noticed 60 or more days following the effective date.)

Summary of **2006 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)

Description: Adds a new section (j) to allow newly planted Christmas tree farms to be eligible for agricultural assessment in their first through fifth years of agricultural production.

Effective Date: 1/1/07 and applies to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

Section Amended: §§301 and 308(1)

Description: Adds a new subdivision (15) to §301 to define "agricultural tourism" and amends §308(1) to add "agricultural tourism"

to the list of examples of activities which entail practices the Commissioner may consider for sound agricultural practice opinions.

Effective Date: 8/16/06

Section Amended: §305(1)(a)

Description: Amends paragraph (1)(a) to allow filing of an application after taxable status date where failure to timely file resulted from a death of applicant's spouse, child, parent, brother or sister or illness of the applicant or applicant's spouse, child, parent, brother or sister which prevents timely filing, as certified by a licensed physician.

Effective Date: 9/13/06 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after such date.

Section Amended: §305(7)

Description: Amends paragraph (7) to extend the 100% exemption for newly planted orchards and vineyards from 4 to 6 years.

Effective Date: 9/13/06 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after 1/1/06.

Section Amended: §310(1), §308(5)

Description: Amends AML §§310(1), 308(5) and RPL §333-c(1) relative to the disclosure notice required for prospective purchasers of property within an agricultural district.

Effective Date: 7/26/06

#### Summary of **2007 Amendments** to the Agricultural Districts Law

Section Amended: §§303, 303-a & 304-b, repeals §303-a(2)(b) and (c)

Description: Amends AML §§303, 303-a and 304-b concerning the review of agricultural districts and the reporting of agricultural district data and repeals certain provisions of such law relating thereto.

Effective Date: 7/3/07

Section Amended: §304-a

Description: Amends AML §304-a to limit an increase in the base agricultural assessment values for any given year to 10 percent or less of the assessment value of the preceding year.

Effective Date: 6/4/07

Section Amended: §305(1)(a)

Description: Amends AML §305(1)(a) in relation to authorizing the filing of an application for an agricultural assessment after the taxable status date in the event of a natural disaster or destruction of farm structures.

Effective Date: 8/15/07

Summary of **2008 Amendments** to the Agricultural Districts Law

Section Amended: §§301(2)(j), 301(4)(k) and 301(16)

Description: Adds a new paragraph (j) to §301(2) to add "apiary products" to the definition of "crops, livestock and livestock products," adds a new paragraph (k) to §301(4) to independently qualify apiaries for an agricultural assessment and adds a new subdivision (16) to define "apiary products operation."

Effective Date: 7/21/08 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after 7/21/08

Section Amended: §301(4)(a-1)

Description: Adds a new paragraph (a-1) to §301(4) to allow a not-for-profit institution to qualify rented land for an agricultural assessment if the property is used for agricultural research which is intended to improve the quality or quantity of crops, livestock or livestock products.

Effective Date: 9/25/08

Section Amended: §§301(11) and 308(1)(b)

Description: Amends subdivision (11) of §301 to add the "production, management and harvesting of 'farm woodland'" to the definition of "farm operation" and amends §308(1)(b) to add the "production, management and harvesting of 'farm woodland'" to the list of examples of activities which entail practices the Commissioner may consider for sound agricultural practice opinions.

Effective Date: 9/4/08

Section Amended: §§301(9), 301(11), and 301(16)

Description: Adds a new paragraph (g) to §301(9) to allow up to \$5,000 from the sale of "compost, mulch or other organic biomass crops" to help meet the eligibility requirements for an agricultural assessment; amends subdivision (11) of §301 to add "compost, mulch or other biomass crops" to the definition of "farm operation" and adds a new subdivision (16) to define "compost, mulch or other organic biomass crops."

Effective Date: 9/4/08

Summary of **2010 Amendments** to the Agricultural Districts Law

Section Amended: §§301(11), 301(14) and 308(1)

Description: Amends subdivision (11) of §301 to substitute "timber operation" for "timber processing" and remove the reference to "farm woodland", which is a term used for agricultural assessment. In addition, amends the definition of "timber processing" [§301(14)] and renames that section "timber operation". Amends definition to remove a reference to "readily moveable, nonpermanent saw mill" and adds "production, management, harvesting,...and marketing" to the definition. Amends §308(1) to substitute "timber operation" for "farm woodland" and removes a reference to the "production, management and harvesting of 'farm woodland.'

Effective Date: 6/15/10

Section Amended: §301(15)

Description: Amends the definition of "agricultural tourism" to add maple sap and pure maple products.

Effective Date: 5/18/10

Section Amended: §303-a(5)

Description: Amends subdivision (5) of §303-a to add "correction of any errors" to a list of procedures as described in §303(5), (6) and (7).

Effective Date: 6/15/10

Section Amended: §305(7)

Description: Amends an existing property tax exemption for reinvestment in orchards and vineyards by establishing a more streamlined process to implement the exemption.

Effective Date: 7/30/10

Summary of **2011 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)(c)

Description: Amends AML §301(4)(c) to include agricultural amusements as support land to farm operations or land used in agricultural production.

Effective Date: 6/8/11

Section Amended: §§301(11), 301(17), 301(4)(1)

Description: Amends AML §301(11) to add "commercial equine operation" to the definition of farm operation, adds a new paragraph 17 to §301 to define the term "commercial equine operation," and adds a new paragraph (1) to AML §301(4) to independently qualify "commercial equine operation" for an agricultural assessment.

Effective Date: 8/3/11

Section Amended: §302(1)(a)

Description: Amends AML §302(1)(a) to allow an employee of the county soil and water conservation district, as designated by the chairperson, to become the voting member on the county AFPB.

Effective Date: 7/20/11

Section Amended: §§305-a(1)(b), 308(1)(b)

Description: Adds a new paragraph (b) to AML §305-a (1) to require the commissioner to render an opinion on whether farm operations would be unreasonably restricted or regulated by proposed changes in local laws and amends AML §308(1)(b) to require the commissioner to provide certain consultation information to the municipality where the agricultural practice was evaluated.

Effective Date: 9/23/11

ARTICLE 25-AA

AGRICULTURAL DISTRICTS

- Section 300. Declaration of legislative findings and intent.  
301. Definitions.  
302. County agricultural and farmland protection board.  
303. Agricultural districts; creation.  
303-a. Agricultural districts; review.  
303-b. Agricultural districts; inclusion of viable agricultural land.  
304. Unique and irreplaceable agricultural lands; creation of districts.  
304-a. Agricultural assessment values.  
304-b. Agricultural district data reporting.  
305. Agricultural districts; effects.  
305-a. Coordination of local planning and land use decision-making with the agricultural districts program.  
305-b. Review of proposed rules and regulations of state agencies affecting the agricultural industry.  
306. Agricultural lands outside of districts; agricultural assessments.  
307. Promulgation of rules and regulations.  
308. Right to farm.  
308-a. Fees and expenses in certain private nuisance actions.  
309. Advisory council on agriculture.  
310. Disclosure.

**§ 300.** Declaration of legislative findings and intent. It is hereby found and declared that many of the agricultural lands in New York state are in jeopardy of being lost for any agricultural purposes. When nonagricultural development extends into farm areas, competition for limited land resources results. Ordinances inhibiting farming tend to follow, farm taxes rise, and hopes for speculative gains discourage investments in farm improvements, often leading to the idling or conversion of potentially productive agricultural land.

The socio-economic vitality of agriculture in this state is essential to the economic stability and growth of many local communities and the state as a whole. It is, therefore, the declared policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products. It is also the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes.

The constitution of the state of New York directs the legislature to provide for the protection of agricultural lands. It is the purpose of this article to provide a locally-initiated mechanism for the protection and enhancement of New York state's agricultural land as a viable segment of the local and state economies and as an economic and environmental resource of major importance.

§ 301. Definitions. When used in this article:

1. "Agricultural assessment value" means the value per acre assigned to land for assessment purposes determined pursuant to the capitalized value of production procedure prescribed by section three hundred four-a of this article.

2. "Crops, livestock and livestock products" shall include but not be limited to the following:

a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.

b. Fruits, including apples, peaches, grapes, cherries and berries.

c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.

d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.

f. Maple sap.

g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.

h. Aquaculture products, including fish, fish products, water plants and shellfish.

i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.

j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.

3. "Farm woodland" means land used for the production for sale of woodland products, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.

4. "Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.

a-1. Land used by a not-for-profit institution for the purposes of agricultural research that is intended to improve the quality or quantity of crops, livestock or livestock products. Such land shall qualify for an agricultural assessment upon application made pursuant to paragraph (a) of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the

gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.

c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment. Such land shall include land used for agricultural amusements which are produced from crops grown or produced on the farm, provided that such crops are harvested and marketed in the same manner as other crops produced on such farm. Such agricultural amusements shall include, but not be limited to, so-called "corn mazes" or "hay bale mazes."

d. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.

e. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

f. Land of not less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or land of less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.

g. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements of paragraph f of this subdivision.

h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.

i. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is

used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.

j. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.

k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more or (ii) less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

l. Land that is owned or rented by a farm operation in its first or second year of agricultural production or in the case of a commercial equine operation, in its first or second year of operation, that consists of not less than seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing.

5. "Oil, gas or wind exploration, development or extraction activities" means the installation and use of fixtures and equipment which are necessary for the exploration, development or extraction of oil, natural gas or wind energy, including access roads, drilling apparatus, pumping facilities, pipelines, and wind turbines.

6. "Unique and irreplaceable agricultural land" means land which is uniquely suited for the production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties.

7. "Viable agricultural land" means land highly suitable for agricultural production and which will continue to be economically feasible for such use if real property taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of non-agricultural development.

8. "Conversion" means an outward or affirmative act changing the use of agricultural land and shall not mean the nonuse or idling of such land.

9. "Gross sales value" means the proceeds from the sale of:

a. Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state;

b. Woodland products from farm woodland eligible to receive an agricultural assessment, not to exceed two thousand dollars annually;

c. Honey and beeswax produced by bees in hives located on an otherwise qualified farm operation but which does not independently satisfy the gross sales requirement;

d. Maple syrup processed from maple sap produced on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation;

e. Or payments received by reason of land set aside pursuant to paragraph e of subdivision four of this section;

f. Or payments received by thoroughbred breeders pursuant to section two hundred fifty-four of the racing, pari-mutuel wagering and breeding law; and

g. Compost, mulch or other organic biomass crops as defined in subdivision sixteen of this section produced on land used in agricultural production, not to exceed five thousand dollars annually.

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section and "commercial equine operation" as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

12. "Agricultural data statement" means an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five-a of this article.

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs,

lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

15. "Agricultural tourism" means activities, including the production of maple sap and pure maple products made therefrom, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

\* 16. "Apiary products operation" means an agricultural enterprise, consisting of land owned by the operation, upon which bee hives are located and maintained for the purpose of producing, harvesting and storing apiary products for sale.

\* NB There are 2 subd. 16's

\* 16. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

§ 302. County agricultural and farmland protection board. 1. (a) A county legislative body may establish a county agricultural and farmland

protection board which shall consist of eleven members, at least four of whom shall be active farmers. At least one member of such board shall represent agribusiness and one member may represent an organization dedicated to agricultural land preservation. These six members of the board shall reside within the county which the respective board serves. The members of the board shall also include the chairperson of the county soil and water conservation district's board of directors or an employee of the county soil and water conservation district designated by the chairperson, a member of the county legislative body, a county cooperative extension agent, the county planning director and the county director of real property tax services. The chairperson shall be chosen by majority vote. Such board shall be established in the event no such board exists at the time of receipt by the county legislative body of a petition for the creation or review of an agricultural district pursuant to section three hundred three of this article, or at the time of receipt by the county of a notice of intent filing pursuant to subdivision four of section three hundred five of this article. The members of such board shall be appointed by the chairperson of the county legislative body, who shall solicit nominations from farm membership organizations except for the chairperson of the county soil and water conservation district's board of directors, the county planning director and director of real property tax services, who shall serve ex officio. The members shall serve without salary, but the county legislative body may entitle each such member to reimbursement for actual and necessary expenses incurred in the performance of official duties.

(b) After the board has been established, the chairperson of the county legislative body shall appoint to it two qualified persons for terms of two years each, two qualified persons for terms of three years each and two qualified persons for a term of four years. Thereafter, the appointment of each member shall be for a term of four years. Appointment of a member of the county legislative body shall be for a term coterminous with the member's term of office. Appointment of the county planning director and county director of real property tax services shall be coterminous with their tenure in such office. The appointment of the chairperson of the county soil and water conservation district's board of directors shall be for a term coterminous with his or her designation as chairperson of the county soil and water conservation district's board of directors. Any member of the board may be reappointed for a succeeding term on such board without limitations as to the number of terms the member may serve.

(c) The county agricultural and farmland protection board shall advise the county legislative body and work with the county planning board in relation to the proposed establishment, modification, continuation or termination of any agricultural district. The board shall render expert advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area and the relation of farming in such area to the county as a whole. The board may review notice of intent filings pursuant to subdivision four of section three hundred five of this article and make findings and recommendations pursuant to that section as to the effect and reasonableness of proposed actions involving the advance of public funds or acquisitions of farmland in agricultural districts by governmental entities. The board shall also assess and approve county agricultural and farmland protection plans.

(d) A county agricultural and farmland protection board may request the commissioner of agriculture and markets to review any state agency rules and regulations which the board identifies as affecting the agricultural activities within an existing or proposed agricultural district. Upon receipt of any such request, the commissioner of agriculture and markets shall, if the necessary funds are available, submit in writing to the board (i) notice of changes in such rules and regulations which he or she deems necessary, (ii) a copy of correspondence with another agency if such rules and regulations are outside his or her jurisdiction, including such rules and regulations being reviewed, and his or her recommendations for modification, or (iii) his or her reasons for determining that existing rules and regulations be continued without modification.

(e) The county agricultural and farmland protection board shall notify the commissioner and the commissioner of the department of environmental conservation of any attempts to propose the siting of solid waste management facilities upon farmland within an agricultural district.

2. Upon the request of one or more owners of land used in agricultural production the board may review the land classification for such land established by the department of agriculture and markets, consulting with the district soil and water conservation office, and the county cooperative extension service office. After such review, the board may recommend revisions to the classification of specific land areas based on local soil, land and climatic conditions to the department of agriculture and markets.

**§ 303.** Agricultural districts; creation. 1. Any owner or owners of land may submit a proposal to the county legislative body for the creation of an agricultural district within such county, provided that such owner or owners own at least five hundred acres or at least ten per cent of the land proposed to be included in the district, whichever is greater. Such proposal shall be submitted in such manner and form as may be prescribed by the commissioner, shall include a description of the proposed district, including a map delineating the exterior boundaries of the district which shall conform to tax parcel boundaries, and the tax map identification numbers for every parcel in the proposed district. The proposal may recommend an appropriate review period of either eight, twelve or twenty years.

2. Upon the receipt of such a proposal, the county legislative body:

a. shall thereupon provide notice of such proposal by publishing a notice in a newspaper having general circulation within the proposed district and by posting such notice in five conspicuous places within the proposed district. The notice shall contain the following information:

(1) a statement that a proposal for an agricultural district has been filed with the county legislative body pursuant to this article;

(2) a statement that the proposal will be on file open to public inspection in the county clerk's office;

(3) a statement that any municipality whose territory encompasses the proposed district or any landowner who owns at least ten per cent of the land proposed to be included within the proposed modification of the proposed district may propose a modification of the proposed district in such form and manner as may be prescribed by the commissioner of agriculture and markets;

(4) a statement that the proposed modification must be filed with the county clerk and the clerk of the county legislature within thirty days after the publication of such notice;

(5) a statement that at the termination of the thirty day period, the proposal and proposed modifications will be submitted to the county planning board and county agricultural and farmland protection board and that thereafter a public hearing will be held on the proposal, proposed modifications and recommendations of the planning board and county agricultural and farmland protection board;

b. shall receive any proposals for modifications of such proposal which may be submitted by such landowners or municipalities within thirty days after the publication of such notice;

c. shall, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county planning board, which shall, within forty-five days, report to the county legislative body the potential effect of such proposal and proposed modifications upon the county's planning policies and objectives;

d. shall simultaneously, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county agricultural and farmland protection board, which shall, within forty-five days report to the county legislative body its recommendations concerning the proposal and proposed modifications, and;

e. shall hold a public hearing in the following manner:

(1) The hearing shall be held at a place within the proposed district or otherwise readily accessible to the proposed district;

(2) The notice shall contain the following information:

(a) a statement of the time, date and place of the public hearing;

(b) a description of the proposed district, any proposed additions and any recommendations of the county planning board or county agricultural and farmland protection board;

(c) a statement that the public hearing will be held concerning:

(i) the original proposal;

(ii) any written amendments proposed during the thirty day review period;

(iii) any recommendations proposed by the county agricultural and farmland protection board and/or the county planning board.

