

Right To Farm?

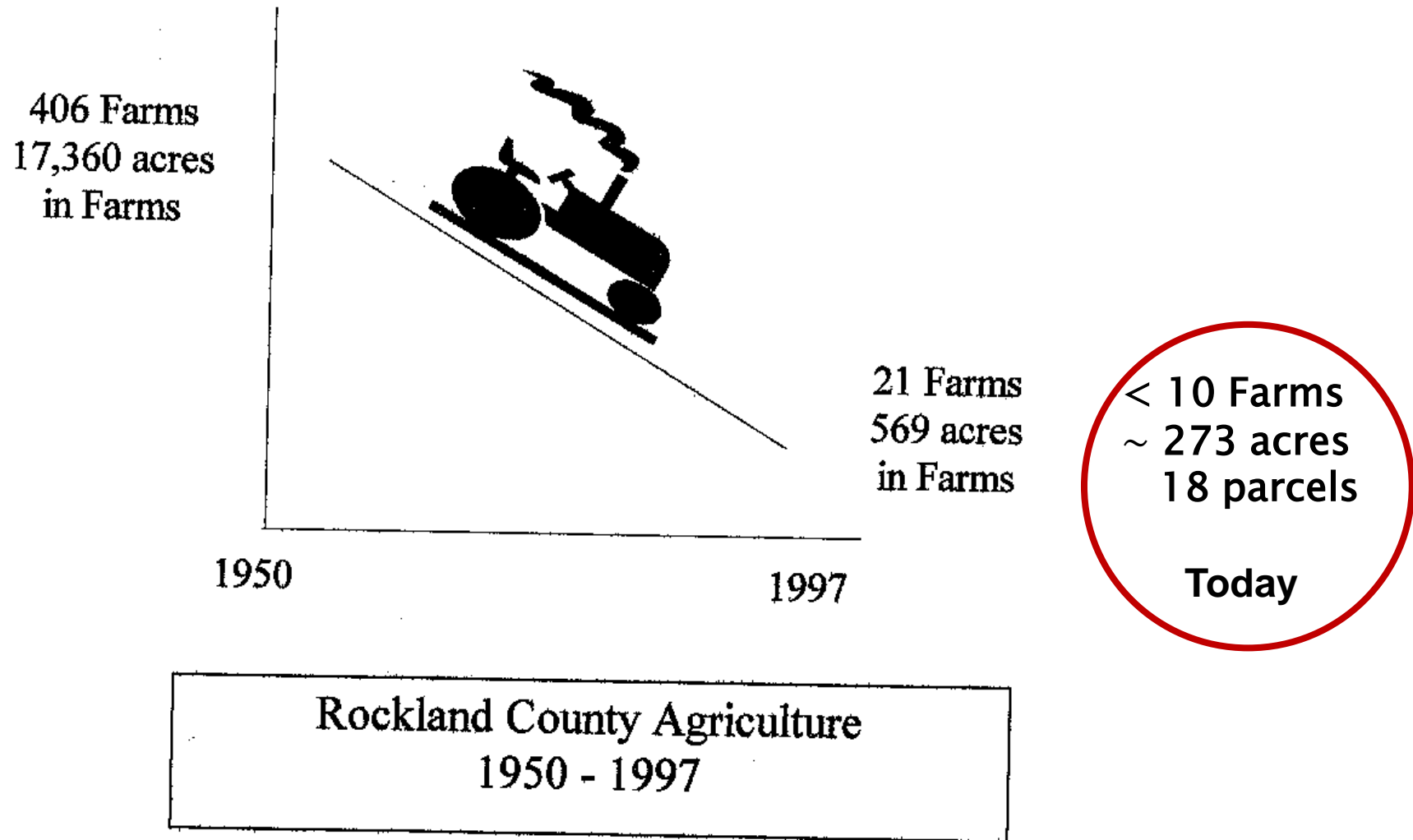
How can municipalities accommodate agriculture?

Jeff Kehoe 518-457-4626
jeffrey.kehoe@agriculture.ny.gov
Division of Land and Water Resources:
Agriculture Protection Unit



Department of
Agriculture and Markets

“Agriculture: If you ignore it, it will go away.”



