

**FARMLAND PROTECTION
& AGRICULTURAL VIABILITY**

New York State Department of State

Loss of Farmland

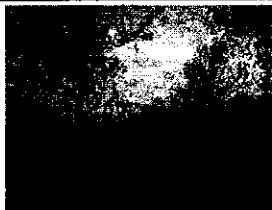
- NYS farmlands among top 20 most threatened:
 - Hudson Valley, Finger Lakes, Lake Ontario & Long Island

- NYS family farms
 - 1946: 167,000
 - 1970: 58,000
 - Today: 35,600



Farmland Preservation Toolbox

- Comprehensive Plans
- Agricultural Districts
- Right to Farm Laws
- Land Use Regulations
- Use of Conservations



Easements for:

- Purchase of Development Rights
- Lease of Development Rights
- Transfer of Development Rights

What is a Comprehensive Plan?

- Expression of goals
- Outline for orderly growth
 - Land use regulation
 - Direct development
- Legal defense for land use regulations
- Implement
- Periodic review

- Town Law § 272-a
- Village Law § 7-722
- City Law § 28-a

Agriculture & Comprehensive Planning

- Engage farmers in planning process
- Include supportive language for agriculture & farmland preservation

Map & identify:

- Priority farm areas
- Prime & rare soils
- Ag districts
- Blocks of farm operations



Cost of Community Services Studies

- Estimates fiscal contribution of local land uses
- Informs land use & policy decisions
- Evaluates working & open lands
 - Equally with residential, commercial & industrial
- Snapshot of costs vs. revenues for each land use
- Baseline of current information
- Does not predict future costs, revenues or the impact of future growth

American Farmland Trust (AFT)
http://www.farmlandinfo.org/documents/27757/COCS_8-06.pdf

Agricultural & Farmland Protection Plans

- Augment existing Comprehensive Plan
- 1st phase of a new plan
- Elements include:
 - Location of proposed areas to be protected
 - Value to agricultural economy
 - Open space value
 - Strategies for continued agricultural use
 - Level of farmland conversion pressure
 - Potential consequences of conversion

Agricultural Districts Law

Local land use controls may not unreasonably restrict farm operations within an Agricultural District



- Local Laws & Agricultural Districts: How Do They Relate?
- Agricultural Districts Law- Article 25 AA

Agricultural Data Statement

TOWN/VILLAGE OF _____

Address: _____

County: _____

City: _____

State: _____

Zip: _____

Phone: _____

Fax: _____

E-mail: _____

Website: _____

Other: _____



- NYS Agriculture & Markets Law
- Article 25AA, §305-a
- Town Law 283a

Farm Worker Housing

Municipalities may amend zoning or adopt local law to address farm worker housing


Examples of local law provisions:

- Show proof of continuing employment on farm
- Do not allow creation of new lots
- Do not allow permanent home additions

Agricultural Mines

- Local communities may fully regulate small mines
- Small mines are important to rural economies
- Many farms need small mines to be viable

Less than 1,000 tons or
750 cubic yards within 12
consecutive months



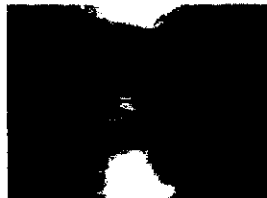
Right-to-Practice Forestry

- Overly restrict forestry activities
 - Make exemptions for Personal use and supplemental income
- Municipalities voluntarily submit local regulations DEC review
- Landowners can petition DEC review of local regulations

Local Regulation of Timber Harvesting

Set standards for logging activities to:

- Protect water quality
 - Stabilize stream banks
 - Retain root system
- Prevent damage to public roads
 - Restrict roads to seasonal use



Conflicts

- Odors
- Noise
- Slow moving
- Increased traffic
- Aesthetics



Agriculture Disclosure Notice

Given to prospective buyer prior to signing purchase contract

- Informs them land is in Agricultural District
- State-mandated
- Right-to-Farm protections provided by Agricultural Districts Law