(3) The notice shall be published in a newspaper having a general circulation within the proposed district and shall be given in writing to those municipalities whose territory encompasses the proposed district and any proposed modifications, owners of real property within such a proposed district or any proposed modifications who are listed on the most recent assessment roll, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture.

3. The following factors shall be considered by the county planning board, the county agricultural and farmland protection board, and at any public hearing:

i. the viability of active farming within the proposed district and in areas adjacent thereto;

ii. the presence of any viable farm lands within the proposed district and adjacent thereto that are not now in active farming;

iii. the nature and extent of land uses other than active farming within the proposed district and adjacent thereto;

iv. county developmental patterns and needs; and

v. any other matters which may be relevant.

In judging viability, any relevant agricultural viability maps prepared by the commissioner of agriculture and markets shall be

considered, as well as soil, climate, topography, other natural factors, markets for farm products, the extent and nature of farm improvements, the present status of farming, anticipated trends in agricultural economic conditions and technology, and such other factors as may be relevant.

4. The county legislative body, after receiving the reports of the county planning board and the county agricultural and farmland protection board and after such public hearing, may adopt as a plan the proposal or any modification of the proposal it deems appropriate, and shall adopt as part of the plan an appropriate review period of either eight, twelve or twenty years. The plan as adopted shall, to the extent feasible, include adjacent viable farm lands, and exclude, to the extent feasible, nonviable farm land and non-farm land. The plan shall include only whole tax parcels in the proposed district. The county legislative body shall act to adopt or reject the proposal, or any modification of it, no later than one hundred eighty days from the date the proposal was submitted to this body. Upon the adoption of a plan, the county legislative body shall submit it to the commissioner. The commissioner may, upon application by the county legislative body and for good cause shown, extend the period for adoption and submission once for an additional thirty days. Where he or she does so, the county legislative body may extend the period for the report from the county planning board and/or the period for the report from the county agricultural and farmland protection board.

5. a. The commissioner shall have sixty days after receipt of the plan within which to certify to the county legislative body whether the proposal, or a modification of the proposal, is eligible for districting, whether the area to be districted consists predominantly of viable agricultural land, and whether the plan of the proposed district is feasible, and will serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state. The commissioner shall submit a copy of such plan to the commissioner of environmental conservation, who shall have thirty days within which to report his or her determination to the commissioner. A copy of such plan shall also be provided to the advisory council on agriculture. The commissioner shall not certify the plan as eligible for districting unless the commissioner of environmental conservation has determined that the area to be districted is consistent with state environmental plans, policies and objectives.

6. a. Within sixty days after the certification by the commissioner that the proposed area is eligible for districting, and that districting would be consistent with state environmental plans, policies and objectives, the county legislative body may hold a public hearing on the plan, except that it shall hold a public hearing if the plan was modified by the commissioner or was modified by the county legislative body after they held the public hearing required by paragraph e of subdivision two of this section and such modification was not considered at the original hearing. Notice of any such hearing shall be in a newspaper having general circulation in the area of the proposed district and individual notice, in writing, to those municipalities whose territories encompass the proposed district modifications, the persons owning land directly affected by the proposed district modifications, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture. The proposed district, if certified without modification by the commissioner, shall become effective thirty days after the termination of such public

hearing or, if there is no public hearing, ninety days after such certification unless its creation is disapproved by the county legislative body within such period. Provided, however, that if, on a date within the thirty days after the termination of such public hearing or, if there is no public hearing, within the ninety days after such certification, the county legislative body approves creation of the district, such district shall become effective on such date. Provided further, that notwithstanding any other provision of this subdivision, if the commissioner modified the proposal, the district shall not become effective unless the county legislative body approves the modified district; such approval must be given on a date within the thirty days after the termination of the public hearing; and the district, if approved, shall become effective on such date. Before approving or disapproving any proposal modified by the commissioner, the county legislative body may request reports on such modified proposal, from the county planning board and the county agricultural and farmland protection board.

7. Upon the creation of an agricultural district, the description thereof, which shall include tax map identification numbers for all parcels within the district, plus a map delineating the exterior boundaries of the district in relation to tax parcel boundaries, shall be filed by the county legislative body with the county clerk, the county director of real property tax services, and the commissioner. For all existing agricultural districts, the county clerk shall also file with the commissioner upon request the tax map identification numbers for tax parcels within those districts. The commissioner, on petition of the county legislative body, may, for good cause shown, approve the correction of any errors in materials filed pursuant to a district creation at any time subsequent to the creation of any agricultural district.

**§ 303-a.** Agricultural districts; review. 1. The county legislative body shall review any district created under this section eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district and at the end of every eight, twelve or twenty year period thereafter, whichever may apply. In counties with multiple districts with review dates in any twelve month period, the commissioner, on petition of the county legislative body, may, for good cause shown, approve an extension of up to four years for a district review. Thereafter, the extended review date shall be deemed the creation date for purposes of subsequent reviews by the county legislative body in accordance with this section. The review date of a district may not be extended more than four years. The petition of the county legislative body for an extension shall be submitted to the commissioner at least six months prior to the review date.

2. In conducting a district review the county legislative body shall:

a. provide notice of such district review by publishing a notice in a newspaper having general circulation within the district and by posting such notice in at least five conspicuous places within the district. The notice shall identify the municipalities in which the district is found and the district's total area; indicate that a map of the district will be on file and open to public inspection in the office of the county clerk and such other places as the legislative body deems appropriate;

and notify municipalities and land owners within the district that they may propose a modification of the district by filing such proposal with the county clerk of the county legislature within thirty days after the publication of such notice;

b. direct the county agricultural and farmland protection board to prepare a report concerning the following:

(1) the nature and status of farming and farm resources within such district, including the total number of acres of land and the total number of acres of land in farm operations in the district;

(2) the extent to which the district has achieved its original objectives;

(3) the extent to which county and local comprehensive plans, policies and objectives are consistent with and support the district;

(4) the degree of coordination between local laws, ordinances, rules and regulations that apply to farm operations in such district and their influence on farming; and

(5) recommendations to continue, terminate or modify such district.

c. hold a public hearing at least one hundred twenty days prior to the district review date and not more than one hundred eighty days prior to such date, in the following manner:

(1) the hearing shall be held at a place within the district or otherwise readily accessible to the proposed district;

(2) a notice of public hearing shall be published in a newspaper having a general circulation within the district and shall be given in writing to those municipalities whose territories encompass the district and any proposed modifications to the district; to persons, as listed on the most recent assessment roll, whose land is the subject of a proposed modification; and to the commissioner;

(3) the notice of hearing shall contain the following information:

(a) a statement of the time, date and place of the public hearing; and

(b) a description of the district, any proposed modifications and any recommendations of the county agricultural and farmland protection board.

3. The county legislative body, after receiving the report and recommendation of the county agricultural and farmland protection board, and after public hearing, shall make a finding whether the district should be continued, terminated or modified. If the county legislative body finds that the district should be terminated, it may do so at the end of such eight, twelve or twenty year period, whichever may be applicable, by filing a notice of termination with the county clerk and the commissioner. If the county legislative body finds that the district should be continued or modified, it shall submit a district review plan to the commissioner. The district review plan shall include a description of the district, including a map delineating the exterior boundaries of the district which shall conform to tax parcel boundaries; the tax map identification numbers for every parcel in the district; a copy of the report of the county agricultural and farmland protection board required by paragraph b of subdivision two of this section; and a copy of the testimony given at the public hearing required by subdivision two of this section or a copy of the minutes of such hearing.

4. If the county legislative body does not act, or if a modification of a district is rejected by the county legislative body, the district shall continue as originally constituted, unless the commissioner, after consultation with the advisory council on agriculture, terminates such district, by filing a notice thereof with the county clerk, because:

a. the area in the district is no longer predominantly viable agricultural land; or

b. the commissioner of environmental conservation has determined that the continuation of the district would not be consistent with state environmental plans, policies and objectives; provided, however, that if the commissioner certifies to the county legislative body that he or she will not approve the continuance of the district unless modified, the commissioner shall grant the county an extension as provided in subdivision one of this section to allow the county to prepare a modification of the district in the manner provided in this section.

5. Plan review, certification, correction of any errors and filing shall be conducted in the same manner prescribed for district creation in subdivisions five, six and seven of section three hundred three of this article.

**§ 303-b.** Agricultural districts; inclusion of viable agricultural land. 1. The legislative body of any county containing a certified agricultural district shall designate an annual thirty-day period within which a land owner may submit to such body a request for inclusion of land which is predominantly viable agricultural land within a certified agricultural district prior to the county established review period. Such request shall identify the agricultural district into which the land is proposed to be included, describe such land, and include the tax map identification number and relevant portion of the tax map for each parcel of land to be included.

2. Upon the termination of such thirty-day period, if any requests are submitted, the county legislative body shall:

a. refer such request or requests to the county agricultural and farmland protection board, which shall, within thirty days report to the county legislative body its recommendations as to whether the land to be included in the agricultural district consists predominantly of "viable agricultural land" as defined in subdivision seven of section three hundred one of this article and the inclusion of such land would serve the public interest by assisting in maintaining a viable agricultural industry within the district; and

b. publish a notice of public hearing in accordance with subdivision three of this section.

3. The county legislative body shall hold a public hearing upon giving notice in the following manner:

a. The notice of public hearing shall contain a statement that one or more requests for inclusion of predominantly viable agricultural land within a certified agricultural district have been filed with the county legislative body pursuant to this section; identify the land, generally, proposed to be included; indicate the time, date and place of the public hearing, which shall occur after receipt of the report of the county agricultural and farmland protection board; and include a statement that the hearing shall be held to consider the request or requests and recommendations of the county agricultural and farmland protection board.

b. The notice shall be published in a newspaper having a general circulation within the county and shall be given in writing directly to those municipalities whose territory encompasses the lands which are proposed to be included in an agricultural district and to the commissioner.

4. After the public hearing, the county legislative body shall adopt or reject the inclusion of the land requested to be included within an existing certified agricultural district. Such action shall be taken no later than one hundred twenty days from the termination of the thirty day period described in subdivision one of this section. Any land to be added shall consist of whole tax parcels only. Upon the adoption of a resolution to include predominantly viable agricultural land, in whole or in part, within an existing certified agricultural district, the county legislative body shall submit the resolution, together with the report of the county agricultural and farmland protection board and the tax map identification numbers and tax maps for each parcel of land to be included in an agricultural district to the commissioner.

5. Within thirty days after receipt of a resolution to include land within a district, the commissioner shall certify to the county legislative body whether the inclusion of predominantly viable agricultural land as proposed is feasible and shall serve the public interest by assisting in maintaining a viable agricultural industry within the district or districts.

6. If the commissioner certifies that the proposed inclusion of predominantly viable agricultural land within a district is feasible and in the public interest, the land shall become part of the district immediately upon such certification.

**§ 304.** Unique and irreplaceable agricultural lands; creation of districts. 1. The commissioner, after consulting with the advisory council on agriculture, may create agricultural districts covering any land in units of two thousand or more acres not already districted under section three hundred three of this article, if (a) the land encompassed in a proposed district is predominantly unique and irreplaceable agriculture land; (b) the commissioner of environmental conservation has determined that such district would further state environmental plans, policies and objectives; and (c) the director of the division of the budget has given approval of the establishment of such area.

2. Prior to creating an agricultural district under this section, the commissioner of agriculture and markets shall work closely, consult and cooperate with local elected officials, planning bodies, agriculture and agribusiness interests, community leaders, and other interested groups. The commissioner shall give primary consideration to local needs and desires, including local zoning and planning regulations as well as regional and local comprehensive land use plans. The commissioner shall file a map of the proposed district in the office of the clerk of any municipality in which the proposed district is to be located, and shall provide a copy thereof to the chief executive officer of any such municipality and the presiding officer of the local governing body, and, upon request, to any other person. The commissioner shall publish a notice of the filing of such proposed map and the availability of copies thereof in a newspaper of general circulation within the area of the proposed district, which notice shall also state that a public hearing will be held to consider the proposed district at a specified time and at a specified place either within the proposed district or easily accessible to the proposed district on a date not less than thirty days after such publication. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land within the proposed district. The commissioner shall conduct a public hearing

pursuant to such notice, and, in addition, any person shall have the opportunity to present written comments on the proposed district within thirty days after the public hearing. After due consideration of such local needs and desires, including such testimony and comments, if any, the commissioner may affirm, modify or withdraw the proposed district. Provided, however, that if the commissioner modifies the proposal to include any land not included in the proposal as it read when the public hearing was held, the commissioner shall hold another public hearing, on the same type of published and written notice, and with the same opportunity for presentation of written comments after the hearing. Then the commissioner may affirm, modify or withdraw the proposed district, but may not modify it to include land not included in the proposal upon which the second hearing was held.

3. Upon such affirmation or modification, a map of the district shall be filed by the commissioner of agriculture and markets with the county clerk of each county in which the district or a portion thereof is located, and publication of such filing shall be made in a newspaper of general circulation within the district to be created. The creation of the district shall become effective thirty days after such filing and publication.

4. The commissioner shall review any district created under this section, in consultation with the advisory council on agriculture, the commissioner of environmental conservation and the director of the division of the budget, eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district or every eight years if the district was adopted prior to August first, nineteen hundred eighty-three, and every eight, twelve or twenty year period thereafter, whichever may be applicable. Each such review shall include consultation with local elected officials, planning bodies, agricultural and agribusiness interests, community leaders, county agricultural and farmland protection boards, and other interested groups, and shall also include a public hearing at a specified time and at a specified place either within the district or easily accessible to the proposed district, notice of such hearing to be published in a newspaper having general circulation within the district. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land in the district. After any such review, the commissioner may modify such district so as to exclude land which is no longer predominantly unique and irreplaceable agricultural land or to include additional such land, provided: (a) such modification would serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state; (b) the commissioner of environmental conservation has determined that such modification would further state environmental plans, policies and objectives; and (c) such modification has been approved by the director of the division of the budget; provided, further, that if the commissioner modifies the district to include additional land, he or she shall hold another public hearing, on the same type of published and written notice. Then the commissioner may again modify or dissolve the district, but may not modify it to include land not included in the proposed modifications upon which the second hearing was held. After any such review the commissioner, after consultation with the advisory council on agriculture, shall dissolve any such district if (a) the land within the district is no longer predominantly unique and irreplaceable agricultural land, or (b) the commissioner of environmental conservation has determined that the continuation of the district would not further

state environmental plans, policies and objectives. A modification or dissolution of a district shall become effective in the same manner as is provided for in subdivision three of this section, except that in the case of dissolution, a notice of dissolution shall be filed instead of a map.

**§ 304-a.** Agricultural assessment values. 1. Agricultural assessment values shall be calculated and certified annually in accordance with the provisions of this section.

2. a. The commissioner of agriculture and markets shall establish and maintain an agricultural land classification system based upon soil productivity and capability. The agricultural land classification system shall distinguish between mineral and organic soils. There shall be ten primary groups of mineral soils and such other subgroups as the commissioner determines necessary to represent high-lime and low-lime content. There shall be four groups of organic soils.

b. The land classification system shall be promulgated by rule by the commissioner following a review of comments and recommendations of the advisory council on agriculture and after a public hearing. In making any revisions to the land classification system the commissioner may, in his or her discretion, conduct a public hearing. The commissioner shall foster participation by county agricultural and farmland protection boards, district soil and water conservation committees, and the cooperative extension service and consult with other state agencies, appropriate federal agencies, municipalities, the New York state college of agriculture and life sciences at Cornell university and farm organizations.

c. The commissioner shall certify to the commissioner of taxation and finance the soil list developed in accordance with the land classification system and any revisions thereto.

d. The commissioner shall prepare such materials as may be needed for the utilization of the land classification system and provide assistance to landowners and local officials in its use.

