

*A plan to preserve the rural and agricultural heritage
of our Town*

2013 Agriculture and Farmland Protection Plan

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1. Introduction

In 2010 the New York State Department of Agriculture and Markets awarded an agricultural planning grant to the Town of Ballston. This grant enabled the creation of a new Agricultural and Farmland Protection Plan through a public process led by the Town of Ballston Agricultural and Farmland Protection Committee. This document provides a snapshot of agriculture in the Town of Ballston, and identifies actions for the Town and others to act upon in order to protect farmland, support the viability of farms, and boost economic development in the next decade. As recognized in the Town's 2006 Comprehensive Plan,



Town of Ballston: A Farms First Community

agriculture is a key component of why people choose to live in the Town of Ballston. Beyond its economic impacts, agricultural operations provide important open space and viewshed preservation, protection of the region's rural heritage and direct farm-to-consumer connections. Increasingly, the agricultural sector of the State's economy is proving essential to the well-being of its communities. Ballston's farms are an important part of this trend. The work being undertaken here, in the Town of Ballston, is part of a larger ongoing effort to assist New York State farmers to realize success. The focus is on the Town of Ballston's portion of Saratoga County Agriculture District 2 and how to strengthen and support agricultural operations in the Town of Ballston.

Review of Article 25-AA

Article 25-AA of the New York State Agriculture and Markets Law was enacted in 1971 to keep farmland in agricultural production through a combination of landowner incentives and protections that discourage the conversion of farmland to non-agricultural uses including:

- Providing reduced property tax bills for agricultural lands (agricultural land owners must apply to the local tax assessor for an annual agricultural assessment);
- Providing the framework to limit unreasonable local regulation on accepted agricultural practices;
- Providing Right-to-Farm provisions that protect accepted agricultural practices from private nuisance suites;

- Modifying state agency administrative regulations and procedures to encourage the continuation of agricultural businesses;
- Modifying the ability to advance public funds to construct facilities that encourage development;
- Preventing benefit assessments, special ad valorem levies, or other rates and fees on farmland for the finance of improvements such as water, sewer or non-farm drainage; and
- Modifying the ability of public agencies to acquire farmland through eminent domain.

Agricultural districts primarily benefit owners of land that is farmed. Being part of an agricultural district does not require that the land be used agriculture and it does not directly affect tax assessments (agricultural landowners must apply to the Town of Ballston tax assessor for an annual agricultural assessment). Viable agricultural land, as defined in Article 25-AA of the NYS Agriculture and Markets Law, Section 301, sub. 7, is "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."

Section 305-a of Article 25-AA provides a key provision for local planning and decision-making. This section compels local government to exercise their powers in a manner that is consistent with the policy and goals outlined in Article 25-AA. Further, "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 in an agricultural district, shall include a data statement." This statement must include the name and address of the applicant, a description of the proposed project and its location a tax map showing the site of the proposed project and the name and address of any land that includes farm operations within five hundred feet of the property boundary of the proposed project. Finally, as noted above, Section 308 Right to Farm provides provisions which protect farmer operations within an Agricultural District against private nuisance actions so long as the agricultural practice is recognized as a sound agricultural practice. A copy of the *NYS Department of Agriculture & Markets, Agriculture and Markets Law, Article 25AA—Agricultural Districts* is provided in Appendix A.

Agriculture in Ballston: A History (by Town Historian Rick Reynolds)

The beginnings of the Town of Ballston go back to a group of people moving from the south, Westchester County, NY, to an area that they perceived was an excellent area for farming and a home to many large wild animals. They purchased land through the Kayaderoseros Patent. Patents, in the language of the 1700's, allowed a person to claim ownership of a piece of land. It was Eliphalet Ball, the man who first brought that large group of settlers to the area and the man after whom the town is now

named, who received the first plot of land, equal to approximately 100 acres in area. He and many others established a farming community here in the area of Shanantaha, later to be renamed Ballston Lake.

From the 1770's to the 1820's there was considerable growth in the farms in the area. Homesteads were established along what we now know as Middleline Road and on the east side of Ballston Lake. (The names East Line and Middle Line correspond to the boundaries of the original Kayaderosseros Patent.) James McIlonoye, from Ireland, purchased 100 acres of land before the Revolution; Peter Macpherson, of Scotland, 112 acres in 1775. There were others who came to the area to take advantage of the fertile soil, the presence of streams and the lake for water, and the presence of very few hostile Indians. There is no doubt that Ballston began as a very rural, farming community. And that farming community established small hamlets within it to support all the other needs which a place must fulfill. Burnt Hills, Ballston Lake Village, Ballston Center, East Line Village and Ballston Spa all grew up to support the community's needs.

Reverend Ball himself was quite an advocate for people moving into the Ballston area. He himself advertised and sold land in the area to people coming from other parts of New York as well as some from the neighboring states of Connecticut and New Jersey. One of his advertising posters mentions the "new lands to be sold upon very moderate and easy terms in the Great Patent of Kayaderosseros." The poster goes on to describe the abundant streams and ponds full of trout, the springs in Ballston Spa, and the fertile land which can produce large quantities of vegetables and grains. He was indeed quite an advocate for the extensive and available farmland in Ballston.

Little is written of the farmers who lived here in those early years but their presence is verified by the land deeds which have been preserved by community members and by governmental agencies. In addition, Nathaniel Sylvester, in his 1878 History of Saratoga County, the definitive study of the county up to that point, states: "On the whole, the town may be said to possess some of the finest and best cultivated farms in the county west of the fertile slopes of the Hudson Valley." Sylvester commits a large number of pages in his book to the details of farming in all of Saratoga County. He shows that in 1874, Ballston was first in the county in the production of winter wheat and barley and third in production of hay. The number of milking cows was second only to Moreau. In that same year, Ballston was selling almost 17,000 gallons of milk and almost 90,000 pounds of butter, both large amounts for Saratoga County villages and towns. In that same census, more than one quarter of the existing 253 farms in Ballston were more than 100 acres each. And, certainly, no study of Ballston's agriculture is complete without the mention of hops whose planting prompted the name Hop City Road in the current town.

As time goes on, evidence of large farms continues to appear in the record books. Solymon Coons owned large tracts of land, enough so that he could give away 78 acres of his holdings to his sons. The Seelye farm, on the north side of current day Lakehill Road, was 200 acres, a part of which was used to

build a new High School for the area in the 1950's. The Garrison family on Goode Street purchased more than 150 acres in 1911. Stanley Garrison, who inherited the farm from his father David, went on to build a renowned veterinary hospital in its midst. Again, some examples of the large farms that dotted the town of Ballston for many years. But it may well be that apples were the thing that "made the name" for Ballston's agriculture. Cora and George McKnight, who lived in present-day Goode Street, planted the earliest fruit orchards that we know of in the 1780's. They prided themselves on growing apples as well as many more unusual kinds of fruit. On Lakehill Road, the Seelye Mansion, owned by Gilbert Seelye who was a State Senator for 22 years, had orchards located near it. The 1866 atlas of the area of Burnt Hills shows a "S.R.Mott" living on present-day Lakehill Road between the Episcopal Parsonage and Kingsley Road, probably in the area of the Seelye Mansion. Apples were crushed and made into cider in the nearby barns later called the Seelye Cider Mill. Some say that this S.R. Mott was the originator of the famous Mott's applesauce business years later in western New York. In the 1874 census, the number of apple orchards in Ballston was second only to Clifton Park in Saratoga County.

The Falconer family established Falconer Orchards in the Lakehill Road area in the 1930's. The Merchant family had numerous farms all around Burnt Hills and, in their best years, produced tens of thousands of bushels of apples! The Bailey family, whose family life in Ballston began with Claude Bailey moving here after the Spanish-American War, started the orchards that we know as Fo'Castle today. Knight's Orchards on Goode Street started in the early 20th century and still exists today-- as does Lakeside Farm which is well known as the farm that originated the apple cider donut!

An apple storage facility was built in Ballston Lake. It was used to store apples that were shipped to many different places. That building later became Parkis Mills which used local buckwheat to produce a pancake mix that was renowned throughout the area. The buildings of Parkis Mills, behind Stewart's in Ballston Lake village, still stand as a reminder of our agricultural heritage.

But this predominantly farming community slowly began to change. The railroad which came through Ballston in the 1830's opened up this area as well as Ballston Spa and Saratoga. Tourism increased and services for those tourists, hotels and the like began to sprout up in the small villages that had originally only served the local residents. Forest Park, an amusement area at the southern end of Ballston Lake, was created by the Schenectady Railway Company as a haven for its workers who desired to have some leisure time "in the country." In addition, suburban growth and its related need for housing prompted some farmland to be taken away and used for other purposes.

The Buell Mansion on Midline Road had once been the center of a farm that had extended from the current location of the house east to Ballston Lake and south to Lakehill Road. The original house, built by Reverend Edward Davis in the late 1700's, was made much grander by Samuel Buell who was said to have often seated himself in the cupola on the top of the house to watch his workers (some of them probably slaves) take care of their tasks in the fields. But its purchase by another owner, Edward Moore, saw the carving up of that farm and the establishment in the early 1900's of part of current-day Buell

Heights, the first real suburban development in the town. Kenneth Sack of the Goode Street area did much of the same thing and also began building many houses in the area, houses that were built on land that was once farmed by others.

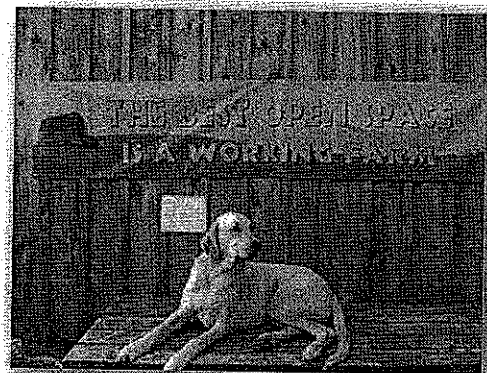
An indication of the conflict that all this growth was causing is evidenced by the school district's proposal to build Pashley School, in the southern part of the Burnt Hills-Ballston Lake School District. That area was far more developed with new houses and services for the new and young families that were moving to this area because of the rapid growth of the General Electric Company in Schenectady. The school district at that time had only one building for grades 1 through 12 but was becoming too crowded to house all its students. The proposal to build a school affiliated with the original Burnt Hills-Ballston Lake Central Rural School District, its official name until 1973, but a school in the "new" part of the district, was met with disdain on the part of two groups: the "farm people" of the north did not want to associate with the suburbanites of the south and the latter did not really want to be in the same school district with those "farmers." It took a number of votes on the part of the community to approve the building of this new school and thus a blending of these two very different kinds of people. So even into the 1950's, when Pashley School was built, Ballston was truly a farming community.

But farming and all the businesses that grow from it continued to play a large role in the community into the 20th century. Harry and Lucy Bliss created the Gladiolus Farm on Hop City Road and, for 37 years, they supplied flowers to places near and far from Ballston. At the height of its business, they had 4 acres devoted to "glads" and would pick as much as 25 buckets of flowers in a day! The manufacture of jams and jellies from the numerous fruits available in the town also added to the agricultural business of the town. And, the fruit pies, particularly at Mourningkill Farm and Bakeshop in recent years, have provided thousands of pies to residents in recent years, especially at holiday times.

Farming has always been a mainstay of the town of Ballston. And, even to this day, large tracts of land exist as pastures and for crops. Over time, with pressure from development and changes in the agricultural industry, the area has become increasingly a bedroom community for men and women who work in places outside the town. However, as one drives through the town in this early part of the 21st century, the evidence of the original farming community still abounds throughout. And, farming remains the largest productive economic engine in the Town, the County, and the State.

Farmland vs. Open Space

Traditionally, open space is defined as land which is not intensively developed for residential, commercial, industrial or institutional use. Open space can be publicly or privately owned, although very often public resources



are used for the acquisition of open space resources. It includes undeveloped scenic lands, public parks and preserves. It also includes water bodies such as lakes and bays. Most definitions include agricultural and forest land as open space as well. The U.S. Environmental Protection Agency (EPA) defines open space as follows:

"Open space is any open piece of land that is undeveloped (has no buildings or other built structures) and is accessible to the public. Open space can include:

- *Green space (land that is partly or completely covered with grass, trees, shrubs, or other vegetation). Green space includes parks, community gardens, and cemeteries.*
- *Schoolyards*
- *Playgrounds*
- *Public seating areas*
- *Public plazas*
- *Vacant lots*

Open space provides recreational areas for residents and helps to enhance the beauty and environmental quality of neighborhoods."

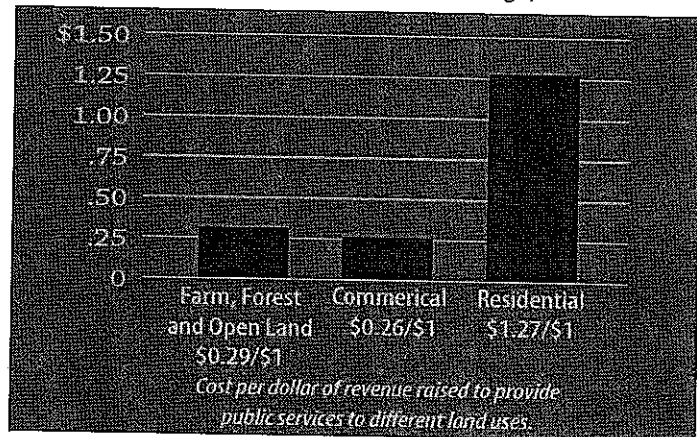
Farmland, as defined by the U.S. Census Bureau in the Statistical Abstract of the United States: 2012, is:

"... any place from which \$1,000 or more of agricultural products were produced and sold, or normally would have been sold, during the census year."

While agricultural lands do play a critical role in defining open space, this plan also recognizes the fundamental role agricultural plays in defining Ballston's economic base. It has been demonstrated that open space protection can be financially beneficial to communities when compared to residential development because of the saved costs of building and maintaining public infrastructure. Though open spaces such as scenic lands, parks and preserves may contribute to the character and quality of a place, they very often involve the use of public resources to be acquired. While farming operations contribute to defining the character and quality of a community, agricultural lands also contribute to the economic base of a community because they are specifically used for agricultural purposes in the raising of crops and livestock. These activities create employment opportunities not only on the farm, but also through linkages into agricultural services, food manufacturing and distribution, and marketing to consumer markets. A recent analysis of agriculture-based economic development in New York State found that these linkages, when combined, contributed an estimated \$96.3 billion to the New York State economy in 2010ⁱ. These statistics illustrate that while farmland may be considered part of "open space" it is even more importantly a significant economic generator in NYS, and thereby in Ballston.

The Cost of Community Services and the Value of Farmland

Cost of Community Services Studies (COCS), developed by the American Farmland Trust, determine the difference between taxes generated by different types of land uses and the cost of services each type of land use requires. As seen in the graph below, COCS have demonstrated that farm, forest and open land generate more tax revenues than they receive in public services when compared with residential development. Working and other open lands may generate less revenue than residential, commercial or industrial properties, but they require little public infrastructure and few services. On average, because residential land uses do not cover their costs, they must be subsidized by other community land uses. In nearly every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for public services.



Source: "New York Agriculture Landowner Guide". Saratoga Springs: American Farmland Trust, 2009

It is vitally important for communities like Ballston to understand residential development when compared to farm, forest and open land development. While it is true that an acre of residential development will generate greater revenues than an acre of farmland, when the cost of services is incorporated, it becomes very evident that this perceived higher revenue is nullified. Because of the future development pressures that will be imposed on Ballston as a result of broader economic development initiatives, especially Global Foundries, maintaining farms and farmland should be a high priority for any future decision making relating to land use development, specifically residential development, in the Town of Ballston. With good planning, these goals can complement rather than compete with each other.

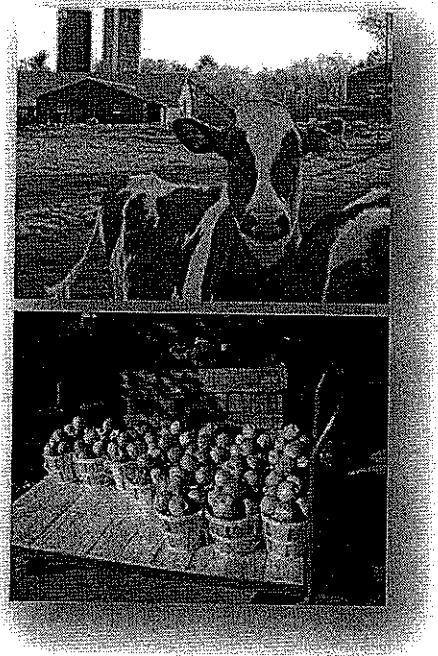
The Role of the Agriculture and Farmland Protection Plan in Ballston

With the rise of wealth in the second half of the 19th Century, well-to-do families began to discover the beautiful terrain of Ballston and its proximity to Schenectady, home of the ever-growing General Electric Company. Over time, many large agricultural properties were converted to suburban developments. This trend continued through the 20th Century with most residential building taking place in the southern and eastern portions of the town. In 2009, some of the Town's most productive agricultural properties were included in the creation of Saratoga County's Agricultural District 2. There is still however significant potential for development in Ballston.

Saratoga County is one of the fastest growing regions in New York State. Just as the General Electric Company contributed to the growth of the region, the region is now attracting new employees from

across the country and from around the world from Global Foundries and investments being made at the University at Albany College of Nanoscale Science and Engineering. These new industries ensure continued regional population growth. Though population demands mean there will be some inevitable loss of agricultural land, this development should take into account land conservation and the importance of agriculture not only in the Town and County, but in the state. Growing concern about land conservation has led to the realization that good quality agricultural land is a finite resource that must be conserved and managed for the long term. Protecting it from unnecessary development is essential to maintaining the future productivity and efficiency of Saratoga County's farming industries.

The best and most versatile farming land is a valuable resource that should be protected from irreversible development. It should not be built on unless there is an overriding public benefit, and no other site is suitable for the particular purpose. Agriculture and farming preservation are prime factors in not only creating jobs, but also in maintaining and enhancing real estate values in desirable communities like Ballston. While the State of New York and Saratoga County can identify the need to protect vital farmlands, as a Home Rule state it is ultimately up to each community to develop their own local strategies to support their agricultural industries. This Plan should be used by the leadership of Ballston to evaluate any type of development, public or private, within the Town of Ballston, especially lands located within Agriculture District 2. If utilized, this Plan will help maintain the long-term viability of the Town's agricultural industries, and support economic growth for regional communities.



Issues and Challenges for Farming in Ballston

During a Committee meeting on January 29, 2013 the Farmland Protection and Agricultural Protection Committee discussed key attributes that can affect farming in the Town of Ballston. Below is a brief summary of some the strengths and challenges discussed.

Strengths	Challenges
Agriculture is deep rooted/tradition in Town	Educating the Town's leadership and public about farming
Farmers are "too stubborn to quit"	Strain between open space and ag land for public resources
Family commitment to continue operations	Lack of agricultural representation on municipal boards
Responsive to market for diversity of products	Insufficient involvement of ag in land use decision-making
Agriculture is supported in Comprehensive Plan	Misunderstanding ags role in economic development
Farming is the Town's "identity"	Wetlands are challenge to farmers
Good interstate access	Need to attract more young farming entrepreneurs
State and County support for Ag	Town government is not fully enforcing "farming first"
Water/sewer along Rt. 50	Continued threat to prime farmlands
Strong community support for Ag	Need to educate public and officials how agriculture contributes to the Town's economic base
Rich heritage in farming	
Willingness to be innovative	
Global Foundries employees are opportunity because of their diversity and desires to buy local and produce "new" products	Town farmers are competing against outside farmers for land (while other towns lose ag lands, these farmers are coming to Ballston in search of new opportunities)

Key Agriculture Terms

The following definitions are explained so that there is common understanding of what is meant when the terms agriculture, farmer, and agricultural operations are used in the context of this plan.

