

Town of Batavia Agricultural Protection Plan

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A. Summary of Recommendations in the 2007 Town of Batavia
Comprehensive Plan and 2001 Genesee County Agricultural
Preservation Plan

Summary of Recommendations in the 2007 Town of Batavia Comprehensive Plan and
2001 Genesee County Agricultural Preservation Plan

Town of Batavia Comprehensive Plan

The Town's decision to prepare this Agricultural & Farmland Protection Plan originated with recommendations in the Town of Batavia Comprehensive Plan, which was adopted in March 2007. The Comprehensive Plan addressed land use, housing, economic development, natural resources, agriculture, transportation and infrastructure, recreation and community facilities. The Comprehensive Plan's goals and recommendations related to agriculture are as follows:

Goals

1. Promote the continued economic viability of agriculture.
2. Attract and retain agricultural support businesses such as suppliers and processors.
3. Preserve a large, contiguous area of high quality farmland to ensure a viable land base for continued agricultural production in the Town.
4. Reduce the potential for conflict between farmers and non-farming neighbors.

Recommendations

1. Work with landowners, private land trusts and governmental agencies to purchase land, place conservation easements or acquire the development rights to large areas of farmland. Target land that would result in the preservation of large areas of contiguous, high-quality farmland, such as the Agricultural Protection areas identified in the Future Land Use Map.
2. Revise zoning regulations to permit farm-related businesses, such as farm markets and craft manufacturing, to be established on farm property in conjunction with agricultural operations.
3. Encourage agriculture-related businesses, such as suppliers and processors, to utilize Genesee County's revolving loan fund for economic development.
4. Work with County and State economic development agencies to attract and retain agricultural support businesses.
5. When residential subdivisions are proposed that abut active farmland, require effective buffers to be incorporated into the subdivision design.
6. Encourage the preservation of farmland under conservation easement in conjunction with the subdivision review of residential development in designated rural/ agricultural areas of the Town.
7. In conjunction with the revision of zoning regulations, establish a committee that includes farmland owners to identify effective agricultural protection mechanisms that would result in the long-term retention of farmland within the Agricultural Protection areas identified in the Future Land Use Map. Revise the Town's zoning regulations to include effective provisions to encourage the retention of high quality farmland for continued agricultural use.

Genesee County Farmland Protection Plan Recommendations

1. Refine the Strategic Farmland Map and incorporate it into the Smart Growth Plan.
2. Reaffirm the importance of existing agricultural districts, especially with regard to water and sewer extensions. Conduct an 'audit' of each town's zoning and subdivision provisions and recent past development patterns to help the towns understand the potential impact on maintaining a critical mass of farmland
3. Consider the designation of an 'agricultural production zone'
4. Consider use of incentive zoning as a mitigation tool
5. Develop new funding sources specifically for a farmland protection fund
6. Create 'Enhanced Agricultural District Program' for mid-term protection of Farmland
8. Prepare to Purchase Development Rights
9. Integrate a farmland protection component into the County's public education efforts about agriculture.
10. Conduct periodic estate planning seminars for farmers and professionals.
11. Advocate for implementation of the Agriculture Development Plan.
 - Retain, expand and recruit agribusiness
 - Support improvements to rural utilities
 - Integrate county plans, policies and programs
 - Direct consistent and supportive land-use policies
 - Advocate for appropriate infrastructure development

B. Overview of Existing Plans and Programs

APPENDIX B

Overview of Existing Plans, Programs and Regulations

Agricultural District Program

The Agricultural District Program includes the following provisions to protect farmers:

- Agricultural use value assessments: Eligible farmland is assessed at its value for agricultural production, rather than at its full market value. If land that received the agricultural exemption is sold for non-farm purposes, the landowner must repay the amount of property taxes saved over the life of the District, up to 8 years.
- Protection from local regulations that would restrict farm practices.
- Protection from public acquisition of farmland through “eminent domain.” Before a local or county government may undertake a project that affects land within an Agricultural District, it must submit a "Notice of Intent" to the County Agricultural and Farmland Protection Board and the NYS Department of Agriculture and Markets for consideration of the impacts on agriculture.
- Protection from nuisance suits (right-to-farm provisions). A person who buys property within an Agricultural District must be notified about the possible presence of noise or odors associated with farm practices and acknowledge receipt of this notice in writing.

Environmental Protection Programs

Several State and federally funded programs provide financial incentives and technical assistance to farmers and farmland owners to encourage the installation of “best management practices” (BMPs) that incorporate environmental protection into agricultural practices. These techniques are designed to protect the natural environment from contaminants that may be associated with agricultural activities. Environmental management goals include reducing the amount of stormwater that leaves a farm site, managing fertilizer inputs to match the amount taken up by crops, and providing safe storage and application of pesticides. Although such practices may be expensive to install and maintain, they frequently result in lower costs for fertilizer, decreased soil erosion, and improved pest control.

Programs that support environmental management on farms include:

- Agricultural Environmental Management (AEM)
- Agricultural Nonpoint Source Abatement and Control
- Environmental Quality Incentives Program (EQIP)
- Conservation Reserve Program (CRP)
- Conservation Reserve Enhancement Program (CREP)
- Conservation Security Program (CSP) and

- Wildlife Habitat Incentives Program (WHIP).

Tax Relief Programs

Farming utilizes large amounts of land but does not demand proportionally large expenditures from local governments. In response to this situation, New York State has made established programs to reduce property taxes on farmland that meets certain eligibility requirements.

Agricultural Use Assessments base property taxes on the value of the land as farmland, rather than its value for development. Eligible farms located within certified Agricultural Districts, as well as farms outside a District that meet certain requirements, may receive Agricultural Use Assessments. Agricultural Use Assessment is available to landowners who rent the property to an eligible farmer.

The NYS Department of Agriculture & Markets has established a formula to determine the Agricultural Use value of property based on soil types and projected crop yields. In areas where the land is valuable for development purposes, the agricultural use value will be much lower than the market value, resulting in significantly lower property taxes. However, in areas where farming is the “highest and best use” of the property – where a farmer is likely to pay as much for the land as anyone else - the agricultural use value is the same as the market value.

New York State has established the **Farmers School Property Tax Credit** program for eligible farmers to receive refunds of up to 100% of School taxes on up to 350 acres of agricultural land, and 50% of School taxes on acreage in excess of 350 acres. To be eligible for this tax credit, farmers must earn at least 2/3 of their income in excess of \$30,000 from farming. The credit may be claimed in the farmer’s annual NYS tax return.

Farm worker housing is exempt from property taxes, provided that the facility meets all safety and health standards set by the State building code and the NYS Department of Labor. Renovation of a historic barn for continued agricultural use also qualifies for a property tax exemption.

Certain property and services used in agricultural production is exempt from sales tax. Farmers need to complete Form ST-125.

“Right to Farm”

Farming practices sometimes result in neighbor complaints or, in more extreme cases, lawsuits. Non-farm neighbors may consider certain agricultural practices to be objectionable, such as noise from farm equipment, dust from harvesting, odors from animal housing or manure storage, or pesticide applications. Techniques to address neighbor relations include local “Right-to-Farm” laws and notification provisions.

The NYS Agricultural District law establishes a procedure to define “sound agricultural practices.” Upon request of a farmer or neighbor, a representative from the NYS Department of

Agriculture and Markets will investigate the practice and determine whether it is “sound.” If a party brings a nuisance suit against a farmer for a practice which is determined to be “sound”, the person bringing the suit must pay all legal costs to the farmer.

The NYS Agricultural District Law also includes provisions to notify purchasers of property of potential farming impacts. When property located within a certified Agricultural District is purchased, the buyer must sign a statement acknowledging that:

"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."

Local “Right to Farm” laws often include provisions for settling disputes between farmers and non-farming neighbors. An appointed committee may be empowered to mediate the dispute, or mediation could be assigned to a specialized organization trained by New York State’s network of Community Dispute Resolution Centers (CDRCs).

Land Preservation Programs

Programs that result in permanent preservation of farmland for continued agricultural use include public Purchase of Development Rights and the acquisition of conservation easements by private land trusts. These programs are voluntary and typically provide the landowner with payment equal to the difference in the value of land for development and its value for continued agricultural use.

New York State administers a Purchase of Development Rights program that provides up to 75% of the cost of acquiring permanent easements to viable farmland. Since the inception of this program in 1996, the Department has awarded nearly \$80 million to protect approximately 36,000 acres on 200 farms in 18 counties.

The U.S. Department of Agriculture also administers a Purchase of Development Rights program, the Farm and Ranch Lands Protection Program, which was reauthorized as part of the 2008 Farm Bill. Federal funds may be available to provide the local match for a State PDR application.

Conservation easements may also be conveyed privately to a land trust or other qualified conservation organization. A conservation easement is a legal document written in the form of a deed, in which a landowner permanently restricts the future development of real property for

the purpose of preserving or maintaining the scenic, open, historic, agricultural, or natural condition, character, significance or amenities of that property. Once a conservation easement is attached to a property, the property may be sold, subject to the restrictions defined in the easement. The restrictions placed by the easement will also affect the value of the property for property tax assessment purposes.

