

Town of Amherst



Farmland Protection & Agricultural Development Plan

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And the Citizens of the Town of Amherst

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**EXECUTIVE
SUMMARY**



PHOTO COURTESY OF BADDING BROS FARM MARKET

Agriculture is important to the Town of Amherst, both as a means of protecting community character and as an economic activity. This Farmland Protection and Agricultural Development Plan, prepared with a grant from the New York State Department of Agriculture and Markets, identifies ways the Town can protect farmland and enhance agriculture in the Town. This plan builds upon the Town's Bicentennial Comprehensive Plan, which prioritizes agricultural and open space protection, particularly in North Amherst, and demonstrates the Town's support of agriculture and farming in the community.

The Town of Amherst Farmland Protection and Agricultural Development Plan has a dual focus on agricultural protection and agricultural economic development. The Farmland Protection elements in the plan identify actions to protect important agricultural lands, while the Agricultural Development section explores opportunities for innovative agricultural and farming technologies and activities in the community.

Vision for Farming in Amherst

The Town's vision for agriculture and farming is to protect and enhance the validity of agriculture and the rural character of the community, particularly in North Amherst, as well as to promote the expansion of agricultural activities in Amherst. The Plan sets forth the following five goals:

1.

Protect Agricultural Lands and resources, as well as undeveloped lands with prime soils, that are critical to the long-term success, viability, and resiliency of agriculture in the Town.

The best way to keep agricultural practices in operation and strengthen these activities is to protect important lands and resources and prevent encroachment of incompatible land uses. Protecting existing farming and agricultural activities contributes to the preservation of open space and maintains the rural community character and heritage of the area. Protecting and promoting all aspects of agricultural activity in the Town is important to the local economy and long-term future of farming in Amherst.

2.

Protect key areas of viable farmland and important soils within the Town that are suitable for permanent protection using Agricultural Conservation Easements

In some cases, the most effective way to protect prime soils is the purchase of conservation easements. It is a goal to purchase development rights of lands with prime agricultural soils in priority locations.

3.

Promote economic innovation and sustainability in agricultural production and strengthen the Town's capacity to respond to economic and climate trends and changes.

The economic base of farming in Amherst and the viability of existing businesses should be enhanced and expanded because a strong base is good for farmers, the Town, and the region, as well as for the long-term success of agriculture. The diversification of farming and agricultural practices, and the exploration of new markets, such as hemp, can strengthen the agricultural economy and help to ensure a greater ability to respond to price or market volatility, climate change and other potential impacts.

4.

Leverage the Town's natural resources and agricultural assets to establish an agri-tourism initiative, encourage support for agricultural activities, and provide ancillary means of income for farm operators and agricultural entrepreneurs.

Utilizing existing assets is essential for strengthening and increasing public awareness and an understanding of how agriculture positively impacts the community, as well as for achieving public support for the continuance of farming activities. Agri-tourism activities can help keep farming viable and increases the public's awareness of and appreciation for agriculture in the community. The Town has the potential to rebuild a successful and diverse agricultural industry in this manner.

5.

Promote the link between farms and food and agriculture and secondary income to increase awareness of farming by the non-farm community, grow the industry, and help ensure the long-term sustainability of farming activities in Amherst

Keeping farming and agriculture prosperous in the Town of Amherst requires a concerted effort to increase awareness of the activities occurring in the community and promote growth of the industry, whether such operations are larger commercial efforts or small, non-commercial endeavors. Farming in Amherst has been going through a transition, with some larger operations still in business, some existing businesses diversifying their practices, new farmers looking to operate in the Town, and growth of smaller activities (hobby farming) and enterprises.

All of this demonstrates change to the industry in the Town, as well as a need to ensure community support and education. It is important that local farmers of all experience levels understand their craft and are aware of the resources available to help them improve their farming practices.



Agriculture is important to the Town of Amherst, both as a means of protecting community character and as an economic activity.

PHOTO COURTESY OF BADDING BROS FARM MARKET

Recommended Actions

A focus of this Plan is on preserving the rural and agricultural nature of the northern portion of the Town. This is where most of the Town's remaining agricultural lands are concentrated, and where public sanitary sewer service does not exist, which has helped to maintain the rural nature of the area. However, the Town acknowledges that creative, entrepreneurial, and small-scale agriculture and agriculturally related activities are occurring throughout the Town. In addition, this Plan recognizes that public support in the form of conservation easements is an important tool the Town can use to protect and preserve prime soils and agricultural lands.

The Plan outlines a range of actions the Town can undertake in support of farming and agriculture. The following list includes some of the actions that will strengthen agriculture in the Town, organized into several categories:

Town Actions:

- Adopt a Right to Farm law to demonstrate support for farming activities in the Town.
- Establish a dedicated Agricultural and Farming Advisory Committee to oversee disputes and promote protection activities.
- Promote the Erie County Agricultural District program and encourage participation.

Zoning:

- Apply the Rural Resident (R-R) and Agriculture (A-G) zoning classifications in appropriate locations, starting with lands currently protected under conservation easements.
- Revise the list of permitted and accessory uses in the A-G district, with a focus on increasing the list of permitted commercial agricultural uses in support of innovation.
- Evaluate provisions regulating smaller farms and hobby farms, as well as non-commercial agricultural uses.
- Review and clarify the provisions for the keeping of animals, to provide greater consistency, protection while enabling flexibility in appropriate locations.



PHOTO COURTESY OF BEN BROOK FARM

- Review and update the definitions section in regard to agricultural activities, including definitions for hobby farming, farm structures, animal husbandry, and other activities of this nature.
- Evaluate regulations governing small farm stand operations and local farmers markets to support small farms and expand availability of fresh produce.
- Update solar regulations to clarify commercial vs. residential solar uses, and ensure solar is listed as an allowed use in appropriate districts.
- Revise zoning regulations to allow/encourage co-location of complementary agricultural uses, such as grazing, apiaries and pollinator species on solar installations.

Information and Outreach

- Provide a centralized location for information about available resources offered through programs such as the Cornell Cooperative Extension, USDA, the Northeast Organic Farming Association, and others.
- Actively reach out to the farming community to promote programs on business planning, financial management, etc. to help new farmers build their business.
- Establish agriculture-specific business support programs and a 'one-stop' centralized clearinghouse of available resources, tax relief programs, etc. in support of agricultural economic development.
- Provide information about the Erie County Soil and Water Conservation District Climate Resiliency Farming Program and encourage participation.
- Promote youth interest in agriculture through school curriculums, local 4H activity.



PHOTOS COURTESY OF DONALD SPOTH FARM AND GREENHOUSE

Protection Program Options

- Continue to work with the Western New York Land Conservancy and others to purchase development rights on key parcels identified for protection.

Agri-tourism Initiatives

- Support an “Eat Local” campaign.
- Promote agri-tourism opportunities, such as the “Erie Grown” Passport.
- Continue working with the Buffalo Niagara Heritage Village as it launches new programs.
- Connect agriculture and tourism businesses with business support resources on an equal footing with technology or manufacturing.
- Promote sales of farm products to local school districts, hospitals and other institutions through researching bid opportunities and bundling smaller farms together to handle needed volumes.
- Ensure local farmers markets are included on the New York State Farmers’ Markets Federation listing.
- Promote the continuation of Community Supported Agriculture cooperatives in the Town.

Agricultural Diversity and Innovation

- Commission an industry study of hemp and cannabidiol products that identifies specific resources, gaps and opportunities including physical space, equipment, workforce and entrepreneurship.
- Facilitate relationships between the agricultural community and potential markets on the part of pharmaceutical, medical and dental uses.
- Identify and secure physical space, such as underutilized community kitchens and develop a management plan to allow cooperative use of these resources.

Moving Forward

The Plan provides greater detail on how to implement the recommendations listed above, as well as additional recommendations not included in this summary. These recommendations provide a guidebook for the Town with options for keeping agriculture a vital and healthy component of the community. The Implementation Section of the report (Section 7) is designed to be a “To Do” list for the Town moving forward. In the format of a matrix, it provides direction and insight into the initial steps the Town should be taking, the expected level of effort required, along with information on time frame and responsible parties. The Town should review this guide on an annual basis to develop a list of specific actions to undertake over the next year, and to update the categorization of priorities, actors and time frames.

In summary, the Town of Amherst Farmland Protection and Agricultural Development Plan provides a wealth of information that the Town can use to protect farmland and help keep agriculture a vital and sustainable component of the community into the future.



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INTRODUCTION



PHOTO COURTESY OF BADDING BROS FARM MARKET

A. Background

In 2018, the Town of Amherst secured funding through the New York State Department of Agriculture and Markets to prepare an Agricultural and Farmland Protection Plan. A major motivation of this plan is to implement the recommendations of the Comprehensive Plan and protect farmland and enhance farming in the Town. It is a demonstration of the Town's support of agriculture and farming in the community. The most recent update to the Town's Bicentennial Comprehensive Plan was made in 2019. This Agricultural and Farmland Protection Plan, along with the Bicentennial Comprehensive Plan are a means for strengthening the vision for agricultural protection and better managing future growth and development in the community. The Comprehensive Plan Update designates North Amherst as a Focal Planning Area and includes specific recommendations for policy and regulatory changes for protecting and promoting farming and agriculture in this area of the Town. Utilizing the Agricultural and Farmland Protection Plan to affirm the recommendations for the North Amherst Focal Planning Area is essential for the long-term viability of agriculture and rural character that may be threatened by inconsistent suburban land use and infrastructure development.



PHOTOS COURTESY OF BEN BROOK FARM

The State's Agricultural and Farmland Protection Program was established under Article 25-AAA of the Agriculture and Markets Law to encourage further development of agriculture and farmland in New York State. The Statement of Legislative Findings and Intent of Article 25-AAA states:

"It is hereby found and declared that agricultural lands are irreplaceable State assets. To maintain the economic viability and environmental and landscape preservation values associated with agriculture, the State must explore ways to sustain the State's valuable farm economy and the land use base associated with it. It is therefore declared the policy of the state to promote local initiatives for agricultural and farmland protection".

The New York State Department of Agriculture and Markets defines farmland and agricultural protection as "the preservation, conservation, management, or improvement of lands that are part of viable farming operations, for the purpose of encouraging such lands to remain in agricultural production." Agricultural and Farmland Protection Plans help municipalities develop strategies for the future of agriculture in their communities.

This Agricultural and Farmland Protection Plan, in accordance with the State's requirements, must include the following factors:

- The location of farmland or other areas proposed to be protected.
- An analysis of the factors concerning the areas and lands proposed to be protected, such as the value to the agricultural economy, the value of open space to the community, the consequences of possible conversion of farmland to other land uses, and the level of conversion pressure on the lands or areas proposed to be protected; and
- A description of activities, programs and strategies intended to be used to promote continued agricultural use.

Preparation of an Agricultural and Farmland Protection Plan must include public input. This Plan was prepared with public input as described in more detail later in the Plan. It was submitted to the Amherst Town Board and the Erie County Farmland Protection Board for their review and approval, and then submitted by the Town to the Commissioner of the New York State Department of Agriculture and Markets for final approval. Throughout, an Agriculture and Farmland Advisory Committee, that included a broad range of interests, oversaw the preparation of the Plan and provided comments and insights.

The Town of Amherst Agriculture and Farmland Protection Plan was developed with a dual focus on agricultural protection and agricultural development. The farmland protection elements allow the Town to ensure that important agricultural lands are preserved for continued and future use, while the Agricultural Development discussion explores opportunities for development of innovative agricultural and farming technologies and activities in the community.

This approach will enable the Town to utilize the Plan as a tool for protecting important agricultural lands, growing and enhancing the agricultural economy in the Town, and supporting new farmers looking to establish and strengthen their operations. The Plan addresses the basic elements required by New York State Department of Agriculture and Markets for agriculture and farmland protection plans and includes additional information to help foster new and bolster existing agricultural activity in Amherst.

B. Existing Plans and Programs

The following is an overview of existing land use plans that promote the protection and enhancement of agriculture, particularly in the Town of Amherst. The information presented below includes the policies, goals and recommendations related to agricultural and farmland protection, as set forth in each individual plan. These plans are all supportive of the Amherst Agricultural and Farmland Protection Plan and the Town's desire to maintain and promote farming activity as an important industry in the community.

Erie County Agricultural and Farmland Protection Plan

The Erie County Agricultural and Farmland Protection Plan was developed by the Erie County Agricultural and Farmland Protection Board in 1998; an update to this plan was developed by the American Farmland Trust in 2012. The preparation of this plan was made possible through grant funding from the New York State Agricultural and Farmland Protection Program, which is administered by the State Department of Agriculture and Markets.

The goal of the Erie County Agricultural and Farmland Protection Plan strategy is to maintain a productive, open landscape that is viable for future generations and that does not preclude more intensive activity when the demand exists. It also sets forth strategies to promote and expand markets for agricultural products. The findings in the plan indicate that Erie County has diverse, productive, vital farms that are located near a sizable population. The County benefits from prime farm soils, a climate that is moderated by Lake Erie, and farmers with years of experience, as well as new farmers who are eager to take on the challenge of agriculture. Additionally, a growing interest in local farms and farm products has boosted agriculture as a visible economic driver that is creating new opportunities for farming in both urban and rural areas of Erie County.

The County's Agricultural and Farmland Protection Plan is intended to direct agricultural planning in Erie County for the next decade and provides a picture of agricultural activity as it presently exists and outlines the loss of farmland that has occurred over the past few decades. The Plan also documents strong public support for agriculture and demonstrates how agriculture has been a significant contributor to the County economy, although much of the County's farmland is now located in the outer ring of municipalities, adjacent to neighboring counties that are more rural in character. Focusing on agricultural economic development holds significant promise for Erie County farms, particularly with regard to direct marketing opportunities and opportunities to improve farm viability and profitability through coordinated economic development efforts.

The two major strategies and associated goals and recommendations set forth in the Erie County Agricultural and Farmland Protection Plan include the following.

- Keep land in agricultural production by protecting farmland, helping a new generation to farm, and improving the viability of all farms in the County.

Summary Actions:

- Protect farmland and stabilize the farm base.
- Determine the feasibility of developing a County-wide purchase of development rights program.
- Support the State-certified agricultural district program with right-to-farm provisions.
- Collect agricultural assessment data by town in order to inform agricultural planning efforts.
- Assist towns that wish to adopt term and/or permanent easement programs.
- Develop a ditch maintenance program that supports preservation of prime agricultural land.
- Help a next generation become established on new and existing farms through training programs, promotion of farming and local training programs, other education initiatives and incentives.
- Determine the feasibility of developing a community college agricultural training program for workforce development or establishing County-wide apprenticeship and internship programs.
- Research the institution of a farm workforce development program that could benefit new immigrant populations and farms.
- Encourage BOCES, and local school districts (City, suburban and rural) to include agricultural workforce training.
- Support City and suburban community zoning regulations that expand urban farming opportunities.
- Determine the feasibility of establishing a property tax abatement program for new farmers.
- Improve farm viability and increase investment in agricultural development projects, such as agritourism.
- Establish a shovel-ready agricultural business park to attract food and agricultural processing businesses.
- Develop a program to help farmers market their agricultural products and to assist in identifying new market opportunities.



PHOTO COURTESY OF GEORGE'S PRODUCE MARKET

Inform the public, local leaders and elected officials about the benefits that agriculture provides and support policy and legislative changes that will improve farm viability.

Summary Actions:

- Educate local leaders and elected officials about the benefits that farms provide to local economies and to the quality of life for County residents.
- Calculate the value of agriculture to the local and regional economy as part of a complete economic analysis of agriculture and its multiplier effects.
- Offer regular training for local leaders and volunteers.
- Periodically host farm tours for local leaders and officials.
- Support policies that will help farms to provide affordable, local food to County residents.
- Develop a County Food Policy Council that includes a formal role for the Erie County Agriculture and Farmland Protection Board.
- Promote the purchase of locally grown food by school districts in the region and work with the Erie County Agricultural Society to promote the Farm2Table school program.
- Promote/support farmers markets in the cities, towns and villages to attract more people to existing markets.
- Educate and inform the public about farms and food production through the establishment of an annual County-wide agricultural event.
- Support the Erie County Farm Bureau's efforts to encourage Agriculture in the Classroom.
- Support partner agricultural organizations, such as the Farm Bureau, American Farmland Trust, the Soil and Water Conservation District and Cornell Cooperative Extension, through advocacy efforts to increase penalties for terminating agricultural assessments and enact revisions to County, State and Federal agricultural policy and legislative changes.
- Establish stronger regional planning, especially between Erie and Niagara Counties.

Erie Niagara Framework for Regional Growth

The Erie Niagara Framework for Regional Growth, adopted in 2006, was prepared and supported by Erie and Niagara Counties. It sets forth a blueprint to support the actions of county and regional agencies as they relate to the area's physical development. It is designed to inform state and local governments, private developers, and non-profit organizations about the process and actions County government could undertake when making decisions affecting the region's development. The Framework establishes basic policies and principles to guide the future growth and development of the region, and provides:

- A vision for how the region should grow and redevelop over the next 15 years;
- Direction on growth and redevelopment to County decision makers and other regional organizations that are linked to the two counties via funding, membership and other relationships;
- Information on the ways local government, private sector and non-profit actions and initiatives can reinforce the overall regional vision; and
- Mechanisms to ensure that the goals, concepts and recommendations of the Framework for Regional Growth are implemented in an efficient and accountable manner.

The Framework examines the regional context and challenges and establishes guidance for growth and investment in several areas. One area in particular is the loss of rural, agricultural and environmentally sensitive lands. The report recognizes that the loss of agricultural lands and the associated effects on rural economies and landscapes warrants attention for several reasons.

Agriculture plays an important role in the region's and the State's economies, contributing directly through sales, job creation, support services and businesses, and secondarily through markets for processing and agricultural and heritage tourism.

Agriculture also generates low levels of demand on public services and infrastructure. Studies across the State have shown that agricultural lands have a positive fiscal impact. Well-managed, privately held agricultural land also has environmental and social benefits by providing food and cover for wildlife, conserving environmentally sensitive lands, and maintaining scenic, cultural and historic landscapes.

The Framework's core policies and strategies offer guidance regarding the type and pattern of development for three broad geographic areas: **Developed, Developing, and Rural**. Figure 1-1 provides an illustration of where these geographic areas are located. **Developed** areas include the cities and large, contiguous areas of urban and suburban development that are served by public sewer, water and transportation infrastructure. **Developing** areas include both recently developed and sparsely settled areas experiencing development pressure and increasing demand for the extension of public sewer, water and transportation infrastructure. **Rural** areas include the region's least intensely developed areas, where there are large, contiguous blocks of farmland and/or forested land, as well as compact commercial, public and residential uses clustered in hamlets or incorporated villages.

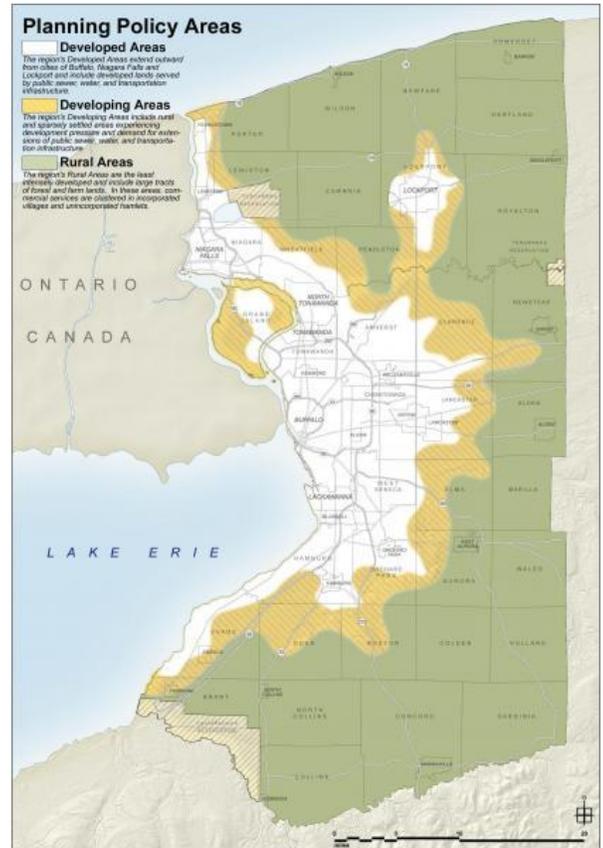


FIGURE 1-1: PLANNING POLICY AREAS

For each of these three areas, the Framework offers:

- high level policy direction for regional decision-makers;
- guidance for municipal officials and community stakeholders regarding regional preferences for future development and conservation, and
- a baseline to compare future conditions with existing conditions and Framework growth targets.

A large portion of Amherst lies within the Developed Area. The southern portion of the Town is designated as a growth area that is served by transportation, public sewer and water infrastructure. The Framework policies and strategies for the Developed Areas include:

- Sparking Investment in areas with adequate infrastructure to support it;
- Attracting new households and businesses;
- Supporting the preservation and stabilization of existing neighborhoods;
- Supporting new compact, pedestrian oriented, mixed-use development on vacant and underutilized sites; and
- Improving livability and economic vitality.

The northern portion of the Town is designated as a Developing area. The guidance and strategies outlined for Developing areas include:

- The conservation of agricultural and rural lands;
- The location of new compact, pedestrian-oriented, mixed-use development on vacant and underutilized sites that improves local accessibility;
- Encouraging public investments in the preservation, repair and restoration of existing infrastructure and public facilities;
- Limiting capacity improvements to roads and extensions to sewer and water infrastructure; and
- Supporting local comprehensive planning and policy making that designates areas appropriate for development and conservation and avoids leapfrog patterns of development.

A small area of the Town near its northern boundary is designated as Rural. The guidance for rural areas includes conservation of agricultural lands, and initiatives targeted toward rural economic development.

Western New York Regional Economic Development Strategic Plan: A Strategy for Prosperity

The Western New York Regional Economic Development Strategic Plan is a comprehensive plan first prepared on behalf of the Western New York Regional Economic Development Council in 2011, with annual updates. It is intended to create a more dynamic and sustainable economy for the region. The Plan reflects the values, perspectives, and aspirations of the people in the region. The Plan is aimed at making fundamental improvements in the economy to ensure sustainable and long-term growth in jobs and income in the five-county area, and to contribute to the resurgence of the broader economy of New York State.

The Strategy for Prosperity focuses on three fundamental issues that, if addressed properly, can create the right environment for achievement. These issues include job readiness, smart growth and entrepreneurship. The Strategy also puts forward ways to capitalize on opportunities in eight industry sectors where Western New York is the strongest. Among these eight sectors is agriculture.

The Strategy for Prosperity recognizes that the production of food and agricultural products is a leading industry in the region, as well as New York State. Agriculture capitalizes on geographic or natural resources that are unique to the region. However, the full potential remains unrealized and concern about local food systems and other economic needs provides new opportunities. The Plan calls for programs to spur innovation in products, processes, and market links through applied research; to improve marketing and communicate the value of local food; and to join in efforts to reform regulatory processes for more effective and efficient regulation.

The Plan identifies that farms account for one in every seven businesses in Western New York. Western New York has a strong strategic location, excellent natural resources, and a critical mass of human capital to sustain the industry. Western New York has a reputation for the highest quality fruit, vegetable, and dairy products, and produces significant quantities of other agricultural products, including grains. In Erie County, agricultural activity is split fairly evenly between the raising of crops and livestock. However, there is a need to leverage market opportunities and improve consumer education.



PHOTO COURTESY OF DONALD SPOTH FARM AND GREENHOUSE

There is also a need to overcome urban sprawl to protect agricultural lands. With better access to markets, new products and processes and a less burdensome regulatory scheme, the agricultural industry could be improved. Because the agricultural sector is large, even modest increases in sales or reductions in cost can translate into new jobs, and more income and opportunity.

The Plan indicates that Western New York can position agriculture as an economic driver, cultivate next-generation farms and sustain local food systems by diversifying products and markets, creating a supportive policy environment and pursuing applied research. The industry is primed for diversification and expansion in food processing, value-added products, tourism and untapped local and external markets. These opportunities are particularly important with growing concerns over local food system sustainability and community health. Additionally, rising costs, outdated and cumbersome state regulatory policies and global competition challenge farm sustainability, inhibit growth and threaten the next generation of farming. Innovative programs can overcome these barriers and seize growth opportunities. New investment models are needed to support often risky agricultural ventures. Applied research can improve awareness of sustainable practices and new market or product opportunities. Marketing and advocacy efforts can build public awareness, develop an agricultural workforce, correct misperceptions of the industry and push policy change.

The Strategy for Prosperity calls for creation of a new marketing strategy that is focused on promoting the value of local food, with a goal of increasing sales across the sector. Innovation in agriculture is also key. The Plan proposes a broad-based program to connect farmers with researchers to improve techniques for growing, processing, packaging and distribution, and to introduce new products and create new market linkages to increase competitiveness within the sector. As set forth in the Plan, the agenda for making the agricultural industry sector in Western New York more competitive is as follows:

- Collaborate to create and promote a regional brand for local food and agricultural products – Collaboration is necessary to create program to educate the public on the value and availability of locally produced food and agricultural products with the goals of increasing sales for local producers.
- Increase innovation to improve products, processes and market links – Organize an innovation council to promote connections among farm businesses and research institutions to develop and promote innovative practices to lower costs and increase the value of farm products. Increased investment in research can help farmers increase product quality, reduce energy use, promote workforce quality and motivation, develop new linkages between producers and consumers, and share information across the industry and with research universities.
- Undertake actions that promote regional assets and protect and enhance resources, and reforms that allow businesses to thrive.

Western New York Regional Sustainability Plan

The Western New York Regional Sustainability Plan was prepared in 2013 for the New York State Energy Research and Development Authority (NYSERDA) under the Cleaner, Greener Communities (CGC) program. It was developed to create a future where social and environmental issues in the five-county region are addressed within the framework of a sustainable regional economy. The Plan promotes the creation and maintenance of conditions under which Western New York communities utilize their resources in the most effective ways to permit social and economic growth, while preserving natural resources. The Plan focuses on six areas that are critical to attaining sustainability in the region, including agriculture and forestry. The Regional Sustainability Plan considers agriculture and forestry as two important industries that provide tremendous economic value and environmental benefits to local communities. The need to incorporate sustainable practices, protect agricultural land and increase the availability of value-added products are recognized in the Plan, as well as the fact agriculture in the region is important in supporting the entire food system from farmers to processors and restaurants to grocers. Land that remains in farming also provides scenic, employment and tourism benefits while avoiding the costs of urban sprawl.

The Plan establishes regional sustainability goals for agriculture, which include the following:

- Strengthening the economic viability of agriculture and forestry enterprises by establishing a WNY Food Hub or agricultural processing facility; connecting farmers with markets in new or more effective ways that increase profit margins, value-added products, specialty products in demand by consumers, meeting demands in food deserts, etc.
- Achieving more efficient uses for energy inputs and maximizing use of agriculture and forestry by-products for energy production by working with farmers to develop and implement farm energy audits that enable farmers to maintain production while saving energy and money through efficiency; and promoting energy generation projects that use agricultural or forestry by-products as fuel sources.

- Increasing support from government officials and the public for the protection of farmland, continued use of farmland for agricultural purposes, and strengthening the business climate for agriculture and forestry in the region by coordinating policies and program to minimize conflicts between infrastructure planning and farming by expanding the number of right-to-farm communities; updating agricultural protection plans at the county level, encouraging plan development at the local level and supporting implementation of farmland protection plans.
- Promoting environmentally sustainable management systems for the agriculture and forestry sector by promoting and preserving enterprises through farmer recruitment programs and innovation and entrepreneurship programs for small farms.

The Western New York Regional Sustainability Plan also establishes targets for selected indicators to measure achievement of goals. For agriculture, the target is the number of acres of harvested cropland that are kept in production, with a goal of keeping the acreage constant through 2017 (from a 2007 baseline).

Town of Amherst Bicentennial Comprehensive Plan Update

The Town of Amherst adopted an update to the Comprehensive Plan in September 2019. This plan includes specific goals and recommendations for agricultural and farmland protection. The Plan recognizes that agriculture once played an important role in the Town's economy and way of life. While its economic influences have diminished in recent years, agriculture continues to play a significant role in defining the character of Northern Amherst. The Conceptual Land Use Plan in the Bicentennial Comprehensive Plan illustrates a vision for the Town and provides a generalized guide for future development. As previously noted, the Bicentennial Comprehensive Plan recognizes North Amherst as an area where open space and agricultural uses take precedence and delineates the North Amherst Focal Planning Area to establish a specific vision for this area of the Town. The North Amherst area is different from other parts of the Town. It is characterized by low-density residential development, rural roads, farms and other agricultural uses, and open space. This is in sharp contrast to the more suburban and urbanized areas to the south, where dense residential development and commercial land uses dominate the landscape.

Key issues that are identified for the North Amherst Focal Area in the Bicentennial Comprehensive Plan include the rural/"green" character of the area (undeveloped land, open space, and agricultural uses), the presence of extensive natural resources and floodplains and the growth of designated wetlands, the potential for growth in Northeast Amherst (which is projected to increase in population over the next two decades), and the role of public sanitary sewer as a determinant of growth in the area. One of the goals of the Bicentennial Comprehensive Plan is to limit future sanitary sewer service extensions to areas that are designated as development areas on the Conceptual Land Use Plan. This goal supports a policy to redefine the boundaries of the sewer district in the northern part of the Town to exclude rural and agricultural areas designated for protection. It also promotes the importance of properly maintaining on-site septic systems in area where sanitary sewer would not be extended.

Designation of the North Amherst Focal Planning Area is an important component in the pursuit of maintaining diverse community character in the Town, ensuring the long-term viability of agriculture and farming operations, and preserving the rural nature of this area.

The Plan recognizes North Amherst as an area with a unique setting that includes:

- lands where agriculture and associated activities continue to exist,
- agricultural lands included in Erie County Agricultural District #171,
- lands acquired or designated for acquisition through the Town's program to purchase and extinguish development rights on farmland parcels, and place conservation easements held by a third party land conservation organization (Western New York Land Conservancy),
- a large extent of land area that does not have public sanitary sewer service, and
- lands where the long-term viability of agriculture could be threatened by inconsistent land uses or infrastructure development that would support urban/suburban encroachment.

The North Amherst Focal Planning Area Concept Plan emphasizes stabilization of rural character and control over the location and density of new housing in this area, initiating context-sensitive improvements to maintain the visual character of rural roadways, and providing easy physical connections between recreational amenities in the area. Future growth in the Town is directed to the south. A small area near the intersection of New Road and Millersport Highway is designated as a special use center. Otherwise, proposed uses are rural, recreational, or agricultural in nature. The Plan also recommends that changes be made to the Sewer District boundaries, by removing Nature View Park from the district, as this land is protected under a conservation easement and will not be developed. In addition, it recommends removing the area east of Millersport Highway extending to Transit Road in the northeast corner of the Town from the district. As previously noted, the Bicentennial Comprehensive Plan supports the extension of sanitary sewer service to areas where denser development is identified as a part of the vision for the future. This does not include North Amherst, where open space, agriculture and rural residential land uses are considered most appropriate.

C. Approvals

In accordance with the requirements of the New York State Department of Agriculture and Markets, the draft Agricultural and Farmland Protection Plan must be approved by the Erie County Agricultural and Farmland Protection Board and the Amherst Town Board before it receives final approval from the State. Additionally, the Amherst Town Board must conduct a public hearing on the Plan. This hearing was held on ** and the Town Board approved the Plan on **. The Erie County Agricultural and Farmland Protection Board reviewed a draft plan and approved it on **.

¹ Erie County is in the process of consolidating Agricultural Districts. Amherst Agricultural District #17 is slated to merge with Alden-Newstead #1, Clarence-Newstead #14, and Lancaster-Alden #16 to become the North Consolidated District. The consolidation review is due April 28, 2023. All references in this document to Amherst Agricultural District #17 will apply to the North Consolidated District after that date.



02

COMMUNITY INPUT & GOALS



PHOTO COURTESY OF BADDING BROS FARM MARKET

A. Public Participation

Farming in the Town of Amherst has been practiced since the early settlement of the community. Today, farming continues as a way of life and economic driver primarily in the northern portion of the Town. The preparation of this *Agricultural and Farmland Protection Plan* is a means of ensuring that existing agricultural activities remain active and viable in the Town and that the agricultural sector can take advantage of economic innovation and new markets. It also supports the expansion of smaller-scale and non-commercial agricultural activities, the advancement of non-traditional agricultural technologies and most importantly, the protection of productive farmland to ensure the continuation of existing and future farming activities.

As noted in Section I, the Town of Amherst most recently adopted an update to the Bicentennial Comprehensive Plan in September of 2019. The Bicentennial Plan includes policy goals and recommendations for managing future growth and development in the community and identified North Amherst as a Planning Focus Area for agricultural protection. Understanding that farmland protection was an issue of growing importance in the Town, and in furtherance of the Comprehensive Plan update, the Town established the Agriculture and Farmland Planning Advisory Committee to assist with the evaluation of farmland preservation issues, and to provide guidance during the preparation of the *Agricultural and Farmland Protection Plan*.

Public involvement is an important component of any planning effort, and the Town of Amherst is committed to the idea that a critical and necessary element of the planning process is continuous and effective public participation. An ongoing public outreach program was established as part of the development of the *Agricultural and Farmland Protection Plan*.

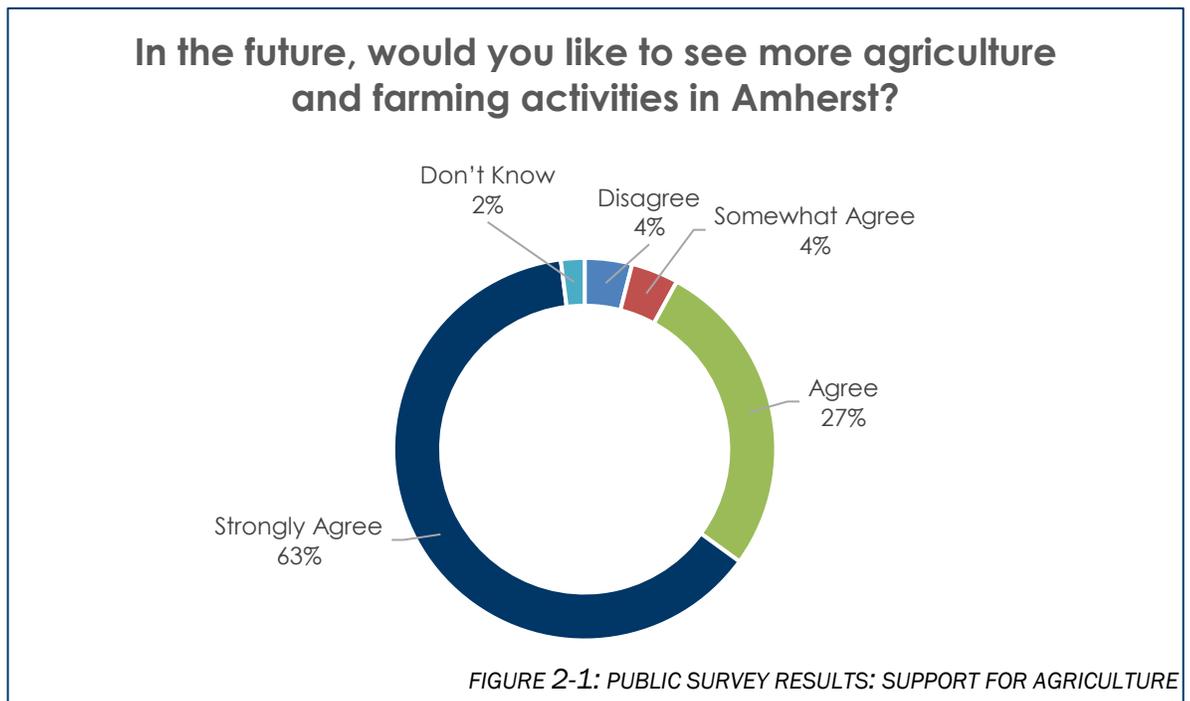
Outreach for public input included meetings of the Agricultural and Farmland Protection Advisory Committee, focused interviews with local stakeholders, a dedicated page on the Town’s website with a variety of content, a public survey, a ‘virtual’ public meeting, social media postings, and articles in the local newspaper among other efforts. The survey, which helped increase awareness of the project and generate public comment, was provided on-line and at local agriculturally-related outlets, such as farm markets and the Buffalo Niagara Heritage Village. This outreach was designed to acknowledge public concerns and identify potential issues and opportunities for farmland protection in the Town, with an emphasis on protecting and strengthening agricultural activity in North Amherst.

Agriculture and Farmland Protection Advisory Committee

The Agriculture and Farmland Protection Advisory Committee was charged with providing guidance and oversight for the development of the Agricultural and Farmland Protection Plan. The Agriculture and Farmland Protection Advisory Committee included representation from Town government and the agricultural community, as well as representatives from various regional agencies. This Committee met on a regular basis to oversee the development of the Plan, to provide insight into the planning process and feedback on draft goals, policies, and recommendations outlined in the Plan, and ensure that the concerns of stakeholders and local citizens were taken into consideration throughout the process. The committee took an active role on providing insights and input to the final plan.

Public Survey

To gather community-wide input, the Town prepared a public survey questionnaire that was posted on their website, and as noted above, available at various outlets across Town. An extensive social media outreach through Facebook, LinkedIn, Instagram and other sites encouraged resident participation. A total of 78 households responded to the questionnaire, which included a mix of farming interests and general residents. In general, the survey indicated that residents are very supportive of agriculture in the Town, with 90% responding that they either agree (27%) or strongly agree (63%) with the statement that they would like to see more farming and agricultural activity in the Town in the future, as shown in Figure 2-1.



Survey respondents also believed that the Town should help protect agricultural needs and activities (94%, with 76% strongly agreeing) and 89% saw agriculture as a means of protecting valuable open space (67% strongly agreeing). A similar percentage (89%, with 67% strongly agreeing) wanted more opportunities to purchase local farm products. The full results of the survey are included in Appendix A.

Stakeholder Interviews

The Agricultural Development section used both quantitative data sources and qualitative research from the Committee meetings and public outreach efforts, as well as one-on-one interviews. Topics discussed included:

- Challenges facing farmers in town.
- Resident interest in learning about agriculture-related activities such as using local produce to prepare meals, canning, and preserving, and horticulture.
- Changes in household activity over the past year related to gardening and local food.
- Awareness of the availability of programming and resources related to agriculture and plans to expand such programming or reach more participants.
- Integration of local agricultural products into institutional settings such as school cafeterias
- Ongoing and new regional planning and research efforts
- Entrepreneurship resources and challenges generally and for farms or agriculture-related businesses

Thanks are offered to the participants who gave their time and knowledge:

- AJ Baynes, President and CEO, Town of Amherst Chamber of Commerce
- CJ Buscaglia, Three Sisters Farm
- Sarah Gatti, Senior Planner, Erie County Department of Environment and Planning
- Jon O'Rourke, Director of Business Development, Amherst IDA
- Michael Pope, George's Produce Market
- Carrie Stiver, Executive Director, Buffalo Niagara Heritage Village
- Interviews invited ideas and insight that have been integrated into the report.

Public Outreach and Engagement

Outreach for the Town's Agricultural and Farmland Protection Plan was impacted by the Covid-19 pandemic, which limited the Town's ability to hold public gatherings of any nature. Meetings with the Advisory Committee were held virtually to enable necessary discussion on the progress of the project and information gathering and feedback. As the Town was unable to hold traditional in-person public information meeting, focus was placed on using social media and teleconferencing mechanisms to elicit public and stakeholder input. Using their webpage, noted below, the Town encouraged public input, as well as the completion of the public survey discussed above and a 'virtual' public meeting held at the end of the process. All these efforts allowed the Town to gather useful and necessary information through a transparent outreach program in an effort to meet the public participation requirements for this project.



FIGURE 2-2: PROJECT WEBPAGE

The Town created a project webpage on their community website that focuses on the Agricultural and Farmland Protection Plan. A screenshot of the page is shown in **Figure 2-2**. This website offers background information about the project, including an informational video that summarized the intent of the project; postings of available project documents, such as mapping, scope of work and draft report sections; a project timeline and dates of past and upcoming project meetings and other outreach efforts. The site also provided information about the Agricultural and Farmland

Protection Advisory Committee, including a roster of committee members and meeting summaries, as well as audio-recordings of the meetings.

Promotion information, such as articles in local papers and an analysis of the information gathered through the public survey were also posted to the site, with a link to the actual summary document that has been included in Appendix A.

A follow-up round of public outreach was conducted for the public and farming stakeholders after the preparation of an initial draft plan. The purpose of this outreach was to provide an overview of the content of the report and to discuss any remaining opportunities, concerns and needs with Town leaders, residents and other interested parties. A virtual meeting was held on May 6, 2021 that included a brief presentation and discussion of the summary findings and recommendations outlined in the draft Plan. The presentation was taped and posted to the Town's webpage dedicated to this project. Participants commented at the meeting and comments were also accepted through the website. These comments were used to finalize the Plan in preparation for the commencement of the adoption process, including the New York State Environmental Quality Review (SEQR) process. The meeting summary for the Public Focus Workshop is included in the Appendix.

Public Engagement and Input with Town Decision Making Bodies – The preliminary draft Agricultural and Farmland Protection Plan was submitted to the New York State Department of Agriculture and Markets (NYSDAM) for their internal review and comments. Comments from that review were addressed and the finalized draft Agricultural and Farmland Protection Plan was officially presented to the Town Board. The Town Board conducted a Public Hearing, as part of the SEQR process, to gather any final input from the public. Comments gathered at this hearing were used to finalize the Plan prior to review by the Erie County Agricultural and Farmland Protection Board and adoption by the Town Board, prior to final review and approval by the NYSDAM.



PHOTO COURTESY OF BEN BROOK FARM

B. Goals and Objectives

The Town's primary purpose for developing this Agricultural and Farmland Protection Plan is to recognize, better understand and establish a strategy for protecting the agricultural and rural character of the community, as well as promoting the expansion of agricultural activities in North Amherst. These goals and objectives were developed with input from the Agriculture and Farmland Protection Advisory Committee and were shaped around the major issues and concerns expressed by farmers and other stakeholders, residents, Town officials and other interested parties, as part of the outreach efforts for this project. The goals are aimed at protecting and enhancing important agricultural lands and resources, increasing public awareness of agriculture in Amherst; ensuring the long-term viability of farming in the Town; and protecting, enhancing, and expanding the agricultural economy.

1.

GOAL 1: Protect Agricultural Lands and resources, as well as undeveloped lands with prime soils, that are critical to the long-term success, viability, and resiliency of agriculture in the Town.

The Town recognizes that protecting existing farming and agricultural activities contributes to the preservation of open space and maintains the rural community character and heritage of the area. Protecting and promoting agriculture in the Town, which includes field crops, nursery products, the keeping of animals, and numerous other pursuits, is of primary importance to the local economy and long-term future of farming in Amherst. The best way to keep agricultural practices in operation and strengthen these activities is to implement actions listed below to protect important lands and resources and prevent encroachment of incompatible land uses.

- Demonstrate commitment to farmland protection through a Right-to-Farm law.
- Protect farms and farming related activities that are economically viable throughout the Town, particularly in North Amherst.
- Consider farming as the highest and best use for areas with prime farm soils or soils of State-wide importance, for lands protected by conservation easements, and lands located in designated agricultural districts.
- Provide drainage support and relief, as necessary, to maintain existing farmland and improve the use of additional lands for farming.
- Encourage growth patterns and conservation measures that are respectful of agricultural activities, enable continued farm uses, and protect productive farmland.
- Encourage flexible Town land use policies to protect agriculture and ensure that local regulations and permit procedures are supportive of agricultural activities.
- Evaluate tax assessment policies that assist farm property owners who live on-site.
- Allow for the development of housing in a manner that discourages sprawl and utilizes existing services and infrastructure efficiently.
- Promote environmental stewardship of the land.
- Preserve and enhance viewsheds that contribute to the rural and agricultural character of the Town.
- Maintain and strengthen positive relationships between the farming community and various levels of State and County government that support all means of farming activity.
- Further establish and maintain partnerships with not-for-profit and government agricultural support agencies and organizations.
- Promote and build upon the County Agricultural District regulations and the Erie County's Farmland Protection Plan.
- Foster a community environment that supports and exercises patience and understanding of the needs of farmers and farm operations.

2.

GOAL 2: Protect key areas of viable farmland and important soils within the Town that are suitable for permanent protection using Agricultural Conservation Easements

The Town acknowledges the importance of protecting prime soils, and recognizes that in some cases, purchase of conservation easements is necessary to achieve this goal. The following actions shall be pursued in order to protect prime agricultural soils in priority locations.

- Promote an understanding of agriculture and its importance as a source of locally grown food supply to the local and regional economy, a means of continuing community heritage and culture, and for preserving local scenic landscapes.
- Continue to pursue purchase of important agricultural lands to expand extent of properties protected through purchase of development rights and/or conservation easements.
- Encourage willing farmers or farmland owners to donate their development rights to ensure their long-term protection.
- Promote agricultural tourism as a means of increasing awareness of farming and agriculture.
- Educate the public about local agriculture and its value to the Amherst community and region.
- Promote small-scale farming as a means of secondary income or pastime for residents.
- Promote and support fairs, festivals, and farming events to make farming visible in the Town and help residents understand the benefit of having farms in the community.

3.

GOAL 3: Promote economic innovation and sustainability in agricultural production and strengthen the Town's capacity to respond to economic and climate trends and changes.

Although it has changed to some extent in size, scale and nature, agriculture remains an integral component of the character and economy of the Town. Agricultural related businesses support farming and contribute to the local and regional economy. The economic base of farming in Amherst and the viability of existing businesses should be enhanced and expanded because a strong base is good for farmers, the Town, and the region, as well as for the long-term success of agriculture. Furthermore, the diversification of farming and agricultural practices can strengthen the agricultural economy and help to ensure a greater ability to respond to price or market volatility, climate change and other potential impacts. Action items are listed below.

- Recognize farmland and farm soils as a significant resource that can support farming as an economic mechanism that warrants protection.
- Promote the continuance and expansion of farming and agriculture as a business and a means of economic development in the Town.
- Support hobby (small-scale, non-commercial) farming in the community as a means of secondary income or pastime for residents.
- Capitalize on the opportunity to address the differing needs and service requirements of smaller farming enterprises.
- Locate business and industrial economic development in a manner that does not sacrifice viable and valuable farmland and farm soils.
- Encourage and allow farming related businesses and accessory farm uses as a support service and secondary interest to farming and agricultural activities in the Town.
- Promote organic farming as a viable form of sustainable, value-added agriculture.
- Promote the production and sale of locally grown products.
- Allow for and promote farm markets and roadside stands at appropriate locations in the Town.
- Realize the economic potential of agricultural tourism as a means of enhancing the economic vitality of farming and agriculture.
- Encourage the expansion of new technologies and explore and promote new markets and agricultural activities in response to such factors as climate change, market trends and innovations, and other economic drivers.
- Promote opportunities for partnerships to build and expand agricultural activities and markets for locally produced goods and services.

- Encourage cooperative farming initiatives that benefit the community.
- Support programs that increase the share of agricultural products that are directly marketed to consumers at higher margins.
- Allow for the development of new businesses and land uses that are compatible with neighboring agricultural uses and are in character with the surrounding area.
- Utilize available support services, as needed, to support and enhance farming and agriculture.
- Foster greater interest in the use of alternative farming techniques and energy sources, and production of niche products.

4.

GOAL 4: Leverage the Town's natural resources and agricultural assets to establish an agri-tourism initiative, encourage support for agricultural activities, and provide ancillary means of income for farm operators and agricultural entrepreneurs.

Amherst continues to maintain a critical mass of productive lands and resources to keep the industry alive in the community. Farming provides many benefits, including the production of local food, jobs, secondary income, a more balanced tax base, and other economic benefits to the community at large and the region. Utilizing existing assets is essential for strengthening and increasing public awareness and an understanding of how agriculture positively impacts the community, as well as for achieving public support for the continuance of farming activities. Agri-tourism activities can provide important secondary means of income to help keep farming viable and increases the public's awareness of and appreciation for agriculture in the community. The Town has the potential to rebuild a successful and diverse agricultural industry in this manner. Actions to consider include the following:

- Recognize farmland and farm soils as a significant resource that can support farming as an economic mechanism that warrants protection.
- Strengthen the promotion of agriculture and locally produced goods and services and community gardens to expand community awareness
- Ensure local farming interests are aware of and have access to programs and resources to strengthen or enhance their efforts.
- Promote community-supported agricultural endeavors that bring farmers and residents together.
- Support development and continuation of agri-tourism resources, such as the Buffalo Niagara Heritage Village, that increase resident awareness of agriculture and provide a connection between the farm and non-farm public.
- Ensure the public has a better understanding of State and County programs and regulations that govern farming activities (e.g., agricultural districts).
- Ensure that existing and new farm operators had access to training opportunities to help improve business management skills.
- Promote sharing of information and resources that could result in increased consumption of local products, expanding business activity, and better farming practices.
- Increase awareness of local farmer's markets and the availability of local farm products.
- Encourage owners of agricultural properties to utilize available tax relief programs and agricultural district protections.
- Promote small-scale farming as a means of secondary income or pastime for residents.
- Promote and support fairs, festivals, and farming events to make farming visible in the Town and help residents understand the benefit of having farms in the community.



GOAL 5: Promote the link between farms and food and agriculture and secondary income to increase awareness of farming by the non-farm community, grow the industry, and help ensure the long-term sustainability of farming activities in Amherst

Keeping farming and agriculture prosperous in the Town of Amherst required a concerted effort to increase awareness of the activities occurring in the community and promote growth of the industry, whether such operations are larger commercial efforts or small, non-commercial endeavors. Farming in Amherst has been going through a transition, with some larger operations still in business, some existing businesses diversifying their practices, new farmers looking to operate in the Town, and growth of smaller activities and enterprises. All of this demonstrates change to the industry in Town, as well as a need to ensure community support and education. While there are many who are skilled at what they do, there are others who are new to their craft. Therefore, it is important that local farmers of all experience levels understand their craft and are aware of the resources available to help them improve their farming practices.

- Promote an understanding of agriculture and its importance as a source of locally grown food supply to the local and regional economy, a means of continuing community heritage, and culture, and for preserving local scenic landscapes.
- Build public support for local farms and farmers and the right to farm.
- Ensure awareness and access to programs and resources available to farming interests.
- Promote availability of services/programs to help organic crop growers attain certification and designation requirements.
- Support educational efforts to dispel misconception about the pricing of organic products and other issues that may affect purchase or use of agricultural goods and services.
- Ensure an understanding of State and County programs and regulations that govern farming activities (e.g., agricultural districts).
- Encourage farmland property owners to utilize available tax relief programs and agricultural district protections.
- Encourage farming interests and others to participate in local programs offered by Buffalo Niagara Heritage Village to learn about topic relevant to farming in the community and region.
- Expand awareness of agricultural crafting and other educational activities that benefit the public.
- Increase awareness of local farmer's markets and the availability of local farm products
- Promote the Erie Grown Passport program through postings on the Town website and social media outlets and at Town Hall.
- Foster a community environment that supports and exercises patience and understanding of the needs of farmers and farm operations.
- Promote and strengthen agricultural tourism as a means of increasing awareness of farming and agriculture.
- Promote community-supported agricultural projects that bring farmers and residents together.
- Promote small-scale farming as a means of secondary income or pastime for residents.
- Promote and support fairs, festivals, and farming events to make farming visible in the Town and help residents understand the benefit of having farms in the community.
- Promote innovation and start-up agribusinesses and resources to help fund and assist these operations.



03

COMMUNITY OVERVIEW



PHOTO COURTESY OF BEN BROOK FARM

A. Regional Setting / Location

The Town of Amherst is located northeast of the City of Buffalo, in the northern portion of Erie County, New York. The Town is approximately 54 square miles in size and shares borders with eight (8) municipalities. (See Map 1 in Appendix) The adjoining municipalities in Erie County are the Town of Tonawanda to the west; the City of Buffalo and Town of Cheektowaga to the south; the Town of Clarence and a small area of the Town of Lancaster to the east. Niagara County lies to the north, and the adjoining communities are the Towns of Pendleton and Wheatfield, and the City of North Tonawanda. The Village of Williamsville is located in the Town's southeastern quadrant. Amherst is an inner ring suburb. A map showing the Town's regional setting is on the following page.

The Town's Bicentennial Comprehensive Plan (adopted 2007, amended 2019) noted that residential development was the predominant land use. According to the Bicentennial Plan, residential uses accounted for 36.4% of the Town's land use. Vacant land represented the second most predominant land use with 18.9%. Commercial, office and industrial uses make up 7.4% of the land, while the remaining land uses include a mix of public, semi-public (i.e., parks, schools, etc.) and institutional users, including the State University of New York at Buffalo. Land uses underwent significant changes between 1974 and 2000, when the Comprehensive Plan was first prepared: it is estimated that over that time frame, 55% of vacant and agricultural land in Amherst was converted to different uses.¹

¹ Town of Amherst Bicentennial Comprehensive Plan (Adopted 2007, Amended 2019), Wallace Roberts and Todd, LLC with URS Corporation, and Economics Research Associates, Page 39.

A major factor in that transition is the fact that Amherst is the home of the University at Buffalo's north campus, which houses administrative offices, athletic facilities, and most of its academic programs. The University at Buffalo is the largest State University of New York campus, with an enrollment of over 31,000 students at its three campuses.

Conversions of agricultural and vacant land have continued since 2000. Despite these changes, Northern Amherst remains largely rural in character, with areas of agricultural land, open space and sensitive environmental resources. The Town features numerous parks, recreational facilities, and natural features including Amherst State Park, Ellicott Creek, Tonawanda Creek, Ransom Creek, and a portion of the Onondaga Escarpment.

While the agriculture footprint of the Town has grown smaller, farming remains an important part of Amherst today. Farming pursuits in the Town are diverse, feature commodity crops, alongside more specialized agriculture activities including vineyards, greenhouses, and apiaries.

B. Demographic Trends²

Population

In terms of population, Amherst is the largest of the Buffalo suburbs. The 2010 Decennial Census counted the Town of Amherst's population at 122,366 residents. The most recent estimate is the U.S. Census' 2018 American Community Survey (ACS), which estimates that the Town's 2018 population was 125,648 residents, an increase of approximately 2.7% since 2010.

Amherst experienced strong population growth in the post war era. In 1950, the Town had 31,407 residents. By 2010, this number had nearly quadrupled to 122,366 residents. Figure 3-1, below, illustrates population trends since 1900.

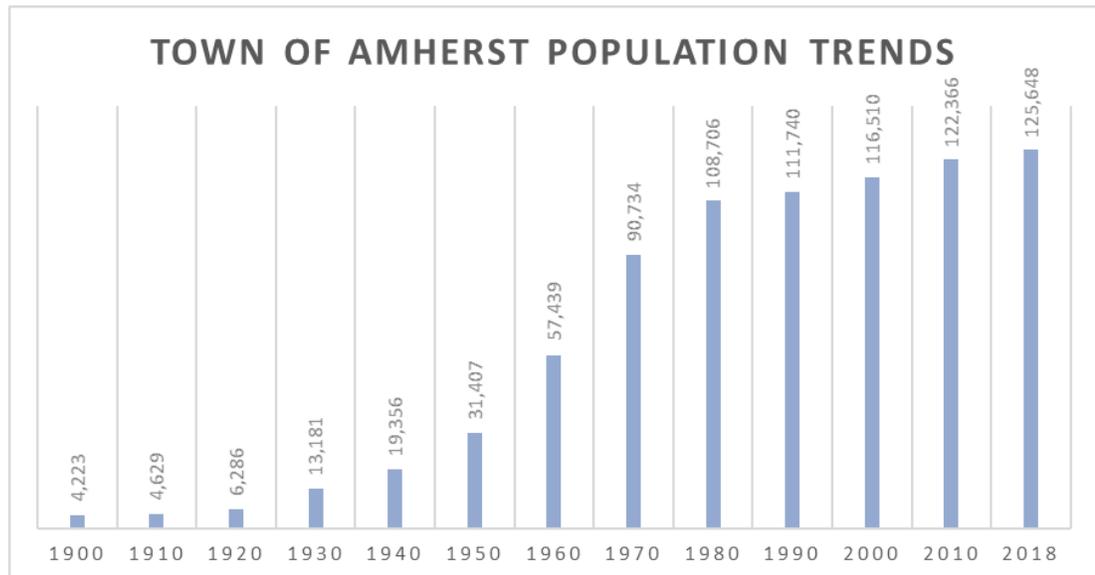


FIGURE 3-1: POPULATION TRENDS

The following is an overview of existing land use plans that promote the protection and enhancement of agriculture, particularly in the Town of Amherst. The information presented below includes the policies, goals and recommendations related to agricultural and farmland protection, as set forth in each individual plan. These plans are all supportive of the Amherst Agricultural and Farmland Protection Plan and the Town's desire to maintain and promote farming activity as an important industry in the community.

² Census data from the American Community Surveys (ACS), 2018 <http://data.census.gov>.
TOWN OF AMHERST FARMLAND PROTECTION & AGRICULTURAL DEVELOPMENT PLAN

Thanks in part to the State’s decision to build the State University of New York at Buffalo’s campus in Amherst, population trends in Amherst have been stable. Most of the Buffalo Metropolitan Statistical Area (MSA)³ has experienced population losses. From 1970 to 2018, the Buffalo MSA lost over 16% of its population, decreasing from 1,349,211 in 1970 to 1,130,152 in 2018). The Town of Amherst experienced a 35% increase in population over the same time frame. The Town of Amherst anticipates continued population growth. The 2016 Town of Amherst Economic Study projected that the Town’s population would increase to approximately 141,400 by 2040⁴. Population trends relative to the region are shown in Figure 3-2, below.

Population Trends: 2011 to 2017			
Year	Amherst	Erie County	Niagara County
2011	121,466	919,714	216,036
2012	122,232	919,542	215,869
2013	122,814	919,230	215,465
2014	123,542	920,694	214,973
2015	124,044	921,584	214,150
2016	124,647	922,129	213,374
2017	125,024	923,995	212,675

FIGURE 3-2: REGIONAL POPULATION TRENDS | SOURCE: U.S. CENSUS BUREAU, ACS

Households

While population growth has been modest, the Town has experienced stronger growth in the number of households. Between 2010 and 2018, Amherst grew from 49,176 households to 51,588 households, representing a 5% increase in households. Growth was even stronger between 2000 and 2010, when the Town saw a 9% increase in the number of households, as shown in Figure 3-3.

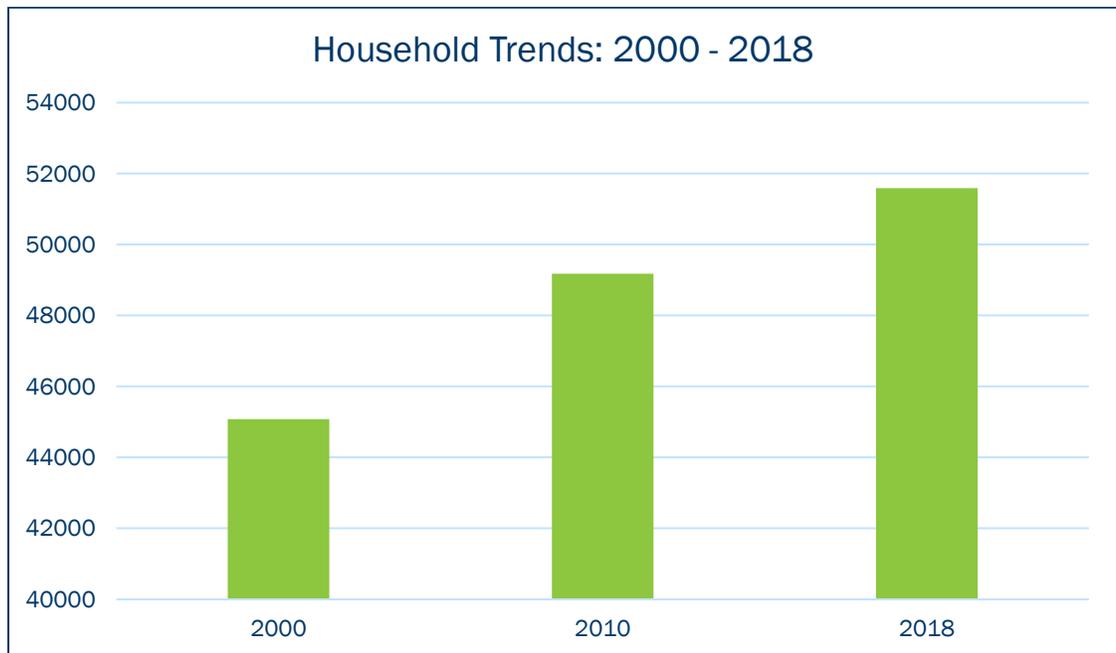


FIGURE 3-3: HOUSEHOLD TRENDS | SOURCE: US CENSUS BUREAU, ACS

³ Buffalo MSA consists of Erie and Niagara Counties

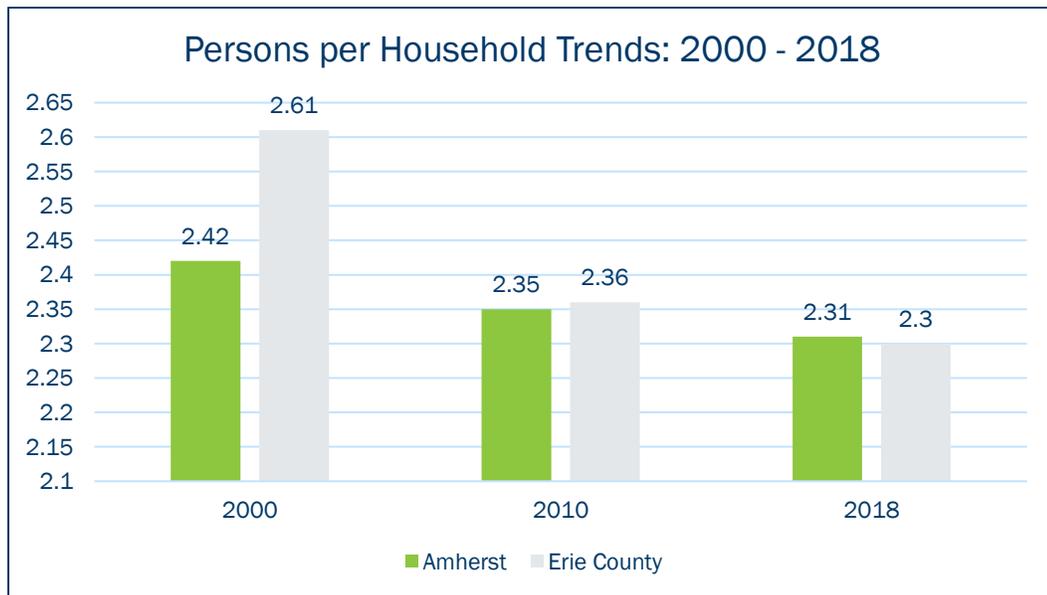
⁴ Town of Amherst Economic Study (2016), Delta Associates, Appendix Table 5.

Household growth has outpaced population growth because, consistent with regional and national trends, the size of households in the Town has been decreasing, although the trend is moderating. In 2000, there were 2.42 persons per household in the Town of Amherst.

This decreased to 2.35 persons in 2010. Estimates for 2018 indicate there are currently 2.31 persons per household in the Town. Erie County has experienced a similar trend. In 2010, Erie County’s average household size was 2.32 persons, which has decreased to 2.3 persons in 2018. This is due both to families having fewer children, and an increase in one-person households. Figure 3-4 illustrates trends in household size for the Town and for the County.

Persons per Household Trends: 2000 - 2018			
	2000	2010	2018
Amherst	2.42	2.35	2.31
Erie County	2.61	2.36	2.30

FIGURE 3-4: HOUSEHOLD SIZE TRENDS | SOURCE: U.S. CENSUS BUREAU, ACS



Age

The median age of the Town’s population is 41.1 years old, which is slightly older than Erie County, where the median age is 40.4 years. The percentage of persons over 65 years old has increased from 17.7% in 2000 to 20.2% in 2018. The age distribution is fairly even among the age cohorts. The slightly larger concentration in the 15 to 24 year age cohort is probably a reflection of the college population base in the Town. Figure 3-5 illustrates age breakdown for the Town.

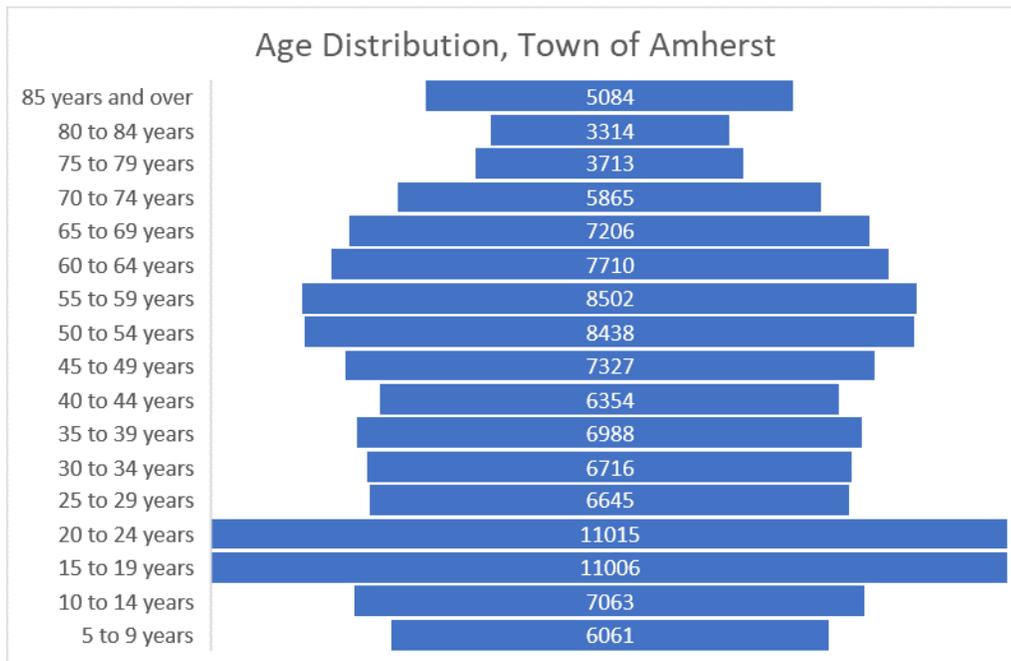


FIGURE 3-5: AGE DISTRIBUTION | SOURCE: ACS

Housing

The number of housing units in the Town of Amherst is also increasing. Currently, Amherst has approximately 55,429 housing units. From 2010 to 2018, Amherst gained approximately 2,852 housing units, a 9.3% increase (from 50,725 to 55,429).

The majority of homes in the Town are single-unit structures. In 2018, it was estimated that 63.4% of the Town's housing units were detached single unit structures, and another 4.4% were attached single-unit structures. Another 8.6% of residential units in the Town are in large apartments buildings (20 or more units). (see figure 3-6)

Residential Units in Structure, 2018		
1-unit, detached	33,948	63.4%
1-unit, attached	2,335	4.4%
2 units	3,250	6.0%
3 or 4 units	4,292	8.0%
5 to 9 units	3,830	7.1%
10 to 19 units	1,226	2.3%
20 or more units	4,587	8.6%
Mobile homes	119	0.2%

FIGURE 3-6: RESIDENTIAL UNITS DISTRIBUTION | SOURCE: ACS

Amherst is a community of homeowners. Approximately 70% of housing units are owner-occupied. In comparison, the homeownership rate for Erie County is 64.8%. The ages of the housing units in the Town are mixed, but most units in the Town were constructed between 1960 and 1999 (56.8%) and 1940 and 1959 (23.3%). Amherst does have a significant proportion of new units. As Figure 3-7 illustrates, housing units constructed since 2000 account for approximately 9.8% of the Town's stock.

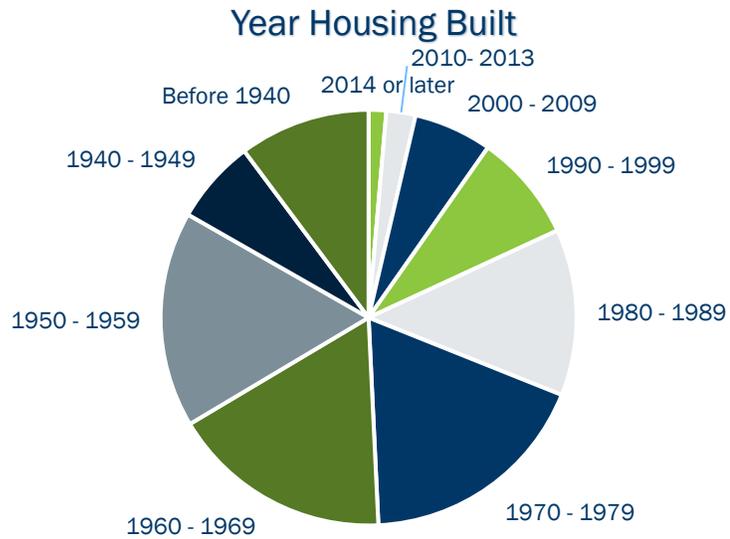


FIGURE 3-7: AGE OF HOUSING STOCK | SOURCE: ACS

In 2018, there were an estimated 3,841 vacant housing units within Amherst, which represented approximately 6.9% of the total number of housing units located within the Town. This vacancy is primarily in rental units. The rental vacancy rate is 7.4%, compared to 0.6% for owner-occupied units. The rental vacancy rate is slightly higher than the 5% vacancy rate that would be considered normal to account for mobility in the marketplace. The homeowner vacancy rate is very low, indicating a competitive housing market, with strong demand for available single-family units.

PHOTO COURTESY OF BADDING BROS FARM MARKET



C. Land Use, Zoning and Other Policies and Regulations

Land Use

The Town of Amherst is 53.6 square miles in size (34,304 acres). There are over 44,360 individual tax parcels in the Town, of which 36,495 tax parcels are residential. The most predominant land use, by a significant margin, is residential; parcels with residential structures account for 89.6% of land uses in the Town. The Town's Bicentennial Comprehensive Plan (amended 2019) indicates that on a percentage basis, residential development (predominantly single-family dwelling units) remains the most widespread land use, with 36.4% land coverage; vacant land represents the second largest land use category in the Town (18.4% of total land area). Commercial, office and industrial lands together comprise about 9.3% of the total land area. Other land uses within the Town include agricultural, community services, public services, public parks and conservation, and recreation and entertainment.

Between 1975 and 2000, approximately 55% of vacant and agricultural land in the Town was converted to other uses. Northern Amherst remains largely rural in character, with large areas of restricted agricultural land, public open space, sensitive environmental resources, rural highways, and (mostly in the northeast) a large proportion of the vacant land remaining in the Town. A general breakdown of the various land use types is as follows and shown on Map 2.

Residential uses in the Town include a wide variety of housing types and styles, with about 84.7% of land occupied by single-family dwellings. Other housing types include rural or larger lot frontage homes, multi-family apartment buildings, condominiums, and duplex structures. Development in the Town is concentrated primarily in densely developed subdivisions and unincorporated hamlets, including Eggertsville, Snyder, Getzville, and Swormville. These hamlets are linked to the Town's agricultural past, serving as early commercial and trade centers.

Residential uses in the Town shoulder a significant portion of the tax levy. The total value of residential uses in the Town is \$13,020,754,751, based on the 2018-2020 tax rolls. Most of the residential subdivisions are serviced by public sanitary sewer and have lots that measure less than one-half acre in size. This reflects a denser suburban development pattern that is consistent with the Town's emergence as a major inner-ring suburb during the latter half of the 20th century.

At 18.9%, vacant land accounts for a significant portion of the land area in the Town. Vacant land includes parcels that lack infrastructure or any type of permanent improvements (i.e. no dwellings or structures). It also includes undeveloped open space that was once used for agriculture. In some cases, these lands are being converted to preservation areas through land stewardship by organizations such as the Western New York Land Conservancy. In other instances, vacant lands may be wooded areas used for timber harvesting or croplands that are not being actively farmed at present (i.e. fallow lands).

Dedicated forested lands, parks and conservation lands comprise 1,403 acres or 8.5% land total land cover, which are anchored by Amherst State Park and the proposed Amherst Central Park property, which is located on the former Westwood Country Club and Audubon Golf Course lands. Additional properties in this category include the Great Baehre Swamp Wildlife Management Area, and other Town-owned parks and conservation lands located in the center of the Town. In addition, there are Town parklands and conservation areas in the northern portion of the Town. Nature View Park, which totals 1,254 acres of land, is one of the largest conservation areas in the Town. It is found in North Amherst, which generally remains rural and undeveloped (see Map 2 in Appendix).

Commercial, Industrial, and Public Services make up the remaining bulk of the land use categories in the Town, totaling approximately 7.4% of the total land area combined. These uses are noticeably clustered along the Niagara Falls Boulevard, Sheridan Drive and Transit Road corridors, and scattered throughout the central and southern portions of the Town. These uses represent the commercial core for consumer buying in addition to employment opportunities provided in numerous office, manufacturing, institutional and other non-commercial structures.

Zoning

Zoning in the Town of Amherst is Euclidean-based and made up of 22 different districts, including three overlay districts. Similar to the land use breakdown, these zoning districts mainly consist of a variety of residential districts, non-residential districts, and special purpose and overlay districts. The districts are broken down as the following and illustrated on the Town Zoning Map in Appendix C:

Residential Districts

Rural Residential (R-R), Suburban Agricultural District (S-A), Residential District One (R-1), Residential District Two (R-2), Residential District Three (R-3), Cluster Residential District Three-A (CR-3A), Traditional Single-Family Residential District (TR-3), Residential District Four (R-4), Multi-Family Residential District Four-A (MFR 4-A), Multi-Family Residential District Five (MFR -5), Multi-Family Residential District Six (MFR - 6), Multi-Family Residential District Seven (MFR -7), and Manufactured Home Residential District Eight (MHR-8)

In general, these districts allow for a variety of residential uses, including single-family detached housing, single-family attached housing, various forms of multi-family development and manufactured home parks. Development density varies and generally increases with each progressive district. Rural Residential, which requires a 3-acre lot, has the greatest minimum lot size, followed by Suburban Residential with a one-acre minimum, whereas MFR-4, for example, requires a minimum of 8,450 square feet for detached and 5,850 square feet for attached dwelling units. The R-4 through MFR-6 districts allow both attached and detached units. The MFR-7 district provides for high-density senior care facilities and the MFR-8 allows manufactured homes on individual sites. Projects in the MFR-4A, MFR-5, MFR-6, MFR-7, and MFR-8 districts that exceed 30 acres in size must comply with planned unit development standards outlined in Section 6-9 of the Zoning Ordinance. North Amherst, where farming occurs, is primarily zoned S-A (see Map 3). It should also be noted that there are no properties currently zoned R-R.

Mixed Use Districts

Infill Districts: Traditional Infill (TI-2.5 or TI-4)

Retrofit Districts: Shallow Corridor (SC-3); Deep Corridor: (DC-3 or DC-5)

Center Districts: CTR-2.5; CTR-5; or CTR-8

NOTE: Numbers refer to the maximum number of stories allowed (e.g. DC-3 allows buildings up to 3 stories in height).

The Town of Amherst adopted new mixed-use zoning classifications, a hybrid of form-based and Euclidean zoning, in September 2019 that were crafted for the commercial and mixed-use centers identified in the update to the Bicentennial Comprehensive Plan. The intent of the new zoning is to encourage a mix of land uses that combine to make working, shopping, recreation, and everyday living more convenient. These new districts shape building form and the relationship of buildings to the street and other building to create denser, more interactive mix of commercial and residential use areas in the primary commercial areas of the town.

Non-Residential Districts

Office Building District (OB), Neighborhood Business District (NB), General Business District (GB), Commercial Service District (CS), Motor Service District (MS), Shopping Center District (SC), Research and Development District (RD), Science Technology District (ST) and General Industrial (GI)

The non-residential districts provide for a variety of office, commercial, retail, community service, and manufacturing/industrial uses throughout the Town. Each respective district specifies allowable uses, uses permitted by special uses permit, and accessory uses and structures, as well as general development standards and supplemental design regulations for site development. As shown on the Zoning Map in Appendix C, non-residential districts are found along the east and west boundary of the Town and in areas south of North Amherst.

Special Purpose, Overlay Districts and Floating Zones

Agriculture (AG), New Community District (NCD), Planned Residential District (PRD), Planned Development District (PDD), Community Facilities District (CF), Traditional Neighborhood Development District (TND), Traditional Neighborhood Business Overlay District (TNB), Live-Work District 1 (LW-1) and Recreation Conservation District (RC)

Special purpose and overlay districts include several mapped and overlay districts that provide for a mix of uses, with many offering more flexibility in design, as follows:

Agricultural is a non-mapped zone that provides for continued use of land for agricultural purposes to promote an environment for the long-term stability of farming and agriculture. It requires a minimum lot size of five acres and allows for a greater range of uses than what is currently permitted under the R-R and S-A zoning classifications. However, there are currently no lands in the Town with this zoning designation.

New Community District offers flexible regulations to encourage the development of small to large-scale mixed-use neighborhoods. This district allows a variety of residential and non-residential uses. A large area that extends east of Sweet Home Road, west of Campbell Boulevard, north of Maple Road and south of the Nature View conservation area is currently zoned NCD.

Planned Residential District allows for developments that offer a variety of housing types and styles. This is an overlay district, with some areas currently mapped and in existence.

Planned Development District is an overlay district that allows for coordinated mixed-use developments with residential, public, and civic, office and commercial uses.

Community Facilities District is used for public and semi-public uses and facilities, such as education, government and religious.

Traditional Neighborhood Development District allows for fully integrated, mixed-use, pedestrian oriented neighborhoods.

Traditional Neighborhood Business Overlay District is similar to the TND with more specific design regulations.

Live-Work District applies to areas along arterials and major collector roadways and allows uses that combine residential dwellings and working/commercial space in one setting.

Recreation Conservation District is designed for public, private, civic, recreation and conservation uses.

Agricultural uses are allowed in S-A, R-R and AG districts, although as noted above, there are no lands mapped with the R-R or AG zoning designations in the Town at this time. Map 3 shows parcels in the Town where agriculture would be allowed under the current zoning designations. A full zoning map depicting all districts is included in Appendix C.

Use Regulations

Section 6-10 of the Town of Amherst Zoning Ordinance regulates Solar Energy use in the Town. These regulations apply to roof and building-mounted systems, which are permitted in all zoning districts. Ground mounted solar energy systems are limited to a maximum of 20 feet in height when the system is oriented at maximum tilt. While the height limit could limit some agrivoltaics, which are the co-location of solar panels and agricultural operations on the same field, the potential exists for co-locating agricultural uses such as sheep grazing, beekeeping and pollinator gardens.

Panels can only be located in side or rear yards, and are regulated under three size categories. Tier I systems, which have a total facility footprint of less than 2,000 square feet, are permitted in all zoning districts. Tier II systems, which have a total facility footprint of between 2,000 and 7,000 square feet are permitted as a principal or accessory use in the Suburban-Agriculture, General Industrial, Community Service, Research and Development, and Science Technology zoning districts. They are permitted accessory uses only in the Rural-Residential, Community Facilities, Recreation Conservation, General Business, Motor Service, Office Building, Planned Residential District, Planned Development District, Multi-Family Residential-4A, Multi-Family Residential-5 and Multi-Family Residential-8 districts.

Tier III systems, which have a total facility footprint equal to or greater than 7,000 square feet and would include solar developments, are allowed by special use permit in the Suburban-Agriculture, Office Building, Community Service, Research and Development, and Science Technology zoning districts. It should be noted that the Agricultural district does not permit solar energy facilities by right or with a special use permit. There are a few small solar energy facilities located on the State University of New York at Buffalo North campus, and the Town approved the Town's first private solar development in January 2021. The facility will be a 15-acre solar energy development off Schoelles Road, with a planned capacity of less than 5 megawatts (community solar). It will have sheep grazing on the site and the Town is in negotiations to house a beekeeping operation on site as well. There are additional open lands in the northern portion of the Town that could accommodate solar developments.

Land Subdivision Regulations

Chapter 204 of the Town Code authorizes the Town Planning Board to review properties for land subdivision approval. The Planning Board reviews applications for both minor and major subdivision of land. Lands shall be subdivided in such a manner that provides for the future growth and development of the Town and provision of adequate services for the housing, transportation, distribution, comfort, convenience, safety, health, and welfare of Town residents. Provisions are to be made for drainage, water supply, septic/sewerage, roadways, and other required land improvements. All lots are to be laid out and sized to conform to Town zoning requirements in harmony with existing and desired development patterns.

Town Land Use Planning Documents

Town of Amherst Bicentennial Comprehensive Plan

The Town originally prepared the Bicentennial Comprehensive Plan in 2004. It was officially adopted by the Town Board in 2007. The most recent update was prepared in 2019. The Bicentennial Plan emphasizes greater investment and planning for commercial centers and hamlets in the community. Although agriculture, as a land use is no longer as significant in the Town, the Comprehensive Plan lends focus to agricultural preservation and sets forth guidance for maintaining and enhancing agricultural use in the community.

The 2007 plan set forth a vision for the Town in 2018 as a place with exceptional quality of life that was based on three fundamental attributes – livability that is comprised of healthy neighborhoods, outstanding public services and active community life; community character through the management of growth and preservation of natural and cultural resources; and shared direction with other entities in the prosperity of the Buffalo-Niagara region. This vision statement established the mandate for the policies and action programs contained in the Plan. The 2019 update builds upon this vision and offers four initiatives, with major changes of direction from some current policies, to provide a focus for action and the Town moves towards the position of excellence articulated in the vision.

The initiatives include:

- **Aesthetic/Community Character** – to be renowned for the beauty, character, and environmental quality of the community.
- **Education** – to capitalize on the presence of the State University of Buffalo, other institutions of higher learning, and outstanding public school districts to become one of the nation’s leading knowledge-based communities.
- **Revitalization** -to become a model for effective reinvestment and revitalization of older neighborhoods.
- **Governance** – to exercise leadership by providing excellent services and facilities, ensuring fiscal balance, and managing development to promote predictability, fairness, and quality.

The Bicentennial Comprehensive Plan includes six Focal Planning Area elements, which are smaller geographic areas within the Town that present specific planning challenges. One of these areas is North Amherst, where the focus is on the preservation of rural character. This is the area where viable agricultural use still exists, and where the primary focus of the Agricultural and Farmland Protection Plan is being placed.

D. Natural Resources

The Town’s natural resources feature various assets, including waterbodies (major creeks and streams), forests, wetlands, floodplains, and parklands. These resources have played an important role in the development of the Town, shaping development patterns and the way people interact. These features are shown on Map 4.