Agricultural Districts Law

AML 25AA

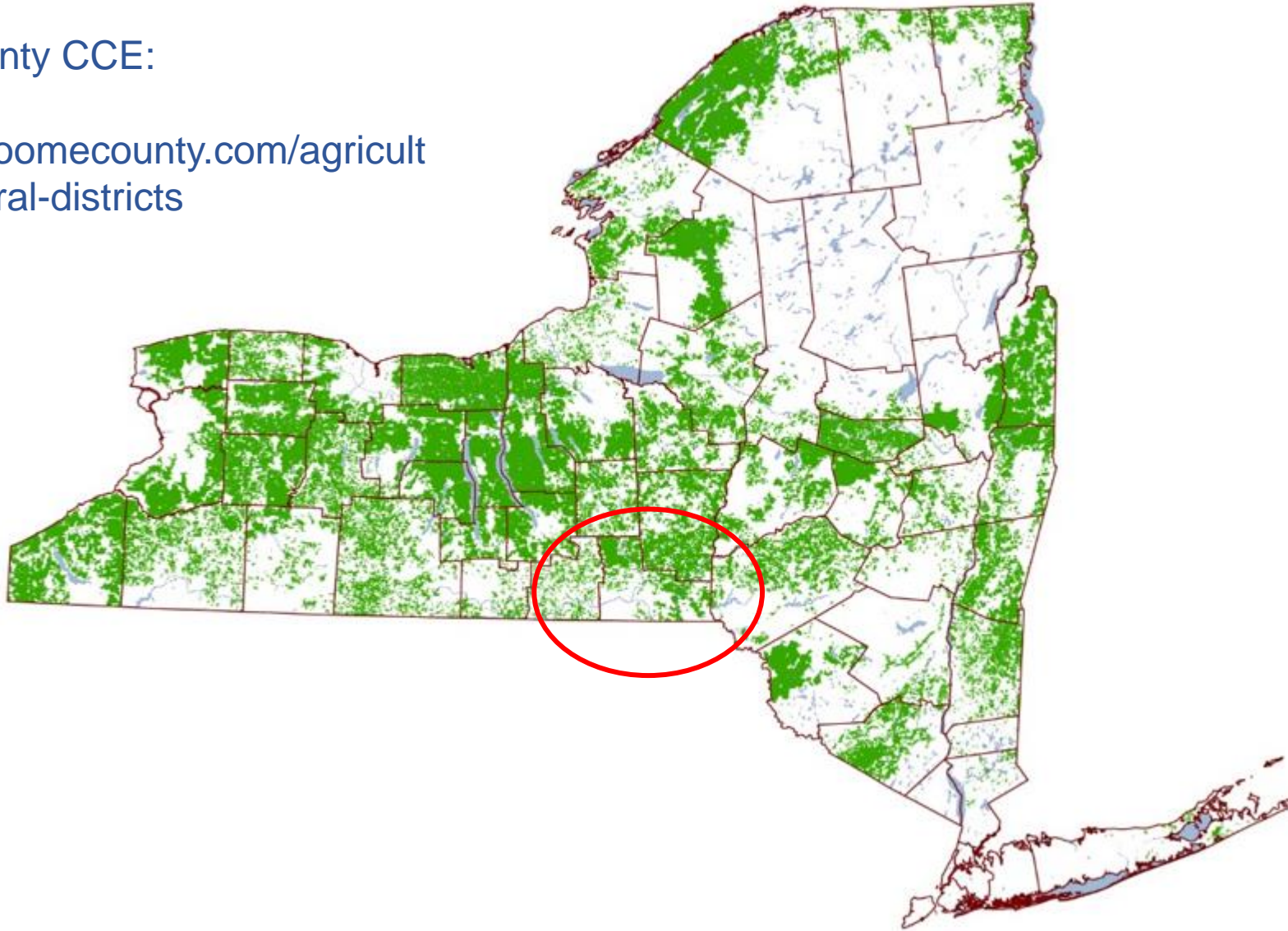
“It is the purpose of this article to provide a **locally-initiated mechanism** for the protection and enhancement of New York state's agricultural land as a viable segment of the local and state economies and as an economic and environmental resource of major importance.