Temporary Easements may protect land for a period of time. Several municipalities have established programs that reduce property taxes for farmland owners who agree to leave land undeveloped for a specified period of time. If the land is developed prior to the end of the period, the landowner pays a penalty which goes into a fund for purchase of land or easements.

Agricultural Economic Development Programs

Farmland can continue to be utilized for agricultural purposes only as long as the business of farming remains viable. Publicly funded programs aimed at encouraging investment in farming include loans, technical assistance, research and grants.

The **Grow NY Enterprise Program** is a joint Governor's initiative of the Governor's Office for Small Cities (GOSC), Empire State Development Corporation (ESDC) and the Department of Agriculture and Markets (NYSDAM), which dedicates \$3 million annually to increasing the demand for and expanding the use of New York's agriculture and forest products. The primary objective of the program is to provide funds to local governments who in turn use the dollars to assist qualifying businesses who undertake activities resulting in the creation of job opportunities for low- and moderate-income persons.

The New York State Department of Agriculture and Markets operates several programs aimed at improving the economic viability of farming. These include:

- grants to provide promotional support for farmers' markets in New York State.
- a matching grant program for the development, implementation or expansion of programs, projects, activities or events which will promote New York State food and agriculture through agri-tourism. For the purposes of this program, agri-tourism is defined as any food or agriculture related program, project, activity or event taking place at a farm or other food or agriculture related location(s) that will attract visitors to promote and enhance the public's understanding and awareness of New York food, farms, and agriculture.
- a **Farm to School** program to encourage school districts to purchase fresh produce directly from local farmers. School district must follow certain guidelines in order to participate in the program.
- A program to assist farm operators and agricultural cooperatives developing business plans or implementing part(s) of an existing business plan that will enhance the profitability and/or environmental compatibility of their farm operations.

Energy Conservation/ Sustainable Energy Programs

The NYS Energy Development Agency (NYSERDA) administers programs to encourage energy conservation and the use of sustainable energy sources in agricultural operations. These include:

- financial assistance to farmers interested in installing alternative or sustainable energy facilities, such as a wind-powered or bio-fuel-based electricity generator.
- NYSERDA offers cash incentives to install wind-energy systems, solar electric systems, and energy-saving equipment. It provides technical assistance to farms and other facilities through energy audits to reduce energy consumption.
- NYSERDA's Agricultural Waste Management Program focuses on farms under pressure to control contaminants from manure. To meet these challenges, farms are partnering with NYSERDA to evaluate a variety of potential technological solutions, innovative business structure, and community waste management systems that could improve system economics and farm profitability. Technologies being evaluated include:
 - Anaerobic digestion of manure
 - On-site production of electricity from digester biogas
 - Composting of manure and digested solids.

Promotion of Locally-Grown Products

New York State administers the "Pride of New York" program, which assists food producers and retailers by promoting the sale of New York produced food and food products. The program provides marketing materials and assistance and conducts promotional activities which highlight New York State's many exceptional products.

Organizations that assist farmers and farmland owners

Soil & Water Conservation District

The Genesee County Soil & Water Conservation District has been actively involved in assisting farmers evaluate, install and improve conservation management practices since the District formed in 1944. In conjunction with evolving state and federal funding opportunities, District and NRCS technical staff have assisted many farmers with planning and implementation of conservation practices.

The Genesee County SWCD has identified the following natural resources concerns relating to farming:

- Cropland erosion control
- Loss of farmland to development
- Water quality impacts by nutrient, pesticide and sediment runoff from cropland

Conservation programs administered by the SWCD include:

- Agricultural Environmental Management (AEM)
- Agricultural Nonpoint Source Abatement & Control Grant Program
- Completing soil group work sheets for agricultural use assessments

Cornell Cooperative Extension

Cornell Cooperative Extension of Genesee County provides information and technical assistance to farmers. Teams of experts have been assembled on a regional basis to address issues:

- The Cornell Vegetable Program serves the vegetable, greenhouse, potato, and dry bean industries within a 9 County region in western New York. It provides research-based information to assist farmers produce and market vegetable crops profitably and in an environmentally safe manner.
- The Northwest Dairy, Livestock and Fieldcrops Team organizes educational programs to help producers:
 - Enhance the sustainability of their businesses.
 - Enhance profitability and other aspects of economic performance of their businesses.
 - Practice environmental stewardship.
 - Enhance employee well-being and satisfaction.
 - Provide safe, healthy agricultural products in ways that are safe to farm owners and their families, farm employees and their families, and neighbors.
 - Provide leadership for enhancing relationships between the agricultural sector and the general public.

Other educational programs administered by Cornell Cooperative Extension of Genesee County include a directory of agritourism and direct market sales outlets and “Agriculture in the Classroom” activities. More information is available at the website:

USDA Natural Resources Conservation Service (NRCS)

The Natural Resources Conservation Service (NRCS) was established pursuant to Public Law 103-354, the Department of Agriculture Reorganization Act of 1994, (7 U.S.C. 6962). The mission of NRCS is to provide national leadership in a partnership effort to help people conserve, improve, and sustain the Nation’s natural resources and environment.

NRCS technical experts help land managers and communities take a comprehensive approach in planning the use and protection of soil, water, and related resources on private and non-Federal lands, in rural, suburban, urban, and developing areas. NRCS assistance to individual landowners is provided through soil and water conservation districts, which are units of local government created by state law. NRCS works in partnership with the State conservation agency and other State and local agencies to deliver a wide range of programs necessary to enhance our natural resources.

Financial Assistance Programs

- Conservation Security Program
- Environmental Quality Incentives Program (EQIP)
- Wildlife Habitat Incentives Program (WHIP)
- Forestry Incentives Program (FIP)

Easement Programs

- Farm and Ranch Lands Protection Program
- Wetlands Reserve Program
- Grassland Reserve Program
- Conservation Reserve Program

Other Programs

- Conservation Operation & Technical Assistance
- Watershed and Flood Prevention Operation
- Emergency Operations
- Resource Conservation & Development Program
- Grazing Lands Conservation Initiation
- Plant Materials Program
- Urban Resource Partnership Program

USDA Farm Service Agency (FSA)

The Farm Service Agency (FSA) administers several programs that assist farmers and farmland owners, including Conservation Reserve Program (CRP), disaster assistance and loans, as well as outreach, education and analysis of laws and regulations. The FSA works closely with NRCS, SWCD and Cooperative Extension to administer many of these programs.

New York Farm Bureau

The New York Farm Bureau is a private organization that advocates politically on a broad range of issues. Its structure encourages participation among members at the local level through County chapters. The website of the Monroe County Farm Bureau indicates that the organization works to “promote public policy that protects an owner's right to use land” and believes that “a strong, viable agricultural industry benefits the economy, local communities and consumers.” More information is available on the Genesee County Farm Bureau website, <http://nyfb.org/genesee/index.html> and the New York Farm Bureau website: <http://www.nyfb.org/whatisfb.htm>

USDA Rural Development

USDA Rural Development administers several grant programs that provide assistance to farmers, municipalities and institutions, including the following Rural Business-Cooperative Service programs:

- Grant funds to help independent agricultural producers enter into value-added activities. Awards may be made for planning activities or for working capital expenses
- Rural Economic Development Loan and Grant (REDLG) program

Environmental Management and Conservation Program Summaries

Agricultural Environmental Management Program (AEM)

The New York State Agricultural Environmental Management Program, which is administered by the County Soil & Water Conservation District, consists of five "tiers":

- **Tier 1:** The initial baseline survey of operation, including farm type, number and type of animals, identification of common farm management practices, and future plans for farm.
- **Tier 2:** A detailed assessment of each farm management practice, including waste management, soil management, petroleum storage, barnyard management, and other categories.
- **Tier 3:** In this planning phase, information that is collected in the Tier 2 phase is ranked according to environmental impact potential. Tier 3 includes **tract level** plans (Tier 3A); **nutrient management**, plans (Tier 3B); and **whole farm** plans (Tier 3C).
- **Tier 4:** The implementation phase, where conservation practices are installed or constructed in order to address the areas of concern that have been identified.
- **Tier 5:** The practices are evaluated for effectiveness in addressing problem.

The program was designed to implement provisions of the federal Clean Water Act. The local team includes USDA NRCS, FSA, and Cooperative Extension. It is overseen by a Statewide AEM Steering Committee and the Statewide Conservation Committee.

The program provides cost-sharing for conservation measures. Farmers and farmland owners who install approved practices reduce their liability for nutrients or other substances that may flow to surface or groundwater.

