



LeRoy, New York Agriculture and Farmland Protection Plan

Prepared by the Town of LeRoy
with assistance from American Farmland Trust

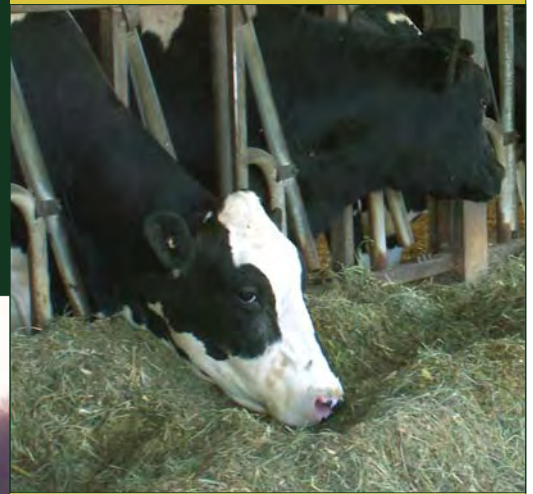


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- Resources for Additional Information and Technical Support
- New York State Department of Agriculture and Markets Policy on Water Hookups in Agricultural Districts
- New York State Department of Agriculture and Markets Guidance Document: *Guidelines for Review of Local Zoning and Planning Laws*
- New York Direct Marketing Association Model Zoning for Roadside Stands and Farm Markets
- American Farmland Trust Checklist: *Is Your Town Planning a Future for Agriculture?*
- American Farmland Trust Factsheet: *Cost of Community Services Studies*
- Copy of LeRoy Pennysaver Ad

ACKNOWLEDGEMENTS

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Ken Mattingly	Nate Edmunds and Dave Paddock
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LeRoy Town Board

Citizens of the Town of LeRoy

Genesee County Agricultural and Farmland Protection Board

EXECUTIVE SUMMARY

The Town of LeRoy agricultural community began discussing the need to prioritize farmland protection in 2006. Through a series of farmer organized meetings, they developed a possible zoning tool to protect large, contiguous blocks of farmland and identified those areas of the Town where the zoning would be used. Subsequently, after farm meetings and discussions, the recommended zoning change was rejected. But what did survive was the sense that the agricultural community in LeRoy needed to involve the entire community in planning for agriculture and protecting farmland. From there came application to, and funding in 2008 from, New York State for a Municipal Planning Grant to develop an Agricultural and Farmland Protection Plan.

The year and a half process involved regular meetings of a committee of farmers and interested residents, with Town Board representation. Three roundtables and a public hearing were held and community residents and farmers had the opportunity to learn more about the planning process and to express their opinions and thoughts with regard to how best to support agriculture in LeRoy. Fourteen farmers, farm landowners, and agribusiness representatives were interviewed at their home or business site in an effort to make it convenient for them to participate in the process.



The Agricultural and Farmland Protection Plan contains four main recommendations with action items for each. An implementation matrix identifies the responsible committees, boards, and organizations for completing each action item. The four recommendations are:

1. Encourage the business of farming with agricultural planning and farmland protection tools: Maintain at least 98% of the current total of farmer-owned farmland in the town over the next ten years. Maintain at least 95% of the current total of non-farmer-owned farmland in the town over the next ten years.
2. Identify and adopt land use regulations that protect farmland and create a supportive environment for agricultural businesses.
3. Continue to build the established partnership between the town and village to strengthen land use planning efforts.
4. Promote the benefits of a viable agricultural and food industry to the Town.

It will be imperative that the Agriculture Committee, and the farm community encourage Town action to implement these recommendations.

INTRODUCTION

The Town of LeRoy received a Municipal Planning Grant in February 2008 to develop an Agricultural and Farmland Protection Plan. Prior to receiving the grant a volunteer Agricultural Advisory Committee was assembled to guide the process (see Acknowledgements for committee members). American Farmland Trust was hired as the consultant to develop the Plan with subcontractor George R. Frantz and Associates reviewing and recommending modifications to the Town of LeRoy Zoning Code.

LeRoy's Comprehensive Plan, adopted in December, 2001, designates Agriculture as one of seven key policy areas for the Town (Comprehensive Plan available on CD at Town Hall):

It is the policy of the Town to continue to have vibrant agricultural businesses that contribute to the community's rural character and economic health. The Town acknowledges that farming and farmland contribute to the local economic base and provide a public service in the form of open space. The town will support land use regulations that are consistent with the objectives of the County's Smart Growth Plan to protect agricultural land from residential and commercial encroachment and work towards expanding its agricultural base.

The County's Smart Growth Plan (www.co.genesee.ny.us/dpt/planning/smartgrowth.html) , adopted in 2001 and reviewed and updated every three years, states:

The purpose of the plan is to minimize the impacts from additional growth and development that would otherwise occur as a result of the extension of water service... The objectives of the Smart Growth Plan are to ... Protect farmland and the rural character of the countryside, and maintain the viability of agriculture.

Another County plan adopted in 2001 with direct relevance to agriculture, is the County Agricultural and Farmland Protection Plan (www.co.genesee.ny.us/dpt/planning/agfarmbrd.html) which contains recommendations for protecting farmland and developing the agricultural economy in the county. LeRoy's first implementation item in the Agriculture policy area of the Comprehensive Plan is to "implement the recommendations in the County's Farmland Protection Plan" thus, meshing town and county agricultural planning efforts. The planning that has been done in both the County and the Town laid the groundwork for developing a Town level agriculture plan with emphasis on protecting farmland in the Town and supporting the economic viability of town farm businesses.



Town farmers have understood the importance of being proactive with planning and educational efforts in LeRoy. An agricultural zoning change was discussed but ultimately was not what the farm community wanted. The effort though, stimulated discussion and focused on the needs of town agriculture. Also, the Town, on behalf of the Agriculture Committee, has placed a notice in the local newspaper alerting Town residents of dairy farmers manure handling practices and providing contact information for the individual farms. This has helped to keep lines of communication open between Town residents and the farm community.

ANALYSIS OF LOCAL CONDITIONS

Genesee County:

Genesee County, located in the heart of western New York between Rochester and Buffalo, has consistently ranked as one of the top counties in the state for market value of agricultural products sold. The combination of good soils and history of well-managed farms has contributed to the County's successful agricultural industry. From 2002 to 2007, the market value of agricultural products sold increased by 42% to almost \$178 million. And in ten years (from 1997 to 2007) the land in farms increased by 7%, to 183,539 acres. Farms working 2000 acres or more increased their acres worked by 68% from 2002 to 2007. The average size of farms dipped slightly in 2002 at 306 acres, down from 331 acres in 1997, and then rose back to 333 acres in 2007, while the total number of farms decreased by 5% from 580 in 2002 to 551 in 2007. (Figure 1 depicts these changes using data from the 1997, 2002, 2007 Census of Agriculture.) And reports of agricultural land being sold for over \$4,000 per acre in 2008, add support to these statistics which point to the health of Genesee County's agricultural industry.

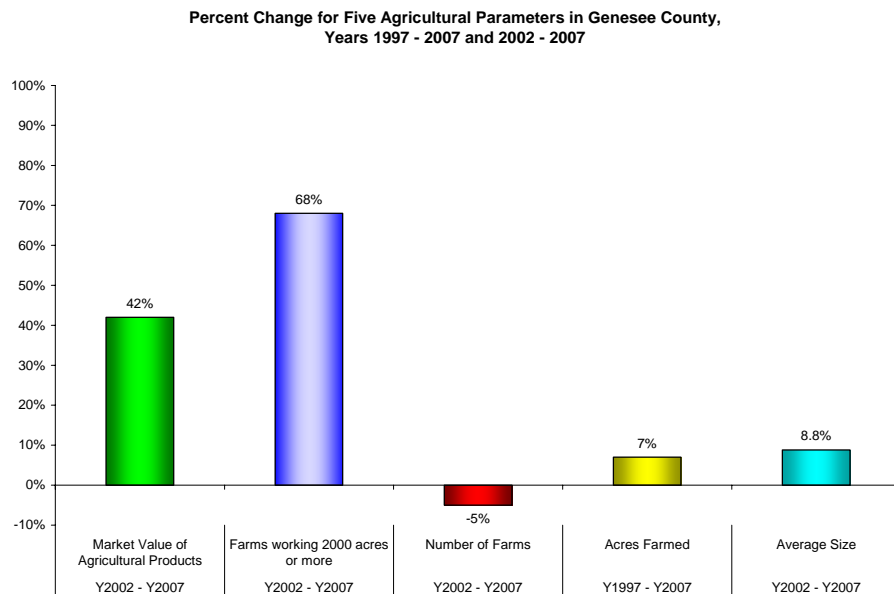


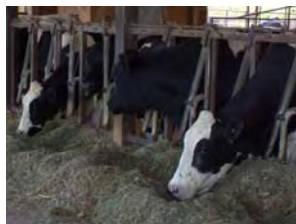
Figure 1

The Genesee Valley Agri-Business Park is under construction on 199 acres adjacent to the O-AT-KA Milk Processing Plant in Batavia. Also located in or near Genesee County, are three Allen's Foods vegetable processing plants in Oakfield, Bergen, and Brockport as well as one plant owned by Seneca Foods in Mt. Morris. Having the infrastructure in place locally to attract food manufacturing and agribusinesses is a bonus for Genesee County farmers.

The County Population has remained stable, rising just over 300 people, a mere half a percent, from 1990 to 2000, to a total of 60,370 people (U.S. Census, 1990 and 2000). What is more striking is the 7% increase in housing units in that same time period. This is indicative of a sprawling, spreading population – little-to-no population growth but an increase in residential development. And this is what can threaten productive agricultural land in a largely rural area like Genesee County. Because the County has a Smart Growth Plan limiting water hookups outside of Smart Growth designated areas, and thus limiting the development that can be spurred by water lines, it is in a position to control some of this growth.

LeRoy:

LeRoy is located on the eastern edge of Genesee County and shares part of its border with Monroe and Livingston Counties. The New York State Thruway intersects the northern portion of the Town where exit 47 connects with Interstate 490 as it travels into the City of Rochester. New York State Routes 19 (north-south) and 5 (east-west) intersect in the village of LeRoy. The Oatka Creek winds through the town entering on the southwestern border, bisecting the village, and exiting in the northeastern corner of the Town. A significant portion of the Creek within LeRoy boundaries is a New York State Department of Environmental Conservation designated trout stream. Fifty nine percent of LeRoy's 25,240 acres is in a state-certified Agricultural District (see Map 1) and 51% of the Town land is prime soils (see Maps 2 & 3). Just over half of the Town acreage, 13,000 acres, is in active agricultural production (see Map 4).



Dairy and processing vegetable farms make up the majority of farms in the Town, with horse, fruit, fresh market vegetable, Christmas tree, and livestock farms comprising the remainder of LeRoy's approximately 25 active farms. This diversity of farm size and type is a nice balance of varying agricultural enterprises. And the larger LeRoy community benefits by having a number of farm markets that offer an assortment of local produce for sale. Energy, feed, fertilizer, and financial institutions service LeRoy's farm community and enhance the local agricultural economy. Farms in LeRoy employ an estimated 320 full time, and 58 part time and seasonal workers, and have an economic multiplier effect of 2 to 3 times in the local economy.



The 2007 Census of Agriculture identified 18% of the farms in zip code 14482 as working 1000 acres or more; 46% worked 50 to 999 acres; and, 36% worked fewer than 50 acres (Figure 2 uses data from the 2007 Census of Agriculture). The 2002 Census of Agriculture reported 23% more total farm operations in zip code 14482 than in 2007 but the farms working the largest acreages, 1000 acres and greater, increased by 5% from 2002 to 2007, while the number of farms working less than 1000 acres decreased by 26% (Figure 3 uses data from the 2002 and 2007 Census of Agriculture). This mirrors the consolidation of farms seen at the County level in that same five year time span. In 2007, the value of agricultural products sold in zip code 14482 was reported as follows: 64% of farms sold less than \$50,000; 11% of farms sold \$50,000 to \$249,999; and,

25% of farms sold greater than \$250,000 of agricultural products (Figure 4 uses data from the 2007 Census of Agriculture).

**Percentage of Farms Working Specified Acres in LeRoy, New York, 14482
in the year 2007**

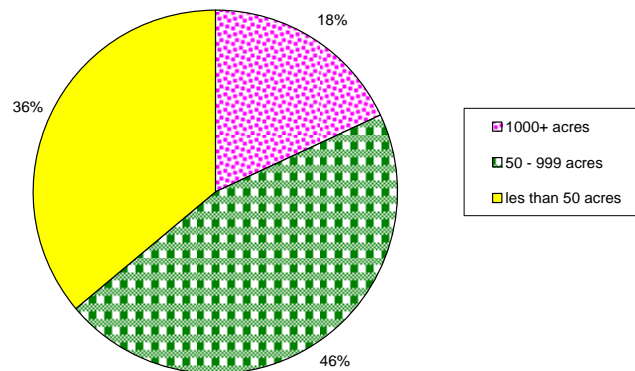


Figure 2

**Percent Changes in Three Agriculture Parameters for LeRoy, New York 14482
Years 2002 to 2007**

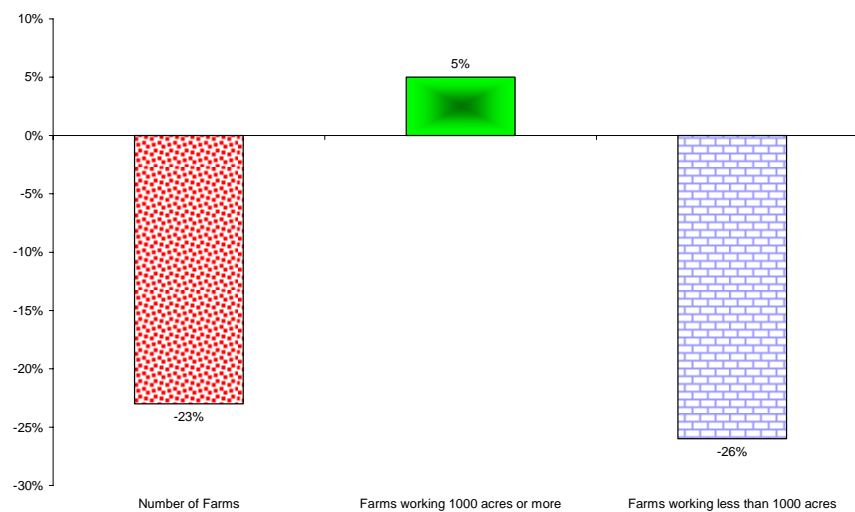


Figure 3

Percentage of Farms by Value of Agricultural Products Sold in 2007,
LeRoy, New York 14482

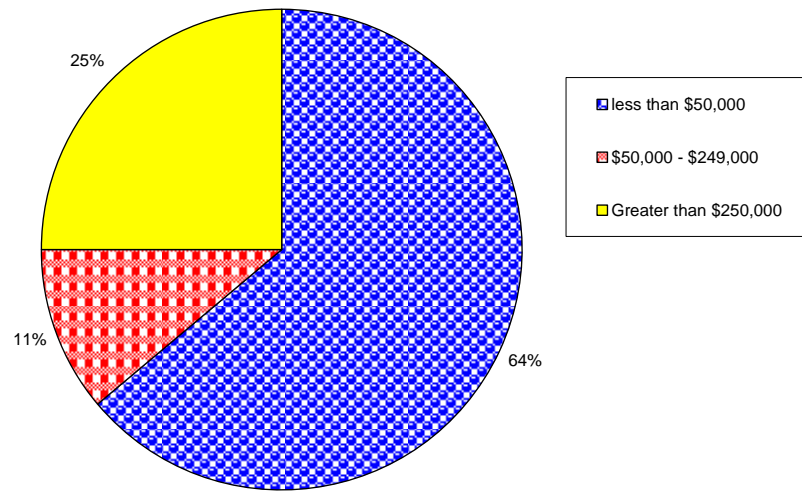


Figure 4

Whereas Genesee County saw a negligible increase in population, 0.5%, from 1990 to 2000, the Town of LeRoy had greater growth. The Town's population (outside of the village) in 1990 was 3,202 and in 2000 had increased to 3,328, a 4% increase while the village of LeRoy decreased by 10% in that time period (U.S. Census, 1990 and 2000). In that same decade, total housing units in Town increased by almost 14%. In the years 2007-2009, 17 residential building permits were issued in the Town of LeRoy while 2 residential permits were issued in the village. As mentioned earlier, attention should be given when housing units increase at a significantly faster rate than the population because it may mean that agricultural land is being impacted by nonfarm development. A visual survey of LeRoy does show some loss of farmland to scattered lot residential development.

Over 15 *Cost of Community Studies* have been conducted in New York State (see Appendix for further information about the studies). These studies routinely show that farmland, open space, and forest land generate more in revenue than they receive in services, while residences generally require more in services than they pay in taxes. The average numbers are below:

Farm, Forest and Open Land:	\$0.29/\$1
Commercial:	\$0.26/\$1
Residential:	\$1.27/\$1

These numbers are not meant to discourage all residential growth in town but to emphasize the need to manage and balance growth with maintaining working farmland.

PUBLIC PARTICIPATION

In 2006-07, the farm community, in response to concerns about the conversion of productive farmland to non-agricultural uses, held 5 meetings that resulted in a draft agricultural protection zoning amendment. After the draft was reviewed by the larger farm community, it was determined that there was not the support needed to adopt the amendment at that time.

A Plan such as this owes its value as much to the planning process as it does to the actual written Plan that will be used to guide the Town in the future. Key to that process is the involvement of the community – and in this case both the farm and nonfarm community. Over 11 committee meetings were held during the year and a half planning process, and 14 individual interviews of farmers, farm landowners, and agribusinesses were conducted. Three public meetings and one public hearing were also incorporated into the process:

August 12, 2008 Public Information Meeting for any interested community members about the Agricultural and Farmland Protection Plan process. Presentations by Shelley Stein, Chair, LeRoy Agricultural and Farmland Protection Committee; Diane Held, American Farmland Trust; Kathy Blachowski, Genesee Land Trust.