Right-to-Farm

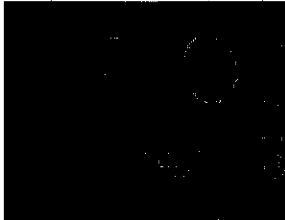
- Policy statement
- Creates a supportive environment
- Helps limit conflicts
 - Mediation
 - Avoids court costs
 - Defuses tensions
 - NYS Agricultural Mediation Program



Land Use Regulations

Zoning

- Rural/agricultural
- Overlays
- Incentive zoning
- Density averaging
- Subdivision review
- Cluster



Zoning

Regulates:

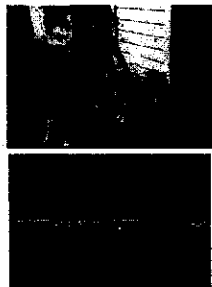
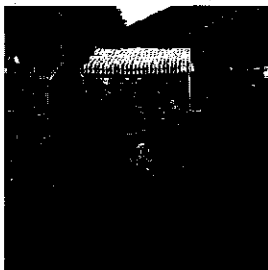
- Use of land
- Density & intensity of land uses
- Placement of structures

May divide community into districts

- Incompatible land uses

- General City Law §20
- Town Law §261 & §264
- Village Law §7-700 & §7-110

Agricultural Zoning



Farm Zones

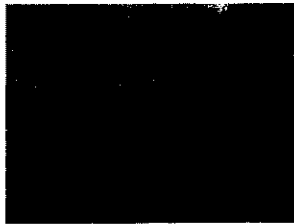
Exclusive	Non-exclusive
<ul style="list-style-type: none"> • Most restrictive with few non-agricultural uses allowed • High priority farm land or soils • As-of-right uses <ul style="list-style-type: none"> ▪ Agricultural ▪ Forestry ▪ Nurseries ▪ Fisheries 	<ul style="list-style-type: none"> • Additional uses allowed with additional review <ul style="list-style-type: none"> ▪ Cottage industries ▪ Off-site farm stands ▪ Wineries ▪ Garden centers

Overlay Zoning District

Applies additional standards to a designated area, which lays over several districts

Used to protect:

- Historic areas
- Soils
- Farmland
- Steep slopes
- Aquifers
- Wetlands
- Areas of ecological significance



Incentive Zoning

- Allows municipalities to offer bonuses:
 - Density increases
 - Greater lot coverage
 - Reduced parking requirements
- In exchange for amenities:
 - Open Space
 - Preserved farmland
 - Recreational facilities
 - Affordable housing



- Town Law § 261-b
- Village Law § 7-703
- City Law § 81-d

Density Averaging

- AKA: Fixed area ratio zoning
- May specify a minimum acre lot size
 - Allow for the provision of on-site water supply & wastewater disposal
- May specify a maximum acre lot size
 - For uses other than farming, the farmstead & farm support businesses

Density Averaging Example

- 100 acre parcel
- Limits number of development rights per parcel
 - Zoned 1 residential lot per 10 acres
 - No more than 10 lots total for 100 acre parcel
- Maximum lot size of 2 acres
 - 9 lots at 2 acres or less each

Density Averaging

- Remaining 80+ acres constitutes last lot after all development rights are used
 - Cannot be further subdivided
 - Conservation easement can be placed on part of remaining lot
 - Municipality must closely monitor number of parcels created
 - I.e. Town of Milton requires a notation on the plat prohibiting further subdivision.

Subdivision Review

- Lot sizes
 - Fragmentation
 - "Death by 1,000 cuts"
- Conflicts with non-agricultural uses
 - Farmland conversion
- Connectivity



Town Law 276 & 277
Village Law 7-728 & 277
City Law 32 & 33

Large Lot Subdivision

- Minimum lot size zoning:
 - 100 acre parcel
 - Minimum lot sizes of 5 acres
 - Could result in up to 20/ 5 acre lots



Cluster Development

- Modifies zoning to provide alternatives for layout, configuration & design of lots in order to preserve open land
- Requires specific authorization
- May designate specific districts where allowed
- Does not allow more lots than prescribed by current zoning
- Is not incentive zoning

Village Law §7-738
Town Law §278
General City Law §37

Benefits of Clustering

- Allows more creative & efficient use of land
- Preserves development value of land while protecting land resources
- Reduces cost of infrastructure