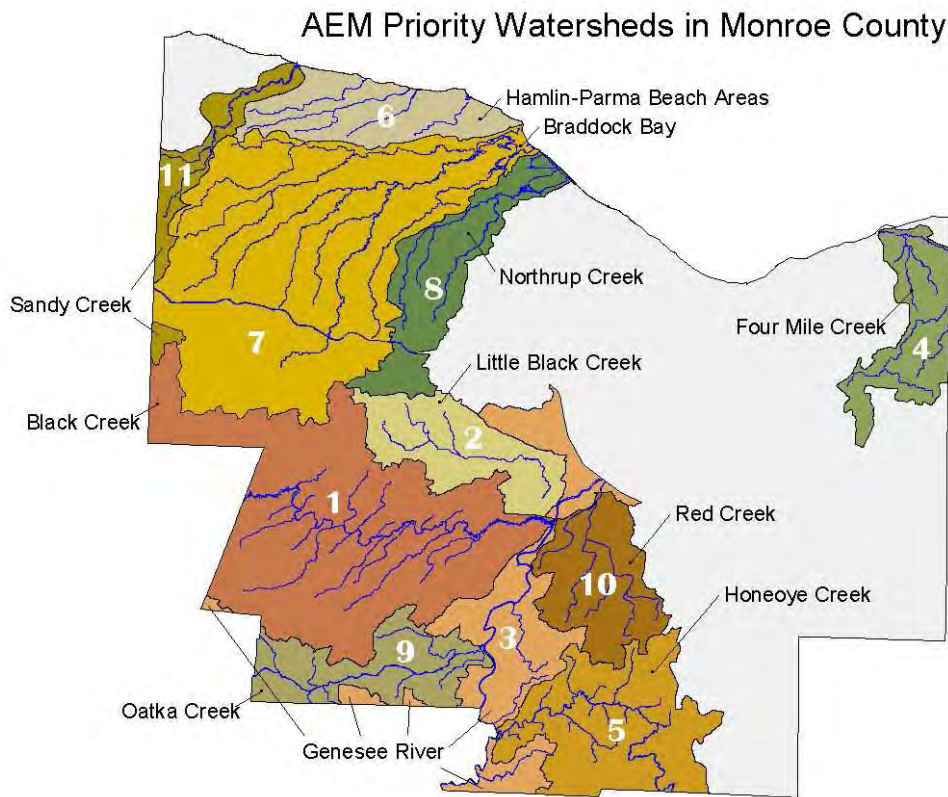
Priority areas are defined by watershed. Monroe County designated the Black Creek watershed as its first priority, due to concerns about phosphorous from agricultural and municipal sources and a requirement to implement a Total Maximum Daily Loading (TMDL) plan.

In 2008, the Monroe County SWCD is focusing on farms in the Hamlin/ Parma Beach watershed (Priority #6). According to the AEM Strategic Plan 2005-2010, 95% of agricultural land use in the Hamlin-Parma Beach Areas may pose threat to water quality of NYSDEC protected streams and the Lake Ontario shoreline. Farming operations in the watershed include orchards, grain, cabbage (8000 acres), and green manure crops. Total cropland in the watershed is estimated by the District to be approximately 13,000 acres.

The Braddock Bay watershed (Priority #7) will be addressed beginning in May 2008. In the Braddock Bay watershed, which includes Salmon Creek, agriculture is suspected of

contributing to impaired boating and fishing, and to stressed bathing and fish propagation. (1996 NYSDEC PWL) Agricultural land use in the watershed includes grain, fruit, vegetables, livestock, and tree farm.

The Northrup Creek Watershed (priority #8) is of local interest due to potential agricultural impacts on Northrup Creek, Long Pond and the Lake Ontario shoreline. Agricultural activities occurring within the Northrup Creek watershed may be contributing to the nutrient, sediment and silt loading that has impaired aesthetics and stressed fishing in the creek. (1996 NYSDEC PWL) Also, Long Pond continues to have issues with nutrients and impaired bathing, aesthetics and boating. While municipal and urban runoff may be the primary contributors, the need exists to look closely at all potential sources, including agriculture.



Source: AEM Strategic Plan 2005-2010

Agricultural Nonpoint Source Abatement & Control Grant Program

This grant program was established in 1994 by the State of New York to assist farmers in preventing water pollution from agricultural activities by providing technical assistance and financial incentives. County Soil & Water Conservation Districts apply for the competitive grants on behalf of farmers and coordinate funded activities. Grants can cost-share up to 75% of project costs or more if farm owners or operators contribute, in the following two areas:

- Planning; funds awarded to conduct environmental planning
- Implementation; funds awarded to construct or apply management practices

The New York State Soil & Water Conservation Committee and the Department of Agriculture & Markets coordinate the statewide program and allocate funds provided by the NYS Environmental Protection Fund on a semi-annual basis. Since the program began in 1994 more than \$50 million has been awarded to 53 Soil & Water Conservation Districts across the state to help farmers reduce and prevent agricultural sources of Nonpoint Source (NPS) Pollution.

NPS pollution is caused by rainfall or snowmelt, moving over and through the ground, which picks up and carries natural and human-made pollutants and deposits them into lakes, rivers, wetlands, coastal waters, or groundwater. These pollutants include:

- Excess fertilizers, herbicides, and insecticides from agricultural lands and residential areas;
- Oil, grease, and toxic chemicals from urban runoff and energy production;
- Sediment from improperly managed construction sites, crop and forest lands, and eroding streambanks;
- Salt from irrigation practices and acid drainage from abandoned mines;
- Bacteria and nutrients from livestock, pet wastes, and faulty septic systems;

Conservation Reserve Program (CRP)

The Conservation Reserve Program (CRP) was authorized under the Food Security Act of 1985, Title XII, P.L. 99-198. It is administered by USDA's Commodity Credit Corporation (CCC) through the Farm Services Agency (FSA). Technical assistance is provided by the NRCS. The CRP encourages farmers to voluntarily plant permanent areas of grass and trees on land that needs protection from erosion, to act as windbreaks, or in places where vegetation can improve water quality or provide food and habitat for wildlife. Eligible producers must enter into contracts with the CCC lasting between 10 and 15 years. In return they receive annual rental

payments, incentive payments for certain activities, and cost-share assistance to establish the protective vegetation. The CRP has been expanded in the past few years to also include a "Continuous Sign-up" element along with the regular annual sign-up periods.

The Conservation Reserve Program in New York has attracted participants from throughout the state with over 55,000 acres enrolled in the program as of October 1, 1999. Most of this land has been seeded to permanent grasses, including native warm-seasoned grass species. In addition, the removal of New York's most erosive and least profitable cropland from production has reduced erosion by 288,000 tons statewide and has improved the net returns to cropland still in production. Total Federal expenditures for the program were about \$3 million generating \$3.7 million in local sales statewide and creating 37 new jobs across the state.

Conservation Reserve Enhancement Program (CREP)

CREP is a federal-state natural resource conservation program targeted to address state and nationally significant agricultural related environmental problems. Under CREP, program participants receive financial incentives from USDA to voluntarily enroll in the Conservation Reserve Program (CRP) in contracts of 10- to 15-years. Participants remove marginal pastureland or cropland from agricultural production and convert the land to native grasses, trees and other vegetation. CRP is authorized by the Food Security Act of 1985, as amended.

The New York's CREP helps farmers address erosion and nutrient runoff on 30 million acres of land within New York's 12 major watersheds. Retiring highly erodible cropland and planting it to protective vegetation will enhance water quality and provide shelter, nesting areas and food for many species of wildlife. Buffers planted along stream banks and rivers will filter phosphorus, nitrogen and sedimentation from the waterways. The Lake Ontario Direct Drainage Watershed is one of the watersheds targeted in New York.

The goals of the New York CREP are to:

- Reduce annual nutrient loads of phosphorus by 73,000 pounds, nitrogen by 29,000 pounds per year and sediments from 109,000 tons per year;
- Reduce the potential for animal waste to enter streams and rivers;
- Establish tree buffers adjacent to 4,598 stream miles and 473,457 acres of surface waters; and
- Establish grass and trees on areas that recharge drinking water supplies for cities and towns.

Eligible conservation practices include planting grasses or trees on erodible soil or establishing wildlife habitat and protecting streams with filter strips, grass waterways and buffer plantings.

Environmental Quality Incentives Program (EQIP)

The Environmental Quality Incentives Program (EQIP), which was created through the 2002 Farm Bill and is administered by the USDA-Natural Resources Conservation Service (NRCS), is intended to promote agricultural production as well as environmental quality through cost-sharing of conservation practices.

EQIP includes two types of payments, cost-share and incentive. Incentive payments are flat rate payments used to encourage a producer to perform land management practices. Participants will receive an incentive payment in the first year of implementation, and are required to carry out the practice for 3 years. Cost-share payments are primarily for structural conservation practices. Cost-share payments are at fixed amounts for each practice, based on 50% to 75% of the state average cost. Limited Resource Producers will be eligible for up to 90% cost-share based on state average costs.

A current Comprehensive Nutrient Management Plan (CNMP) is required prior to application for any agricultural waste practices that address manure storage, milkhouse waste, silage leachate, barnyards, composting or nutrient management. CNMPs developed with EQIP incentive payments must be completed by a NYS Certified Nutrient Management Planner.