November 5, 2008 Farm Landowner Roundtable for farmers and landowners renting land to farmers with a focus on land use in the Town. Led by David Haight and Diane Held, American Farmland Trust; LeRoy Agricultural and Farmland Protection Committee; Jim Duval and Felipe Oltremari, Genesee County Department of Planning. Attendees participated in a mapping exercise to identify farmer owned and rental landowner land in the Town.



June 2, 2009 Farm Landowner Roundtable to introduce draft Plan recommendations to landowners renting land to farmers in the Town. Led by Diane Held, American Farmland Trust.

March 11, 2010 Town Board sponsored public hearing for open comments on the LeRoy Agricultural and Farmland Protection Plan. Attendees included the Town Supervisor, Town Board, Agriculture Committee members, and the general public. Diane Held, American Farmland Trust, and George Frantz, George Frantz and Associates, presented highlights of the Agricultural and Farmland Protection Plan. A question and answer period and open discussion ensued.

SWOT Analysis

The LeRoy Agricultural and Farmland Protection Committee also identified the strengths, weaknesses, opportunities, and threats to agriculture in the Town.

Strengths	Weaknesses
Excellent soil quality.	Lack of town attention to drainage issues that negatively impact agriculture.
Agriculture is prime industry in town.	Farm community has not focused enough on educating nonfarm public about agriculture as an industry.
Transportation access – rail, Thruway.	Need to promote, as well as educate, agricultural industry.
Regional availability of support industries with agricultural expertise: banks, consultants, equipment repair.	Farmers/local officials need to have better communication on a regular basis.
Quality of management of town farms - efficiency of farm businesses; adoption of new technologies.	
Support of county government.	
Agricultural community works well together – farms share services.	
Farm community works well with nonfarm neighbors.	
Farm community/town highway department communicate well.	
Labor availability.	
Opportunities	Threats
Reestablish an ongoing town agricultural committee.	Loss of agricultural land to poor drainage.
Reestablish pennysaver ads that alert town residents to manure spreading practices and provide farm contact information.	Cost of land prohibitive for younger generation/beginning farmers.
Improve drainage issues in agricultural areas of town.	Regulations and public concern with regard to chemical use on farms.
Farms in town can expand efforts to share services, work, etc.	Competition among farms for limited land resources.
Rochester markets.	
Interest in buying local foods.	
Agritourism.	
Alternative energy generation.	
Vertical integration of farm businesses.	

Agricultural Stakeholders: Interview Summary

During the summer and fall of 2008, fourteen farmer, farm landowner, and agribusiness interviews were conducted. (See the interviewee list in the Acknowledgements.) Interviewees shared their thoughts about agriculture in LeRoy, its future and what actions would help support the viability of farming locally.

Demand for farmland for agricultural use is currently strong. “The greatest land competition in LeRoy is among farmers.” Potential exists for LeRoy to have residential growth, or to become a bedroom community to Rochester, but right now farmers are competing among themselves for the best land, and because of this there has been a noticeable increase in the cost per acre of good farmland in the Town. This trend has been seen more widely in Genesee County and nearby counties as well. Some of this has been driven by expansions of larger farm businesses so the competition for land in LeRoy may be with other Town farmers but may also be from farms in neighboring towns and counties. It is frustrating for the farmers, particularly younger and new farmers who are trying to establish themselves in the business, because they have difficulty raising the capital needed to purchase land at current prices. But, it is a sign that the overall health of the local industry is strong.



Farmland protection efforts by the Town should first focus on rental farmland – land owned by someone not associated with the business that is working it, and rented to the farm. “The Plan should protect land and its value regardless of the ownership.” A number of interviewees indicated that, although they would prefer to rent farmland, they are trying to buy land when it is available to insure it remains available to them for farming. Some of this is insurance against scattered lot residential development on land they need for farming, and some of it is driven by the farmer-to-farmer competition for good land. Some farmers support the idea of focusing permanent land protection efforts, such as purchase of development rights, on rental farmland in LeRoy because this is the least stable land.

There is concern about the extension of water lines further into the Agricultural District. Sentiment among interviewees was mixed about water lines. Some farmers would like to have access to public water and/or would like their neighbors to have access, so the possibility of the farm contaminating, or being accused of contaminating, well water would be removed. Other farmers, particularly in areas of the Town where water line extensions have spurred growth, do not want any further extensions outside of the Smart Growth boundaries. “Don’t make it cheaper and easier for someone to build by extending water lines,” was an opinion expressed by one interviewee, “stop water line extensions and maintain a buffer zone.”

Support for individual landowner property rights was very strong, and this tempered support for any major zoning changes. Recent discussions within the LeRoy farm community had centered on developing a sliding scale agriculture zoning district. This would have protected some areas of the Town from scattered lot residential development on smaller lots which can

lead to fragmentation of large blocks of agricultural land. Support in the agriculture community for instituting this zoning change was very mixed and the concept was tabled. Discussions in these interviews also revealed differing opinions on this zoning technique. A few farmers and farm landowners expressed their desire to maintain the option to sell their land to the top bidder when they are ready to retire. Although, one farmer was clear that he would “prefer to rent the land as farmland when I retire, I’d prefer not to have houses on the land”. He added that his financial position at retirement would dictate what he was able to do.

Property taxes were viewed as a burden by farmers and farm landowners. Interviewees supported concepts that would reduce property taxes on Town farmland. Extending the agricultural assessment to the fire district was one option, and the other was a term easement program in the town that would keep land in active agriculture for a specified period of time in exchange for property tax abatement. Both were ideas that the Agriculture Committee discussed and was interested in having input about.



Educating both the nonfarm public and local officials about agricultural production, practices, and benefits is a priority. Many interviewees cited educating the community as a real need in LeRoy so that they would understand the value of local agriculture – property tax benefits of farmland, economic value, scenic and cultural values, open space value, and availability of wildlife habitat and other environmental benefits. Although in the past some farms had issues with neighbor complaints that has ceased for the most part due to the annual Pennysaver advertisement that discusses manure handling practices and provides farm contact information. One interviewee’s comment pointed out the need to help people understand the true costs of producing their food. “Politically this country has never allowed people to pay the full worth of their food. The government has supported cheap food.”

Encourage people to live within the village limits. Provide incentives for living in existing homes in the village rather than building new homes in agricultural areas of the Town. Currently the higher village tax rate is a disincentive to living in the Village versus the Town. The Town and Village need to work together to rectify this. The joint Planning Board is a start but further efforts are warranted. “Focus on what areas to protect and what areas to develop.” Advice more broadly given by an interviewee supports future efforts to direct residential growth into the Village or at the village edges.

CONVERSION PRESSURE, FARMLAND PROTECTION AND PRIORITIZATION AND OPEN SPACE VALUE

Conversion Pressure:

LeRoy's proximity to Rochester and its suburbs, and the easy access into the Town via a Thruway interchange do create the potential for LeRoy to become a bedroom community. LeRoy is not currently experiencing rapid growth but due to this potential it is wise of the Town to develop this Plan to guide future decisions about agricultural planning. Genesee County's Smart Growth Plan also provides a framework to help guide development to appropriate locations within Town (see Map 5). But, as noted in the Agricultural Interview section, it is important for the Town to use discretion in siting water line extensions and allowing hook ups in agricultural areas because water lines do invite residential development. Limiting growth in areas with water lines via zoning techniques may relieve some of the pressure. The southeast quadrant of the Town has seen growth along water line extensions and has also experienced some scattered lot residential development without water lines. A few large farms operate in that section of the Town and further development has the potential to create farm/nonfarm issues.



The Route 490 Interchange Zone is identified in the Comprehensive Plan as representing a "...unique opportunity to create an aesthetically pleasing commercial/industrial area...". The Comprehensive Plan also recommends developing a master plan for the Interchange Zone. This is extremely important for the farms operating in the northeast quadrant of the town that have land adjacent to this interchange. Water lines are already in place; sewer lines are not. Prior to moving ahead with additional infrastructure development at the interchange, the Town should consider how best to limit any negative impact on neighboring farms.



Based on the mapping exercise performed by farmers and farm landowners at the November 5, 2008 Roundtable, approximately 43% of the Town's 13,000 acres of active agricultural land is rented to farmers (see Map 6). Rental farmland is by its very nature less stable land than that owned by the working farm and is therefore at higher risk of conversion. Farmland protection tools appropriate for rental land are included in the Plan recommendations.

Open Space Value:

LeRoy's quaint village atmosphere and scenic vistas created by the open working land of its farms, combine with its history as the past home of "Jell-O" to give the Town its unique personality and flavor. In a survey of residents conducted during LeRoy's Comprehensive Planning process, one issue that residents identified as being critical to their community's future was to maintain the Town's rural character. Protecting farmland and the open landscape are important factors in maintaining a rural community.

Farmland. Protection and Prioritization:

Priority is given to using farmland protection tools, identified in the recommendations section of this Plan, on the larger contiguous blocks of active agricultural land in the Town. Also of high protection importance, are strategic parcels of active agricultural land that are owned by non-farmers and rented to farm operations. These parcels may create a larger contiguous block for a farm, may provide easier access to farmland, or may serve as a buffer to non-agricultural development.

A land ranking tool was developed to guide the Town with future agricultural land planning decisions. It can be used to rank farms, if necessary, for applications to receive purchase of development rights funds from the state or federal government. It is also appropriate to assist the Town in gauging the impact of nonfarm development on agricultural resources. The Agriculture Committee and/or Planning Board can use the tool to guide land use decisions and to modify design standards of nonfarm development to minimize impacts on nearby farms and farmland.



Agricultural Land Ranking Tool

Objectives:

Use this land ranking tool to screen purchase of development rights applicants. Also for use by the Agriculture Committee, Planning Board, or Town Board to assess potential impact of nonfarm development on valuable agricultural land.

Reviewers:

1 land trust member; 1 town planning board member; 1 county Agricultural and Farmland Protection Board member; 1 LeRoy Agriculture committee member; 1 Oatka & Black Creek watershed committee member; 1 Genesee Finger Lakes Regional Planning Council member

Eligibility Criteria:

Actively farmed land that meets criteria for agricultural assessment

Ranking:

Farm Characteristics

1. Soil Quality
 - 20 pts. 50%-74% prime soils*
 - 25 pts. 75%-90% prime soils*
 - 30 pts. greater than 90% prime soils*
2. Size of Application
 - 5 pts. less than 100 acres*
 - 10 pts. 100-199 acres*
 - 20 pts. 200 acres or more*
3. Commitment
 - 5 pts. if all farm operator-owned land is included in the application*

Location Factors

1. Adjacency to Agricultural Land (check all that apply)
10 pts if properties are adjacent to actively farmed land
10 pts. if properties are within ½ mile of permanently protected farmland
20 pts. if properties are adjacent to permanently protected farmland
2. Within an Agricultural District
10 pts. if yes
3. Proximity to Public Water and/or Sewer Service; I-490 Interchange
5 pts. if properties are within one mile
10 pts. if properties are adjacent
4. Public Road Frontage
10 pts if properties have 500-999 linear feet of road frontage
15 pts. if properties have 1,000 linear feet or more of road frontage
5. Adjacency to a Public Natural Resource
15 pts. if adjacent to Oatka Creek or Fossil Coral Reef

Farm Viability

1. Farm Planning/Succession
10 pts. if farm has a business plan or succession plan in writing
2. Farm Management Tools
10 pts. if farm utilizes outside resources and expertise; has invested in new equipment, buildings, or technology; has adopted conservation practices/plans
3. Improvements
10 pts. if farm has recent capital improvements; barns; tile drainage; manure storage; soil & water conservation measures

4. Land owned by a non-farmer and rented to an agricultural operation
If this land ranking form is being used for a PDR application then:
5 pts. for rented farmland
10 pts. for farmer owned land
If this land ranking form is being used for town planning purposes then:
5 pts. for farmer owned land
10 pts. for rented farmland

Discretionary Points

Up to 5 points may be added for any one of the following, with a maximum of 35 points available.

- Cost of easement relative to appraised value
- Consistency of application with County and/or Town Plans
- Imminent sale or intergenerational transfer
- Cultural or historic significance
- Scenic vista
- Gatekeeper parcel
- Owner/operator involvement in agricultural community



VISION, GOALS, RECOMMENDATIONS, AND ACTIONS

Vision: *The Town of LeRoy is committed to supporting its farm businesses and protecting the working lands used by those farms. LeRoy's farms are a significant direct contributor to the local economy and have additional economic impact through the feed, fertilizer, banking, veterinary, equipment, and food processing sectors of the Town and County. LeRoy appreciates the economic, aesthetic, environmental, and food benefits that agriculture contributes to the entire Town.*

GOAL AND RECOMMENDATION 1:

Encourage the business of farming with agricultural planning and farmland protection tools: Maintain at least 98% of the current total of farmer-owned farmland in the town over the next ten years.

With a total of almost 13,000 acres currently in agricultural production in the Town, this would amount to no more than a 260 acre net loss of active agricultural land over the next decade. Demand for agricultural land is currently strong enough to maintain this minimal farmland loss but it will require vigilance to maintain that.

Maintain at least 95% of the current total of non-farmer-owned farmland in the town over the next ten years.

Land rented to farmers is, by its very nature, less stable land than that owned by the business that works the land. In LeRoy, 43% of the farmland, 5,560 acres, is in this category. Adopting appropriate tools to stabilize the land base will assist with the longer term maintenance of this goal.



ACTIONS:

- Establish a permanent Town Agriculture Advisory Committee via a local law. This Committee should be charged with regularly communicating agriculture's needs to the Planning Board and Town Board as future development plans at the Route 490 interchange are considered per the Comprehensive Plan.

- Establish agricultural assessment on active agricultural land in the fire district.
- Research a term easement program that would provide property tax relief in exchange for a deed restriction to keep land in active agricultural use for a specified period of time.
- Work with the Agricultural and Farmland Protection Board, Soil and Water Conservation District, and local watershed committees toward a resolution of drainage issues in the town.
- Participate in a county Purchase of Development Rights (PDR) Program if offered.
- Have the Agriculture Advisory Committee develop a town level PDR program to use if the County does not sponsor a program.
- Encourage farmer participation on all local government boards i.e. Town Board, Planning Board, Zoning Board of Appeals, Fire Commission. Research a provision in NYS Municipal Law to designate a town board seat for a farmer.



IMPLEMENTATION RESPONSIBILITY: Agriculture Advisory Committee; Town Board; Town Attorney

BUDGET CONSIDERATIONS: Possible grant writer; Town volunteer and staff time

FUNDING RESOURCES: Allocation of funding for Town staff time and grant writer

GOAL AND RECOMMENDATION 2:

Identify and adopt land use regulations that protect farmland and create a supportive environment for agricultural businesses.

Land use regulations need to be designed to fit the goals of the community. In LeRoy, it is important to adopt regulations that will reduce conversion pressure on high quality farmland while maintaining areas of the town for residential, industrial, and commercial use. Preserving flexibility for the agricultural businesses that own and work the land is essential for their long-term survival too.

ACTIONS:

- Adopt the Dept. of Agriculture and Markets policy on water hookups in agricultural districts. Consider extending this policy to cover any non –agricultural properties in an agricultural district at the time that a water line is extended, even if they subsequently are removed from the agricultural district.
- Adopt code revisions per Zoning Analysis and Recommendations as identified in the last section of this Plan.
- Utilize the land ranking tool to plan for development in agricultural areas. Use for an additional level of site plan review with possible design recommendations based on minimizing nonfarm development impact on farmland.
- Adopt the Agricultural and Farmland Protection Plan as part of the Town Comprehensive Plan.
- Support the County Agricultural and Farmland Protection Plan recommendations and the County Smart Growth Plan.



IMPLEMENTATION RESPONSIBILITY: Agriculture Advisory Committee; Planning Board; Town Board; Town Attorney

BUDGET CONSIDERATIONS: Town volunteer and staff time.

FUNDING RESOURCES: Allocate funding for Town staff time

GOAL AND RECOMMENDATION 3:

: Continue to build the established partnership between the town and village to strengthen land use planning efforts.

Encouraging future growth and development within the village limits or at its edges can significantly reduce conversion pressure on viable agricultural land. Coordination of planning efforts between the town and village is essential to create a broader vision of protecting the land and supporting the business of farming.

ACTIONS:

- Formalize designation of two agricultural/farmer “seats” on the joint town/village planning board by passing legislation to that effect.
- Encourage the Town Board to collaborate with the Village to incentivize future residential and infrastructure development (especially water line extensions) within the Village and at the Village edges.

IMPLEMENTATION RESPONSIBILITY: Agriculture Advisory Committee
Planning Board; Town Board; Town Attorney

BUDGET CONSIDERATIONS: Town volunteer and staff time.

FUNDING RESOURCES: Allocate funding for Town staff time.

GOAL AND RECOMMENDATION 4:

Promote the benefits of a viable agricultural and food industry to the Town.

Continuing to educate the nonfarm public and local officials about agriculture’s economic, land use, heritage and local foods benefits, is vital to the long term success of LeRoy’s agricultural industry. Agricultural production occurs on 50% of the land area of the Town (excluding the village). The community needs to understand what farms offer to the community, how they work, and why they operate as they do.



ACTIONS:

- Support town and county public education, farm tours, and agritourism efforts such as:
 - Celebrate Agriculture Dinner
 - Decision Makers Tour
 - Farmer’s Market
- Continue to support the collaborative efforts of the organizations that coordinate these public events:
 - Chamber of Commerce
 - Cornell Cooperative Extension
 - Farm Bureau
 - Soil and Water Conservation District

- Design and publish an attractive brochure that highlights the Agricultural and Farmland Protection Plan Recommendations and can be used for educational and promotional purposes.
- Continue to publish a notice in the spring Pennysaver that explains dairy farm manure management practices and lists key contacts.
- Place signage on county roads that identifies LeRoy as an agricultural town. Work with Genesee County to have signs made.
- Encourage incorporation of agricultural education in the local elementary and secondary schools as well as the local community college.
- Resume publishing Farm Facts in the local Pennysaver.