“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.”

Agricultural Districts

Broome County CCE:

<https://ccebroomecounty.com/agriculture/agricultural-districts>




2021 Statewide Totals:

9,162,250 Acres

26,246 Farms

154 Districts

53 Counties

Download 

Shapefile

PDF

KML

Export Formats

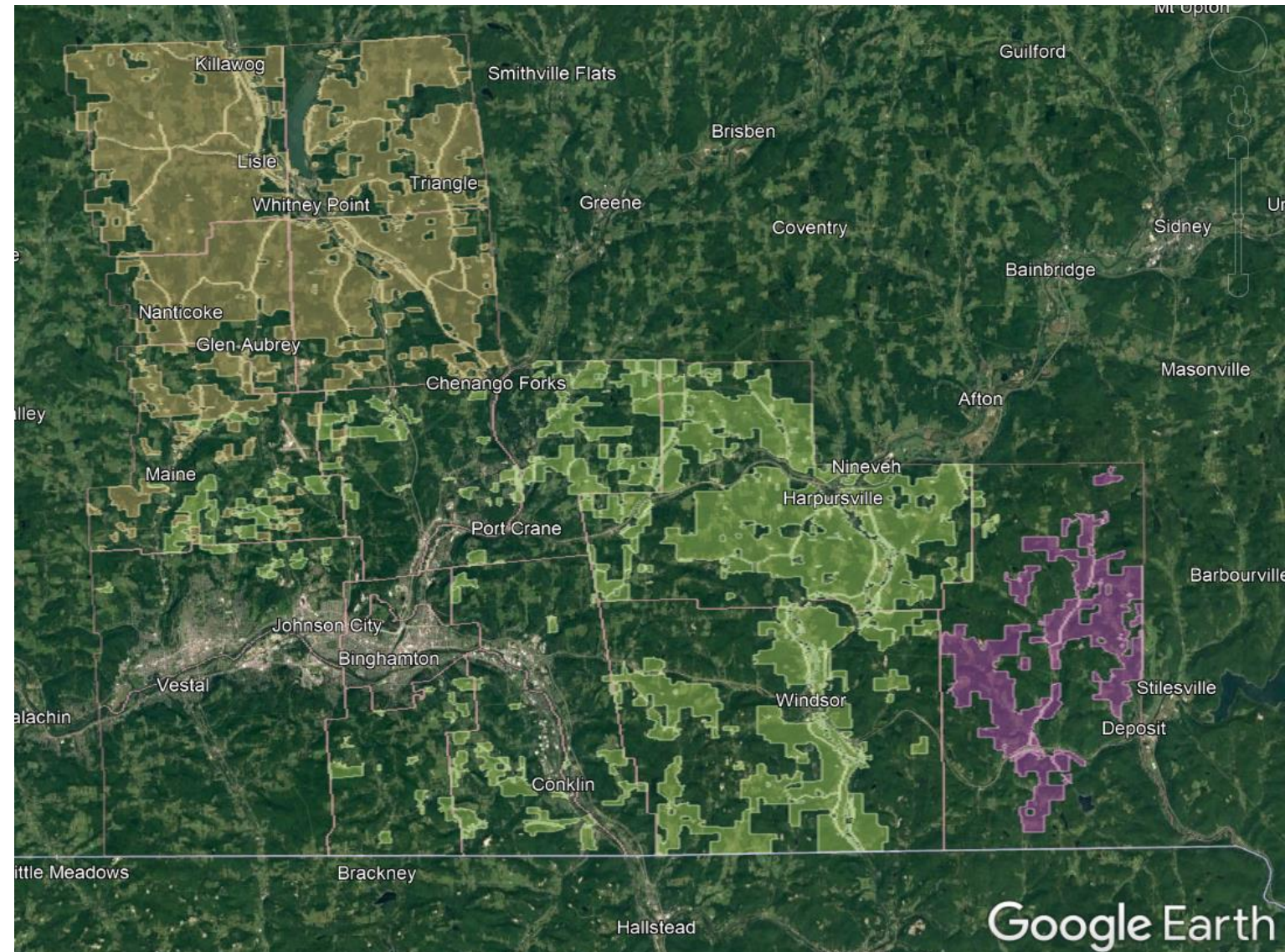
KMZ (generated) Export

GeoJSON (generated) Export

Totals:
155,974 Acres
333 Farms

2024 Open Enrollment
December 1- 31

Next 8-Year Review
January 11, 2027



Agricultural Land Use Controls

Local Ag Zoning- Home Rule Authority- towns control land uses through zoning, local laws, definitions, etc..

Local Right to Farm Laws- typically reference AML25AA

County Right to Farm Laws- may provide for mediation panel

NYS Agricultural Districts Law (AML25AA)- principal right to farm law

Ag and Farmland Protection Board: Locally–Led, Voluntary, Collaborative

Ag District Protections

305-a Review of Unreasonable Restrictions

Notice of Intent – Protects farms from publicly funded infrastructure projects/ Eminent Domain

Sound Ag Practice Opinion = Safe, Legal and commonly accepted

Agricultural in Nature Opinion = non-binding acknowledgement

Ag Disclosure Notice- reminder to new buyers about working landscapes

Ag Data Statement- to address adverse impacts to ag

Ag Regulations: CAFO(DEC), Food Safety, Commercial Kitchens, Nursery License (AGM), Industrial Hemp License, Office of Cannabis Mgmt (OCM), NYS Liquor Authority (SLA) Craft Beverage License, (DEC) Compost

What Are Right To Farm Laws?

RTFL's...3 Different Ones

- 1) Agriculture Districts Law §25AA
 - AML 25AA provisions generally
- 2) County Right To Farm Laws
 - public policy supportive of agriculture
- 3) Local Right To Farm Laws
 - Typically, a public policy supportive of agriculture
 - Ag Mediation Panel
 - Acknowledge AML 25AA