3. a. The commissioner of taxation and finance shall annually calculate a single agricultural assessment value for each of the mineral and organic soil groups which shall be applied uniformly throughout the state. A base agricultural assessment value shall be separately calculated for mineral and organic soil groups in accordance with the procedure set forth in subdivision four of this section and shall be assigned as the agricultural assessment value of the highest grade mineral and organic soil group.

b. The agricultural assessment values for the remaining mineral soil groups shall be the product of the base agricultural assessment value and a percentage, derived from the productivity measurements determined for each soil and related soil group in conjunction with the land classification system, as follows:

Mineral Soil Group	Percentage of Base Agricultural Assessment Value
1A	100
1B	89
2A	89

2B	79
3A	79
3B	68
4A	68
4B	58
5A	58
5B	47
6A	47
6B	37
7	37
8	26
9	16
10	5

c. The agricultural assessment values for the remaining organic soil groups shall be the product of the base agricultural assessment value and a percentage, as follows:

Organic Soil Group	Percentage of Base Agricultural Assessment Value
A	100
B	65
C	55
D	35

d. The agricultural assessment value for organic soil group A shall be two times the base agricultural assessment value calculated for mineral soil group 1A.

e. The agricultural assessment value for farm woodland shall be the same as that calculated for mineral soil group seven.

f. Where trees or vines used for the production of fruit are located on land used in agricultural production, the value of such trees and vines, and the value of all posts, wires and trellises used for the production of fruit, shall be considered to be part of the agricultural assessment value of such land.

g. The agricultural assessment value for land and waters used in aquacultural enterprises shall be the same as that calculated for mineral soil group 1A.

4. a. The base agricultural assessment value shall be the average capitalized value of production per acre for the eight year period ending in the second year preceding the year for which the agricultural assessment values are certified. The capitalized value of production per acre shall be calculated by dividing the product of the value of production per acre and the percentage of net profit by a capitalization rate of ten percent, representing an assumed investment return rate of eight percent and an assumed real property tax rate of two percent.

b. The value of production per acre shall be the value of production divided by the number of acres harvested in New York state.

c. The percentage of net profit shall be adjusted net farm income divided by realized gross farm income.

(i) Adjusted net farm income shall be the sum of net farm income, taxes on farm real estate and the amount of mortgage interest debt attributable to farmland, less a management charge of one percent of realized gross farm income plus seven percent of adjusted production

expenses.

(ii) The amount of mortgage interest debt attributable to farmland shall be the product of the interest on mortgage debt and the percentage of farm real estate value attributable to land.

(iii) The percentage of farm real estate value attributable to land shall be the difference between farm real estate value and farm structure value divided by farm real estate value.

(iv) Adjusted production expenses shall be production expenses, less the sum of the taxes on farm real estate and the interest on mortgage debt.

d. The following data, required for calculations pursuant to this subdivision, shall be as published by the United States department of agriculture for all farming in New York state:

(i) Farm real estate value shall be the total value of farmland and buildings, including improvements.

(ii) Farm structure value shall be the total value of farm buildings, including improvements.

(iii) Interest on mortgage debt shall be the total interest paid on farm real estate debt.

(iv) Net farm income shall be realized gross income less production expenses, as adjusted for change in inventory.

(v) Production expenses shall be the total cost of production.

(vi) Realized gross income shall be the total of cash receipts from farm marketings, government payments, nonmoney income and other farm income.

(vii) Taxes on farm real estate shall be the total real property taxes on farmland and buildings, including improvements.

(viii) Number of acres harvested including all reported crops.

(ix) Value of production shall be the total estimated value of all reported crops.

e. In the event that the data required for calculation pursuant to this subdivision is not published by the United States department of agriculture or is incomplete, such required data shall be obtained from the New York state department of agriculture and markets.

f. Upon completion of each annual calculation of agricultural assessment values, the commissioner of taxation and finance shall publish an annual report, which shall include a schedule of values, citations to data sources and presentation of all calculations.

The commissioner of taxation and finance shall thereupon certify the schedule of agricultural assessment values and shall transmit a schedule of such certified values to each assessor. Beginning in the year two thousand six and every five years thereafter, the commissioner of taxation and finance shall transmit copies of such annual reports for the five years previous to such transmittal, to the governor and legislature, the advisory council on agriculture, and other appropriate state agencies and interested parties.

g. Notwithstanding any other provision of this section to the contrary, in no event shall the change in the base agricultural assessment value for any given year exceed ten percent of the base agricultural assessment value of the preceding year.

5. a. In carrying out their responsibilities under this section, the commissioner of taxation and finance and the commissioner shall keep the advisory council on agriculture fully apprised on matters relating to its duties and responsibilities.

b. In doing so, the commissioner of taxation and finance and the commissioner shall provide, in a timely manner, any materials needed by

the advisory council on agriculture to carry out its responsibilities under this section.

**§ 304-b.** Agricultural district data reporting. 1. The commissioner shall file a written report with the governor and the legislature on January first, two thousand eight and biennially thereafter, covering each prior period of two years, concerning the status of the agricultural districts program. Such report shall include, but not be limited to, the total number of agricultural districts, the total number of acres in agricultural districts, a list of the counties that have established county agricultural and farmland protection plans, and a summary of the agricultural protection planning grants program.

2. Between report due dates, the commissioner shall maintain the necessary records and data required to satisfy such report requirements and to satisfy information requests received from the governor and the legislature between such report due dates.

**§ 305.** Agricultural districts; effects. 1. Agricultural assessments.

a. Any owner of land used in agricultural production within an agricultural district shall be eligible for an agricultural assessment pursuant to this section. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products produced on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant. Such assessment shall be granted only upon an annual application by the owner of such land on a form prescribed by the commissioner of taxation and finance. The applicant shall furnish to the assessor such information as the commissioner of taxation and finance shall require, including classification information prepared for the applicant's land or water bodies used in agricultural production by the soil and water conservation district office within the county, and information demonstrating the eligibility for agricultural assessment of any land used in conjunction with rented land as specified in paragraph b of subdivision four of section three hundred one of this article. Such application shall be filed with the assessor of the assessing unit on or before the appropriate taxable status date; provided, however, that (i) in the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law; or (ii) an application for such an assessment may be filed with the assessor of the assessing unit after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent, brother or sister, (b) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician, or (c) the occurrence of a natural disaster, including, but not limited to, a flood, or the destruction of such applicant's residence, barn or other farm building

by wind, fire or flood. If the assessor is satisfied that the applicant is entitled to an agricultural assessment, the assessor shall approve the application and the land shall be assessed pursuant to this section. Not less than ten days prior to the date for hearing complaints in relation to assessments, the assessor shall mail to each applicant, who has included with the application at least one self-addressed, pre-paid envelope, a notice of the approval or denial of the application. Such notice shall be on a form prescribed by the commissioner of taxation and finance which shall indicate the manner in which the total assessed value is apportioned among the various portions of the property subject to agricultural assessment and those other portions of the property not eligible for agricultural assessment as determined for the tentative assessment roll and the latest final assessment roll. Failure to mail any such notice or failure of the owner to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on such real property.

b. That portion of the value of land utilized for agricultural production within an agricultural district which represents an excess above the agricultural assessment as determined in accordance with this subdivision shall not be subject to real property taxation. Such excess amount if any shall be entered on the assessment roll in the manner prescribed by the commissioner of taxation and finance.

c. (i) The assessor shall utilize the agricultural assessment values per acre certified pursuant to section three hundred four-a of this article in determining the amount of the assessment of lands eligible for agricultural assessments by multiplying those values by the number of acres of land utilized for agricultural production and adjusting such result by application of the latest state equalization rate or a special equalization rate as may be established and certified by the commissioner of taxation and finance for the purpose of computing the agricultural assessment pursuant to this paragraph. This resulting amount shall be the agricultural assessment for such lands.

(ii) Where the latest state equalization rate exceeds one hundred, or where a special equalization rate which would otherwise be established for the purposes of this section would exceed one hundred, a special equalization rate of one hundred shall be established and certified by the commissioner for the purpose of this section.

(iii) Where a special equalization rate has been established and certified by the commissioner for the purposes of this paragraph, the assessor is directed and authorized to recompute the agricultural assessment on the assessment roll by applying such special equalization rate instead of the latest state equalization rate, and to make the appropriate corrections on the assessment roll, subject to the provisions of title two of article twelve of the real property tax law.

d. (i) If land within an agricultural district which received an agricultural assessment is converted parcels, as described on the assessment roll which include land so converted shall be subject to payments equalling five times the taxes saved in the last year in which the land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years. The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the excess amount of assessed valuation of such land over its agricultural assessment as set forth on the last assessment roll which indicates such an excess. If only a portion of a

parcel as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll for which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be added by or on behalf of each taxing jurisdiction to the taxes levied on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than five years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.

(ii) Whenever a conversion occurs, the owner shall notify the assessor within ninety days of the date such conversion is commenced. If the landowner fails to make such notification within the ninety day period, the assessing unit, by majority vote of the governing body, may impose a penalty on behalf of the assessing unit of up to two times the total payments owed, but not to exceed a maximum total penalty of five hundred dollars in addition to any payments owed.

(iii) (a) An assessor who determines that there is liability for payments and any penalties assessed pursuant to subparagraph (ii) of this paragraph shall notify the landowner by mail of such liability at least ten days prior to the date for hearing complaints in relation to assessments. Such notice shall indicate the property to which payments apply and describe how the payments shall be determined. Failure to provide such notice shall not affect the levy, collection or enforcement or payment of payments.

(b) Liability for payments shall be subject to administrative and judicial review as provided by law for review of assessments.

(iv) If such land or any portion thereof is converted to a use other than for agricultural production by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding other than a tax sale, the land or portion so converted shall not be subject to payments. If the land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land within an agricultural district and eligible for an agricultural assessment shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.

(v) An assessor who imposes any such payments shall annually, and within forty-five days following the date on which the final assessment roll is required to be filed, report such payments to the commissioner of taxation and finance on a form prescribed by the commissioner.

(vi) The assessing unit, by majority vote of the governing body, may impose a minimum payment amount, not to exceed one hundred dollars.

(vii) The purchase of land in fee by the city of New York for watershed protection purposes or the conveyance of a conservation easement by the city of New York to the department of environmental conservation which prohibits future use of the land for agricultural

purposes shall not be a conversion of parcels and no payment shall be due under this section.

e. In connection with any district created under section three hundred four of this article, the state shall provide assistance to each taxing jurisdiction in an amount equal to one-half of the tax loss that results from requests for agricultural assessments in the district. The amount of such tax loss shall be computed annually by applying the applicable tax rate to an amount computed by subtracting the agricultural assessment from the assessed value of the property on the assessment roll completed and filed prior to July first, nineteen hundred seventy-one, taking into consideration any change in the level of assessment. The chief fiscal officer of a taxing jurisdiction entitled to state assistance under this article shall make application for such assistance to the commissioner of taxation and finance on a form approved by such commissioner and containing such information as the commissioner shall require. Upon approval of the application by such commissioner, such assistance shall be apportioned and paid to such taxing jurisdiction on the audit and warrant of the state comptroller out of moneys appropriated by the legislature for the purpose of this article; provided, however, that any such assistance payment shall be reduced by one-half the amount of any payments levied under subparagraph (i) of paragraph d of this subdivision, for land in any district created under section three hundred four of this article, unless one-half the amount of such payments has already been used to reduce a previous assistance payment under this paragraph.

f. Notwithstanding any inconsistent general, special or local law to the contrary, if a natural disaster, act of God, or continued adverse weather conditions shall destroy the agricultural production and such fact is certified by the cooperative extension service and, as a result, such production does not produce an average gross sales value of ten thousand dollars or more, the owner may nevertheless qualify for an agricultural assessment provided the owner shall substantiate in such manner as prescribed by the commissioner of taxation and finance that the agricultural production initiated on such land would have produced an average gross sales value of ten thousand dollars or more but for the natural disaster, act of God or continued adverse weather conditions.

3. Policy of state agencies. It shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural districts and their administrative regulations and procedures shall be modified to this end insofar as is consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of federal agencies, including provisions applicable only to obtaining federal grants, loans, or other funding.

4. Limitation on the exercise of eminent domain and other public acquisitions, and on the advance of public funds. a. Any agency of the state, any public benefit corporation or any local government which intends to acquire land or any interest therein, provided that the acquisition from any one actively operated farm within the district would be in excess of one acre or that the total acquisition within the district would be in excess of ten acres, or which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, dwellings, commercial or industrial facilities, or water or sewer facilities to serve non-farm structures, shall use all practicable means in undertaking such action to realize the policy and goals set forth in this article, and shall act and choose alternatives

which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse impacts on agriculture in order to sustain a viable farm enterprise or enterprises within the district. The adverse agricultural impacts to be minimized or avoided shall include impacts revealed in the notice of intent process described in this subdivision.

b. As early as possible in the development of a proposal of an action described in paragraph a of this subdivision, but in no event later than the date of any determination as to whether an environmental impact statement need be prepared pursuant to article eight of the environmental conservation law, the agency, corporation or government proposing an action described in paragraph a of this subdivision shall file a preliminary notice of its intent with the commissioner and the county agricultural and farmland protection board in such manner and form as the commissioner may require. Such preliminary notice shall include the following:

(i) a brief description of the proposed action and its agricultural setting;

(ii) a summary of any anticipated adverse impacts on farm operations and agricultural resources within the district; and

(iii) such other information as the commissioner may require.

c. The agency, corporation or government proposing the action shall also, at least sixty-five days prior to such acquisition, construction or advance of public funds, file a final notice of intent with the commissioner and the county agricultural and farmland protection board. Such final notice shall include a detailed agricultural impact statement setting forth the following:

(i) a detailed description of the proposed action and its agricultural setting;

(ii) the agricultural impact of the proposed action including short-term and long-term effects;

(iii) any adverse agricultural effects which cannot be avoided should the proposed action be implemented;

(iv) alternatives to the proposed action;

(v) any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action should it be implemented;

(vi) mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of a farm enterprise or enterprises within the district;

(vii) any aspects of the proposed action which would encourage non-farm development, where applicable and appropriate; and

(viii) such other information as the commissioner may require.

The commissioner shall promptly determine whether the final notice is complete or incomplete. If the commissioner does not issue such determination within thirty days, the final notice shall be deemed complete. If the final notice is determined to be incomplete, the commissioner shall notify the party proposing the action in writing of the reasons for that determination. Any new submission shall commence a new period for department review for purposes of determining completeness.

d. The provisions of paragraphs b and c of this subdivision shall not apply and shall be deemed waived by the owner of the land to be acquired where such owner signs a document to such effect and provides a copy to the commissioner.

e. Upon notice from the commissioner that he or she has accepted a

final notice as complete, the county agricultural and farmland protection board may, within thirty days, review the proposed action and its effects on farm operations and agricultural resources within the district, and report its findings and recommendations to the commissioner and to the party proposing the action in the case of actions proposed by a state agency or public benefit corporation, and additionally to the county legislature in the case of actions proposed by local government agencies.

f. Upon receipt and acceptance of a final notice, the commissioner shall thereupon forward a copy of such notice to the commissioner of environmental conservation and the advisory council on agriculture. The commissioner, in consultation with the commissioner of environmental conservation and the advisory council on agriculture, within forty-five days of the acceptance of a final notice, shall review the proposed action and make an initial determination whether such action would have an unreasonably adverse effect on the continuing viability of a farm enterprise or enterprises within the district, or state environmental plans, policies and objectives.

If the commissioner so determines, he or she may (i) issue an order within the forty-five day period directing the state agency, public benefit corporation or local government not to take such action for an additional period of sixty days immediately following such forty-five day period; and (ii) review the proposed action to determine whether any reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact on agriculture in order to sustain a viable farm enterprise or enterprises within the district.

The commissioner may hold a public hearing concerning such proposed action at a place within the district or otherwise easily accessible to the district upon notice in a newspaper having a general circulation within the district, and individual notice, in writing, to the municipalities whose territories encompass the district, the commissioner of environmental conservation, the advisory council on agriculture and the state agency, public benefit corporation or local government proposing to take such action. On or before the conclusion of such additional sixty day period, the commissioner shall report his or her findings to the agency, corporation or government proposing to take such action, to any public agency having the power of review of or approval of such action, and, in a manner conducive to the wide dissemination of such findings, to the public. If the commissioner concludes that a reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact of the proposed action, he or she shall propose that such alternative or alternatives be accepted. If the agency, corporation or government proposing the action accepts the commissioner's proposal, then the requirements of the notice of intent filing shall be deemed fulfilled. If the agency, corporation or government rejects the commissioner's proposal, then it shall provide the commissioner with reasons for rejecting such proposal and a detailed comparison between its proposed action and the commissioner's alternative or alternatives.

g. At least ten days before commencing an action which has been the subject of a notice of intent filing, the agency, corporation or government shall certify to the commissioner that it has made an explicit finding that the requirements of this subdivision have been met, and that consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse agricultural impacts revealed in the notice of intent process will be minimized or

avoided. Such certification shall set forth the reasons in support of the finding.

h. The commissioner may request the attorney general to bring an action to enjoin any such agency, corporation or government from violating any of the provisions of this subdivision.

h-1. Notwithstanding any other provision of law to the contrary, no solid waste management facility shall be sited on land in agricultural production which is located within an agricultural district, or land in agricultural production that qualifies for and is receiving an agricultural assessment pursuant to section three hundred six of this article. Nothing contained herein, however, shall be deemed to prohibit siting when:

(i) The owner of such land has entered into a written agreement which shall indicate his consent for site consideration; or

(ii) The applicant for a permit has made a commitment in the permit application to fund a farm land protection conservation easement within a reasonable proximity to the proposed project in an amount not less than the dollar value of any such farm land purchased for the project; or

(iii) The commissioner in concurrence with the commissioner of environmental conservation has determined that any such agricultural land to be taken, constitutes less than five percent of the project site.

