



**Department of State**  
Local Government

# **FARMLAND PROTECTION & AGRICULTURAL VIABILITY**

# Primary Threats to NY Farmlands



**Low Density Sprawl**



**Large Scale Solar**



**Aging Farming  
Population**

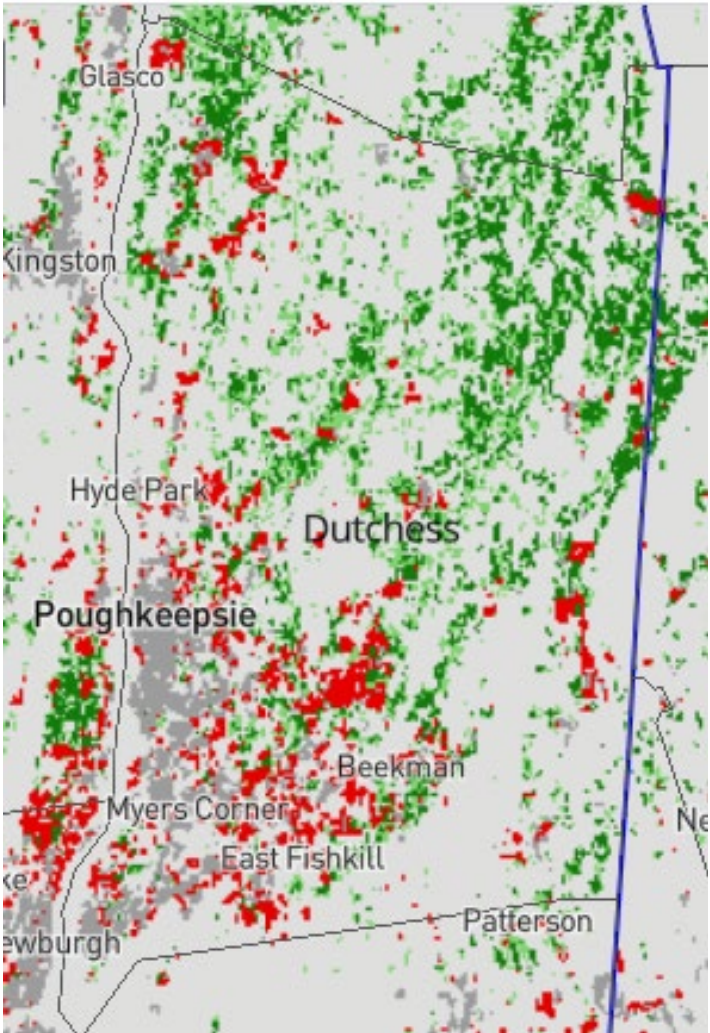
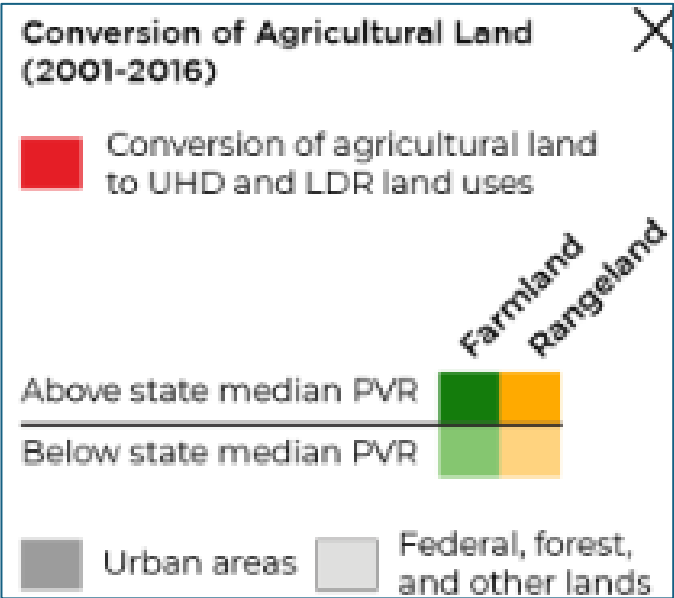
# Dutchess, NY Conversion of Agricultural Land (2001-2016)

**Ag Acres Converted: 9,800 (7%)**

~4k to urban

~6k to low density residential

|                                               |       |
|-----------------------------------------------|-------|
| <b>Cropland Converted</b>                     | 1,900 |
| <b>Pasture Converted</b>                      | 4,000 |
| <b>Woodland Converted</b>                     | 3,900 |
| <b>Nationally Significant Acres Converted</b> | 3,700 |

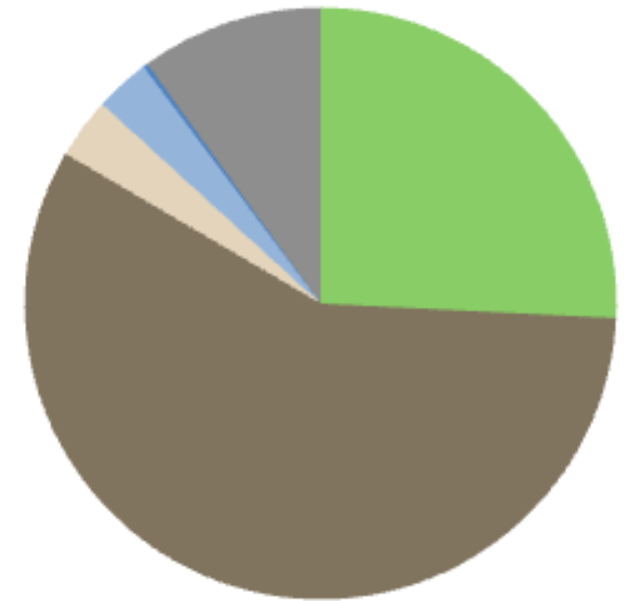
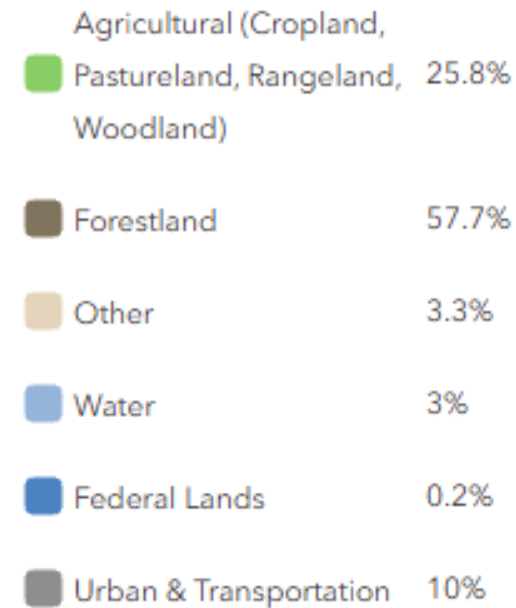