Agribusiness: Commercial agriculture characterized by integration of different steps in the food-processing industry, usually through ownership by large corporations.

Agriculture: An activity that produces food, fiber, animal products, timber, and other goods and services from the land including but not limited to fruits, vegetables, maple syrup, bee products, Christmas trees, on-farm direct marketing or value-added operations, and agri-tourism. Agriculture includes both hobby farms that produce goods for profit or personal use, and commercial farms that produce goods, including value-added products primarily for profit. Farmland is also a parcel that qualifies for an agricultural assessment.

Agricultural Operation: Includes all the agricultural buildings, equipment, processing facilities and practices which contribute to the production, preparation, or selling of crops, livestock, livestock and wood products.

Crop: Grain or fruit gathered from a field as a harvest during a particular season.

Farm: Any operation that produces and sells, or could sell, an agricultural product.

Farmer: A person engaged in agriculture to produce products for marketing or with the intention of producing a product for marketing.

Horticulture: The growing of fruits, vegetables, and flowers.

Pasture: Grass or other plants grown for feeding grazing animals, as well as land used for grazing.

Prime Agricultural Lands: These lands include soils that are identified as "Prime Agricultural" soils as defined in the Soil Survey of Saratoga County, New York. These are the most productive farmland soils and should be protected by all measures.

Sustainable Agriculture: Farming methods that preserve long-term productivity of land and minimize pollution, typically by rotating soil- restoring crops with cash crops and reducing in-puts of fertilizer and pesticides.

Unique and Irreplaceable Agricultural Land: Land which is uniquely suited for the production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties.

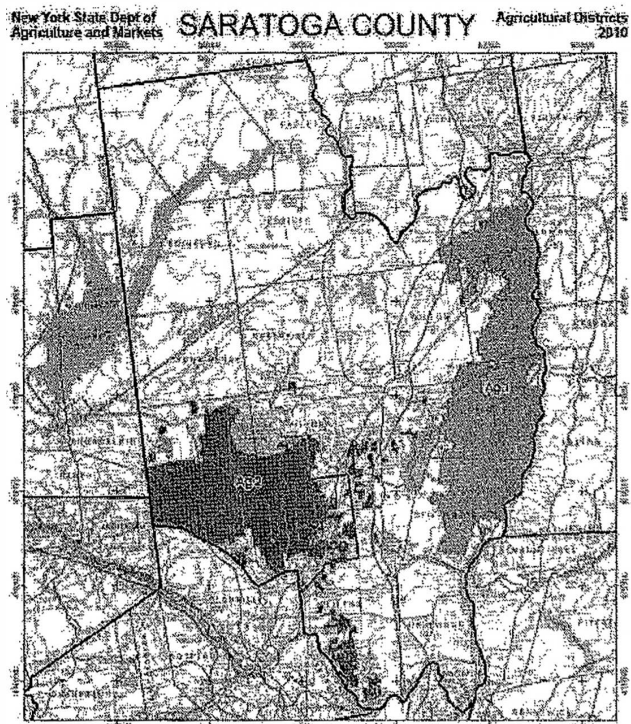
Viable Agricultural Land: Land highly suitable for a farm operation.

2. Characteristics of Saratoga County Agricultural District 2 in the Town of Ballston

The town of Ballston is located in the southwestern portion of Saratoga County. According to data provided by the Saratoga County Planning Department, the Town is approximately 30 square miles, or 18,991 acres. The Town is located within the eastern end of Saratoga County Agriculture District 2, which was certified on November 30, 2009. The agriculture district covers approximately 16 square miles of the town and is primarily located in the northwestern portion of the town, west of Route 50, with smaller pockets located in the eastern portion of the town. The agriculture district covers just over 54% of the town.

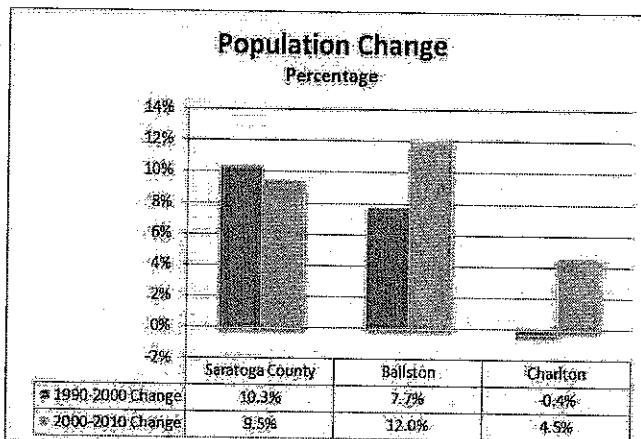
	Total Acres	Square Miles	Percent of Total
Town of Ballston	18,991.16	29.70	
Village of Ballston Spa	260.80	0.40	
Saratoga County Ag District 2 in Town of Ballston	10,326.93	16.10	54.4%
Saratoga County Agriculture District 2	Certified 11/30/2009		
	Ballston, Charlton, Clifton Park		
	Galway, Greenfield, Malta		
	Milton, city of Saratoga Springs		

Source: 2012 Real Property Tax Service Data;
Saratoga County Planning Department
NYS Department of Agriculture and Markets

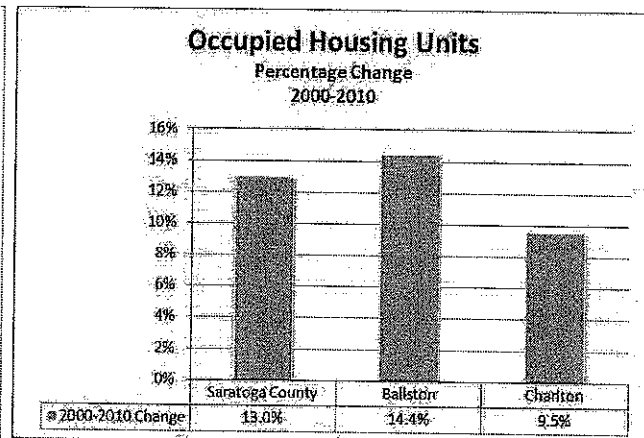


Demographic Trends

The Town of Ballston is located in Saratoga County, one of the fastest growing Counties in New York State. While Saratoga County continues to grow, so too does the Town of Ballston. Between 2000 and 2010, the Town of Ballston's population increased 12%, outpacing the County's overall growth of 9.5%. Coupled with this population growth has been an increase in housing in the Town of Ballston as well, showing a 14.4% increase in occupied housing units for the same time period.

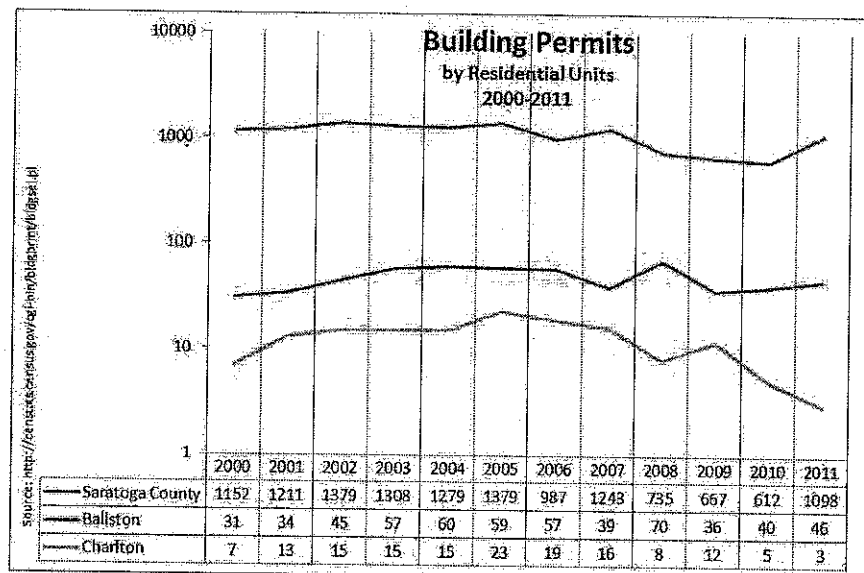


Source: U.S. Census Bureau: 1990 Census, 2000 Census



Source: U.S. Census Bureau: 1990 Census, 2000 Census

In order to gain an understanding of some of the changes that have been taking place since the 2010 census, we examined building permit data for the Town. On average, between 2000 and 2010, the Town of Ballston saw 48 building permits annually. The 48 building permits issued for 2011 is consistent with this growth pattern and suggests that the Town is continuing to grow at a similar rate as the decade between 2000-2010.



The 2040 population projections developed by the Capital District Regional Planning Commission (CDRPC) indicate an increase of approximately 2,110 persons by 2040 in the Town of Ballston, or approximately 53 persons per year over the next 40 years. This represents a 24% increase in population over a 40-year period. Ballston is projected to capture between 3% and 4% of Saratoga County's

population growth through 2040. Clearly, if there is extensive development in a given area, there is a strong likelihood that some of the land being developed is going to be farmland.

Physical Characteristics

The Town of Ballston is part of Saratoga County Agricultural District 2, which includes the towns of Ballston, Charlton, Clifton Park, Galway, Greenfield, Malta, Milton, and the city of Saratoga Springs. The district was certified on November 30, 2009 and incorporates 54,078 acres with the largest segment located in the Towns of Galway, Milton, Ballston and Charlton. The Town of Ballston is 10,327 acres, or 19.1%, of Agriculture District 2.

Land Use

The Land Use Map illustrates the locations of various land uses in Ballston. Land uses are determined by the Town Assessor and are categorized according to property classification codes that are found in the New York State Office of Real Property Services Assessors' Manual. Although land use within Ballston varies, residential and agricultural uses are the most prominent on the landscape, both within the Town and within the Agriculture District. Residential uses comprise over half of all land in the Town, and nearly 60 percent within the Agriculture District.

Route 50, which traverses the Town on a north-south axis connecting Ballston Spa and Glenville, is lined largely by commercial and industrial uses. A high concentration of vacant and industrial land exists east of Route 50. Two clusters of community service functions exist within the Town: one located just south of Ballston Spa and another in the Burnt Hills-Ballston Lake neighborhood. The land in the portion of the town west of Route 50 includes the largest parcels in the town. This area is also predominately agricultural in nature. Most suburban-style housing is located east of Route 50 and in the southern portion of the town.

LAND USE	Percent of Total	
	Town	Ag District
Agriculture	6.64	12.36
Residential	52.67	58.99
Vacant Land	29.33	25.87
Commercial	2.20	0.49
Recreation and Entertainment	0.53	0.06
Community Services	1.75	0.38
Industrial	1.39	0.00
Public Services	0.43	0.00
Wild, Forested, Conservation Lands, Public parks	0.40	0.00
Ballston Lake	1.33	0.00
Roads (+/-)	3.34	1.85
Total	100%	100%

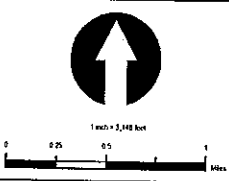
Source: Saratoga County Planning Department

Zoning

The current Town of Ballston zoning ordinance was adopted in 2010. The ordinance is continually amended as necessary. The current code includes nine districts with one overlay district.

The predominate district in both the Town and the Agricultural District is the Rural District. The Rural District covers slightly more than 55% of the Town. Within the Agricultural District, the Rural District covers nearly 86%. The area of the Town defined by this District is highly valued for its rural character and contributions to the Town's overall quality of life. It is characterized by working landscapes and open spaces, with single-family residential development along the road frontage and an occasional small

Land Use Map



	Municipal Boundary		Commercial
	2012 Ballston Tax Parcel		Recreation
	Agricultural District 002		Community Service
	Agriculture		Industrial
	Residential		Public Service
	Vacant		Wild, Forest, Conservation, Public Park

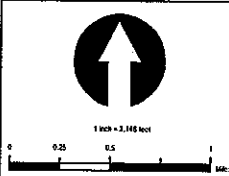
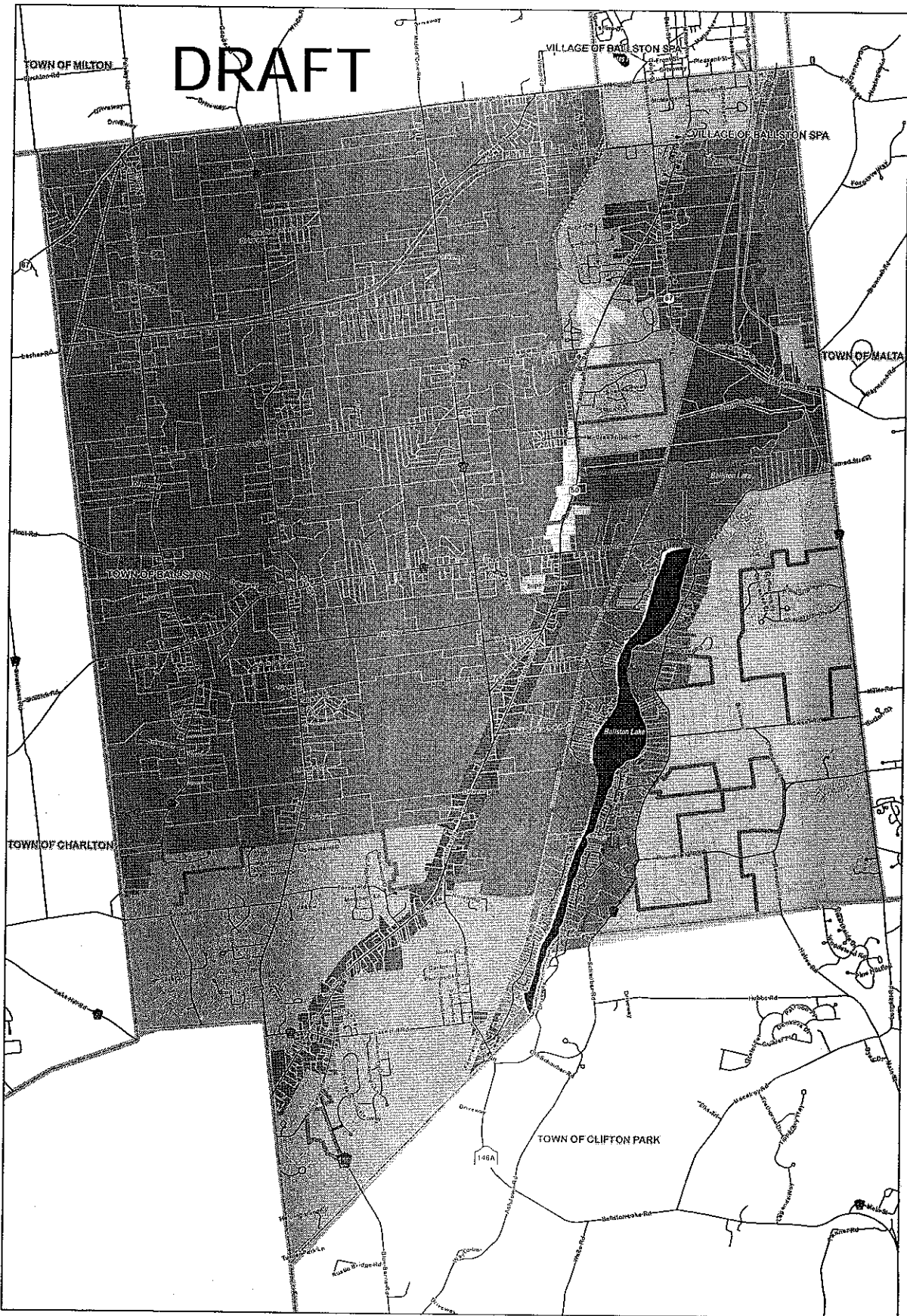
Town of Ballston
Saratoga County
State of New York
Land Use

ELAN
Planting / Design / Landscape Architecture
10 Tice Street
Saratoga, NY 12858
Saratoga Springs, NY 12056



Zoning Map

DRAFT



	Municipal Boundary		Rural Residential
	2012 Ballston Tax Parcel		Industrial
	Agricultural District 002		Mixed Use Centers
	Ballston Lake Residential		PUD
	Ballston Lake Waterfront		Rural
	Business Highway-1		Wagon of Ballston Spa
	Business Highway-2		Ballston Lake

Town of Ballston
Saratoga County
State of New York
Zoning Map

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Suite 202
Saratoga Springs, NY 12866



scale commercial parcel. Although many working farms are present, the vitality of agriculture in this area has been reduced by recent economic trends. Much residential development pressure to replace existing farmland and open spaces is expected. Compounded by difficult soils for development and the lack of public sewer and water, such development pressure has the potential to alter the valued rural character and lifestyles which currently predominate. However, it is recognized that the land itself, like many agricultural areas, remains the primary asset of many landowners in this area. Thus, the purpose of the Rural District is to appropriately balance the future development of this District with preserving its open spaces and rural character.

ZONING

	Percent of Total	
	Town	Ag District
Ballston Lake Residential	11.62	7.69
Ballston Lake Waterfront	4.51	1.26
Business Highway - 1	0.73	0.43
Business Highway - 2	1.36	1.21
Hamlet Residential	14.93	1.56
Industrial	3.61	0.77
Mixed Use Centers	3.29	0.00
PUDD	1.74	1.17
Rural	55.92	85.97

Source: Saratoga County Planning Department

Permitted uses within the Rural District include single-family dwelling units, municipal buildings, agricultural uses (with or without animals), and conservation subdivisions.

Given that the code was recently revised based on an extensive Comprehensive Plan process, it is believed that the regulations currently support the needs of the Agricultural & Farmland Protection Plan.