For purposes of this paragraph, "solid waste management facility" shall have the same meaning as provided in title seven of article twenty-seven of the environmental conservation law, but shall not include solid waste transfer stations or land upon which sewage sludge is applied, and determinations regarding agricultural district boundaries and agricultural assessments will be based on those in effect as of the date an initial determination is made, pursuant to article eight of the environmental conservation law, as to whether an environmental impact statement needs to be prepared for the proposed project.

i. This subdivision shall not apply to any emergency project which is immediately necessary for the protection of life or property or to any project or proceeding to which the department is or has been a statutory party.

j. The commissioner may bring an action to enforce any mitigation measures proposed by a public benefit corporation or a local government, and accepted by the commissioner, pursuant to a notice of intent filing, to minimize or avoid adverse agricultural impacts from the proposed action.

5. Limitation on power to impose benefit assessments, special ad valorem levies or other rates or fees in certain improvement districts or benefit areas. Within improvement districts or areas deemed benefited by municipal improvements including, but not limited to, improvements for sewer, water, lighting, non-farm drainage, solid waste disposal, including those solid waste management facilities established pursuant to section two hundred twenty-six-b of the county law, or other landfill operations, no benefit assessments, special ad valorem levies or other rates or fees charged for such improvements may be imposed on land used primarily for agricultural production within an agricultural district on any basis, except a lot not exceeding one-half acre surrounding any dwelling or non-farm structure located on said land, nor on any farm structure located in an agricultural district unless such structure benefits directly from the service of such improvement district or

benefited area; provided, however, that if such benefit assessments, ad valorem levies or other rates or fees were imposed prior to the formation of the agricultural district, then such benefit assessments, ad valorem levies or other rates or fees shall continue to be imposed on such land or farm structure.

6. Use of assessment for certain purposes. The governing body of a fire, fire protection, or ambulance district for which a benefit assessment or a special ad valorem levy is made, may adopt a resolution to provide that the assessment determined pursuant to subdivision one of this section for such property shall be used for the benefit assessment or special ad valorem levy of such fire, fire protection, or ambulance district.

7. Notwithstanding any provision of law to the contrary, that portion of the value of land which is used solely for the purpose of replanting or crop expansion as part of an orchard or vineyard shall be exempt from real property taxation for a period of six successive years following the date of such replanting or crop expansion beginning on the first eligible taxable status date following such replanting or expansion provided the following conditions are met:

a. the land used for crop expansion or replanting must be a part of an existing orchard or vineyard which is located on land used in agricultural production within an agricultural district or such land must be part of an existing orchard or vineyard which is eligible for an agricultural assessment pursuant to this section or section three hundred six of this chapter where the owner of such land has filed an annual application for an agricultural assessment;

b. the land eligible for such real property tax exemption shall not in any one year exceed twenty percent of the total acreage of such orchard or vineyard which is located on land used in agricultural production within an agricultural district or twenty percent of the total acreage of such orchard or vineyard eligible for an agricultural assessment pursuant to this section and section three hundred six of this chapter where the owner of such land has filed an annual application for an agricultural assessment;

c. the land eligible for such real property tax exemption must be maintained as land used in agricultural production as part of such orchard or vineyard for each year such exemption is granted; and

d. when the land used for the purpose of replanting or crop expansion as part of an orchard or vineyard is located within an area which has been declared by the governor to be a disaster emergency in a year in which such tax exemption is sought and in a year in which such land meets all other eligibility requirements for such tax exemption set forth in this subdivision, the maximum twenty percent total acreage restriction set forth in paragraph b of this subdivision may be exceeded for such year and for any remaining successive years, provided, however, that the land eligible for such real property tax exemption shall not exceed the total acreage damaged or destroyed by such disaster in such year or the total acreage which remains damaged or destroyed in any remaining successive year. The total acreage for which such exemption is sought pursuant to this paragraph shall be subject to verification by the commissioner or his designee.

In administering this subdivision, the portion of the value of land eligible for such real property tax exemption shall be determined based on the average per acre assessment of all agricultural land of the specific tax parcel as reported in a form approved by the commissioner of taxation and finance.

**§ 305-a.** Coordination of local planning and land use decision-making with the agricultural districts program. 1. Policy of local governments. a. Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article, and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.

b. Upon the request of any municipality, farm owner or operator, the commissioner shall render an opinion to the appropriate local government officials, as to whether farm operations would be unreasonably restricted or regulated by proposed changes in local land use regulations, ordinances or local laws pertaining to agricultural practices and to the appropriate local land use enforcement officials administering local land use regulations, ordinances, or local laws or reviewing a permit pertaining to agricultural practices.

c. The commissioner, upon his or her own initiative or upon the receipt of a complaint from a person within an agricultural district, may bring an action to enforce the provisions of this subdivision.

2. Agricultural data statement; submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by a planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The planning board, zoning board of appeals, town board, or village board of trustees shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.

3. Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, town board or village board of trustees, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.

4. Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations

identified in the agricultural data statement.

**§ 305-b.** Review of proposed rules and regulations of state agencies affecting the agricultural industry. Upon request of the state advisory council on agriculture, or upon his or her own initiative, the commissioner may review and comment upon a proposed rule or regulation by another state agency which may have an adverse impact on agriculture and farm operations in this state, and file such comment with the proposing agency and the administrative regulations review commission. Each comment shall be in sufficient detail to advise the proposing agency of the adverse impact on agriculture and farm operations and the recommended modifications. The commissioner shall prepare a status report of any actions taken in accordance with this section and include it in the department's annual report.

**§ 306.** Agricultural lands outside of districts; agricultural assessments. 1. Any owner of land used in agricultural production outside of an agricultural district shall be eligible for an agricultural assessment as provided herein. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant.

Such assessment shall be granted pursuant to paragraphs a, b and f of subdivision one of section three hundred five of this article as if such land were in an agricultural district, provided the landowner annually submits to the assessor an application for an agricultural assessment on or before the taxable status date. In the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law. Nothing therein shall be construed to limit an applicant's discretion to withhold from such application any land, or portion thereof, contained within a single operation.

2. a. (i) If land which received an agricultural assessment pursuant to this section is converted at any time within eight years from the time an agricultural assessment was last received, such conversion shall subject the land so converted to payments in compensation for the prior benefits of agricultural assessments. The amount of the payments shall be equal to five times the taxes saved in the last year in which land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years.

(ii) The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the amount of assessed valuation of such land in excess of the agricultural assessment of such land as set forth on the last assessment roll which indicates such an excess. If only a portion of such land as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural

assessment attributable to the converted portion, as determined for the last assessment roll on which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be levied in the same manner as other taxes, by or on behalf of each taxing jurisdiction on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than eight years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.

(iii) Whenever a conversion occurs, the owner shall notify the assessor within ninety days of the date such conversion is commenced. If the landowner fails to make such notification within the ninety day period, the assessing unit, by majority vote of the governing body, may impose a penalty on behalf of the assessing unit of up to two times the total payments owed, but not to exceed a maximum total penalty of five hundred dollars in addition to any payments owed.

b. (i) An assessor who determines that there is liability for payments and any penalties pursuant to subparagraph (ii) of this paragraph shall notify the landowner of such liability at least ten days prior to the day for hearing of complaints in relation to assessments. Such notice shall specify the area subject to payments and shall describe how such payments shall be determined. Failure to provide such notice shall not affect the levy, collection, or enforcement of payments.

(ii) Liability for payments shall be subject to administrative and judicial review as provided by law for the review of assessments.

(iii) An assessor who imposes any such payments shall annually, and within forty-five days following the date on which the final assessment roll is required to be filed, report such payments to the commissioner of taxation and finance on a form prescribed by the commissioner.

(iv) The assessing unit, by majority vote of the government body, may impose a minimum payment amount, not to exceed one hundred dollars.

c. If such land or any portion thereof is converted by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding other than a tax sale, the land or portion so converted shall not be subject to payments. If land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land outside an agricultural district and eligible for an agricultural assessment pursuant to this section shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.

d. The purchase of land in fee by the city of New York for watershed protection purposes or the conveyance of a conservation easement by the city of New York to the department of environmental conservation which prohibits future use of the land for agricultural purposes shall not be a conversion of parcels and no payment for the prior benefits of agricultural assessments shall be due under this section.

3. Upon the inclusion of such agricultural lands in an agricultural

district formed pursuant to section three hundred three, the provisions of section three hundred five shall be controlling.

4. A payment levied pursuant to subparagraph (i) of paragraph a of subdivision two of this section shall be a lien on the entire parcel containing the converted land, notwithstanding that less than the entire parcel was converted.

5. Use of assessment for certain purposes. The governing body of a water, lighting, sewer, sanitation, fire, fire protection, or ambulance district for whose benefit a special assessment or a special ad valorem levy is imposed, may adopt a resolution to provide that the assessments determined pursuant to subdivision one of this section for property within the district shall be used for the special assessment or special ad valorem levy of such special district.

**§ 307.** Promulgation of rules and regulations. The commissioner of taxation and finance and the commissioner are each empowered to promulgate such rules and regulations and to prescribe such forms as each shall deem necessary to effectuate the purposes of this article, and the commissioner is further empowered to promulgate such rules and regulations as are necessary to provide for the reasonable consolidation of existing agricultural districts with new agricultural districts or with other existing districts undergoing modification pursuant to section three hundred three of this article. Where a document or any other paper or information is required, by such rules and regulations, or by any provision of this article, to be filed with, or by, a county clerk or any other local official, such clerk or other local official may file such document, paper, or information as he deems proper, but he shall also file or record it in any manner directed by the commissioner of taxation and finance, by rule or regulation. In promulgating such a rule or regulation, such commissioner shall consider, among any other relevant factors, the need for security of land titles, the requirement that purchasers of land know of all potential tax and penalty liabilities, and the desirability that the searching of titles not be further complicated by the establishment of new sets of record books.

**§ 308.** Right to farm. 1. a. The commissioner shall, in consultation with the state advisory council on agriculture, issue opinions upon request from any person as to whether particular agricultural practices are sound.

b. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities which entail practices the commissioner may consider include, but are not limited to, operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; "timber operation," as defined in subdivision fourteen of section three hundred one of this article and construction and use of farm structures. The commissioner shall consult appropriate state agencies and any guidelines recommended by the advisory council on agriculture. The commissioner may consult as appropriate, the New York state college of agriculture and life sciences and the U.S.D.A. natural

resources conservation service, and provide such information, after the issuance of a formal opinion, to the municipality in which the agricultural practice being evaluated is located. The commissioner shall also consider whether the agricultural practices are conducted by a farm owner or operator as part of his or her participation in the AEM program as set forth in article eleven-A of this chapter. Such practices shall be evaluated on a case-by-case basis.

2. Upon the issuance of an opinion pursuant to this section, the commissioner shall publish a notice in a newspaper having a general circulation in the area surrounding the practice and notice shall be given in writing to the owner of the property on which the practice is conducted and any adjoining property owners. The opinion of the commissioner shall be final, unless within thirty days after publication of the notice a person affected thereby institutes a proceeding to review the opinion in the manner provided by article seventy-eight of the civil practice law and rules.

3. Notwithstanding any other provisions of law, on any land in an agricultural district created pursuant to section three hundred three or land used in agricultural production subject to an agricultural assessment pursuant to section three hundred six of this article, an agricultural practice shall not constitute a private nuisance, when an action is brought by a person, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the commissioner. Nothing in this section shall be construed to prohibit an aggrieved party from recovering damages for personal injury or wrongful death.

4. The commissioner, in consultation with the state advisory council on agriculture, shall issue an opinion within thirty days upon request from any person as to whether particular land uses are agricultural in nature. Such land use decisions shall be evaluated on a case-by-case basis.

5. The commissioner shall develop and make available to prospective grantors and purchasers of real property located partially or wholly within any agricultural district in this state and to the general public, practical information related to the right to farm as set forth in this article including, but not limited to right to farm disclosure requirements established pursuant to section three hundred ten of this article and section three hundred thirty-three-c of the real property law.

**§ 308-a.** Fees and expenses in certain private nuisance actions. 1. Definitions. For purposes of this section:

a. "Action" means any civil action brought by a person in which a private nuisance is alleged to be due to an agricultural practice on any land in an agricultural district or subject to agricultural assessments pursuant to section three hundred three or three hundred six of this article, respectively.

b. "Fees and other expenses" means the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, consultation with experts, and like expenses, and reasonable attorney fees, including fees for work performed by law students or paralegals under the supervision of an attorney, incurred in connection with the defense of any cause of action for private nuisance which is alleged as part of a civil action

brought by a person.

c. "Final judgment" means a judgment that is final and not appealable, and settlement.

d. "Prevailing party" means a defendant in a civil action brought by a person, in which a private nuisance is alleged to be due to an agricultural practice, where the defendant prevails in whole or in substantial part on the private nuisance cause of action.

2. Fees and other expenses in certain private nuisance actions. a. When awarded. In addition to costs, disbursements and additional allowances awarded pursuant to sections eight thousand two hundred one through eight thousand two hundred four and eight thousand three hundred one through eight thousand three hundred three-a of the civil practice law and rules, and except as otherwise specifically provided by statute, a court shall award to a prevailing party, other than the plaintiff, fees and other expenses incurred by such party in connection with the defense of any cause of action for private nuisance alleged to be due to an agricultural practice, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued by the commissioner under section three hundred eight of this article, prior to the start of any trial of the action or settlement of such action, unless the court finds that the position of the plaintiff was substantially justified or that special circumstances make an award unjust. Fees shall be determined pursuant to prevailing market rates for the kind and quality of the services furnished, except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings.

b. Application for fees. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which sets forth (i) the facts supporting the claim that the party is a prevailing party and is eligible to receive an award under this section, (ii) the amount sought, and (iii) an itemized statement from every attorney or expert witness for which fees or expenses are sought stating the actual time expended and the rate at which such fees and other expenses are claimed.

3. Interest. If the plaintiff appeals an award made pursuant to this section and the award is affirmed in whole or in part, interest shall be paid on the amount of the award. Such interest shall run from the date of the award through the day before the date of the affirmance.

4. Applicability. a. Nothing contained in this section shall be construed to alter or modify the provisions of the civil practice law and rules where applicable to actions other than actions as defined by this section.

b. Nothing contained in this section shall affect or preclude the right of any party to recover fees or other expenses authorized by common law or by any other statute, law or rule.

**§ 309.** Advisory council on agriculture. 1. There shall be established within the department the advisory council on agriculture, to advise and make recommendations to the state agencies on state government plans, policies and programs affecting agriculture, as outlined below, and in such areas as its experience and studies may indicate to be appropriate. The department of agriculture and markets shall provide necessary secretariat and support services to the council.

2. The advisory council on agriculture shall consist of eleven members

appointed by the governor with the advice and consent of the senate, selected for their experience and expertise related to areas of council responsibility. At least five members of the council shall be operators of a commercial farm enterprise and at least two members shall be representatives of local governments. The balance of the council shall be comprised of representatives of business or institutions related to agriculture. Members shall be appointed for a term of three years and may serve until their successors are chosen provided, however, that of the members first appointed, three shall serve for a term of one year, three shall serve for a term of two years, and three shall serve for a term of three years. Members shall serve without salary but shall be entitled to reimbursement of their ordinary and necessary travel expenses. The members of the council shall elect a chairman.

3. The duties and responsibilities of the advisory council on agriculture as they pertain to agricultural districts shall include, but not be limited to, providing timely advice, comments and recommendations to the commissioner in regard to:

- a. the establishment of agricultural districts;
- b. the eight year review of agricultural districts; and
- c. the establishment of and any revision to the land classification system used in connection with the determination of agricultural assessment values.

The commissioner may delegate to the council such additional duties and responsibilities as he deems necessary.

4. The duties and responsibilities of the advisory council on agriculture shall include, but not be limited to, providing timely advice, comments and recommendations to the commissioner of taxation and finance in regard to the establishment of agricultural assessment values.