IMPLEMENTATION RESPONSIBILITY: Agriculture Advisory Committee; Town Board; Town Farmers

BUDGET CONSIDERATIONS: Town volunteer and staff time; Cost of Pennysaver space; Design and printing costs of Executive Summary; Cost for signs

FUNDING RESOURCES: Allocate funding for Town staff time and Pennysaver ad; research Foundation support for Executive Summary costs and cost for signs



Town of LeRoy Agricultural and Farmland Protection Plan Implementation Matrix												
Recommendation Number and Actions	Priority Level	Implementation Partners										
		Town						Other				
		Ag Committee	Town ZBA	Town Planning Board	Town Board	Town Supervisor	Town Attorney	AFPB	Gen County Plng	CCE	GLT	AFT
1.Establish an Ag Committee	High	X			X		X					
1. Ag assessment in fire district	Very High	X										
1.Term easement program	Medium	X			X	X	X		X			X
1.Maintenance of drainage ditches	High	X						X	X			
1.County PDR program	Medium	X						X	X		X	X
1. Town PDR program	Medium	X			X			X	X		X	X
1.Farmers on local brds/committees	High	X										
2.Adopt NYSDAM water policy	High	X	X		X	X	X					
2. Adopt code revisions per zoning recommendations.	Medium	X	X		X	X	X					
2. Use land ranking tool to plan for development in ag areas.	High	X	X	X	X							
2. Adopt Ag Plan in Comp Plan	Very High	X			X	X	X					
2. Support County Ag Plan and Smart Growth Plan	Low	X			X			X	X			
3. Formalize farmer seats on planning board	High	X		X	X		X					
3. Incentivize development in the Village.	High	X		X	X	X	X		X			
4. Support town & county ag educational events	High	X								X		
4. Support organizations working on ag issues and events	High	X								X		
4. Publish a brochure	Low	X			X							
4. Publish Pennysaver ad every spring	Very High	X			X							
4. Place ag signage on county roads	Medium	X			X	X			X			
4. Incorporate ag education into schools	Medium	X						X		X		
4. Publish Farm Facts in Pennysaver	Low	X			X					X		

AFPB = Agricultural and Farmland Protection Board

CCE = Cornell Cooperative Extension

AFT = American Farmland Trust

Gen County Plng= Genesee County Dept. of Planning

GLT = Genesee Land Trust

Town ZBA=Town Zoning Board of Appeal

ZONING ANALYSIS

Analysis of Existing Town of Le Roy Zoning Regulations As They Pertain to Agriculture George R. Frantz, AICP

Introduction (See Map 7)

Chapter 165 of the Town of LeRoy Code contains the zoning regulations for all lands within the municipality. The Town zoning regulations follow the Euclidean* model in that the Town of LeRoy is divided into discrete zoning districts within which specific land uses are permitted and others prohibited. The Town or its designated enforcement officials may allow development of or operation of only those uses listed for each district as being permitted uses.

Chapter 165 provides for a total of eight zoning districts as follows:

R+A	Residential Agriculture
R-1	General Residential
R-2	Medium Density Residential
C-1	Limited Commercial
C-2	General Commercial
I-1	Industrial
I-2	Light Industrial
PUD	Planned Unit Development

As is typical with zoning regulations, in addition to the listed uses for the above districts Chapter 165 contains related information including a set of definitions, lot size, bulk and density regulations, design guidelines, and provisions for administration and enforcement of the zoning regulations. This analysis of Chapter 165 is only an analysis of the zoning regulations as they may pertain to agriculture in the Town of LeRoy. It does not represent a comprehensive analysis of the Chapter and its provisions.

Agriculture and Zoning

For the purpose of this analysis agriculture is defined as the use of land, buildings, structures, 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 or a hobby, and including commercial horse boarding operations as defined in the Agriculture and Markets Law Article 25-AA, Section 301. Historically



* The term "Euclidean" is a historical reference to Euclid, Ohio, where the landmark Ambler Realty Co. v. Village of Euclid U.S. Supreme Court case (47 S.Ct. 114) that confirmed zoning as a legitimate use of the public police powers originated.

agriculture has included a variety of disciplines aside from fruit, vegetable and crop production and livestock raised for food. In this report animal husbandry, or the breeding of specific animals for use or sale (e.g. race horses), beekeeping, aquaculture (fish production), horticulture, floriculture and silviculture are all considered agricultural pursuits as well. Agriculture and farming, and agricultural operations and farms, are considered to be interchangeable terms in this report.

According to Chapter 165 of the Town of LeRoy Code, agriculture is a permitted land use within the R+A Residential Agriculture, R-1 General Residential, R-2 Medium Density Residential and C-1 Limited Commercial zoning districts. In each of these zoning districts the Permitted Uses sections list "farms and related farming activities." In addition to uses listed under the Permitted Uses section, there are also agricultural uses listed in the Permitted Accessory Uses section and the Permitted with a Special Use Permit section.

Table 1 below shows the various references to agriculture in the lists of permitted uses in the various zoning districts.

Although agricultural uses are not explicitly listed as permitted uses in the C-2 General Commercial, I-1 Industrial or I-2 Industrial zoning districts, agriculture is likely to be present within those districts. In such cases agricultural operations would be permitted as legal nonconforming land uses which were present upon adoption of the zoning regulations and are thus "grandfathered" under current zoning. While not considered agriculture, a number of agriculture related industrial and business enterprises are permitted within the general Commercial and Industrial districts as well.

Generally accessory uses are land uses that are accessory to or in support of the primary land use permitted, such as a home on a residential lot. Typical examples of accessory uses include garages and carports, swimming pools, patios storage sheds. By their nature accessory use function in support of the primary land use and are not permitted as the primary land use on the property.

Uses permitted with the granting of a Special Use Permit are deemed to be permitted uses within their respective districts; however they are subject to review by the Planning Board prior to issuance of a building permit. According to Section 165-27 of the Town of Le Roy Code approval by the Planning Board is "subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this chapter." In addition "All such uses are declared to possess characteristics of such unique and special form that each specific use shall be considered as an individual case."¹

One critical aspect of zoning regulations in addition to the listing of permitted uses is a comprehensive glossary of terms. Whenever a community utilizes a specific word or words either outside their generally accepted meaning as recorded in the dictionary or in relation to a very specific context within the regulations, the word should be clearly defined in a glossary within the zoning ordinance. Section 165-2(B) contains definitions for about 85 words and term

¹ Code of the Town of Le Roy, Section 165-27. Page 16550. July 1999.

Table 1. Permitted Agricultural Land Uses, Town of Le Roy

R+A Permitted Sect 165-15(A)	R-1 Permitted Sect 165-16(A)	R-2 Permitted Sect 165-17(A)	C-1 Permitted Sect 165-18(A)	C-2 Permitted Sect 165-19(A)	I-1 Permitted Sect 165-20(B)	I-2 Permitted Sect 165-20.1(A)
Farm dwelling Farms and related farming activities Farm water supply Home occupations	Farms and related farming activities Home and farm gardens Home occupations	Farms and related farming activities Home and farm gardens Home occupations	Wholesale or retail trade & business Farms and related farming activities Farm water supply Home occupations	Wholesale or retail trade & business	Feed mills Grain storage & processing Food manufacture, packaging & processing Meat packing	
R+A Permitted Accessory Use Sect 165-15(B)	R-1 Permitted Accessory Use Sect 165-16(A)	R-2 Permitted Accessory Use Sect 165-17(A)	C-1 Permitted Accessory Use Sect 165-18(A)	C-2 Permitted Accessory Use (None listed)	I-1 Permitted Accessory Use (None listed)	I-2 Permitted Accessory Use Sect 165-20.1(C)
Customary farm buildings for the storage of products or equipment Dwellings for farm workers employed on the same parcel as permitted primary use Temporary roadside stands	Agricultural buildings and structures	Agricultural buildings and structures	Agricultural buildings and structures			
R+A Permitted by Special Permit Sect 165-15(C)	R-1 Permitted by Special Permit Sect 165-16(B)	R-2 Permitted by Special Permit Sect 165-17(B)	C-1 Permitted by Special Permit Sect 165-18(B)	C-2 Permitted by Special Permit Sect 165-19(B)	I-1 Permitted by Special Permit Sect 165-20(C)	I-2 Permitted by Special Permit Sect 165-20.1(B)
Industrial Ag Operations Commercial Agricultural Operations Mobile home (temporary)	Mobile home (temporary)	Mobile home (temporary)	Mobile home (temporary)		Fish and game clubs	

Another critical aspect of zoning is the establishment of lot dimensional requirements such as the minimum permitted size of lots, amount of building coverage permitted on a parcel, and required setbacks from property lines. These regulatory requirements of zoning can have a direct impact on agriculture and agricultural operations.

Potential Town of LeRoy Code Issues Affecting Agriculture

There are a number of points where the existing Town of LeRoy Code may pose potential problems for agricultural operations in the community, or may place unnecessary and even unanticipated burdens on agricultural operations. In a few cases provisions of the Code may be in conflict with the NYS Agriculture and Markets Law and the protections it affords farmers and farm operations within NYS Agricultural Districts. In some cases the issue is one of inconsistency between various sections of the zoning regulations.

In addition to potential problems in existing language, the Town Code appears to date to the time when in many communities in America agriculture was considered a placeholder in terms of land use. Zoning codes throughout the country in fact were written with the anticipation that farmland would someday be developed for a "highest and best" use. As a result much emphasis has been placed on zoning regulations designed to protect neighborhoods and to create districts that promote and to protect quality residential, commercial and industrial development.

Agriculture has traditionally been relegated to secondary status as a land use and rarely given the attention and protections afforded other land uses in the community. This is reflected many times in zoning district regulations that are biased toward protecting residential development and non-farm residents of the district from some of the less attractive aspects of agricultural operations, such as the noise, dust, insects and odors generated in the day to day operation of the modern farm.



Today agriculture and the character of place it creates on the landscape are increasingly seen as valued community assets. Communities are now recognizing the importance of agriculture to the local economy, and as an investment worthy of protection, across the country. Communities that desire to enhance the long term viability of their agricultural sectors need to review local regulations to ensure that they reflect the character of modern agriculture and create a farm friendly environment while protecting the general health, safety and welfare of the overall community.

This section focuses on four areas of the Town of LeRoy zoning regulations as they relate to agriculture in the Town of LeRoy:

- zoning definitions;
- permitted (and not permitted) land uses;
- zoning dimensional requirements;

- level of review required;
- conformance with Agriculture and Markets Law

Definitions

One of the most important components in any set of zoning regulations is the glossary section containing definitions of various terms used in the zoning regulations. Because of the nature of zoning, clarity is critical to ensuring fair and consistent interpretation of the regulations, promoting efficient administration and positive public perceptions with regard to their local zoning, and inoculating the community against controversy and in some case expensive litigation.

As a rule of thumb a word used in zoning regulations should be defined within a definitions section of a zoning ordinance if:

1. It is a term specific to the zoning regulations and not found in the dictionary or in commonly used language; (e.g. "home occupation," "industrial agriculture," "hard weather surface")
2. It is a term that must be interpreted in a specific manner for the purpose of the zoning regulations.(e.g. "animal shelter," "artificial lake," "parking space," "yard")

In the Town of LeRoy Code there are a number of terms used in reference to agriculture. Some of these terms fall into the first category above, and include:

- | | |
|----------------------------|--------------------------------|
| 1. Commercial agriculture; | 5. Livery or boarding stables; |
| 2. Farm water supply; | 6. Industrial agriculture; |
| 3. Home occupations; | 7. Principal structure; |
| 4. Land manager; | 8. Riding academy; |

Other terms utilized in the Code are intended to be interpreted in a specific manner for the purpose of the zoning regulations, and include:

1. Accessory use;
2. Agriculture;
3. Animal hospital;
4. Animal shelter;
5. Artificial lake;
6. Farm;
7. Farm dwelling;
8. Farm water supply pond;
9. Farm worker;
10. Farming activities;
11. Junkyard;
12. Public utility;
13. Roadside stand;

Although they are used within the zoning regulations most of the above words and terms are not defined in Section 165-2(b). Only "home occupations," "accessory use," "animal hospital," "animal shelter," "artificial lake," "farm," and "junkyard" are defined. The remaining terms are not defined, and hence may be subject to considerable interpretation and debate.

The definition of "home occupations" does not include veterinarian in the list of professional offices permitted within that definition. Veterinarian services are a key component of any agricultural economy and should be a permitted use in agricultural areas of the community.

The Town of LeRoy Code defines "Farm" as:

"Any parcel of land containing at least five (5) acres which is used for the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment uses. It excludes the raising of fur bearing animals, riding academies livery or boarding stables and dog kennels."

The definition is typical of definitions found in zoning ordinances in many communities. As is the case elsewhere the Town of LeRoy definition may no longer reflect the character of farms, and agricultural operations, and the needs of the contemporary farmer. Some of the terms within the definition, such as "agricultural products" and "within the prescribed limits" may be too ambiguous and open to interpretation and may lead to unnecessary and even unanticipated restrictions on agricultural operations.

The minimum size requirement of five (5) acres to qualify as a farm may preclude a number of small-scale specialized agricultural operations that are recognized by the New York State Agriculture and Markets Law.

More importantly some of the language within the definition, such as the exclusion of riding academies, livery or boarding stables, appears to be in conflict with the Agriculture and Markets Law definition for farms and farm operations. This is discussed further in the Agriculture and Markets section below.

Agriculture and farming are also two terms that although used in day to day conversation may actually have quite different connotations depending on who uses them. While defining such terms in the Code may seem redundant, well-crafted and concise definitions provide both officials and residents clear direction.

Two other terms related to the treatment of agriculture in the Town of LeRoy Code that stand out are "commercial agriculture" and "industrial agriculture." Neither term is defined in the Definitions section, nor does the Code give adequate context in which to interpret the two terms.

The majority of contemporary agricultural operations could conceivably be described, by reasonable persons, as being both "commercial" and "industrial." A large number of municipalities in regions where agriculture is a major economic sector in fact now treat agriculture in much the same manner as industry. They have crafted agricultural zoning district regulations with the explicit objective of protecting agricultural land resources and promoting agricultural economic development. In these newer zoning districts agriculture is the principal permitted land use, just as industrial operations would be in an industrial zoning district.

Although residential development may be a permitted use in such districts, the zoning regulations clearly delegate non-agricultural residential development to a subordinate status as a land use. In some cases the

zoning district regulations incorporate a "right to farm" statement at the head of the agricultural zoning district regulations. This puts prospective new non-farm residents on notice that they are not protected against such "nuisances" as the noise, dust, insects and odors generated in the day to day operation of the modern farm.

Finally, carefully defining "agriculture" as an umbrella term can eliminate many terms now used by the Town of LeRoy to: 1) define the physical entity (farm); 2) the activities that take place on the farm (farming, farm-related activities); and 3) the associated structures (farm dwelling, customary farm buildings, agricultural buildings and structures, manure storage, farm buildings for storage of products or equipment, farm buildings for housing animals, farm water supply ponds). This could simplify interpretation of the regulations and reduce potential for inconsistent interpretations.

Permitted Uses

The Town of LeRoy Code lists " Farms and related farming activities" as permitted uses in the R+A Rural Agricultural, R-1 General Residential and R-2 Medium Density Residential zoning districts. Although listed as permitted in the districts there appears to be major inconsistencies in that in the regulations with regard to the status of agricultural uses. In the R+A District (Sect.165-15 (A)), farms and farm-related activities are listed as permitted uses, but under Sect. 165-15(B) customary farm buildings are permitted as accessory uses located on the same parcel as the primary use. In the R-1 and R-2 District regulations under Sects.165-16 (A)(5) and 165-17(A)(5), farms and farm-related activities are listed as permitted uses, but under Sects. 165-16(A)(7) and 165-17(A)(7) "agricultural buildings and structures" are permitted as "accessory uses and buildings incidental to and on the same zoning lot as the principal use."

The above language raises the question as to whether farms and farm-related activities are permitted as only an accessory use to residential development in the Town of LeRoy, depending on how it might be interpreted. There may also be ambiguity with regard to whether farm buildings may be located on a parcel of land as a primary or principal use, or if there must also be a residential use on the property.

The definition of farm in Section 165-2(B) may also leave open for too much interpretation, and possible conflict, what constitutes a farm and related farming activities. There may be general consensus that crops grown in a field for food - grains, fruits and vegetables - but many people may not recognize, for example, floriculture, horticulture or aquaculture as legitimate agricultural activities.

While consensus may exist that "livestock" applies to cattle, pigs, sheep and goats, does it also apply to horses, llamas and alpacas? Chickens, ducks and geese are readily recognizable as poultry, but are ostrich and emu? A farmer may raise a wide variety of animals for meat, but not rabbits, which are fur bearing animals.

About a decade ago in one Upstate community the code enforcement officer initially refused to issue a permit for an indoor riding arena for a farm that specialized in the production of polo ponies. In their initial opinion the breeding, raising and training of polo ponies did not constitute an agricultural operation, because it did not entail the production of food or fiber for consumption.

While the definition of farming and related farming activities is explicit in permitting the raising of "agricultural products, livestock, poultry and dairy products," it is silent on the processing or marketing of such products. Although there may be a consensus on what constitutes processing agricultural products, that consensus can vary widely depending on the agricultural product. It may be generally accepted that a

winery includes the manufacture and bottling of wine as a related farming activity, but an on-farm cannery as part of a vegetable crop farm would likely be defined as an industrial use and prohibited.

The exclusion of riding academies, livery or boarding stables from the definition of a farm may have an unnecessary and unanticipated impact on the viability of a horse farm. In many cases such activities are an integral part of and supplemental source of income for an agricultural operation that specializes in the breeding, raising and training of horses. Through their exclusion the Town of LeRoy reduces the potential economic viability of these types of agricultural operations within its borders.