Wildlife Habitat Incentives Program (WHIP)

The Wildlife Habitat Incentives Program (WHIP) is authorized by Section 387 of Title III of the Federal Agriculture Improvement and Reform (FAIR) Act of 1996. The purpose of the program is to develop habitat for upland wildlife, wetland wildlife, threatened and endangered species, fish and other types of wildlife. Objectives of the program are to provide technical, educational, and financial assistance to eligible landowners to address the protection of wetlands, wildlife habitat, and related concerns on their land.

Conservation Security Program

The CSP is a voluntary program that provides financial and technical assistance to conserve and improve soil, water, air, energy, plant and animal life on tribal and private working lands—cropland, grassland, prairie land, improved pasture and rangeland, as well as certain forested land that is an incidental part of an agriculture operation. Visit the Natural Resources Conservation Website to get detailed CSP Information:
<http://www.nrcs.usda.gov/programs/csp/>

The CSP has a unique role among USDA conservation programs. It identifies and rewards those farmers and ranchers who meet the highest standards of conservation and environmental management on their operations, creates powerful incentives for other producers to meet those same standards of conservation performance on their operations, and provides public benefits for generations to come.

C. Circular 1150 – NYS Agriculture & Markets Agricultural District
Law

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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 January 1, 2009)
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(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

ARTICLE 25AA - AGRICULTURAL DISTRICTS

- Sec.
- 300. Declaration of legislative findings and intent.
 - 301. Definitions.
 - 302. County agricultural and farmland protection board.
 - 303. Agricultural districts; creation.
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 - 304-a. Agricultural assessment values.
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 - 305. Agricultural districts; effects.
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 - 306. Agricultural lands outside of districts; agricultural assessments.
 - 307. Promulgation of rules and regulations.
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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.
 - 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.

- 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.

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; and
 - 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 forty-seven of the racing, pari-mutuel wagering and breeding law.
 - 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 and "timber processing" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section. For the purposes of this section, such farm operation shall also include the production, management and harvesting of "farm woodland", as defined in subdivision

- three 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.¹
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 processing" means the on-farm processing of timber grown on a farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, through the use of a readily moveable, nonpermanent saw mill, 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 conducted by a farmer on-farm for the enjoyment 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.
 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.

¹ The definition of "farm operation" was separately amended by Chapters 374 and 388 of the Laws of 2001 to add "manure processing and handling facilities" (Chapter 374) and "commercial horse boarding operations" (Chapter 388) and in 2005, "timber processing" (Chapter 573).

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, 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.
 - b. [repealed]
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 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.

- b. [repealed]
- 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.
- 8. [repealed]

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 other-wise 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 or 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 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 agricultural 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 consultations 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 state board of real property services 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 state board of real property services 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	
1B	
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 products 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 the calculation of agricultural assessment values, the state board of real property services shall publish an annual report, which shall include a schedule of values, citations to data sources and presentation of all calculations. The state board of real property services shall transmit copies of the annual report to the governor and legislature, the advisory council on agriculture and other appropriate state agencies and interested parties. The state board of real property services shall thereupon certify the schedule of agricultural assessment values and the state board of real property services shall transmit a schedule of such certified values to each assessor.
 - 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 state board of real property services 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 state board of real property services 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 state board of real property services. The applicant shall furnish to the assessor such information as the state board of real property services 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 state board of real property services 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 state board of real property services.
- 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 state board of real property services 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 state board for the purpose of this section.
 - (iii) Where a special equalization rate has been established and certified by the state board 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 equaling 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 state board of real property services on a form prescribed by the state board.
 - (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 state board of real property services on a form approved by such board and containing such information as the board shall require. Upon approval of the application by such board, 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 state board of real property services 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.
2. [repealed]
 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, 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 of 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 of 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.

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. 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

1. 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 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 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.

1-a [repealed]

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 state board of real property services on a form prescribed by the state board.
 - (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 state board of real property services 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 state board of real property services, by rule or regulation. In promulgating such a rule or regulation, such board 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; production, management and harvesting of "farm woodland," as defined in subdivision three 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. 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 state board of real property services 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 state board of real property services as provided for in section three hundred thirty-three of the real property law.

D. Existing Planned Business Development District regulations –
Town of Batavia Zoning Law

Appendix D
Existing Planned Business Development District Regulations

§ 235-31.1 Planned Business Development District (PBD).

[Added 2-20-2008 by L.L. No. 2-2008]

A.

Purpose. The purpose of the Planned Business Development (PBD) District is to:

(1)

Establish an area for new commercial, industrial, recreational and/or mixed use development on a large scale that will provide the Town and region with employment opportunities, additional tax base and other community benefits, while minimizing impacts on public services;

(2)

Prevent piecemeal development that would compromise the availability and future marketability of a large area for significant new development;

(3)

Accommodate continued agricultural use in an area that is highly suited for agriculture;

(4)

Provide greater flexibility, more creative and imaginative design and utilization of innovative land development techniques while promoting more economical and efficient use of land, buildings, circulation systems and utilities;

(5)

Provide for both individual building sites and common property which are planned and developed as a unit; to provide harmonious land uses which offer a high level of amenities;

(6)

Permit a variety of industrial, commercial and/or recreational uses; and

(7)

Preserve natural and scenic qualities of the site during the development process.

B.

Requirements. Any development proposed for the Planned Business Development District shall meet the following requirements:

(1)

A coordinated development plan that addresses the requirements in this section and advances the purposes stated in Subsection A shall be presented for a contiguous land area that comprises at least 100 acres within the Planned Business Development District. Smaller developments would require an area variance from the Zoning Board of Appeals.

(2)

The preservation of open space and the preservation of trees, outstanding natural topography and sensitive environmental features shall be an integral part of the plan, while allowing sufficiently intensive development to support the extension of infrastructure to the PBD.

(3)

The development shall make creative and efficient use of land and related physical development resulting in smaller networks of utilities and streets and thereby lowering costs for construction and maintenance.

(4)

Adequate public services. No development shall be approved within the Planned Business Development District unless the Town Engineer submits a satisfactory report to the Planning Board regarding the following:

(a)

The project will be connected to municipal water and sewer.

(b)

The project will not overburden the municipal water and sewer system.

(c)

Adequate levels of water pressure are available for fire service.

(d)

A traffic impact study, detailing impacts and mitigation measures, has been prepared by each developer.

(e)

Any costs associated with improvements or upgrades to public facilities may be included in the developer's construction costs and carried out by the developer under the supervision of the Town Engineer.

(5)

Utilities. New public and private utilities and those relocated or replaced shall be underground, unless specifically exempted by the Planning Board.

(6)

Topography, landscaping and site appearance.

(a)

Landscaping shall contribute to prevention of water runoff and erosion problems. Temporary or permanent protection shall be provided during construction to prevent such problems.

(b)

All developments within the district shall be designed to take maximum advantage of the topography of the land, to provide for water storage and control of water runoff, to protect natural drainage courses, to reduce the amount of grading and maximize the conservation of trees and topsoil.

(c)

The design of the perimeter landscaping and improvements of each development should be visually harmonious and compatible with adjoining development.

(7)

Development in phases. If the applicant wishes to construct the development in phases, or if the Planning Board wishes to require that development be phased, the applicant may submit final site plans for only those phases for review per the approved phasing plan, provided that such final site plans are consistent with the coordinated development plan and approved preliminary site plan for the entire site. Any plan anticipated to require more than 24 months to be completed shall be required to be completed in phases, and a phasing plan must be developed. The Code Enforcement Officer may withhold the issuance of building permits if the approved phasing plan is not being followed.

(8)

Performance. The Planning Board may require bonding, a letter of credit or other instrument to ensure that public and private improvements are carried out as specified in the plans and approvals, as provided for in § [235-63C](#) (8).

(9)

Expiration. If no evidence of progressive activity has occurred within two years of the date of approval or upon expiration of any extension of time for starting development granted by the Planning Board, the Planning Board may, with twenty-day-advance-notice to the applicant, declare the approved plan to be null and void. Upon the request of the applicant, the Planning Board shall automatically grant a two-year extension for starting the development, and may thereafter consider further extensions in its discretion.

C.

Permitted uses.

(1)

The following uses are permitted in the Planned Business Development District:

(a)

Warehouse.

(b)

Manufacturing (enclosed).

(c)

Wholesale trade.

(d)

Commercial or professional office or service.

(e)

Research and development facility.

(f)

Governmental facilities.

(g)

Public utility (see § [235-38](#)).

(h)

Recyclables handling and recovery facility.

(i)

Pond (see § [235-48](#)).

(j)

Agriculture.

(k)

Agricultural products processing or distribution facilities.

(l)

Accessory buildings, structures and uses.

(2)

Uses requiring a special use permit. The following uses are permitted in the Planned Business Development District upon the issuance of a special use permit and provided the parcel fronts on, and is directly accessed from, a state highway:

(a)

Retail store.

(b)

Restaurant.

(c)

Hotel or motel.