 - Require a statement on building permit/plat
 - Buffers to protect active farms?



Town of Rochester, NY
§75-3 Right to Undertake Agricultural Practices

Ag. Dist. Effect on Local Zoning and Planning Laws

When do Ag District protections from local laws or private nuisance complaints apply?

**Farmers must comply with all local, state and federal laws and regulations.*

Municipalities are responsible for the regulation of land uses through **comprehensive and/or master plans, local zoning, local laws, ordinances, rules, or regulations.**

“Local governments, when exercising these powers...shall not unreasonably restrict or regulate farm operations within agricultural districts...*unless it can be shown that the public health or safety is threatened.” -AML 25AA 305-a

Generic Review Procedures for Unreasonable Local Laws

1) Is Parcel Enrolled in Ag District?

<https://cugir.library.cornell.edu/catalog/cugir-007950>

2) Is it Farm Operation? [Guideline for Farm Operations](#)

3) Have Local Administrative Remedies Been Exhausted by Landowner?

RTFL, Ag Zoning, Regulations, Special Use Permit, Area/Use Variances?

Resources:

***Guidelines for Review of Local Zoning and Planning Laws**

<https://agriculture.ny.gov/system/files/documents/2020/07/305-azoningguidelines.pdf>

Kate Tylutki, Agricultural Protection Unit: Kathleen.Tylutki@agriculture.ny.gov

Agricultural Production Practices

Protected

-Bees, roosters, bird cannons, dust, extended hours of operation, pesticides, manure, odors, vibrations, glare, sales related traffic, crop dusting, equine psychotherapy, open burning, pumpkin catapult, corn maze, farm stand, retail point of sale, building height, etc.....

Not protected

-Goat Yoga, Weddings, Petting Zoos, Air BNB, Glamping, Hunting Leases, Concerts ...? Side yard setbacks* and practices that threaten public health, safety, and welfare

Other ideas??