Natural Resources

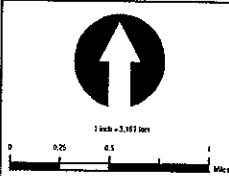
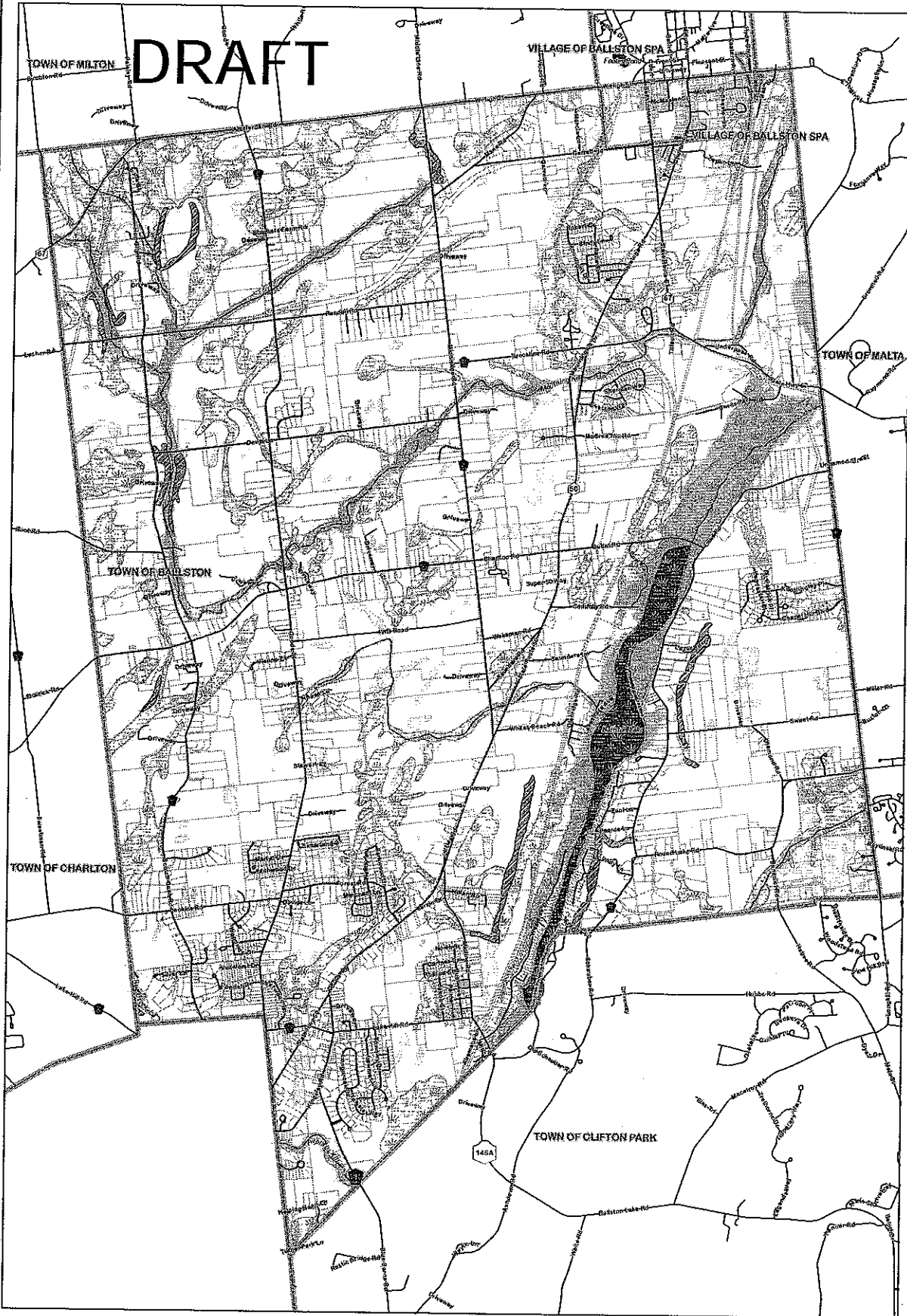
Within the Town of Ballston, the natural environment is just as important in shaping community character as the built environment. The ability of the natural environment to sustain development is inherently limited. There are constraints based on soils, slopes, wetlands, and a variety of natural features. Federally regulated wetlands, because they are not mapped as such, can be difficult to identify and are sometimes overlooked in project reviews. It requires vigilance on the part of responsible landowners, and local review boards, to ensure that these smaller wetland areas are not destroyed as development occurs. Hydric soils are a strong indicator of the presence of wetlands. A large area of wetlands exists at the north end of Ballston Lake (as it flows into Ballston Creek) and there are wetlands on either side of the lake further to the south as well. Various other wetland areas are found throughout the Town. The 100-year floodplains are found primarily alongside waterbodies and streams such as Ballston Lake, Mourning Kill and the other primary streams in the northwest area of Ballston. Less than 1% of Town land is covered by steep slopes, slopes of 25% or greater.

Soils

The United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) classifies soils for a variety of purpose including but not limited to agriculture and development. Agricultural soils are classified as either *Prime Farmland* or *Farmland of Statewide Significance*. According to U.S. Department of Agriculture, *Prime Farmland* possesses the best combination of physical and chemical characteristics for production of food, feed, forage, fiber and oilseed crops, and is

Natural Resources Map

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- Municipal Boundary
- 2012 Ballston Tax Parcel
- NYS DEC Wetland
- US Fish and Wildlife National Wetland Inventory
- FEMA 100 Yr. Floodplain
- Slope > 15%

Town of Ballston
Saratoga County
State of New York
Natural Resource

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available for those uses. *Prime farmland* is of major importance in meeting Nation's short- and long-term needs for food and fiber. *Farmland of Statewide Significance* is land that is considered of statewide importance for the production of crops. These soils are important to agriculture in the state, but exhibit some properties that do not meet *Prime Farmland* criteria, such as seasonal wetness, and erodibility. Such land produces fair to good yields when managed appropriately.

The Town of Ballston has extensive soils that are suitable to farming. Analysis shows that town wide just over 6,852 acres are recognized as Prime Farmland soils with almost 4,000 of those acres located within the Agricultural District. Another 10,050 acres are identified as Farmland of Statewide Importance. In addition to these soils, there are roughly 668 acres of soils identified as *Prime Farmland if Drained*. All totaled, the Town has a little better than 16,903 acres of soils that are recognized as being favorable for farming conditions, or 88% of the Town's total land coverage. Fortunately, large, continuous tracts still exist and many of these lands are still being farmed. Given the growth trends indicated above, it will be critically important for the Town to locate any type of new development in a manner that does not disrupt the continuous nature of farmlands, especially when proposed development (whether public or private) includes *Prime Farmland* as identified by the USDA.

SOILS

	Acreage		Percent of Total	
	Town	Ag District	in Town	in Ag District
Prime Farmland	6,852.78	3,959.53	35.6%	38.3%
Prime Farmland if Drained	668.42	222.14	3.5%	2.2%
Farmland of Statewide Importance	10,049.99	5,426.19	52.2%	52.5%
Other Soil	1,680.43	719.09	8.7%	7.0%
Total	19,251.62	10,326.95	100%	100%

Source: Saratoga County Planning Department

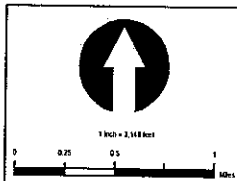
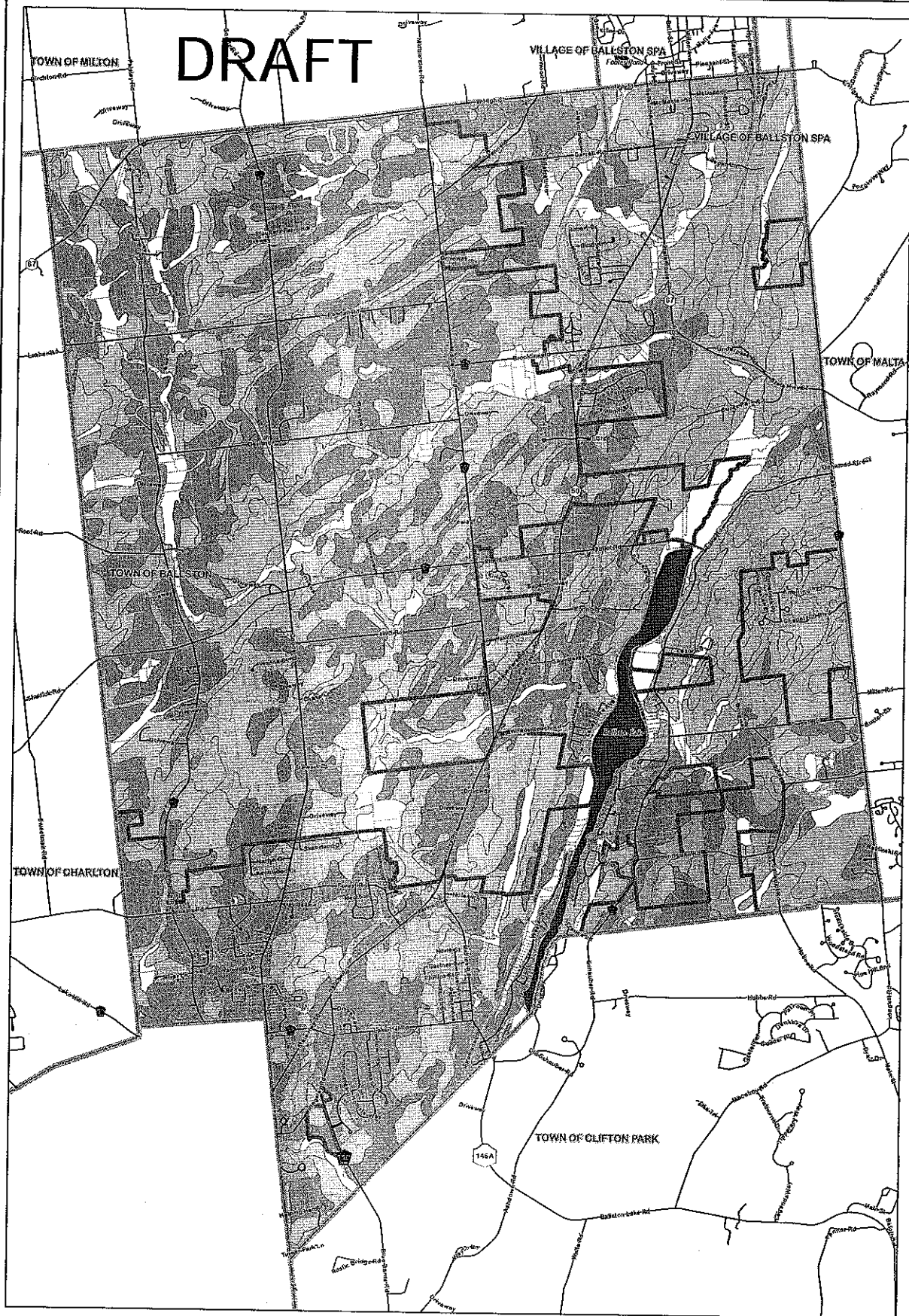
Agricultural & Farmland Trends

From its beginning, agriculture has been an important part of not only defining Ballston's character, but also as an economic resource. Farming being done in the Town of Ballston is primarily done by small, family-owned businesses, yet it is a multi-million dollar industry that contributes to the regional economy well-beyond the farm. Not only is farming an important industry in Ballston, most importantly to those who do it, it's a way of life. For this reason, when we consider how to support and enhance farming in Ballston, this plan also aims to support and enhance the lives of the people working the farms, our residents.

Farms make important economic contributions to the region as farmers purchase goods and services from local and regional businesses. The New York State Comptroller (Office of the State Comptroller document, 'Bet on the Farm: Farmland Protection as A Strategy for Economic Growth and Renewal, October 2010') indicated that in addition to the direct revenue produced by farm production and the

Soils Map

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- Municipal Boundary
- 2012 Ballston Tax Parcel
- Agricultural District 002
- Prime Farmland
- Prime Farmland if Drained
- Farmland of Statewide Importance

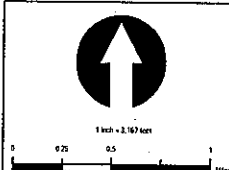
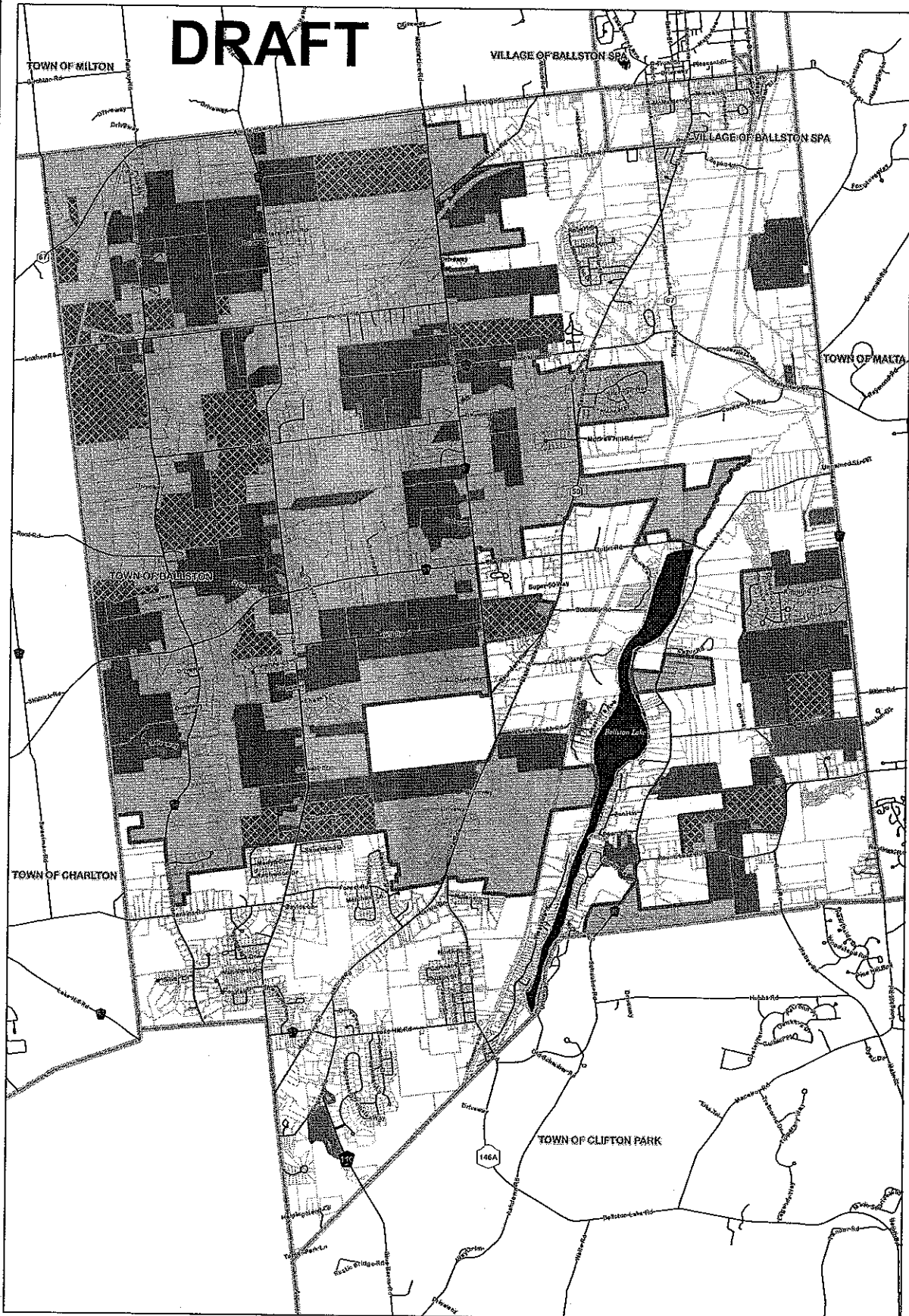
Town of Ballston
Saratoga County
State of New York
Soil

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Agriculture Overview Map

DRAFT



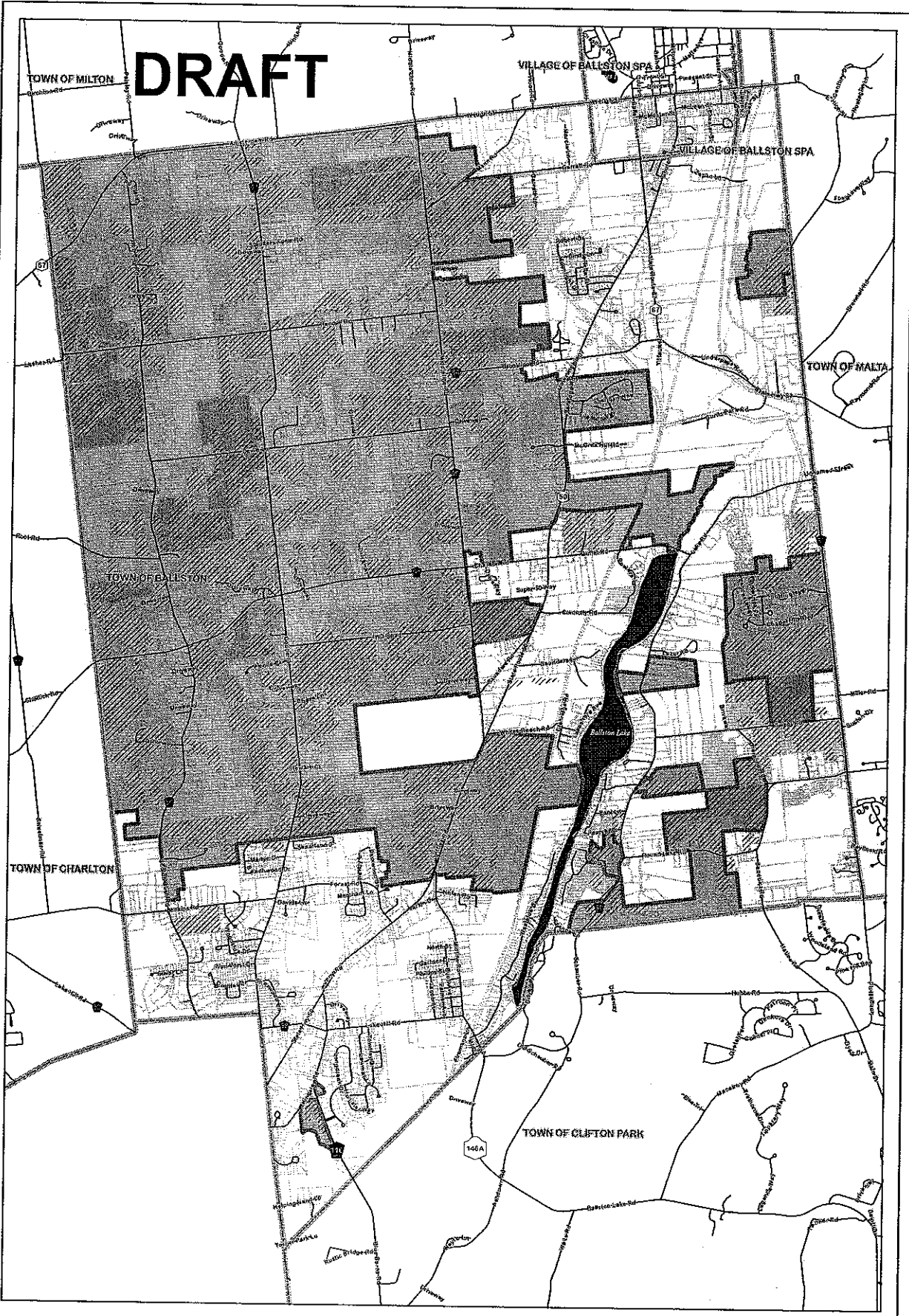
- Municipal Boundary
- 2012 Ballston Tax Parcel
- Agriculture District 002
- Agriculture Parcel
- Agriculture Exemption Parcel

Town of Ballston
Saratoga County
State of New York
Agriculture Overview

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Agriculture Use Map



	<table border="0"> <tr> <td></td> <td>Municipal Boundary</td> <td></td> <td>Dairy farm</td> </tr> <tr> <td></td> <td>2012 Ballston Tax Parcel</td> <td></td> <td>Fruit crop</td> </tr> <tr> <td></td> <td>Agriculture Exemption Parcel</td> <td></td> <td>Livestock</td> </tr> <tr> <td></td> <td>Agriculture District 002</td> <td></td> <td>Nursery</td> </tr> <tr> <td></td> <td>Agriculture Field</td> <td></td> <td>Orchard crop</td> </tr> <tr> <td></td> <td>Assess Agriculture Use</td> <td></td> <td>Vac. farmland</td> </tr> <tr> <td></td> <td></td> <td></td> <td>Ballston Lake</td> </tr> </table>		Municipal Boundary		Dairy farm		2012 Ballston Tax Parcel		Fruit crop		Agriculture Exemption Parcel		Livestock		Agriculture District 002		Nursery		Agriculture Field		Orchard crop		Assess Agriculture Use		Vac. farmland				Ballston Lake	<p align="center"> Town of Ballston Saratoga County State of New York Agriculture Use </p>	<p align="center"> ELAN Planning / Design / Landscape Architecture 18 Dickinson Street Studio 304 Saratoga Springs, NY 12860 </p>	
	Municipal Boundary		Dairy farm																													
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	Agriculture District 002		Nursery																													
	Agriculture Field		Orchard crop																													
	Assess Agriculture Use		Vac. farmland																													
			Ballston Lake																													

agricultural service and food manufacturing industries, farm businesses generate further production valued at close to \$1 for every \$1 produced directly. And, for every dairy job created, 1.24 other jobs are created. Thus the dollars produced from farms in Ballston are a meaningful contributor to the economy.