The marketing of agricultural products is a final component of the definition of farm and farming related activities that should be reviewed by the Town of LeRoy. Traditionally the bulk sale of commodities has been an accepted farming-related activity, as have been temporary roadside stands. In today's very competitive economy however an increasing number of farmers are turning to direct marketing to consumers on a permanent, year-round basis. With this evolution in the marketing of agricultural products there has been an increase in the on-farm processing of agricultural products, generally on a small scale. Currently the Town of LeRoy Code does not address direct marketing on a year-round basis, or on-farm processing of products.



Finally, the economics of agriculture have changed over the past several decades. The majority of farmers in Upstate New York, and across the country, have come to rely on supplemental sources of income in order to sustain their farm operations. In many cases a spouse has taken a job off the farm as a means of supplementing income. In many case however farmers have established side businesses as part of their overall farm operation. These businesses can range from welding shops and machinery repairs to equipment, seed, fertilizer dealership or the purchase and sale of other agricultural commodities. While in some cases the may qualify as home occupations as defined by the Town of

LeRoy, in many cases such business enterprises may not.

Dimensional Requirements

The dimensional requirements listed in the Town of LeRoy Code are for the most part in line with those typically found in zoning regulations in rural/suburban communities. (See Table 2 below) There are a number of inconsistencies however in the dimensional requirements as they relate to agriculture and other uses. These include:

1. In the R+A Residential Agricultural District and R-1 General Residential District additional setback requirements exist for manure storage, farm buildings for storage of products or equipment and farm buildings for housing animals, as well as farm water supply ponds. No such setbacks are required in the R-2 Medium Density Residential District.
2. There is a required setback of 100 feet from any property or street line for farm water supply, conservancy and fire protection ponds, but not for ponds in general, or for artificial lakes. (a manmade pond greater than 1 acre in area) Nor is any rationale given for the added setback requirement.

Table 2. Lot Size Requirements*

	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Building Height
R+A District	25,000 to 50,000 sq. feet ¹	100 to 200 feet ²	75 feet/100 feet when fronting on state highway ³	20 feet ³	50 feet ³	35 ft. for dwellings ⁴
R-1 District	40,000 sq. feet	100 to 200 feet	75 feet/100 feet when fronting on state highway ⁵	20 feet ³	35 feet ³	35 ft. for dwellings ⁴
R-2 District	0.5 acre to 40,000 sq. feet ⁶	100 to 200 feet	75 feet/100 feet when fronting on state highway	12-17 feet	35 feet	35 feet
<p>* NOTE: The information in this table is solely for the purpose of analyzing the Town of Le Roy zoning regulations pertaining to agriculture in the Town and does not cover all aspects of the listed dimensional regulations. Consult the Town of Le Roy Code as the official source of information on use and dimensional regulations.</p> <p>1. Minimum lot size for industrial agricultural and commercial agricultural operations is 40,000 sq. ft. 2. Minimum lot width for Industrial Agricultural and Commercial Agricultural operations is 200 feet. 3. Per 165-15(A) and (B) manure storage and farm buildings for storage of products or equipment and farm buildings for housing farm animals prohibited within 100 feet of adjoining zoning district; farm water supply pond prohibited within 100 feet of any street or property line; roadside stands permitted within 30 feet of edge of road. 4. In R+A and R-1 districts the language reads "Maximum dwelling height" No restrictions on height for other building types are referenced. 5. Per 165-16(A)(5) no manure storage or farm ponds are permitted within 100 feet of adjoining property line. 6. Per 165-17(D)(1) there is a maximum lot coverage limit of 20% in the R-2 District.</p>						

3. The maximum building height of 35 feet in the R-2 Medium Density residential District apparently applies to all buildings, including agricultural buildings, whereas in the R+A Residential Agricultural and R-1 General Residential District the 35-foot maximum height limit applies only to dwellings. Limits on the heights of agricultural buildings can be problematic for farmers in the R-2 District. Conversely although the R+A and R-1 District height restrictions do not apply to agricultural buildings they could be interpreted to also exempt numerous other structures and hence may not offer residents in those areas of the Town adequate protection from incompatibly designed and excessively tall structures.

In addition to some inconsistencies in setback and other dimensional requirements the requirements in Section 165-15(B)(2) that customary farm buildings be sited at least 100 feet from an adjoining zoning district boundary may be both unnecessarily restrictive as well as act as a barrier to legitimate agricultural uses. In the case of a modern greenhouse operation this setback requirement, coupled with the prohibition on "farm water supply" ponds within 100 feet of a property line, can effectively eliminate up to a third or more of a five-acre parcel of land for use.

Agriculture and Markets Law

The Agriculture and Markets Law (AML) Section 305-a provides farmers and agricultural operations located within State agricultural districts specific protections against local zoning regulation that may be unreasonably restrictive and cause undue interference with legitimate agricultural practices as defined by State law. Because many of the farms in the Town of LeRoy are located within a state agricultural district, they are afforded the protections available through Section 305-a.

In addition the Legislature in 2002 amended Town Law Section 283-a. Local governments must now ensure that their laws, ordinances or other regulations that might apply to agricultural operations located in State certified agricultural districts do not "...unreasonably restrict or regulate farm operations in contravention of Article 25-AAA of the Agriculture and Markets Law, unless it can be shown that the public health or safety is threatened."

The Commissioner of Agriculture and Markets is empowered to initiate a review of local land use regulations as they may affect farm operations within a State agricultural district, either independently or upon the request of a farmer or municipal official within an agricultural district. The Department of Agriculture and Markets will review the regulations to assess whether the local law or ordinance is unreasonably restrictive on its face and whether it is unreasonably restrictive when applied to a particular situation. The Department must also assess whether the regulated activity also poses a threat to public health or safety.

If it determines that a local law or ordinance does impose an unreasonable burden on farm operations within a State agricultural district, the Department of Agriculture and Markets will notify the municipality of its findings. The Department will then work with municipal officials to bring the local regulations in line with the AML. If the issue cannot be resolved through negotiation the Commissioner is authorized under the law to bring an action against the municipality to enforce the provisions of Section 305-a.

Generally questions that municipal officials should ask when assessing their application of zoning regulations to agriculture include:

1. Do the regulations materially restrict the definition of farm, farming operations or agriculture in a manner that conflicts with the definition of "farm operation" as set forth in AML Sect. 301(11)
2. Do the regulations materially limit or prohibit the production, preparation or marketing of any crop, livestock or livestock product?
3. Are certain types of agriculture subject to more intensive review or permitting process than other types of agriculture?
4. Is any agricultural activity that meets the definition of "farm operation" as set forth in AML Sect. 301(11) subject to special permit, site plan review or other local review standard above ministerial review, or subject to a more intensive level of review than other uses permitted within the same zoning district?
5. Are farm operations treated under the local zoning regulations as integrated, interdependent uses and activities, or as independent, competing uses of the same property?

6. Do the local zoning regulations relegate any farm operations located within a State agricultural district to the status as "nonconforming use?"

In this light there are a number of areas where the Town of LeRoy Code may be in conflict with Article 25AAA of the Agriculture and Markets Law, when the Code is applied to agricultural operations located in State agricultural districts. These include:

1. The Town's definition of farming (Section 165-2(B)) includes a minimum size (5 acres) for a farm whereas the Agriculture and Markets Law does not. The definition does not include the marketing of products or reference to agriculture as being a commercial enterprise, or timber harvesting, and it explicitly excludes commercial horse boarding operations.
2. The requirement that industrial agricultural operations, commercial agricultural operations and artificial lakes be subject to Special Use Permit appears to be in contravention of Article 25-AAA.
3. The setback requirements for specific farm buildings and activities in the R+A and R-1 districts are greater than other uses permitted in those districts. Unless justified by documented proof of threat to public health or safety these additional setback requirements may be in contravention of Article 25-AAA.
4. The minimum lot size requirements in the R+A, R-1 and R-2 district regulations, and the maximum lot coverage restriction of 20% and blanket height limitation of 35 feet in the R-2 district may be construed as too restrictive;
5. The Town of LeRoy definition for junkyards does not exempt the traditional farm "junk piles" or the collection of inoperable equipment or vehicles that can be found on the typical Upstate farm and many times serve as sources of spare parts or scrap used in the farm operation. The Department of Agriculture and Markets recognizes the need for some junk storage on farm, however it does not expect municipalities to grant farmers a blank check. Careful crafting of the definition of "junkyard" can both protect the community, and the rights of farmers.
6. Direct marketing of farm products to the general public is included in the definition of farm operations by the State. At this point the Town of LeRoy limits the opportunity for direct marketing to only temporary "roadside farm stands," which are permitted as accessory uses in only the R+A Residential Agriculture District. As is the case with junkyards the State's policy with regard to direct marketing does not expect that municipalities permit farmers free rein when it comes to commercial development. Agricultural commercial enterprises can be defined in a manner that both permits direct marketing of farm products yet also precludes development of conventional retail operations. Moreover, while the imposition of the Special Use Permit requirement of certain agricultural uses by the Town of Le Roy may be problematic, the department of Agriculture and Markets recognizes the need and value of a site plan review process for enterprises such as farm markets.
7. Farm labor housing for the seasonal or permanent on-farm labor, including manufactured housing (a.k.a. mobile homes) is one of the on-farm building types that are subject to the protection of Agriculture and Markets Law Sect. 305-a.

Conclusion

Although the issues outlined above regarding the treatment of farms, farming activities and agricultural enterprises in the Town of LeRoy Code may be substantive, the required remedies are likely to fall well short of a major overhaul of the zoning regulations. Many of the potential changes would consist of clarification and removing inconsistencies in language within the various section of the Code.

Although more flexibility in the definition of agriculture and agricultural operations is warranted, the Agriculture and Markets Law does recognize and respect the need for local governments to protect the public health welfare and safety. Communities can encourage economic expansion of their agricultural sector, ensure conformance with the policies of the State with regard to agriculture and agricultural economic development and still protect community character and quality of life.

The keys to providing farmers with the flexibility they need to operate as entrepreneurs, make a reasonable return on their investment and expand the local economy while at the same time ensuring that the interests of the overall community are protected include:

1. Clear and concise definitions within the Code;
2. Consistency in terminology and permitted uses across zoning districts;
3. Clear and concise design standards for uses such as farm markets and farm businesses.

Revising the Town of LeRoy Code to achieve the above objectives would provide a more positive environment for agriculture with relatively minor revisions to the existing zoning regulations. It does not appear that a major rewriting of the existing Code is warranted.



Recommendations for Modifications to Town of LeRoy Zoning Regulations As They Pertain to Agriculture George R. Frantz, AICP

Introduction

Although the zoning issues outlined in the previous sections of this report may be substantive, the remedies that are recommended in the following section to fall well short of a major overhaul of the zoning regulations. Many of the potential changes instead fall into the realm of clarification and the elimination of inconsistencies in language within the various section of the Code.

The keys to providing farmers with the flexibility they need to operate as entrepreneurs, make a reasonable return on their investment and expand the local economy while at the same time ensuring that the interests of the overall community are protected include:

4. Clear and concise definitions within the Code;
5. Consistency in terminology and permitted uses across zoning districts;
6. Clear and concise design standards for uses such as farm markets and farm businesses.

While recommending more flexibility in the definition of agriculture and agricultural operations is warranted, this report does recognize and respect the need for local governments to protect the public health welfare and safety. With proper standards communities can encourage economic expansion in their agricultural sector, ensure conformance with the policies of the State with regard to agriculture and agricultural economic development, and still protect the public health welfare and safety, and also community character and quality of life for all residents.

Revising the Town of LeRoy Code to achieve the above objectives would provide a more positive environment for agriculture with relatively minor revisions to the existing zoning regulations.

Recommendations

The following section lists a number of recommended actions to modify Chapter 165 of the Town of LeRoy Code to better promote the long term viability of agriculture in the town, and at the same time bring Chapter 165 in line with NYS Agriculture and Markets policies.

Action #1

Revise Sect. 165-15 to change the zoning district name from "R+A Residential Agriculture" to "A Agriculture" district. This change would re-emphasize the purpose of the district from that of a mixed-use district where residential uses are favored over agricultural ones, to a district where residential development would still be a permitted use, but agriculture would be the pre-eminent land use.

Section 165-15 should also be amended to add a purpose statement at the beginning. This purpose statement would be similar to the ones at the beginning of other R-1, R-2, C-1, C-2, I-1 and I-2 zoning districts. The purpose statement for the "A Agriculture" district however would explicitly identify agriculture as the primary land use, and the intent of the Town to promote agricultural enterprises and protect the agricultural resources of the Town of LeRoy.

In addition to a purpose statement, Sect. 165-15 should also incorporate a "right to farm" statement at the head of the agricultural zoning district regulations. Although residential development will continue be a permitted use in the renamed A Agricultural district, the inclusion of right to farm language in zoning regulations clearly delegate non-agricultural residential development to a subordinate status as a land use. This puts prospective new non-farm residents on notice that they are not protected against such "nuisances" as the noise, dust, insects and odors generated in the day to day operation of the modern farm.

Action #2

Revise the definition of a farm to limit said definition to the use of land and buildings for agricultural purposes, without specifications such as minimum parcel size. The definition should also include all the activities that are recognized by the Department of Agriculture and Markets as legitimate agricultural pursuits.

In addition to modifying the definition of a farm a definition for agriculture, which is the actual land use to be regulated by zoning should be added to Chapter 165. The use of "agriculture" as a land use category is similar to the use of "retail" or "industrial" in that it describes the activity permitted.

By carefully defining "agriculture" as an umbrella term the Town of LeRoy can eliminate several terms now used to: 1) define the physical entity (farm); 2) the activities that take place on the farm (farming, farm-related activities); and 3) the associated structures (farm dwelling, customary farm buildings, agricultural buildings and structures, manure storage, farm buildings for storage of products or equipment, farm buildings for housing animals, farm water supply ponds). This could simplify interpretation of the regulations and reduce potential for inconsistent interpretations.

The new definitions for farming and agriculture should also ensure that growing products that may not traditionally classified as agricultural products are included as legitimate agricultural activities. In addition the revised definitions should also include the processing of agricultural products, as well as uses such as riding academies and boarding facilities.

Action #3

Revise Sects. 165-15(A), (B), and (C) to remove or modify various provisions that may be in conflict with Agriculture and Markets Law. These recommended revisions include:

1. Remove reference to "farm dwelling" as it is redundant (covered under single-family detached dwelling in Sect. 165-15(A)(1)) and too restrictive in terms of occupancy. Moreover dwellings for farm employees are more appropriately listed as a permitted accessory use in 165-15(B)(3).
2. Add "agriculture" as a permitted use
3. Remove "farm water supply" as it is already considered a legitimate accessory use to any agricultural operation. Moreover the use of the term appears to be related solely to the

requirement that such ponds be set back 100 feet from a property line, a zoning requirement that may be considered arbitrary and capricious in that it does not apply to all ponds in the town.

4. Modify Sect. 165-15(B)(1) to match the language used in Sect. 165-15(A)(7)(a) – “Agricultural buildings and structures.”
5. Remove Sect. 165-15(B)(2) as such buildings would be included in Sect. 165-15(B)(1) and, moreover, the setback provisions appear to be arbitrary and be considered an unnecessary burden on farm operations under NYS Agriculture and Markets Law.



6. Modify the language in Sect. 165-15(B)(3) to clarify that housing is for employees employed by the owner of the premises. In some instances a farm workers dwelling(s) may not be on the same parcel of land as the main farmstead. The key objective of Sect. 165-15(B)(3) should be to control who may occupy the dwelling(s) and not necessarily where it may be located.

7. Modify the language in Sect. 165-15(B)(4) to permit permanent, year-round roadside farmstands and to

remove the restriction on the sale of goods to those produced on the premises. This would provide farmers with the option of staying open year-round and also sell produce and other goods from other farms in the area. Standards could be included that would require adequate off-street parking, and means of securing the structures when not in use.

8. Remove from Sect. 165-15(C) (uses permitted with special permit) "industrial agricultural operations" and "commercial agricultural operations." Neither term appears to be defined in Sect. 165-2(B) and reasonable persons could conceivably describe the majority of contemporary agricultural operations as being both "commercial" and "industrial." Moreover the requirement to obtain a special permit may be considered an unnecessary burden on farm operations under NYS Agriculture and Markets Law.

Action #4

Add to Sect. 165-15(A) as permitted uses agriculture-related business enterprises. As the economics of agriculture have changed over the past several decades many Upstate New York farmers have come to rely on supplemental sources of income in order to sustain their farm operations. This class of use would permit farm operators to tap sources of supplemental income by providing goods and other services that support theirs and other agricultural operations in the town and the region. Such businesses would be owned and operated by the owner/operator of an active farm and be subordinate to the farm operation. Examples of such businesses would be farm equipment dealerships, seed, grain, hay, straw and fertilizer sales, repair services, building, excavating and other contracting services and trucking services.

While in some cases they may qualify as home occupations as defined by the Town of LeRoy, in many cases such business enterprises may not. A carefully crafted definition is critical to ensure such agriculture-related business enterprises are adequately delineated and controlled.

Although the bulk sale of commodities has traditionally been an accepted farming-related activity, the widespread use of direct-marketing to consumers is a relatively recent phenomenon. Today an increasing number of farmers are turning to direct marketing to consumers on a permanent, year-round basis. With this evolution in the marketing of agricultural products there has been an increase in the on-farm processing of agricultural products, generally on a small scale. Currently the Town of LeRoy Code does

not address direct marketing on a year-round basis, on-farm processing of products, or permanent structures for the display and sale of farm products.

Action #5

Remove as permitted by special use permits uses such as mobile home parks, planned unit development, petroleum storage and stand-alone medical offices, clinics and other medically related facilities. These land uses not only compete for land resources but may also be incompatible with agricultural operations. They should be permitted within the Town of LeRoy, but in zoning districts that are more appropriate for such uses.