Emerging Opportunities in NYS Agriculture

CLCPA: [Climate Leadership and Community Protection Act](#)

-advance climate goals w/ Agriculture & Forestry practices(cover crops, BMP's, carbon research)
NYSERDA/SWCDs/ Climate Resilient Farming, AEM

Hemp v. Cannabis [Hemp Licensing Program](#) (NYSAGM) [Office of Cannabis Management](#) (NYSDOH)

Solar: ORES/ SEQRA/ NYSERDA

Agritourism: commercial tourism activities conducted in a working landscape

Craft Beverage Industry: Farm Brewery/Winery/Distillery ([SLA](#))

Food Systems Planning

Commercial Urban Agriculture v. Community Gardens = ([New York State 2023 Urban Farms and Community Gardens Grant Program RFP# 0280](#)); [Municipal Ag & Farmland Protection Planning Grant](#)

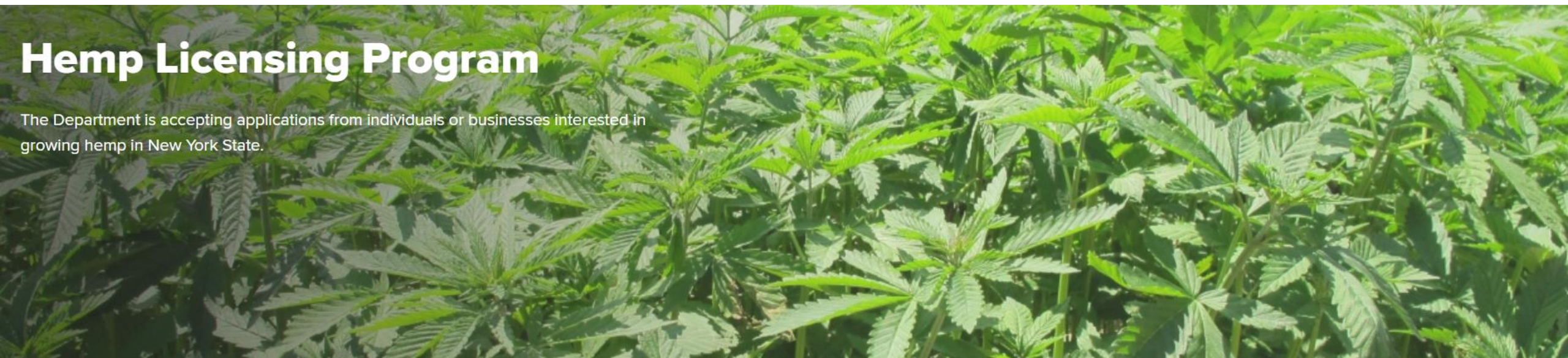
Continued Support for Women, members of the BIPOC community, and Young, Beginning, and Veteran Farmers

Diversity and Racial Equity Report: https://agriculture.ny.gov/system/files/documents/2021/08/diversityracialequityreport_1.pdf

Current Funding Opportunities: <https://agriculture.ny.gov/funding-opportunities>

Cannabis v. Hemp

- Office of Cannabis Management (OCM/DOH): <https://cannabis.ny.gov/>
 - Highly regulated for commercial and residential growers
- Industrial Hemp Program(Ag& Mkts): <https://agriculture.ny.gov/hemp>
 - Hemp is considered crop (AML25AA Section 301)



Hemp Licensing Program

The Department is accepting applications from individuals or businesses interested in growing hemp in New York State.

Production vs. Processing vs. Manufacturing

- Ag District protections cover most elements of ***on-farm*** production, processing, packaging and “manufacturing”.
- If you **do not produce** the crop or livestock product, your business is **not eligible** for AG District protections
- Local laws regulate off-farm processing
- If not a Farm Operation... even if in AG Distr., the business is not eligible

Simple Local Actions to Protect Agriculture

- ✓ Update Agriculture Related Definitions
- ✓ Adopt a Right to Farm Law (*local conflict mediation*)
- ✓ Farm Friendly Agricultural Zoning (*limit growth inducing land uses*)
- ✓ Include Agriculture in Comp Plan!
- ✓ Ag Data Statement
- ✓ Ag Disclosure Notice
- ✓ Apply for an Ag Protection Plan!