Data for this section of the report is primarily drawn from the U.S. Department of Agriculture (USDA) Census of Agriculture (conducted every five years, most recently in 2007). The data is not available at a specific town level. Information is available for zip codes and Counties. The data collected from the Census of Agriculture for this section profiles Saratoga County trends.

Between 2002 and 2007, Saratoga County added 49 new farms, or an 8.3% increase. This trend compared to the State is meaningful as the State experienced an overall *loss* of about 2.4% of its farms over the same period. Likewise, the County gained a modest 1% in land for these farms, while the State continues to demonstrate a loss of farmland. An interesting trend that has continued to emerge for both the County and the State is the shrinking size of farms. For both the County and the State the average size of farms shrunk by roughly 9 acres. This trend can, in part, be attributed to improvements in technologies, but also suggests that smaller, family-owned and operated farms are collectively making significant contributions to both the State and regional economies.

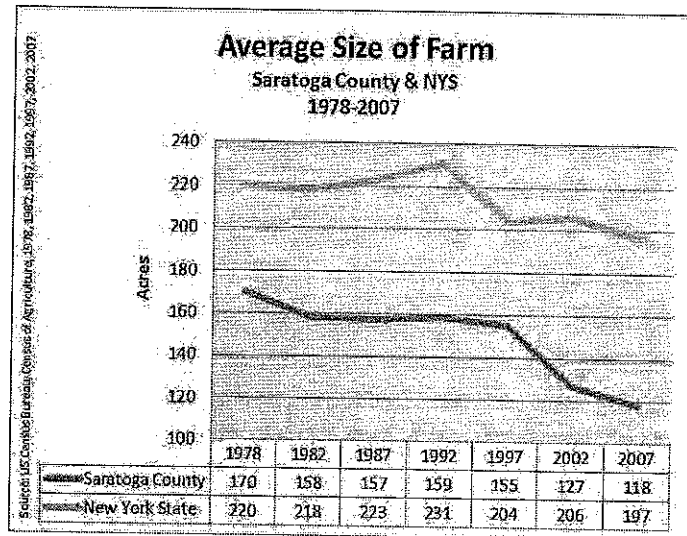
Saratoga County Farms & Land Coverage 2002-2007				
	2002	2007	Total Change	2002-2007 Change
Farms	592	641	49	8.3%
Land in Farms (acres)	74,976	75,660	684	0.9%
Avg. Size of Farm (acres)	127	118	-9	-7.1%
Acres Harvested	36,161	36,976	815	2.3%

Source: 2002 and 2007 Census of Agriculture - County Data

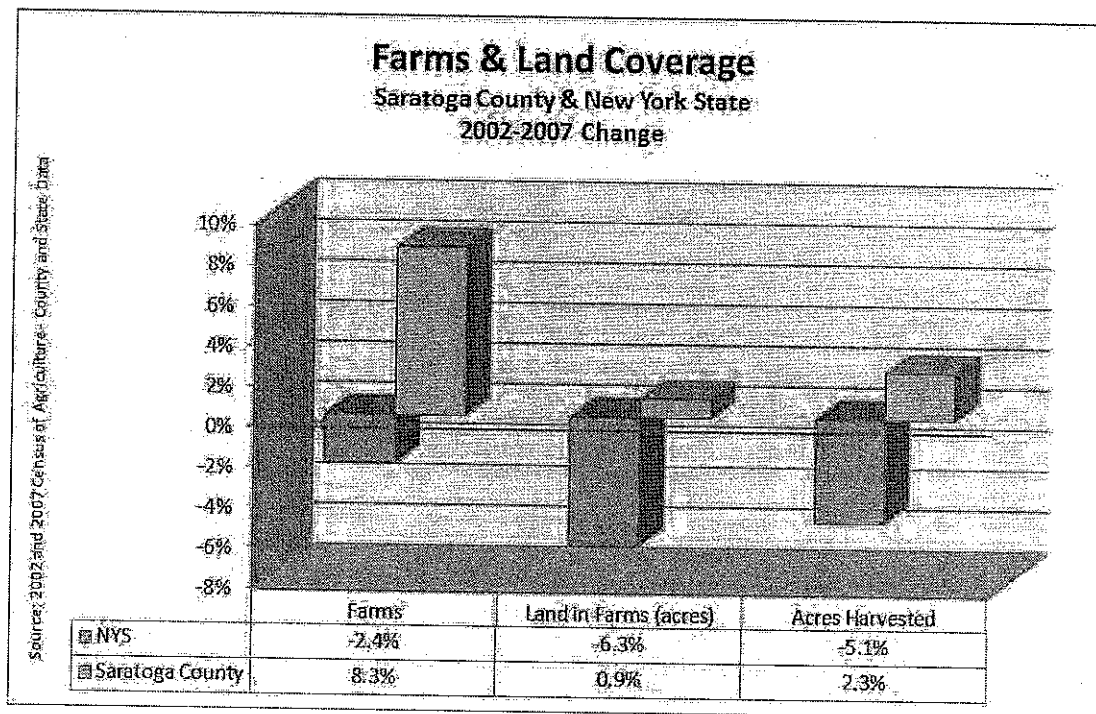
New York State Farms & Land Coverage 2002-2007				
	2002	2007	Total Change	2002-2007 Change
Farms	37,255	36,352	-903	-2.4%
Land in Farms (acres)	7,660,969	7,174,743	-486,226	-6.3%
Avg. Size of Farms (acres)	206	197	-9	-4.4%
Acres Harvested	3,846,368	3,651,278	-195,090	-5.1%

Source: 2002 and 2007 Census of Agriculture - State Data

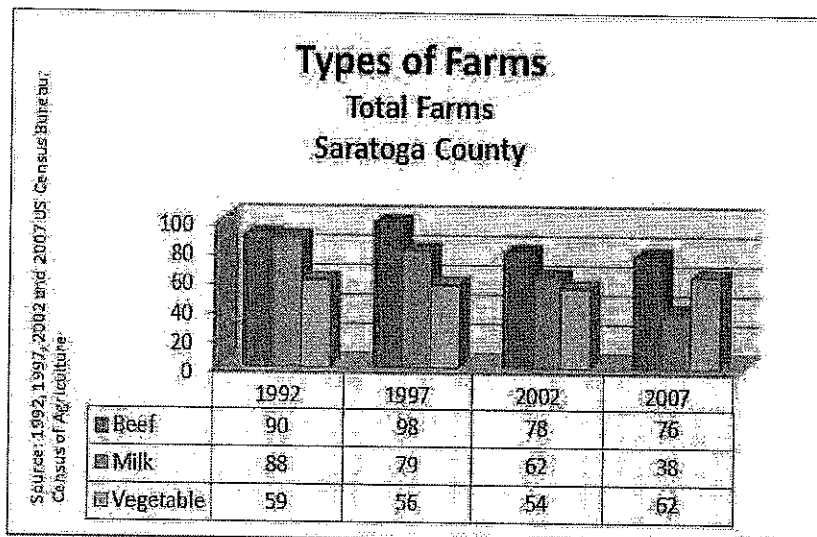
Taking an extended look at average farm size illustrates that farms in Saratoga County have been decreasing since 1978. Since 1978, the average size of farms in Saratoga County has decreased nearly 31%. As noted above, it is these family-operated farms that play the most prominent role in the Ballston farming community. Helping these farmers maintain successful operations will be an important part of the Ballston Agriculture and Farmland Protection Plan.



Saratoga County has demonstrated a relatively strong farming climate between 2002 and 2007. As the table below indicates, Saratoga County has experienced an overall net gain in farms, land in farms and total acres harvested between 2002 and 2007. In comparison, New York State has experienced a consistent decrease in the same categories over the 2002 to 2007 period. While Saratoga County may not be among the top agricultural counties in New York State, it is a bright spot for growth in the agriculture economy.



While Saratoga County has experienced a net increase in the total number of farms between 2002 and 2007, it is important to note that the County's livestock farmers have been dwindling since 1992. In fact, since 1992 Saratoga County has experienced a loss of almost 16% of its beef livestock farms and nearly 57% of its milk producing farms. However, the total number of beef and dairy livestock heads has shown a marked increase between 1992 and 2007. Vegetable farming has experienced the opposite trend with a modest increase of just over 5% of farms with a net loss of about 59 acres, or 17.7%. As noted above, over 35% of the soils in Ballston are identified as Prime Farmland soils. This finding further reinforces the importance of protecting the Ballston's most productive soils, especially those that are identified as Prime Farmland by the USDA.



Total Number of Head on Farms Saratoga County					
	1992	1997	2002	2007	%Change 1992-2007
Beef	821	1,225	986	1,064	29.6%
Milk	5,812	6,446	6,854	8,315	43.1%

Source: 1992, 1997, 2002 and 2007 US Census Bureau, Census of Agriculture

Total Acres for Vegetable Farming Saratoga County					
	1992	1997	2002	2007	%Change 1992-2007
Vegetable	333	377	297	274	-17.7%

Source: 1992, 1997, 2002 and 2007 US Census Bureau, Census of Agriculture

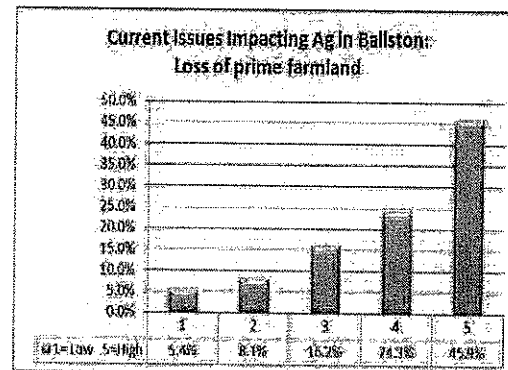
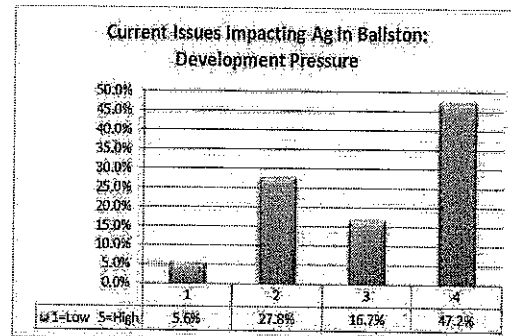
Survey Findings

In the spring of 2012 the Ballston Farmland Protection and Preservation Committee developed a survey to gauge the needs and expectations of the farming community. The survey consisted of twenty-one questions that included demographic and land ownership questions, current issues facing the local farming community, future plans and property owner's willingness to participate in various programs. The results of the thirty-nine surveys returned were tabulated by Elan Planning & Design and shared with the Farmland Protection and Preservation Committee at their March 5, 2013 meeting. It is important to recognize that the findings from this survey were not intended to be a statistically valid representation of the community. This survey combined with the 2006 Comprehensive Plan survey, is one of several mechanisms used to develop the strategies for the Farmland Protection and Preservation Plan.

The 2006 Comprehensive Plan survey found that nearly 50% of the population felt that loss of farmland and agriculture was one of the most important problems facing the town. This loss of farmland and agriculture was the third most important problem indicated. The second highest concern in the Comprehensive Plan survey was the loss of open land/undeveloped not (not farmland). When asked what type of open space was the most important to preserve in the Town, 63% of the respondents indicated that preserving farmland and agricultural lands were the most important to preserve. Approximately 88% of the respondents strongly agree or agree that promoting and encouraging local agriculture and farm viability is necessary. Clearly, residents of Ballston put a high value on farming and agricultural lands.

The Farmland Protection and Preservation Committee's survey found consistent results with the Comprehensive Plan survey. When asked what some of the most pressing issues the Town is currently faced with, over 47% of respondents indicated that development pressure as the highest issue the Town is faced with. At 46%, loss of Prime Farmland was closely recognized as the second most pressing issue faced by the Town. Clearly, development pressure and loss of farmland are inextricably linked.

A more complete summary of the survey is provided in the Appendix B.



3. Policy Consistency & Coordination

Finding connections and consistency between local, regional and State planning goals and policies is an important element to successful planning. This section helps to make important connections between the Ballston Agriculture and Farmland Protection Plan and various local, regional and state planning and policies.

At the local level, the Town of Ballston adopted a Comprehensive Plan in 2006. The Comprehensive Plan determined that agriculture is a key component of why people choose to live in the Town of Ballston. The Comprehensive Plan made several recommendations that support agriculture in the Town. These recommendations include:

- Encourage participation in Agricultural Districts
- Highlight the local right-to-farm provisions
- Promote agriculture through education
- Initiate a "Buy Local" program and develop and agricultural economic study

Regionally, the County developed an Agricultural and Farmland Protection Plan for Saratoga County in 1997. The Plan outlined four specific goals: Demonstrate the value of Saratoga County agriculture; Enhance the viability of Saratoga County's agricultural industry; Promote protection of farmland as an important economic and environmental resource; and Direct public policy toward promoting and sustaining agriculture. The Plan further outlines a series of recommendations intended to achieve the Plan's goals.

The County also uses the Saratoga County Green Infrastructure Plan, adopted in November 2006, as an important document in its efforts to protect the open space, rural character of the County. The Green Infrastructure Plan identified working landscapes (agriculture and forestry) as a primary preservation goal for Saratoga County. The Vision for the "Working Landscapes" section is to, "Maintain a productive core of working agricultural and forestry lands that provide substantial benefits to Saratoga County's economy and communities." The plan defines core farm areas. The core farm areas are those areas that have high-quality soils available for agricultural production, and there is a significant concentration of existing working farms in the area. The two largest of these areas are the Hudson River belt that extends from Moreau to Stillwater, and the western county area which includes Charlton, Galway, Milton and Ballston. Ballston is an important component to the agriculture economy in the County.

Plans Influencing Ballston's Agriculture and Farmland Protection Plan

Local

2006 Comprehensive Plan

Regional

1997 Saratoga County Agricultural and
Farmland Protection Plan

2006 Green Infrastructure Plan for
Saratoga County

State

New York State Constitution

2009 NYS Open Space Conservation
Plan

Article XIV, Section 4 of the N.Y.S. Constitution provides in part that the policy of the State shall be 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, watersheds, as well as for aesthetic purposes."

The 2009 NYS Open Space Conservation Plan contains a list of outstanding, priority conservation areas across the State which was identified by the nine Regional Advisory Committees with citizen input. It also contains comprehensive policy and program recommendations to expand the number and scope of the tools in the conservation toolbox. The Plan states that, "Farmland protection is a critical component of the State's overall efforts to conserve open space. This land provides fresh produce, scenic open space, vital wildlife habitat, and the economic backbone to many communities. The Plan has long recognized the importance agriculture and how it contributes to the protection of open space in New York State. The demand for state funding of through the Farmland Protection Program, administered by the Department of Agriculture and Markets, demonstrates the great need for continued support from the EPF and other funding sources."

As part of the planning process, Elan Planning and Design conducted a Farm Friendly Audit of the Town of Ballston's Zoning Ordinance, which is provided below.

1. Article I General Provisions. Authority; purpose. Among the many listed purposes of the zoning ordinance, including the protection of various open space uses, there is no mention of agriculture or farming; agriculture should be added to the list.
2. Article II Terminology – Definitions.
 - a. First it sends the reader to 'customary agriculture uses' and then the definition leaves some room for interpretation. This could be good but it may be better to have an all encompassing definition that considers many aspects of farming and agriculture. Consider adding a definition of 'farm operation' that is close to the NYS AG and Markets definition.
 - i. *Example of Definition of Farm Operation:* The land and on-farm buildings (including farm worker housing), 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 above. Consider adding definitions for related agricultural uses such as:

- ii. Agricultural District
 - iii. Agri-tourism
 - iv. Commercial horse boarding
 - v. Greenhouse (commercial and temporary)
 - vi. Riding academy
 - vii. Roadside stand
 - viii. Livestock and livestock products (always include the words 'including but not limited to.....')
3. Establishment of Districts. There is no 'Agricultural' Zoning District in the Town. There is a 'Rural' zoning district but it does not appear to put agriculture as a desired use. In fact, it reads as if it is expected that agriculture is no longer a viable use in the town given housing pressures and 'recent economic trends':
- a. Article VII Rural District Regulations. – These regulations can be amended to be more friendly to agriculture:
 - i. 138-10 – Uses. The Use Table for this district lists Agricultural uses (with or without animals) as a use permitted as of right (as opposed to needing a special use permit or site plan review) with seemingly little or no review required? While this may be very pro-agriculture it may be necessary to add other agricultural uses as described under definitions above.
 - ii. 138-10.1 Area Requirements. The Rural zoning district has a 2-acre minimum lot size without sewer and water and a 1 acre minimum lot size with sewer and water. Consideration should be given as to how these minimums and the outright permitted allowance of single-family dwellings encourage the conversion of farmland to residential uses. Mandatory conservation subdivisions, TDRs or Incentive Zoning can be considered as alternatives to minimum lot size.
 - iii. 138-10.2 Purpose and Intent. As set forth in Section 3.1 of the Comprehensive Plan, the area of the Town defined by this District is highly valued for its rural character and contributions to the Town's overall quality of life. It is characterized by working landscapes and open spaces, with single-family residential development along the road frontage and an occasional small scale commercial parcel. Although many working farms are present, the vitality of agriculture in this area has been reduced by recent economic trends. Much residential development pressure to replace existing farmland and open spaces

is expected. Compounded by difficult soils for development and the lack of public sewer and water, such development pressure has the potential to alter the valued rural character and lifestyles which currently predominate. However, it is recognized that the land itself, like many agricultural areas, remains the primary asset of many landowners in this area. Thus, the purpose of the Rural District is to appropriately balance the future development of this District with preserving its open spaces and rural character.

4. Article XA - 138-27.8 Agricultural Uses in the Watershed Protection Overlay District. This is good language in that it values agriculture as a use and exempts farms with conservation plans prepared by the Saratoga County Soil and Water Conservation District, the USDA Natural Resources and Conservation Service or a certified conservation planner. It further suggests that farms follow the recommendations in the Agriculture Management Practices Catalogue for Nonpoint Source Pollution and Prevention and Water Quality Protection in New York (1992) as published and amended by the Bureau of Water, New York Department of Environmental Conservation.
5. Article XI Signs. Consideration may be given to allowing off-premise signs especially of roadside stands are allowed.
6. Article XV Off-Street Parking and Loading. Consideration may be given to defining number of parking spaces for any new agricultural uses added such as roadside stands.
7. Article XVIII Mobile Homes and Mobile Home Parks. Mobile homes are only allowed by issuance of a temporary occupancy permit for 6 months with 3 additional six month extensions. Consideration may be given to allowing individual mobile homes on working farms as a means to provide workforce housing.
8. Article XXVI Site Plan Review. 138-106 Review of Site Plan Subsection E – Contains the need for the applicant to submit an Agricultural Data Statement when a proposed use is located in, or within 500 feet of, the boundaries of an agricultural district. This is good but potential impacts on agricultural land could also be integrated at the sketch plan and concept plan review stages in an effort to start the dialogue early in the process.