# Dutchess County Land Use and Cover (2016)

## Farm Numbers & Production (USDA 2022)

- Total Farms: 620
- Total Farmland Acres: 99,652
- Average Farm Size: 161 acres
- Top Commodities: Hay/forage, Corn (grain & silage), Soybeans, Apples (and other fruits/berries), Nursery/greenhouse

\*USDA does not count for equine operations



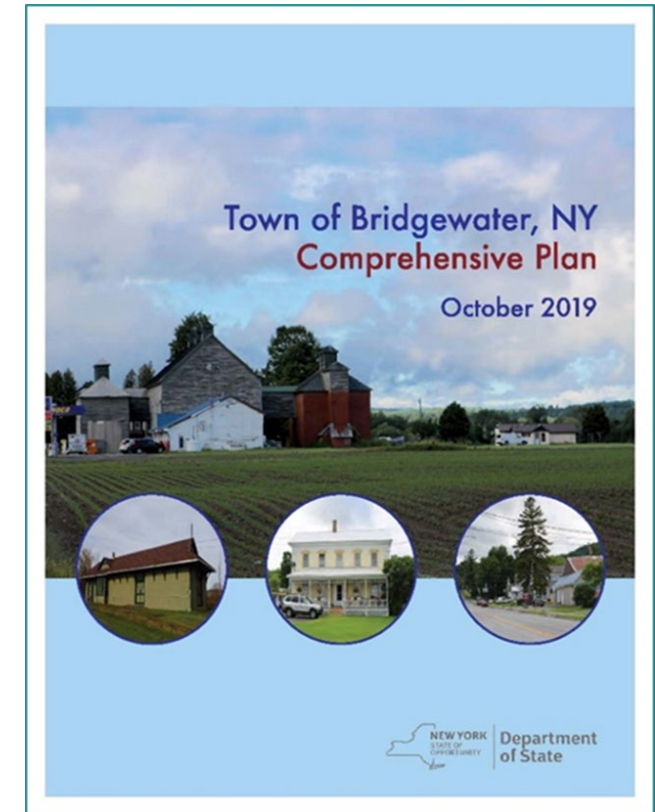
# Farmland Preservation Toolbox

- Comprehensive Plans
- Right to Farm Laws
- Agricultural Districts
- Land Use Regulations
- Conservations Easements:
  - Purchase of Development Rights



# The Comprehensive Plan

- Expression of goals
- Outline for orderly growth
  - Land use regulation
  - Direct development
- Legal defense for land use regulations
- Implemented by local law
- Periodic review



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

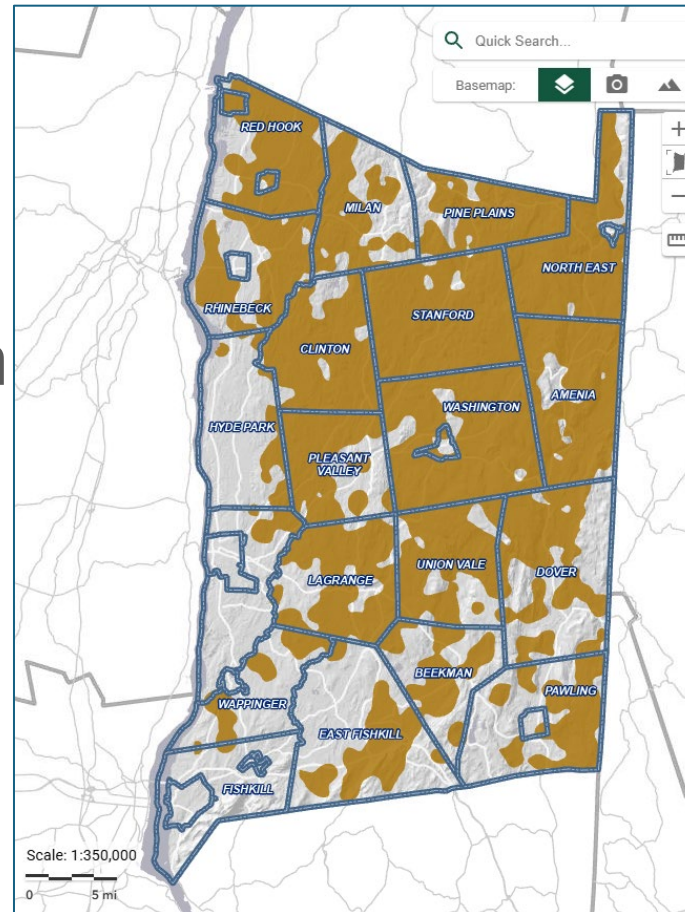
# Agriculture & Comprehensive Planning

## Engage farmers in the planning process

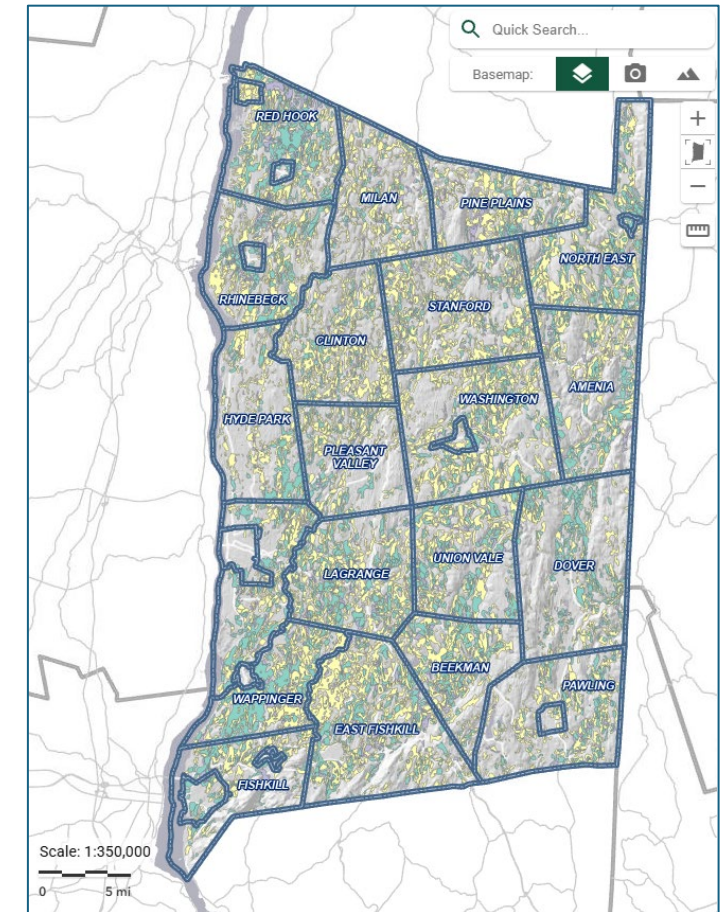
- Include supportive language for agriculture and farmland preservation