Dutchess County Greenway Connections

Non-Regulatory Protections

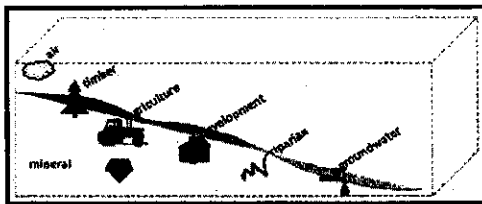
- Purchase of Development Rights (PDR)
- Lease of Development Rights (LDR)
- Transfer of Development Rights (TDR)
- Conservation Easements
- Land Trusts
- Local Programs



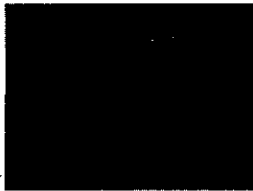
Understanding Property Rights

Owning private property entitles owner to "bundle a rights"

In certain cases, rights may be sold or transferred



Purchase of Development Rights



□ Development rights are voluntarily offered for sale by the owner



□ Commonly used for farmland protection

□ Other rights are retained by owner

Lease of Development Rights

□ Similar to PDR

□ Not permanent

□ Terms ranges

■ 5 to 30 years

□ Less costly

□ First right of refusal

□ Breathing room for the community

□ Tax benefits to landowner



Transfer of Development Rights

Allows increased development in areas designated by municipality for development, in return for preservation of places community wants to protect



Town Law §261-a
Village Law §7-701
General City Law §20-f

Transfer of Development Rights

Sending areas

- Agricultural lands
- Scenic vistas
 - Ridgelines
- Historic resources
- Natural resources
 - Aquifers

Receiving areas

- Existing Villages, Hamlets
- Targeted growth areas
 - Intersections
 - Density
 - Infrastructure

Conservation Easements



Saratoga County Farm protected by conservation easement

- Voluntary agreement restricting development in perpetuity
- Held by land trust, public agency or municipality
- Landowner tax benefits

Land Trusts

Private nonprofit organizations dedicated to conserving important tracts of land & managing them for conservation purposes

- Often locally oriented
- Accepts donations of land, conservation easements or funds
- Monitors & enforces agreements
- Assists municipalities to develop & implement open space plans
- Provide technical assistance & information



Farmland Preservation: Local Funding Mechanisms

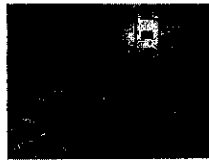
Municipal revenue raising techniques:

- Annual appropriations
- Municipal bonds
- Real estate transfer tax



Municipal Revenue & Bonds


- Annual appropriations:
 - part of local budgetary process
 - not subject to referendum
- Municipal bonds issued either by:
 - governing board approval
 - subject to permissive referendum
 - placing measure on ballot
 - direct approval or rejection by local electorate



Real Estate Transfer Tax Program

- Requires act of State Legislature
 - Subject to referendum
- May be used to purchase land or development rights
- Tax based on sale price






Agricultural Viability

Economic & Community Development


Agriculture's Importance to NYS

- Contributed over \$4.4 B to NYS economy
- About 25% of NYS land in farming
- Dairy farming:
 - #1 agricultural activity
 - 3rd largest dairy state
 - More than half total agricultural receipts



Infrastructure Planning

- Capital improvement projects should:
 - Ensure compact & orderly development
 - Preserve area's historic fabric
 - Enhance community facilities
 - Provide better:
 - Public access
 - Parking
 - Connectivity



Growth Areas

Villages & Hamlets
Older settlement areas
New Town Centers



Farmers' Markets
Events
Infill & reuse
Design Guidelines

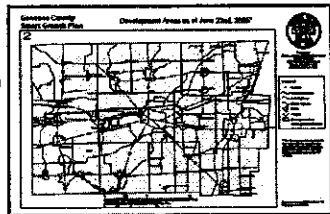
Sewer & Water

- Direct away from threatened lands & resources
 - Wetlands, flood zones & water resources
 - Farmland, agricultural districts & open space
- Provide only where needed for economic development



Sewer & Water

- Direct to targeted growth areas
- Not just anywhere on demand
- Reduce sewer connection fees in growth areas to incentivize development