Topography and Soils

Topographic relief in the Town of Amherst is due to pre-glacial erosion of the bedrock and subsequent topographic modification by glaciation. The Town generally slopes north-northwest, which promotes surface and subsurface drainage toward Tonawanda Creek and the Niagara River. Between the major drainageways of Ellicott and Ransom Creeks, the topography is nearly flat, with Tonawanda Creek dropping only three feet per mile across northern Amherst. The Onondaga Escarpment, which parallels Route 5 (Main Street) through the Town, marks the approximate boundary between surface soils that are predominantly lacustrine in origin (to the north) and predominantly glacial till soils (to the south). Soils are more typically shallow to bedrock along and just south of the escarpment. North of the escarpment, soils are generally deeper, with depth to bedrock greater than 10 - 20 feet in most places. A soils map that emphasizes agricultural soils is included in Section 4 (See Map 6).

The Town is generally divided by five soil map units, with 55 individual soil classifications, as indicated in the Soil Survey of Erie County, New York (USDA Soil Conservation Service, 1978). The five soil map units include:

Churchville-Ovid-Lima unit, which is found in two areas in the southeastern portion of the Town. Soils in this unit were formed in glacial till deposits and are relatively flat, with slopes ranging between 0 and 8 percent. These soils are deep, somewhat poorly drained, and moderately well drained, and medium textured. Much of this map unit has been cleared and used for farming in the past.

Wassaic-Benson-Farmington unit, which is found in the southeastern portion of the Town, dividing the Churchville-Ovid-Lima unit in two. These soils include the Onondaga limestone escarpment feature, which faces north and is generally steep. Slopes in this soils unit generally range between 0 to 3 percent, with slopes up to 40 percent found along the escarpment. Formed in glacial till, these soils are moderately deep and moderately well to well drained.

Niagara-Canandaigua-Cosad, which dominate the northern half of the Town and were formed in glacial lake-laid deposits. This soils unit is broad and relatively flat plain, with slopes ranging between 0 and 3 percent, and is traversed by streams and drainageways. Usually areas located farthest from the drainageways are depressed wetlands. Most of the soils are poorly to very poorly drained (many soils groups are hydric or have hydric inclusions). Much of this soils map unit was cleared of forest cover and used for farming. The areas that remained forest covered or idle with brushy cover were mainly the more poorly drained soils. Many areas are still farmed as the soils are easy to cultivate, particularly where drained and well-managed. Seasonal and prolonged wetness is a primary consideration with these soils, and some areas are highly erodible.

Odessa-Schoharie-Rhinebeck soils unit, which is found in the central portion of the Town and was formed in clayey glacial lake-laid deposits. The landscape for this unit is nearly flat plain that is dissected by some stream channels. Slopes generally range from 0 to 8 percent, with a few areas that may reach 15 percent grades. These soils are deep and somewhat poorly to well drained, with the Odessa soils having the poorest drainage capacity. Here again, these soils were originally cleared of forest cover and used for farming. These soils are very sticky when wet and cloddy when dry. Seasonal wetness, slow or very-slow permeability in the subsoil and clayey textures are the primary limitations, with the potential for flooding in certain area.

Urban Land, which dominates the southwestern section of the Town that includes the lands south of the UB north campus and including and west of the Village of Williamsville. This map unit is composed of areas that are highly developed with commercial, industrial, or residential uses. While generally flat, with slopes between 0 and 3 percent, minor extension of the limestone escarpment can create slopes up to 15 percent in grade. This soils map unit is highly disturbed with little of the original soil characteristics remaining. Urban land primarily represents a land use change from rural to urban and suburban.

Wooded Vegetation

Larger areas are found in the north and northeastern portions of the Town, with some area of older growth woodlands with less mature understory vegetation and ground cover that is usually left undisturbed. Nature View Park, in north Amherst is a primary area of remaining woodlands. Large wetland complexes are found in central and northeastern areas of the Town, including the Great Baehre Swamp Wildlife Management Area. Forested areas and some wetlands also remain along major creek corridors, around the UB North campus, in Amherst State Park, and on private country club and other parks properties, including the 4-acre Walton Woods (See Map 4).

There are also larger areas of mature woodland juxtaposed against the manicured lawns and landscapes of residential subdivisions and older urban areas in the Town. Cleared open spaces, primarily former or fallow agricultural lands, and scrub-shrub vegetative conditions exist in most non-forested locations. These areas are located mainly in the northern portion of the Town.

Water Resources

The Town possesses numerous water resources that include two major creek corridors, several smaller creeks and streams and a few lakes (see Map 4 in Appendix). Ellicott Creek extends from southeast to northwest through the Town, passing through parklands, the UB North campus and residential areas before flowing west to join Tonawanda Creek in the Town of Tonawanda. Tonawanda Creek forms the north boundary of the Town along its full length. Both these creeks provide recreational opportunities, important wildlife habitat, and offer scenic landscapes. These two creeks are fed by smaller tributary creeks, particularly Tonawanda Creek, and drainageways.

There are significant areas of FEMA designated floodplains that border Ransom and Black Creeks in the northeastern portion of the Town (see Map 4 in Appendix), with additional areas of floodplain found along Ellicott Creek. New York State and federally designated wetlands are located throughout the Town, with substantial areas located in the central and northern portions of the community. Wetlands provide valuable habitat for numerous plant and animal species, as well as acting as “natural filters” for pollutants and sediment carried in stormwater.

As wetlands are typically characterized by hydric soils that are poorly drained and typically areas of saturated soil, ponding, and, in some cases, higher flooding potential, it is not surprising to find these natural resources predominantly in the northern portion of the Town. Some of the hydric soils are high in nutrients and conducive to a variety of agricultural pursuits, as well as serving as habitat.

E. Infrastructure Services

Transportation Network

Interstate 290 (Youngman Expressway) extends through the southwestern portion of the Town; Interstate 990 (Lockport Expressway) extends northeast from the I-290 to Millersport Highway. Both these roadways are limited access highways that carry high volumes of commuter and other commercial and local traffic. The New York State Thruway (I-90) also traverses the Town, with exits on Transit Road (exit 49) and at the Williamsville Toll Booths. (exit 50).

Major State highways in the Town include Niagara Falls Boulevard (SR 62), which runs north to south and forms much of the western Town boundary. Bailey Avenue, in the southwest corner of the Town, is also a designated portion of State Route 62. Transit Road (SR 78) also extends north to south, forming the Town’s eastern boundary. Other State routes include Main Street (SR 5) and Sheridan Drive (SR 324), which both run generally east to west in the southern part of the Town. Millersport Highway (SR 263) extends on a diagonal, from the southwest corner of the Town to the northeast corner. Additional State roadways include Campbell Boulevard (SR 270), that runs north from Millersport Highway to the Town boundary at Tonawanda Creek, and State Route 277 (Union Road and North Forest Road), which extends from the Town’s southern boundary to Sheridan Drive. There are also a number of roads under the jurisdiction of the Erie County, including Maple Road, Sweet Home Road, Youngs Road and North French.

The roadways in the Town support a high volume of traffic, particularly in the more urbanized areas of the Town. The northern part of the Town, where agricultural uses are located, is serviced by Tonawanda Creek Road, which runs east to west following the creek corridor between Transit Road and Niagara Falls Boulevard. Campbell Boulevard, Hopkins Road and New Road run north south and intersect with Tonawanda Creek Road. The roadways in the north are more rural, with two travel lanes and narrow shoulders.

Local Gas and Electric Utilities

The Town of Amherst is serviced by public utilities including natural gas and electric. Natural gas is supplied by National Fuel Gas; electric service is provided by National Grid. Cable television and wireless communication services are provided by several private companies. Transmission corridors for these utilities extend across the Town, including a National Grid easement for electrical transmission lines that extends from north to south, bisecting the entire town.

Public Water Supply

All residents and businesses in the Town of Amherst receive potable water from the Erie County Water Authority (ECWA). ECWA's service area is shown in Figure 3-8. The ECWA utilizes Lake Erie and the Niagara River as its water supply source for a large portion of Erie County, including the Town of Amherst. The ECWA processes water at the Sturgeon Point Water and Van de Water Treatment Plants. Most of the Town receives water from the County through a Lease Management agreement, where the ECWA is responsible for customer service, billing, meter reading and maintenance, while the Town is responsible for any and all capital improvements. In the southwestern part of the Town, west of the Village of Williamsville, the ECWA owns and operates the entire system and is responsible for all aspects of water service, including capital improvements.

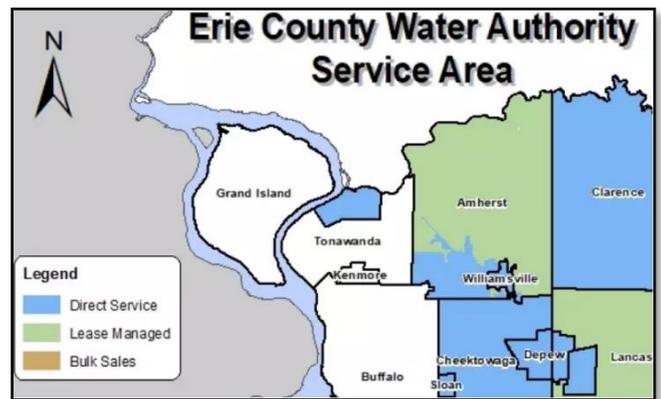


FIGURE 3-8: ERIE COUNTY WATER AUTHORITY SERVICE

Wastewater Management

The Town of Amherst owns and operates a Water Pollution Control Facility (WPCF) that is located on Tonawanda Creek Road in the northwestern portion of the Town. The plant treats wastewater that is collected throughout much of the Town, the Village of Williamsville, and parts of the Town of Clarence. Wastewater that enters the plant receives tertiary treatment that includes sand filtering. This facility treats an average of 24.5 million gallons of wastewater per day. During heavy rainfall events, the treatment capacity of the plant can be exceeded due to inflow and infiltration (I&I) problems in the system. Treated effluent is discharged into Tonawanda Creek under the conditions of the State Pollutant Discharge Elimination System (SPDES) permit issued by the New York State Department of Environmental Conservation (NYSDEC).

Map 5, in the Appendix, illustrates the boundaries of the Amherst Sewer district. A large area in the northern portion of the Town is not included within the district boundaries. This area includes most of the properties that are located in County Agricultural District #17. In addition, the Bicentennial Plan has recommended that a portion of land in the northeast corner of the Town be removed from the Sewer District. In an effort to protect remaining agricultural lands, and as supported by the Bicentennial Comprehensive Plan, the Town has clearly indicated that, as a matter of policy, it does not support the expansion of sewer service or the existing sewer district beyond its current boundaries.

Stormwater Management

The Town of Amherst stormwater infrastructure includes drainage systems with on-site storage and/or direct discharges to surface water bodies. On-site storage of stormwater is typically achieved by the installation of drywells, stormwater retention ponds and bio-retention areas. In most cases, these facilities include overflow structures that direct stormwater runoff resulting from extreme rainfall events to drainage facilities that ultimately discharge to local creeks and other surface waters. The Town Highway Department also maintains a stormwater system of swales, catch basins, ditches, creeks and streams and all interconnecting pipes within the public roadway system to manage drainage throughout the Town.

The Town of Amherst prepared a Stormwater Management Plan (SWMP) in 2018 in accordance with their SPDES permit requirements for obtaining authorization for stormwater discharges and certain non-stormwater discharges. The SWMP was developed to facilitate the Town's efforts for reducing stormwater pollutants from the Town's municipal separate storm sewer system (MS4) to the greatest extent possible, as required by the SPDES General Permit.



04

AGRICULTURAL LANDS & RESOURCES



04

AGRICULTURAL LANDS & RESOURCES

PHOTO COURTESY OF BUFFALO NIAGARA HERITAGE VILLAGE

Agriculture is important to the Town of Amherst. Although agricultural lands do not comprise a significant amount of land use activity in the Town of Amherst, they contribute to the Town's economy and the Town's character. Like many other suburban communities, residential uses dominate the landscape. Vacant lands – including vacant farm fields- make up the second highest category. Commercial and industrial land uses are located along main thoroughfares, such as Niagara Falls Boulevard, North French Road, Sheridan Drive, Main Street and Transit Road. Residential uses range from small village-sized lots to large lot frontage properties, with the latter primarily found in areas where public sewer is not available. Open spaces and agricultural lands are particularly important to the character of North Amherst, where most of the agricultural lands are located.

Farming operations account for approximately 3,000 acres of land and are found primarily in North Amherst. Much of this activity is located within Amherst Agricultural District #17 (see Subsection B below), but there are agricultural activities that occur on lands throughout the Town and outside of the district, some in the form of hobby farming. Like many other communities with semi-rural areas, vacant land is used for agriculture (field operations), and larger residential properties are known to rent land to local farmers for field crops. Farms in the Town of Amherst range in size and intensity from beehives, to growing herbs and micro-greens, to plant nurseries, greenhouses and field crops. Agriculture in Amherst is not as prominent as it once was, as agricultural activities have transitioned to other uses. However, agriculture remains an important enterprise in the Town.

The Town is located within USDA hardiness zone 6A, with an average growing season of about 140 days in the season (early May through early October) and an average precipitation level of approximately 38.5 inches. The growing season can be extended using high tunnels and greenhouses.

A. Agricultural Soils

The Town of Amherst is relatively flat with drainage flowing into Ellicott, Tonawanda, Ransom, Gott and Black Creeks (and respective tributary streams) that convey flow to the Niagara River. As discussed in Section 3, soils in the Town of Amherst fall within five soils maps groups. The Niagara-Canandaigua-Cosad soils map unit is dominant in the northern half of the Town where agricultural activity exists. These soils were formed in glacial lake-laid deposits that formed a broad and relatively flat plain, with slopes ranging between 0 and 3 percent. The area is traversed by numerous streams and drainageways, particularly in the northeastern section. There are extensive areas of wetlands as most of the soils are poorly to very poorly drained (many of the individual soils groups in this map unit are hydric or have hydric inclusions). Most of the soils are deep and have the potential for saturation. Seasonal and prolonged wetness is a primary consideration with the soils, and some areas are highly erodible. Many areas in north Amherst are still farmed as the soils are easy to cultivate, particularly where drained and well-managed. Many of the soils can produce high yields and are designated as agriculturally significant (see Map 6 in the appendix).

Prime Farmland

Prime farmland, as defined by the USDA Natural Resources Conservation Service (NRCS), consists of “land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.”



PHOTOS COURTESY OF DONALD SPOTH FARM AND GREENHOUSE

Approximately 3,684 acres of land in the Town (10.7%) are considered prime farm soils. Many areas of prime farm soils have been lost to development. What remains of these soils are mostly found around the existing creeks in north Amherst, as well as in protected areas such as Amherst State Park and the Amherst Central Park property, and protected wetlands. These are all areas where little to no farming activities occur. As noted above with the type of soils found in the Town, and their poor drainage characteristics, it is not surprising that there is a larger component of soils (as identified in the Soil Survey of Erie County, New York (USDA, 1978) that would be considered prime if drained, which comprise over 13,134 acres or 38.2% of the Town. While many areas of prime if drained soils have also been lost to development, there are substantial areas in the north and northeastern areas of the Town where they exist and could provide for future agricultural activity (see Map 6 in the appendix). Cornell Cooperative Extension and the Erie County Soil and Water Conservation District can provide assistance to landowners who may wish to activate these lands for farming use.

Soils of Statewide Importance

In addition to prime farm soils, 7,699 acres of land (22.4%) are classified as “soils of statewide importance,” generally considered to be nearly prime farmland quality that economically produce high yields of crops when managed in accordance with acceptable farming practices. Although important to agricultural activity in the State, these soils exhibit certain characteristics, such as seasonal wetness or erodibility, and do not meet all the criteria to qualify as prime farm soils. These soils are primarily found in the northeastern portion of the Town (see Map 6 in the appendix).

B. Agricultural Districts

County designated/ State certified Agricultural Districts created under Article 25AA of New York State’s Agriculture and Markets Law are designed to protect and maintain the viability of the agricultural industry for farming purposes. Since agriculture is not a predominant land use in the Town, the extent of the Agricultural Districts in Amherst is limited to the northern portion of the Town, as shown on Map 7. As of the publication of this Plan, 192 parcels encompassing 2,688 acres of land are included within Erie County Agricultural District No. 17 (Amherst). Many of these parcels comprise one large area in the north-central part of the Town, and a few smaller designated properties are located along Tonawanda Creek and Transit Road.

New York State Agricultural Districts Law mandates that governmental agencies must avoid or minimize potential adverse impacts to farming operations when undertaking or acting upon any project within an Agricultural District that involves the acquisition of land or the use of public funds for construction purposes. The Agricultural Districts are reviewed every 8 years from the anniversary date of the formation of the district. New viable agricultural lands can be added to an existing district annually during designated enrollment periods. In Erie County, this enrollment period is between September 1st and September 30th. During this period, landowners can request the inclusion of their lands into the existing district.¹ These County Agricultural Districts are distinct from the Town’s Agricultural Zoning district (AG), which is locally established and does not include the range of protections provided by a County Agricultural District. Currently, there are no properties in the Town of Amherst that are designated in the AG zoning district.

¹ Erie County Department of Environment and Planning maintains most current data on lands in Agricultural Districts.

The benefits of being in a County Agricultural District include:

- Local laws may not unreasonably restrict Farm Operations as defined by Agriculture and Markets Law within the District and existing and proposed laws are subject to review by the State Department of Agriculture and Markets to ensure that they comply with the law and are not overly restrictive;
- Real estate agents are required to disclose to potential buyers that the property they are about to acquire is located in an Agricultural District or within 500 feet of any farm operation and/or farmland; and
- Any application for development of lands located within an Agricultural District, or land located within 500 feet of any farm operation and/or farmland must submit an agricultural data statement to the Town as a part of the land development application.

Agricultural Data Statement

Pursuant to Section 283-a.2. of Article 16 of NYS Town Law, any application for a special use permit, site plan approval, a use variance, or approval for subdivision of land that requires review and approval by the Planning Board, Zoning Board of Appeals or Town Board, which involves an action that would occur on property that is located within an agricultural district and contains a farm operation, or on property situated within five hundred feet of a farm operation that is located in an agricultural district, shall include the preparation of an Agricultural Data Statement as part of the application. The information required by an agricultural data statement may also be included as part of any other application required by local law, ordinance, or regulation.

The Town Clerk or other representative for the various Boards reviewing the application request must mail a notice to all owners of land as identified in the Agricultural Data Statement (see Appendix D). This notice must include a description of the proposed project and its location and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the project. The cost of this mailing can be borne by the applicant. In addition, the Town must refer all applications that require an agricultural data statement to the Erie County Department of Planning and Development, as required under Section 239-m (for site plan review) of the NYS General Municipal Law, and any action occurring within 500 feet of a Farm Operation in an Agricultural District.

Under State law, the local reviewing board must evaluate and consider the Agricultural Data Statement as a part of its overall review of the proposed action to determine the potential impacts that the action may have on the farm operations. Erie County conducts this review for projects in the Town of Amherst. The County also evaluates present and future farming conditions to ensure the proposed land use does not conflict with current or future farming activities on the land. A farmer's knowledge of local agricultural conditions is fundamental for the local review board's evaluation and determination of appropriate mitigation measures and whether the action proposed could conflict with ongoing and future farming practices.

C. Farm Operations, Farm Statistics and Economic Contributions of Farming

The Town of Amherst conducted an analysis of local agricultural operations and properties based on town assessment data, conservation easements and field investigations. Map 8, found in the appendix, illustrates all lands classified by these sources as agricultural (shown in green on the map). These parcels are located largely in the northern portion of the Town (north of Schoelles Road), although there are additional parcels scattered throughout the Town. In general, agriculture comprises a small but significant portion of the Town. It is particularly important to the character of the northern portion of Amherst.

There is a significant amount of land that is in agricultural use, based on Town property assessment data, but that is not protected by being located within the County Agricultural District. In particular, the northeast corner of the Town has a concentration of agricultural lands that are outside the area covered by the Agricultural District. These lands are more at risk of being converted to non-agricultural use than lands within the Agricultural District, although there is nothing prohibiting the subdivision of land or the construction of non-agricultural uses within an Agricultural District.

This map also depicts agricultural points of interest. These assets include several farm markets, some agricultural operations, and complementary activities, such as the Buffalo Niagara Heritage Village.

- Empire State Trail
- Buffalo Niagara Heritage Village
- Spoth Farm
- Hi-Way Garden Center
- Vilonen Ben Brook Farm
- Nature View Park (Conservation Easement)
- Leo Brenon Top Soil
- Farmers and Artisans (retail operation)
- Village of Williamsville Farm Market
- 12 Gates Brewery
- Krantz Compost Facility
- Russell's Tree and Shrub Farm
- Badding Brothers
- North Amherst Recreation Center
- Arbordale Nurseries
- Mischler's Florist and Greenhouse
- George's Market
- Niagara County Produce (just outside Town boundaries)

Overview of the Agricultural Sector in Amherst

The US Census conducts an agricultural survey every five years that provides data on agricultural operations throughout the United States. This information from the US Census of Agriculture was reviewed to obtain a picture of agricultural activity within the Town. The data are not available at the Town level; the smallest geography available is zip code level data. Zip code data was obtained for the two zip codes that cover the northern portion of the Town, where the bulk of agricultural activities are occurring. Zip Code 14228 covers the western portion of northern Amherst, while zip code 14051 encompasses the eastern part of north Amherst, as well as portions of Clarence. (See Figure 4-1).

Zip code level data do not capture all agricultural activities in the Town, and the figures include operations outside the Town (Clarence). Also, due to the small numbers, not all figures are available. However, the information can provide insight into farming operations in the Town. Figures 4-2 and 4-3 summarize agricultural data for these two zip codes.

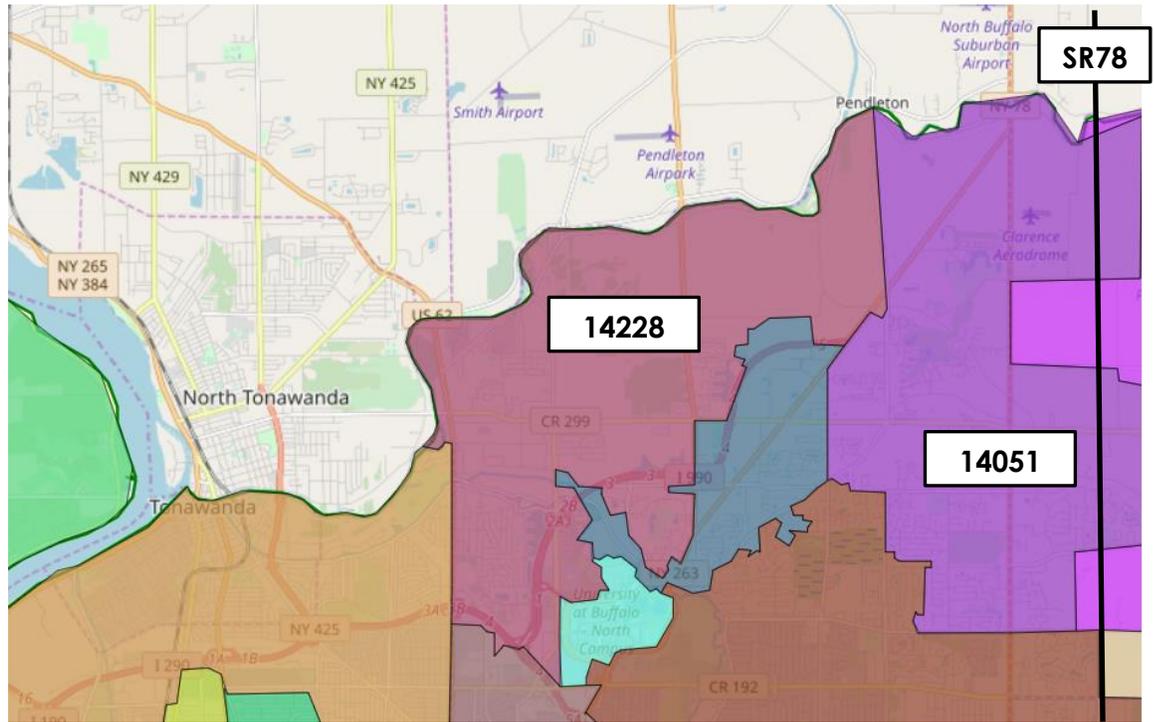


FIGURE 4-1: ZIP CODES IN NORTH AMHERST

In 2017, there were eight farm operations in 14228 and six in 14051, for a combined total of 14 farms (see Figure 4-2). This represented a loss of operations from 2007, which is the other year for which data are available. In 2007, there were 13 farm operations in 14228, and 17 in 14051, representing a combined total of 30 operations. This decline amounts to a loss of 53.3% of farming operations in the two zip codes over the 10-year period between 2007 and 2017.

In terms of tenure, all farming operations in the two zip codes in 2017 were at least partly owned by their operators. Over three-quarter (78.6%) are full owners, and the remaining 21.4% of operations were at least partly owned by the working farmer. While some farms in 2007 were tenant farms, none are currently tenant farms.

FIGURE 4-2: FARM OPERATIONS BY TENURE, 14228 AND 14051 ZIP CODES

	14228	14051	Combined (Both Zip Codes)	Percent Total
Tenure				
2017				
Farm Operations: Full Owner	5	6	11	78.6%
Farm Operations: Part Owner	3	0	3	21.4%
Farm Operations: Tenant farmer	0	0	0	0%
Total (all tenures)	8	6	14	100.0%
2007				
Farm Operations: Full Owner	6	9	15	50.0%
Farm Operations: Part Owner	3	6	9	30.0%
Farm Operations: Tenant farmer	4	2	6	20.0%
Total (all tenures)	13	17	30	
Trends 2007 - 2017				
Farm Operations: Full Owner	-16.7%	-33.3%	-26.7%	
All Tenures	-38.5%	-64.7%	-53.3%	

SOURCE: US CENSUS OF AGRICULTURE

As shown in Figure 4-3, farms in Amherst tend to be small to moderate in size. Of the eight operations who responded to the survey in zip code 14228, seven were between 50 and 999 acres, and one was less than 50 acres in size. In zip code 14051, nine of the 15 operations were between 50 and 99.9 acres in size, and six were less than 50 acres. Sales are also modest. In the 14228 zip code, four of the eight farms reported sales of less than \$50,000 per year. Two reported sales between \$50,000 and \$249,999, and two earned more than \$250,000 annually. In zip code 14051, 15 out of 17 surveyed operations reported farm sales of less than \$50,000 annually.

FIGURE 4-3: CHARACTERISTICS OF FARMS, 14228 AND 14051 ZIP CODES, 2017

	14228	14051	Combined	Percentage
Size:				
Area Harvested: 1 to 49.9 acres	1	6	7	30.4%
Area Harvested: 50 to 499 acres	7	9	16	69.6%
Total	8	15	23	100.0%
Sales Receipts				
Farm Sales: < \$50,000	4	15	19	76.0%
Farm Sales: \$50,000 to \$249,999	2	1	3	12.0%
Farm Sales: over \$250,000	2	1	3	12.0%
Total	8	17	25	100.0%

SOURCE: US CENSUS OF AGRICULTURE

Data on what these farms produce indicate a mix of products.

- Field crops (6)
- Horticulture (5)
- Grain (3)
- Hay and Haylage (3)
- Orchards (1)
- Soybeans (1)
- Fruits and nuts (1)

There are a few farms raising livestock in the Town. Total counts are not available due to the small sample, but livestock include cattle, poultry, sheep, turkey, hogs and horses. These products are based on what is reported, and many farms are producing more than one type of product.

Qualitative data from interviews with farmers and the Steering Committee has been used to supplement the Census data. These interviews confirm that agriculture in the Town of Amherst includes a variety of crops. Commodity crops include corn, hay and soybeans. The Town has a strong basis in horticultural products, such as flowers, shrubs, annuals and perennials, and ornamental flowers. There are a number of greenhouse operations within the Town. There are also high value vegetables, such as heritage tomatoes, herbs and microgreens. Farmers in Amherst also grow specialty crops such as hops, hemp and gourds. Livestock farming is not prevalent in Amherst, although there are a few farms with cows or beef cattle. The Buffalo Niagara Heritage Village keeps sheep for educational purposes.

A significant portion of agriculture in Amherst is targeted to niche markets, such as direct sales on farm (especially horticulture) and at farm markets. The ethanol plant in Medina purchases local corn, and there is a hemp processor in the Town of Pendleton. Producers are quick to adopt to market trends. For example, flower growers watch trends on social media to help target their markets and adjust their products to meet emerging demand. There is also a focus on entertainment and educational farming events, such as seasonal “make and take” events, prior to the curtailment of these efforts due to Covid-19.

There is not enough agricultural activity within the Town of Amherst to generate support services, and producers must go out of town for agricultural supplies and equipment. Locations for these support services include southern Erie County and Niagara County. On-line sales are also increasing.

There is a sense on the part of the farming community that all the available, farmable land is in agricultural production, and there is not a great deal of opportunity to increase farming activity in the Town. There is interest in maintaining existing operations. Development pressure is increasing not only from residential development, but also from renewable energy providers, and in particular, solar projects.

D. Agricultural Markets and Support Businesses

A full discussion of markets is included in the Agricultural Development Plan (Chapter 6). Primary markets for the agricultural sector in the Town of Amherst include hemp, flowers and nurseries. This section outlines available support services for farmers in the Town of Amherst.

Support Services

There are no support businesses located in Amherst for local farmers to purchase supplies, materials, equipment and repairs. Farmers must go out of town to facilities in Niagara County or the Southtowns, as well as areas further east of Erie County. Farmers also purchase what they need online through websites such as All States Ag Products. The following support businesses are commonly used by farmers in the region:

- Agway (Wrights Corners, Lockport)
- Niagara Frontier Equipment Sales (Wrights Corners, Lockport)
- Niagara Implement, Inc. (Newfane)
- George DeGlopper (Grand Island) – hay and straw (feed and bedding)
- Birkett Mills (Penn Yan) - seed
- W.H. Reinhardt, Inc. (Middleport) – seed and feed
- Tractor Supply (Niagara Falls, Lockport, Alden, Hamburg)
- John Deere dealer (Springville)
- Gramco (Springville) – seed and feed
- International Harvester (IH) dealer/Lamb & Webster, Inc. (Springville)
- Western New York Land Conservancy
- Erie County Department of Environment and Planning Office of Agriculture

In addition to equipment and material support, various agencies are available within the region that provide assistance to local farming interests including, but not limited to:

- **Erie County Farm Bureau:** The Farm Bureau is a membership organization that offers a number of benefits to members, including insurance and banking, automotive, business and family and health, among other things. The Farm Bureau also monitors state and national legislative priorities and provides information of this nature to members in support of agricultural protection and prosperity.
- **USDA Farm Service Agency:** The USDA Farm Service Agency (FSA) provides assistance and support to farmers through five key mission areas: programs, loans, commodity operations, management, and State operations. The predominant programs and services revolve around commodity protection and conservation, the latter through the Conservation Reserve Enhancement Program (CREP). FSA programs are funded through the Federal Farm Bill and subject to reauthorization every five years or so. Each State has its own office and individual contacts within each County. Further information can be found at their website at www.fsa.usda.gov.



PHOTO COURTESY OF GEORGE'S PRODUCE

- **Erie County Soil and Water Conservation District:** The Erie County Soil and Water Conservation Service (ECSWCD) (see www.ecswcd.org) is a resource management agency that was established by law to carry out a program for the conservation, use and development of soil, water, and related resources in the County. The ECSWCD coordinates and implements resource and environmental programs at the local level in cooperation with federal and state agencies. The district works with landowners and others to address a broad spectrum of concerns, including erosion control, flood prevention, water use and conservation, wetlands, groundwater, water quality and quantity, nonpoint source pollution, forestland protection, agritourism, wildlife habitat improvement, nuisance wildlife control recreation, wastewater management and community development. Its primary focus is on soil conservation and water quality (including non-point source pollution abatement control), providing information, technical, and financial assistance to agricultural, urban, and suburban constituents.
- **USDA Natural Resources Conservation Service:** The USDA Resources Conservation Service (NRCS), in partnership with the EDSWCD, provides technical assistance to farmers for the implementation of best management practices that are aimed at decreasing the transfer of soil and nutrients to local waterways.

The NRCS offers voluntary programs that benefit both agricultural producers and the environment, including the:

- Agricultural Management Assistance,
- Agricultural Environmental Management,
- Environmental Quality Incentives,
- Conservation Stewardship,
- Agricultural Conservation Easements, and
- Regional Conservation Partnerships.

They provide information and assistance on a host of other programs and initiatives, such as agricultural tax relief, integrated pest management, organic farming, ecosystem dynamics, nutrient management, energy conservation and climate change, biofuels, cropland erosion, and watershed protection. Their website can be found at <https://offices.sc.egov.usda.gov/>.

- **Erie County Cornell Cooperative Extension:** Using the knowledge network and strength of Cornell University, the Erie County Cornell Cooperative Extension (www.erie.cce.cornell.edu) provides programming and education for existing and new farmers including business development, marketing, farming practices, technology, resource protection, and other avenues.
- **New York State Department of Agriculture and Markets:** The primary intent of the NYS Department of Agriculture and Markets is to provide State-level regulation and protection of farms within State-certified, County-adopted agricultural districts. Local Right-to-Farm laws are typically derived from and relate to the State's Section 305 regulations. The Department also promotes New York agriculture within the State and throughout the country and lists a wealth of information on their website, which is located at <http://agriculture.ny.gov>.

E. Town of Amherst Bicentennial Comprehensive Plan

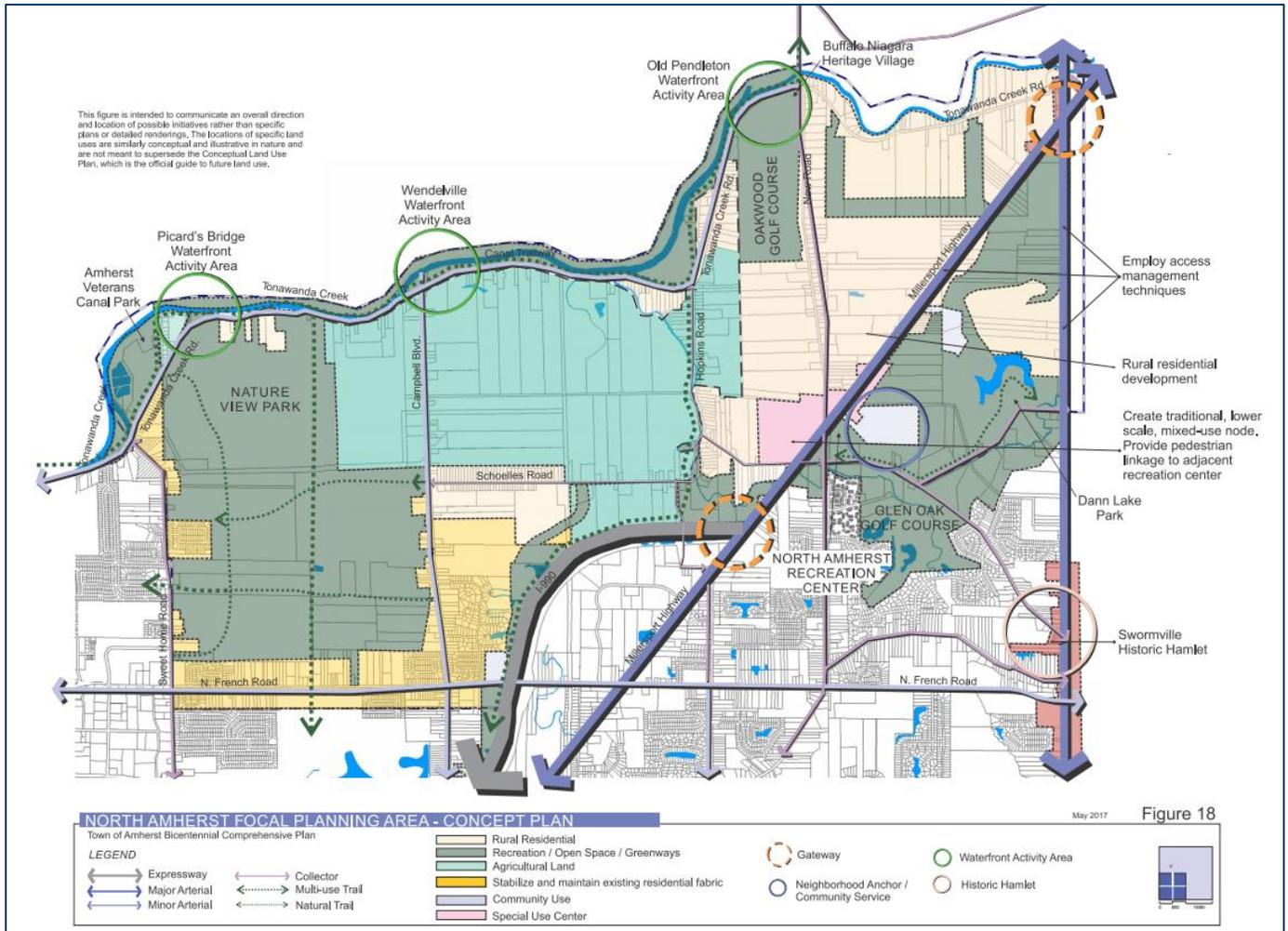
The Town of Amherst adopted an update to the Bicentennial Comprehensive Plan in 2019. That Plan includes specific goals and recommendations for farmland and agricultural protection. The Bicentennial Comprehensive Plan recognizes that farming and agriculture continue to play a significant role in defining the character of North Amherst. This area has a low density of development, rural roads, and open space/farms, in contrast to more densely developed suburban and urban areas to the south (south of Schoelles and Smith Roads). However, suburban residential development has continued to spread further north, threatening the character of this part of the community. Designation of areas in North Amherst for the preservation of rural character and, more importantly, agricultural use is essential for ensuring the long-term viability of agricultural and farming operations, as well as the expansion and diversification of these uses.

The Bicentennial Comprehensive Plan Update identifies North Amherst as a focal planning area that includes:

- significant areas of rural ("green"), undeveloped land, open space, and agricultural use;
- extensive natural resources and floodplain;
- expected growth of designated wetland areas; and
- an area where the lack of public sanitary sewer helps limit new development, as much of North Amherst is not served by public sewer.

The North Amherst Focal Planning Area Concept Plan, shown in Figure 4-4, illustrates the future direction of growth and development the Town proposes for North Amherst. The Bicentennial Comprehensive Plan Update recognizes the characteristics that contribute to a physical environment that is unique and an essential part of the Town's character. The concept plan emphasizes stabilization and preservation of rural character through strategies to control the location and density of new development and limits on the future extension of sanitary sewer service, shifting the focus to the repair and maintenance of on-site septic systems. It designates a large area of North Amherst to remain as open space, with low density uses.

FIGURE 4-4: NORTH AMHERST FOCAL PLANNING AREA



F. Agricultural Protection Issues in the Town of Amherst

Development Pressure/Conversion

Competition for land is a typical issue that farmers contend with, especially in high demand areas where residential development is on the rise. Projections for the Town of Amherst continue to show growth over the next decade. Growth has been progressing north for the past several decades, placing greater pressure on land in North Amherst. In the American Farmland Trust report *Farms Under Threat: The State of America's Farmland* (2018), research notes that *“between 1992 and 2012, almost 31 million acres of agricultural land were irreversibly lost to development. That is nearly double the amount of conversion previously documented and is equivalent to losing most of Iowa or New York. As alarming, this loss included almost 11 million acres of the best land for intensive food and crop production.”*

The landscape of New York itself has constantly been changing just as well. According to the United States Department of Agriculture, New York State lost the equivalent of 9,000 acres of farmland a year between 2002 and 2010 – the equivalent of one farm every three days. Typically, development pressure is found on lands that are on the border of areas that have public sewer and water available, although in New York lateral restrictions in Agricultural Districts can put limits on development without oversight and review by a local and/or County agricultural board.

Having active farming operations, large acreage for field production and open space in proximity to sewer districts makes these lands more attractive for residential development. Lands within sewer districts typically experience greater pressure for conversion to residential use, and are more valuable, because development density can be increased. This is the case in the Town of Amherst, where the sewer district has been continuously extended north as lands have been rezoned to support suburban residential development. The Bicentennial Comprehensive Plan, however, supports limiting the extension of sanitary sewer services is not proposed beyond the boundaries of the existing sewer district. This will help to limit future growth in North Amherst and enable the preservation of existing low-density development and agricultural uses, as well as rural character.

“between 1992 and 2012, almost 31 million acres of agricultural land were irreversibly lost to development. That is nearly double the amount of conversion previously documented and is equivalent to losing most of Iowa or New York. As alarming, this loss included almost 11 million acres of the best land for intensive food and crop production.”

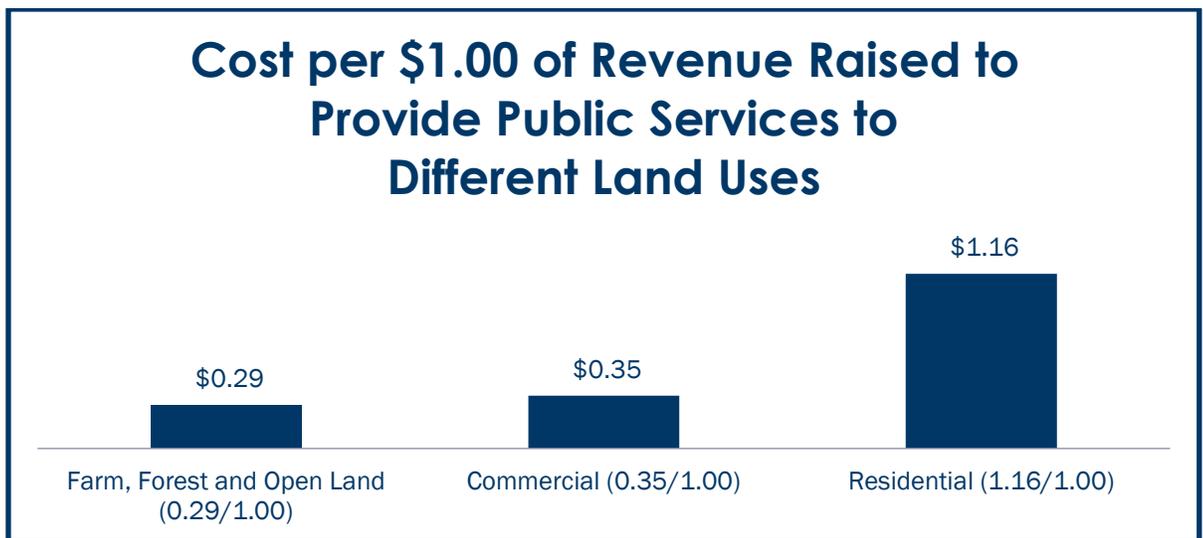
It is also important to note that new residential development can also bring about imbalance in the tax base, which can have an impact on the community. The saying *“Cows and Corn don't go to school”* reflects the truism that while farmland pays less in property taxes than residential properties do, it requires significantly less in public services.² There is no lack of examples of communities that struggle to balance their tax base.

² Planning for Agriculture in New York. American Farmland Trust, 2012.

As residential development increases, residents are faced with the associated costs of this new development that are reflected in continuing increases in local, county and school taxes and, possibly, fees for services.

The American Farmland Trust (AFT) conducts Cost of Community Services (COCS) studies nationwide, which provide a snapshot in time of current revenues and expenditures on a land use basis. COCS studies analyze the demands on public services (e.g., schools, fire protection, recreational amenities, and road maintenance) and show how much it costs to provide public services to each land use in your community (e.g., residential, commercial, and agricultural). See Figure 4-5. Unlike typical fiscal impact studies, COCS studies evaluate working land on equal ground with other types of development. When the AFT completes these studies, they find time and again that farm and forest land generate a net property tax “profit” while housing generally results in a property tax “loss” due to the high cost of associated residential needs and services. A Cost of Services Study Fact Sheet is included in Appendix E.

FIGURE 4-5: COST OF SERVICES



Agriculture and Ecology

It is important to accentuate the relationship that agriculture has with the natural environment. The basic tenet is that farming and agriculture should be undertaken in a manner that demonstrates environmental stewardship. This is important in order to strengthen the commitment and relationship between agriculture interests and ecology in the Town of Amherst as farming activities continue to grow and prosper. Farmers and agricultural interests own a considerable amount of land in the northern portion of the Town and in that capacity, they influence the natural environment, whether through maintaining woodlots, planting perimeter shrubs to provide food, cover and nesting sites for wildlife, or protecting water quality.

Managing surface water runoff to protect water quality and reduce sedimentation to Tonawanda Creek, and its tributary systems of creeks and streams, which is tributary to the Niagara River is of utmost importance. The Bicentennial Comprehensive Plan places emphasis on establishing a septic system maintenance district to ensure the repair and proper maintenance of these on-site systems in areas where public sewer service does not exist. This is important because the Plan proposed limits on expansion of the sewer district. Additionally, water quality concerns are related to proper livestock management. This is important because if existing zoning restrictions on the keeping of animals are revised, consideration must be given to how to sustainably address the impact of livestock management.

The concentration of large groups of livestock in small-penned areas results in concentrations of animal waste. The nutrient laden waste is easily mobilized in stormwater runoff that will find its way into local ditches, streams and creeks that are tributary to Tonawanda Creek and ultimately, the Niagara River. This is another issue that can be addressed through coordination with the various agencies that are available to assist farmers, as well as through the implementation of best management practices that address point and nonpoint source pollutions and water quality.

Integrating the relationship between agriculture and the environment into this Agricultural and Farmland Protection Plan allows for the application of expertise for better land use and water management and expands the scope of future project and implementation possibilities. As noted in Subsection D. above, there are several local agencies and organizations that can work with farmers to help them improve their farming practices and promote better environmental stewardship.

Local Agricultural Regulations

The Town of Amherst Town Code contains various local regulations that pertain to agriculture in the community. While the regulations allow for farming and other agricultural activities, certain protections are missing in the Code and other sections place limits and restrictions on farming and agriculture. The following are examples of areas in the code slated for revision.

- **Chapter 99 Animals**

Subsection 99-2 of the Animals Law prohibits any person, firm, or corporations from owning, keeping, harboring, or maintaining in their care, custody or control any livestock except chickens, unless otherwise permitted under additional provisions outlined in Chapter 203 (Zoning) as discussed below.

- **Chapter 203 – Zoning**

Chapter 203 includes three zoning classifications and other provisions that allow farming and other agricultural activities in the Town. These classifications are described as follows. It is important to note that the Suburban Agricultural District is the only one of the three zoning classifications that is currently mapped in the Town (see Map 3 in Section III).

- **Suburban Agriculture (S-A)**

The purpose of the Suburban Agriculture District is to provide areas for low-density, single-family detached residential development that would also accommodate farms, farm-related activities, and other non-intensive compatible uses. The minimum lot size is one-acre, with a minimum lot width of 200 feet. Agricultural uses permitted in the S-A District include farms and public or private stables; permitted accessory uses related to agriculture include greenhouses, kennels, private gardens (which are not defined), small wind energy systems, and other uses and structures customarily incidental to the principal uses.

- **Rural Residential (R-R)**

The purpose of the Rural Residential District is to provide areas for low-density, semi-rural, single-family detached residential development that recognize the need to protect the long-term viability of surrounding agricultural operations. The R-R District also accommodates farms, farm-related activities (included public and private stables), and other non-intensive compatible uses. The minimum lot size in an R-R District is three acres with a minimum lot width of 200 feet. Permitted accessory uses in this district include greenhouses, private gardens, kennels, produce stands that only sell items grown/raised on-site, small wind energy systems, and uses and structures customarily incidental to the primary use.

○ **Agricultural (A-G)**

The Agricultural District is a floating zone that provides for the continued use of land for agricultural purposes, including farms, public and private stables, floriculture, orchards, nurseries, and animal husbandry promoting an environment conducive to the long-term stability of agriculture. While animal husbandry is not defined, it represents the keeping and raising of livestock and livestock products. Other commercial uses permitted in the A-G district include the sale of agricultural products, animal grooming and care, commercial kennels and dog daycare facilities, and riding academies. Permitted accessory uses included greenhouses, kennels, private gardens, produce stands that only sell items grown/raised on-site, small wind energy systems, and uses and structures customarily incidental to the primary use. The minimum lot size in the A-G District is five acres, which includes for the construction of dwelling units, with a minimum lot width of 200 feet.

Chapter 203 allows keeping or raising of livestock under the follow circumstances:

- Per Section 6-1, on properties located in the S-A and R-R Districts, or in any established A-G districts, a maximum of two horses are permitted on the first two acres, with an additional horse allowed for each additional acre.
- Per Subsection 6-8-9.A., the non-commercial raising of livestock may be permitted as an accessory use on properties measuring two or more acres in size in the S-A, R-R or A-G districts.
- Per Subsection 6-8-9.B., upon issuance of a Special Use Permit from the Zoning Board of Appeals, property owners in the R-R, R-1, R-2, R-3, and R-4 residential districts may raise up to six chickens as an accessory use on the same premises associated with an occupied single-family detached dwelling.

The S-A District permits ground-mounted solar energy systems³ that have a total facility footprint equal to or greater than 7,000 square feet. Solar energy systems are allowed in the S-A District with a Special Use Permit. as a permitted commercial use. Solar energy systems are only allowed with a Special Use Permit in the A-G District. The R-R District is being amended to allow solar energy generation (Tier I, II and III). All three districts allow home occupations as a permitted accessory use (with a Special Use Permit), which is important for farmers and others who may seek secondary income in the off-season. Bed and breakfast establishments are allowed as a commercial use with a Special Use Permit in the S-A and R-R Districts, and by-right in the A-G District. Chapter 203 also includes a listing of definitions, including general and specific terms, some of which define farming and agricultural-related uses and activities. This section of the Zoning Ordinance needs to be updated to better define farming and agricultural uses and activities and to ensure that certain activities are supported with accurate definitions. The full text of the applicable sections of the Town of Amherst Zoning Ordinance is provided in Appendix B.

All the items outlined above indicate that there is a need to revisit some of the Town's land use restrictions and regulations to identify opportunities to make Amherst more farming-friendly, promote agricultural activity, and protect the environment. The Town should better utilize adopted but unmapped zoning classifications that can better protect and support farming and agriculture in the community, which is discussed in greater detail in Section V of this report. Without such changes, the future of farming and agriculture, at any scale, may continue to be constrained by existing regulations.

³ Ground-mounted Solar Energy System and Solar Energy System are defined in Section 6-10.2 of the Zoning Ordinance.

A large indoor cannabis cultivation facility, likely a greenhouse or high tunnel, with rows of cannabis plants growing in black pots. The structure is made of metal frames and translucent plastic covering. The plants are arranged in long rows, and the lighting is bright, suggesting a controlled environment. The text '05' is overlaid on the right side of the image.

05

ANALYSIS OF FINDINGS & RECOMMENDATIONS FOR FARMLAND PRESERVATION



PHOTO COURTESY OF DONALD SPOTH FARM & GREENHOUSE

A. Summary of Farming & Agricultural Protection

Agriculture has played a significant role in the Town of Amherst since its founding in 1818. While the amount of farmland in the Town has decreased over the years, Amherst remains dedicated to the importance of agriculture in maintaining a vibrant, economically diversified, and healthy community. The Town is preparing this Agricultural and Farmland Protection Plan to ensure that remaining farmland is protected and to envision new and creative ways to keep agriculture economically viable moving forward into the future

Farming pursuits in the Town are diverse, featuring commodity crops alongside more specialized agriculture activities including vineyards, greenhouses, and apiaries. New trends are emerging, such as community-supported agriculture, agri-tourism, agricultural educational events and crafts, farm-to-table opportunities, and specialty crops (hops, flowers, hemp, alpaca fiber, etc.). Opportunities to partner with the medical and technological economic base of the Town are also being explored. There are also opportunities to support small-scale non-commercial agriculture and a healthy food system, such as home vegetable gardens (including front-yard gardens), community gardens and staple food ordinances. The intent is to provide a wider range of opportunities for the agricultural sector, to identify supplemental revenue streams, and enable agriculture to remain active and viable. The Town posits that strong farms and a strong farm economy are the best ways to preserve agricultural lands.

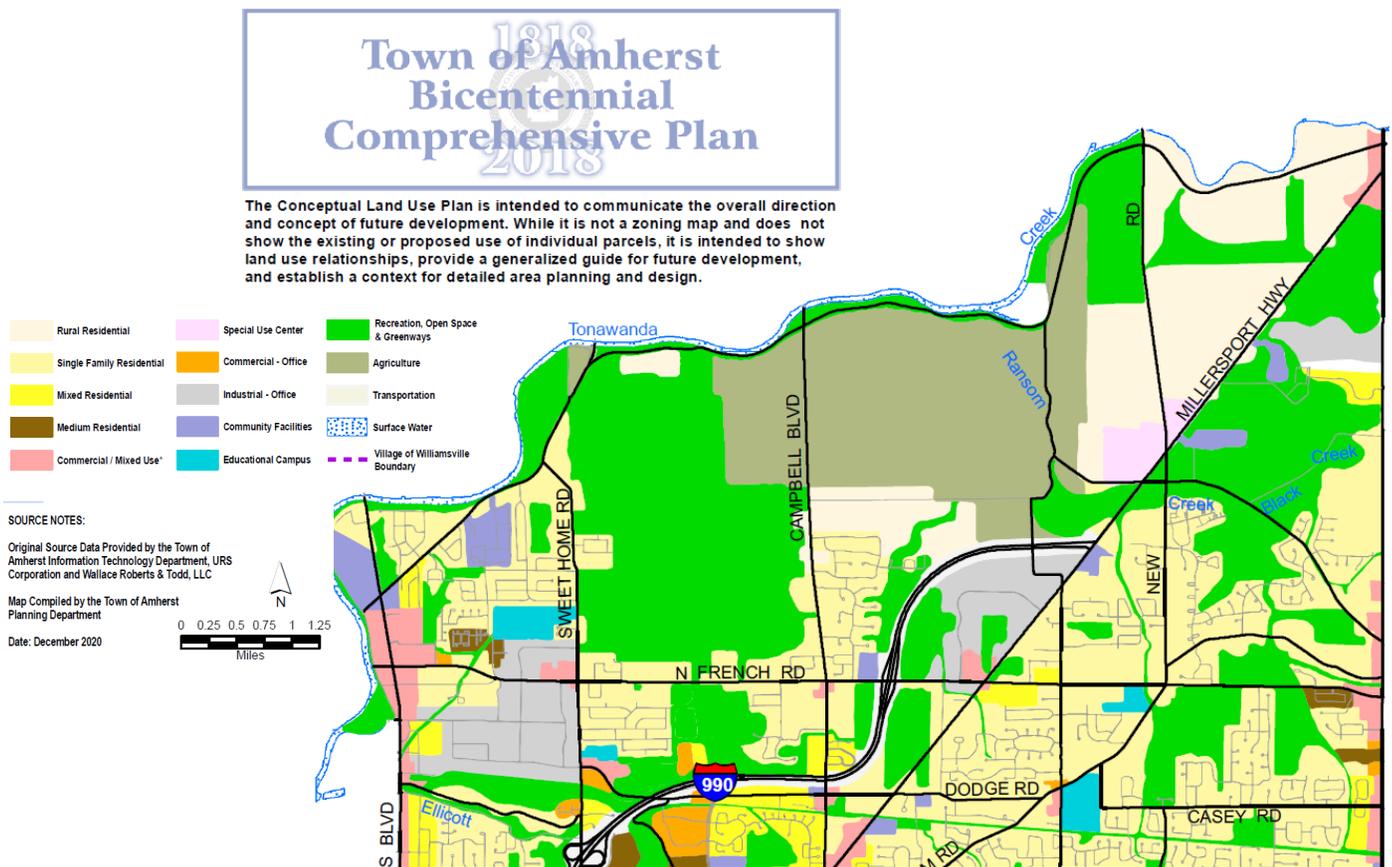
A particular focus of this Plan is on preserving the rural and agricultural nature of the northern portion of the Town. This is where most of the Town’s remaining agricultural lands are concentrated, and where public sanitary sewer service does not exist, which has helped to maintain the rural nature of the area. However, the Town acknowledges that creative, entrepreneurial, and small-scale agriculture and agriculturally related activities are occurring throughout the Town. In addition, this Plan recognizes that public support in the form of conservation easements is an important tool the Town can use to protect and preserve prime soils and agricultural lands.

This Plan includes an inventory of existing agricultural assets in the Town to identify priority areas for protection, along with methods for achieving that goal. The Plan also includes an Agricultural Development component that identifies economic development opportunities to strengthen the farm economy in the Town, through means such as agri-tourism, education, and support services for agricultural businesses. The end goal is a healthy, thriving agricultural sector and the protection of rural lands in the Town.

B. Vision for the Future

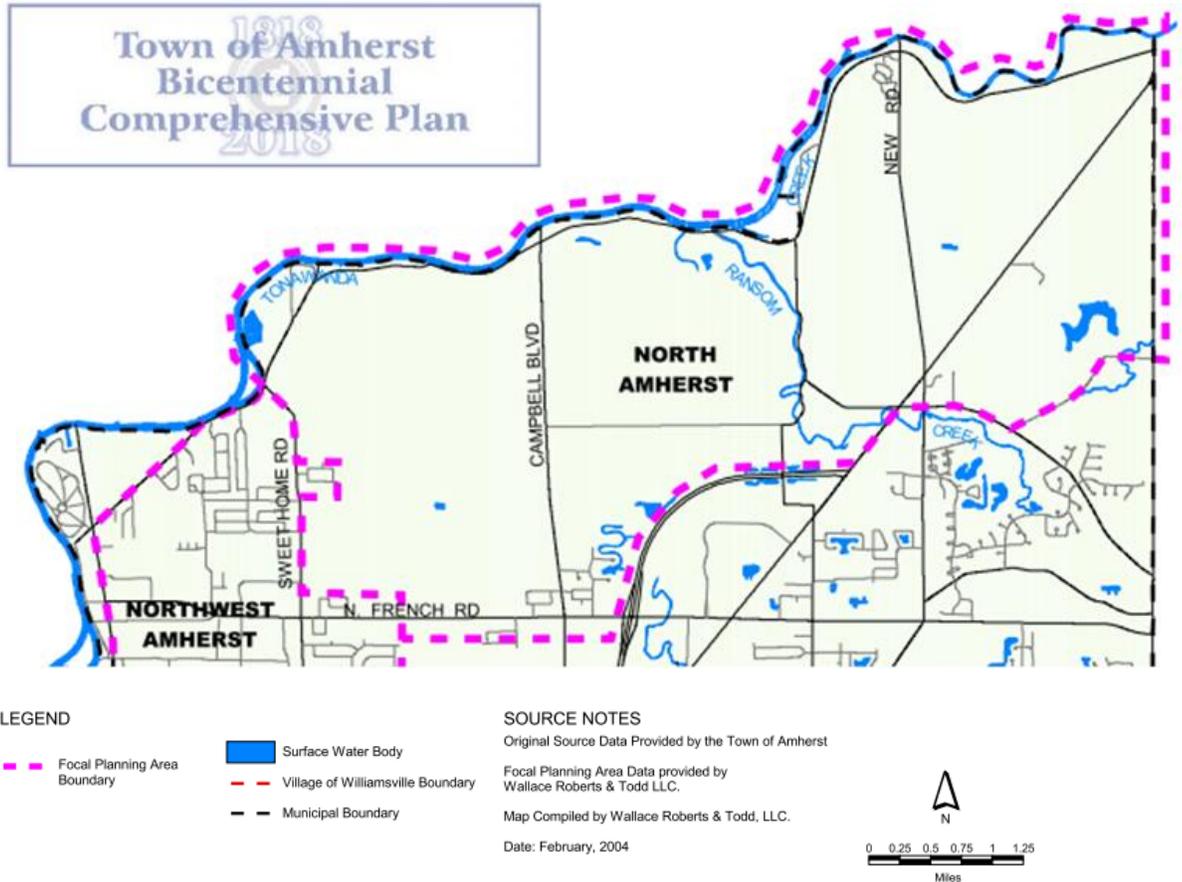
The Town of Amherst adopted an update to the Bicentennial Comprehensive Plan in September 2019. The Bicentennial Plan includes specific goals and recommendations for agricultural and farmland protection. It recognizes that agriculture once played an important role in the Town’s economy and way of life. While its economic influences have diminished in recent years, agriculture continues to play a significant role in defining the character of North Amherst. The Conceptual Land Use Plan in the Bicentennial Comprehensive Plan (See Figure 5-1) illustrates a vision for the Town and provides a generalized guide for future development. That Plan delineates North Amherst as an area where open space and agricultural uses take precedence.

FIGURE 5-1: CONCEPTUAL LAND PLAN FROM THE TOWN’S BICENTENNIAL COMPREHENSIVE PLAN



The Bicentennial Comprehensive Plan established six Focal Planning Areas in the Town, which are small geographic areas that present special planning challenges and opportunities. The Plan identifies North Amherst as one of these areas. (Figure 5-2)

FIGURE 5-2: NORTH AMHERST FOCAL PLANNING AREA



The North Amherst Focal Planning Area is different from other parts of the Town, with low-density residential development, rural roads, farms and other agricultural uses, and open space. This is in sharp contrast to the more suburban and urbanized areas to the south, where dense residential development and commercial land uses dominate the landscape. Key issues that are identified for the North Amherst Focal Planning Area in the Bicentennial Comprehensive Plan include the rural/“green” character of the area (undeveloped land, open space, and agricultural uses), the presence of extensive natural resources and floodplains and the growth of designated wetlands, the potential for growth in Northeast Amherst (which is projected to increase in population over the next two decades), and the role of public sanitary sewer as a determinant of growth in the area. One of the goals of the Bicentennial Comprehensive Plan is to limit future sanitary sewer service extensions to areas necessary to serve development areas designated on the Conceptual Land Use Plan. This goal supports a policy to redefine the boundaries of the sewer district in the northern part of the Town to exclude rural and agricultural areas designated for protection. It also promotes the importance of properly maintaining on-site septic systems in areas where sanitary sewer would not be extended. The detailed concept plan for North Amherst Planning Focal Area is shown in the appendix.



PHOTO COURTESY OF BEN BROOK FARM

Designation of the North Amherst Focal Planning Area is an important component in the pursuit of maintaining diverse community character in the Town, ensuring the long-term viability of agriculture and farming operations, and preserving the rural nature of this area. The Plan recognizes North Amherst as an area with a unique setting that includes:

- Lands where agriculture and associated activities continue to exist,
- Agricultural lands included in Erie County Agricultural District #17,
- Lands acquired or designated for acquisition through the Town's Purchase of Development Rights program (Farmland Protection Program),
- A large extent of land area that does not have public sanitary sewer service, and
- Lands where the long-term viability of agriculture may be threatened by inconsistent land uses or infrastructure development that would support urban/suburban encroachment.

The North Amherst Focal Planning Area Concept Plan (Figure 5-3) emphasizes stabilization of rural character and control over the location and density of new housing in this area, initiating context-sensitive improvements to maintain the visual character of rural roadways, and facilitating physical connections between recreational amenities in the area. Future growth in the Town is directed to the south, to the intersection of New Road and Millersport Highway, where the lands fall within the sanitary sewer district. As previously noted, the Bicentennial Comprehensive Plan does not support the extension of sanitary sewer service to areas identified for agricultural protection, such as North Amherst, where open space, agriculture and rural residential land uses are considered most appropriate. Also, consideration should be given to removing the Nature View Park property from the sewer district, as this land is protected under a conservation easement and will never be developed.

C. Analysis of Strengths, Weaknesses, Opportunities and Threats

The following analysis of strengths, weaknesses, opportunities, and threats (SWOT) was prepared using the comments and other input gathered from discussions with farmers and other stakeholders, the Agricultural and Farmland Protection Plan Advisory Committee, and the public, as well as the findings of the analysis of existing conditions and agricultural resources. This SWOT analysis identifies what the strengths and weaknesses are that affect farming and agriculture in the Town of Amherst (internal factors over which there is generally some measure of control), and the opportunities and threats that come from outside the community (external factors over which there is little or no control). This analysis is useful for identifying strategies to help the Town achieve its goals and objectives for the future.



STRENGTHS

Strengths

- Extent of productive farmland in North Amherst
- Good / productive farm soils
- Strong farm traditions and commitment
- Farmers (proactive, knowledgeable, adaptable)
- Increasing interest in hobby/small farming
- Increasing public support for farming
- Increasing interest coming from outside of the Town with starting a farm
- Diversification of agricultural activities and markets
- County and regional support/programs
- Availability of support services in vicinity
- Recognition of the value of agricultural land
- Few farmer/neighbor conflicts
- Interest in utilizing alternative farming techniques and energy sources.
- Majority of agricultural lands located outside of the sewer district.
- Growing interest in markets for alternative and niche products
- Buffalo Niagara Heritage Village
- Residents appreciate agricultural land and greenspace
- Residents engage regularly in outdoor activities
- Residents demand more yard and garden goods and services than are supplied within the Town.
- Growing interest in buying local produce
- Drainage/soil conditions can support the production of certain crops
- Amherst is emerging as a Regional (and local) leader in research in the use of CBD and Hemp for the medical industry
- Town has a commitment to purchasing conservation easements



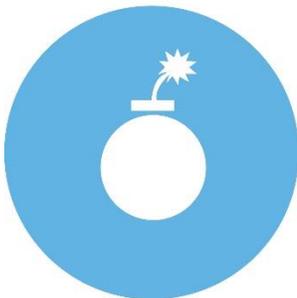
WEAKNESS

Weaknesses

- Drainage/soil conditions may limit the production of certain crops
- Lack of drainage of certain lands can reduce the extent of productive farmland
- No Right-to-farm Law
- Zoning / land use regulations need revisions
- Limited business management skills/training within farming community
- Regional entrepreneurial ecosystem tends to be more focused on technology and is less of a good fit for farm and related start-ups
- New farmers with limited experience
- Lack of understanding of where ag products can be sold inside and outside of the Town and region



OPPORTUNITIES



THREATS

Weaknesses Continued

- Lack of local businesses that sell farming supplies
- Lack of community awareness about farming
- Lack of awareness of the resources offered at the Buffalo Niagara Heritage Village
- Limited availability of land for farming, and ability to increase overall extent of productive land.
- No coordinated effort to share information, resources, shopping, or activities around agriculture with residents and businesses.
- Land prices make farming more economically challenging
- Continued pressure to expand sewers into non-sewered/agricultural areas

Opportunities

- ECIDA Agribusiness Park study will include market trends in agriculture and commerce for agricultural products throughout the region, including within the town.
- Increasing demand for organic produce creates a need for supply chain such as businesses that supply inputs that meet certification and designation requirements.
- Smaller farming enterprises have different requirements for greenhouses, services, and equipment sales and services, creating an opportunity to locate supply business in town
- County, regional and state programs/support
- Infrastructure / support businesses exist within the region
- Increasing interest in buying local produce and growing number of opportunities
- Growing agritourism industry
- Introduction of new crops/crop varieties driven by climate change
- No new sanitary sewer district expansion is proposed
- Increasing emphasis on the importance of conducting agricultural and farming activities in concert with environmental stewardship
- Reintroduction of the 4-H Youth Program or similar programs that focus on agriculture in school districts
- Growing interest in non-commercial, small scale farming activities (hobby farming/personal use)
- Potential use of agricultural products in biosciences research at University of Buffalo and then new products that are developed
- ECIDA Agribusiness Park will be available for the region.
- Erie County's Erie Grown and Erie Grown Passport Program increases awareness of local agriculture
- Growing demand for organic products
- Growth of Farm-to-Table concept
- Regional and local medical Industry and research in the use of CBD and Hemp combined with direct care provides could set the stage for a regional hub
- Changing State laws and potential for new market crops

Threats

- Increasing development pressure and the growing Town population
- Market trends in hemp production indicate increasing competition and potentially declining margins
- Price volatility in products
- Increasing land costs
- Competition for limited resources
- Lack of awareness and understanding of farming by the non-farm public
- Agricultural land in sewer districts
- Lack of agency guidance and resource knowledge with respect to small-scale agriculture

Threats Continued

- Climate change and resiliency
- Farmer's Markets, agritourism, crop availability in nearby communities that are easy for town residents to access create competition for local operations
- Anticipated strong regulation and testing for recreational marijuana could reduce profitability for smaller-scale operations
- Expanded interest in organic produce is overshadowed by the perception that it is more costly
- Continued pressure to expand sewers into non-sewered/agricultural areas
- Younger generation(s) are not showing as much interest in becoming part of the farming industry.

D. Techniques for Farmland Protection: Farm Friendly Zoning Analysis

Zoning is a powerful tool affecting land use and agriculture, and other land use regulations can also affect how “farm friendly” a municipality’s regulations are. Often, the restrictions are not intentionally a burden on agricultural operations, but the result of not affirmatively looking at the potential impact of regulations such as lot size, dimensions, definitions, etc. The following is an overview of the Town of Amherst’s land use regulations and their impact on farming.

Agricultural Zoning and other Land Use Regulations

The Town of Amherst Town Code contains various local regulations that pertain to agriculture in the community. While the regulations allow for farming and other agricultural activities, certain protections are missing in the Code and other sections place limits and restrictions on farming and agriculture. Making the Town’s regulations more farm-friendly will significantly help the Town achieve its goals for agricultural and farmland protection.



PHOTO COURTESY OF DONALD SPOTH FARM & GREENHOUSE

Right-to-Farm Law

While the Town of Amherst wants to protect agricultural activities and preserve remaining farmland, and has adopted planning guidance that supports this desire, the Town lacks a right-to-farm law that can offer important protections to local farmers. County and town right-to-farm laws are aimed at maintaining a supportive operating environment for farmers by limiting conflicts between farmers and non-farm neighbors. These local laws can supplement the New York State Agricultural Districts Law and the right-to-farm protections that it provides to farmers operating in agricultural districts. Local right-to-farm laws demonstrate a commitment from the community that they support farming and want to protect it as an essential land use and means of economic activity.

Typically, local right-to-farm laws document the importance of farming in a community and notify non-farm rural residents that generally accepted agricultural practices are to be expected in farming areas. In doing so, such laws can provide farm families with a sense of security in knowing that farming is supported by the Town. Additionally, local right-to-farm laws can establish dispute resolution processes to mediate conflicts and avoid expensive legal battles that may arise. Agricultural advisory committees or ad hoc dispute resolution committees can help mediate such problems and help the parties involved find a mutually acceptable resolution to enable farmers and farming activities to co-exist with nearby residential uses. The Town should establish an Agricultural Advisory Committee to address these issues, possibly using the Advisory Committee for this plan as a starting point.

It is recognized that the majority of farmland in North Amherst is somewhat isolated from denser residential development to the south, and farm-neighbor conflicts are not an issue. However, as farming activity in this area expands, and as smaller, non-commercial farming activities in other locations in the Town continue to grow, having adopted regulations in place to protect these activities is recommended.

Chapter 203 – Zoning

As discussed in Section IV, Chapter 203 of the Town Code (Zoning) includes three zoning classifications [Suburban Agriculture (S-A), Rural Residential (R-R) and Agriculture (A-G) – which are described below] that allow farming and other agricultural activities in the Town. Of these three classifications, only the Suburban Agricultural District is currently mapped in the Town (see Map 3 in Section III). The other two districts exist in the Code, but there are no areas in the Town with those zoning designations.

The Suburban Agriculture District provides areas for low-density, single-family detached residential development that also accommodates farms, farm-related activities, and other non-intensive compatible uses. The minimum lot size is one acre, with a minimum lot width of 200 feet. While the S-A District allows farms and public or private stables, and accessory uses related to agriculture such as greenhouses, kennels, private gardens, and small wind energy systems, this district has been used over the years as a holding zone for denser residential use. In the 1950s, nearly all lands located north of Sheridan Drive in the Town were zoned S-A. Today, only a patchwork of S-A zoned lands exists primarily in the northeastern portion of the Town. This area includes the remaining large parcels of agricultural land. Much of it is located outside the sanitary sewer district.

The Bicentennial Comprehensive Plan recommended the adoption of the Rural Resident (R-R) and Agriculture (A-G) classifications, which are more flexible and farm friendly. However, the Town has never applied them to any lands in the community. The R-R district was designed to provide areas for low-density, semi-rural, single-family detached residential development that recognizes the need to protect the long-term viability of surrounding agricultural operations. This zoning district accommodates farms, farm-related activities (including public and private stables), and other non-intensive compatible uses, with a minimum lot size of three acres and a minimum lot width of 200 feet. The A-G classification provides for the continued use of land for agricultural purposes, including farms, public and private stables, floriculture, orchards, nurseries, and animal husbandry, and promotes an environment conducive to the long-term stability of agriculture. The A-G district also permits other commercial uses including the sale of agricultural products, animal grooming and care, commercial kennels and dog daycare facilities, and riding academies. The minimum lot size in the A-G District is five acres, with a minimum lot width of 200 feet.

The R-R and A-G districts were designed to work in concert, with the lands around agricultural areas zoned R-R to provide a transitional area for uses that are compatible with farming and agriculture. These classifications provide a stronger means of agricultural protection and preservation than the S-A classification. However, the Town has taken a passive approach to zoning lands to these categories, waiting for individual landowners to request a rezoning rather than undertaking a Town-initiated rezoning effort.

If the Town is committed to preserving and strengthening agriculture in the community, it cannot rely on the traditional practice of rezoning land based on individual requests. The S-A district does not provide sufficient protection for agricultural lands, and landowners are unlikely to request rezoning without encouragement. The Town needs to take a more proactive approach to rezoning, applying the A-G and R-R zoning classification as appropriate to lands in North Amherst, with the goal of eventually eliminating the S-A districts in the northern portion of the Town (North Amherst Focal Planning Area), as well as lands that are identified for agricultural protection. Farmers have indicated they would be receptive to such action and it would be consistent with the Town's efforts to place conservation easements on active and inactive agricultural lands as a means of protection (agricultural easements are discussed in greater detail below). As a first step, lands located in the Agricultural District and under an agricultural easement could be targeted to be rezoned A-G. Where feasible, non-agricultural lands in the northern portion of the Town that are rural residential in character should be rezoned to the more farm-friendly R-R zoning designation. They can be designated as legally nonconforming if the parcel is not large enough to comply with the zoning category. Rezoning of S-A properties to A-G and R-R would also meet the requirement of zoning land in conformance with the recommendations of the adopted Comprehensive Plan.

In general, the list of permitted uses and accessory uses for the A-G district should be reviewed and revised. In particular, the list of permitted commercial agricultural uses in the A-G district needs to be reviewed to enable the Town to achieve its goals. The A-G classification should include provisions that support economic innovation. The Town is exploring ways to strengthen and expand agricultural-related business activity, and it is important that the zoning provisions support and do not hinder such activities. For instance, the list of allowed uses should be flexible enough to encompass uses such as kitchens for artisans, processing facilities such as hemp oil extraction, and other similar activities. The Town will need to determine whether the uses require a special use permit or temporary use permit. The development of such uses must also be included as a use allowed on lands that are under a conservation easement, subject to the terms of the easement. Furthermore, the zoning should support uses that promote educational activities for new and expanding agricultural technologies.

Keeping of Animals

Section 99-2 of the Town Codes, Animals Law, prohibits any person, firm, or corporation from owning, keeping, harboring, or maintaining in their care, custody or control any livestock except chickens, unless otherwise permitted under additional provisions outlined in Chapter 203, zoning. Chapter 203 allows keeping or raising of livestock under the following circumstances:

- Per Section 6-1, on properties located in the S-A and R-R Districts, or in any established A-G districts, a maximum of two horses are permitted on the first two acres, with an additional horse allowed for each additional acre. This restriction should be revisited for the A-G zoning classification, which permits public and private stables and riding academies as of right. This restriction could be revisited for those specific uses to permit a high density of horses on site.
- Per Subsection 6-8-9.A., the non-commercial raising of livestock is permitted as an accessory use on properties measuring two or more acres in size in the S-A district. Animal husbandry (which is the keeping of animals but not defined in the Ordinance) is permitted as a non-commercial use in the A-G district. The Zoning Ordinance defines livestock as sheep, cows and cattle, goats, horses and ponies, and pigs or hogs, as well as emus, rheas, ostriches, and poultry (chickens, roosters, turkeys, ducks, geese, and the like). While establishing a minimum lot size, Subsection 6-8-9.A does not set a limit on the number of animals that can be kept on any property, which could be problematic. This should be pointed out considering that the number of horses is limited as noted under Section 6-1, above. Limits for the keeping of livestock should be explored to ensure that such practices are undertaken within the bounds of animal welfare, particularly in the S-A district. The R-R district does not allow the keeping of animals by right or as an accessory use; this should also be revisited.



PHOTOS COURTESY OF BUFFALO NIAGARA HERITAGE VILLAGE

- Subsection 6-8-9.B. allows property owners in the R-R, R-1, R-2, R-3, and R-4 residential districts to raise up to six chickens as an accessory use on the same premises associated with an occupied single-family detached dwelling upon issuance of a Special Use Permit from the Zoning Board of Appeals. Allowing this use with a temporary special permit allows the Town to set conditions and review the activity on a regular basis to ensure there are no conflicts. Here is another reason for the Town to adopt a right-to-farm law, which would provide a means for conflict resolution. It should be noted that the number of residents in the Town who desire to keep chickens and bees is growing. Therefore, the zoning regulations should provide some flexibility for these uses.

Solar Energy Systems

Solar energy systems are regulated under Section 6-10 of Chapter 203 (Zoning), which was most recently updated in 2020. Section 6-10 permits roof-mounted, building integrated, and ground-mounted solar energy systems either by-right or with a special use permit depending on the type of system and the zoning district. Pursuant to Subsection 6-10-5., roof-mounted and building integrated systems are permitted by-right in all zoning districts with no size thresholds unless otherwise restricted under the New York State Uniform Fire Prevention and Building Code. Ground mounted solar energy systems are regulated based on scale size, using a three-tier structure.

In an S-A or A-G district (as noted on updated permitted use listings), Tier I systems (with a total facility footprint equal to or less than 2,000 square feet) and Tier II systems (measuring between 2,000 and 7,000 square feet) are permitted commercial uses, while Tier III systems (which have a total footprint that exceeds 7,000 square feet) are a commercial use that requires a special use permit. Solar energy systems, undefined by size, are permitted accessory uses in both districts. This should be better defined, as it likely applies to non-commercial uses. Tier I and II solar energy systems are permitted as an accessory use in the R-R district. The R-R permitted use listing needs to be updated to reflect this and define whether this applies to permitted commercial or residential uses. As with the S-A and A-G districts, solar energy systems are permitted accessory uses in the R-R district but are undefined by size or scale and likely apply to non-commercial uses.

Definitions and Other Provisions

In general, the Definitions section of the Zoning Ordinance needs to be thoroughly reviewed and updated to ensure that it includes proper definitions for farms and farm operations. The current definition of a 'farm' sets a minimum lot size of five acres, which should be removed. The list of components that define a farm could also be further enhanced. It would be helpful to have definitions for agricultural activities and uses, hobby farming, farm structures, animal husbandry, private gardens (which are a permitted accessory use in R-R), riding academy, and other activities of this nature. The inclusion and proper definition of various terms will help make the use, interpretation and understanding of agricultural practices identified in Chapter 203 easier.

The Town should also adopt regulations for allowing small farm stand operations on properties in the A-G and R-R districts. These facilities must be situated on the property where the produce/products are grown/raised/produced and there must be limits on location, size, and scale. While permitted in the A-G district, additional regulations for such uses are recommended. The Town should also decide if regulations are needed for nursery facilities that grow material off-site. Questions to be addressed include whether a certain percentage of what is sold must be raised on the property. Tree farming (silviculture) should be added to the list of permitted uses in the A-G district. Also, it should be decided if any type of special permit is required for establishments that do not grow the products sold on site.

E. Additional Tools and Techniques for Farmland Protection

While zoning is a powerful tool, there are several additional techniques, programs, activities, and strategies that can be used to protect farming and promote the continuation and increase of agricultural activities in a community. The choice of which mechanisms to utilize can be based on the extent of agricultural activities in a community, as well as the amount of development pressure that exists. The following is an overview of programs and techniques that may be helpful for protecting and promoting farming in Amherst.

1. Farmland Protection Measures

Purchase of Development Rights (Conservation Easements)

The purchase of development rights (PDR), also known as purchase of agricultural conservation easements, is a voluntary approach for farmland protection that compensates landowners for permanently protecting their land for agricultural use. PDR projects can be undertaken by land trusts working with private property owners for individual farms or by municipalities establishing larger programs to protect numerous properties in their community.

Some or all these rights can be transferred or sold. PDR programs essentially pay landowners to extinguish their rights to develop their land. Landowners retain other ownership rights to the property. The property remains on the tax rolls, although its taxable value is adjusted based on these remaining rights.

Through a PDR program, a conservation easement is placed on the property that is being protected. Conservation easements are permanent agreements that are tied to the land and apply to all future owners. These binding agreements provide certain government agencies and/or qualified private, nonprofit organizations the right to prevent non-farm development or activities that could interfere with the existing or future agricultural use on the property.

The goal of agricultural conservation easements is to protect land to help support the business of farming, conserve productive soils for future generations of farmers and preserve open space. Land that is subject to an agricultural conservation easement can still be farmed or used for forestry, recreation, and other uses compatible with agricultural activities, subject to the specific provisions included in the language of the easement for that property. Since agriculture is constantly evolving, agricultural conservation easements typically provide opportunities for farmers to construct new farm buildings and farm worker housing, or to change commodities and crops that are grown or farm practices on the land. PDR is popular with many landowners in part because the payment may be financially competitive with development offers. It also helps keep agricultural land affordable for farmers.

It is important to note that because participation in a PDR program is voluntary, some owners of significant properties may choose not to participate. Furthermore, the conservation easement must be monitored and enforced in perpetuity, which would be handled by the entity holding the easement. Also, due to the complex nature of these projects, it may be necessary to engage with land trusts who are experts in PDR to successfully bring a project to completion. Working with a land trust, such as the Western New York Land Conservancy, many of these issues can be more easily navigated. The Land Conservancy is an important resource for property owners who are considering a conservation easement or for communities looking to establish larger programs for land conservation.

The Town of Amherst, in collaboration with the Western New York Land Conservancy, has been actively utilizing the purchasing development rights to protect lands in North Amherst, many of which are located in the Agricultural District. By 2009, the Town was in its 13th year of the program and had acquired 16 properties totaling almost 675 acres of active farmland, with the goal of protecting over 1,200 acres of farmland in all. The Town has partnered with the New York State Department of Agriculture and Markets for financial support in purchasing development rights on some properties, and in some cases, individual landowners contributed a portion of the acquisition costs. The Western New York Land Conservancy has partnered with the Town in this program, holding the easements for the protected lands. Federal funds also helped defray the initial costs of purchasing some of the earliest properties conserved. Amherst has identified additional properties that are targeted for protection. The Town can continue to pursue funding from the NYS Department of Agriculture and Markets and other viable sources to secure these lands. Lands under easements are shown in Figure 5-4.