### Map and identify:

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



Agricultural Priority Areas



Agricultural Soils

# Cost of Community Services Studies

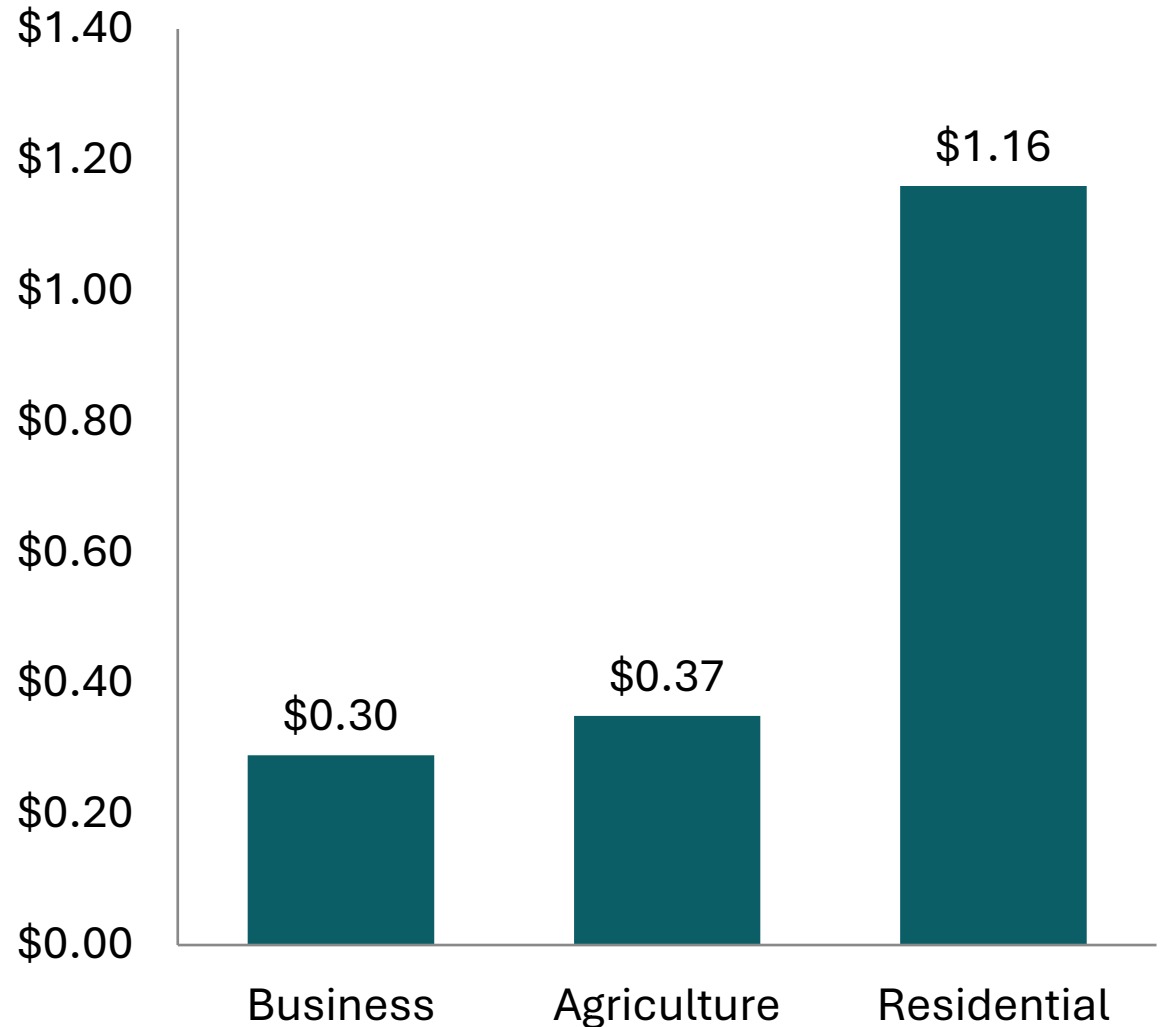
- Snapshot of current costs vs. revenues for each land use
- Evaluates working and open lands equally with residential, commercial & industrial
- Informs land use & policy decisions
- Doesn't predict future costs, revenues or the impact of future growth

**American Farmland Trust (AFT)**

<https://www.farmlandinfo.org/publications/cost-of-community-services-studies/>

# Cost of Community Services

- Cost per dollar of revenue raised to provide public services



# Agriculture & Farmland Protection Plans

- AFPPs augment existing Comprehensive Plans or can be first phase of a new plan
- Elements include:
  - Location of proposed areas to be protected
  - Value to the agricultural economy
  - Open space value
  - Strategies for continued agricultural use
  - Level of farmland conversion pressure
    - *Potential consequences of conversion*



## Dutchess County Agricultural and Farmland Protection Plan

March 2015

# Conflicts

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



# Right-to-Farm

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



# 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?  
<https://dos.ny.gov/local-laws-and-agricultural-districts>
- Agricultural Districts Law – Article 25 AA, §305-a



# Agricultural Districts

- Voluntary program
- Program managed by counties
  - 139 Districts across the state
  - 27,221 farms participate
  - 9,311,642 acres
- Farms can opt-in each year
- Note: farm operations do not have to meet acreage and sales requirements required for an agricultural assessment