(d)

Gasoline station (see § [235-37](#)).

(e)

Gasoline station-market (see § [235-37](#)).

D.

Area regulations. See Zoning Schedule A.

Editor's Note: Zoning Schedule A is included at the end of this chapter.

E.

Procedures.

(1)

Applicant. The applicant may be an individual, corporation or a group of individuals or corporations. An application shall be filed by the owner or jointly by the owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

(2)

Application for site plan approval for a planned business development. Application for a site development plan for a planned business development shall be made to the Planning Board. The applicant shall furnish basic data pertaining to the boundaries of the proposed development and the existing zoning, topography, drainage and soil conditions. A site development plan shall be provided in sufficient detail as may be required for an understanding of the type, uses and design of the proposed development. Information shall be provided to demonstrate that adequate public services exist or will exist to serve the proposed development.

(3)

Planning Board review of site plan.

(a)

The Planning Board shall review the proposed site plan in accordance with the criteria and procedures established in § [235-63C](#).

(b)

The Planning Board shall also consider the following criteria in its review of a proposed planned business development within the PBD District:

[1]

The suitability of the tract for the general type of development proposed and the physical characteristics of the land.

[2]

The relation of the proposed development to surrounding areas, existing and probable future development, including the extension of utilities to adjacent properties and the interconnection of road access to adjacent properties.

[3]

The relation to major roads, utilities and other facilities and services.

[4]

The adequacy of evidence on unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guaranties or other instruments or the need for such instruments or for amendments in those proposed.

[5]

The suitability of plans proposed or the desirability of amendments, with reasons therefor.

(4)

Public hearing on the application for site plan approval. Within 62 days of receipt of the application, the Planning Board shall hold a public hearing, after public notice, on the application for site plan approval for the initial planned business development. A public hearing shall be optional for subsequent development within an approved planned business development that may be subject to site plan review pursuant to § [235-63C](#).

(5)

Changes in approved final plans. Changes in the types of uses within an approved planned business development and other changes to approved final plans and reports may be approved by the Planning Board only upon findings identical to those required for original approval.

(6)

Upon approval of final plans and reports, building permits shall be issued in the same manner as for building permits generally, provided that any requirements concerning the order and location in which building permits are to be issued in the particular planned business development shall be observed. Except as provided below, final plans and reports as approved shall be binding on the applicants and any successors in title so long as PBD zoning applies to the land.

(7)

Expiration of time limits on planned business development site plan approvals.

(a)

The Planning Board may require that certain actions be taken within specified time frames, as a condition of approval of the site development plan.

(b)

If actions required in any approval of a site plan in a PBD are not taken within any time limits set in connection with such approval, the Planning Board shall review the circumstances and prepare a written report specifying the circumstances and recommending that:

[1]

Site plan approval for the entire area be continued with revised time limits;

[2]

Site plan approval be continued for part of the area, with or without revised time limits;

[3]

Site plan approval be rescinded; or

[4]

Other appropriate actions taken.

(c)

Such recommendations shall include proposals for appropriate action in respect to any legal instruments in the case.

E. Summary of Direct Market Venues – Town of Batavia

Direct Marketing Outlets – Town of Batavia

M & M Meats

585-322-4342
3316 Pearl St. (Rte 33), Batavia



Custom slaughter and processing by appointment;
Retail meat counter featuring beef, pork, lamb, goat & veal;
Plus fresh sausage and custom sausage

Closed Sunday & Monday.
Open Tuesday – Friday 10 am – 5pm, Saturday 10 am – 2 pm.

Poppa Riley's Popcorn

585-948-9631
2982 Galloway Rd., Batavia

Popping corn: red, white, blue, yellow & Japanese hullless;
Great idea for fundraisers

Pudgie's Lawn And Garden

585-343-8352
3644 W. Main St., Batavia

Annuals, perennials, vegetable plants, roses, and other garden supplies

Open Monday – Friday 9 am – 6 pm, Saturday and Sunday 9 am – 4 pm.

Partridge's Farm

585-343-7264
4957 Ellicott St. Rd. (Rte 63),
Batavia



Christmas trees and wreaths

Thanksgiving – Christmas
Mon - Fri 5 - 9 pm, Sat and Sun 9 am - 9 pm

Herbly Wonderful

585-343-9227
3701 Pearl St. Rd. (Rte 33), Batavia

Fresh herbs, herbal creations, cut flowers, flower arrangements, lavender fields, herb & flower plants, heirloom vegetables, jams, jellies and gifts. Farm stand and greenhouse

Open May 1st. Tues – Sat 10 am – 6 pm and Sunday (in the spring) Noon – 5 pm

Gordon Meek

585-762-8648
9063 Wilkinson Rd., Batavia

Cut flowers mainly sunflowers and zinnias; bouquets available.
Home garden stand

Mid-July thru end of September

Genesee Country Farmers' Market

Batavia Downs Parking Lot
Park Rd, Batavia



Neighbors Growing for Neighbors. Wide variety of items from four counties: fruits, vegetables, baked goods, flowering plants, etc.

Open 8 am - 5 pm, Tuesdays and Fridays, June 16 – October 30

Batavia Turf Instant Lawns

1-800-333-1472
6465 Transit Rd., Elba

We can supply just the right sod for your application & location

Fenton's Produce

585-343-9491
3323 Pratt Rd., Batavia

Home grown produce including asparagus, sweet corn, tomatoes, peppers, potatoes, squash. Herbs, flowers, and greenhouse plants also offered

April - December

Genesee County Fair

585-343-3040 (ext. 106)
5056 East Main Street Road (Rt. 5), Batavia

Come to the Fair! A wide variety of educational, fun, and informational activities. Create friendships and memories that will last you a lifetime

July 21 – July 25. 4-H Meat Auction on July 23 at 7 pm

SOURCE: <http://geneseebuylocal.shutterfly.com/agritourism>

F. Proposed Agricultural Production Zone regulations

**DRAFT Zoning Regulations
Proposed Agricultural Production Zoning District**

Definitions:

Farm Dwelling - A residence located on a farm parcel.

Farm Parcel - A tract or parcel of land devoted primarily to agricultural uses, and which may include a dwelling and/or other accessory uses.

Farm-Related Business - A business engaged principally in providing supplies, implements, livestock and/or other products or services needed for agricultural uses, including but not limited to seed, fertilizers, herbicides, pesticides, animal feeds, tools, fencing and parts for farm machinery or equipment, blacksmithing, farm implement repair, storage of agricultural products, or retail sale of agricultural products. This definition shall not include agricultural processing plants, dealerships for farm equipment or machinery or slaughterhouses.

Non-farm Lot - A lot or parcel within the Agricultural Production Zoning District (APZ) that:

- a) contains less than 25 acres and contains one or more dwelling units or other non-agricultural use.; or
- b) contains 25 or more acres and is devoted to uses other than agricultural or residential.

Parent Tract - A tract of land located within an Agricultural Production Zoning District (APZ) on the effective date of this Local Law, and held in single and separate ownership.

§ XXX-1. Purpose and intent.

The intent of the Agricultural Production Zoning District (APZ) is to facilitate existing and future agricultural land uses; to preserve existing prime agricultural soils; to maintain highly productive agricultural lands by limiting encroachment of nonagricultural development; to minimize the conflicts between agricultural and nonagricultural uses; to discourage residential sprawl and minimize adverse fiscal impacts through the extension of municipal services; to maintain agricultural vistas, to promote agro-tourism, and to preserve the rural character of the Town of Batavia.

§ XXX-2. Uses.

In the APZ, no building, structure or premises shall be used or arranged or designed to be used, and no building or structure shall be hereafter erected, reconstructed or altered, unless otherwise provided in this chapter, except for the following permitted uses or specially permitted uses and their customary accessory uses:

A. Permitted uses.

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(1) Agricultural production, 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, farmed deer, farmed buffalo, fur-bearing animals, milk, eggs and furs.

(f) Christmas trees grown in a managed Christmas tree operation, whether dug for transplanting or cut from the stump.

(g) Commercial horse boarding operation.

(2) Dwelling, one-family.

(3) Attached single-family dwellings within a cluster or conservation subdivision.

(4) Riding academy, corral or facilities for the training of horses.

(5) Greenhouse.

(6) Farm Market

(7) Roadside Stand

B. Uses allowed with a special use permit.

(1) Bed-and-breakfast.

(2) Kennel, commercial.

(3) Agricultural Worker housing, subject to the requirements of § XXX-__.

C. Accessory uses. Accessory uses shall include those uses customarily incidental to any of the above permitted uses or specially permitted uses when located on the same lot. Specifically permitted are the following:

(1) Home occupation.

(2) Roadside Stand

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(3) Agricultural worker housing pursuant to the requirements of § XXX-__.

(4) Agricultural use.

§ XXX-25. General lot, yard, bulk and height requirements.

A. No buildings shall be erected nor any lot or land area utilized unless in conformity with the Zoning Schedule incorporated into this article by reference and made a part hereof with the same force and effect as if such requirements were herein set forth in full as specified in said schedule, except as may be hereafter specifically modified.

