

**Town of Batavia**  
**Agricultural & Farmland Protection Plan**



***DRAFT: September 2011***

*Prepared with financial assistance from the NYS Department of Agriculture & Markets*



**Table of Contents**

**A. Introduction and Methodology ..... 1**

- 1. Grant ..... 1
- 2. Consultant ..... 1
- 3. Steering Committee ..... 1
- 4. Public/ Landowner meetings ..... 1
- 5. Farmer interviews ..... 2
- 6. Existing Plans and Programs ..... 3
- 7. Approvals ..... 4

**B. Community Overview ..... 5**

- 1. Regional Setting ..... 5
- 2. Streams and Watersheds ..... 5
- 3. Population ..... 5
- 4. Land Use ..... 6
- 5. Infrastructure ..... 7

**C. Agricultural Land Resources ..... 7**

- 1. Soils ..... 7
- 2. Cropland ..... 8
- 3. Land to be Protected ..... 10
- 4. Conversion Pressure/ Potential Consequences of Conversion ..... 11
- 5. Summary of issues relating to farmland retention ..... 12

**D. Economic Value of Agriculture ..... 15**

- 1. Production Agriculture – Batavia and Genesee County ..... 15
- 2. Markets for Farm Products ..... 16
- 3. Issues relating to agriculture as a business ..... 17

# Town of Batavia Agricultural & Farmland Protection Plan

---

<b>E. Tools and Techniques</b> .....	<b>19</b>
1. Land Conservation Through Conservation Easements .....	19
2. Zoning Techniques .....	20
3. Subdivision Design .....	23
4. Infrastructure Management .....	23
5. Tax Relief Programs .....	28
6. Local “Right to Farm” Law.....	28
<b>F. Strategies and Recommended Actions</b> .....	<b>30</b>
1. Revise Land Use Regulations.....	30
2. Protect land through conservation easements .....	32
3. Support local agricultural and related businesses .....	34
4. Improve drainage to maintain or increase the productivity of farmland.....	36
5. Establish an ongoing committee to monitor the implementation of the Town’s Agricultural & Farmland Protection Plan .....	37
<b>G. Next Steps</b> .....	<b>37</b>

## **Town of Batavia Agricultural Protection Plan**

### **List of Maps**

- 1: County Agricultural Districts and Smart Growth Development Areas
- 2: Regional Setting
- 3: Streams and Watersheds
- 4: Wetlands and Flood Zones
- 5: Existing Land Use by Tax Parcel
- 6: Agricultural Soils
- 7: Active Cropland
- 8: Agricultural Parcels
- 9: Farmland Suitable for Protection
- 10: Recent Residential Construction
- 11: Recent and Potential Commercial Development
- 12: Direct Market Outlets

## **Town of Batavia Agricultural Protection Plan**

### **List of Appendices**

- A. Summary of Recommendations in the 2007 Town of Batavia Comprehensive Plan and 2001 Genesee County Agricultural Preservation Plan
- B. Overview of Existing Plans and Programs
- C. Circular 1150 – NYS Agriculture & Markets Agricultural District Law
- D. Existing Planned Business Development District regulations – Town of Batavia Zoning Law
- E. Summary of Direct Market Venues – Town of Batavia
- F. Proposed Agricultural Production Zone regulations
- G. Zoning Audit and Recommended Zoning Revisions

## **A. Introduction and Methodology**

### **1. Grant**

In 2008, the Town of Batavia initiated the process of preparing an Agricultural & Farmland Protection Plan that would help implement the recommendations of its 2007 Comprehensive Plan. The Town was awarded a \$25,000 grant from the NYS Department of Agriculture & Markets to prepare this Agricultural & Farmland Protection Plan.

### **2. Consultant**

The Town of Batavia retained the consulting team of Stuart I. Brown Associates, a division of LaBella Associates, P.C., based in Rochester, New York, and American Farmland Trust, a national organization with a field office in western New York, to assist with the preparation of the Plan. Brown Associates was the lead consultant and American Farmland Trust assisted with the development of strategies and outreach to area farmers. The consultants conducted research, helped to organize and facilitated public meetings, prepared drafts for Committee review, and prepared the final plan document. Staff from the Genesee County Planning Department attended Committee meetings, provided data and other information, and advised the Committee throughout the process.

### **3. Steering Committee**

The Town appointed a Steering Committee that consisted of farmers, residents and representatives of the Town Board, Town Planning Board, Town staff and the Genesee County Planning Department. Steve Mountain, Town Engineer, facilitated the process on behalf of the Town. The following persons served on the Advisory Committee for the preparation of the Agricultural & Farmland Protection Plan:

- Jill Babinski, Genesee County Planning Department
- Paul McCollough, Town Planning Board
- Steve Mountain, Town Engineer
- Dan Underhill, Town Councilman
- Mac McCampbell, O-At-Ka Milk Products
- Donna Morrill
- Gordon Offhaus
- Clint Worthington, Town Code Enforcement Officer

### **4. Public/ Landowner meetings**

The consultants worked with Town staff to organize and publicize a series of public meetings and workshops. Town staff prepared a mailing list of all farmland owners and sent postcards to encourage their attendance at each of the public events.

## Town of Batavia Agricultural & Farmland Protection Plan

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- A public informational meeting was held on November 13, 2008 to “kick off” the planning process. Diane Held from American Farmland Trust described the tools and techniques available to local governments to support agriculture and the agricultural economy. Barbara Johnston from Stuart I. Brown Associates presented an overview of the planning process and maps of the agricultural resources in the Town. Public discussion about the issues and opportunities relating to agriculture and farmland was encouraged. At this meeting, participants identified several strengths, weaknesses, opportunities and threats relating to agriculture in the Town. Representatives from Cornell Cooperative Extension of Genesee County and the Genesee County Soil & Water Conservation District contributed their perspectives on how the Town may be able to retain farmland and better support the local agricultural industry. A total of 17 people attended this meeting.
- A panel discussion on Agricultural Economic Development was held on February 12, 2009 at the Town Hall. Panelists included Steve Hyde, Genesee County Economic Development Council; Mac McCampbell, Oatka Milk Products; and Paul Fenton, Fenton’s Produce. The program explored how the many large and small businesses that rely on farms and farmland are integrated into the local, regional, national and international agricultural economy. It also addressed the significance of farming and agriculture-related businesses to the economic well-being of the Town of Batavia and neighboring communities. A total of fifteen people attended this meeting, in addition to the presenters.
- A public workshop presented on Thursday, March 12, 2009 addressed potential zoning changes, how changes in local zoning regulations can help support agriculture, and whether the Town should change zoning density requirements in agricultural areas. Approximately 11 people attended this workshop. Information was presented on the following techniques:
  - Agricultural Protection Zoning
  - Incentive zoning/ Transfer of Development Rights
  - Density averaging/ Cluster development
  - Subdivision and site plan design considerations
- A workshop sponsored by Genesee County on purchase of development rights was held on January 29, 2009. Committee members, farmland owners and the public were encouraged to attend.
- A second public informational meeting was held on September 24, 2009 to provide an opportunity for farmers, landowners and the general public to comment on the recommendations proposed to be included in the draft Plan.

### 5. Farmer interviews

During the spring of 2009, American Farmland Trust consultants conducted in-person interviews with seven farmers who were identified by the Steering Committee as representative of the farm operations in the Town. The farmers were interviewed about what the Town could do to support agriculture, protect farmland, and plan for the future of farming. Most of the farmers interviewed had farms based

## Town of Batavia Agricultural & Farmland Protection Plan

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in the Town, while several of them had main farms outside of Batavia, but worked land within the Town limits. Three of the farmers also worked land in other counties.

### 6. Existing Plans and Programs

#### Town of Batavia Comprehensive Plan

This Plan will further the recommendations for agriculture and farmland protection that are included in the 2007 Town of Batavia Comprehensive Plan. A summary of the Comprehensive Plan's recommendations in these plans is included in Appendix A.

#### Agricultural District Program

Provisions in the NYS Agricultural District Program to protect farmers include:

- Agricultural use value assessments
- Protection from local regulations that would restrict farm practices
- Protection from public acquisition of farmland through "eminent domain"
- Protection from nuisance suits (right-to-farm provisions)

Lands within a County Agricultural District are depicted in Map 1.