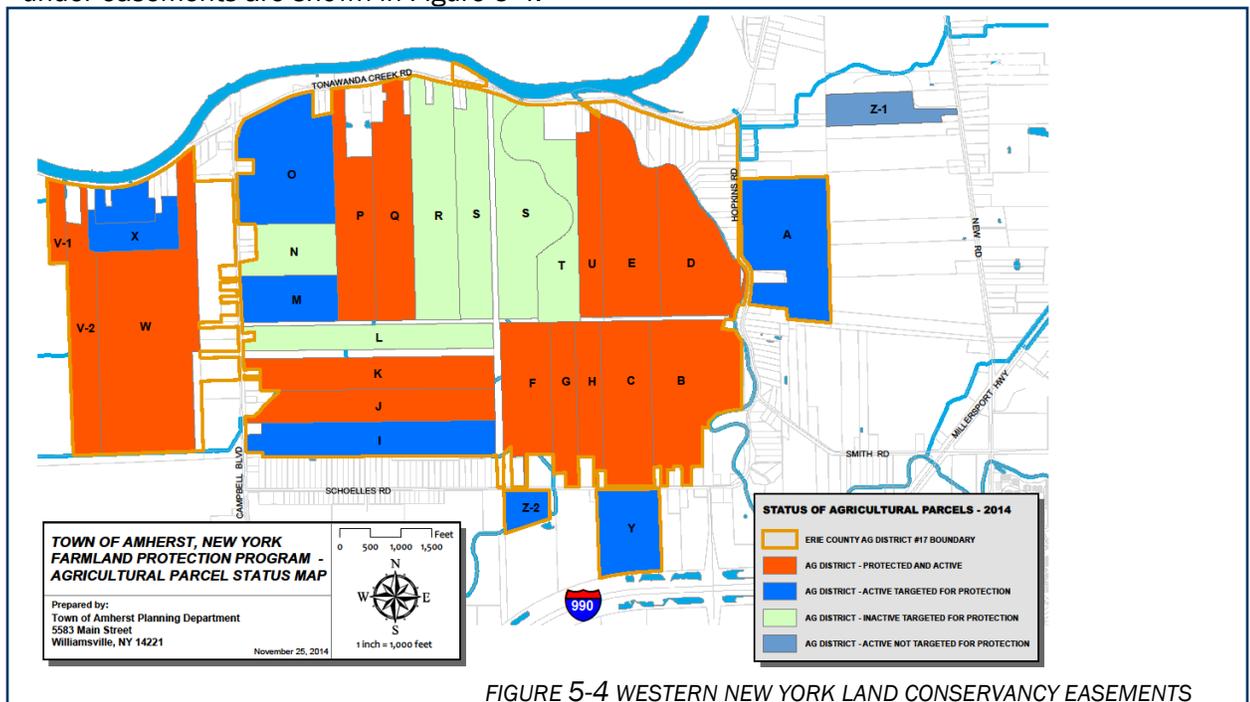


FIGURE 5-4 WESTERN NEW YORK LAND CONSERVANCY EASEMENTS

In 2006, the Town of Amherst entered into an agreement with the Western New York Land Conservancy to place the lands that are now Nature View Park under a Conservation Easement. The land had been previously acquired by the Town from the State University of New York at Buffalo Faculty and Student Association and the Urban Development Corporation. These 1,254 acres of land, shown in green in Figure 5-4, above, is the single largest open space land protected in Western New York. The Town is currently following up with the conservation easement compliance monitoring reports and updated the draft management plan for this property in 2020, which is a requirement of the easement. This nature preserve contains extensive areas of wetland, an informal network of hiking trails and a trailhead near Tonawanda Creek Road at Brenon Road. Park activities are limited to hiking, snow shoeing and cross-country skiing.

Transfer of Development Rights

Another technique that can prove useful for farmland conservation is Transfer of Development Rights (TDR). This type of program is most effective in communities that are under significant pressure for development and that have lands available to enable the actual transfer of development rights from agricultural lands to be conserved to areas approved for more dense development. While this program is not recommended for implementation in the Town of Amherst, a time may come where it might warrant further consideration.

Estate and Transition Planning

For many farm families, passing the farm on to the next generation can be a major challenge. Transferring a farm involves more than just passing on land. A will is an important part of an estate plan, but a will alone cannot guarantee a secure future for a farm family's land and business. Estate planning is needed to address inheritance tax and settlement issues that may arise because land is not a liquid asset.

Estate planning can accommodate the needs of all family members, even those who leave the farm operation. A good estate plan can accomplish at least four goals:

- Transfer ownership and management of the agricultural operation, land, and other assets.
- Avoid unnecessary income, gift, and estate taxes.
- Ensure financial security and peace of mind for all generations, and
- Develop the next generation's management capacity.

Frequent changes in tax laws highlight the need for estate planning that is tailored to individual circumstances and addresses the uncertainty about future tax legislation. There are many sources of information on estate and transition planning, including attorneys, accountants, and other financial advisors.

NY FarmNet, which is affiliated with Cornell University and coordinated with Cornell Cooperative Extension, is a commonly used resource that offers free confidential consulting services to any farm located in New York State. This entity has no political or financial agenda so farmers can feel comfortable using this service. Cornell helps farmers with any personal and financial issues and have a network of professional consultants available who work one-on-one with farm families to help resolve problems and concerns.

American Farmland Trust (AFT) published "Your Land Is Your Legacy: A Guide to Planning for the Future of Your Farm," which is a useful tool for farmland ownership transition. The AFT coordinates the "Farmland for a New Generation New York" program. This program connects farmers seeking land and landowners who want to keep their land in farming. Their website (<https://nyfarmlandfinder.org>) offers links for finding a farm or a farmer, local and statewide events and other resources that offer direction and assistance to farmers at any stage in their career.

2. Learning to Farm and Developing Farm Plans

With the expansion of smaller farming activities on Amherst, problems and conflicts can arise where residents and hobby farmers lack the experience required to undertake the farming activities they are pursuing. Whether it involves cultivation crops, beekeeping, livestock, or other farming pursuits, having the knowledge and experience to manage a farm and properly conduct an agricultural activity is important. Helping residents understand agricultural practices and what is required to successfully operate small farming activities in Amherst will help to promote and expand the agricultural industry and economy in the community. Furthermore, helping farmers understand and capitalize on opportunities for new practices, crops and/or markets can help sustain their operations, particularly during downturns in the farm economy, and provide greater potential for success. The following programs and information can help farmers with a wide number of agricultural issues and opportunities.

Cornell Small Farms Program

Cornell University offers the Cornell Small Farms Program that helps farmers get expert assistance to facilitate all phases of small farm business development, from initial growth to optimization to maturity (<https://smallfarms.cornell.edu>). This program envisions a future where diverse and vibrant urban and rural farms build human capacity, revitalize communities, supply regional food systems, and foster ecological resilience in a changing world.

The Small Farms Program offers a wealth of information, expertise, and resources. This includes online tutorials and training courses for all skill levels, resource guides and other training programs. This information covers initial farm planning, business and market considerations and other general resources. Of note is the Urban Guide for Farming in New York, which is designed to inform urban farmers about advocating for urban agriculture, accessing, and reclaiming land, producing food and farm products in urban and suburban areas, marketing, financing and other information required to launch, continue and expand farm businesses. Information about the Small Farms Program is included in Appendix I.

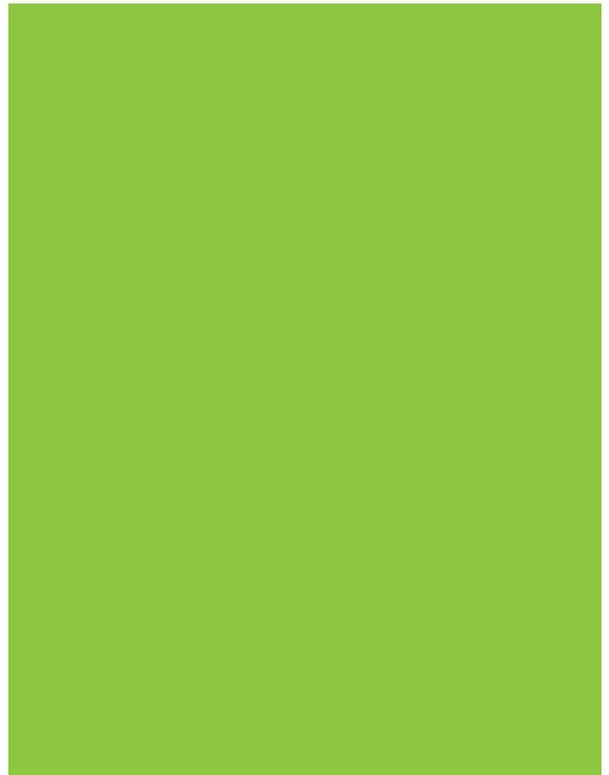
Erie County Cornell Cooperative Extension

Cornell Cooperative Extension of Erie County (CCE Erie) (<http://erie.cce.cornell.edu/>) offers a wealth of information on farming in the region, such as beginner farmer resources, field crop resources, growing hemp and farm to school; food and nutrition, gardening, 4-H youth programs and invasive species. CCE Erie uses local experience and research-supported solutions to build stronger communities. CCE Erie provides educational programs to Erie County residents in Agriculture and Food Systems, 4-H Youth Development, Nutrition and Consumer Horticulture. Currently educators work throughout the County on projects as diverse as connecting farms to schools in Buffalo and elsewhere in the County, providing technical assistance to an agricultural development project in partnership with Journey's End Refugee Services, and connecting farmers to consumers at the Taste NY Market in Amherst.

CCE Erie educates farmers about business and production best practices, including helping new farmers to map their path to starting a farm. As a regional navigator, CCE Erie will support new farmers with resources specific to finding farmland, help an aging generation of farmers understand their options for transferring their land, and facilitate the connection between the two with one-on-one assistance, workshops and training. Connecting a new generation of farmers with available land can stem the loss of farmland in urban-edge communities in Erie County and continue the growth of a vibrant local farming industry. Additionally, CCE Erie promotes the previously mentioned "Farmland for a New Generation New York program," which is coordinated by American Farmland Trust.



PHOTOS COURTESY OF BADDING BROS FARM MARKET



Erie County Soil and Water Conservation District

The Erie County Soil and Water Conservation Service (ECSWCD) is a resource management agency that was established by law to carry out a program for the conservation, use and development of soil, water and related resources (<https://www.ecswcd.org/>). The ECSWCD coordinates and implements resource and environmental programs at a local level in cooperation with federal and state agencies. The district works with landowners and others to address a broad spectrum of concerns, including erosion control, flood prevention, water use and conservation, wetlands, groundwater, water quality and quantity, nonpoint source pollution, forestland protection, wildlife, recreation, wastewater management and community development. Its primary focus is on soil conservation and water quality, providing information, and technical and financial assistance to agricultural, urban, and suburban constituents.

The ECSWCD can provide technical assistance to farmers for the implementation of best management practices that are aimed at decreasing the transfer of soil and nutrients to local waterways. They can also oversee a number of agricultural programs (e.g., Agricultural Environmental Management and Nonpoint Source Pollution Abatement and Control) and provide information and assistance on a host of other items, such as agricultural tax relief, integrated pest management, agritourism, organic farming, stream management, energy conservation, biofuels, wetland conservation, wildlife habitat improvement and nuisance wildlife control.

Other National Programs

Farm Answers - There are several other sources of guidance and information where farmers and others interested in agriculture and farming can learn more. Farm Answers (<https://farmanswers.org>) is sponsored by the University of Minnesota Center for Farm Financial Management and the USDA National Institute of Food and Agriculture. This website provides materials and toolboxes on several things, including direct marketing and local foods, organic farming, farm financial management, farmland access, business planning, farm transition planning, urban farming, food safety and commodity marketing. The urban farming toolbox offers useful information for new farmers and small operators in suburban and urban areas. The toolbox is designed to help anyone who wants to be a farmer in their own neighborhood.

New Farmers - The US Department of Agriculture (USDA) provides information for farmers and others interested in farming activities. Their New Farmers website (<https://newfarmers.usda.gov>) has links for new farmers, women in farming, young farmers and veterans. It also provides information for farmers looking for land and those who wish to keep their land in farming. The USDA National Institute of Food and Agriculture (<https://nifa.usda.gov>) also offers extensive information on all aspects of food and food science, nutrition, natural resources and the environment, animals and plants, and farming and ranching. This last topic provides information on organic farming, small and family farming and sustainable agriculture.

Alternative Farming Systems - The USDA established the Alternative Farming Systems Center (AFSIC) to focus on sustainable and organic agriculture (www.nal.usda.gov/afsic). This Center provides information related to sustainable and alternative agricultural systems, crops and livestock. The Center specializes in library services, locating, accessing, organizing, and distributing information on various topics, including:

- Sustainable and regenerative crops (vegetables, fruits, nuts, grains, legumes, viticulture, specialty crops) and livestock (grazing and pasture management, aquaculture, beekeeping, organics, specialty livestock) farming systems and diversification;
- Production practices (sustainable, organic, biodynamic, permaculture, hydroponics, aquaponics, certification, and marketing);
- Small farm guidance and management (beginner, women, and minority farmer issues; business planning, farm conservation and transitioning, funding);
- Marketing practices and local food systems (direct marketing, added value, farm to institutions, community supported agriculture, cooperatives/food hubs, agritourism, farm markets, farm certification);
- Natural resource management (pests, soils, water, and whole farm systems);
- Renewable energy options for farms (wind, solar, bioenergy, geothermal, hydropower, energy policy, funding);
- Local food and community (community gardens, urban agriculture, local food systems, food security); and
- Education and research.

3. Tax Relief Programs

Tax relief is an important issue for farmers. Farms need land to operate, and property taxes on farmland often are a considerable expense. Not only do property taxes add significantly to business costs for farmers, farms tend to pay more in property taxes than do public services. As farmers often say, “Cows don’t go to school and corn doesn’t dial 911.” Increasingly, state, and local governments are recognizing that keeping farmland in production may help control the cost of providing expensive community services. In response, New York State has established programs to reduce property taxes on farmland that meets certain eligibility requirements. Certain of these programs are utilized in the Town of Amherst; others are lesser known, and farmers should be made aware of their potential value for tax relief.

Agricultural Use Assessments

Agricultural assessment provides “use value” assessment for eligible farmland. This allows farmland to be taxed for its agricultural value, rather than its market (i.e., non-farm development) value. Any owner of land that is used for agricultural production may qualify if the land meets the requirements or is rented to an eligible farm operation. Landowners must file for this agricultural tax exemption annually with the Town Assessor’s office. Land placed under agricultural assessment and then converted to nonagricultural use is subject to conversion fees. It should be noted that an agricultural assessment can be obtained with or without agricultural district designation.

The NYS Department of Agriculture and Markets has established a formula to determine the Agricultural Use value of property based on soil types and projected crop yields. In areas where the land is valuable for development purposes, the agricultural use value will be much lower than the market value, resulting in significantly lower property taxes. However, in areas where farming is the “highest and best use” of the property – where a farmer is likely to pay as much for the land as anyone else - the agricultural use value is the same as the market value.

While agricultural use assessments are applied automatically to property taxes levied by municipalities and school districts, fire districts must “opt in.” To do so, the governing body needs to pass a resolution agreeing to utilize agricultural use assessments.

To qualify for an agricultural assessment:

- Enrolled land must generally be a minimum of seven acres and farmed by a single operation.
- Land must have been used in the preceding two years for crop production, commercial boarding of horses or livestock production.
- Farm operation must gross an average of \$10,000 or more in sales per year.
- Land of fewer than seven acres may qualify if the operation has an average gross sales value of \$50,000 or more per year.
- Support land, land set aside in federal conservation programs or farm woodland (up to 50 acres per eligible tax parcel) may qualify.

Non-farmers who rent land to farmers are eligible to receive an agricultural assessment if the rented land satisfies the basic eligibility requirements described above. If the rented land does not satisfy the average gross sales requirement, but does satisfy the other requirements, it may still be eligible if it is farmed under a written rental agreement of at least five years, with other farmland that satisfies the eligibility requirements. This program may not be widely known among non-farmers and is something that the Town should promote as another means of preserving farmland.

Farmers’ School Tax Credit

This Property Tax Credit enables farmers to receive a tax credit against the state personal income tax or the corporation franchise tax to reimburse some or all the school district property taxes paid by the farmer. An eligible farmer or corporation must own qualified agricultural property, must pay eligible school taxes during the year, and their income must be below the income limitation amount of \$250,000. Eligible farmers must receive at least 2/3 of their excess federal gross income from farming. Excess federal gross income is federal gross income, reduced by up to \$30,000. In other words, take gross income and subtract \$30,000. If 2/3 of the remaining amount is from farming activities, the farmer will generally qualify. Farming is defined as an individual or corporation that cultivates, operates, or manages a farm for gain or profit, even though the operation may not produce a profit each year. Many commodities are included in the definition of farming, as well as commercial horse farms and Christmas tree farms. Also included in the definition of farming are members of a limited liability company, a shareholder of an S or C corporation, and the beneficiary of an estate or trust that is engaged in the business of farming.

This program allows eligible farmers to receive credit refunds of up to 100 percent of the school taxes paid on agricultural property up to 350 acres in size, and 50 percent of school taxes paid on acreage more than 350 acres. The school property tax credit should be claimed annually on the farmer’s personal NYS tax return (complete Form IT-217-I, Claim for Farmers’ School Tax Credit). Additional information on this program is included in Appendix H.



PHOTOS COURTESY OF BEN BROOK FARM

Farm Building Exemptions

Several provisions in New York's Real Property Tax Law exempt farm buildings or structures from property taxes. Section 483 exempts new or reconstructed agricultural buildings, such as barns or farm worker housing, from any increase in assessed value that results from the improvement. Farm worker housing is exempt provided that the facility meets all safety and health standards set by the State building code and the NYS Department of Labor. An application for a tax exemption for newly constructed or reconstructed farm buildings must be made within a year following the completion of construction work. The exemption continues automatically for 10 years, as long as the building continues to be used for farming. Sections 483-a, 483-c and 483-d permanently exempt certain agricultural structures from taxation. Some of the structures that qualify for the exemption include:

- Silos
- Grain storage facilities
- Bulk tanks
- Manure facilities
- Temporary greenhouses

Structures must be located on parcels of at least five acres and used for profitable agricultural production. Structures used for processing, retail merchandising, personal use or residences of applicants and their immediate families do not qualify for the exemption. The owner of the building or structure for which an exemption is sought must file application form RP-483, (available from the Town Assessor or the County Office of Real Property Services) with the Town or County.

Historic Barn Rehabilitation Tax Credit

There are income tax credit programs available from the federal government and New York State that can help farmers save a considerable portion of costs required for the restoration of historic barns. Each program has certain requirements and criteria that apply to determine eligibility (See Appendix I).

The Federal Historic Preservation Tax incentive program allows a tax credit equal to 20 percent of the amount spent rehabilitating historic barns that are listed on or determined eligible for the National Register of Historic Places. This federal program has been administered by the National Park Service since passage of the Tax Reform Act of 1979. To date, over 30,000 buildings have been rehabilitated.

Additionally, the New York State Farmer's Protection and Farm Preservation Act, enacted by New York State in 1996, was designed in part to preserve the historic barns that dot the State's landscape. In order to qualify for an Historic Barn Rehabilitation Tax Credit, which is equal to 25 percent of the cost of rehabilitating historic barns, the barn must have been built or put into agricultural service before 1936 and the rehabilitation must be designed to house farm equipment, livestock or agricultural products or used for commercial activities (structures restored or converted for residential use are not eligible). The restoration cannot "materially alter the historic appearance" of the barn; only costs incurred after January 1, 2003 are eligible. Interested farmers should file tax form IT-212-ATT. The New York State Office of Parks, Recreation and Historic Preservation may be contacted for more information on this program.

Sales Tax Exemptions

New York tax law now exempts certain items used in farm production from State and local sales and use taxes. The items must be used "predominantly" (more than 50 percent) for farm production in order to qualify. Some of the exempt items include personal property used for production/operation; building materials used for farm buildings or structures; services to install, maintain or repair farm buildings or structures; motor vehicles used predominantly for production/operation; and fuel, gas, electricity, refrigeration, or steam used for production/operation. Farmers seeking a sales tax exemption must complete form ST-125.

Forest Land Exemption

To encourage the long-term ownership of woodlands, Section 480-a of the Real Property Tax Law allows eligible owners of forest land to receive reductions in tax assessment. Landowners must own a minimum of 50 acres of contiguous forestland and be willing to commit the land to forest crop production. In addition, landowners must follow forest management plans that have been prepared by qualified foresters and approved by the New York State Department of Environmental Conservation (NYSDEC). Owners of tracts certified by NYSDEC must apply annually to their local assessors for the exemption. Landowners must comply with the program for nine years following the last year of commitment. Penalties may be imposed if a landowner fails to follow the approved management program or converts the land to a use that prevents continued forest crop production.

4. Environmental Management Programs

Farmers have played an important role in the stewardship of New York's natural resources for generations. There are several voluntary programs aimed at helping farmers keep land in active agricultural use while protecting water, soil and air quality and achieving other natural resource goals. An example of some of the programs that could be helpful to farmers in Amherst include the following.

Agricultural Management Assistance

The USDA's Natural Resources Conservation Service (NRCS) offers voluntary programs that benefit both agricultural producers and the environment. One such program is the Agricultural Management Assistance (AMA) program.

The USDA Natural Resources Conservation Service oversees the Agricultural Management Assistance (AMA) program, which provides Farm Bill funding to 16 states (including New York) where participation in the Federal Crop Insurance Program has typically been low. The AMA program offers cost-share assistance to agricultural producers to address issues such as water management, water quality and erosion control, and to manage financial risk through crop diversification or transition to organic farming. Program priorities may vary from year to year. The AMA program funds up to 75 percent of the cost for producers to install and maintain eligible conservation practices.

AMA assistance helps agricultural producers manage financial risk through diversification, marketing, or natural resource conservation practices. The NRCS works with farmers to develop an AMA plan of operations for the construction of water management structures to improve water quality, plant trees for windbreaks or to mitigate risk through crop diversification or resources conservation practices (e.g., integrated pest management, erosion control or transition to organic farming). The local USDA Natural Resources Conservation Service (affiliated with the Erie County Soil and Water Conservation District) and the NYS Department of Agriculture and Markets have more information on this program.

PHOTO COURTESY OF DONALD SPOTH FARM & GREENHOUSE



Environmental Quality Incentive Program

The Environmental Quality Incentives Program (EQIP) is another program offered under the NRCS under the Farm Bill that provides technical and financial assistance to farmers to address natural resource concerns and deliver environmental benefits, such as improved water quality, water conservation, and reduced soil erosion. Through the EQIP, the NRCS offers one-on-one help and financial assistance to plan and implement structural and management improvements (conservation practices). EQIP funding may also establish conservation practices, such as nutrient management, integrated pest management, forest management, manure management and wildlife habitat management. Other EQIP initiatives include funding and/or technical assistance for high tunnel (hoop house) systems, organic farming, on-farm energy efficiency and conservation innovation. The 2018 Farm Bill increased funding available for EQIP cost-share and the incentive payments and extended eligibility to conservation practices directly related to organic production or transition. The local USDA Natural Resources Conservation Service (affiliated with the Erie County Soil and Water Conservation District) and the NYS Department of Agriculture and Markets have more information on this program.

Agricultural Environmental Management

Agricultural Environmental Management (AEM) is a voluntary State program offered to help improve management of local farmland, water supply and environmental conditions. The program is run by the Erie County Soil and Water Conservation District and offers technical, educational, and financial resources. This assistance provides response to essential environmental needs, while providing farms and communities with cost effective improvements. AEM is implemented to achieve the best sustainable farming practices for each individual farm and increase profitability, while improving the condition of the surrounding environment.

New York State Agricultural Nonpoint Source Pollution Abatement and Control Grant Program

This grant program was established by New York State in 1994 to assist farmers in preventing water pollution from agricultural activities by providing technical assistance and financial incentives. The Erie County Soil and Water Conservation District applies for competitive grants on behalf of farmers and coordinates funded activities. Grants can cover up to 75% of project costs or more if farm owners contribute to the environmental planning and implementation (construction or application of management practices).

Organic Farming

The 2018 Farm Bill continues and expands opportunities for organic agricultural operations that were established under the 2014 Farm Bill. The EQIP Organic Initiative provides financial assistance to organic producers looking to address resource concerns by implementing and installing conservation practices tailored to organic crop production. Examples of activities for funding include the development of conservation plans, the establishment of buffer zones, planning and installing pollinator habitat, improving irrigation efficiency, and enhancing crop rotations and nutrient management, among other things. Organic, transitioning-to-organic, and producers that are exempt from National Organic Program certification requirements are eligible to contract with the USDA National Resources Conservation Service (NRCS) to install and implement organic-specific conservation activities that are consistent with an organic system plan. The EQIP Organic Initiative allows eligible agricultural producers to apply for \$20,000 annually, and \$80,000 over a maximum of six years.

Additionally, the funding allocated for the National Organic Certification Cost-Share Program offsets the costs of annual certification for organic farmers and handlers. This program provides assistance to producers, handlers and processors who are applying for National Organic Certification for eligible agricultural products. Producers may be reimbursed for up to 75 percent of their organic certification costs, not to exceed \$750.

The 2018 Farm Bill renews funding for the Organic Agriculture Research and Extension Initiative at the previous \$20 million per year level, and funding for the Organic Production and Market Date Initiatives at \$5 million over five years. The National Organic Program also receives \$5 million for technology upgrades. The USDA Natural Resources Conservation Service or the NYS Department of Agriculture and Markets have more information on these opportunities.

Biomass Crop Assistance Program

The 2018 Farm Bill extended a program established in 2008 that provides incentives to farmers, ranchers, and forest landowners to establish, cultivate and harvest eligible biomass crops for heat, power, bio-based products, research, and advanced biofuels. Individual farmers or farmers working as a group can propose a project for funding assistance. There is no minimum acreage requirement. Landowners must enter into five-year contracts for annual and perennial crops, and 15-year contracts for woody biomass. Program participants receive cost-share payments to support production, and funding to assist with the collection, harvest, storage, and transport of materials.

Climate Resilient Farming

As noted in Section IV, climate change preparedness makes good business sense. Planning to minimize risks and capitalize on opportunities is wise for the future of local farming as certain commodities that dominate the New York State agricultural landscape will be adversely impacted and operational changes may be necessary as a result of warming trends predicted in the coming century. Opportunities to introduce profitable new crops and new crop varieties will also result as temperatures rise and the growing season lengthens.

Climate change trends include changing precipitation (increased precipitation, drought, and heat stress), increasing greenhouse gas emissions and an increase in invasive insects and vegetation/weeds. More extreme, short-term rainfall events (2+ inches over a 48 hour period) are expected to continue and increase. Some areas are predicted to experience increased short-term droughts, with increasing temperatures and a longer growing season increasing water demand. Crop cultivation for corn, wheat, soybeans, hay, and other grains is an increasing source of nitrous oxide and carbon emissions. Heat stress from a lengthening growing season (the growing season has already increased by approximately eight days) is a concern as the number of heat stress days, with temperatures exceeding 90 degrees Fahrenheit, increases and winters grow milder. Heat stress can also have devastating impacts on livestock and increase water use demands. Additionally, while the relationship between climate, crops, insects, and diseases is complex, there is evidence that changes will require farmers to invest earlier and more intensively in pest and weed management strategies.

While climate change trends present challenges, there are also solutions that can be implemented to mitigate adverse impacts. Farmers can get guidance and assistance from the Cornell University College of Agriculture and Life Sciences (see Appendix I), the New York State Soil and Water Conservation Committee Climate Farming Resiliency Program and the USDA Natural Resources Conservation Services.

5. Farm Viability Assistance

There are several programs available to help farms and farmers to be economically viable and sustainable over the long term. Programs offered at the federal and state level to assist farmers include the following:

New York Beginning Farmer Loan Program - low-cost financial assistance for the purchase of agricultural property and equipment to help start a farming business or to facilitate inter-generational transfer of a farm business.

GROW New York - offers Agricultural Research and Development Grants, Farmland Viability Grants and Pride of New York marketing assistance.

New York Farm Viability Institute Grants - funding for farm-based projects, including applied research and education.

Northeast Sustainable Agriculture Research and Education (SARE) - grants funding assistance for innovative approaches and projects that advance good land stewardship, improve farm profitability, and strengthen rural communities.

Good Agricultural Practices and Good Handling Practices Certification Program – Farmer and Partnership Grants, and assistance for farmers/produce suppliers with the certification of their operations to meet voluntary standards.

Farm to School - facilitates connections between New York State farmers and food service managers in educational facilities across the state.

USDA Farm Service Agency - direct and guaranteed loans to beginner and family farmers and ranchers who are unable to obtain financing from commercial credit sources, and Emergency Farm Loans to help producers recover from certain production and operational losses.

Rural Development Grants and Loans (USDA) - includes Farm Labor Housing Loans and Grants, Value Added Producer Grants.

Small Business MicroLoans - the Small Business Administration offers several financial assistance programs.

Climate Resilient Farming Program – As previously noted, this program is offered by the Soil and Water Conservation Service to help farmers reduce the impacts of agriculture on climate change (mitigation) and to increase the resiliency of farms in New York State in the face of a changing climate (adaptation).

F. Land Evaluation and Site Assessment

The Town of Amherst has prioritized farmland protection through conservation easements and other means. The Town completed a Land Evaluation and Site Assessment (LESA) to prioritize lands for protection. The LESA resulted in a targeted list of parcels for protection. Some of these properties have been successfully protected through a mix of local, state, federal and private funds (in some cases, the landowners accepted a reduced price for the land as a contribution toward its protection). To date, the Town has protected a total of 784 acres of land. An additional 480 acres are targeted for protection, for a total of 1,264 acres to be protected. The following figure, Figure 5-5, lists those parcels identified for protection, along with their status.

Parcel ID	Acres	Status
A	66.94	Purchased
B	69.50	Purchased
C	50.00	Purchased
D, E, U	141.63	Purchased
F	21.67	Purchased
G	24.20	Purchased
H	40.39	Purchased
J	46.04	Purchased
K	47.86	Purchased
P	44.64	Purchased
Q	51.93	Purchased
V-1 / V-2	49.12	Purchased
W	130.16	Purchased
I	51.30	Open
L	37.60	Open
M	27.20	Open
N	26.60	Open
O	68.50	Open
R	63.30	Open
S	94.30	Open
T	45.40	Open
X	12.60	Open
Y	10.00	Open
Z	20.25	Open
Total Acreage Acquired:		
		784.08
Total All Parcels listed		
		1,244.13



06

**AGRICULTURAL
DEVELOPMENT**



PHOTO COURTESY OF DONALD SPOTH FARM & GREENHOUSE

Introduction

Agricultural activity in a community expresses itself both in the business of farming, producing products for wholesale distribution or direct sale to consumers, and in resident interaction with agriculture, whether through visits to a farmers' market, purchase of local produce at a grocery or specialty store, or leisure activities such as home gardening and agritourism visits to farms and orchards. Both can inspire entrepreneurship and business expansion, as intersections generate ideas and energy.

The Town of Amherst has a relatively small farming community and percent of acres actively farmed. Despite this, awareness of agriculture is strong, anchored for residents by national trends such as farmer's markets and community-supported agriculture programs that value fresh, local food, by agriculture related tourism that is widely available throughout the region, and by residents' enjoyment of outdoor activity generally. Well-recognized town resources include the Williamsville Farmer's Market, the Buffalo Niagara Heritage Village, and nurseries and businesses selling flowers, vegetables and fruits, or eggs. The purpose of this Agricultural Development section is to show the role agriculture currently plays in the town's economy and community life, and to identify existing resources and gaps to be filled. This understanding will enable the town to become more effective in creating an environment in which agriculture is both commercially important and celebrated by residents. Strategies and initiatives to fill gaps and strengthen and expand agriculture-related business activity are provided in the Recommendations section. A special study of hemp production is included because of its major contribution to the town's agriculture economy.

Highlights of Agricultural Activity and Opportunity

Commercial agriculture in town is valued but not currently well understood. Agriculture informs the town's eating, shopping, and leisure and recreation activities to a degree not well measured by statistics on jobs or economic output. Its presence is often seen as a contributor to quality of life and community values rather than to the local economy. Commercial agriculture in Erie County contributes less than 1% of Gross Regional Product but jobs and wages have been growing and retaining and expanding agriculture as part of the town and county economic base increases economic diversity and resiliency. Improving awareness of the economic contribution of agriculture informs the strategic recommendations of this portion of the study.

Hemp production is an important economic contributor and has the potential to create new opportunities. Consumer demand in New York for personal health or relaxation supplements using cannabidiol (CBD) extracted from hemp receives attention now but uses in neurology and dentistry can sustain and diversify the market. Spoth Farms participates in the state's pilot program for regulated hemp production and is moving beyond growing and selling the crop to developing products using cannabidiol extracted from the hemp. This is an example of resident consumers and farmers connected not directly, as with a farmer's market, but through a more sophisticated, manufactured product, bringing science and potentially medicine into the mix.

The interaction between farmers and consumers benefits them both. Appreciating a farm as a community business as well as for environmental stewardship can inspire greater efforts toward preservation. A working farm contributes to the economy and is more than a space that isn't developed. Resident connections to soil, animals, and locally grown products can support both preservation goals and commerce through increasing preferences for food to prepare at home or enjoy at a restaurant. Inspiration for a new consumer or industrial product, a new business, or a new farm, crop, or animal production program can come from residents, existing business owners and employees, or farmers.

2020's pandemic-inspired focus on home and community accelerated trends in resident behavior that are likely to become permanent for many. Residents finding themselves suddenly confined to their homes and community joined a national trend toward backyard gardening, canning and preserving, and increasing the leisure time spent outdoors overall. Interviews for this study suggest this will continue, because calendar 2021 continues to be shaped by the same public health uncertainty, and because many individuals have found these activities rewarding on their own. "Eat Local" campaigns, investment in multi-use, cycling, and walking trails, and land preservation were already gaining support, and can be expected to continue and probably increase in the next several years. Furthermore, these fit well with the town's demographic profile for income, education, age, and lifestyle.

Organization of this Section

This Agricultural Development section includes five subsections covering research, resources, and gaps. Recommended strategies and initiatives based on this section are incorporated into the Implementation Matrix in Section VII of this report.

- A. Commercial Agriculture in the Region
- B. Consumer Behavior
- C. Resources for Agriculture-Inspired Business
- D. Resident Engagement with Agriculture and Agri-Tourism
- E. Hemp Industry Potential

A. Commercial Agriculture in the Region

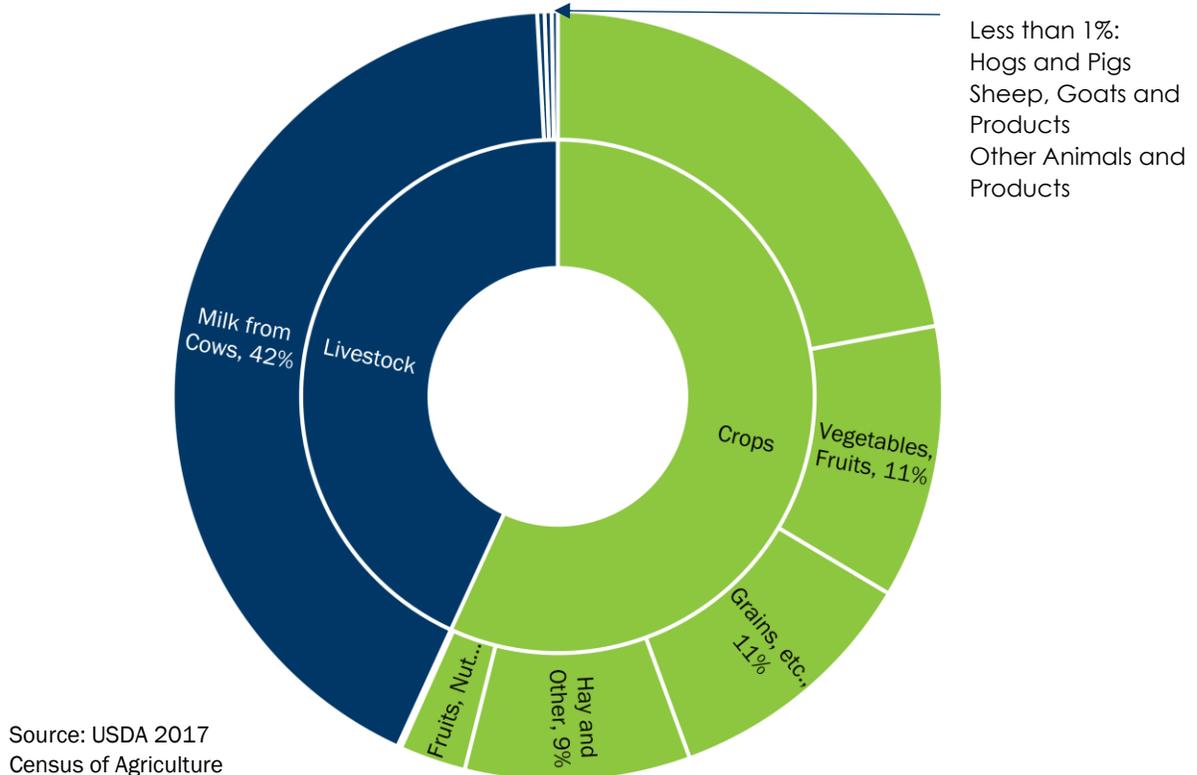
Value and Role of Agricultural Goods Produced and Purchased in the Community

Like much of New York State, Erie County's dairy operators make the greatest contribution by dollar of sales, at 42% in 2017¹, approximately \$46 million. As shown in **Figure 6-1** below, the next largest category is nurseries, greenhouses, and tree farms, at 22%, or \$24 million. A mix of direct agriculture and direct-to-consumer sales in a single business acts as a bridge between farmers and growers, and the residents and other businesses in a community. With the implementation of agricultural development initiatives, the groundwork for expanding connections and engaging residents and other businesses more actively can be established.

Agricultural Jobs in Erie County and the Western New York Region

As of 2020, there were 8,687 direct agriculture jobs in Western New York², with 1,401 of these in Erie County, as shown in Figure 6-2 and Figure 6-3, below. Animal production provides the greatest number of jobs, followed by crop production. The next largest source of jobs is with businesses that contract and manage farm labor.

Figure 6-1: Contributions to Erie County's Agricultural Activity by Dollar Value



¹ Direct agriculture statistics are collected at the county level by the USDA, US Census and other federal agencies. Town-level data is not available. The USDA Census of Agriculture is taken every 5 years, with the next census taking place in 2022.

² This study uses Invest Buffalo Niagara's list: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and Wyoming counties.

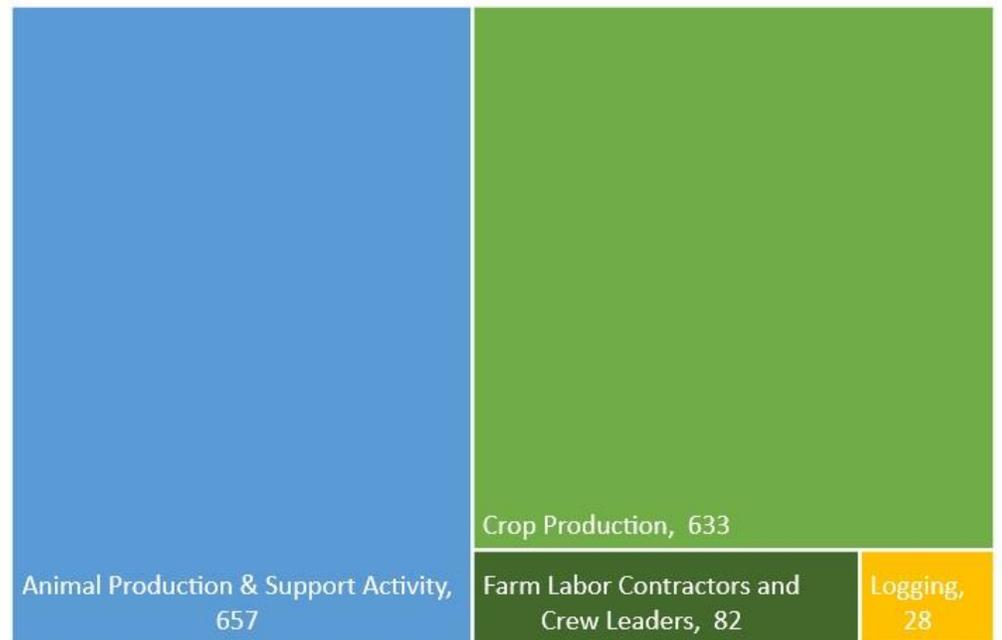
8,687 Agriculture Jobs in Western NY, 2020

Figure 6-2



1,401 Agriculture Jobs in Erie County, 2020

Figure 6-1



Job gains have been modest since 2020. Crop production shed jobs, but animal production and postharvest activities drove increases. Earnings per job increased significantly in the region and Erie County, by \$12,403 and \$10,796 respectively, approximately 44% for both.

Table 6-1

	2020 Jobs	Change Since 2010	2020 Earnings per Job	Change Since 2010
Crop Production	3,452	(335)	\$ 36,645	\$ 9,930
Animal Production	3,983	279	\$ 40,529	\$ 11,503
Logging	235	9	\$ 36,226	\$ 7,528
Soil Preparation, Planting, and Cultivating	42	(9)	\$ 40,778	\$ 11,694
Postharvest Crop Activities	303	104	\$ 41,219	\$ 15,723
Farm Labor Contractors and Crew Leaders	508	62	\$ 29,723	\$ 9,370
Support Activities for Animal Production	117	(27)	\$ 45,513	\$ 16,793
Support Activities for Forestry	47	(13)	53,671	16,687
Job Totals and Earnings Averages	8,687	72	40,538	\$ 12,403
2020 Jobs, All Industries	703,776			
Agriculture Jobs as a % of All Industries	1.2%			

Source: Emsi

Note: Earnings include wages, salaries, and proprietor earnings

Table 6-2

	2020 Jobs	Change Since 2010	2020 Earnings per Job	Change Since 2010
Crop Production	633	(28)	\$ 35,991	\$ 12,070
Animal Production	607	62	\$ 41,872	\$ 13,087
Logging	28	4	\$ 37,108	\$ 7,246
Soil Preparation, Planting, and Cultivating	--	--	--	--
Postharvest Crop Activities	--	--	--	--
Farm Labor Contractors and Crew Leaders	82	14	30,021	9,825
Support Activities for Animal Production	50	(7)	\$ 31,456	\$ 11,753
Support Activities for Forestry	--	--	--	--
Job Totals and Earnings Averages	1,401	45	35,289	\$ 10,796
2020 Jobs, All Industries	481,265			
Agriculture Jobs as a % of All Industries	0.3%			

Source: Emsi

Note: Earnings include wages, salaries, and proprietor earnings

Contribution to Gross Regional Product

Table 6-3 and Table 6-4 summarize the contribution that commercial agriculture made in 2020 made to Gross Regional Product (GRP).³ Also shown is an economic “sales multiplier,” which measures the effect the sector has on the rest of the economy. A higher multiplier indicates more additional economic activity. Important observations from the data are:

³ GRP is the local and regional equivalent of GDP, or Gross Domestic Product, at the national level. It is the sum of total industry earnings, taxes on production and imports, and profits, less subsidies from the government.

- Crop production has a negative GRP. This is true in New York State and the US overall. Crop production receives significant amounts of government financial subsidies. In 2020, subsidies exceeded the total earnings, taxes, and profits in the county for the first time since at least 2010.
- Animal production makes the greatest contribution to GRP in the county, and the region.
- Activities with the highest multipliers, that therefore support a greater proportion of additional jobs, wages, and sales, are in the support activities such as farm labor contractors and support for animal production.

Table 6-3

	2020 GRP	Economic Effect of \$1 of Sales
Crop Production	\$ (128,925,427)	1.61
Animal Production	\$ 302,074,066	1.60
Logging	\$ 40,651	1.65
Soil Preparation, Planting, and Cultivating	\$ -	1.00
Postharvest Crop Activities	\$ 12,686,401	1.66
Farm Labor Contractors and Crew Leaders	\$ 1,684,732	1.75
Support Activities for Animal Production	\$ 596,575	1.79
Support Activities for Forestry	\$ -	1.00
Agriculture GRP Totals	188,156,997	
Total GRP	\$ 84,086,926,383	
Agriculture GRP as a % of Total	0.2%	

Source: Emsi

Note: Negative GRP indicates subsidies exceed earnings, income, and taxes.

Multiplier Effects

Sales multipliers measure the effect of each dollar of sales of agricultural product as it ripples through the economy through business-to-business sales and the spending of wages and earnings.

They are specific to both the industry sector and the community. For example, an industry with significant raw materials and equipment expense would have a relatively high multiplier. If production inputs were not available locally, the multiplier would be lower.

Higher multipliers indicate more activity.

Table 6-4

Erie County Agriculture: Contribution to Gross Regional Product		
	2020 GRP	Economic Effect of \$1 of Sales
Crop Production	\$ (21,775,410)	1.65
Animal Production	\$ 41,320,291	1.62
Logging	\$ 1,504	1.57
Soil Preparation, Planting, and Cultivating	\$ -	1.00
Postharvest Crop Activities	\$ 1,461,243	1.60
Farm Labor Contractors and Crew Leaders	\$ 274,884	1.75
Support Activities for Animal Production	\$ 522,134	1.75
Support Activities for Forestry	\$ -	1.00
Agriculture GRP Totals	21,804,645	
Total GRP	\$ 59,595,901,499	
Agriculture GRP as a % of Total	0.0%	

Source: Emsi

Note: Negative GRP indicates subsidies exceed earnings, income, and taxes.

B. Consumer Behavior

Purpose of this section: Use consumer spending and lifestyle patterns to show the time and resources Amherst residents spend on outdoor recreation and lawn and garden care⁴.

Another element of agricultural activity is resident interaction through spending, leisure, and recreation. For non-farmers, outdoor activities and agriculture can intersect in a variety of ways through multi-use trails, bicycling, hiking, or driving along farming, vineyard, or orchard byways, home and lawn care, gardening for food, and choosing local and organic produce to cook at home or when dining out. These activities build connections to farming and can therefore increase support for preservation of active farming as well as open space.

Spending and Retail Demand

Town of Amherst residents spend more than 30% of their recreation budgets preparing for outdoor activities, which can create opportunities to appreciate and engage with farming. As shown in Table 6-5, activities include sports participation, social and health clubs, recreational vehicles and boats, and other outdoor equipment for bicycling, camping, hunting/fishing, and sports. This is slightly higher as a percent of spending compared to all residents within a 45-minute radius, and nearly \$300 more per year. While not all this spending occurs within the town, it demonstrates the market demand within the community. For retail purchases, Table 6-6 shows that more than half of spending on lawn and garden supplies are made outside of the town, for an estimated \$5.7 million of unmet demand. Within a 45-minute drive time, supply and demand is nearly balanced, with a slight excess of supply. This data does not yet incorporate the jump in home improvement and gardening activity known to be an effect of nationwide lockdowns in 2020, which are continuing into 2021, potentially changing resident behavior over the long term. While the town's excess demand is met by regional supply, more local offerings of fresh produce or garden supplies are likely to be welcome. Consumer retail and commercial small-scale farming supplies and equipment, including for organic practices, present an opportunity for a business to start or expand.

⁴ Spending on food and restaurants is not separated by source of the raw ingredients.
TOWN OF AMHERST FARMLAND PROTECTION & AGRICULTURAL DEVELOPMENT PLAN

The third perspective on how residents' value outdoor and agricultural activities is presented in Table 6-7. Using the "Tapestry Segmentation"⁵, households are analyzed based on age, income, spending patterns, family status, and other factors to create a broad but useful description of the groups that inhabit a community. The top 6 groups, which comprise 75% of town households, share a commitment to gardening and home improvement or maintenance, and home grown or organic food, corresponding to the spending and retail data as well. These signal the potential for greater engagement with the outdoors, direct activity with the land even in small plots, and enjoyment of locally-produced food.

Two household segments, "Retirement Communities" and "College Towns" are less likely to own their own homes, separating them from opportunities to engage in gardening or vegetable and fruit growing. This doesn't mean that they have no interest, simply that their housing choices mean they have fewer opportunities. Retirees value quality food and are likely to dine out more and prepare fewer meals at home with local products. College students and very recent graduates may find more appeal in a group approach to engagement such as an organized club. At 21% of the town's population, expanding their interaction with agriculture beyond the weekly farmer's market, perhaps with community garden space, can be a goal.

Table 6-5

Outdoor Recreation as a Component of Amherst and Nearby Area Recreation				
	Town of Amherst		45-Minute Radius	
Median Household Income	\$	76,880	\$	56,719
Total Recreation Expenditures	\$	2,968	\$	2,152
Outdoor-Oriented Recreation	\$	927	\$	629
<i>Recreational Sports, Social, Health Clubs</i>	\$	586	\$	400
<i>Recreational Vehicles, Boats, Planes</i>	\$	183	\$	113
<i>Outdoor Equipment</i>	\$	157	\$	116
Outdoor-Oriented as % of Recreation		31%		29%

Source: Esri

Table 6-6

Town of Amherst Retail Demand, Lawn and Garden and Florists				
	Demand	Supply	Unmet Demand, \$	Unmet Demand, %
<u>Town of Amherst</u>				
Lawn and Garden Supply	\$ 10,893,104	\$ 5,177,242	\$ 5,715,862	110%
Florists	\$ 7,735,462	\$ 11,990,515	\$ (4,255,053)	-35%
<u>45-Minute Radius</u>				
Lawn and Garden Supply	\$ 69,548,630	\$ 71,558,857	\$ (2,010,227)	-3%
Florists	\$ 45,774,672	\$ 34,853,860	\$ 10,920,812	31%

Source: Esri

⁵ Created by data analytics provider Esri
TOWN OF AMHERST FARMLAND PROTECTION & AGRICULTURAL DEVELOPMENT PLAN

Table 6-7

Amherst Resident Lifestyle Summary							
Tapestry Segment and % of Residents	InStyle, 22%	Savvy Suburbanites, 15%	Retirement Communities, 11%	College Towns, 10%	Exurbanites, 10%	Comfortable Empty-Nesters, 9%	Trend, 75%
Gardening and home	Committed	Committed	"Past that"	Renter	Committed	Committed	Committed
Organic and quality foods	Home Grown	Home Grown	Dine Out	Not Known	Home Grown	Home Grown	Home Grown
Primary Housing	Own	Own	Mix	Renter	Own	Own	Own

Source: Esri

C. Resources for Agriculture-Inspired Business

Purpose of this section: Establish goals for using community resources such as underutilized or new space, and existing and strengthened local and regional networks, to inspire and support business start-ups and expansion in the town and to energize a broad range of residents to engage more with agriculture businesses.

The goals were developed through public outreach and qualitative research about existing practices, resources, and networks, and farm and business needs. Outreach activities included:

- One on one interviews with businesses, farm businesses, and leaders of local and regional organizations;
- Facilitated discussion at Committee and public meetings; and
- Analysis of survey results.

Development Goal 1: Inspire and Support Business Starts and Expansion

Development Goal 2: Encourage Resident Engagement with Agriculture Year Round

Key Findings

A major theme that emerged from the research and the outreach is that agriculture is valued by many segments of the Town of Amherst, but interactions between residents and local farms and agribusiness tend to be commerce oriented, such as visiting the Williamsville Farmer’s Market or gardening at home with locally-grown or sold seeds, plants, and shrubs. Creating a stronger sense of connection among residents and farm-related businesses is an opportunity for the town. Findings include:

- The farm-resident relationship is mostly based on consumer transactions, through the purchase of locally-produced goods, and opportunities for non-commercial interaction appear welcome but remain limited. Overall, the outreach showed a positive attitude toward farming in the town.
- The network among farmers for exchange of ideas, advice, and opportunity is largely based on personal contacts and is not facilitated by either a formal (organization-sponsored group or website) or an informal (such as an ad hoc coffee hour) structure.
- Business potential for value-added agricultural products was discussed by the Committee, but was not reflected in the one-on-one interviews with non-farmers or the survey results; this conforms to the transactional nature of farm/resident interactions.
- Residents not already engaged in agriculture but participating in the outreach had not previously considered that entrepreneurship or product development ideas could originate outside of farmers and growers themselves.

- Non-food uses for agricultural products were raised in discussions with the town and the Committee, but the public outreach did not indicate recognition of their potential of possible pharmaceutical uses for other crops as well. This suggests that the town can engage in additional outreach to the public as it studies and prepares to welcome business opportunities in this sector.
- Entrepreneurship supports, such as incubators, competitions, and university-based research are highly focused on technology, such as software and highly-manufactured products.
- Farms, farmland, and farm product sales locations are addressed in other sections of this report. Enhancing connections among farmers, consumers, and entrepreneurship are critical for inspiration and growth, and there are existing resources that are underutilized or whose value isn't fully understood. Throughout the development of this plan, questions have been raised about possible incubator space for startup companies, and this should be considered as part of a portfolio approach. Discussion of the two goals therefore highlights both existing resources, such as underutilized commercial kitchens or harnessing additional energy from the Williamsville Farmer's Market, and gaps such as school programming or mentoring for entrepreneurs as well as the potential for dedicated space.

Goal 1: Inspire and Support Business Starts and Expansion

Inspiring and supporting begins with understanding needs and resources, and ensuring there are continuing avenues for engagement and intelligence gathering. Existing and growing businesses and startups have similar building blocks:



Talent and market access are also critical building blocks already present in the town that merit continued recognition and support. For example, town and regional residents provide a workforce with skills and education, and the planning for a new agribusiness park in the Town of Evans includes a market demand study for the region, including the Town of Amherst.

Along with understanding needs and resources, determining what the town can effectively do itself, and where it can serve best by providing connections to partners and networks, is critical. A municipality's role can change over time, for example being more active when resources are available, or stepping back after launching successful initiatives that can be managed by others. For the Town of Amherst, three activities are particularly important at this stage:

- Become or designate a centralized resource, facilitating the easy exchange of information and communication among farmers, businesses, entrepreneurs, and residents in town, and linking to regional resources. A recommendation in the Implementation section is to consider forming a Town Agricultural and Farming Advisory Committee to oversee this work.
- Assist with access to funds, directly as available, and indirectly by ensuring that financing information is available, especially through existing resources such as the Amherst Industrial Development Agency and Local Development Corporation.
- Integrate agriculture business needs and goals with other studies, for example the post-COVID economic recovery planning efforts that have begun as of March, 2021. Early discussions from that plan already show shared ideas, such as opportunities arising from hemp and CBD, the need for more data about agriculture production and value in town, and the potential for institutions such as school districts to purchase and use local produce.



Space/Infrastructure for crops and livestock, processing, experimenting, value-added production, and consumer or business sales.

Virtual and physical space connects farmers, nurseries, farmers market leadership, and existing businesses with each other and with potential entrepreneurs to encourage “Main Street” consumer-oriented and direct-to-restaurant agribusiness. Virtual space includes targeted, proactive efforts such as web pages and meetings, potentially organized by a new Town Agricultural and Farming Advisory Committee, and also documenting organizations and individuals for partnerships, including those that may not appear immediately related to agriculture but that work in the innovation space and may have interest in using agricultural products. An example is the University at Buffalo School of Pharmacy and Pharmaceutical Sciences.

Existing physical space resources fall generally under opportunities to connect and inspire:

- Underutilized commercial kitchens, for example at the senior center, that could be used for food product development and small batch production, plus cooking classes featuring local produce, or small scale tasting and sampling events.
- Buffalo Niagara Heritage Village classrooms, farmland, and programming, which link historical and modern approaches to farming, food production, and animal-based crafts such as fiber arts, can celebrate and be an inspiration for business ideas using agricultural outputs.
- Public markets that are indoor and outdoor, including the Williamsville Farmer’s Market, the co-op under consideration, and the local businesses that bring town and regional produce to consumers. This also includes the virtual space used by Community Supported Agriculture (CSA), where residents contract to buy directly from a farm. These provide a venue for farmers to sell products and strengthen relationships with consumers.
- University at Buffalo Incubator@Baird, located in Amherst, includes a life sciences, environmental, pharmaceutical focus as well as software and engineering.
- Regional resources include incubators connected through the Western New York Innovation Hot Spot, managed by the University at Buffalo:
 - Buffalo: 43 North, BNMC Innovation Center, UB Incubator@CBLs, Z80 Incubator labs
 - Fredonia Technology Incubator (Dunkirk), Harrison Place Business Center (Lockport), IncubatorWorks (Alfred), Olean Business Incubator (Olean), TREC (Niagara Falls)

Gaps have the most effect on farmers hoping to bring more land into production and on businesses planning to scale up production, such as a home-based firm needing to move into its own space for management, production, and storage:

- Affordable, available, good quality agricultural land with zoning, permitting, and code enforcement recognizing the unique aspects of agricultural activity.
- Storage for crops between harvest and distribution; currently storage competes for space with other necessary farming uses.

- Production and packing on a larger scale, and storage. For food products especially, this is the next step after development in a community kitchen.
- Very low cost commercial space for emerging businesses, either in a single building such as a small incubator or a networked series of spaces connected virtually and through coordinated meet-up events.



Business Assistance especially learning and mentoring throughout all stages from startup to maturity.

Modern entrepreneurship systems are increasing engagement through online tools and meetings, which have the benefit of being more accessible and less time-intensive for entrepreneurs. This can work well for farmers whose idea generation and exploration is closely tied to their own land and livestock and who may not be able to attend in-person events frequently. At the same time, experienced farmers reaching markets using online tools and subscriptions such as Community Supported Agriculture, and younger farmers with diverse backgrounds, are adept at using technology.

Successful entrepreneurship systems provide programming, events, workshops, lectures, introductions to regional leaders and resources for funding and other needs, and direct connections with mentors for guidance through startup through growth and maturity. These can be offered through an incubator if space is available but are no longer as dependent on dedicated space.

The Buffalo-Niagara region has a strong sense of entrepreneurship and pride in local startups and growing enterprises, and it is important for the town to complement and connect rather than replicate. The evaluation of resources and gaps for business assistance is therefore focused on the themes of availability, accessibility, and connection for town businesses.

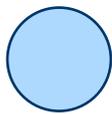
Resources:

- Informal connections and respect among farmers in town, and within the region, especially Niagara County, which is relatively more rural. This includes awareness of innovation at different farms.
- Cornell Cooperative Extension, by phone or web-assist (see proximity in Gaps, below).
- Institutional support and specific programs at Buffalo Niagara Heritage Village to teach skills, create a welcoming environment for ideas, and connect stakeholders. Its Guilds and Community Artisan Village are designed to bring people together.
- Amherst Chamber of Commerce.
- Regional assets:
 - Western New York Incubator Network connection services and support programs (startup oriented)
 - Erie County Farm Bureau
 - Food Future WNY regional food plan (funded by WNY Foundation)
 - University of Buffalo Center for Entrepreneurial Leadership
 - Invest Buffalo Niagara
 - 43 North Business Competition
 - Launch NY Virtual Incubator and mentoring
 - Daemen College, especially business curriculum
 - SUNY Erie, especially business and entrepreneurship
 - Niagara County Community College Agriculture Degree programs
 - University at Buffalo business curriculum
 - SUNY Buffalo State College business curriculum
- National assets (require broadband communications to access online)
 - Farm Foundation (nonpartisan) farmfoundation.org
 - National Young Farmers Coalition (education and lobbying) youngfarmers.org

- Potential for use of agricultural products in medicines: University at Buffalo School of Pharmacy and Pharmaceutical Sciences.

Gaps:

- Access to learning about business skills such as budgeting, hiring, permitting and other regulatory requirements, especially outside of an academic setting.
- Central source of information about programs in the region, including referrals and reference to help businesses connect.
- Space for hands-on learning sessions with mentors and experts, for example the Cornell Cooperative Extension.
- Mentorship and learning for suburban and urban small-scale agriculture, which faces challenges different from those of larger farms and rural areas of the town.
- Formal networking among farmers and agricultural entrepreneurs, that could provide entry into informal relationships for new participants.
- Leadership or formal advocacy in the town to gather, summarize, and publish and update information about resources in the town and region, especially using a website and online tools.



Capital for growth as well as startup, especially for the major capital cost of land acquisition; loans, grants, tax reductions.

New and expanding businesses have significant capital needs to purchase land and buildings, and pay for construction and equipment. Once operating, cost reduction through tax abatements can also be important, but funds to get up and running have become a major challenge. This is especially true for businesses, including market gardening, in urban and suburban areas where land and construction costs are relatively high. In the Town of Amherst, demand for new housing drives up prices for land, increasing the difficulty of locating or expanding an agricultural operation, even by a few acres.

The term “Access to Capital” is often used by entrepreneurs, and it has two components. “Access” in part means hearing about programs, learning how to navigate Small Business Administration or grant paperwork, and other business assistance along with planning and operations, described above. Access also means that there are funds available, such as publicly funded grants and loans and a willingness by private banks, or mission-driven nonprofits, to make an investment in that type of businesses. As noted above, the region focuses strongly on technology, and less on small “Main Street” businesses or farming and agriculture products. The technology incubators generally include assistance with obtaining funding, but there is not a robust parallel system for agriculture.

Capital and financing resources, including ongoing cost reduction programs such as tax abatements, complement those described under Business Assistance, above, but require additional expertise as well. The list of resources is representative, not comprehensive, and does not include banks or all federal programs.

Resources:

- Small Business Administration, online and through offices in Buffalo, Lockport, and Geneseo
- Opportunity Zone designated census tract potential for non-farming business related to agriculture
- Town of Amherst Industrial Development Agency (tax exemptions and assistance with obtaining loans and grants from partners)
- NYS Consolidated Funding Application grants (restarting in 2021)
- Local banks
- Federal funding through the USDA and the Farm Service Agency, which has offices in East Aurora and Batavia

- Farm loans
- Grants
- Homeownership loans for rural areas

Gaps:

- Central clearinghouse for information and advice
- Business finance education opportunities outside of college setting or otherwise better suited for schedules and needs of working farmers
- Consideration of capital access and ongoing cost reduction needs with general business challenges
- Access to funding information, and direct assistance with application, similar to that available to participants in the regional technology entrepreneurship network
- Non-academic entrepreneurship resources that are outside of college curriculums and incubators – such as middle and high schools, senior and community centers, or markets where people with similar interests meet
- Easy to access connections to mentorship, micro-loans, SBA resources



Regulatory and Government Support for example zoning, code enforcement, consistent guidance for questions and compliance..

Zoning and code enforcement is addressed in other sections of this report.

Consistent, easy to access guidance for questions and compliance in other areas where businesses intersect with the town is important. The section above about Business Assistance identifies a gap in the availability of a centralized resource, and Committee meeting introduced the possibility of establishing a Town Agricultural and Farming Advisory Committee. Appropriate information and advice from the town, including specific individuals to speak to, can flow through this type of resource.

D. Resident Engagement with Agriculture and Agri-Tourism

Purpose of this Section: Review current resident engagement with and support for agriculture and agritourism. Encourage Resident Engagement with and Support for Direct Agriculture through Year-Round, Learning, Sharing, Making and Doing

Key Findings:

- Town residents, and also residents of the Buffalo-Niagara region, place a high value on the ready availability of fresh, quality local food and nursery plants, as evidenced by the popularity of farmer’s markets and local businesses that offer one or both.
- As noted in the Consumer Behavior discussion, above, residents also enjoy outdoor recreation, including home landscaping and gardening as well as hiking, bicycling, camping, and sports.
- Resident interaction with farming is largely consumer oriented but farming and local food is widely recognized as a benefit to the community.

Where the values of quality, local food and outdoor recreation interact, farming and agriculture is strengthened and becomes not a business choice by farmers and a consumer choice by residents, but a culture that supports farming and production for its own sake and because preserving it enhances the quality of life in the town and region.

Goal: Encourage Resident Engagement with Agriculture Year Round

The final support for entrepreneurship and business expansion is related to this goal – seeding and growing a culture that celebrates farming and making in the community is important for idea generation, and for demonstrating that the town’s agriculture is part of daily life even though most of the land and activity is north of Schoelles Road.



Community Culture that celebrates farm and “maker culture.” To encourage ideas and engagement as well as retail purchases.

Resources encouraging and deepening this connection have been noted throughout this section of the report, and major ones are worth noting here.

- Buffalo Niagara Heritage Village
- Williamsville Farmer’s Market
- Local businesses and seasonal roadside stands, large and small
- Nurseries and garden centers with locally sourced plants
- Restaurants featuring local food
- Buffalo and Erie County Botanical Gardens
- Erie County Fair
- WNY Farm Show
- Niagara Wine Trail

Gaps center around activities, learning, and sharing, and were developed from the public outreach and committee discussions that generated ideas:

- Community garden plots especially for apartment residents.
- Central source of information for activity and resources
- School garden clubs
- 4-H Youth Program
- Showcase activity, results at Williamsville Farmer’s Market

The following two pages present tables identifying additional agritourism resources in the town and the region. These are not fully comprehensive but show the richness of activities available and can be used to begin population of a central clearinghouse.

PHOTO COURTESY OF DONALD SPOTH FARM & GREENHOUSE

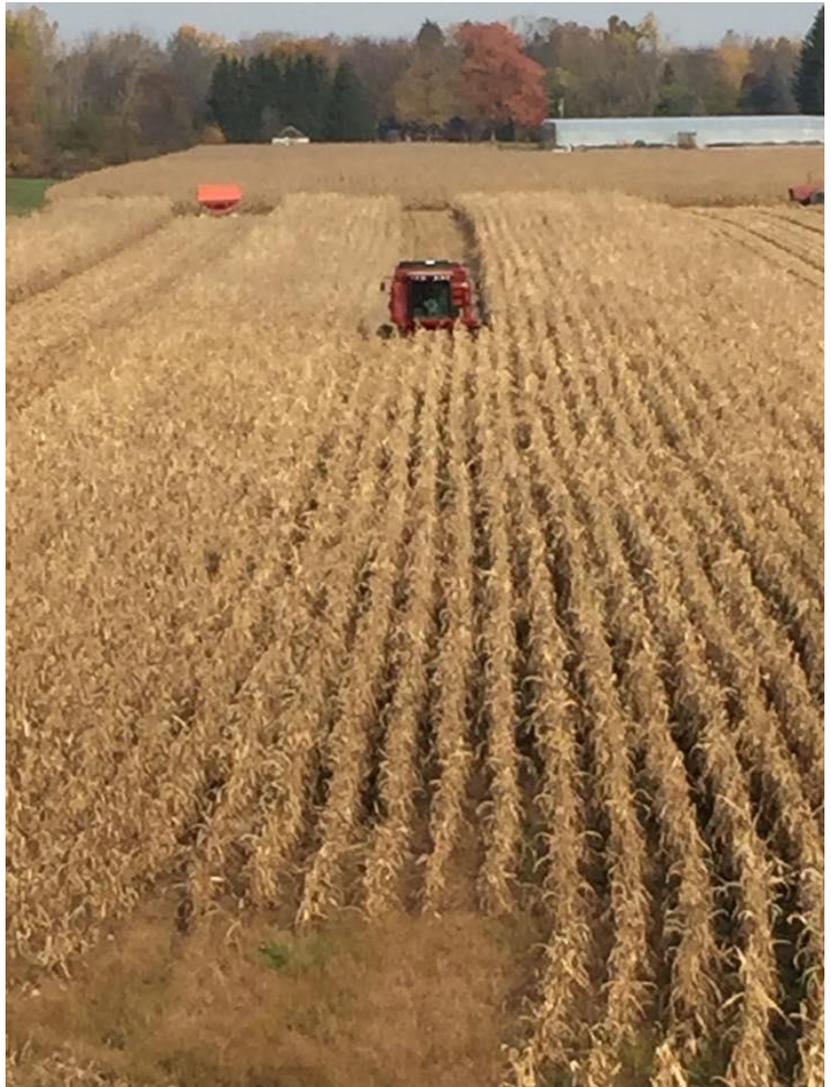


Table 6-8

In Town and Nearby Retail, Restaurant, and Farming Businesses			
Business	Type	City	Summary
The MAIZE	Agrotourism Farm	North Tonawanda	Corn maze open seasonally in the fall. Group and special events.
Graham Family Farm	Farm	North Tonawanda	Vegetable farm attending farmers' markets.
Harris Hill Farms	Farm	Clarence Center	Crop production.
Kelkenberg Farm	Farm	Clarence Center	Working farm with agrotourism and educational components. Events, bakery, farm store.
Root Down Farm	Farm	Clarence Center	Crop production.
Three Sisters Farm	Farm/Market Garden		Growing and selling local produce, eggs, offering CSA subscription
Farmers & Artisans	Food Market	Buffalo	Local food retail market and bakery.
George's Produce Market	Food Market	Buffalo	Selling locally grown produce and flowers
Spoth's Farm Market	Food Market	East Amherst	Seasonally open vegetable market.
The Village Co-Op Market of Williamsville	Food Market	Williamsville	A member owned and operated food market coming soon to the Village of Williamsville
The Williamsville Farmers Market	Food Market	Williamsville	Farmers' market run seasonally with local produce in the Amherst Town Hall Lot.
Whole Foods Market	Food Market	Amherst	Large scale grocery store offering local products.
Arbordale Nurseries	Garden Center/Retail	Getzville	Retail landscaping business with landscape plants and materials, nursery plants, garden center, and pond shop.
Badding Bros Farm Market and Garden Center	Garden Center/Retail	East Amherst	Garden center offering classes and events, farm market, bakery. Seasonally open.
Bison Nursery	Garden Center/Retail	Clarence	Over five acres of perennials, shrubs, tree and annuals as well as a garden shop.
Garden Center at The Home Depot	Garden Center/Retail	Amherst	Large scale retail garden center with seasonal offerings.
Walmart Garden Center	Garden Center/Retail	Amherst	Large scale retail garden center with seasonal offerings.
Dewitt Tree Farm	Nursery	East Amherst	Christmas trees, plant nursery, home and garden offerings.
Donald Spoth Farm & Greenhouse	Nursery	Amherst	Grow and sell a variety of annuals in hanging baskets, single pots and flats. Grow vegetable and perennials.
Lavocat's Family Greenhouse and Nursery	Nursery	East Amherst	Greenhouse, nursery, landscape service, wholesale and fundraising, online shop.
Lincoln Park Nursery	Nursery	Amherst	Landscape services, variety of landscape plants, garden store.
Mischler's Florist and Greenhouses	Nursery	Williamsville	Floral shop and garden center open seasonally with annuals, perennials, hanging pots, etc.
Pfentner's Nurseries	Nursery	Clarence Center	Plant nursery with multiple greenhouses.
Russell's Tree and Shrub Farm LLC	Nursery	East Amherst	Garden center featuring plants, trees and shrubs, along with mulch, outdoor pots and a flower shop.
CoreLife Eatery	Restaurant	Amherst	Meal delivery service focusing on healthy prepared foods, sourcing locally.
Jazzboline Restaurant & Bar	Restaurant	Amherst	Locally owned restaurant.
Share Kitchen & Bar Room	Restaurant	Williamsville	Casual dining in Williamsville.
Buffalo Roots Hydroponics and Organics	Retail	Buffalo	Retail store focusing on growing plants with hydroponic technology.
Sweet Jenny's Chocolates & Ice Cream	Retail Store	Buffalo	Handmade ice cream, locally owned. Located in the 1811 Williamsville Mill.

Many businesses located here: <https://www.visitbuffaloniagara.com/business-type/outdoor-recreation/>

Table 6-9

Regional Outdoor Recreation & Agritourism Resources			
Name	Type	Location	Summary
Balloons Over Letchworth	Activity	Portageville	Provides hot air balloon rides across western NY.
Buffalo Niagara Heritage Village	Activity	Amherst	Open-air museum with a 20,000 piece artifact collection, 35 acre grounds, and 11 historic buildings.
Buffalo and Erie County Botanical Gardens	Activity	Buffalo	Botanical garden on just under 12 acres.
Niagara Wine Trail	Activity	Lockport	Winery locations throughout Niagara, Orleans and Monroe counties.
Rotary Rink at Fountain Plaza	Activity	Buffalo	Downtown Buffalo's ONLY outdoor free-to-the-public ice skating rink. Rotary Rink is a weather dependent Rink.
Erie County Fair	Event	Hamburg	Agricultural fair held in August each year.
WNY Farm Show	Event	Hamburg	Agricultural trade show held each year in January.
Amherst State Park	Park	Buffalo	Amherst State Park includes approximately 77 acres of State-owned land and approximately 3 acres of Town-owned land.
Beaver Meadow Audubon Center	Park	North Java	Beaver Meadow is a 324-acre nature preserve.
Bennett Beach	Park	Angola	Day-use beach in Erie County.
Canalside	Park	Buffalo	Master-planned neighborhood and festival marketplace within the inner harbor of Buffalo
Nature View Park	Park	Amherst	A 1,254-acre park of forests, fields, creeks & trails set aside in 2006 through grassroots efforts.
Niagara Falls State Park	Park	Niagara Falls	Popular park with many recreational activities throughout.
Amherst Canalway Trail	Trail	Amherst	Seven mile section of the Erie Canalway Trail from Amherst to Lockport.
Clarence Bike Path	Trail	Clarence Center	Two former rival railroad corridors that crossed in Buffalo's eastern suburbs now form a nearly 18-mile paved trail system called Clarence Pathways in Clarence.
Ellicott Creek Trailway Park	Trail	Buffalo	This multiuse pathway travels along Ellicott Creek—a 47-mile waterway that flows from Bennington to the Niagara River. Located in Amherst, it also rides the outskirts 16.4 miles through beautiful landscapes and rich greenery, the trail connects to several other pathways and is part of an effort to create a larger trail system
Lehigh Valley Railroad Rail Trail	Trail	Cheektowaga	This 3.9 mile trail is composed of two segments on top of a former railroad bed in the Town of Tonawanda and the City of Tonawanda.
Tonawanda Rails to Trails Trailhead	Trail	Buffalo	Walton Woods is a 1.5 mile loop trail located near Buffalo, New York that features a lake and is good for all skill levels.

Sources:

Many businesses located here: <https://www.visitbuffaloniagara.com/business-type/outdoor-recreation/>

General resources listed here: <https://buffalo.kidsoutandabout.com/content/outside-fun-around-buffalo>

List of Agritourism resources: <https://www2.erie.gov/environment/sites/www2.erie.gov/environment/files/uploads/Agritourism%20Map%202017.pdf>

Parks in Amherst: http://www.amherst.ny.us/pdf/planning/parks/180418_parks_trails.pdf

E. Hemp Industry Potential

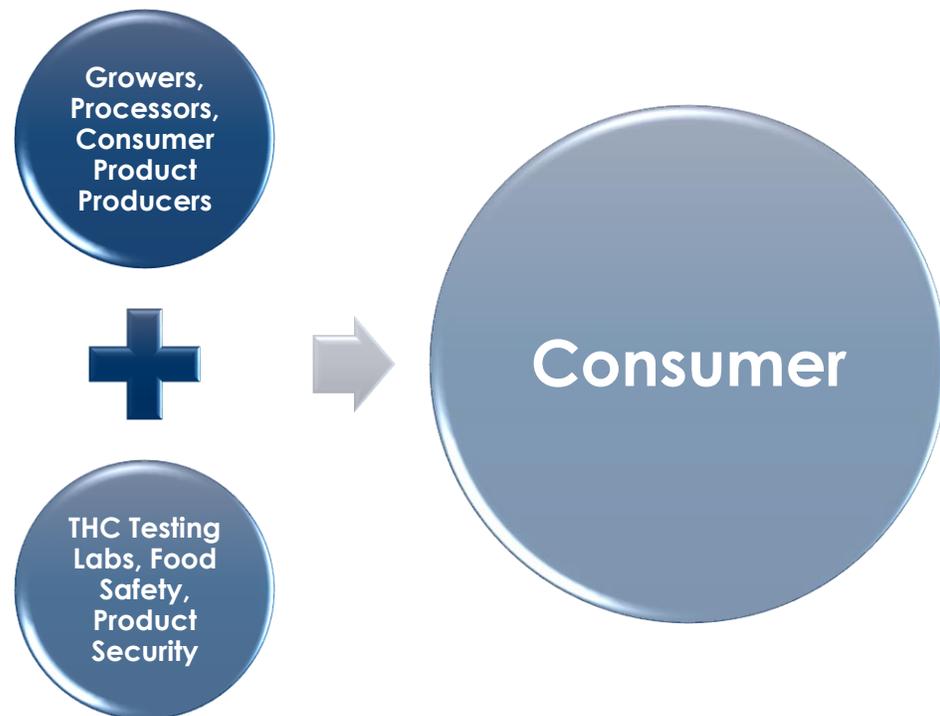
Purpose of this section: the state's pilot hemp program is relatively new, but the potential of a cash crop leading to value-added consumer products has generated interest in the town, in addition to general attitudes about the benefits of cannabidiol products. This section evaluates the potential for hemp production to expand its contribution to the town's agriculture economy.

Introduction – Consumer Excitement, Business Changes

The legalization of hemp production and distribution of products containing cannabidiol (CBD) added to the excitement already building from access to cannabis products such as medical marijuana, which is legal in 35 states and 4 US territories, and recreational marijuana, which is or will be legal in 15 states after new ballot measures passed on November 3, 2020. On March 31, 2021, New York State approved recreational and expanded medical use.

Hemp production and cannabidiol extraction and formulation in consumer projects are separate industries from medical and recreational marijuana, with the major distinction being between how the end product is used. While hemp is also used for textiles and animal feed, it is the health and wellness outcomes for people, from chronic pain reduction to alleviation of anxiety and relaxation, that drives the enthusiasm and marketing. Where legal, hemp products are often heavily regulated but do not require medical justification or prescriptions, making them directly available to consumers.

A successful business using hemp as an input needs more than consumer demand and market access. As with all businesses, competition, costs of production, research and development, and other factors are important. Hemp and CBD markets are subject to a very high degree of inspection and regulation, more akin to a pharmaceutical manufacturer than a consumer products business, even a food company. The result is an industry with an unusual dissonance between consumer enthusiasm and business challenges.



Industrial hemp production has been legal in the U.S. since the 2018 Farm Bill, and New York producers are heavily regulated at the national and state level. The regulation and inspection requirements create barriers between businesses that grow the plant, process it, and create consumer products, and the consumers themselves. It is not unusual for regulatory compliance to affect the supply and demand relationship between providers and consumers, but because hemp plants also produce varying amounts of Tetrahydrocannabinol (THC), the chemical that produces the “high” for cannabis users, maintaining the separation between legal hemp and illegal cannabis production is critical to the industry.

To be successful, hemp market participants must therefore meet demand from two constituencies with very different goals: consumers who want products that have a positive effect on quality of life, and regulators who need to monitor products for compliance with laws.

This analysis therefore lays out the clear signals of consumer demand and product proliferation, identifies the barriers to businesses created at the state and federal level, and suggests potential resources to help companies navigate the regulatory environment.

Marijuana

On March 31, 2021, New York State legalized marijuana for personal recreational use. A plan for commercial production and sale is under development and not fully available to the public; it is expected to be implemented over eighteen months.

Commercial production and retail sale will be affected by many of the same business factors as the hemp industry, because it is the essentially the same plant, and because without its being legal in all states and at the federal level, constraints will continue to include limited access to banking services, and a strong regulation and inspection regime with costs borne by growers and producers.

The chief difference from a farming perspective is likely to be increased demand and a much broader market for the plant and its extracts. Marijuana is currently seen as an important new tax revenue source for the state, and high consumer taxes could have a dampening effect on purchase. Potentially more important is that other states that have already legalized recreational marijuana are seeing home growers competing with established farms and businesses, and sharing or purchases made outside of retail businesses. Marijuana can be processed much more easily than hemp into a consumable product, for example by drying in a home microwave, reducing the need for the value-added processing that boosts commercial profits.

Strong demand for marijuana can be expected to lead to an even more comprehensive regulation and enforcement environment, which may protect commercial growers and sellers from unregulated sales. This will have to occur at a national or at least regional level to be effective at protecting farmers, and before that begins there may be a few years of rocky commerce.

Industry Overview

Definition

Hemp production as an industry encompasses growing and harvesting cannabis plants that have a THC⁶ content of less than 0.3% by weight. At the present time, 0.3% THC is in practice the dividing line between legal hemp plants and sometimes legal marijuana plants. This is a rationale for extensive regulation, as plants are tested at harvest to measure THC content and a crop that exceeds the threshold may cause the harvest to be discarded, with no return on effort and investment.

In addition to the development and marketing of consumer projects, the hemp industry therefore requires access to testing laboratories which are authorized to certify a crop. Increasingly important is access to plant hybridization and research to develop cultivars that are more likely to meet the 0.3% THC limit, diminishing the risk of discarding the crop.

Industry Supply Chain

Like other farming activities, upstream supply chain inputs include capital investment, equipment, and fertilizer. Downstream sales include retail and manufacturing purchases and also healthcare. The chart below illustrates the supply chain and downstream users.⁷ Opportunity for the town is strongest in connecting directly to health care providers and therapy providers, for example in neurology and dentistry, that may already find the town attractive because of the University at Buffalo's medical research. New CBD distillates developed at Spoth Farm are an example of potential collaboration.

⁶ tetrahydrocannabinol

⁷ Source: IBISWorld *Industrial Hemp Production*, Curran, 2020

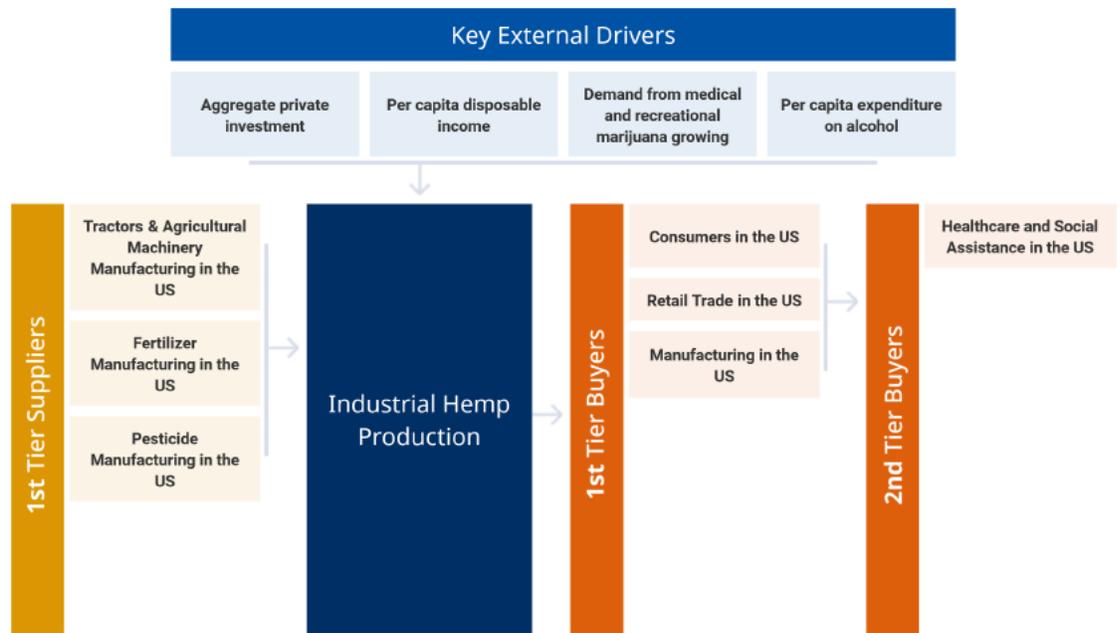


Figure 6-3

Industry Growth and Outlook

Rapid expansion in hemp growing and processing has led to an oversupply, so while CBD is a high margin business, hemp prices have begun falling and revenue growth is expected to slow considerably. U.S. hemp growers compete with international producers, and nationally small suppliers compete with very large growers who enjoy economies of scale. The table below summarizes the mix of business trends. Figure 6-5 presents past and expected growth rates.