Agricultural Infrastructure

- Affordable electric & fuel
- Sound roads & bridges
- Drainage facilities
- Signage



The farming community has business needs like any other economic sector

Economic Development

- Buy local
- Local procurement
- Marketing & Branding
- Diversity
- Value-added
- Local processing
- Agri-tourism
- Micro-enterprises
- Entrepreneurism



Buy Local

- Supports the local economy
- "Greener"
- Fresher
- Safer
- Healthier
- Adaptive
- Diverse



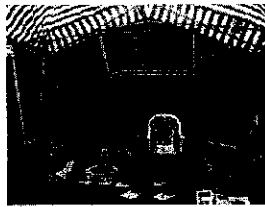
Local Purchasing Policies

- Institutional procurement
 - Farm-to-School
 - Champlain Valley Specialties
- Farm-to-Fork
- Supermarkets



Marketing Campaigns

- Collaborative packaging & marketing
 - Branding campaign
 - Logos
 - Store windows & products
 - Gift baskets
- Assistance to farmers & small processors
 - Internet presence
 - Fill orders
 - Focus on increasing production



Arlundock Harvest

Direct Marketing

- Farmers Markets
 - Virtual
 - Site based
- Farm stands
- Internet sales
- Community Supported Agriculture
- Direct deliveries
- Farm-to-chef, farm-to-fork...



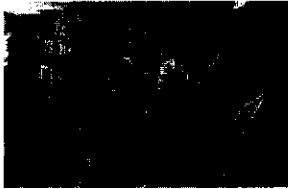
Diversification

- Diversity stabilizes local economy
 - stable economy = more stable land base
- Variety
 - Products
 - Types & sizes of farms
 - Equine
 - Fiber
 - Grapes



Value-Added Products

- Regulatory reform
- Joint marketing
- Cooperative purchasing
- Access to food processing facilities
- Small business technical assistance



Financial & Technical Assistance

- Microenterprises
- Technical assistance
- Innovative financing
- Government programs
 - US Department of Agriculture (USDA)
 - Sustainable Agriculture Research & Education (SARE)
 - Grow NY Enterprise Program



Economic Development

- Private/ public partnerships
- Economic development
- State assistance
 - Empire State Development Corporation
 - Governor's Office for Small Cities



Contacting the NYSDOS

(518) 473-3355 Training Unit
(518) 474-6740 Legal Department
(800) 367-8488 Toll Free

Email: localgov@dos.state.ny.us
Website: www.dos.state.ny.us
www.dos.state.ny.us/lqss/index.htm
www.dos.state.ny.us/LG/sear.html



ADDITIONAL RESOURCES FOR FARMLAND PROTECTION & AGRICULTURAL VIABILITY

PUBLICATIONS

New York State Department of State website:

<http://www.dos.state.ny.us/LG/publications.html>

Local Laws and Agricultural Districts: How do they relate? This publication provides guidance to municipalities in preparing local laws or ordinances that do not adversely affect farming activities conducted within agricultural district.

<http://www.dos.state.ny.us/LG/publications/Local Laws and Agricultural Districts.pdf>

Local Open Space Planning Guide describes simple, step-by-step processes for preparing a local open space conservation plan with recommendations, specific strategies and techniques for conserving open space.

<http://www.dos.state.ny.us/LG/publications/Local Open Space Planning Guide.pdf>

Transfer of Development Rights. This publication gives an overview of a technique that allows municipalities to preserve of lands where further development is undesirable without loss of new development to the community; and without depriving landowners of a reasonable economic return on their property.

<http://www.dos.state.ny.us/LG/publications/Transfer of Development Rights.pdf>

The Rural Design Workbook: Rethinking Conventional Development is a collection of development designs and recommended land use language for reviewing subdivision and site plan proposals. The Rural Design Workbook was developed by the Southern Tier Central Regional Planning and Development Board in conjunction with Cornell University's Landscape Architecture program. <http://www.stcplanning.org/index.asp?pageID=48andcatID=51>

Land Use Planning and Regulations: A Survey of New York State Municipalities presents the results of a survey of land use tools currently being used by the 1,544 cities, towns, villages in New York State with a brief overview of each land use tool. The publication was produced by the NYS Legislative Commission on Rural Resources.

