



# CLARENCE, NEW YORK

## AGRICULTURAL AND FARMLAND PROTECTION PLAN

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





**Town of Clarence**

**Agricultural and Farmland Protection Plan**

**Prepared by:**

**The Town of Clarence  
Farmland Protection Committee**

**with assistance from**



## Acknowledgements

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# Table of Contents

Section I:	Executive Summary .....	5
Section II:	Introduction.....	7
Section III:	Analysis of Local Agriculture.....	10
Section IV:	Permanent Farmland Protection: Clarence Greenprint Program .....	24
Section V:	Public Participation.....	29
Section VI:	SWOT Chart .....	31
Section VII:	Summary of Farm Community Comments.....	32
Section VIII:	Strategies to Protect Farmland & Support Farms .....	34
Section IX:	Implementation Matrix .....	40
Section X:	Agricultural Review of Town of Clarence Code .....	41
Section XI:	Full Build-Out Analysis.....	43

## Map Key

1. Agricultural Districts and Erie-Niagara Framework for Regional Growth Areas .....	pg 9
2. Agricultural Districts .....	pg 13
3. Active Agricultural Property.....	pg 14
4. Soils .....	pg 15
5. Agricultural Soils Assessment Values .....	pg 16
6. Growth Constraints and Wetlands .....	pg 22
7. Zoning .....	pg 23
8. Farmland Protection Ranking .....	pg 28
9. Infrastructure.....	pg 39



## **Appendix**

- A. Resources for Additional Information and Technical Support
- B. Greenprint Brochure
- C. Greenprint Request for Proposals
- D. Public Meetings:
  - a. Public meeting flyer
  - b. Landowner meeting invitation
  - c. Public hearing minutes
- E. American Farmland Trust:
  - a. Is Your Town Planning a Future for Farms Checklist
  - b. Factsheet: Cost of Community Services Studies
- F. NYS Dept. of Agriculture and Markets:
  - a. Agricultural Districts Law Article 25-AA
  - b. Guidelines for Review of Local Zoning and Planning Laws
  - c. Lateral Restriction Guidelines
  - d. Agricultural Data Statement
- G. NYS Dept. of Taxation and Finance
  - a. Agricultural Assessment Program
- H. New York Direct Marketing Association:
  - a. Model Zoning for Roadside Stands and Farm Markets
- I. Greenprint Program PowerPoint presentation, June 2012

## **Charts**

- Chart 1: 2002 to 2007 Census of Agriculture % Changes in Erie County .....pg 10
- Chart 2: 2000 - 2010 U.S. Census Bureau % Population Changes in NYS .....pg 11
- Chart 3: 2000 to 2010 U.S. Census Bureau % Changes in Town of Clarence .....pg 12

## **Figures**

- Figure 1: Residential Construction .....pg 43
- Figure 2: Land Use, By Zoning Category .....pg 44
- Figure 3: Vacant Land, By Zoning Category .....pg 45
- Figure 4: Build-out Potential .....pg 46

## Executive Summary

For much of its history, Clarence was predominantly a farming community. Farms benefited from the close proximity to available markets in the city of Buffalo and elsewhere in the county. But over time, the lure of suburban living drew people from Buffalo to settle first in the inner ring suburbs of Erie County, and then in the second ring suburbs including Clarence. This sprawling population led to rapid residential growth in Clarence and subsequent loss of farmland – both outright loss of land to development and loss associated with fragmented farm parcels. When the town developed a new Master Plan in 2001, it was evident that residents of the town were eager to maintain the rural character of the town. Protecting farm and natural land was the next step, and in 2002 a bond act passed by public referendum to fund the Clarence Greenprint Program, which has protected 1025 acres of farmland to date.



While permanently protecting farmland is the most powerful tool to preserve farmland, there are other tools and actions that can be taken to help farms remain viable. Clarence received a grant from New York State to engage farmers and the broader community in developing a plan to incorporate the use of additional tools to support town farms and protect farmland. The Farmland Protection Committee, comprised of town farmers and residents, along with the town Planning Department and consultants from American Farmland Trust and the Western New York Land Conservancy, sought input for the plan via a public meeting, a farmer/landowner meeting, and individual farmer interviews. The result of this process is a set of recommended actions to be implemented by the town under the guidance of the Planning Department and the Farmland Protection Committee:

### Strategies and Actions:

#### A. Protect Farmland

- 1) Approve the Farmland Protection Committee as a permanent committee.
- 2) Formalize the Farmland Protection Committee role in the Greenprint process.

- 3) Hold an annual farmer/landowner meeting.
- 4) Adopt the Agricultural and Farmland Protection Plan as part of the Master Plan.
- 5) Develop a program to incentivize keeping land 'farm ready'.
- 6) Encourage landowners to lease farmland by informing them of the benefits of doing so.
- 7) Adopt the zoning revisions as outlined in the Zoning Review.

B. Plan for Infrastructure

- 1) Address drainage concerns of the agricultural community by:
  - a) establishing an agricultural drainage working group;
  - b) commenting on the draft ditch maintenance plan;
  - c) developing a cost share program for ditch maintenance; and
  - d) collaborating with the county on county ditch maintenance.
- 2) Notify the Farmland Protection Committee of proposed infrastructure changes in agricultural areas.

C. Promote Agriculture

- 1) Develop a youth community service program.
- 2) Assign a liaison from the Farmland Protection Committee to communicate with the Clarence Bee.
- 3) Develop an agricultural web page on the county website.
- 4) Assist the Clarence Hollow Farmers Market with promotional efforts.



## Introduction

In 2010, the Town of Clarence received a grant from the New York State Department of Agriculture and Markets to develop a Municipal Agricultural and Farmland Protection Plan. After seeking interested town residents to serve on a Farmland Protection Committee to advise the planning process, 9 individuals were selected. American Farmland Trust was hired as a consultant to develop the plan, with assistance from the Western New York Land Conservancy.

The Town's Master Plan 2015, adopted in 2001 and amended in 2007, clearly articulates the concern for development of farmland and the community's interest in maintaining the rural nature of the Town.

*As one of the fastest growing Towns in the region, the Town of Clarence is concerned over loss of open space and productive agricultural lands. The Town has averaged over 200 residential building permits per year for the past ten (10) years and projections for future growth remain consistent. Clarence has become a popular community in which to reside because of its open character, agricultural heritage and cultural amenities. A common theme has emerged in community meetings, including goals setting meetings, that preservation of the rural character of the Town of Clarence is most important to its residents.*

*Chapter 2, p. 7*

In response to this concern, Clarence bonded \$12.5 million in 2002 via public referendum to be used for open space and farmland preservation. The Western New York Land Conservancy was hired to assist the Town's Recreation Committee in establishing a process for ranking and selecting land to be protected. To date 1025 acres of farmland in Clarence have been protected with Greenprint funds.



At the time that Clarence started the process to develop an Agricultural and Farmland Protection Plan, Erie County was doing the same. New York State also funded the County's work through a grant program to update or develop new county Agricultural and Farmland Protection Plans that were at least 10 years old - Erie County's first plan was approved in 1996. Though the County plan is not complete at this writing, it is clear that Clarence's plan will complement Erie County's

efforts to assist towns in planning for agriculture and adopting farmland protection tools, educating the public about farming, and promoting farms, farmers' markets, and other agricultural businesses.

The Erie Niagara Framework for Regional Growth, developed in 2006, divided the region into three areas for targeted planning strategies: Developed, Developing, and Rural Areas. Strategies in both Developing and Rural Areas are designed to minimize the conversion of agricultural land:

*Developing Areas:*

*Support a balance of conservation and quality development in the developing area. Align policies and investments to encourage a) the conservation of agricultural and rural lands; b) new compact, pedestrian-oriented, mixed use development on vacant and underutilized sites and c) higher density, employment intensive, mixed use and transit oriented development in regional centers and growth corridors.*

*Rural Areas:*

*Encourage limited development and reinvestment in rural centers and discourage the conversion of rural and agricultural lands. Align policies and investments to strengthen rural economies, conserve agricultural and rural lands, and revitalize rural centers.*

*Chapter 3, p.4-50*

A portion of the central part of Clarence is in a Developing Area and the northeastern section of the town is in a Rural Area – both areas where the actions outlined later in this plan need to be applied. (Map 1 – Agricultural Districts and Erie-Niagara Framework for Regional Growth Areas)



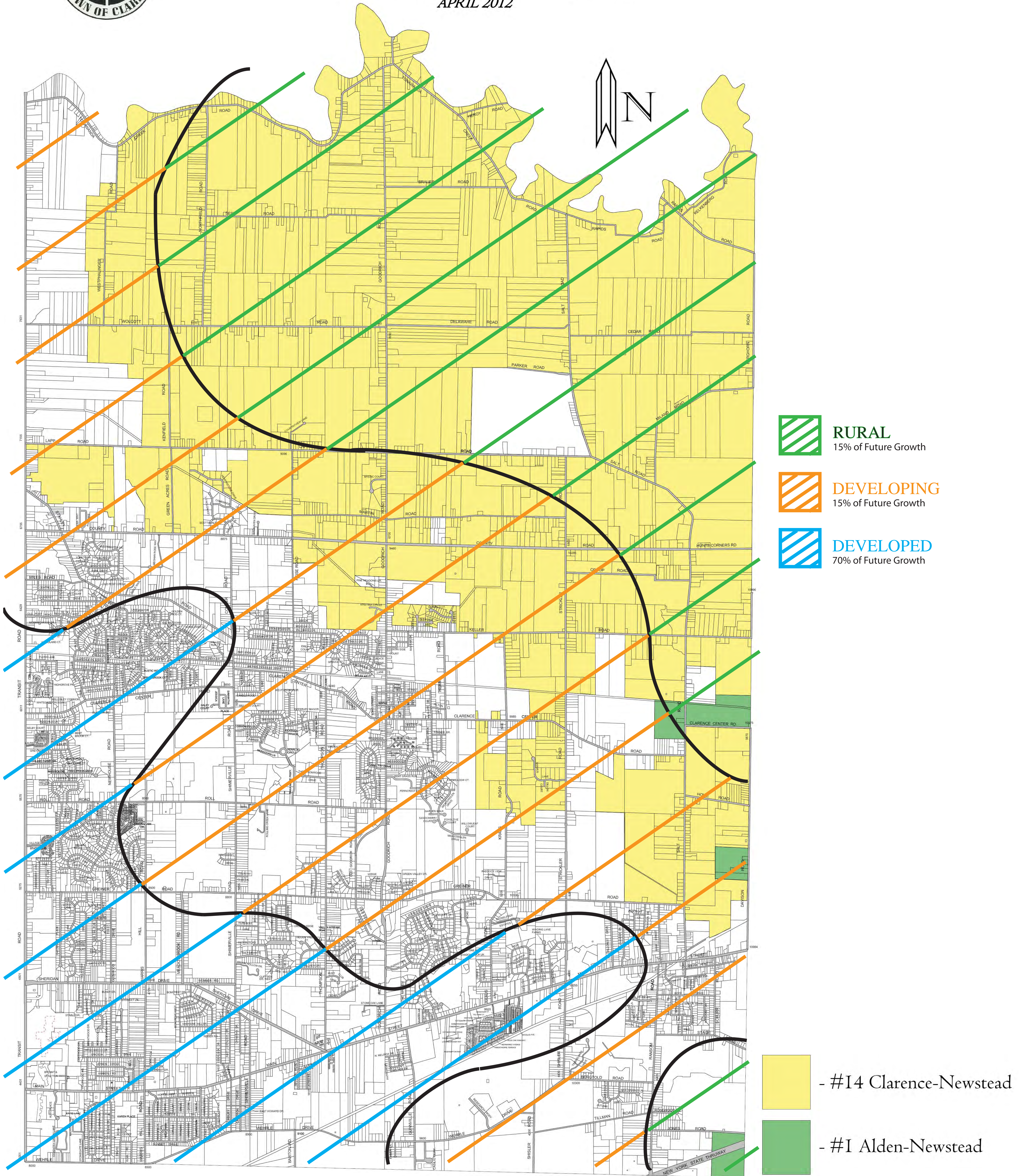




# TOWN OF CLARENCE

ERIE COUNTY NEW YORK

ERIE COUNTY AGRICULTURAL DISTRICTS  
APRIL 2012



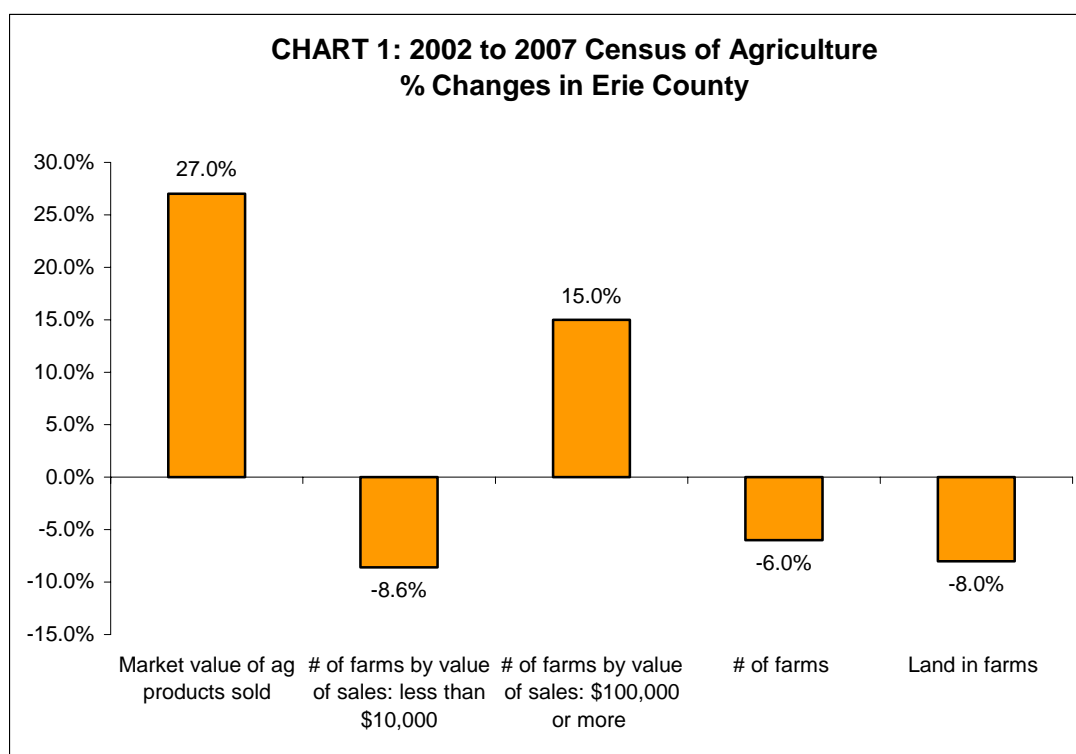


# Analysis of Local Agriculture

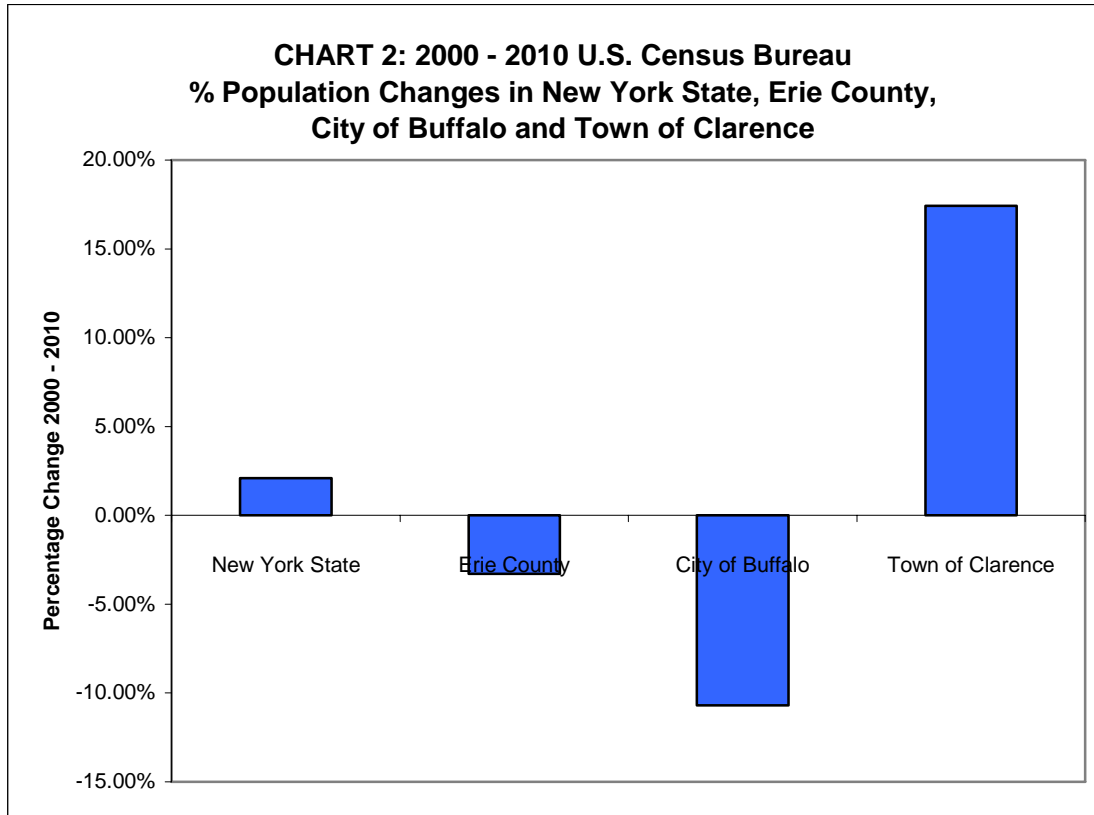
## Erie County

Erie County is located in western New York, bordered on the west by Lake Erie, and surrounded by the counties of Niagara, Genesee, Wyoming, Cattaraugus, and Chautauqua. The County's population in 2010 was 919,040, including 261,310 people in the city of Buffalo. Both the county and city populations have declined since peaking in 1970 and 1950 respectively; the county is now at approximately 82% of peak population and the city is at 45%. The disproportionate loss in the city helped to contribute to the growth in the suburban areas during those decades. The suburbs of Amherst, West Seneca, and Orchard Park were farming towns prior to the population spread. As the population has continued to move out from those towns, Hamburg, Aurora, Elma, Lancaster, and Clarence have experienced loss of farmland to residential development.

Agriculture in Erie County is diverse and includes dairy, nursery and greenhouse, vegetables, fruit, cash crops, maple, poultry, horses and a variety of livestock. The market value of agricultural products sold in 2007 totaled just over \$117 million, a 27% increase from 2002. The number of farms with a value of sales under \$10,000 in 2007 had decreased by 8.6% since 2002, but the number of farms with a value of sales of \$100,000 or greater increased by 15%. With 1,215 farms in 2007, Erie County was in the top 5 counties for number of farms, many of which are small, part-time farms – 62% of the farms had gross annual sales under \$10,000. Twenty two percent of the land area, 149,356 acres, in the county was in agricultural production in 2007, a decrease of 8% from 2002 and certainly a sign of the effects of a spreading population. (See Chart 1 for a compilation of these figures.)