Ag Value Assessment- *not related to Ag Districts...at all

Land tax incentive for production Ag..... Not a protection

- 1) 7 acres + \$10,000/yr or >7ac/ \$50,000/ yr
- 2) SWCD to produce a Soil Group Worksheet
- 3) Assessor makes determination using Tax and Finance Guidance

Dispute?

- 1) If Landowner is unsatisfied? Local Board of Assessment Review
- 2) Landowner must take it to the Courts

QUESTIONS?

Notice of Intent Review

An NOI Review is triggered when public funds are advanced to pay for municipal infrastructure projects including:

- Water/ Sewer creation/ extension
- Purchases of land
- or Solar/wind arrays

Can result in a waiver, recommendations or mitigation.

- "Lateral Restrictions"- help offset development pressure and taxes on farmlands in production
- Farmland Preservation Mitigation Fund



Ag Disclosure Notice

Sellers of land enrolled in an agricultural district are required to disclose to new buyers that they live in a working landscape.

- to be signed by buyer and recorded per Tax & Finance
- often found on real estate contracts

Town of Rochester, NY:

§75-4 Notice to prospective neighbors

*"The following notice **shall** be included in **building permits and on plats of subdivisions, site plans, and special permits** submitted for approval pursuant to Town Law..."*

"This property may border a farm, as defined in Chapter [75](#) of the Town of Rochester Code. Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, smoke, noise and vibrations and which may involve insecticides, herbicides, pesticides, etc."



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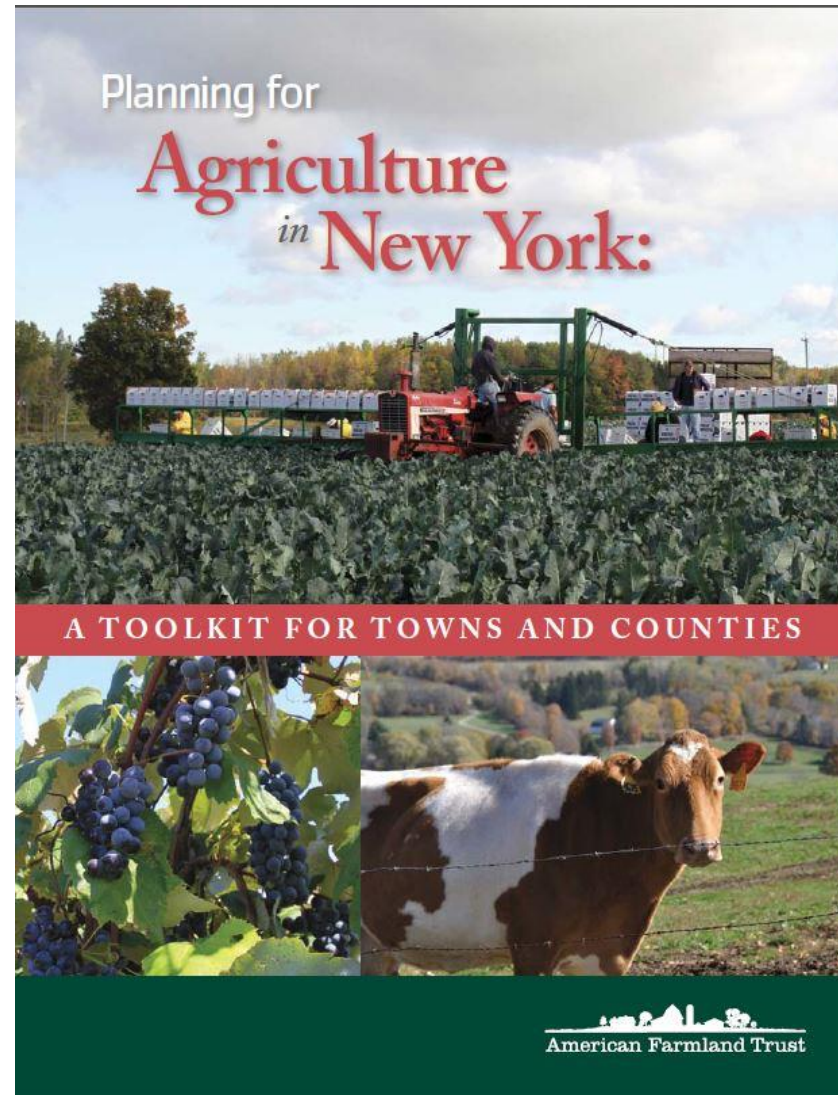
Ag Data Statement