4. Ballston Agriculture & Farmland Protection Plan: Vision Statement

VISION STATEMENT

The intent of the Ballston Agriculture and Farmland Protection Plan is to maintain the Town's distinctive agricultural character in the face of increasing development pressures by recognizing the value and contribution that farming provides to the Town's economy and quality of life.

This includes:

1. To gain town wide recognition, comprehension and support of agricultural resources and practices.
2. To protect and enhance agricultural resources.
3. To enhance the economic profitability of agriculture.
4. To increase visibility and public recognition of agriculture.

5. Goals and Strategies for Agriculture & Farmland Protection

MUNICIPALLY LED INITIATIVES

Identifies a management entity to direct the day-to-day coordination and advocacy of the Farmland Protection & Preservation Plan. This section identifies the people and organizations that will participate and their specific responsibilities. Also identified are people and organizations that are committed to assist in the implementation of the Plan and their expectations.

Goal 1: To gain town wide recognition, comprehension and support of agricultural resources and practices.

Strategies:

- 1.1 Establish an Ag & Farm Commission, which would be responsible for the following:
 - a. Implement the recommendations of this plan.
 - b. Advise the Town Board on issues impacting agricultural lands.
 - c. Establish an on-line farmers' network. Given the long hours a farmer typically works, there may not be the opportunity for standard after-hours networking events. Establishing a web-based platform where farmers can pose questions, sign-up to share equipment, find educational materials, etc. can also serve as a source of planning face-to-face meetings.
 - d. Ensure the implementation of the objectives of New York State's Article 25-AA, Agricultural Districts, Agriculture and Market Law.
- 1.2 Ensure implementation of the town policy of having farmer representation on the Town Board, Planning Board, Zoning Board of Appeals, and any formal committee of the Town.
- 1.3 Hire a part-time professional planner to advance ag/farmland protection in the Town of Ballston.

A professional planner could provide assistance to the Agriculture and Farm Commission to implement the farmland protection strategies identified in this Plan. The position could also serve as an interface between various government entities and the public regarding agriculture issues. A sample job description is provided in Appendix D.

1.4 Support zoning changes recommended in the farm-friendly audit.

Local land use laws can work both to protect existing agricultural land uses, and to ensure that if land is converted from agriculture to some other land use, it is done in a way that protects the agricultural interests of others in the area. A town can plan for agriculture through various zoning techniques that help support the agricultural business environment, stabilize large parcels or land, encourage farmer-neighbor cooperation, and keep agricultural land more affordable for farmers to purchase.

1.5 Agriculture Protection Guidelines.

Agriculture Protection Guidelines are intended to assist land-owners choose appropriate building sites, so that new development complements and does not negatively impact active farm operations. They could also be used to preserve open land that could be potentially used for agricultural purposes. These guidelines ensure that development or redevelopment preserves, wherever practical, working farm fields, creates minimal impact on land, and is achieved in a manner which makes open space planning a central focus of development. The remaining open space could then be potentially used for agricultural purposes. The part-time planner mentioned above could work with the Ag & Farm Commission, the Town Planning Board, and the Town Zoning Board of Appeals to develop the location, extent, and enforceability (i.e., mandatory vs. suggested) of Agriculture Protection Guidelines. Implementing such guidelines shows respect for the value of agriculture in the Town, while protecting both farmers' and residents' real estate investment.

STEWARDSHIP

The following Stewardship policies identify measures that can be taken to protect and enhance the Agricultural District's resources. This section outlines the responsibilities of the individuals and organizations who will contribute to the long term enhancement, conservation and promotion of the Agriculture District.

Goal 2: To protect and enhance the Town of Ballston's agricultural resources.

Strategies:

2.1 Provide information to farmers and farmland owners regarding:

- a. Tax relief programs including Form ST-125, Agricultural Sales Tax Exemption, applicable returns on school taxes, and/or special district exemptions.

- b. Rights under Article 25-AA (Agricultural Districts, Agriculture and Market Law), zoning (particularly if there are upcoming agricultural zoning changes), and the right to farm law in Saratoga's Agricultural District 2.
- c. Benefit of conservation easements. Agricultural conservation easements are legally recorded voluntary agreements that restrict land to agricultural and open space uses, generally prohibiting uses that remove the agricultural value or productivity of the land. The land can continue to be used for farming in perpetuity helping to preserve farming and providing the ability to pass it along to future land owners without the threat of loss of farmland to development. In return, the farmer receives tax benefits as articulated in the Federal Tax Code.

2.2 Explore the feasibility of a Purchase or Lease of Development Rights program to protect farms in perpetuity.

Purchase or Lease of Development Rights are land conservation techniques that allow landowners to sell or lease conservation easements or development rights. A farmer can apply for purchase of development rights (PDR) and receive payment on a per-acre assessed value. It is an agreement recorded in the land records, and subsequently limits the future use of the land to agriculture. The Town of Clifton Park and the Saratoga County Farmland and Open Space Protection Program have successfully implemented similar programs that could serve as a good model to follow.

2.3 Explore various zoning techniques to protect farmland, including:

- a. Incentive Zoning – Incentive Zoning allows developers more density in exchange for community improvements. Given the current atmosphere of growth and increased density surrounding Global Foundries in Saratoga County, developers should be encouraged to offer community improvements related to open space and conservation.
- b. Transfer of Development Rights (TDR) – TDR programs occur when development rights from one property (such as a farm property) are purchased and transferred for use in another location (such as to add stories to a development in a higher density area). This program could also be considered in conjunction with neighboring communities. A copy of Saratoga Plan's *Tools for Community Planning and Conservation – Purchase and Transfer of Development Rights* is provided in Appendix E.
- c. Conservation Subdivisions – Cluster or Conservation Subdivisions occur when a large parcel concentrates development in one area, dedicating the remainder of the parcel to open space that could be used for farming. For instance, a conservation subdivision might put ten 1 acre lots in one part of a 100 acre parcel rather than divide the parcel up into ten 10 acre lots. The remaining, dedicated open space could be privately or publically owned and be used for a variety of purposes such as farming.
- d. Critical Environmental Areas (CEA) – Local agencies may designate specific geographic areas within their boundaries as CEAs, thus subject to specific regulations.

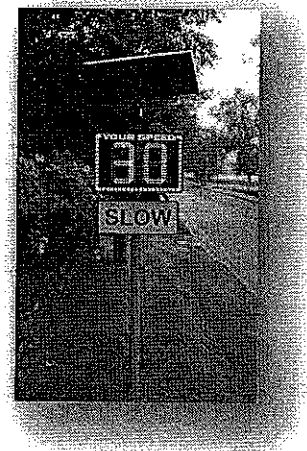
- e. Strengthen site plan review process as it relates to farmland – The Town may develop and use a more stringent site plan review process that considers impacts of development on farmland.
- f. Ensure proper SEQRA review to identify potential impacts on farmland – Most actions responsible for the conversion of farmland, or which indirectly impact farm activities, do not exceed thresholds that would trigger an Environmental Impact Statement (EIS) under SEQRA. However, if local governments designate agricultural resources as CEAs (see above), it triggers a closer analysis of potential environmental impacts in the area.

2.4 Develop and implement a program for prospective/young farmers.

- a. Tax incentives – Identify owners of land that is rented for agricultural production (a frequent practice among young farmers), who do not receive agricultural use assessments, and mail them information about the program. Encourage them to visit the Town Hall/Assessor's Office for more tax abatement information.
- b. Farm succession – Some farm operators in the Town of Ballston may have plans to pass their farm on to a younger generation family member, while others do not. Farmland that does not have a succession plan is more likely to be converted to residential or other development. For young farmers interested in establishing farm operations, it may be more affordable to purchase farmland protected by permanent conservation (to ensure farm succession).

2.5 Develop traffic management techniques to protect farmers during the most active farming season.

- a. Lower the speed limit in Ag District – Some farms efficiently utilize their land up to the property line, which frequently abuts busy or higher-speed roads. In addition, if walking or bicycling farm tours begin, there will be increased foot traffic on roads that perhaps do not have shoulders. Given the proximity of workers, animals, and farm equipment to speeding vehicles, consider lowering the speed limit in the Ag district, with increased frequency of speed monitoring, and/or increased speeding fines.
- b. Traffic calming measures – Work with NYS Department of Transportation and the local Public Works Department to implement traffic calming measures, such as speed humps or vehicle activated signs to reduce speeding within the for speeding vehicles. Traffic calming near farm stands or farmers markets may also encourage slowed-down drivers to visit the nearby attractions.



2.6 Consider impact on agriculture when siting public water and sewer.

- a. Some farmland requires drainage improvements to increase its productivity. For farmers with limited access to capital, these investment requirements pose a barrier.

When siting new public water and sewer projects, considering farmland drainage in conjunction could help bring efficiencies to farm practices.

- b. Combined, the agricultural, housing and construction industries are important components of the regional economy. Achieving stability between these industries is a delicate balancing act. The Town's adopted 2006 Comprehensive Plan provides precautions to infrastructure development stating that, "the Town should continue to maintain existing water systems as needed...and continue to work with the County to provide sewerage service where necessary." Extending sewer and water lines in the agricultural district could inadvertently promote development of highly valuable farmland. To further support the intent of the Comprehensive Plan, the Town should consider drafting a local law limiting the future extension of water and sewer lines within the agricultural district.
- c. The Saratoga County Soil & Water Conservation District advises landowners regarding the design and installation of drainage projects. Collaborating with this entity when siting public water and sewer will encourage consideration of environmentally-sensitive agricultural land use.

MARKETING & ECONOMIC DEVELOPMENT

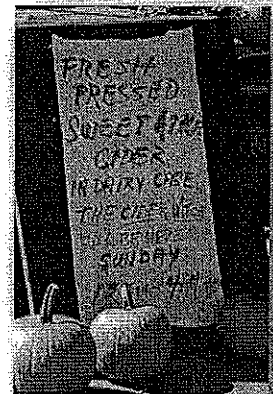
Marketing and promotion are essential to the success of agriculture and farming in Ballston. This section identifies strategies to increase awareness and accessibility of agricultural products, as well as ways to enhance the economic growth of farming in the Town.

Goal 3: To enhance the economic profitability of agriculture in the Town of Ballston.

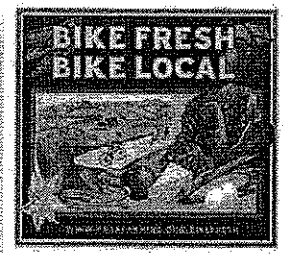
Strategies:

3.1 Promote Ballston farms and farm products.

- a. Work with Saratoga County to develop procurement policies that encourage local institutions (schools, hospital, nursing homes, etc.) to purchase locally produced foods.
- b. Partner with local businesses like Global Foundries to direct sell products to their cafeterias, or arrange a corporate subscription service.
- c. Work with local supermarkets to include signage of where their local products are grown.



- d. Develop relationships with local restaurants and businesses to feature local products (and their farm of origin) on their menus and in stores.
- e. Connect to existing food hubs so local food producers can aggregate their resources and share in costs, making food distribution less expensive, more efficient, and often more competitive in the commercial market. Consider King Brothers Dairy (locally), Hudson Valley Bounty (Catskills area), or Regional Access (Ithaca, NY).
- f. Establish a Ballston Community Supported Agriculture Network (CSA). A CSA typically occurs when a farmer offers a certain number of "shares" to the public. Interested consumers may purchase a share (or membership/subscription) and in return receive a box of seasonal produce each week throughout the farming season. CSAs allow the farmer to receive payment early in the season, while allowing the consumer to develop a relationship with the farmer who grows their food, perhaps learning more about how their food is grown.
- g. Expand farm stands – Volunteers may compile information on where the existing farm stands are in Ballston, develop a basic map, and look for large gaps in farm stand locations. They could then work with farmers, not yet represented at the existing farm stands, to establish stands in those gap locations.
- h. Initiate a buy local campaign to promote Ballston farmers' markets, CSA's, farm stands, wholesale meats, and farm-to-table restaurants.
- i. Create a model based on King Brother's Dairy and/or Field Goods to deliver small farm products to residences and businesses in the Capital District.



3.2 Promote creative tourism opportunities through agricultural heritage areas.

- a. Develop a Bike Fresh Bike Local campaign, based on the program operated by the Pennsylvania Association for Sustainable Agriculture and the Washington County Agricultural Steward Association. Each scheduled bike ride features a ride across rural roads, a delicious local foods lunch, well-stocked rest stops, but most importantly a day spent supporting local foods and farmers.
- b. Work with interested farmers to develop and promote a farm trail map and guide that directs visitors to the unique working farms, orchards and farm stands in the Town of Ballston.
- c. Work with interested members of the local farming community to develop and promote a driving tour of local farms.

3.3 Develop and maintain a comprehensive list of farms, including location, products available, and hours of operation for inclusion in a marketing brochure and on the Town's website.

3.4 Stimulate agricultural entrepreneurship

- a. Identify and promote low interest loan opportunities and application information.
- b. Establish a revolving loan fund for the purchase of inventory and equipment.
- c. Develop a business incubator program where beginning farmers can gain access to affordable land for a one-year lease, the use of farm equipment and infrastructure, and on-site training and mentorship from established farmers.
- d. Develop an apprenticeship program to match young farmers looking for guidance with established farmers looking for farm assistance.
- e. Prepare a Business Development Plan for Farming designed to identify and market available parcels to potential farmers.

3.5 Facilitate growth of smaller agricultural producers.

As people look to enter into farming, it may be that it is a 'hobby' and smaller amounts of land are used. These types of farms often provide fresh produce and other types of products such as eggs. Examine the zoning ordinance to ensure that these types of land uses are allowed.

3.6 Recognize value-added operations and buildings/businesses that support farm operations.

An annual Farmer's Night dinner featuring farm-fresh ingredients provides for networking opportunities, an opportunity to educate the community about the importance of family farms, and provides an opportunity to recognize area businesses and organizations that support local farm operations.

PUBLIC EDUCATION AND OUTREACH

Marketing and promotion are essential to the success of agriculture and farming in Ballston. This section identifies strategies to make visitors and landowners alike aware of the Agricultural Districts' resources.

Goal 4: To increase visibility and public recognition of agriculture in the Town of Ballston.

Strategies:

4.1 Improve community, farm and neighbor relations.

- a. Develop an educational campaign to promote the value of farming in the Town of Ballston. Consider designating an area of a willing farm as an educational farm, allowing local school field trips to visit various farms, or operating a farm to school program.
- b. Develop a brochure to educate the public about



options available to protect farmland. Resources are available from the American Farmland Trust and the Agricultural Stewardship Association. Consider offering the brochure at education campaign events, farmers' markets, in CSA deliveries, and/or at Farmer's Night (see above).



- c. Organize farm tours for the general public and elected officials to emphasize the value of farming to the community. Examples of successful programs include Shelburne Farms in Burlington, VT <http://www.shelburnefarms.org> and Polyface Farms in Swoope, VA <http://www.polyfacefarms.com>.
- d. Work with Cornell Cooperative Extension (CCE), NYS Ag and Markets, and the NYS Farm Bureau to provide training to the local Planning Board and elected officials about the benefits of agriculture.
- e. Provide welcome packets baskets to new residents that include information about living in a Right-to Farm community. Baskets could include a map of existing farms and products, a copy of Cornell Cooperative Extension's "So You Think You Want to Move to the Country" brochure, and a small, low-cost product from a local farm (jar of jam, honey or apples) which may encourage recipients to visit the local farms.

4.2 Improve and expand agricultural education in schools.

- a. Seek funding to establish a school-based community garden. The garden will create a bridge between the school and the surrounding community by offering gardening space to students, parents, teachers and neighbors.
- b. Connect the Ballston Spa and Burnt Hills/Ballston Lake School Districts with the farming community to organize field trips to local farms that make the farm a classroom for the day.
- c. Strengthen relationship with National Junior Honor Society, or encourage a farmer to work with local schools and the Junior Achievement Program, focusing on the business aspects of farming.
- d. Work with the Career and Technical Education program in the public schools, or NYS BOCES, to develop a Community-Government Relations class, focusing on how federal and state policies affect local-level planning for agricultural land use and protection.
- e. Work with local school districts to develop procurement policies that encourage the purchase of locally produced foods.



6. Implementation Plan

ⁱ T.M. Schmit and N.L. Bills, "Agriculture-Based Economic Development in NYS: Trends and Prospects" (Charles H. Dyson School of Applied Economics and Management, College of Agriculture and Life Sciences, Cornell University, September 2012)

Town of Ballston Agriculture and Farmland Protection Plan Implementation Matrix

Recommendation	Project Champion	Potential Partners/Funding	Immediate*	Short-Term	Medium-Term	Long-Term	Ongoing
Goal 1: To gain town wide recognition and support of agricultural resources							
1.1 Establish an Ag & Farm Commission	Town Board	Town Board, Town Attorney	H				
1.2 There shall be farmer representation of the Town Board, Planning Board, Zoning Board of Appeals, and any formal committee of the Town	Ag & Farm Commission	Town Board, Planning Board, Zoning Board of Appeals	H				
1.3 Add a part-time professional planner to advance ag/farmland protection	Town Board	Town Board	H				
1.4 Support zoning changes recommended in the farm-friendly audit	Town Board	Zoning Board of Appeals	H				
1.5 Develop Agriculture Protection Guidelines	Ag & Farm Commission	Town Board	H				V
Goal 2: To protect and enhance the Town of Ballston's agricultural resources							
2.1 Provide information to farmers and farmland owners	Ag & Farm Commission	Cornell Cooperative Extension of Saratoga, American Farmland Trust, NYS Ag and Markets, FSA in Washington County, Farm Bureau	H				
2.2 Explore feasibility of Purchase or Lease of Development Rights program	Ag & Farm Commission	Ballston Town Attorney, Saratoga County, USDA Farmland Protection Grants, NYS Farmland Protection Grants, Ag Stewardship Association, Cornell Cooperative Extension of Saratoga County, Saratoga Plan	H				
2.3 Explore various zoning techniques to protect farmland	Ag & Farm Commission	American Farmland Trust		M			
2.4 Develop and implement a program for prospective/young farmers	Ag & Farm Commission	USDA Beginning Farmer and Rancher Development Program (BFRDP), ATTRA, National Young Farmers Coalition, The Greenhorns, NY Farmnet		M			

* Immediate (Year 1), Short Term (Year 2-5), Medium-Term (Year 6-10), Long-term (10+)
H = High Priority, M = Medium Priority, L = Low Priority

Town of Ballston Agriculture and Farmland Protection Plan Implementation Matrix

Recommendation	Project Champion	Potential Partners/Funding	Immediate*	Short-Term	Medium-Term	Long-Term	Ongoing
2.5 Develop traffic management techniques to protect farmers during the most active farming season	Ag & Farm Commission	Highway Department, State Police, County Sheriff, Residents	H				
2.6 Consider impact on agriculture when siting public water and sewer	Ag & Farm Commission	Town Board, Town Water Department, Saratoga County Agricultural and Farmland Protection Board, NYS Department of Ag and Markets	H				
Goal 3: To enhance the economic profitability of agricultural in the Town of Ballston							
3.1 Promote Ballston farms and farm products	Owner Operators	Chamber of commerce, Cooperative Extension, AgMRC, USDA FMPP, get registered on Pride of NY website		M			
3.2 Promote creative tourism opportunities through agriculture	Ag & Farm Commission	Cornell Cooperative Extension, Saratoga County Convention and Tourism Bureau, Tourism, Farm Bureau, Saratoga County Planning Department, members of the local farm community and NYS Ag and Markets Farm Fresh Food		M			
3.3 Development and maintain a comprehensive list of farms for marketing brochure and website	Ag & Farm Commission	Cornell Cooperative Extension (CUCE) Marketmaker		H			
3.4 Stimulate agricultural entrepreneurship	Ag & Farm Commission	FSA Farm Loan Program, USDA Loans for Beginning Farmers and Ranchers			L		
3.5 Facilitate growth of smaller agricultural producers	Municipal Planner	NYS Ag and Markets Specialty Crops Block Grant Program			L		