B. Area Requirements

1. No farm parcel shall be subdivided to create a farm parcel of less than 25 acres.
2. The number of non-farm lots permitted to be subdivided from a parent parcel shall be limited according to the following sliding scale. If the parent parcel includes a dwelling, such dwelling is included in the number of residential lots permitted to be associated with that parcel.

Size of Lot	Permitted number of non-farm parcels
Smaller than 10 acres	1
10 – 49 acres	2
50 – 74	3
75 – 99	4
Each additional 25 acres	1 additional

3. A non-farm lot subdivided from a parent tract shall have a minimum of 20,000 square feet and a maximum of two (2) acres.
4. All other uses permitted by right or by special use permit shall have a minimum lot area of 20,000 square feet, except as specified in Schedule A.

C. Limitations on Subdivision of Parent Tracts

1. It is the intent of this provision to limit the creation of non-farm lots and the subdivision of farm parcels from parent tracts, in order to provide for the retention of tracts of sufficient size to be used reasonably for agricultural purposes.
2. The Town shall maintain a map that records the number of non-farm lots permitted to be subdivided from a parent parcel and shall record on this map the number of non-farm lots created from each parent parcel.
3. Landowners are encouraged to prepare a development and conservation plan for their entire holdings before subdividing a non-farm lot from a parent tract. Such

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development and conservation plan should identify the areas within a farm parcel that are most appropriate for limited residential development, as well as those which are the most suited for continued agricultural use.

4. A single family detached dwelling may be erected on any single undeveloped lot of record (parent tract) as of the effective date of this Local Law. Such lot must be a parent tract in single ownership and not contiguous with other tracts in the same ownership. The parent tract must meet applicable requirements for minimum lot size, and any buildings erected on the lot must meet yard setback, lot coverage, and height regulations.
5. In the event a tract of land not originally classified as part of the Agricultural Production Zoning District (APZ), on the effective date of this Ordinance is hereafter classified as part of the Agricultural Production Zoning District (APZ), the size and ownership of such tract of land and its classification as a parent tract, shall be determined as of the effective date of the change in the zoning classification to Agricultural Production Zoning District (APZ).

D. Requirements for Dwellings Located on Non-farm Lots

1. Dwellings located on non-farm lots shall be subject to Site Plan Review by the Planning Board. The application for Site Plan Review shall include a scaled drawing indicating the location of the proposed dwelling in relations to surrounding farms.
2. The non-farm lot shall be sited on that portion of the parent parcel which separates it as much as possible from adjacent farming, including minimizing the length of property lines shared by the residential lot and adjoining farms.
3. The dwelling and its lot shall be located on the least productive farmland wherever practical.
4. The dwelling shall be sited on the smallest practical area to satisfy the requirements of this Section and on-site sewage disposal regulations.
5. In its review of a site plan for a dwelling located on a non-farm lot, the Planning Board shall consider the following:
 - (1) The location and extent of prime agricultural soils;
 - (2) The location of wooded areas;
 - (3) The location and extent of natural features;
 - (4) The general topography and the location and extent of sloped areas;
 - (5) The spatial relationship of the property to contiguous or neighboring preserved agricultural land;

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(6) The general stormwater tributary area and the extent and direction of overland drainage.

E. Subdivision Development Guidelines.

The following guidelines are to be applied in addition to subdivision regulations (Article __) and site plan review and shall apply to all subdivisions within the APZ. The subdivision plat shall be designed so as to preserve agricultural vistas.

1. The subdivision plat must locate and arrange the residential lots so as to protect, to the maximum extent practicable, that portion of the tract preserved for agricultural use.
2. The subdivision plat must depict an arrangement of residential lots so as to reduce, to the maximum extent practicable, any nuisance or conflict between residential and agricultural uses, both within the tract and in relation to adjoining and nearby tracts and to demonstrate compatibility of the cluster plat with existing residential development and agricultural land uses.
3. The residential portion of the subdivision plat must be so laid out, and protected during construction, as to remain as harmonious to the greatest extent practicable with the natural environment minimizing the clearing of treed areas, the grading of earth, removal of soils, and precluding the disturbance of surface waters and wetlands and other similar disturbances of the natural environment pursuant to Chapter __ of the Batavia Town Code.
4. The agricultural portion of a subdivision plat must be so laid out as to provide for a contiguity with existing agricultural tracts, bounding of prime agricultural soils and retention of all storm water runoff.
5. The subdivision tract must demonstrate the ways in which scenic vistas are being considered or enhanced and shall depict a lot arrangement which has considered the visual impact of residential development upon such vistas.

F. The Planning Board shall refer any application for subdivision and site plan review within the Agricultural Production Zone to the Town Agriculture & Farmland Committee for an advisory review. Comments shall be provided to the Planning Board within 45 days of receipt of a complete application.

G. Zoning Audit and Recommended Zoning Revisions

APPENDIX G

Town of Batavia Agricultural & Farmland Protection Plan

Zoning Audit and Recommended Zoning Changes

ZONING AUDIT

The NYS Agricultural District Law protects farmers in Agricultural Districts from regulations that “unreasonably restrict or regulate farm operations within agricultural districts...unless it can be shown that the public health or safety is threatened.” To accomplish this, the NYS Department of Agriculture & Markets reviews regulations upon complaints from farmers and issues determinations as to whether the regulation is reasonable and/or necessary to protect public health. The Department of Agriculture & Markets has issued several guidance documents that identify specific zoning provisions that have been found to be unreasonable.

An audit of the Town of Batavia zoning law identified several provisions that may unreasonably restrict standard farm practices in some situations, according to the guidance issued by the NYS Department of Agriculture. The following narrative identifies these provisions and recommends revisions. Specific language to amend the zoning regulations is provided at the end of this document.

Animal Waste Storage – Requirement for Special Use Permit

The Town of Batavia’s zoning regulations currently require a special use permit for animal waste storage facilities. The existing provisions state:

All proposals for installation and/or modification of animal waste storage facilities shall be submitted to the Genesee County Soil and Water Conservation District (GCSWCD) or United States Natural Resources Conservation Service (NRCS) for its review and determination as to acceptability. If a proposal is acceptable to GCSWCD or NRCS then the Planning Board will consider the potential impacts posed by such a facility upon surrounding land uses prior to taking final action.

Guidance provided by the NYS Dept. of Agriculture & Markets states that requiring either a special use permit or site plan review for animal waste storage facilities constitutes an unreasonable restriction on a standard farm practice. Despite this guidance, some communities, concerned that improperly designed facilities may contaminate groundwater and surface drinking water supplies, require farmers to submit plans, signed by SWCD, NRCS or a qualified engineer, to the Planning Board for Site Plan Review. No fee is required and a determination must be issued within 30 days of submittal. These municipalities maintain that the review of a site plan for an animal waste storage facility helps to protect the public health and safety by ensuring that such facilities comply with the requirements established by the USDA NRCS.

Recommendation: Eliminate the provision to require a special use permit for animal waste storage facilities. Specify that such facilities must meet the standards of USDA NRCS.

Town of Batavia Agricultural & Farmland Protection Plan

Zoning Audit

Animal Waste Storage – Setback Requirements

The Town of Batavia zoning regulations currently require animal stabling and waste storage facilities to be set back 100 feet from a lot line and 500 feet from an R Residential District. (§ 235-20)

Guidance provided by the NYS Dept. of Ag. & Markets states that setback requirements for animal stables and animal waste storage facilities need to be related to health and safety and consistent with those for septic systems or other types of buildings. For example, setbacks from wells or water bodies are related to public health, whereas setbacks to property lines may be related to the potential for odor or nuisance and may unreasonably restrict a standard farming practice.

Recommendation: Modify setback requirements to specify setbacks from existing dwellings, wells and watercourses and eliminate minimum setback from lot lines and the R Residential District.

Farmworker Housing

The Town’s zoning regulations currently do not include any provisions for farmworker housing. While such housing may be considered to be an accessory use to a farm, the Town has no provisions that would specifically permit farmworker housing on a separate lot from the farm. The Town’s definition of Agricultural Use should be clarified to include farm worker housing (may be included in “necessary farm structures.”)

Recommendations:

- Add “farmworker housing” to the list of uses allowed with a special use permit in the AR and in the proposed new AP zoning districts.
- Incorporate specific criteria for the review and approval of a special use permit for farmworker housing

Farmers markets, farm markets and roadside stands

Direct sales of farm products provide a means for farmers to “avoid the middleman” and sell farm products directly to customers. Farmers markets are typically operated by community organizations and provide a common space, often in the parking lot of another commercial or public use, for farmers to sell goods. Roadside stands typically consist of temporary structures and seasonal operations. Farm markets are typically year-round operations in permanent structures.

The existing zoning regulations do not have explicit regulations for farmers markets, roadside stands or farm markets. Provisions that specifically allow direct farm sales in agricultural zoning districts are needed.