While New York State grew in population by a slight 2.1% in the first decade of the 21<sup>st</sup> Century, Erie County's population decreased by 3.3%. And the City of Buffalo lost a significant 10.7% of its population while the Town of Clarence grew by 17%. (Chart 2)



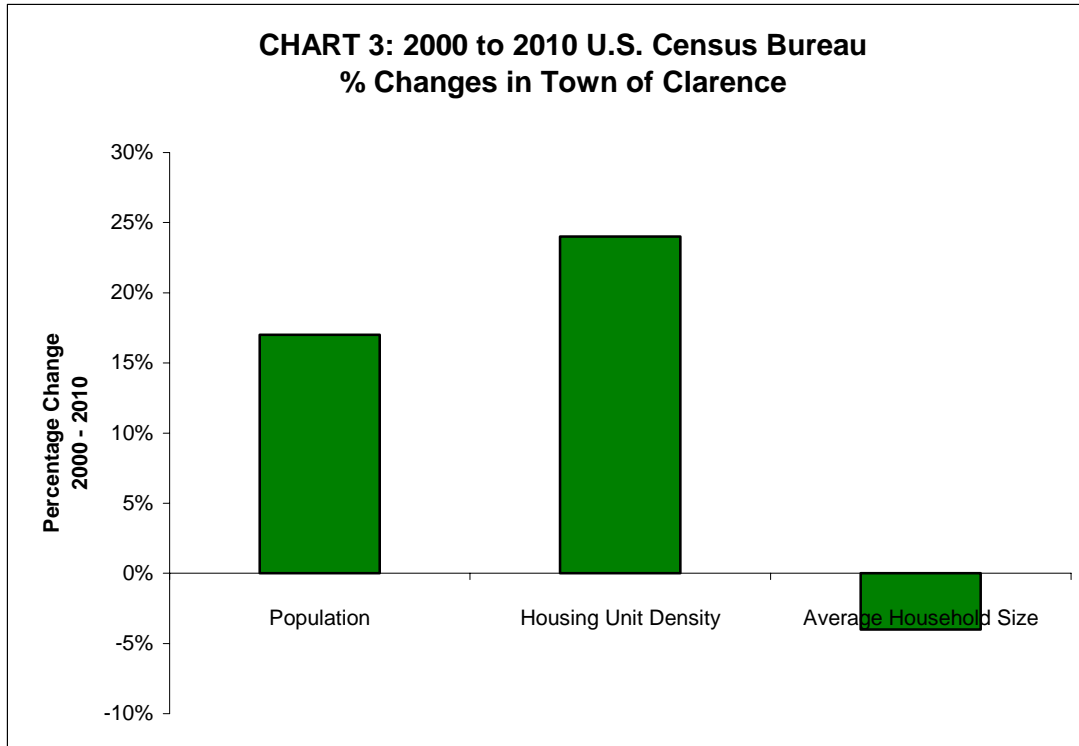
### Clarence

The Town of Clarence is in northeastern Erie County and shares its northern border with Niagara County. The town of Amherst to the west is heavily developed but includes approximately 800 acres of permanently protected farmland. The town of Newstead to the east is largely rural with areas of farmland. Lancaster to the south has experienced significant residential growth and conversion of farmland in the last decade. Clarence has no incorporated villages and has the lowest ratio of local government employees per citizen in Erie County. The town planning department is well versed in the effects that planning can have on farms. Development of this Agricultural and Farmland Protection Plan was undertaken to help ensure that those effects are positive.

#### *Conversion Pressure:*

In the 40 years from 1960 to 2000 the population of Clarence almost doubled. From 2000 to 2010 the population continued to grow by a significant 17% to reach 30,673 people. Although other towns in Erie County saw growth, Clarence was the only one with double digit growth in that decade. Also in the last decade, the housing density in

the town (number of occupied housing units per square mile) increased by 24% while the average household size decreased by 4% (Chart 3). These are indicators of a sprawling population.



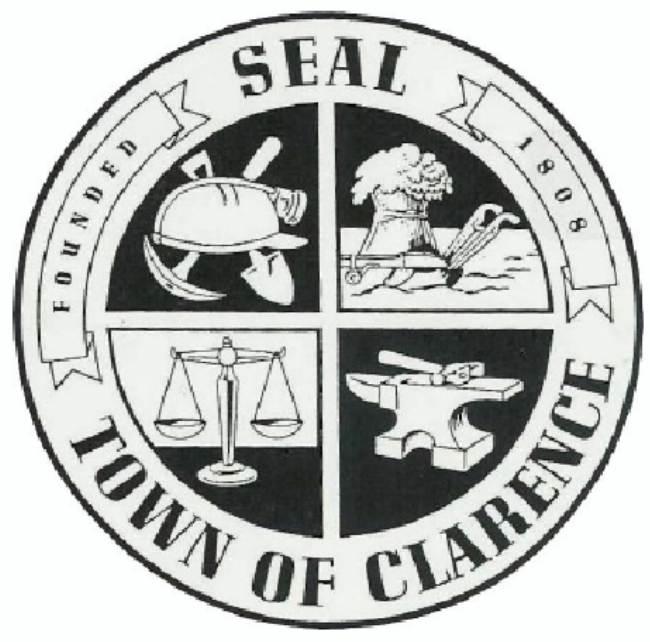
The scenic rural vistas and green space that farms provide have certainly contributed to Clarence's appeal as a place to live. Ready access to interstate Route 90, which lies just outside the southern town limit, and state Routes 5, 78, and 324 make travel to the city of Buffalo and adjacent areas relatively easy. Add a well respected school district and it is evident that Clarence has the attributes many people want when looking for an area to call home.

In 1999, 286 residential building permits were issued in the town, the highest number ever and just below the 300 annual maximum at the time. Since then the number of building permits issued has settled at an approximate average of 100 per year. Continuing to manage residential growth is critical to protecting the remaining farmland in the town. Almost half the town land area is in a state certified, county approved agricultural district and just under one third of the land in the agricultural district is actively farmed. (Map 2 – Agricultural Districts, Map 3 – Active Agricultural Property, Map 4 - Soils, Map 5 – Agricultural Soils Assessment Values) In 2000, there were 4,995 acres of actively farmed land in the town. By 2010 that had decreased 11% to 4,442 acres. Residential development contributed to the conversion of that lost land.



- #I Alden-Newstead

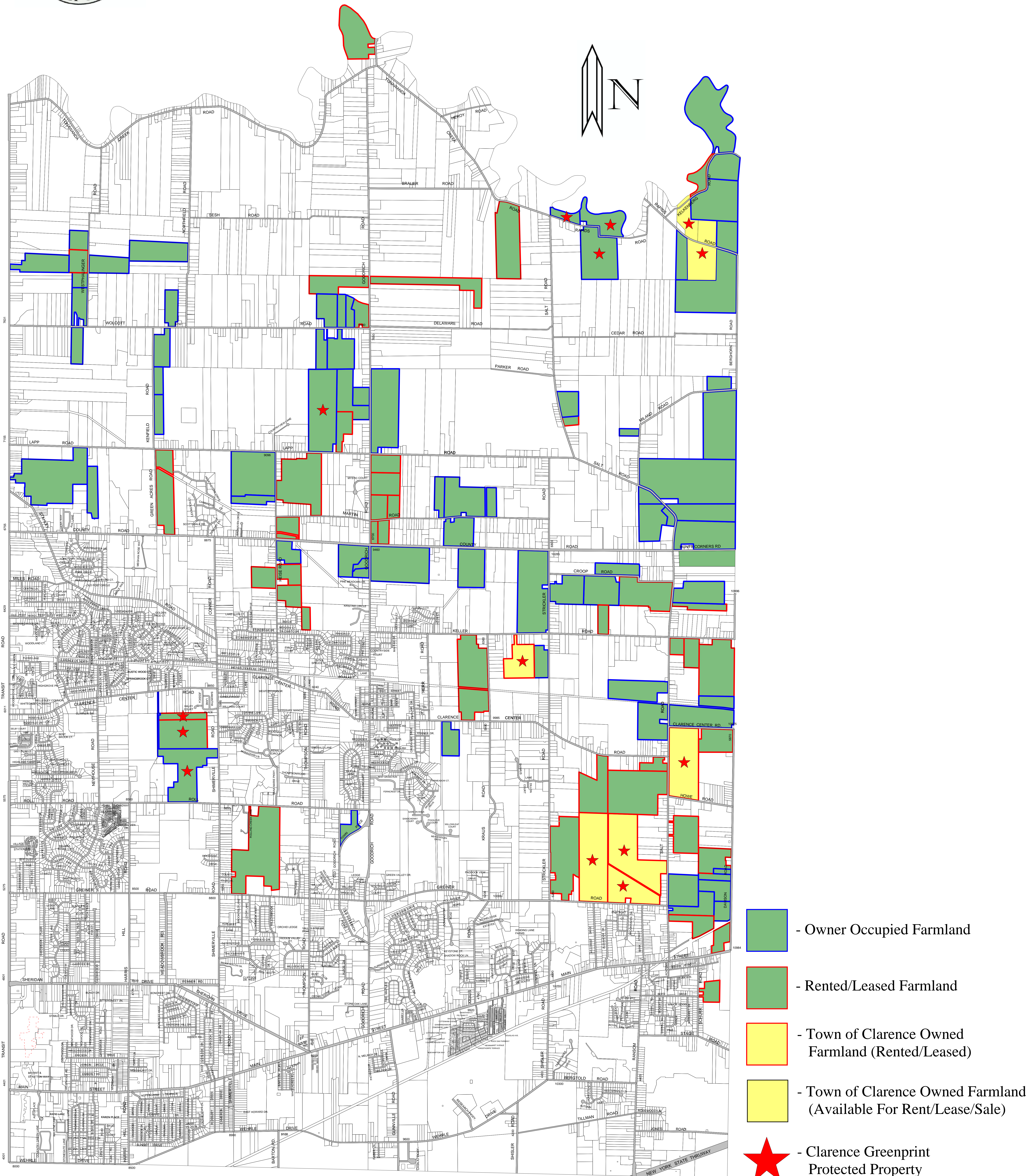




# TOWN OF CLARENCE

ERIE COUNTY NEW YORK

ACTIVE AGRICULTURAL PROPERTY  
APRIL 2012





- Statewide Importance Soil





# TOWN OF CLARENCE

ERIE COUNTY NEW YORK

AGRICULTURAL SOILS ASSESSMENT VALUES MAP  
APRIL 2012



Mineral Soil Group		Value Per Acre	Foreground Color	
1	a	\$825	B15	
	b	\$734	B11	
2	a	\$734	B7	
	b	\$652	B3	
3	a	\$652	D15	
	b	\$561	D11	
4	a	\$561	D7	
	b	\$479	D3	
5	a	\$479	F15	
	b	\$388	F11	
6	a	\$388	F7	
	b	\$305	F3	
7		\$305	H15	
8		\$215	H11	
9		\$132	H7	
10		\$41	H3	



To address farmland loss in Clarence, the Town is using a number of farmland protection tools:

- ***Agricultural Districts and Right to Farm Protections:*** The majority of the farmland in Clarence is in the Clarence-Newstead state-certified, county adopted agricultural district. Farms in the agricultural district receive right-to-farm protections through New York’s Agricultural Districts Law, Article 25-AA of Agriculture and Markets Law ([www.agriculture.ny.gov/AP/agsservices/25-AA.pdf](http://www.agriculture.ny.gov/AP/agsservices/25-AA.pdf)). Clarence also has a town ‘Right-to-Farm’ law that encourages support for town farms. Following is the Town of Clarence Code which includes support for farms and farming activities, agricultural definitions, right-to-farm protections, agricultural planning considerations, and a dispute resolution process.

#### Town of Clarence Code: Chapter 96 Farming

##### *96-1. Legislative intent; purposes.*

A. The Clarence Town Board finds, declares and determines that agriculture is vital to the Town of Clarence, New York, because it is a livelihood and provides employment for agriservice; provides locally produced, fresh commodities; agricultural diversity promotes economic stability; agriculture maintains open space and promotes environmental quality; and agricultural land does not increase the demand for services provided by local governments. In order to maintain a viable farming economy in the Town of Clarence, farmers must be afforded protection allowing them the right to farm. When nonagricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operation or are discouraged from making investments in agricultural improvements.

B. It is the purpose of this chapter to reduce the loss to the Town of Clarence of its agricultural resources by limiting the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

##### *96.2. Definitions.*

A. As used in this chapter, the following terms shall have the meanings indicated:

##### AGRICULTURAL PRACTICES

All activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and the on-farm production, processing and marketing of agricultural products, including, but not limited to, the collection, transportation, distribution, storage, and land application of animal wastes; storage, transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and pesticide application; storage and use of legally permitted fertilizers, limes and

pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use, and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock for the sale of agricultural products and for the use of farm labor as permitted by local and state building codes and regulations; including the construction and maintenance of fences.

#### AGRICULTURAL PRODUCTS

Those products as defined in § 301, Subdivision 2, of Article 25-AA of the Agriculture and Markets Law.

#### FARM

The land, buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.

#### FARMER

Any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur-bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.

#### GENERALLY ACCEPTED AGRICULTURAL PRACTICES

Those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in the definition of "agricultural practices."

#### RESOLUTION COMMITTEE

Shall be made up of the Chairman of the Conservation Board or designee, and a member of one other standing committee of the Town designated by the Town Supervisor.

B. Unless specifically defined, the above words or phrases used in this chapter shall be interpreted so as to give this chapter it most reasonable application.

### 96.3 Right-to-farm declaration.

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

B. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

- (1) Reasonable and necessary to the particular farm or farm operation;
- (2) Conducted in a manner which is not negligent or reckless;
- (3) Conducted in conformity with generally accepted agricultural practices;

(4) Conducted in conformity with all local, state, and federal laws and regulations;

(5) Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person; and

(6) Conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

C. Nothing in this chapter shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to failure to follow sound agricultural practices, as set forth in this section.

#### *96-4. Consideration of impact on certain applications.*

The legislative intent and purposes of this chapter shall be taken into consideration by each Town officer and/or board in processing any application requesting rezoning, subdivision approval, temporary conditional permit approval, site plan approval and/or special use permit approval when the property which is the subject of such application is located within one mile of an existing farm. Such Town officer and/or board shall, as part of its review of such application, determine whether appropriate and reasonable conditions may be prescribed or required which would further the purposes and intent of this chapter as part of an approval of the application. Such appropriate and reasonable conditions shall be determined on a case-by-case basis and may include, but not be limited to, requiring declaration, deed restrictions and/or covenants which run with the land which would notify future purchasers and owners of the subject property that owning and occupying such property might expose them to certain discomforts or inconveniences resulting from the conditions associated with agricultural practices and operations in the Town.

#### *96.5 Informal resolution of disputes.*

A. Should any controversy arise regarding any inconveniences or discomforts occasioned by agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties may submit the controversy to the Resolution Committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.

B. Any controversy between the parties may be submitted to the Resolution Committee whose decision shall be advisory only, within 30 days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.

C. The effectiveness of the Resolution Committee as a forum for resolution of grievances is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties

are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

D. The controversy shall be presented to the Committee by written request of one of the parties within the time limits prescribed above. Thereafter, the Committee may investigate the facts of the controversy but must, within 30 days, hold a meeting to consider the merits of the matter and within 20 days of the meeting must render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each party considers to be the pertinent facts.

- ***Comprehensive Plan:*** The Clarence Master Plan 2015 directly addresses the need to prioritize farmland for protection. It also reiterates Erie County's policy that discourages sewer extensions in Agricultural Districts.

*Physical/Infrastructure Resources - Farmland Protection*

Master Plan 2015 identifies and prioritizes lands in active agricultural production and in the Agricultural District as well as lands that may have other benefits to the Town. Parcels are identified that have the highest soil quality, a large size, and contain obvious visual benefits. Finally, the Town identifies those parcels, which due to their location, are under the most pressure for conversion to non-agricultural uses. All of these factors are utilized in identifying the most valuable parcels to the Town and those, which the Town should pursue some type of long-term preservation technique to maintain. This inventory, analysis, and prioritization are recommended as an initial step in preserving valuable lands of the Town. In terms of the conflict of overlapping sewer districts and agricultural districts, the Town of Clarence has mapped the parcels included in the Clarence-Newstead and Alden-Newstead Agricultural Districts as well as parcels currently located within any sewer district. In accordance with the Erie County policy for such conflicts, the Town of Clarence will similarly discourage the expansion of sewer districts into the existing Agriculture District and follow established policy guidelines should such a conflict arise. The Town does and will continue to employ techniques identified in the Guiding Principles to protect farmland. These techniques include; preservation of the agriculture districts, conservation easement programs, property tax relief, agricultural zoning classifications and the introduction of outright or development right purchases. As open space and agricultural land preservation is a community goal, these techniques will continue to be employed and enhanced to achieve community goals.

Chapter IX, p.37

- ***Zoning:*** The Agricultural Flood Zone and the Agricultural Rural Residential Zone are the primary town zoning districts with farms. Because of restrictions on development in a flood zone, farms in the Agricultural Flood Zone have less conversion pressure than farms in other areas of the town. (Map 6 – Growth constraints and Wetlands, Map 7 - Zoning) The following outlines zoning recommendations from the Master Plan 2015:

*Proposed Zoning Map and Law Amendments:*

The Town should develop an Agricultural Zoning District with an overlay zone that considers the distinct natural features, which exist in the Town. Specifically, an overlay of the base Agricultural Zone should mirror the density flood zone in the northern part of the Town and individual lot sizes should be regulated according to the minimum requirements of the density flood plain. Use controls



should reflect customary agriculture operations and rural residential uses and be designed to maintain the open/rural character. No commercial operations should be approved and only home occupations, which maintain all activities within wholly enclosed out buildings should be permitted. Continued strict enforcement of the density flood zone regulations should be maintained. The base Agricultural Zoning District, outside of the Density Flood Zone, generally mirroring the Erie County Agricultural District, should be amended to increase minimum lot size to 1.33 acres and 150 feet of public road frontage for single-family residential development. Consideration should be given to increasing frontage requirements in this zone to protect the existing road frontages to reduce the potential number of curb cuts on existing roads and to further disperse septic systems in the community. Incentives can be developed within the zoning district to encourage preservation of existing road frontage (i.e. offer a higher density for unique designs promoting maintenance of existing road frontage). Use controls should be maintained to allow single family and two-family residential uses and customary agriculture uses. A distinctive Agricultural/Rural Residential Zone should be created to increase minimum lot size in areas outside of the Erie County Agricultural District locations to .75 acre and 100 feet of public road frontage for single-family residential development.

Chapter II, p.8

- ***Purchase of Development Rights:*** The articulated need in the master plan to protect agricultural land and resources led to development of the Greenprint program to permanently protect farmland in Clarence for future generations. (See the following section on the Greenprint program.)
- ***Agricultural Economic Development and Public Education:*** The all-volunteer run Clarence Hollow Farmers Market is celebrating its 10<sup>th</sup> anniversary in 2012. The Market serves as an established hub for agricultural sales, agricultural education, and agritourism opportunities. At peak season, it is host to 30 vendors and offers local farmers a venue to direct market agricultural products to Clarence residents.



Erie County is nearing completion of an Agricultural and Farmland Protection Plan that includes recommendations for county and regional agricultural economic development initiatives. Clarence has been well represented in this process by a farmer who sits on both the county Agricultural and Farmland Protection Board and the Clarence Farmland Protection Committee. Clarence will remain informed and involved in agricultural economic development efforts in the county and region.