* Immediate (Year 1), Short Term (Year 2-5), Medium-Term (Year 6-10), Long-term (10+)
H = High Priority, M = Medium Priority, L = Low Priority

Town of Ballston Agriculture and Farmland Protection Plan Implementation Matrix

Recommendation		Project Champion	Potential Partners/Funding	Immediate*	Short-Term	Medium-Term	Long-Term	Ongoing
3.6	Recognition of value-added operations and buildings/businesses that support farm operations	Municipal Planner	Farm Aid, Community Garden, Regional Food Bank					H
Goal 4: To increase visibility and public recognition of agriculture in the Town of Ballston								
4.1	Improve community, farm and neighbor relations	Planner/Town Board	Cornell Cooperative Extension of Saratoga County, New York State Agricultural Mediation Program	H				
4.2	Improve and expand agricultural education in the schools	CCE of Saratoga County	Burnt Hills Ballston Lake School District, Ballston Spa Central School District, NY Ag in the Classroom; NY Farm Bureau Foundation for Agricultural Education, Inc., NY Farm to School Program, Cornell Cooperative Extension of Saratoga County		M			

* Immediate (Year 1), Short Term (Year 2-5), Medium-Term (Year 6-10), Long-term (10+)
H = High Priority, M = Medium Priority, L = Low Priority

7. Appendices

- Appendix A: NYS Department of Agriculture & Markets, Agriculture and Markets Law, Article 25AA—
Agricultural Districts
- Appendix B: Farmland Protection and Preservation Survey Summary
- Appendix C: Marketing Brochure
- Appendix D: Municipal Planner – Sample Job Description
- Appendix E: Purchase and Transfer of Development Rights Fact Sheet

Appendix A:

**NYS Department of Agriculture & Markets, Agriculture and
Markets Law, Article 25AA—Agricultural Districts**

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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, 2013)

AGRICULTURAL DISTRICTS LAW

Summary of 1999 Amendments to the Agricultural Districts Law

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

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

Effective Date: 9/7/99

Section Amended: §301(9)(e)

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

Effective Date: 9/7/99

Section Amended: §303-a(4)

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

Effective Date: 7/20/99

Section Amended: §303-a(4)

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

Effective Date: 7/20/99

Section Amended: §305(7)

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

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

Section Amended: §308(3)

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

Effective Date: 4/6/99

Section Repealed: §309(8) & (9)

Description: Repeals the two subdivisions

Effective Date: 7/20/99

Section Amended: §309(10)

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

Effective Date: 7/20/99

Section Amended: §310(1)

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

Effective Date: 7/1/00

Summary of 2000 Amendments to the Agricultural Districts Law

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

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

Effective Date: 7/11/00

Section Amended: §308(1)(b)

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

Effective Date: 11/8/00

Summary of 2001 Amendments to the Agricultural Districts Law

Section Amended: §301(11)

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

Effective Date: 10/23/01

Section Amended: §301(11)

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

Effective Date: 10/31/01

Summary of 2002 Amendments to the Agricultural Districts Law

Section Amended: §301(4)

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

Effective Date: 1/30/03

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

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

Effective Date: 1/1/03

Section Added: §301(9)(f)

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

Effective Date: 9/17/02

Section Amended: §301(11)

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

Effective Date: 1/1/03

Section Amended: §301(13)

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

Effective Date: 1/1/03

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

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

Effective Date: 12/20/02

Summary of 2003 Amendments to the Agricultural Districts Law

Section Added: §301(4)(h)

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

Effective Date: 9/9/03

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

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

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

Effective Date: 9/22/03

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

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

Effective Date: 9/17/03

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

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

Effective Date: 9/17/03

Summary of 2004 Amendment to the Agricultural Districts Law

Section Amended: §301(4)(h)

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

Effective Date: 2/24/04

Section Amended: §301(4)(i)

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

Effective Date: 1/1/05

Summary of 2005 Amendments to the Agricultural Districts Law

Section Amended: §301(2)(e)

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

Effective Date: 7/12/05

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

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

Effective Date: 8/23/05

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

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

Effective Date: 8/23/05

Section Amended: §305-b

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

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

Summary of 2006 Amendments to the Agricultural Districts Law

Section Amended: §301(4)

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

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

Section Amended: §§301 and 308(1)

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

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

Effective Date: 8/16/06

Section Amended: §305(1)(a)

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

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

Section Amended: §305(7)

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

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

Section Amended: §310(1), §308(5)

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

Effective Date: 7/26/06

Summary of 2007 Amendments to the Agricultural Districts Law

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

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

Effective Date: 7/3/07

Section Amended: §304-a

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

Effective Date: 6/4/07

Section Amended: §305(1)(a)

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

Effective Date: 8/15/07

Summary of 2008 Amendments to the Agricultural Districts Law

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

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

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

Section Amended: §301(4)(a-1)

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

Effective Date: 9/25/08

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

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

Effective Date: 9/4/08

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

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

Effective Date: 9/4/08

Summary of 2010 Amendments to the Agricultural Districts Law

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

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

Effective Date: 6/15/10

Section Amended: §301(15)

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

Effective Date: 5/18/10

Section Amended: §303-a(5)

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

Effective Date: 6/15/10

Section Amended: §305(7)

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

Effective Date: 7/30/10

Summary of 2011 Amendments to the Agricultural Districts Law

Section Amended: §301(4)(c)

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

Effective Date: 6/8/11

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

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

Effective Date: 8/3/11

Section Amended: §302(1)(a)

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

Effective Date: 7/20/11

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

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

Effective Date: 9/23/11

Summary of 2012 Amendments to the Agricultural Districts Law

Section Amended: §301(7)

Description: Amends the definition of "viable agricultural land" to define the term as land highly suitable for a "farm operation" as defined in the law.

Effective Date: 7/18/12

Section Amended: 305(1)(a)

Description: Amends AML §305(1)(a) to streamline the process of renewing agricultural assessments, provided there are no changes in farmland eligibility, acreage, or ownership.

Effective Date: 7/18/12

Section Amended: 301(4)

Description: Amends the opening paragraph of the definition of "land used in agricultural production" to include "commercial equine operations" as defined in this section.

Effective Date: 9/30/12

ARTICLE 25-AA

AGRICULTURAL DISTRICTS

- Section 300. Declaration of legislative findings and intent.
301. Definitions.
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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 or a commercial equine operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

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

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

b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products,

exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.

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

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

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

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

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

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

i. Land of not less than seven acres used as a single operation for

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

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

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

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

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

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

7. "Viable agricultural land" means land highly suitable for a farm operation as defined in this section.

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

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

a. Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is

processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state;

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

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

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

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

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

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

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

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

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

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand

dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

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

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

* NB There are 2 subd. 16's

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

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

§ 302. County agricultural and farmland protection board. 1. (a) A county legislative body may establish a county agricultural and farmland protection board which shall consist of eleven members, at least four of whom shall be active farmers. At least one member of such board shall represent agribusiness and one member may represent an organization

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

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

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

(d) A county agricultural and farmland protection board may request the commissioner of agriculture and markets to review any state agency rules and regulations which the board identifies as affecting the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The notice shall contain the following information:

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

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

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

(i) the original proposal;

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

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

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

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

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

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

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

iv. county developmental patterns and needs; and

v. any other matters which may be relevant.

In judging viability, any relevant agricultural viability maps prepared by the commissioner of agriculture and markets shall be considered, as well as soil, climate, topography, other natural factors, markets for farm products, the extent and nature of farm improvements, the present status of farming, anticipated trends in agricultural

economic conditions and technology, and such other factors as may be relevant.

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

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

6. a. Within sixty days after the certification by the commissioner that the proposed area is eligible for districting, and that districting would be consistent with state environmental plans, policies and objectives, the county legislative body may hold a public hearing on the plan, except that it shall hold a public hearing if the plan was modified by the commissioner or was modified by the county legislative body after they held the public hearing required by paragraph e of subdivision two of this section and such modification was not considered at the original hearing. Notice of any such hearing shall be in a newspaper having general circulation in the area of the proposed district and individual notice, in writing, to those municipalities whose territories encompass the proposed district modifications, the persons owning land directly affected by the proposed district modifications, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture. The proposed district, if certified without modification by the commissioner, shall become effective thirty days after the termination of such public hearing or, if there is no public hearing, ninety days after such certification unless its creation is disapproved by the county legislative body within such period. Provided, however, that if, on a

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

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

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

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

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

publication of such notice;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. the commissioner of environmental conservation has determined that

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

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

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

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

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

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

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

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

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

4. After the public hearing, the county legislative body shall adopt or reject the inclusion of the land requested to be included within an existing certified agricultural district. Such action shall be taken no later than one hundred twenty days from the termination of the thirty day period described in subdivision one of this section. Any land to be

added shall consist of whole tax parcels only. Upon the adoption of a resolution to include predominantly viable agricultural land, in whole or in part, within an existing certified agricultural district, the county legislative body shall submit the resolution, together with the report of the county agricultural and farmland protection board and the tax map identification numbers and tax maps for each parcel of land to be included in an agricultural district to the commissioner.

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

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

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

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

Provided, however, that if the commissioner modifies the proposal to include any land not included in the proposal as it read when the public hearing was held, the commissioner shall hold another public hearing, on the same type of published and written notice, and with the same opportunity for presentation of written comments after the hearing. Then the commissioner may affirm, modify or withdraw the proposed district, but may not modify it to include land not included in the proposal upon which the second hearing was held.

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

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

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

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

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

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

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

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

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

Mineral Soil Group	Percentage of Base Agricultural Assessment Value
1A	100
1B	89
2A	89
2B	79
3A	79
3B	68
4A	68
4B	58

5A	58
5B	47
6A	47
6B	37
7	37
8	26
9	16
10	5

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

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

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

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

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

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

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

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

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

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

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

(iii) The percentage of farm real estate value attributable to land

shall be the difference between farm real estate value and farm structure value divided by farm real estate value.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. In doing so, the commissioner of taxation and finance and the commissioner shall provide, in a timely manner, any materials needed by the advisory council on agriculture to carry out its responsibilities under this section.

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

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

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

a. Any owner of land used in agricultural production within an agricultural district shall be eligible for an agricultural assessment pursuant to this section. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products produced on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant. Such assessment shall be granted only upon an annual application by the owner of such land on a form prescribed by the commissioner of taxation and finance; provided, however, that after the initial grant of agricultural assessment the annual application shall be on a form prescribed by the commissioner of taxation and finance and shall consist of only a certification by the landowner that the landowner continues to meet the eligibility requirements for receiving an agricultural assessment and seeks an agricultural assessment for the same acreage that initially received an agricultural assessment. The landowner shall maintain records documenting such eligibility which shall be provided to the assessor upon request. The landowner must apply for agricultural assessment for any change in acreage, whether land is added or removed, after the initial grant of agricultural assessment. Any new owner of the land who wishes to receive an agricultural assessment shall make an initial application for such assessment. Such applications shall be on a form prescribed by the commissioner of taxation and finance. The applicant shall furnish to the assessor such information as the commissioner of taxation and finance shall require, including classification information prepared for the applicant's land or water bodies used in agricultural production by the soil and water conservation district office within the county, and information demonstrating the eligibility for agricultural assessment of any land used in conjunction with rented land as specified in paragraph b of subdivision four of section three hundred one of this article. Such application shall be filed with the assessor of the assessing unit on or before the appropriate taxable status date; provided, however, that (i) in the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law; the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law; or

(ii) an application for such an assessment may be filed with the assessor of the assessing unit after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent, brother or sister, (b) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician, or (c) the occurrence of a natural disaster, including, but not limited to, a flood, or the destruction of such applicant's residence, barn or other farm building by wind, fire or flood. If the assessor is satisfied that the applicant is entitled to an agricultural assessment, the assessor shall approve the application and the land shall be assessed pursuant to this section. Not less than ten days prior to the date for hearing complaints in relation to assessments, the assessor shall mail to each applicant, who has included with the application at least one self-addressed, pre-paid envelope, a notice of the approval or denial of the application. Such notice shall be on a form prescribed by the commissioner of taxation and finance which shall indicate the manner in which the total assessed value is apportioned among the various portions of the property subject to agricultural assessment and those other portions of the property not eligible for agricultural assessment as determined for the tentative assessment roll and the latest final assessment roll. Failure to mail any such notice or failure of the owner to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on such real property.

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

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

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

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

d. (i) If land within an agricultural district which received an

agricultural assessment is converted parcels, as described on the assessment roll which include land so converted shall be subject to payments equalling five times the taxes saved in the last year in which the land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years. The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the excess amount of assessed valuation of such land over its agricultural assessment as set forth on the last assessment roll which indicates such an excess. If only a portion of a parcel as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll for which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be added by or on behalf of each taxing jurisdiction to the taxes levied on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than five years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.

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

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

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

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

rights associated with that land.

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

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

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

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

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

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

4. Limitation on the exercise of eminent domain and other public

acquisitions, and on the advance of public funds. a. Any agency of the state, any public benefit corporation or any local government which intends to acquire land or any interest therein, provided that the acquisition from any one actively operated farm within the district would be in excess of one acre or that the total acquisition within the district would be in excess of ten acres, or which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, dwellings, commercial or industrial facilities, or water or sewer facilities to serve non-farm structures, shall use all practicable means in undertaking such action to realize the policy and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse impacts on agriculture in order to sustain a viable farm enterprise or enterprises within the district. The adverse agricultural impacts to be minimized or avoided shall include impacts revealed in the notice of intent process described in this subdivision.

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

- (i) a brief description of the proposed action and its agricultural setting;
- (ii) a summary of any anticipated adverse impacts on farm operations and agricultural resources within the district; and
- (iii) such other information as the commissioner may require.

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

- (i) a detailed description of the proposed action and its agricultural setting;
- (ii) the agricultural impact of the proposed action including short-term and long-term effects;
- (iii) any adverse agricultural effects which cannot be avoided should the proposed action be implemented;
- (iv) alternatives to the proposed action;
- (v) any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action should it be implemented;
- (vi) mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of a farm enterprise or enterprises within the district;
- (vii) any aspects of the proposed action which would encourage non-farm development, where applicable and appropriate; and
- (viii) such other information as the commissioner may require.

The commissioner shall promptly determine whether the final notice is complete or incomplete. If the commissioner does not issue such

determination within thirty days, the final notice shall be deemed complete. If the final notice is determined to be incomplete, the commissioner shall notify the party proposing the action in writing of the reasons for that determination. Any new submission shall commence a new period for department review for purposes of determining completeness.

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

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

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

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

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

or government rejects the commissioner's proposal, then it shall provide the commissioner with reasons for rejecting such proposal and a detailed comparison between its proposed action and the commissioner's alternative or alternatives.

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

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

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

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

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

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

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

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

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

5. Limitation on power to impose benefit assessments, special ad valorem levies or other rates or fees in certain improvement districts or benefit areas. Within improvement districts or areas deemed benefited

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

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

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

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

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

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

d. when the land used for the purpose of replanting or crop expansion as part of an orchard or vineyard is located within an area which has been declared by the governor to be a disaster emergency in a year in which such tax exemption is sought and in a year in which such land meets all other eligibility requirements for such tax exemption set forth in this subdivision, the maximum twenty percent total acreage restriction set forth in paragraph b of this subdivision may be exceeded for such year and for any remaining successive years, provided, however,

that the land eligible for such real property tax exemption shall not exceed the total acreage damaged or destroyed by such disaster in such year or the total acreage which remains damaged or destroyed in any remaining successive year. The total acreage for which such exemption is sought pursuant to this paragraph shall be subject to verification by the commissioner or his designee.

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

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

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

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

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

3. Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, town board or village board of trustees, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may

be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.

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

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

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

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

2. a. (i) If land which received an agricultural assessment pursuant to this section is converted at any time within eight years from the time an agricultural assessment was last received, such conversion shall subject the land so converted to payments in compensation for the prior benefits of agricultural assessments. The amount of the payments shall

be equal to five times the taxes saved in the last year in which land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years.

(ii) The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the amount of assessed valuation of such land in excess of the agricultural assessment of such land as set forth on the last assessment roll which indicates such an excess. If only a portion of such land as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll on which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be levied in the same manner as other taxes, by or on behalf of each taxing jurisdiction on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than eight years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.

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

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

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

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

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

c. If such land or any portion thereof is converted by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding other than a tax sale, the land or portion so converted shall not be subject to payments. If land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land outside an

agricultural district and eligible for an agricultural assessment pursuant to this section shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.

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

3. Upon the inclusion of such agricultural lands in an agricultural district formed pursuant to section three hundred three, the provisions of section three hundred five shall be controlling.

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

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

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

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

b. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities which entail practices the

commissioner may consider include, but are not limited to, operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; "timber operation," as defined in subdivision fourteen of section three hundred one of this article and construction and use of farm structures. The commissioner shall consult appropriate state agencies and any guidelines recommended by the advisory council on agriculture. The commissioner may consult as appropriate, the New York state college of agriculture and life sciences and the U.S.D.A. natural resources conservation service, and provide such information, after the issuance of a formal opinion, to the municipality in which the agricultural practice being evaluated is located. The commissioner shall also consider whether the agricultural practices are conducted by a farm owner or operator as part of his or her participation in the AEM program as set forth in article eleven-A of this chapter. Such practices shall be evaluated on a case-by-case basis.

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

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

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

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

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

a. "Action" means any civil action brought by a person in which a

private nuisance is alleged to be due to an agricultural practice on any land in an agricultural district or subject to agricultural assessments pursuant to section three hundred three or three hundred six of this article, respectively.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

succeeding year.

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

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

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

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

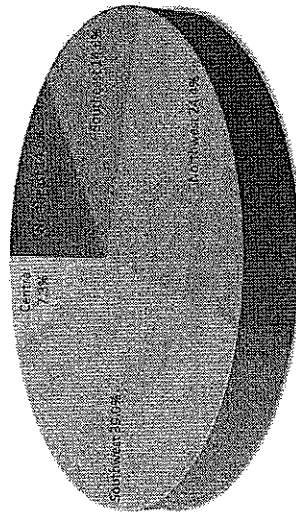
2. Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the commissioner of taxation and finance as provided for in section three hundred thirty-three of the real property law.

Appendix B:
Farmland Protection and Preservation Survey Summary

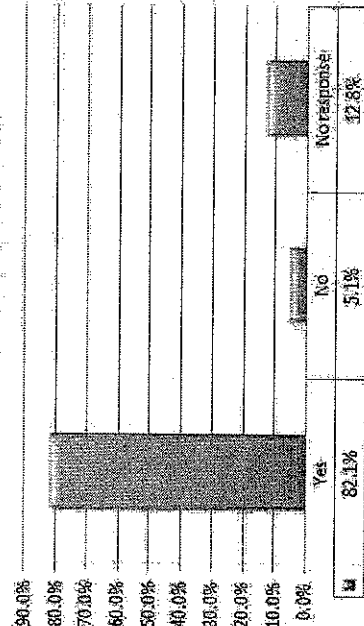
Summary of Town of Ballston Farmland Protection & Preservation Plan Survey

- The survey was developed by the Town of Ballston Farmland Protection & Preservation Committee.
- The surveys were returned by May 1, 2012.
- Results were tabulated by Elan Planning & Design as part of the Town's Agriculture and Farmland Protection Plan.
- The results are not a statistically valid representation of Town residents.
- The results illustrated are based on 39 surveys that were returned.