#### Genesee County Agricultural & Farmland Protection Plan/ Agricultural & Farmland Protection Board

Genesee County completed a Farmland Protection and Agricultural Development Plan in 2001. A summary of the recommendation in this Plan is included in Appendix A. The Genesee County Agricultural and Farmland Protection Board is responsible for implementing the recommendations of the Farmland Protection and Agricultural Development Plan and ensuring that municipal agricultural plans are consistent with the County's goals and policies.

#### Genesee County Smart Growth Plan

The Genesee County Smart Growth Plan, prepared in 2001, was designed to encourage the revitalization of villages and hamlet areas and protect valuable agricultural resources. The Plan delineates Development Areas outside of which connections to the Genesee County water system are subject to additional oversight. Provisions are in place to ensure that water hookups are made available when new development is proposed that would result in significant regional economic benefits.

The Town of Batavia currently administers requests for water hookups outside of Development Areas. The boundaries of the Development Areas are reviewed every three years and the next review is scheduled for 2013. The location of Development Areas within the Town of Batavia are depicted in Map 1.

# Town of Batavia Agricultural & Farmland Protection Plan

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## Wellhead Protection Zone

The Town of Batavia's zoning regulations delineate a designated "wellhead protection zone" and include provisions to protect the quality of groundwater of the Tonawanda Creek aquifer (See Map 4). The Town's regulations include standards for the storage of hazardous materials and other activities that may threaten the quality of this significant source of drinking water.

## Relevant Agencies and Organizations

The recommended actions in the plan are intended to complement the ongoing activities being carried out by several Federal, State, County agencies as well as private organizations. These agencies include:

- NYS Department of Agriculture & Markets
- Genesee County Soil & Water Conservation District
- Cornell Cooperative Extension of Genesee County
- Agricultural Environmental Management (AEM)
- United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS)

Private organizations active in land conservation and other activities in support of agriculture include:

- Western New York Land Conservancy
- American Farmland Trust
- Genesee County Agricultural Society

Descriptions of these programs and organizations are provided in Appendix B.

## **7. Approvals**

In accordance with the requirements of the NYS Department of Agriculture, the draft Agricultural & Farmland Protection Plan must be approved by the Genesee County Agricultural & Farmland Protection Board and the Town Board before it receives final approval by the NYS Department of Agriculture & Markets. In addition, the Town Board must conduct a public hearing on the Plan. The Town Board held two public hearings on January 20, 2010 and April 21, 2010 and approved the Plan on \_\_\_\_\_. The Genesee County Agricultural & Farmland Protection Board reviewed a draft plan at its meeting on December 16, 2009 and approved the plan on \_\_\_\_\_.

## **B. Community Overview**

### **1. Regional Setting**

The Town of Batavia is located in central Genesee County, New York (see Map 2: Regional Setting.) The Town completely surrounds the City of Batavia, which is the County seat. The City of Batavia and adjacent land in the Town form a regionally significant hub for commerce, industry, health care and government services.

The New York State Thruway provides access to the cities of Buffalo, located 35 miles to the west, and Rochester, located 35 miles to the east. Thruway Exit 48 is located in the Town of Batavia immediately north of the City of Batavia. Several State highways -- NYS Routes 63, 5, 33 and 98 -- are also major truck routes that pass through the Town of Batavia and converge in the City of Batavia.

### **2. Streams and Watersheds**

Tonawanda Creek flows through the Town from the southern boundary, through the City and westerly through the western part of the Town. Other significant streams in the Town include Bowen Creek, a tributary of Tonawanda Creek located in the southwest portion of the Town, and Spring Creek, a tributary of Black Creek located east of Oak Orchard Road. Map 3 depicts the streams and watersheds in the Town.

Most of the Town's land area is within the Upper Tonawanda Creek watershed. The northeast portion of the Town drains into Black Creek and the southwest portion drains into Murder Creek.

Tonawanda Creek is one of the sources of drinking water for City and Town residents and it frequently floods. In addition, a large aquifer underlies much of the Town of Batavia. Large areas of the Town contain State or Federally regulated wetlands and/ or are subject to flooding. Map 4 depicts wetlands and flood-prone areas of the Town.

### **3. Population**

The U.S. Census Bureau estimates the total population of the Town of Batavia in 2008 at 5,897. This represents a slight decline from the 2000 population of 5,915 and 6,055 in 1990. However, the number of housing units in the Town increased by 10% from 1990 to 2000, from 2,226 to 2,447. (2000 Census). The average number of persons per household decreased from 2.65 in 1990 to 2.53 in 2000.

## Town of Batavia Agricultural & Farmland Protection Plan

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### 4. Land Use

Agriculture is the predominant land use in the Town, with more than one-half of the land area occupied by agricultural uses. A total of 13,571 acres comprise active cropland, representing 44% of the Town's land area.

Approximately 25% of the Town's land area is devoted to residential uses. Residential development includes subdivisions, manufactured home parks, farm houses, and scattered rural residences. A portion of the hamlet of East Pembroke is located along the western boundary of the Town.

Commercial development is concentrated along the State highways to the west, north and east of the City of Batavia. Several "big box" stores and retail businesses are situated along Veteran's Memorial Drive and West Main Street Road west of the City of Batavia. Several hotels are located near the Thruway interchange. Smaller retail and service businesses are found along East Main Street Road and in the Hamlet of East Pembroke.

Two industrial parks developed by the Genesee County Economic Development Center (GCEDC) are located in the Town. Gateway I is located along NYS Route 98 (Oak Orchard Road) just north of the City of Batavia and Gateway II is located along East Saile Drive north of the City of Batavia and west of NYS Route 98. Other industrial development includes a large mining operation southeast of the City of Batavia and a concrete forms plant in the Hamlet of East Pembroke. A portion of the O-At-Ka Milk Products facility is located in the Town southeast of the City of Batavia. In addition, portions of the Pearl Street Industrial Park and the Batavia Industrial Park are located in the Town of Batavia. The GCEDC is in the process of developing an Agricultural Technology industrial park on 331 acres in the Town southeast of the City. Development of a new Medical Technology park is underway east of the City, south of Genesee Community College.

A major detention facility operated by the U.S. Immigration and Naturalization Service (INS) is located northwest of the Thruway interchange. The Genesee County Airport is located in the northeast part of the Town. Genesee Community College is located in the eastern part of the Town just south of the NYS Thruway. The City of Batavia wastewater treatment lagoons are located southwest of the City. Other governmental and institutional facilities are located in the Town include the Town Hall and Highway Garage, the City of Batavia wastewater treatment facility, State Police, and County Highway Department and several churches.

Recreational facilities include: the Town-owned Kiwanis Park, located on the south side of West Main Street Road; the Genesee County Fairgrounds located south of East Main Street Road; Terry Hills Golf Club, a public 27-hole golf course located in the eastern part of the Town; and the privately-owned Area 51 motocross park located on Harloff Road. The Town is working with the City and school district to identify potential sites for additional athletic fields. New athletic fields will be created on a temporary basis on an existing turf farm located in the Town on Bank Street Road northeast of the City of Batavia.

Existing land use by tax parcel is depicted in Map 5.

### 5. Infrastructure

The Town of Batavia maintains approximately 40 miles of water lines and provides public water service to most residents of the Town. Sanitary sewer service is available in the area between Route 98 and West Main Street Road northwest of the City of Batavia, east of the City along both sides of Routes 5 and 33 and north to the Thruway, and in the Gateway Park areas.

Cable television and broadband internet area available through Time Warner Cable in most areas of the Town. Natural gas is provided by National Fuel and electrical service is provided by National Grid.

## C. Agricultural Land Resources

### 1. Soils

As depicted in Map 6, nearly one-half of the Town's land area consists of prime agricultural soils. Some areas consist of wetlands that have been drained, forming highly productive black "muck" soils. Other areas would constitute prime soils if drained.