## Definition of “Farm Operation” 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,...”

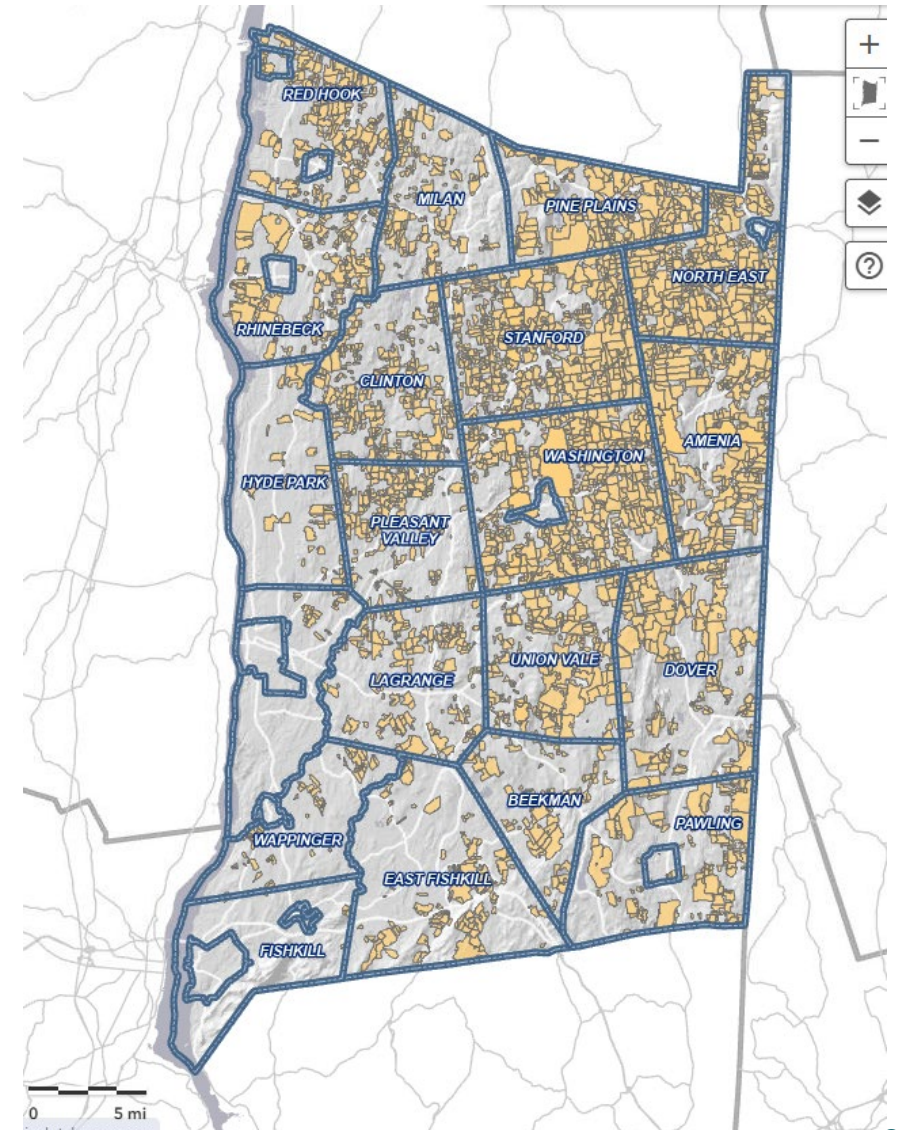
“Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.”

# Dutchess County Agricultural District Viewer

## Agricultural Districts: 2026

- Total Enrolled parcels: 4,187
- Total enrolled acres: 196,155 acres
- Average size: 47 acres

<https://gis.dutchessny.gov/ag-districts/>



# Agriculture Disclosure Notice

- State mandated notice given to a prospective buyer within 500 feet of an ag district boundary prior to signing a purchase contract
- Informs them they are buying land in an Agricultural District
- Right-to-Farm protections provided by the Agricultural Districts Law

Real Property Law § 333  
RP-5217 Real Property  
Transfer Report

# Agriculture Data Statement

TOWN /VILLAGE OF \_\_\_\_\_

Date \_\_\_\_\_ Application # \_\_\_\_\_

## Agricultural Data Statement

Instructions: This form must be completed for any application for a special use permit, site plan approval, use variance or subdivision approval requiring municipal review that would occur on property within 500 feet of a farm operation located in a NYS Dept. of Ag & Markets certified Agricultural District.

Applicant

Owner (if different from Applicant)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Type of Application: ☐ Special Use Permit; ☐ Site Plan Approval; ☐ Use Variance;  
☐ Subdivision Approval

Description of proposed project: \_\_\_\_\_

Location of project: \_\_\_\_\_

Address: \_\_\_\_\_

Tax Map Number: \_\_\_\_\_

Check with your local assessor if you do not know the following:

Is this parcel within an Agricultural District? ☐ NO ☐ YES

Agricultural District Number \_\_\_\_\_

Is this parcel actively farmed? ☐ NO ☐ YES

List all farm operations within 500 feet of your parcel. Attach additional sheets if necessary.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Is this parcel actively farmed? Yes/No

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Is this parcel actively farmed? Yes /No

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Is this parcel actively farmed? Yes/No

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Is this parcel actively farmed? Yes/No

Signature of Applicant \_\_\_\_\_

Signature of Owner  
(If other than applicant)

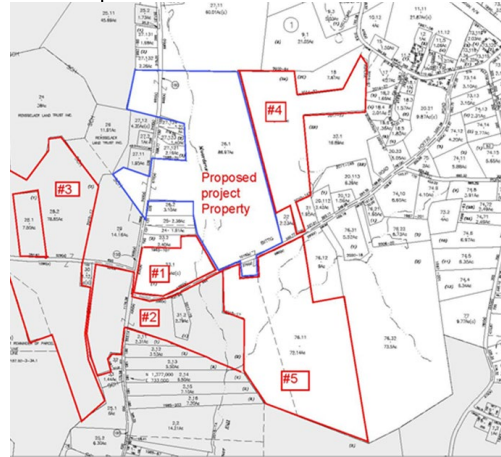
Reviewed by: \_\_\_\_\_

Signature of Municipal Official

Date \_\_\_\_\_

NOTE TO REFERRAL AGENCY: County Planning Board review is required. A copy of the Agricultural Data Statement must be submitted along with the referral to the County Planning Board.

<http://www.co.washington.ny.us>



For review board to evaluate potential impacts on nearby farm operations

Trigger: Subdivision, site plan, special use permit, use variance application within a State Agricultural District or within 500 ft. of a farm operation in a State Agricultural District

Include map showing project and farm operation(s)

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

# Farm Worker Housing

- Zoning must allow for farm worker housing within an agricultural district.
  - Town of Lysander v. Paul Haffner, Jr., et al. (2001 NY Int.112) Court of Appeals (Onondaga County)
- Individual manufactured homes affixed to a permanent foundation must be treated the same as site built single family homes
  - N.Y. Executive Law, Article 21-B, Title 2, § 616, § 617, effective November 20, 2015
- Municipalities may want to amend zoning or adopt a local law to address farm worker housing. Examples of local law provisions:
  - Show proof of continuing employment on the farm
  - Do not allow the creation of new lots

# “Barn” Event Facilities



May be protected as part of a farm operation if:

- Directly relate to sale/ promotion of products produced on farm (at least 51% on-farm produced livestock and crops including grain, hops, grapes/fruit/juice);
- Incidental and subordinate to retail sale of beverage/product on-site;
- Hosted by farm or farm customers (not outside, unrelated parties); and
- Feature beverage/product produced at the farm

# “Barn” Event Facilities without Ag District Protection

If barn is not in State Ag District or barn rental revenue exceeds that of food production, municipalities can restrict in zoning:

- Location
- Hours of operation
- Number of events per month
- Prohibit regular rentals of farm buildings for weddings



# Farm Breweries, Wineries Etc. in State Ag District

- State Alcoholic Beverage Control Laws define farm cidery, farm distillery, farm winery and farm brewery
- Although State Liquor Authority license may allow sale of alcoholic beverages not made from crops grown by farm, they are not part of a farm operation
- Production and sale not necessarily protected under AML Article 25AA § 305-a



# New York's Forests

- 61% of NYS is forested (more than any state in Northeast)
- Most is privately owned (farmers and non-corporate entities own largest share)
- Top 10 NYS manufacturing industry



# Right-to-Practice Forestry

- Goal is to prevent municipalities from overly restricting forestry activities
- Landowners can petition for a DEC review of local regulations



# Local Regulation of Timber Harvesting

Set standards for logging activities to:

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



# Land Use Regulations

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



# A Partnership to Review Impacts

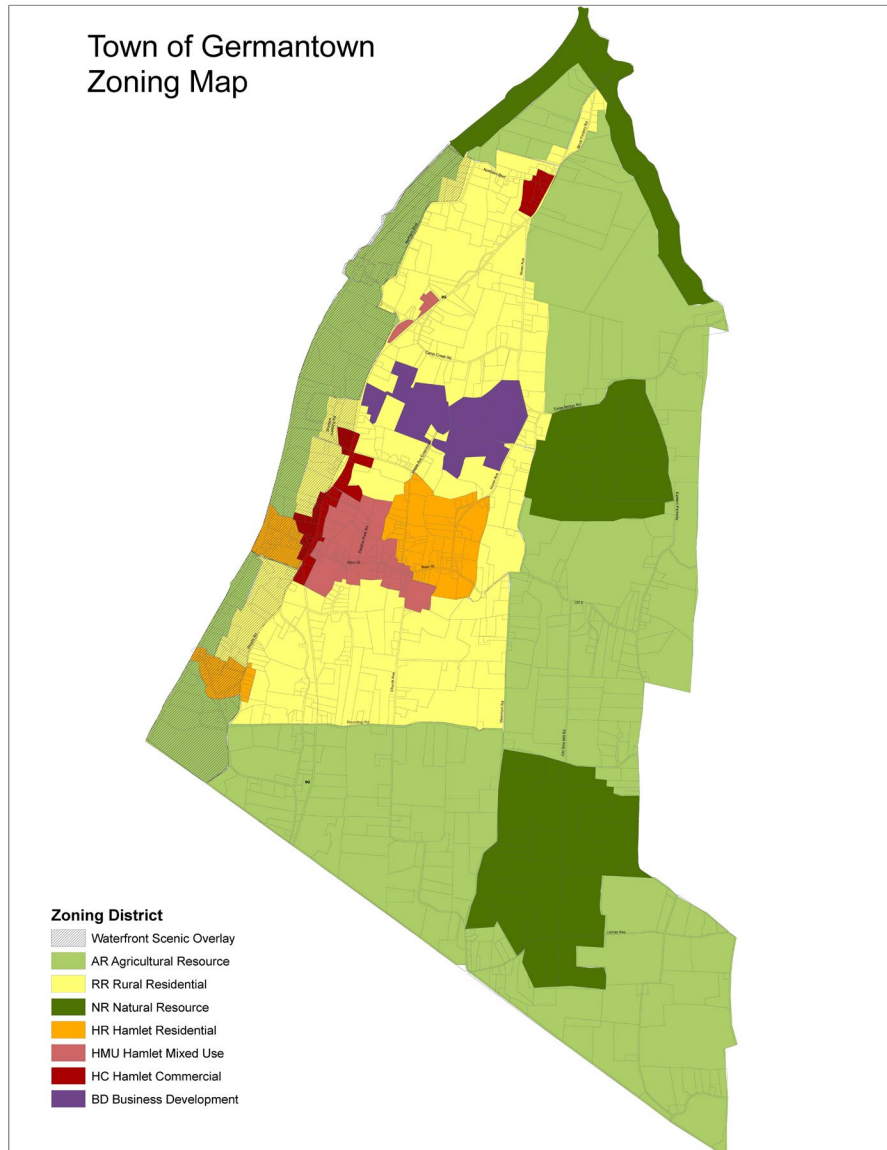
## Agriculture & Markets

- Farm operation?
- In an agricultural district?
- Zoning definitions
- Is activity permitted?
- Is variance needed?
- Cost and time, etc.

## Municipal Regulations

- Reasonable
- Public health & safety threatened
- Amendments needed
- Is an expedited review an option?

# Zoning



- Regulates:
  - Use of land
  - Density & intensity of land uses
  - Placement of structures
- May divide community into districts

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

# Ag-Friendly / Rural Zones

- Non-Exclusive Agricultural uses
  - Value-added ag tourism
  - Off-site farm Stands / markets
  - Wineries/distilleries/farm brews
  - Personal accessory ag / hobby farms
- Ag-compatible nonresidential uses
  - Slaughterhouses
  - Veterinarians
  - Cottage Industries – i.e. community kitchens
  - Garden Centers
  - Farm equipment repair and retail
- Low density residential



# Urban Agriculture – *Regulating to allow it*

“Urban” Ag. – Nonrural  
Urban, Villages, Hamlets  
Personal Ag. & Commercial

## STEPS

- 1. Audit the current code  
*Find lot sizes and use barriers*
- 2. Add definitions  
*Community garden, greenhouse, urban farm*
- 3. Map uses to districts  
*By right vs. site plan review vs special use permits*
- 4. Include use standards  
*Principal and accessory uses*

| Use                   | Recommended Standard                                   |
|-----------------------|--------------------------------------------------------|
| Community garden      | By right everywhere; cap size (e.g., 25,000 SF)        |
| Commercial farm       | Site plan approval with a management plan              |
| Indoor farming        | Allow in industrial and reused factory buildings       |
| Structures            | Cap size and height; allow on lots with no house       |
| Soil safety           | Soil test before in-ground growing; EPA practices      |
| Composting            | On-site material; volume cap; set back, odor control   |
| Hens, small livestock | Limits by lot size; no roosters; rear-yard coops       |
| Beekeeping            | Register hives; cap number; setbacks or flyway barrier |
| Sales, markets        | Farm stands with hour limits; temporary market tents   |

Examples: City of Troy Zoning §285-49 (adopted April 6, 2023) · City of Poughkeepsie Agriculture Standards

# Overlay Zoning

**Applies additional standards to a designated area, sometimes across underlying zoning districts, and used to protect:**

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



# Subdivision Review

- Lot sizes
  - Fragmentation
  - “Death by 1,000 cuts”
- Conflicts with agricultural uses
  - Farmland conversion
- Infrastructure costs
- Connectivity



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

# Cluster Development

**Modifies zoning to provide alternatives for the layout, configuration and design of lots in order to preserve open land**

- Requires specific authorization
- May designate specific zoning districts where allowed
- Does not allow more lots than prescribed by current zoning
- Additional lots may be incentivized for community benefits:
  - Ag lands, open space, recreation etc.