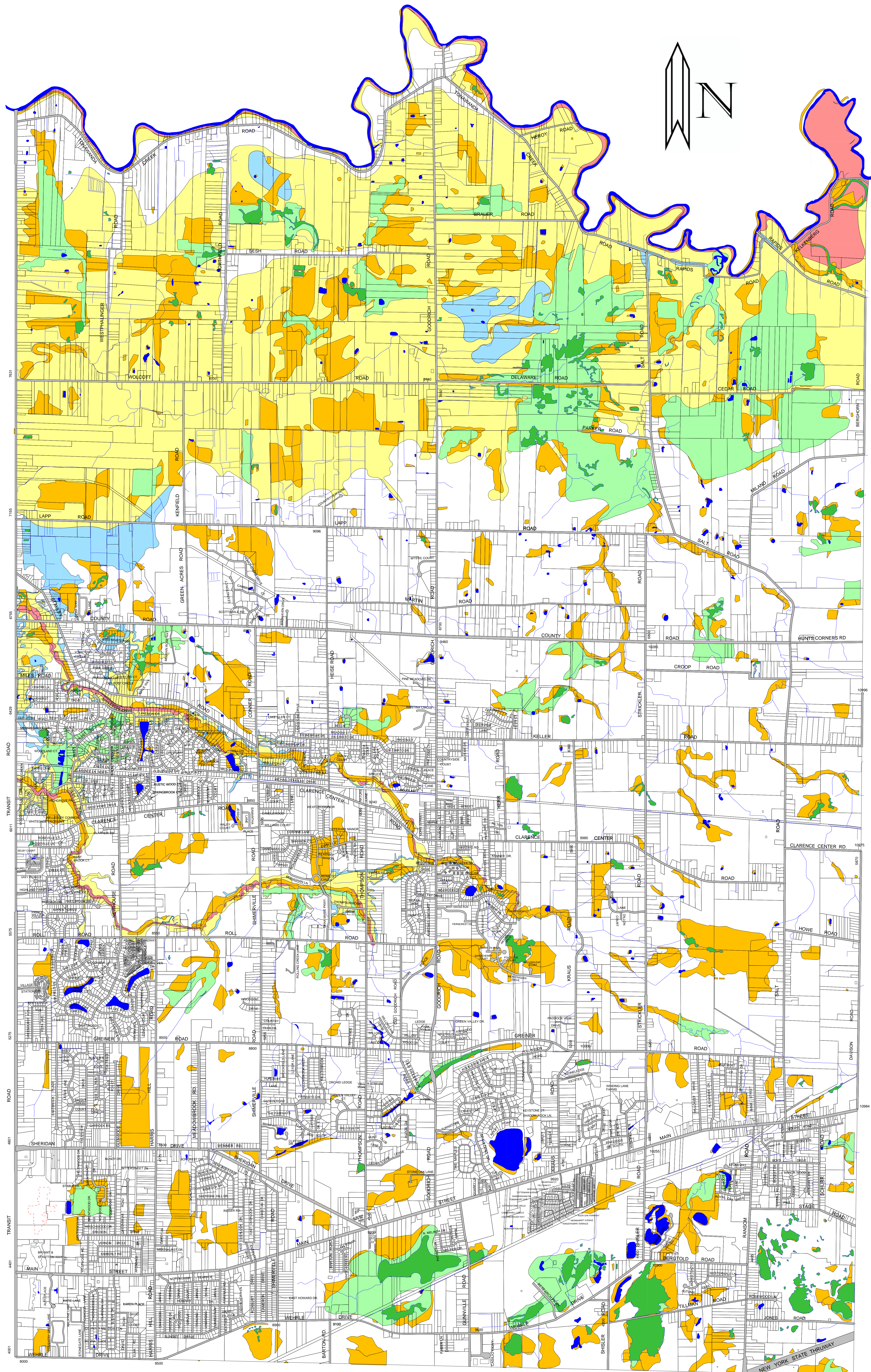
# TOWN OF CLARENCE

ERIE COUNTY NEW YORK

GROWTH CONSTRAINTS/WETLANDS MAP  
APRIL 2012

Prepared by the Office of Planning and Zoning

All wetland boundaries are representational of potential occurrence of wetlands.  
All potential wetland areas must be field verified by the respective agency with jurisdiction.



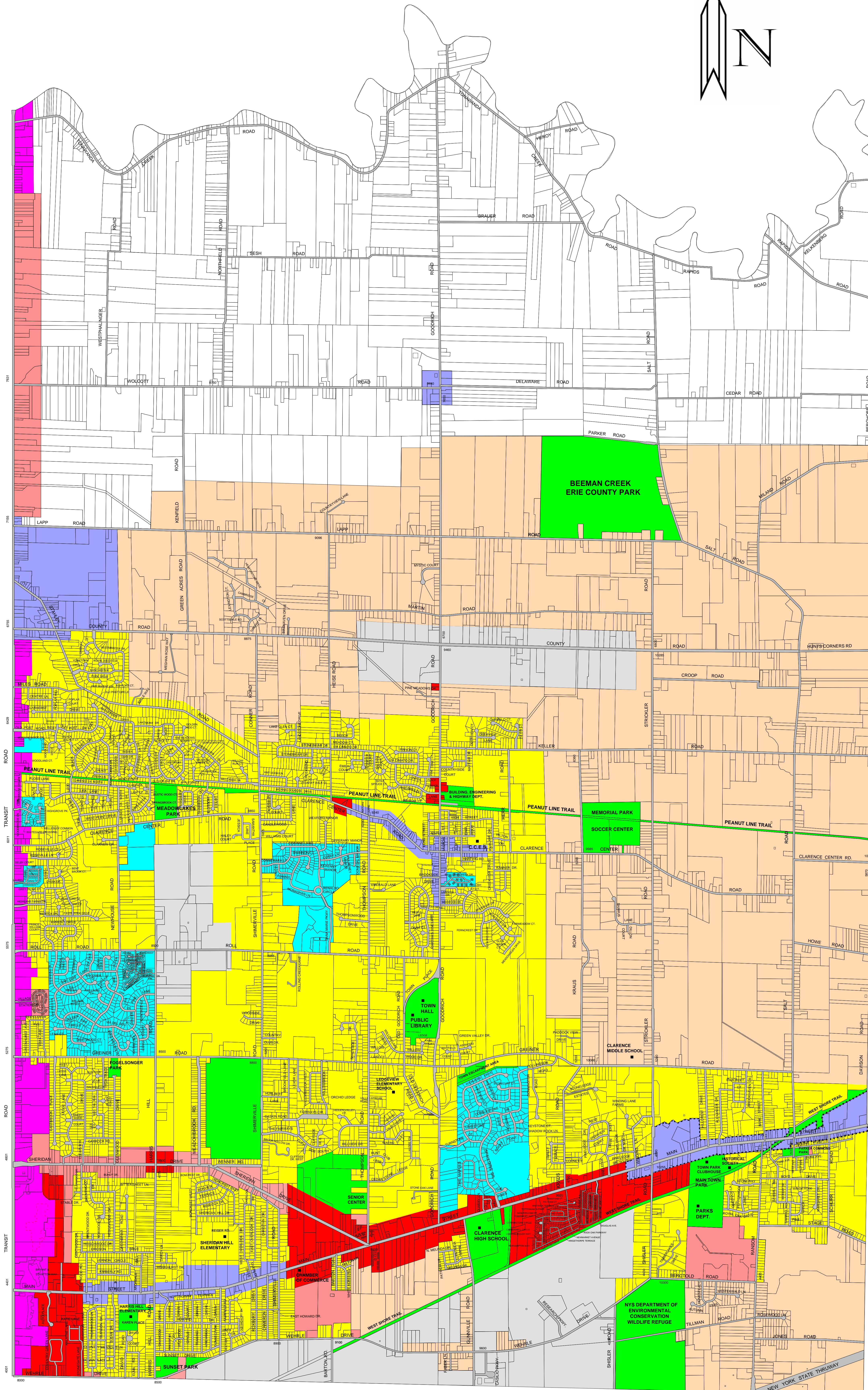




# TOWN OF CLARENCE

ERIE COUNTY NEW YORK

OFFICIAL ZONING MAP  
JANUARY 2011



## LEGEND

- Industrial Business Park
- Major Arterial
- Commercial
- Restricted Business
- Traditional Neighborhood
- Residential Single-Family
- Agricultural-Rural Residential
- Community Facility
- Agricultural-Floodzone
- Clarence Hollow Overlay
- Open Space Design Development Overlay
- Planned Unit Residential Development (repealed)





# Permanent Farmland Protection: Clarence Greenprint Program

## Greenprint Mission

*To preserve and protect ecologically significant landscapes, valuable agricultural resources, aesthetic beauty, and the rural character of the town, while maintaining a stable tax base and managing growth.*

The Clarence Greenprint Program was developed to address Clarence residents' strong desire to preserve the open space in their community. To fund the Program a \$12.5 million bond was approved by a two to one margin in a public referendum in 2002.

The Western New York Land Conservancy was hired to assist the Town's Recreation Committee in establishing and executing a process for ranking and selecting land to be protected. The program is for interested and willing landowners. Land can be protected in two ways: Land can be purchased by the Town, or the development rights can be purchased. With the purchase of development rights, the land is kept in private ownership, and a conservation easement is placed on the land. To date 1150 acres in Clarence have been purchased with Greenprint funds. In 2011, three town-owned farmland properties were advertised as available by bid for purchase or lease. These properties are currently in the process of being transferred to private owners and will be protected with agricultural conservation easements to remain available for farming in perpetuity.

Priorities for land selection and protection with Greenprint funds are based upon parcel size, proximity to other protected lands, natural features of the land, anticipated acquisition costs, and other factors. Farmland has been, and will continue to be, part of the Greenprint protected land. In fact, the vast majority of the land purchased with Greenprint funds has been farmland: 1025 acres of farmland of a total of 1150 acres of all land purchased for protection.

There are two distinct ranking procedures used to evaluate land for participation in the Greenprint program. One is focused on farmland and one on natural lands. If the property contains elements of both, then both ranking procedures are used. A pre-ranking process for farmland was developed as part of the Agricultural and Farmland Protection Plan, and will provide an initial filter to assist the Town as it evaluates



resident's requests for participation in the Greenprint program. The town currently has 98 properties under review for funding. As an example of the volume of the requests that have been received, a town-wide mailing in September of 2010 to 117 Clarence landowners resulted in requests for consideration from 47 residents. The farmland pre-ranking will serve as a key layer of background information to help prioritize which properties should be considered for more detailed evaluation and protection through the Greenprint program.

The Farmland Protection Plan Committee Members examined the full farmland ranking procedure and selected the top six features that they felt were the most critical for long term protection. These six features were included in the pre-ranking tool with the goal of providing an objective quantifiable estimate of a property's potential contribution to the future of farming in Clarence.





## Clarence Farmland Protection/Greenprint Pre-Ranking Tool

**Property Owner:**

**Total score:**

**Address:**

**SBL #:**

**Zoning: exclude commercial and industrial**

**Date Completed:**

**Score**

Soil quality: Number of acres of **prime soils** on the parcel.

# of acres: \_\_\_\_\_

<25 acres	0 pt.
25-34 acres	10 pts.
35-49 acres	15 pts.
50 acres or greater	20 pts.

Soil quality: Number of acres of soils on the property that are “**statewide important**” and “**prime where drained**”.

# of acres: \_\_\_\_\_

<25 acres	0 pt.
25-34 acres	5 pts.
35-49 acres	7 pts.
50 acres or greater	10 pts.

Parcel size: Number of acres (including possibility of more than one parcel offered at the same time) # of acres: \_\_\_\_\_

10-24	5 pts.
25-34	10 pts.
35-49	15 pts.
50 and greater	20 pts.

Number of acres of **active farmland** on the parcel # acres \_\_\_\_\_

<25 acres	0 pt.
25-34 acres	10 pts.
35-49 acres	15 pts.
50 acres or greater	20 pts.

Proximity to active agricultural land

>1 mile	0 pts.
½ - 1 mile	5 pts.
¼ - ½ mile	10 pts.
< ¼ mile but not adjacent	15 pts.
Immediately adjacent	20 pts.

Proximity to already **protected** active agricultural land

>1 mile	0 pts.
½ - 1 mile	3 pts.
¼ - ½ mile	5 pts.
< ¼ mile but not adjacent	7 pts.
Immediately adjacent	10 pts.

In reviewing the Agricultural Soils Assessment map (Map 5 – Agricultural Soils Assessment Values) and the Farmland Protection Ranking map (Map 8 – Farmland Protection Ranking), it is apparent that the agricultural parcels with the best soils are also the parcels that ranked high for protection purposes. Protecting the best land for food and fiber production is one result of this program.

*Analysis and Results of Greenprint Program*

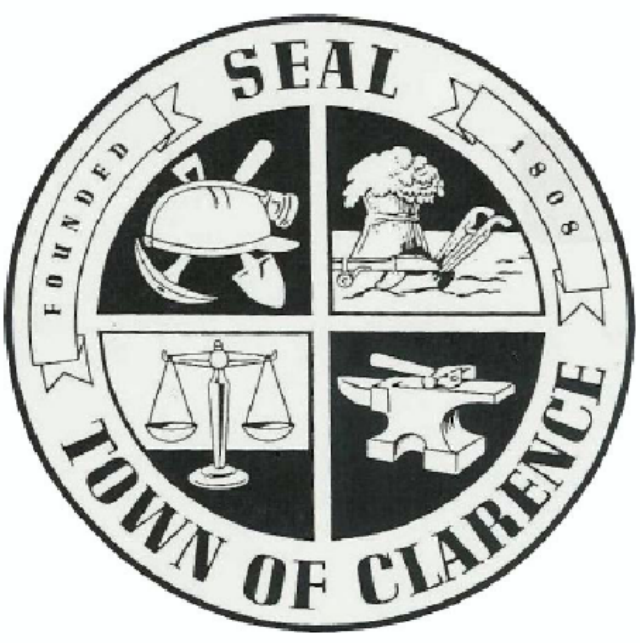
In June 2012, the Town Board approved a \$5.5 million bond resolution (the amount of unspent money from the original \$12.5 million bond) for another 10 years in order to continue protecting land via the Greenprint Program. This was good news for both town residents and farmers. Analysis to date shows that the additional annual taxes paid by residents amounts to \$14.10 per \$100,000 of assessed value – significantly less than the original projection of \$52 per \$100,000 of assessed value (were the entire \$12.5 million spent). And, once properties have been resold, the cost per \$100,000 of assessed value will decrease further. Residents benefit from appreciating property values as this open space protection bolsters the community’s appeal as a place to live.



The bulk of the Greenprint protected land has been farmland. While the goal is to keep the land available for agricultural use, a significant bonus is the economic development aspect of protecting this land. Some of the landowners were farmers who sold the development rights and placed an agricultural conservation easement on the land limiting the use to farming in perpetuity. In a 2009 New York State Department of Agriculture and Markets survey of

farmers who had participated in the state Farmland Protection Program and sold development rights on farmland, 86% of the farmer respondents invested the money in or outside of the farm and paid off debt. Presumably, much of the money that participating Clarence farmers received for selling development rights circulated through the local economy. And as this Plan is in the final stages of development, a Greenprint farm has been approved for sale to a young beginning farmer couple with plans to establish a Community Supported Agriculture (CSA) farm on the property. Because the development rights will be removed from the land, the land purchase is an affordable option for this couple – a situation that would certainly not have existed without the Greenprint Program. The Greenprint Program, begun ten years ago, has successfully survived growing pains and is poised to reap both land protection and economic rewards.