Prime farmland soils have been identified by the USDA Natural Resource Conservation Service (NRCS) and are defined as follows:

Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, range-land, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

# Town of Batavia Agricultural & Farmland Protection Plan

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**Table 1: Agricultural Soils – Town of Batavia**

Agricultural Soils	Acres	% of Total
Prime Farmland	13,065.7	42.1%
Muck	2,936.2	9.5%
Prime Farmland if drained	5,227.4	16.8%
Other Soils	9,794.7	31.6%
	31,023.9	100.0%

SOURCE: Soils data provided by the USDA Natural Resources Conservation Service; Acreages calculated from GIS shapefiles.

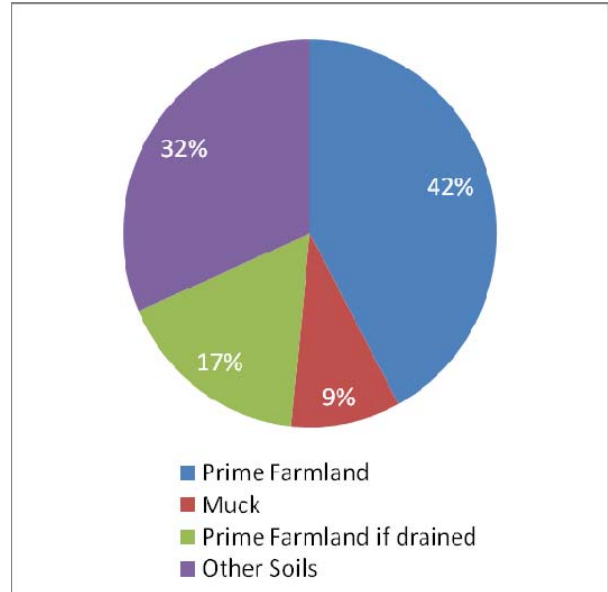


Table 2 on the following pages lists the soil types found in the Town, the number of acres in each soil type and whether the soil is classified as Prime Farmland, Prime Farmland if Drained, or Other Soils.

## 2. Cropland

For the purpose of this Plan, the Town of Batavia defines “farm” to be consistent with the definition of “Land used in agricultural production” contained in the NYS Agricultural Districts Law (AGM Article 25-AA, §301):

“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.”

The complete text of the law is provided in Circular 1150, included in Appendix C.

A total of 13, 571 acres in the Town of Batavia is active cropland.<sup>1</sup> This represents 44% of the total land area of the Town. Map 7 depicts the extent and location of these lands. Virtually all of the land in the Town that is not wetland or developed is in active agricultural use.

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<sup>1</sup> SOURCE: Farm Service Agency, from data provided by the Genesee County Soil & Water Conservation District (SWCD). Acreages calculated from GIS shapefiles.

**Table 2: Acreages by Soil Type – Town of Batavia**

<b>Prime Farmland</b>	
<b>MUSYM</b>	<b>Acres</b>
AnB	28.3
ArB	648.2
CeA	329.7
CeB	1,218.2
ClB	115.5
CmB	99.1
DuB	358.8
EIB	22.1
GnA	508.2
GnB	305.1
Hf	205.6
HIA	61.9
HIB	122.9
LmA	992.7
LmB	617.3
MoB	937.9
NuB	1.3
OnA	388.9
OnB	1,501.5
OsB	381.2
PbB	34.8
PhA	796.8
PhB	1,393.4
PIA	12.8
PIB	159.2
PsA	327.5
PsB	283.3
RoA	310.6
SeB	8.2
Te	345.3
WsB	549.3
<b>Total:</b>	<b>13,065.7</b>

<b>Prime Farmland if drained</b>	
<b>MUSYM</b>	<b>Acres</b>
AnA	39.3
ApA	384.4
ApB	23.6
DaA	83.0
FpA	192.5
FrA	5.0
KnA	204.9
MhA	369.8
MhB	1,856.3
MnA	130.4
NeA	101.0
NgA	291.4
Oa	287.9
OdA	19.8
OdB	43.9
OvA	592.0
OvB	552.4
Wk	49.9
<b>Total:</b>	<b>5,227.4</b>

<b>Muck</b>	
<b>MUSYM</b>	<b>Acres</b>
Br	174.8
CaA	421.4
CbA	633.2
Ed	12.0
Fo	214.5
Le	727.9
Pd	733.5
Pn	19.0
<b>Total:</b>	<b>2,936.2</b>

<b>Grand Total</b>	<b>31,023.9</b>
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<b>Other Soils</b>	
<b>MUSYM</b>	<b>Acres</b>
Ad	306.8
ArC	45.0
AsD	14.5
AsE	48.4
AuA	319.1
AuB	140.5
BeB	775.3
BeD	131.0
BeE	32.1
CcA	265.9
CeC	256.9
CgC3	62.6
CgD3	70.4
CmC	29.1
DuC	63.8
GP	86.8
HaA	271.2
IoA	1,069.0
La	153.3
Ld	854.0
LoA	364.4
Ma	680.6
MoC	975.7
MoD	145.1
NuC	0.6
OnC	332.5
OnD	48.9
OrE	11.3
OsC	49.8
PbC	6.4
PbD	2.7
PhC	632.8
PkD	182.4
PkE	34.8
PIC	73.0
ReB	9.1
RmB3	5.6
RsA	185.8
Ru	74.2
ShC3	12.1
ShD3	1.5
SIE3	1.2
StA	37.3
Uf	96.6
Um	17.4
W	494.2
Wy	323.0
<b>Total:</b>	<b>9,794.7</b>

## Town of Batavia Agricultural & Farmland Protection Plan

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Agricultural uses in the Town of Batavia include large-scale vegetable, grain and dairy farms, as well as small and part-time livestock and other farms. More than one-half of the land area in the Town is occupied by agricultural uses. Map 8 depicts the location of parcels classified by the Town Assessor as agricultural.

### 3. Land to be Protected

The Town has identified all actively farmed land that consists of high quality agricultural soils as suitable for long term protection.

GIS maps were utilized to identify those lands in the Town that are both actively farmed and consist of high quality agricultural soils (prime, prime if drained, and muck.) A total of 10,273 acres are designated as suitable for long-term protection for agricultural uses.

The following table summarizes the agricultural soil classifications of land suitable for long-term protection in the Town of Batavia. (See also Map 9.)

Actively Farmed Land by Soil Suitability (acres)	Prime	Prime if Drained	Muck	Total
<b>Total</b>	<b>7,565</b>	<b>2,425</b>	<b>283</b>	<b>10,273</b>

Voluntary preservation techniques, such as public purchase of development rights or private sale of conservation easements, are encouraged for all areas designated as suitable for long-term protection. Areas proposed to be included in a new Agricultural Production Zoning District are identified in Appendix F.

#### Criteria for Long-term protection

The following criteria will guide the selection of specific parcels for permanent protection:

- Proportion of high quality (prime) agricultural soils
- Long term viability, based on the size of the farm, likelihood that the farm will continue to operate over succeeding generations, and farm management
- Extent to which the farm land helps to protect significant natural resources
- Extent of imminent or significant development pressure
- Landowner commitment to continued agricultural production

## Town of Batavia Agricultural & Farmland Protection Plan

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### 4. Conversion Pressure/ Potential Consequences of Conversion

Farmland in the Town of Batavia faces pressure for conversion, to varying degrees, from future residential, commercial, industrial, and institutional development.

#### Residential

Residential development during the past several years has occurred both as residential subdivisions and in scattered locations on individual lots. Map 10 depicts the location of residences constructed between 2000 and 2008 in relation to active cropland.

Four residential subdivisions have been established or expanded: Meadow Crest Estates (Valle Drive, Woodland Drive, Edgewood Drive) just west of the City of Batavia; Bennett Heights, north of the City and east of State Street Road; Stringham Subdivision (Stringham Drive, Violet Lane) east of the City and north of Clinton Street Road; and Rolling Acres (Haven Lane, Rolling Circle Way) west of the City and south of East Main Street Road. All of these residential subdivisions are within designated Smart Growth Development Areas and are within areas designated for future residential use in the 2007 Town of Batavia Comprehensive Plan. However, they also adjoin active farmland. Expansion of these subdivisions would likely require conversion of farmland.