Table 6-10: Business Trends

Positive Trends	Mixed Trends	Negative Trends
CBD still a high margin business	Medium level of capital intensity (demand)	Revenue volatility
Not highly concentrated, and some companies expected to exit	Medium barriers to entry for growers, including varying state regulations	High degree of competition
Low level of technology change	Medium level of financial assistance to industry overall	Heavy regulation in U.S., less in other countries
Still in a growth life cycle	Globalization	Oversupply

Figure 6-4: Key Statistics for Hemp Production and Sale in the U.S.

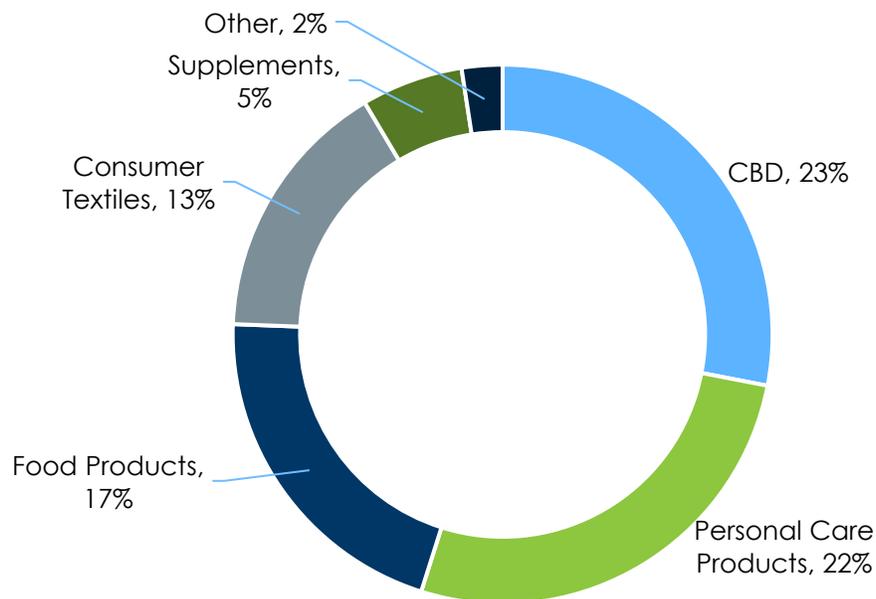
SOURCE: IBISWORLD



Consumer Products and Demand Drivers

As shown in the chart below, the major use is for CBD products, at 23% of production as of 2020. Potentially of interest to the town, given the pharmaceutical resources, is that personal care products absorb 22% of production, and supplements another 5%.

FIGURE 6-5 HEMP USE IN CONSUMER PRODUCTS



Demand for products based on hemp follows trends that are similar to other recreational or personal products. Per capita disposal income growth increases consumption, especially for the higher priced, discretionary CBD products. Demand for alcohol may also be an indicator of demand for CBD, as both are used for relaxation and are perceived by many users as having health benefits, for example red wine and heart health.

The use of hemp in consumer textiles may grow in markets where it is perceived as a desirable, natural source of fiber, and the decline in prices would benefit these uses by making them more cost-competitive.

Agricultural Production and Processing Needs

Plant growth needs. Hemp and cannabis are dioecious plants meaning male and female reproductive capacity appears on different plants, but plants look identical during seedling and vegetative phases and begin to differ when flowering. Only female plants produce THC so it is more efficient to grow only female plants; the challenge is separating the seeds (reduce wasted growing resources) or seedlings. For 2020, it is estimated that 19.7% of industry purchases will be for seeds . As hemp and marijuana production expands across the country, it is likely that machinery and technology specific to the industry will be developed and sold.

Farm location and growing conditions. Three states comprise 65.8% of the current hemp production in the U.S.: Colorado, Montana, and Oregon. These share the plant’s ideal growing conditions of high heat and humidity. Early moves by states in the Pacific Northwest to encourage production consolidated the natural advantage, and as of 2020 only California did not have some form of program.

Colder regions must use more equipment, such as greenhouses, to create the plant’s desired environment, adding to cost and potentially decreasing efficiency.

Equipment needs. Growers in New York have reported that harvesting is difficult, as the fibers tend to coil around the moving parts of a combine and damaging the equipment. Greenhouses are often needed to control growing climate at least at the propagation stage.

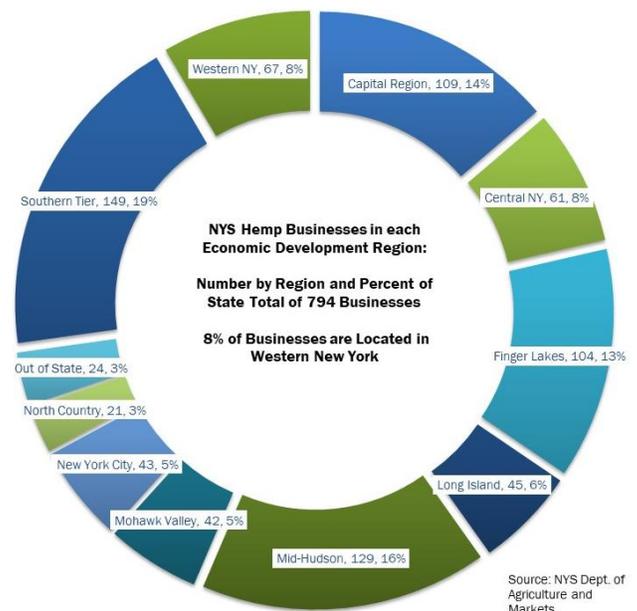
Labor. With less effective machinery, hemp farmers often rely more on labor than for other crops. In addition, hemp is cultivated from seedlings, and handling these requires more careful manual labor.

New York and Regional Activity

New York’s Industrial Hemp Research Initiative

The state launched an Industrial Hemp Agricultural Research Pilot Program in 2015, and lifted the cap on the number of sites authorized to grow and research the plant in 2017. Congress authorized a national licensing system with the 2018 Farm Bill, which directed states to assume the primary regulatory authority over participants until the USDA issued final rules. New York’s program was expected to finish at the end of 2020, with participants registering instead with the USDA, but as of October 2020 the state has committed to maintaining a state regulatory program through 2021.

FIGURE 6-3 NEW YORK STATE HEMP BUSINESSES BY ECONOMIC DEVELOPMENT REGION



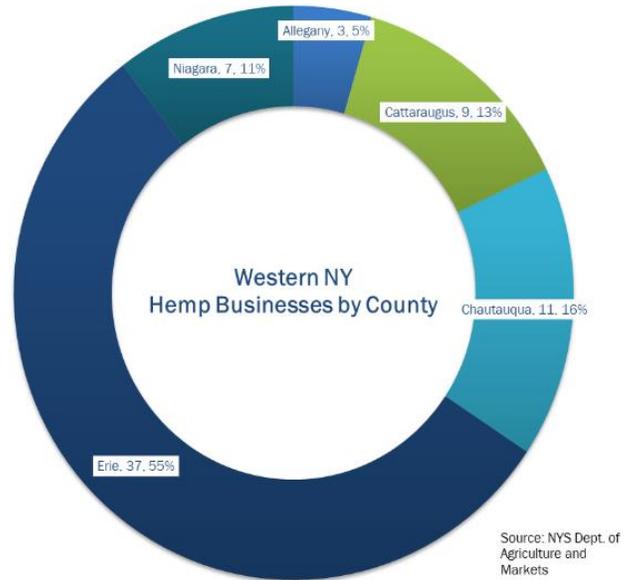
As of September 2020, 720 growers, 66 CBD processors and two businesses that are combined grower/processors have been authorized across the state. As shown in the chart “Hemp Industry Businesses by Region,” the Southern Tier has the highest number of participants, followed by the Mid-Hudson and Capital regions, which is consistent with higher levels of agriculture overall.

More than half of the participants in Western New York are in Erie County, which has four CBD processors as well as 33 growers. Two growers, Spoth Farm and Greenhouses and Hype-Labs, are located in the Town of Amherst. Three of the processors are in Buffalo and the fourth in Orchard Park.

FIGURE 6-4 HEMP BUSINESS ACTIVITY BY NEW YORK STATE COUNTY

Business Activity by County	
County	Activity
Allegany	3
Hemp Growers	3
Cattaraugus	9
CBD Processing	1
Hemp Growers	8
Chautauqua	11
Hemp Growers	11
Erie	37
CBD Processing	4
Hemp Growers	33
Niagara	7
CBD Processing	1
Hemp Growers	6
Total	67

Source: NYS Agriculture and Markets



Findings: Potential Economic Activity in the Region

As of the end of 2020, regional and county-level data on the acreage under cultivation, volume of hemp processed, and consumer purchases of hemp-based products are not yet available. Supporting industries and business opportunities around hemp production include legal, accounting, product development, marketing, shipping, packaging, and wholesaling. The major opportunities for increased economic activity from hemp in Town of Amherst are likely to come from two sources:

- Proximity to university research and development in biosciences and pharmaceuticals, with business starts related to extraction and product development as well as to medical and therapeutic users. As discussed above in Resources for Agriculture -Inspired Business, strengthening and accessing support for entrepreneurship and business growth is critical for maximizing opportunities around hemp and, potentially, recreational as well as medical marijuana.
- Demand for processing and storage for existing production and potential increase in crop yields. The town and the region do not have adequate capacity to store harvested hemp. Storage competes for space with necessary activities to prepare the next crop or process the plants into oil and distillates.



07

**IMPLEMENTATION
STRATEGY**



PHOTO COURTESY OF DONALD SPOTH FARM & GREENHOUSE

This section outlines an action plan moving forward with implementing the recommended activities outlined in this Plan. It is organized around the goals provided in Chapter 2 and designed to be a “To Do” list for the Town. It is in the format of a matrix to succinctly summarize the information. It is not comprehensive, in the sense that it does not list every possible action the Town could undertake to implement this Plan. However, the matrix provides direction and insight into the initial steps the Town should be taking to help prioritize actions. It provides insight into the expected level of effort required, along with information on time frame and responsible parties. It is recommended that the Town review this guide on an annual basis to develop a list of specific actions to undertake over the next year, and to update the categorization of priorities, actors and time frames. The elements included in the Action Plan include the following:

1. **Goal:** The overall goal, as established in Chapter 2 of this document.
2. **Recommendation:** The specific recommendations to help achieve the noted goal.
3. **Action Type:** A categorization of the type of action that is suggested. Options include funding or capital improvements; policy decisions; specific programs; regulatory changes; and communication and coordination between boards and agencies.

4. **Time Frame:** The level of importance or priority assigned to an action; some actions can be achieved right away, while others may require a longer-term effort. The time frame is based on the following scale:
 - **Near-Term:** To be implemented immediately (within the next year).
 - **Short-Term:** An action to be implemented within 18 to 24 months of adoption.
 - **Long-Term:** A longer-term action that would likely follow the implementation of other actions and/or take up to 3+ years to carry out.
 - **Ongoing:** An ongoing action item.
5. **Estimated Costs:** The estimated cost level for implementing the recommendation ranging from low (\$) to high (\$\$\$)
6. **Participants & Partners:** The local organizations, agencies, boards and/or committees that have a stake in or the potential to influence an action through funding, review, permitting, technical assistance, etc. This may not include all those that could be involved but gives an idea to who should initially be “at the table” to coordinate efforts.

Goal 1: Protect Agricultural Lands and Resources, as well as undeveloped lands with prime soils, that are critical to the long-term success, viability and resiliency of Agriculture in the Town				
Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Adopt the Town of Amherst Agricultural and Farmland Protection Plan for the protection and promotion of agricultural and farming	Regulation	Near-Term	\$	Amherst Town Board, Town Planning Department, Town Clerk, Erie County Agricultural and Farmland Protection Board, New York State Department of Agriculture and Markets
Post the Plan on the Town’s website and distribute it to relevant Departments, Boards and Committees	Policy	Near-term		Amherst Town Board, Town Planning Department, Amherst Planning Board, Building Department, other relevant committees
Establish an on-going Agricultural and Farming Advisory Committee ¹	Program	Near-Term	\$	Amherst Town Board, Town Planning Department
Create a Town Right-to-Farm Law	Regulation	Near-Term	\$	Amherst Town Board, Town Planning Department, Erie County DEP, NYSDOS
Promote the Erie County Agriculture District program through information	Policy	Near Term/ Ongoing	\$	Amherst Town Board, Town Agricultural and Farming Advisory Committee, Erie County DEP, New York State Department of Agriculture and Markets
Review and revise the list of permitted uses and accessory uses for the A-G district, particularly in support of agricultural innovation	Regulation	Near-Term	\$\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee and Planning Board, Erie County DEP
Apply the Rural Residential (R-R) and Agriculture (A-G) zoning designations in appropriate locations, starting with lands already under conservation easements.	Regulation	Ongoing	\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee and Planning Board, Erie County DEP

¹ The Steering Committee established to guide this Plan could be used as the basis of an on-going committee to oversee agricultural issues in the Town

Goal 1: Protect Agricultural Lands and Resources, as well as undeveloped lands with prime soils, that are critical to the long-term success, viability and resiliency of Agriculture in the Town

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Conduct an analysis of Suburban Agriculture (S-A) zoning designations to evaluate how to appropriately address the issue of smaller farms and/or hobby farms	Regulation	Ongoing	\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee and Planning Board, Erie County DEP
Update zoning to include provisions for small-scale (hobby) and non-commercial agricultural uses	Regulation	Near-Term	\$\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee and Planning Board, Erie County DEP
Review and update Section 99-2 of the Town Codes, Animals Law to address conflicts	Regulation	Near-Term	\$\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee and Planning Board, Erie County DEP
Review and update Definitions section of the Zoning Code, particularly relating to the definitions for farms and farm operations	Regulation	Near-Term	\$\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee and Planning Board, Erie County DEP
Adopt regulations for small farm stand operations on properties in the A-G and R-R districts, and review regulations for such uses in the A-G district	Regulation	Short-Term	\$\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee and Planning Board, Erie County DEP
Ensure that notice requirements in the NYS Agricultural District Law are followed (proper use of agricultural data statements) by including the Ag Data Form in current planning review procedures	Policy	Near-Term/ Ongoing	\$	Amherst Town Clerk, Building Department, Planning Board (site plan review)
Implement flexible permitting procedures to support local farmers markets and expand the availability of local farm products, promote small farms and expand availability of fresh produce	Policy	Ongoing	\$\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee, Amherst Chamber of Commerce
Work with Erie County, other Towns and Committees to carry out goals of the Plan	Policy	Short-Term/ Ongoing	\$	Amherst Town Board and Planning Board, Town Planning Department, Erie County DEP, Erie County Farm Bureau
Actively reach out to local farming interests to make sure they are aware of programs offered by USDA and NRCS, Cornell University and Cornell Cooperative Extension, Erie County Soil and Water District and American Farmland Trust that may benefit them	Policy	Short-Term/ Ongoing	\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee

Goal 1: Protect Agricultural Lands and Resources, as well as undeveloped lands with prime soils, that are critical to the long-term success, viability and resiliency of Agriculture in the Town

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Provide a centralized location to provide information about programs offered by Cornell Small Farms Program and the Erie County Cooperative Extension that provide business planning and financial management assistance and help new farmers build their businesses and activities	Program	Short-Term/ Ongoing	\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee
Distribute information to local farmers about the American Farmland Trust “Farmland for a New Generation New York” program that assists farmers who want land and those who want to keep their lands in productivity	Program	Short-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee
Install “Amherst is a Right-to-Farm Community” signs at entries to Town	Policy/ Funding	Short-Term	\$\$	Amherst Town Board, Town Agricultural and Farming Advisory Committee, Erie County Department, New York State Department of Transportation, Amherst DPW
Conduct an analysis of important natural resources, including soils, topography and water resources, and their impact on farmland viability	Research	Short-term	\$	Town Planning Department, Town Agricultural and Farming Advisory Committee
Investigate whether a ditch maintenance program would benefit the preservation of prime agricultural land.	Research	Short-term	\$	Town Planning Department, Town Agricultural and Farming Advisory Committee

Goal 2: Protect key areas of viable farmland, important soils and natural resources within the Town that are suitable for permanent protection through the use of Agricultural Conservation Easements

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Update map of parcels to target for protection with conservation easements	Policy	Ongoing	\$	Town Planning Department, Town Agricultural and Farming Advisory Committee, WNY Land Conservancy
Continue to work with the WNY Land Conservancy to purchase development rights on key parcels identified for protection	Funding/ Program	Ongoing	\$\$\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee, WNY Land Conservancy
Continue to pursue funding from the NYS Department of Agriculture and Markets and other sources for conservation easements	Funding	Ongoing	\$\$\$	Amherst Town Board, Town Planning Department; NYS Ag & Markets

Goal 2: Protect key areas of viable farmland, important soils and natural resources within the Town that are suitable for permanent protection through the use of Agricultural Conservation Easements

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Direct farmers interested in entering into agricultural conservation easements to work with the Western New York Land Conservancy	Policy	Short-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee, WNY Land Conservancy
Continue outreach to farming community to educate them on Amherst's conservation easement program	Education	Ongoing	\$	Amherst Town Board, Town Planning Department, Town Agricultural and Farming Advisory Committee, WNY Land Conservancy
Use the Agricultural and Farming Planning Committee to help mitigate conflicts and disputes between farmers and non-farm residents (conflict resolution board)	Program/ Regulatory	Near-Term/ Ongoing	\$	Amherst Town Board, Town Agricultural and Farming Advisory Committee
Revise zoning regulations to allow co-location of compatible agricultural uses, such as grazing, apiaries and pollinator species, on solar installations	Program	Near-Term/ Ongoing	\$	Amherst Planning Board

GOAL 3: Promote economic innovation and sustainability in agricultural production and strengthen the Town's capacity to respond to economic and climate trends and changes

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Institute an agriculture-specific Business Retention and Expansion plan to maintain regular conversations and visits with farmers and agriculture-inspired businesses; maintain records of calls, visits, information and specific needs	Program	Short-Term\ Ongoing	\$\$	Solicit bids from consultants for plan development; Town Economic Development Department to implement
Create a "one-stop" online clearinghouse of information and a resource library to support farms and agricultural activities (training, funding, markets, etc.)	Program	Short-Term\ Ongoing	\$	Town Planning Department, Town Agricultural and Farming Advisory Committee, Erie County DEP, Erie County Cornell Cooperative Extension, Chamber of Commerce
Use new website and existing social media networks to post events, newsletters, other info on benefits of farming and to celebrate successes in agriculture and intersection of agriculture and business	Program	Short-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee
Create an "ally and partner management plan" to communicate what each partner is expected to do and when, and follow up to learn of outcomes, challenges, and successes to report (support system for partners)	Communication	Ongoing	\$	Town Agricultural and Farming Advisory Committee

GOAL 3: Promote economic innovation and sustainability in agricultural production and strengthen the Town's capacity to respond to economic and climate trends and changes

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Raise the profile of the farming economy by collecting and reporting aggregated metrics directly from farmers such as acres tilled, growth in farm revenue, new business starts. Design a dashboard for public viewing and regularly update it	Program	Ongoing	\$\$	Town Agricultural and Farming Advisory Committee
Ensure that agriculture and related businesses are well represented as an important local industry in the Town's ongoing economic development studies, especially the economic recovery plan beginning in March, 2021	Policy	Near-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee, Town Economic Development Department
Actively support the "Eat Local" campaign and the Farmers' Market and partner with Erie County and others to expand markets for locally grown products	Program/ Policy	Near-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee, Amherst Town Board, Town Planning Department, Erie County Agricultural and Farmland Protection Board, Amherst Chamber of Commerce, Cornell Cooperative Extension
Sponsor a series of short, targeted online meetings specifically for Amherst stakeholders to introduce them to the full range of advisory and assistance offerings; follow up with attendees as they access programs	Program	Near-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee
Ensure that farmers are advised on the various tax relief programs and environmental management programs	Program	Short-Term\ Ongoing	\$	Town Agricultural and Farming Advisory Committee, Erie County DEP, Erie County Cornell Cooperative Extension
Provide business assistance to farmers to help them explore and take advantage of new markets, programs that assist with transitioning to organic farming and crop diversification to maintain viability	Program	Near-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee, Town Planning Department, Erie County DEP, Erie County Cornell Cooperative Extension
Conduct outreach to farming interests to help them take advantage of business management and financial planning assistance offered by Cornell University and Cornell Cooperative Extension programs	Program	Near-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee, Erie County DEP, Erie County Cooperative Extension
Provide information about the ECSWCD Climate Resiliency Farming Program to the farming community and encourage participation on the part of local farmers	Program	Short-Term	\$	Town Agricultural and Farming Advisory Committee, Town Planning Department, Erie County DEP, Erie County Soil and Water Conservation District

GOAL 3: Promote economic innovation and sustainability in agricultural production and strengthen the Town's capacity to respond to economic and climate trends and changes

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Commission an industry study of hemp and cannabidiol products. Study should identify specific resources, gaps, and opportunities including physical buildings/equipment, workforce, and entrepreneurship. It should encompass local activity and State and national trends for this emerging industry	Funding	Short Term	\$\$	Town Agricultural and Farming Advisory Committee, Town Economic Development Department
Facilitate the development of relationships between the agricultural community and potential markets on the part of local pharmaceutical, medical and dental users	Program	Ongoing	\$	Town Agricultural and Farming Advisory Committee, Town Economic Development Department
Develop a partner management plan to track how the various actors are working together, especially across and within industries, and tracks progress towards assigned tasks and activities	Program	Ongoing	\$	Town Agricultural and Farming Advisory Committee, Town Economic Development Department

GOAL 4: Leverage the Town's natural resources and agricultural assets to establish an agritourism initiative, encourage support for agricultural activities and provide ancillary means of income for farm operations and agricultural entrepreneurs

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Establish a temporary committee to reach out to regional organizations and agritourism venues, ensuring town assets are included in existing materials, and promoting a regional approach that will draw visitors to town venues	Communication	Short Term	\$	Town Agricultural and Farming Advisory Committee, Town Economic Development staff
Actively participate in regional promotions such as "Erie Grown" Passport and seek opportunities for town venues to be featured	Program	Ongoing	\$	Erie County DEP
Leverage existing social media networks to promote available agritourism resources in the Town	Communication	Ongoing	\$	Town Agricultural and Farming Advisory Committee
Continue working with the Buffalo Niagara Heritage Village as it launches new programs and initiatives; help publicize and connect to agriculture and business resources as well as tourism	Communication	Ongoing	\$	Town Agricultural and Farming Advisory Committee, Buffalo Niagara Heritage Village, Town Economic Development staff

GOAL 4: Leverage the Town’s natural resources and agricultural assets to establish an agri-tourism initiative, encourage support for agricultural activities and provide ancillary means of income for farm operations and agricultural entrepreneurs

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Connect agriculture and tourism businesses with business support resources on an equal footing with technology or manufacturing. See also initiatives under Goal 3	Communication	Ongoing	\$	Amherst IDA, Amherst Chamber of Commerce, Western NY Incubator Network, Town Economic Development staff

GOAL 5: Promote the link between farms and food, and farms and secondary income, to increase awareness by the non-farm community, grow the industry and help ensure the long-term sustainability of farming activities in Amherst

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Support an “Eat Local” campaign and support Farmers’ Markets in Amherst to expand the availability of local farm products, promote small farms and expand availability of fresh produce to local restaurants	Program	Near-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee, Town Planning Department, Amherst Town Board, Erie County Agricultural and Farmland Protection Board, Amherst Chamber of Commerce, Cornell Cooperative Extension
Promote sales of farm products to school districts, hospitals, and other institutions through researching bid opportunities and “bundling” smaller farms together to handle the needed volume; seek a partner with business experience to manage	Program	Near-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee, Amherst Chamber of Commerce, Amherst Industrial Development Agency
Maintain the Agricultural page on the Town’s website as well as social media networks as on-going sources of information on agriculture and farming in the Town	Program	Immediate	\$	Agricultural and Farming Planning Committee
Work with Erie County Cornell Cooperative Extension, Erie County Soil and Water Conservation District, Farm Bureau and others to enhance/strengthen the information they offer on local farmers markets	Policy	Near-Term/ Ongoing	\$	Town Agricultural and Farming Advisory Committee, Erie County DEP
Ensure that farmers’ markets in Amherst are included on the New York State Farmer’s Markets Federation listing	Program	Immediate	\$	Agricultural and Farming Planning Committee, Amherst Chamber of Commerce
Promote the continuation of Community Supported Agriculture cooperatives in Amherst	Program	Short-Term	\$	Town Agricultural and Farming Advisory Committee, Erie County DEP, Erie County Cornell Cooperative Extension

GOAL 5: Promote the link between farms and food, and farms and secondary income, to increase awareness by the non-farm community, grow the industry and help ensure the long-term sustainability of farming activities in Amherst

Recommendation	Action Type	Time Frame	Est. Cost	Participants & Partners
Establish a public information campaign to educate residents and others on the benefits of farming In Amherst and build local support	Program	Short-Term\ Ongoing	\$\$	Town Agricultural and Farming Advisory Committee, Erie County DEP, Erie County Cornell Cooperative Extension
Identify and secure physical space such as underutilized commercial kitchens, and develop a management plan with use rules, funding, and responsibility for maintenance	Program	Short Term	\$\$	Town Agricultural and Farming Advisory Committee – temporary subcommittee for initial tasks
Gather information on agricultural education programs in regional school districts and work with Town districts to identify and implement similar programs	Program	Short Term	\$\$	Town Agricultural and Farming Advisory Committee, School Districts, BOCES
Promote youth interest in agriculture by encouraging local 4H activity, integrating and celebrating on equal footing with professional and hobby farming activity on website and for events	Policy	Near-Term/ Ongoing	\$	Amherst Town Board, Town Agricultural and Farming Advisory Committee



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APPENDIX

A

Maps

TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 1

REGIONAL SETTING

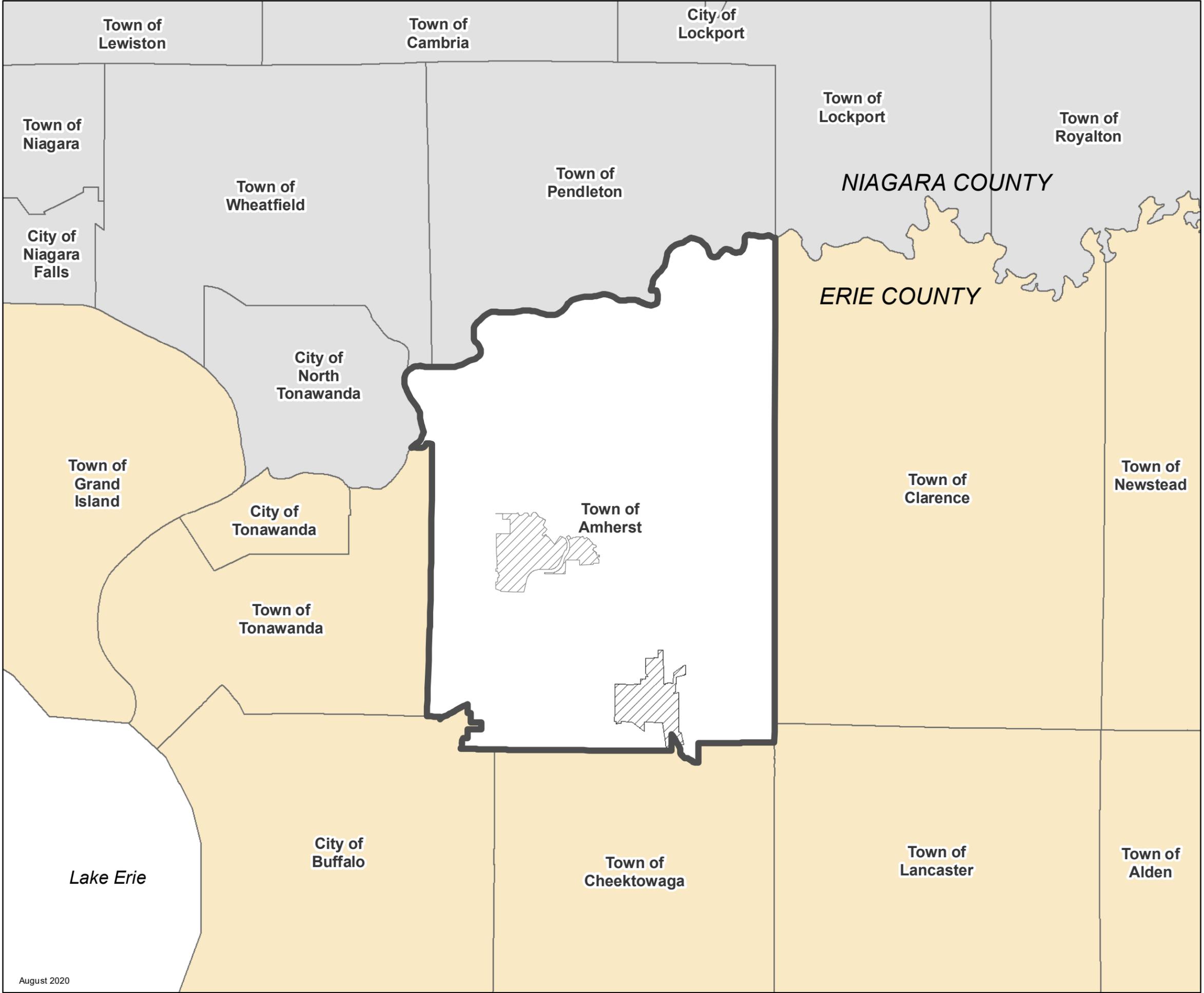
Legend

-  UB North Campus
-  Williamsville
-  Town Boundary

Source:
Town of Amherst GIS data. Planning Department. August 2020.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek
Watershed Area. Prepared by Lisa Matthies-Wiza. March 2018.

Disclaimer:
Information from the Town of Amherst, NY (Town) Geographic
Systems (GIS) is provided for general reference purposes only
and is not to be construed as a survey or legal document.
The information shown on this map is compiled from various
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can be provided by the Town; as requested. The Town
makes every reasonable effort to ensure that the information
provided herein is current and accurate. However, the
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The Town assumes no liability whatsoever associated with
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TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 2

EXISTING LAND USE

Legend

- Roads
- UB North Campus
- Williamsville
- Town Boundary

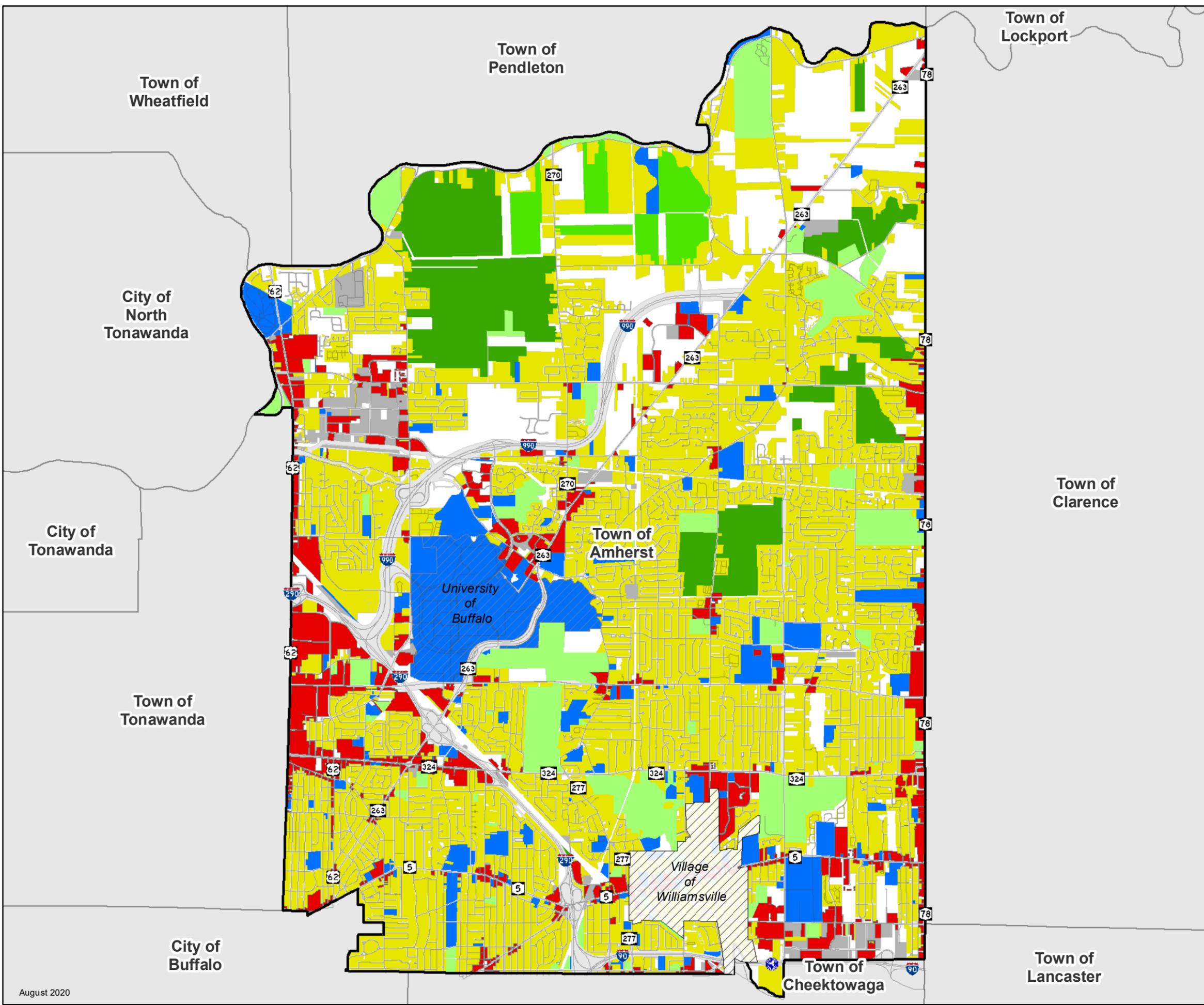
Existing Land Use

- Agricultural
- Recreation and Entertainment
- Conservation Land / Open Space
- Commercial Property
- Industrial
- Public Services
- Residential
- Vacant Land

Source:
Town of Amherst NYS Assessor Code Classifications.
Planning Department. August 2020.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek
Watershed Area. Prepared by Lisa Matthies-Wiza. March 2018.

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TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 3

ZONING

Legend

-  Roads
-  UB North Campus
-  Williamsville
-  Town Boundary
-  Zoning Districts
-  Suburban Agriculture

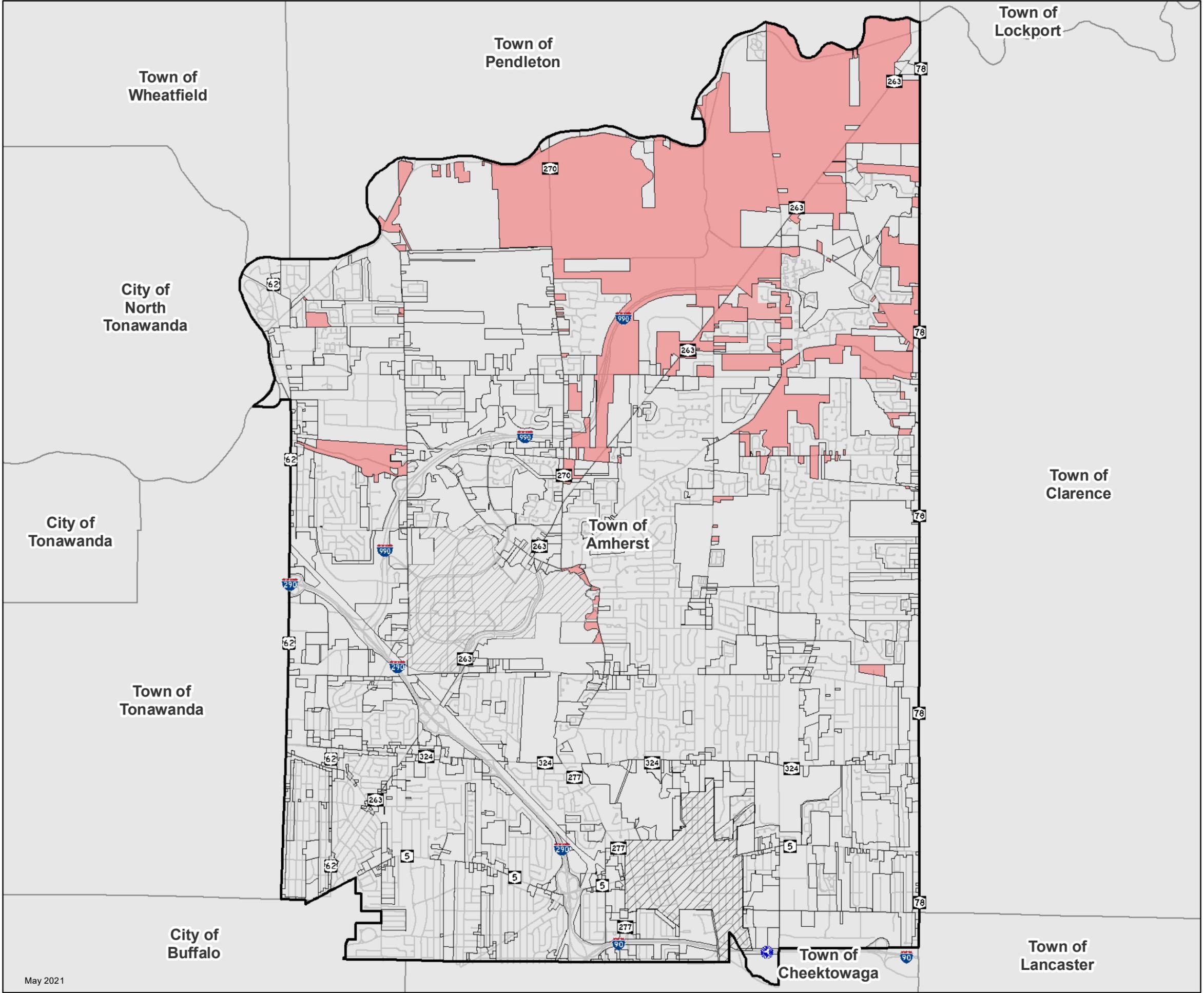
Note: (*) Districts that allow agricultural activities.

Rural Residential and Agricultural Districts allow agricultural activities, but these districts are not mapped.

Source: Town of Amherst Zoning District. Planning Department. May 2021.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek Watershed Area. Prepared by Lisa Matthies-Wiza. March 2018.

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TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 4

ENVIRONMENTAL RESOURCES

Legend

- Roads
- UB North Campus
- Williamsville
- Town Boundary
- FEMA Floodway 2019
- State Wetlands
- USFWS Wetlands
- Hydrography (Creeks, Lakes, Ponds)
- Town Ditches

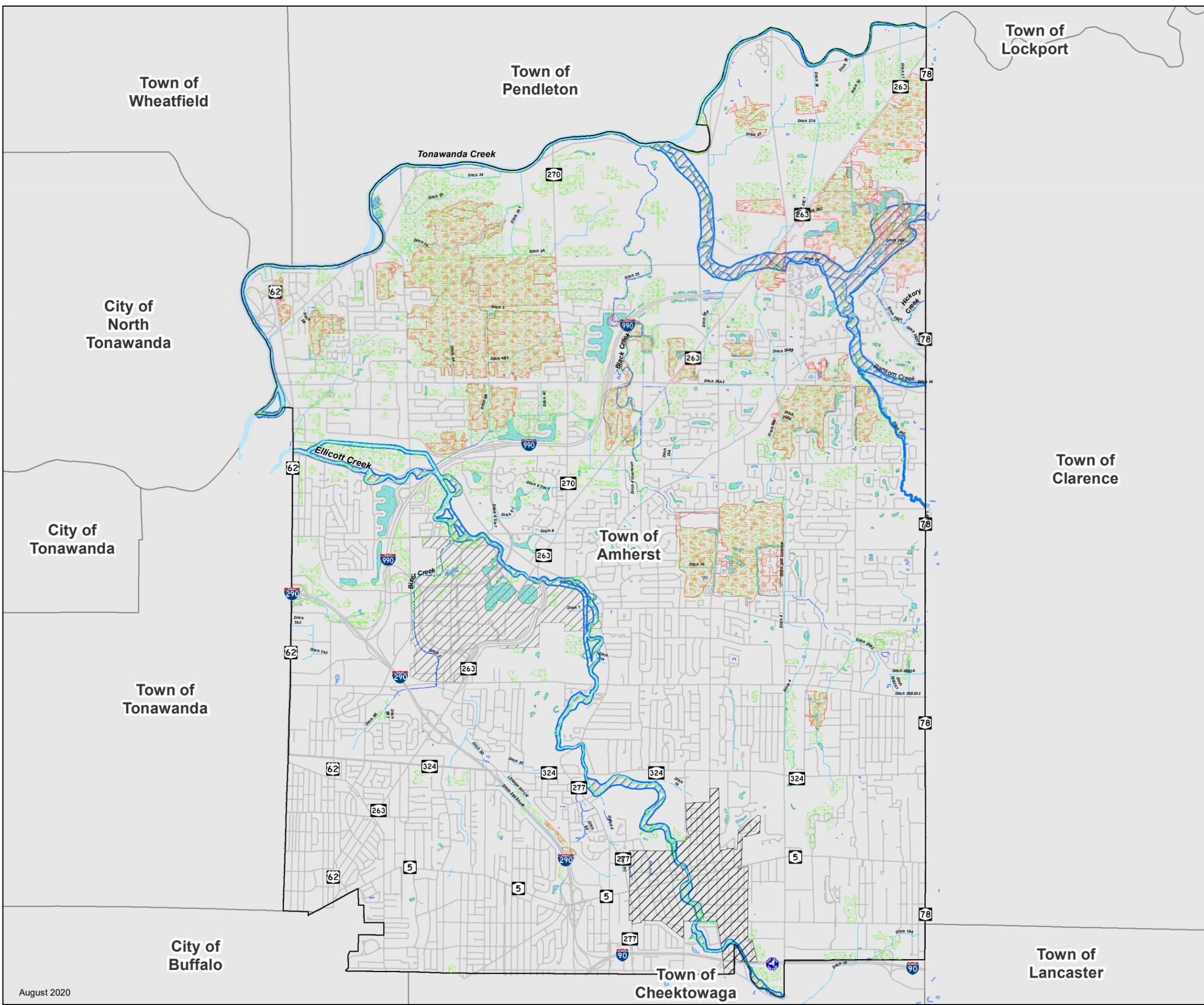
Source:
Town of Amherst GIS data. Planning Department May 2021.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek
Watershed Area. Prepared by Lisa Matthies-Wiza March 2018.

Federal Emergency Management Agency (FEMA) Flood
Hazard Maps & GIS data. Accessed 2019.

Water Resources. Updated data in 2020.
USGS Waterways Boundary Datasets. <https://nhd.usgs.gov/>
USFWS National Wetlands Inventory <https://www.fws.gov/>
NYS DEC Regulatory Wetlands <https://gis.ny.gov/gisdata/>

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TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 5

PUBLIC SANITARY SEWER DISTRICT

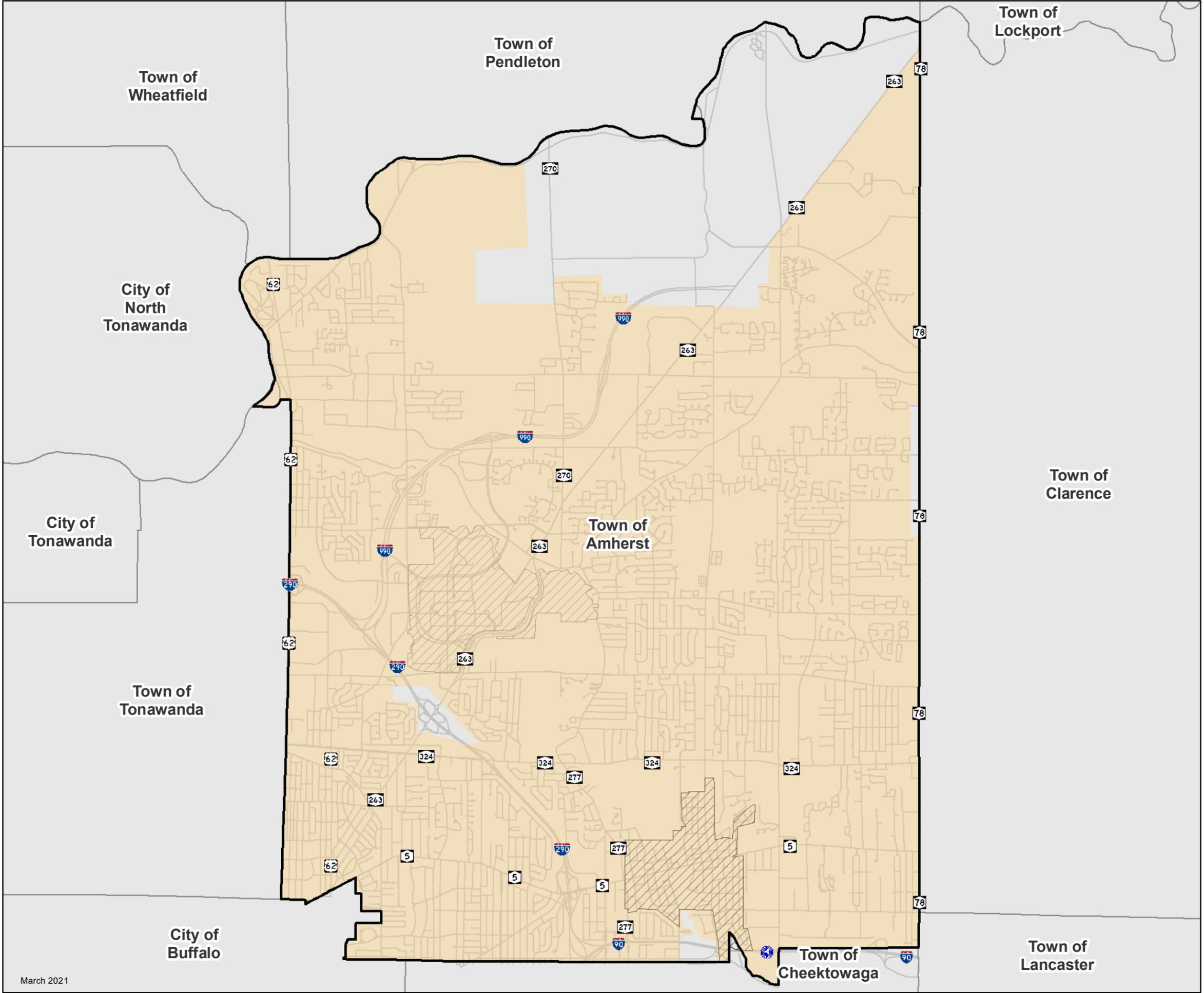
Legend

-  Roads
-  UB North Campus
-  Williamsville
-  Town Boundary
-  Sanitary Sewer District

Source:
Town of Amherst GIS data. Engineering Department. March 2021.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek
Watershed Area. Prepared by Lisa Matthies-Wiza. March 2018.

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TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 6

FARMLAND SOILS

Legend

- Roads
- UB North Campus
- Williamsville
- Town Boundary

Soil Classification

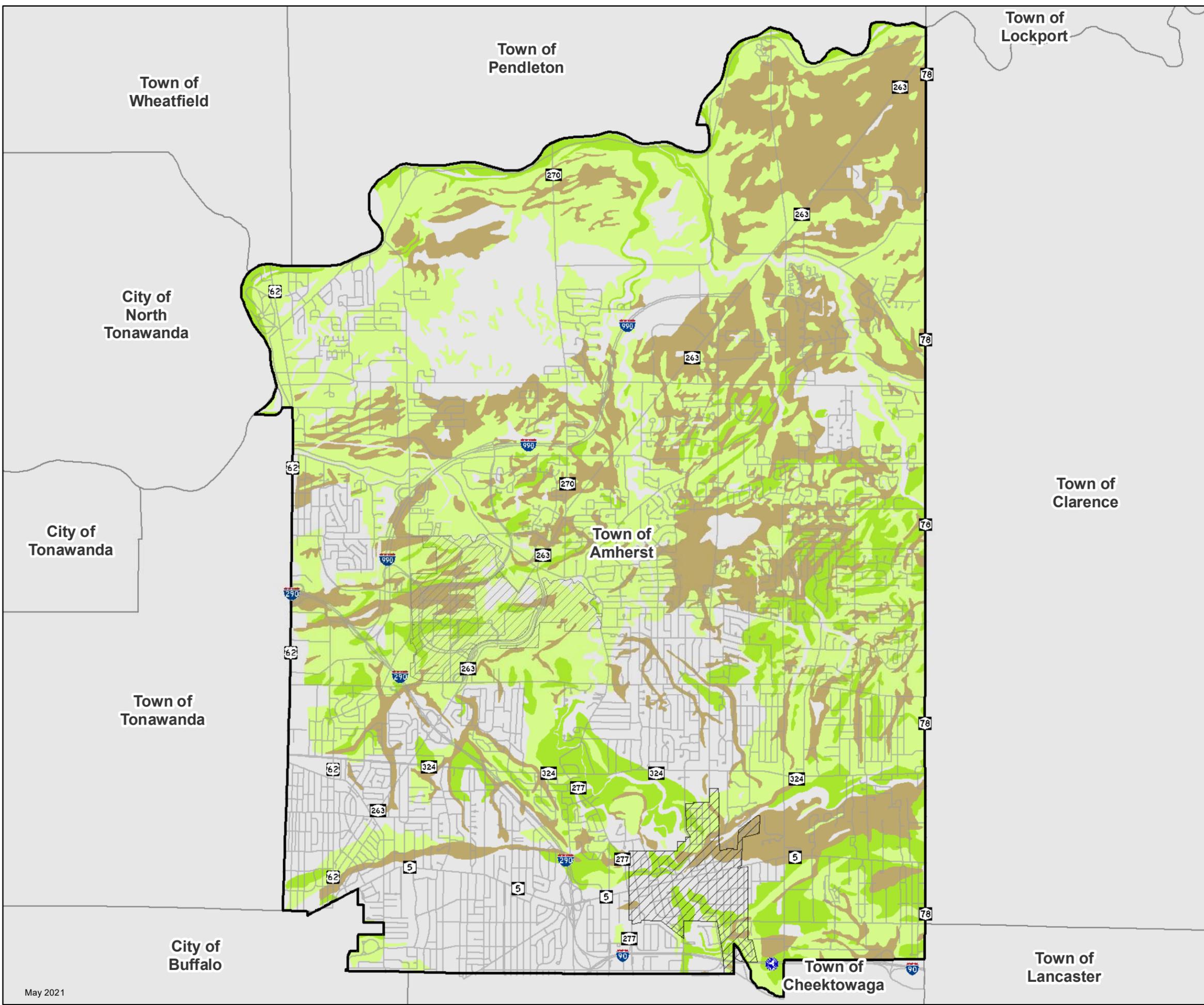
- Prime Farmland
- Prime Farmland (if drained)
- Soils of Statewide Importance

Source:
Town of Amherst GIS data. Planning Department. May 2021.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek
Watershed Area. Prepared by Lisa Matthies-Wiza. March 2018.

Soils (SSURGO) US Department of Agriculture (USDA)
Natural Resources. Accessed August 2020.

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TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 7

AGRICULTURAL DISTRICT

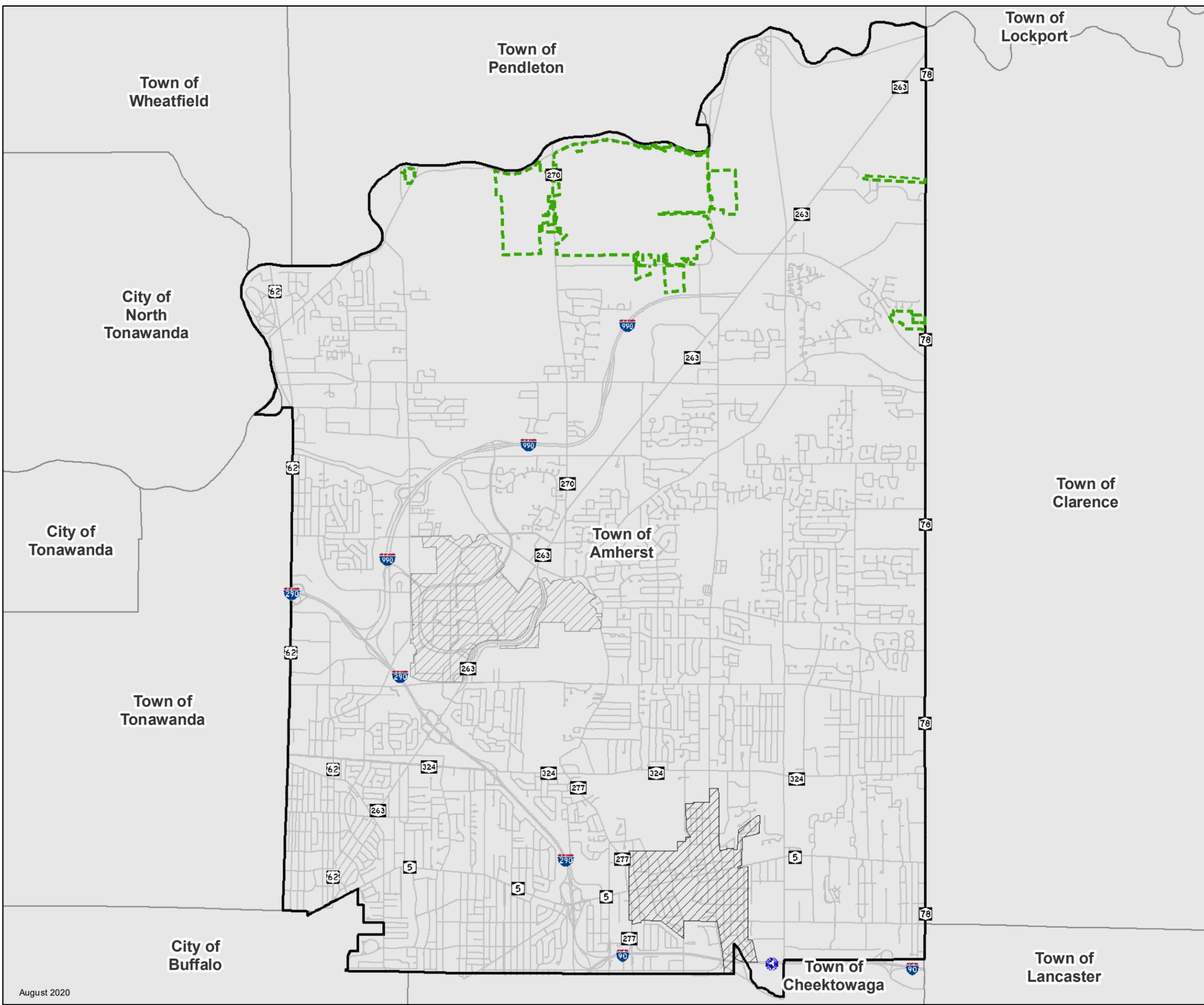
Legend

- Roads
- UB North Campus
- Williamsville
- Town Boundary
- Erie County Agricultural District #17

Source:
Town of Amherst GIS data. Planning Department August 2020.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek
Watershed Area. Prepared by Lisa Matthies-Wiza. March 2018.

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TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 8

LOCAL AGRICULTURAL OPERATIONS & PROPERTIES

Legend

- Roads
- UB North Campus
- Williamsville
- Town Boundary

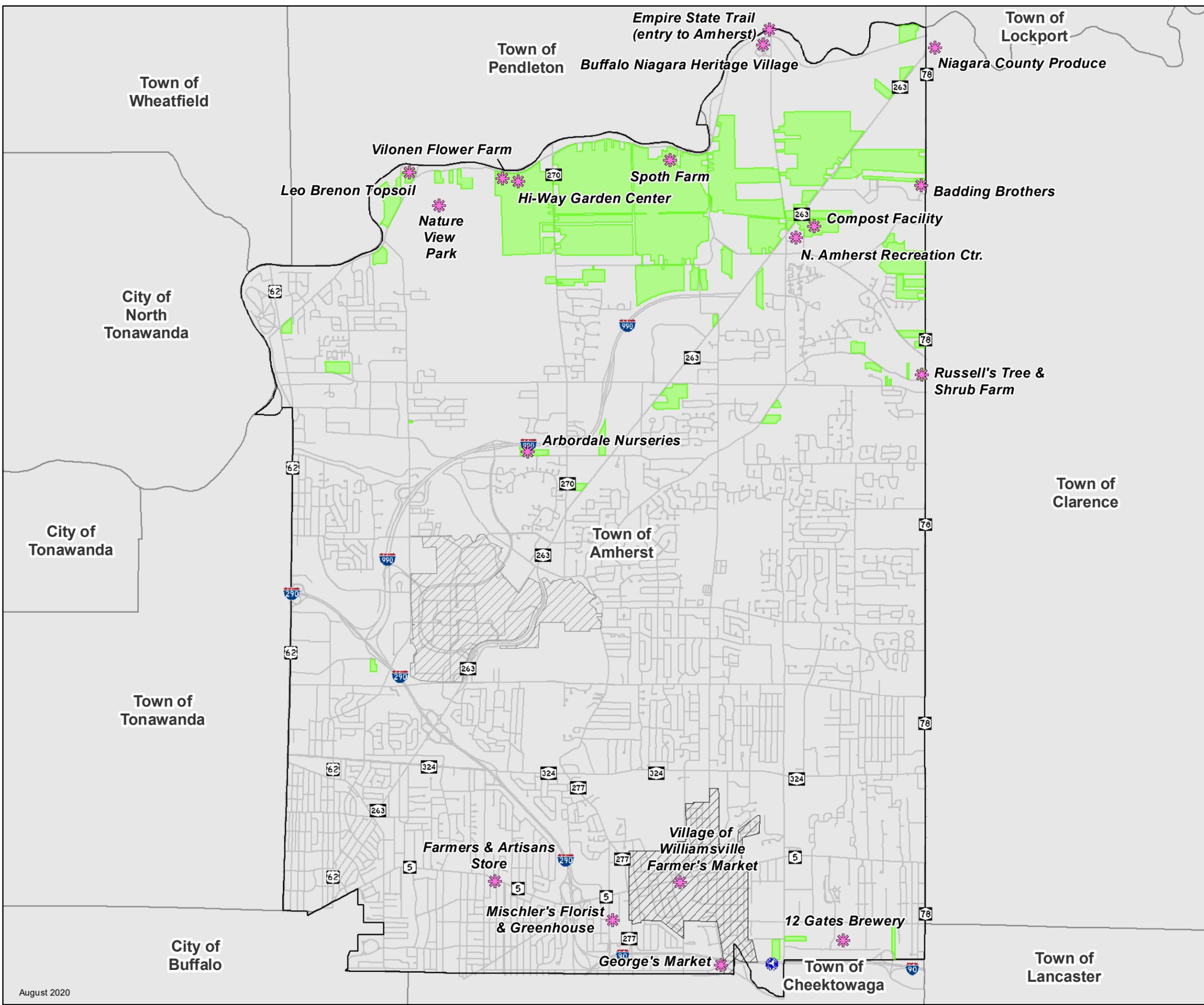
Agriculture

- Agricultural Points of Interest
- Areas of Existing/Potential Agricultural Activity

Source:
Town of Amherst GIS data. Planning Department. August 2020.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek
Watershed Area. Prepared by Lisa Matthies-Wiza. March 2018.

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TOWN OF AMHERST

Erie County, New York

Agricultural Planning Map 9

STATUS & PROTECTION

Legend

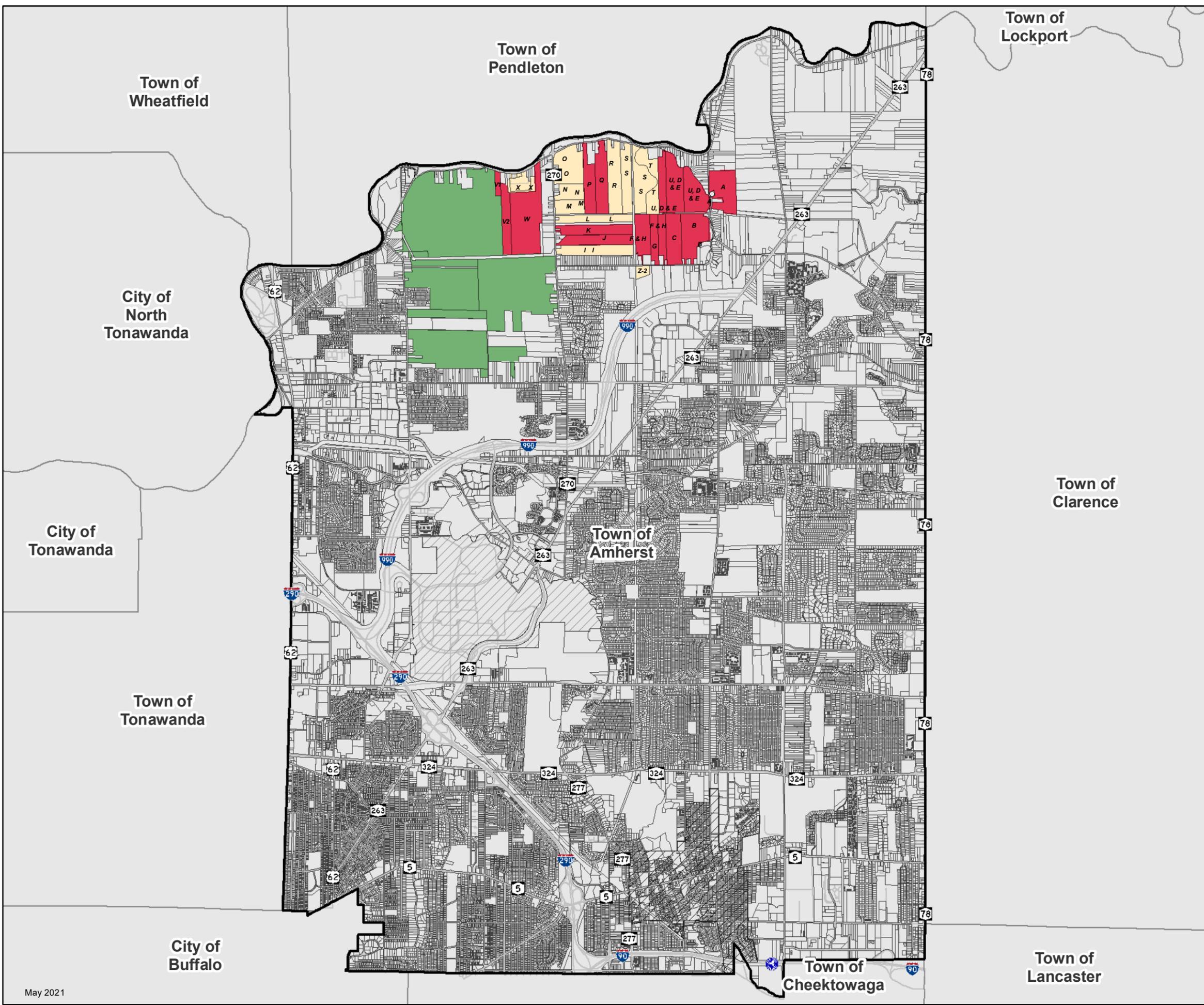
- Roads
- UB North Campus
- Williamsville
- Town Boundary
- Parcels
- Conservation Easement (Nature View Park)
- Conservation Easements in Agricultural Districts
- Targeted for Conservation Easements

Source:
Town of Amherst GIS data. Planning Department. May 2021.

Western New York Land Conservancy GIS data. Accessed April 2021.

Erie County NY. Office of GIS. GIS Data - Ellicott Creek Watershed Area. Prepared by Lisa Matthes-Wiza March 2018.

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B

Committee Meeting Minutes

Amherst Agriculture and Farmland Protection Plan Advisory Committee Meeting Summary

Date of Meeting: March 5, 2020
Meeting Time: 7:00 PM
Meeting Location: North Amherst Fire Hall

Subject: Town of Amherst Agriculture and Farmland Protection Plan

Attendees:

<input checked="" type="checkbox"/>	Robert Gilmour, Town Planning Bd.	<input checked="" type="checkbox"/>	Elizabeth D'agostino, Amherst CAC
<input checked="" type="checkbox"/>	Brian Kulpa, Town Supervisor	<input checked="" type="checkbox"/>	Carrie Stiver, Bflo Niag Heritage Museum
<input checked="" type="checkbox"/>	Dan Howard, Town Planning. Dept.	<input checked="" type="checkbox"/>	Sarah Gatti, ECDEP
<input checked="" type="checkbox"/>	Don Spoth, Spoth Farms	<input checked="" type="checkbox"/>	Rachel Chrostowski, WNYLC
<input checked="" type="checkbox"/>	Rick Vilonen, Hi-Way Garden Ctr.	<input checked="" type="checkbox"/>	Mark Gaston, ECSWCD
<input type="checkbox"/>	Kevin LaLosk, 12 Gates Brewery	<input type="checkbox"/>	Cheryl Thayer, Cornell Coop. Extension
<input checked="" type="checkbox"/>	Mike Badding, Jr., Badding Bros.	<input checked="" type="checkbox"/>	Kathleen McCormick, Cornell Coop. Ext.
<input checked="" type="checkbox"/>	Jon O'Rourke, Amherst IDA	<input checked="" type="checkbox"/>	Ben Vilonen, Williamsville DPW
<input checked="" type="checkbox"/>	Julie Anne Yates, Village Coop		
<input type="checkbox"/>	Howard Kadmus, Sweet Jenny's		
<input checked="" type="checkbox"/>	Rick Gillert, Resident Advocate	<input checked="" type="checkbox"/>	Roberta Rappoccio, Town Planning Dept.

INTRODUCTIONS

Bob Gilmour, Committee Chairperson, opened the meeting, followed by general introductions by all present. Opening remarks were provided by Supervisor Kulpa. He stated that the goal of the Amherst Town Board was to foster a better, more profitable, more sustainable agricultural district/community. He is hoping to see agricultural land that is currently vacant return to active production; identify ways the Town and the Amherst IDA can play an active role in spurring economic development in and around the agricultural community, which starts with protection, zoning and land use decisions. Local agricultural businesses attribute to this and need support. The Town needs to nurture farming and agricultural uses to strengthen existing and foster new activities.

Wendy Salvati, project consultant, discussed the role, responsibilities and expectations of the Advisory Committee. The committee members were provided a project binder that contained all relevant documents to date (meeting agenda, committee roster and contact information, project scope of services summary and draft table of contents, and draft map of agricultural activity in the Town). She noted that committee members are asked to be diligent about meeting attendance and participation, as well as reviewing and providing comments on draft report documents. During meeting, as the committee is large, she would like to control secondary conversations to stay focused on discussions. Because there is only a total of five committee meetings throughout the planning process, it is important to make the meetings as productive as possible.

Wendy noted that throughout the course of the project there will be four additional Advisory Committee meetings. It was decided that they would all take place at 7:00 PM at the North Amherst Fire Hall; tentative dates include:

1. Tuesday, June 9, 2020
2. Thursday, September 10, 2020
3. Tuesday, November 10, 2020
4. Thursday, January 5, 2021

Project information and draft report documents will be provided to committee members via email and internet file share links for larger documents, which can be downloaded and reviewed. The committee indicated that this means of project communication was acceptable. It was noted that the preparation of a matrix that indicated who has what authority would be helpful.

REVIEW OF PROJECT SCOPE OF SERVICES AND SCHEDULE

Wendy stated that the Project Team included representative of Wendel, who will be preparing the primary sections of the plan under Part 1 of the Scope of Services; herself, WWS Planning, a subconsultant to Wendel who is responsible for committee meetings and public outreach; and Camoin Associates, another subconsultant who is responsible for the work outlined in Part 2 of the Scope of Services. The total project budget is \$50,000.

Wendy reviewed the Scope of Services summary and project schedule, which will be sent to all committee members following the meeting. Today's meeting is the kickoff meeting for the project and marks the initiation of work on the report. Between now and the next meeting, the inventory and analysis of existing conditions and resources in the Town will be prepared. This will entail a review of all data and resources and development of necessary maps to illustrate information. It is important to note that the definition of farming may represent a wider variety of uses and/or additional types of farming that are occurring in the Town, going beyond just large farm operations in North Amherst. Farming in many communities has been diversifying to include traditional large farm operations, as well as smaller-scale (hobby-type, non-commercial farming) activities. Residents may be keeping a few chickens, growing vegetables or herbs, keeping bees, etc. on small properties.

Public outreach will be commenced during this time period, including a stakeholders' meeting with farming interests in the Town and a general public meeting, to gather input on important issues and opportunities and the overall vision for farming and agriculture in the future.

Analysis of data and other relevant information will include a land evaluation and site assessment, a "farm-friendly" analysis of existing zoning and other land use regulations and the work being performed by Camoin Associates, which includes an examination of the potential for agricultural support facilities/incubator space; examination of the hemp industry initiative and market diversity; and the potential for establishing an agricultural and natural resources tourism initiative. A SWOT analysis (identification of existing agricultural strengths, weaknesses, opportunities and threats) will also be prepared as part of the development of findings.



The findings from the inventory and analysis, combined with input gathered from stakeholders and the public, would be used to develop draft goals and objectives and preliminary recommendations for the Plan, which would be provided to the committee beforehand for review and discussion at the next committee meeting on June 9, 2020. Committee input from the June meeting will be used to finalize this information in Section V of the report for further discussion at the next committee meeting in September 2020. A draft of Section V will be provided to the committee for review prior to the September meeting.

Comments received from the committee will be used to revise the goals and objectives and recommendations for presentation and discussion with stakeholders and the public in October 2020. Input from these meetings will then be used to finalize the draft report sections and prepare an implementation strategy that is tied to the goals and objectives, outlining action items aimed at achieving the goals. Potential implementation strategies may include suggested revisions to existing zoning regulations, establishment of new programs, additional studies, etc. This will all be discussed with the committee in November 2020. Thereafter, a draft report will be prepared after the November committee meeting that will be provided to the committee for review prior to a final committee meeting in January 2021. Dan Howard stated that it was important to note that the findings, recommendations and implementation strategies developed as part of this project will be used to inform the Town's Comprehensive Plan and other planning efforts in the Town.

Wendy made note of the draft table of contents in the binder that illustrates the various sections of the report, proposed maps and layout of the Agricultural and Farmland Protection Plan.

Wendy said that the draft report must be reviewed internally by the NYS Department of Agriculture and Markets. Comments from NYSDAM would be addressed and the report would be provided to the Erie County Agriculture and Farmland Protection Board for their review and approval. Any comments received from the Erie County Board would be addressed and the plan would be provided to the Amherst Town Board for their final review and adoption. Thereafter, the adopted plan would be sent to NYSDAM for final approval.

OVERVIEW OF PUBLIC ENGAGEMENT

Wendy discussed the strategy for public outreach, which will include: two stakeholders' meeting with farmers and other farming interests, two public meetings and ultimately a public hearing prior to the adoption of the Plan (at the end of the process). Wendy emphasized the important of spreading the word about the project and meetings to get people involved and encourage attendance. Wendy said that she would look to the committee to help identify additional stakeholders and farming interests (e.g., Farm Bureau members, Mischler's, Georges, other nurseries, farmers market representatives, farm to table restaurant owners, schools, etc.) who should be invited to the stakeholders' meeting. Supervisor Kulpa suggested that non-farm property owners with lands in the Suburban-Agriculture Zoning District be contacted as potential stakeholders. Wendy asked (as homework) that each committee member provide suggestions to Roberta Rappoccio by March 13th. The Town's website, the Amherst Bee and Buffalo News would be used as a means for promoting the meetings.



The attendance of Town officials at the stakeholders' meeting was discussed. It was noted that the Supervisor and Town Board members, and perhaps others, should not attend. It is important to provide a level of comfort for attendees, who may not wish to speak freely if certain Town representative are present.

It was decided that the outreach meetings would be held at the North Amherst Fire Hall. April 23rd was selected for first stakeholders' meeting and May 14th for the first public meeting. Once a list of stakeholders has been compiled, Wendy will work with Roberta to provide them with a letter of invitation to the meeting.

DISCUSSION OF CURRENT STATE OF AGRICULTURE IN THE TOWN

Wendy said that a survey questionnaire had been provided to the committee members prior to the meeting and hoped that they filled them out or came ready to discuss the questions. The following was offered:

1. What things are grown or raised in Amherst?
Corn, hay, herbs, flowers, microgreens, high value vegetables, heritage tomatoes, soybeans, shrubs, hops, hemp, citrus, figs, annuals and perennials, vegetable plants, ornamental flowers, gourds
2. What other agricultural pursuits occur within the Town?
One pig, sheep (at the Amherst museum), cows/beef cattle,
3. Where does farming occur in the Town?
North of Schoelles Road
4. Does farming or other agricultural activity occur year-round? If so, where?
Yes – greenhouses in the off season
5. What do farmers do in the off-season to generate income?
Farm activity typically goes year-round
6. Who/what are the markets for agricultural products produced in the Town?
Direct retail sales, wholesale, farm markets, hemp is processed in Pendleton, corn is marketed to ethanol plant (Medina)
7. Are market trends changing in the Town? What are emerging markets?
Dried flowers are popular again; the flower business is always changing (the businesses can see the trends coming (monitor social media)
Entertainment and educational farming events are gaining in popularity (seasonal "make and take" events)
8. What, if any, support services exist in the Town?
All support services are located out of town (nothing in Amherst) –Niagara County, Springville; also, online sales are increasing (All State's Ag Parts)
9. Is there need for agricultural incubator business space in Amherst?



Cold/tempered storage
Communal kitchens and pre-prep kitchens (for food trucks)
Hemp freeze drying facilities

10. What areas under pressure by development and should be protected?
All that is left of the original large farming operations is located north of Schoelles Road, which is all protected lands now, a portion of which is included in agricultural district #17
Lots of wetlands and lack of sanitary sewers north of Schoelles helps maintain the integrity of the agricultural areas
Everything that is farmable is being used
There is growing pressure from renewable energy interests on Amherst farmland
11. Should the Erie County Agricultural District be increased?
Yes, absolutely; although not a lot than can be added (wetlands are an issue)
Should add the corner of Campbell Blvd. and Tonawanda Creek Road
12. Do you work directly with any County, State or local agencies or support assistance?
Yes, the Farm Service Agency/Farm Bureau; Natural Resource Conservation Services
When asked, the CCE and SWCD representatives said they do not do much, if any, work with Amherst farmers
13. What do you envision for the future of agriculture in the Town?
Protect current agricultural uses and expand the agricultural district and farm activity
Keep sanitary sewers out of the area (the comprehensive plan articulates where sewer should and should not be extended)
Need to understand what is happening with agricultural zoning

PRELIMINARY ISSUES AND OPPORTUNITIES

- The Town has a Right-to-Farm law but signs indicating this status have not been installed along Town roadways/entryways
- Trends are shifting and there is less acreage for growing vegetables (not a business)
- There is no leasing of farmland by outside interests in the Town; Kreyer's does all their farming in Clarence and Newstead
- Some newer crops are difficult to start up (e.g., hops) – greater cost and time involved
- Keep sewers out, don't allow subdivision of farmland, and keep neighbors away from farmland – this is the best solution for protection
- Farming transition/succession is an issue as farmers are aging out and younger people are more interested in small scale operations (they don't want to work too hard)
- Farming is starting to shift to new farmers/younger generation who want to work smaller parcels/properties

Increasing interest by solar energy companies was discussed and it was noted that municipalities can still regulate these uses. The Town needs to determine how to modify the communal solar ordinance or develop an overlay district for solar. It was noted that time was of the essence to get this done.



The Supervisor said that Tompkins County has good examples of crop planting that can be sustained between solar panels; the lands can also be used for grazing sheep and raising clover.

Dan Howard and the Supervisor said the majority of the land in the northern part of the Town is zoned Suburban Agriculture and discussed the Town's adoption of an Agricultural zoning classification. They indicated that there have been no requests from property owners to rezone their land from Suburban Agriculture to the new, more restrictive classification. When asked, there was no objection to the Town taking this step and rezoning the land in mass. They said it would not matter if current farmland was rezoned to agriculture.

It was asked if there was any interest in a tour of farms in the area. Anyone interested should let Roberta know, as it can be arranged prior to the next committee meeting.

Local farmers in attendance were asked to mark up a map to illustrate where farming is occurring in the Town and what types of crops are being grown where.

ACTION ITEMS / NEXT STEPS

Next committee meeting is scheduled for Tuesday, June 9th at the North Amherst Fire Hall, unless otherwise notified.

Before the Advisory Committee meets again, the following will be undertaken:

- Prepare meeting #1 summary and distribute to Committee and NYSDAM.
- Committee members to provide suggestions for participant invitations for stakeholders' meeting and provide to Roberta Rappoccio by Friday, March 13th.
- Schedule stakeholders' meeting for April 23rd and post advertisement on Town website.
- Commence preparation of draft sections I through IV of the report.
- Prepare updated map of agricultural parcels, districts and activity in the Town.
- Commence preparation of draft goals, issues and opportunities.
- Conduct Public Outreach Meeting on May 14th.
- Anyone interested in participating in a tour of farms in the area before the start of the next committee meeting should let Roberta know.

Meeting adjourned at 9:15PM.

Respectfully Submitted,

Wendy E. Weber Salvati, AICP



**Town of Amherst Farmland Protection and Agricultural Development Plan
Advisory Committee Meeting - Teleconference
October 27, 2020 at 7:00 pm**

- **Welcome by Bob Gilmour, Committee Chair**
- **Attendance by Roberta Rappoccio – see attached attendance sheet**

1. PROJECT UPDATE – WENDEL – see attached Proposed Schedule

- Leanne Voit displayed the updated Project Schedule for the Plan and noted the remaining items that still needed to be completed, including the public engagement component of the plan and the stakeholder meetings
- The Schedule indicated a proposed June 2021 Completion Date

2. REVIEW OF PROJECT INVENTORY - WENDEL

- Ellen Parker opened the discussion on the DRAFT Sections 3 and 4 of the Plan that was sent out to all the committee members. Ellen emphasized that these two Sections are working drafts and changes will be made prior to the final plan
- A few conclusions were made based on the data gathered- including 1) that not all of the agricultural lands and lands with prime soils are within the Agricultural District; and 2) that the Town has lost many farms in the past decade, and that the trend is toward more smaller farms
- Several Comments were made by Committee members regarding the DRAFT Sections:
 - i. Bob Gilmour asked what area of the town is included in the Plan-the plan includes lands in north Amherst and northeast Amherst where there are large tracks of non-ag land zoned Suburban Agriculture
 - ii. Mike B. commented that Figure 2 needs to be revised to show an agricultural use on the Badding property along Transit Road;
 - iii. Figure 5 Sanitary Sewer District Map – map needs to clarify that it represents the Sewer District, and there are properties within the District without public sewer service.
 - iv. Rick Gillert asked that the Agriculture Preservation Map should be included in the Inventory Resources Section of the Plan – Roberta will forward this map and associated spreadsheets to Ellen Parker
 - v. Rachel Chrostowski states the need to clarify the symbology and data sources for the maps in these sections; and suggest adding a link to the Erie County Website for access to the most recent Ag District map (open enrollment)
 - vi. Rick Gillert suggests that agricultural lands (that are vacant) be separate out of the Vacant Land category -should be its own section (p. 8); and, at this time the Town does not own the land designated as Amherst Central Park and other privately owned golf courses-these should not be included in open space (not sure if this can be achieved with any meaningful accuracy)
 - vii. The 1,403 acres figure for park and conservation land is incorrect, please correct
 - viii. Rachel asked not to use the term solar “farms” and instead use the term solar “developments”; also recommends a larger limit on the height of a solar array if the Town wants to incorporate an ag use under the array

3. PUBLIC ENGAGEMENT – WENDEL

- Leanne explained that due to COVID-19 the Public participation plan has to be modified.
- A Poll was conducted to ascertain the preference of the committee for either a more robust webpage to include video/slides content with a comment section to allow the public to respond to the Plan; or a one-time Webinar Presentation. The results were 63% Enhanced webpage v. 38% Webinar Presentation.
- Carrie Stiver asks how the website will be marketed to the public – Ellen mentions several options: an article in the Amherst Bee, a mention at the Town meetings-Town Board, Planning Board, etc., other outreach through word of mouth by the committee members, etc.
- Mike Badding commented that the video/content for the website could include video/slides of local businesses, etc.; and could use the Town's social media presence as well (Facebook, Neighborhood pages, etc.)
- It was mentioned that the web page could also become a starting online presence for a permanent Agriculture Page for the Town in the long term that could include educational opportunities, events, etc. and other agricultural opportunities within the community
- The goal would be to have the webpage live by the end of November and comments left open until end of December.

4. STAKEHOLDERS

- Again, due to COVID-19, the proposed stakeholder meeting plan has been modified to include teleconferences with stakeholders either one on one, or in small related groups. A survey will be sent out to each stakeholder prior to the conference call.
- Victoria S. from Camoin commented that the stakeholders should include farmers and farm interests; end users, consumers. Snowball sampling- networking is a good way to approach this component of the Plan.

5. OVERALL VISION AND OBJECTIVES FOR THE PLAN – see Poll questions attached

- 2nd Poll: Statements 1-4 Results: Statement #1: 7%, Statement #2: 0, Statement #3: 13% and Statement #4: 80%.
- A comment was made about possibly including these questions on the webpage
- Rick G. commented that a mission statement should be included in the Plan – Wendy Salvati responded that there will be one included in the Plan
- Brian K. commented that one of the recommendation should be for agriculture education for K-12; and Mike Badding spoke of the adult workshops currently offered at their facility
- Carrie S. stated that the Buffalo Niagara Heritage Museum has adult workshops and a focus on education
- Sarah Gatti (Erie County Ag) suggested that the Consultants/Town look into the Erie County Food Council Plan Goals and Action Items for similar goals.