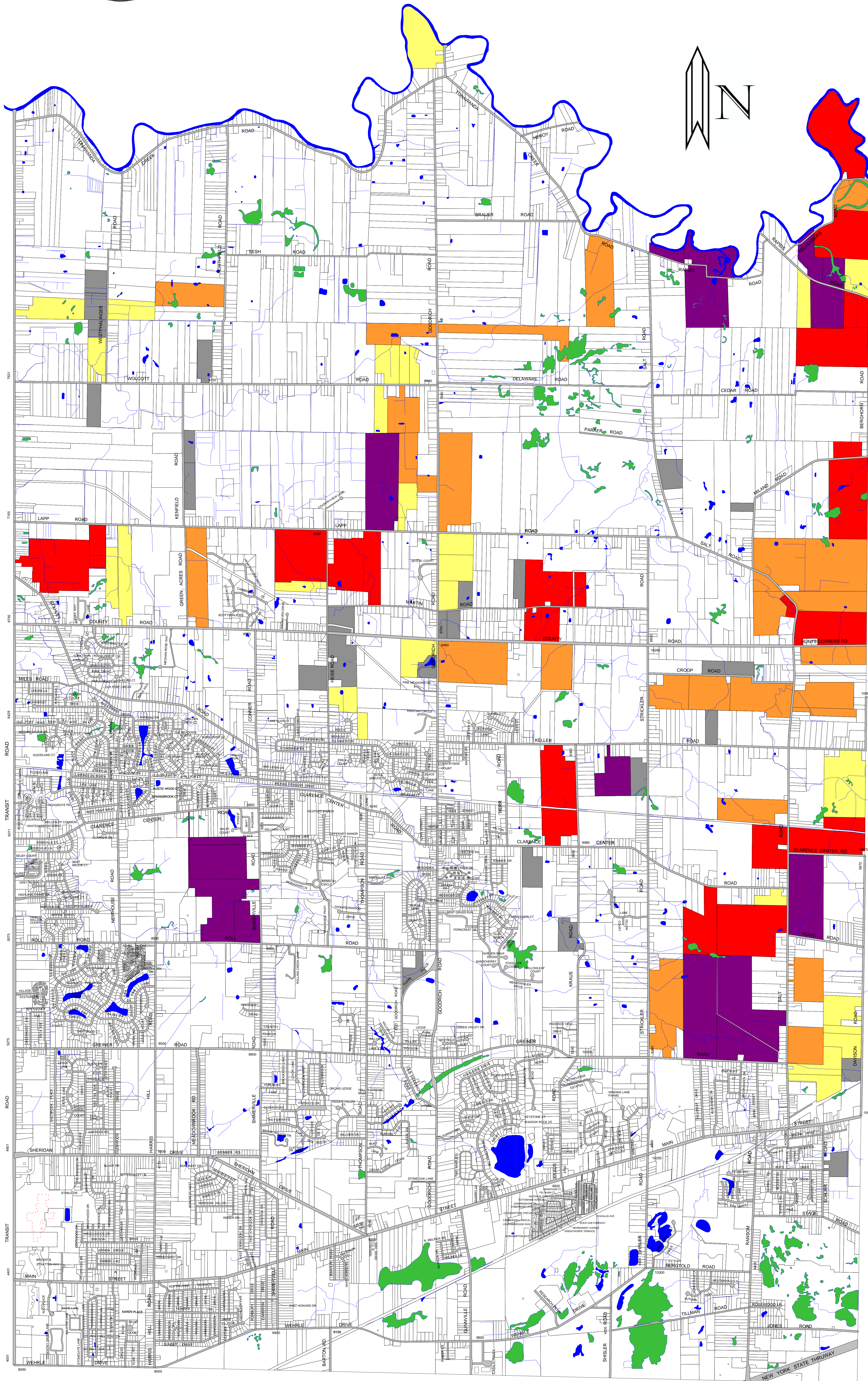


# TOWN OF CLARENCE

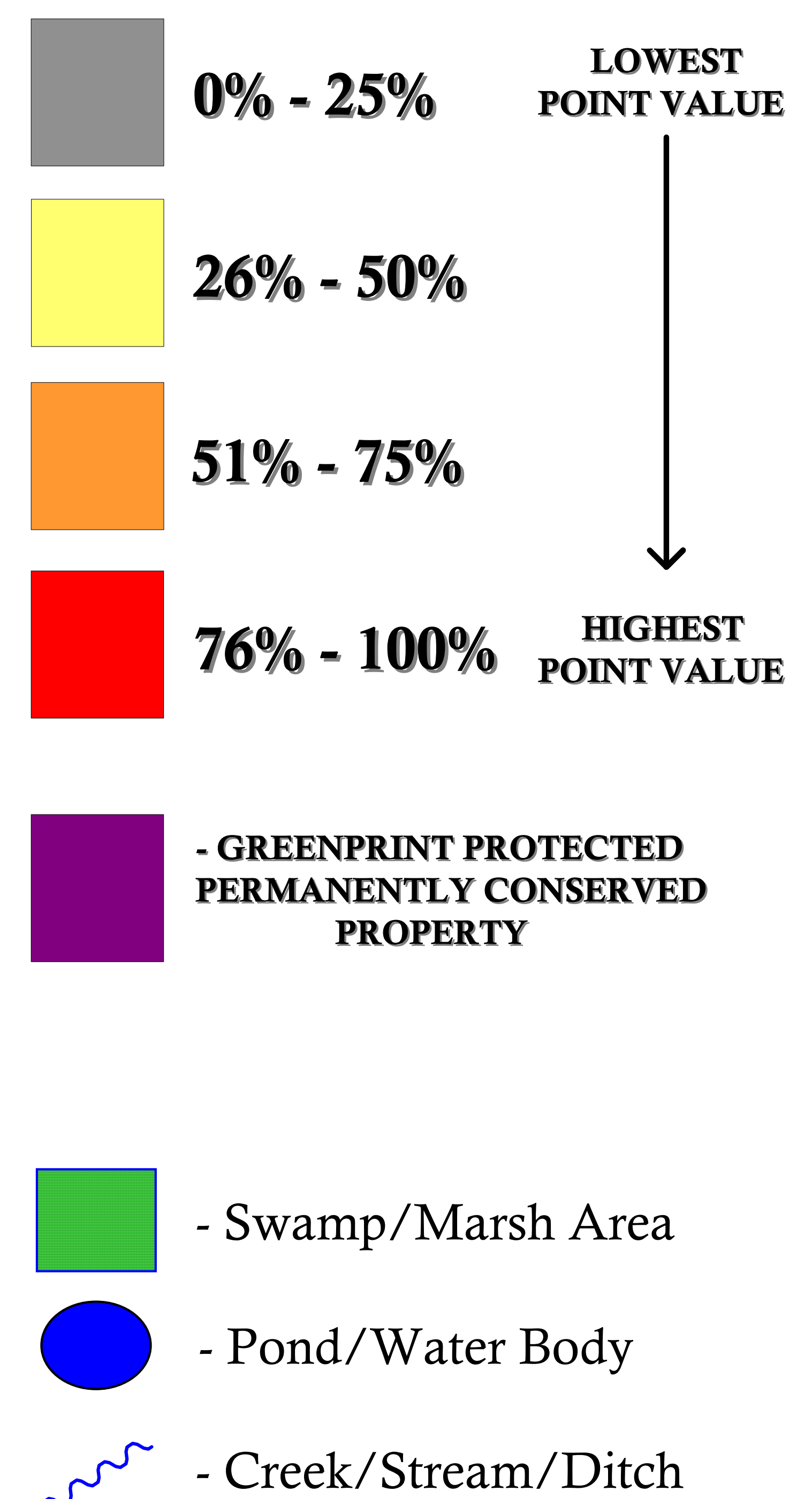
ERIE COUNTY NEW YORK

## FARMLAND PROTECTION RANKING MAP

APRIL 2012



### PROTECTION RANKING PERCENTAGE





## Public Participation

This plan will serve as a guide for continued support of farms in the Town. The planning process helped to build community support and encouraged dialogue about farms and the important role that they play in the future of Clarence. Public meetings and interviews of key individuals, as well as periodic meetings of the Farmland Protection Committee (FPC), gave farmers, non-farm landowners, and the non-agricultural community an opportunity to provide input about the strategies included in the plan.

A kick-off public meeting was held on April 7, 2011 to inform farmers and town residents of the planning process and to explain the tools available for protecting farmland. On November 29, 2011 farmers and landowners were given an update on the planning process and invited to review and provide comments on the draft strategies and actions.



Seven individual interviews were conducted in the summer of 2011 (summary follows) and the FPC held over 5 working meetings to guide the process and provide comments on draft products.

### April 7, 2011 Public Meeting:

- Presentation: Supporting Farms and Protecting Farmland in Clarence  
American Farmland Trust, Diane Held, Sr. New York Field Manager
- Town of Clarence Greenprint and How It Works with the Agricultural Planning Process  
Western New York Land Conservancy, Nancy Smith, Stewardship Manager
- Audience Input: Strengths, Weaknesses, Opportunities, Threats to Clarence farming

### November 29, 2011 Farmer/Landowner Meeting:

- Review of Planning Process to date  
Diane Held, American Farmland Trust
- Draft Recommendations for Review



- Update on Ranking of Farmland  
Nancy Smith, Western New York Land Conservancy

June, 2011 Town of Clarence Public Hearing

- History and review of agricultural planning process  
Brad Packard, Town of Clarence Planning Department
- PowerPoint presentation highlighting the draft Agricultural and Farmland Protection Plan  
Diane Held, American Farmland Trust, project consultant





## SWOT Chart

Developed from community input at the April 7, 2011 Public Meeting and with the Farmland Protection Committee's input.

<b>Strengths</b>	<b>Weaknesses</b>
<p>Ag districts offer important protections for farmers.</p> <p>Local right to farm law.</p> <p>Prime soils.</p> <p>Good growing climate.</p> <p>Proximity to markets.</p> <p>Subdivision splits have substantial review allowing for solid understanding of impacts</p> <p>Local officials supportive of agriculture</p> <p>Public supportive of agriculture</p>	<p>Great deal of abandoned farmland due to poor drainage in town.</p> <p>Off-farm income necessary for farming to be viable.</p> <p>Many of town soils only valuable when drained, which is costly.</p> <p>Soil drainage variability throughout the town.</p>
<b>Opportunities</b>	<b>Threats</b>
<p>Awesome farmers market.</p> <p>Older farmers who know the town and the soils and can mentor new farmers.</p> <p>Having a successful Greenprint Program.</p> <p>Awareness and desire for healthier foods and organic foods.</p> <p>Can educate realtors about need for disclosure notice.</p> <p>Celebrate farms and farmers.</p> <p>Local food trend and interest.</p> <p>Education that agricultural land is not just vacant, it is 'working land'.</p>	<p>Farms have to be profitable to be viable.</p> <p>Town property taxes are high.</p> <p>Geese and deer damage to crops.</p> <p>Public and farm operator safety with farm equipment on roads.</p> <p>Affluent neighborhoods where people do not understand normal farming practices.</p> <p>Residential areas encroaching on farmland.</p> <p>Lack of respect for farmers private property rights with regard to trespassing.</p> <p>Water and sewer lines that increase costs to live in town and threaten growth in agricultural areas.</p>



## Summary of Farm Community Comments

Seven interviews of town farmers, and others knowledgeable and interested in agriculture, were conducted in the summer of 2011. Interviewees were asked to provide input on what the Town could do to help support agriculture. Also, on November 29, 2011, a meeting of approximately 30 interested farmers and farm landowners was conducted to capture input from a broader audience. Following are highlights from these discussions.

**Improving *drainage* in the town, by cleaning ditches, was the single most mentioned recommendation.**



The frustration with overgrown ditches was particularly acute in the northern portion of the town. Some farmland has been lost in that part of town due to successive growth on land areas that have become too wet to farm due in part to clogged drainage outlets. Development patterns have also contributed to poorer drainage and to more nonfarm landowners who may not have the knowledge or equipment to maintain ditches on their property. Currently, the town is conducting a drainage study that will result in a drainage plan. Farmers recommended that they be consulted as part of the study, in order to more effectively target efforts to assist agriculture. Improved ditch maintenance will benefit nonfarm landowners as well. Other suggestions to improve the drainage problems included a town cost share program for tiling farm fields and for removing trees near ditch areas to improve access for maintenance; production of a wetlands map for the town; and, creation of a “right to drainage” law modeled after a “right to farm” law that could give private landowners additional ditch maintenance rights.

*Let's have the best ditches.*

**While the *Clarence Greenprint* program is viewed as a benefit to agriculture in the town, the farm community felt strongly that there is a need to develop a formal process to incorporate farmer review.** The Farmland Protection Committee was suggested as the appropriate entity to be included in the process. The stated purpose for protecting farmland in the town was to save the good land and to protect open space vistas. Concern was expressed that the town not just fund potential “estates”, but that viable agricultural land be protected in contiguous or target locations rather than scattered parcels throughout the town. It was suggested that purchasing the development rights on private farmland would be a more affordable option for the town rather than purchasing farmland outright, removing it from the tax roles, and incurring maintenance expenses.

*The ag community should have input in choices of protected farmland.*

*The Town shouldn't be the largest landowner in Clarence.*



**Continued *loss of good farmland in the town to development, despite progress in permanently protecting land through the Greenprint program, is of concern to the farmers.*** Along with losing farmland, the impact of more homes increases land values. And, this translates to a higher cost for farmers to rent land, landowners who do not want to extend long-term leases, and in some cases, landowners who do not want to lease farmland at all.

*Access to good land is a problem in the town.*

*Excellent farmland is being sold for housing developments.*

**The Town's close proximity to a significant percentage of the county population is an opportunity to increase *direct marketing* of agricultural products.** Specifically, the town could work with the Clarence Hollow Farmer's Market to develop and fund promotional efforts to encourage more vendors and more customers. Farmers would also benefit from town-sponsored educational events focused on marketing. **And hosting town *agritourism* events would cultivate a base of public understanding and support for farming in Clarence.** As the town population has grown, and farmers interact more frequently with people who are new to farming, it becomes imperative that agricultural practices and the benefits of farms are well understood. This includes informing residents of the need to be cautious of farm equipment on the roads and at bike path crossings. And the right-to-farm protections provided in the state-certified Agricultural District are considered critical to town farm operations.



*Clarence has a good clientele to sell our product to.*

**Farmers in Clarence are looking forward to having a *voice* in town decisions that affect agriculture via the newly created *Farmland Protection Committee*.** Assigning the committee tasks, such as a role in the Greenprint review process, is key to formalizing their role. Holding an annual farmer/landowner meeting to solicit input from the farm community was considered an important outcome of this planning process.

*The markets and the land are here in Clarence.*

\*All quotes are from interviewees.



# Strategies to Protect Farmland and Support Farms

## Vision:

*The Town of Clarence will have viable farms that are good stewards of the land. Permanently protecting farmland through the Greenprint Program will continue to be a priority for the Town. Farms will be celebrated for all that they contribute to the community: economic value, scenic vistas, wildlife habitat, and local foods.*

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

Clarence lost 553 acres of farmland, 12% of the farmland base, from 2000 to 2010. In the decade from 2000 to 2010 the population of the town grew by 17%. To stem the loss of farmland and open space, town residents approved a bond for \$12.5 million in 2002 which funded the Clarence Greenprint Program. As of 2012, 1025 acres of farmland had been purchased with Greenprint funds and were in the process of being permanently protected using conservation easements.

Protecting farmland requires the use of multiple tools – permanent land protection is the strongest tool but is not the only tool that should be used. An active, engaged farm community with a ‘voice’ is vital to ensure that farms and farmland are supported and protected.

## Actions to protect farmland:

1. Recognize the Farmland Protection Committee (FPC) as a permanent committee with an identified role to inform the Town Board about agricultural issues, and to make recommendations to address these issues. Have the Town Board approve the Committee in this capacity.
2. Formalize the Farmland Protection Committee’s advisory role in the Greenprint process to:
  - a. select farmland to protect using parcel ranking criteria developed through this planning process, and
  - b. review the agricultural easement template.Work with the Recreation Committee to develop a mutually agreed upon review process that incorporates the FPC.
3. The Farmland Protection Committee will sponsor an annual farmer/farm landowner meeting where farm needs can be discussed and prioritized for ongoing town action. Giving the farm community a ‘voice’ may be the most important accomplishment of this planning process. Clarence’s growing population is dominated by people who are unfamiliar with agriculture and farming practices and needs. The farm community must be unified and have a formal process in place to be heard.



4. Adopt the Clarence Agricultural and Farmland Protection Plan (AFPP) as part of the Town Master Plan. The AFPP should be reviewed and updated as part of the Master Plan review cycle. Including the AFPP in the comprehensive planning process, sends a clear message that agriculture is a priority business and land use in the Town of Clarence.
5. Develop a program to keep private land that is currently not eligible for agricultural assessment mowed and “farm ready”. Develop eligibility criteria and ‘farm ready’ criteria. Set a rental rate for land that is kept in a farmable state. Identify a minimum rental period for the land and formalize an agreement between the town and the landowner to pay the rental fee for the specified time period in exchange for the landowner meeting certain land maintenance standards.
6. Encourage land leasing of farmland. Approximately 37 % of farmland in Clarence is rented. This land, by its very nature, is the least secure. Agricultural assessment\* reduces landowner’s property taxes and is an incentive to keep land in agricultural production. Have FPC members communicate with landowners who are not receiving agricultural assessment to encourage farmland leasing and to explain the benefits of, and requirements to, receiving agricultural assessment.

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

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

Implementation Responsibility: Farmland Protection Committee, Planning Department, Town Board, Planning Board, Recreation Committee, Western New York Land Conservancy,

Budget Considerations: Cost associated with program to keep land ‘farm ready’.

Funding Resources: Town property taxes. Other town funds.



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

Farms are businesses that, like other businesses, need to be a part of the infrastructure maintenance and expansion review process. Roads and ditches need to be maintained, and water line and sewer expansions need to be avoided in agricultural areas. If the scenic landscape of the town is to remain, farms must be viable. Addressing agricultural needs in infrastructure planning is a necessary component of this viability. (Map 9 - Infrastructure)

Actions to plan for infrastructure:

1. Address drainage concerns of the farm community to keep ditches, streams and waterways clean on public and private property.
  - a. Establish an agricultural drainage working group of the Farmland Protection Committee, which will inform the FPC of drainage maintenance needs specific to agriculture. The FPC will be responsible for prioritizing and sharing these needs with the Town Board. The drainage working group will communicate with private landowners to assess concerns and needs.
  - b. Have the drainage working group review and comment on the draft ditch maintenance plan (due in spring 2012) being developed as part of the town drainage study.
  - c. Institute a cost share program that would help landowners to develop primary drainage ditches on their properties and that would be part of the town ditch maintenance plan. Seek input from the Erie County Soil and Water Conservation District.
  - d. Collaborate with the county to ensure that county-maintained ditches in the town are cleaned as necessary in order to improve drainage on farm fields and reduce conversion of land to wetlands. This could be a system in which the Town cleans county ditches and is reimbursed for doing so.
2. Notify the Farmland Protection Committee of any proposed infrastructure changes in the Agricultural Flood Zone or the Agricultural Rural Residential Zone. Have the FPC review any Agricultural Data Statements\* that are filed with the town pursuant to Agricultural and Markets Law requirements. Provide the committee's recommendations, regarding infrastructure changes or Agricultural Data Statements, to the Planning Board and the Planning Department.

*\*Agricultural Data Statements: Per Agriculture and Markets Law an application for a special use permit, site plan approval, use variance, or subdivision approval that requires review and approval by the planning*



*board, zoning board of appeals, or town board, and that is within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The Ag Data Statement should include a description of the proposed project and its location on a map showing the site of the proposed project relative to the location of farm operations.*

Implementation Responsibility: Farmland Protection Committee, Planning Department, Highway Department, Engineering Department, Town Board, Erie County Highway Department, Planning Board.

Budget Considerations: Expense of cost share program.

Funding Resources: Town funds. County funds.

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

Clarence is an urban edge town with many residents who have not lived in the town for long and are not familiar with farms or normal farming practices. Without a targeted effort to educate and inform town residents about farming practices, the potential for conflicts between farm and non-farm neighbors increases and, more importantly, there may be little public support for planning efforts that consider agricultural needs.

Promoting Clarence farms and farm products creates a ‘teachable moment’ for the public – a chance to make the connection between the food that they eat and the farms that grow that food.

Actions to promote agriculture:

1. Develop a youth community service program in collaboration with the local youth bureau, 4-H, Farm Bureau, and local schools to educate and involve town youth in agriculture. Projects include:
  - a. Promoting youth agriculture programs such as 4-H.
  - b. Incorporating additional youth programs and educational opportunities into the Clarence Hollow Farmers’ Market.
  - c. Working with Farm Bureau’s Ag in the Classroom program.
  - d. Developing a school garden program with local schools.
2. Develop an ongoing working relationship with the Clarence Bee. Identify a farm community member who will serve as a media liaison to the Clarence Bee to assist in developing interesting, informative, accurate stories about farming in Clarence.



3. Create an agricultural section of the town webpage to promote food and farming events, advertise agricultural meetings, educate residents about farming practices, and share accomplishments of the FPC and the Greenprint Program. Also create a link to the Clarence Hollow Farmers' Market webpage.
4. Assist the Clarence Hollow Farmers' Market with efforts to grow the market and to expand opportunities for town residents to purchase local farm products. Identify a funding source to assist the Market with promotional efforts.

Implementation Responsibility: Farmland Protection Committee, Clarence Hollow Farmers Market, 4-H, Farm Bureau, local schools, Town Youth Bureau, Clarence Bee, Planning Department.

Budget Considerations: Webpage expansion cost. Farmers Market promotion.

Funding Resources: Grants. Local foundations.