5. The advisory council on agriculture shall advise the commissioner and other state agency heads on state government plans, policies and programs affecting farming and the agricultural industry of this state. Concerned state agencies shall be encouraged to establish a working relationship with the council and shall fully cooperate with the council in any requests it shall make.

6. The advisory council on agriculture may ask other individuals to attend its meetings or work with it on an occasional or regular basis provided, however, that it shall invite participation by the chairman of the state soil and water conservation committee and the dean of the New York state college of agriculture and life sciences at Cornell university. The advisory council on agriculture shall set the time and place of its meetings, and shall hold at least four meetings per year.

7. The advisory council on agriculture shall file a written report to the governor and the legislature by April first each year concerning its activities during the previous year and its program expectations for the succeeding year.

8. The advisory council on agriculture shall advise the commissioner in regards to whether particular land uses are agricultural in nature.

**§ 310. Disclosure.** 1. When any purchase and sale contract is presented for the sale, purchase, or exchange of real property located partially or wholly within an agricultural district established pursuant to the provisions of this article, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:

"It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law."

1-a. Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase or exchange of such real property.

2. Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the commissioner of taxation and finance as provided for in section three hundred thirty-three of the real property law.



## AEM Tier I Agriculture Interest Links

*Please use this document to provide information to farmers they requested by using the New York State Agriculture Assessment section on the Tier I worksheet.*

**Agricultural Tax Relief** – NYS has programs that can help reduce taxes for agricultural operations, including, but not limited to: Real Property Tax, School Tax, Farm Building Exemptions and Sales Tax. Information on agricultural tax exemptions and reductions can be obtained from the NYS Office of Real Property Services <http://www.orps.state.ny.us/assessor/valuation/agriculture/index.htm> and the Department of Agriculture and Markets, Division of Agricultural Protection <http://www.agmkt.state.ny.us/AP/APHome.html>. The New York Beginning Farmer Project sponsored by Cornell University has a ‘Guide to Farming in NYS’ PDF available online at <http://www.smallfarms.cornell.edu/pdfs/Guide/Guide%20to%20Farming%20in%20NY%20Revised%2012-21-07.pdf>, which can help answer questions regarding Agricultural Tax.

**Agri-Tourism** - As agri-tourism grows in popularity, so do the opportunities to get involved and learn more. The Department of Agriculture and Markets has a searchable online Guide to Farm Fresh Products, statewide directory of farmers markets, NYS harvest calendar, and information on the NYS Fair and County Fairs. In addition, there is also information on funding opportunities, all of which are posted on the Department website [www.agmkt.state.ny.us](http://www.agmkt.state.ny.us). Other sources of information include the Cornell Small Farms Program, [www.smallfarms.cornell.edu](http://www.smallfarms.cornell.edu), and New York State Tourism [www.iloveny.com/SeeDoInNY/Agriculture.aspx](http://www.iloveny.com/SeeDoInNY/Agriculture.aspx). Marketing information, including results from an agri-tourism marketing survey conducted by Cornell University and NY Seagrant such as agri-tourism fact sheets can be found on the following website [http://media.cce.cornell.edu/hosts/agfoodcommunity/afs\\_temp3.cfm?topicID=270](http://media.cce.cornell.edu/hosts/agfoodcommunity/afs_temp3.cfm?topicID=270).

**Air Quality** – Agriculture can potentially cause a number of concerns related to air quality. Some of the more common ones in New York are odor issues, particulate matter from wind erosion, chemical drift and greenhouse gas emissions. There is a number of conservation practices that can help reduce and eliminate air quality concerns. They range from methane digesters to cover cropping. Information can be found in your local NRCS field office <http://www.ny.nrcs.usda.gov/> or the Ag. BMP Catalog. The NRCS has also established a national task force to address air quality issues [www.airquality.nrcs.usda.gov](http://www.airquality.nrcs.usda.gov). Additional information can be found with NYS Energy Research and Development Authority <http://www.nyserda.org/default.asp> and the US Environmental Protection Agency <http://www.epa.gov/>.

**Biofuels** – Biofuels are fuels produced from biomass and include biodiesel, ethanol and wood-based fuel products. In an effort to decrease the nation’s dependency on fossil fuels, the production of biofuels has grown in popularity. Information on biofuels is available from the Renewable Fuels Association at <http://www.ethanolrfa.org/> and from the National Biodiesel Board at [www.biodiesel.org](http://www.biodiesel.org) or by contacting the NYS Department of Agriculture and Markets Ron Rausch 518-457-2771. For local information, you may want to try contacting your regional Resource Conservation and Development Council (RC&D) <http://www.rcdnet.org/about.php>.

**Biosecurity** – The transference of pests and disease on and off of farms can have devastating effects on both human health and herd health. The following links will provide more information on how to best protect farms, animals, crops and humans:

- NYS Cattle Health Assurance Program at [www.nyschp.vet.cornell.edu/](http://www.nyschp.vet.cornell.edu/)
- NYS Horse Health Assurance Program at [www.agmkt.state.ny.us/NYSHHAP/horsehealth.html](http://www.agmkt.state.ny.us/NYSHHAP/horsehealth.html)



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- NYS Department of Agriculture and Markets Division of Plant Industry  
[www.agmkt.state.ny.us/PI/PIHome.html](http://www.agmkt.state.ny.us/PI/PIHome.html)
- USDA Cooperative State Research, Education and Extension Service  
[www.csrees.usda.gov/fo/plantbiosecuritynri.cfm](http://www.csrees.usda.gov/fo/plantbiosecuritynri.cfm)

**Conservation Easements** – A conservation easement is a legal agreement voluntarily entered into by a property owner and conservation organization which will restrict the use or development of the land in order to protect its conservation value. Conservation easements may be for a predetermined number of years or they may be permanent. Several Farm Bill programs include conservation easements (such as Conservation Reserve Program, Conservation Reserve Enhancement Program, Wetland Restoration Program and the Wildlife Habitat Improvement Program) and information can be obtained from your NRCS field office <http://www.ny.nrcs.usda.gov/>, some County-based land trusts, or from the Farm Service Agency <http://www.fsa.usda.gov/FSA/webapp?area=fsahome&subject=landing&topic=landing>. The US Fish and Wildlife Service <http://www.fws.gov/mountain-prairie/pfw/r6pfw8b.htm> also offer conservation easements.

**Energy Conservation/ Generation** – Energy costs are a large part of the operating expense for most farm operations. Reducing these costs or even generating on-farm energy is an appealing prospect to most farmers. Over the past decade, several large animal operations have installed methane digesters to help manage manure, reduce odors and generate their own electricity. The New York State Energy Research and Development Authority <http://www.nyserda.org/default.asp> offers a variety of incentives, grants and loans to agricultural operations to address energy on-farm energy conservation and generation. The American Council for an Energy Efficient Economy [www.aceee.org](http://www.aceee.org) also has information related to agriculture.

**Environmental Management Systems (EMS)** – The International Organization for Standardization (ISO) <http://www.iso.org/iso/home.htm> recognizes the Environmental Management Systems (14001) as a certification for agricultural operations to demonstrate that they are in compliance with environmental policies. An EMS focuses on management practices that the operation employs, rather than individual activities. This allows the farm manager the flexibility to make adjustments to farming activities, without compromising its overall goal for environmental management. In New York State, the AEM program can be used to help farms obtain an ISO 14001 certification. An EMS does not take the place or supersede any State or Federal regulatory program. It is a voluntary approach for farmers to document themselves as environmental stewards. For more information, visit the EPA website at [www.epa.gov/agriculture/tems.html](http://www.epa.gov/agriculture/tems.html). Additional publications about EMS's are also available for purchase at [www.mwphq.org](http://www.mwphq.org).

**Farmland Protection** – Each year New York State continues to lose more of its agricultural resource base to farmland conversion. Prime agricultural soils are also prime soil for housing and commercial development. Both from an environmental and economic standpoint, it is important that these lands be kept in agriculture and preserved for generations to come. To encourage farmers to preserve their prime farmland, the NRCS offers the Farm and Ranchland Protection Program <http://www.nrcs.usda.gov/programs/frpp/>. In addition, the State also offers a Farmland Protection Program <http://www.agmkt.state.ny.us/ap/agsservices/farmprotect.html> both of which purchase development rights. More information and publications can be obtained from American Farmland Trust at [www.farmland.org](http://www.farmland.org), and the Land Trust Alliance <http://www.lta.org/>.



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**Feed Management** – The balance between nutrients imported and exported from the farm is a key to reducing environmental risk and maintaining the economic viability of a farm. Careful feed management can reduce the amounts of accumulated nutrients in farm fields while still maintaining proper herd diet. To learn more about feed management contact Cornell PRO – DAIRY at [www.ansci.cornell.edu/prodairy](http://www.ansci.cornell.edu/prodairy) or Cornell Cooperative Extension of Delaware County. [http://counties.cce.cornell.edu/delaware/index.php?cat\\_id=122&nav\\_tree=59,122&content\\_id=536](http://counties.cce.cornell.edu/delaware/index.php?cat_id=122&nav_tree=59,122&content_id=536).

**Fisheries Habitat Management** – Protecting the water quality of New York’s freshwater and marine habitats is a primary goal of the Agricultural Environmental Management Program <http://www.agmkt.state.ny.us/soilwater/AEM/index.html>. Runoff from farms can have negative impacts on fish populations, but with careful management farms can also play an important role of protecting these habitats. The NYS Soil and Water Conservation Committee <http://www.agmkt.state.ny.us/SoilWater/index.html> and the USDA Natural Resource Conservation Service <http://www.nrcs.usda.gov/>, both offer cost-share programs aimed at improving and protecting surface waters. In addition, the NYS Department of Environmental Conservation <http://www.dec.ny.gov/> and the US Fish and Wildlife Service <http://www.fws.gov/fishing/> also have programs to assist landowners in protecting and creating fisheries habitats, as do organizations such as Trout Unlimited <http://www.tu.org/site/c.kkLRJ7MSKtH/b.3022897/k.BF82/Home.htm>.

**Forest Management/ Timber Harvest** – Forest maintenance and proper timber harvesting provide numerous natural resource benefits, including reduced wind and soil erosion, enhanced water quality, wildlife habitat, as well as helping to assure a reliable future supply of timber. At the same time, timber harvesting can also provide additional income to a farm. The Agro-forestry Resource Center in Greene County can provide a wealth of information for landowners, including a monthly fact sheet <http://arc.cce.cornell.edu/>. For landowners with less than 1,000 acres of forestland, the Forestland Enhancement Program (FLEP) <http://www.fs.fed.us/spf/coop/programs/loa/flep.shtml> can offer cost-share assistance for landowners wanting to maintain sustainable forests. More information about the FLEP and other forestry programs can be found on the NYS Department of Environmental Conservation website at [www.dec.ny.gov/lands/4972.html](http://www.dec.ny.gov/lands/4972.html).

**Grasslands Farming** – A well managed pasture can provide cost effective, high quality feed for livestock operations. However, factors such as compaction, over-grazing, weed management and manure loading all have an impact on the feed quality and the environment. To learn more about grazing systems and pasture management, go to the Graze New York website at [www.grazeny.com](http://www.grazeny.com). Graze NY is sponsored by the USDA Natural Resource Conservation Service, Cornell Cooperative Extension and Soil and Water Conservation Districts. The website has a number of valuable links and publications.

**Integrated Pest Management (IPM)** – IPM balances environmental, economic and human health issues in pest management decision-making. The goal is to insure high-quality agricultural products while minimizing the adverse impacts on the environment by employing pest monitoring techniques to reduce the amounts of pesticides used. For more information on IPM, visit the Cornell IPM website at [www.nysipm.cornell.edu](http://www.nysipm.cornell.edu).

**Irrigation Management** – Irrigation management can be an important factor in crop production. However, to avoid potential negative impacts to surface and groundwater resources, irrigated water must be carefully balanced to meet plant needs while avoiding runoff and groundwater leaching. Irrigation Water Management Systems are eligible for cost-share under the NYS Agricultural NPS Control Grants <http://www.agmkt.state.ny.us/SoilWater/aem/nonpoint.html> and the NRCS Environmental Quality Incentives



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Program (EQIP) <http://www.nrcs.usda.gov/PROGRAMS/EQIP/>. In addition, more information may be found on the Irrigation Water Management Society website at [www.iwms.org](http://www.iwms.org).

**Manure Treatment Options** – Manure management can be a complex issue. Excess nutrients or odor concerns can sometimes be a cause for concern on and off the farm. Rather than directly applying manure to the land, it is sometimes in the farms best interest to use a manure treatment practice prior to application. Manure treatment options range from anaerobic digestion to composting. Treatment systems vary greatly in complexity and cost. To learn more about treatment options, visit the Cornell Manure Management website at [www.manuremanagement.cornell.edu](http://www.manuremanagement.cornell.edu). This website contains a number of articles and fact sheets to help understand the pros and cons of manure treatment options. Depending on the type of treatment option that is selected, cost-share assistance may be available to help fund.

**Neighbor – Farm Relations** – The recent trend in housing has seen more people willing to commute long distances in order to live in the country. This influx of non-farm residents in rural areas has caused an increase in complaints about agricultural operations. While some complaints may be legitimate, some stem from a lack of understanding about agriculture. Likewise, farmers today have more neighbors than ever, and yet know fewer of them. It is important that both farmers and non-farmers learn to respect each other and they should know that there are resources to help work through some of these issues. Cornell Cooperative Extension PRO-DAIRY has posted a number of articles on neighbor relations on their website at [www.ansci.cornell.edu/prodairy/index.html](http://www.ansci.cornell.edu/prodairy/index.html). In addition, the NYS Department of Agriculture and Markets Division of Farmland Protection (518-457-7076) also offer assistance in neighbor disputes. The NYS Agriculture Mediation Program also offers dispute resolution assistance for all agriculturally related issues [www.nysdra.org/adr/adr\\_nysamp.html](http://www.nysdra.org/adr/adr_nysamp.html).

**Nuisance Wildlife Control** – Farmers work hard to produce high quality crops for market and for livestock feed and it is no surprise that wildlife have also appreciated these efforts. While most farmers anticipate some crop loss to wildlife, these losses can easily escalate and the wildlife is then considered a nuisance. The NYS Department of Environmental Conservation has a number of species specific fact sheets that help landowners understand the feeding habits of common species and how to prevent them from becoming a nuisance. Their website also contains information on how to control or remove nuisance wildlife. For more information, go to [www.dec.state.ny.us/animals/265.html](http://www.dec.state.ny.us/animals/265.html) or the USDA Animal and Plant Health Inspection Service website [http://www.aphis.usda.gov/wildlife\\_damage/](http://www.aphis.usda.gov/wildlife_damage/).

**Organic Farming** – Consumer awareness to how foods are produced has created enhanced opportunities for organic farming. Organic farming provides opportunities to lower operating costs while getting a premium return on investments. Organic dairy farming has now become one of the fastest growing agricultural sectors in New York State. However, in order for farmers to market their products as organic, they must become certified. For more information on organic certification and transitioning to organic farming, visit the NYS Department of Agriculture and Markets website at [www.agmkt.state.ny.us/AP/Organic/OrganicFarmingInformation.html](http://www.agmkt.state.ny.us/AP/Organic/OrganicFarmingInformation.html). This new website will help answer questions and direct both farmers and consumers to more information. The Northeast Organic Farming Association of New York will also be helpful <http://nofany.org/index.html>.

**Pollution Credit Trading** – Pollution Credit Trading is one method used by regulating agencies to enforce emission reductions. Businesses are granted a limited amount of pollutants that may be emitted (a cap) which is usually lower than it has previously emitted. In order to not exceed the limits of this cap, business must reduce



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emissions or buy credits from other sources that have reduced emissions. Pollution Credit Trading is being used or consider for reducing several different types of air pollutants. For more information, visit the US Environmental Protection Agency website at [www.epa.gov](http://www.epa.gov) or contact Ron Rausch at the NYS Department of Agriculture and Markets 518-457-2771.

**Right to Farm** – Right to Farm protects farmers against private nuisance lawsuits if the farm is using sound agricultural practices. It also limits the enactment of local laws which would unreasonably restrict farming operations. These protections, and others, have been created to help keep New York farms in business. For more information about the Right to Farm and farm protection laws, contact the NYS Department of Agriculture and Markets Division of Agricultural Protection and Development Matt Brower at 518-457-2713 <http://www.agmkt.state.ny.us/AP/APHome.html>. The New York Beginning Farmer Project sponsored by Cornell University has a 'Guide to Farming in NYS' PDF available online at <http://www.smallfarms.cornell.edu/pdfs/Guide/Guide%20to%20Farming%20in%20NY%20Revised%2012-21-07.pdf>, which can help answer questions regarding the Right to Farm.