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

# Conservation Subdivision

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

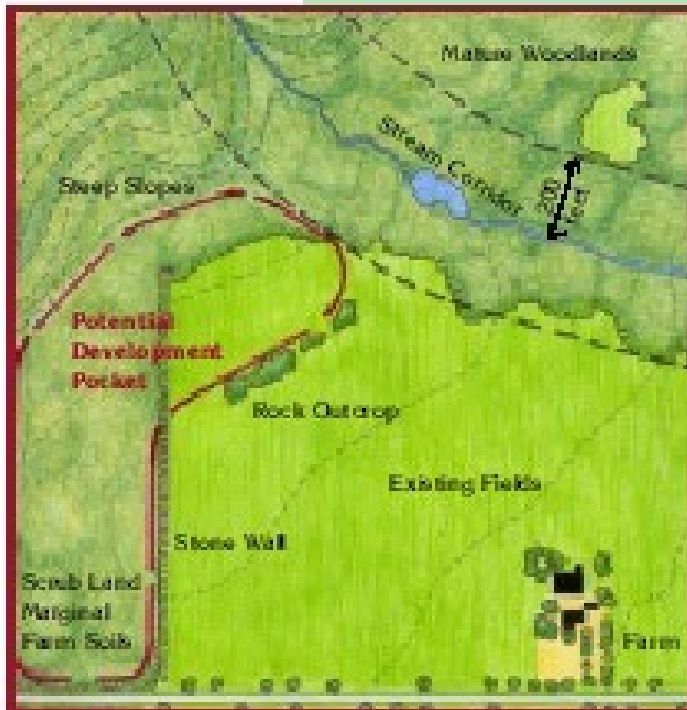


# Conservation Subdivision

## How to Create Conservation Subdivisions

### Step 1

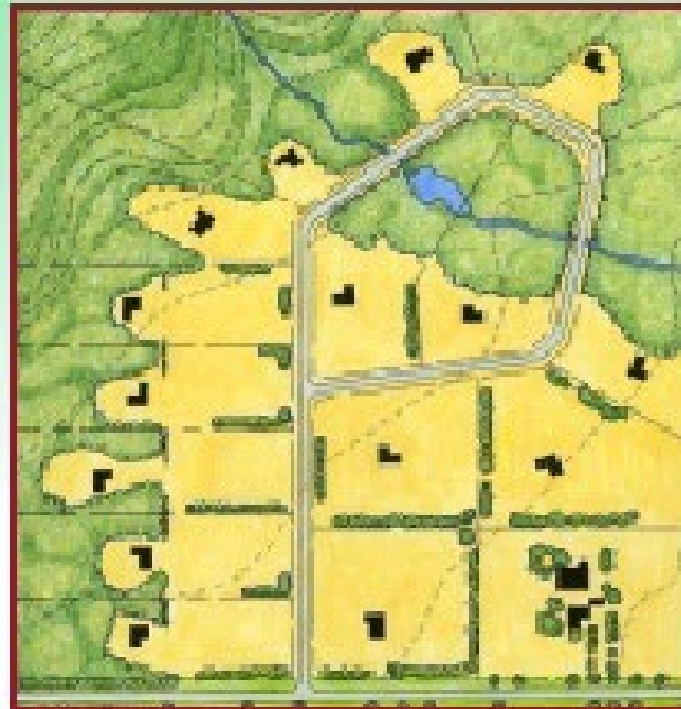
Require a map of the open space system for the parcel and surrounding area.



Locate Development Pocket

### Step 2

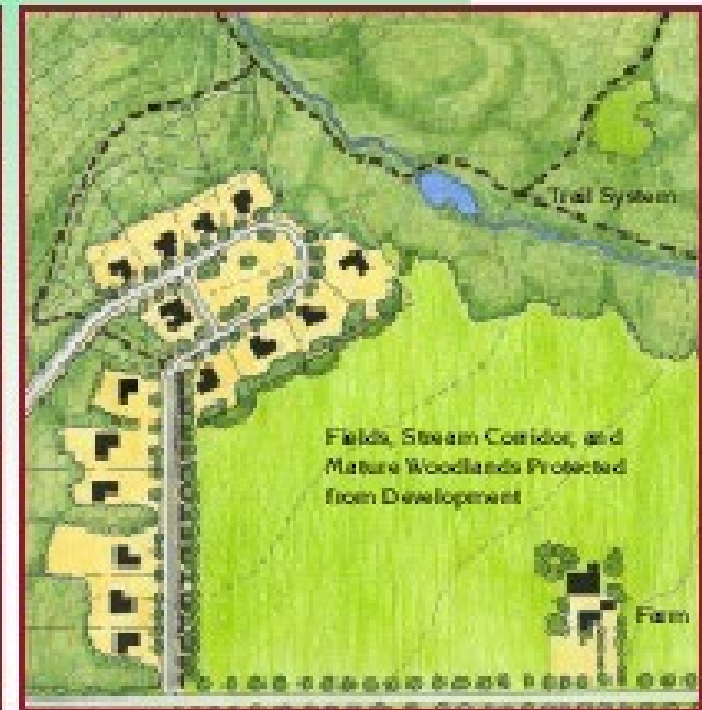
Conventional sketch layout determines maximum lot count under existing three-acre zoning.



Typical Superimposed Subdivision

### Step 3

The same number of houses can fit in to the landscape while preserving 80 percent of the open space.