Scattered residential development in farming areas also has the potential to impact agricultural operations. While such development does not require large areas of land, the establishment of residential uses near farms creates the potential for conflict between farms and residential neighbors. Fragmentation of farm fields makes it more difficult and less efficient to operate large farm equipment. Neighbors may complain about noise, odors and slow farm equipment on the roads. Such development represents a considerable threat to the future viability of agriculture in the Town of Batavia.

#### Commercial/ Industrial

The Town of Batavia has numerous assets that make it very attractive for commercial development, including Thruway Exit 48 and several State highways that converge in the City of Batavia. The Town has encouraged such development, particularly west of the City, with road and utility expansions. The Town has zoned additional areas for commercial development along State highways and near the County airport. (See Map 11.) As some of this land is currently farmed, development as proposed would result in the conversion of farmland.

The Town and the Genesee County Economic Development Center (GCEDC) is encouraging new industrial, office and/or commercial development in the Gateway I and II industrial parks, the Medical Technology Park and the Agri-Business Industrial Park. Development in several of these areas would result in the conversion of farmland.

A large area of farmland located west of Route 98 and north of the City of Batavia was rezoned "Planned Business Development" in 2008 at the request of the landowners and as recommended in the Town's 2007 Comprehensive Plan. This land continues to be farmed. Although the current owners have

## Town of Batavia Agricultural & Farmland Protection Plan

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obtained information about purchase of development rights and private easements, none have expressed interested in pursuing long term protection of this site for agricultural use.

The Planned Business Development regulations for this site prohibit residential development and small scale commercial development, thereby eliminating the short-term threat to farming of piecemeal development. Permitted uses in this district are limited to agriculture and one dwelling for each of the eight parcels of record that comprise the 600-acre zoning district. Conversion of this farmland would only occur if a coordinated development plan is presented for a minimum of 100 acres, adequate utilities are available to the site and the proposed development represents a significant regional economic development opportunity. Town Planning Board approval is required to authorize development of this site, subject to an acceptable site plan. The regulations for this zoning district are included in Appendix D.

### Institutional/ Public

The expansion of the Genesee County Airport required the condemnation of agricultural land by eminent domain. The Federal Immigration Detention Center west of Gateway I Industrial Park along NYS Route 98 also was constructed on former agricultural land. There is some concern among landowners that these institutions may expand in the future and take farmland by eminent domain. No such plans have been indicated to date by the institutions involved.

### Recreation

The Town recently purchased 42 acres of farmland along the south side of Galloway Road, as well as the former Village of Oakfield water supply facilities, for future recreational use. The Town intends to develop the area into a passive recreation park with picnic areas and walking trails.

A private landowner has been working with various organizations to lease land that is currently used as a turf farm for athletic fields. This area is located north of the NYS Thruway and east of Bank Street Road. Such use may be temporary, allowing the land to be used for agricultural purposes in the future.

### Mining

Some of the farmland in the Town of Batavia is suitable for sand and gravel mining, and there are active mines in the Town. Some farmland may be converted to mining uses, as mining (commercial excavation) is a permitted use in the Town's Agricultural/ Residential zoning district.

## **5. Summary of issues relating to farmland retention**

### **Conversion of Farmland to Development/ Competition for land**

New residential or commercial development has the potential to convert high quality farmland to non-farming uses. Such conversions may result in increased neighbor conflicts in addition to the loss of land

## **Town of Batavia Agricultural & Farmland Protection Plan**

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for farming. The land that is most suitable for development is typically the same well-drained land that is best for agriculture.

Farm-neighbor conflicts become more frequent when new residential development is constructed adjacent to active farmland. In addition, efficiency of farming is affected when the subdivision of farmland reduces the amount of contiguous land available for farming.

Retention of farmland is especially challenging in those areas of the Town that are experiencing development pressures. Land that is close to the NYS Thruway interchange, in particular, has good potential for high-intensity industrial, commercial or other economic development uses. Individual landowners may choose to convert land to a more intensive use rather than pursue techniques that would preserve the land for continued agricultural use.

### **Landowner Equity**

Frequently, retiring farmers will sell land for development in order to finance their retirement, as the price paid by developers is often higher than what the land is worth for farming. From the farmland owner's perspective, any alternative to selling land for development would need to offer a similar financial return.

Programs such as the Purchase of Development Rights (PDR) are designed to compensate farmland owners for placing a conservation easement on their property that restricts future development. The land may be sold with the restriction in place. The owner would receive the value of the land when sold for agricultural use in addition to the value of the development rights. (See "Tools and Techniques" section of this chapter.)

### **Floodplains**

In the Town of Batavia, large areas of land are susceptible to periodic flooding. Many of these lands, such as large areas within the Tonawanda Creek floodplain, are highly suitable for agriculture as development opportunities are limited due to the risk of flooding.

### **Drainage**

State and Federal wetlands and wildlife regulations sometimes affect the ability of a farmer to utilize land for agricultural production. For example, beavers are protected by the NYS Department of Environmental Conservation (NYS DEC) and can create wetlands by damming creeks with felled trees. Farmers may not eliminate beavers from their property without securing permission from the NYS DEC. If the damming continues, the land may be categorized as a protected wetland by NYS DEC or the Army Corps of Engineers. As such, farming activities may be limited.

Some of the most productive agricultural land in Genesee County – the rich, black "muck" land -- was created by draining wetlands. Drainage projects were subsidized by State and Federal government agencies to create this high quality farmland. However, as current policies favor protection of wetlands for wildlife habitat, State and federal funding for drainage improvements is scarce.

## **Town of Batavia Agricultural & Farmland Protection Plan**

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The Genesee County Soil & Water Conservation District (SWCD) regularly assists landowners with the design of drainage projects within the Town of Batavia. At this time, no specific projects have been identified in the Town.

### **Infrastructure Extensions**

The extension of water and, especially, sewer lines into agricultural areas increases the attractiveness of these areas for residential development. New residential development in farming areas increases the potential for neighbor conflicts and can result in conversion of land from farming to residential uses.

The extension of water lines into agricultural areas can also benefit farm operations. By providing a reliable source of water, farm operations can readily comply with requirements for “Good Agricultural Practices” that have become necessary to sell produce to certain markets. In addition, residences served by public water are less susceptible to potential contamination of groundwater from manure or pesticide usage than those with private wells.

### **Genesee County Smart Growth Plan**

The Genesee County Smart Growth Plan addresses the pressure to convert land from agricultural uses by managing connections to its public water system. The Smart Growth Plan requires that new non-agricultural development outside of designated Development Areas and located along water mains constructed by or funded through Genesee County apply for a special approval to connect to the County-operated water system. However, the Smart Growth Plan will permit hookups where new development would result in regionally significant economic benefits. In addition, water extensions funded by public agencies such as USDA Rural Development require that the municipality prohibit non-agricultural hookups while the land is within a County Agricultural District.

### **Fiscal Benefits of Farmland Protection**

Communities often promote additional development in order to increase the tax base. However, new residential development, in particular, increases the demand for municipal services such as schools and infrastructure. Recent “Cost of Community Services” studies have shown that new housing requires \$1.19 in services for every \$1.00 raised in taxes. In contrast, farmland requires only \$0.37 in services for every \$1.00 it contributes in taxes. As a result, municipalities may find fiscal benefits to retaining farmland in a community, even if they incur costs to achieve permanent protection of farmland.

## D. Economic Value of Agriculture

### 1. Production Agriculture – Batavia and Genesee County

Agriculture is the biggest industry in Genesee County. In 2007<sup>2</sup>, the market value of agricultural products sold from Genesee County farms was \$177.81 million. This represents an increase of 42% since 2002. Genesee County ranks 4th in New York State in the value of agricultural products sold.

The leading products sold were milk and other dairy products from cows followed by vegetables. The following table summarizes the market value of leading products.