6. NEXT STEPS

- Consultants will meet with the Town to discuss the Public Participation Plan details
- Consultants will work on the Goals and Visions Section based on information received from this meeting and the upcoming public and stakeholder outreach

NOTES

Town of Amherst Agriculture and Farmland Protection Plan Advisory Committee Meeting Teleconference February 23, 2021 7:00 pm

Brian Kulpa (BK)
Ellen Parker (ELP)
Carrie Stiver (CS)
Victoria Storrs (VS)
Mike Badding (MB)
Jon O'Rourke (JOR)
Bob Gilmour (BG)

Roberta Rappoccio (RR)
Leanne Voit (LEV)
Wendy Salvati (WWS)
Mark Gaston (MG)
Mike Pope (MP)
Dan Howard (DH)
Dan Spoth (DS)

1. WELCOME BACK/ UPDATE ON PROJECT SCHEDULE

- Targeting completion May 2021
- Next meeting dates
 - Tuesday March 23 – 7pm
 - LEV to send invite
 - Thursday April 8 – 7pm
- Committee members will be asked to do independent reviews

2. REVIEW OF PUBLIC ENGAGEMENT

- Project Website
 - Survey still posted but is closed.
 - Meeting schedule to be posted (RR)
 - Revised drafts to be posted (RR)
 - Updated schedule to be posted (RR)
- Project Survey
 - Results will be posted and sent to Committee (RR)
- Stakeholder outreach
 - In midst of doing the final interviews. Holding on the final interviews to be reactive to the recommendations.

3. DISCUSSION ON GOALS

- Will be expanded once we have more discussion around these issues
- Please send Roberta comments by 3/5/21
- Goal 1 – How are we defining ag lands?
 - Recognize ag is diversifying and there may be small, hobby sized uses occurring
- Goal 2 – TOA farming is not as robust as other communities, so conservation easements may be the way to go to protect areas on Ag and non-Ag land
- Goal 3 – keep it economically viable
- Goal 4 – agri-tourism. Create markets for farm activities
- Goal 5 – connection between consumer base and farmers
- BIG PICTURE FOR RECOMMENDATIONS is to achieve these goals.
- Make sure the Goals cover the RANGE of concerns/perspectives that the Town has

4. DISCUSSION ON AGRICULTURAL DEVELOPMENT FINDINGS

- Report will be sent to Team by VS

- Qualitative and quantitative research was done
- Ag not an econ driver, but it is important for quality of life and the way people live in the community
- Discussion items
 - what are the high-value/high-yield crops that are being distributed outside of the area?
 - What is Ag to the healthcare industry? What is Ag to support another tech? what are the goods/commodities that need to be grown and what are the post-processing activities that need to be provided for?
This will be added to recommendations
 - How do we transform our Ag economy, thinking about future ag crops? What's next?! What does the high-profit market look like?
 - What existing resources are underutilized, like the commercial kitchen at the senior center
 - Agri-tourism and the idea of connecting residents and neighbors with ag community...local farms growing items that are not just benefitting markets but how is it impacting the medical or tech community?
 - BNHV...energy and potential
 - Would love to do an exhibit that focuses on this type of work!
 - Invite farmers to come up to Village (establish more communication and exchange of ideas)
 - Working together can avoid duplicating efforts like classroom space.
 - BNHV potentially looking for a partner in the ag industry – (start forging connections using existing resources)
- Some more detailed goals
 - Commercial Kitchen
 - Entrepreneurship resources
 - What do entrepreneurs need to take an idea and run with it other than just space
 - Physical outdoor and indoor space
 - Seems to be demand for classroom or community space where residents can come together to learn skills?
 - Community garden space for renters and others with limited space
 - Connect to organizations
 - Cornell Cooperative
 - School garden club...can serve food in cafeteria
 - Engage people when they are younger!
 - Currently no ag discussions in local school curriculum

5. LAND USE REGULATIONS

- To make Amherst a more farm-friendly space we community consultants will suggest adjustments to the code
 - Definition changes, expansions
 - Define/support hobby farming
 - Rezoning existing farmlands
 - WWS to expand on all the above in Section 5
 - Map 8 with an overlay of SA zoning

6. OTHER PRELIMINARY FINDINGS/ISSUES/ OPPORTUNITIES

7. ACTION ITEMS – SEE ABOVE HIGHLIGHTS

NOTES

Town of Amherst Agriculture and Farmland Protection Plan Advisory Committee Meeting

Teleconference (meeting info to be sent separately)

March 23, 2021

7:00 pm

Brian Kulpa (BK)
Bob Gilmour (BG)
Mike Badding (MB)
Ben Vilonen (BV)
Carrie Stiver (CS)
Sarah Gatti (SG)
Eric Gillert (EG)
Dan Spoth (DS)
Rick Vilonen (RV)

Mike Pope (MP)
Jon O'Rourke (JO)
Dan Howard (DH)
Ellen parker (EP)
Victoria Storrs (VS)
Leanne Voit (LV)
Wendy Salvati (WS)
Roberta Rappoccio (RR)

1. UPDATE ON PROJECT STATUS

- Confirmed next committee meeting 4/8 at 7:00 via zoom.
- Final meeting
- Complete Draft will be issued prior.

2. DISCUSSION ON DRAFT RECOMMENDATIONS

- SWOT Analysis
 - Strengths/Weaknesses things that happen in your community that you may have control over
 - Opportunities/Threats things that happen outside your community that you do not have control over
 - Revised SWOT to be sent under separate cover
- Zoning (WWS)
 - Identify one or two properties to use as a model project for re-zoning from SA to AG to help educate people on the potential benefits to rezone.
 - Consider the Rezone of 800 acres that are under the conservation easement.
 - Consider an Incremental Rezone as opposed to a broad-brushed approach. Need to confirm preferred approach: proactive or reactive?
 - The Agricultural Protection Plan will identify zoning weaknesses/issues and recommend solutions. Actual implementation of the changes to Town regulations will be undertaken after the Ag Plan is adopted and Town has secured implementation grant monies from NYSDAM.
 - Recommend the pursuit of the Town of Amherst as a HUB for Neurological research/supplements using local CBD; partnering with the UB School of Pharmacy and local pharmaceutical research companies.
 - Recommend the continuation of the Conservation Easement program (PDR grants are now open)
 - Recommend the adoption of Right-to-Farm Law
 - Recommended Town Zoning Code revisions:
 - Phase out SA zoning district and rezone as District (AG) and Rural Residential (R-R) districts for properties within the Ag district and for other parcels with agricultural uses that wish to rezone.
 - Update list of permitted uses in Agriculture districts.
 - Update definitions
 - Revise Keeping of Animal restrictions
 - Revise Solar laws

- Recommend an education program to include opportunities for farmers, residents and students to have access to information and classes/seminars on agricultural topics.
- Recommend the creation of a Town of Amherst Agriculture Farmland Protection Board –duties to include conflict resolution (farmers v. neighbors), review of Agriculture Data Statements, and a central source of information for the agricultural community.

SEND ANY COMMENTS TO ROBERTA BY 3/26

- Agricultural Development
 - Discussed four major areas for the Town:
 - Agricultural Business Development
 - Public Space for Agriculture Community
 - Hemp Industry
 - Agri-tourism
 - Victoria briefly discussed Four (4) Strategies moving forward that the Town should pursue in order to help preserve and grow its agricultural resources.
 - Identify organizations and Partners to expand Town’s capacity – UB, Medical and Dental industry, educational institutions-public and private.
 - Raise the profile of agriculture and related activities-create data collection systems to create detailed reports of the agricultural sector for the public to be aware of its contributions; create website and publicize and celebrate activities.
 - Inspire and support ag business start-ups and expansions by finding physical space, access to business and financial resources (funding)
 - Encourage resident engagement with agriculture year around – create Town-managed website and connect youth to agriculture-education.
 - Victoria asked that all comments regarding this section of the plan be into the Town by Friday (3/26) end of day-particularly feedback of the blue level initiatives in the draft text.

3. PUBLIC MEETING

- Public Outreach is required by the grant.
- Timeline: early May once the product is more final
- Option 1 Webinar approach
 - Presentation on high level contents and recommendations...asking for reactions and comments.
- Option 2 Town Board/Work Session
 - Town board presentation in work session and then do an overview and run as a public hearing.
- Committee settled on Option 2 – RR and DH to look into dates.

4. OTHER DISCUSSION/NEXT STEPS?

- 3/26: Committee send comments on Draft documents to RR
- 3/31: Complete Draft document to Town 3/31
- 4.2: Complete Draft document to Committee 4/2
- 4/8: Committee meeting

- RR to contact SG regarding the flexibility and timing of the Ag Board meeting and deadlines.
- RR to confirm with Jeff Kehoe the order and level of approval of the various Boards for the plan.

5. NEXT MEETING – April 8

NOTES

Town of Amherst Agriculture and Farmland Protection Plan Advisory Committee Meeting

Teleconference (meeting info to be sent separately)

April 8, 2021

7:00 pm

MEETING WAS RECORDED AND WILL BE POSTED ONLINE FOR VIEWING

Bob Gilmour (BG)
Mike Badding (MB)
Sarah Gatti (SG)
Rick Vilonen (RV)
Mike Pope (MP)
Jon O'Rourke (JO)
Dan Howard (DH)

Roberta Rappoccio (RR)
Ellen Parker (EP)
Leanne Voit (LV)
Wendy Salvati (WS)
Victoria Storrs (VS)

1. PROJECT STATUS

- This is the final meeting of the Ag Committee with the Consultant Team
- Erie County Ag board meeting is 6/24/21 with submittal 6/10/21
- Committee has been provided with drafts of each chapter throughout the process and Wendel will develop a full draft after comments are received.
- Drafts are just text at this point. Once we have agreement on the text we will do stylistic/graphics edits
 - Looking for pictures of farming/Ag activity around Town. This could be farming activities, equipment, barns, sunsets over fields, crops, events, markets.
 - Send Leanne Voit an email with pictures, links to pictures, or with a request to open a Dropbox folder.

2. PUBLIC MEETING

- Jeff Kehoe is requiring us to have the public meeting before we submit
- DH: This is meant to be an open meeting
 - Maybe have it available on the website?
 - Have a zoom meeting?
 - Intent is not to just check the box
- BG: how do we draw people?
- LV: historically, we have not experienced large turnout for Ag plans at public meetings. Those interested are usually involved in the committee.
- Format and date discussion:
 - Option 1: Town board work session 15-minute presentation
 - We could do a full public meeting, however given the timeline, and the discussion at the last meeting, we are proposing that we follow the Supervisor's suggestion to present at a Town Board work session. Wendel would present for 15 mins and the Town would collect comments after. The meeting on May 17th would be our target

- Option 2: Separate Public meeting
- Decision: This will be its own event...not at the Town Board meeting
 - Need to draw people to it
 - DH: needs to be remote
 - DH: record a video. Hold a zoom meeting where you present the video then open it up for discussion. Post it for live viewing and allow comments
 - LEV: do a presentation in the zoom meeting then opens it up to everyone for discussion
 - WWS: do a webinar video with ways for people to offer input
 - Use social media to reach out!
 - FINAL DECISION: zoom format presentation with opportunities for comments from the public. Will be recorded and posted to the Town website and social media for additional comment
 - Set strict timeline for comments
 - Week of 4/27
 - DH to discuss with BK and select a final date

3. DISCUSSION ON DRAFT PLAN

- Focus on Implementation Matrix
 - Committee provided comments as we reviewed. Those comments were recorded directly on the matrix, and revisions will be made accordingly
- Committee to provide additional comments on Introduction and Implementation chapters to RR by end of day Monday 4/12/21.

4. OTHER DISCUSSION/NEXT STEPS?

- DH: does the committee feel like another meeting and additional review is needed? No
- DH: Does the committee want to see the entire document pulled together one more time? Yes
 - ELP: this is not the last opportunity for comment. Once the full plan is complete and we hold the public meeting, there will be minor revisions before the plan is sent to the State.
- Planning Department suggests one last meeting with the committee following the public meeting to hold final discussions on the Plan prior to its official submission to the state.
- 4/12: Committee send comments on Draft documents to RR
- 4/13: RR to send comments to Wendel
- 4/10: Full Draft of all chapters to Town
- 4/23: Committee to send photos of Ag activities to LV
- Week of 4/27: Public meeting
- Early May: send plan to State
- 6/10: submit plan to County
- 6/24: attend County Ag board meeting
- 7/12: Town Board Public hearing
- 7/26: Town Board Adoption
- 7/31: Final Closeout Plan to State

5. **THANK YOU! Your input and participation have been invaluable to the Plan!**



Public Participation & Survey



TOWN OF AMHERST

5583 Main Street | Williamsville, NY 14221
(716) 631-7000



(../../INDEX.PHP)

NAVIGATION

[Home \(../index.php\)](#) / [Projects & Initiatives \(projects.php\)](#) / [Farmland Protection and Agricultural Development Plan](#)

Projects & Initiatives



(projects.php)

[List of Town Projects & Initiatives \(open / close\)](#)

Farmland Protection and Agricultural Development Plan

Project Background

Agriculture and Farmland ...



Agriculture has played a significant role in the Town of Amherst since its founding 1818. Extensive development has reduced the number of farms in the Town, but Amherst remains dedicated to the importance of agriculture in maintaining a vibrant, economically diversified, and healthy community.

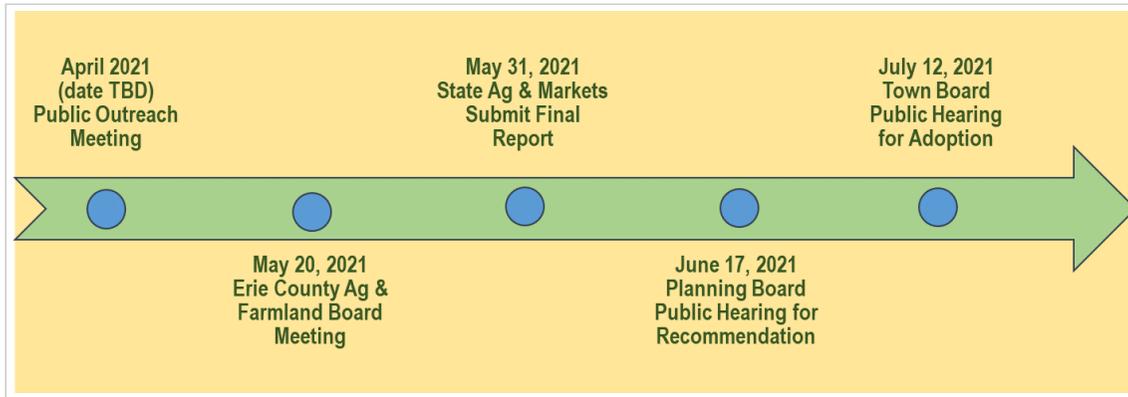
The Town is now preparing an Agricultural and Farmland Protection Plan to ensure that the remaining farmland is protected and to envision new and creative ways to keep agriculture economically viable going forward. New trends are emerging, and we are seeking input from the experts and the public about innovative markets and opportunities for the Town's agricultural community. Initial ideas include community supported agriculture (CSA), agri-tourism, agricultural educational events/crafts, farm-to-table opportunities and specialty crops (hops, flowers, hems, alpaca fiber, etc.).

The final product will include a Farmland Protection Plan to inventory existing agricultural assets in the Town and identify priority areas for protection, along with methods for accomplishing that goal. The Agricultural Development component will focus on a feasibility analysis for the adaptive reuse of the North Amherst Recreation Center as part of an agriculture incubator and business park, an analysis on emerging agricultural industries, and a draft guide for how the Town can establish an agri-tourism initiative.

Want to Get Involved?

We are now seeking public input and encourage you to contact us to provide your ideas and recommendation. Due to the ongoing pandemic, the outreach will be accomplished through social meeting and teleconferences. The Town would love your input. One of the best ways to provide your input, is to complete this short, online survey by clicking

Timeline for Completion



Funding

This Agriculture and Farmland Protection Plan, the first ever in the Town of Amherst, is being funded through a grant provided by the New York State Department of Agriculture and Markets. The Town hired Wendel Companies as the lead consultant on the project, with WWS Planning and Camoin 310 acting as sub-consultants.

Public Meetings

Thursday, May 6, 2021 at 7:00 pm

Meeting Flyer ([../pdf/trackus/attachments/dept_15_210423a.pdf](http://www.amherst.ny.us/farmlandsurvey/210423a.pdf))

View meeting video (https://wendelco.zoom.us/rec/share/d9_L8DMo-hZHMPAV5k_BUnKOi8rl6Cz4lg3jgoKkobQM9b_t_rX8yztzQn4GWErnC.gauoDNA6eLnEgPrz) (Passcode: wp?.4D@G)

Thursday, April 8, 2021 at 7:00 pm

Farmland Protection and Agricultural Development [Steering Committee-5th Meeting](#)

Meeting Minutes ([../pdf/planning/farmland/210422_210408_minutes.pdf](http://www.amherst.ny.us/farmlandsurvey/210422_210408_minutes.pdf))

View meeting video (<https://www.youtube.com/watch?v=ORyY65cgXO4>)

Tuesday, March 23, 2021 at 7:00 pm

Farmland Protection and Agricultural Development [Steering Committee-4th Meeting](#)

Tuesday, February 23, 2021 7:00 pm

Farmland Protection and Agricultural Development [Steering Committee - 3rd Meeting](#)

Meeting Agenda ([../pdf/planning/farmland/210223_210223_agenda.pdf](http://www.amherst.ny.us/farmlandsurvey/210223_210223_agenda.pdf))

Meeting Minutes ([../pdf/planning/farmland/210315_210223_minutes.pdf](http://www.amherst.ny.us/farmlandsurvey/210315_210223_minutes.pdf))

View meeting video (https://wendelco.zoom.us/rec/share/DsBnRocsiaExt6AEZpzduuq4Nm_3tUibgTdfj1wDp-wf1e1Mfx6aQ_37xlqAcOvT.KVpvOnFdXBoRM9YE) (Passcode: 8G@cv^Cz)

Tuesday, October 27, 2020 7:00 pm

Farmland Protection and Agricultural Development [Steering Committee - 2nd Meeting](#)

Meeting Agenda ([../pdf/planning/farmland/201022_201027_agenda.pdf](http://www.amherst.ny.us/farmlandsurvey/201022_201027_agenda.pdf))

Meeting Minutes ([../pdf/planning/farmland/201209_201027_minutes.pdf](http://www.amherst.ny.us/farmlandsurvey/201209_201027_minutes.pdf))

View meeting video

(<https://wendelco.zoom.us/rec/share/fUjDBDAc4NTdag6nUEztDPSFzB77WcSIOICDqi8byiz6Og5RM2jFINMFz04z4v11.v1fKfTjZhAC7jY5D>) (Passcode: mkD%Q173)

Thursday, March 5, 2020 7:00 pm

Farmland Protection and Agricultural Development [Steering Committee Kick-Off Meeting](#)

North Amherst Fire Hall

STAKEHOLDER ANNOUNCEMENT: USDA Rural Development Launches COVID-19 Resource Webpage

WASHINGTON, March 27, 2020 – USDA Rural Development has launched a COVID-19 resource page to keep our customers, partners, and stakeholders continuously updated on actions taken by the Agency to help rural residents, businesses, and communities impacted by the COVID-19 outbreak. Visit www.rd.usda.gov/coronavirus (<https://rd.usda.gov/coronavirus>) for information on Rural Development loan payment assistance, application deadline extensions, and more.

View the full Stakeholder Announcement

(https://www.rd.usda.gov/sites/default/files/USDA_RD_SA_COVID1903272020.pdf)

COVID -19 Consideration to expedite Site Plan Approval for Commercial Farms and Agribusiness expansion

- Executive Order #2020.11 (../pdf/supervisor/executive_orders/200709_202011.pdf)
- Agricultural Minor Site Plan Review Guidelines (../pdf/planning/farmland/200709_agricultural_sp_review_guidelines.pdf)

Planning Process

DRAFT Town of Amherst Agriculture Inventory Map (../pdf/planning/farmland/200604_draft_inventory_map.pdf)

Article & Media

- Amherst Bee:
 - Agriculture crucial, defining role in comprehensive plan (<https://www.amherstbee.com/articles/agriculture-crucial-defining-role-in-comprehensive-plan/>)

Contact

Amherst Planning Department

5583 Main Street

Williamsville, NY 14221

(716) 631-7051

rrappoccio@amherst.ny.us (mailto:rrappoccio@amherst.ny.us)

Farmland Protection and Agricultural Development Plan

5583 Main St

Williamsville, NY 14221

(716) 631-7051

Sections

- Project Overview (projects.php?dept_id=dept_15&proj_id=proj_14&neworder=00)
- Project Documents (projects.php?dept_id=dept_15&proj_id=proj_14&neworder=02)
- Steering Committee (projects.php?dept_id=dept_15&proj_id=proj_14&neworder=04)

About Amherst

The Town of Amherst was established in 1818 and celebrated its **200th Anniversary** (<http://www.amherst.ny.us/content/anniversary.php?section=intro>) in 2018. The town has a geographical area of 53.6 square miles and a population of greater than 122,000.

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Select Language ▼

Americans with Disabilities Act (ADA)

The Town of Amherst ADA Coordinators are Robert McCarthy (Director of Human Resources) and Mark Berke (Commissioner of Buildings).

[Click \(../content/ada.php\)](#) for more information about ADA.

Website Contact

The Town of Amherst takes great pride in providing useful, timely and accurate information through its official website. We encourage public participation in our website and ask that you provide your **feedback** ([mailto:toaweb@amherst.ny.us?subject=contact website administrator](mailto:toaweb@amherst.ny.us?subject=contact_website_administrator)) to help us make our site even better. Contact the website administrator at toaweb@amherst.ny.us ([mailto:toaweb@amherst.ny.us?subject=contact website administrator](mailto:toaweb@amherst.ny.us?subject=contact_website_administrator)).

Get in Touch

General Information:

(716) 631-7000

Email:

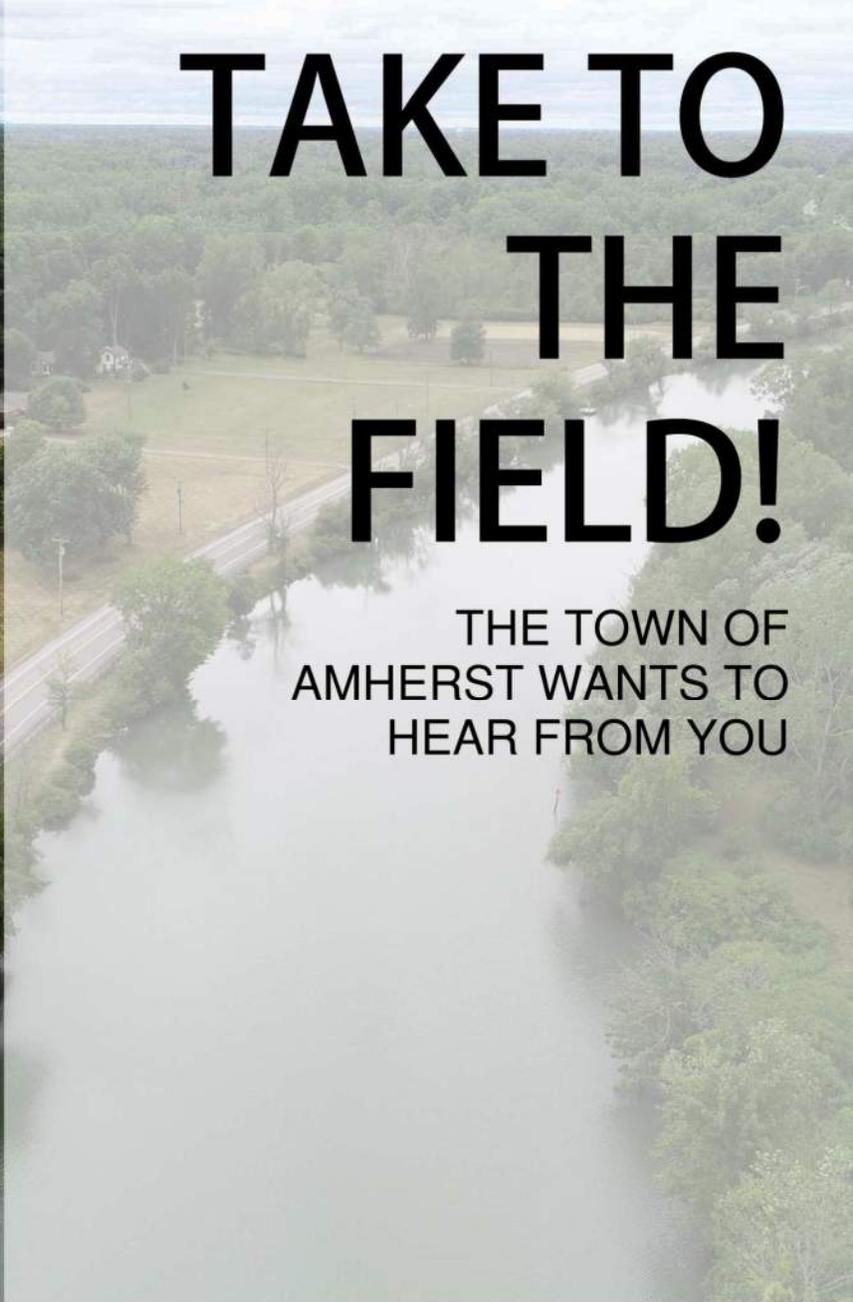
toainfo@amherst.ny.us (<mailto:toainfo@amherst.ny.us>)

Address:

Municipal Building (Town Hall)

5583 Main Street

Williamsville, NY 14221



TAKE TO THE FIELD!

THE TOWN OF
AMHERST WANTS TO
HEAR FROM YOU

2021 AGRICULTURE AND FARMLAND PROTECTION PLAN

Agriculture has played a significant role in the Town of Amherst since its founding 1818. Extensive development has reduced the number of farms in the Town, but Amherst remains dedicated to the importance of agriculture in maintaining a vibrant, economically diversified, and healthy community.

We are preparing the 2021 Agricultural and Farmland Protection Plan to ensure that the remaining farmland is protected and will help keep agriculture economically viable in the Town going forward.

We would love to hear from you!

Due to the ongoing pandemic, stakeholder meetings will be accomplished through social media and teleconferences. One of the easiest ways to participate is to complete this short, online survey at www.amherst.ny.us/farmlandsurvey. Also be sure to keep checking for updates on the 2021 Amherst Agriculture and Farmland Protection Plan website at www.amherst.ny.us/farmland.



Scan for website



Scan for survey

Agricultural & Farmland Protection Plan: Public Outreach Survey Analysis

TOWN OF AMHERST PLANNING DEPARTMENT



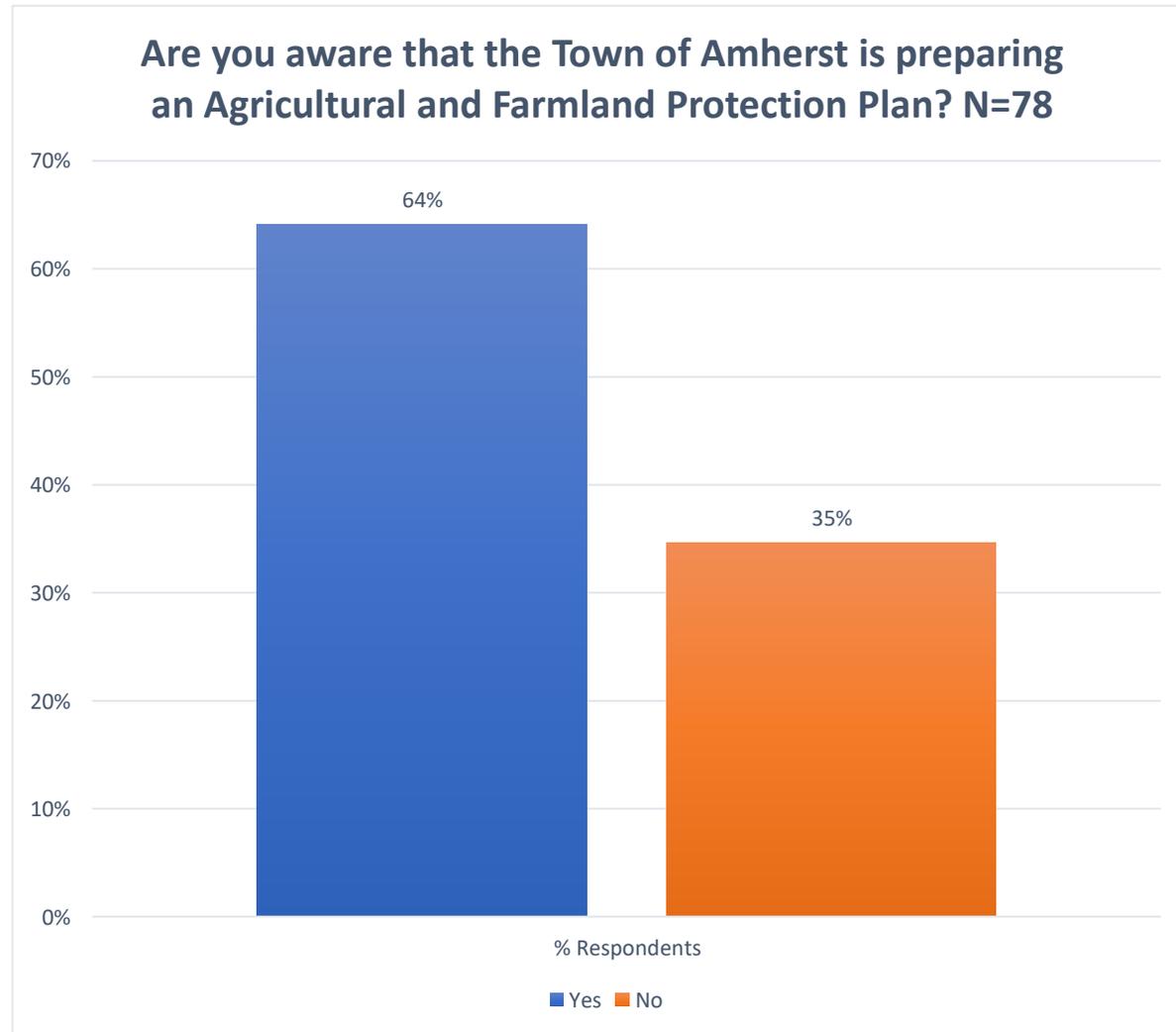
TOWN OF AMHERST, NY | 5583 MAIN ST WILLIAMSVILLE, NY 14221

1. Are you aware that the Town of Amherst is preparing an Agricultural and Farmland Protection Plan? If yes, how did you hear about it? N=78

Content Analysis

How:

- Social Media
 - Internet/Website
 - Facebook
 - Instagram
- Agriculture Business
 - Badding Brothers
 - Three Sisters
 - BNHV
- Chamber of Commerce
- Family and Friends
- Newspaper



2. Are you aware of any agricultural activities in Amherst? (this could include local farms, nurseries, markets or farm stands, etc.) If yes, what activities are you aware of and where do they occur?

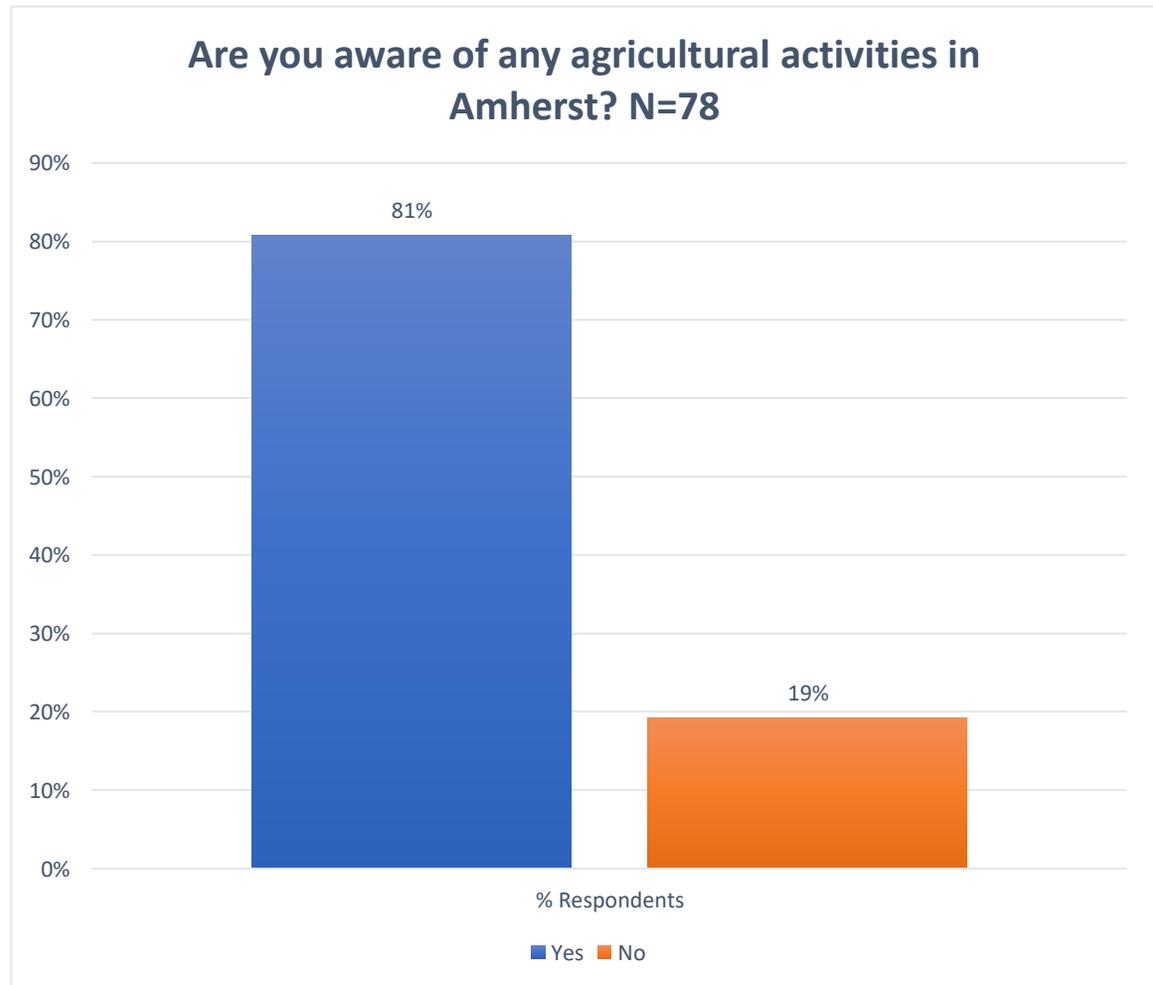
Content Analysis

What:

- Local farms
- Farmers markets
- Nurseries
- Farmers stands

Where:

- Badding Brothers Farm Market & Garden Center
- Buffalo Niagara Heritage Village
- George’s Farm Market
- Farmer’s and Artisans
- Spoth’s Farmers Market
- Donald Spoth Farm & Greenhouse
- Three Sisters Farm
- Russell’s Tree & Shrub Farm
- Williamsville Farmers Market
- Hi-Way Garden Center
- Greg’s U-Pick Farm Market and CSA
- Lavocat’s Garden Center
- Northtown Garden Center
- Mischler’s Florist and Greenhouses
- Arbordale Nurseries
- Farm stands along Dodge and North French Roads



3. Do you conduct any agricultural or farming activities (for example, vegetable gardens, growing flowers or herbs, keeping bees or chickens)? If yes, please describe the activity and location?

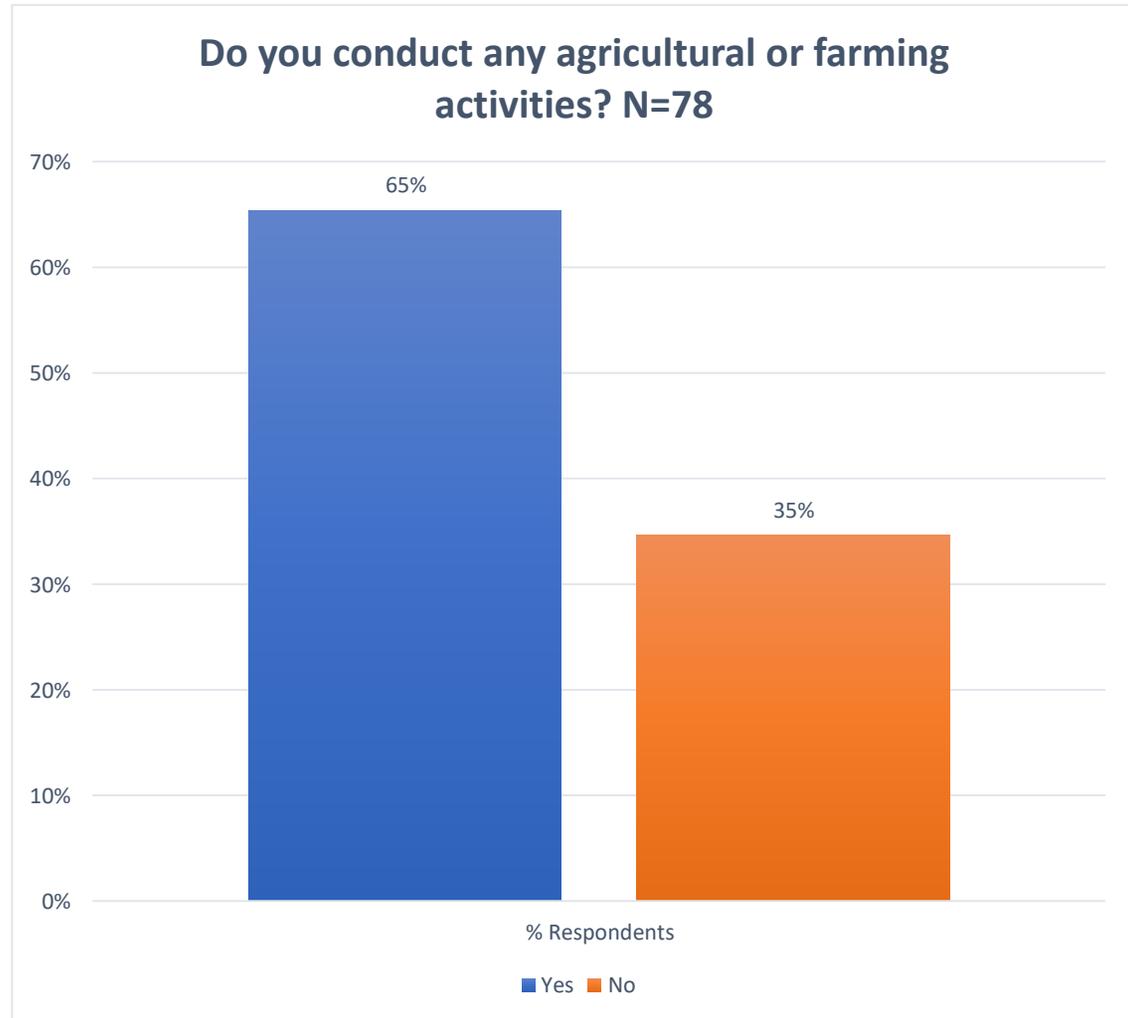
Content Analysis

What:

- Flower gardens
- Herb hardens
- Vegetable gardens
- Fruit trees
- Chickens
- Bees
- Pigs
- Hops
- Grapes
- Compost
- Goat
- Seeds/ seedlings

Where:

- Amherst
 - Indoor vegetables and herbs
 - Indoor Hydroponic gardening
 - Backyards
 - Getzville
 - Tennyson Terrace
 - Willow Ridge
 - Three Sisters Farm
- Wales
- Lockport

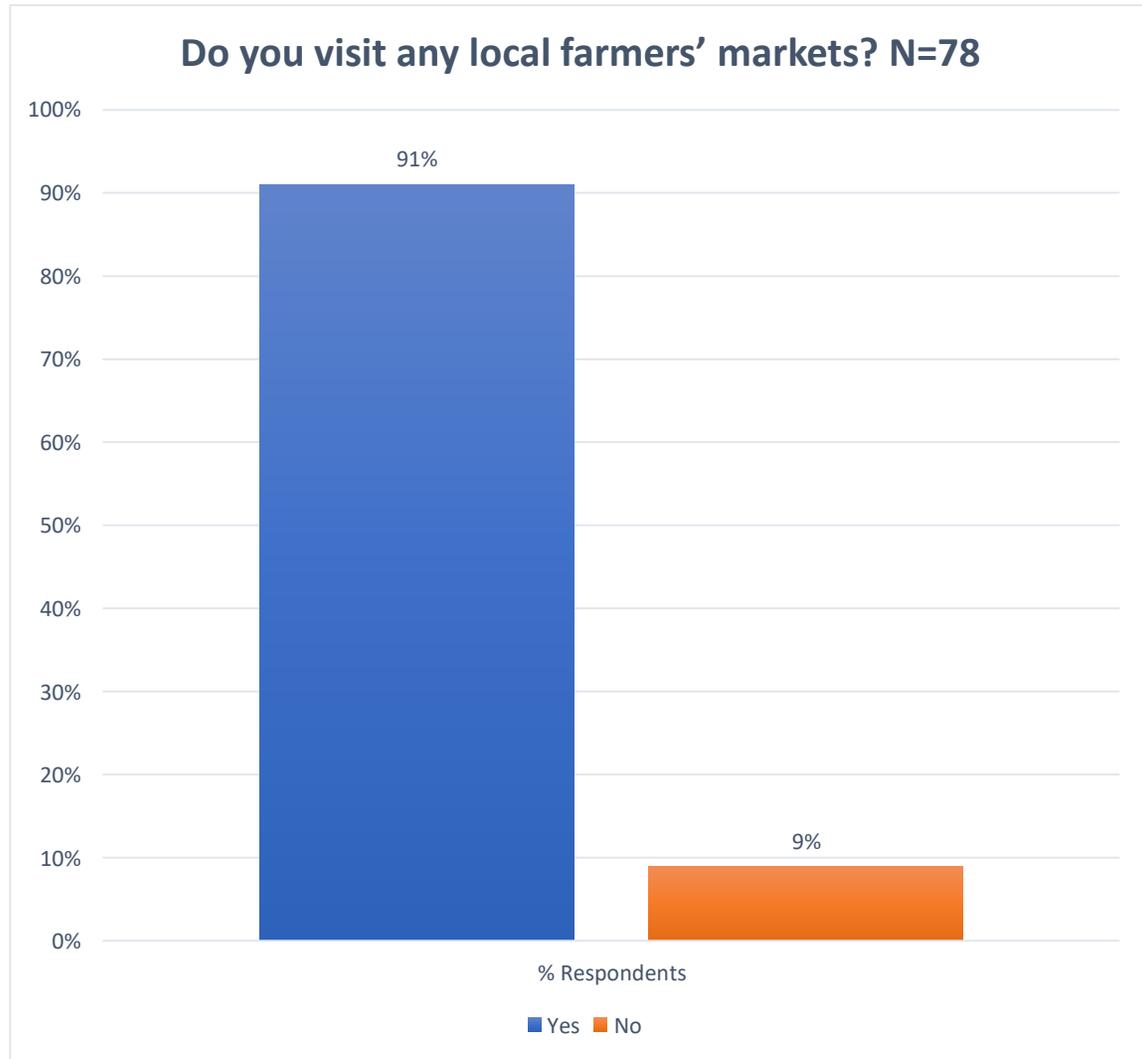


4. Do you visit any local farmers’ markets? If yes, where and how often? If not, why not (e.g. access or availability)?

Content Analysis

Where:

- Williamsville Farmers Market
- Cherry Hill Farm
- Eastgate Plaza Farmers Market
- Three Sisters Garlic Farm
- Three Sisters Farm
- Greg’s U-Pick and CSA
- Lavocat’s Garden Center
- Badding Bros Farm Market & Garden Center
- Clinton Market - East Aurora
- George’s Farmers & Artisans
- George’s Farm Market
- Hollow Farmers Market – Clarence Center
- Root Down Farm – Clarence
- Spoth Farmers Market
- Donald Spoth Farm & Greenhouse
- Bidwell Farmer’s Market
- Russell’s Tree & Shrub Farm
- Hi-Way Garden Center Lavocat’s Garden Center
- Gullo’s Garden Center
- Lockwood’s Greenhouse & Farm
- Horsefeather’s Winter Mkt
- Buffalo State College Winter Mkt
- North Tonawanda Farmers Market
- Niagara County Produce

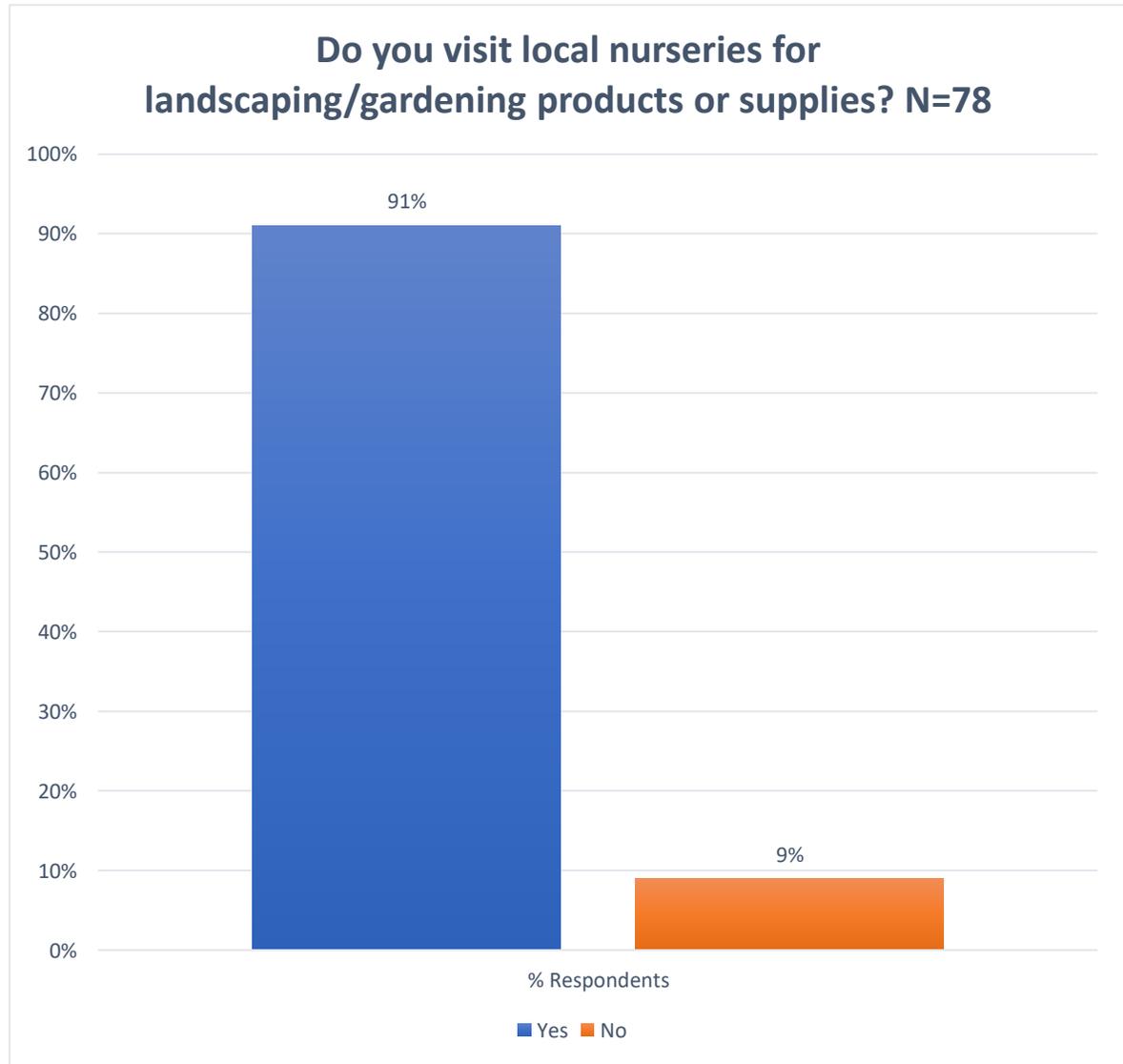


5. Do you visit local nurseries for landscaping/gardening products or supplies? If yes, which ones?

Content Analysis

Where:

- Russell’s Tree & Shrub Farm
- Hi-Way Garden Center
- Badding Bros Farm Market & Garden Center
- Spoth Farmers Market
- Donald Spoth Farm & Greenhouse
- Northridge Nurseries - West Seneca
- Gullo’s Garden Center – Hamburg
- Mischler’s Florist and Greenhouses
- Adam’s Nursery & Garden Center
- Menne’s Nursery –now closed
- Elber’s Garden Center
- Lockwood’s Greenhouse & Farm – Hamburg
- George’s Farm Market
- Niagara County Produce
- Papke Farm
- Arbordale Nurseries
- Lavocat’s Garden Center
- Thompsons Garden Center – Niagara Falls
- Lincoln Park Nurseries
- Northtown Garden Center

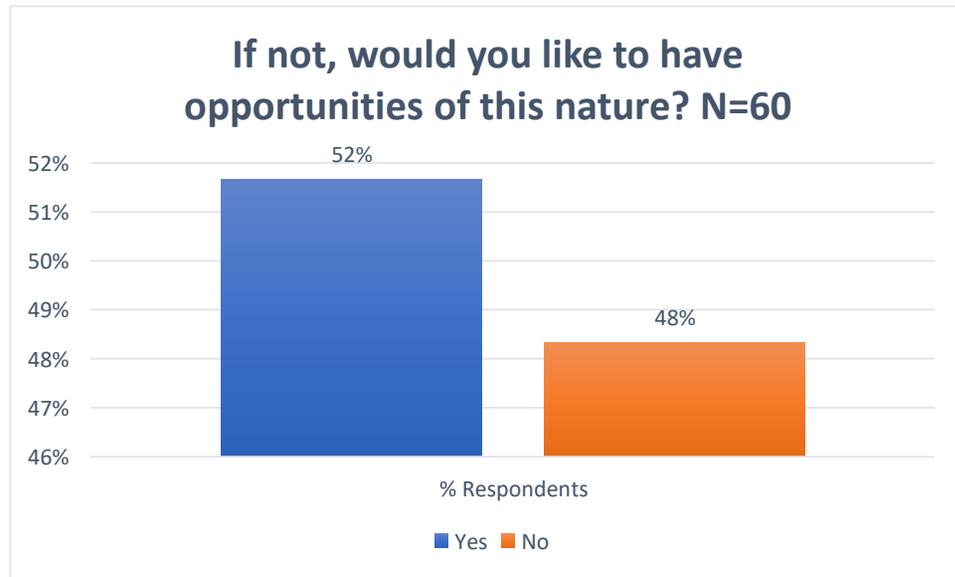
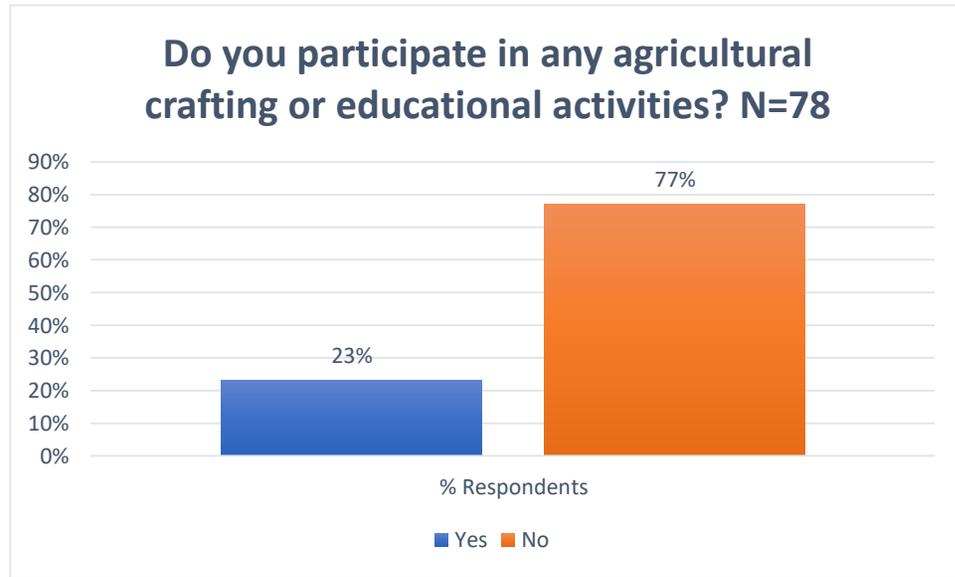


6. Do you participate in any agricultural crafting or educational activities? If yes, please tell us? If not, would you like to have opportunities of this nature?

Content Analysis

Crafting & Education Activities:

- Williamsville School District - Childhood Nutrition Education Initiative
- Gardening Webinars
- Craft classes
- Gardening classes
- Kelkenburg Farms Programming
- Badding Bros Farm Market & Garden Center
- Niagara County 4-H
- Buffalo Niagara Heritage Village
- Cornell Cooperative Extension
- Lockwood’s Greenhouse & Farm
- Farmers workshops
- Urban Roots & Botanical Gardens
- BNHV Homebrewers Guild

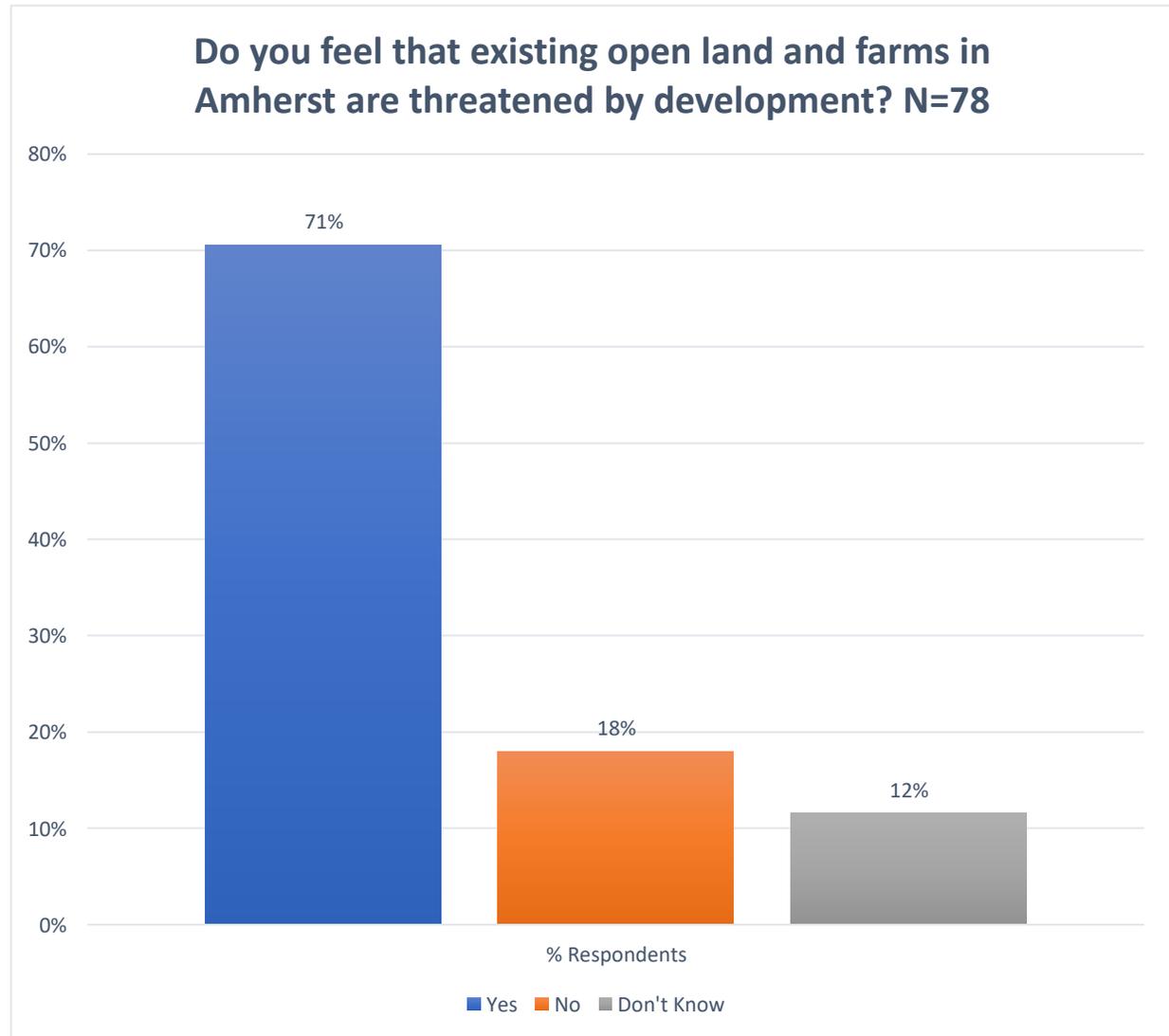


7. Do you feel that existing open land and farms in Amherst are threatened by development? If so, where?

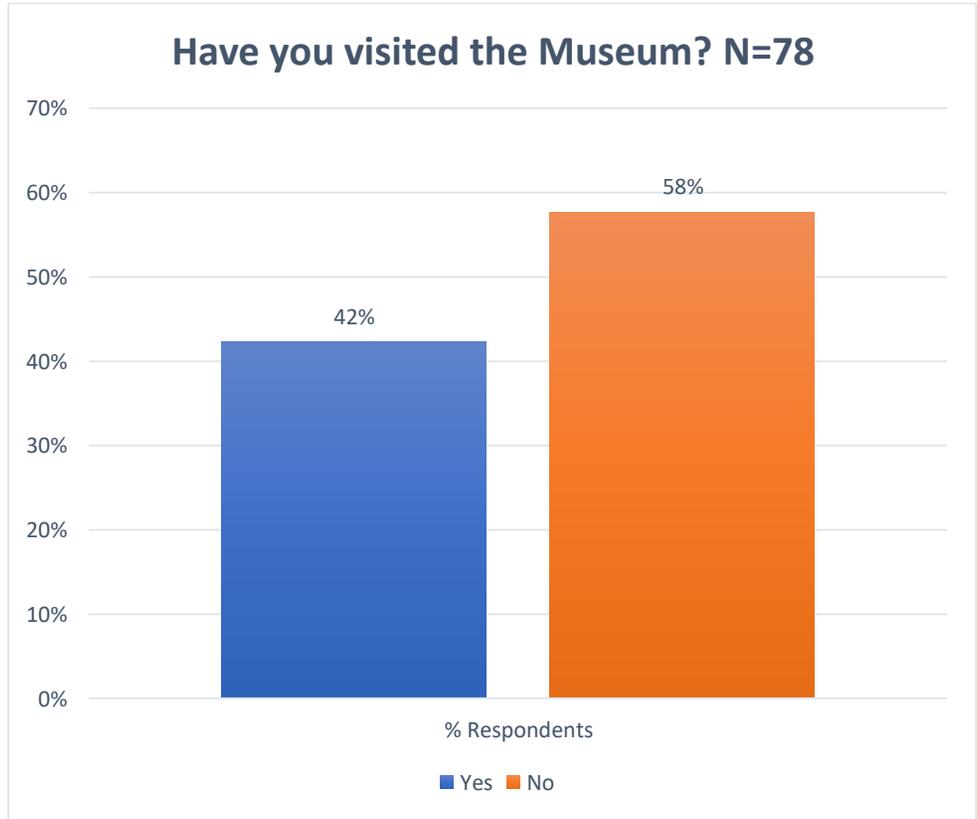
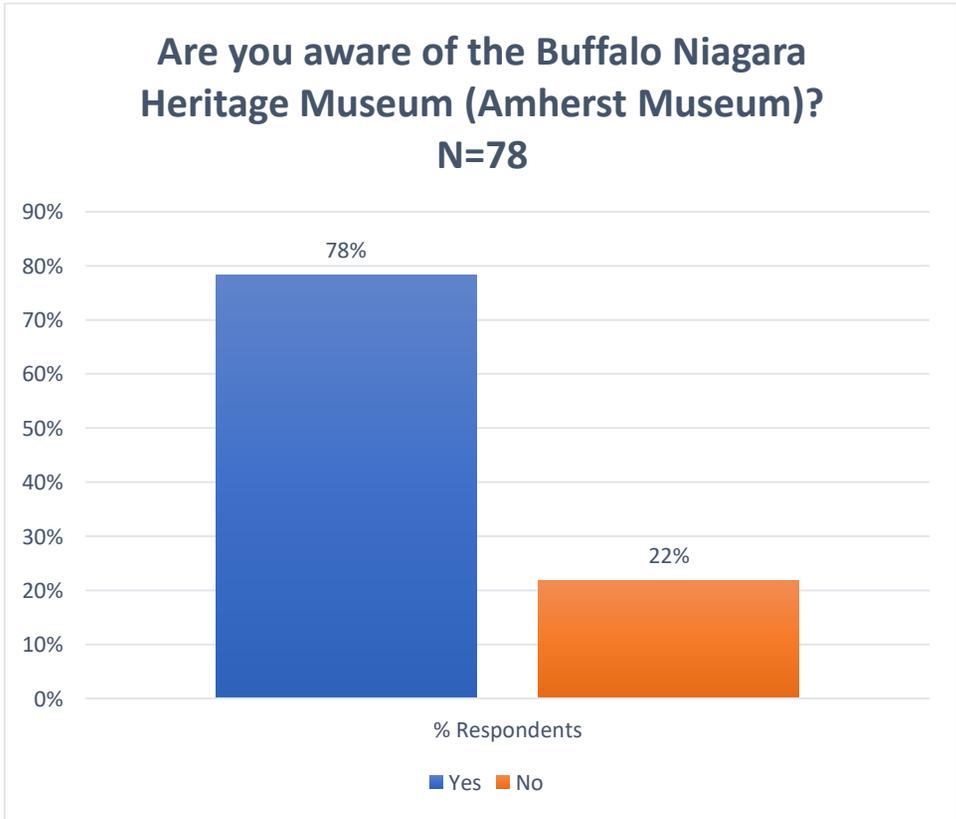
Content Analysis

Where:

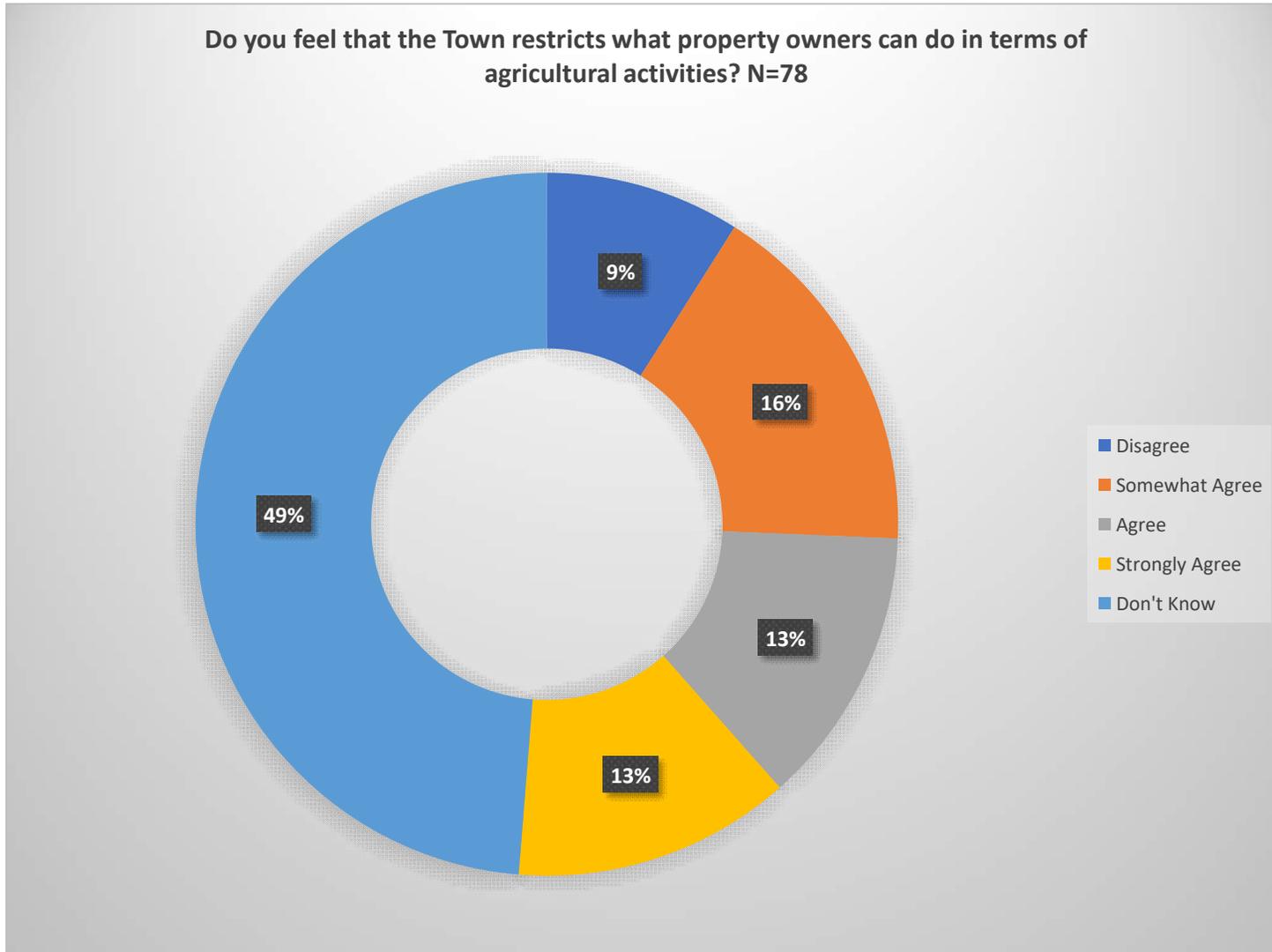
- Around Williamsville North
- New Road development
- North French Rd
- North Amherst
- Dodge Rd
- Millersport Hwy
- Casey Rd
- Dockside
- The Station
- Ransom Oaks
- Transit Road – moving north of Casey Road
- Campus Housing development taking up open land
- East Amherst
- Westwood area
- New Housing development everywhere
- North edge along Tonawanda Creek Road



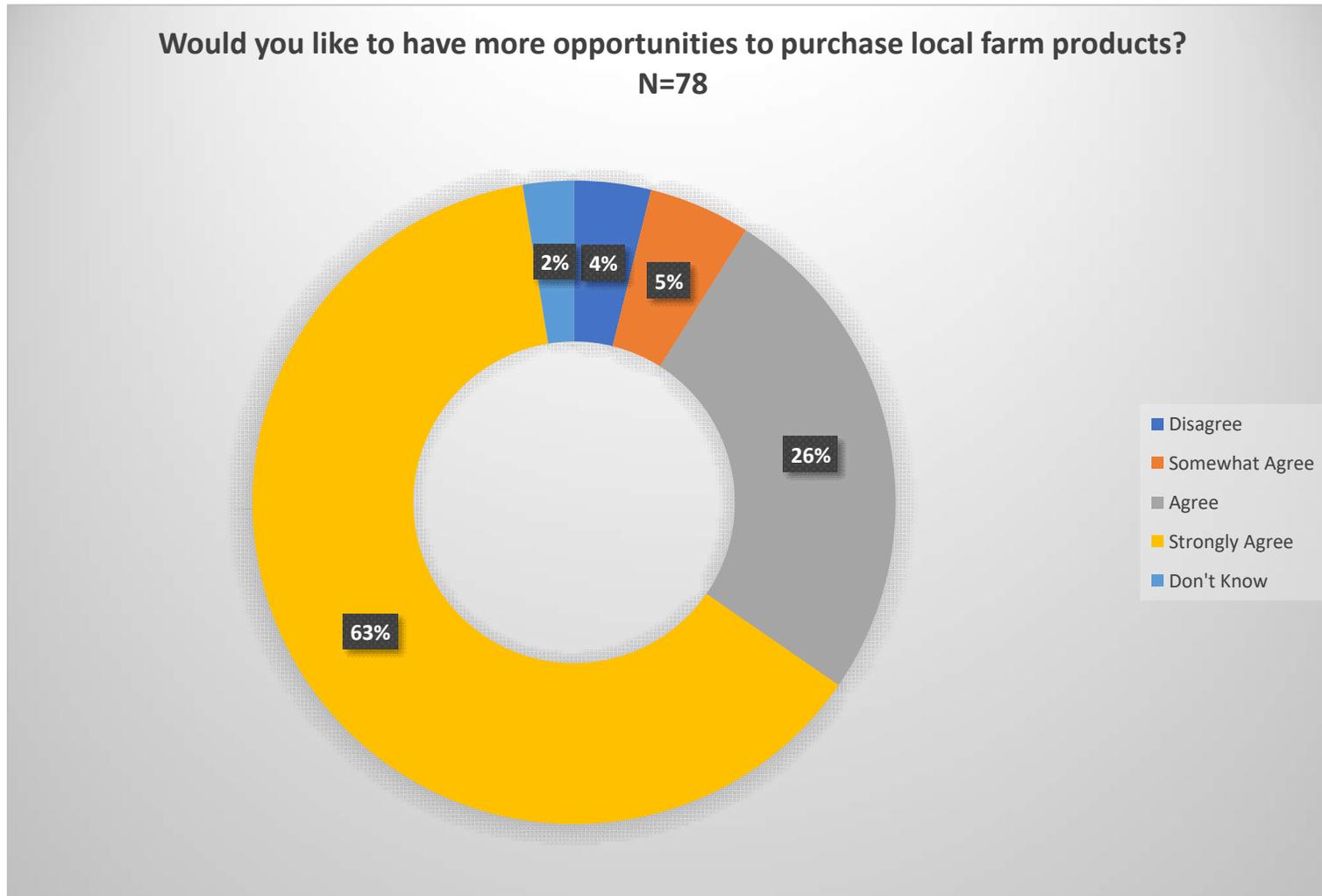
8. Are you aware of the Buffalo Niagara Heritage Museum (Amherst Museum)? Have you visited the Museum?



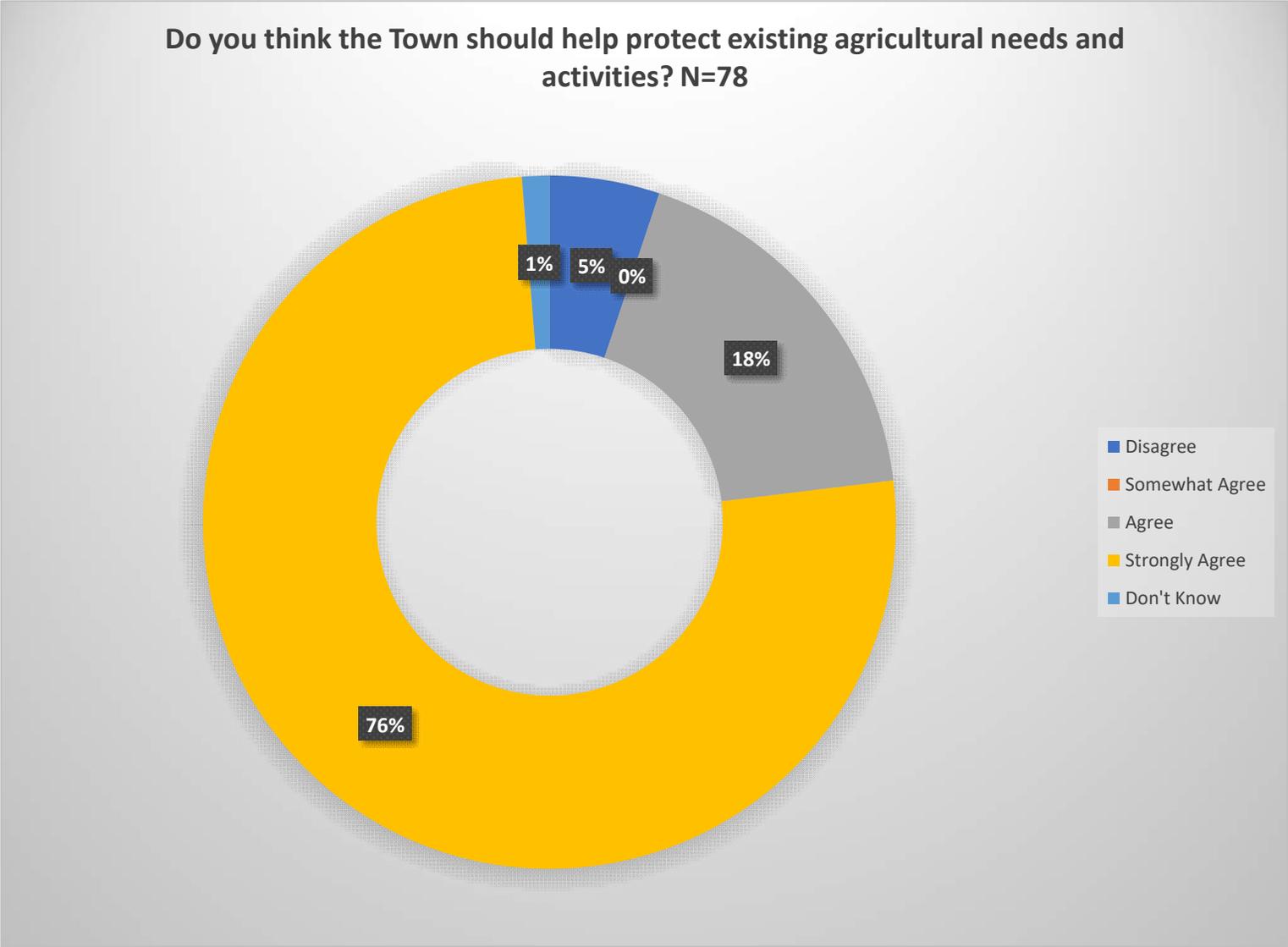
9. Do you feel that the Town restricts what property owners can do in terms of agricultural activities?



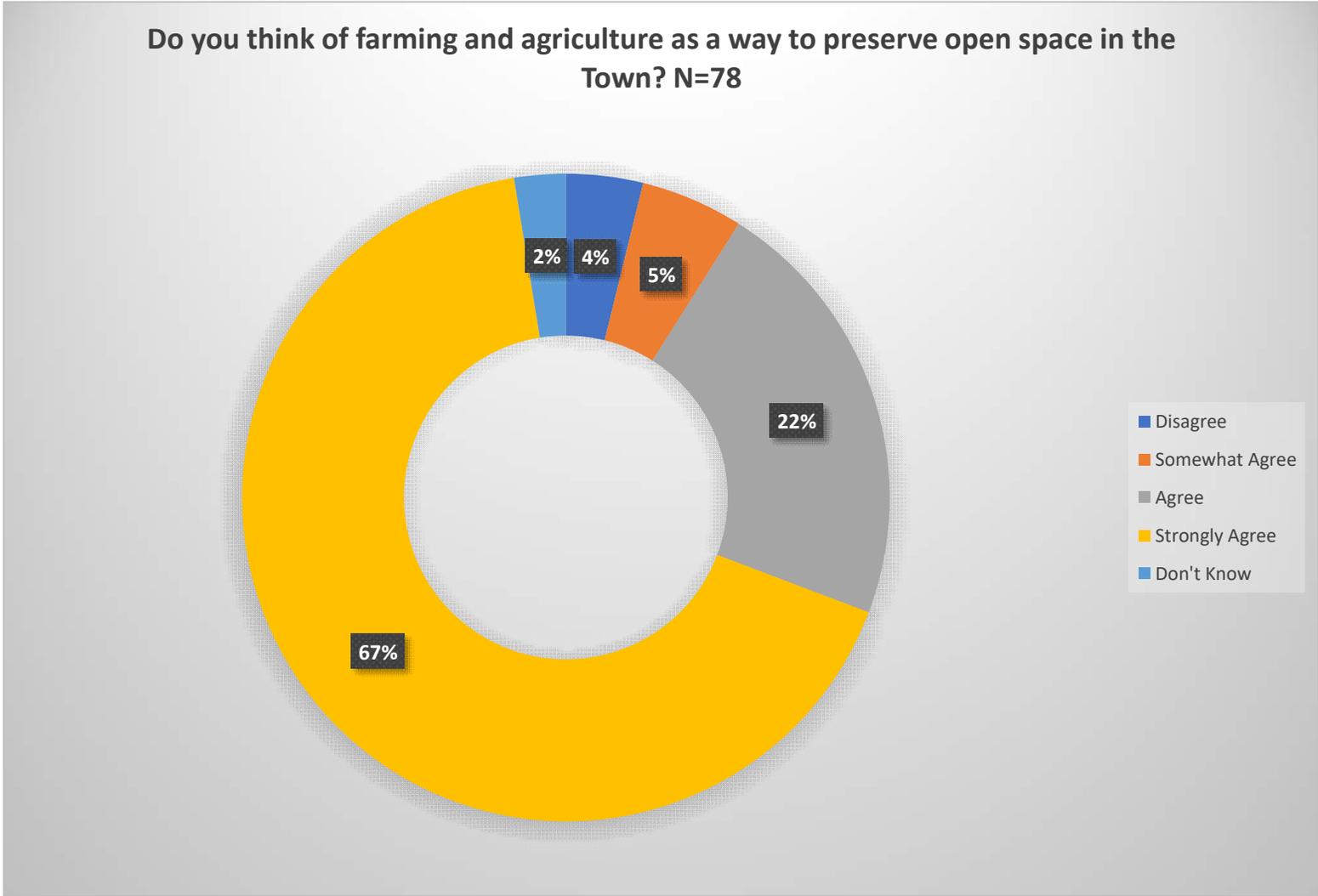
10. Would you like to have more opportunities to purchase local farm products?



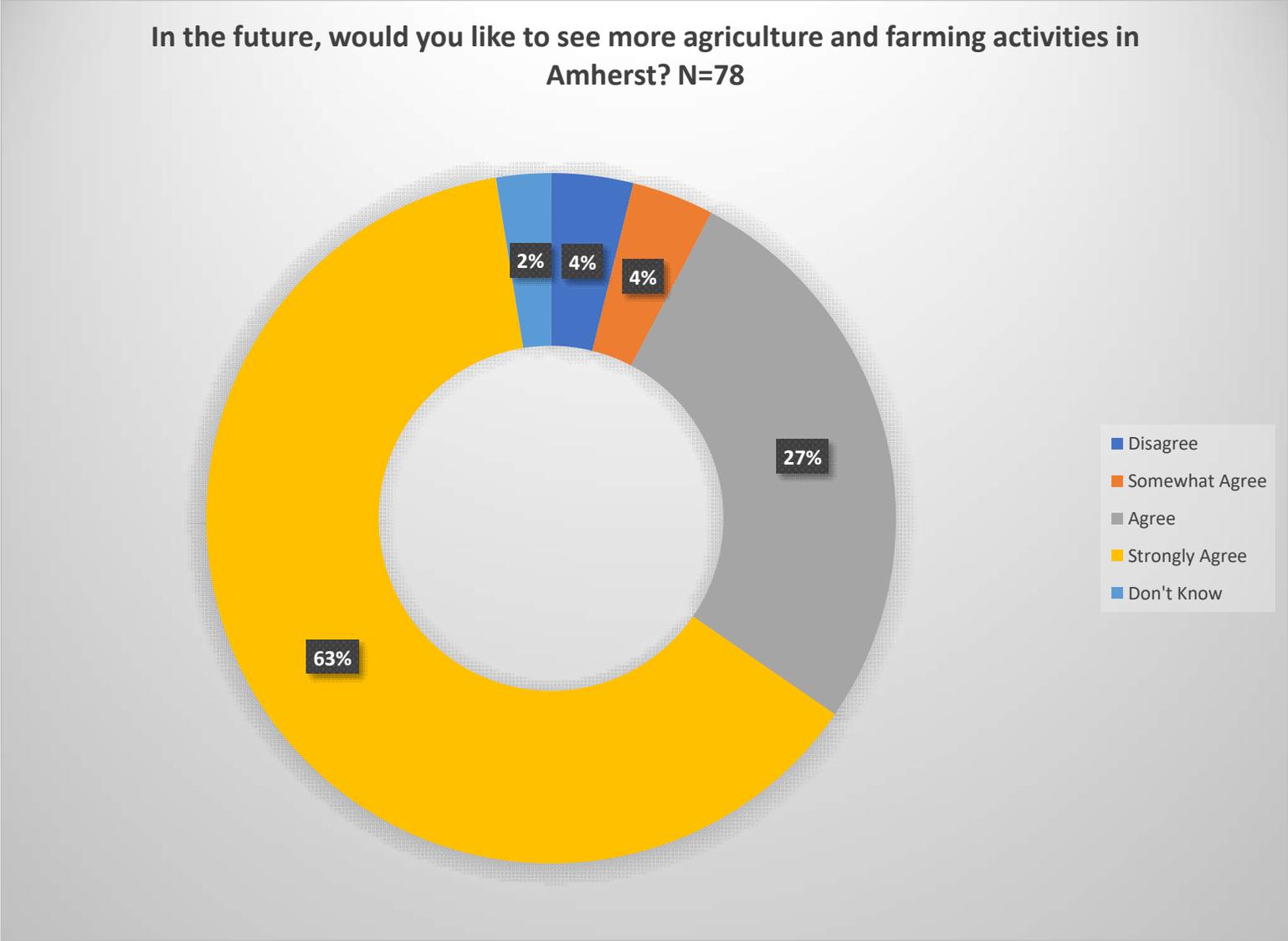
11. Do you think the Town should help protect existing agricultural needs and activities?



12. Do you think of farming and agriculture as a way to preserve open space in the Town?



13. In the future, would you like to see more agriculture and farming activities in Amherst?



VIRTUAL PUBLIC MEETING TO BE HELD

FOR THE 2021 AMHERST AGRICULTURE AND FARMLAND PROTECTION PLAN

May 6th, 2021 @ 7^{pm} via Zoom

Two options to join:

1. Online:

<https://zoom.us/j/86119729697>

2. Phone:

1.646.558.8656 (call then enter meeting ID)

Meeting ID: 861 1972 9697



Scan for Town website



Scan for Zoom Meeting

Agriculture has played a significant role in the Town of Amherst since its founding in 1818. Extensive development has reduced the number of farms in the Town, but Amherst remains dedicated to the importance of agriculture in maintaining a vibrant, economically diversified, and healthy community.

The 2021 Agriculture and Farmland Protection Plan is almost complete, and we would like to share the plan with you to get your feedback.

Due to the ongoing pandemic, this public meeting will be held via zoom. A brief presentation will be held, followed by open discussion. Also be sure to keep checking back for updates on the 2021 Amherst Agriculture and Farmland Protection Plan website at www.amherst.ny.us/farmland.



Welcome!