**Stream Management** – One of the primary goals of the AEM program is to protect and improve the water quality of streams throughout New York. Most streams in New York have been classified and those that are impaired for their historical use (drinking water, trout habitat, recreation, etc) are listed on the State's Priority Waterbody List or PWL. The NYS Agriculture Non-Point Source Grants <http://www.agmkt.state.ny.us/SoilWater/aem/nonpoint.html> and the USDA NRCS Environmental Quality Incentives Program (EQIP) <http://www.nrcs.usda.gov/PROGRAMS/EQIP/> both offer cost-share assistance to farms for installing practices that will improve or protect water quality. These practices can include stream restoration when it is determined that erosion control is needed to restore a stream segment. In addition, the Conservation Reserve Enhancement Program <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=cep> offers further cost-share assistance to farmers that want to protect their streams by excluding livestock and installing riparian buffers. The Izaak Walton League of America Save Our Streams (SOS) is a national watershed education and outreach program, the website <http://www.iwla.org/index.php?id=19> offers a lot of information on stream management.

**Water Conservation/Management** - Water quantity concerns tend to vary upon area. While some places still seem to have an unlimited supply of surface and/or groundwater resources, others have had to face issues of dry wells and drained ponds. Whether a farm is irrigating crops or watering livestock, a dependable water supply is critical. During times of drought, the lack of water can have a devastating effect on farms and can often result in poor quality crops or purchases of water for livestock. All farms with a limited water supply should have an emergency action plan to help deal with these situations. To learn more about water quantity, contact the Cornell Water Resource Institute at <http://wri.eas.cornell.edu/> or your local USDA NRCS field office <http://www.ny.nrcs.usda.gov/>.

**Wellhead Protection** – Preventing contaminants from entering wells, particularly wells that are used for drinking water, is a primary goal of the AEM Program, as well as many other State programs. Nutrients and pathogens from agriculture can have potentially lethal effects if allowed to enter private or public drinking water supplies. The good news is that with proper management, these problems are easily avoided. It is critical that all farms which spread nutrients or manage livestock, understand the risks associated with wellhead areas and how to protect them. For more information, contact your local NRCS field office or the NYS Soil and Water Conservation Committee. More information can also be found on the NYS Department of Health's Wellhead Protection Program website at



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[www.health.state.ny.us/environmental/water/drinking/wellhead/wellfact.htm](http://www.health.state.ny.us/environmental/water/drinking/wellhead/wellfact.htm). The NY Rural Water Association website also includes wellhead protection information and articles on agricultural impacts [www.nyruralwater.org](http://www.nyruralwater.org).

**Wetland Conservation** – Wetlands are a vital part of our landscape. They can help to prevent flooding, store nutrients and sediments, provide habitat to wildlife and act as natural filters for water quality. There are a number of agencies and organizations that recognize the value of wetlands and can offer technical assistance and/or financial assistance in restoring and preserving them. The USDA NRCS Wetland Reserve Program is one example <http://www.nrcs.usda.gov/Programs/WRP/>, as is the Conservation Reserve Program <http://www.nrcs.usda.gov/programs/crp/>. Other non-governmental agencies, such as Ducks Unlimited, [www.ducks.org](http://www.ducks.org) also offer assistance through land easements and acquisitions.

**Wildlife Habitat Improvement** – Sportsmen and naturalist alike enjoy the benefits of wildlife. The best way to attract wildlife is by providing them with year-round food and shelter. Landowners first need to decide what species they would like to attract and then it can be determined which plant species will provide the best food source and shelter. The USDA NRCS offers the Wildlife Habitat Improvement Program <http://www.ny.nrcs.usda.gov/programs/programs/whip1.html> which offers cost-share assistance to landowners for developing wildlife habitat. The US Fish and Wildlife Service also offers assistance to individual landowners interested in creating habitat for at-risk species [www.fws.gov/angered/grants/private\\_stewardship/FY2007/index.html](http://www.fws.gov/angered/grants/private_stewardship/FY2007/index.html). Other federal programs, such as the Conservation Reserve Program <http://www.nrcs.usda.gov/programs/crp/> provide financial assistance to farm owners, as do non-profit organizations such as Ducks Unlimited [www.ducks.org](http://www.ducks.org) and Pheasants Forever [www.pheasantsforever.org](http://www.pheasantsforever.org)

## SWOT Chart

Strengths, weaknesses, opportunities, and threats (SWOT) chart as developed with public input at the initial public meeting to kick-off the agricultural planning process.

<b>Strengths</b>
<b>Good food.</b> Erie County farms produce a variety of raw agricultural products that can be consumed locally either directly or after processing: fresh vegetables and fruits, milk, meat, eggs, and grains.
<b>Strong agritourism.</b> Farms that encourage public interaction, and include attractions for children and adults, can be found throughout the county.
<b>Framework for Regional Growth.</b> This joint planning document between Erie and Niagara Counties lays the groundwork for regional agricultural planning efforts.
<b>Cost of Community Service studies.</b> These studies have repeatedly shown that it is cost effective for municipalities to support farms and to keep land in active agricultural production.
<b>Business planning courses offered by Cornell Cooperative Extension (CCE).</b> These courses are particularly helpful for beginning farmers and farmers who are diversifying or changing the nature of their operations.
<b>Erie County microenterprise loan program.</b> Providing small loans to start-up or diversifying farms can be critical to their initial success.
<b>Some farmland is being returned to production.</b> Some farms have removed hedgerows in order to accommodate large farm equipment. In doing so, this increases farmable land in the county.
<b>Transportation routes.</b> A major interstate, Route 90, crosses the county, as do numerous state and county roads that make for easy transportation of farm products to markets and population centers.
<b>Farmers' Markets.</b> Erie County has 16 Farmer's Markets where county residents can purchase fresh, local farm products.

### Weaknesses

**Public education.** There is a lack of understanding of the many benefits that farms provide to communities.

**Youth education.** Most children are a number of generations removed from the farm and need opportunities to visit working farms.

**Town official education.** Providing local officials with information on the economic benefits that farms afford is important to build town support for agriculture.

**Improved transportation to New York City.** New York City is a huge market and transporting western New York agricultural products into that market would help local farms.

**Shortage of USDA slaughter facilities.** Without local USDA certified slaughter facilities, farmers must send livestock out of the region and out of the state for slaughter.

**American perception that lowest price is best.** U.S. consumers spend less of their income on food than any other country in the world. Cheap food is not necessarily the best quality food.

**Health Department does not promote healthy food.** Publicity about the many health issues tied to poor food choices abounds. Consumers need information and encouragement to make better food decisions.

**Distribution.** There is a lack of accessible distribution methods for small farms.

**Local laws and policies that restrict use of prime lands.** Zoning that promotes development on the best soils is not ag-friendly zoning.

**City land use policies.** Zoning in the city of Buffalo has not been flexible enough to accommodate the changing nature of urban agriculture.

**Availability of contiguous parcels for growing food in the city.** Zoning to encourage the use of vacant parcels for urban agriculture – particularly contiguous parcels – has been lacking.

**Urban soil preparation is tricky.** Urban residents need guidance on preparing soils to grow food crops.

**Loss of quality farmland to subdivisions.** Sprawl continues to affect agriculture in the region by converting prime farmland to development.

**Lack of shovel ready sites for food processors.** In order to compete with other regions of the state and other states, Erie County needs to identify and prepare shovel ready agribusiness sites.

**Debt management concerns of beginning farmers.** It is difficult for beginning farmers to acquire loans needed to start a farm and, when they do receive credit, to manage the repayment of the loans.

<b>Opportunities</b>
<b>Get local food into schools and institutions.</b> This is a win-win for school children to eat fresh, local foods and for farmers to expand markets.
<b>Cross-border food processing.</b> Expanding markets for county farmers boosts profitability.
<b>Local branding.</b> An identifiable brand for regional agricultural products can help both consumers and farmers.
<b>Green energy.</b> Farmers can benefit from renewable energy options – crops grown for fuel, methane gas from digested manure converted to electricity.
<b>Education of public and youth.</b> Helping the public and children learn more about Erie County farms, can increase support and markets for local farm products.
<b>Reclamation of abandoned farmland.</b> Abandoned farmland is generally poorer quality land, but reclaiming it as livestock pasture or for other less intensive farming practices keeps land in production and available.
<b>Winter farm markets.</b> Erie County currently has a few options for purchasing local farm products in the winter but there is an opportunity to provide more venues for off season local food markets.
<b>Public education about food preservation.</b> Renewed public interest in consuming local foods has translated to renewed interest in preserving in-season farm produce for winter consumption. Yet, few people are well-versed in preservation methods that had gone out of style.
<b>Apprenticeship programs.</b> Offering young people and beginning farmers a hands-on learning experience on farms can interest and train a new generation of farmers.
<b>Direct marketing.</b> Farmers receive more of the retail dollar when they sell their farm products directly to customers rather than using a middleman.
<b>Zoning amendments to help small farm viability.</b> Ag-friendly zoning is critical to any size farm but zoning can be designed to help small farms flourish.
<b>Underutilized urban areas such as rooftops and factories can be used for farm gardens.</b> In many cities across the country, rooftops and other underutilized locations have been used to grow food. Buffalo can learn from these examples.
<b>Farming on college campuses.</b> Many colleges are using available land to grow large gardens and provide food for students. Erie County colleges can do the same.
<b>Festivals to market farm products.</b> Buffalo and Erie County have a plethora of festivals and celebrations. Encouraging vendors to source local food products and to advertise the use of local products is a win-win for the farmer and the vendor.
<b>Local food into food deserts*.</b> Getting fresh, nutritious local food into food deserts in Buffalo is another situation that benefits both city residents who can access better food and farmers who can expand markets for their products. * Food desert: a low-income census tract where a substantial number or share of residents have low access to a supermarket or large grocery store
<b>Value added products.</b> Farmers who add value to their raw agricultural product – maple syrup that is made into candy, goat’s milk made into fudge, berries made into jams – can increase the portion of consumer spending that they receive and thus help improve farm viability.
<b>More farmers’ markets.</b> Creating opportunities where consumers can purchase local agricultural products is a benefit to both the consumer and the farmer.

<p><b>County food policy council.</b> Food policies that promote purchase of local food products are another way to help improve farmers profits.</p>
<p><b>Food hub feasibility study.</b> Analyzing the need for, and benefits of, a food hub will inform efforts to aggregate and distribute agricultural products produced on local farms.</p>
<p><b>Creative thinking about how to access resources.</b> It can be challenging to assemble the resources needed to implement meaningful recommendations that support the viability and profitability of local farms. Brainstorming innovative methods to access resources is necessary.</p>
<p><b>Include the city of Buffalo in the agricultural plan.</b> Connecting rural and urban interests in food and agricultural issues will create a stronger plan.</p>
<p><b>Have a voice in Buffalo’s Green Code zoning process.</b> Urban agricultural interests should be well represented in the Buffalo zoning process.</p>
<p><b>Attract new farmers.</b> There is growing interest in direct-to-consumer sales of farm products. Erie County has smaller parcels of farmland available in urban-edge locations which can be ideal areas for new farmers to establish Community Supported Agriculture (CSA) farms, and other farms that market directly to the customer.</p>
<p><b>Respond to the differing needs of small farms vs. large farms.</b> Farm size does affect what assistance is most meaningful for those businesses. Smaller farms often need assistance with marketing and business planning; larger farms often need assistance with workforce development and labor issues.</p>
<p><b>Increase funding to Cornell Cooperative Extension to address these opportunities.</b> Cornell Cooperative Extension is an established organization that can implement some of the plan recommendations if funding and staffing levels are adequate.</p>
<p><b>Aggregation and distribution for local farm products.</b> Conducting a food hub feasibility study will lay the groundwork needed for local farm product aggregation and distribution.</p>
<p><b>Compile a farmland database for the county.</b> Understanding what land is available for farming and what land is currently in active agricultural production, will better inform agricultural planning efforts.</p>
<p><b>The recession has slowed farmland loss to development.</b> Now is an opportune time to strengthen local zoning to protect farmland.</p>
<p><b>View outer edges of the county as inner ring farmland of neighboring counties.</b> The strong agricultural counties surrounding Erie – Chautauqua, Cattaraugus, Wyoming, Genesee, and Niagara – contribute to agricultural production in this county. Some farms in neighboring counties work land in Erie. This creates an opportunity for regional planning efforts.</p>
<p><b>Do an agricultural economic analysis for Erie County.</b> A complete analysis of the economic benefits that farms provide would inform local officials decisions about land use and other policies that affect agriculture.</p>
<p><b>Institute tax incentives to encourage rental landowners to keep land in agriculture and to strengthen lease terms.</b> While farmers can participate in tax programs that reduce the property taxes paid on farmland (agricultural assessment, Farmer’s School Tax Credit), rental landowners do not necessarily qualify for those programs. Incentivizing farmland rentals by non-farm landowners would help to stabilize the land base and provide more secure tenure arrangements for farmers.</p>
<p><b>Inform town governments of the value of local farms.</b> Articulating the many benefits</p>

of farms will help local officials make informed decisions that support farms.
<b>Create a farm workforce – attract the Amish.</b> Farm workforce recruitment and development can focus on a variety of populations: youth, college students, Amish, and immigrants.
<b>Provide county assistance with grant writing.</b> While there are government and private funding sources to assist with a multitude of farm projects, most farmers do not have the grant-writing experience or the time to write multiple grants in search of funding for key projects.
<b>Document the economic multiplier effect of agriculture.</b> Articulating farms positive effect on the county economy can help to inform local policymakers decision making.
<b>Encourage horse boarding – luxury money.</b> Horse boarding is an agricultural use that can attract outside investment into a community.
<b>Assist with understanding and negotiating gas well contracts.</b> Farmers can benefit from legal advice and expert help in negotiating contracts of this type.
<b>Development of small cooperatives modeled after Eden Valley Growers.</b> Small farmer cooperatives give individual farms a way to aggregate supply in order to meet the needs of wholesalers and retailers.
<b>Assistance with navigating the IDA process or a small business resource day.</b> Farmers have not traditionally viewed IDAs as partners in establishing and expanding their businesses. A resource day that targets small businesses, such as farms, could build these connections that would benefit farms in the county.
<b>Attract international companies that are interested in dairy value-added.</b> Dairy processing and value added has been a growth area recently in New York State. Erie County could benefit from this trend.
<b>Capitalize on local food interests of major food retailers.</b> Consumer, and thus retailer, demand for local food is a marketing opportunity for local farmers.
<b>Growing and processing hops for microbreweries.</b> Erie County has seen an increase in the number of microbreweries. This is a production opportunity for local farmers.
<b>Increase milk production in western NY.</b> As milk manufacturing capacity expands in western New York, farmers can increase the production of milk to meet increased demand.
<b>Weak dollar in relation to Canada.</b> Canadians come to the U.S. to buy a variety of products including food and other agricultural products.
<b>County assistance with marketing and promotion of agricultural products.</b> A coordinated marketing and promotion effort for local farm products would help all county farms.
<b>Tort reform.</b> As with other businesses, farms need relief from unreasonable liability threats.
<b>Educate policy makers about the nature of farms – they provide jobs, they are land based businesses that do not move offshore.</b> Continued education of local officials and policy makers as to the many benefits of farms, including the fact that they do not move out of state or out of the country, will help to inform local planning and policy making.
<b>Develop a county agritourism trail.</b> Diversifying farm income with tourism ventures is widespread in the county. A publicized tourism “trail” would help to promote all of these enterprises.

