



New York State
Department of Agriculture
and Markets



**Agricultural Districts and
Farm Operations**



Article XIV of the State Constitution

Policy of State - *conserve and protect its agricultural land for the production of food and other agricultural products.*

The State's Constitution directs the Legislature to provide for the protection of agricultural lands

Agricultural Districts Law - Since 1971, Article 25-AA of the AML has been the **centerpiece of state and county level efforts to conserve, protect and encourage the development and improvement of agricultural lands for food and other agricultural products [and]...to conserve agricultural lands as valued natural and ecological resources** and which provide needed open spaces for clean air sheds and aesthetic purposes.

County Agricultural and Farmland Protection Board (AFPB) §302

- *AFPB Established by Co. Legislature*

11 Members on the Board

- 4 active farmers
- 1 agribusiness person
- 1 land protection person
- County Employee of the Soil and Water Conservation District
- County Legislator
- County Cooperative Extension Agent
- County Real Property Tax Director
- County Planning Director

Counties Create and Review Agricultural Districts - AML §§303, 303- a and 303-b

- Landowner petitions CLB to add land to AD.
- County AFPB reviews petitions, makes recommendation to CLB.
- CLB holds public hearing - creates, modifies, or terminates the AD. **Local Governments Notified. What is done with Notice?**
- Districts reviewed every 8 years! **When was last time AD in your Town reviewed?**
- Annual additions (AML 303-b) during a county designated 30-day period. **State/Local Govt. Partnership**

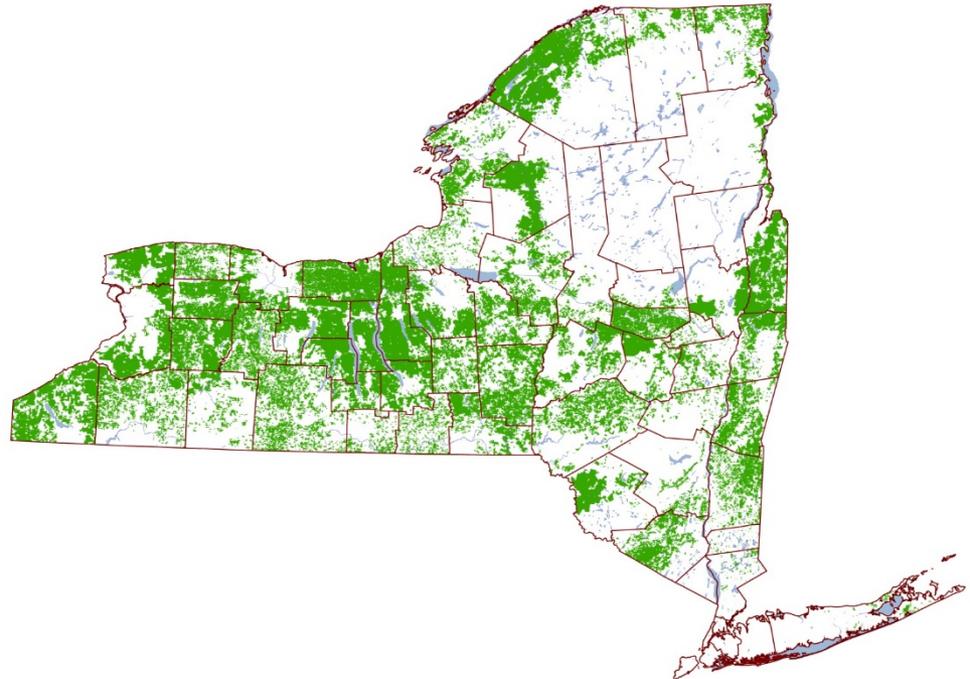
Ag Districts in New York

Total Acres –
8.99 million

Acres Farmed –
6.5 million

No. of Farms –
25,316

No. of Agr. Districts
210



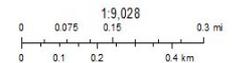
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Agricultural Districts and the Local Planning Process

- ❖ Municipalities are responsible for the regulation of land uses through comprehensive and/or master plans, local zoning, local laws, and building code enforcement. (Home Rule)
- ❖ Ag Districts Law acknowledges Home Rule, but protects farm operations in ADs.



☐ Agricultural Districts



Integration of ADL into Village Town and Municipal Law

- ❖ Town, Village, County or Regional Comprehensive Plan (content) - may include consideration of agricultural uses [Town Law 272-a(3)(d), Village Law 7-722(3)(d), General Municipal Law 239-d(1)(d) and 239-i(1)(d)]
- ❖ A Town, Village, County or Regional Plan and any amendments shall be **subject to** the **provisions of the Agricultural Districts Law** relating to enactment and administration of local laws, rules or regulations. [T.L. 279-a(9), V.L. 7-722(9), G.M.L. 239-d(4) & 239-i(4)]

Farmer Compliance with Local Laws

- **All farms must comply with local laws.**
- If a farm is in an AD, the regulated farm and its activities may be protected under the AML.
- Farm may request an AML §305-a review by the Department.
- If a farm is not in a county adopted, State certified agricultural district, then AML §305-a does not apply.