Action #6

Revise setback requirements in Sect. 165-15 and Sect. 165-16 to eliminate those that specifically target agricultural buildings, farm water supplies, etc. These setback requirements for specific farm buildings and activities in the R+A and R-1 districts are greater than other uses permitted in those districts. The Sect. 165-15(B)(2) requirement that customary farm buildings be sited at least 100 feet from an adjoining zoning district boundary may be both unnecessarily restrictive as well as act as a barrier to legitimate agricultural uses. In addition setback requirements exist for manure storage, farm buildings for storage of products or equipment, farm buildings for housing animals, as well as farm water supply ponds. Unless justified by documented proof of threat to public health or safety these additional setback requirements may appear to be arbitrary and be considered an unnecessary burden on farm operations under NYS Agriculture and Markets Law.

Action #7

Modify the height restrictions in Sect. 165-15(E) and Sect. 165-16(D) so that while the restrictions would continue to exempt agricultural buildings, they are not limited to restricting the height of dwellings only, but other structures as well. As written the current language could be interpreted to also exempt numerous other structures and hence may not offer residents in those areas of the Town adequate protection from incompatibly designed and excessively tall structures.

Action #8

Amend Sect. 165-2, Definitions and Word Usage, to add new definitions and revise a number of existing definitions. Recommended changes to Sect. 165-2 are:

1. Add definitions for the following terms:
 - a. agriculture
 - b. agriculture-related business
 - c. farm
 - d. roadside farm stand
2. Modify the definition of home occupation in Sect. 165-2 to include veterinarian in the "professional office" category.
3. Delete a number of definitions for terms recommended for removal elsewhere in the Code.
4. Modify the definition for junkyards to exempt the traditional farm "junk piles" that many times serve as sources of spare parts or scrap used in the farm operation. Crafting language that would

exempt farms from the definition however must be done in a manner that both protects the community and the rights of farmers

Action #9

Modify Sect. 165-15, Sect. 165-16 and Sect. 165-17 as needed to eliminate acreage requirements as well as restrictions on activities generally recognized as accepted agricultural practices. These include farm water supply, manure handling facilities and horse boarding stables. Such requirements appear to be arbitrary and may be considered an unnecessary burden on farm operations under NYS Agriculture and Markets Law.

Action #10

Revise permitted residential density downward from the current density of 25,000 square foot minimum lot size/1.75 lots per acre. The adoption of fixed-ratio zoning may be appropriate in LeRoy. The Town could maintain the current minimum lot size of 25,000-sq. ft., but permit only one non-agricultural residential lot for each 2 acres or more of land within the parent tract. This approach to subdivision would still permit farmers and farmland owners to create residential lots, but still protect a significant amount of agricultural land.

For example on a 100-acre tract some fifty lots could theoretically be possible. Under the fixed-ratio approach if these lots were if platted out at 25,000-sq. ft. per lot (approx. 0.6 acre each) the fifty lots would only cover around 30 acres of land, leaving 70 acres still available for agriculture.

Conclusion

As stated earlier the issues outlined regarding the treatment of farms, farming activities and agricultural enterprises in Chapter 165 of the Town of LeRoy Code may be substantive, the required remedies fall well short of a major overhaul of the chapter. The above recommendations for revisions to Chapter 165 can be considered technical changes in the zoning regulations. These changes however if adopted would provide for a much more friendly land use regulatory environment within which farmers in the Town of Le Roy will be able to operate.



APPENDIX

Resources for Additional Information and Technical Support

American Farmland Trust

Providing technical assistance to towns and counties to develop and implement farmland protection plans

21 South Grove Street, Suite 200

East Aurora, NY 14052

(716)652-0100

www.farmland.org

Cornell Cooperative Extension of Genesee County

Providing technical assistance to farmers and farm businesses

420 East Main Street

Batavia, NY 14020

(585)343-3040

Genesee County Department of Planning

Providing technical assistance in planning and matching grant funding for farmland protection

County Building II

3837 West Main Street Road

Batavia, NY 14020

(585)344-2580 x5467

planning@co.genesee.ny.us

Genesee Land Trust

Providing technical assistance in farmland protection and planning to farmers interested in protecting their properties

500 East Avenue, Suite 200

Rochester, NY 14607

(585)256-2130

www.geneseelandtrust.org

New York State Department of Agriculture and Markets

Providing technical assistance and grant funding for farmland protection, marketing and many others

10B Airline Drive

Albany, NY 12235

(518) 457-3880 or 800-554-4501

www.agmkt.state.ny.us

New York State Department of State

Providing technical assistance in planning

99 Washington Avenue

Albany, NY 12231-0001

(518) 474-4752

www.dos.state.ny.us

New York State Office of Real Property Services

Providing technical assistance in agricultural assessment

16 Sheridan Avenue

Albany, NY 12210-2714

(518) 474-2982

www.orps.state.ny.us

NY Farm Net

Providing counseling and technical assistance in farm succession and business planning, and linking farmers and landowners

415 Warren Hall

Ithaca, NY 14853-7801

800-547-3276

www.nyfarmnet

Department of Agriculture and Markets Guideline – Conditions on Future Service

The Project sponsor/permittee should impose the following conditions, as warranted or recommended on the management of water/sewer lines within agricultural districts:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within the agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a “subdivision,” in part, as “any tract of land which is divided into five or more parcels.” Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident's property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from the agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

Guidelines for Review of Local Zoning and Planning Laws

Background and Objective

As communities adopt or amend zoning regulations, potential conflicts between farm operations and local land use controls may increase. This, coupled with continuing exurban development pressures on many of the State's agricultural communities, increases the need to better coordinate local planning and the agricultural districts program, and to develop guidelines to help address conflicts which may occur. Proactively, guidelines can aid in crafting zoning regulations by municipalities with significant farming activities.

Zoning and Farm Operations: Practical Limitations and Problems

Farms are host to several discrete but interdependent land uses which may include barns, commodity sheds, farm worker housing, garages, direct farm markets, silos, manure storage facilities, milking parlors, stables, poultry houses and greenhouses, to name but a few. The typical zoning regulation, in addition to establishing minimum lot sizes and separations between uses, often prohibits more than one "principal" structure on each parcel of record. Many zoning devices, then, are unable to distinguish between on-farm structures as part of a *farm operation* from the same building when it is used for an independent, freestanding use.

The minimum separation and "yard" requirements of zoning are designed to avoid over concentration, maintain adequate spaces for light and air, and to reduce fire hazard in more urban environments. The application of such requirements to suburban and rural communities and farm operations often results in the unintended regulation of farm operations and uses not as an integrated whole, but as separate improvements.

The rapidly changing nature of the agricultural industry does not always allow zoning and the comprehensive planning process to keep pace. This can result in the application of outdated regulations to contemporary land uses and gives rise to potentially unreasonable restrictions. Local governments may run afoul of the letter and intent of the Agricultural Districts Law by limiting the type and intensity of agricultural uses in their communities and by narrowly defining "farm" or "agricultural activity." This is sometimes problematic even in municipalities with a significant base of large, "production" level farming operations. Inadequately defined terms also give rise to conflict between the zoning device and farm operations.

Because of the inherent nature of zoning, there is essentially no discrete administrative authority to waive its standards, even when those standards are at variance with the community's land use policy and what may be deemed its "intent." A municipal zoning board of appeals may, consistent with specific tests

found in Town, Village and City Law, vary the use and area standards of a zoning regulation, and reverse or affirm determinations of the zoning administrative official. Such a remedy: i.e., an area or use variance, may, however, in and of itself be considered “unreasonably restrictive” if it is the only means available to establish, expand or improve a “farm operation” in a county adopted, State certified agricultural district.

These and other limitations and problems that can lead to AML §305-a violations may be avoided in the first instance by sound comprehensive planning. The Town Law, Village Law, General City Law and the Agricultural Districts Law are designed to encourage coordination of local planning and land use decision making with the agricultural districts program.

Agricultural Districts and County Agricultural and Farmland Protection Plans: Their Influence on the Municipal Comprehensive Plan and the Zoning Process

The preparation, adoption and administration of a municipal comprehensive plan and zoning regulation are not independent actions of local government, but should be part of a well thought out, seamless process. A zoning regulation is, in the final analysis, simply a device to implement the community plan and, in fact, “... must be in accordance with a comprehensive plan ...” [Town Law §272-a(11)(a)]

The State Legislature has codified the intent, definition and content of the comprehensive plan (Town Law §272-a, Village Law §7-722 and General City Law §28-a). In so doing, the Legislature has given significant status to “agricultural uses” in general, and State certified agricultural districts and county agricultural and farmland protection plans created under Agriculture and Markets Law Articles 25-AA and 25-AAA in particular. Town Law §272-a (9) requires agricultural review and coordination with the comprehensive planning process:

“A town comprehensive plan and any amendments thereto, for a town containing all or part of an agricultural district or lands receiving agricultural assessments within its jurisdiction, shall continue to be subject to the provisions of article twenty-five-AA of the agriculture and markets law relating to the enactment and administration of local laws, ordinances, rules or regulations. A newly adopted or amended town comprehensive plan shall take into consideration applicable county agricultural and farmland protection plans as created under article twenty-five-AAA of the agriculture and markets law.”

(The same language is found in Village Law and General City Law.)

Thus, the statutory influence the Agricultural Districts Law and the Agricultural and Farmland Protection programs have on the comprehensive planning process and zoning regulations is significant. State certified agricultural districts and

county agricultural and farmland protection plans are community shaping influences in much the same way as existing and proposed infrastructure; wetlands, floodplains, topographical features; cultural, historic and social amenities; economic needs; etc. are viewed. The Agricultural Districts Law is a valuable planning tool to conserve, protect and encourage the development and improvement of the agricultural economy; protect agricultural lands as valued natural and ecological resources; and preserve open space.

In addition to AML §305-a, limitations on local authority in Town Law §283-a and Village Law §7-739 were enacted to ensure that agricultural interests are taken into consideration during the review of specific land use proposals. Town Law §283-a (1) and Village Law §7-739(1), as recently amended by Chapter 331 of the Laws of 2002, require local governments to "...exercise their powers to enact local laws, ordinances, rules or regulations that apply to farm operations in an agricultural district in a manner which does not unreasonably restrict or regulate farm operations in contravention of the purposes of article twenty-five-AA of the agriculture and markets law, unless it can be shown that the public health or safety is threatened." The recent amendments make the Town and Village Law provisions consistent with AML §305-a regarding showing a threat to the public health or safety. AML §305-a, subd.1 is not a stand-alone requirement for coordination of local planning and land use decision making with the agricultural districts program. Rather, it is one that is fully integrated with the comprehensive planning, zoning and land use review process.

Application of Local Laws to Farm Operations within Agricultural Districts

In general, the construction of on-farm buildings and the use of land for agricultural purposes should not be subject to site plan review, special use permits or non-conforming use requirements when conducted in a county adopted, State certified agricultural district. The purpose of an agricultural district is to encourage the development and improvement of agricultural land and the use of agricultural land for the production of food and other agricultural products as recognized by the New York State Constitution, Article XIV, Section 4. Therefore, generally, agricultural uses and the construction of on-farm buildings as part of a farm operation should be allowed uses when the farm operation is located within an agricultural district.

Town Law §274-b, subdivision 1 allows a town board to authorize a planning board or other designated administrative body to grant special use permits as set forth in a zoning ordinance or local law. "Special use permit" is defined as "...an authorization of a particular land use which is permitted in a zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met." Agricultural uses in an agricultural district are not, however, "special uses." They are constitutionally recognized land uses which are protected by AML §305-a, subd.1. Further, agricultural districts are created

and reviewed locally through a process which includes public notice and hearing, much like zoning laws are adopted and amended. Therefore, absent any showing of an overriding local concern, generally, an exemption from special use permit requirements should be provided to farm operations located within an agricultural district.

The application of site plan and special permit requirements to farm operations can have significant adverse impacts on such operations. Site plan and special permit review, depending upon the specific requirements in a local law, can be expensive due to the need to retain professional assistance to certify plans or simply to prepare the type of detailed plans required by the law. The lengthy approval process in some local laws can be burdensome, especially considering a farm's need to undertake management and production practices in a timely and efficient manner. Site plan and special permit fees can be especially costly for start-up farm operations.

Generally, farmers should exhaust their local administrative remedies and seek, for example, permits, exemptions available under local law or area variances before the Department reviews the administration of a local law. However, an administrative requirement/process may, itself, be unreasonably restrictive. The Department evaluates the reasonableness of the specific requirement/process, as well as the substantive requirements imposed on the farm operation. The Department has found local laws which regulate the health and safety aspects of the construction of farm buildings through provisions to meet local building codes or the State Building Code (unless exempt from the State Building Code ¹) and Health Department requirements not to be unreasonably restrictive. Requirements for local building permits and certificates of occupancy to ensure that health and safety requirements are met are also generally not unreasonably restrictive.

Site Plan Review for Farm Operations within an Agricultural District

Many local governments share the Department's view that farm operations should not have to undergo site plan review and exempt farms from that requirement. However, the Department recognizes the desire of some local governments to have an opportunity to review agricultural development and projects within their borders, as well as the need of farmers for an efficient, economical, and predictable process. In view of both interests, the Department developed a model streamlined site plan review process which attempts to respond to the farmers' concerns while ensuring the ability to have local issues examined. The process could be used for farm buildings and structures (new and significant expansions) proposed for a site, but should not be required for non-structural agricultural uses. For example, to require farm operations in an agricultural district to undergo site plan review to engage in the production,

¹ A discussion of the New York State Uniform Fire Prevention and Building Code follows below.

preparation and marketing of crops, livestock and livestock products, would generally be unreasonably restrictive.

The authorizing statutes for requiring site plan review are quite broad and under "home rule" municipalities retain significant flexibility in crafting specialized procedures (e.g., the selection of a reviewing board; uses which trigger submission of site plans; whether to have a public hearing and the length of time to review an application). Town Law §274-a and Village Law §7-725-a define a site plan as "a rendering, drawing, or sketch prepared to specifications and containing necessary elements as set forth in the applicable zoning ordinance or local law which shows the arrangement, layout and design of the proposed use of a single parcel of land... ." These sections of law further outline a list of potential site plan elements including parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses as well as additional elements.

Many municipalities have also added optional phases to the site plan review. While a preliminary conference, preliminary site plan review and public hearings may assist the applicant earlier in the review process and provide the public an opportunity to respond to a project, they can result in a costly delay for the farmer.

For the sake of simplicity, the model site plan process and the following guidance presume that the planning board is the reviewing authority.

Site Plan Process

The applicant for site plan review and approval shall submit the following:

- 1) Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways.

Show the existing features of the site including land and water areas, water or sewer systems and the approximate location of all existing structures on or immediately adjacent to the site.

- 2) Show the proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic.
- 3) Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views. Include copies of any available blueprints, plans or drawings.

- 4) Provide a description of the project and a narrative of the intended use of such proposed buildings, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.
- 5) If any new structures are going to be located adjacent to a stream or wetland provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
- 6) Application form and fee (if required).

If the municipality issues a permit for the structure, the Code Enforcement Officer (CEO) determines if the structures are subject to and comply with the local building code or New York State Uniform Fire Prevention and Building Code prior to issuing the permit. Similarly, the Zoning Enforcement Officer (or the CEO in certain municipalities) would ensure compliance with applicable zoning provisions.

The Department urges local governments to take into account the size and nature of the particular farm buildings and structures when setting and administering any site plan requirements for farm operations. The review process, as outlined above, should generally not require professional assistance (e.g., architects, engineers or surveyors) to complete or review and could be completed relatively quickly.² The Department understands, however, that in some cases, a public hearing and/or a more detailed review of the project which may include submission of a survey, architectural or engineering drawings or plans, etc., may be necessary. The degree of regulation that may be considered unreasonably restrictive depends on the nature of the proposed activities, the size and complexity of the proposed buildings or structures and whether a State agricultural exemption applies.

Time Frame for Review and Decision

Town Law §274-a and Village Law §7-725-a require that a decision on a site plan application be made within a maximum of 62 days after receipt of the application or date of a public hearing, if one is required. Town and Village Law authorize town boards and village boards of trustees to adopt public hearing requirements and local laws often provide planning boards with the discretion whether to hold a public hearing. The Department recommends that if the municipality requires construction of farm buildings and structures within a state certified agricultural district to undergo site plan review, that the review and decision be expedited within 45 days, with no public hearing. The Department recognizes that the Town Law allows municipalities to determine which uses

² Please see discussion of Agricultural Exemptions below.

must undergo site plan review, the time frame for review (within the 62 day maximum), and whether to conduct a public hearing. A protracted review of most agricultural projects could, however, result in significant economic impacts to farmers.

The process outlined above affords the community an opportunity to examine a proposed agricultural project and to evaluate and mitigate potential impacts in light of public health, safety and welfare without unduly burdening farm operations. Of course, the “process” must also be administered in a manner that does not unreasonably restrict or regulate farm operations. For example, conditions placed upon an approval or the cost and time involved to complete the review process could be unreasonably restrictive.

Agricultural Exemptions

State Environmental Quality Review (SEQR) - Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with “generally accepted principles of farming” are designated as Type II actions which do not require preparation of an Environmental Assessment Form (EAF) and are not subject to compliance with State Environmental Quality Review (SEQR). 6 NYCRR §617.5(a), (c)(3). [See *In the Matter of Pure Air and Water Inc. of Chemung County v. Davidsen*, 246 A.D.2d 786, 668 N.Y.S.2d 248 (3rd Dept. 1998), for application of the exemption to the manure management activities of a hog farm.] The SEQR regulations require localities to recognize the Type II actions contained in the statewide list.

New York State Uniform Fire Prevention and Building Code - While farmers must comply with local requirements which regulate health and safety aspects of the construction of farm buildings, many farm buildings are exempt from the State Uniform Fire Prevention and Building Code (“Uniform Code”). The Uniform Code recently underwent major revisions and now is comprised of seven sub-codes (the Building Code, Fire Code, Residential Code, Plumbing Code, Mechanical Code, Fuel Gas Code, and the Property Maintenance Code). The exemption for agricultural buildings has been incorporated in the following portions of the revised Uniform Code and the Energy Conservation Construction Code, which became fully effective on January 1, 2003.

- Agricultural building is defined in §202 of the Building Code as “A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.”