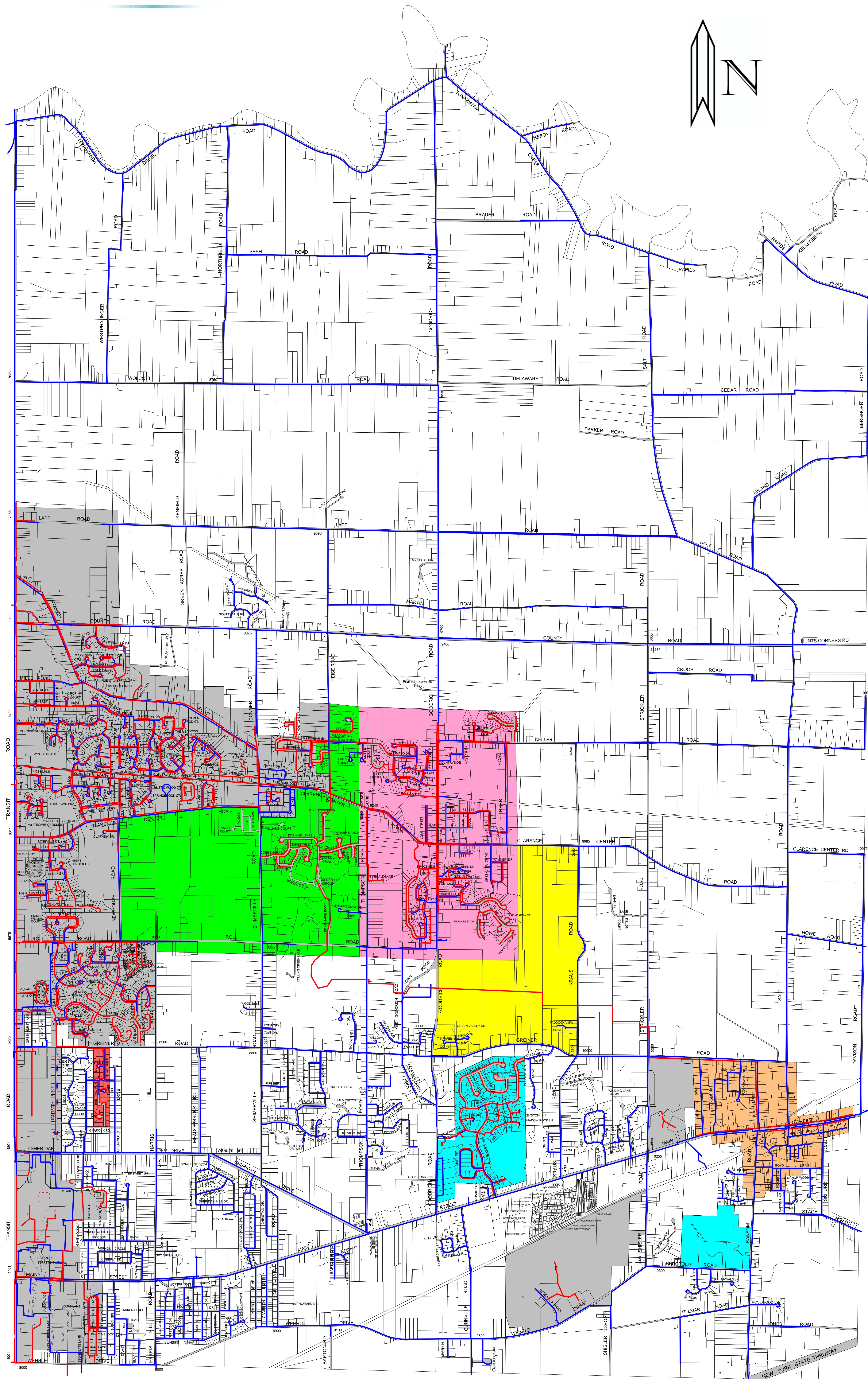




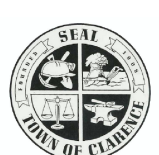
# TOWN OF CLARENCE

ERIE COUNTY NEW YORK

*INFRASTRUCTURE/DISTRICTS MAP*  
*JANUARY 2011*



- Water Line
- Sewer Line
- Package Plant
- Clarence District 2
- Clarence District 4
- Clarence District 6
- Clarence District 7
- Clarence District 9
- Erie County Sewer Dist. No. 5





Town of Clarence Agricultural and Farmland Protection Plan Implementation Matrix												
Strategies and Actions	Priority Level	Implementation Partners										
		Town					Other					
		Farmland Protection Committee	Town Planning Dept.	Town Planning Board	Town Board	Town Hwy Dept.	Town Eng. Dept.	Town Recreation Committee	Erie County Highway Dept.	AFT	WNYLC	
<b>Actions to Protect Farmland</b>												
1.Approve the FPC as a permanent committee.	<b>Very High</b>	X	X		X							
2.Formalize the FPC role in the Greenprint process.	<b>Very High</b>	X	X		X			X			X	
3.FPC sponsored annual farmer/landowner meeting	Medium	X	X		X					X		
4.Adopt the Ag Plan as part of the Master Plan	<b>Very High</b>	X	X		X							
5. Program to incentivize keeping land 'farm ready'	Low	X	X		X							
6.Encourage land leasing for farming	High	X	X		X					X	X	
7.Adopt zoning revisions	High	X	X	X	X							
<b>Actions to Plan for Infrastructure</b>												
1a.Establish an ag drainage working group of the FPC	<b>Very High</b>	X	X									
1b.Comments on draft ditch maintenance plan	High	X	X			X	X					
1c.Cost share program for ditch maintenance	Medium	X	X		X	X						
1d.County ditch maintenance	<b>Very High</b>	X	X		X	X	X		X			
2.Notify FPC of proposed infrastructure changes	High	X	X	X								
<b>Actions to Promote Agriculture</b>												
1.Develop youth community program	Medium	X	X									
2.Liason with Clarence Bee	High	X										
3.Ag webpage for town	High	X	X		X							
4.Assist with Clarence Hollow Farm Market promotion & growth	Medium	X	X		X							

FPC = Farmland Protection Committee

Town Hwy. Dept. = Town Highway Dept.

Town Eng. Dept. – Town Engineering Dept.

WNYLC = Western New York Land Conservancy

AFT = American Farmland Trust



# Agricultural Review of The Town of Clarence Code

## INTRODUCTION

Often in local planning, agriculture has been considered a temporary land use until conversion to the ‘highest and best use’ takes place. Towns are beginning to understand the many benefits that farms and farmland provide: farms create jobs, stimulate the local economy, provide open space and scenic vistas, maintain lower property taxes, and supply fresh, local foods. Supporting the long term viability of farms is a growing priority for many communities.

New York State’s Agricultural Districts Law (Article 25-AA of the Agriculture and Markets Law) was enacted to help keep land in active agricultural production and to provide protections for farms in state-certified, county-adopted agricultural districts. The Town of Clarence adopted local right-to-farm provisions in town law which recognize agriculture’s contributions to the community. Clarence should continue to review new local laws in order to minimize unreasonable restrictions that can negatively impact the viability of farms.

The following review of the town code makes recommendations (in italics) for changes that will support the viability of agriculture in Clarence and that can help to reduce any zoning conflicts with New York State Agriculture and Markets Law.

## TOWN CODE REVISIONS

### ❖ Part II General Legislation:

#### ➤ Chapter 96: Farming

- States support for agriculture and reducing the loss of agricultural resources. Defines agricultural terminology. Includes a Right-to-Farm declaration. Instructs Town officers and boards to consider agricultural impacts when a land use change is requested within one mile of an existing farm. Establishes an informal dispute resolution process.
  - *Amend the dispute resolution committee make-up to include representation from the Farmland Protection Committee. Amend the required number of committee members to a minimum of 3.*

#### ➤ Chapter 229: Zoning

##### ▪ 229-2.C. Purpose

- *Add an agricultural statement in the purpose. The phrase in bold is an example:*

*“To these ends, the Zoning Law, Districts, and Maps have been prepared with due consideration of future growth; the promotion of a sensible built environment, which respects local and regional architecture; the promotion of an integrated and balanced transportation system based on pedestrian, transit, and automobile use, the adequate provision of water and sewer infrastructure, schools, parks, and other public necessities;  
**the promotion of viable farms and protection of agricultural***



**resources;** and for the preservation and enhancement of the natural environment through the protection and replenishment of forests by landscaping of the public realm and supplemental plantings for projects which reduce existing tree cover resources.”

- 229-14. A-C. Vibration, Noise, Odor
  - *Add language such as “Vibrations/sounds/odors created by farmers necessary in the operation of a farm are permitted.”*
- 229-26. A-FZ Agricultural Flood Zone: Intent
  - *Include a statement that agriculture is the primary land use in the zoning district such as:*

*“The purpose of the Agricultural Zone is to assure a proper economic and physical environment for continued agricultural use of land and other nonextractive natural resource land uses; to maintain an open rural character to viable agricultural areas; to assure compatible types and densities of development on lands that are usable for agricultural pursuits; and to minimize other land uses incompatible with farming. Persons and entities not engaged in agricultural pursuits in the Agricultural Zone should be aware that the primary intention of the zone is to permit usual acceptable farming and farming practices... Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of concerns and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive...”*

Town of Ithaca Code, Chapter 270, Zoning/ Art. VI, Agricultural Zones
- 229-33. A. Building height
  - *Allow agricultural support structures taller than 35 feet.*
- 229-36. A-RR Agricultural Rural Residential: Intent
  - *Include a statement that agriculture is a primary use in the zoning district such as:*

*"The purpose of the A1–Agricultural District is to protect the agricultural production resources of the Town of Ulysses as seen today in viable agricultural operations, and the agricultural heritage of the Town as seen today in the variety of land uses and the openness of agricultural fields."*

Town of Ulysses Zoning Law Art. V, Sect. 5.1
- 229-38. B. Turf farming
  - *Do not require a special exception use permit for turf farming.*
- 229-43. A. 1.
  - *Allow agricultural support structures taller than 35 feet.*
- 229-44. D.
  - *Allow an accessory structure to be erected on agricultural land that is without a primary structure.*



## Full Build-Out Analysis

Residential development rates and the desire to maintain a balanced growth pattern were both major considerations that led to the creation and adoption of the Town of Clarence Master Plan in 2002. Prior to the adoption of the Master Plan, the number of residential building permits issued per year had steadily increased. Figure 1, Residential Construction, provides a clear illustration of this rapid residential growth from 1980 to 2000.

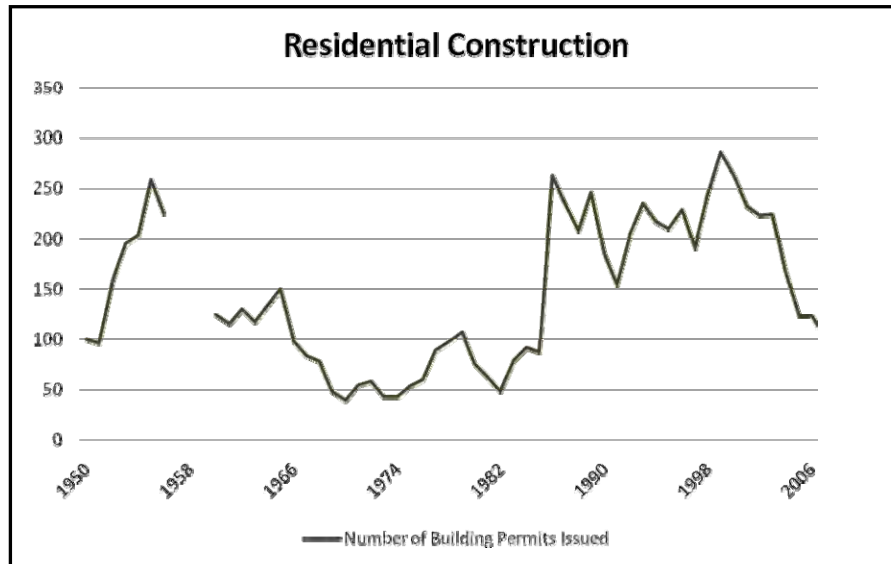


Figure 1.

Development rates peaked during this time but the conversion of vacant and active agricultural land to residential uses gained momentum earlier, beginning in 1960. The loss of prime and important farmland negatively impacted the local agricultural economy and resulted in the permanent loss of good farmland. At the same time, significant residential development continued in areas of the town not serviced by sewers. This resulted in dense areas of residential development using septic systems, located in areas of the town that were removed from population centers with public infrastructure. In an effort to address this, the Master Plan recommended zoning changes requiring a more thorough subdivision review process and increasing minimum land area and road frontage requirements. The Town Code was amended in 2005 requiring 1.33 acres and 150 feet of public road frontage for the subdivision of individual building lots. This effort has slowed the rate and density of residential development in agricultural areas that are removed from core infrastructure service areas.

By reviewing existing vacant property in the town, and considering current development density regulations, the Office of Planning and Zoning generated a potential full build-out analysis that is based on current code restrictions and sewer capacity. Figure 2 identifies current land use by zoning category in the town, and Figure 3 illustrates available vacant land within each zoning category.



Figure 2.

## LAND USE, BY ZONING CATEGORY

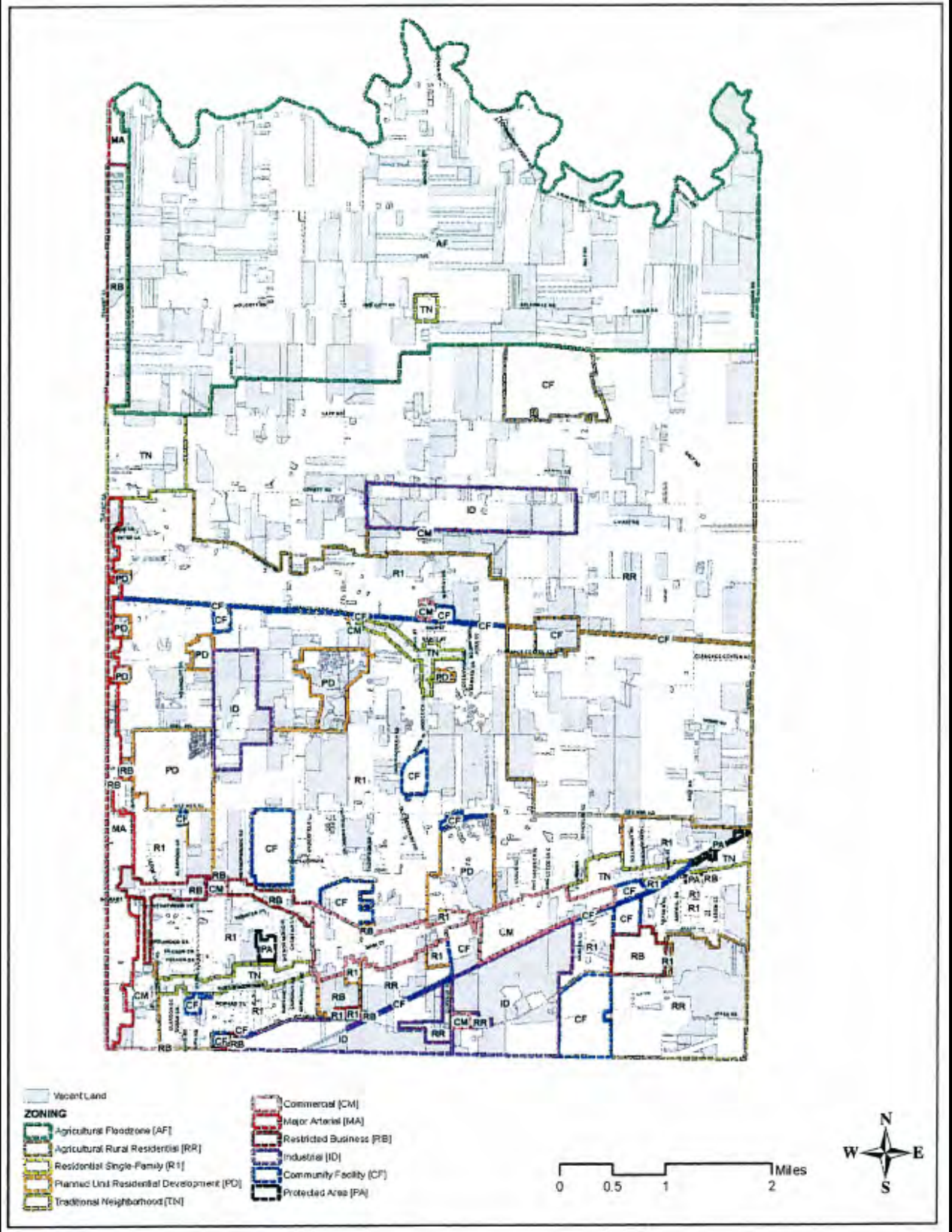




Figure 3.

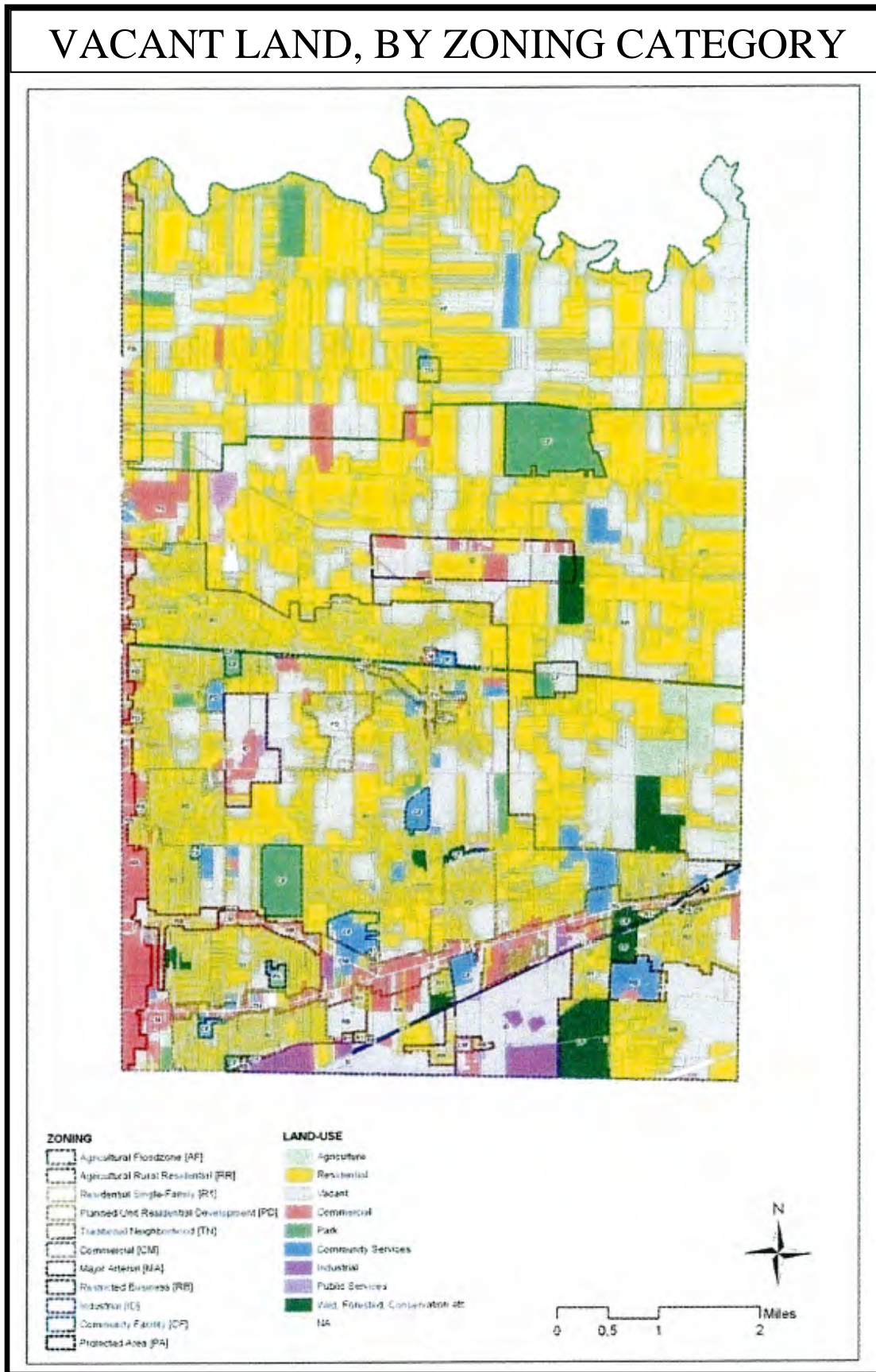




Figure 4 was generated by calculating the available vacant land within each zoning category and then establishing a residential lot yield and commercial building square footage potential.