<p><b>Develop a Public Service Announcement (PSA) for agritourism.</b> Coordinated publicity about agritourism opportunities throughout the county could expand the communication reach of individual farms.</p>
<p><b>Farm management and technology education for agriculture.</b> Providing educational opportunities to learn about cutting edge technology and farm management principles will help farmers in the county to improve their businesses.</p>
<p><b>Expand Agricultural and Farmland Protection Board role to include advocacy for agriculture.</b> The Erie County Agricultural and Farmland Protection Board (AFPB) has traditionally facilitated the state-certified Agricultural District program. The AFPB is poised to become an advocate for agriculture in order to implement this plan.</p>
<p><b>Include a youth position on the Agricultural and Farmland Protection Board.</b> Engaging the next generation of farmers starts with involving them in agricultural decision making.</p>
<p><b>Give recognition to exceptional farm businesses.</b> Recognizing the ‘best’ farms and agricultural businesses in the county can also serve to inform the public and local leaders of the contributions that well-managed farms provide to the community.</p>
<p><b>Assist towns with agricultural planning, provide maps.</b> County support, training, and resources, such as maps, can facilitate improved town level planning for agriculture.</p>
<p><b>Assist towns with small agricultural grants.</b> Providing a small amount of seed money to towns to undertake agricultural planning and promotion can leverage additional resources.</p>
<p><b>Local college internship program on farms.</b> As with apprenticeships, college internships can provide a trained work force for farms.</p>

<b>Threats</b>
<b>Government regulations and restrictions – environmental, labor, business, health.</b> Regulations are costly for farms and reduce profits. Assistance in meeting new regulations is critical.
<b>Shortages of public funding support for agricultural programs.</b> Agriculture competes with many needs for public funds. Because the benefits of agriculture are not well understood, it often receives a disproportionately small portion of what is available.
<b>Sprawl.</b> Continuing unplanned development on prime farmland permanently decreases our ability to grow local food.
<b>Farmer/neighbor conflicts.</b> Farms create noise, smells, dust, and traffic in order to perform normal farming practices. Sprawling residential development brings more non-farm people into contact with the effects of farm practices, which can result in conflicts.
<b>Processed foods.</b> Highly processed foods can have reduced nutritional value – fresh, local vegetables and fruits grown in Erie County provide excellent nutritional benefits.
<b>Social stigma of local foods.</b> Some consumers equate local foods with poorer quality.
<b>Subsidy system for agriculture.</b> The subsidy system is expensive and has not improved the quality of food choices for consumers nor helped northeast farmers significantly.
<b>High cost of doing business in New York State.</b> New York taxes and regulations are costly to small businesses like farms.
<b>Myth that all urban soils are toxic.</b> Urban agriculture has attracted local interest but there is concern and misunderstanding about urban soil quality and urban farming practices.
<b>Crop theft in the city of Buffalo.</b> As urban agriculture expands, theft of crops must be addressed.
<b>County redistricting.</b> Redistricting needs to ensure adequate representation for the agricultural areas of the county.
<b>Careless infrastructure extensions in agricultural areas.</b> Sewer, and more often water, line extensions in agricultural districts continue to promote residential growth.
<b>Lack of immigration reform.</b> Lack of a legal, reliable workforce hinders farm viability.
<b>Profitability/viability of farms.</b> If farms are not able to stay in business, prime land can be lost and options for local food production are reduced.
<b>Lack of drainage maintenance.</b> Farmland is abandoned when drainage infrastructure is not maintained on private and public land.
<b>Lack of rental land tenure prohibits farmer investment in land improvements.</b> Insecure lease arrangements on farmland provide no incentives for farmers to adopt conservation practices, tile wet fields, or adopt any other land improvement practices.
<b>Need for a next generation of farmers.</b> With the average age of farmers in the county continuing to rise, it is important that a next generation of farmers wants to farm.
<b>Regulatory environment is too cumbersome for small/medium farms.</b> Small farms have a particular need for assistance in navigating the array of regulations that exist.
<b>SEQR process is too difficult.</b> The complexity of the State Environmental Quality Review (SEQR) process adds time and expense to projects that may benefit agriculture.
<b>Wetland issues.</b> Land that was once farmland but is abandoned due to poor drainage maintenance can be lost to farming if it becomes a designated wetland.
<b>Local permitting.</b> Regulations and non ag-friendly local ordinances can put an undue burden on farms.

# Focus Group Sessions

## Discussion Questions in June (Buffalo), July (Eden), and August (Alden) 2011 Sessions:

- a. What and where are the greatest opportunities in Erie County....
  - i. To farm and grow food?
  - ii. To market food and farm products?
  - iii. For new food and farm enterprises?

### *Farmland:*

- Vacant and other urban land is available for small farm enterprises.
- Vacant and abandoned agricultural land can be reclaimed for farming purposes if successional growth has not proceeded too far.
- Poorer quality farmland can be used for less intensive agricultural enterprises.
- College campuses may have land that would be suitable for agriculture.
- Neighboring counties have successful farms that are looking for land in the county and moving into the outer ring towns.
- Erie County is fortunate to have some permanently protected farmland that will be available for farming in perpetuity.
- State-certified, county-adopted agricultural districts help to keep land available for agriculture.
- The economic downturn has slowed development, and thus sprawl, into the second ring towns.
- Municipal mapping of drainage systems would be a first step in addressing poor drainage concerns in some of the northern towns in the county.
- Incentivize leasing of farmland.

### *Next Generation:*

- Attract new farmers to the county.

### *Farm Viability:*

- Diversification of agricultural enterprises to include opportunities like aquaculture.
- Erie County Soil and Water Conservation District provides excellent support to farmers.
- A year-round public market, like Rochester's, would flourish in Buffalo.
- Value-added agricultural products often provide more return to the farmer. Assisting farmers with development and processing could increase farm viability.
- Local food procurement by institutions would help county farmers.
- Direct marketing of farm products to the city and urban edge areas.
- Connect with university resources and knowledge.
- Small and larger farms have different needs for county support.

### *Local Food:*

- Farm communities in the county are well suited for food production.
- Farmers' markets, festivals, and events are growing opportunities to market local farm products.
- Buffalo has areas that are food deserts and are in need of fresh, local food.

- b. What are the biggest barriers in Erie County...
- i. To farming and growing food?
  - ii. To getting local food and farm products to Erie County residents, schools, institutions?
  - iii. For new food and farm enterprises?

*Farmland:*

- Quality agricultural land is being subdivided regularly in this county.
- Careless infrastructure extensions lead to sprawl.
- Erie County has a significant land area that is designated as prime where drained, mostly in the northern portion of the county, but there is little drainage infrastructure to make the land suitable for farming.
- Farmland lease terms are often too short and too tenuous to encourage farmers to invest in land improvements.
- Leased farmland is the land most at risk of conversion.

*Farm Viability:*

- There is a significant lack of livestock processing facilities in western New York.
- The high cost of doing business in NY negatively affects farm growth.
- Poor farm profitability makes it difficult to continue to farm.
- There is a lack of aggregation and distribution infrastructure to help small farmers.
- Buffalo needs an urban public market.

*Educate Leaders:*

- City of Buffalo zoning is currently not urban farm-friendly, and city policies that limit the sale of city grown food are too restrictive.
- State regulations are not friendly to small farms.
- Cornell Cooperative Extension has been hurt by county funding cuts.
- Federal immigration policy puts farm labor in jeopardy.
- There are too many overly restrictive government regulations especially with regard to food safety.
- Municipal master plans should consider cost of community services studies when determining land use.

*Educate Public:*

- There is a lack of consumer connection to farms and where food comes from.
- Agricultural education in schools has disappeared.

*Local Food:*

- Price is often considered most important when purchasing food but there are other values that can and should be considered.
- The County Health Department needs to provide input into how food choices affect people's health.

- Poor quality of processed foods served in many school meals.
  - Social stigma of local food.
  - The farm subsidy system is not working.
  - Some local laws and policies restrict the use of the best land for agriculture.
  - The view that all urban soil quality is too poor for food production, and the expense of soil testing impede urban food production.
- c. What are the food and farming issues that Erie County should be grappling with?
- A complete economic evaluation of the value of farmland and farms in the county would be very useful.
  - With county assistance, improve municipal master plans so they are developed to support farms and protect farmland.
  - Expand agricultural education in schools at all grade levels.
  - Municipal leaders and other policy makers need more information and education about all that agriculture contributes to local communities and that prime land should be protected.
  - Build awareness in municipalities of cost of community service studies that show farms use less in services than they pay in property taxes.
  - Develop a land database of available farmland in the county.

Discussion Questions in November 2011 (Buffalo) and January 2012 (Newstead and Concord) Sessions:

1. *Farmland:* What can be done to keep land in farming in Erie County?
  - Work with farmers and land trusts to put conservation easements on farmland.
  - Adopt ag-friendly zoning in both rural and urban areas.
  - Encourage food production on currently unused or underutilized farm parcels with a tax incentive program.
  - Improve soil quality in the city of Buffalo so that food can be safely grown there.
  - In order to keep abandoned farmland in an agriculturally ready state, institute ‘seed ready’ projects modeled after ‘shovel ready’ projects for manufacturing and other business development.
  - Connect rural and urban interests in food and farming.
  - Permanently protect farmland by purchasing the development rights and placing an agricultural conservation easement on the land.
  - Adopt regulations and policies that prevent sprawl.
  - Provide funding or cost share programs to help farmers acquire land.
  - Encourage demand for locally grown farm products.
  - Place drainage easements on private land in agricultural areas so that ditches can be maintained properly by local governments. This would be an effort to avoid the loss of farmland that is evident in areas where ditches are not well maintained.
  - Form a farm advocacy group.
  - Capitalize on Erie County’s proximity to Canadian markets.

- Help farmers access capital to begin to farm or to expand or diversify.
  - Educate local officials and the public about the varied benefits of farms.
  - Develop a local equipment cooperative so that farmers can share the expense of farm machinery.
2. *Next Generation:* What can be done to increase the number of young and new farmers in Erie County?
- Promote Erie County as a place to farm.
  - Help beginning farmers with access to markets.
  - Teach children about agriculture and give them firsthand experiences on farms.
  - Provide formal and informal apprenticeships and internships on farms.
  - Create a summer jobs program on farms.
  - Cost share and assist with land and equipment acquisition costs.
  - Encourage different types of farming like organic, aquaponics.
  - Fund Cornell Cooperative Extension and BOCES programs to provide youth agricultural education.
  - Demonstrate the potential for land to produce a variety of things: crops, wind energy.
  - Create an incubator farm in the county (modeled after some in New England) where people can learn how to farm.
  - Create a property tax abatement program (like PILOT: payment in lieu of taxes) for new farmers.
3. *Farm Viability:* What assistance can be provided to farms to help them become more profitable?
- Provide financial assistance or programs that can help to balance the unpredictable nature of weather and markets.
  - Educate lenders so they are more knowledgeable about agriculture and more willing to lend to farmers.
  - Create agricultural infrastructure for marketing farm products.
  - Better understand the economics of the entire food system.
  - Develop a transportation cooperative to pool resources for transporting farm products to markets.
  - Form a county Food Policy Council that can institute local food procurement policies.
  - Assist with market access and with adapting to market changes. New ethnic communities in Buffalo create market opportunities for a diversity of food crops.
  - Build on agritourism efforts to create a county farm trail
  - Encourage cross municipal agricultural efforts with memorandums of understanding.
  - Create a regional food hub to aggregate farm products and as a distribution point.
  - Charge a fee when agricultural land is developed. Create a fund for the collected fees to help permanently protect farmland.
  - Revamp federal immigration policy.

4. *Educate Leaders:* What can be done to help town and county governments to better understand how valuable farms are to the local economy?
  - Produce a study of the value of agriculture to the local economy.
  - Local farms can help keep communities healthy – both economically and physically. Better physical health can lower healthcare costs.
  - Farms need to be included in local emergency and disaster planning.
  - The county should take the lead on educating municipalities about the value of local agriculture.
  
5. *Local Food:* What can be done to help farms provide a healthy, abundant source of food to county residents?
  - Develop a county-wide farm product brand.
  - Help to manage the supply chain: CSAs, farm to institution, or farm to restaurant programs.
  - Develop county-wide food procurement policies for schools and institutions.
  - Incentivize local food procurement policies, i.e. the county could pay a premium for local goods.
  - Assist with organic certification. Help farms understand what is required to become organically certified.
  - Include information on the county website about alternative energy options to use on farms.
  - Advocate for farm-energy friendly policies.
  
6. *Educate Public:* What would help Erie County residents, both urban and rural, better understand the value of farms in our everyday lives?
  - Understand what it costs for farms to produce the food we eat.
  - Include graphics in the plan to illustrate the value of local foods to the local economy.
  - Provide information on the county website.
  - A local food brand.



COUNTY OF ERIE  
**MARK C. POLONCARZ**  
COUNTY EXECUTIVE

**Erie County Agricultural and Farmland Protection Plan Public Hearing**  
**September 12, 2012**  
**7:00 pm**  
**Cornell Cooperative Extension**

Mark Rountree, opened the public hearing for the Erie County Agricultural and Farmland Protection Plan as required by the funding agency NYS Department of Agriculture and Markets.

About 2 years ago, Erie County and Agricultural and Farmland Protection Board applied for a grant through NYS Department of Agriculture and Markets to create a new Agricultural and Farmland Protection Plan, the last one was created in 1996.

Erie County contracted with American Farmland Trust to create the new plan. Tonight, Diane Held from American Farmland Trust who is the county's consultant on the plan will present the draft plan which will be followed by any questions or comments.

Diane Held presented the plan through the attached power point.

It was followed by questions and comments by the attendees

Q) If a purchase of development rights parcel wants to start a restaurant or other related business on a protected parcel are they able to?

A) Yes, depending on the type of business it can be written into the deed

Q) In the plan is there a flow chart of different organizations that assist agricultural businesses

A) No, but there is a grid of about 14 economic development programs applicable to the agriculture industry. Also, Erie County Soil and Water District has list of organizations and their functions.

Comment) There is a definite need for education of public officials about the value of agriculture in our communities.

Response) Typically, agriculture is a net positive for towns with regard to taxes, they utilize few municipal services but still pay taxes.

Comment) In the first recommendation: “Determine the feasibility of developing a county purchase of development program” should be changed to “Develop a County Purchase of Development Rights program”

Response) At this time with the financial constraints that the County is facing with funding basic needs, the addition of a new program with added costs could be viewed unfavorably by the County Executive and the County Legislature. In order to keep the Plan moving forward, the County has decided to utilize this language.

Q) Does the County Legislature have the ability to take things out of the Plan?

A) No, but they can not approve it.

Comment) The Federal/ State PDR rankings are weighted towards the Long Island and Finger Lakes portion of the State.

Response) This has typically been true, the Lake Erie watershed area is starting to create an organization to combat some of this.

## **Interviewees**

Carmen Vacco, Vacco Farms  
Carolyn and Marty Rosiek, MCR Farm  
Dan Gerhardt, GC Acres  
Hans Kunze, Steuben Trust  
John Cappelino, Erie County IDA  
Carolyn Powell, Buffalo Niagara Enterprise  
Tim Harner, Upstate Milk Cooperative  
Jodi Smith, Upstate Milk Cooperative  
Norb and Lynn Gabel, Gabel's Maple Syrup  
Kevin Komendat, Wegmans Markets  
Paul Zittel, Eden Valley Growers  
George and Pat Castle, Castle Farms  
Jerry Mammoser, Mammoser Farms  
Bill Holmes, dairy farm  
David Phillips, Phillips Family Farm  
Marty Wendel, Wendel's Poultry Farm  
Bob and Jason Engel, Shamel Milling  
Lloyd Lamb, Lamb and Webster  
Southtowns Community Enhancement Coalition  
Ryan and Liz Donovan, Sweet Harvest Farm  
Wayne and Gerald Aldinger, Aldinger's Farm  
Ginny Wolski, horse farm

# Summaries of Agricultural Planning Documents

## Town of Eden Agricultural and Farmland Protection Plan

Eden is a rural, farming town located in the Southowns of Erie County. It is one of Erie County's medium sized towns (population) but is a major contributor to the county's \$117 million in agricultural sales. The Town of Eden Agricultural & Farmland Protection Plan, completed by the Town in 2010, includes an analysis of local conditions, a parcel rating system to prioritize farmland protection parcels, and recommendations to support agriculture and protect farmland. The Plan also includes an assessment of its land use regulations and recommends modifications to improve support for agriculture.

*Recommendation 1: Stabilize the town agricultural land base and maintain land in active agricultural use. Maintain 95% of the current active agricultural land in production through the next ten years. Support Eden farmers as stewards of the land and other natural resources.*

### Actions

- Implement Eden's conservation easement law (Chapter 95 in the Town code) to provide participating agricultural landowners with a property tax reduction in exchange for a term conservation easement on their agricultural property.
- As needed, hire a grant writer to develop and support applications to the New York State Farmland Protection Program and the USDA-NRCS Farmland Protection Program, when approached by farm landowners who are interested in selling their development rights.
- Utilize the plan's rating criteria to rank multiple requests for purchase of development rights applications to the State Farmland Protection Program or the Federal Farmland Protection Program. The Town Board, Planning Board, and Zoning Board of Appeals can also use these criteria to determining the impact of non-farm development on valuable agricultural land and neighboring farms.
- Strive to submit at least one competitive application each year to the New York State Farmland Protection Implementation Grants program to permanently protect farmland in the Town.
- Establish a dedicated agricultural land protection fund for use in farmland protection projects in the town. Research the legal parameters of establishing a Community Preservation Fund and follow these parameters in establishing the land protection fund. Evaluate local funding options and opportunities.
- Research creation of a program to make farmland ownership more affordable for beginning farmers. Link property tax reductions for a specified time period to minimum land use and percentage of income from farming. Assist matching sellers of agricultural land with interested buyers who will keep the land in active agricultural production.
- Encourage new residential development in the Hamlet Residential zone and away from the Agricultural and Conservation zones.