What is a “Farm Operation”?

Defined by AML §301(11) as:

“...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,’
- b) ‘timber operation,’
- c) ‘compost, mulch or other biomass crops,’ and
- d) ‘commercial equine operation’ as defined...”

May consist of one or more parcels of owned or rented land and parcels may be contiguous or noncontiguous to each other.

AML §305-a(1) Policy of Local Governments

Imposes affirmative obligation upon local governments to enact and administer local laws and ordinances to effect the policy of AML Article 25-AA, which is to protect and enhance New York's farmland.



AML §305-a(1) Policy of Local Governments

...And prohibits local governments from **unreasonably restricting or regulating *farm operations*** in ADs unless it can be shown that public health and safety is threatened.



Review procedure under AML §305-a(1)

- Factors used to determine if local law is unreasonably restrictive:
 - Cost of compliance in light of size and complexity.
 - Will requirements cause a lengthy delay?
 - Will requirements affect farmer's ability to manage the operation effectively and efficiently?
 - Will requirements restrict production options?
 - Are less onerous means available to achieve the locality's objective? and
 - Does a State law, regulation or standard apply?

Guidance Documents for Local Govts. Compliance with Section 305-a

- Farm Marketing
- Control of Animals
- On-Farm Composting
- Open Burning
- Nutrient Management Practices
- Wetlands
- Farm Worker Housing
- Greenhouses
- Zoning Laws
- CHB and Equine
- PMC – Junk, Vehicles
- Nurseries
- Solar/Wind – Farm Use
- Crops Grown to Produce Alcoholic Beverages
- Farm Operation Defined
- Startup Farm Defined

Wineries, Breweries, Distilleries, Cideries – Processing Facility/Tasting Room



- Part of Farm Operation – PPM
- Special Events
 - Charitable
 - Weddings
 - Meetings
 - Birthday Parties
- State/Local Regulation

Local Govt.	SLA/ABC
Health, State and County	Tax & Finance
DOS - Codes	A&M

Agriculture and Markets Law Considerations

❖ Production of Alcoholic Beverages

❖ AML Protects:

- ❖ Production of Crops – **Must Be a Farm First**
- ❖ Processing of Crops into Alcohol
- ❖ Marketing of Alcohol
 - ❖ 51%+ of crops required to produce alcohol must be grown by the farm operation.
 - ❖ Farm must produce some of all of the major ingredients used to make alcoholic beverage.
 - ❖ Marketing may include public events: (1) intent is to sell your alcohol and (2) only 30% of gross includes incidental charges, such as rental fees.
 - ❖ Tasting room and direct sale to public protected.

Local Govt. Land Use Regulations

- ❖ Production of Alcoholic Beverages
 - ❖ Take into consideration A&M guidance/letters
 - ❖ Understand what activities are outside the Scope of the AML
 - ❖ Local Govt. Regulate Through (Expedited, if in AD) Special Event Permit, Special Use Permit, Site Plan Review (consider time and cost to farm):
 - ❖ Matters Related to Public Health/Safety, such as:
Hours of operation, traffic, noise, number of events, number of guests, dark skies, ingress/egress, parking, sanitary facilities, permits (Health Department and/or SLA), catering, building construction, sale of alcohol not produced on premises, etc.

New York State - *Winery Weddings*

Acquired from an internet site advertising
Farm weddings at wineries



A Winery Wedding in one of New York State's picturesque vineyard settings! Nestled along waterways and grand lakes in the company of historic villages, some 225 wineries enhance areas of rural charm in the six NY regions described below. The majority of wineries are found in the Finger Lakes, Hudson River Valley, and Long Island viticultural regions. The remaining wine-countries are in the burgeoning wine countries of Central New York/Lake Ontario, Lake Erie Region, and the Niagara Escarpment.

Opportunities for New Farm Related Uses



Farm Compatible Businesses
Bed & Breakfast, outdoor
recreation, child day care, etc.

Agricultural Tourism

U-pick, CSAs, roadside
stands, corn mazes, hay
rides, pumpkin patches,
farm stays, festivals,
bakeries & restaurants,
parties, weddings, etc.

Farm Support Businesses

Slaughterhouse, farm
implement repair,
community kitchen, etc.

Agriculture and Markets Law Considerations

- ❖ Sale of Agricultural Products Grown on Farm
 - ❖ AML Protects:
 - ❖ Production of Crops and Sale of Crops Grown on Farm
 - ❖ Processing of Crops into Value Added Products
 - ❖ Marketing of Farm Products
 - ❖ 51% of crops marketed must be grown by the farm operation. Additional crops can be sold to diversify products offered to public.
 - ❖ On-Farm sales protected under AML.
 - ❖ Construction of farm markets protected under AML.
 - ❖ Recreational activities protected - corn maze, hay maze, hay rides, petting zoos, produce sling shots.