Conservation Subdivision

# 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  
General City Law § 81-d

# Property Rights-Based Tools

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



# Land Acquisition

## Fee Simple

- Most complete set of rights with absolute title to land
- Often expensive
- Management/maintenance funds not included

## Easement

- Partial interest or rights
- Can do through “PDR”
- Land managed by owner, land trust, or municipality

# 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 and implement open space plan
- Provide technical assistance & information



# Conservation Easements

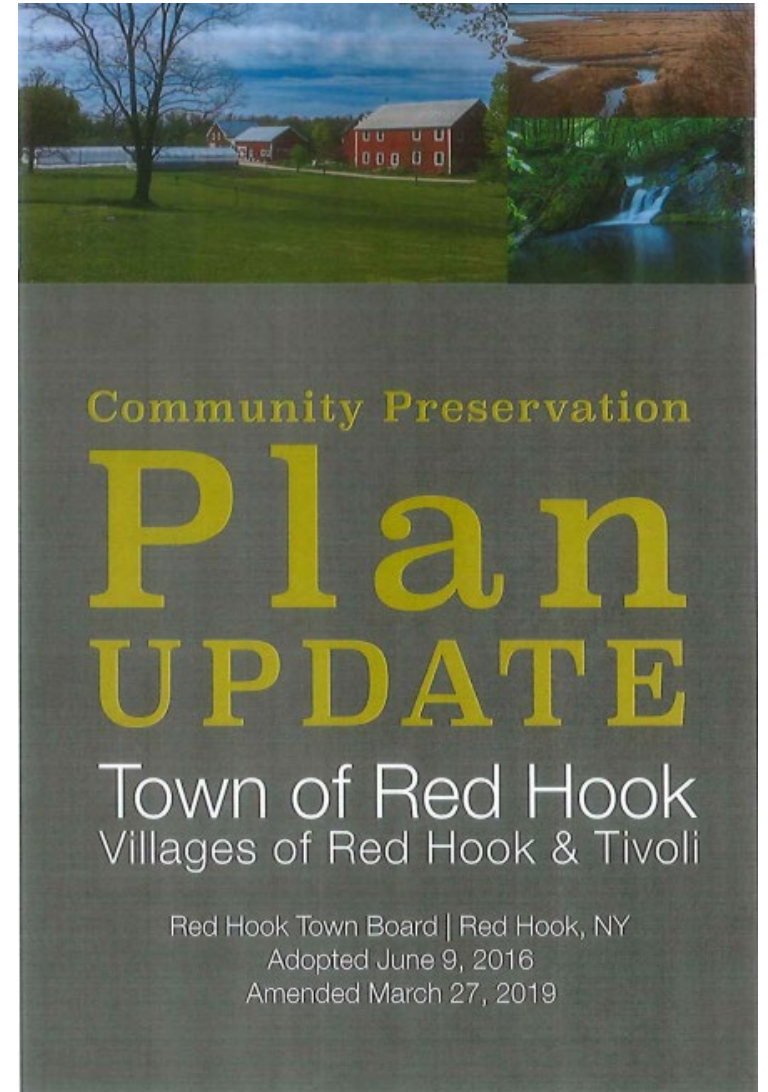
- Voluntary agreement restricting development in perpetuity
- Held by land trust, public agency or municipality
- Tax benefits for landowner
- ECL, Title 3, Article 49



Saratoga County Farm  
protected by a conservation  
easement

# Community Preservation Fund

- Community Preservation Funds (CPFs), through a locally enacted real estate transfer tax, are local sources of funding for land conservation.
- The Hudson Valley Community Preservation Act has defined the purpose of community preservation broadly.
- Applied to properties selling for more than the median in the county, the tax is set for not more than two percent of the sale price.
- Towns write a preservation plan, then use funds for parcels and projects that are consistent with, and identified in, the plan.



# Purchase of Development Rights



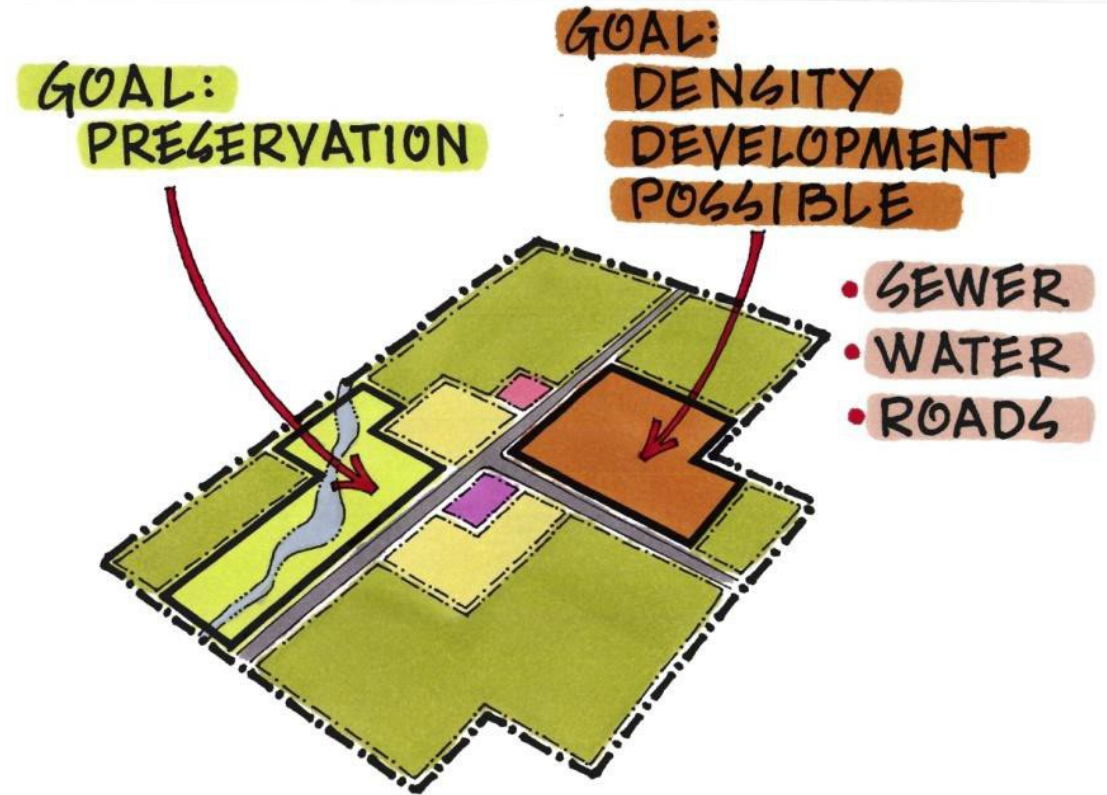
- Commonly used for farmland protection
- Development rights are voluntarily offered for sale by the owner
- Other rights are retained by the owner