- Building Code §101.2(2) provides an exemption from the Building Code for "[a]gricultural buildings used solely in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation."
- Section 102.1(5) of the Fire Code of New York State provides that "[a]gricultural buildings used solely in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation" are exempt from the provisions of the Fire Code pertaining to construction but are subject to applicable requirements of fire safety practice and methodology.
- Section 101.4.2.5 of the Energy Conservation Construction Code ("ECCC") exempts "nonresidential farm buildings, including barns, sheds, poultry houses and other buildings and equipment on the premises used directly and solely for agricultural purposes" from the provisions of the ECCC.

The above briefly highlights the agricultural buildings exemptions. Any specific questions regarding the interpretation and applicability of the revised State Uniform Fire Protection and Building Code should be directed to the Department of State's Codes Division at (518) 474-4073.

Professionally Stamped Plans - Education Law §7209(1) provides that no official of the State or any city, county, town or village charged with the enforcement of laws, ordinances or regulations may accept or approve any plans or specifications that are not stamped with the seal of an architect, or professional engineer, or land surveyor licensed or authorized to practice in the State. Thus, where local laws, ordinances or regulations require that plans and specifications for private construction be accepted or approved, they may not be accepted or approved without the required seal, subject to the exceptions set forth in the statute. 1981 Op Atty Gen April 27 (Informal).

However, the exceptions contained in Education Law §7209(7)(b) include "farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes." As a result, plans and specifications for such buildings are not required to be stamped by an architect, professional engineer or land surveyor.³

Against this backdrop, specific guidelines for review of zoning and planning regulations by local governments and the Department can best be understood.

Generic Review Guidelines

Generic reviews are those of entire zoning regulations or sections of zoning regulations that impact the municipality's farm community as a class or several farm operations in the same way. Examples of actions which might result in a generic review include the adoption or administration of an entirely new or

³ Similar requirements and exceptions are also provided in Education Law §7307(1) and (5).

substantially amended zoning regulation that results in a material change in the use and area standards applied to farm operations in a State certified agricultural district. In such cases, the Department recommends that the municipality ask itself the following questions:

- Do the regulations materially limit the definition of farm operation, farm or agriculture in a way that conflicts with the definition of “farm operation” in AML §301, subd.11?
- Do the regulations relegate any farm operations in agricultural districts to “non-conforming” status?
- Is the production, preparation and marketing of any crop, livestock or livestock product as a commercial enterprise materially limited, restricted or prohibited?
- Are certain classes of agriculture subject to more intensive reviews or permitting requirements than others? For example, is “animal agriculture” treated differently than crop production without demonstrated links to a specific and meaningful public health or safety standard designed to address a real and tangible threat?
- Are any classes of agricultural activities meeting the definition of “farm operation” subject to special permit, site plan review or other original jurisdiction review standard over and above ministerial review?
- Are “farm operations” subject to more intensive reviews than non-farm uses in the same zoning district?
- Are “farm operations” treated as integrated and interdependent uses, or collections of independent and competing uses on the same property?
- Is the regulation in accordance with a comprehensive plan and is such a plan crafted consistent with AML Article 25-AA as required by law?

If the answer to any of the first six questions is “yes,” or if the answer to either of the last two is “no,” the zoning regulations under review are likely to be problematic and may be in violation of AML §305-a, subd.1. Certainly such regulations would appear to be on their “face” inconsistent with the statutory requirement that *“Local governments ...shall exercise these powers in such manner as may realize the policy and goals set forth in this article [Article 25AA-Agricultural Districts].”*

Guidelines for Site Specific Reviews

AML §305-a zoning case reviews often involve application of zoning regulations to a specific farm operation. Such cases typically result from applying the site plan, special use permit, use or non-conforming use sections, yard requirements, or lot density sections of the municipal zoning device to an existing farm operation.

These cases often evolve because although the zoning regulation may appear to be consistent with the agricultural districts law, its application to a specific issue or set of facts is not. In such cases, the Department recommends that the municipality ask itself the following questions:

- Is the zoning regulation or restriction being applied to a use normally and customarily associated with a “farm operation” as defined in AML Article 25-AA?
- Does the regulation or restriction materially limit the expansion or improvement of the operation without offering some compelling public benefit?
- Is the regulation or restriction applicable to the specific farm operation in question or, under the same circumstances, would it apply to other farm operations in the community?
- Does the zoning regulation impose greater regulation or restriction on a use or farming activity than may already be imposed by State or federal statute, rule or regulation?
- Is the regulation or restriction the result of legislative action that rendered the farm operation a “non-conforming use”?

If the answer to any of these questions is yes, then the zoning regulation or restriction under review is likely to be problematic and may be in violation of the statutory prohibitions against unreasonably restrictive regulation of farm operations in an agricultural district, unless a threat to the public health or safety is demonstrated.

Guidance on Specific Zoning Issues

The following are some specific factors that the Department considers when reviewing local zoning laws⁴:

A. Minimum and Maximum Dimensions

Generally the Department will consider whether minimum and maximum dimensions imposed by a local law can accommodate existing and/or future farm needs. For example, many roadside stands are located within existing garages, barns, and outbuildings that may have dimensions greater than those set by a local ordinance. Also, buildings specifically designed and constructed to accommodate farm activities may not meet the local size requirements (e.g., silos and barns which may exceed maximum height limitations). The size and scope of the farm operation should also be considered. Larger farms, for example, cannot effectively market their produce through a traditional roadside

⁴ Please see other Department guidance documents for further information on issues related to specific types of farm buildings and practices.

stand and may require larger farm markets with utilities, parking, sanitary facilities, etc.

B. Lot Size

Establishing a minimum lot size for farm operations within a zoning district that includes land within a State certified agricultural district might be unreasonably restrictive. The definition of "farm operation" in AML §301, subd. 11 does not include an acreage threshold. Therefore, the Department has not set a minimum acreage necessary for protection under AML §305-a and conducts reviews on a case-by-case basis. For example, a nursery/greenhouse operation conducted on less than 5 or 10 acres may be protected as a "farm operation" under §305-a if the operation is a "commercial enterprise" and more than a hobby farm.

For agricultural assessment purposes, however, AML §301, subd. 4 states that a farm must have "land used in agricultural production" to qualify (either seven or more acres and gross sales of an average of \$10,000 or more in the preceding two years *or* have less than seven acres and average gross sales of more than \$50,000 in the preceding two years). A recent amendment to AML §301, subd. 4 also provides for an agricultural assessment on seven or more acres which has an *annual* gross sales of \$10,000 or more "...when such land is owned or rented by a newly established farm operation in the first year of operation." AML §301, subd. 4.h. *Laws of 2003, Chapter 479*, effective September 9, 2003.

Local requirements for minimum lot sizes for farm buildings raises concerns similar to those involving minimum and maximum building dimensions. A farmer may be unable to meet a minimum lot size due to the configuration of the land used for production or lying fallow as part of a conservation reserve program. The need to be proximate to existing farm roads, a water supply, sewage disposal and other utilities is also essential. Farm buildings are usually located on the same property that supports other farm structures. Presumably, minimum lot size requirements are adopted to prevent over concentration of buildings and to assure an adequate area to install any necessary utilities. Farm buildings should be allowed to be sited on the same lot as other agricultural use structures subject to the provision of adequate water and sewage disposal facilities and meeting minimum setbacks between structures.

C. Setbacks

Minimum setbacks from front, back and side yards for farm buildings have not been viewed as unreasonably restrictive unless a setback distance is unusually long. Setbacks that coincide with those required for other similar structures have, in general, been viewed as reasonable.

A farm operation's barns, storage buildings and other facilities may already be located within a required setback, or the farm operation may need to locate new facilities within the setback to meet the farm operation's needs. Also, adjoining land may consist of vacant land, woodland or farmland. The establishment of unreasonable setback distances increases the cost of doing business for farmers because the infrastructure needed to support the operation (e.g., water supply, utilities and farm roads) is often already located within, and adjacent to, the farmstead area or existing farm structures. Setbacks can also increase the cost of, or make it impracticable to construct new structures for the farm operation.

D. Sign Limitations:

Whether or not a limitation on the size and/or number of signs that may be used to advertise a farm operation is unreasonably restrictive of a farm operation depends upon the location of the farm and the type of operation. A farmer who is located on a principally traveled road probably will not need as many signs as one who is located on a less traveled road and who may need directional signs to direct the public to the farm. The size of a sign needed may depend on whether the sign is used to advertise the farm's produce or services (e.g., for a commercial horse boarding operation) as part of the farm's direct marketing, or just for directional purposes.

E. Maximum Lot Coverage

Establishing a maximum lot coverage that may be occupied by structures may be unreasonably restrictive. For example, it may be difficult for horticultural operations to recoup their investment in the purchase of land if they are not allowed to more fully utilize a lot/acreage for greenhouses. Farm operations within an agricultural district should be allowed the maximum use of available land, consistent with the need to protect the public health or safety. Generally, if setbacks between buildings are met and adequate space is available for interior roads, parking areas (where required), and safe operation of vehicles and equipment, health and safety concerns are minimized.

F. Screening and Buffers

Some municipalities impose buffer requirements, including setbacks where vegetation, landscaping, a wall or fencing is required to partially or completely screen adjacent land uses. Often, the buffer area cannot be used or encroached upon by any activities on the lot. Requirements for buffers or setbacks to graze animals, construct fences and otherwise use land for agricultural purposes are generally unreasonably restrictive.

Buffers and associated setbacks may require farmers to remove land from production or otherwise remove land from use for the farm operation. The impact on nursery/greenhouse operations is especially significant since they are often

conducted on smaller parcels of land. Maintenance of the buffer also creates a hardship to the landowner. If a setback is required for fencing, the farmer may have to incur the expense of double fencing the perimeter of the property, or portion thereof, to prevent encroachment by neighboring property owners.

A requirement to screen a farm operation or agricultural structures such as farm labor housing or greenhouses from view has been found by the Department to be unreasonably restrictive. Screening requirements suggest that farm operations and associated structures are, in some way, objectionable or different from other forms of land use that do not have to be screened. Farmers should not be required to bear the extra costs to provide screening unless such requirements are otherwise warranted by special local conditions or necessary to address a threat to the public health or safety. While aesthetics are an appropriate and important consideration under zoning and planning laws, the purpose of the Agricultural Districts Law is to conserve and protect agricultural lands by promoting the retention of farmland in active agricultural use.

New York Direct Marketing Association Model Zoning for Roadside Stands and Farm Markets

Permitted Uses

The following sections contain proposed language that would incorporate into a zoning ordinance, as permitted uses, roadside stands and farm markets. The language should be inserted into the district regulations for each zoning district within the community where roadside stands or farm markets exist, or are being considered as allowed uses.

Included in the proposed language are statements of purpose for each of the two types of markets. These statements provide the community's rationale for allowing the uses within the framework of their zoning regulations.

Roadside Stand

The purpose of a roadside stand is to allow farmers, who are actively farming, low cost entrance into direct marketing their farm products. It is characterized as a direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts. Permitted activities include: the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts; pick-your-own fruits, vegetables and nuts; community supported agriculture (CSA)

Farm Market

The purpose of a farm market is to provide opportunities for actively producing farms to retail their products directly to consumers and enhance income through value-added products, services and activities. Permitted activities include: the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts; agricultural commerce, agricultural tourism, pick-your-own operation; community supported agriculture; bed & breakfast inn; farm vacations.

The following are allowed as accessory uses to the farm market operation: Petting zoo and animal attractions; children's games and activities; crop mazes; holiday-oriented activities; miniature golf course, incorporating farm themes; food service if growing any portion of the food served, such as vegetables with a deli, fruit in desserts, etc; horseback riding arenas

Definitions

Definitions are critical to ensuring clarity and uniformity in the interpretation of zoning regulations. Clear definitions can inoculate the community from legal actions related to their zoning regulations. At the same time they can protect the individual property owner by ensuring

consistent and uniform application of the regulations. For this purpose the following definitions should be incorporated into the zoning ordinance when it is amended to allow roadside stands or farm markets.

Actively Producing Farm: Pursuant to Section 301, Sub. 4 of the Agriculture and Markets Law, the farm must have a minimum of 7 acres in production with \$10,000 in sales, or \$50,000 in sales if under 7 acres of land are in production. In addition, a predominance of the agricultural products being sold at the farm be New York State produced. This would be on an annual basis and would be determined by volume of product.

Agricultural Commerce: Additional enterprises permitted at farm markets to attract customers and promote the sale of agricultural products. These include, but are not limited to gift shops, on-farm brewery, Community Supported Agriculture, bakery, florist shop, garden center, nursery, ice cream shop, food processing where the predominant ingredient is grown by the market operator, cider mills, on-site artistry and pick-your-own operations.

Agricultural Products: Pursuant to Section 301, Sub. 2 of the Agriculture and Markets Law: Crops, livestock and livestock products, including, but not 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, 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.

Agriculture-related products: items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, clothing and other items promoting the farm enterprise operating the farm market and agriculture in New York, value-added agricultural products, Christmas trees and related products and on-farm wineries.

Agricultural Tourism: Agricultural related tours, events and activities, as well as non-agricultural related activities used to attract people and promote the sales of farm produce and agricultural products. These tours, events and activities include, but are not limited to petting zoos, school tours, outdoor trails, corn mazes, hayrides, pony rides, group picnics, on- and off-site food catering services, musical events, craft shows, outdoor recreation. To be a permitted use, the farm must be actively producing agricultural products for sale. Farm markets where the

seller is not actively producing agricultural products for retail sales will require a special use permit for agricultural tourism activities.

All-Weather Surface. Any roadway, driveway, alley or parking lot surface paved with crushed stone, asphalt, concrete or other pervious or impervious material in a manner that will support the weight of anticipated vehicular traffic in all weather conditions and minimize the potential for ruts, potholes or pooling of water.

Community Supported Agriculture: The retail sale of agricultural products to customers through a subscription paid in cash or labor, or a combination thereof

Enhanced Agricultural Products: An agricultural product that has been altered or processed in a way to increase its value to consumers and increase the profitability of the product to the farmer.

Farm Brewery: Facility for the production of malt liquors operated as a subordinate enterprise to a farm by the owner or owners of the farm on which it is located.

Farm Market: A permanent structure, operated on a seasonal or year-round basis, that allows for agricultural producers to retail their products and *agriculture*-related items directly to consumers and enhance income through value-added products, services and activities.

Farm Vacation: Temporary residency on the premises by paying transient guests for the purpose of observing or participating in the ongoing activities of an agricultural operation and learning about agricultural life.

Farm Winery: any place or premises, located on a farm in New York State, in which wine is manufactured and sold, and is licensed by the State Liquor Authority as a farm or commercial winery.

Glare: Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Handcrafted Item: An object that requires use of the hands, hand tools and human craft skills in its production, and which is usually not adaptable to mass production by mechanical means.

Pick Your Own Enterprise: A fruit or vegetable growing farm which provides the opportunity for customers to pick their own fruits or vegetables directly from the plant. Also referred to as a PYO.

Roadside Stand: A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.

Seasonal Sign: any sign that is removed for three consecutive months. These signs must be removed whenever business is closed for seven or more consecutive days. Because seasonal signs will be removed for a minimum of three months at a time, size and quantity restrictions do not apply.

Design and Operations Standards

In addition to clear definition of what would constitute the permitted activities associated with a roadside stand or farm market, specific design and use standards governing the design and operations of such enterprises should also be incorporated into the zoning ordinance.

Recommended standards include:

There shall be no sales of fuel and related products, tobacco products, alcoholic beverages except those listed under permitted uses, lottery tickets, vehicles or related products.

Food franchises are prohibited in any roadside stand or farm market operation.

To ensure public safety, roadside stands will be required to have off-street parking with an all weather surface and adequate ingress and egress with an area for turn-around.

There shall be one 10 x 20 parking area per 200 sq. ft. of selling and display area, with a minimum of 2 spaces. Parking spaces are exclusive of driveways and turnarounds. For the purpose of calculating the required number of parking spaces, production facilities, garden plots, planting beds and outdoor storage area opened to the public are excluded. Pick-your-own operations will require a greater number of off road parking spaces based on expected number of cars per day.

Parking: To ensure public safety, farm markets will be required to have off-street parking with adequate ingress and egress with an area for turn-around. A minimum of one 10 x 20 parking area per 200 sq. ft. of selling and display area, with a minimum of two spaces, shall be required. For the purpose of calculating the required number of parking spaces, production facilities, garden plots, planting beds and outdoor storage area opened to the public are excluded. The above notwithstanding, adequate off street parking shall be provided. Parking spaces are exclusive of driveways and turnarounds. Entrances and exits onto roadways must have an all-weather surface. PYO operations will require a greater number of off-road parking spaces based on the expected number of cars per day. Overflow parking should be, minimally, grass covered.

Setbacks: Frontyard - 20 feet from the right of way line to front of sales area, excluding production facilities, garden plots, planting beds and outdoor storage areas open to the public. No parking is allowed within frontyard setback or within 20 feet of the edge of roadway, whichever distance is less.
Sideyard - 20 foot setback from property line.

Rear - 40 foot setback from property line.

Where a roadside stand or farm market is located on a separate parcel of land, maximum lot coverage by buildings shall be 30%. Total coverage, including parking areas, shall not exceed 70%.

Signs: Seasonal signs are allowed, but cannot be placed anywhere it would create a traffic hazard. All other town signage regulations may apply.

Lighting: No outdoor lighting shall produce glare beyond the boundary of the property. No rotating or flashing lights on advertising signage *shall be permitted*.

Buffers: Buffers shall be a minimum of 15 feet in width, and planted with plant materials reaching a minimum of 6' within 5 years and producing a continuous visual barrier, or alternately, include a solid fence or wall with a minimum height of 6'.

(Buffers are recommended in addition to any required setbacks if next door use is substantially different.)

Water: Potable water on site is required.

These rights and privileges extend to any active farm in any zoning district.

Is Your Town Planning a Future for Agriculture?

A Checklist for Supporting Agriculture at the Town Level in New York

Understanding Agriculture in Your Town:

Does Your Town...