Town of Batavia Agricultural & Farmland Protection Plan

Zoning Audit

Recommendations:

1. Modify the definition for “roadside stand.” Incorporate new definitions for “farm market” and “farmers market.”
2. Add “roadside stand” to list of permitted accessory uses in the AR zoning districts.
3. Add “farm market” to the list of permitted principal uses in the AR, PD, C and I districts.
4. Add “farmers market” to the list of permitted uses in the C zoning district. Include a provision stating that site plan review shall not be required.

Definitions

The Town’s existing definition of “agricultural use” is:

AGRICULTURAL USE — Any parcel of land containing at least five acres used for the raising of food products or other useful or valuable growths of the field or garden for sale, together with dairying, raising of livestock and poultry, and other generally accepted agricultural practices, where the same is carried on as a business or otherwise for profit.

- (1) Such uses shall include the establishment of necessary farm structures within the prescribed limits, and the storage of equipment used in connection therewith.
- (2) Agricultural uses shall exclude the raising of fur-bearing animals, riding academies, public stables or dog kennels.

The definition of agriculture established by the NYS Dept. of Agriculture & Markets, which establishes activities that are protected under the Agricultural Districts Law, specifically includes the raising of fur-bearing animals and horse boarding.

Several additional definitions are recommended to provide for ancillary businesses and agri-tourism operations on farms.

Recommendations:

1. **Revise the definition of agriculture in the Town’s zoning regulations to eliminate the exclusion of the raising of fur-bearing animals, riding academies and public stables, consistent with the definition in the NYS Agricultural Districts law.**
2. **Add definitions of “agriculture-related enterprises” and “agricultural recreational events.”**

Town of Batavia Agricultural & Farmland Protection Plan

Zoning Audit

Public stables

A public stable, as defined in the Town's zoning regulations, that is located in a County-certified Agricultural District, is considered an agricultural use by NYS Ag. & Markets Law. As such, local regulations should not unreasonably restrict its operation. Ag. & Markets guidance state that requiring a special permit for such operations represents an unreasonable restriction.

Recommendation: Eliminate the requirement for a special permit for a "public stable" when the operation fits the definition of "agricultural use" in NYS Ag. & Markets Law and is located in a certified Agricultural District.

Other provisions

The Town's zoning states that only one principal use is permitted on any parcel, with exceptions for a dwelling as part of a commercial property. (§ 235-12)

Recommendation: Add an exception that permits a single family dwelling on the same lot as a principal agricultural use.

The Town's zoning prohibits farm animals within the R Residential zoning district. A farm located both in the R District and in a County-certified Agricultural District should not be subject to this restriction. Although very little land in Batavia is located in both the R zoning district and a County Agricultural District, the zoning should be modified to exclude such farms from this provision.

Recommendation: Incorporate an exception to the restriction on farm animals for farms located within a County Agricultural District.

Town of Batavia Agricultural & Farmland Protection Plan

Recommended Zoning Amendments

Definitions

AGRICULTURAL USE — Any parcel of land containing at least five acres used for the raising of food products or other useful or valuable growths of the field or garden for sale, together with dairying, raising of livestock and poultry, and other generally accepted agricultural practices, where the same is carried on as a business or otherwise for profit.

The use of land for the production, preparation, marketing and transportation of grain, vegetable, fruit, and other crops, horticultural and floricultural products, animal husbandry, livestock and livestock products, as well as the buildings, structures, equipment, manure processing and handling facilities and associated operations necessary to support such production activities and practices, including a commercial horse boarding operation as defined in NYS Agriculture and Markets Law Article 25-AA, Section 301.

- (1) Such uses shall include the establishment of necessary farm structures within the prescribed limits, and the storage of equipment used in connection therewith.
- (2) Agricultural uses shall exclude the raising of fur-bearing animals, riding academies, public stables or dog kennels.

AGRICULTURAL ACCESSORY PRODUCTS -- Items, whether natural, processed, or manufactured, which are directly linked to and promote the use and sale of agricultural products such as but not limited to grain, fruit, produce, trees, shrubs, flowers, syrups and honeys, as well as seed, fertilizers, mulch soil amendments, hand implements and like products principally utilized in gardening, animal husbandry, horticulture, floriculture, apiculture and other agricultural pursuits.

AGRICULTURE-RELATED ENTERPRISES -- A retail or wholesale enterprise providing services or products principally utilized in agricultural production, including structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations.

AGRICULTURAL RECREATIONAL EVENTS -- Recreational, educational and entertainment activities operated in conjunction with and as part of an overall direct marketing strategy for an active agricultural operation or farm market that contribute to the production, preparation and marketing of crops, livestock and livestock products, and including activities such as petting zoos, hayrides, corn mazes and other such recreational activities, educational demonstrations, the onsite processing of foodstuffs and sale of prepared foods comprised primarily of ingredients produced on the premises for consumption on site and off site.

AGRICULTURAL WORKER HOUSING — Any area of land and all buildings or other structures pertaining thereto, any part of which may be occupied by persons employed as laborers in farm activities in the Town of Batavia who are provided with sleeping facilities, in whole or in part, by the owner without a stipulated agreement as to the duration of their stay or whether or not they are supplied with meals, but who are supplied with such services or facilities as are necessary for agricultural production in the Town of Batavia.

ANIMAL WASTE STORAGE FACILITY — Any building, structure, pond, lagoon or yard for the bulk storage of animal waste for eventual removal and/or dispersion.

CLUSTER DEVELOPMENT — A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, while maintaining the

Town of Batavia Agricultural & Farmland Protection Plan Recommended Zoning Amendments

overall density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

FARMERS' MARKET – An enterprise or association that consistently occupies a given site on a seasonal basis, operating principally as a common marketplace for the sale of locally grown fresh produce and farm products, where the farm products sold are produced by the participating farmers.

ROADSIDE STAND — A structure of a nonpermanent nature (movable and temporary) located on the owner's property utilized during the harvest season for the sale of agricultural products grown primarily by the owner.

STABLE, PRIVATE — A building in which horses or other livestock are kept for private use and not for hire, remuneration, or sale.

STABLE, PUBLIC — A building in which horses or other livestock are kept for remuneration, hire or sale.

A building and ancillary facilities such as paddocks, indoor and outdoor riding rinks and pastures that provide care, housing, training and health-related services to horses kept on the premises or on other properties owned or leased by the stable operator, including horses boarded on the premises by others, and which may include activities such as the sale of horses to the general public, the hiring of horses and horse drawn vehicles to the general public, and riding academy providing lessons in horseback riding and other equestrian skills or sports.

STABLING OF AGRICULTURAL ANIMALS — A concentration of animals, permitted under agricultural use, private stable and public stable, within a building, structure or other defined area for the purpose of housing or feeding.

§ 235-12. Buildings, uses and lots.

- A. One principal building and use per lot. There shall not be more than one principal building and one principal use on any one lot in the Agricultural (AG), Agricultural-Residential (AG-R), and the Residential (R) Districts except as provided for in the following:
- (1) An approved multifamily dwelling project;
 - (2) A single-family dwelling accompanying a nonresidential use, or uses, permitted on a lot in Agricultural (AG), Agricultural-Residential (AG-R) and Residential (R) Districts, provided there is only one use of a commercial nature on the lot; or
 - (3) A single-family dwelling accompanying a nonresidential use, or uses, requiring a special use permit in Agricultural (AG), Agricultural Residential (AG-R) and Residential (R) Districts, if approved by the Planning Board as part of the special use permit application process, provided there is only one use of a commercial nature on the lot.
 - (4) A single family dwelling on the same lot as an agricultural use.

§ 235-20. Stabling agricultural animals.

There shall be no stabling of animals or storage of manure, fertilizer, or similar odor- or dust-producing substance within the R District, except in conjunction with an agricultural use located within a County-

Town of Batavia Agricultural & Farmland Protection Plan Recommended Zoning Amendments

certified Agricultural District. Such stabling or storage shall be permitted in the AG, AG-R, I, IP or C Districts provided the following restrictions are observed:

- A. No such stabling or storage shall take place within ~~500~~ **100** feet of an **existing dwelling, water supply well or watercourse** ~~R-District.~~
- B. No such stabling or storage shall take place within 100 feet of a lot line.

§ 235-46. Animal waste storage facilities.

All proposals for installation and/or modification of animal waste storage facilities shall be submitted to the Genesee County Soil and Water Conservation District (GCSWCD) or United States Natural Resources Conservation Service (NRCS) for its review and determination as to acceptability. ~~If a proposal is acceptable to GCSWCD or NRCS then the Planning Board will consider the potential impacts posed by such a facility upon surrounding land uses prior to taking final action.~~

§ 235-45. Roadside stands.