Public Meeting May 6, 2021

Town of Amherst Agricultural and Farmland Protection Plan





Presentation Outline

Introduction

Overview

Goals & Recommendations

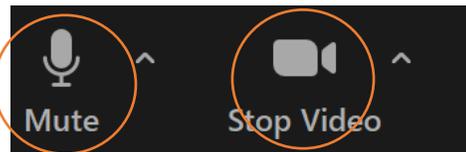
Discussion

Wrap-up

A Quick Guide To Zoom

Click this to **mute or unmute** your microphone
Please remain muted until the discussion portion

Your preference to **start or stop** video



This opens a **list of all participants** so you can see who is in the room

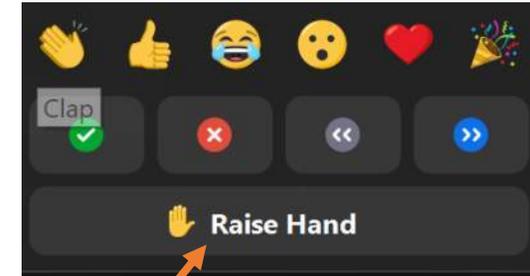
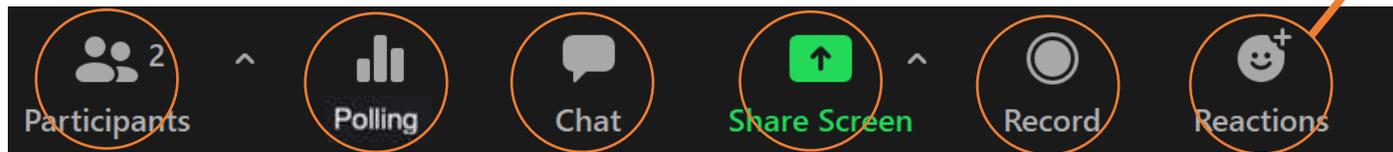
IGNORE
Polls will appear for you to answer

Use this to **chat** with the whole group

IGNORE

IGNORE

Use this to **send a reaction or raise your hand**



If you are only calling in by phone, and not the Zoom application, use *6 to mute/unmute and *9 to raise your hand

Changing Your Zoom Layout



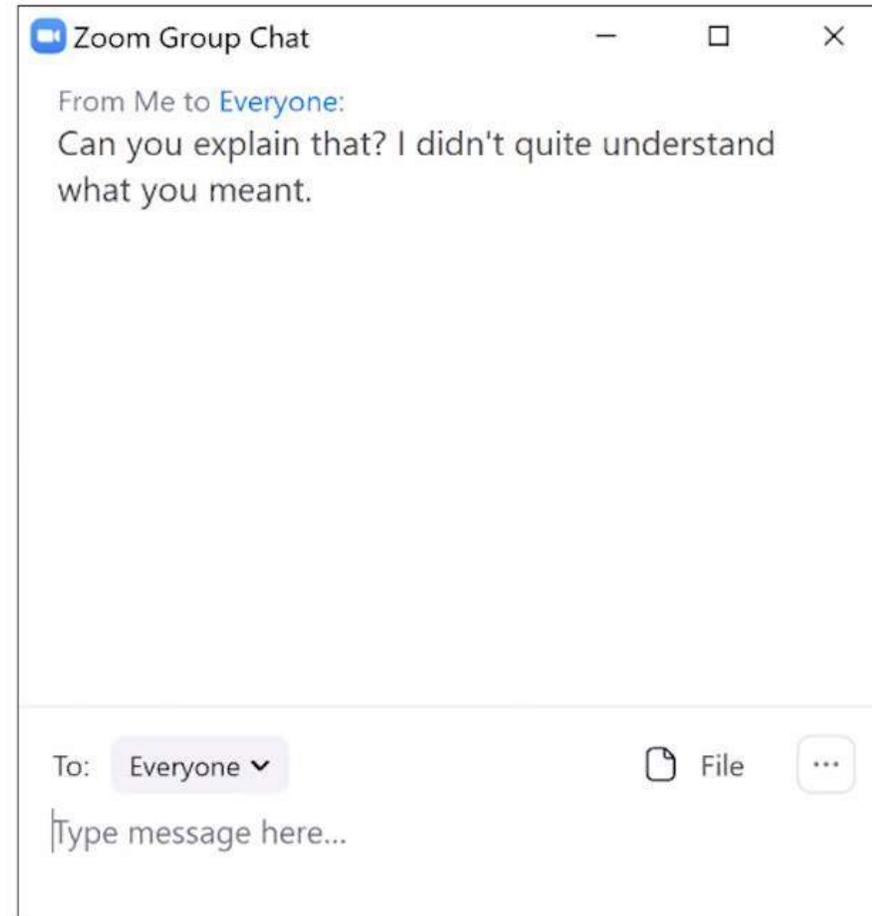
In the upper right corner of your window, you should see a symbol that looks something like one of these.

Clicking through these will change the layout of your screen and allow you to do things like maximize the presentation size or display everyone's video in a gallery format.

A Few Housekeeping Items

VIRTUAL MEETING: TIPS, NOTES & ETIQUETTE

- The meeting will be recorded.
- Participants will be muted during the conversation. If you have questions or comments, please enter them in the chat box, or raise hand virtually.
- You are encouraged to participate in polls.
- We want to hear your input! We will answer as many questions as possible, but given limited time, we may not get to every question. We will end the session with more ways to follow-up.



**What is the
purpose of the
meeting
tonight?**

To obtain feedback from
the public on the 2021
Town of Amherst
Agricultural and Farmland
Protection Plan.

What is an Agriculture and Farmland Protection Plan?

State-supported plan that a community can develop to support agriculture

Inventories existing agricultural assets and identifies priority areas for protection, along with methods for accomplishing that goal.

Establishes Goals, Recommendations, and Actions for achieving the Town's Vision for the future of agriculture.

Why Prepare this plan?



Implement the recommendations of the Comprehensive Plan related to Agriculture



To strengthen the vision for agricultural protection



Better manage future growth and development in the community



Develop recommendations for policy and regulatory changes to protect and promote Agriculture



Insure the long-term viability of agriculture and rural character in North Amherst

What is the Process?

Project Kick Off (March 2020)

Data Collection and Mapping

Public Survey (Jan-Feb 2021)

Final Draft (April 2021)

Public Meeting (May 6, 2021)

Submit to State (May 12, 2021)

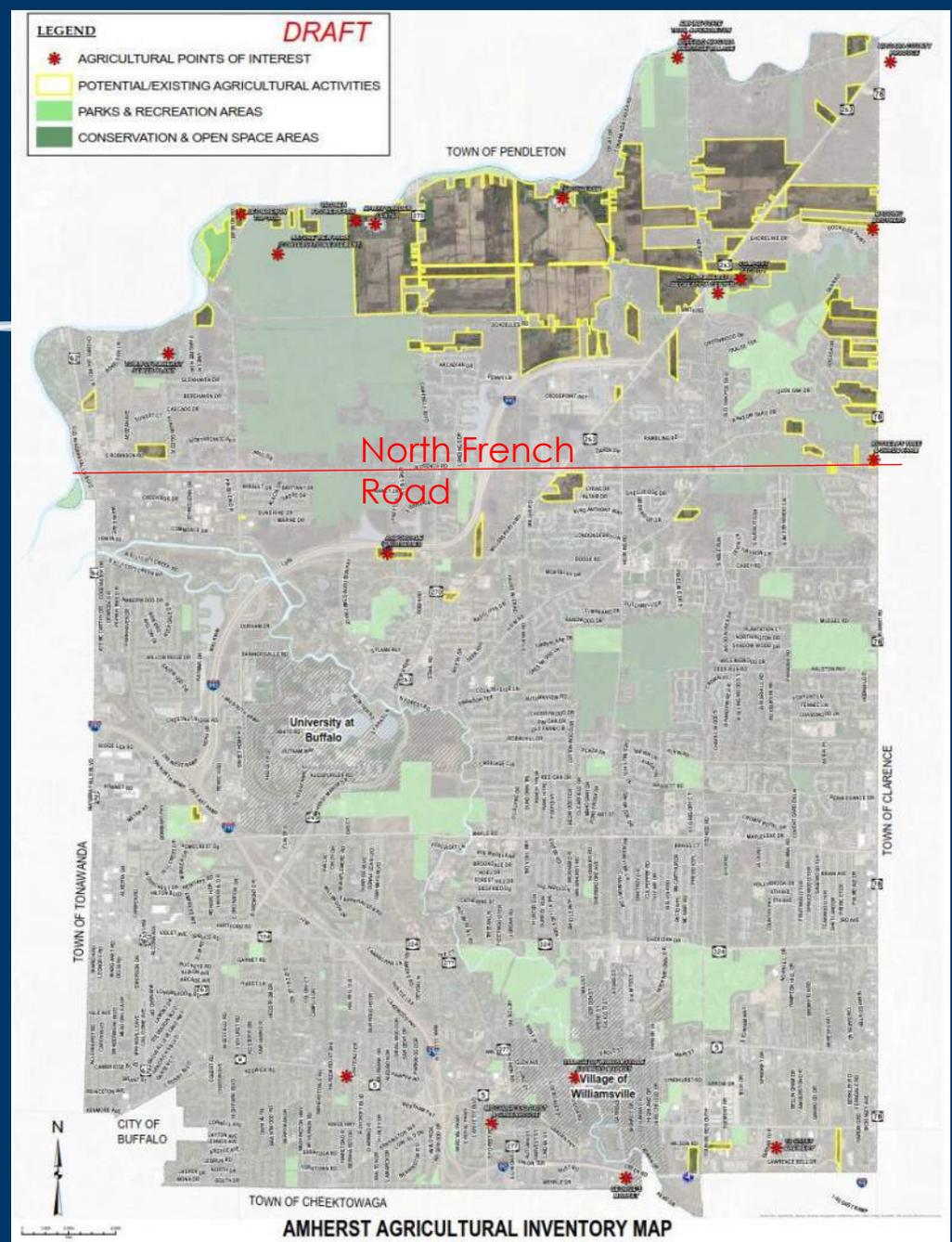
Submit to County (June 6, 2021)

County Ag Board Meeting (June 24, 2021)

Town Board Action (July 2021)

Data: What did we learn?

- The majority of the agricultural activity and prime lands are located north of North French Road in North Amherst
- Agricultural activities found in Amherst include crop farming, horticulture, farm markets and garden centers, breweries, tree and shrub farms, bee keeping, and others.
- Areas in the south of Amherst and around the Village of Williamsville host farmers' markets and are where several small agricultural businesses are located.
- There are prime agricultural soils throughout the Town, but most are centralized in the northeast section of the Town.
- Sanitary sewers do not extend into the agricultural areas of North Amherst
- After performing a “farm friendly analysis” of the Town Zoning Code, it was noticed that many areas of the Code should be updated to reflect current agricultural thinking.



Survey: What did we learn?

65% of respondents conduct agricultural or farming activities ranging from small scale to large scale and including: flower gardens, bees, chickens, hops, hemp.

77% of respondents do not participate in agricultural or educational activities, but 52% of those same respondents would like to have opportunities of this nature.

91% of respondents visit local farmers' markets and 63% would like to have more opportunities to purchase local farm products



Survey: What did we learn?

71% of respondents feel that existing open land and farms are threatened by development

63% would like to see more agricultural activity in the Town.

76% of respondents think that the Town should help protect existing agricultural needs and activities.



Goal 1: Protect Agricultural lands and resources, as well as undeveloped lands with prime soils, that are critical to the long-term success, viability, and resiliency of agriculture in the Town



Establish an on-going Agricultural and Farming Advisory Committee



Review and revise ag-specific sections of the code:

Update permitted uses
Include provisions for small-scale (hobby) uses
Address Animal Laws



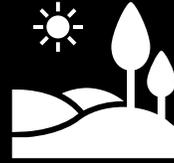
Adopt a town “Right-to-Farm” law



Do you support a “right to Farm” law in the Town?

Do you support zoning revisions that are more farm-friendly?

Goal 2: Protect key areas of viable farmland, important soils and natural resources within the Town that are suitable for permanent protection through the use of Agricultural Conservation Easements



Continue to work with the WNY Land Conservancy to purchase development rights on key parcels identified for protection



Continue to pursue funding from the NYS Department of Agriculture and Markets and other sources for conservation easements



Support co-location of compatible agricultural uses, such as grazing, apiaries and pollinator species on solar installations



Do you support spending
Town money to protect
Agricultural land from
development pressure?

Goal 3: Promote economic innovation and sustainability in agricultural production and strengthen the Town's capacity to respond to economic and climate trends and changes



Create a “one-stop” online clearinghouse of information and a resource library to support farms and other agricultural activities (training, funding, markets, etc.)



Support an “Eat Local” campaign and support the Farmers’ Market and work with Erie County and others to expand markets for locally grown products



Commission an industry study of hemp and cannabidiol products.



Facilitate the development of relationships between the agricultural community and potential markets on the part of local pharmaceutical, medical and dental users.



Do you prefer to support restaurants that serve local products?

How supportive are you of the expansion of the cannabidiol product industry in the Town of Amherst?

Goal 4: Leverage the Town's natural resources and agricultural assets to establish an agri-tourism initiative, encourage support for agricultural activities, and provide ancillary means of income for farm operations and agricultural entrepreneurs



Participate in regional promotions such as “Erie Grown” Passport and seek opportunities for town venues to be featured



Continue working with the Buffalo Niagara Heritage Village as it launches new programs and initiatives



Connect agriculture and tourism businesses with business support resources on an equal footing with technology or manufacturing.



Have you ever participated in an agricultural event or activity in the Town?

Would you be interested in attending events in the future?

Goal 5: Promote the link between farms and food, and farms and secondary income, to increase awareness by the non-farm community, grow the industry and help ensure the long-term sustainability of farming activities in Amherst



Promote sales of farm products to school districts, hospitals, and other institutions



Establish a public information campaign to educate residents and others on the benefits of farming in Amherst and build local support



Identify and secure physical space for entrepreneurs such as underutilized commercial kitchens, and develop a management plan with rules, funding, and maintenance responsibility



Gather information on agricultural education programs in regional school districts and work with local school districts to identify and implement similar programs



How important is it to introduce children to agriculture?

Are you in support of the Town creating a space for agricultural entrepreneurs?



Open Discussion

Wrap-Up

- Where do we go from here?
- Will there be another opportunity for public comment?
 - Town website
 - Town board Public hearing (July)
- Implementation, Implementation, Implementation
- Thank you for your time tonight!

D

Land Use Regulations (current)

*Town of Amherst, NY
Wednesday, June 2, 2021*

Chapter 99. Animals

[HISTORY: Adopted by the Town Board of the Town of Amherst as indicated in article histories. Amendments noted where applicable. For additional information regarding 2010, 2011 and 2012 state local law numbers, refer to the Disposition List at the end of this volume.]

GENERAL REFERENCES

Noise — See Ch. **138**.

Parks, playgrounds and recreation areas — See Ch. **145**.

Article I. Dogs and Harboring of Animals

[Adopted 5-20-1974 by L.L. No. 2-1974; amended in its entirety 8-19-2019 by L.L. No. 16-2019]

§ 99-1. Purpose.

This article is to promote the health, safety and general welfare of the people of the Town of Amherst, New York, including the protection of the property of the Town and its inhabitants, to preserve peace and good order by imposing restrictions upon the keeping and running of dogs within the Town and to set license fees.

§ 99-2. Prohibited acts.

In the Town of Amherst, New York, outside the Village of Williamsville:

- A. No person, firm or corporation shall, except where permitted by the applicable zoning ordinance, own, keep, harbor, or maintain the care, custody or control of livestock except for chickens regulated by Chapter **203**, § 6-8-9(B).
- B. No person, firm or corporation owning, keeping, harboring or having the care, custody or control of any dog shall allow or permit such dog to be off the premises of such person, firm or corporation in the Town of Amherst, New York, outside the Village of Williamsville, unless restrained by a chain or leash, including retractable leashes, not exceeding six feet in length and under the control of a responsible person, except as designated by the Town of Amherst in duly authorized and posted dog parks. Whenever a dog is found off the premises of the person, firm or corporation owning, keeping, harboring or having the care, custody or control of such dog not restrained as above provided, it shall be presumed that such person, firm or corporation permitted or allowed such dog to be off such premises in violation of this section.
- C. No person, firm, company or corporation shall keep, suffer, permit or allow to be kept on the premises owned or occupied by such person, firm, company or corporation any dog or dogs which create any unreasonably loud or disturbing noise, such as repeated or continual barking, howling or whining, so as to be detrimental to the life, health, safety or welfare of any individual.
 - (1) Any person, firm, company or corporation who shall do so shall be in violation of this article and subject to a fine of not more than \$500.

- (2) In determining whether any such noise is unreasonably loud or disturbing, due consideration shall include, but not limited to, the following factors:
 - (a) The loudness of the noise, as scientifically measured, or otherwise.
 - (b) The intensity of the noise, as measured by intervals.
 - (c) The quality of the noise, as measured by pitch or tone.
 - (d) The duration of the noise, as measured by time.
 - (e) The composition of the noise, as measured by the number of offending dogs.
 - (f) The time of day or night, of the noises.
 - (g) The proximity of the origin of such noise to the complainant, measured in distance.
 - (3) Repeated violations of this article are prohibited and may be deemed a public nuisance, which the Town Attorney is hereby authorized to pursue an abatement of in an appropriate court of law.
- D. No person, firm or corporation owning or occupying a premises on which a dog is kept shall permit such premises to be unclean or unsanitary.
- E. No person shall hinder, resist or oppose any police officer, Animal Control Officer or employee or representative of the Town in his performance of his duties under this article.
- F. Feces.
- (1) No person owning, harboring, keeping, walking or in charge of any dog shall cause, suffer or allow such dog to soil, defile, defecate on or commit any nuisance on any sidewalk, gutter, street, play area, park or other public area or on any private property without the permission of the owner of such property. This prohibition shall not apply to that portion of a street lying between the curblines or pavement edges where no curbs exist, which portion may be used to curb a dog, provided that any person who so curbs a dog shall immediately remove all feces left by such dog as follows:
 - (a) Individuals may place feces directly in a public or private sanitary sewer through deposit in a toilet on premises occupied by the individual owning or who curbs the dog. Plastic bags shall not be disposed of in a public or private sanitary sewer through deposit into a toilet along with any dog feces. Individuals may also dispose of dog feces contained in sealed plastic bags with regular household trash. Business entities must dispose of dog feces using a sanitary sewer system through deposit in a toilet on premises occupied by that business.
 - (b) In no event shall any feces be deposited in any storm sewer or drainage ditch.
 - (2) Exclusion. The provisions of this subsection shall not apply to a guide dog accompanying any blind person.

§ 99-3. Applicability of statutory provisions.

Article 7 of the Agriculture and Markets Law shall be applicable in addition to the provisions of this article.

§ 99-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DOG

Any dog of either sex.

LIVESTOCK

The meaning of the term "livestock" as used in this article is confined to the ordinary use of the word and includes domestic animals ordinarily raised for food or product. The term includes the following animals, regardless of the purpose for which each may be owned:

1. All animals with hooves, either single or split;
2. All members of the ovine (sheep), bovine (cows and cattle), caprine (goats), equine (horses and ponies), and swine (pigs and hogs) families;
3. Emus, rheas and ostriches; and
4. All poultry (chickens, roosters, turkeys, ducks, geese and the like).

§ 99-5. (Reserved)

§ 99-6. Responsibility of adults for dogs owned by minors.

In the event that the owner of a dog shall be a person under the age of 18 years, then the head of the household in which said person resides shall be deemed to have custody and control of the dog for the purposes of this article.

§ 99-7. Enforcement.

- A. This article shall be enforced by members of the Police Department, the Animal Dog Control Officers or any other Town agent or employee hereafter designated by the Town Board for that purpose.
- B. The Animal Control Officers and other Town agents or employees as may hereafter be designated by the Town Board are authorized to issue and serve appearance tickets upon any person, firm or corporation who or which has committed a violation of this article in his presence.
- C. For the purpose of discharging the duties imposed by this article and the provisions of Article 7 of the Agriculture and Markets Law, each member of the Police Department, Animal Control Officer or any other Town agent or employee hereafter designated by the Town Board for these purposes is authorized and directed to enter upon any premises upon which any dog is kept or harbored and to demand the exhibition by the person owning or having charge or control of such dog of the identification or purebred license tag for such dog.
- D. Violations set forth in Subdivision 1 of § 118 of the Agriculture and Markets Law shall be prosecuted as such under the Penal Law.
- E. The Animal Control Officers/members of the Town of Amherst Police Department and other Town agents or employees as may hereafter be designated by the Town Board are authorized to seize any livestock owned, kept, harbored or maintained in violation of § 99-2(A) upon obtaining a search warrant authorizing the seizure of said animal by a Court of competent jurisdiction.

§ 99-8. Penalties for offenses.

- A. Any person, firm or corporation violating any provision of this article shall be guilty of an offense punishable by a fine not to exceed \$250 for each week that said article is violated or imprisonment for a period not to exceed 15 days, or both in violation of said article.
- B. Any person, firm or corporation taking part in or assisting in any violation of this article shall also be subject to the penalties herein provided.

§ 99-9. Severability.

If any clause, sentence, paragraph or part of this article or the application thereof to any person or circumstances shall be adjudged by any court to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof or the application thereof to other persons and circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

§ 99-10. Repealer.

Upon this article taking effect, the Dog Ordinance of the Town of Amherst adopted May 8, 1961, is superseded and therefore repealed.

§ 99-11. When effective.

This article shall take effect immediately.

§ 99-12. Rabies vaccination.

Any person owning, possessing or harboring a dog four months of age or over in the Town of Amherst shall be required to have the dog vaccinated to prevent the spread of rabies, except that a rabies vaccine is not required as follows:

- A. To a dog brought into the Town for a period not to exceed 15 days; and dogs confined to public or private hospitals devoted to the treatment of sick animals.
- B. To a dog whose health would be adversely affected by a rabies vaccination, provided that a written statement, certified by a duly licensed veterinarian, specifying such condition is presented to the Animal Control Officer or the Town Clerk and filed with the Town Clerk's office.

§ 99-13. Fees.

§ 99-13.1. Local License Fee

- A. Applications for a license or a renewal thereof shall be accompanied by a non-refundable processing fee as set by resolution of the Town Board from time to time. The cost for said applications for a license or renewal thereof for an unaltered dog must be at least five dollars (\$5.00) more than the cost of said applications for a license or renewal thereof for an altered dog. In addition to the license fee, established herein, each applicant for a dog license shall pay a surcharge, pursuant to New York State Agriculture and Markets Law § 110(3) of (at least \$1.00) if the dog to be licensed is altered, or a fee of (at least \$3.00) if the dog sought to be licensed is unaltered. An application for a license or renewal shall be in the form prescribed by the Amherst Town Clerk and shall provide for the following minimum information:

- (1) The name, residence address and telephone number of each owner; and
 - (2) The name, sex, approximate age, breed, color, markings and other identifying details of the dog; and
 - (3) Veterinarian's statement of spaying or neutering; and
 - (4) Rabies certification in accordance with the provisions of this article; and
 - (5) Such other information or documentation deemed necessary by the Town Clerk to effectuate the purpose of this article.
- B. In the case of an altered dog, every application shall be accompanied by a certificate signed by a licensed veterinarian except that such certificate is not required if same is already on file with the Town Clerk.
 - C. No individual under the age of eighteen (18) shall be deemed an owner of record and be issued a dog license.
 - D. Service and therapy dogs including guide dogs, hearing dogs and detection dogs are exempt from all licensing fees with proper documentation.

§ 99-13.2. Impoundment Fees

- A. The fees payable by a dog owner for a dog impounded by the Town of Amherst shall be as follows:

1st Impoundment Fee	\$30.00
2nd Impoundment Fee	\$60.00
3rd Impoundment Fee	\$100.00
plus a daily fee (Including the first day)	\$20.00

- B. The fees payable by an owner of livestock impounded by the Town of Amherst shall be as follows:

1st Impoundment Fee	\$50.00
2nd Impoundment Fee	\$100.00
3rd Impoundment Fee	\$150.00
Plus a daily fee (Including the first day)	\$50.00

§ 99-14. Issuance of license; identification tag.

- A. Upon validation by the Town Clerk or authorized Animal Control Officer, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk.
- B. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.
- C. Identification tag.
 - (1) The Town Clerk shall assign an identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag which shall be affixed to the collar of the dog at all times, except that the tag is not required to be worn while the dog is participating in a dog show.

- (2) No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned.
- (3) Any person wishing to replace a tag previously issued shall pay the sum of \$3 to the Town Clerk for a replacement tag.

§ 99-15. Term of license and renewals.

All licenses issued pursuant to this article, and any renewal thereof, shall expire on the last day of the last month of the period for which they are issued, except that no license or renewal shall be issued for a period expiring after the day of the 11th month following the expiration date of the current rabies certificate for the dog being licensed. In the event an applicant for a license or renewal presents a statement certified by a licensed veterinarian, in lieu of a rabies certificate, then the license or renewal shall be issued for one year from the date of the statement.

§ 99-16. When effective.

Sections **99-12** through **99-16** shall constitute part of the Code of the Town of Amherst and shall take effect upon filing in the office of the Secretary of State of New York.

Article II. Cats

[Adopted 12-2-2019 by L.L. No. 21-2019]

§ 99-17. Definitions.

- (a) *Stray cat*. The term 'stray' means an animal or animals that would otherwise be pets, but that have been separated from a human caretaker by means of escape or a lack of care, or sometimes by natural disaster. The term 'cat' means a member of the species *Felis catus*.
- (b) *Best feeding practices*. Best feeding practices means a person supporting one or more community cats which shall adhere to the following:
 - (1) Feeding is conducted on a regular schedule;
 - (2) Feeding is limited to the offering of food intended for community cats to approximately one hour per day;
 - (3) Providing only food appropriate for cats, and not scraps or other foods that may be dangerous, deadly, or hazardous to other cats or other animals;
 - (4) The community cat feeding area is kept clean and free of trash;
 - (5) Food and/or water intended for community cats is kept in containers and not on the ground;
 - (6) Feeding shall be conducted only within the confines of the property of the person engaged in Trap, Neuter, Vaccinate and Return (TNVR) practices as defined in this article and as provided for in section (m) below.
- (c) *Community cat*. The term community cat means any cat that is:
 - (1) Homeless, stray, or at large, where the cat:
 - (a) Has been socialized to people, or is less than five weeks old;

- (b) Could become feral as connection with humans is farther removed; and
 - (c) In the case of cats older than five weeks, has a good potential to quickly become domesticated once again; or
- (2) Feral, where the cat:
- (a) Is not socialized toward humans;
 - (b) Is born in the wild or is the offspring of an owned cat; or
 - (c) Is a formerly owned cat that has been abandoned; or
 - (d) A cat that lives in the community but is not owned by a human, sometimes referred to as a "free-roaming" or "street" cat.
- (d) *Community cat caretaker*. The term 'community cat caretaker' means a person who provides care to one or more community cats. However, community cat caregivers are not the owner, harborer, controller, or keeper of a community cat.
- (e) *Community cat program*. The term 'community cat program' means the non-lethal process of humanely trapping, sterilizing, vaccinating for rabies, ear-tipping, and releasing community cats to their habitats.
- (f) *Colony*. The term colony means a group of one or more community cats.
- (g) *Domesticated cat*. The term domesticated cat means a cat:
- (1) That is social towards humans;
 - (2) That currently lives within the residence or on the property of a person or persons accepted as the cat's owner; and
 - (3) That is considered appropriate as a companion for humans.
- (h) *Ear-tipping*. The term "ear-tipping" means the removal of the 1/4 inch tip of a community cat's left ear, performed while the cat is under anesthesia in compliance with any applicable federal or state law and under the supervision of a licensed veterinarian.
- (i) *Harbor*. The term harbor means to give permanent or long-term home or shelter to an animal. The feeding of community cats in conjunction with Trap, Neuter, Vaccinate and Release (TNVR or TNR) practices as provided in section (m) below shall not constitute the harboring of cats.
- (j) *Neuter*. The term neuter means to permanently sterilize male cats to render them incapable of impregnating female cats by means of either surgery performed to remove the reproductive organs or chemical sterilization by which the cats are injected with a drug approved by the United States Food and Drug Administration for that purpose.
- (k) *Spay*. The term spay means to permanently sterilize female cats to prevent estrus (heat) cycles and eliminate their ability to become pregnant by means of either surgery performed to remove the ovaries and uterus or chemical sterilization by which the cats are injected with a drug approved by the United States Food and Drug Administration for that purpose.
- (l) *Sterilize*. The term sterilize means to spay or neuter a cat to render it incapable of reproduction.
- (m) *Trap, Neuter, Vaccinate, and Return, referred to as 'TNVR' or 'TNR'*. The term *Trap, Neuter, Vaccinate and Return (TNVR or TNR)* means a program in which community cats are humanely trapped, evaluated, vaccinated, sterilized, and ear tipped by a veterinarian and returned to the trap location with the intent of humanely controlling or reducing feline population and reproduction.

- (n) *Veterinarian*. The term veterinarian means a person licensed to practice veterinary medicine in the State of New York.

§ 99-18. Harboring of cats.

Cats are prohibited within the Town except as follows:

- A. Any person harboring a cat shall make a reasonable effort to keep the animal on the premises and under the control of said person.
- B. No person shall harbor a cat which by its frequent yowling shall unreasonably disturb the comfort or repose of the community.
- C. Any person harboring a cat shall make a reasonable effort to expeditiously remove any droppings left by the cat on any public place or on any private property not under the control of said person.

§ 99-19. Public Nuisance

Any cat shall be considered a public nuisance if it has no known owner, no known place of care or shelter and habitually trespasses upon private or public property.

§ 99-20. Implementation

- A. As defined in § 99-17(m), TNVR or TNR of community cats shall be legal in the Town of Amherst, and interested citizens are encouraged to participate in and support TNVR or TNR activities on a voluntary basis.
- B. All persons who attempt to trap community cats for TNVR in the Town of Amherst shall be familiar with the guidelines, supported by regional and national feral and community cat organizations, as well as the American Veterinary Medical Association regarding appropriate methods of TNVR.
- C. An ear-tipped cat received by local shelters shall be returned to the location where trapped unless veterinary care is required.
- D. A trapped, ear-tipped community cat shall be released on site unless further veterinary care is required, in which case the cat will be returned once the animal no longer needs care.
- E. A community cat caretaker may reclaim a community cat if impounded at a local shelter or impoundment facility, without fee, if sterilized or for purposes of placing the cat in a community cat TNR program.
- F. Trapping of a community cat is only permitted for purposes of a community cat program, providing needed veterinary care, adoption, transfer to a rescue group, or reunification with his/her owner.
- G. Socialized cats and all kittens subject to TNVR shall be eligible to be, but not mandated to be, re-socialized and put up for adoption.
- H. It shall not be a violation of this section to determine that the best course of action for a particular cat, or cat colony, is to be left alone.
- I. Leash laws, stray laws, licensing laws, and limitations on the number of cats owned, kept, held, or harbored, and feeding bans shall not apply to community cat caretakers.
- J. Animal control and code enforcement officers shall use appropriate opportunities to inform stakeholders about TNVR.

- K. Animal control officers within the Town of Amherst shall implement and administer this article in consultation with community cat welfare experts, including Alley Cat Allies, NYC Feral Cat Initiative, Best Friends Animal Society, American Association of Feline Practitioners, Neighborhood Cats, IndyFeral, Feral Cat Focus, and the No Kill Advocacy Center.
- L. It shall be permitted in the Town of Amherst to feed community cats provided that best feeding practices are followed.

§ 99-20.1. Enforcement.

this article shall be enforced by the Village Code Enforcement Officials, Town of Amherst Animal Control Officer and Amherst Police Department, each of whom are hereby authorized to issue and serve appearance tickets upon any person in violation of this article.

§ 99-21. Penalties For Offenses.

Except as otherwise provided in Article 7 of the Agriculture and Markets Law, any person committing an offense against any of the provisions of this article shall be guilty of a violation as defined by the Penal Law and, upon conviction thereof, shall be punishable for each offense by a fine not to exceed \$250 or imprisonment for not more than 15 days, or by both a fine and imprisonment.

*Town of Amherst, NY
Wednesday, June 2, 2021*

Chapter 203. Zoning

PART 2.. DEFINITIONS AND MEASUREMENTS

§ 2-1. Definition of Terms

2-1-1. Words in this Ordinance are normally used in their ordinary English usage. Certain terms shall have the meanings that follow, except where the context clearly indicates a different meaning.

2-1-2. The word "shall" is mandatory; the word "may" is permissive; "should" is to be interpreted as expressing that which is desired but not specifically required.

2-1-3. All words used in the singular include the plural, and all words used in the present tense include the future tense.

Town of Amherst, NY
Wednesday, June 2, 2021

Chapter 203. Zoning

PART 3.. RESIDENTIAL DISTRICTS

§ 3-2. Rural Residential District (R-R)

3-2-1. **Purpose.** To provide areas for low-density, se mi-rural single-family detached residential development that recognizes the need to protect the long-term viability of surrounding agricultural operations. The R-R District also accommodates farms, farm-related activities, and other nonintensive compatible uses.

3-2-2. Principal and Special Uses.

A. **Permitted Uses and Structures.** There shall be not more than one principal residential structure permitted on a lot in the R-R district.

R-R	Permitted	Special Use	Standards
OPEN USES			
Farm	✓		
Stables, public or private	✓		§ 6-1-1
RESIDENTIAL USES			
Single-family detached	✓		
PUBLIC AND CIVIC USES			
Minor utilities	✓		
Park or open space	✓		
Place of worship	✓		§ 6-3-3
Public utility service structure or facility		✓	§ 6-3-4
Telecommunication facility		✓	§ 6-7
COMMERCIAL USES			
Bed and breakfast		✓	§ 6-4-2
INDUSTRIAL USES			
<i>No industrial uses allowed</i>			

B. Dimensional Standards.

R-R Principal Use Dimensional Standards	
Min. lot area (per dwelling)	3 acres
Min. lot width	200 ft
Min. front yard	50 ft
Min. rear yard	See § 2-5-4B(3)
Min. side yard	See § 2-5-4B(3)
Max. height	
Residential	2 stories (up to 35 ft)
Nonresidential	65 ft
Max. building coverage (residential use only)	25%
<i>Note: For explanation of measurements, computations, and exceptions see § 2-5.^[1]</i>	

[1] *Editor's Note: The diagram which immediately followed this table was repealed 2-8-2016 by L.L. No. 2-2016.*

3-2-3. Accessory Uses and Structures.

- A. **Permitted Accessory Uses and Structures.** The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of § 6-8, Accessory Uses or Part 7, General Development Standards.

R-R Permitted Accessory Uses and Structures	Standards
Uses and structures customarily incidental to the above	
Auxiliary housing units	§ 6-8-2
Cat boarding facility [Added 2-4-2008 by L.L. No. 1-2008]	§ 6-8-7
Detached private garages and parking areas	
Greenhouse	
Home occupation Type 1 or Type II	§ 6-8-6
Kennels, accessory	§ 6-8-7
Solar energy system [Added 12-11-2017 by L.L. No. 24-2017]	§ 6-10
Off-street parking, loading and stacking	§ 7-1
Private gardens	
Private recreational uses and structures	
Produce stand only selling items grown on-site	
Rooming and boarding of not more than two persons	
Signs	§ 7-8
Small wind energy system [Added 8-17-2009 by L.L. No. 12-2009]	§ 6-8-14
Swimming pool and tennis court	§ 6-8-12

B. Dimensional Standards.

R-R Accessory Use Dimensional Standards	
Min. building separation	5 ft

R-R Accessory Use Dimensional Standards	
Min. from lot line	5 ft
Max. height	30 ft
Max. building coverage (including principle ^[2] structure)	35%
<i>Note:</i> For explanation of measurements, computations, and exceptions see § 2-5.	

[2] *So in original.*

3-2-4. General Development Standards.

- A. For rural residential cluster development provisions, see § 3-15-4.
- B. Development in the R-R District shall also comply with the requirements referenced in the table below.

R-R General Development Standards	
Off-Street Parking, Loading and Stacking	§ 7-1
Landscaping, Buffers and Screening	§ 7-2
Site Lighting	§ 7-3
Outdoor Storage and Display	§ 7-4
Fences and Walls	§ 7-5
Access and Circulation	§ 7-6
Provisions for Flood Hazard Reduction	§ 7-7
Sign Regulations	§ 7-8
Performance Standards	§ 7-9
Bulk Storage of Combustible or Flammable Liquids	§ 7-10

Town of Amherst, NY
Wednesday, June 2, 2021

Chapter 203. Zoning

PART 3.. RESIDENTIAL DISTRICTS

§ 3-3. Suburban Agricultural District (S-A)

3-3-1. **Purpose.** To provide areas for low-density, single-family detached residential development which would also accommodate farms, farm-related activities, and other nonintensive compatible uses.

3-3-2. Principal and Special Uses.

- A. **Permitted Uses and Structures.** There shall be not more than one principal residential structure permitted on a lot in the S-A district.

S-A	Permitted	Special Use	Standards
OPEN USES			
Farm	✓		
Stables, public or private	✓		§ 6-1-1
RESIDENTIAL USES			
Single-family detached	✓		
PUBLIC AND CIVIC USES			
Minor utilities	✓		
Park or open space	✓		
Place of worship	✓		§ 6-3-3
Public utility service structure or facility		✓	§ 6-3-4
Telecommunication facility		✓	§ 6-7
COMMERCIAL USES			
Bed and breakfast		✓	§ 6-4-2
Ground-mounted solar energy system, Tier III [Added 12-11-2017 by L.L. No. 24-2017]		✓	§ 6-10
Ground-mounted solar energy system, Tier I & Tier II [Added 12-11-2017 by L.L. No. 24-2017]	✓		§ 6-10

S-A	Permitted	Special Use	Standards
INDUSTRIAL USES			
<i>No industrial uses allowed</i>			

B. Dimensional Standards.

S-A Principal Use Dimensional Standards	
Min. lot area (per dwelling)	1 acre
Min. lot width	200 ft
Min. Yards	
Front yard	50 ft
Rear Yard	See § 2-5-4B(3)
Side Yard	See § 2-5-4B(3)
Corner lot	See 2-5-2A(5)
Through lot	See 2-5-2A(2)
Max. height	
Residential	2 stories (up to 35 ft)
Nonresidential	65 ft
Max. building coverage	25%
Min. floor area (dwelling only)	
Under 2 stories	1,000 sf
2 or more stories	1,200 sf
<i>Note: For explanation of measurements, computations, and exceptions see § 2-5.[1]</i>	

[1] *Editor's Note: The diagram which immediately followed this table was repealed 2-8-2016 by L.L. No. 2-2016.*

3-3-3. Accessory Uses and Structures.

- A. Permitted Accessory Uses and Structures.** The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of § 6-8, Accessory Uses or Part 7, General Development Standards.

S-A Permitted Accessory Uses and Structures	Standards
Auxiliary housing units	§ 6-8-2
Cat boarding facility [Added 2-4-2008 by L.L. No. 1-2008]	§ 6-8-7
Detached private garages and parking areas	
Greenhouse	
Home occupations	§ 6-8-6
Kennels, accessory	§ 6-8-7
Off-street parking, loading and stacking	§ 7-1
Private gardens	
Private schools and day-care centers, accredited when required by NYS, when accessory to a place of worship	
Private recreational uses and structures	

S-A Permitted Accessory Uses and Structures	Standards
Raising of livestock for noncommercial purposes	§ 6-8-9
Solar energy systems [Added 12-11-2017 by L.L. No. 24-2017]	§ 6-10
Rooming and boarding of not more than two persons	
Signs	§ 7-8
Small wind energy system [Added 8-17-2009 by L.L. No. 12-2009]	§ 6-8-14
Swimming pools	§ 6-8-12
Other uses and structures customarily incidental to the principal use	

B. Dimensional Standards.

S-A Accessory Use Dimensional Standards	
Min. building separation	5 ft
Min. from lot line	5 ft
Max. height	30 ft
Max. building coverage (including principal structure)	35%
<i>Note:</i> For explanation of measurements, computations, and exceptions see § 2-5.	

3-3-4. **General Development Standards.** Development in the S-A district shall also comply with the requirements referenced in the table below.

S-A General Development Standards	
Off-Street Parking, Loading and Stacking	§ 7-1
Landscaping, Buffers and Screening	§ 7-2
Site Lighting	§ 7-3
Outdoor Storage and Display	§ 7-4
Fences and Walls	§ 7-5
Access and Circulation	§ 7-6
Provisions for Flood Hazard Reduction	§ 7-7
Sign Regulations	§ 7-8
Performance Standards	§ 7-9
Bulk Storage of Combustible or Flammable Liquids	§ 7-10

Town of Amherst, NY
Wednesday, June 2, 2021

Chapter 203. Zoning

PART 5.. SPECIAL PURPOSE AND OVERLAY DISTRICTS

§ 5-1. Agricultural (AG)

5-1-1. **Purpose.** To provide for continued use of land for agricultural purposes, including farms, floriculture, orchards and nurseries promoting an environment conducive to the long-term stability of agriculture. This district provides for compatible land uses supported by the permitted agricultural uses.

5-1-2. Principal Uses and Structures.

- A. **Permitted and Special Uses.** There shall be not more than one principal residential structure permitted on a lot in the AG district.

AG	Permitted	Special Use	Standards
OPEN USES			
Animal husbandry	✓		
Farm	✓		
Plant nursery	✓		
Stables, public or private	✓		§ 6-1-1
RESIDENTIAL USES			
Single-family detached	✓		
PUBLIC AND CIVIC USES			
Minor utility	✓		
Park or open space	✓		
Place of worship	✓		§ 6-3-3
Telecommunication facility		✓	§ 6-7
COMMERCIAL USES			
Agricultural products, sale of	✓		
Animal grooming, animal hospital or veterinarian	✓		§ 6-4-1

AG	Permitted	Special Use	Standards
Bed and breakfast	✓		§ 6-4-2
Dog day care facility [Added 10-17-2011 by L.L. No. 25-2011]	✓		§ 6-4-13 [Amended 11-5-2012 by L.L. No. 17-2012]
Ground-mounted solar energy system, Tier I & Tier II [Added 12-14-2020 by L.L. No. 18-2020]	✓		§ 6-10
Ground-mounted solar energy system, Tier III [Added 12-14-2020 by L.L. No. 18-2020]		✓	§ 6-10
Kennel, commercial	✓		§ 6-8-7
Riding academy	✓		
INDUSTRIAL USES			
<i>No industrial uses allowed</i>			

B. Dimensional Standards.

AG Principal Use Dimensional Standards	
Min. lot area	5 acres
Min. lot area per dwelling	5 acres
Min. lot width	200 ft
Min. front yard	50 ft
Min. rear yard	See § 2-5-4B(3)
Min. side yard	See § 2-5-4B(3)
Max. height	
Residential	2 stories (up to 35 ft)
Nonresidential	65 ft
Max. building coverage (residential use only)	15%
<i>Note: For explanation of measurements, computations, and exceptions see § 2-5.^[1]</i>	

[1] *Editor's Note: The diagram which immediately followed this table was repealed 2-8-2016 by L.L. No. 2-2016.*

5-1-3. Accessory Uses and Structures.

- A. **Permitted Accessory Uses and Structures.** The following accessory uses and structures incidental to any permitted principal use are allowed subject to the requirements of § 6-8, Accessory Uses or Part 7, General Development Standards.

AG Permitted Accessory Uses and Structures	Standards
Uses and structures customarily incidental to the above	
Auxiliary housing unit	§ 6-8-2
Cat boarding facility [Added 2-4-2008 by L.L. No. 1-2008]	§ 6-8-7
Detached private garages and parking area	

AG Permitted Accessory Uses and Structures	Standards
Greenhouse	
Home occupation Type 1 or Type II	§ 6-8-6
Kennel, accessory	§ 6-8-7
Off-street parking, loading and stacking	§ 7-1
Private garden	
Private recreational uses and structure	
Produce stand only selling items grown on-site	
Solar energy system [Added 12-11-2017 by L.L. No. 24-2017]	§ 6-10
Rooming and boarding of not more than two persons	
Sign	§ 7-8
Small wind energy system [Added 8-17-2009 by L.L. No. 12-2009]	§ 6-8-14
Swimming pool and tennis court	§ 6-8-12

B. Dimensional Standards.

AG Accessory Use Dimensional Standards	
Min. building separation	5 ft
Min. from lot line	3 ft
Max. height	30 ft
Max. building coverage (residential use only)	15%
<i>Note: For explanation of measurements, computations, and exceptions see § 2-5.</i>	

5-1-4. **General Development Standards.** Development in the AG District shall also comply with the requirements referenced in the table below.

AG General Development Standards	
Off-Street Parking, Loading and Stacking	§ 7-1
Landscaping, Buffers and Screening	§ 7-2
Site Lighting	§ 7-3
Outdoor Storage and Display	§ 7-4
Fences and Walls	§ 7-5
Access and Circulation	§ 7-6
Provisions for Flood Hazard Reduction	§ 7-7
Sign Regulations	§ 7-8
Performance Standards	§ 7-9
Bulk Storage of Combustible or Flammable Liquids	§ 7-10

*Town of Amherst, NY
Wednesday, June 2, 2021*

Chapter 203. Zoning

PART 6.. USE REGULATIONS

§ 6-1. Open Use Standards

6-1-1. **Stables, Public or Private.** A stable is permitted in accordance with the district use tables in Part 3 or Part 5, subject to the following standards.

- A. A maximum of two horses shall be allowed on the first two acres with an additional horse allowed for each additional two acres.
- B. The stable and all exercise tracks shall be located at least 50 feet from any lot line; and
- C. The manure from such stables shall be stored in tightly covered containers, which will control odor and insects.

§ 6-8. Accessory Uses and Structures

6-8-1. **General Standards.**

- A. Any accessory use may be permitted provided that it is customarily associated with a primary use that may be permitted by right consistent with the district use tables in Parts 3, 4, and 5. The establishment of such accessory uses shall be consistent with the following standards.
 - (1) The accessory use shall be subordinate to the primary use or principal structure;
 - (2) The accessory use shall be subordinate in area, extent or purpose to the primary use served;
 - (3) No accessory structure shall be located in the required front yard of the structure to which it is accessory and the street line of the street servicing it.
 - (4) The accessory use shall be located within the same zoning district as the primary use; and
 - (5) Accessory uses located in residential districts shall not be used for business purposes other than legitimate Home Occupations.
- B. The total floor area of all accessory structures and the floor area of attached or built-in garages shall not exceed 75 percent of the floor area of the principal structure, except as permitted by the ZBA in accordance with the provisions of § 8-13 of this Ordinance.
- C. In the R-R and AG districts, the total floor area of all accessory structures shall not exceed 200 percent of the floor area of the principal structure, except as permitted by the ZBA in accordance with the provisions of § 8-13 of this Ordinance.

6-8-2. Auxiliary Housing Units. Where permitted as an accessory use in Part 3, an auxiliary housing unit may be constructed within any single-family detached dwelling following approval of a special use permit as set forth in § 8-6, subject to the following standards.

- A. An auxiliary housing unit shall accommodate not more than two members of the family occupying the principal dwelling. At least one of the persons housed in the auxiliary housing unit shall be at least 60 years of age or handicapped or otherwise incapacitated to the extent that independent housing is not practical.
- B. The auxiliary housing unit shall not exceed 500 square feet.
- C. The permit for the auxiliary housing unit shall be valid for a period not exceeding two years. Thereafter, it can be renewed, from time to time, for additional two-year periods upon proof satisfactory to the ZBA that the circumstances warranting the original permit continue to exist.

6-8-3. Commercial Recreation. Where permitted as an accessory use in Part 4, commercial recreation shall occupy no more than 15 percent of the gross floor area of the principal structure.

6-8-4. Convenience Retail and Service. Where permitted as an accessory use in Part 3 & 5, a convenience retail and service facility shall be subject to the following standards.

[Amended 12-14-2020 by L.L. No. 20-2020]

- A. In the MFR-7 district, the facility shall be designed to serve the needs of the residents of the project and have no signs outside the building. The total gross floor area of such facility shall not exceed five square feet per dwelling unit within the project.
- B. In the MHR-8 district, the facility shall be designed to serve the needs of the residents of the manufactured home park. One identification sign not exceeding two square feet in area shall be permitted. Pole signs shall not be permitted. The total floor area shall not exceed 30 square feet per lot within the manufactured home park. Automobile drive-in restaurants shall not be permitted.
- C. In the RD district, the convenience retail and service facility shall be designed to serve the needs of the employees of the industrial park and meet the following standards:
 - (1) Be part of a planned research and development park, manufacturing park or industrial park, and
 - (2) Such supportive convenience retail and retail service facility is established after the planned development park, manufacturing park or industrial park is established and such development park is 50 percent occupied, and
 - (3) The convenience retail/service is within 0.25 miles of the principal use site and not within 0.25 miles of another convenience retail and service facility, and
 - (4) The convenience retail/service does not exceed 5,000 gross square feet.

6-8-5. Conference Center. Where permitted as an accessory use in the ST district, a conference center shall be subject to the following standards.

- A. The minimum district size shall be 25 acres.
- B. One conference center shall be permitted per district.

6-8-6. Home Occupations. Where permitted as an accessory use in Part 3, a home occupation shall be subject to the following standards.

- A. **General Standards.**

- (1) A home occupation is that accessory use of a dwelling that shall constitute all or some portion of the livelihood of a person or persons living in the dwelling. The home occupation shall be incidental and subordinate to the use of the premises for residential purposes.
 - (2) There shall be no change in the outside appearance of the building or premises or other evidence from the outside of the conduct of a home occupation.
 - (3) No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
 - (4) Instruction in music, dancing and similar subjects shall be limited to two students at a time.
 - (5) All activities involving outside visitors, clients or deliveries shall be limited to the hours between 8 A.M. and 9 P.M.
 - (6) Off-street parking shall be provided at the rate of one space per 200 square feet of home occupation floor area. The off-street parking spaces required for the home occupation shall be maintained in addition to the space or spaces required for the residence itself. No parking spaces, other than driveways, may be located in the required front yard setback. Parking spaces shall be screened from adjacent parcels with residential zoning using tree and shrub plantings, earthen berms, low walls or a combination of these methods to establish a visual screen at least 36 inches above the highest surrounding grade within two years of installation.
 - (7) No display pertaining to the home occupation shall be visible from outside the dwelling.
 - (8) In the R-4 district, home occupations shall be permitted only as accessory uses to detached dwelling units.
 - (9) The area devoted to the home occupation shall not exceed 15 percent of the ground floor area of the principal structure.
[Amended 2-4-2008 by L.L. No. 1-2008]
 - (10) A home occupation may be allowed in an attached dwelling unit provided that such dwelling unit has a primary exterior entrance.
- B. Home Occupation Types.** Home occupations shall be separated into two categories and permitted subject to the following provisions.
[Amended 2-8-2016 by L.L. No. 2-2016]
- (1) **Type 1 Home Occupation.** A Type 1 Home Occupation shall be deemed an accessory use for a detached dwelling unit and no further approval shall be required. Such home occupation shall meet the following standards.
 - (a) The business shall be conducted entirely within a dwelling or integral part of a dwelling and have no outside storage of any kind related to the home occupation.
 - (b) The business shall be clearly incidental and secondary to the principal use of the dwelling.
 - (c) The business shall be conducted only by persons residing on the premises (nonresident employees are not permitted).
 - (d) There shall be no identification sign, display or advertising of the home occupation on the site or structures.

- (e) The business shall involve no retail sales or services provided to customers on-site, and shall not include any storage, pick-up or delivery of merchandise or equipment, except for standard parcel delivery services.
- (2) **Type 2 Home Occupation.** Following approval as a special use by the ZBA, a limited business operation may be conducted as a Type 2 Home Occupation. Upon demonstration of continued compliance with the conditions of the original approval, the Commissioner of Building shall biennially renew the special use permit. If violations are determined, then a new application for a special use permit shall be submitted to the ZBA. The Commissioner of Building may inspect the premises without prior notice during normal business hours. Such home occupation shall meet the following standards.
[Amended 3-4-2019 by L.L. No. 6-2019]
- (a) The home occupation may have only one nonresident employee, assistant or associate.
 - (b) No more than one unlighted sign not more than two square feet in size, identifying the resident and the business, attached flat against the building, shall be permitted. Such sign may be allowed in the required front yard along an arterial or collector street upon approval by the ZBA.
- C. **Exclusions to Home Occupations.** No home occupation shall be permitted that has any of the following characteristics:
- (1) Internal or external alterations inconsistent with the residential use of the building;
 - (2) Except for signage and parking as permitted under this Ordinance, home occupation activities shall not be visible from the street;
 - (3) Creates a hazard to persons or property;
 - (4) Results in electrical interference;
 - (5) Is a nuisance; or
 - (6) Results in outside storage or display.
- D. **Prohibited Home Occupations.** The following are prohibited as Home Occupations:
- (1) Automobile and/or body and fender repairing;
 - (2) Greenhouse, commercial nurseries and truck farming;
 - (3) Food handling, processing or packing, other than catering services that utilize standard home kitchen equipment;
 - (4) Repair, manufacturing and processing uses; however, this shall not exclude the home occupation of a seamstress where goods are not manufactured for stock, sale or distribution;
 - (5) Restaurants; and
 - (6) Uses which entail the harboring, training, raising or treatment of dogs, cats, birds or other animals on-site.

6-8-7. Kennels.

[Amended 8-20-2012 by L.L. No. 15-2012]

- A. Kennels or any outdoor runs shall have a minimum front yard of 200 feet and a minimum side and rear yard of 100 feet.
- B. Outdoor runs shall be visually screened from adjacent properties and public right-of-way with an opaque material, which may include shrubs, walls, fences or berms, and which are a minimum of six feet in height. Where vegetative material is used, said material shall form an opaque screen within two years from the time of first planting.

6-8-8. **Park Office.** Where permitted as an accessory use in the MHR-8 district, a park office shall be subject to the following standards.

- A. One identification sign per use not exceeding two square feet in area shall be permitted. Pole signs shall not be permitted.
- B. The total floor area shall not exceed 30 square feet per lot within the manufactured home park.

6-8-9. **Raising of Livestock, Noncommercial.**

[Amended 1-22-2013 by L.L. No. 2-2013; 5-12-2014 by L.L. No. 11-2014]

- A. Where permitted as an accessory use in the S-A district, the raising of livestock, except for chickens as regulated in Chapter 203 § 6-8-9(B), for noncommercial purpose shall be subject to the following standards:
 - 1. The lot size shall be two (2) acres or more;
 - 2. Any structures for the housing of livestock shall be a minimum of 50 feet from any lot line;
 - 3. Fences or other enclosures shall be provided so as to keep the livestock 50 feet from the lot line.
- B. In the R-R, R-1, R-2, R-3 and R-4 districts, chickens may be raised upon the approval of a temporary Special Use Permit by the Zoning Board of Appeals (ZBA) in compliance with the following minimum regulations:
 - 1. The raising of chickens shall be conducted as an accessory use on the same premises associated with an occupied single-family detached dwelling as the principal use;
 - 2. The chickens shall be raised for noncommercial purposes;
 - 3. The number of chickens shall be limited to a maximum of six (6);
 - 4. Roosters shall not be allowed. Breeding of chickens on-site shall not be allowed;
 - 5. The Special Use Permit shall be limited to the applicant and shall not be transferable;
 - 6. The raising of the chickens shall be subject to all applicable sanitary, noise and property maintenance regulations, ordinances and laws. Chicken waste shall not be composted or mulched on-site. Chicken waste shall be stored in appropriate containers that do not create any nuisance;
 - 7. Any odor associated with the raising of the chickens shall not be perceptible beyond the property line of the premises where the chickens are being raised;
 - 8. The chickens must be kept in coops or in fenced or walled enclosures (chicken run) at all times so constructed that the chickens can not fly over any fence or wall or otherwise escape from the coop or chicken run. The chickens shall not be allowed to roam freely beyond the property lines of the premises associated with the ZBA application;

9. Feed for the chickens must be stored in secure containers that will not attract rodents, vermin or pests of any type. Unsecured excess feed shall not be allowed;
10. Chickens shall not be allowed in the front yard between the principal structure and a public or private street;
11. Chicken coops or other structures for the housing of the chickens, that are established on or after May 1, 2014, shall be located at least fifteen (15) feet from any property line. Chicken coops or other structures for the housing of the chickens, that exist prior to May 1, 2014, shall be located at least three (3) feet from any property line.
12. The ZBA may require screening of the chicken coop or chicken run as deemed appropriate.
13. The Special Use Permit shall be valid for a maximum of two years. The ZBA may grant approval of the Special Use Permit for a period less than two years. Additional consecutive or non-consecutive Special Use Permits may be granted by the ZBA upon the filing of each new application.
14. The ZBA shall solicit input from property owners within 100 feet of the applicant's property and shall evaluate any complaints that have been received relative to the raising of chickens on the property.
15. Prior to the ZBA hearing for the temporary Special Use Permit, the Building Department shall conduct an inspection of the premises associated with application for the Special Use Permit. The inspection shall note any property maintenance issues and shall include an inspection of the proposed chicken coop (if it exists). The Building Department will provide a report of their findings to the ZBA.

6-8-10. **Restaurant.** Where permitted as an accessory use in Part 4 or Part 5, a restaurant without a drive-through shall occupy no more than 15 percent of the gross floor area of the principal structure.

[Amended 3-4-2019 by L.L. No. 6-2019; 12-14-2020 by L.L. No. 20-2020]

- A. In the RD district, the restaurant shall be designed to serve the needs of the employees of the industrial park and meet the following standards:
 - (1) Be part of a planned research and development park, manufacturing park or industrial park, and
 - (2) Such supportive restaurant is established after the planned development park, manufacturing park or industrial park is established and such development park is 50 percent occupied, and
 - (3) The supportive restaurant is within 0.25 miles of the principal use site and not within 0.25 miles of another supportive restaurant, and
 - (4) The supportive restaurant does not exceed 5,000 gross square feet.

6-8-11. **Retail Sales and Service.** Where permitted as an accessory use in Part 3, Part 4 or Part 5, retail sales and service shall occupy no more than 15 percent of the gross floor area of the principal structure:

[Amended 3-4-2019 by L.L. No. 6-2019]

6-8-12. **Swimming Pool and Tennis Court.** Where permitted as an accessory use in Part 3, Part 4 or Part 5, limits on maximum building coverage shall not apply to swimming pools or tennis courts. Within a front yard or a required side yard, swimming pools and tennis courts are not permitted, except to the extent permitted for accessory structures in the district.

[Amended 2-4-2008 by L.L. No. 1-2008; 3-4-2019 by L.L. No. 6-2019]

6-8-13. **Dumpsters.** See § 7-2-4D.

6-8-14. **Small Wind Energy Systems.**

[Added 8-17-2009 by L.L. No. 12-2009]

A. **Purpose.** This section is intended to provide standards to promote the safe, effective and efficient use of small wind energy systems designed for home, farm and small commercial use and that are primarily used to reduce the on-site consumption of utility supplied electricity.

B. **Development Standards.** A small wind energy system is permitted in accordance with the district use tables in Part 3, Part 4 or Part 5, subject to the following standards.

(1) **General Standards.**

- (a) A small wind energy system shall be located on a lot a minimum of one acre in size. Only one small wind energy system per lot shall be allowed.
- (b) Tower height, measured as the vertical distance from ground level to the tip of the blade at its highest point, shall be a maximum of 65 feet. The allowable height shall be reduced if necessary to comply with all applicable Federal Aviation Administration requirements. The minimum distance between the ground and any part of the rotor blade shall be 30 feet.
- (c) The minimum required setback from property lines, overhead utility lines, and the primary structure shall be equal to the total height of the tower and the turbine. No part of the small wind energy system, including guy wire anchors, shall extend closer than ten feet to the property line.
- (d) Except during short-term events including utility outages and severe wind storms, the noise level produced by the operation of a small wind energy system shall not exceed 50 decibels, as measured at the site property line.
- (e) Exterior lighting on the system shall not be allowed, except that which is specifically required by the Federal Aviation Administration.
- (f) Other than appropriate warning signage, a small wind energy system shall not be used as, or used to support, signage. In addition, a small wind energy system shall not be used to support radio, television, or telecommunication equipment.
- (g) The system's tower and blades shall remain painted or finished the color originally applied by the manufacturer, typically a non-reflective light gray or light blue color.

(2) **Safety Standards.**

- (a) Towers with climbing features shall be constructed to provide one of the following means of access control, or other appropriate method of access.
 - (i) Tower-climbing apparatus located no closer than 12 feet from the ground.
 - (ii) A locked anti-climb device installed on the tower.
 - (iii) A locked, protective fence at least six feet in height that encloses the base of the tower.
- (b) All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.

- (c) The small wind energy system shall be equipped with manual and automatic over-speed controls.

(3) Siting and Installation Standards.

- (a) A small wind energy system shall be designed and constructed to be in compliance with the applicable provisions of the Uniform Fire Prevention and Building Code and National Electrical Code. Applications for a small wind energy system shall submit the following information:
 - (i) Legal property survey;
 - (ii) Property lines and physical dimensions of the property;
 - (iii) Location, dimensions, and types of all existing structures on the property;
 - (iv) Location of the proposed small wind energy system and all associated equipment;
 - (v) The right-of-way of any public road that is contiguous with the property;
 - (vi) Any overhead utility lines and/or buried utility locations;
 - (vii) Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type;
 - (viii) Tower foundation blueprints or drawings;
 - (ix) Tower blueprint or drawing;
 - (x) Line drawing of electrical components; and
 - (xi) Other information as required by the Commissioner of Building.
- (b) No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (c) All on-site electrical wires associated with a small wind energy system shall be installed underground, except for "tie-ins" to a public utility company and public utility transmission poles, towers, and lines.

(4) Maintenance and Removal.

- (a) The small wind energy system shall be maintained in good condition. Such maintenance shall include, but not be limited to, painting and structural integrity of the foundation and support structure and security barrier (if applicable).
- (b) Any small wind energy system that is found to be unsafe by the Commissioner of Building shall be repaired by the owner or be removed within 120 days. In the event that a small wind energy system is not operational for a period of 6 consecutive months or more, the Town will notify the landowner by registered mail and provide 45 days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for the corrective action. If the Commissioner of Building deems the timetable for corrective action as unreasonable, the Town shall notify the landowner and such landowner shall remove the small wind energy system and all associated equipment within 120 days.

*Town of Amherst, NY
Wednesday, June 2, 2021*

Chapter 203. Zoning

PART 6.. USE REGULATIONS

§ 6-1. Open Use Standards

6-1-1. **Stables, Public or Private.** A stable is permitted in accordance with the district use tables in Part 3 or Part 5, subject to the following standards.

- A. A maximum of two horses shall be allowed on the first two acres with an additional horse allowed for each additional two acres.
- B. The stable and all exercise tracks shall be located at least 50 feet from any lot line; and
- C. The manure from such stables shall be stored in tightly covered containers, which will control odor and insects.

*Town of Amherst, NY
Wednesday, June 2, 2021*

Chapter 203. Zoning

PART 6.. USE REGULATIONS

§ 6-10. Solar Energy.

[Added 12-11-2017 by L.L. No. 24-2017; amended 12-14-2020 by L.L. No. 18-2020]

6-10-1. Purpose. This Solar Energy Law is adopted to provide provisions for, so far as conditions may permit, the accommodation of solar energy systems and equipment, including:

- A. Taking advantage of a safe, abundant, renewable, and non-polluting energy resource;
- B. Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses;
- C. Increasing employment and business development in the region by furthering the installation of Solar Energy Systems;
- D. Minimizing adverse impacts on neighboring properties through thoughtful design and installation of Solar Energy Systems;
- E. Insure solar developments conform to the existing community character as defined in the Comprehensive Plan and are compatible with the Focal Area Plan for North Amherst; and
- F. To protect prime farmland and promote dual use/colocation of solar energy developments to protect active farming and agricultural land.

6-10-2. Definitions. (See Section 2-1 "Specific Terms" of Zoning Ordinance)

6-10-3. Applicability. The requirements of this law shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair and Building-Integrated Photovoltaic Systems.

6-10-4. General Requirements.

- A. Building permits are required for all solar energy systems.
- B. Qualified Installer. All solar energy systems must be installed by a qualified solar installer and, prior to issuance of a Certificate of Compliance, must be inspected by a Town Building Inspector. In addition, any connection to the public utility grid must be approved by the appropriate public utility.
- C. Storage Batteries. When storage batteries are included as part of the system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Erie County and other applicable laws and regulations. Such battery storage structures shall be located within the solar compound.

- D. Notice of Intent. The developer of a proposed Tier III solar energy system shall provide any required written notice of intent to the Town Supervisor, the Town Attorney and the Town Planning Director. All required notice of intent communications shall be by mail.

6-10-5. Roof-mounted and Building-Integrated Solar Energy Systems. The following standards are applicable to rooftop and building-mounted photovoltaic and solar-thermal energy systems:

- A. Permitted in all zoning districts.
- B. No size thresholds, except as limited by the applicable edition of the New York State Uniform Fire Prevention and Building Code.
- C. Site plan approval:
 - 1) Site plan approval or modification is not required for changes to or the addition of roof-mounted or building-integrated solar energy systems.
 - 2) Site plan approval or modification is required for any equipment (i.e. storage batteries) related to roof-mounted or building-integrated solar energy systems that will be located on the ground.
- D. Roof-mounted solar panels facing a public right-of-way (front yard or side yard on a corner lot) must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
- E. Roof-mounted solar energy systems mounted on detached accessory structures (i.e. sheds, covered porches, carports) shall not exceed the maximum height restrictions for accessory structures of the underlying zoning district.
- F. Glare. Solar energy systems shall be designed and located in order to limit reflective glare within the airport's approach zones, as well as towards roads or any habitable or occupiable building on adjacent properties.
- G. Safety. No roof-mounted solar-thermal energy system shall be located in a manner that would cause the shedding of ice or snow from the roof into an open porch, stairwell or pedestrian travel area. If no other alternative is available, the Building Commissioner may approve such installation with the addition of necessary safety features, such as snow guards and diverters.

6-10-6. Standards applicable to all ground-mounted solar energy systems.

- A. Height. The maximum height for all ground-mounted systems is 20 feet when the system is oriented at maximum vertical tilt.
- B. Setbacks. Ground-mounted solar energy systems shall adhere to the setback requirements as outlined in Section 7B. below.
- C. Siting on the Lot. All such systems shall be installed in the side or rear yards and shall not be permitted in the front of the building line in any yard facing a public street.
- D. Maintenance. The owner or operator shall maintain the facility in good condition. Maintenance shall include, but not limited to, structural repairs and integrity of security measures.
- E. Abandonment. If a solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collectors, plates, piping, mounts and associated equipment and facilities by no later than 150 days after the end of the twelve-month period.

6-10-7. Additional standards for ground-mounted solar energy systems.

- A. Ground-mounted solar energy systems are divided into three size categories, as follows
- 1) Tier I ground-mounted solar energy systems have a total facility footprint of 2,000 square feet or less.
 - 2) Tier II ground-mounted solar energy systems have a total facility footprint of more than 2,000 square feet and less than 7,000 square feet.
 - 3) Tier III ground-mounted solar energy systems have a total facility footprint equal to or greater than 7,000 square feet.
- B. Standards applicable to ground-mounted solar energy systems based on scale size.
- 1) **Tier I** ground-mounted solar energy systems standards:
 - a) Permitted in all zoning districts as an accessory use.
 - b) Setbacks. Ten feet minimum from side and rear yard lot lines.
 - c) Lot coverage. The footprint of the solar energy system counts towards the total maximum lot coverage as prescribed in the underlying zoning district.
 - d) Glare. Solar energy systems shall be designed and located in order to limit reflective glare within the airport's approach zones, as well as towards roads or any habitable or occupiable building on adjacent properties.
 - e) With the exception of a single-family lot, Minor Site plan review required.
 - f) Screening. Solar energy systems installed on residential land use shall be screened with a minimum of six feet to adjacent residential land uses or a public right-of-way. Screening for non-residential installations shall be required in accordance with § 203.7-2-4C.
 - 2) **Tier II** ground-mounted solar energy system standards
 - a) Permitted as an accessory use in the following zoning districts: Agricultural (AG), Rural Residential (RR), Community Facilities (CF), Recreation Conservation (RC), General Business (GB), Motor Service District (MS), Office Building (OB), Planned Residential District (PRD), Planned Development District (PDD), Multifamily Residential District Four-A (MFR-4A), Multifamily Residential District Five (MFR-5), Manufactured Home Residential District Eight (MFR-8).
 - b) Permitted as a principal or accessory use in the following zoning districts: Agricultural (AG), Suburban Agriculture (SA), General Industrial (GI), Commercial Service (CS), Research and Development (RD), and Science and Technology (ST).
 - c) Setbacks. Thirty feet minimum from a side or rear lot line.
 - d) Lot coverage. The footprint of the solar energy system counts towards the total maximum lot coverage as prescribed by the underlying zoning district.
 - e) Site Plan Review:
 1. Minor site plan review is required for districts within which the system is considered as an accessory use.
 2. Major site plan review is required for installations that will be considered the principal use of the property and shall provide the additional application information as required by Subsection 3.e. below.

- f) Design Standards:
1. Fencing. When fencing is installed, barbed wire or similar fence style shall not be utilized.
 2. Glare. Solar energy systems shall be designed and located in order to limit reflective glare within the airport's approach zones, as well as towards roads or any habitable or occupiable building on adjacent properties. A Glare Study and Visual Simulations may be required for Tier II projects.
 3. Screening. Solar energy systems installed on residential land use shall be screened with a minimum of six feet to adjacent residential land uses. Screening for non-residential installations shall be required in accordance with § 203.7-2-4C.

3) **Tier III solar energy system Special Use Permit standards:**

- a) Tier III solar energy systems may be permitted as a Special Use in the following zoning districts: Agricultural (AG), Suburban Agriculture (SA), Office Building (OB), Commercial Service (CS), Research and Development (RD), and Science and Technology (ST); and therefore is subject to the criteria outlined in Town Code § 203.8-6.
- b) Setback. Fifty feet minimum from any lot line. Access roads, and landscaping may occur within the setback. The required front setback shall be a minimum of fifty feet and shall be a maximum of 100 feet when concerns for community character have been identified.
- c) Foot print and lot coverage. The footprint of the solar energy system counts towards the total maximum building coverage as prescribed by the underlying zoning district with the exception of the Suburban Agriculture (SA) and Agricultural (AG) districts. In the Suburban Agriculture (SA) and Agricultural (AG) districts the maximum building coverage for Tier III solar energy systems including any principal or accessory structures on the site is 75 percent. Solar facilities located on contiguous or non-contiguous parcels under the same solar facility ownership or operator will be counted together towards maximum footprint calculations.
- d) Special Use Permit approved by the Town Board is required prior to construction, installation or modification. In addition to Special Use Permit application requirements (§ 203.8-6), the following additional information shall be submitted as part of the application:
 1. Ownership and Access. If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements for use and access.
 2. Site Plans. Site plans showing the layout of the solar energy systems, including all solar panels, significant components and equipment, mounting systems, and other important site features as required by the Subsection f) Design Standards below. Site plans must be signed by a Professional Engineer or Registered Architect.
 3. Materials used and other land uses on the site plan shall reflect the adjacent public highway corridor. Allowing space for an agricultural use or buildings should be a priority along the road frontage of a predominantly rural agricultural character.

4. A line of sight section along the entire extent of the project site to the adjacent roadways shall be shown either north to south or east to west depending on the project's location. The topography and vegetation should be clearly shown. Photos of the existing roadway character should also be submitted by the applicant.
5. Utility notification. Submission of documentation from the utility company that operates the electrical grid where the installation is to be located acknowledging the photovoltaic solar energy systems will be connected to the utility grid. Off-grid systems shall be exempt from this requirement.
6. Safety. The owner/operator shall provide evidence that a copy of the site plan application has been submitted to the appropriate Fire Safety Division. All means of shutting down the photovoltaic solar energy system shall be clearly marked on the site plan and building permit applications.
7. Operation and Maintenance. Submission of a plan for the operation and maintenance of the facility, to include measures for maintaining safe access, operational maintenance of the solar energy system, general property upkeep, such as mowing and trimming and an agricultural soils preservation plan if applicable.
 - a) For installations on prime farmland, projects shall comply with the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands. Where an agricultural soils preservation plan has been approved as part of a project, it shall be a condition of any such approval that such agricultural component will be maintained as approved.
8. Airport Approach Zone. Tier III ground-mounted solar energy systems within the airport's approach zone must receive clearance from the Buffalo Niagara International Airport that the planned facility will not create a flight safety issue due to reflective glare.
9. Decommissioning Plan. Submission of a decommissioning plan, to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility to ensure that the site is restored to its original state. Decommissioning cost estimates shall be prepared by a professional engineer or licensed contractor, and take into account inflation. Proof of sufficient decommissioning funds shall be required prior to issuance of a permit. Compliance with this plan shall be made a condition of the issuance of a special use permit. A mandatory performance bond is required prior to a Special Permit being issued for the development.
 - e) Major site plan review is required for all Tier III solar energy systems and shall provide the additional application information as required by Subsection 3.d. above.
 - f) Design Standards.
 1. Fencing. When fencing is installed, barbed wire or a similar style security-top fencing shall not be utilized. Fencing may be further screened by landscaping needed to avoid adverse aesthetic impacts. The fencing materials should be of a camouflage nature.
 2. Glare. Photovoltaic solar energy systems and other site elements shall be designed to minimize reflective glare toward roads and any inhabited building on adjacent properties. A Glare Study and Visual Simulations shall be submitted with any Tier III Project application.

3. Screening/Buffering. Based on site-specific conditions, including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving natural vegetation, creating berms, and providing landscape screening to abutting properties and roads, but should not result in shading solar energy systems. Screening shall be required in accordance with § 203.7-2-4C. The following may be required in addition to 7-2-4C:
 - a) The applicant shall follow 7-2-3(A) for the landscape and grading plan specifications. The proposed vegetation is recommended to include the same species located within northern Amherst near the project site.
 - b) The proposed vegetation shall be located to affectively screen the solar field. The proposed shrubs should be no less than 5-7 ft. on center and smaller trees no less than 10-12 ft. on center. The plantings on the south side of the solar array shall have a minimum mature height of 12 ft. Plantings along the northeast and northwest portion of the solar field shall have a minimum mature height of 20 ft. Plantings along the north side of the solar array shall have a minimum mature height of 30 ft.
 - c) All plantings shall be selected to be trimmed and managed by the utility company. Depending on the solar array design, a 3 to 6 ft. high berm (with a max. 1:3 slope) may be required. The berms should not interfere with the public road R.O.W. or existing utility easements.
4. Lighting. All lighting on the site related to the solar energy system shall comply with the Town's Site Lighting Standards § 203.7-3 and be limited to that required for safety and operational purposes.
5. Signage. All signage shall comply with the Town's Sign Regulations § 203.7-8. A sign shall be displayed on or near the main access point identifying the owner and providing a twenty-four-hour emergency contact phone number.
6. Utility Connections. Required connections to a utility providers' existing overhead infrastructure and all on site transmission lines and other electrical connections shall be made underground. One new above grade utility connection pole shall be permitted for metering and main connection purposes near the utility provider's existing distribution line. All new required connection equipment including but not limited to reclosers, GOABS, switch gear, fused cutouts and transformers shall be ground mounted and located within the solar compound, maintaining the required setbacks of the ground mounted solar compound.
7. Access Roads. The access road shall be designed to limit views into the solar array. All access roads should be dimensioned on the plan and materials specified. All access roads are required to be paved unless otherwise allowed by the Town of Amherst Commissioner of Building.
8. Natural resource mitigation. In the Agricultural District (AG), Suburban Agricultural District (SA), and the Rural Residential District (RR), Solar Energy System developments shall be required to maintain native vegetation to the extent practicable pursuant to a vegetation management plan: provide native perennial vegetation and foraging habitat beneficial to bees, game birds, songbirds and other pollinators where no active farming is present. When establishing perennial vegetation and beneficial foraging habitat, applicants shall be required to use native plant species and seed mixes. Additionally, animals such as sheep, goats and/or lambs may also be required. Apiculture shall be considered.

g) Decommissioning.

1. If a solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the owner and/or operator shall implement the decommissioning plan, to include, but not be limited to:
 - i. Removal of above-ground and below-ground equipment, structures and foundations.
 - ii. Restoration of the surface grade and soil after removal of equipment to a condition or better, which it existed prior to the installation. This includes adding an adequate layer of topsoil where existing topsoil has been removed or eroded.
 - iii. Herbaceous revegetation of restored soil areas with native seed mixes, excluding any invasive species.
2. If the owner and/or operator fail to fully implement the decommissioning plan within 180 days, then in addition to other remedies provided by this section or chapter, by New York Town Law § 268, or by law or equity, the Town may remove the solar energy system and restore the property according to the decommissioning plan and to cover these costs to the municipality.
3. Estimate and financial surety. As part of the decommissioning plan, the applicant shall also provide an estimate, prepared by a qualified engineer, setting forth the costs associated with decommissioning the solar farm at issue. The Board issuing the Special Use Permit shall establish the amount of such surety to be established by the applicant prior to the issuance of the building permit, at 125% of the estimate. The surety may be in the form of escrowed funds, bonds or otherwise, but it is the intention of the surety to ensure that the Town has sufficient funds available to remove the installations and restore landscaping consistent with the plan in the event that the applicant fails to comply with its decommissioning obligations. The decommissioning plan shall provide a mechanism for re-evaluating the amount of the required surety every five years.

E

**NYS Dept of Agriculture &
Markets Information**

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**New York State**  
**Department of Agriculture and Markets**  
**10B Airline Drive**  
**Albany, New York 12235**  
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CIRCULAR 1150

ARTICLE 25AA -- AGRICULTURAL DISTRICTS

AGRICULTURE AND MARKETS LAW
(AS AMENDED THROUGH January 1, 2009)
AGRICULTURAL DISTRICTS LAW

Summary of **1999 Amendments** to the Agricultural Districts Law

Section Amended:§301(4)(e) and §301(9)(e)

Description: Provides that land set aside through participation in a federal conservation program, regardless of the income derived from the land, shall be eligible for an agricultural assessment.

Effective Date: 9/7/99

Section Amended:§301(9)(e)

Description: Adds a new paragraph (e) to allow payments received for land set aside under a federal conservation reserve program to be included in calculating the average gross sales value of products produced in determining whether land used as a single farm operation qualifies as "land used in agricultural production."

Effective Date: 9/7/99

Section Amended:§303-a(4)

Description: Renumbers subdivision (4) to subdivision (5)

Effective Date: 7/20/99

Section Amended:§303-a(4)

Description: Adds a new subdivision (4) that states that if the county legislative body does not review a district upon its anniversary date, the agricultural district remains as originally constituted or until such time that the agricultural district is modified or terminated.

Effective Date: 7/20/99

Section Amended:§305(7)

Description: Provides that the real property tax exemption for agricultural land which is used solely for the purpose of replanting or crop expansion as part of an orchard or vineyard may be greater than 20% of the total acreage of such orchard or vineyard when such orchard or vineyard is located within an area declared by the Governor to be a disaster emergency.

Effective Date: 9/7/99 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after 9/7/99.

Section Amended:§308(3)

Description: Renumbers subdivision (3), which was added by Chapter 362 of the Laws of 1998, to subdivision (4)

Effective Date: 4/6/99

Section Repealed: §309(8) & (9)

Description: Repeals the two subdivisions

Effective Date: 7/20/99

Section Amended:§309(10)

Description: Renumbers subdivision (10) to subdivision (8)

Effective Date: 7/20/99

Section Amended §310(1)

Description: Adds language to the agricultural district disclosure statement to notify a prospective buyer of land within an agricultural district that under certain circumstances, the availability of water and sewer services may be limited.

Effective Date: 7/1/00

Summary of **2000 Amendments** to the Agricultural Districts Law

Section Amended: §305(1)(d)(v) and §306(2)(b)(iii)

Description: Revises reporting requirement of assessors to the State Board of Real Property Services when land receiving an agricultural assessment is converted to non-agricultural uses.

Effective Date: 7/11/00

Section Amended: §308(1)(b)

Description: Requires the Commissioner to give consideration to a practice conducted under the Agricultural Environmental Management (AEM) Program when making a sound agricultural practice determination.

Effective Date: 11/8/00

Summary of **2001 Amendments** to the Agricultural Districts Law

Section Amended: §301(11)

Description: Includes manure processing and handling facilities as part of a “farm operation” for purposes of administering the Agricultural Districts Law.

Effective Date: 10/23/01

Section Amended: §301(11)

Description: Includes “commercial horse boarding operations” as part of a “farm operation” for purposes of administering the Agricultural Districts Law.

Effective Date: 10/31/01

Summary of **2002 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)

Description: Eliminates county legislative body approval for the designation of eligible horse boarding operations as land used in agricultural production.

Effective Date: 1/30/03

Sections Amended: §301(4), §301(4)(b), and §301(4)(f)

Description: Reduces the number of acres needed to qualify for agricultural real property assessment from ten acres to 7 or more acres as long as the value of crops produced exceeds \$10,000 on average in the preceding two years. The size of rented land eligible for an agricultural assessment is reduced from 10 acres to 7 acres as long as the smaller parcel yields at least \$10,000 in average annual gross sales independently or in conjunction with land owned by the farmer renting the parcel. The amendment also reduces the number of acres needed to qualify as land used in agricultural production from not less than ten acres to seven or more acres and average gross sales of \$10,000 or

more in the preceding two years or less than seven acres and average gross sales \$50,000 or more in the preceding two years.

Effective Date: 1/1/03

Section Added: §301(9)(f)

Description: Allows payments received by thoroughbred breeders pursuant to Section 247 of the racing pari-mutuel wagering and breeding law to be included in the definition of "gross sales value" for agricultural assessment purposes.

Effective Date: 9/17/02

Section Amended:§301(11)

Description: Amends the definition of farm operation to indicate that such operation may consist of one or more parcels of owned or rented land and such parcels may or may not be contiguous to each other.

Effective Date: 1/1/03

Section Amended:§301(13)

Description: Reduces the minimum acreage required for a commercial horse boarding operation from ten to seven acres.

Effective Date: 1/1/03

Sections Amended: §303(2)(a)(1), §303(4), §303(5)(a) and (b), §303(6)(a) and (b), §303(7) and §303(8)

Description: Amends various sections of the law to allow a landowner to include viable agricultural land within a certified agricultural district prior to its eight, twelve or twenty year review period.

Effective Date: 12/20/02

Summary of **2003 Amendments** to the Agricultural Districts Law

Section Added: §301(4)(h)

Description: Adds a new paragraph (h) to allow first year farmers to receive an agricultural assessment if they meet the gross sales value requirements during their first year of operation.

Effective Date: 9/9/03

Sections Amended: §301(5), §305(1)(d)(iv), and §306(2)(c)

Description: Amends various sections of the law so that conversion penalties are not assessed on farmland that is being used in agricultural production and receives an agricultural assessment when such land is converted to wind energy generation facilities.

Effective Date: 9/22/03

Sections Amended: §303-b, §303(2)(a)(1) and §303(4)

Description: Adds a new section 303-b to establish an annual 30-day period during which a farmer can submit proposals to include viable land within a certified agricultural district.