☐ Yes ☐ No

...have a detailed section on agriculture in the town's comprehensive plan? The comprehensive or master plan is the big picture view for the future of the town. Does your town's comprehensive plan refer to "maintaining rural character," but overlooks agriculture as the primary component? Consider having a town-appointed committee profile local farms to demonstrate the economic, cultural and environmental benefits of agriculture. Agriculture shouldn't be an afterthought!

☐ Yes ☐ No

...have a consistent approach for local procedures that deal with agriculture? Town boards, planning boards and zoning boards have different responsibilities, but a common regulatory outlook is possible. Update your comprehensive plan to reflect the value that agriculture contributes to your town's quality of life through open space, wildlife habitation, watershed purification and natural resource preservation. Establish, as a policy, that agriculture is beneficial to your town and fairness will follow.

☐ Yes ☐ No

...have any visible demonstration of the value of local farms? Does your town support a fair, an apple festival or other farm events? When agriculture is visible to the public, residents will better understand the benefit of having farms in town.

☐ Yes ☐ No

...have farmers serving on local planning boards, zoning boards or local economic development committees? Having farmers serve on town committees is one of the most effective ways for towns to incorporate agricultural concerns into local land use or economic development plans. Town Law Sect. 271(11) permits towns with state agricultural districts to allocate planning board seats to farmers. Agricultural advisory committees can also be established to provide guidance to a town.

☐ Yes ☐ No

...publicize where to go to get advice and assistance on farm questions? Towns should help make the connection between farmers and local, state and federal agricultural and conservation organizations that can serve as resources.

Creating a Supportive Business Environment for Farming:

Does Your Town...

☐ Yes ☐ No

...allow agricultural uses in more than one zoning district? Agricultural businesses are not the same as other commercial development. Some towns confine agricultural businesses to the commercial zone only, while other towns prohibit such uses in the commercial zone. Farm enterprises often are hybrids of several different uses. Ordinances and regulations should allow farm business flexibility.

☐ Yes ☐ No

...allow flexibility in regulations to accommodate the unusual needs of agricultural businesses? Does your town have appropri-

ate regulations for farm retailers such as expanded hours of business, temporary and off-site signs, parking near pick-your-own fields, or on street parking? The land use impact and off-site impact of a seasonal farm business can be much less than that of a full-time retail business. Pick-your-own operations or Christmas tree farms may have a hard time staying viable in a town that treats farms like all other retailers.

☐ Yes ☐ No

...allow farm stands to sell produce purchased elsewhere? Many towns have rules that require a certain percentage of farm stand produce to be grown on the farm. The basis for allowing a farm stand shouldn't be how much is grown on the farm, but what benefit the farm provides to the town in terms of open space, wildlife habitation, watershed purification and natural resource protection.

☐ Yes ☐ No

...allow rural businesses compatible with agriculture in farming areas? Home-based occupations such as farm machinery repair shops, sawmills and other rural businesses can help farm families make ends meet. They can also provide an economically viable alternative to selling farmland for development.

☐ Yes ☐ No

...work to pro-actively address trespassing on farmland? When people trespass on farmland, crops, fields and infrastructure can be damaged. Communities can help protect public safety and prevent needless farm losses by pro-actively addressing trespassing problems.

☐ Yes ☐ No

...have business infrastructure that supports modern farms? Modern farming operations require services, as do other businesses. To support farm businesses, towns should ensure that telephone, electric and other wires are high enough to prevent accidents with farm equipment. They also should make snowplowing on roads leading to dairy farms a priority so that milk trucks can collect milk easily, and should maintain good culverts and drainage systems to help move water away from farm fields. Towns should also check their roads and bridges to determine whether they can handle tractor-trailers, which are commonly used to provide goods and services to farms.

Supporting Appropriate Tax Policies for Farmland and Buildings

Does Your Town...

☐ Yes ☐ No

...properly assess specialized agricultural structures? Has your town assessor received training on assessing farmland and farm buildings? Specialized structures such as silos, milking parlors and permanent greenhouses depreciate in value over time. If your town frequently overvalues agricultural structures, this can have a chilling effect on all types of farm investment.

☐ Yes ☐ No

...recognize the property tax benefits of farmland and support tax policies that are fair to farmland owners? While farmland may provide less tax revenue per acre than other land uses, it also requires significantly less in local services. "Cost of Community Services" studies in over 15 New York towns have demonstrated that farmland generally pays more in taxes than it receives in local services. By comparison, residences generally require more in local services than they

pay in taxes. Has your town considered adopting agricultural assessment values for fire, library or other service districts as a means of demonstrating that farmland requires fewer public services?

☐ Yes ☐ No

...act as a resource for information about property tax reduction programs aimed at farmers and other farmland owners? Local governments and New York state have developed a number of programs aimed at reducing property taxes for farmers and other owners of farmland. Does your town encourage the use of New York's Agricultural Assessment and Farm Building Exemption programs and the Farmers' School Tax Credit?

Developing Strategies to Protect Your Town's Best Farmland

Does Your Town...

☐ Yes ☐ No

...identify areas where it wants to support agriculture over the long-term? Do you know where the best agricultural soils are located in your town? The USDA Natural Resources Conservation Service (NRCS) and Soil and Water Conservation Districts can be important partners in identifying productive agricultural soils. This soil data combined with other information can help towns identify priority farming areas where they want to support agriculture over the long-term.

☐ Yes ☐ No

...have policies aimed at retaining large blocks of farmland that are able to support a variety of farm businesses? Farmers don't want to be an "island in a sea of development." Has your town developed policies to keep large blocks of land in agricultural use over the long-term? Larger areas of farmland provide greater opportunities for farms to adapt to changing market conditions. Retaining such blocks helps to ensure a future for farming.

☐ Yes ☐ No

...limit expansion of infrastructure in areas where it wants to support agriculture over the long-term? Extending water and sewer lines through farmland should be done with caution. Providing these services without accompanying planning measures can accelerate the loss of farmland. Focusing water, sewer and other services in already developed areas can help limit the development of a town's best farmland.

☐ Yes ☐ No

...have a strategy for protecting its best farmland? Once your town identifies its priority farming areas, complementary land use policies should be developed to encourage the retention of that land in continued agricultural use. Flowery language about agriculture in a comprehensive plan isn't good enough. Work with farmers to turn the ideas expressed in your comprehensive plan into specific policies to retain your town's best farmland.

☐ Yes ☐ No

...encourage the use of conservation easements on farmland? Does your town support applications to the state or federal government to purchase agricultural conservation easements on local farms? Have you considered providing funding for acquiring conservation easements on farmland? Agricultural conservation easements can be used to protect the natural resource base for agriculture. Once a conservation easement is recorded on farmland, the land will permanently be kept available as a resource for future generations of farmers.

Limiting the Impacts of New Development on Agriculture

Does Your Town...

☐ Yes ☐ No

...have policies aimed at limiting the impact of new development on productive farmland? Does your town have strategies for limiting the footprint of new development? New development can take place in many ways. Creative site planning can accommodate new development while limiting the loss of your town's best farmland.

☐ Yes ☐ No

...require buffer zones between farmland and residential uses? The old saying "good fences make good neighbors" has a modern corollary that says, "good buffer zones make new neighbors into good neighbors." New development should not place the burden on existing farms to give up boundary land as a buffer zone between agricultural and residential areas. New residential development should provide for its own buffer zone and/or landscape plantings for screening when necessary.

☐ Yes ☐ No

...have an "agricultural zone" that limits the impacts of new developments on farms? Does your town have a strategy for managing new development in agricultural zones in a way that supports agriculture over the long-term? Many towns in New York have zoning ordinances with "agricultural zones" that permit scattered development next to farms—a recipe for future conflict.

☐ Yes ☐ No

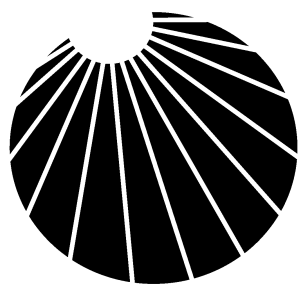
...have planning tools that are supportive of New York State Agricultural Districts? The Agricultural Districts Law, which was enacted in 1971, is one of New York's oldest farmland protection tools. Agricultural districts provide important "right-to-farm" protections to farmers. Does your town incorporate the boundaries of agricultural districts into your zoning maps and other local land use policies?

☐ Yes ☐ No

...have policies to mitigate conflicts between farmers and non-farm neighbors? A local Right-to-Farm Law expresses a community's support for agriculture. It can also prevent unnecessary lawsuits between farmers and non-farm neighbors by referring conflicts to mediation before the courts are involved. Cornell Cooperative Extension, Soil and Water Conservation Districts, the New York State Agricultural Mediation Program and other groups can serve as partners in addressing conflicts before they grow into painful disputes or expensive lawsuits.



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COST OF COMMUNITY SERVICES STUDIES



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(202) 331-7300
www.farmland.org

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 uses, which are 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 125 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.

COST OF COMMUNITY SERVICES STUDIES

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

www.farmlandinfo.org

(800) 370-4879

COCS studies help address three claims 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 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

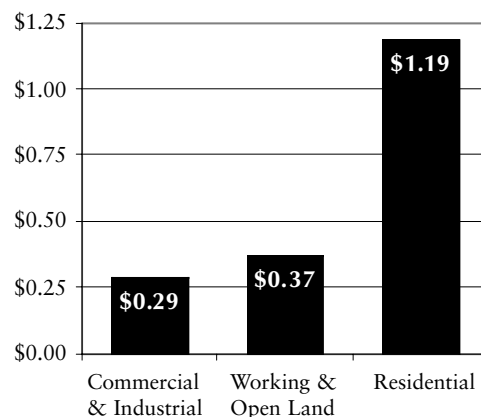
do not cover their costs, they must be subsidized by other community land uses. Converting agricultural land to residential land use should not be seen as a way to balance local budgets.

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 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.

Median COCS Results



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

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

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Colorado				
Custer County	1 : 1.16	1 : 0.71	1 : 0.54	Haggerty, 2000
Saguache County	1 : 1.17	1 : 0.53	1 : 0.35	Dirt, Inc., 2001
Connecticut				
Bolton	1 : 1.05	1 : 0.23	1 : 0.50	Geisler, 1998
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
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
Florida				
Leon County	1 : 1.39	1 : 0.36	1 : 0.42	Dorfman, 2004
Georgia				
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
Dooley 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
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
Thomas County	1 : 1.64	1 : 0.38	1 : 0.66	Dorfman, 2003
Idaho				
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
Kentucky				
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	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
Maine				
Bethel	1 : 1.29	1 : 0.59	1 : 0.06	Good, 1994
Maryland				
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

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

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
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
Massachusetts				
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
Deerfield	1 : 1.16	1 : 0.38	1 : 0.29	American Farmland Trust, 1992
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
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
Michigan				
Marshall Twp., Calhoun Cty.	1 : 1.47	1 : 0.20	1 : 0.27	American Farmland Trust, 2001
Newton Twp., Calhoun Cty.	1 : 1.20	1 : 0.25	1 : 0.24	American Farmland Trust, 2001
Scio Township	1 : 1.40	1 : 0.28	1 : 0.62	University of Michigan, 1994
Minnesota				
Farmington	1 : 1.02	1 : 0.79	1 : 0.77	American Farmland Trust, 1994
Lake Elmo	1 : 1.07	1 : 0.20	1 : 0.27	American Farmland Trust, 1994
Independence	1 : 1.03	1 : 0.19	1 : 0.47	American Farmland Trust, 1994
Montana				
Carbon County	1 : 1.60	1 : 0.21	1 : 0.34	Prinzing, 1999
Gallatin County	1 : 1.45	1 : 0.16	1 : 0.25	Haggerty, 1996
Flathead County	1 : 1.23	1 : 0.26	1 : 0.34	Citizens for a Better Flathead, 1999
New Hampshire				
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
Stratham	1 : 1.15	1 : 0.19	1 : 0.40	Auger, 1994
Lyme	1 : 1.05	1 : 0.28	1 : 0.23	Pickard, 2000
New Jersey				
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

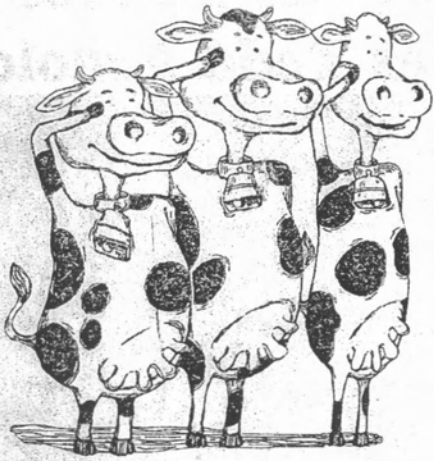
SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
New York				
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
Northeast	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
Ohio				
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
Knox County	1 : 1.05	1 : 0.38	1 : 0.29	American Farmland Trust, 2003
Madison Village	1 : 1.67	1 : 0.20	1 : 0.38	American Farmland Trust, 1993
Madison Township	1 : 1.40	1 : 0.25	1 : 0.30	American Farmland Trust, 1993
Shalersville Township	1 : 1.58	1 : 0.17	1 : 0.31	Portage County Regional Planning Commission, 1997
Pennsylvania				
Allegheny Township	1 : 1.06	1 : 0.14	1 : 0.13	Kelsey, 1997
Bedminster Township	1 : 1.12	1 : 0.05	1 : 0.04	Kelsey, 1997
Bethel Township	1 : 1.08	1 : 0.17	1 : 0.06	Kelsey, 1992
Bingham Township	1 : 1.56	1 : 0.16	1 : 0.15	Kelsey, 1994
Buckingham Township	1 : 1.04	1 : 0.15	1 : 0.08	Kelsey, 1996
Carroll Township	1 : 1.03	1 : 0.06	1 : 0.02	Kelsey, 1992
Hopewell Township	1 : 1.27	1 : 0.32	1 : 0.59	The South Central Assembly for Effective Governance, 2002
Maiden Creek Township	1 : 1.28	1 : 0.11	1 : 0.06	Kelsey, 1998
Richmond Township	1 : 1.24	1 : 0.09	1 : 0.04	Kelsey, 1998
Shrewsbury Township	1 : 1.22	1 : 0.15	1 : 0.17	The South Central Assembly for Effective Governance, 2002
Stewardson Township	1 : 2.11	1 : 0.23	1 : 0.31	Kelsey, 1994
Straban Township	1 : 1.10	1 : 0.16	1 : 0.06	Kelsey, 1992
Sweden Township	1 : 1.38	1 : 0.07	1 : 0.08	Kelsey, 1994
Rhode Island				
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
Portsmouth	1 : 1.16	1 : 0.27	1 : 0.39	Johnston, 1997
West Greenwich	1 : 1.46	1 : 0.40	1 : 0.46	Southern New England Forest Consortium, 1995
Tennessee				
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

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

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Texas				
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
Utah				
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
Virginia				
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
Culpeper 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
Washington				
Skagit County	1 : 1.25	1 : 0.30	1 : 0.51	American Farmland Trust, 1999
Wisconsin				
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

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.



The Le Roy Agriculture Practices Committee,

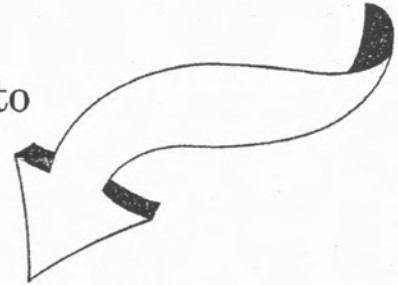
Consisting of farmers and concerned community members to establish a better working relationship and understanding between farmers and their surrounding neighbors.

Together, they have agreed that the following agricultural practices would benefit the entire community.

Understanding that there are certain factors outside of our control - including, but not limited to: rain, temperature, wind, humidity, growing season, etc...

The farmers of the community are working to minimize the smell of liquid manure from storage by:

1. Limiting the spreading of liquid manure from mid-June to mid-July. (*If you are planning a party, please call your neighboring farmer's #'s)
2. Incorporating liquid manure into the ground as soon as possible, where appropriate.
3. Maximizing spreading during cool weather.
4. Minimizing spreading on holidays.