- A. Roadside stands may be located in any district.
- B. ~~Goods sold shall primarily be home grown.~~ Sales shall be limited to: vegetables, fruits, herbs, flowers, plants and other farm products; handcrafts produced as part of a home occupation; and syrups, jams and jellies, juices, honey, baked goods and other foodstuffs grown or produced as part of a home occupation, however in no case shall the sale of goods requiring refrigeration or freezing be permitted.
- C. ~~There shall be a front yard setback of at least 20 feet and side yard setbacks of at least 25 feet each.~~ Any structure or ground display shall be located outside of the road right-of-way and shall be set back a minimum of 25 feet from the edge of pavement of the adjacent public road and a minimum of 20 feet from the side lot line.
- D. Stands shall be limited to 150 square feet in size, of a portable nature and must be removed when not in use. During those times or seasons of the year when such farm stand is not operational it shall be either dismantled or removed from the location to an area or a building upon the lands of the proprietor where such structure would be permitted, or secured in place by shutters or other such means to prevent unauthorized access or vandalism. At all times of the year however roadside stands visible from the public rights-of-way shall be maintained in a safe and attractive manner.
- E. Off-street parking shall be provided for a minimum of three vehicles with additional provisions if traffic warrants.
- F. Two signs of not more than 12 square feet each may be permitted, located not less than 10 feet from a lot line.
- G. No roadside stand shall be placed in a manner that limits the sight distance available to the motoring public or that in any other way obstructs their vision while driving, and furthermore, adequate space for customers to be able to park outside the outer edge of the road or highway shoulder shall be provided. Said space shall consist of an all weather surface.

§ 235-45A. Farm Markets

- A. No farm market, whether in a shared structure or freestanding structure, shall have more than 1,500 square feet of retail sales and display area, including any areas under porch roofs or other structures with roofs. Greenhouses and other structures utilized for production of plants but which may still be open to the public, or areas under cultivation open to the public such as "U-Pick" operations, are excluded from the limitation on size of retail sales and display area.

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- B. No farm market structure or associated parking areas shall be located within any front, side or rear yard setback areas of the property.
- C. Except for products on display under porches or other structures with roofs, or in greenhouses and open fields or gardens, no more than 1,500 square feet of outdoor or ground display of products shall be permitted. Furthermore no more than 200 square feet of the above 1500 square feet of outdoor or ground display shall be permitted within any front, side or rear yard areas of the property. No outdoor or ground display of products shall be permitted within any public right-of-way.
- D. Paved, gravel or other all-weather surface off-street parking facilities shall be provided. A minimum of one parking space for each 300 square feet of indoor and outdoor retail display area shall be provided. No parking shall be permitted within any front, side or rear yard areas of the property. No single dimension of the parking area shall exceed 150 linear feet.
- E. Display of Products.
No more than 20 percent of the bulk or volume of the products or wares displayed for sale at any farm market shall be agricultural accessory products as defined in this chapter. For the purpose of this section greenhouses and other structures utilized for production of plants but which may still be open to the public, or areas under cultivation open to the public such as "U-Pick" operations, are excluded from the calculation of the size of retail sales and display area.

§ 235-25. Agricultural-Residential District (AG-R).

The Agricultural-Residential (AG-R) District is designed primarily to preserve farmland and secondarily to preserve the rural nature of the town. Agricultural and residential uses have a number of inherent conflicts between them. The purpose of this district is to minimize these conflicts by separating the uses by providing an area where agricultural uses are the primary use and low-density residential development is a secondary use.

A. Permitted uses. The following uses are permitted in the Agricultural-Residential District:

- (1) Agricultural uses.
- (2) One- and two-family dwellings.
- (3) Mobile homes (see § 235-54).
- (4) Religious institutions.
- (5) Public parks, public playgrounds, and municipal uses.
- (6) Private stable.
- (7) Schools.
- (8) Home Occupation I (see § 235-44).

(9) Farm Market

(9)(10) Accessory buildings, structures and uses.

B. Uses requiring special use permit. The following uses are permitted in an Agricultural-Residential District upon the issuance of a special use permit:

- (1) Multifamily dwellings.
- (2) Home Occupation II (§ 235-44).

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- (3) Wind energy conversion systems, production model.
 - (4) Outdoor recreation facility.
 - (5) Club.
 - (6) Airport landing strip.
 - (7) Kennel.
 - (8) Community center.
 - (9) Public utility (see § 235-38).
 - (10) Public stable, except that a special use permit shall not be required if the operation is an agricultural use within a County-certified Agricultural District.
 - (11) Commercial greenhouse.
 - (12) Commercial excavation (see § 235-40).
 - (13) Cemetery.
 - (14) Campground (see § 235-43).
 - (15) Animal hospital.
 - (16) Residential care facility.
 - (17) Cluster residential development (see § 235-41).
 - (18) Day-care center.
 - (19) Bed-and-breakfast.
 - (20) Boardinghouse.
 - (21) Animal waste storage facilities (see § 235-46).
 - (22) Animal shelter.
 - (23) Pond (see § 235-48).
 - (24) Farm equipment sales, service and repair (see § 235-37).
 - (25) Skilled trade shop (see § 235-47).
 - (26) ECHO unit (see § 235-51).
 - (27) Self-service storage facility.
 - (28) Commercial communication tower (see § 235-52).
 - (29) Landscaping contractor's yard (see § 235-53).
 - (30) Accessory buildings, structures and uses related to those uses allowed by special use permit (only site plan review is required for approval).
- C. Uses requiring special use permit on arterial highways. The following uses are permitted in the Agricultural-Residential District upon the issuance of a special use permit, provided the affected lot and proposed use front directly upon an arterial highway and the lot involved is not located within 300 feet of a lot with an existing residential use (other than residential uses located on the involved lot) (such measurements shall be made between the nearest respective lot lines):
- (1) Hotel/motel.
 - (2) Motor vehicle repair shop (see § 235-37).
 - (3) Hospital.

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- (4) Indoor recreation facility.
- (5) Accessory buildings, structures and uses related to those uses allowed by special use permit (only site plan review is required for approval).

D. Area regulations. See Zoning Schedule A.

§ 235-26. Residential District (R).

The Residential District is designed to accommodate primarily residential uses on lots with a minimum area of 16,000 square feet (provided public water or sewer is available) or 20,000 square feet (no public water or sewer available). The purpose of this district is to encourage residential growth in areas of the town which have existing concentrations of residential uses. The Residential District will allow for more economical provision of public services such as water and sanitary sewer should the need arise at some future date.

A. Permitted uses. The following uses are permitted in the Residential District:

- (1) One- and two-family dwellings.
- (2) Religious institutions.
- (3) Public parks, public playgrounds, and municipal uses.
- (4) Agricultural uses, excluding the stabling of animals or the storage of manure, fertilizer, or similar odor- or dust-producing substances, unless such stabling or storage is integral to an agricultural use located in a County-certified Agricultural District.
- (5) Schools.
- (6) Accessory buildings, structures and uses.

§ 235-46. Animal waste storage facilities.

All proposals for installation and/or modification of animal waste storage facilities shall be designed, constructed and maintained in accordance with the standards promulgated by the USDA Natural Resources Conservation Service (NRCS), submitted to the Genesee County Soil and Water Conservation District (GCSWCD) or United States Natural Resources Conservation Service (NRCS) for its review and determination as to acceptability. If a proposal is acceptable to GCSWCD or NRCS then the Planning Board will consider the potential impacts posed by such a facility upon surrounding land uses prior to taking final action.

AGRICULTURAL WORKER HOUSING

The Planning Board may issue a special use permit for the construction and maintenance of housing to support an individual agricultural operation within the AR Agricultural-Residential District provided that the following standards and conditions are maintained:

- A. The maximum number of housing units allowed for an individual agricultural operation shall be based on justification of need for the number of dwelling units requested. This justification is to be based on, among other items, full time employment by one or more persons living as a family in the dwelling unit and deriving their principal income from the individual agricultural operation for which this special use permit is requested.

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- B. No housing unit shall be used, leased or rented to another person if that person does not have a legal interest established with the individual agricultural operation. The landowner shall certify, on an annual basis, that the farm housing is used for farm labor. All housing units shall be located on a parcel that is under the same ownership as the individual agricultural operation.
- C. All housing units shall comply with the Standards of the Codes of New York.
- D. All housing units shall have a septic system approved by the New York State Department of Health, or an approved connection to a public sewer system.
- E. All housing units shall have adequate access to a public highway. To the extent possible, this access shall be combined with the primary agricultural operation and any other driveways for all other housing units associated with said agricultural operation.
- F. All housing units shall have a designated area for parking of at least one (1) vehicle per housing unit. This parking area shall be located adjacent to, or within 100 feet from, the main entrance to each temporary housing unit. All such parking area(s) shall be adequately screened or buffered from existing dwelling units or adjacent residential zoned land.
- G. All housing units shall be anchored to a concrete pad or attached to a building foundation.
- H. All housing units shall be located on that portion of an actively farmed site which the Planning Board determines would cause the least disruption to continued farming operations. The basis for this determination will include an overall site plan identifying the land needed for production and the land needed in support of said production.
- I. All housing units, regardless of the zone district, shall be subject to the front, side and rear setback standards specified for principal buildings in the AR District.