<http://www.dos.state.ny.us/LG/publications/Rural Resource Survey.pdf>

FEDERAL AGENCIES

USDA Agricultural Marketing Service Division (AMS) is targeted to improve and expand domestic farmers markets, such as through the **Farmers Market Promotion Grant Program**, roadside stands, community-supported agriculture programs, agri-tourism activities, and other direct producer-to-consumer market opportunities. <http://www.ams.usda.gov/AMSV1.0>

USDA Farm Service Agency (FSA). Among the many services this agency provides are direct and guaranteed loans to small farms who cannot otherwise obtain credit from a commercial lender.

<http://www.fsa.usda.gov/pas>

USDA Natural Resources Conservation Service (NRCS) works with landowners through conservation planning and technical assistance to conserve and restore private lands. NRCS administers a number of environmental and water quality grant programs. <http://www.nrcs.usda.gov>

USDA Rural Development (RD) provides direct or guaranteed loans, grants, technical assistance, research and educational materials. The **Rural Business Enterprise Grants** program, for example, provides grants for rural projects that finance and facilitate the development of small and emerging rural businesses. <http://www.rurdev.usda.gov/Home.html>

USDA Rural Utilities Service (RUS) is the primary federal force in rural water and waste development, providing loans and grants to low-income communities in rural areas. The RUS also provides programs to finance rural America's electric and telecommunications infrastructure, including broadband projects. <http://www.usda.gov/rus>

USDA Sustainable Agriculture Research and Education (SARE) program helps advance farming systems that are profitable and environmentally sound through nationwide research and education grants programs, including **Producer Grants** to conduct research, marketing and demonstration projects and **Sustainable Community Innovation Grants** that help make connections between sustainable agriculture and rural community development. <http://www.sare.org>

STATE RESOURCES

New York State Department of Agriculture and Markets (NYSDAM) oversees numerous programs that promote agricultural viability and fosters agricultural environmental stewardship, including: Agricultural Environmental Management (AEM); Agricultural Districts; Agricultural and Farmland Protection; Farm-to-Schools; Grow NY; Pride of NY; Regional "Buy Local" campaigns and Farmer's Markets Development. <http://www.agmkt.state.ny.us>

New York State Department of Environmental Conservation (NYSDEC) was established by Environmental Conservation Law [Title 6 of New York Codes, Rules and Regulations (6NYCRR)] for the purpose of overseeing all environmental concerns through one organization. The DEC is responsible for administration and enforcement of the Environmental Conservation Law, as well as state programs addressing a variety of environmental issues including water and air quality, mining, forestry, recreational lands, energy and climate change etc., many of which are governed by federal law. <http://www.dec.ny.gov>

New York State Energy Research and Development Authority (NYSERDA) is a public benefit corporation whose aim is to help New York meet its energy goals: reducing energy consumption, promoting the use of renewable energy sources, and protecting the environment. NYSERDA offers a number of programs and incentives benefitting rural communities, including economic development to assist in the retention and growth of existing NY business. Incentives for agriculture include energy audits for high energy farm uses such as milking parlors, as well as incentives that promote the adoption of emerging energy technologies, including anaerobic digesters, and on-site small wind or solar electric systems. <http://www.nyserda.org>

The New York State Environmental Facilities Corporation is a public benefit corporation that administers most of the state's revolving funds, including the Clean Air and Clean Water Funds. They provide technical assistance and low-cost financing to municipalities, non-profits and small business for environmental projects, including water and wastewater disposal projects. <http://www.nysefc.org>

The New York State Legislative Commission on Rural Resources works on a wide range of issues including: agriculture, economic development, education, environment, land use, local governments, transportation, and health and human services. <http://assembly.state.ny.us/comm/Rural/20050808>

Soil and Water Conservation Districts (SWCD/County). The New York State Soil and Water Conservation Committee is an agency of the State and is made up members representing agricultural and non-agricultural interests as provided for in New York State Soil and Water Conservation Law. The committee oversees programs such as the Agricultural Environmental Management Program and the NYS Agricultural Non-point Abatement and Control Program. http://www.agmkt.state.ny.us/SoilWater/contacts/county_offices.html