**Market Value of Agricultural Products Sold  
Genesee County -2002**

Product	2007 Sales (\$ million)	% of Total	State Rank
Dairy Products	\$95.895	54	5
Vegetables	\$43.630	25	1
Cattle & Calves	\$13.302	13	5
Grains & dry beans	\$14.012	7	7
Hay & other crops	\$5.267	2	15
Other products	\$5.695	4	
Total:	\$124.938		4

SOURCE: 2007 Census of Agriculture

The 2002 Census of Agriculture reported a total of 70 farms located in the Batavia zip code (14020)<sup>3</sup>. This represents 12% of all farms in Genesee County. Of these farms, 52 (74%) reported sales of less than \$50,000, 12 (17%) reported sales of \$50,000 to \$249,999 and 6 (9%) reported sales of \$250,000 or more. A total of 26 farms were less than 50 acres in size while four were larger than 1,000 acres.

The direct income generated by farming is only a fraction of its economic impact on Genesee County and its communities. Each dollar earned or job created by dairy or crop farming generates an additional two jobs or dollars in other sectors of the economy. Farming has among the highest employment and “value added” “multipliers” of any industry.<sup>4</sup>

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<sup>2</sup> SOURCE: 2007 Census of Agriculture

<sup>3</sup> 2007 statistics for individual zip codes have not yet been released

<sup>4</sup> SOURCE: “Policy Issues in Rural Land Use,” Vol. 9, No. 2, December 1996, Cornell Cooperative Extension, Contributed by Kevin Jack, senior economist, New York State Department of Labor, and Nelson Bills, and Richard Boisvert, professors, Department of Agricultural, Resource, and Managerial Economics.

## 2. Markets for Farm Products

Farms in the Town of Batavia sell their products to local, regional and national processors, wholesale operations, and directly to consumers. The following narrative describes these markets.

### Processing

O-At-Ka Milk Products, which manufactures dairy products at its facility located in mostly in the City of Batavia and partly in the Town of Batavia, provides a local market for local and regional dairy farms. Other dairy farmers in the area work with cooperatives such as Dairy Farmers of America (DFA) and Upstate Niagara Farms and some market directly to processors and distributors.

*O-At-Ka is the largest agribusiness in Batavia. The facility is owned by two dairy cooperatives -- Upstate Niagara Cooperative, Inc. and Dairy Farmers of America, Inc. The facility includes a headquarters building, research and development. According to the company website, O-At-Ka manufactures a wide variety of dairy and non-dairy based products including bulk cream and milk concentrate, butter, milk powder, condensed milk, infant formula, high protein drinks, ready-to-drink beverages, pet products and milk replacement beverages. Products are marketed worldwide.*



SOURCE: O-At-Ka Milk Products website: [www.oatkamilk.com](http://www.oatkamilk.com)

## Town of Batavia Agricultural & Farmland Protection Plan

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Two former Birdseye frozen vegetable processing plants located in Genesee County (Oakfield and Bergen) and one in nearby Brockport were sold in 2006 to Allen Canning and continue to process peas, corn, beans and carrots.

Ethanol plants, including one that was recently constructed in the Town of Shelby in Orleans County, were expected to provide additional nearby markets for locally grown corn. However, the future market for ethanol is uncertain. Several proposed plants have been cancelled and others have reduced their output.

Corn and grain are sold to brokers who market the products to processors.

### Fresh Market

Several retail chains purchase fruits and vegetables directly from farmers in the Town of Batavia and Genesee County. Other farmers sell produce to brokers and wholesalers.

### Direct Marketing

A seasonal Farmers Market has been established in the parking lot of Batavia Downs, located immediately west of the City of Batavia.

Several farm markets and roadside stands, operated by individual farmers, are located in the Town. Farm products for sale at these businesses include vegetables in season, herbs, cut and potted flowers, popcorn, and meats.

Cornell Cooperative Extension of Genesee County has published a guide to agritourism that identifies many of the direct market outlets in Genesee County. Map 12 depicts the direct market outlets in the Town of Batavia that are listed in this guide. A summary of direct market operations located in the Town of Batavia is provided in Appendix E.

## **3. Issues relating to agriculture as a business**

The retention of farmland requires that agriculture continue to be profitable as a business. Farmers face numerous challenges and uncertainties, many of which are outside of the control of local government. These range from the weather to market conditions, federal immigration policies, price supports and environmental regulations. This section summarizes the issues that have been raised by farmers and agribusiness representatives at public meetings and in interviews during the planning process, with a focus on those that can be addressed by local, county or State government entities.

### Labor Force

Many local farmers rely on immigrant and/or migrant labor to harvest crops, as resident labor has not been available. Improvements to immigration laws and enforcement policies are needed to assure a reliable workforce for local farmers. Housing is needed for farm labor. Such housing needs to be accommodated in local land use regulations.

# Town of Batavia Agricultural & Farmland Protection Plan

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## Property Taxes

Most of the farmland in the Town of Batavia is eligible for agricultural use assessments as authorized by the NYS Agricultural Districts Law. Farmland owners must apply for an exemption each year. While most farmers in the Town receive the exemption, some owners of land that is rented to farmers may not be aware that they are also eligible. Additional outreach may be needed to inform property owners of the availability of the exemption and remind them of the deadline to apply.

The agricultural use exemption applies to Town, County and school district taxes. However, Fire Districts must take action to apply the exemption to agricultural operations. The governing body of the fire district -- whether it is the Town Board in the case of the Batavia Fire District or the Board of Commissioners in the case of the Pembroke Fire District – must pass a resolution that authorizes the use of agricultural use values for the determination of fire district taxes.

## Infrastructure

While the extension of water lines may encourage additional residential development in farming areas, public water service may be necessary to support farm operations. For example, “Good Agricultural Practices (GAP)” requirements may specify that fresh produce be washed by water from a public or otherwise certified source. Livestock operations require large quantities of water for consumption by the animals and for cleaning. While most of the Town of Batavia is already served by public water service, extension of such service to support agricultural operations may be needed in the future.

The extension of water lines into agricultural areas, while they may be beneficial to agricultural operations, encourages additional residential development. Such development can result in conflicts between farming and non-farm neighbors, such as neighbor complaints about noise and odors and trespassing on farm fields. Such conflicts can result in a financial burden on farmers if they are required to defend themselves legally. Even if such cases are not pursued in courts of law, such conflicts make it more difficult for farmers to conduct the business of farming.

## Business Diversification

Some farm operations have established complementary businesses to attract customers and diversify their income. For example, agritourism operations may include recreational activities such as hay rides. Farms may produce craft items and sell them directly to the public. Such business diversification should be accommodated by local land use regulations.

## Capital for Expansion

Farming in the Town of Batavia and Genesee County contributes to the economic viability of the region. Farms often require capital to finance expansions. The Town may be able to partner with farm enterprises to obtain funding for business expansions that would lead to the creation of new jobs.

## **E. Tools and Techniques**

Several tools and techniques are available to local governments, individual landowners and private organizations to help meet the goal of retaining farmland and encouraging the continued economic viability of agriculture.

### **1. Land Conservation Through Conservation Easements**

#### **Private, voluntary conservation easements**

Landowners may place farmland under a permanent conservation easement to be held and monitored by a private land trust or other non-profit organization. The donation of easements may be helpful to some families in estate planning as the value of the easement can be claimed as a tax deduction.

#### **Public purchase of development rights**

Purchase of Development Rights (also referred to as “Purchase of Agricultural Conservation Easements” (PACE)) is a program which compensates owners of farmland in exchange for an agreement to keep land from being developed. The value of development rights is calculated as the difference between the value of the land for agricultural purposes and its value for development. A permanent easement restricts development on the parcel. Placing an easement on a property does not affect the ownership of the parcel. The owner may continue to farm the parcel, and/or sell it. The easement holder is responsible for monitoring the property to ensure that it is not developed.

The advantages of a purchase of development rights program include:

- Protects agricultural land on a permanent basis
- Participation among landowners is voluntary

Disadvantages include:

- High cost
- Time and administrative work involved; landowner likely to wait 1-3 years for purchase to “close”
- Requires on-going monitoring by the easement holder

#### **Temporary/ Term Easements**

Some municipalities have established programs that lower property taxes in exchange for a landowner’s commitment not to development properties for a specified period of time. A landowner who breaks the terms of the easement pays a fine that goes into a fund for the purchase of land and development rights.