**Figure 4.**

Zoning district	Vacant land (Acres)	Residential units that can be accomodated (No.)	Non-residential development that can be accomodated (Sq.ft.)
<b>Residential Zones</b>			
Agricultural-Flood zone	3,412	682	
Agricultural-Rural Residential	3,296	659	
Residential Single Family (no public sewers)	1,086	905	
Residential Single Family (public sewers)	913	1657	
<b>Mixed-Use Zones</b>			
TND (public sewers)	85	544	
TND (no public sewers)	15	32	
<b>Commercial Zones</b>			
Restricted Business	240		2,618,530
Commercial	156		1,703,163
Major Arterial	39		429,472
<b>Industrial Use Zone</b>			
Industrial	1,127		7,366,052
<b>TOTAL</b>	<b>10,369</b>	<b>4,479</b>	<b>12,117,217</b>

The final analysis suggests the potential of an additional 4,480 housing units given current infrastructure constraints and available capacity. As of the 2010 Census there were 9,497 housing units in the town. Existing agricultural zoning classifications contain a majority of the large lot vacant acreage available for residential development. It is imperative that the sanitary sewer prioritization strategy outlined in Master Plan 2015 is adhered to, as this will maximize existing infrastructure investments and minimize sprawling growth into agricultural areas. Total potential build-out capacity will increase greatly if sewer infrastructure expands into agricultural areas. The Master Plan is critical of this possibility as it will increase the rate and total loss of prime agricultural lands.





# APPENDIX



## **APPENDIX**

- A. Resources for Additional Information and Technical Support
- B. Greenprint Brochure
- C. Greenprint Request for Proposals
- D. Public Meetings:
  - a. Public meeting flyer
  - b. Landowner meeting invitation
  - c. Public hearing minutes
- E. American Farmland Trust:
  - d. Is Your Town Planning a Future for Farms Checklist
  - e. Factsheet: Cost of Community Services Studies
- F. NYS Dept. of Agriculture and Markets:
  - f. Agricultural Districts Law Article 25-AA
  - g. Guidelines for Review of Local Zoning and Planning Laws
  - h. Lateral Restriction Guidelines
  - i. Agricultural Data Statement
- G. NYS Dept. of Taxation and Finance
  - j. Agricultural Assessment Program
- H. New York Direct Marketing Association:
  - k. Model Zoning for Roadside Stands and Farm Markets
- I. Greenprint Program PowerPoint presentation, June 2012



## **Resources for Additional Information and Technical Support**

### **American Farmland Trust**

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

112 Spring Street Suite 207  
Saratoga Springs, NY 12866  
(518) 581-0078  
[www.farmland.org/newyork](http://www.farmland.org/newyork)

### **Cornell Cooperative Extension of Erie County**

*Providing technical assistance to farmers and farm businesses*

21 South Grove Street  
East Aurora, NY 14052  
(716) 652-0100  
<http://cceeriecounty.shutterfly.com/>

### **Erie County Department of Environment and Planning**

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

95 Franklin Street, 10<sup>th</sup> Floor  
Buffalo, NY 14202  
(716) 858-8390  
[www2.erie.gov/environment/](http://www2.erie.gov/environment/)

### **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.agriculture.ny.gov](http://www.agriculture.ny.gov)

### **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](http://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](http://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](http://www.nyfarmnet)

**Western New York Land Conservancy**

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

P.O. Box 471

East Aurora, NY 14052

(716) 687-1225

[www.wnylc.org](http://www.wnylc.org)



If you are interested in protecting your land with the CLARENCE GREENPRINT program please contact the:

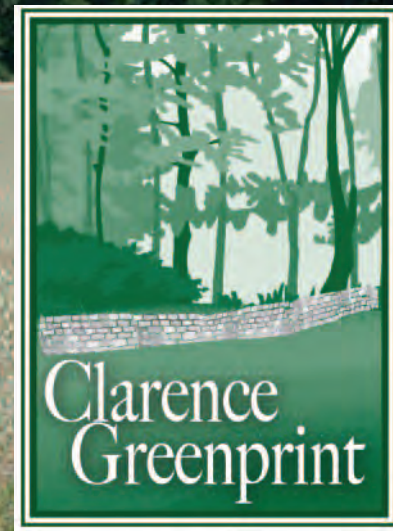
Planning Department  
Town of Clarence  
One Town Place  
Clarence, New York 14031  
716-741-8933  
jcallahan@clarence.ny.us

OR

Western New York  
Land Conservancy  
21 South Grove St, Suite 120  
East Aurora, NY 14052  
716-687-1225  
nancys@wnylc.org



The Western New York Land Conservancy, a not-for-profit land trust, dedicated to protecting the special natural places that make Western New York unique. The Land Conservancy is working in partnership with the Town of Clarence to identify and rank potential GREENPRINT properties and to ensure that GREENPRINT properties are monitored and protected for future generations.



#### CLARENCE GREENPRINT MISSION:

To preserve and protect ecologically significant landscapes, valuable agricultural resources, aesthetic beauty and the rural character of the town, while maintaining a stable tax base and managing growth.



"Greenprint purchases allow us to fulfill the Town of Clarence's goal of preserving our rural and historic character. The purchases have been an overwhelming success in preserving our town's quality of life."

– Clarence Supervisor Scott Bylewski



#### BACKGROUND:

In 2002, Town of Clarence voters approved bond funds of \$12.5 million for the GREENPRINT program.

GREENPRINT properties are protected in two ways. The town can purchase the land or the town can purchase the development rights and place a conservation easement on the land. A conservation easement is a legal agreement that limits future development of the land to protect conservation values such as scenic views, wildlife habitat or farmland.

The program is designed for interested and willing landowners. Priorities in selecting parcels for protection with GREENPRINT funds are based upon parcel size, proximity to other protected lands, natural features of the land, anticipated acquisition costs and other factors. All GREENPRINT projects must be approved by 2012.



**The eleven GREENPRINT properties protected thus far cover 679 acres. They are shown below.**



### Christner Farm – 90-acre farm on Salt Road



### Eichorn Farm – 180-acre farm on Salt Road



### Laubacher Preserve – a 20-acre preserve on Parker Road



**"I learned about farming from my dad, who learned from his dad. Today, much of their land has been developed. Because of the combined efforts of the Town of Clarence, the Western New York Land Conservancy, and the State and Federal governments, the farmland that we now own will be preserved .... My hope is that ... if my children and grandchildren choose to farm they will be able to." – Greg Spoth**

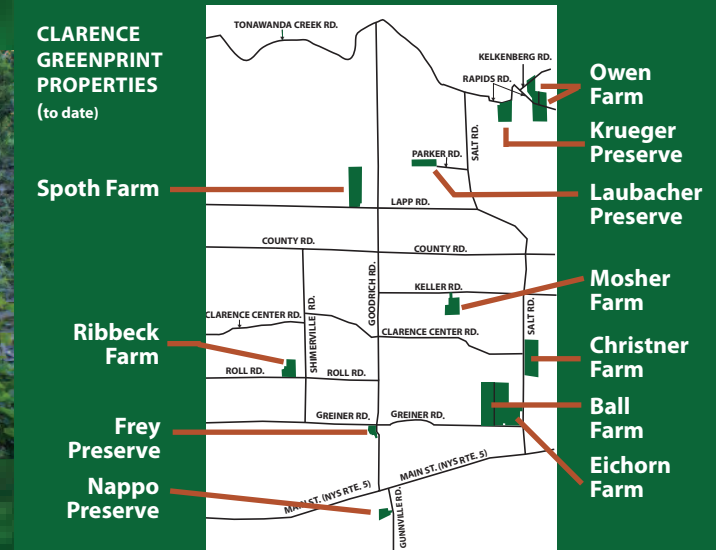
### Spoth Farm – a 102-acre farm on Lapp Road



### Owen Farm – 90-acre farm on Rapids Road



### Frey Preserve – 16-acre preserve on Greiner and Goodrich Roads



## Spoth Farm

**Ribbeck**

Frey

**Nappo Preserve**

**Ower**

Krueger  
Preserve

— **Laubacher**

## Mosh

Chris  
F...

## Farm

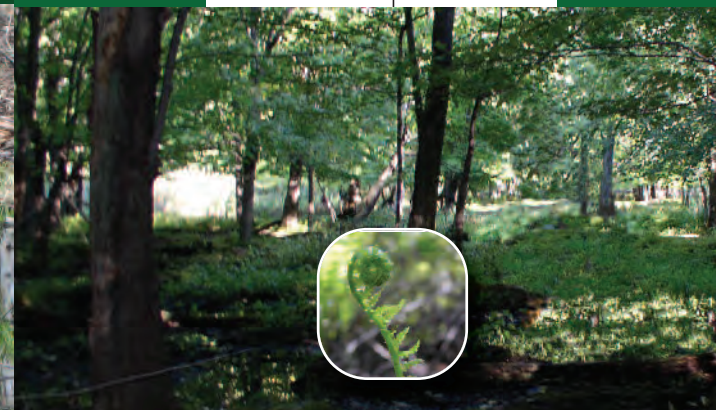
## Echo Farm



**Mosher Farm – 24 acres of farmland with 17 acres of forest adjacent to Memorial Park**



### Krueger Preserve – a 20-acre preserve on Rapids Road



**Nappo Preserve – a 21-acre preserve on Gunnville Road**



### Ribbeck Farm – a 61-acre farm on Roll Road



**Scott A. Bylewski**  
Supervisor



**Patrick Casilio, Jr.**  
Deputy Supervisor and  
Councilmember

Councilmembers:  
**Joseph N. Weiss**  
**Bernard J. Kolber**  
**Peter DiCostanzo**  
716-741-8929

# Request for Proposals

## Properties for Resale/Purchase/Lease

The Town of Clarence currently owns several parcels of conserved farmland that are available for purchase and/or lease. The opportunity to purchase/lease conserved agricultural land to farmers represents an effort by the Town to make farmland available to farmers and to further promote sustainable agriculture practices. The Town of Clarence is accepting requests for proposals for these properties.

The goals for these protected parcels include:

- Keeping agriculture land actively farmed.
- Supporting sustainable and viable farm operations.
- Creating opportunities for start-up farmers to start or grow their agricultural business.
  - Promoting the diversity of farming and farmers in the community.
  - Ensuring that these properties stay available and affordable for farmers.
    - Protecting scenic view sheds for public benefit purposes.

### Price and Term of the Purchase:

Price and term of the purchase/lease vary by property. Below is a list of current available properties. Please contact the Western New York Land Conservancy at (716)-687-1225 or the Town Attorney's Office at (716)741-8935.

### Selection Criteria:

The Town of Clarence will select proposals that best fit each location based on the following criteria:

- Proposals should include a business plan and land use management plan for the farming operations.
- The farming enterprise described in the proposal should a) be well suited to the size, soils, and configuration of the farmland; b) contribute to the local farm economy; c) be economically feasible; and d) promote sustainable agricultural practices.
- A description of your qualifications and experience to execute your business and management plans should be included.

If you are interested in purchasing/leasing conserved property, please provide us with a **written proposal** that addresses each of the aforementioned criteria. We are happy to schedule visits to the properties for any applicants interested in purchasing.

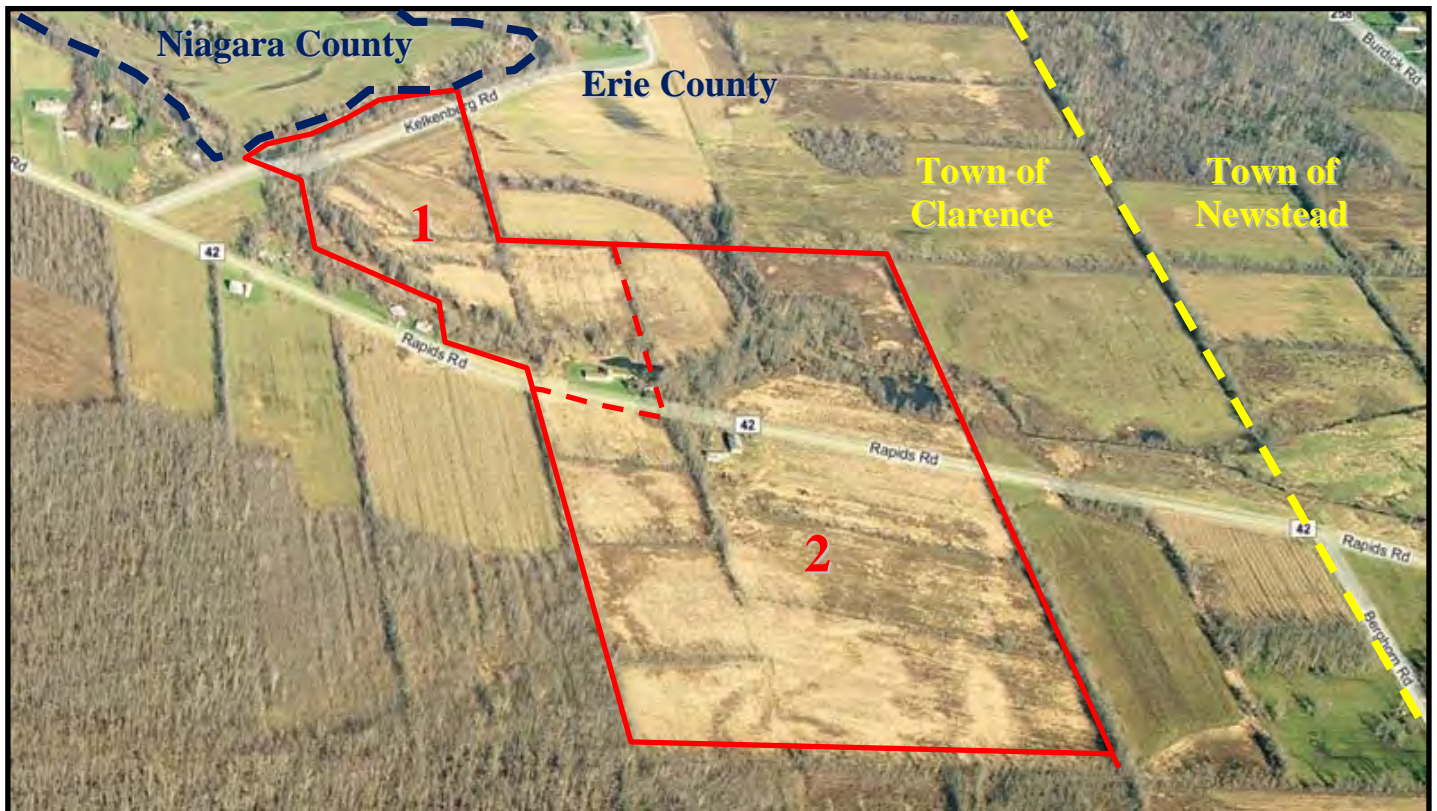


The Town of Clarence will acknowledge receipt of all proposals, to be reviewed by the Farmland Protection Committee and approved by the Town Board. The Town of Clarence reserves the right to reject any and all proposals.

If you have further questions about the properties or process, please contact Town Attorney Steven Bengart at (716)741-8935. We look forward to hearing from you.

### **Available Properties for Purchase/Lease**

**Owen Farm:** 89.9 acres located on two (2) sides of Rapids Road, includes a home and two (2) barns.



### **Parcel Data**

2 parcels consisting of 89.9 acres under the ownership of the Town of Clarence.

#### **Parcel 1**

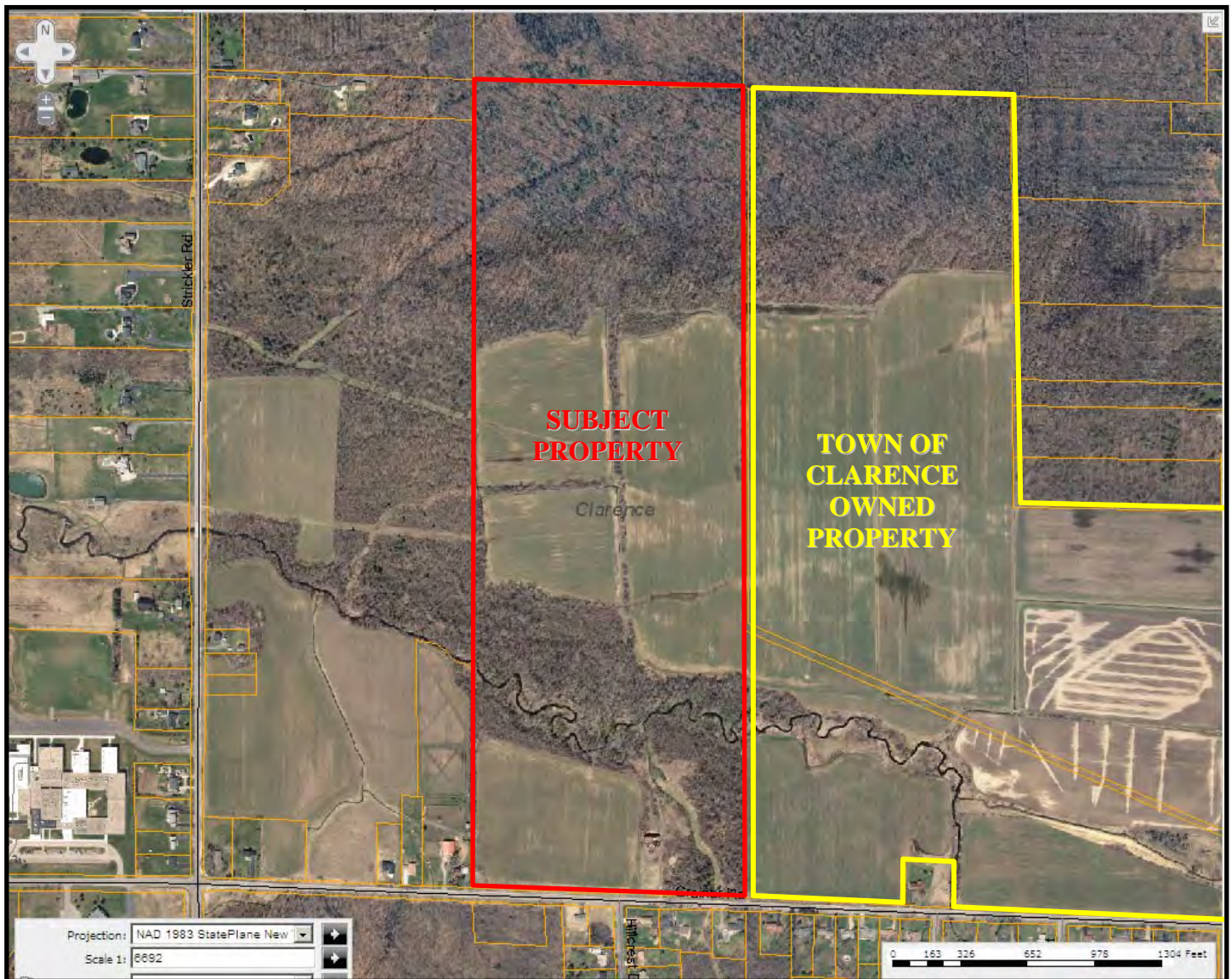
Location:	10800 Rapids Road
SBL #:	19.00-3-2.1
Owner:	Town of Clarence
Total Acreage:	21.9
Frontage:	1,396'
Depth:	1,500'
Land Assessed Value:	\$58,700
Total Assessed Value:	\$194,000
Sewer District:	No
Zoned:	Agricultural-Floodzone
Agricultural District:	Yes (Clarence-Newstead)

#### **Parcel 2**

Location:	10881 Rapids Road
SBL #:	19.00-3-5
Owner:	Town of Clarence
Total Acreage:	68
Frontage:	1,450'
Depth:	2,700'
Land Assessed Value:	\$117,200
Total Assessed Value:	\$126,000
Sewer District:	No
Zoned:	Agricultural-Floodzone
Agricultural District:	Yes (Clarence-Newstead)



**Ball Farm:** 121 acres located on the north side of Greiner Road, east of Strickler Road, with no usable improvements to the property.



### **Parcel Data**

1 parcel consisting of 121 acres under the ownership of the Town of Clarence.