Local Govt. Land Use Regulations

- ❖ Production of Crops Grown on Farm
 - ❖ Take into consideration A&M guidance/letters
 - ❖ Municipality May Regulate Through Expedited Site Plan Review if in AD - consider cost/time to farmer
 - ❖ Know Activities Outside the Scope of the AML
 - ❖ Matters Related to Public Health and Safety:
 - ❖ Hours of operation, traffic, noise, number of events, number of guests, dark skies, ingress/egress, parking, sanitary facilities, permits (Health Department), sale of food, building construction, amusements such as cow trains, jump-y jumps, slides, lookouts.

Direct Marketing to Public

- Direct Farm Sales
 - Provides immediate cash income to farm
 - Retail vs. Wholesale, higher prices/income
 - Contributes to future sales: in person/on-line
 - Educational tool/brings people to the farm
 - Reduces transportation costs to farmer
 - Off-farm sales through other establishments (Buy Local Programs)



Agritainment – NY Farm Advertisement – On-Farm Marketing

- Are NYSBC exempt structures being used by the public?
- Are interior roads sufficient to provide access to emergency personnel?

Pick Your Own Agritainment Groups and Parties



No Admission, FREE Parking, FREE Kids Play Area.
Come spend a FREE day in the country, pay only for what you need, activities (\$15/person), apple picking (about \$.99/pound), pumpkin picking (\$.50/pound), & cider donuts (6 for \$5).

Pick Your Own

Buy Local Summer Vegetables
U-Pick Summer/Fall Apples
Hudson Valley Fall Pumpkins
Winter Christmas Trees

Agritainment

Outdoor activities for kids including a hayride, cornmaze, gem mining, cow train, bouncy pillow....Enjoy the fresh air on our Ulster County Farm.

Groups and Parties

Make reservations for your Field Trips, Retreats, Birthday Parties, Corporate Events, and Reunions on our New York Apple Farm.

- Is food being prepared? Approvals from Health Department?
- Are sanitary facilities present and hand washing stations?

Cow Train – Not a protected activity under the AML, but may be allowed by the Town or regulating municipality



Bounce Pillow, Farm Animal Petting Zoo, Slide and Climbing Hill



Destination Farm and Agritainment

- Entrance Fee - \$9.75 Adults and \$7.75 Children
- Receives \$2 pumpkin, \$2 gift certificate, \$1 sent to Maize Quest in PA.
- Building used as admissions booth and concessions
- Advertising for CSA. Active CSA. Received site plan approval from town in Spring, 2015.



Horse Operations – Boarding/Equine

- ❖ Seven plus acres of land;
- ❖ 10 horses, regardless of ownership;
- ❖ No time period set in statute concerning residency;
- ❖ CHB - > \$10,000 in gross receipts annually from boarding and/or sale of crops, livestock and livestock products;
- ❖ Equine – > \$10,000 from lessons, trail riding, training and/or sale of crops, livestock and livestock products;
- ❖ Includes start-up operations for tax purposes;
- ❖ Does not include operations where primary function is horse racing.

Equine by Primary Use - 2005

- ❖ Equine Survey – 2005
- ❖ 197,000 horses in NY
- ❖ 87,000 pleasure
- ❖ 27,000 competition
- ❖ 26,900 breeding
- ❖ 14,500 racing
- ❖ 11,100 lessons
- ❖ 4,700 specialty/camps
- ❖ 25,800 other/farm work



Equine Related Expenditures - 2005



- ❖ Value of all horses in NY is \$1,831,040,000.
- ❖ Value of related land, fencing and buildings in NY is \$7,084,830,000.
- ❖ Equine related expenditures is \$958,130,000.
 - ❖ \$180,790,000 in 2000
 - ❖ 89% of \$ spent in NY
- ❖ \$139,420,000 spent on boarding fees

Riding Arena – Not exempt from Uniform code – public utilization

All buildings on this farm are engineered and constructed to the BCNYS standards. Completed SWPPP



Disclosure Statement

- ❖ Buyer of land within an agr. district must be provided a notice stating that the land is located within an agricultural district.
- ❖ Notice states that it is the policy of the State and the municipality to conserve, protect and encourage the development of farmland.
- ❖ Location of the property may impact ability to access public water/sewer services.
- ❖ Farming activities may cause noise, dust and odors.

Technical Bulletin – 1/1/2003 – Agr. Bldg. vs. Horse Riding Arena Stable is an Agr. Bldg. but a Riding Arena is Not under BCNYS

Sprinkler Systems - 3/26/14 letter – EXCEPTION, grade level structure used exclusively for participant sports areas. Horse riding and providing education for horsemanship are similar and the exception may apply to horse riding arenas. Does not include non-participant occupants and viewing areas.



Agricultural Data Statements

- An agricultural data statement must be submitted to Town Clerk if:
- The proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district *and ...*

Agricultural Data Statements (cont.)

- The application requires a:
 - Special use permit;
 - Site plan approval;
 - Use variance; or
 - Subdivision approval.
- [Town Law §283-a(2) - (5) and Village Law §7-739(2) - (5)
- * Town Clerk refers all applications to County or Regional Planning Agency.

Contact Information

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