# Town of Batavia Agricultural & Farmland Protection Plan

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## 2. Zoning Techniques

### Agricultural Protection Zoning

Agricultural Protection Zoning involves the creation of a zoning district that designates farming as the primary, preferred land use. Such a district targets the most productive soils and large contiguous areas of active farms. The minimum lot size is based on the size of the smallest viable farm unit -- such as 25 to 40 acres.

Regulations for this district typically limit non-agricultural development. Such a district may allow farm-related businesses and home-based businesses. Agricultural zoning districts may incorporate “density averaging” or “sliding scale” provisions to limit the number of dwellings permitted. The regulations may also specify maximum (as well as minimum) lot sizes for non-farm development.

Agricultural protection zoning may be combined with purchase of development rights, transfer of development rights or incentive zoning. This technique has the following advantages and disadvantages:

#### Advantages:

- Effective in limiting non-farm development and reducing conflicts between agriculture and non-farm neighbors.
- Can protect large areas of farmland at no cost to the public

#### Disadvantages:

- May reduce the market value of land.
- Is not permanent. Zoning can be changed by the Town Board.
- Limits resale options for farmland owners

### Density averaging

Density averaging allows residences to be built on smaller lot sizes than typically permitted by zoning, provided that the average density of the original parcel is not increased. For example, if zoning requires a maximum density of 1 dwelling per 10 acres, a farm of 100 acres would be entitled to develop up to 10 dwelling units. If the 10 dwellings were built on a total of 20 acres of the parcel (with an average lot size of 2 acres), 80 acres would remain open.

The smaller lots should be sited in locations that are least suitable for farming, and that offer the most appealing views of open space and natural resources. The design of a proposed clustered subdivision should include buffers between the new residential development and the remaining farmland. A conservation easement would be placed on the remaining 80 acres to prevent future development.

## Town of Batavia Agricultural & Farmland Protection Plan

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### Advantages

- Relatively simple to administer through the subdivision review process
- Provides for permanent protection of farmland or open space
- Landowner retains full development potential (number of building lots)

### Disadvantages

- Results in non-agricultural development in close proximity to farming.
- May be more appropriate for open space preservation and retention of rural character than for retention of agricultural land.

### Incentive zoning

Incentive zoning may be used to encourage the private acquisition of agricultural conservation easements (development rights) to land located in designated conservation areas. A developer would be authorized to purchase agricultural conservation easements or contribute toward a public fund to purchase such easements (development rights). In exchange, the developer would be permitted to develop additional units in suitable areas designated by the Town.

The technique is fairly easy for the Town to administer, as the developer and the owner of the farmland or open space arrange the transaction privately. Once the developer demonstrates that land will be preserved, he is entitled to the density bonus on the property to be developed.

This technique has virtually no cost to the Town, and would result in the permanent protection of farmland or open space through a conservation easement. However, the designation of areas suitable for higher density needs to be balanced with an analysis of the carrying capacity of local infrastructure. Infrastructure analysis needs to be required at an early stage in the development review process to identify any constraints to the utilization of incentives.

In addition, a specific formula is needed. For example, if a developer purchases the development rights to a 50-acre parcel in the Agricultural Residential zoning district, where zoning requires 20,000 square feet per dwelling, the developer would be entitled to a bonus of up to 100 dwelling units. If the bonus density were applied to a 50-acre parcel in the R District, where 20,000 sq. ft. per dwelling unit is also required, the maximum number of units permitted would be approximately 200 instead of 100. The actual number of additional units permitted would need to be determined based on the actual number of lots that could be accommodated on the parcel in the AC district. This number would be determined upon review of a conceptual lot layout that shows proposed streets and excludes any undevelopable land.

### Advantages

- Flexibility in administration
- Can result in permanent protection of farmland if agricultural easements are provided as an amenity in exchange for higher density of housing

## Town of Batavia Agricultural & Farmland Protection Plan

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- Allows conservation easements to be purchased privately

### Disadvantages

- Requires designation of an area within which higher densities can be sustained.
- Depends upon a housing market that would support the additional units

### **Transfer of Development Rights (TDR)**

Municipalities are authorized by Section 261-a of NYS Town Law to establish Transfer of Development Rights (TDR) provisions in their zoning regulations. Such provisions encourage owners of land in designated conservation or “sending” areas to voluntarily sell their development rights for use in land located in designated “receiving” areas. Developers who propose projects within the “receiving” areas are entitled to develop at a higher density than would otherwise be permitted by zoning.

Transfer of Development Rights provisions need to establish the locations of the sending and receiving areas, specify how many additional dwelling units may be permitted in the receiving tract and establish procedures to administer the transfer and enforce the conservation provisions. The process results in the same conservation through easement and additional development as in the above example for incentive zoning. The main difference is that the Town buys the development rights instead of the developer. For example, the owner of 50 acres in Batavia’s Agricultural Residential zoning district, which allows one house per 20,000 square feet, may sell the 100 development rights attached to this property to develop an additional 30 dwelling units on land in the MD or HD district. With TDR, the number of dwelling units permitted on a 10-acre parcel in the HD district would increase from 35 to 65.

- The Town may consider requiring TDR as a condition of approving a townhouse or senior housing development in the MD or HD districts that proposes a higher density of development that would otherwise be allowed.



50 acres of farmland in the AR zoning district yields 100 development rights



With TDR, the number of dwelling units permitted on a 20-acre parcel would increase from 40 to 140 in the R district or from 80 to 180 in the HR district.

### 3. Subdivision Design

When new lots are created in agricultural areas, farmland may be lost and the potential for conflicts between the new residential development and the remaining farmland is increased. Design considerations can minimize the potential for conflict. Such considerations include:

- Incorporate buffers between the residences and adjoining farmland. Such buffers should be part of the design of the residential development.
- Avoid disturbing agricultural infrastructure such as access roads and drainage facilities

“Conservation subdivisions,” also known as density averaging or clustered subdivisions, can result in the retention of farmland for agricultural use by increasing density on a portion of the parcel. This technique works best when the zoning district requires very low densities of development. The example on the following page shows how this technique might work in a municipality with maximum densities of 2- 3 acres per dwelling. (The Town of Batavia requires 20,000 sq. ft. per dwelling in the existing Agricultural Residential zoning district.)

### 4. Infrastructure Management

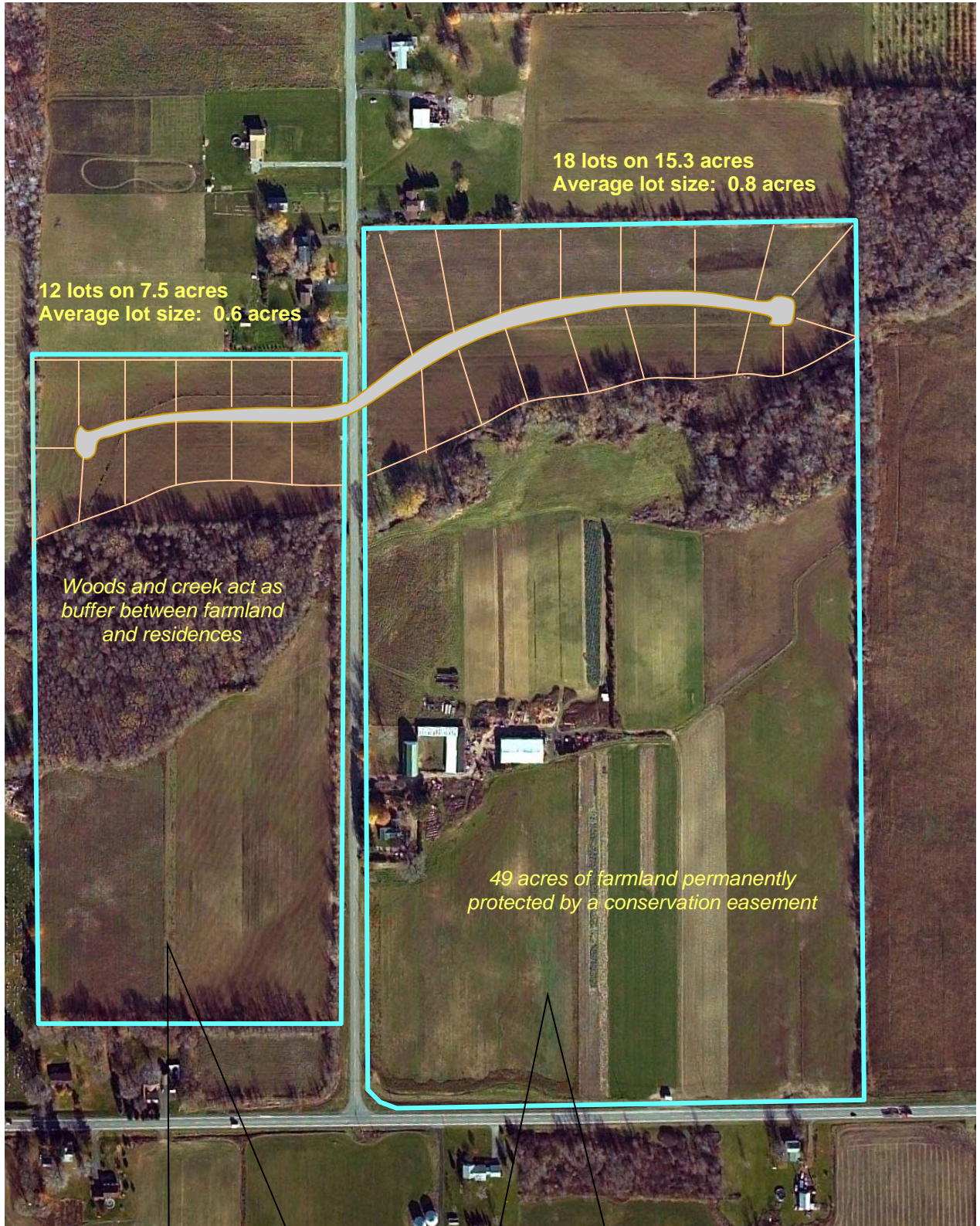
Tools available to municipalities to minimize the impacts of sewer and water line extensions on agricultural land include the Notice of Intent process and lateral restrictions.