Effective Date: 9/17/03

Sections Amended: §303(5)(b), §303(6)(b) and §303(8)

Description: Repeals various sections of the law to conform with the provisions of a new section 303-b.

Effective Date: 9/17/03

Summary of **2004 Amendment** to the Agricultural Districts Law

Section Amended:§301(4)(h)

Description: Amends paragraph (h) to allow a farm operation to receive an agricultural assessment if it meets the acreage and gross sales value requirements during its first or second year of agricultural production.

Effective Date: 2/24/04

Section Amended:§301(4)(i)

Description: Adds a new paragraph (i) to allow start-up farm operations that plant orchard or vineyard crops to immediately become eligible to receive an agricultural assessment in its first, second, third or fourth year of production.

Effective Date: 1/1/05

Summary of **2005 Amendments** to the Agricultural Districts Law

Section Amended:§301(2)(e)

Description: Amends paragraph (e) by adding wool bearing animals, such as alpacas and llamas, to the definition of "livestock and livestock products."

Effective Date: 7/12/05

Section Amended:§301(4)(h) and §301(13)

Description: Amends paragraph (h) to allow a "commercial horse boarding operation" to receive an agricultural assessment if it meets the acreage and gross sales value requirements during its first or second year of agricultural production. The definition of "commercial horse boarding operation" is amended by stating that such operations may qualify as a "farm operation" in its first or second year of operation if it meets the acreage and number of horse requirements.

Effective Date: 8/23/05

Section Amended:§301(11) and §301(14)

Description: Includes "timber processing" as part of a "farm operation" for purposes of administering the Agricultural Districts Law and adds a new section by defining the term "timber processing."

Effective Date: 8/23/05

Section Amended:§305-b

Description: Adds a new section that authorizes the Commissioner to review and comment upon the proposed rules and regulations of other State agencies which may have an adverse impact on agriculture and farming operations in the State.

Effective Date: 10/4/05 (Shall apply to proposed rules and regulations publicly noticed 60 or more days following the effective date.)

Summary of **2006 Amendments** to the Agricultural Districts Law

Section Amended:§301(4)

Description: Adds a new section (j) to allow newly planted Christmas tree farms to be eligible for agricultural assessment in their first through fifth years of agricultural production.

Effective Date: 1/1/07 and applies to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

Section Amended:§§301 and 308(1)

Description: Adds a new subdivision (15) to §301 to define “agricultural tourism” and amends §308(1) to add “agricultural tourism” to the list of examples of activities which entail practices the Commissioner may consider for sound agricultural practice opinions.

Effective Date: 8/16/06

Section Amended:§305(1)(a)

Description: Amends paragraph (1)(a) to allow filing of an application after taxable status date where failure to timely file resulted from a death of applicant’s spouse, child, parent, brother or sister or illness of the applicant or applicant’s spouse, child, parent, brother or sister which prevents timely filing, as certified by a licensed physician.

Effective Date: 9/13/06 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after such date.

Section Amended:§305(7)

Description: Amends paragraph (7) to extend the 100% exemption for newly planted orchards and vineyards from 4 to 6 years.

Effective Date: 9/13/06 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after 1/1/06.

Section Amended:§310(1), §308(5)

Description: Amends AML §§310(1), 308(5) and RPL §333-c(1) relative to the disclosure notice required for prospective purchasers of property within an agricultural district.

Effective Date: 7/26/06

Summary of **2007 Amendments** to the Agricultural Districts Law

Section Amended: §§303, 303-a & 304-b, repeals §303-a(2)(b) and (c)
Description: Amends AML §§303, 303-a and 304-b concerning the review of agricultural districts and the reporting of agricultural district data and repeals certain provisions of such law relating thereto.
Effective Date: 7/3/07

Section Amended: §304-a
Description: Amends AML §304-a to limit an increase in the base agricultural assessment values for any given year to 10 percent or less of the assessment value of the preceding year.
Effective Date: 6/4/07

Section Amended: §305(1)(a)
Description: Amends AML §305(1)(a) in relation to authorizing the filing of an application for an agricultural assessment after the taxable status date in the event of a natural disaster or destruction of farm structures.
Effective Date: 8/15/07

Summary of **2008 Amendments** to the Agricultural Districts Law

Section Amended: §§301(2)(j), 301(4)(k) and 301(16)
Description: Adds a new paragraph (j) to §301(2) to add “apiary products” to the definition of “crops, livestock and livestock products,” adds a new paragraph (k) to §301(4) to independently qualify apiaries for an agricultural assessment and adds a new subdivision (16) to define “apiary products operation.”
Effective Date: 7/21/08 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after 7/21/08 .

Section Amended: §§301(11) and 308(1)(b)
Description: Amends subdivision (11) of §301 to add the “production, management and harvesting of ‘farm woodland’” to the definition of “farm operation” and amends §308(1)(b) to add the “production, management and harvesting of ‘farm woodland’” to the list of examples of activities which entail practices the Commissioner may consider for sound agricultural practice opinions.
Effective Date: 9/4/08

Section Amended: §§301(9), 301(11), and 301(16)
Description: Adds a new paragraph (g) to §301(9) to allow up to \$5,000 from the sale of “compost, mulch or other organic biomass crops” to help meet the eligibility requirements for an agricultural assessment; amends subdivision (11) of §301 to add “compost, mulch or other biomass crops” to the definition of “farm operation” and adds a new subdivision (16) to define “compost, mulch or other organic biomass crops.”
Effective Date: 9/4/08

ARTICLE 25AA - AGRICULTURAL DISTRICTS

- Sec.
- 300. Declaration of legislative findings and intent.
- 301. Definitions.
- 302. County agricultural and farmland protection board.
- 303. Agricultural districts; creation.
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- 304-a. Agricultural assessment values.
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- 305. Agricultural districts; effects.
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- 306. Agricultural lands outside of districts; agricultural assessments.
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300. Declaration of legislative findings and intent

It is hereby found and declared that many of the agricultural lands in New York state are in jeopardy of being lost for any agricultural purposes. 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.

The socio-economic vitality of agriculture in this state is essential to the economic stability and growth of many local communities and the state as a whole. It is, therefore, the declared policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products. It is also the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes.

The constitution of the state of New York directs the legislature to provide for the protection of agricultural lands. 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.

301. Definitions

When used in this article:

1. "Agricultural assessment value" means the value per acre assigned to land for assessment purposes determined pursuant to the capitalized value of production procedure prescribed by section three hundred four-a of this article.
2. "Crops, livestock and livestock products" shall include but not be limited to the following:
 - a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
 - b. Fruits, including apples, peaches, grapes, cherries and berries.
 - c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
 - d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
 - e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.
 - f. Maple sap.
 - g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
 - h. Aquaculture products, including fish, fish products, water plants and shellfish.
 - i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
 - j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.
3. "Farm woodland" means land used for the production for sale of woodland products, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.
4. "Land used in agricultural production" means 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 with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:
 - a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.
 - b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.
 - c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment.

- d. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.
- e. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.
- f. Land of not less than seven acres 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 land of less than seven acres 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 fifty thousand dollars or more.
- g. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements of paragraph f of this subdivision.
- h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.
- i. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.
- j. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.
- k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres 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 (ii) less than seven acres 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 fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

5. "Oil , gas or wind exploration, development or extraction activities" means the installation and use of fixtures and equipment which are necessary for the exploration, development or extraction of oil, natural gas or wind energy, including access roads, drilling apparatus, pumping facilities, pipelines, and wind turbines.
6. "Unique and irreplaceable agricultural land" means land which is uniquely suited for the production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties.
7. "Viable agricultural land" means land highly suitable for agricultural production and which will continue to be economically feasible for such use if real property taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of non-agricultural development.
8. "Conversion" means an outward or affirmative act changing the use of agricultural land and shall not mean the nonuse or idling of such land.
9. "Gross sales value" means the proceeds from the sale of:
 - a. Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state;
 - b. Woodland products from farm woodland eligible to receive an agricultural assessment, not to exceed two thousand dollars annually;
 - c. Honey and beeswax produced by bees in hives located on an otherwise qualified farm operation but which does not independently satisfy the gross sales requirement; and
 - d. Maple syrup processed from maple sap produced on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation.
 - e. Or payments received by reason of land set aside pursuant to paragraph e of subdivision four of this section.
 - f. Or payments received by thoroughbred breeders pursuant to section two hundred forty-seven of the racing, pari-mutuel wagering and breeding law.
 - g. Compost, mulch or other organic biomass crops as defined in subdivision sixteen of this section produced on land used in agricultural production, not to exceed five thousand dollars annually.
11. "Farm operation" means 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 and "timber processing" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section. For the purposes of this section, such farm operation shall also include the production, management and harvesting of "farm woodland", as defined in subdivision

- three 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.¹
12. "Agricultural data statement" means an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five-a of this article.
 13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.
 14. "Timber processing" means the on-farm processing of timber grown on a farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, through the use of a readily moveable, nonpermanent saw mill, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.
 15. "Agricultural tourism" means activities conducted by a farmer on-farm for the enjoyment or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.
 16. "Apiary products operation" means an agricultural enterprise, consisting of land owned by the operation, upon which bee hives are located and maintained for the purpose of producing, harvesting and storing apiary products for sale.
 16. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

¹ The definition of "farm operation" was separately amended by Chapters 374 and 388 of the Laws of 2001 to add "manure processing and handling facilities" (Chapter 374) and "commercial horse boarding operations" (Chapter 388) and in 2005, "timber processing" (Chapter 573).

302. County agricultural and farmland protection board

1. (a) A county legislative body may establish a county agricultural and farmland protection board which shall consist of eleven members, at least four of whom shall be active farmers. At least one member of such board shall represent agribusiness and one member may represent an organization dedicated to agricultural land preservation. These six members of the board shall reside within the county which the respective board serves. The members of the board shall also include the chairperson of the county soil and water conservation district's board of directors, a member of the county legislative body, a county cooperative extension agent, the county planning director and the county director of real property tax services. The chairperson shall be chosen by majority vote. Such board shall be established in the event no such board exists at the time of receipt by the county legislative body of a petition for the creation or review of an agricultural district pursuant to section three hundred three of this article, or at the time of receipt by the county of a notice of intent filing pursuant to subdivision four of section three hundred five of this article. The members of such board shall be appointed by the chairperson of the county legislative body, who shall solicit nominations from farm membership organizations except for the chairperson of the county soil and water conservation district's board of directors, the county planning director and director of real property tax services, who shall serve ex officio. The members shall serve without salary, but the county legislative body may entitle each such member to reimbursement for actual and necessary expenses incurred in the performance of official duties.
- (b) After the board has been established, the chairperson of the county legislative body shall appoint to it two qualified persons for terms of two years each, two qualified persons for terms of three years each and two qualified persons for a term of four years. Thereafter, the appointment of each member shall be for a term of four years. Appointment of a member of the county legislative body shall be for a term coterminous with the member's term of office. Appointment of the county planning director and county director of real property tax services shall be coterminous with their tenure in such office. The appointment of the chairperson of the county soil and water conservation district's board of directors shall be for a term coterminous with his or her designation as chairperson of the county soil and water conservation district's board of directors. Any member of the board may be reappointed for a succeeding term on such board without limitations as to the number of terms the member may serve.
- (c) The county agricultural and farmland protection board shall advise the county legislative body and work with the county planning board in relation to the proposed establishment, modification, continuation or termination of any agricultural district. The board shall render expert advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area and the relation of farming in such area to the county as a whole. The board may review notice of intent filings pursuant to subdivision four of section three hundred five of this article and make findings and recommendations pursuant to that section as to the effect and reasonableness of proposed actions involving the advance of public funds or acquisitions of farmland in agricultural districts by governmental entities. The board shall also assess and approve county agricultural and farmland protection plans.

- (d) A county agricultural and farmland protection board may request the commissioner of agriculture and markets to review any state agency rules and regulations which the board identifies as affecting the agricultural activities within an existing or proposed agricultural district. Upon receipt of any such request, the commissioner of agriculture and markets shall, if the necessary funds are available, submit in writing to the board (i) notice of changes in such rules and regulations which he or she deems necessary, (ii) a copy of correspondence with another agency if such rules and regulations are outside his or her jurisdiction, including such rules and regulations being reviewed, and his or her recommendations for modification, or (iii) his or her reasons for determining that existing rules and regulations be continued without modification.
 - (e) The county agricultural and farmland protection board shall notify the commissioner and the commissioner of the department of environmental conservation of any attempts to propose the siting of solid waste management facilities upon farmland within an agricultural district.
2. Upon the request of one or more owners of land used in agricultural production the board may review the land classification for such land established by the department of agriculture and markets, consulting with the district soil and water conservation office, and the county cooperative extension service office. After such review, the board may recommend revisions to the classification of specific land areas based on local soil, land and climatic conditions to the department of agriculture and markets.

303. Agricultural districts; creation

1. Any owner or owners of land may submit a proposal to the county legislative body for the creation of an agricultural district within such county, provided that such owner or owners own at least five hundred acres or at least ten per cent of the land proposed to be included in the district, whichever is greater. Such proposal shall be submitted in such manner and form as may be prescribed by the commissioner, shall include a description of the proposed district, including a map delineating the exterior boundaries of the district which shall conform to tax parcel boundaries, and the tax map identification numbers for every parcel in the proposed district. The proposal may recommend an appropriate review period of either eight, twelve or twenty years.
2. Upon the receipt of such a proposal, the county legislative body:
- a. shall thereupon provide notice of such proposal by publishing a notice in a newspaper having general circulation within the proposed district and by posting such notice in five conspicuous places within the proposed district. The notice shall contain the following information:
 - (1) a statement that a proposal for an agricultural district has been filed with the county legislative body pursuant to this article;
 - (2) a statement that the proposal will be on file open to public inspection in the county clerk's office;
 - (3) a statement that any municipality whose territory encompasses the proposed district or any landowner who owns at least ten per cent of the land proposed to be included within the proposed modification of the proposed district may propose a modification of the proposed district in such form and manner as may be prescribed by the commissioner of agriculture and markets;
 - (4) a statement that the proposed modification must be filed with the county clerk and the clerk of the county legislature within thirty days after the publication of such notice;

- (5) a statement that at the termination of the thirty day period, the proposal and proposed modifications will be submitted to the county planning board and county agricultural and farmland protection board and that thereafter a public hearing will be held on the proposal, proposed modifications and recommendations of the planning board and county agricultural and farmland protection board;
 - b. shall receive any proposals for modifications of such proposal which may be submitted by such landowners or municipalities within thirty days after the publication of such notice;
 - c. shall, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county planning board, which shall, within forty-five days, report to the county legislative body the potential effect of such proposal and proposed modifications upon the county's planning policies and objectives;
 - d. shall simultaneously, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county agricultural and farmland protection board, which shall, within forty-five days report to the county legislative body its recommendations concerning the proposal and proposed modifications, and;
 - e. shall hold a public hearing in the following manner:
 - (1) The hearing shall be held at a place within the proposed district or otherwise readily accessible to the proposed district;
 - (2) The notice shall contain the following information:
 - (a) a statement of the time, date and place of the public hearing;
 - (b) a description of the proposed district, any proposed additions and any recommendations of the county planning board or county agricultural and farmland protection board;
 - (c) a statement that the public hearing will be held concerning:
 - (i) the original proposal;
 - (ii) any written amendments proposed during the thirty day review period;
 - (iii) any recommendations proposed by the county agricultural and farmland protection board and/or the county planning board.
 - (3) The notice shall be published in a newspaper having a general circulation within the proposed district and shall be given in writing to those municipalities whose territory encompasses the proposed district and any proposed modifications, owners of real property within such a proposed district or any proposed modifications who are listed on the most recent assessment roll, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture.
3. The following factors shall be considered by the county planning board, the county agricultural and farmland protection board, and at any public hearing:
- (i) the viability of active farming within the proposed district and in areas adjacent thereto;
 - (ii) the presence of any viable farm lands within the proposed district and adjacent thereto that are not now in active farming;
 - (iii) the nature and extent of land uses other than active farming within the proposed district and adjacent thereto;
 - (iv) county developmental patterns and needs; and
 - (v) any other matters which may be relevant.

In judging viability, any relevant agricultural viability maps prepared by the commissioner of agriculture and markets shall be considered, as well as soil, climate, topography,

other natural factors, markets for farm products, the extent and nature of farm improvements, the present status of farming, anticipated trends in agricultural economic conditions and technology, and such other factors as may be relevant.

4. The county legislative body, after receiving the reports of the county planning board and the county agricultural and farmland protection board and after such public hearing, may adopt as a plan the proposal or any modification of the proposal it deems appropriate, and shall adopt as part of the plan an appropriate review period of either eight, twelve or twenty years. The plan as adopted shall, to the extent feasible, include adjacent viable farm lands, and exclude, to the extent feasible, nonviable farm land and non-farm land. The plan shall include only whole tax parcels in the proposed district. The county legislative body shall act to adopt or reject the proposal, or any modification of it, no later than one hundred eighty days from the date the proposal was submitted to this body. Upon the adoption of a plan, the county legislative body shall submit it to the commissioner. The commissioner may, upon application by the county legislative body and for good cause shown, extend the period for adoption and submission once for an additional thirty days. Where he or she does so, the county legislative body may extend the period for the report from the county planning board and/or the period for the report from the county agricultural and farmland protection board.
5.
 - a. The commissioner shall have sixty days after receipt of the plan within which to certify to the county legislative body whether the proposal, or a modification of the proposal, is eligible for districting, whether the area to be districted consists predominantly of viable agricultural land, and whether the plan of the proposed district is feasible, and will serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state. The commissioner shall submit a copy of such plan to the commissioner of environmental conservation, who shall have thirty days within which to report his or her determination to the commissioner. A copy of such plan shall also be provided to the advisory council on agriculture. The commissioner shall not certify the plan as eligible for districting unless the commissioner of environmental conservation has determined that the area to be districted is consistent with state environmental plans, policies and objectives.
 - b. [repealed]
6.
 - a. Within sixty days after the certification by the commissioner that the proposed area is eligible for districting, and that districting would be consistent with state environmental plans, policies and objectives, the county legislative body may hold a public hearing on the plan, except that it shall hold a public hearing if the plan was modified by the commissioner or was modified by the county legislative body after they held the public hearing required by paragraph e of subdivision two of this section and such modification was not considered at the original hearing. Notice of any such hearing shall be in a newspaper having general circulation in the area of the proposed district and individual notice, in writing, to those municipalities whose territories encompass the proposed district modifications, the persons owning land directly affected by the proposed district modifications, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture. The proposed district, if certified without modification by the commissioner, shall become effective thirty days after the termination of such public hearing or, if there is no public hearing, ninety days after such certification unless its creation is disapproved by the county legislative body within such period. Provided, however, that if, on a date within the thirty days after the termination of such public hearing or, if there is no public hearing, within the ninety days after such certification, the county legislative body approves creation of the district, such district shall become effective

on such date. Provided further, that notwithstanding any other provision of this subdivision, if the commissioner modified the proposal, the district shall not become effective unless the county legislative body approves the modified district; such approval must be given on a date within the thirty days after termination of the public hearing; and the district, if approved, shall become effective on such date. Before approving or disapproving any proposal modified by the commissioner, the county legislative body may request reports on such modified proposal, from the county planning board and the county agricultural and farmland protection board.

- b. [repealed]
- 7. Upon the creation of an agricultural district, the description thereof, which shall include tax map identification numbers for all parcels within the district, plus a map delineating the exterior boundaries of the district in relation to tax parcel boundaries, shall be filed by the county legislative body with the county clerk, the county director of real property tax services, and the commissioner. For all existing agricultural districts, the county clerk shall also file with the commissioner upon request the tax map identification numbers for tax parcels within those districts. The commissioner, on petition of the county legislative body, may, for good cause shown, approve the correction of any errors in materials filed pursuant to a district creation at any time subsequent to the creation of any agricultural district.
- 8. [repealed]

303-a. Agricultural districts; review.

- 1. The county legislative body shall review any district created under this section eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district and at the end of every eight, twelve or twenty year period thereafter, whichever may apply. In counties with multiple districts with review dates in any twelve month period, the commissioner, on petition of the county legislative body, may, for good cause shown, approve an extension of up to four years for a district review. Thereafter, the extended review date shall be deemed the creation date for purposes of subsequent reviews by the county legislative body in accordance with this section. The review date of a district may not be extended more than four years. The petition of the county legislative body for an extension shall be submitted to the commissioner at least six months prior to the review date.
- 2. In conducting a district review the county legislative body shall;
 - a. Provide notice of such district review by publishing a notice in a newspaper having general circulation within the district and by posting such notice in at least five conspicuous places within the district. The notice shall identify the municipalities in which the district is found and the district's total area; indicate that a map of the district will be on file and open to public inspection in the office of the county clerk and such other places as the legislative body deems appropriate; and notify municipalities and land owners within the district that they may propose a modification of the district by filing such proposal with the county clerk of the county legislature within thirty days after the publication of such notice;
 - b. Direct the county agricultural and farmland protection board to prepare a report concerning the following:
 - (1) The nature and status of farming and farm resources within such district, including the total number of acres of land and the total number of acres of land in farm operations in the district;
 - (2) The extent to which the district has achieved its original objectives;

- (3) The extent to which county and local comprehensive plans, policies and objectives are consistent with and support the district;
 - (4) The degree of coordination between local laws, ordinances, rules and regulations that apply to farm operations in such district and their influence on farming; and;
 - (5) Recommendations to continue terminate or modify such district.
 - c. Hold a public hearing at least one hundred twenty days prior to the district review date and not more than one hundred eighty days prior to such date, in the following manner:
 - (1) The hearing shall be held at a place within the district or other-wise readily accessible to the proposed district;
 - (2) A notice of public hearing shall be published in a newspaper having a general circulation within the district and shall be given in writing to those municipalities whose territories encompass the district and any proposed modifications to the district; to persons, as listed on the most recent assessment roll, whose land is the subject of a proposed modification; and to the commissioner;
 - (3) The notice of hearing shall contain the following information:
 - (a) a statement of the time, date and place of the public hearing; and
 - (b) a description of the district, any proposed modifications and any recommendations of the county agricultural and farmland protection board.
3. The county legislative body, after receiving the report and recommendation of the county agricultural and farmland protection board, and after public hearing, shall make a finding whether the district should be continued, terminated or modified. If the county legislative body finds that the district should be terminated, it may do so at the end of such eight, twelve or twenty year period, whichever may be applicable, by filing a notice of termination with the county clerk and the commissioner. If the county legislative body finds that the district should be continued or modified, it shall submit a district review plan to the commissioner. The district review plan shall include a description of the district, including a map delineating the exterior boundaries of the district which shall conform to tax parcel boundaries; the tax map identification numbers for every parcel in the district; a copy of the report of the county agricultural and farmland protection board required by paragraph b of subdivision two of this section; and a copy of the testimony given at the public hearing required by subdivision two of this section or a copy of the minutes of such hearing.
4. If the county legislative body does not act, or if a modification of a district is rejected by the county legislative body, the district shall continue as originally constituted, unless the commissioner, after consultation with the advisory council on agriculture, terminates such district, by filing a notice thereof with the county clerk, because:
 - a. The area in the district is no longer predominantly viable agricultural land; or
 - b. The commissioner or environmental conservation has determined that the continuation of the district would not be consistent with state environmental plans, policies and objectives; provided, however, that if the commissioner certifies to the county legislative body that he or she will not approve the continuance of the district unless modified, the commissioner shall grant the county an extension as provided in subdivision one of this section to allow the county to prepare a modification of the district in the manner provided in this section.
5. Plan review, certification and filing shall be conducted in the same manner prescribed for district creation in subdivisions five, six and seven of section three hundred three of this article.

303-b. Agricultural districts; inclusion of viable agricultural land

1. The legislative body of any county containing a certified agricultural district shall designate an annual thirty-day period within which a land owner may submit to such body a request for inclusion of land which is predominantly viable agricultural land within a certified agricultural district prior to the county established review period. Such request shall identify the agricultural district into which the land is proposed to be included, describe such land, and include the tax map identification number and relevant portion of the tax map for each parcel of land to be included.
2. Upon the termination of such thirty-day period, if any requests are submitted, the county legislative body shall:
 - a. refer such request or requests to the county agricultural and farmland protection board, which shall, within thirty days report to the county legislative body its recommendations as to whether the land to be included in the agricultural district consists predominantly 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; and
 - b. publish a notice of public hearing in accordance with subdivision three of this section.
3. The county legislative body shall hold a public hearing upon giving notice in the following manner:
 - a. The notice of public hearing shall contain a statement that one or more requests for inclusion of predominantly viable agricultural land within a certified agricultural district have been filed with the county legislative body pursuant to this section; identify the land, generally, proposed to be included; indicate the time, date and place of the public hearing, which shall occur after receipt of the report of the county agricultural and farmland protection board; and include a statement that the hearing shall be held to consider the request or requests and recommendations of the county agricultural and farmland protection board.
 - b. The notice shall be published in a newspaper having a general circulation within the county and shall be given in writing directly to those municipalities whose territory encompasses the lands which are proposed to be included in an agricultural district and to the commissioner.
4. After the public hearing, the county legislative body shall adopt or reject the inclusion of the land requested to be included within an existing certified agricultural district. Such action shall be taken no later than one hundred twenty days from the termination of the thirty day period described in subdivision one of this section. Any land to be added shall consist of whole tax parcels only. Upon the adoption of a resolution to include predominantly viable agricultural land, in whole or in part, within an existing certified agricultural district, the county legislative body shall submit the resolution, together with the report of the county agricultural and farmland protection board and the tax map identification numbers and tax maps for each parcel of land to be included in an agricultural district to the commissioner.
5. Within thirty days after receipt of a resolution to include land within a district, the commissioner shall certify to the county legislative body whether the inclusion of predominantly viable agricultural land as proposed is feasible and shall serve the public interest by assisting in maintaining a viable agricultural industry within the district or districts.

6. If the commissioner certifies that the proposed inclusion of predominantly viable agricultural land within a district is feasible and in the public interest, the land shall become part of the district immediately upon such certification.

304. Unique and irreplaceable agricultural lands; creation of districts

1. The commissioner, after consulting with the advisory council on agriculture, may create agricultural districts covering any land in units of two thousand or more acres not already districted under section three hundred three of this article, if (a) the land encompassed in a proposed district is predominantly unique and irreplaceable agricultural land; (b) the commissioner of environmental conservation has determined that such district would further state environmental plans, policies and objectives; and (c) the director of the division of the budget has given approval of the establishment of such area.
2. Prior to creating an agricultural district under this section, the commissioner of agriculture and markets shall work closely, consult and cooperate with local elected officials, planning bodies, agriculture and agribusiness interests, community leaders, and other interested groups. The commissioner shall give primary consideration to local needs and desires, including local zoning and planning regulations as well as regional and local comprehensive land use plans. The commissioner shall file a map of the proposed district in the office of the clerk of any municipality in which the proposed district is to be located, and shall provide a copy thereof to the chief executive officer of any such municipality and the presiding officer of the local governing body, and, upon request, to any other person. The commissioner shall publish a notice of the filing of such proposed map and the availability of copies thereof in a newspaper of general circulation within the area of the proposed district, which notice shall also state that a public hearing will be held to consider the proposed district at a specified time and at a specified place either within the proposed district or easily accessible to the proposed district on a date not less than thirty days after such publication. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land within the proposed district. The commissioner shall conduct a public hearing pursuant to such notice, and, in addition, any person shall have the opportunity to present written comments on the proposed district within thirty days after the public hearing. After due consideration of such local needs and desires, including such testimony and comments, if any, the commissioner may affirm, modify or withdraw the proposed district. Provided, however, that if the commissioner modifies the proposal to include any land not included in the proposal as it read when the public hearing was held, the commissioner shall hold another public hearing, on the same type of published and written notice, and with the same opportunity for presentation of written comments after the hearing. Then the commissioner may affirm, modify or withdraw the proposed district, but may not modify it to include land not included in the proposal upon which the second hearing was held.
3. Upon such affirmation or modification, a map of the district shall be filed by the commissioner of agriculture and markets with the county clerk of each county in which the district or a portion thereof is located, and publication of such filing shall be made in a newspaper of general circulation within the district to be created. The creation of the district shall become effective thirty days after such filing and publication.
4. The commissioner shall review any district created under this section, in consultation with the advisory council on agriculture, the commissioner of environmental conservation and the director of the division of the budget, eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district or every eight years if the district was adopted prior to August first, nineteen hundred eighty-three, and every eight, twelve or twenty year period thereafter, whichever may be

applicable. Each such review shall include consultations with local elected officials, planning bodies, agricultural and agribusiness interests, community leaders, county agricultural and farmland protection boards, and other interested groups, and shall also include a public hearing at a specified time and at a specified place either within the district or easily accessible to the proposed district, notice of such hearing to be published in a newspaper having general circulation within the district. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land in the district. After any such review, the commissioner may modify such district so as to exclude land which is no longer predominantly unique and irreplaceable agricultural land or to include additional such land, provided: (a) such modification would serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state; (b) the commissioner of environmental conservation has determined that such modification would further state environmental plans, policies and objectives; and (c) such modification has been approved by the director of the division of the budget; provided, further that if the commissioner modifies the district to include additional land, he or she shall hold another public hearing, on the same type of published and written notice. Then the commissioner may again modify or dissolve the district, but may not modify it to include land not included in the proposed modifications upon which the second hearing was held. After any such review the commissioner, after consultation with the advisory council on agriculture, shall dissolve any such district if (a) the land within the district is no longer predominantly unique and irreplaceable agricultural land, or (b) the commissioner of environmental conservation has determined that the continuation of the district would not further state environmental plans, policies and objectives. A modification or dissolution of a district shall become effective in the same manner as is provided for in subdivision three of this section, except that in the case of dissolution, a notice of dissolution shall be filed instead of a map.

304-a. Agricultural assessment values

1. Agricultural assessment values shall be calculated and certified annually in accordance with the provisions of this section.
2.
 - a. The commissioner of agriculture and markets shall establish and maintain an agricultural land classification system based upon soil productivity and capability. The agricultural land classification system shall distinguish between mineral and organic soils. There shall be ten primary groups of mineral soils and such other subgroups as the commissioner determines necessary to represent high-lime and low-lime content. There shall be four groups of organic soils.
 - b. The land classification system shall be promulgated by rule by the commissioner following a review of comments and recommendations of the advisory council on agriculture and after a public hearing. In making any revisions to the land classification system the commissioner may, in his or her discretion, conduct a public hearing. The commissioner shall foster participation by county agricultural and farmland protection boards, district soil and water conservation committees, and the cooperative extension service and consult with other state agencies, appropriate federal agencies, municipalities, the New York state college of agriculture and life sciences at Cornell university and farm organizations.
 - c. The commissioner shall certify to the state board of real property services the soil list developed in accordance with the land classification system and any revisions thereto.

- d. The commissioner shall prepare such materials as may be needed for the utilization of the land classification system and provide assistance to landowners and local officials in its use.
- 3. a. The state board of real property services shall annually calculate a single agricultural assessment value for each of the mineral and organic soil groups which shall be applied uniformly throughout the state. A base agricultural assessment value shall be separately calculated for mineral and organic soil groups in accordance with the procedure set forth in subdivision four of this section and shall be assigned as the agricultural assessment value of the highest grade mineral and organic soil group.
- b. The agricultural assessment values for the remaining mineral soil groups shall be the product of the base agricultural assessment value and a percentage, derived from the productivity measurements determined for each soil and related soil group in conjunction with the land classification system, as follows:

Mineral Soil Group	Percentage of Base Agricultural Assessment Value
1A	
1B	
2A	89
2B	79
3A	79
3B	68
4A	68
4B	58
5A	58
5B	47
6A	47
6B	37
7	37
8	26
9	16
10	5

- c. The agricultural assessment values for the remaining organic soil groups shall be the products of the base agricultural assessment value and a percentage, as follows:

Organic Soil Group	Percentage of Base Agricultural Assessment Value
A	100
B	65
C	55
D	35

- d. The agricultural assessment value for organic soil group A shall be two times the base agricultural assessment value calculated for mineral soil group 1A.
- e. The agricultural assessment value for farm woodland shall be the same as that calculated for mineral soil group seven.

- f. Where trees or vines used for the production of fruit are located on land used in agricultural production, the value of such trees and vines, and the value of all posts, wires and trellises used for the production of fruit, shall be considered to be part of the agricultural assessment value of such land.
- g. The agricultural assessment value for land and waters used in aquacultural enterprises shall be the same as that calculated for mineral soil group 1A.
- 4. a. The base agricultural assessment value shall be the average capitalized value of production per acre for the eight year period ending in the second year preceding the year for which the agricultural assessment values are certified. The capitalized value of production per acre shall be calculated by dividing the product of the value of production per acre and the percentage of net profit by a capitalization rate of ten percent, representing an assumed investment return rate of eight percent and an assumed real property tax rate of two percent.
- b. The value of production per acre shall be the value of production divided by the number of acres harvested in New York state.
- c. The percentage of net profit shall be adjusted net farm income divided by realized gross farm income.
 - (i) Adjusted net farm income shall be the sum of net farm income, taxes on farm real estate and the amount of mortgage interest debt attributable to farmland, less a management charge of one percent of realized gross farm income plus seven percent of adjusted production expenses.
 - (ii) The amount of mortgage interest debt attributable to farmland shall be the product of the interest on mortgage debt and the percentage of farm real estate value attributable to land.
 - (iii) The percentage of farm real estate value attributable to land shall be the difference between farm real estate value and farm structure value divided by farm real estate value.
 - (iv) Adjusted production expenses shall be production expenses, less the sum of the taxes on farm real estate and the interest on mortgage debt.
- d. The following data, required for calculations pursuant to this subdivision, shall be as published by the United States department of agriculture for all farming in New York state:
 - (i) Farm real estate value shall be the total value of farmland and buildings, including improvements.
 - (ii) Farm structure value shall be the total value of farm buildings, including improvements.
 - (iii) Interest on mortgage debt shall be the total interest paid on farm real estate debt.
 - (iv) Net farm income shall be realized gross income less production expenses, as adjusted for change in inventory.
 - (v) Production expenses shall be the total cost of production.
 - (vi) Realized gross income shall be the total of cash receipts from farm marketings, government payments, nonmoney income and other farm income.
 - (vii) Taxes on farm real estate shall be the total real property taxes on farmland and buildings, including improvements.
 - (viii) Number of acres harvested including all reported crops.
 - (ix) Value of production shall be the total estimated value of all reported crops.
- e. In the event that the data required for calculation pursuant to this subdivision is not published by the United States department of agriculture or is incomplete, such

required data shall be obtained from the New York state department of agriculture and markets.

- f. Upon completion of the calculation of agricultural assessment values, the state board of real property services shall publish an annual report, which shall include a schedule of values, citations to data sources and presentation of all calculations. The state board of real property services shall transmit copies of the annual report to the governor and legislature, the advisory council on agriculture and other appropriate state agencies and interested parties. The state board of real property services shall thereupon certify the schedule of agricultural assessment values and the state board of real property services shall transmit a schedule of such certified values to each assessor.
 - g. Notwithstanding any other provision of this section to the contrary, in no event shall the change in the base agricultural assessment value for any given year exceed ten percent of the base agricultural assessment value of the preceding year.
5.
 - a. In carrying out their responsibilities under this section, the state board of real property services and the commissioner shall keep the advisory council on agriculture fully apprised on matters relating to its duties and responsibilities.
 - b. In doing so, the state board of real property services and the commissioner shall provide, in a timely manner, any materials needed by the advisory council on agriculture to carry out its responsibilities under this section.

304-b. Agricultural district data reporting

1. The commissioner shall file a written report with the governor and the legislature on January first, two thousand eight and biennially thereafter, covering each prior period of two years, concerning the status of the agricultural districts program. Such report shall include, but not be limited to, the total number of agricultural districts, the total number of acres in agricultural districts, a list of the counties that have established county agricultural and farmland protection plans, and a summary of the agricultural protection planning grants program.
2. Between report due dates, the commissioner shall maintain the necessary records and data required to satisfy such report requirements and to satisfy information requests received from the governor and the legislature between such report due dates.

305. Agricultural districts; effects

1. Agricultural assessments.
 - a. Any owner of land used in agricultural production within an agricultural district shall be eligible for an agricultural assessment pursuant to this section. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products produced on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant. Such assessment shall be granted only upon an annual application by the owner of such land on a form prescribed by the state board of real property services. The applicant shall furnish to the assessor such information as the state board of real property services shall require, including classification information prepared for the applicant's land or water bodies used in agricultural production by the soil and water conservation district office within the county, and information demonstrating the eligibility for agricultural assessment of any land used in conjunction with

rented land as specified in paragraph b of subdivision four of section three hundred one of this article. Such application shall be filed with the assessor of the assessing unit on or before the appropriate taxable status date; provided, however, that (i) in the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law; or (ii) an application for such an assessment may be filed with the assessor of the assessing unit after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent, brother or sister, (b) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician, or (c) the occurrence of a natural disaster, including, but not limited to, a flood, or the destruction of such applicant's residence, barn or other farm building by wind, fire or flood. If the assessor is satisfied that the applicant is entitled to an agricultural assessment, the assessor shall approve the application and the land shall be assessed pursuant to this section. Not less than ten days prior to the date for hearing complaints in relation to assessments, the assessor shall mail to each applicant, who has included with the application at least one self-addressed, pre-paid envelope, a notice of the approval or denial of the application. Such notice shall be on a form prescribed by the state board of real property services which shall indicate the manner in which the total assessed value is apportioned among the various portions of the property subject to agricultural assessment and those other portions of the property not eligible for agricultural assessment as determined for the tentative assessment roll and the latest final assessment roll. Failure to mail any such notice or failure of the owner to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on such real property.

- b. That portion of the value of land utilized for agricultural production within an agricultural district which represents an excess above the agricultural assessment as determined in accordance with this subdivision shall not be subject to real property taxation. Such excess amount if any shall be entered on the assessment roll in the manner prescribed by the state board of real property services.
- c.
 - (i) The assessor shall utilize the agricultural assessment values per acre certified pursuant to section three hundred four-a of this article in determining the amount of the assessment of lands eligible for agricultural assessments by multiplying those values by the number of acres of land utilized for agricultural production and adjusting such result by application of the latest state equalization rate or a special equalization rate as may be established and certified by the state board of real property services for the purpose of computing the agricultural assessment pursuant to this paragraph. This resulting amount shall be the agricultural assessment for such lands.
 - (ii) Where the latest state equalization rate exceeds one hundred, or where a special equalization rate which would otherwise be established for the purposes of this section would exceed one hundred, a special equalization rate of one hundred shall be established and certified by the state board for the purpose of this section.
 - (iii) Where a special equalization rate has been established and certified by the state board for the purposes of this paragraph, the assessor is directed and authorized to recompute the agricultural assessment on the assessment roll

by applying such special equalization rate instead of the latest state equalization rate, and to make the appropriate corrections on the assessment roll, subject to the provisions of title two of article twelve of the real property tax law.

- d. (i) If land within an agricultural district which received an agricultural assessment is converted parcels, as described on the assessment roll which include land so converted shall be subject to payments equaling five times the taxes saved in the last year in which the land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years. The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the excess amount of assessed valuation of such land over its agricultural assessment as set forth on the last assessment roll which indicates such an excess. If only a portion of a parcel as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll for which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be added by or on behalf of each taxing jurisdiction to the taxes levied on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than five years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.
- (ii) Whenever a conversion occurs, the owner shall notify the assessor within ninety days of the date such conversion is commenced. If the landowner fails to make such notification within the ninety day period, the assessing unit, by majority vote of the governing body, may impose a penalty on behalf of the assessing unit of up to two times the total payments owed, but not to exceed a maximum total penalty of five hundred dollars in addition to any payments owed.
- (iii) (a) An assessor who determines that there is liability for payments and any penalties assessed pursuant to subparagraph (ii) of this paragraph shall notify the landowner by mail of such liability at least ten days prior to the date for hearing complaints in relation to assessments. Such notice shall indicate the property to which payments apply and describe how the payments shall be determined. Failure to provide such notice shall not affect the levy, collection or enforcement or payment of payments.
(b) Liability for payments shall be subject to administrative and judicial review as provided by law for review of assessments.
- (iv) If such land or any portion thereof is converted to a use other than for agricultural production by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding other than a tax sale, the land or portion so converted shall not be subject to payments. If the land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall

apportion the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land within an agricultural district and eligible for an agricultural assessment shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.

- (v) An assessor who imposes any such payments shall annually, and within forty-five days following the date on which the final assessment roll is required to be filed, report such payments to the state board of real property services on a form prescribed by the state board.
 - (vi) The assessing unit, by majority vote of the governing body, may impose a minimum payment amount, not to exceed one hundred dollars.
 - (vii) The purchase of land in fee by the city of New York for watershed protection purposes or the conveyance of a conservation easement by the city of New York to the department of environmental conservation which prohibits future use of the land for agricultural purposes shall not be a conversion of parcels and no payment shall be due under this section.
- e. In connection with any district created under section three hundred four of this article, the state shall provide assistance to each taxing jurisdiction in an amount equal to one-half of the tax loss that results from requests for agricultural assessments in the district. The amount of such tax loss shall be computed annually by applying the applicable tax rate to an amount computed by subtracting the agricultural assessment from the assessed value of the property on the assessment roll completed and filed prior to July first, nineteen hundred seventy-one, taking into consideration any change in the level of assessment. The chief fiscal officer of a taxing jurisdiction entitled to state assistance under this article shall make application for such assistance to the state board of real property services on a form approved by such board and containing such information as the board shall require. Upon approval of the application by such board, such assistance shall be apportioned and paid to such taxing jurisdiction on the audit and warrant of the state comptroller out of moneys appropriated by the legislature for the purpose of this article; provided, however, that any such assistance payment shall be reduced by one-half the amount of any payments levied under subparagraph (i) of paragraph d of this subdivision, for land in any district created under section three hundred four of this article, unless one-half the amount of such payments has already been used to reduce a previous assistance payment under this paragraph.
- f. Notwithstanding any inconsistent general, special or local law to the contrary, if a natural disaster, act of God, or continued adverse weather conditions shall destroy the agricultural production and such fact is certified by the cooperative extension service and, as a result, such production does not produce an average gross sales value of ten thousand dollars or more, the owner may nevertheless qualify for an agricultural assessment provided the owner shall substantiate in such manner as prescribed by the state board of real property services that the agricultural production initiated on such land would have produced an average gross sales value of ten thousand dollars or more but for the natural disaster, act of God or continued adverse weather conditions.
2. [repealed]
 3. Policy of state agencies. It shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural districts and their administrative regulations

and procedures shall be modified to this end insofar as is consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of federal agencies, including provisions applicable only to obtaining federal grants, loans, or other funding.

4. Limitation on the exercise of eminent domain and other public acquisitions, and on the advance of public funds.
 - a. Any agency of the state, any public benefit corporation or any local government which intends to acquire land or any interest therein, provided that the acquisition from any one actively operated farm within the district would be in excess of one acre or that the total acquisition within the district would be in excess of ten acres, or which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, dwellings, commercial or industrial facilities, water or sewer facilities to serve non-farm structures, shall use all practicable means in undertaking such action to realize the policy and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse impacts on agriculture in order to sustain a viable farm enterprise or enterprises within the district. The adverse agricultural impacts to be minimized or avoided shall include impacts revealed in the notice of intent process described in this subdivision.
 - b. As early as possible in the development of a proposal of an action described in paragraph a of this subdivision, but in no event later than the date of any determination as to whether an environmental impact statement need be prepared pursuant to article eight of the environmental conservation law, the agency, corporation or government proposing an action described in paragraph a of this subdivision shall file a preliminary notice of its intent with the commissioner and the county agricultural and farmland protection board in such manner and form as the commissioner may require. Such preliminary notice shall include the following:
 - (i) a brief description of the proposed action and its agricultural setting;
 - (ii) a summary of any anticipated adverse impacts on farm operations and agricultural resources within the district; and
 - (iii) such other information as the commissioner may require.
 - c. The agency, corporation or government proposing the action shall also, at least sixty-five days prior to such acquisition, construction or advance of public funds, file a final notice of intent with the commissioner and the county agricultural and farmland protection board. Such final notice shall include a detailed agricultural impact statement setting forth the following:
 - (i) a detailed description of the proposed action and its agricultural setting;
 - (ii) the agricultural impact of the proposed action including short-term and long-term effects;
 - (iii) any adverse agricultural effects which cannot be avoided should the proposed action be implemented;
 - (iv) alternatives to the proposed action;
 - (v) any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action should it be implemented;
 - (vi) mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of a farm enterprise or enterprises within the district;
 - (vii) any aspects of the proposed action which would encourage non-farm development, where applicable and appropriate; and
 - (viii) such other information as the commissioner may require.

The commissioner shall promptly determine whether the final notice is complete or incomplete. If the commissioner does not issue such determination within thirty days, the final notice shall be deemed complete. If the final notice is determined to be incomplete, the commissioner shall notify the party proposing the action in writing of the reasons for that determination. Any new submission shall commence a new period for department review for purposes of determining completeness.

- d. The provisions of paragraphs b and c of this subdivision shall not apply and shall be deemed waived by the owner of the land to be acquired where such owner signs a document to such effect and provides a copy to the commissioner.
- e. Upon notice from the commissioner that he or she has accepted a final notice as complete, the county agricultural and farmland protection board may, within thirty days, review the proposed action and its effects on farm operations and agricultural resources within the district, and report its findings and recommendations to the commissioner and to the party proposing the action in the case of actions proposed by a state agency or public benefit corporation, and additionally to the county legislature in the case of actions proposed by local government agencies.
- f. Upon receipt and acceptance of a final notice, the commissioner shall thereupon forward a copy of such notice to the commissioner of environmental conservation and the advisory council on agriculture. The commissioner, in consultation with the commissioner of environmental conservation and the advisory council on agriculture, within forty-five days of the acceptance of a final notice, shall review the proposed action and make an initial determination whether such action would have an unreasonably adverse effect on the continuing viability of a farm enterprise or enterprises within the district, or state environmental plans, policies and objectives.

If the commissioner so determines, he or she may (i) issue an order within the forty-five day period directing the state agency, public benefit corporation or local government not to take such action for an additional period of sixty days immediately following such forty-five day period; and (ii) review the proposed action to determine whether any reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact on agriculture in order to sustain a viable farm enterprise or enterprises within the district.

The commissioner may hold a public hearing concerning such proposed action at a place within the district or otherwise easily accessible to the district upon notice in a newspaper having a general circulation within the district, and individual notice, in writing, to the municipalities whose territories encompass the district, the commissioner of environmental conservation, the advisory council on agriculture and the state agency, public benefit corporation or local government proposing to take such action. On or before the conclusion of such additional sixty day period, the commissioner shall report his or her findings to the agency, corporation or government proposing to take such action, to any public agency having the power of review or of approval of such action, and, in a manner conducive to the wide dissemination of such findings, to the public. If the commissioner concludes that a reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact of the proposed action, he or she shall propose that such alternative or alternatives be accepted. If the agency, corporation or government proposing the action accepts the commissioner's proposal, then the requirements of the notice of intent filing shall be deemed fulfilled. If the agency,

corporation or government rejects the commissioner's proposal, then it shall provide the commissioner with reasons for rejecting such proposal and a detailed comparison between its proposed action and the commissioner's alternative or alternatives.

- g. At least ten days before commencing an action which has been the subject of a notice of intent filing, the agency, corporation or government shall certify to the commissioner that it has made an explicit finding that the requirements of this subdivision have been met, and that consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse agricultural impacts revealed in the notice of intent process will be minimized or avoided. Such certification shall set forth the reasons in support of the finding.
 - h. The commissioner may request the attorney general to bring an action to enjoin any such agency, corporation or government from violating any of the provisions of this subdivision.
 - h-1. Notwithstanding any other provision of law to the contrary, no solid waste management facility shall be sited on land in agricultural production which is located within an agricultural district, or land in agricultural production that qualifies for and is receiving an agricultural assessment pursuant to section three hundred six of this article. Nothing contained herein, however, shall be deemed to prohibit siting when:
 - (i) The owner of such land has entered into a written agreement which shall indicate his consent for site consideration; or
 - (ii) The applicant for a permit has made a commitment in the permit application to fund a farm land protection conservation easement within a reasonable proximity to the proposed project in an amount not less than the dollar value of any such farm land purchased for the project; or
 - (iii) The commissioner in concurrence with the commissioner of environmental conservation has determined that any such agricultural land to be taken, constitutes less than five percent of the project site.
- For purposes of this paragraph, "solid waste management facility" shall have the same meaning as provided in title seven of article twenty-seven of the environmental conservation law, but shall not include solid waste transfer stations or land upon which sewage sludge is applied, and determinations regarding agricultural district boundaries and agricultural assessments will be based on those in effect as of the date an initial determination is made, pursuant to article eight of the environmental conservation law, as to whether an environmental impact statement needs to be prepared for the proposed project.
- i. This subdivision shall not apply to any emergency project which is immediately necessary for the protection of life or property or to any project or proceeding to which the department is or has been a statutory party.
 - j. The commissioner may bring an action to enforce any mitigation measures proposed by a public benefit corporation or a local government, and accepted by the commissioner, pursuant to a notice of intent filing, to minimize or avoid adverse agricultural impacts from the proposed action.
5. Limitation on power to impose benefit assessments, special ad valorem levies or other rates or fees in certain improvement districts or benefit areas. Within improvement districts or areas deemed benefited by municipal improvements including, but not limited to, improvements for sewer, water, lighting, non-farm drainage, solid waste disposal, including those solid waste management facilities established pursuant to section two hundred twenty-six-b of the county law, or other landfill operations, no benefit assessments, special ad valorem levies or other rates of fees charged for such

improvements may be imposed on land used primarily for agricultural production within an agricultural district on any basis, except a lot not exceeding one-half acre surrounding any dwelling or non-farm structure located on said land nor on any farm structure located in an agricultural district unless such structure benefits directly from the service of such improvement district or benefited area; provided, however, that if such benefit assessments, ad valorem levies or other rates of fees were imposed prior to the formation of the agricultural district, then such benefit assessments, ad valorem levies or other rates or fees shall continue to be imposed on such land or farm structure.

6. Use of assessment for certain purposes. The governing body of a fire, fire protection, or ambulance district for which a benefit assessment or a special ad valorem levy is made, may adopt a resolution to provide that the assessment determined pursuant to subdivision one of this section for such property shall be used for the benefit assessment or special ad valorem levy of such fire, fire protection, or ambulance district.
7. Notwithstanding any provision of law to the contrary, that portion of the value of land which is used solely for the purpose of replanting or crop expansion as part of an orchard or vineyard shall be exempt from real property taxation for a period of six successive years following the date of such replanting or crop expansion beginning on the first eligible taxable status date following such replanting or expansion provided the following conditions are met:
 - a. The land used for crop expansion or replanting must be a part of an existing orchard or vineyard which is located on land used in agricultural production within an agricultural district or such land must be part of an existing orchard or vineyard which is eligible for an agricultural assessment pursuant to this section or section three hundred six of this chapter where the owner of such land has filed an annual application for an agricultural assessment;
 - b. The land eligible for such real property tax exemption shall not in any one year exceed twenty percent of the total acreage of such orchard or vineyard which is located on land used in agricultural production within an agricultural district or twenty percent of the total acreage of such orchard or vineyard eligible for an agricultural assessment pursuant to this section and section three hundred six of this chapter where the owner of such land has filed an annual application for an agricultural assessment;
 - c. The land eligible for such real property tax exemption must be maintained as land used in agricultural production as part of such orchard or vineyard for each year such exemption is granted; and
 - d. When the land used for the purpose of replanting or crop expansion as part of an orchard or vineyard is located within an area which has been declared by the governor to be a disaster emergency in a year in which such tax exemption is sought and in a year in which such land meets all other eligibility requirements for such tax exemption set forth in this subdivision, the maximum twenty percent total acreage restriction set forth in paragraph b of this subdivision may be exceeded for such year and for any remaining successive years, provided, however, that the land eligible for such real property tax exemption shall not exceed the total acreage damaged or destroyed by such disaster in such year or the total acreage which remains damaged or destroyed in any remaining successive year. The total acreage for which such exemption is sought pursuant to this paragraph shall be subject to verification by the commissioner or his designee.

305-a. Coordination of local planning and land use decision-making with the agricultural districts program

1. Policy of local governments.
 - a. Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article, and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.
 - b. The commissioner, upon his or her own initiative or upon the receipt of a complaint from a person within an agricultural district, may bring an action to enforce the provisions of this subdivision.
2. Agricultural data statement; submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by a planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The planning board, zoning board of appeals, town board, or village board of trustees shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.
3. Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, town board or village board of trustees, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.
4. Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

305-b. Review of proposed rules and regulations of state agencies affecting the agricultural industry

1. Upon request of the state advisory council on agriculture, or upon his or her own initiative, the commissioner may review and comment upon a proposed rule or regulation by another state agency which may have an adverse impact on agriculture and farm operations in this state, and file such comment with the proposing agency and the administrative regulations review commission. Each comment shall be in sufficient detail to advise the proposing agency of the adverse impact on agriculture and farm operations and the recommended modifications. The commissioner shall prepare a status report of any actions taken in accordance with this section and include it in the department's annual report.

306. Agricultural lands outside of districts; agricultural assessments

1. Any owner of land used in agricultural production outside of an agricultural district shall be eligible for an agricultural assessment as provided herein. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products produced on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant.

Such assessment shall be granted pursuant to paragraphs a, b and f of subdivision one of section three hundred five of this article as if such land were in an agricultural district, provided the landowner annually submits to the assessor an application for an agricultural assessment on or before the taxable status date. In the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law. Nothing therein shall be construed to limit an applicant's discretion to withhold from such application any land, or portion thereof, contained within a single operation.

1-a [repealed]

2. a. (i) If land which received an agricultural assessment pursuant to this section is converted at any time within eight years from the time an agricultural assessment was last received, such conversion shall subject the land so converted to payments in compensation for the prior benefits of agricultural assessments. The amount of the payments shall be equal to five times the taxes saved in the last year in which land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years.
- (ii) The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the amount of assessed valuation of such land in excess of the agricultural assessment of such land as set forth on the last assessment roll which indicates such an excess. If only a portion of such land as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll on which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be levied in the same manner as other taxes, by or on behalf of each taxing jurisdiction on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than eight years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.
- (iii) Whenever a conversion occurs, the owner shall notify the assessor within ninety days of the date such conversion is commenced. If the landowner fails to make such notification within the ninety day period, the assessing unit, by majority vote of the governing body, may impose a penalty on behalf of the assessing

- unit of up to two times the total payments owed, but not to exceed a maximum total penalty of five hundred dollars in addition to any payments owed.
- b. (i) An assessor who determines that there is liability for payments and any penalties pursuant to subparagraph (ii) of this paragraph shall notify the landowner of such liability at least ten days prior to the day for hearing of complaints in relation to assessments. Such notice shall specify the area subject to payments and shall describe how such payments shall be determined. Failure to provide such notice shall not affect the levy, collection, or enforcement of payments.
 - (ii) Liability for payments shall be subject to administrative and judicial review as provided by law for the review of assessments.
 - (iii) An assessor who imposes any such payments shall annually, and within forty-five days following the date on which the final assessment roll is required to be filed, report such payments to the state board of real property services on a form prescribed by the state board.
 - (iv) The assessing unit, by majority vote of the government body, may impose a minimum payment amount, not to exceed one hundred dollars.
- c. If such land or any portion thereof is converted by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding other than a tax sale, the land or portion so converted shall not be subject to payments. If land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land outside an agricultural district and eligible for an agricultural assessment pursuant to this section shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.
 - d. The purchase of land in fee by the city of New York for watershed protection purposes or the conveyance of a conservation easement by the city of New York to the department of environmental conservation which prohibits future use of the land for agricultural purposes shall not be a conversion of parcels and no payment for the prior benefits of agricultural assessments shall be due under this section.
3. Upon the inclusion of such agricultural lands in an agricultural district formed pursuant to section three hundred three, the provisions of section three hundred five shall be controlling.
 4. A payment levied pursuant to subparagraph (i) of paragraph a of subdivision two of this section shall be a lien on the entire parcel containing the converted land, notwithstanding that less than the entire parcel was converted.
 5. Use of assessment for certain purposes. The governing body of a water, lighting, sewer, sanitation, fire, fire protection, or ambulance district for whose benefit a special assessment or a special ad valorem levy is imposed, may adopt a resolution to provide that the assessments determined pursuant to subdivision one of this section for property within the district shall be used for the special assessment or special ad valorem levy of such special district.

307. Promulgation of rules and regulations

The state board of real property services and the commissioner are each empowered to promulgate such rules and regulations and to prescribe such forms as each shall deem

necessary to effectuate the purposes of this article, and the commissioner is further empowered to promulgate such rules and regulations as are necessary to provide for the reasonable consolidation of existing agricultural districts with new agricultural districts or with other existing districts undergoing modification pursuant to section three hundred three of this article. Where a document or any other paper or information is required, by such rules and regulations, or by any provision of this article, to be filed with, or by, a county clerk or any other local official, such clerk or other local official may file such document, paper, or information as he deems proper, but he shall also file or record it in any manner directed by the state board of real property services, by rule or regulation. In promulgating such a rule or regulation, such board shall consider, among any other relevant factors, the need for security of land titles, the requirement that purchasers of land know of all potential tax and penalty liabilities, and the desirability that the searching of titles not be further complicated by the establishment of new sets of record books.

308. Right to farm

1. a. The commissioner shall, in consultation with the state advisory council on agriculture, issue opinions upon request from any person as to whether particular agricultural practices are sound.
b. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities which entail practices the commissioner may consider include, but are not limited to, operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; production, management and harvesting of "farm woodland," as defined in subdivision three of section three hundred one of this article and construction and use of farm structures. The commissioner shall consult appropriate state agencies and any guidelines recommended by the advisory council on agriculture. The commissioner may consult as appropriate, the New York state college of agriculture and life sciences and the U.S.D.A. natural resources conservation service. The commissioner shall also consider whether the agricultural practices are conducted by a farm owner or operator as part of his or her participation in the AEM program as set forth in article eleven-A of this chapter. Such practices shall be evaluated on a case-by-case basis.
2. Upon the issuance of an opinion pursuant to this section, the commissioner shall publish a notice in a newspaper having a general circulation in the area surrounding the practice and notice shall be given in writing to the owner of the property on which the practice is conducted and any adjoining property owners. The opinion of the commissioner shall be final, unless within thirty days after publication of the notice a person affected thereby institutes a proceeding to review the opinion in the manner provided by article seventy-eight of the civil practice law and rules.
3. Notwithstanding any other provisions of law, on any land in an agricultural district created pursuant to section three hundred three or land used in agricultural production subject to an agricultural assessment pursuant to section three hundred six of this article, an agricultural practice shall not constitute a private nuisance, when an action is brought by a person, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the commissioner. Nothing in this section shall be construed to prohibit an aggrieved party from recovering damages for personal injury or wrongful death.

4. The commissioner, in consultation with the state advisory council on agriculture, shall issue an opinion within thirty days upon request from any person as to whether particular land uses are agricultural in nature. Such land use decisions shall be evaluated on a case-by-case basis.
5. The commissioner shall develop and make available to prospective grantors and purchasers of real property located partially or wholly within any agricultural district in this state and to the general public, practical information related to the right to farm as set forth in this article including, but not limited to right to farm disclosure requirements established pursuant to section three hundred ten of this article and section three hundred thirty-three-c of the real property law.

308-a. Fees and expenses in certain private nuisance actions.

1. Definitions. For purposes of this section:
 - a. "Action" means any civil action brought by a person in which a private nuisance is alleged to be due to an agricultural practice on any land in an agricultural district or subject to agricultural assessments pursuant to section three hundred three or three hundred six of this article, respectively.
 - b. "Fees and other expenses" means the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, consultation with experts, and like expenses, and reasonable attorney fees, including fees for work performed by law students or paralegals under the supervision of an attorney, incurred in connection with the defense of any cause of action for private nuisance which is alleged as part of a civil action brought by a person.
 - c. "Final judgment" means a judgment that is final and not appealable, and settlement.
 - d. "Prevailing party" means a defendant in a civil action brought by a person, in which a private nuisance is alleged to be due to an agricultural practice, where the defendant prevails in whole or in substantial part on the private nuisance cause of action.
2. Fees and other expenses in certain private nuisance actions.
 - a. When awarded. In addition to costs, disbursements and additional allowances awarded pursuant to sections eight thousand two hundred one through eight thousand two hundred four and eight thousand three hundred one through eight thousand three hundred three-a of the civil practice law and rules, and except as otherwise specifically provided by statute, a court shall award to a prevailing party, other than the plaintiff, fees and other expenses incurred by such party in connection with the defense of any cause of action for private nuisance alleged to be due to an agricultural practice, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued by the commissioner under section three hundred eight of this article, prior to the start of any trial of the action or settlement of such action, unless the court finds that the position of the plaintiff was substantially justified or that special circumstances make an award unjust. Fees shall be determined pursuant to prevailing market rates for the kind and quality of the services furnished, except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings.
 - b. Application for fees. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which sets forth
 - (i) the facts supporting the claim that the party is a prevailing party and is eligible to receive an award under this section,
 - (ii) the amount sought, and

- (iii) an itemized statement from every attorney or expert witness for which fees or expenses are sought stating the actual time expended and the rate at which such fees and other expenses are claimed.
- 3. Interest. If the plaintiff appeals an award made pursuant to this section and the award is affirmed in whole or in part, interest shall be paid on the amount of the award. Such interest shall run from the date of the award through the day before the date of the affirmance.
- 4. Applicability.
 - a. Nothing contained in this section shall be construed to alter or modify the provisions of the civil practice law and rules where applicable to actions other than actions as defined by this section.
 - b. Nothing contained in this section shall affect or preclude the right of any party to recover fees or other expenses authorized by common law or by any other statute, law or rule.

309. Advisory council on agriculture

- 1. There shall be established within the department the advisory council on agriculture, to advise and make recommendations to the state agencies on state government plans, policies and programs affecting agriculture, as outlined below, and in such areas as its experience and studies may indicate to be appropriate. The department of agriculture and markets shall provide necessary secretariat and support services to the council.
- 2. The advisory council on agriculture shall consist of eleven members appointed by the governor with the advice and consent of the senate, selected for their experience and expertise related to areas of council responsibility. At least five members of the council shall be operators of a commercial farm enterprise and at least two members shall be representatives of local governments. The balance of the council shall be comprised of representatives of business or institutions related to agriculture. Members shall be appointed for a term of three years and may serve until their successors are chosen provided, however, that of the members first appointed, three shall serve for a term of one year, three shall serve for a term of two years, and three shall serve for a term of three years. Members shall serve without salary but shall be entitled to reimbursement of their ordinary and necessary travel expenses. The members of the council shall elect a chairman.
- 3. The duties and responsibilities of the advisory council on agriculture as they pertain to agricultural districts shall include, but not be limited to, providing timely advice, comments and recommendations to the commissioner in regard to:
 - a. the establishment of agricultural districts;
 - b. the eight year review of agricultural districts; and
 - c. the establishment of and any revision to the land classification system used in connection with the determination of agricultural assessment values.The commissioner may delegate to the council such additional duties and responsibilities as he deems necessary.
- 4. The duties and responsibilities of the advisory council on agriculture shall include, but not be limited to, providing timely advice, comments and recommendations to the state board of real property services in regard to the establishment of agricultural assessment values.
- 5. The advisory council on agriculture shall advise the commissioner and other state agency heads on state government plans, policies and programs affecting farming and the agricultural industry of this state. Concerned state agencies shall be encouraged to

establish a working relationship with the council and shall fully cooperate with the council in any requests it shall make.

6. The advisory council on agriculture may ask other individuals to attend its meetings or work with it on an occasional or regular basis provided, however, that it shall invite participation by the chairman of the state soil and water conservation committee and the dean of the New York state college of agriculture and life sciences at Cornell university. The advisory council on agriculture shall set the time and place of its meetings, and shall hold at least four meetings per year.
7. The advisory council on agriculture shall file a written report to the governor and the legislature by April first each year concerning its activities during the previous year and its program expectations for the succeeding year.
8. The advisory council on agriculture shall advise the commissioner in regards to whether particular land uses are agricultural in nature.

310. Disclosure

1. When any purchase and sale contract is presented for the sale, purchase, or exchange of real property located partially or wholly within an agricultural district established pursuant to the provisions of this article, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:
"It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and markets Law."
- 1-a. Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase or exchange of such real property.
2. Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the state board of real property services as provided for in section three hundred thirty-three of the real property law.

Local Laws and Agricultural Districts: How Do They Relate?

Counties, towns and villages in New York State have broad powers to enact laws to govern their own affairs. However, State laws impose certain restrictions on local government authority. One such restriction is found in Section 305-a of the Agriculture and Markets Law which contains the following mandate:

“Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article [*Article 25-AA of the Agriculture and Markets Law*], and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.”

This brochure has been prepared by the New York State Department of Agriculture and Markets to assist municipalities in drafting and administering local laws and ordinances which may affect farming in an agricultural district. It should not be substituted for legal advice from a municipality’s attorney. The brochure also offers guidance to farmers and municipalities on the application of Section 305-a.

The Commissioner of Agriculture and Markets may independently initiate a review of a proposed or existing local law or ordinance or proceed upon the request of a farmer or municipality in an agricultural district. The following describes the procedure for requesting review, how the local requirements are analyzed, and remediated, if necessary.

PROCEDURE

Questions concerning the impact of local laws and ordinances on farm operations are solved far more easily at the drafting stage than after the provision is in place. Municipalities are, therefore, encouraged to contact the Department, either by phone or in writing, in advance of enacting a law or ordinance which may restrict farming in an agricultural district. The Department will provide

David Paterson
Governor

Patrick Hooker
Commissioner

a response to such inquiries. Similarly, a farmer or other affected party in a district may seek the Department’s opinion on a proposed or existing law or ordinance without filing a complaint.

Farmers

A request for review must be provided in writing and include at least the following information:

- the location of the farm operation and identification of the agricultural district in which it is situated;
- a description of the affected farm operation (e.g. size of farm, type of enterprise, years in operation);
- a description of the specific farm buildings, equipment or practices involved and how they are affected;
- a copy of the complete local law or ordinance and identification of the specific section or sections involved;
- a listing of involved parties who can be contacted for further information (including addresses and phone numbers).

Subsequent to receiving a request for review of a local law or ordinance, the Department will contact the municipality involved and provide them with an opportunity to respond.

Municipalities

A request for review must be provided in writing and include at least the following information:

- the identification of the agricultural district(s) affected;
- a description of the specific law or proposed law and how farm buildings, equipment or practices are or may be affected
- a copy of the complete local law or ordinance and identification of the specific section or sections involved;
- a listing of involved parties who can be contacted for further information (including addresses and phone numbers).

ANALYSIS

The Department examines several factors in evaluating whether a local law or ordinance is in compliance with Section 305-a. Tests that must be met in each case are as follows:

- **Is the affected farm located within an agricultural district?**

Section 305-a only applies to farm operations in an agricultural district.

- **Does the regulated activity encompass farm operations?**

Section 301(11) of the Agriculture and Markets Law defines "Farm Operation" as meaning: "...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 and 'timber processing' as defined in subdivision fourteen 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." The definition of "crops, livestock and livestock products" is found in Section 301(2).

Only farm operations are protected by Section 305-a. The Department draws on the expertise of its program and legal staff, and other resources as needed, to make these determinations.

- **Does the local law or ordinance unreasonably restrict or regulate?**

The evaluation of reasonableness consists of two parts: 1) whether the law or ordinance is unreasonably restrictive "on its face," and 2) whether it is unreasonably restrictive as applied to a particular situation.

Some laws or ordinances are so vague that they inhibit farmers from undertaking certain activities or constructing certain buildings out of concern for violating the law or ordinance. In this case, it is possible that the law or ordinance, because of its vague construction, could be construed as unreasonably restricting a farm operation.

An ordinance may also appear reasonable in the abstract, but may unreasonably restrict or regulate a particular farmer. For example, many zoning ordinances impose setback requirements for structures in the interest of public safety or even aesthetics. These setbacks may be entirely reasonable under usual conditions, but may be construed as being unreasonably restrictive if applied to a farmer who, for example, constructs a building on a dead-end street, shielded from view, and near the only available water source.

A reasonable exercise of authority in one locality may translate into an unduly burdensome restriction on farming in another. In sum, reasonableness depends on the totality of circumstances in each case.

- **Is the public health or safety threatened by the regulated activity?**

Even if the Department determines that a particular law or ordinance is unreasonably restrictive, it must also

ask whether the public health or safety is threatened by the regulated activity. If so, it could withstand the limitations of Section 305-a.

REMEDIES

If the Department determines that a local law or ordinance unreasonably restricts or regulates farm operations in an agricultural district, it will notify the involved municipality to that effect and attempt to arrive at a mutually satisfactory resolution. In the case where a municipality rejects the Department's attempts at remediation, the Commissioner of Agriculture and Markets is explicitly authorized by law to bring an action to enforce Section 305-a. Alternatively, the Commissioner may issue an Order to comply, pursuant to Section 36 of the Agriculture and Markets Law.

Requests for general information or assistance, and formal written complaints alleging violations of Section 305-a, should be directed to:

**Agricultural Districts Program Administrator
New York State Department of Agriculture
and Markets
10B Airline Drive
Albany, NY 12235**

Phone: (518) 457-2713

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**New York State**  
**Department of Agriculture and Markets**  
**10B Airline Drive**  
**Albany, New York 12235**  
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CIRCULAR 1500

ARTICLE 25AAA -- AGRICULTURAL AND FARMLAND PROTECTION PROGRAMS

AGRICULTURE AND MARKETS LAW
AS AMENDED by Chapter 527 of the Laws of 2005,
effective on February 12, 2006

ARTICLE 25AAA - AGRICULTURAL AND FARMLAND PROTECTION PROGRAMS

Sec.

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321. Statement of legislative findings and intent

It is hereby found and declared that agricultural lands are irreplaceable state assets. In an effort to maintain the economic viability, and environmental and landscape preservation values associated with agriculture, the state must explore ways to sustain the state's valuable farm economy and the land base associated with it. External pressures on farm stability such as population growth in non-metropolitan areas and public infrastructure development pose a significant threat to farm operations, yet are the pressures over which farmers have the least control. Local initiatives in agricultural protection policy, facilitated by the agricultural districts program established in article twenty-five-AA of this chapter, have proved effective as a basic step in addressing these pressures. In an effort to encourage further development of agricultural and farmland protection programs, and to recognize both the crucial role that local government plays in developing these strategies, plus the state constitutional directive to the legislature to provide for the protection of agricultural lands, it is therefore declared the policy of the state to promote local initiatives for agricultural and farmland protection.

322. Definitions

When used in this article:

- 1. "Agricultural and farmland protection" means the preservation, conservation, management or improvement of lands which are part of viable farming operations, for the purpose of encouraging such lands to remain in agricultural production.
- 2. "Plan" means the county and municipal agricultural and farmland protection plan as provided for in this article.
- 3. "Program" means the state agricultural and farmland protection program created pursuant to the provisions of this article.

323. State agricultural and farmland protection program

The commissioner shall initiate and maintain a state agricultural and farmland protection program to provide financial and technical assistance, within funds available, to counties and municipalities for their agricultural and farmland protection efforts. Activities to be conducted by the commissioner shall include, but not be limited to:

1. developing guidelines for the creation by counties and municipalities of agricultural and farmland protection plans;
2. providing technical assistance to county agricultural and farmland protection boards, as established in article twenty-five-AA of this chapter, and municipalities;
3. administering state assistance payments to county agricultural and farmland protection boards and municipalities;
4. disseminating information to county and municipal governments, owners of agricultural lands and other agricultural interests about the state agricultural and farmland protection program established pursuant to this article;
5. reporting biennially to the governor and the legislature regarding the activities of the commissioner, the types of technical assistance rendered to county agricultural and farmland protection boards and municipalities, and the need to protect the state's agricultural economy and land resources.

324. County agricultural and farmland protection plans

1. County agricultural and farmland protection boards may develop plans, in cooperation with the local soil and water conservation district and soil conservation service, which shall include, but not be limited to:
 - a) the location of any land or areas proposed to be protected;
 - b) an analysis of the following factors concerning any areas and lands proposed to be protected:
 - i) value to the agricultural economy of the county;
 - ii) open space value;
 - iii) consequences of possible conversion; and
 - iv) level of conversion pressure on the lands or areas proposed to be protected; and
 - c) a description of the activities, programs and strategies intended to be used by the county to promote continued agricultural use.
2. The county agricultural and farmland protection board shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan, and shall thereafter submit such plan to the county legislative body for its approval.
3. The county agricultural protection plan must be submitted by the county to the commissioner for approval.

324-a. Municipal agricultural and farmland protection plans

1. Municipalities may develop agricultural and farmland protection plans, in cooperation with cooperative extension and other organizations, including local farmers. These plans shall include, but not be limited to:
 - a) the location of any land or areas proposed to be protected;

- b) an analysis of the following factors concerning any areas and lands proposed to be protected;
 - i) value to the agricultural economy of the municipality;
 - ii) open space value;
 - iii) consequences of possible conversion; and
 - iv) level of conversion pressure on the lands or areas proposed to be protected; and
 - c) a description of activities, programs and strategies intended to be used by the municipality to promote continued agricultural use, which may include but not be limited to revisions to the municipality's comprehensive plan pursuant to paragraph (a) of subdivision two of section two hundred seventy-two-a of the town law and land use regulations as defined in paragraph (b) of subdivision two of section two hundred seventy-two-a of the town law as appropriate.
2. The municipality shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan, and shall thereafter submit such plan to the municipal legislative body and the county agricultural farmland protection board for approval.
 3. The municipal agricultural and farmland protection plan must be submitted by the municipality to the commissioner for approval.

325. Agricultural protection

1. Subject to the availability of funds, a program is hereby established to finance through state assistance payments the state share of the costs of county and municipal agricultural and farmland protection activities. State assistance payments for planning activities shall not exceed fifty thousand dollars to each county agricultural and farmland protection board or one hundred thousand dollars to two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for planning activities shall not exceed twenty-five thousand dollars to each municipality other than a county or fifty thousand dollars to two such municipalities applying jointly, and shall not exceed seventy-five percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for implementation of approved agricultural and farmland protection plans may fund up to seventy-five percent of the cost of implementing the county plan or a portion of the plan for which state assistance payments are requested.
2. a) A county agricultural and farmland protection board, two such boards acting jointly, a municipality or two such municipalities acting jointly shall make application to the commissioner in such manner as the commissioner may prescribe. Application for state assistance payments for planning activities may be made at any time after the county agricultural and farmland protection board has formed and has elected a chairperson. A county agricultural and farmland protection board may make application for state assistance payments for plan implementation at any time after the commissioner has approved a county agricultural and farmland protection plan pursuant to section three hundred twenty-four of this article. Application made jointly by two county agricultural and

farmland protection boards may be made after such agricultural and farmland protection plan is approved by each county pursuant to the provisions of section three hundred twenty-four of this article.

- b) Within a county, a municipality which has in place a local farmland protection plan may apply and shall be eligible for agricultural protection state assistance payments to implement its plan, or a portion of its plan, provided the proposed project is endorsed for funding by the agricultural and farmland protection board for the county in which the municipality is located and that any plan developed on or after January first, two thousand six complies with section three hundred twenty-four-a of this article. State assistance payments to such municipalities shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.
 - c) In evaluating applications for funding, the commissioner shall give priority to projects intended to preserve viable agricultural land as defined in section three hundred one of this chapter; that are in areas facing significant development pressure; and that serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics.
3. Upon receipt of a request for state assistance, the commissioner shall review the request, consult with the advisory council on agriculture and, within ninety days from the receipt of a complete application, shall make a determination as to whether or not such projects shall receive state assistance.

326. Promulgation of rules and regulations

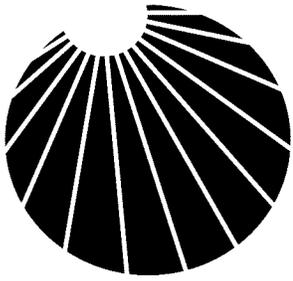
The commissioner is empowered to promulgate such rules and regulations and to prescribe such forms as he or she deems necessary to effectuate the purposes of this article.

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**Sample Agricultural Data
Statement**



American Farmland Trust Cost of Services Study Fact Sheet



FARMLAND
INFORMATION
CENTER

FACT SHEET

COST OF
COMMUNITY
SERVICES
STUDIES



FARMLAND INFORMATION CENTER
(800) 370-4879
www.farmlandinfo.org



DESCRIPTION

Cost of Community Services (COCS) studies are a case study approach used to determine the fiscal contribution of existing local land uses. A subset of the much larger field of fiscal analysis, COCS studies have emerged as an inexpensive and reliable tool to measure direct fiscal relationships. Their particular niche is to evaluate working and open lands on equal ground with residential, commercial and industrial land uses.

COCS studies are a snapshot in time of costs versus revenues for each type of land use. They do not predict future costs or revenues or the impact of future growth. They do provide a baseline of current information to help local officials and citizens make informed land use and policy decisions.

METHODOLOGY

In a COCS study, researchers organize financial records to assign the cost of municipal services to working and open lands, as well as to residential, commercial and industrial development. Researchers meet with local sponsors to define the scope of the project and identify land use categories to study. For example, working lands may include farm, forest and/or ranch lands. Residential development includes all housing, including rentals, but if there is a migrant agricultural work force, temporary housing for these workers would be considered part of agricultural land use. Often in rural communities, commercial and industrial land uses are combined. COCS studies findings are displayed as a set of ratios that compare annual revenues to annual expenditures for a community's unique mix of land uses.

COCS studies involve three basic steps:

1. Collect data on local revenues and expenditures.
2. Group revenues and expenditures and allocate them to the community's major land use categories.
3. Analyze the data and calculate revenue-to-expenditure ratios for each land use category.

The process is straightforward, but ensuring reliable figures requires local oversight. The most complicated task is interpreting existing records to reflect COCS land use categories. Allocating revenues and expenses requires a significant amount of research, including extensive interviews with financial officers and public administrators.

HISTORY

Communities often evaluate the impact of growth on local budgets by conducting or commissioning fiscal impact analyses. Fiscal impact studies project public costs and revenues from different land development patterns. They generally show that residential development is a net fiscal loss for communities and recommend commercial and industrial development as a strategy to balance local budgets.

Rural towns and counties that would benefit from fiscal impact analysis may not have the expertise or resources to conduct a study. Also, fiscal impact analyses rarely consider the contribution of working and other open lands, which is very important to rural economies.

American Farmland Trust (AFT) developed COCS studies in the mid-1980s to provide communities with a straightforward and inexpensive way to measure the contribution of agricultural lands to the local tax base. Since then, COCS studies have been conducted in at least 151 communities in the United States.

FUNCTIONS & PURPOSES

Communities pay a high price for unplanned growth. Scattered development frequently causes traffic congestion, air and water pollution, loss of open space and increased demand for costly public services. This is why it is important for citizens and local leaders to understand the relationships between residential and commercial growth, agricultural land use, conservation and their community's bottom line.

COCS studies help address three misperceptions that are commonly made in rural or suburban communities facing growth pressures:

1. Open lands—including productive farms and forests—are an interim land use that should be developed to their “highest and best use.”
2. Agricultural land gets an unfair tax break when it is assessed at its current use value for farming or ranching instead of at its potential use value for residential or commercial development.
3. Residential development will lower property taxes by increasing the tax base.