# PDR Local Funding Mechanisms

- **Annual appropriations:** part of budgetary process, not subject to referendum
- **Municipal bonds:** issued by governing board, subject to permissive referendum, or measure is placed on ballot and subject to direct approval or rejection by local electorate
- **Real Estate Transfer Tax Program:** needs referendum, and act of Legislature. Money may be used to purchase land or development rights

# Transfer of Development Rights

- Allows increased development in areas designated by the municipality for development, in return for the preservation of places the 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

# Sewer & Water



- Lateral restrictions
- Direct away from threatened lands & resources
  - Wetlands, flood zones, water resources
  - Farmland, agricultural districts, open space

# Agricultural Infrastructure

Farming has business needs like any economic sector:

- Affordable electric and fuel
- On farm solar / wind
- Sound roads & bridges
- Broadband
- Drainage facilities
- Signage



# Solar: Utility Scale Solar and Farmland

- Uncontroversial when small scale
- Conflicts when proposed for prime farmland
- Plan for solar on marginal land



# Major Renewable Energy Projects

- Projects under 25 MW: Local review
- New Projects 25 MW or more: ORES
- Projects permitted under Article 10 or 94-c will proceed under those permits
- Unresolved Article 10 or 94-c projects will transfer to PSL Article VIII under ORES

# Regulating Large scale or primary use

- Special Use Permit
- Site Plan Review
- Adverse impacts
- Lot size
- Setbacks
- Screening
- Battery storage
- Safety
- Decommissioning



# Agricultural & environmental areas

Prohibit or avoid installation:

- Farmland, prime or unique soils
- Wetlands
- Critical Environmental Areas

NYS Department of Agriculture & Markets:

“Guidelines for Agricultural Mitigation for Solar Energy Projects”

[https://agriculture.ny.gov/system/files/documents/2019/10/solar\\_energy\\_guidelines.pdf](https://agriculture.ny.gov/system/files/documents/2019/10/solar_energy_guidelines.pdf)

NYSERDA: “Clean Energy and Your Comprehensive Plan”

**AGRICULTURE  
VIABILITY: ECONOMIC  
DEVELOPMENT**

# Agriculture's Importance to NYS

- NYS farms grossed \$8.5 billion in 2022
- About 2% of NYS land in farming
- NYS ranks among top three states nationwide for beets, apples, maple syrup, cabbage, and milk
  - Third largest dairy state
  - Significant multiplier effect—hired farm labor increases 2012-2022 outpaced other industries



# Urban Agriculture

*Growing food where people live — with far weaker land protections than rural farms.*

## New York State

- 3,000+ Registered or permitted gardens
- \$4.3M State urban farm & garden grants, 108 awards since 2023
- 550+ NYC GreenThumb community gardens
- Ag tax assessment needs 7 acres/\$10K or \$50K in sales — most urban plots don't qualify
- Key barriers: land tenure, soil contamination, water access and capital

## Dutchess County

- 620 Farms on 99,652 acres (2022)
- 6,000+ Acres of farmland & open space protected (County PMG)
- \$100K 2025 state grants to 2 local farms
- Poughkeepsie Farm Project: ~12-acre city farm on Vassar land; CSA with SNAP discounts
- Common Ground Farm: 6.5 leased acres at Stony Kill serving Beacon-area food pantries
- City of Poughkeepsie's 2024 zoning code now addresses community gardens

# Agritourism

*Farm visits bring income that keeps land in farming — when local zoning lets them happen.*

## New York State

- 947 Farms with agritourism income (2022)
- \$55.5M Agritourism income, triple the 2007 level
- 30% Cap on event fees vs. farm sales for state zoning protection
- 2017 Agricultural Tourism Act limits liability for farms that post risk warnings
- Ag district law protects u-pick, mazes and hayrides that sell farm products

## Dutchess County

- 41 Farms with agritourism income (2022), up from 30
- \$2.2M Agritourism income, up from \$302K in 2017
- \$811M County visitor spending, all tourism (2024)
- Easement-protected Greig Farm and Mead Orchards (Red Hook) run u-pick
- Dutchess County Fair (since 1842) draws ~500,000 visitors a year to Rhinebeck
- 2021 audit: 72% of towns have farm zoning barriers; 11 allow farm stands by right

# NYS Dept. of Ag and Markets Resources

- Agriculture protection planning grants - <https://agriculture.ny.gov/land-and-water/farmland-protection-planning-grants-program>
  - Funding to municipalities up to \$25,000 or 75% for agricultural protection plans or elements of municipal comprehensive plans
  - Funding to counties up to \$50,000 or 50% for agriculture and farmland protection plans
- Farmland Implementation Grants - <https://agriculture.ny.gov/land-and-water/farmland-protection-implementation-grants-program>
  - *Agricultural conservation easement program*
- Direct Farm Marketing: <https://agriculture.ny.gov/land-and-water/guideline-review-local-laws-affecting-direct-farm-marketing-activities>

# Other Funding Resources

- NYS DOS Smart Growth Comprehensive Planning Grants
- NYS DOS Local Waterfront Revitalization Program
- NYS DEC's Climate Smart Communities
- **NYS Consolidated Funding Application:**  
<https://apps.cio.ny.gov/apps/cfa/>
  - Open until July 31, 2026 at 4:00 PM

# Conclusion

1. Agriculture defines rural communities
2. Planning and land regulation can help preserve that rural character
3. The best means of ag protection are successful farms
4. Ag is hugely important industry in New York state
5. Preventing conversion of ag land remains a challenge





**Department of State**  
Local Government

## **Division of Local Government Services**

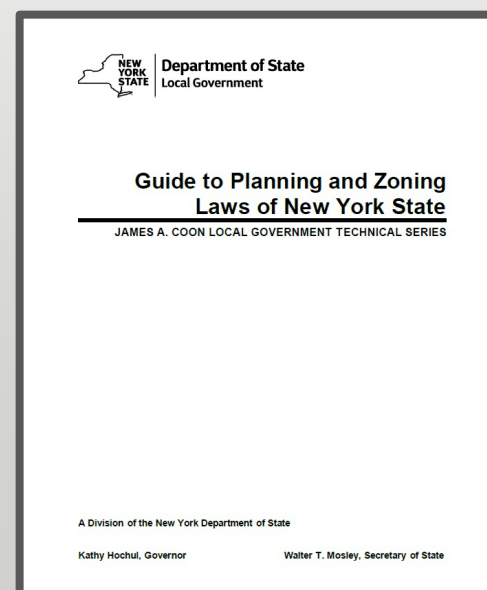
**(518) 473-3355**

**localgov@dos.ny.gov**

**https://dos.ny.gov/training-  
assistance**

## **Publications:**

**<https://dos.ny.gov/publications>**





# Department of State

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