#### Notice of Intent Process

Section 305 of the Agricultural Districts law requires local governments, before extending a water or sewer line that would serve non-farm structures within an Agricultural District, to file a preliminary and a final Notice of Intent with the NYS Department of Agriculture and the County Agricultural & Farmland Protection Board. The law states:

Any ... local government ... which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, ... 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.

# HYPOTHETICAL Farm-Sensitive Subdivision with Density Averaging



30 acres  
Zoning requires 3 acres per dwelling  
Up to 10 lots allowed

66.7 acres  
Zoning requires 2 acres per dwelling  
Up to 33 lots allowed

Restrictions for stream corridors (25' buffer), small wetlands (compliance with US Army Corps of Engineers requirements) and woodlots (limit removal of mature woodlands) also apply. Assume parcel would accommodate 30 lots as a conventional subdivision.

## Town of Batavia Agricultural & Farmland Protection Plan

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The Notice of Intent (NOI) must set forth:

- A description of the proposed action and its agricultural setting
- The agricultural impact of the proposed action, including short-term and long-term effects
- Any adverse impacts on agriculture that cannot be avoided
- Alternatives to the proposed action
- Any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action
- Mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of farms within the district
- Any aspects of the proposed action which would encourage non-farm development

A preliminary notice must be filed before the municipality issues a determination of significance pursuant to the State Environmental Quality Review Act (SEQR). The final notice must be filed at least 65 days prior to the construction or advancement of public funds. The commissioner has 45 days from receipt of the final notice to determine whether the action may have an unreasonably adverse effect on farm viability, and may take an additional 60 days to review the proposed action and issue findings.

The commissioner of agriculture may propose reasonable or practical alternative actions that would minimize or avoid the adverse impact of the proposed action on agriculture. The municipality or funding agency may either accept the proposed alternative or certify that other actions have been taken to minimize impacts on agricultural operations.

### Lateral Restrictions

Often, as an outcome of the Notice of Intent process, a municipality will adopt a resolution that restricts hookups for non-farm structures to a new water or sewer line that extends into an Agricultural District. Typical language for such a resolution is:

#### **LATERAL RESTRICTIONS RESOLUTION**

WHEREAS, the [governing body of municipality] has created the [name of water district] pursuant to Town Law for the express purpose of providing public water supply to residents along [geographic extent of water district]; and

WHEREAS, part of the land area within [name of water district] is also within [name of Agricultural District] and

## **Town of Batavia Agricultural & Farmland Protection Plan**

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WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within [name of Agricultural District]; and

WHEREAS, the New York State Department of Agriculture and Markets (“Department”) has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural District,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to adopt the “Lateral Restriction - Conditions on Future Service” specified by the New York State Department of Agriculture and Markets as follows:

### **Lateral Restriction - Conditions on Future Service**

The [municipality] imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along [location] within an agricultural district:

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

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

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop

## Town of Batavia Agricultural & Farmland Protection Plan

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a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.

- (3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
  
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.
  
- (5) Hydrants and valve boxes must not be placed directly in agricultural fields.

The restriction on hookups would apply to non-agricultural structures for as long as the property is located within an Agricultural District.

## Town of Batavia Agricultural & Farmland Protection Plan

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### 5. 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 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 also 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.

While agricultural use assessments are applied automatically to property taxes levied by municipalities and school districts, fire districts must “opt in.” To do so, the governing body needs to pass a resolution agreeing to utilize agricultural use assessments.

- 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 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.

### 6. Local “Right to Farm” Law

Several municipalities in New York State have passed local “Right to Farm” laws. Such laws typically establish a town policy in support of farming, define “generally accepted agricultural practices,” and affirm a farmers right to employ such practices. The laws also include a requirement that purchasers of

## **Town of Batavia Agricultural & Farmland Protection Plan**

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property within the town be notified of the policy of encouraging farming, and that farm practices may include odors, noise and other activities.

A “grievance” procedure is established to resolve complaints between farmers and non-farm neighbors. A local grievance committee may be formed to hear and resolve complaints. Such a committee should include local farmers as well as non-farm representatives. Municipalities may appoint an existing committee, such as the Conservation Advisory Council or Planning Board, to act as the Grievance Committee. In some counties, the Agricultural and Farmland Protection Board may take on the responsibility of handling local grievances under the “Right to Farm” law.

A new committee would need to follow the requirements of the NYS Open Meetings Law and schedule and advertise its meetings in advance.

## **F. Strategies and Recommended Actions**

The Town of Batavia can help to retain farmland for agricultural production and the economic benefits of agriculture by:

- 1) revising land use regulations
- 2) encouraging the permanent protection of land through conservation easements, and
- 3) supporting local agricultural and related businesses.

### **1. Revise Land Use Regulations**

#### **a. Create an Agricultural Production Zone**

As residential and other development may compromise the continued viability of agriculture in the the Town, zoning regulations to limit such development are recommended. The Town should establish a zoning district that establishes agriculture as a priority use and limits the extent of non-agricultural development. The zoning district should include a significant portion of the lands identified by the Town as suitable for long-term protection for agricultural use, consistent with the Town’s long-range community development plans. Draft regulations for consideration by the Town Board, including a map of lands to be included in such a district, are included in Appendix F.

The proposed regulations include the following provisions:

- Establish agriculture as the preferred use
- Set an appropriate density for residential development
- Accommodate business diversification on farms and farm labor housing
- Minimize fragmentation of farmland.

The number of non-farm lots that can be created by one “parent” parcel in existence on January 1, 2010 is established by 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.