REGIONAL AGENCIES

Adirondack Park Agency (APA) can assist municipalities within the Adirondack Park begin the planning process by developing citizen surveys and other comprehensive planning elements. The APA will work with interested local officials on establishing an Agency-approved local land use program. <http://www.apa.state.ny.us>

Hudson River Valley Greenway provides planning grants, compact grants and technical assistance to "greenway communities" through the "Greenway Communities Program". <http://www.hudsongreenway.state.ny.us/home.aspx>

Tug Hill Commission provides technical assistance on land use planning, community economic development, and natural resource management to local governments in the Tug Hill Region, which includes portions of Jefferson, Lewis, Oneida, and Oswego Counties. <http://www.tughill.org>

NON-GOVERNMENTAL AGENCIES AND ORGANIZATIONS

American Farmland Trust (AFT) works with federal, state and local leaders to develop better legislation and policy on farmland protection and local food systems. <http://farmland.org>

- **"Guide to Local Planning for Agriculture in New York"** is an overview of tools to assist communities in planning for agriculture, as well as case studies demonstrating the successful implementation of these tools. This publication can be downloaded free of charge. Hard copies can be ordered for a cost of \$20.00. <http://www.farmland.org/resources/publications/default2.asp>

Cornell Cooperative Extension (CCE) offers programs to assist both individuals and communities in the following broad areas: Agriculture and Food Systems; Children, Youth, and Families; Community and Economic Vitality; Environment and Natural Resources; and Nutrition and Health. <http://cce.cornell.edu/Pages/Default.aspx>

The Land Trust Alliance is an organization that works with 1,600 land trusts and local communities nationwide by providing technical assistance, training, and support to promote voluntary private land conservation. <http://lta.org>

The following two links can assist in locating an affiliated land trust in your area:

- Searchable map of NYS Counties
http://www.ltanet.org/landtrustdirectory/state.tcl?state_id=newyork36
- Listing of NYS affiliated land trusts
http://www.ltanet.org/landtrustdirectory/alpha.tcl?state_id=newyork36#statewide

National Rural Housing Coalition advocates for the housing needs of rural areas. Through donations, contributions and subscriptions, the coalition is able to offer the following fund programs: Self-Help Housing; Farm Worker Housing; and The Rural Community Assistance Fund providing grants to help rural communities address water and waste disposal problems. The coalition also operates a HUD Task Force that monitors rural participation HUD Programs such as Community Development Block Grants and HOME. <http://www.nrhweb.org>

New York Farm Viability Institute is a nonprofit group that awards grants for research and outreach education projects that help to increase farm profitability and provide models for other farms. <http://www.nyfvi.org>

New York Forest Owners Association (NYFOA) is a not-for-profit group focused on forest management planning of private forests. <http://www.nyfoa.org>

New York State Farm Bureau is a volunteer financed and member controlled organization focusing on policy development for the purpose of solving issues challenging the agricultural industry. <http://www.nyfb.org>

NY Rural Water and Sewer Association (NYRWA) is the largest membership organization representing small water/wastewater systems in the state and provides technical assistance to system operators in number areas, such as system operations, federal and state regulation compliance, and aquifer protection. <http://www.nyruralwater.org>

The Open Space Institute is a land conservancy organization that works to protect scenic, natural, and historic landscapes and conserve habitats through land acquisition, conservation easements and regional loan programs. <http://www.osiny.org/site/PageServer>

Resource, Conservation and Development Councils (RC & D). The RC & D program is administered by NRCS for the USDA. RC & D Councils are non-governmental, non-profit and tax-exempt organizations providing services to multiply counties, including identifying sources for project funding and technical assistance, as well as grant administration. The following website is to the NYS Federation website providing links to individual RC & D council websites throughout state. <http://www.nyrcd.org>

Rural Community Assistance Program (RCAP) is a non-profit community development corporation that provides assistance in the areas of housing, water and wastewater projects and economic development. The group working in New York State is **RCAP Solutions** <http://www.rcapsolutions.org>