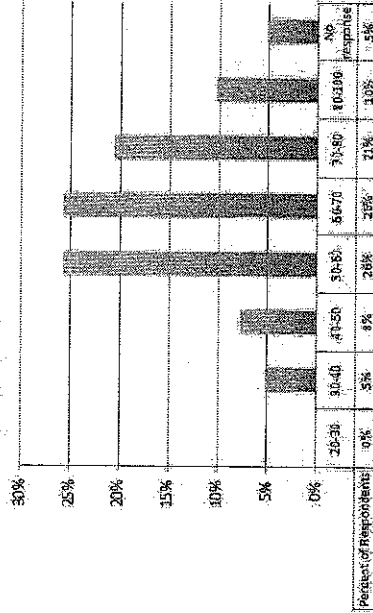
1. In what area of Town are you located?



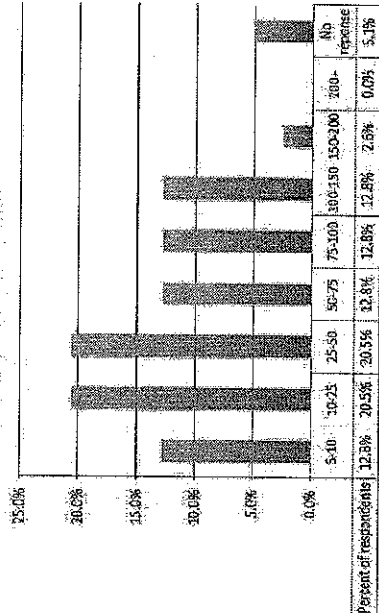
2. Are you in a designated Ag District?



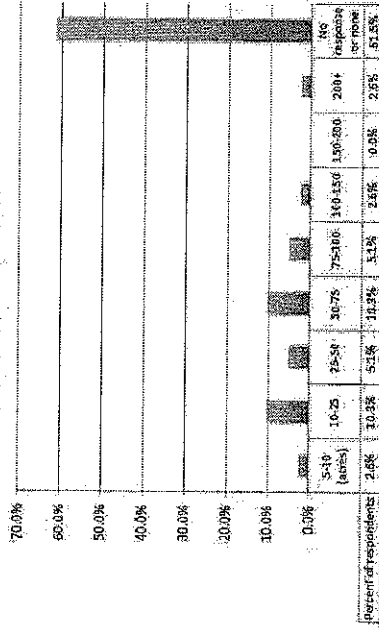
3. Current age of respondents



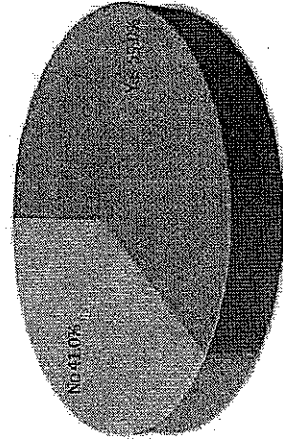
4. How many acres do you own?



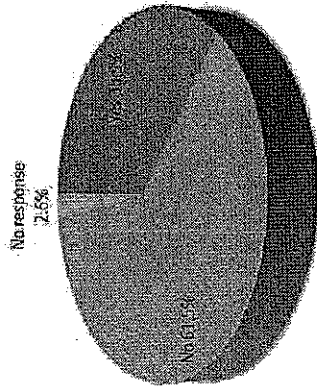
5. How much land do you lease?



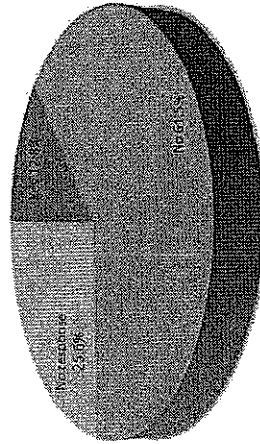
6. Do you farm your land?



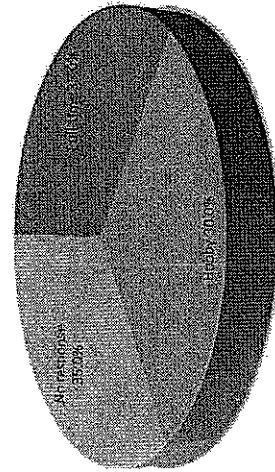
7. Do you lease your land to a farmer?



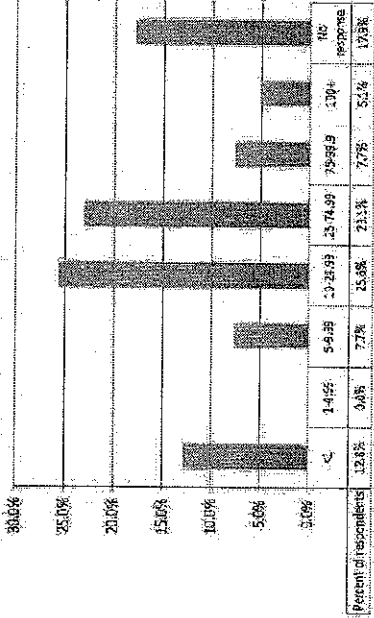
8. Would you be interested in leasing your land?



9. Are you a full-time or hobby farmer?



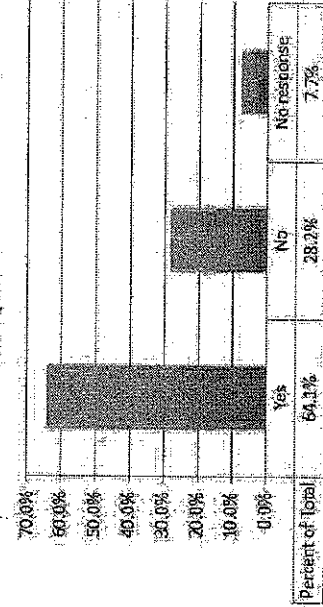
10. How much of your land is currently in use/production?



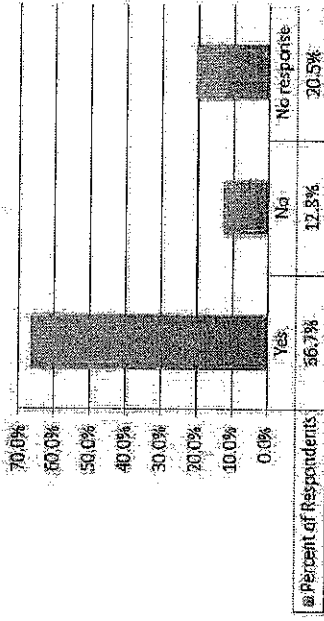
11. What do you produce/what type of farm?

Hay	15	Herbs	1
Vegetables	7	Fruit	1
Horse	6	Flowers	1
Apples	5	Pork	1
Beef	4	Chicken	1
Corn	4	Pumpkins	1
Dairy	2	Xmas tree	1
Honey	2	Alfalfa	1
Timber	2	Pears	1
Straw	2	Stonefruit	1
Grains	2	Pasture	1
Hops	1	Compost	1

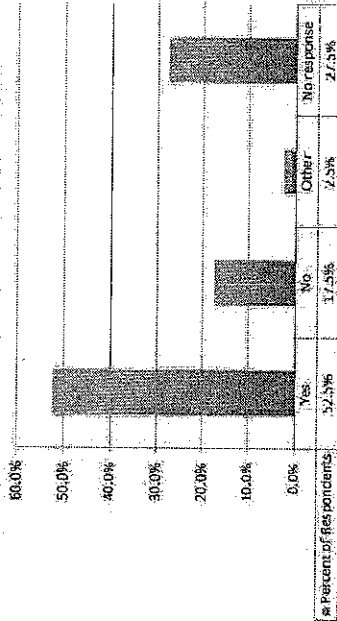
12. Are you currently receiving an Agricultural Exemption?



13. Would receiving tax credits for preserving your farmland interest you?



14. Are ag infrastructure/support services close enough?

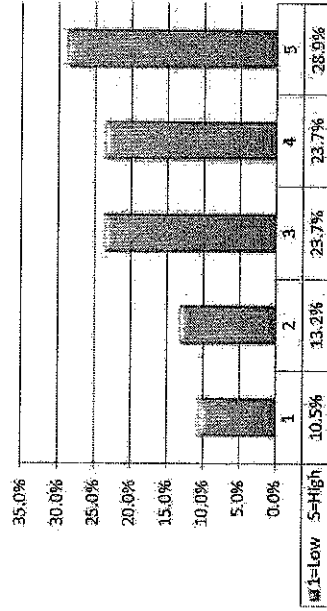


15. Current issues impacting agriculture in the Town:

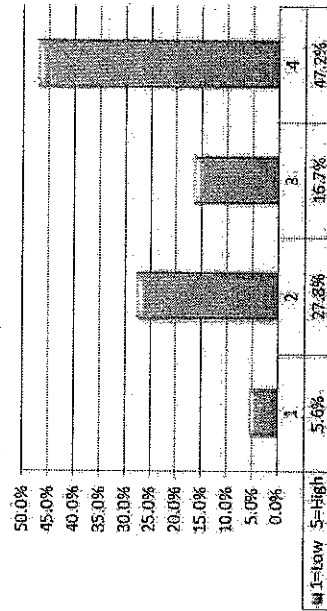
Note: respondents were given a range from 1 to 5 with 1 being low impact and 5 being high impact.

The following summarize the eight options offered in question 15.

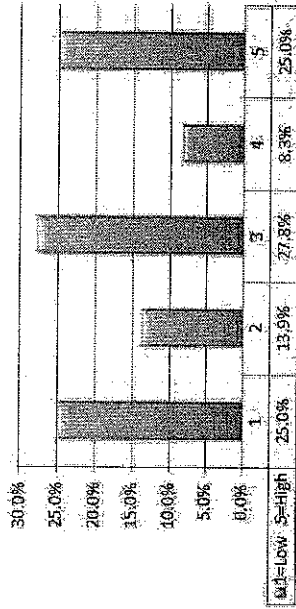
15a. Traffic



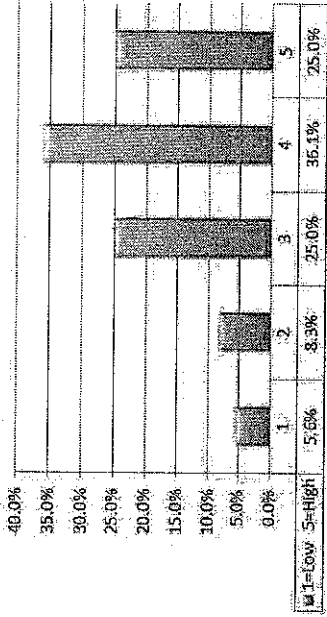
15b. Development Pressure



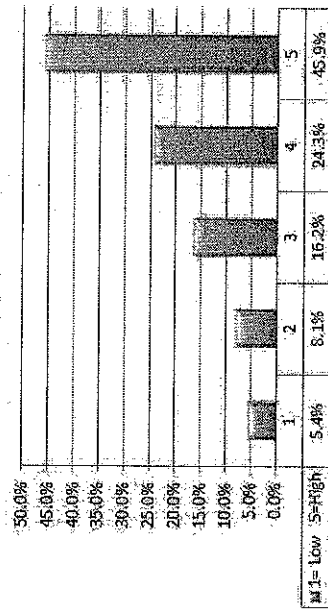
15c. No tolerance for ag-related noise, odor, activities



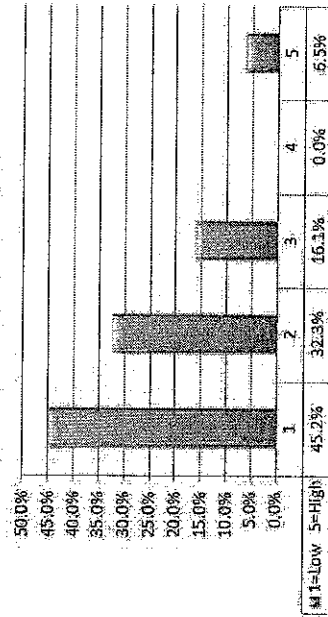
15f. Change in fabric/culture of ag community



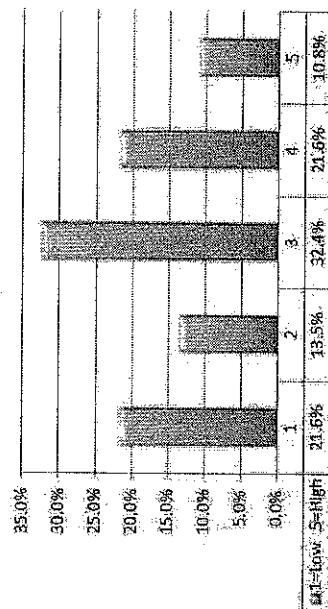
15d. Loss of prime farmland



15g. Lack of market for product



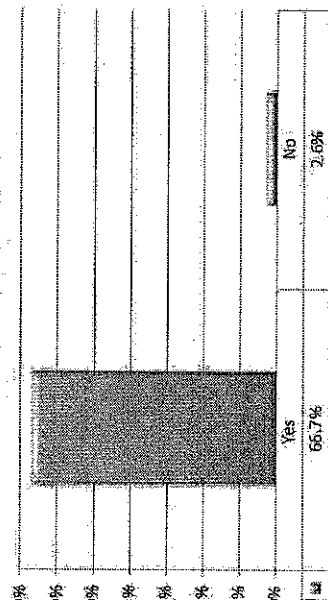
15e. Vandalism, trespassing



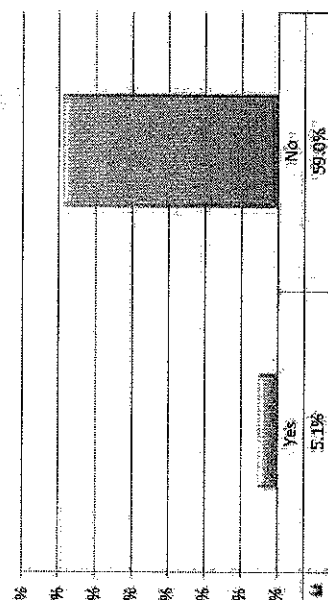
16. Future plans for your farm operation:

The following summarize the eight options offered in question 16.

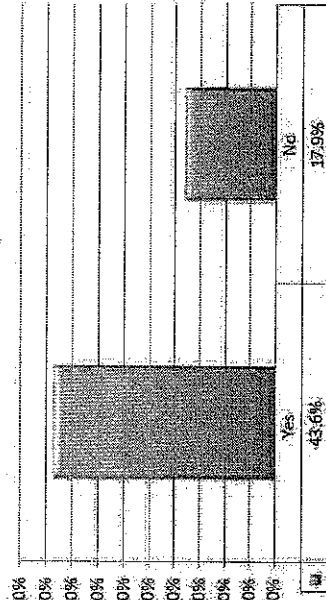
16a. Continue farming until retirement



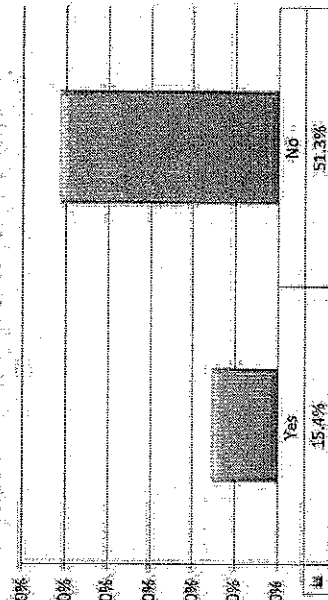
16b. Move elsewhere to continue farming



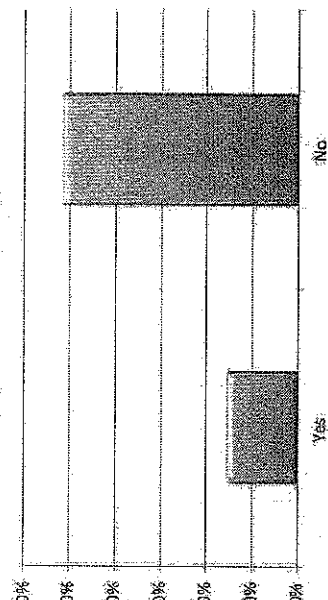
16c. Pass farm to next generation



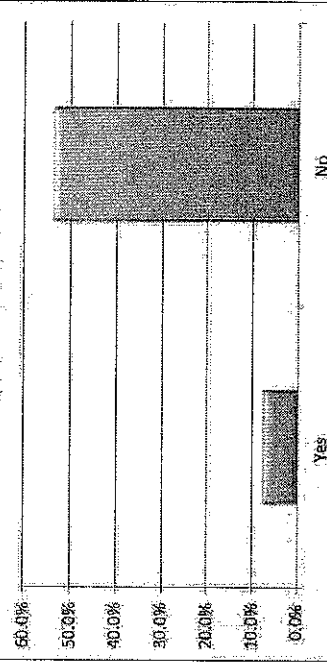
16d. Get out of farm as soon as buyer available



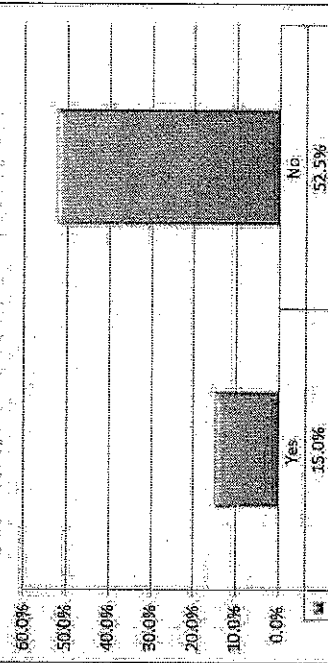
16e. Increase size of farm



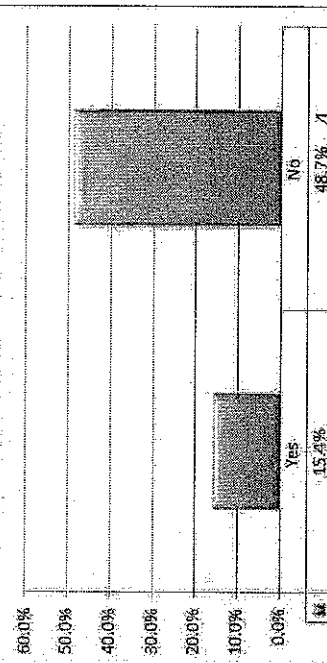
16f. Decrease size of farm



16g. Split off part of farm for development

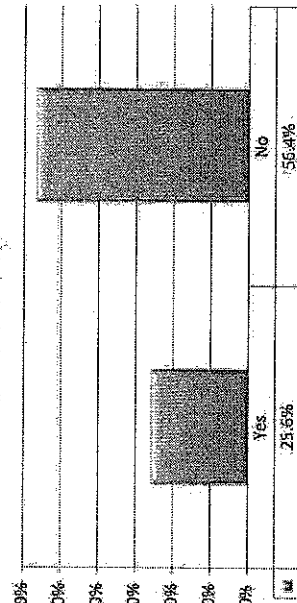


16h. Plan to lease land to another farmer

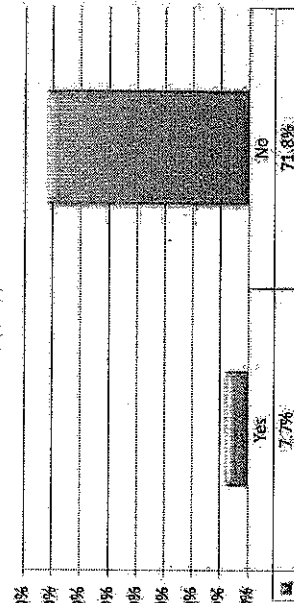


17. Would you consider participating in any of the following programs?

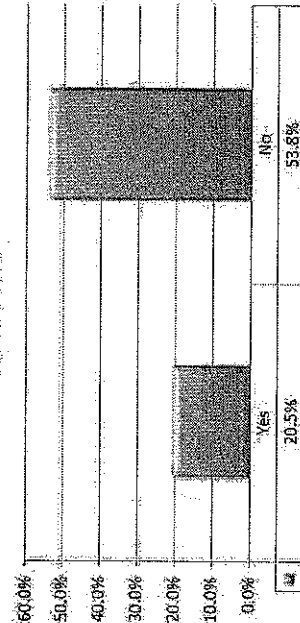
17a. Purchase by town/county/state of Development Rights



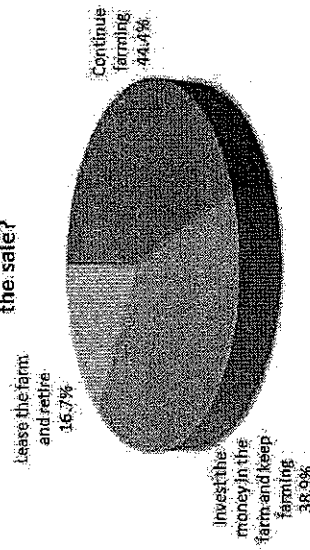
17b. Preserve farm with a Conservation Easement



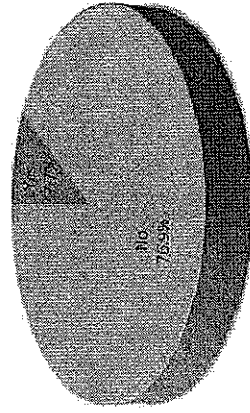
17c. Transfer of development rights for fair market value



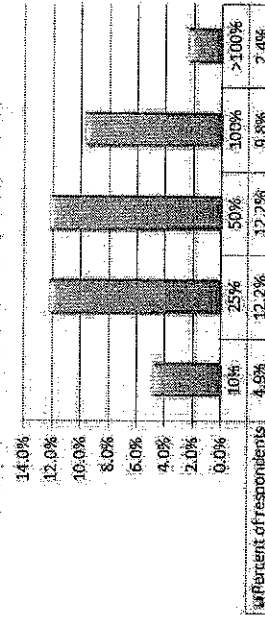
17d. What would you do with the proceeds of the sale?



