

Dutchess County Agricultural and Farmland Protection Board
Board Guidelines and Checklist for Accepting Applications within Agricultural Districts for
the Section 303-B Annual Enrollment

[Section 303-b](#) of the Agriculture and Markets Law states the Farmland Protection Board’s responsibility is to “report to the county legislative body its recommendations as to whether the land to be included in the agricultural district consists predominately 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.”

The NYS Department of Agriculture and Markets (NYSDAM) has not published guidelines to provide further interpretation of the program’s criteria. Our board has developed the checklist below based on our experience since Section 303-b was adopted in 2004. It incorporates the verbal advice we have received since that time from NYSDAM. The purpose of the checklist is to assist the Agricultural Farmland Protection Board (AFPB) to evaluate applications and document decisions in a way that is internally consistent, and consistent with requirements set out in the legislation.

- 1) Is there a commercial farm operation on the property? (Receiving Agricultural Value Assessment (meeting gross sales and acreage requirements: 10k on 7+ acres or 50K on less than 7 acres)) Operated by: **Property Owner** or **Leased to a commercial farm operation**

yes no

If yes- Property may be recommended for inclusion

If no- Continue to 2

- 2) Is there a non-commercial farm operation that is significant but does not meet gross sales and acreage requirements (Such as a start-up farm operation)? And does the property contain sufficient viable farmland to sustain this operation? Operated by: **Property Owner** or **Leased to a farm operation**

yes no

If yes- Continue to 3 with additional supported documents. (e.g. farm plan, Schedule F, documentation detailing activity with commercial intent)

If no- Additional documentation needed to review activity/use. (e.g. farm plan or a Schedule F) Continue to 3

- 3) Is the property viable agricultural land or land with agricultural potential as defined in Section 307 of the Agriculture and Markets Law and the Definitions section of this document?

A) The property consists of Viable Agricultural Land as defined in Section 307 of the Agriculture and Markets Law: yes no

And/or

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B) The property has agricultural potential: yes no

*If A or B are Yes- The property can be recommended for inclusion to the district.
Continue to 4*

*If both A and B are No- The property should generally not be recommended for
inclusion unless other compelling factors demonstrate agricultural value or
buffering benefit.*

4) Other Agricultural Land Uses

A) Woodlands and Agroforestry

Does the property include woodlands that support or buffer an agricultural operation, or
have an active management plan (agroforestry, silvopasture, timber, maple etc.)?

yes no

*If yes- May be recommended for inclusion, provided documentation supports
agricultural use or plan.*

B) Livestock Operations

Does the property support intended income-producing livestock production? Or have a
workable plan to become income producing? i.e. Infrastructure (paddocks, barns,
sheds, etc.) yes no

*If yes- the property may be considered for admission provided there are no other
over-riding considerations**

C) Specialty or Supporting Agricultural Enterprises

Does the property support an agricultural enterprise such as orchards, vineyards,
nurseries, greenhouses, maple, apiaries, mushrooms, composting, or other value-
added or specialty crops? yes no

*If yes- May be recommended for inclusion, provided the activity contributes to or
complements agricultural production.*

D) Farmstands and Direct Marketing

Is the property used for marketing products grown on the farm or associated farms?

yes no

*If yes- may be recommended for inclusion if clearly connected to a farm operation
and not primarily a retail use.*

Dutchess County Agricultural and Farmland Protection Board
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If all responses in Section 4 (A–D) are “No” – The property may still be considered for inclusion only if Questions 1–3 demonstrate agricultural viability or potential under the definitions of Viable Agricultural Land or Agricultural Potential.

If no agricultural use, intent, or potential has been demonstrated, the property should generally not be recommended for inclusion unless the Board determines there is a clear buffering or strategic district benefit.

The Board should make site inspections of properties where the decision to exclude or include the parcel is not obvious.

*** Note:** The Board shall notify the Legislature in the event that it becomes aware of any of the following:

- An application property has an on-going or pre-existing issue or is out of compliance with municipal laws (zoning or code enforcement);
- Parts of the property are currently being used for non-agricultural commercial uses (such as automobile junk yards);
- If any part of the property is known to have issues pertaining to toxic waste disposal.

Levels of Recommendation by the AFPB to the Legislature

- A. **Recommend**, noting that the property clearly consists of viable agricultural land, the inclusion of which will benefit the districts and agriculture generally. Additionally, such land may also be included if it abuts other district land and would serve as a buffer between agricultural and other uses.
- B. **Property is Already in the District.**
- C. **Recommend Against Inclusion:** the property has minimal value or is not viable for agriculture and there will be no benefit gained from including the property in the district.
- D. **Declaration of Notice to the Legislature** When applicable, a statement that in the past or at the present an objection for inclusion of the application property has been expressed by the municipality, county, or other interested party, or if the Board is aware of other potential concerns about the application property.

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Board Guidelines and Checklist for Accepting Applications within Agricultural Districts for
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Definitions:

Agricultural potential: land with sufficient acreage of suitable land (land that consists of open fields, paddocks, or pasture, or land with soil types (that are predominantly Prime or, Statewide Important) to be viable for as a farm operation.

Note: A typical 1-, 2-, or 3-acre residential lot will not meet the criteria to be considered viable if the property does not also meet other criteria

Commercial Activity: “Under the AML, a “farm operation” must be a “commercial enterprise.” A “farm operation” is not required to be eligible for receipt of an agricultural assessment or meet the acreage and gross sales requirements to receive an agricultural assessment [AML §301(4) – *Land Used in Agricultural Production*].

In the absence of minimum acreage and gross sales requirements, the Department evaluates such factors as the acreage in production; capital investment and business assets; gross sales of crops, livestock and livestock products; the type of enterprise and number of years in operation...”

Farm Operation in AML §301(11): 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, "compost, mulch or other biomass crops" as defined in subdivision seventeen of this section and "commercial equine operation" as defined in subdivision eighteen 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.

Land Used in Agricultural Production AML §301(4): 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...”

Viable agricultural land: Land which is highly suitable for agricultural production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties. AML §301(7)