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

## Town of Batavia Agricultural & Farmland Protection Plan

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Time Frame:	Immediate (within one year)
Responsible Agency:	Town Board
Estimated Cost:	\$500-\$1,500 for attorney review, if needed
Potential Funding Sources:	Town Board budget; Ag. & Markets grant

**b. Modify existing zoning provisions as identified in the Zoning Audit (See Appendix G)**

- Modify zoning to better accommodate farmworker housing, farm markets and roadside stands
- Modify zoning to remove provisions that may unreasonably restrict standard farm practices
  - Animal waste storage
  - Public stables
- Incorporate additional protections for farming and farmland in subdivision regulations

Time Frame:	Immediate (within one year)
Responsible Agency:	Town Board
Estimated Cost:	\$200-\$1,000 for attorney review, if needed
Potential Funding Sources:	Town Board budget; Ag. & Markets grant

**c. Incorporate additional protections for farming and farmland in subdivision regulations**

- Modify the Town’s subdivision regulations to include the following text in a new subsection J to Section 204-13: Design Standards:

**PROTECTION OF AGRICULTURAL INFRASTRUCTURE AND SIGNIFICANT AGRICULTURAL LANDS**

The subdivision shall be designed to minimize adverse impacts on any agricultural land remaining from the subdivision, prime and unique agricultural soils, adjoining or nearby agricultural land and operations, existing natural buffers, and agricultural infrastructure including but not

## Town of Batavia Agricultural & Farmland Protection Plan

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limited to surface and subsurface agricultural drainage systems, farm equipment access points, equipment lanes.

Time Frame:	Immediate (within one year)
Responsible Agency:	Town Board; Planning Board
Estimated Cost:	\$500-\$1,000 for attorney review, if needed
Potential Funding Sources:	Town Board budget

### 2. Protect land through conservation easements

#### a. Sponsor applications to New York State for Purchase of Development Rights (PDR)

- Provide information to farmland owners in the Town about the program and its requirements
- Encourage landowners to consider seeking development rights purchase for their land
- Either on its own or in partnership with Genesee County, identify the most competitive parcels for a PDR application.

Time Frame:	Immediate (within one year) to Short-term (1-2 years)
Responsible Agency:	Town Board; Town Agricultural & Farmland Committee
Estimated Cost:	To be determined
Potential Funding Sources:	Town Board budget; Genesee County

#### b. Encourage landowners to privately place land under permanent conservation easements

- Work with local land trusts to provide information to landowners about estate planning and the benefits of placing land under private conservation easements.

Time Frame:	Immediate (within one year)
Responsible Agency:	Town Agricultural & Farmland Committee
Estimated Cost:	Minimal
Potential Funding Sources:	Not applicable

## Town of Batavia Agricultural & Farmland Protection Plan

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**c. Consider establishing a temporary (term) easement program that would reduce property taxes on farmland in exchange for an agreement by the landowner to keep the land undeveloped for a specified period of time.**

- Consult with the Town Attorney regarding the program design and consistency with recent NYS Comptroller opinions
- Establish an appropriate tax exemption amount, perhaps supplemented by additional compensation, that would encourage participation in the program, as well as a significant penalty for developing the property prior to the end of the easement term. The penalties collected would raise funds for the purchase of land or easements elsewhere in the Town.
- Establish a fund for the purchase of development rights.

Time Frame:	Short-term (1-2 years)
Responsible Agency:	Town Board; Town Agricultural & Farmland Committee
Estimated Cost:	\$500-\$2,000 for attorney review, if needed
Potential Funding Sources:	Town Board budget

**d. Facilitate the private purchase of development rights in designated conservation areas in exchange for the right to develop additional dwelling units in designated areas of the Town**

- Modify the Town's zoning regulations to incorporate procedures and criteria for incentive zoning.
- Identify areas in the Town where privately purchased development rights can be / transfer of development rights

Time Frame:	Short-term (1-2 years)
Responsible Agency:	Town Board; Town Agricultural & Farmland Committee
Estimated Cost:	\$500-\$2,000 for attorney review, if needed
Potential Funding Sources:	Town Board budget

## Town of Batavia Agricultural & Farmland Protection Plan

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### 3. Support local agricultural and related businesses

#### a. Promote local farm products

- Work with Genesee County Cooperative Extension, as well as the administrators of State programs such as Farm-to-School and others, to encourage residents to purchase local farm products.
- Continue to accommodate the Genesee Country Farmers Market through appropriate zoning

Time Frame:	Ongoing
Responsible Agency:	Town Board; Town Agricultural & Farmland Committee
Estimated Cost:	Minimal
Potential Funding Sources:	Not applicable

#### b. Manage extensions of sewer and water infrastructure to support and/or minimize impacts on agricultural operations

- Work with Genesee County to identify appropriate areas for infrastructure extensions and corresponding boundaries for Smart Growth Development Areas.
- Continue to follow the existing policies and procedures (Agricultural District, Smart Growth, Town lateral restrictions) regarding water hookups to new water lines through agricultural areas
- Utilize the “Notice of Intent” process to obtain input from the NYS Department of Agriculture & Markets and the Genesee County Agricultural & Farmland Protection Board on the potential impact of infrastructure extensions.
- Work with farm operators to extend infrastructure when it is needed to support agricultural operations

Time Frame:	Ongoing
Responsible Agency:	Town Board; Town Engineer; Code Enforcement Officer; Town Planning Board
Estimated Cost:	Minimal
Potential Funding Sources:	Included in existing budget for Town staff

## Town of Batavia Agricultural & Farmland Protection Plan

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### c. Reduce fire district taxes on farmland

- Encourage the governing bodies of the Batavia Fire District (Batavia Town Board) and the Pembroke Fire District (Board of Commissioners) to utilize agricultural use assessments for the purpose of fire district taxes.

Time Frame:	Immediate (within one year)
Responsible Agency:	Town Board; Town Agricultural & Farmland Committee
Estimated Cost:	Minimal
Potential Funding Sources:	Not applicable

### d. Obtain funding to support job creation for agribusinesses

- Work with farm operators and agriculture-related businesses to apply for economic development grants when such grants would result in job creation.

Time Frame:	Ongoing
Responsible Agency:	Town Board; Genesee County EDC; Lake Plains RC&D Council
Estimated Cost:	\$1,00-\$5,000 for grants consultant, if needed
Potential Funding Sources:	Town Board budget; EDC

### e. Pass a Local Right to Farm law that includes a mechanism to mediate disputes

- Establish a local committee authorized to mediate disputes between farmers and non-farming neighbors
- Clearly state the Town's policy in support of agricultural operations

Time Frame:	Immediate (within one year)
Responsible Agency:	Town Board
Estimated Cost:	\$200-\$1,000 for attorney review, if needed
Potential Funding Sources:	Town Board budget

## Town of Batavia Agricultural & Farmland Protection Plan

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### 4. Improve drainage to maintain or increase the productivity of farmland

#### a. Obtain funding for priority drainage projects

- Work with the Genesee County Soil & Water Conservation District and the Genesee County Agricultural & Farmland Protection Board to identify priority projects, facilitate coordination among participating landowners and to seek funding through State grants or other sources

Time Frame:	Ongoing; Medium term (3-5 years)
Responsible Agency:	Town Board; Genesee County SWCD; Town Agricultural & Farmland Committee
Estimated Cost:	To be determined
Potential Funding Sources:	To be determined

#### b. Encourage proper maintenance of existing drainage ditches

- Support efforts by the SWCD to work with landowners to establish needed drainage projects.

Time Frame:	Ongoing
Responsible Agency:	Town Board; Genesee County SWCD; Town Agricultural & Farmland Committee
Estimated Cost:	Minimal
Potential Funding Sources:	Not applicable

#### c. Advocate on behalf of agricultural land preservation with regard to State mapping of regulated wetlands

Time Frame:	Immediate (within one year) and Ongoing
Responsible Agency:	Town Board; Genesee County SWCD; Town Agricultural & Farmland Committee
Estimated Cost:	Minimal
Potential Funding Sources:	Not applicable

## Town of Batavia Agricultural & Farmland Protection Plan

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### 5. Establish an ongoing committee to monitor the implementation of the Town's Agricultural & Farmland Protection Plan

- Include farmers as well as non-farming residents on the Committee
- Empower the Committee to address conflicts between farmers and non-farming neighbors as provided for in the Town's Right to Farm Law.

Time Frame:	Immediate (within one year)
Responsible Agency:	Town Board
Estimated Cost:	Minimal
Potential Funding Sources:	Included in budget for Town staff

## G. Next Steps

The Town Board should appoint a municipal Agriculture & Farmland Committee, which will take the lead in implementing the recommendations of this Agricultural & Farmland Protection Plan under the guidance of the Town Board. The Committee will include farmers as well as non-farming residents.