20. Do you participate in a farmers' market?



21. How much would the selling price of your primary product need to increase in order to make your farm economically sustainable?



18. What is the biggest threat to your farm operation at this time?

19. Can you think of ways the Town of Ballston can help or eliminate the threat listed above?

Note: Questions 18 and 19 are both still being summarized.

Appendix C:
Marketing Brochure

How Can Ballston Residents Help Support Farming in the Town of Ballston?

- Volunteer! The Ballston Farmland and Agricultural Protection Committee can use your help.
- Support farmers by buying local produce from the Farmers' Markets. CSAs, farm stands or directly from farmers.
- Ask your local grocers and restaurants to offer locally-grown produce and dairy products.



- Ask your local elected officials to support farm preservation measures.

Town of Ballston Farmland & Agriculture
Protection Committee

Town of Ballston Farmland & Agriculture Protection Plan



Town of Ballston
A Farms First Community

Town of Ballston Farmland and
Agricultural Protection Committee

Ballston Town Hall
323 Charlton Road
Ballston Spa, New York 12020
518-885-8502

Still farming after all these years...



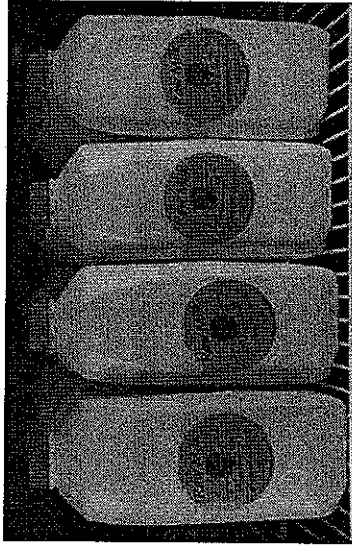
How Does Farmland Preservation Benefit the Town of Ballston?

- Working farms contribute more in local property taxes than they cost in municipal services
- Farms provide a local source of fresh foods such as healthy produce and dairy products
- Rural landscapes provide a sense of peace and tranquility
- Scenic farm landscapes attract people to Ballston and help support tourism
- Farms help connect Ballston residents to the Town's rural heritage

A farm is lost to development every three days in New York
— American Farmland Trust

Agriculture in the Town of Ballston

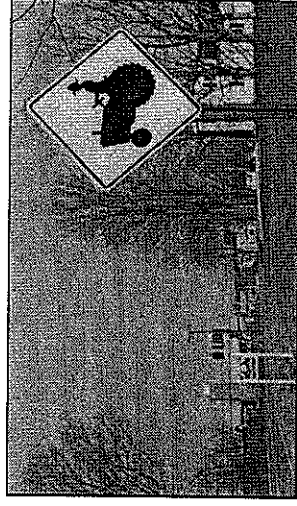
In 2013, the Town of Ballston received a grant from the NYS Department of Agriculture and Markets to prepare an Agriculture and Farmland Protection Plan. The plan is designed to guide Town efforts to support local farms and protect farmland.



This document provides a snapshot of agriculture in the Town of Ballston, and identifies actions for the Town and others to act upon in order to protect farmland, support the viability of farms, and boost economic development in the next decade. As recognized in the Town's 2006 Comprehensive Plan, agriculture is a key component of why people choose to live in the Town of Ballston. Beyond its economic impacts, agricultural operations provide important open space preservation, protection of the region's rural heritage and direct farm-to-consumer connections.

Strategies to Preserve Ballston's Farmland

- Increase awareness among farmers of the technical assistance available to them
- Explore land use and zoning techniques to preserve farmland
- Promote Ballston farms and farm products
- Develop and implement a program for prospective/young farmers
- Increase resident awareness of the importance of saving farms
- Expand agricultural education in the schools
- Encourage residents to buy and eat local
- Promote agri-tourism activities
- Establish an Agriculture and Farm Commission



Why Keep Saratoga County Farming?

Farms help sustain the county's rural economy. Saratoga County farms generate more than \$30 million a year in sales, producing a variety of agricultural goods. They spend \$29 million a year on goods and services, much of which goes to support local businesses.

Farms support tourism. Saratoga County's scenic farm landscapes help attract people to this area, contributing to Saratoga Springs' reputation as the "City in the country."

Farms maintain the character of our communities. Most Saratoga County farms are concentrated in the eastern and western outskirts of the county in towns like Northumberland and Charlton. Some farms, however, are scattered in more urbanized areas like Clifton Park, Malta, and Halfmoon. Farms create a sense of place, connect us to our rural heritage and help balance sprawl.

Farms keep property taxes lower. Taxes paid on farmland exceed the cost of providing services. Farmland contributes \$3 to \$4 in taxes for every dollar's worth of services it uses. Residents typically use \$1.25 in services for each tax dollar they pay¹.

Our farms are at risk. Saratoga County is the second fastest growing county in the state. As areas in southern Saratoga County reach full-buildout, we will see our remaining farmland subjected to far greater development pressure on a scale that will threaten the very viability of farming.

We can keep Saratoga County Farming! If our rural, suburban and urban communities work together, we can save our most important farmland—keeping farming viable here in Saratoga County.

¹Based on numerous Cost of Community Services Studies conducted by American Farmland Trust that look at the cost of providing community services like roads, sewers, and schools; comparing it to the services used, and taxes paid by different land use.

ARE YOU THINKING ABOUT MOVING TO THE COUNTRY?

Saratoga County farmers welcome you and your family to the country. Together we can grow and prosper in our communities.

For more information about
agriculture
in
Saratoga County
contact:

Cornell Cooperative Extension
of Saratoga County
50 West High Street
Ballston Spa, NY 12020
518-885-8995
www.ccesaratoga.org

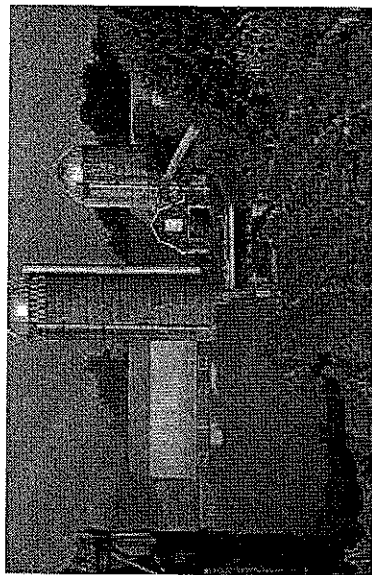
Visit:

www.saratogafarms.com

This brochure was produced
by the:

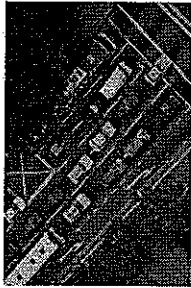
Saratoga County Agricultural Promotion
Committee.

Farm photos by Jim Newton



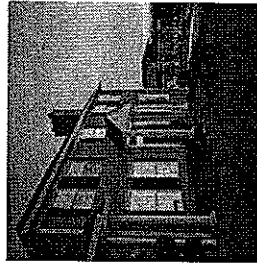
PLEASE CONSIDER THIS...

Have the noise, traffic, and hassles of your neighborhood led you to consider moving to the country?



Does the thought of clean fresh air and country solitude and peacefulness make you want to build a new home?

Do you dream about moving to the country so your property will be surrounded by natural scenery and panoramic views?



If you answered, "Yes" to any of these questions, you may want to reflect on what it means to live in the country.

Since the early days of our nation, farmers have produced the food, fiber, and nursery products needed to make the country grow and flourish. In fact, their productivity has allowed our nation to become the "breadbasket" of the world.



New York Is An Agricultural State

Agricultural production returned over \$3 billion to the state's farm economy in 2002. About 25 percent of the state's land area, or 7.6 million acres are used by 37,000 farms to produce a very diverse array of food products.

New York ranks high nationally:

Dairy Products - 3rd
Apples - 2nd
Grapes & Tart Cherries - 3rd
Sweet Corn - 3rd
Cabbage - 1st
Maple Syrup - 2nd
Snap Beans - 2nd
Pumpkins - 1st
Corn Silage - 3rd

NY farmers accomplished this by:

- practicing important soil and nutrient management;
- conserving natural resources; and
- working long hours in all types of weather.

Farm practices, such as late hours, manure application, and crop management give us the breadbasket designation and are essential to farming. New homeowners living in the country must take them into account.

What Are Agricultural Districts?

Agricultural districts encourage the continued use of farmland for agricultural production by:

- providing a farmer with certain protections to continue agricultural practices.
- allowing the farmland owner to receive agricultural assessment for their lands instead of having real property assessments based on higher market value.

- protecting farmers from local laws that unreasonably restrict farming operations located in an agricultural district.

Saratoga County has two consolidated agricultural districts that encompass 111,130 acres of the county's 540,423 acres of land or 21% of the county's total acreage.

What Is a Right to Farm Law?

The general purpose and intent of the law is to:

- maintain and preserve the rural traditions and character of the county.
- permit the continuation of agricultural practices.
- protect the existence and operation of farms.
- encourage the initiation and expansion of farms and agribusinesses.
- promote new ways to resolve disputes concerning agricultural practices and farm operations.

The Right to Farm Law exists in many Saratoga County towns.

How Can You Help?

Support farmers by shopping at local Farmers' Markets, at farm stands, or directly from farmers.

Learn about agriculture by attending events such as the Sundae on the Farm Tour held in June and Saratoga County Fair held in July.

Always seek permission from farmers before entering their property for any purpose to avoid damaging crops and/or disrupting farming operations.

Befriend your farm neighbors. Talk with them about your concerns. Refrain from unwarranted complaints about generally accepted farm management practices.

Appendix D:
Municipal Planner – Job Description

Sample Job Description Land Use Planner

DEFINITION: Under direction, performs a variety of tasks in support of land use planning and resource protection; and performs related duties as required.

EXAMPLES OF DUTIES:

1. Reviews existing laws, ordinances, community plans, and other regulations governing the use of lands; holds public meetings to obtain input on policy development, and makes recommendations to the Town Board or its appointed commissions regarding amendments to regulations.
2. Helps the public understand the laws, ordinances, plans, and policies governing land use in the Town of Ballston and explains the Town's development review process.
3. Conducts meetings with representatives of other Town departments in order to review development projects.
4. Analyzes proposed uses of land for compliance with State, County and Town goals, policies, plans, ordinances, and relevant governing regulations related to agriculture; negotiates mitigation measures and proposed permit conditions.
5. Plans, researches, analyzes, and writes a variety of complex reports related to special studies and assignments; computes descriptive statistics in preparing reports.
6. Provides professional staff support to various boards including the Agricultural and Farm Commission, Planning Board, Zoning Board of Appeals, etc. by coordinating and attending meetings, supplying technical assistance, preparing advisory reports, and helping the committee present its proposals to shape or modify Town policies and ordinances.

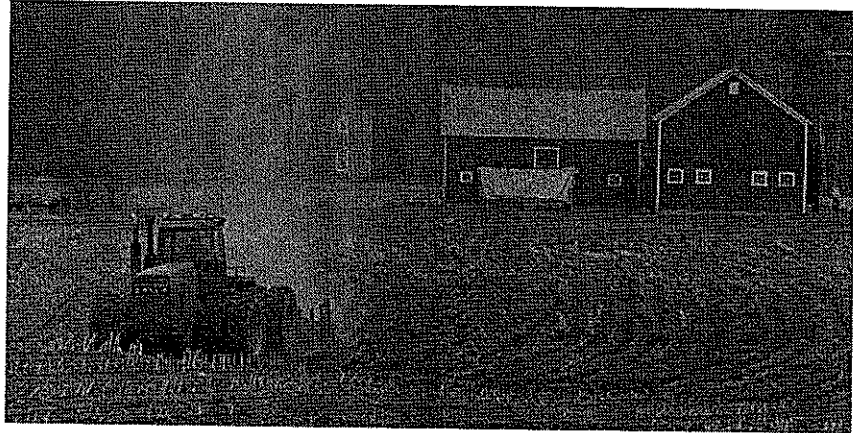
Appendix E:
Purchase and Transfer of Development Rights Fact Sheet



Purchase and Transfer of Development Rights

Purchase of Development Rights

Funding programs to compensate landowners for conservation easements are known generically as **Purchase of Development Rights (PDR)**.



The most common conservation purpose for PDR programs is the purchase of agricultural conservation easements. Examples of agriculturally oriented PDR's include:

- U.S. Farmland and Ranchland Protection Program (FRPP),
- NYS Farmland Protection Implementation Grants (FPIG),
- Saratoga County Farmland and Open Space Preservation Program.



Often these and other PDR programs are used in conjunction with each other. For example, the successful Saratoga County PDR program is often used to match state funds. The Saratoga County program focuses on commercially viable agricultural lands with excellent soils, but can also be used to protect forest habitats or stream buffers. In PDR projects, landowners often donate a portion of the land's development value through a "bargain sale", whereby they accept less than fair market value for the development rights.

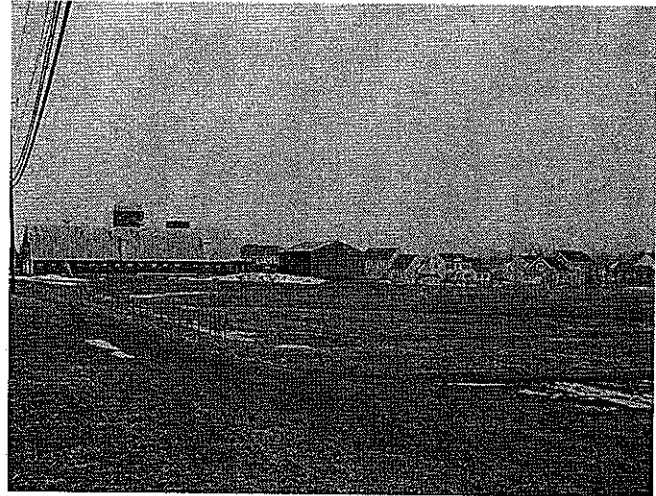
Examples of purchase of development rights are:

- The Saratoga Sod Farm in the Town of Stillwater
- The Curtis Farm in the Town of Ballston
- The Galcik Property on Fish Creek in the Town of Saratoga
- The Hoogeveen Farm in the Town of Saratoga

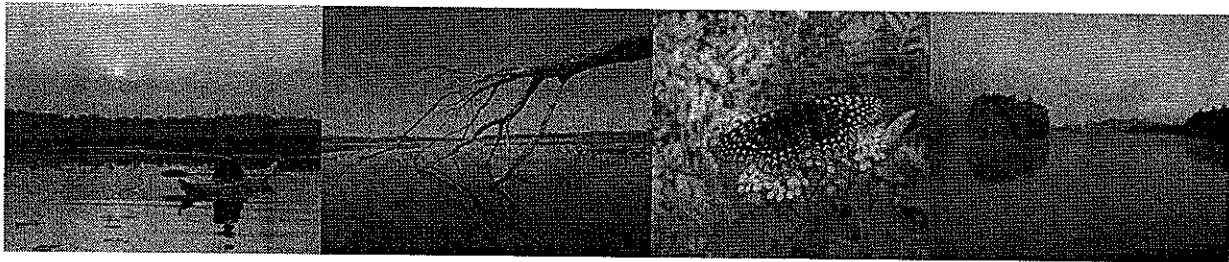
Transfer of Development Rights

As the name implies, **Transfer of Development Rights (TDR)** send or transfer some or all development rights from a sending property to a receiving property. It is sometimes referred to as Average Density Zoning. The TDR receiving properties are allowed development that is more intensive than would normally be permitted by the area's zoning. Consistent with other conservation easements, TDR sending areas seek to preserve important community land resources (e.g. agriculturally productive soils, groundwater recharge areas, wildlife habitats, etc.).

The TDR program as spelled out in Chapter 40 of the NYS Laws of 1989 is a voluntary, flexible program. Communities will find TDR's a low-cost way to conserve important lands, especially in contrast with fee interest and PDR projects. Managing the exchange and holding of the development rights is the unique cost associated with the TDR program. Of course, TDR's like other land preservation programs incur costs associated with the permanent protections of the land.



Demonstrating the flexibility of the TDR program, the Town of Clifton Park in Saratoga County, has developed a program that: 1) protects lands in the sensitive western portion of Town (sending properties), and 2) allows bonus density incentives for developments in other locations in the Town (receiving properties). Flexibility in the TDR program even allows inter-municipal transfer of development rights from one political jurisdiction to another.



Saratoga P.L.A.N. (preserving land and nature) is a nonprofit conservation organization working to protect our environment, economy and way of life for present and future generations in Saratoga County. As a land trust, Saratoga P.L.A.N. protects farmland, forestland, waters, natural areas, trail corridors, and historic sites. As a community partner, Saratoga P.L.A.N. provides technical assistance to municipalities to balance growth and conservation and to foster regional cooperation through community planning and implementation. This fact sheet is one of a series entitled "Tools for Community Planning and Conservation." Other titles from the series can be found on Saratoga P.L.A.N.'s website: www.saratogaplan.org.