Location:	10460 Greiner Road
SBL #:	59.00-3-29
Owner:	Town of Clarence
Total Acreage:	121
Frontage:	1,320'
Depth:	3,950'
Land Assessed Value:	\$415,400
Total Assessed Value:	\$415,400
Sewer District:	No
Zoned:	Agricultural Rural Residential
Agricultural District:	No





**ATTENTION FARMERS, LOCAL  
RESIDENTS, FOOD ADVOCATES,  
ENVIRONMENTALISTS, AND OTHERS  
INTERESTED IN FARMS, FOOD, AND  
LAND PRESERVATION IN THE TOWN  
OF CLARENCE**

**Please join the Clarence Farmland Protection Committee on:**

**THURSDAY, APRIL 7, 2011, 7 PM  
AT THE CLARENCE PUBLIC LIBRARY  
3 TOWN PLACE, CLARENCE  
FOR A PUBLIC MEETING**

**Who:** Farmers, landowners, and individuals interested in supporting farms in Clarence should plan to attend.

**Why:** The Town is developing a strategy to protect valuable farmland, and to support the agricultural businesses that contribute to the local economy. This strategy will strengthen Clarence's current Greenprint program, an open space and land conservation program. Come learn about the planning process and offer your thoughts about supporting local agriculture.

**Reservations are not required. For additional information, please contact Brad Packard at [bpackard@clarence.ny.us](mailto:bpackard@clarence.ny.us) or 741-8933**

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**Join us to learn more about farming, food production, and efforts to plan for agriculture in the Town of Clarence, and to offer your thoughts about what can be done to support the viability of our local farms.**







**ATTENTION FARMERS, LOCAL  
RESIDENTS, FOOD ADVOCATES,  
ENVIRONMENTALISTS, AND OTHERS  
INTERESTED IN FARMS, FOOD, AND  
LAND PRESERVATION IN THE TOWN  
OF CLARENCE**

**Please join the Clarence Farmland Protection Committee on:**

**TUESDAY, NOVEMBER 29, 2011 @ 7 PM**

**AT THE CLARENCE PUBLIC LIBRARY**

**3 TOWN PLACE, CLARENCE, NY 14031**

**Who:** Farmers, landowners, and individuals interested in supporting farms in Clarence should plan to attend.

**Why:** The Town has been developing a strategy to protect valuable farmland, and to support the agricultural businesses that contribute to the local economy. This strategy will help to strengthen Clarence's current Greenprint program, an open space and land conservation program, while supporting our local agricultural economy. Come learn about the planning process thus far, be informed of preliminary plan recommendations, and offer your thoughts about supporting local agriculture.

**Reservations are not required. For additional information, please contact Brad Packard at [bpackard@clarence.ny.us](mailto:bpackard@clarence.ny.us) or (716)741-8933**

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**Join us to learn more about farming, food production, and efforts to plan for agriculture in the Town of Clarence, and to offer your thoughts about what can be done to support the viability of our local farms.**





**TOWN BOARD MEETING DATE:**

Wednesday, May 23<sup>rd</sup> @ 7:30 PM

**AGENDA ITEM NO./NAME:**

Agenda Item No. 11- Public Hearing @ 7:45 PM

Public Hearing to provide an opportunity for public comment and any recommended changes on the proposed Draft Agricultural and Farmland Protection Plan

**PUBLIC HEARING MEETING MINUTES:**

A Public Hearing was held to provide an opportunity for public comment and any recommended changes on the proposed Draft Agricultural and Farmland Protection Plan. Brad Packard said that the Office of Planning and Zoning made application in March of 2010 for a grant opportunity with the New York State Department of Agriculture and Markets to pursue the drafting of a Local Agricultural and Farmland Protection Plan. We were awarded a \$25,000 planning grant to develop the plan. The desire of this plan is to help slow and prevent the loss of prime and important farming soils in the community in association with a long term effort that will also aid in the strengthening of our local agricultural economy and business base.

Clarence lost 553 acres of farmland, 12% of the farmland base, from 2000 to 2010. In that same decade the population of the town grew by 17%. This has had a dramatic impact upon our local agricultural base and economy. In an effort to properly analyze this impact and assess planning considerations for the future, we worked with residents to form a Farmland Protection Committee comprised of community members engaged in farming and associated agricultural practices. They reviewed a number of interested consultants who specialized in this planning process and opted to work with the American Farmland Trust, a nationally recognized land preservation and conservancy organization. Diane Held has worked with our office and the Committee as a project manager for our community. Diane is concurrently managing the development of an Erie County based regional farmland protection plan.

Diane Held said this has been a public process. The members of the committee are very dedicated to creating the plan to have a voice for agriculture. They have had a public information meeting, a landowner meeting and the public hearing tonight. This is a State funded grant, which has some specific requirements.

Ms. Held said approximately 44% of the land in Clarence is agricultural with only 11% actively farmed. There are three main strategies of the proposed Agricultural and Farmland Protection Plan. The key pieces are to protect farmland and supporting the viability of farms.

Strategy A is to protect farmland. They would like to have the Farmland Protection Committee approved as a permanent committee with a role in the Greenprint process. The goals also include annual farm landowner meetings, adoption of the Agricultural Plan as part of the Master Plan, develop incentives to maintain "farm ready" land, encourage leasing of land for farming purposes and zoning revisions.

Strategy B is a plan for infrastructure. Consideration of farmland when installing waterlines, sewer lines, roads, etc. Drainage was a very important issue. They would like to be a part of planning what needs to be done about drainage and maintenance of ditching. Notification of proposed infrastructure changes in Ag Districts to include agricultural needs.

Strategy C is promoting agriculture. Liaison to the Bee and a web page on the Town's website. Assist farmer's market with promotions and ideas for growth. The County is doing a plan as well with a focus on economic development. Farmers markets play a part in that.

Ms. Held said her organization, the American Farmland Trust, is the consultant, along with the Western New York Land Conservancy as a sub-consultant.



Supervisor Hartzell appreciates her effort for the Town of Clarence. This is part of what makes our Town so great.

With no one else speaking to the subject, motion was made by Supervisor Hartzell, seconded by Councilman Casilio to close the Public Hearing. Upon roll call – Ayes: All; Noes: None. Absent: Councilman Bernard Kolber. Motion carried.



# Is Your TOWN Planning a Future for Farms?

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

### Encourage Public Appreciation for Local Agriculture

*Does your town...*

☐ 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

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

☐ 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 more than 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?

### Strengthen Economic Opportunities for Farms and Related Businesses

*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 appropriate 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 limited to how much is grown on the farm but should also consider what benefits 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

**...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.

☐ 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?

## Encourage the Long-Term Viability of Farming and Food Production

*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 overlook

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 policies aimed at limiting the impact of new development on productive farmland?**

Does your town have strategies for limiting the footprint of new development? 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 development 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.

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

*Does your 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**

**...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**

**...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**

**...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**

**...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.

## Protect Agricultural Land and Keep It Actively Farmed

*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. 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. General 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.



## *Total Your Score!*

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

#### **Yes on 20-24**

Your town is very active in supporting a future for farming!

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

Your town knows that farmers are good neighbors who provide lots of benefits to your quality of life, but you may need help in pro-actively supporting them.

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

Careful! Your town may be less supportive of farms than you think—even unfriendly, perhaps inadvertently.

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

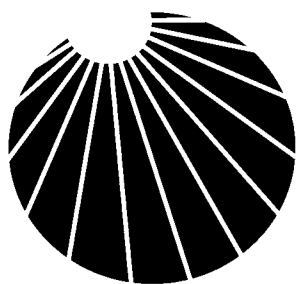
It's time to get to work on understanding farmers in your town and how you can help support their business and land use needs.

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

Yours is not a farm friendly town, but there is still hope. Seek help immediately from farmers, farm groups and related organizations.

This questionnaire was developed based upon a section of *Preserving Rural Character through Agriculture*, written by Gary Matteson for the New Hampshire Coalition for Sustaining Agriculture.





FARMLAND  
INFORMATION  
CENTER

# FACT SHEET

## COST OF COMMUNITY SERVICES STUDIES



FARMLAND INFORMATION CENTER  
(800) 370-4879  
[www.farmlandinfo.org](http://www.farmlandinfo.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, which is very important to rural economies.

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

### FUNCTIONS & PURPOSES

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

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

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

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



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

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



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

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



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

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



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

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

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

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



## COST OF COMMUNITY SERVICES STUDIES

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

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

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

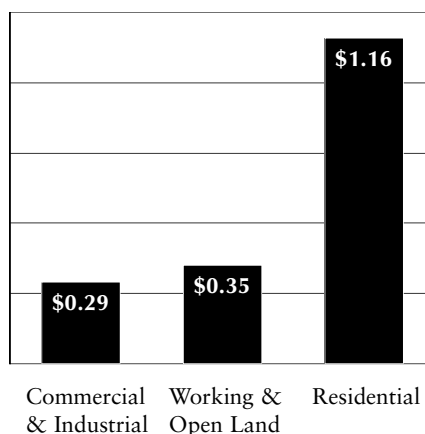
The findings of COCS studies are consistent with those of conventional fiscal impact analyses, which document the high cost of residential development and recommend commercial and industrial development to help balance local budgets. What is unique about COCS studies is that they show that agricultural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

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

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

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

Median COCS Results



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



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**New York State**

**Department of Agriculture and Markets**

**10B Airline Drive**

**Albany, New York 12235**  
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**CIRCULAR 1150**

**ARTICLE 25AA -- AGRICULTURAL DISTRICTS**

**AGRICULTURE AND MARKETS LAW**

**(AS AMENDED THROUGH October 1, 2011)**  
**AGRICULTURAL DISTRICTS LAW**



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

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

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

Effective Date: 9/7/99

Section Amended: §301(9)(e)

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

Effective Date: 9/7/99

Section Amended: §303-a(4)

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

Effective Date: 7/20/99

Section Amended: §303-a(4)

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

Effective Date: 7/20/99

Section Amended: §305(7)

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

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



Section Amended: §308(3)

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

Effective Date: 4/6/99

Section Repealed: §309(8) & (9)

Description: Repeals the two subdivisions

Effective Date: 7/20/99

Section Amended: §309(10)

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

Effective Date: 7/20/99

Section Amended: §310(1)

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

Effective Date: 7/1/00

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

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

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

Effective Date: 7/11/00

Section Amended: §308(1)(b)

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

Effective Date: 11/8/00



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

Section Amended: §301(11)

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

Effective Date: 10/23/01

Section Amended: §301(11)

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

Effective Date: 10/31/01

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

Section Amended: §301(4)

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

Effective Date: 1/30/03

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

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

Effective Date: 1/1/03



Section Added: §301(9)(f)

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

Effective Date: 9/17/02

Section Amended: §301(11)

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

Effective Date: 1/1/03

Section Amended: §301(13)

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

Effective Date: 1/1/03

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

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

Effective Date: 12/20/02

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

Section Added: §301(4)(h)

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

Effective Date: 9/9/03

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

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



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

Effective Date: 9/22/03

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

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

Effective Date: 9/17/03

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

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

Effective Date: 9/17/03

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

Section Amended: §301(4)(h)

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

Effective Date: 2/24/04

Section Amended: §301(4)(i)

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

Effective Date: 1/1/05

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

Section Amended: §301(2)(e)

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



Effective Date: 7/12/05

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

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

Effective Date: 8/23/05

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

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

Effective Date: 8/23/05

Section Amended: §305-b

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

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

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

Section Amended: §301(4)

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

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

Section Amended: §§301 and 308(1)

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



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

Effective Date: 8/16/06

Section Amended: §305(1)(a)

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

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

Section Amended: §305(7)

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

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

Section Amended: §310(1), §308(5)

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

Effective Date: 7/26/06

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

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

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

Effective Date: 7/3/07

Section Amended: §304-a



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

Effective Date: 6/4/07

Section Amended: §305(1)(a)

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

Effective Date: 8/15/07

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

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

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

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

Section Amended: §301(4)(a-1)

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

Effective Date: 9/25/08

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

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



Effective Date: 9/4/08

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

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

Effective Date: 9/4/08

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

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

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

Effective Date: 6/15/10

Section Amended: §301(15)

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

Effective Date: 5/18/10

Section Amended: §303-a(5)

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

Effective Date: 6/15/10

Section Amended: §305(7)



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

Effective Date: 7/30/10

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

Section Amended: §301(4)(c)

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

Effective Date: 6/8/11

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

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

Effective Date: 8/3/11

Section Amended: §302(1)(a)

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

Effective Date: 7/20/11

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

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

Effective Date: 9/23/11



ARTICLE 25-AA

AGRICULTURAL DISTRICTS

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

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

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

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

**§ 301.** Definitions. When used in this article:

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

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

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

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

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

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

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

f. Maple sap.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* NB There are 2 subd. 16's

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

(2) The notice shall contain the following information:

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

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

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

(i) the original proposal;

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

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

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

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

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

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

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

iv. county developmental patterns and needs; and

v. any other matters which may be relevant.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

- (iv) alternatives to the proposed action;

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

identified in the agricultural data statement.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

brought by a person.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



## **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<sup>1</sup>) 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 farm operations 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 land use issues examined. The process could be used to examine a parcel's current characteristics and its surroundings in relation to any proposed activities on the farm and their potential impact to neighboring properties and the community. For example, municipalities could specify that farm operations located within specific zoning districts must submit to site plan review. Municipalities may also elect to

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



exempt farm operations, located within a county adopted, State certified agricultural district, from their site plan review process.

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.

Show the proposed location and arrangement of specific land uses, such as pasture, crop fields, woodland, livestock containment areas, or manure storage/manure composting sites.

- 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 farm operation (existing and/or proposed) and a narrative of the intended use and/or location of 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 agricultural activity, including the construction of farm buildings/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 should be completed relatively quickly.<sup>2</sup> 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 agricultural activity and/or the construction of 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

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<sup>2</sup> Please see discussion of Agricultural Exemptions below.



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 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 (3<sup>rd</sup> Dept. 1998), for application of the exemption to the manure management activities of a hog farm and *In the Matter of Humane Society of the United States v. Empire State Development Corporation*, 53 A.D. 3d 1013, 863 N.Y.S. 2d 107 (3<sup>rd</sup> Dept., 2008) where ESDC’s classification of the issuance of a grant for the construction or renovation of on-farm buildings for treatment of manure and raising livestock as a Type II action was upheld.]

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.<sup>3</sup>

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



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 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 laws<sup>4</sup>:

### **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

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



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 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(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" as determined by the Department.

For agricultural assessment purposes, however, AML §301(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). AML §301(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(4)(h).

Local requirements for minimum lot sizes for farm buildings raise 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.

## **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.



**PROCESSING AN AGRICULTURAL DATA STATEMENT**  
(Pursuant to Section 305-a of the Agriculture and Markets Law)

- Any application requiring:           Special use permit  
  Site plan approval  
  Use variance or  
  Subdivision approval

Which requires approval by:       A Planning Board  
  Zoning Board of Appeals  
  Town Board or  
  Village Board of Trustees

Must submit an Agricultural Data Statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district.

- Content of an Agricultural Data Statement requires:
  - Name and address of applicant,
  - Description of the proposed project and its location,
  - Name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundaries of the property upon which the project is proposed
  - A tax map or other map showing the site of the proposed project relative to the location of the farm operations identified in the ADS.
- The Clerk of the appropriate governmental entity is required to mail a written notice containing a description of the proposed project and its location to owners of land as identified by the applicant in the ADS.
- The local reviewing board must evaluate and consider the ADS to determine the possible impacts of the proposed project may have on the functioning of farm operations within the subject agricultural district.

**Procedural Considerations**

- A map of the town's agricultural district(s) should be well displayed within the municipal office where land use applications are submitted. The map will benefit both the applicant and municipal review officer in determining the

location of the subject parcel. An Agricultural District map<sup>1</sup> can be obtained from either the County Planning Department or Clerk of the County Legislative Body.

- The local reviewing board should ascertain present and future farming conditions to ensure the proposed land use does not conflict with current or future farming activities. A farmer's knowledge of local agricultural conditions is fundamental for the local reviewing board's evaluation and determination of appropriate mitigation measures and whether the action proposed will conflict with farming practices.
- The County Agricultural and Farmland Protection Board may assist local reviewing boards in project evaluation. Members of the Board include the County Planning Directors, a County Cooperative Extension Agent and the Chair of the County Soil and Water Conservation District's Board of Directors.
- A copy of the completed ADS and action by the local reviewing board should be submitted to the County Agricultural and Farmland Protection Board for its records.

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<sup>1</sup> Tax map identification numbers of all parcels within a district are listed and are on file at either the County Real Property Tax Office or the County Clerk's Office.



## AGRICULTURAL DATA STATEMENT

1. Name and address of applicant:

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2. Location of the proposed action:

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3. Description of the proposed action to include: (1) Size of parcel or acreage to be acquired and tax map identification number of tax parcel(s) involved; (2) The type of action proposed (e.g., single-family dwelling or subdivision, multi-family development, apartment complex, commercial or industrial facility, school, community or public service facility, airport, etc.) and (3) project density.

**[Please provide this information on the reverse side of this application and attach additional description as necessary.]**

4. Name, address, telephone number and type of farm of owner(s) of land within the agricultural district which land contains farm operation(s) and upon which the project is proposed or which is located within 500 feet of the boundary of the property upon which the project is proposed:

A. Name: \_\_\_\_\_  
Address & Telephone #: \_\_\_\_\_  
Type of farm: \_\_\_\_\_

B. Name: \_\_\_\_\_  
Address & Telephone #: \_\_\_\_\_  
Type of farm: \_\_\_\_\_

C. Name: \_\_\_\_\_  
Address & Telephone #: \_\_\_\_\_  
Type of farm: \_\_\_\_\_

D. Name: \_\_\_\_\_  
Address & Telephone #: \_\_\_\_\_  
Type of farm: \_\_\_\_\_

5. Tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the ADS.



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

**AGRICULTURAL ASSESSMENT PROGRAM  
UPDATE**

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

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

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

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

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

**Recent Program Changes**

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

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

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

**NYS DEPARTMENT OF TAXATION & FINANCE  
OFFICE OF REAL PROPERTY TAX SERVICES****AGRICULTURAL ASSESSMENT APPLICATION  
FOR THE 20\_\_ ASSESSMENT ROLL**

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

**TO BE COMPLETED BY THE ASSESSOR**

Application Date	Tax Map Number	Exemption Amount \$	Exemption Code <input type="checkbox"/> 41720-County Formed Ag. Dist. <input type="checkbox"/> 41730-Outside Ag. District <input type="checkbox"/> 41750-New orchard/vineyard
<input type="checkbox"/> Soil maps filed on ____/____/____ <input type="checkbox"/> Soil group worksheet filed on ____/____/____ <input type="checkbox"/> Soil map or soil worksheet modification (use RP-305-d) ____/____/____ Sent Received <input type="checkbox"/> Property located in an established agricultural district? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Form RP-305-a sent			
Assessor's Signature _____			_____/_____/_____ Date

**INFORMATION TO BE COMPLETED BY APPLICANT**

Tax Map Number	Acres	Is parcel in an agricultural district? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, provide County District Number _____
<b>Mailing Address</b>		<b>Property Location</b>
Landowner Name _____		Same as Mailing Address <input type="checkbox"/> (check)
Number and Street _____		Or _____
City _____	State _____	ZIP Code _____
Telephone: Day No. _____	Evening No. _____	County _____
Email address (optional) _____		Town _____
		Village _____

**CERTIFICATION OF APPLICANT**

I, _____ certify that the information entered on this application constitutes a true statement of facts to the best of my knowledge and that all lands described are used for the purposes stated herein. I have read the notice page explaining the consequences for converting land to a nonagricultural use and understand that conversion of this parcel may subject it to payments based upon the amount of taxes saved.	
_____ Date	_____ Signature of Owner

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

(Continued on next page)



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

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

**(1) Agricultural Land**

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

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

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

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

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

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

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

(Continued on next page)

**Part 4. Average gross sales value:****Note: Newly established farm operations should enter annual gross sales only for the first or second year of production.**

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

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

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

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

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

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

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

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

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

**Part 7. Land under a structure within which crops, livestock or livestock products are produced:****Note: Newly established farm operations should enter annual gross sales only for the first or second year of production.**

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

(Continued on next page)

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

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

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

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

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

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

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

(f) Is the land leased pursuant to a written rental arrangement? ☐ Yes ☐ No

Period of time for which lease is in effect: \_\_\_\_\_ years

Attach a copy of the lease or an affidavit (Form RP-305-c) attesting to the existence of the lease.