Farm Numbers:

Stein Farms - 768-6108, 768-8801

Page Farms - 768-4342, 768-6906

Krenzer Farms - 494-1071, 494-1551

Dries Farms - 768-4277

Comments are welcomed - please call

Bruno DeFazio - 768-8908 or Dale Stein - 768-8801

MAP 1 NYS AGRICULTURAL DISTRICTS

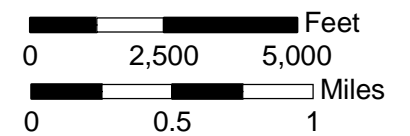


- Agricultural District No. 3
- Agricultural District No. 4
- Agricultural District No. 6
- 2010 Tax Parcels
- Town Boundary
- Village Boundary

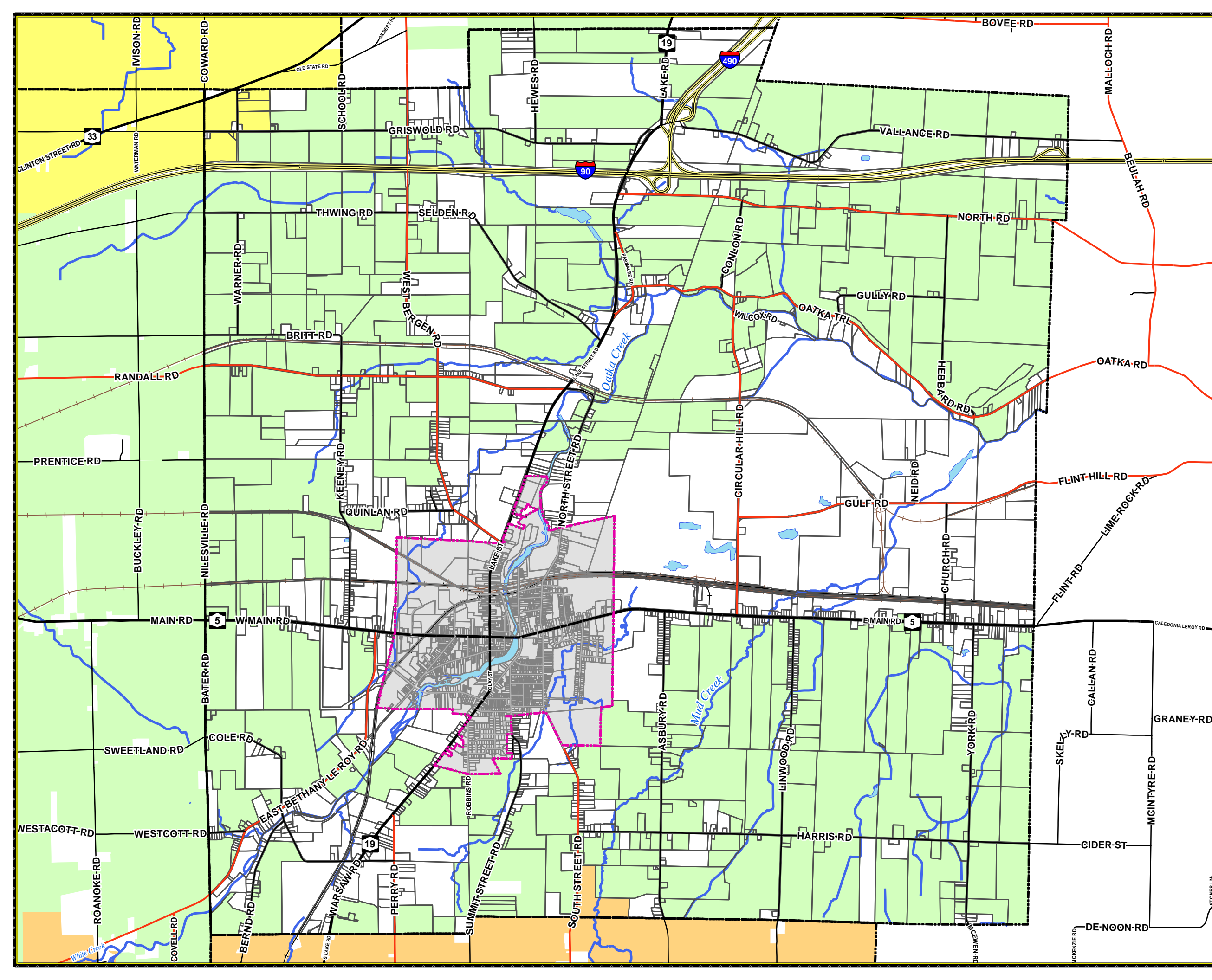
Roads

Jurisdiction

- State
- County
- Town
- Interstate
- Village
- Water
- Streams
- Active Rail Lines
- Abandoned Rail Lines



This map was created by the Genesee County
Department of Planning, May 2010



MAP 2 FARMLAND SOILS



Soils

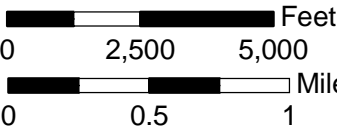
Farmland Soil Classification

- Prime Farmland
- Farmland of Statewide Importance
- Muck
- Prime Farmland If Drained
- 2010 Tax Parcels

Roads

Jurisdiction

- State
- County
- Town
- Interstate
- Village



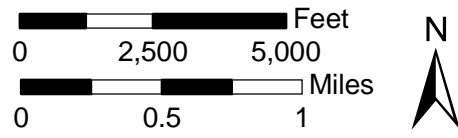
This map was created by the Genesee County
Department of Planning, May 2010

MAP 3
AGRICULTURAL
ASSESSMENT
VALUE OF SOILS

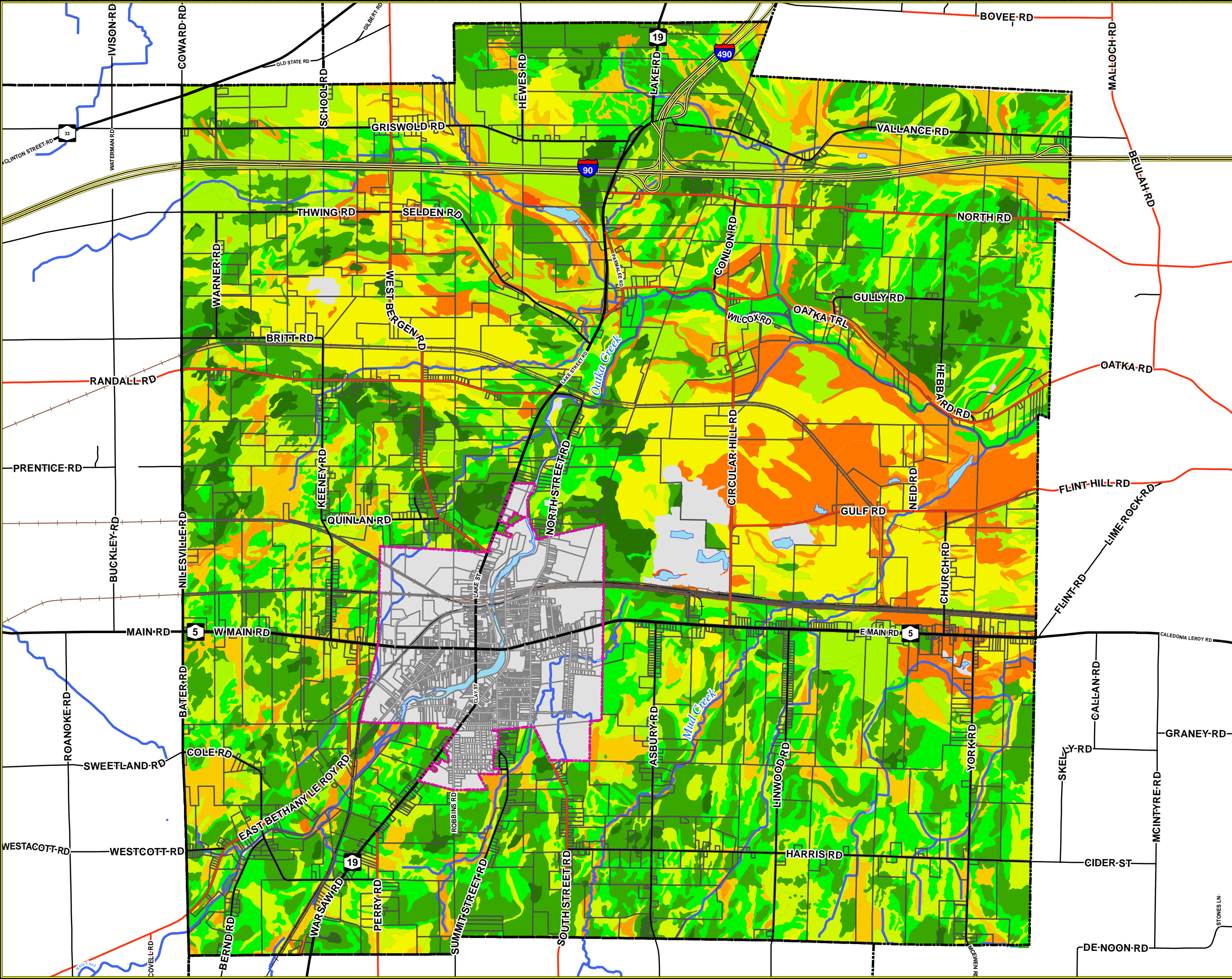


LeRoy Soils
Value (assumes no drainage present)

- Unclassified
- \$31 per acre
- \$99 per acre
- \$161 per acre
- \$229 per acre
- \$291 per acre
- \$360 per acre
- \$422 per acre
- \$490 per acre
- \$552 per acre
- \$620 per acre
- 2010 Tax Parcels



This map was created by the Genesee County
Department of Planning, May 2010

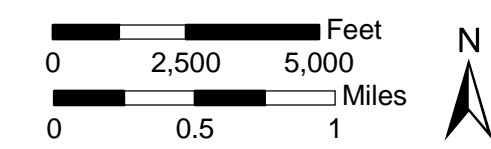


MAP 4 CROPPED FARMLAND

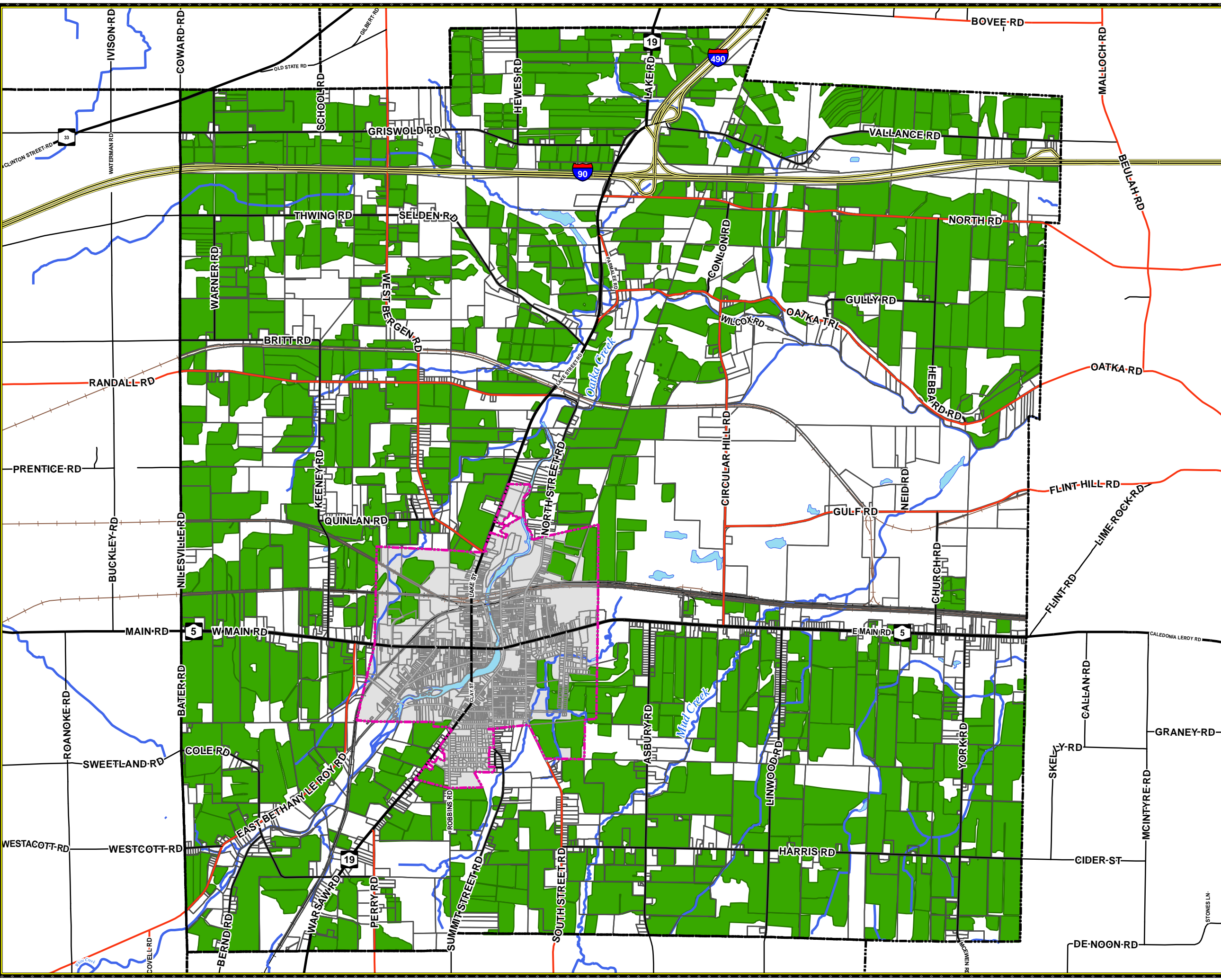


- FSA* Reported Fields
- 2010 Tax Parcels
- Water
- Streams
- Active Rail Lines
- Abandoned Rail Lines
- Town Boundary
- Village Boundary

* Farm Service Agency (USDA)



This map was created by the Genesee County
Department of Planning, May 2010



MAP 5
SMART GROWTH AREAS
WATER & SEWER LINES



- Smart Growth Development Areas
- Water Lines
- Sewer Lines
- 2010 Tax Parcels
- Roads**
- Jurisdiction**
 - State
 - County
 - Town
 - Interstate
 - Village
 - Abandoned Rail Lines
 - Active Rail Lines
 - Village Boundary
 - Town Boundary



This map was created by the Genesee County
Department of Planning, May 2010

MAP 6 CROPPED FARMLAND FARMER OWNED VS. RENTED



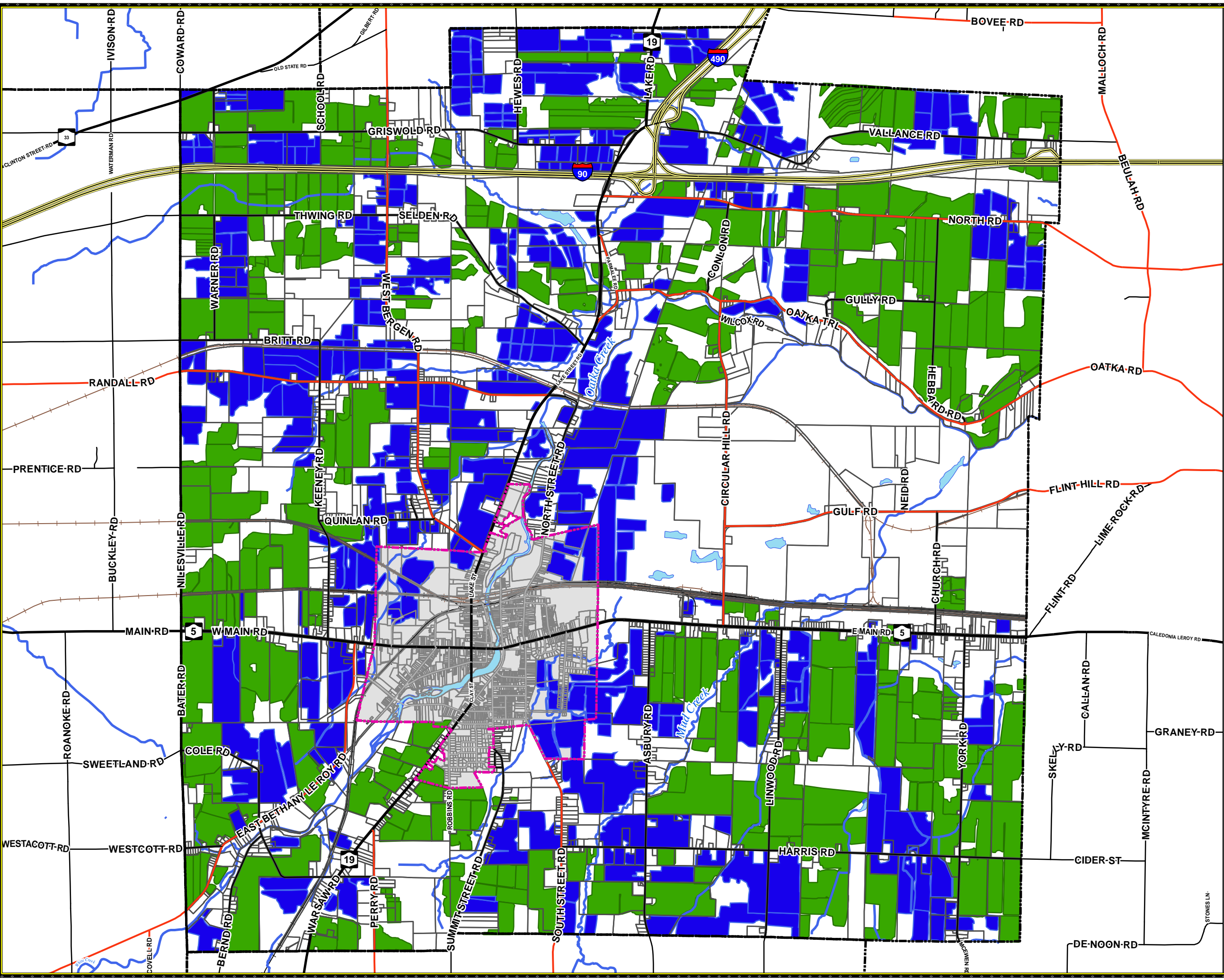
FSA* Reported Fields

- Status
- Farmer Owned
 - Rented
 - 2010 Tax Parcels
 - Water
 - Streams
 - Active Rail Lines
 - Abandoned Rail Lines
 - Town Boundary
 - Village Boundary

* Farm Service Agency (USDA)



This map was created by the Genesee County
Department of Planning, May 2010



MAP 7
CURRENT ZONING
AND STREET LAYOUT



FEMA Flood Hazard Areas

2010 Tax Parcels

Town Zoning Village Zoning

	C-1		C-1
	C-2		C-2
	I-1		I
	I-2		LC
	INT		PUD
	R+A		R-1
	R-1		R-2
	R-2		R-3

Zone Descriptions

ZONING DISTRICTS
TOWN OF LE ROY, NY:
(Founded in 1812)

- C-1 - Limited Commercial
- C-2 - General Commercial
- I-1 - Industrial
- I-2 - Light Industrial
- INT - Interchange
- R+A - Residential Agriculture
- R-1 - General Residential
- R-2 - Med. Density Residential

ZONING DISTRICTS
VILLAGE OF LE ROY, NY:
(Incorporated in 1834)

- C-1 - Neighborhood Commercial
- C-2 - Central Commercial
- I - Industrial
- LC - Land Conservation
- PUD - Planned Unit Development
(Floating zones designated by the
Town Board with Special Permit)
- R-1 - Residential R-1
- R-2 - Residential R-2
- R-3 - Residential R-3

Note:
Where zone boundaries are shown with dimensions given, dimensions are approximate and intended to begin at center lines of roads, natural features, municipal boundaries, centerlines of railroad R.O.W.s, or Tax Parcel lot lines as indicated.



This map was created by the Genesee County
Department of Planning, May 2010