- Follow the recommendations of the Framework for Regional Growth (as adopted by Erie County) to discourage investments that would hinder agricultural protection and/or would require additional infrastructure extensions, specifically limiting water and sewer district expansions in agricultural districts. Encourage future infrastructure development in the Hamlet Residential zone.
- Adopt the New York State Department of Agricultural and Markets recommended guidelines for connections to water lines in the Agricultural District. Consider additional lateral restrictions or constraints on the size of water lines in the Agricultural and Conservation Zones.
- Consider a minimum lot size of 2 acres in the Agricultural zone combined with a fixed density of one lot for every 4 acres.
- Explore the use of buffers between active agricultural land and residential/developed areas of the Town. If this zoning tool is used, require that the land used for buffers be on new developments and not on active agricultural land.

*Recommendation 2: Maintain a supportive business environment for farm operations.*

Actions

- Support Erie County with its update to the County Agricultural and Farmland Protection Plan. Engage Eden farmers and local officials in the County plan update process.
- Strive to have at least one farmer on all local boards, especially the Town Board, Planning Board, and Zoning Board of Appeals, in order to have consistent representation from the farm community in all aspects of local government.
- Engage town, county, state and federal officials in a tour of a representative group of Eden farms and agribusinesses.
- Coordinate planning support for the tour with the Erie County Department of Environment and Planning, Cornell Cooperative Extension, and the Southtowns Community Enhancement Coalition. Hold this tour every two to three years and always at the eight-year Agricultural District review.
- Establish a \$1,000 annual college scholarship to be given to a student residing in the Town who is attending college and majoring in agriculture with the intention to return to farm in Eden. Administer this scholarship through the Eden Community Foundation.
- Establish a scholarship fund to encourage the return of a student from a farm family or a student who would like to establish a farm business in Eden.
- Encourage Town farmers to develop business and marketing plans with particular emphasis on businesses that are considering new agritourism enterprises. Coordinate local business plan trainings with Cornell Cooperative Extension and the Southtowns Community Enhancement Coalition. Assist farmers with implementation of their plans.

- Adopt the Eden Agricultural and Farmland Protection Plan as part of the Town of Eden’s 2015 Comprehensive Plan. This action will strengthen both the Agricultural and Farmland Protection Plan and the Comprehensive Plan. Update the Agricultural and Farmland Protection Plan at regular intervals, such as when the Comprehensive Plan is updated, and closely review agricultural sections of zoning code when Comprehensive Plan or code updates are done.
- Work with the Erie County Department of Environment and Planning and the Erie County Farm Bureau to develop a menu of financial incentive programs targeted to the agricultural industry.
- Support New York’s agricultural industry and Eden farmers by working with agricultural coalitions and organizations to:
  - Develop labor policies that provide a legal, reliable work force for agricultural businesses;
  - Support relief from regulatory burdens;
  - Fund agricultural infrastructure needs;
  - Increase funding for purchase of development rights; and
  - Increase support for agricultural economic development.
- Review the Zoning Analysis in Eden’s Agricultural and Farmland Protection Plan and amend Eden’s land use regulations as recommended in the analysis. Ensure that the zoning code is supportive of agritourism business opportunities.

*Recommendation 3: Educate the non-farm public about agriculture. Facilitate an ongoing dialogue between the farm community and other Eden residents. Encourage appreciation of the agricultural resources located in the Town.*

Actions:

- Promote the Welch Farm Museum as an educational tool to teach students and adults about both the history of agriculture in the Town and modern-day farming. Capitalize on the museum’s close proximity to the Eden Elementary School and the Eden Boys and Girls Club to offer regular educational opportunities.
- Continue involvement with the Southtowns Community Enhancement Coalition and promote their focus on agritourism.
- Institute an “Ag Giveaway Day”. Provide Town property owners with a coupon, mailed with their tax bill, for free farm products and vegetables on a given day at a given drive-thru location.
- Utilize the “Eden Agricultural and Farmland Protection Plan” publication to promote understanding of agriculture in the Town. Distribute copies at the Corn Festival, Welch Farm Museum, Ag Giveaway Day, and other agricultural events. Include a promotional item in the publication such as a coupon for free admission to the Welch Farm Museum.

## Town of Clarence Agricultural and Farmland Protection Plan

The Town of Clarence was developing an Agricultural Plan at the same time as Erie County, with plan approval in 2012. Clarence is located in the northeastern portion of the county and has had significant residential growth in the last few decades. With a population increase of 17% from 2000 to 2010, community commitment to support farms and protect farmland was needed if farming was to remain in the town. In 2002, a \$12.5 million bond was passed by public referendum to fund the Greenprint Program to permanently protect farmland and open space in Clarence.

*Strategy A: Protect farmland: Sustain no net loss of farmland in the Town of Clarence during the next decade, from 2012 to 2022. The number of farmland acres in the town in 2012 totaled 4,344.*

Actions to protect farmland:

1. Recognize the Farmland Protection Committee (FPC) as a permanent committee with an identified role to inform the Town Board about agricultural issues, and to make recommendations to address these issues. Have the Town Board approve the Committee in this capacity.
2. Formalize the Farmland Protection Committee's advisory role in the Greenprint process to:
  - a. select farmland to protect using parcel ranking criteria developed through this planning process, and
  - b. review the agricultural easement template.Work with the Recreation Committee to develop a mutually agreed upon review process that incorporates the FPC.
3. The Farmland Protection Committee will sponsor an annual farmer/farm landowner meeting where farm needs can be discussed and prioritized for ongoing town action. Giving the farm community a 'voice' may be the most important accomplishment of this planning process. Clarence's growing population is dominated by people who are unfamiliar with agriculture and farming practices and needs. The farm community must be unified and have a formal process in place to be heard.
4. Adopt the Clarence Agricultural and Farmland Protection Plan (AFPP) as part of the Town Master Plan. The AFPP should be reviewed and updated as part of the Master Plan review cycle. Including the AFPP in the comprehensive planning process sends a clear message that agriculture is a priority business and land use in the Town of Clarence.
5. Develop a program to keep private land that is currently not eligible for agricultural assessment, mowed and "farm ready". Develop eligibility criteria and "farm ready" criteria. Set a rental rate for land that is kept in a farmable state. Identify a minimum rental period for the land and formalize an agreement between the town and the landowner to pay the rental fee for the

specified time period in exchange for the landowner meeting certain land maintenance standards.

6. Encourage land leasing of farmland. Approximately 37 % of farmland in Clarence is rented. This land, by its very nature, is the least secure. Agricultural assessment\* reduces landowner's property taxes and is an incentive to keep land in agricultural production. Have FPC members communicate with landowners who are not receiving agricultural assessment to encourage farmland leasing and to explain the benefits of, and requirements to, receiving agricultural assessment.

*Agricultural assessment: Farmland is assessed at its use value based on soil type values determined by New York State. Landowners must visit the Soil and Water Conservation District office to determine soil types and associated acreages on their land, and then file Form RP-305 with the town assessor. Eligible land must be seven acres or more with the operating farm grossing at least \$10,000 of annual agricultural sales, or less than seven acres with the operating farm grossing at least \$50,000 of annual agricultural sales. Horse boarding operations must also board at least 10 horses.*

7. Approve a local law amendment for the code revisions outlined in the Code Review of this plan.

*Strategy B: Plan for infrastructure: Institute infrastructure planning that formally and routinely considers the needs of agriculture with regard to drainage, roads, utility lines, water, and sewer in any town zoning districts that allow farms.*

Actions to plan for infrastructure:

1. Address drainage concerns of the farm community to keep ditches, streams and waterways clean on public and private property.
  - a. Establish an agricultural drainage working group of the Farmland Protection Committee, which will inform the FPC of drainage maintenance needs specific to agriculture. The FPC will be responsible for prioritizing and sharing these needs with the Town Board. The drainage working group will communicate with private landowners to assess concerns and needs.
  - b. Have the drainage working group review and comment on the draft ditch maintenance plan (due in spring 2012) being developed as part of the town drainage study.
  - c. Institute a cost share program that would help landowners to develop primary drainage ditches on their properties and that would be part of the town ditch maintenance plan. Seek input from the Erie County Soil and Water Conservation District.
  - d. Collaborate with the county to ensure that county-maintained ditches in the town are cleaned as necessary in order to improve drainage on farm fields and reduce conversion of land to wetlands. This could be a system in which the Town cleans county ditches and is reimbursed for doing so.

2. Notify the Farmland Protection Committee of any proposed infrastructure changes in the Agricultural Flood Zone or the Agricultural Rural Residential Zone. Have the FPC review any Agricultural Data Statements\* that are filed with the town pursuant to Agricultural and Markets Law requirements. Provide the committee's recommendations, regarding infrastructure changes or Agricultural Data Statements, to the Planning Board and the Planning Department.

*\*Agricultural Data Statements: Per Agriculture and Markets Law, an application for a special use permit, site plan approval, use variance, or subdivision approval that requires review and approval by the planning board, zoning board of appeals, or town board, and that is within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The Ag Data Statement should include a description of the proposed project and its location on a map showing the site of the proposed project relative to the location of farm operations.*

*Strategy C: Promote agriculture: Inform the public about the variety of contributions farms make to the town and what agricultural practices to expect in a farm community. Include youth and youth agricultural programs in town efforts to promote farms and agricultural events.*

Actions to promote agriculture:

1. Develop a youth community service program in collaboration with the local youth bureau, 4-H, Farm Bureau, and schools to educate and involve town youth in agriculture. Projects include:
  - a. Promoting youth agriculture programs such as 4-H.
  - b. Incorporating additional youth programs and educational opportunities into the Clarence Hollow Farmers' Market.
  - c. Working with Farm Bureau's Ag in the Classroom program.
  - d. Developing a school garden program with local schools.
2. Develop an ongoing working relationship with the Clarence Bee. Identify a farm community member who will serve as a media liaison to the Clarence Bee to assist in developing interesting, informative, accurate stories about farming in Clarence.
3. Create an agricultural section of the town webpage to promote food and farming events, advertise agricultural meetings, educate residents about farming practices, and share accomplishments of the FPC and the Greenprint Program. Also create a link to the Clarence Hollow Farmers' Market webpage.
4. Assist the Clarence Hollow Farmers' Market with efforts to grow the market and to expand opportunities for town residents to purchase local farm products. Identify a funding source to assist the Market with promotional efforts.

## *A Regional Farmland Protection Plan for the Towns of Brant, Evans, and North Collins*

The Regional Farmland Protection Plan for the Towns of Brant, Evans, and North Collins was developed in 2000 and includes regional goals and actions. This three-town planning effort recognized that a regional approach to support farms could have more impact than a town-by-town planning process. Since development of the plan, a group of nine municipalities in the southern portion of the county, the Southtowns Community Enhancement Coalition, have worked together to develop an agritourism trail. Following are the four goals and related actions from this regional plan.

### *Regional Goal 1: Foster Collaboration*

- RR1. Support and maintain a three-town agricultural development and farmland protection committee.
- RR2. Investigate grant opportunities and leverage local resources.
- RR3. Work with Erie County and other partners to share technical information and geographic data.
- RR4. Direct town and planning boards to focus attention on land use and agricultural issues near town boundaries.

### *Regional Goal 2: Promote Understanding of Agriculture*

- RR5. Adopt municipal right-to-farm laws.
- RR6. Promote public education and agritourism events.
- RR7. Adopt the New York State Agriculture and Markets Law definitions of "farm operation" and "crops, livestock, and livestock products" for the purposes of local planning and policies.
- RR9. Create a supportive business environment for agriculture.
- RR10. Evaluate the net fiscal impacts of future town growth on municipal and school budgets.
- RR11. Highlight the importance of both full-time and part-time farmers to the region's economy and farm community.
- RR12. Periodically review the New York State Agricultural Districts Law to evaluate changes in the Legislation and ensure proper compliance at the local level.

### *Regional Goal 3: Encourage Policies that Protect Productive Farmland*

- RR13. Continue to involve farmers in reviewing, developing and implementing municipal policies that may affect agriculture.
- RR14. Using the prioritization rating system developed in this plan, identify priority-farming regions, and then implement policies and programs to protect farmland in those areas.
- RR15. Create or update master plans to highlight the importance of local farms to each municipality and the regional farm community and outline strategies for supporting local farms through agricultural economic development and farmland protection initiatives.
- RR 16. Reduce trespassing onto farmland by promoting educational efforts and enforcing trespassing ordinances.
- RR 16. Develop zoning and subdivision ordinances that adequately protect farmland while not being overly restrictive of farm businesses.
- RR 17. Promote development in existing hamlets and areas that already have municipal infrastructure. Site future water and sewer districts away from priority farmland. To manage

growth, consider requiring lateral restrictions for water districts already sited in priority farming regions.

RR 18. Collaborate with regional partners to conduct a demonstration purchase of development rights or conservation easement project.

RR 19. Develop land use policies to maintain scenic vistas of farmland along highways.

RR 20. Implement property tax relief to farmers: implement term conservation easement tax abatement programs, farm building exemptions and ad valorem tax limitations for farmland outside of agricultural districts. Extend agricultural assessment values for taxation of fire and ambulance districts. Educate landowners.

RR 21. Enhance town assessors' understanding of farmland and farm building assessments.

RR 22. Acknowledge the importance of rental land to local farmers.

RR 23. Work with regional partners to conduct workshops about estate and farm transfer planning.

RR 24. Implement traffic calming measures and educate residents about slow moving farm vehicles.

#### *Regional Goal 4: Cultivate a Viable Agricultural Economy*

RR 25. Urge Erie County to collaborate with Cornell University on an Agricultural Industry Development, Enhancement and Retention (AIDER) project.

RR 26. Ensure that local infrastructure meets the needs of modern farms.

RR 27. Work with regional partners to promote local agritourism.

RR 28. Help farmers improve their marketing and other business skills.

RR 29. Support the labor needs of farm businesses by permitting an array of farm worker housing on, and off, local farms.

RR 30. Revise local ordinances and regulations to accommodate the business needs of farms.

#### *Room at the Table: Food System Assessment of Erie County*

Researched and written by a group of University of Buffalo graduate students in the Department of Urban and Regional Planning, this report concluded with a set of recommendations to improve Erie County's food system.

1. Sponsor Agricultural Training Courses
2. Facilitate greater involvement in Agricultural Districts
3. Identify Potential New Cropland
4. Establish a Seed Bank
5. Manage a County Website on Agricultural Resources
6. Facilitate a Regional Food Hub in Erie County
7. Make Available a Master Food System Contact Directory
8. Enable a Food Transportation Cooperative
9. Support Social Entrepreneurs in the Food System
10. Target Industry Clusters
11. Implement a PDR or TDR Program
12. Develop a County-Run Comprehensive Composting Program
13. Facilitate Agriculturally Focused Municipal MOUs
14. Create the Erie County Food Policy Council

15. Adopt an Erie County Food Charter or Food Action Plan
16. Fund Local Procurement Policies for Public Institutions
17. Pass a Food System Development Fund
18. Consolidate an Agritourism Program
19. Proliferate County-Wide Branding of Local Food
- 20 Reorganize Business Practices to Express a Local Preference

## Endnotes

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<sup>1</sup> 1992 Census of Agriculture

<sup>2</sup> Farms for the Future

<sup>3</sup> 2007 Census of Agriculture

<sup>4</sup> Erie County Dept. of Environment and Planning

<sup>5</sup> 2007 Census of Agriculture

<sup>7</sup> Minnesota Implan Group

<sup>8</sup> WNY Regional Economic Development Strategic Plan  
<http://regionalcouncils.ny.gov/themes/nyopenrc/rc-files/westernny/FINALPLAN.pdf>

<sup>9</sup> Hudson Valley Agribusiness Development Corporation  
<http://www.hvadc.org/>

<sup>10</sup> 3CORE  
<http://www.3coreedc.org/>

<sup>11</sup> New York Farmland Protection Study, 2009  
[http://www.nass.usda.gov/Statistics\\_by\\_State/New\\_York/Publications/Special\\_Surveys/Report-NY%20Farmland%20Protect%20Svy.pdf](http://www.nass.usda.gov/Statistics_by_State/New_York/Publications/Special_Surveys/Report-NY%20Farmland%20Protect%20Svy.pdf)