When certain proposals are submitted within 500' of an Ag District boundary, municipalities *may* require the developer provide an Ag Data Statement to address adverse impacts to Ag. This Statement is then sent to County for review and coordination.

- Any application requiring:
 - Special use permit
 - Site plan approval
 - Use variance or
 - Subdivision approval
- Which requires approval by:
- A Planning Board
 - Zoning Board of Appeals
 - Town Board or
 - Village Board of Trustees



Planning For Agriculture



PDF Available:
www.farmlandinfo.org

Ag & Farmland Protection Planning Grants

All Towns, Cities & Villages eligible!

- Up to **\$25K** per Town

\$1,700 Cash Match

\$6,700 In-Kind

- **Common Project Partners**

AFPB, CCE, SWCD, NRCS, County Planning, Real Property, Land Trusts, Ag. Colleges, beginning and veteran farmers

**TOWN OF
DRYDEN NEW YORK**

**AGRICULTURE AND
FARMLAND PROTECTION PLAN**

ADOPTED MARCH 2018



Key Elements of an Ag Protection Plan

Vision for Agriculture: Local perspective to help frame land use/ zoning

SWOT Analysis: Strength, Weakness, Opportunities, Threats
(derived from robust public participation process)

Farm Friendly Analysis: Do your laws accommodate agricultural pursuits?

Priority Farmlands Map: Prime soils, lands in production, Ag Assessed parcels, Ag Districts, proximity analysis (infrastructure/buffers/conserved lands)

Prioritized Recommendations: Ag Economic Development/ Ag Protection

Resources

NY Farm Net:

<https://www.nyfarmnet.org/>

NY Ag. Mediation Program:

www.NYSAMP.com

305-a Agricultural Protections:

<https://agriculture.ny.gov/land-and-water/section-305-review-restrictive-laws>

Agricultural Districts:

<https://agriculture.ny.gov/land-and-water/about-agricultural-districts>

Ag District Mapping by County:

https://cugir.library.cornell.edu/?f%5Bcugir_category_sm%5D%5B%5D=agriculture

Funding Opportunities:

<https://agriculture.ny.gov/funding-opportunities>

Planning for Agriculture: <https://farmlandinfo.org/publications/planning-for-agriculture-in-new-york-a-toolkit-for-towns-and-counties/>

Resources

(Supporting Departments)

Office of Cannabis Management

<https://cannabis.ny.gov/>

Agricultural Value Assessment Program, Department of Taxation and Finance

<https://www.tax.ny.gov/research/property/assess/valuation/agindex.htm>

T&F Customer Service Liaisons: <https://www.tax.ny.gov/research/property/regional/crmlist.htm>

Local Government Services, Department of State

<https://www.dos.ny.gov/lg/>

Building Standards and Codes, Department of State

<https://www.dos.ny.gov/DCEA/>

Farm Brewery/ Cidery/ Wineries etc. State Liquor Authority

<https://sla.ny.gov/>

Industrial Scale Solar Arrays: NYS Solar Guidebook

<https://www.nyserda.ny.gov/All%20Programs/Programs/Clean%20Energy%20Siting/Solar%20Guidebook>

NYS Wood Products Development Council

<https://woodproducts.ny.gov/>

Thank You!

Jeff Kehoe

(518) 457-4626

Farmland Protection Specialist

jeffrey.kehoe@agriculture.ny.gov

Division of Land and Water Resources

10B Airline Drive, Albany, NY 12235

<http://www.agriculture.ny.gov>



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