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

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

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

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

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

*(Continued on next page)*



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

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

**CERTIFIED VALUE ON ELIGIBLE AGRICULTURAL LANDS**

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

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

**ASSESSOR'S USE ONLY**

Assessor's agricultural assessment calculation on eligible agricultural lands

$$\begin{array}{rclcl}
 \text{Total Certified Value} & \times & \text{Equalization Rate} & = & \text{Total Agricultural Assessment} \\
 \hline & \times & \hline & = & \hline
 \end{array}$$

Additional Calculations:

**ASSESSOR'S USE ONLY****WORKSHEET FOR APPORTIONMENT OF FARM ASSESSMENT**

Assessor may use RPS 4 to complete these calculations.

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

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

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

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

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

## GENERAL INFORMATION AND FILING REQUIREMENTS

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

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

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

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

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

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

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## ELIGIBILITY REQUIREMENTS FOR AGRICULTURAL ASSESSMENT

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

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

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

or

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

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

or

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

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

or

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

or

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



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

or

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

or

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

or

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

or

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

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

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

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

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## INSTRUCTIONS FOR APPLICANT

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### For Questions on page 2

#### Part 1 Use of Land

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**For Questions on Page 3**

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

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

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

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

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

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

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

**For Questions on Page 4**

**Part 9. Certified value on eligible agricultural lands.**

Applicants must complete column 2 of Part 9 on page 4. See instructions on page 4.

**CERTIFICATION BY APPLICANT**

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



# **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'.

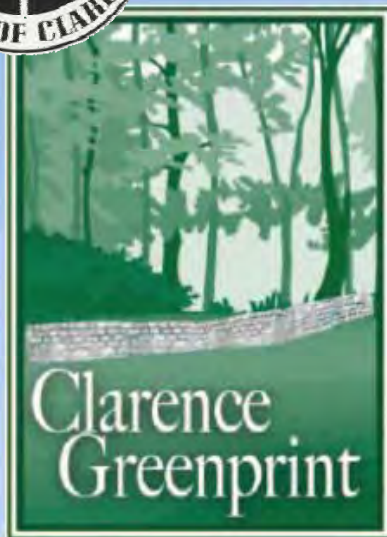
(Buffers are recommended in addition to any required setbacks if next door use is substantially different.)

Water: Potable water on site is required.

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



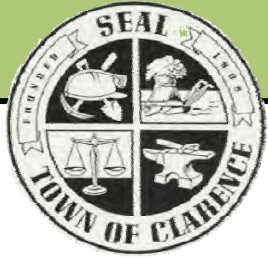
Town of Clarence, New York



# CLARENCE GREENPRINT PROGRAM







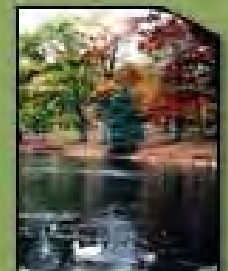
# Town of Clarence, New York

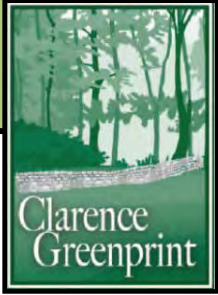
## Clarence Greenprint Program

June 6, 2012

### Presentation Outline

- I. The Greenprint Project:
  - Brief history and background
- II. Estimated Costs and Anticipated Benefits
- III. Greenspace Review
- IV. Properties Purchased/Program Expenses
- V. Actual Program Expenses
- VI. Actual Program Benefits
- VII. Achieving the Goals of Master Plan 2015





# **Town of Clarence, New York**

## **Clarence Greenprint Program**

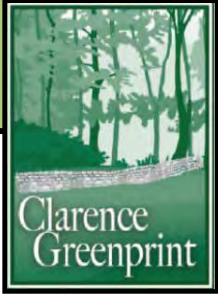
**June 6, 2012**

### **I. Project History/Origin**

**1998- The Clarence Recreation Advisory Committee (“Committee”) began research and analysis of residents’ concerns over sprawl, congestion and quality of life issues. The Committee undertook a review of efforts by other communities across New York State to preserve open space.**

**2002- The Committee formally proposed to the Town Board a plan to preserve open space and the town’s rural character, protect property values and sustain the tax base through smart growth and balanced development.**

**The Committee recommended a Public Referendum to provide Greenprint Program funding.**



## **Town of Clarence, New York**

### **Clarence Greenprint Program**

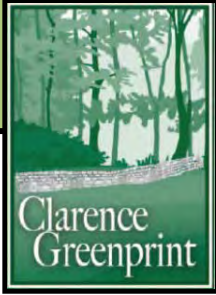
**June 6, 2012**

**2002- The Town Board accepts the Committee's recommendation and a Public Hearing was held. The Committee presented the Greenprint Program proposal and received public comment.**

**Late 2002- The Greenprint Program is approved in a public referendum by 2/3 vote of Town residents.**

**Bond funds of \$12.5 million are secured as part of a 10 year Greenprint Preservation program. If after ten years the budget is not expended, the Town Board has the option to extend.**





# Town of Clarence, New York

## Clarence Greenprint Program

June 6, 2012

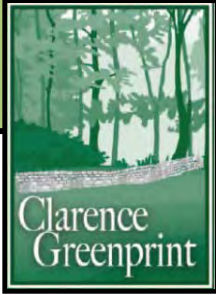
### **II. Estimated Costs and Anticipated Benefits**

#### **Estimated Costs**

- ☐ The Committee estimated an increase of \$52 in additional annual taxes for a property assessed at \$100,000, assuming the full \$12.5 million bond were spent at once.

#### **Anticipated Benefits**

- ☐ Increased property values.
- ☐ Reduction of municipal expenses through decreased demand on services.
- ☐ Balanced economic growth, tax stabilization, green space preservation and enhanced quality of life.



# **Town of Clarence, New York**

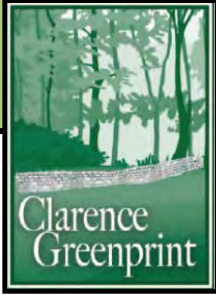
## **Clarence Greenprint Program**

**June 6, 2012**

### **III. Greenspace Review**

#### **1) Preliminary Review**

- ☐ **Willing property owners complete a participation interest survey. The Committee, in conjunction with the Western New York Land Conservancy (“Land Conservancy”) analyzes property data, screens interest of the applicant, assesses development potential, natural land, wetland, agricultural, open space, possible recreational use/bikepaths, size, and scenic considerations of the property.**
- ☐ **The Committee decides whether the property fits within the goals and parameters of the program and is suitable for further consideration.**
- ☐ **The Town Office of Planning and Zoning and Land Conservancy provide parcel data and an environmental review for the consideration of the Committee.**



# Town of Clarence, New York

Clarence Greenprint Program

June 6, 2012

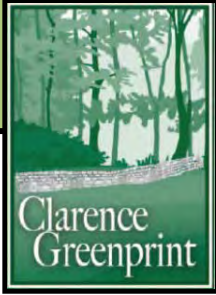
## **2) Matrix Evaluation and Property Ranking**

❑ The Land Conservancy evaluates and ranks each property with a point matrix analysis form arranged in 2 categories:

**-Natural Land Form-** Analyzes natural land features: wetland and riparian corridors, scenic views, unique ecological communities, wildlife habitat, mature forests, open space, and creek corridors.

**-Agricultural Land Form-** Analyzes agricultural land: value to the local agricultural economy, soil type, size, and proximity to adjacent farms.





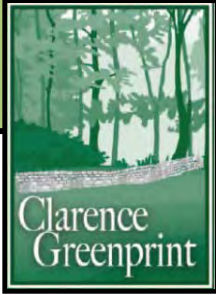
## Town of Clarence, New York

Clarence Greenprint Program

June 6, 2012

### **3) Fair Market Appraisal and Price Negotiation**

- ☐ Based upon all data received and land rankings, the Committee decides whether to request a Fair Market Property Appraisal.
- ☐ The Committee reviews the Property Appraisal and discusses with the property owner whether to purchase outright and/or to place a conservation easement on the property or purchase development rights.
- ☐ The Committee provides the Town Attorney's Office with a not to exceed value and authorizes negotiations. The negotiated price may not exceed appraised value.



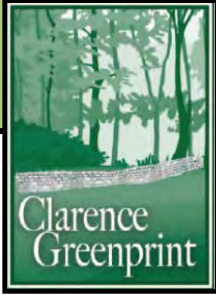
# **Town of Clarence, New York**

## **Clarence Greenprint Program**

**June 6, 2012**

### **4) Town Board Review and Approval:**

- ☐ **After agreement with the property owner, the Committee recommends acceptance by the Town Board.**
- ☐ **The Board decides whether to conduct a public hearing to receive public comment.**
- ☐ **The Town Board makes the final decision whether to contract with the property owner.**
- ☐ **If the Town Board decides to purchase, the property or development rights are acquired and the land is preserved as forever green.**



# Town of Clarence, New York

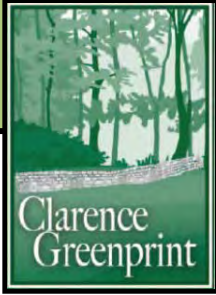
## Clarence Greenprint Program

June 6, 2012

### IV. Properties Purchased

PROPERTY ADDRESS	PDR/LAND PURCHASE (YEAR)	TOTAL LAND AREA	COST INCURRED	CURRENT OWNER
Salt Road/Greiner Road ("Eichorn Farm")	Land Purchase(2004)	184 acres	\$780,000	Town of Clarence
Gunnville Road ("Nappo Preserve")	Land Purchase (2004)	22 acres	\$42,800	Town of Clarence
10591 Rapids Road ("Krueger Preserve")	Land Purchase (2004)	57 acres	\$128,600	Town of Clarence
Goodrich Road ("Frey Preserve")	Land Purchase (2005)	16 acres	\$400,000	Town of Clarence
Roll Road ("Ribbeck Farm")	PDR (2005)	62 acres	\$431,368	Gregory C. Ribbeck
Parker Road ("Laubacher Preserve")	Land Purchase (2005)	30 acres	\$36,000	Town of Clarence
Rapids Road ("Owen Farm")	Land Purchase (2008)	90 acres	\$320,000	Town of Clarence
Salt Road ("Christner Farm")	Land Purchase (2009)	96 acres	\$705,000	Town of Clarence
Lapp Road ("Spoth Farm")	PDR (2009)	102 acres	(TOC- \$300,000) (NYS-\$150,000) (FED- \$150,000) TOTAL- \$600,000	Greg Spoth
Keller Road ("Mosher Farm")	Land Purchase (2009)	41 acres	\$331,280	Town of Clarence
Greiner Road ("Ball Farm")	Land Purchase (2010)	120 acres	\$900,000	Town of Clarence
Rapids Road ("Baker Farm")	PDR (2011)	102 acres	\$95,000	Gary Baker
Rapids Road ("Hedges Farm")	PDR (2011)	116 acres	\$500,000	Melvyn C. Hedges
Harris Hill Road ("Deni Preserve")	Land Purchase (2011)	86 acres	\$825,000	Town of Clarence
Shimerville Road/Roll Road ("Ribbeck Farm II")	PDR (2012)	84 acres	\$754,110	Gregory C. Ribbeck
	<b>TOTAL:</b>	<b>1,236 acres</b>	<b>\$6,802,328</b>	





## Town of Clarence, New York

### Clarence Greenprint Program

June 6, 2012

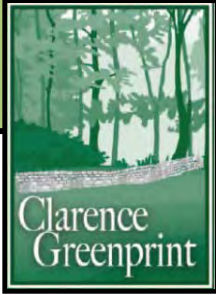
#### V. Actual Program Expenses

##### Tax Impact- Property Acquisition and Purchase of Development Rights

❑ Resultant Tax Increase per \$100,000 of Assessed Value:

Committee's Cost Estimate for full \$12,500,000 expenditure-	\$52.00
<b>Actual Cost of \$ 6,802,328 expenditure-</b>	<b>\$14.10*</b>
Actual Cost of \$12,500,000 expenditure-	\$30.40

*\*As discussed later, cost reduction can be achieved by reselling purchased property with conservation easements in place ensuring continued protection of greenspace.*



# Town of Clarence, New York

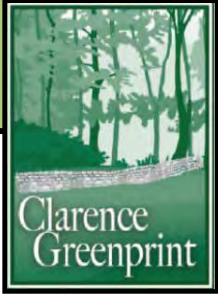
## Clarence Greenprint Program

June 6, 2012

### VI. Actual Program Benefits

#### **1) Protection of Property Values and Stabilization of Tax Rates**

- ☐ The availability of open space directly affects quality of life which is a significant factor in the purchasing decisions of many consumers. Local sales data reflects an average 15% increase in property sale value of those properties directly adjacent to open space or permanently conserved property compared to similar non-adjacent housing.
- ☐ The average appreciation rate of existing property within the Town of Clarence is 5 times that of comparable Towns in the region. Furthermore, the Town has sustained an average 3% positive appreciation rate for the past decade. (*source: County Wide Equalization Change, 2009-2011*)
- ☐ When comparing the Town of Clarence to similar communities across the region, residents in other communities are paying an average of 30% more in total property taxes. (*source: 2010-2011 Erie County Real Property Tax Comparison*)



# Town of Clarence, New York

Clarence Greenprint Program

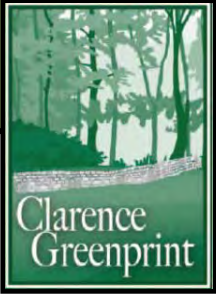
June 6, 2012

## VI. Actual Program Benefits

### *1) Protection of Property Values and Stabilization of Tax Rates (Cont.)*

- ☐ In 2011, the Town of Clarence had a 2.32% increase in existing property assessed valuations. This increase resulted in an additional \$78,499,025 in assessed valuation within the community.
- ☐ Assuming only 10% of the overall assessed valuation increase of existing properties can be attributed to open space preservation, the program is responsible for \$1,712,700 in additional tax revenue for the community over a 20 year period.





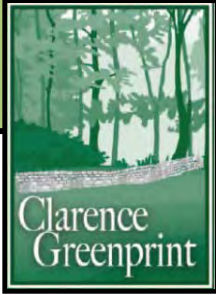
## Town of Clarence, New York

Clarence Greenprint Program

June 6, 2012

### **2) Optional Resale of Purchased Properties with Conservation Easement Protection**

- ☐ If the Board exercised the option to resell properties protected by conservation easements, the Town would recoup approximately \$1,250,000, while still ensuring the land is permanently protected as open space.
- ☐ Additional tax revenue from resold land over 20 years: \$226,280.
- ☐ Therefore, the total potential Greenprint Program cost reduction that could be realized through resale of protected properties and additional tax revenues would total \$3,188,980.
- ☐ Applying this cost reduction to the actual current expenditure of \$6,802,328 would yield an actual cost to the taxpayers of only \$6.60 per \$100,000 of assessed valuation annually.



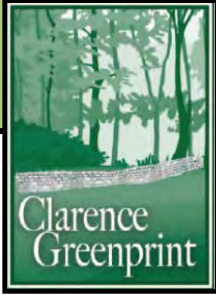
## Town of Clarence, New York

Clarence Greenprint Program

June 6, 2012

### **3) Reduced Costs of Required Services**

- ☐ Since 1980, developed area in WNY increased 38 percent, households increased by only 5.5% and population declined by 5.8% (*source: Erie Niagara Framework for Regional Growth*). This suburban sprawl has caused a dramatic increase in demand for expensive municipal services while the tax base required to pay for the increased demand has decreased.
- ☐ The Greenprint Program is a significant tool in the battle against suburban sprawl by preserving open space, creating balanced growth patterns, reducing the demand for and costs of services and preserving the tax base by protecting property values.



## Town of Clarence, New York

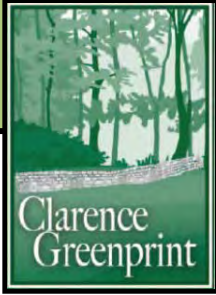
### Clarence Greenprint Program

June 6, 2012

#### **4) Protection of Our Quality of Life**

- ☐ The Greenprint Program supports a balanced growth pattern that impedes residential sprawl, reduces traffic and human congestion, noise, exhaust emissions, and protects aesthetic and scenic vistas.
- ☐ Lands protected thus far include working farms, forests, stream corridors, meadows, State and Federal wetlands, vernal pools, areas containing endangered flora and fauna, and other areas that provide habitat for fish and wildlife and act as filters to cleanse water, decrease flooding, and provide recreation and wildlife viewing opportunities for the general public.





# **Town of Clarence, New York**

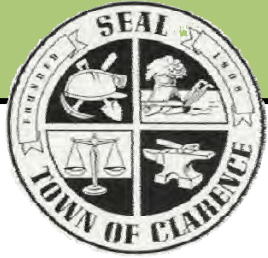
## **Clarence Greenprint Program**

**June 6, 2012**

### **VII. Master Plan 2015**

**Open Space preservation and balanced residential development were identified as primary concerns of local residents during the Master Plan visioning and drafting process. To accommodate the concerns of the public, the following considerations were made through the adoption of Master Plan 2015 in August of 2001:**

- ☐ **Development of an Open Space Preservation Plan, prioritizing parcels based upon their size, natural features, developmental pressure, current and potential utilization, etc.**
- ☐ **Consideration of creating a committee to analyze the cost and viability of a development rights acquisition program.**
- ☐ **Development of updated zoning laws and districts that take into account agricultural district considerations and uses.**
- ☐ **Development of subdivision laws that require Open Space and Recreational components through density regulations.**



# Town of Clarence, New York

## Clarence Greenprint Program

June 6, 2012

**This Program is considered a creative and successful partnership that serves as a model for other communities considering land preservation**



The Clarence Recreation Advisory Committee, Town Board members and Town residents have been instrumental in the development of the Greenprint program. Their vision and recognition of the benefits derived from land preservation have helped preserve our quality of life, stabilize our tax base and protect property values



The program is dependent upon willing landowners who are committed to open space preservation and the local agricultural economy. Those landowners who have voluntarily participated in the program have supported long term planning efforts while rejecting potential short term and short lived financial gain.



WESTERN NEW YORK  
LAND CONSERVANCY

The Western New York Land Conservancy is a private, non-profit land trust dedicated to preserving our region's irreplaceable natural environments, farms, forestlands and open space in order to maintain wildlife habitat, economic resources, public recreation areas and the unique scenic character of Western New York. They are a critical resource for evaluating potential greenprint properties, structuring and co-holding conservation easements, and long term monitoring of protected properties.