While it is true that an acre of land with a new house generates more total revenue than an acre of hay or corn, this tells us little about

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Colorado				
Custer County	1 : 1.16	1 : 0.71	1 : 0.54	Haggerty, 2000
Sagauche County	1 : 1.17	1 : 0.53	1 : 0.35	Dirt, Inc., 2001
Connecticut				
Bolton	1 : 1.05	1 : 0.23	1 : 0.50	Geisler, 1998
Brooklyn	1 : 1.09	1 : 0.17	1 : 0.30	Green Valley Institute, 2002
Durham	1 : 1.07	1 : 0.27	1 : 0.23	Southern New England Forest Consortium, 1995
Farmington	1 : 1.33	1 : 0.32	1 : 0.31	Southern New England Forest Consortium, 1995
Hebron	1 : 1.06	1 : 0.47	1 : 0.43	American Farmland Trust, 1986
Lebanon	1 : 1.12	1 : 0.16	1 : 0.17	Green Valley Institute, 2007
Litchfield	1 : 1.11	1 : 0.34	1 : 0.34	Southern New England Forest Consortium, 1995
Pomfret	1 : 1.06	1 : 0.27	1 : 0.86	Southern New England Forest Consortium, 1995
Windham	1 : 1.15	1 : 0.24	1 : 0.19	Green Valley Institute, 2002
Florida				
Leon County	1 : 1.39	1 : 0.36	1 : 0.42	Dorfman, 2004
Georgia				
Appling County	1 : 2.27	1 : 0.17	1 : 0.35	Dorfman, 2004
Athens-Clarke County	1 : 1.39	1 : 0.41	1 : 2.04	Dorfman, 2004
Brooks County	1 : 1.56	1 : 0.42	1 : 0.39	Dorfman, 2004
Carroll County	1 : 1.29	1 : 0.37	1 : 0.55	Dorfman and Black, 2002
Cherokee County	1 : 1.59	1 : 0.12	1 : 0.20	Dorfman, 2004
Colquitt County	1 : 1.28	1 : 0.45	1 : 0.80	Dorfman, 2004
Columbia County	1 : 1.16	1 : 0.48	1 : 0.52	Dorfman, 2006
Dooly County	1 : 2.04	1 : 0.50	1 : 0.27	Dorfman, 2004
Grady County	1 : 1.72	1 : 0.10	1 : 0.38	Dorfman, 2003
Hall County	1 : 1.25	1 : 0.66	1 : 0.22	Dorfman, 2004
Jackson County	1 : 1.28	1 : 0.58	1 : 0.15	Dorfman, 2008
Jones County	1 : 1.23	1 : 0.65	1 : 0.35	Dorfman, 2004
Miller County	1 : 1.54	1 : 0.52	1 : 0.53	Dorfman, 2004
Mitchell County	1 : 1.39	1 : 0.46	1 : 0.60	Dorfman, 2004
Morgan County	1 : 1.42	1 : 0.25	1 : 0.38	Dorfman, 2008
Thomas County	1 : 1.64	1 : 0.38	1 : 0.67	Dorfman, 2003
Union County	1 : 1.13	1 : 0.43	1 : 0.72	Dorfman and Lavigno, 2006
Idaho				
Booneville County	1 : 1.06	1 : 0.84	1 : 0.23	Hartmans and Meyer, 1997
Canyon County	1 : 1.08	1 : 0.79	1 : 0.54	Hartmans and Meyer, 1997
Cassia County	1 : 1.19	1 : 0.87	1 : 0.41	Hartmans and Meyer, 1997
Kootenai County	1 : 1.09	1 : 0.86	1 : 0.28	Hartmans and Meyer, 1997
Kentucky				
Campbell County	1 : 1.21	1 : 0.30	1 : 0.38	American Farmland Trust, 2005
Kenton County	1 : 1.19	1 : 0.19	1 : 0.51	American Farmland Trust, 2005
Lexington-Fayette County	1 : 1.64	1 : 0.22	1 : 0.93	American Farmland Trust, 1999
Oldham County	1 : 1.05	1 : 0.29	1 : 0.44	American Farmland Trust, 2003
Shelby County	1 : 1.21	1 : 0.24	1 : 0.41	American Farmland Trust, 2005

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Maine				
Bethel	1 : 1.29	1 : 0.59	1 : 0.06	Good, 1994
Maryland				
Carroll County	1 : 1.15	1 : 0.48	1 : 0.45	Carroll County Dept. of Management & Budget, 1994
Cecil County	1 : 1.17	1 : 0.34	1 : 0.66	American Farmland Trust, 2001
Cecil County	1 : 1.12	1 : 0.28	1 : 0.37	Cecil County Office of Economic Development, 1994
Frederick County	1 : 1.14	1 : 0.50	1 : 0.53	American Farmland Trust, 1997
Harford County	1 : 1.11	1 : 0.40	1 : 0.91	American Farmland Trust, 2003
Kent County	1 : 1.05	1 : 0.64	1 : 0.42	American Farmland Trust, 2002
Wicomico County	1 : 1.21	1 : 0.33	1 : 0.96	American Farmland Trust, 2001
Massachusetts				
Agawam	1 : 1.05	1 : 0.44	1 : 0.31	American Farmland Trust, 1992
Becket	1 : 1.02	1 : 0.83	1 : 0.72	Southern New England Forest Consortium, 1995
Dartmouth	1 : 1.14	1 : 0.51	1 : 0.26	American Farmland Trust, 2009
Deerfield	1 : 1.16	1 : 0.38	1 : 0.29	American Farmland Trust, 1992
Deerfield	1 : 1.14	1 : 0.51	1 : 0.33	American Farmland Trust, 2009
Franklin	1 : 1.02	1 : 0.58	1 : 0.40	Southern New England Forest Consortium, 1995
Gill	1 : 1.15	1 : 0.43	1 : 0.38	American Farmland Trust, 1992
Leverett	1 : 1.15	1 : 0.29	1 : 0.25	Southern New England Forest Consortium, 1995
Middleboro	1 : 1.08	1 : 0.47	1 : 0.70	American Farmland Trust, 2001
Southborough	1 : 1.03	1 : 0.26	1 : 0.45	Adams and Hines, 1997
Sterling	1 : 1.09	1 : 0.26	1 : 0.34	American Farmland Trust, 2009
Westford	1 : 1.15	1 : 0.53	1 : 0.39	Southern New England Forest Consortium, 1995
Williamstown	1 : 1.11	1 : 0.34	1 : 0.40	Hazler et al., 1992
Michigan				
Marshall Twp., Calhoun County	1 : 1.47	1 : 0.20	1 : 0.27	American Farmland Trust, 2001
Newton Twp., Calhoun County	1 : 1.20	1 : 0.25	1 : 0.24	American Farmland Trust, 2001
Scio Twp., Washtenaw County	1 : 1.40	1 : 0.28	1 : 0.62	University of Michigan, 1994
Minnesota				
Farmington	1 : 1.02	1 : 0.79	1 : 0.77	American Farmland Trust, 1994
Independence	1 : 1.03	1 : 0.19	1 : 0.47	American Farmland Trust, 1994
Lake Elmo	1 : 1.07	1 : 0.20	1 : 0.27	American Farmland Trust, 1994
Montana				
Carbon County	1 : 1.60	1 : 0.21	1 : 0.34	Prinzing, 1997
Flathead County	1 : 1.23	1 : 0.26	1 : 0.34	Citizens for a Better Flathead, 1999
Gallatin County	1 : 1.45	1 : 0.16	1 : 0.25	Haggerty, 1996
New Hampshire				
Brentwood	1 : 1.17	1 : 0.24	1 : 0.83	Brentwood Open Space Task Force, 2002
Deerfield	1 : 1.15	1 : 0.22	1 : 0.35	Auger, 1994
Dover	1 : 1.15	1 : 0.63	1 : 0.94	Kingsley, et al., 1993
Exeter	1 : 1.07	1 : 0.40	1 : 0.82	Niebling, 1997
Fremont	1 : 1.04	1 : 0.94	1 : 0.36	Auger, 1994
Groton	1 : 1.01	1 : 0.12	1 : 0.88	New Hampshire Wildlife Federation, 2001
Hookset	1 : 1.16	1 : 0.43	1 : 0.55	Innovative Natural Resource Solutions, 2008
Lyme	1 : 1.05	1 : 0.28	1 : 0.23	Pickard, 2000
Milton	1 : 1.30	1 : 0.35	1 : 0.72	Innovative Natural Resource Solutions, 2005

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
New Hampshire (continued)				
Mont Vernon	1 : 1.03	1 : 0.04	1 : 0.08	Innovative Natural Resource Solutions, 2002
Stratham	1 : 1.15	1 : 0.19	1 : 0.40	Auger, 1994
New Jersey				
Freehold Township	1 : 1.51	1 : 0.17	1 : 0.33	American Farmland Trust, 1998
Holmdel Township	1 : 1.38	1 : 0.21	1 : 0.66	American Farmland Trust, 1998
Middletown Township	1 : 1.14	1 : 0.34	1 : 0.36	American Farmland Trust, 1998
Upper Freehold Township	1 : 1.18	1 : 0.20	1 : 0.35	American Farmland Trust, 1998
Wall Township	1 : 1.28	1 : 0.30	1 : 0.54	American Farmland Trust, 1998
New York				
Amenia	1 : 1.23	1 : 0.25	1 : 0.17	Bucknall, 1989
Beekman	1 : 1.12	1 : 0.18	1 : 0.48	American Farmland Trust, 1989
Dix	1 : 1.51	1 : 0.27	1 : 0.31	Schuyler County League of Women Voters, 1993
Farmington	1 : 1.22	1 : 0.27	1 : 0.72	Kinsman et al., 1991
Fishkill	1 : 1.23	1 : 0.31	1 : 0.74	Bucknall, 1989
Hector	1 : 1.30	1 : 0.15	1 : 0.28	Schuyler County League of Women Voters, 1993
Kinderhook	1 : 1.05	1 : 0.21	1 : 0.17	Concerned Citizens of Kinderhook, 1996
Montour	1 : 1.50	1 : 0.28	1 : 0.29	Schuyler County League of Women Voters, 1992
North East	1 : 1.36	1 : 0.29	1 : 0.21	American Farmland Trust, 1989
Reading	1 : 1.88	1 : 0.26	1 : 0.32	Schuyler County League of Women Voters, 1992
Red Hook	1 : 1.11	1 : 0.20	1 : 0.22	Bucknall, 1989
Rochester	1 : 1.27	1 : 0.18	1 : 0.18	Bonner and Gray, 2005
North Carolina				
Alamance County	1 : 1.46	1 : 0.23	1 : 0.59	Renkow, 2006
Chatham County	1 : 1.14	1 : 0.33	1 : 0.58	Renkow, 2007
Henderson County	1 : 1.16	1 : 0.40	1 : 0.97	Renkow, 2008
Orange County	1 : 1.31	1 : 0.24	1 : 0.72	Renkow, 2006
Union County	1 : 1.30	1 : 0.41	1 : 0.24	Dorfman, 2004
Wake County	1 : 1.54	1 : 0.18	1 : 0.49	Renkow, 2001
Ohio				
Butler County	1 : 1.12	1 : 0.45	1 : 0.49	American Farmland Trust, 2003
Clark County	1 : 1.11	1 : 0.38	1 : 0.30	American Farmland Trust, 2003
Hocking Township	1 : 1.10	1 : 0.27	1 : 0.17	Prindle, 2002
Knox County	1 : 1.05	1 : 0.38	1 : 0.29	American Farmland Trust, 2003
Liberty Township	1 : 1.15	1 : 0.51	1 : 0.05	Prindle, 2002
Madison Village, Lake County	1 : 1.67	1 : 0.20	1 : 0.38	American Farmland Trust, 1993
Madison Twp., Lake County	1 : 1.40	1 : 0.25	1 : 0.30	American Farmland Trust, 1993
Madison Village, Lake County	1 : 1.16	1 : 0.32	1 : 0.37	American Farmland Trust, 2008
Madison Twp., Lake County	1 : 1.24	1 : 0.33	1 : .030	American Farmland Trust, 2008
Shalersville Township	1 : 1.58	1 : 0.17	1 : 0.31	Portage County Regional Planning Commission, 1997
Pennsylvania				
Allegheny Twp., Westmoreland County	1 : 1.06	1 : 0.14	1 : 0.13	Kelsey, 1997
Bedminster Twp., Bucks County	1 : 1.12	1 : 0.05	1 : 0.04	Kelsey, 1997
Bethel Twp., Lebanon County	1 : 1.08	1 : 0.17	1 : 0.06	Kelsey, 1992
Bingham Twp., Potter County	1 : 1.56	1 : 0.16	1 : 0.15	Kelsey, 1994
Buckingham Twp., Bucks County	1 : 1.04	1 : 0.15	1 : 0.08	Kelsey, 1996

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Pennsylvania (continued)				
Carroll Twp., Perry County	1 : 1.03	1 : 0.06	1 : 0.02	Kelsey, 1992
Hopewell Twp., York County	1 : 1.27	1 : 0.32	1 : 0.59	The South Central Assembly for Effective Governance, 2002
Kelly Twp., Union County	1 : 1.48	1 : 0.07	1 : 0.07	Kelsey, 2006
Lehman Twp., Pike County	1 : 0.94	1 : 0.20	1 : 0.27	Kelsey, 2006
Maiden Creek Twp., Berks County	1 : 1.28	1 : 0.11	1 : 0.06	Kelsey, 1998
Richmond Twp., Berks County	1 : 1.24	1 : 0.09	1 : 0.04	Kelsey, 1998
Shrewsbury Twp., York County	1 : 1.22	1 : 0.15	1 : 0.17	The South Central Assembly for Effective Governance, 2002
Stewardson Twp., Potter County	1 : 2.11	1 : 0.23	1 : 0.31	Kelsey, 1994
Straban Twp., Adams County	1 : 1.10	1 : 0.16	1 : 0.06	Kelsey, 1992
Sweden Twp., Potter County	1 : 1.38	1 : 0.07	1 : 0.08	Kelsey, 1994
Rhode Island				
Hopkinton	1 : 1.08	1 : 0.31	1 : 0.31	Southern New England Forest Consortium, 1995
Little Compton	1 : 1.05	1 : 0.56	1 : 0.37	Southern New England Forest Consortium, 1995
West Greenwich	1 : 1.46	1 : 0.40	1 : 0.46	Southern New England Forest Consortium, 1995
Tennessee				
Blount County	1 : 1.23	1 : 0.25	1 : 0.41	American Farmland Trust, 2006
Robertson County	1 : 1.13	1 : 0.22	1 : 0.26	American Farmland Trust, 2006
Tipton County	1 : 1.07	1 : 0.32	1 : 0.57	American Farmland Trust, 2006
Texas				
Bandera County	1 : 1.10	1 : 0.26	1 : 0.26	American Farmland Trust, 2002
Bexar County	1 : 1.15	1 : 0.20	1 : 0.18	American Farmland Trust, 2004
Hays County	1 : 1.26	1 : 0.30	1 : 0.33	American Farmland Trust, 2000
Utah				
Cache County	1 : 1.27	1 : 0.25	1 : 0.57	Snyder and Ferguson, 1994
Sevier County	1 : 1.11	1 : 0.31	1 : 0.99	Snyder and Ferguson, 1994
Utah County	1 : 1.23	1 : 0.26	1 : 0.82	Snyder and Ferguson, 1994
Virginia				
Augusta County	1 : 1.22	1 : 0.20	1 : 0.80	Valley Conservation Council, 1997
Bedford County	1 : 1.07	1 : 0.40	1 : 0.25	American Farmland Trust, 2005
Clarke County	1 : 1.26	1 : 0.21	1 : 0.15	Piedmont Environmental Council, 1994
Culpepper County	1 : 1.22	1 : 0.41	1 : 0.32	American Farmland Trust, 2003
Frederick County	1 : 1.19	1 : 0.23	1 : 0.33	American Farmland Trust, 2003
Northampton County	1 : 1.13	1 : 0.97	1 : 0.23	American Farmland Trust, 1999
Washington				
Okanogan County	1 : 1.06	1 : 0.59	1 : 0.56	American Farmland Trust, 2007
Skagit County	1 : 1.25	1 : 0.30	1 : 0.51	American Farmland Trust, 1999
Wisconsin				
Dunn	1 : 1.06	1 : 0.29	1 : 0.18	Town of Dunn, 1994
Dunn	1 : 1.02	1 : 0.55	1 : 0.15	Wisconsin Land Use Research Program, 1999
Perry	1 : 1.20	1 : 1.04	1 : 0.41	Wisconsin Land Use Research Program, 1999
Westport	1 : 1.11	1 : 0.31	1 : 0.13	Wisconsin Land Use Research Program, 1999

Note: Some studies break out land uses into more than three distinct categories. For these studies, AFT requested data from the researcher and recalculated the final ratios for the land use categories listed in this table. The Okanogan County, Wash., study is unique in that it analyzed the fiscal contribution of tax-exempt state, federal and tribal lands.

American Farmland Trust's Farmland Information Center acts as a clearinghouse for information about Cost of Community Services studies. Inclusion in this table does not necessarily signify review or endorsement by American Farmland Trust.

COST OF COMMUNITY SERVICES STUDIES

a community's bottom line. In areas where agriculture or forestry are major industries, it is especially important to consider the real property tax contribution of privately owned working lands. Working and other open lands may generate less revenue than residential, commercial or industrial properties, but they require little public infrastructure and few services.

COCS studies conducted over the last 20 years show working lands generate more public revenues than they receive back in public services. Their impact on community coffers is similar to that of other commercial and industrial land uses. On average, because residential land uses do not cover their costs, they must be subsidized by other community land uses. Converting agricultural land to residential land use should not be seen as a way to balance local budgets.

The findings of COCS studies are consistent with those of conventional fiscal impact analyses, which document the high cost of residential development and recommend commercial and industrial development to help balance local budgets. What is unique about COCS studies is that they show that agricultural land is similar to other commercial and industrial uses. In nearly every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for

public services. This is true even when the land is assessed at its current, agricultural use. However as more communities invest in agriculture this tendency may change. For example, if a community establishes a purchase of agricultural conservation easement program, working and open lands may generate a net negative.

Communities need reliable information to help them see the full picture of their land uses. COCS studies are an inexpensive way to evaluate the net contribution of working and open lands. They can help local leaders discard the notion that natural resources must be converted to other uses to ensure fiscal stability. They also dispel the myths that residential development leads to lower taxes, that differential assessment programs give landowners an "unfair" tax break and that farmland is an interim land use just waiting around for development.

One type of land use is not intrinsically better than another, and COCS studies are not meant to judge the overall public good or long-term merits of any land use or taxing structure. It is up to communities to balance goals such as maintaining affordable housing, creating jobs and conserving land. With good planning, these goals can complement rather than compete with each other. COCS studies give communities another tool to make decisions about their futures.

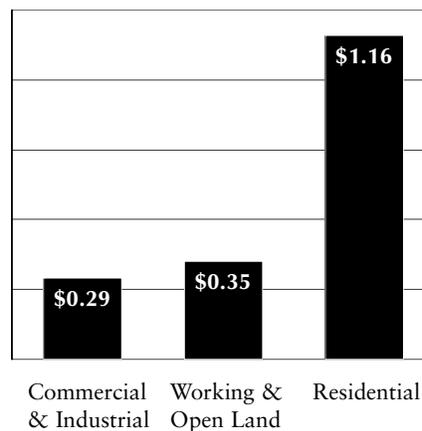
For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service and online library with fact sheets, laws, sample documents and other educational materials.

www.farmlandinfo.org
(800) 370-4879



AFT NATIONAL OFFICE
1200 18th Street, NW, Suite 800
Washington, DC 20036
(202) 331-7300
www.farmland.org

Median COCS Results



Median cost per dollar of revenue raised to provide public services to different land uses.

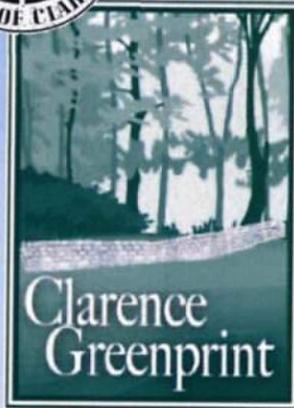




Purchase of Development Rights Information



Town of Clarence, New York



CLARENCE GREENPRINT PROGRAM





Town of Clarence, New York

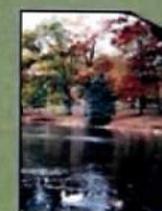
Clarence Greenprint Program
June 6, 2012

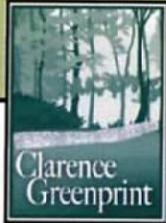
Presentation Outline

- I. The Greenprint Project:
 - Brief history and background
- II. Estimated Costs and Anticipated Benefits
- III. Greenspace Review
- IV. Properties Purchased/Program Expenses
- V. Actual Program Expenses
- VI. Actual Program Benefits
- VII. Achieving the Goals of Master Plan 2015



Town of
Clarence





Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

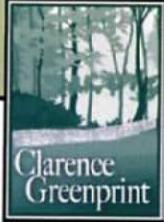
I. Project History/Origin

1998- The Clarence Recreation Advisory Committee (“Committee”) began research and analysis of residents’ concerns over sprawl, congestion and quality of life issues. The Committee undertook a review of efforts by other communities across New York State to preserve open space.

2002- The Committee formally proposed to the Town Board a plan to preserve open space and the town’s rural character, protect property values and sustain the tax base through smart growth and balanced development.

The Committee recommended a Public Referendum to provide Greenprint Program funding.





Town of Clarence, New York

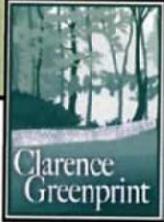
Clarence Greenprint Program
June 6, 2012

2002- The Town Board accepts the Committee's recommendation and a Public Hearing was held. The Committee presented the Greenprint Program proposal and received public comment.

Late 2002- The Greenprint Program is approved in a public referendum by 2/3 vote of Town residents.

Bond funds of \$12.5 million are secured as part of a 10 year Greenprint Preservation program. If after ten years the budget is not expended, the Town Board has the option to extend.





Town of Clarence, New York

Clarence Greenprint Program

June 6, 2012

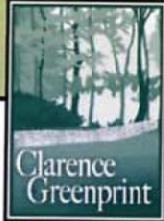
II. Estimated Costs and Anticipated Benefits

Estimated Costs

- The Committee estimated an increase of \$52 in additional annual taxes for a property assessed at \$100,000, assuming the full \$12.5 million bond were spent at once.

Anticipated Benefits

- Increased property values.
- Reduction of municipal expenses through decreased demand on services.
- Balanced economic growth, tax stabilization, green space preservation and enhanced quality of life.



Town of Clarence, New York

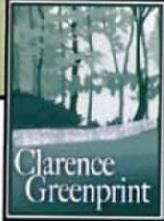
Clarence Greenprint Program
June 6, 2012

III. Greenspace Review

1) Preliminary Review

- Willing property owners complete a participation interest survey. The Committee, in conjunction with the Western New York Land Conservancy (“Land Conservancy”) analyzes property data, screens interest of the applicant, assesses development potential, natural land, wetland, agricultural, open space, possible recreational use/bikepaths, size, and scenic considerations of the property.
- The Committee decides whether the property fits within the goals and parameters of the program and is suitable for further consideration.
- The Town Office of Planning and Zoning and Land Conservancy provide parcel data and an environmental review for the consideration of the Committee.





Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

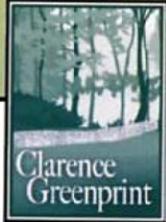
2) Matrix Evaluation and Property Ranking

□ The Land Conservancy evaluates and ranks each property with a point matrix analysis form arranged in 2 categories:

-Natural Land Form- Analyzes natural land features: wetland and riparian corridors, scenic views, unique ecological communities, wildlife habitat, mature forests, open space, and creek corridors.

-Agricultural Land Form- Analyzes agricultural land: value to the local agricultural economy, soil type, size, and proximity to adjacent farms.





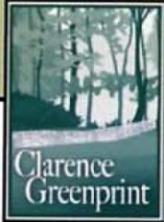
Town of Clarence, New York

Clarence Greenprint Program
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3) Fair Market Appraisal and Price Negotiation

- Based upon all data received and land rankings, the Committee decides whether to request a Fair Market Property Appraisal.
- The Committee reviews the Property Appraisal and discusses with the property owner whether to purchase outright and/or to place a conservation easement on the property or purchase development rights.
- The Committee provides the Town Attorney's Office with a not to exceed value and authorizes negotiations. The negotiated price may not exceed appraised value.





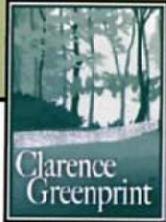
Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

4) Town Board Review and Approval:

- After agreement with the property owner, the Committee recommends acceptance by the Town Board.
- The Board decides whether to conduct a public hearing to receive public comment.
- The Town Board makes the final decision whether to contract with the property owner.
- If the Town Board decides to purchase, the property or development rights are acquired and the land is preserved as forever green.



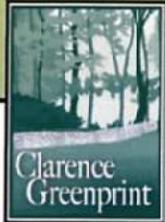


Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

IV. Properties Purchased

PROPERTY ADDRESS	PDR/LAND PURCHASE (YEAR)	TOTAL LAND AREA	COST INCURRED	CURRENT OWNER
Salt Road/Greiner Road ("Eichorn Farm")	Land Purchase(2004)	184 acres	\$780,000	Town of Clarence
Gunnville Road ("Nappo Preserve")	Land Purchase (2004)	22 acres	\$42,800	Town of Clarence
10591 Rapids Road ("Krueger Preserve")	Land Purchase (2004)	57 acres	\$128,600	Town of Clarence
Goodrich Road ("Frey Preserve")	Land Purchase (2005)	16 acres	\$400,000	Town of Clarence
Roll Road ("Ribbeck Farm")	PDR (2005)	62 acres	\$431,368	Gregory C. Ribbeck
Parker Road ("Laubacher Preserve")	Land Purchase (2005)	30 acres	\$36,000	Town of Clarence
Rapids Road ("Owen Farm")	Land Purchase (2008)	90 acres	\$320,000	Town of Clarence
Salt Road ("Christner Farm")	Land Purchase (2009)	96 acres	\$705,000	Town of Clarence
			(TOC- \$300,000) (NYS- \$150,000) (FED- \$150,000)	
Lapp Road ("Spoth Farm")	PDR (2009)	102 acres	TOTAL- \$600,000	Greg Spoth
Keller Road ("Mosher Farm")	Land Purchase (2009)	41 acres	\$331,280	Town of Clarence
Greiner Road ("Ball Farm")	Land Purchase (2010)	120 acres	\$900,000	Town of Clarence
Rapids Road ("Baker Farm")	PDR (2011)	102 acres	\$95,000	Gary Baker
Rapids Road ("Hedges Farm")	PDR (2011)	116 acres	\$500,000	Melvyn C. Hedges
Harris Hill Road ("Deni Preserve")	Land Purchase (2011)	86 acres	\$825,000	Town of Clarence
Shimerville Road/Roll Road ("Ribbeck Farm II")	PDR (2012)	84 acres	\$754,110	Gregory C. Ribbeck
	TOTAL:	1,236 acres	\$6,802,328	



Town of Clarence, New York

Clarence Greenprint Program

June 6, 2012

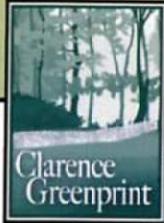
V. Actual Program Expenses

Tax Impact- Property Acquisition and Purchase of Development Rights

Resultant Tax Increase per \$100,000 of Assessed Value:

Committee's Cost Estimate for full \$12,500,000 expenditure-	\$52.00
Actual Cost of \$ 6,802,328 expenditure-	\$14.10*
Actual Cost of \$12,500,000 expenditure-	\$30.40

**As discussed later, cost reduction can be achieved by reselling purchased property with conservation easements in place ensuring continued protection of greenspace.*



Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

VI. Actual Program Benefits

1) Protection of Property Values and Stabilization of Tax Rates

- The availability of open space directly affects quality of life which is a significant factor in the purchasing decisions of many consumers. Local sales data reflects an average 15% increase in property sale value of those properties directly adjacent to open space or permanently conserved property compared to similar non-adjacent housing.

- The average appreciation rate of existing property within the Town of Clarence is 5 times that of comparable Towns in the region. Furthermore, the Town has sustained an average 3% positive appreciation rate for the past decade. *(source: County Wide Equalization Change, 2009-2011)*

- When comparing the Town of Clarence to similar communities across the region, residents in other communities are paying an average of 30% more in total property taxes. *(source: 2010-2011 Erie County Real Property Tax Comparison)*



Town of Clarence, New York

Clarence Greenprint Program

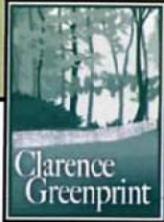
June 6, 2012

VI. Actual Program Benefits

1) Protection of Property Values and Stabilization of Tax Rates (Cont.)

- In 2011, the Town of Clarence had a 2.32% increase in existing property assessed valuations. This increase resulted in an additional \$78,499,025 in assessed valuation within the community.

- Assuming only 10% of the overall assessed valuation increase of existing properties can be attributed to open space preservation, the program is responsible for \$1,712,700 in additional tax revenue for the community over a 20 year period.

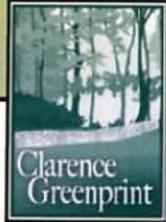


Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

2) Optional Resale of Purchased Properties with Conservation Easement Protection

- If the Board exercised the option to resell properties protected by conservation easements, the Town would recoup approximately \$1,250,000, while still ensuring the land is permanently protected as open space.
- Additional tax revenue from resold land over 20 years: \$226,280.
- Therefore, the total potential Greenprint Program cost reduction that could be realized through resale of protected properties and additional tax revenues would total \$3,188,980.
- Applying this cost reduction to the actual current expenditure of \$6,802,328 would yield an actual cost to the taxpayers of only \$6.60 per \$100,000 of assessed valuation annually.



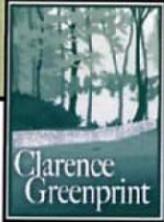
Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

3) Reduced Costs of Required Services

- ❑ Since 1980, developed area in WNY increased 38 percent, households increased by only 5.5% and population declined by 5.8% (*source: Erie Niagara Framework for Regional Growth*). This suburban sprawl has caused a dramatic increase in demand for expensive municipal services while the tax base required to pay for the increased demand has decreased.

- ❑ The Greenprint Program is a significant tool in the battle against suburban sprawl by preserving open space, creating balanced growth patterns, reducing the demand for and costs of services and preserving the tax base by protecting property values.



Town of Clarence, New York

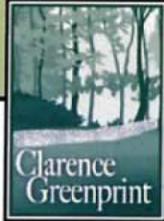
Clarence Greenprint Program
June 6, 2012

4) Protection of Our Quality of Life

- The Greenprint Program supports a balanced growth pattern that impedes residential sprawl, reduces traffic and human congestion, noise, exhaust emissions, and protects aesthetic and scenic vistas.

- Lands protected thus far include working farms, forests, stream corridors, meadows, State and Federal wetlands, vernal pools, areas containing endangered flora and fauna, and other areas that provide habitat for fish and wildlife and act as filters to cleanse water, decrease flooding, and provide recreation and wildlife viewing opportunities for the general public.





Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

VII. Master Plan 2015

Open Space preservation and balanced residential development were identified as primary concerns of local residents during the Master Plan visioning and drafting process. To accommodate the concerns of the public, the following considerations were made through the adoption of Master Plan 2015 in August of 2001:

- Development of an Open Space Preservation Plan, prioritizing parcels based upon their size, natural features, developmental pressure, current and potential utilization, etc.
- Consideration of creating a committee to analyze the cost and viability of a development rights acquisition program.
- Development of updated zoning laws and districts that take into account agricultural district considerations and uses.
- Development of subdivision laws that require Open Space and Recreational components through density regulations.





Town of Clarence, New York

Clarence Greenprint Program
June 6, 2012

This Program is considered a creative and successful partnership that serves as a model for other communities considering land preservation



TOWN OF
CLARENCE

The Clarence Recreation Advisory Committee, Town Board members and Town residents have been instrumental in the development of the Greenprint program. Their vision and recognition of the benefits derived from land preservation have helped preserve our quality of life, stabilize our tax base and protect property values



The program is dependent upon willing landowners who are committed to open space preservation and the local agricultural economy. Those landowners who have voluntarily participated in the program have supported long term planning efforts while rejecting potential short term and short lived financial gain.

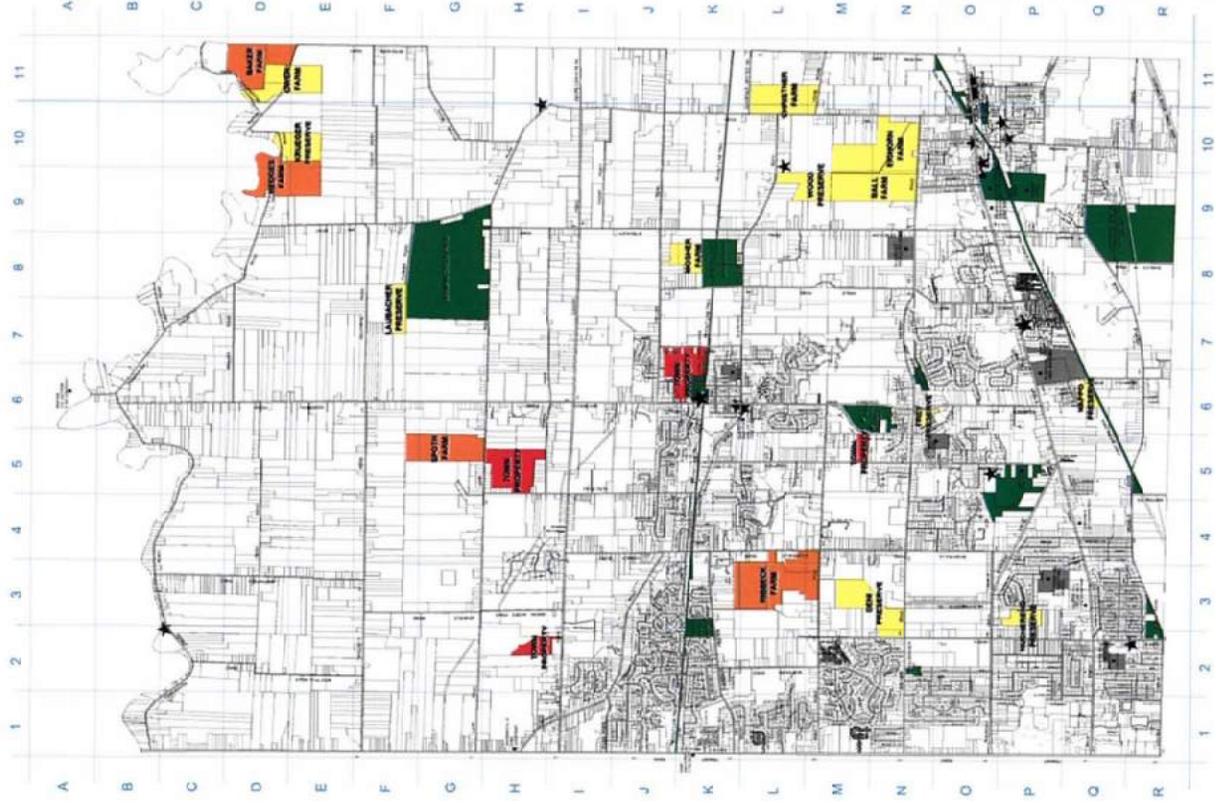


WESTERN NEW YORK
LAND CONSERVANCY

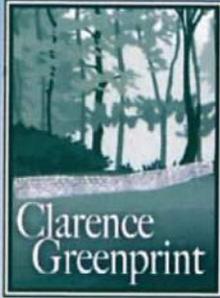
The Western New York Land Conservancy is a private, non-profit land trust dedicated to preserving our region's irreplaceable natural environments, farms, forestlands and open space in order to maintain wildlife habitat, economic resources, public recreation areas and the unique scenic character of Western New York. They are a critical resource for evaluating potential greenprint properties, structuring and co-holding conservation easements, and long term monitoring of protected properties.

TOWN OF CLARENCE
ERIE COUNTY NEW YORK
GREENPRINT PROGRAM ACQUISITIONS
JULY 2013

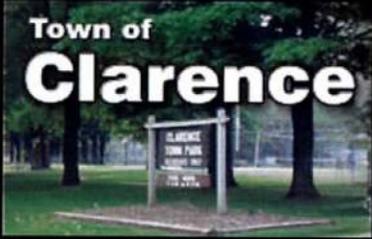
- Park/Recreational Property
- Town Owned Property
- School Property
- Greenprint Acquisition
- Greenprint Purchase of Development Rights

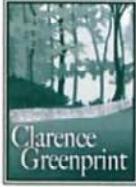


Map of Town of Clarence, Erie County, New York, showing Greenprint Program Acquisitions as of July 2013. The map is overlaid with a grid labeled A through R horizontally and 1 through 11 vertically. Various parcels are highlighted in color according to the legend: dark green for Park/Recreational Property, red for Town Owned Property, grey for School Property, yellow for Greenprint Acquisition, and orange for Greenprint Purchase of Development Rights. Labeled parcels include: LAURENCE PRESBYTERIAN (dark green, G7), SOUTH FARM (orange, G5), TOWN OF CLARENCE (red, H6), HUNTERS FARM (orange, L3), HUNTERS FARM (orange, L4), HUNTERS FARM (orange, L5), HUNTERS FARM (orange, L6), HUNTERS FARM (orange, L7), HUNTERS FARM (orange, L8), HUNTERS FARM (orange, L9), HUNTERS FARM (orange, L10), HUNTERS FARM (orange, L11), HUNTERS FARM (orange, M3), HUNTERS FARM (orange, M4), HUNTERS FARM (orange, M5), HUNTERS FARM (orange, M6), HUNTERS FARM (orange, M7), HUNTERS FARM (orange, M8), HUNTERS FARM (orange, M9), HUNTERS FARM (orange, M10), HUNTERS FARM (orange, M11), HUNTERS FARM (orange, N3), HUNTERS FARM (orange, N4), HUNTERS FARM (orange, N5), HUNTERS FARM (orange, N6), HUNTERS FARM (orange, N7), HUNTERS FARM (orange, N8), HUNTERS FARM (orange, N9), HUNTERS FARM (orange, N10), HUNTERS FARM (orange, N11), HUNTERS FARM (orange, O3), HUNTERS FARM (orange, O4), HUNTERS FARM (orange, O5), HUNTERS FARM (orange, O6), HUNTERS FARM (orange, O7), HUNTERS FARM (orange, O8), HUNTERS FARM (orange, O9), HUNTERS FARM (orange, O10), HUNTERS FARM (orange, O11), HUNTERS FARM (orange, P3), HUNTERS FARM (orange, P4), HUNTERS FARM (orange, P5), HUNTERS FARM (orange, P6), HUNTERS FARM (orange, P7), HUNTERS FARM (orange, P8), HUNTERS FARM (orange, P9), HUNTERS FARM (orange, P10), HUNTERS FARM (orange, P11), HUNTERS FARM (orange, Q3), HUNTERS FARM (orange, Q4), HUNTERS FARM (orange, Q5), HUNTERS FARM (orange, Q6), HUNTERS FARM (orange, Q7), HUNTERS FARM (orange, Q8), HUNTERS FARM (orange, Q9), HUNTERS FARM (orange, Q10), HUNTERS FARM (orange, Q11), HUNTERS FARM (orange, R3), HUNTERS FARM (orange, R4), HUNTERS FARM (orange, R5), HUNTERS FARM (orange, R6), HUNTERS FARM (orange, R7), HUNTERS FARM (orange, R8), HUNTERS FARM (orange, R9), HUNTERS FARM (orange, R10), HUNTERS FARM (orange, R11).



CLARENCE GREENPRINT PROGRAM



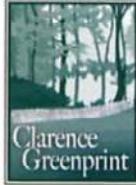


Town of Clarence, New York

Greenprint Program

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EXECUTIVE SUMMARY/BACKGROUND.....	1
PROPERTY AERIALS.....	2
PROPERTY PHOTOS.....	6
GREENPRINT PROGRAM EXPENDITURES.....	8
FISCAL IMPACT ANALYSIS.....	9
APPENDIX.....	14



Town of Clarence, New York

Executive Summary/Background

Executive Summary

The Town of Clarence is devoted to active preservation of open space. In 2002, with the approval of town residents via a public referendum, the Greenprint land conservation program was established by way of bond funds at a value of \$12.5 million. Preserving open space is vital to the betterment of the community's character and smart growth. Open space preservation is a significant component of responsible environmental stewardship, sense of place, sustaining recreational activities, and promoting agricultural opportunities. In conjunction with Town of Clarence Master Plan 2015, the Western New York Land Conservancy group, and willing land owners, the character of the community is protected. Clarence has become a leader for other municipalities interested in retaining rural character and supporting local agricultural economies while managing productive, stable growth.

Clarence Greenprint Background

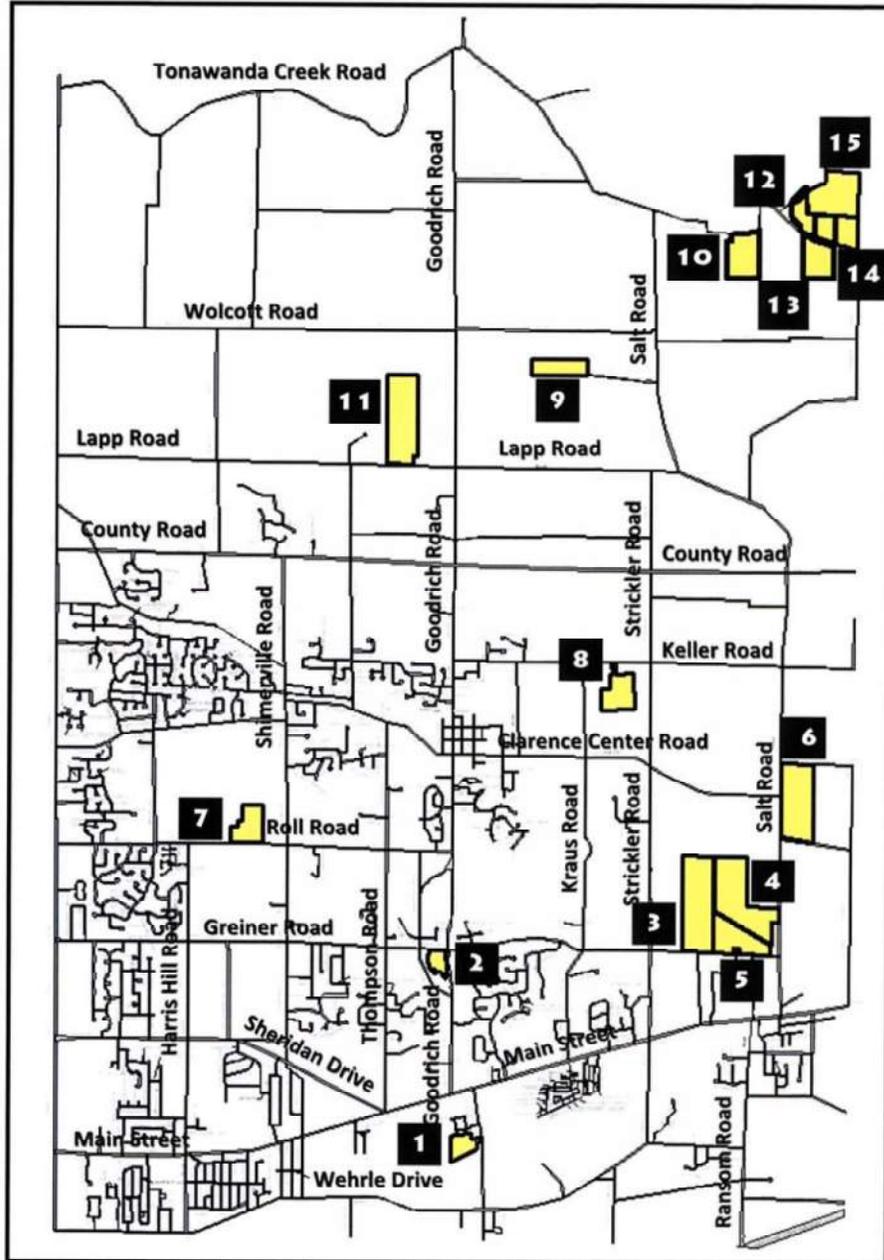
Greenprint properties are protected in two ways. The town can purchase the land and become sole owners or the town may purchase the development rights of the property (PDR). With a PDR established, a conservation easement is placed on the land. The conservation easement is a legally bound agreement that limits future development of the land to protect conservation values such as scenic views, wildlife habitat, or farmland.

The program is designed for interested and willing landowners. Priorities in selecting parcels for protection with Greenprint funds are based upon parcel size, proximity to other protected lands, natural features of the land, anticipated acquisition costs, and other factors.



Town of Clarence, New York

Property Aerials





Nappo Preserve



Frey Preserve



Ball Farm



Eichorn Farm



Eichorn Farm



Christner Farm



Ribbeck Farm



Mosher Farm



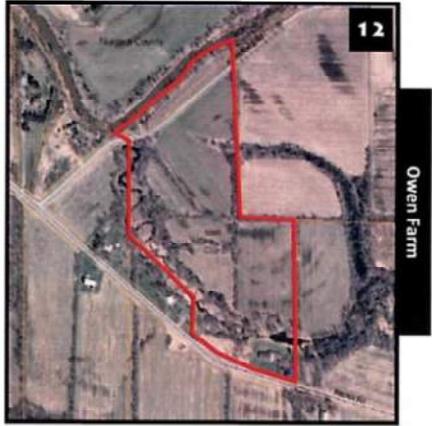
Laubacher Preserve



Krueger Preserve/Recreational Acquisition



Spoth Farm

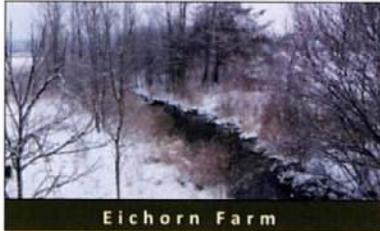


Source of Images: <http://gis1.erie.gov/support/ErieHelp/>
Created by Town of Clarence
Planning and Zoning Department

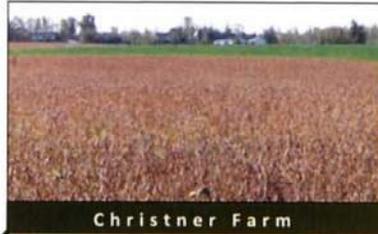


Town of Clarence, New York

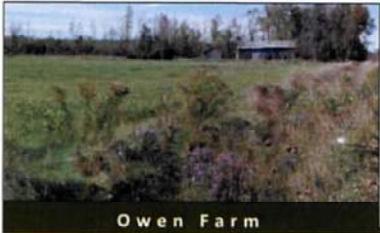
Property Photos



Eichorn Farm



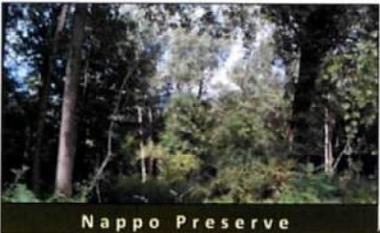
Christner Farm



Owen Farm



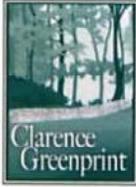
Laubacher Preserve



Nappo Preserve

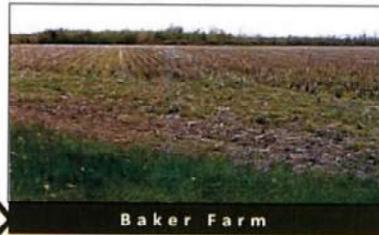
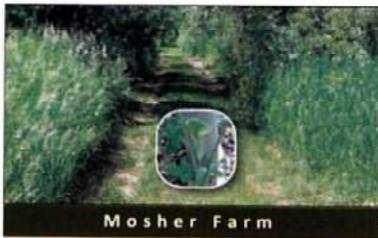
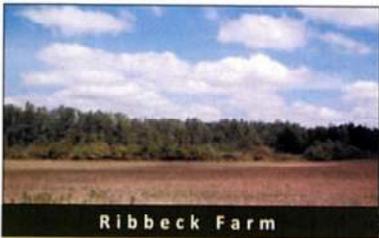
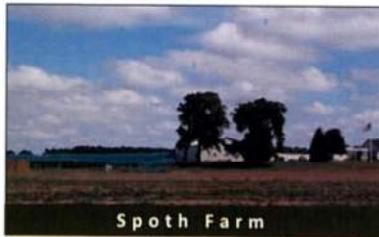


Frey Preserve



Town of Clarence, New York

Property Photos

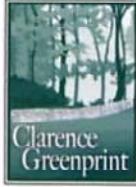




Town of Clarence, New York

Greenprint Program Expenditures

PROPERTY ADDRESS	PDR/LAND PURCHASE (YEAR)	COST INCURRED	CURRENT OWNER	AVERAGE TAXES PAID PRIOR TO PURCHASE	AVERAGE TAXES PAID POST PURCHASE	NET LOSS OF TAX REVENUE
Salt and Greiner Road "Eichorn Farm" (184 acres)	Land Purchase (2004)	\$780,000	Town of Clarence	County \$7,746.72 School \$15,116.04 Total \$22,862.76	\$0.00	(\$22,862.76)
Gunnville Road "Nappo Preserve" (22 acres)	Land Purchase (2004)	\$42,800	Town of Clarence	County \$1,084.46 School \$1,809.49 Total \$2,893.95	\$0.00	(\$2,893.95)
10591 Rapids Road "Krueger Preserve" (57 acres)	Land Purchase (2004)	\$128,600	Town of Clarence	County \$1,118.30 School \$1,369.46 Total \$2,487.76	\$0.00	(\$2,487.76)
Goodrich Road "Frey Preserve" (16 acres)	Land Purchase (2005)	\$400,000	Town of Clarence	County \$1,630.79 School \$2,909.46 Total \$4,540.25	\$0.00	(\$4,540.25)
Roll Road "Ribbeck Farm" (62 acres)	PDR (2006)	\$431,368	Gregory C. Ribbeck	County \$1,588.73 School \$2,941.46 Total \$4,530.19	County \$1,365.98 School \$2,453.10 Total \$3,819.08	(\$711.11)
Parker Road "Laubacher Preserve" (30 acres)	Land Purchase (2005)	\$36,000	Town of Clarence	County \$46.72 School \$97.07 Total \$143.80	\$0.00	(\$143.80)
Rapids Road "Owen Farm" (90 acres)	Land Purchase (2008)	\$320,000	Town of Clarence	County \$8,213.27 School \$4,741.13 Total \$12,954.40	\$0.00	(\$12,954.40)
Rapids Road "Baker Farm" (102 acres)	PDR (2010)	\$95,000	Gary Baker	NO ASSESSMENT ADJUSTMENT	NO ASSESSMENT ADJUSTMENT	\$0.00
Salt Road "Christner Farm" (96 acres)	Land Purchase (2009)	\$705,000	Town of Clarence	County \$1,004.79 School \$596.74 Total \$1,601.53	\$0.00	(\$1,601.53)
Lapp Road "Spoth Farm" (102 acres)	PDR (2009)	(TOC- \$300,000) (NYS- \$150,000) (FED- \$150,000) TOTAL- \$600,000	Greg Spoth	NO ASSESSMENT ADJUSTMENT	NO ASSESSMENT ADJUSTMENT	\$0.00
Keller Road "Mosher Farm" (41 acres)	Land Purchase (2009)	\$331,280	Town of Clarence	County \$461.49 School \$701.80 Total \$1,163.29	\$0.00	(\$1,163.29)
Rapids Road "Hedges Farm" (116 acres)	Pending PDR (2010)	\$500,000	Melvyn C. Hedges	NO ASSESSMENT ADJUSTMENT	NO ASSESSMENT ADJUSTMENT	\$0.00
Greiner Road "Ball Farm" (120 acres)	Land Purchase (2010)	\$900,000	Town of Clarence	County \$1,977.63 School \$165.41 Total \$2,143.04	\$0.00	(\$2,143.04)
1,038 acres total	TOTAL:	\$5,270,048				(\$51,501.89)



Town of Clarence, New York

Fiscal Impact Analysis

Executive Summary

The Greenprint program is committed to preserving open space and conserving agricultural land that is characteristic of Clarence for future generations. This is achieved by either purchasing property or purchasing the development rights to properties. The Town of Clarence has currently acquired a number of properties and purchased development rights to promote the goal of the program and strives to continuously contribute to that conservation effort. A fiscal impact analysis was conducted to analyze the impacts of the program thus far to the Town of Clarence tax levy. Using sales history data collected from the Office of Real Property Services, parcels surrounding Greenprint properties were selected and compared to current housing market prices to determine if there was a relationship between the sale of homes and their proximity to open space. It was concluded that there is a direct correlation between open spaces and increases in the sale prices of properties surrounding them within the Town of Clarence. This being said, the data suggests that upfront costs and long term tax revenue losses may be greatly mitigated by positive assessed valuation increases as a function of the Greenprint program.

Background

Studies have been conducted within other communities to look at the relationship between open space and housing values. Using a hedonic price model, many researchers arrived at similar results. The hedonic pricing models are statistical models that calculate the benefit of open space near residential land based on several characteristics that are then applied to a formula. When calculated, the model should be able to accurately prove whether housing values benefit from open space or not. Jacqueline Geoghegan, Lori Lynch, and Shawn Bucholtz used the hedonic price model to study a few locations and test their hypothesis asking whether or not open space increases neighboring residential value. Their article, *Capitalization of Open Spaces into Housing Values and the Residential Property Tax Revenue Impacts of Agricultural Easement Programs*, concluded that there is a significant relationship between open space and residential values. Almost all locations studied proved that the residential values of properties surrounding open space were higher or increased over time. It should also be noted that areas that were accustomed to more open space, similar to the Town of Clarence, as a whole experience an increase of total assessed valuation. The value was increased further when the open space was associated with an actively maintained program with results that were marketed and publicized.

Methodology

GIS (Geographic Information Systems) applications were utilized to locate the Greenprint parcels and select adjacent properties. Parcels were selected based on their proximity to the Greenprint parcels either bordering the properties or within direct view of the open space. All of the data on the properties selected were exported to Excel and all were residential properties. Sale history data was gathered for each of the parcels from the Town of Clarence Assessors Office. The sale data was looked at from 2005 to the present and then compared to current market prices for the town. A table of the most significant sale data was created to study the relationship between sale prices and open space (see appendix).

Findings

Location 1: Goodrich & Greiner

One of the Greenprint properties purchased by the Town of Clarence is located within a dense residential development pattern at the corner of Goodrich and Greiner Rd. The homes surrounding the newly conserved parcel have a total assessed value averaging \$190,000, with \$370,000 at the highest. Some of the lower priced properties are currently vacant and contribute to a greater amount of open space within the area. Most of the properties within close proximity to the open space are residential land uses averaging about less than 1 acre per parcel.



Location 1: Goodrich & Greiner

According to sales records, 3 properties were recently sold on October 13, 2009 for \$38,000 an acre. Looking at the sales history of these 3 parcels, prior to the purchase in 2009, they were sold for \$13,700 an acre in 1999. The Greenprint property was purchased in 2007 and consists of approximately 16 acres of land, lying directly adjacent to the 3 properties. This progression of sales from 1999 to 2009 suggests a correlation between the purchase of the Greenprint property in 2007 and the increase in price per acre in 2009 at a factor of three times the 1999 sales price. With the application of a growth rate formula (present price-past price/past price x 100), these pieces of property increased by 177%. Other homes that were sold after the purchase of the Greenprint parcel include 9370 Greiner Road on December 6, 2007 for \$101,500 and 5055 Old Goodrich Road on October 25, 2007 for \$344,350. Compared to the market price within the same year, this is a relatively average to above average price of sale for homes within the Town of Clarence with similar characteristics taking into account inflation within the housing market. Based upon this analysis, it would seem that the Greenprint property has had a positive impact upon the assessed valuation of adjacent properties.

Location 2: Gunnville

The Greenprint property located on Gunnville Road has several residential properties located to the north. The homes typical fall within the \$100,000 - \$200,000 range and take up less than 1 acre. The Greenprint parcel also contains part of a Federal wetland which contributes to a goal of the Greenprint program of protecting the natural environment within the town.



Location 2: Gunnville

After the acquisition of the Greenprint property in 2005, the sales records show that averagely the homes in this neighborhood sold for about \$178,000 from 2005-2009. A recent sale in 2009 of 9535 Melinda Drive was \$204,500 which seems to fall within the average market price of a comparable home in the town. An analysis of

sales between 2005 and 2009 shows a slight increase every year, again supporting the theory that the Greenprint program is increasing land value of those adjacent properties.

Location 3: Greiner

The third location of one of the Greenprint program parcels is located off of Greiner Road. It is currently being leased and used as farmland which not only protects the land from development but also makes use of it in a way that will benefit the town economically. Many of the lots surrounding the open space are larger in acreage. While it may be believed that open space will not have as large of an effect on the adjacent large estate lots; the increased amount of undeveloped acreage will further contribute to the sense of seclusion that many residents may be looking for.

The sales data for the properties surrounding this Greenprint property proves to be rather significant. Lots that were once vacant and sold for \$23,000 in 2004 now have homes and are being sold for \$240,000 in 2009. This increase in sale can be attributed not only to the new construction but also to the surrounding landscape. An interesting case can be made for the parcel at 5250 Bank Street which has seen an increase in sale price from 2005-2007. The property was sold for \$137,000 in 2005 but sold for \$155,000 in 2007. This increase in price of about 13% is potentially correlated with its proximity to open space. In 2007, 10535 Greiner Road was sold for \$154,900 which was a higher



Location 3: Greiner

price than when it was sold in 2000 and relatively higher than any other comparable properties being sold in the same year. This is about a 30% increase in price. This data suggests that those residences surrounding the recently protected open space are more desirable than prior to the conservation effort.

Supporting Evidence

The effort to permanently protect open space may conflict with interests that seek to create revenue from its development. However, there are factors that contribute to positive fiscal impacts through the preservation of open space. When considering the impacts of developed property, long term costs can be overlooked. For example, as open space is converted to residential development, public service costs begin to rise. The need for new roads, sewer and drainage systems, and police and fire protection will increase the costs that a community must bear. An examination of the taxes collected for a residential development shows "that for every \$1.00 collected in taxes, residential development costs between \$1.04 and \$1.67 in services...generally increasing over time (ANJEC, 2004)." The bonds used to purchase these preserved lands are typically over 20 year timeframes. Although the acquisition value of the land can be high, the long term still favors the undeveloped land. A study done by the Burlington County Office of Land Use Planning reported for every \$1.00 a residential unit generates, the services required was \$1.48. However, farmland in the same County cost \$0.27 for every \$1.00 it generates in taxes (ANJEC, 2004).

Beyond the monetary costs of development, lie the social and environmental costs that a community can save. With the preservation of open space, comes the ability for lands to handle excess water. Federal and state wetlands, along with hydric and potentially hydric soils, are inclusive over the majority of land area in the Town of Clarence. Retaining open areas that can process storm water and runoff naturally will reduce the cost and need for engineered systems. Less development also means decreased cases of air, water, and noise pollution. A study done by the Center for Urban Policy Research in 1992 for New Jersey revealed that a savings of \$1.3 billion could be saved in infrastructure planning, as well as 127,000 acres of preserved land, if development is encouraged closer to previously developed centers (ANJEC, 2004). The effort to fully utilize existing infrastructure prior to expanding new infrastructure is a critical consideration for long term fiscal stability.

Conclusion

When compared to an urban setting, Clarence is a suburban community that is no stranger to open space. It is likely that acquisition of open space would have a larger impact in an urban setting rather than suburban due to the current accessibility to open space. However, the preceding data suggests that the Greenprint program has had positive financial impacts to the town as a whole. Those properties that are acquired come under the ownership of the town and will reduce the upfront tax revenue. However, lost tax can be counteracted by increased assessed valuation of homes surrounding the newly acquired and protected open space. The process of acquiring only development rights for properties also works towards the goal of the Greenprint program. Ultimately, selling

acquired properties after securing a conservation easement will reestablish tax revenue and offset initial acquisition costs. The purchase of development rights maintains the financial revenue through town taxation while working to preserve open space and strengthen the local agricultural economy.

The analysis of sales data for those properties adjacent to acquisitions and purchases of development rights associated with the Greenprint program suggests there is a definite relationship between sales value and proximity to those properties. The study of three properties purchased by the Town of Clarence under the Greenprint program, mainly surrounded by residential development, showed significant results that prove that the program has a beneficial impact to total assessed valuation. The sales history for properties adjacent to the Greenprint program properties confirms an increase in value after 2005 potentially due to the proximity to open space.

Purchasing properties to permanently protect open space is an important consideration when attempting to protect rural character and strengthen local agricultural economies. Whether it is through property acquisition or purchase of development rights, the conservation of land in association with a well planned and effectively coordinated program benefits the community. According to past research on the topic of open space and housing prices, it has been suggested that the long term increased assessed valuation of adjacent properties works to offset the upfront acquisition and purchase of development costs associated with a land preservation program. Given past research and the impact analysis associated with the Greenprint program thus far, the effective management of existing resources and associated increases of assessed valuation should more than offset the initial expenditures required for the long term preservation of open space and support of the local agricultural economy.

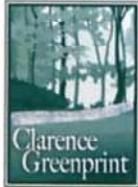
References

Geoghegan, J., Lynch, L., & Bucholtz, S. (2003). Capitalization of Open Spaces into Housing Values and the Residential Property Tax Revenue Impacts of Agricultural Easement Programs. *Agricultural and Resource Economics Review*: 32(1), 33-45.

Association of New Jersey Environmental Commissions (2004). Open Space is a Good Investment. *The Financial Argument for Open Space Preservation*

Office of Real Property Services, *Town of Clarence Assessors Office*

Office of Property Taxes, *Town of Clarence Town Clerk's Office*



Town of Clarence, New York

Appendix

Tables of properties adjacent to Greenprint properties

Location 1: Goodrich & Greiner

Property Address	Owner Name	Owner Address	Owner City State	Acres	Total Assessed Value
9380 Greiner Rd	Papke, Joel E	9380 Greiner Rd	Clarence, NY 14031	0	137,500.00
5135 Old Goodrich	Gaskill, Glenn F	5135 Old Goodrich Rd	Clarence, NY 14031	0	250,000.00
5125 Old Goodrich	Finlayson, James S	5125 Old Goodrich Rd	Clarence, NY 14031	0	171,000.00
5265 Old Goodrich	Hunt, John D	5265 Old Goodrich Rd	Clarence, NY 14031	0	141,000.00
9370 Greiner Rd	Nemmer, Albert C	9370 Greiner Rd	Clarence, NY 14031	0	101,100.00
9360 Greiner Rd	Andrews, Robert	9360 Greiner Rd	Clarence, NY 14031	0.45	128,300.00
5095 Old Goodrich	Shaffer, Debra M	5095 Old Goodrich Rd	Clarence, NY 14031	4.7	249,000.00
5055 Old Goodrich	Bentinger, James F	5055 Old Goodrich Rd	Clarence, NY 14031	2.6	344,000.00
5100 Goodrich Rd	Bonifanti, Russell A	5100 Goodrich Rd	Clarence, NY 14031	1.47	370,000.00
5045 Old Goodrich	Tansy, E Dean	5045 Old Goodrich Rd	Clarence, NY 14031	1.2	277,000.00
5115 Old Goodrich	Martin, Ronald A	5115 Old Goodrich Rd	Clarence, NY 14031	0.89	188,000.00
9430 Greiner Rd	Toennissen, Kenneth J	9430 Greiner Rd	Clarence, NY 14031	1	110,000.00
9410 Greiner Rd	Porter, Ralph E	9410 Greiner Rd	Clarence, NY 14031	0.61	200,000.00
9400 Greiner Rd	Porter, Ralph E	9410 Greiner Rd	Clarence, NY 14031	0.56	60,000.00
5260 Goodrich Rd	Woods, Philip	5260 Goodrich Rd	Clarence, NY 14031	0	230,000.00
5145 Old Goodrich	Zwolniewski, Joseph	5145 Old Goodrich	Clarence, NY 14031	0.75	252,000.00
5155 Old Goodrich	Davis, Elizabeth	2103 Chestnut Forest Dr	Tampa, FL 33618	0.75	295,000.00
5165 Old Goodrich	Riley, Robert R	5165 Old Goodrich Rd	Clarence, NY 14031	0.75	279,000.00
5175 Old Goodrich	Reid, Matthew J	5175 Old Goodrich Rd	Clarence, NY 14031	0.75	289,000.00
5245 Old Goodrich Rd	Kaufman, Michael	4923 Eastbrooke	Williamsville, NY 14221	1.04	35,000.00
5225 Old Goodrich Rd	Kaufman, Michael	4923 Eastbrooke	Williamsville, NY 14221	1	40,000.00
5195 Old Goodrich Rd	Kaufman, Michael	4923 Eastbrooke	Williamsville, NY 14221	1.1	35,000.00

Location 2: Gunnville

Property Address	Owner Name	Owner Address	Owner City State	Acres	Total Assessed Value
9545 Melinda Dr	Sharkey, Dennis J	9545 Melinda Dr	Clarence, NY 14031	0	183,000.00
9540 Melinda Dr	Grandillo, John S	9540 Melinda Dr	Clarence, NY 14031	0.37	173,900.00
9535 Melinda Dr	Eibers, Cynthia	9535 Melinda Dr	Clarence, NY 14031	0	176,000.00
4400 Gunnville Rd	Wilkinson, Keith A Jr	70 Rubino Ct	Buffalo, NY 14221-8461	0.46	100.00
4390 Gunnville Rd	Wilkinson, Keith A Jr	70 Rubino Ct	Buffalo, NY 14221-8461	0.46	100.00
9555 Melinda Dr	Havermick, James J Jr	9555 Melinda Dr	Clarence, NY 14031	0.77	195,000.00
4480 Gunnville Rd	Vansickle, Ralph L	4480 Gunnville	Clarence, NY 14031	0	125,000.00
4440 Gunnville Rd	Pellinieri, Andrew P	4440 Gunnville	Clarence, NY 14031	0	210,000.00
4471 Patricia Dr	Schmiguel, James J	4471 Patricia Dr	Clarence, NY 14031	0	186,100.00
4500 Patricia Dr	Walczak, Jeremy	4500 Patricia Dr	Clarence, NY 14031	0	166,000.00
4470 Patricia Dr	McKernan, Donna	4470 Patricia Dr	Clarence, NY 14031	0	167,400.00
4440 Patricia Dr	Nowak, Melinda	4995 Bark St	Clarence, NY 14031	0	2,000.00
4450 Patricia Dr	Dietzsch, Bradley T	4450 Patricia Dr	Clarence, NY 14031	0	182,000.00
4460 Patricia Dr	Haltman, James	4460 Patricia Dr	Clarence, NY 14031	0	188,000.00
4480 Patricia Dr	Hoot, Joseph	4480 Patricia Dr	Clarence, NY 14031	0	220,000.00
4490 Patricia Dr	Maxwell, Paula M	4490 Patricia Dr	Clarence, NY 14031	0	165,000.00
4510 Patricia Dr	Loretta, Lee S	4510 Patricia Dr	Clarence, NY 14031	0	170,000.00
4501 Patricia Dr	Loretta, Barbara A	4501 Patricia Dr	Clarence, NY 14031	0	163,500.00
4481 Patricia Dr	Prefontaine, Susan B	4481 Patricia Dr	Clarence, NY 14031	0	160,000.00
4511 Patricia Dr	Cochran Revocable Tru, George W Jr		Sarasota, FL 34230	0	174,000.00
4500 E Patricia Dr	Haker, Robert A	4500 E Patricia Dr	Clarence, NY 14031	0	160,000.00
9505 Melinda Dr	Citilo, Stephen A	9505 Melinda Dr	Clarence, NY 14031	0	167,600.00
9495 Melinda Dr	Gerber, Charles A	9495 Melinda Dr	Clarence, NY 14031	0	166,500.00
9485 Melinda Dr	Newman Living Trust, Lawrence M	9485 Melinda Dr	Clarence, NY 14031	0	190,700.00
4480 E Patricia Dr	Spence, Mark T	4480 E Patricia Dr	Clarence, NY 14031	0	151,000.00
9500 Melinda Dr	Kutschen, Dennis A Jr	9500 Melinda Dr	Clarence, NY 14031	0	212,000.00
9525 Melinda Dr	Wiepert, Robert W	9525 Melinda Dr	Clarence, NY 14031	0	152,000.00
9515 Melinda Dr	Meyer, David S	9515 Melinda Dr	Clarence, NY 14031	0	190,900.00
9530 Melinda Dr	Blair, Brian D	9530 Melinda Dr	Clarence, NY 14031	0.34	170,000.00
4510 E Patricia Dr	Molina, Ronald E	4510 E Patricia Dr	Clarence, NY 14031	0	165,000.00
4430 Gunnville Rd	Nappo, Michael A	4430 Gunnville Rd	Clarence, NY 14031	2.29	210,000.00

Location 3: Greiner

Property Address	Owner Name	Owner Address	Owner City State	Acres	Total Assessed Value
10455 Greiner Rd	Small, Peter C	10455 Greiner Rd	Clarence, NY 14031	0	206,000.00
10495 Greiner Rd	Waino, Jack E	10495 Greiner Rd	Clarence, NY 14031	1	163,000.00
10525 Greiner Rd	Tarbell, Abigail M	10525 Greiner Rd	Clarence, NY 14031	0.84	142,000.00
10505 Greiner Rd	Stagmeier, Donald M	155 F Bennett Rd	Buffalo, NY 14227	1.1	45,000.00
10515 Greiner Rd	Mapes, Carl R	10515 Greiner Rd	Clarence, NY 14031	0.3	235,000.00
5245 Brookhaven Dr	Glasman, Christa J	5245 Brookhaven Dr	Clarence, NY 14031	0.62	142,000.00
10565 Greiner Rd	Hartman, Norma	10565 Greiner Rd	Clarence, NY 14031	0	141,000.00
10535 Greiner Rd	Johnson, Steve	10535 Greiner Rd	Clarence, NY 14031	0	133,000.00
10545 Greiner Rd	Fekert, Wm C	10545 Greiner Rd	Clarence, NY 14031	0	162,000.00
10555 Greiner Rd	Bayer, Margaret A	10555 Greiner Rd	Clarence, NY 14031	0	170,000.00
5240 Brookhaven Dr	Somo, John B	5240 Brookhaven Dr	Clarence, NY 14031	0	235,000.00
5250 Bank St	Yl, Beifang	5250 Bank St	Clarence, NY 14031	0	155,000.00
10625 Greiner Rd	Rafferty, Shawn P	10625 Greiner Rd	Clarence, NY 14031	1.4	150,000.00
5210 Bank St	Kelly, Daniel T	5210 Bank St	Clarence, NY 14031	0	156,000.00
5230 Bank St	Machniak, John	5230 Bank St	Clarence, NY 14031	0	145,000.00
5225 Bank St	Leonard, Lawrence	5225 Bank St	Clarence, NY 14031	0	155,000.00
5243 Bank St	Work, Kenneth J	5245 Bank St	Clarence, NY 14031	0.73	181,000.00
5300 Salt Rd	Rouse, Richard A Jr	5300 Salt Rd	Clarence, NY 14031	1	204,000.00
10731 Greiner Rd	Gielli, James	10731 Greiner Rd	Clarence, NY 14031	1.6	310,000.00
10721 Greiner Rd	Schlachach, James	10721 Greiner Rd	Clarence, NY 14031	0	155,000.00
10695 Greiner Rd	Engel, Elizabeth M	10695 Greiner Rd	Clarence, NY 14031	0	175,000.00
10707 Greiner Rd	Booth, Richard R	10707 Greiner Rd	Clarence, NY 14031	0	122,000.00
10751 Greiner Rd	Woodward, Mark H	10751 Greiner Rd	Clarence, NY 14031	0.75	160,000.00
5210 Salt Rd	Miller, Jewel A	5210 Salt Rd	Clarence, NY 14031	1.5	139,000.00
5279 Salt Rd	Henderson Trust, William I & Linda S	5270 Salt Rd	Clarence, NY 14031	1.38	175,000.00
5250 Salt Rd	Filipponi, Gregg S	5250 Salt Rd	Clarence, NY 14031	0.75	155,000.00
5476 Salt Rd	Roba, John	5480 Salt Rd	Clarence, NY 14031	5.7	7,900.00
5540 Salt Rd	Burger, Peter M	5540 Salt Rd	Clarence, NY 14031	3.79	210,000.00
5486 Salt Rd	Collins, Mark J	5490 Salt Rd	Clarence, NY 14031	5.7	7,900.00
5330 Salt Rd	Givens, Paul J	5590 Struckler Rd	Clarence, NY 14031	1	226,000.00
5310 Salt Rd	Marquart, Keith A	5690 Salt Rd	Clarence, NY 14031	1	190,000.00
5320 Salt Rd	Currincone, Marc	5320 Salt Rd B	Clarence, NY 14031	1	199,000.00
5400 Salt Rd	Cullins, Mark J	5490 Salt Rd	Clarence, NY 14031	1.1	168,000.00
5470 Salt Rd	Huber, Nancy M	5470 Salt Rd	Clarence, NY 14031	1.2	270,000.00
5480 Salt Rd	Roba, Douglas J	5480 Salt Rd	Clarence, NY 14031	1.1	140,000.00
5560 Salt Rd	Krieb, Jody L	5560 Salt Rd	Clarence, NY 14031	0.8	85,300.00
10465 Greiner Rd	Heuser, Eric W	10465 Greiner Rd	Clarence, NY 14031	1.34	185,000.00
5630 Salt Rd	Attrison, Craig R	5650 Salt Rd	Clarence, NY 14031	12.76	454,000.00
4090 Salt Rd	Marquart, Keith	5690 Salt Rd	Clarence, NY 14031	2	594,000.00
5340 Salt Rd	Orlando, Michael C	13 Mockingbird Ct	Amherst, NY 14228	1	200,000.00
5620 Salt Rd	Cline, James J	5620 Salt Rd	Clarence, NY 14031	13.5	195,000.00
5640 Salt Rd	Roba, Brian T	5640 Salt Rd	Clarence, NY 14031	1.98	310,000.00
5330 Salt Rd	Gill, David O Jr	5350 Salt Rd	Clarence, NY 14031	3	197,000.00

Property Sales History and Tax Information for Greenprint Properties

Location 1: Goodrich & Greiner

Owner Name	Acres	Total Assessed Value	Sale Date	Sale Price
Nemmer, Albert C	0	101,100.00	12/6/2007	\$101,500
Dentinger, James F	2.6	344,000.00	10/25/2007	\$344,350
Kaufman, Michael	1.04	35,000.00/acre 13,700/ acre	10/13/2009	\$120,000
			5/24/1999	\$300,000
Kaufman, Michael	1	40,000.00/acre 13,700/acre	10/13/2009	\$120,000
			5/24/1999	\$300,000
Kaufman, Michael	1.1	35,000.00/acre 13,700 acre	10/13/2009	\$120,000
			5/24/1999	\$300,000

Location 2: Gunnville

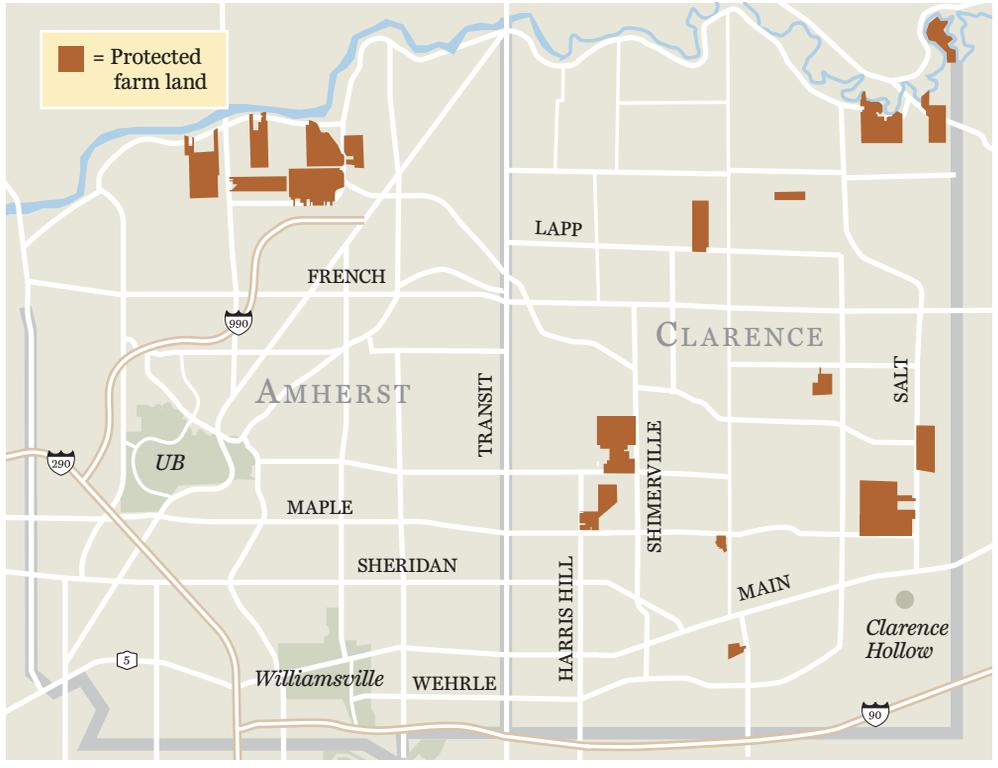
Owner Name	Acres	Total Assessed Value	Sale Date	Sale Price
Sharkey, Dennis J	0	183,000.00	1/21/2005	\$164,860
Elbers, Cynthia	0	176,000.00	8/13/2009	\$204,500
Hoot, Joseph	0	220,000.00	5/15/2008	\$220,000
Maxwell, Paula M	0	165,000.00	8/11/2005	
Loretta, Lee S	0	170,000.00	6/27/2006	\$164,000
Cochran Revocable Trust, George W Jr	0	174,000.00	5/24/2005	
			6/4/2004	\$162,000
Wiepert, Robert W	0	152,000.00	9/22/2005	\$157,000

Location 3: Greiner

Owner Name	Acres	Total Assessed Value	Sale Date	Sale Price
Mapes, Carl R	0.8	225,000.00	11/24/2009	\$240,000
			11/12/2004	\$23,000
Johnson, Steve	0	155,000.00	9/17/2007	\$154,900
			8/28/2000	\$120,000
			1/18/2000	\$117,500
Semo, John B	0	235,000.00	9/19/2005	\$211,500
Yi, Beifang	0	155,000.00	8/6/2007	\$155,000
			6/8/2006	\$149,999
			6/15/2005	\$137,000
Rouse, Richard A Jr	1	204,000.00	7/7/2005	\$174,000
Gsell, James	1.6	310,000.00	4/20/2006	\$45,000
Engel, Elizabeth M	0	175,000.00	7/27/2005	\$109,500
			6/2/2004	\$129,071
			5/7/1996	\$114,900
Miller, Jewel A	1.5	139,000.00	6/30/2006	
Marquart, Keith A	1	190,000.00	9/26/2005	\$187,000
Marquart, Kcith	2	504,000.00	1/15/2010	\$533,000
			7/6/2005	\$62,000
Orlando, Michael C	1	200,000.00	8/29/2005	\$200,000
Roba, Brian T	1.98	310,000.00	3/10/2006	\$37,500
Gill, David O Jr	2	197,000.00	12/15/2006	\$190,000

Amherst, Clarence in forefront of shielding farm landscape

There and in three other towns, more than 40 properties have come under protection



TOWN	ADDRESS	ACRES	YEAR ACQUIRED	PURCHASE PRICE	PRICE PER ACRE	HOW LAND IS PROTECTED
Amherst	2715-3100 Tonawanda Creek Road	141.6	1999	\$288,756	\$2,039.24	Development rights
Amherst	650 Schoelles Road	69.5	1999	\$149,043	\$2,144.50	Development rights
Amherst	2305 Tonawanda Creek Road	44.6	2000	\$216,500	\$4,854.26	Development rights
Marilla	12367 Bullis Road	55.6	2000	\$82,650	\$1,486.51	Development rights
Marilla	11828 Williston Road	63.8	2000	\$96,315	\$1,509.64	Development rights
Amherst	444 & 560 Schoelles Rd.	62.06	2001	\$297,000	\$4,785.69	Development rights
Amherst	1545 Campbell Blvd.	47.86	2001	\$163,000	\$3,405.77	Development rights
Marilla	Clinton Street-Coleman Road-Townline Road	91.2	2001	\$127,500	\$1,398.03	Development rights
Marilla	Coleman Road	16.4	2001	\$23,392	\$1,426.34	Development rights
Marilla	11882 Bullis Road	79.4	2002	N/A		Development rights
Marilla	3228 Two Rod Road	48.4	2003	\$70,500	\$1,456.61	Development rights
Amherst	Schoelles Road	50	2004	\$217,906	\$4,358.12	Development rights
Amherst	2401 Tonawanda Creek	51.93	2004	\$233,000	\$4,486.81	Development rights
Amherst	530 Schoelles Road	24.2	2004	\$111,342	\$4,600.91	Development rights
Clarence	Salt and Greiner roads	180.4	2004	\$780,000	\$4,323.73	Purchased by town
Clarence	Gunnville Road*	21.77	2004	\$42,800	\$1,966.01	Purchased by town
Clarence	10591 Rapids Road*	55.75	2004	\$128,600	\$2,306.73	Purchased by town
Clarence	Goodrich and Greiner roads*	15.54	2005	\$400,000	\$25,740.03	Purchased by town
Clarence	10640 Rapids Road	2.75	2005	\$25,000	\$9,090.91	Purchased by town
Marilla	2598 Two Rod Road	145.7	2005	\$145,000	\$995.20	Development rights
Clarence	8770 Roll Road	61.6	2006	\$431,368	\$7,002.73	Development rights
Marilla	11121 Jamison Road	86.2	2006	\$109,200	\$1,266.82	Development rights
Marilla	1138 Four Rod Road	100.7	2006	\$145,770	\$1,447.57	Development rights
Amherst	1995 Tonawanda Creek Road	130.16	2007	\$1,038,000	\$7,974.80	Development rights
Amherst	1801 & 1853 Tonawanda Creek Road	49.12	2007	\$316,304	\$6,439.41	Development rights
Clarence	Parker Road*	30	2007	\$36,000	\$1,200.00	Purchased by town
Marilla	Three Rod Road	80.7	2007	\$186,324	\$2,308.85	Development rights
Clarence	9270 Lapp Road	96	2008	\$600,000	\$6,250.00	Development rights
Clarence	Salt and Howe roads	95.9	2009	\$705,000	\$7,351.41	Purchased by town
Clarence	Keller Road	41.41	2009	\$331,280	\$8,000.00	Purchased by town
Elma	Jamison Road	61	2009	\$216,000	\$3,540.98	Development rights
Clarence	10800 & 10881 Rapids Road	89.9	2010	\$320,000	\$3,559.51	Purchased by town
Clarence	10460 Greiner Road	118.89	2010	\$900,000	\$7,570.02	Purchased by town
Clarence	10270 & 10450 Rapids Road	118	2010	\$500,000	\$4,237.29	Development rights
Amherst	1385 Campbell Blvd.	46.04	2011	\$156,580	\$3,400.96	Development rights
Clarence	Shimerville Road	83.79	2011	\$754,110	\$9,000.00	Development rights
Clarence	11044 Rapids Road	101	2011	\$95,000	\$940.59	Development rights
Clarence	5630 Shimerville Rd.	28	2011	\$253,170	\$9,041.79	Development rights
Clarence	5285 Harris Hill Road*	86	2011	\$825,000	\$9,593.02	Purchased by town
Eden	9500 Sandrock Road	102	2012	\$247,000	\$2,421.57	Development rights
Amherst	3155 Hopkins Road	66.94	PENDING	\$432,627	\$6,462.91	Development rights
TOTAL		2,941.81		\$12,197,037		

* Open space

Sources: Town of Amherst, Town of Clarence, Western New York Land Conservancy

March 20, 1997, Thursday

BUSINESS/FINANCIAL DESK

Towns Are Slowing Invasion of Farms by Bulldozers

By BARNABY J. FEDER (NYT) 1917 words

Mark Greene's family has been farming in Pittsford, N.Y., since 1812, but until recently the prospects that his 400-acre farm would be in business for another generation looked dim. A local ordinance requires developers to set aside 50 percent of any new project for farming or open space, but even that did not knock land prices down enough to slow the relentless sprawl of Rochester, 10 miles to the northwest.

Last year, though, Pittsford issued \$10 million in bonds so it could pay Mr. Greene and six other farmers for promises not to sell their 1,200 acres -- about 60 percent of the tillable land remaining in the town -- to developers.

"If we didn't do this," Mr. Greene said, "it would only be a matter of time."

It has long been an iron law of the real estate market that if farmland stands in the path of urban expansion, no crop is valuable enough to keep it out of developers' hands.

As Pittsford's bond issue highlights, though, that iron law can be bent a bit. By arguing that farms provide more than food and fiber -- the list includes environmental benefits, soul-soothing scenery, diversity for the local economy and especially tax savings -- advocates of farmland preservation are forging the political ties and financial tools to steer developers' backhoes away from farmland.

"You are going to see some very interesting alliances evolve," said Ralph Grossi, president of the American Farmland Trust, a lobbying group based in Washington that for nearly two decades has been charting both farmland losses and the efforts to halt them. He cited a coalition formed last year to channel new growth toward already-developed areas in and around Fresno, Calif., an alliance that includes the local Chamber of Commerce and the regional building industry association in addition to farm groups.

Despite America's unparalleled agricultural abundance, concern about disappearing farmland is clearly on the rise. Numerous states and communities have in recent years experimented with tax and zoning policies to encourage farmers at the urban edge to hang on. And both private and public programs to buy development rights are spreading.

At the Federal level, the Government in 1995 finally began applying a 1981 law that required it to look for alternatives to proposed highways, airports and other public projects that consume prime farmland. And in last year's farm bill, Congress authorized spending \$35 million over six years to bolster state and local programs that pay farmers not to sell to developers, the first such Federal payments ever.

Federal officials say saving prime farmland not only has local benefits but also helps the nation's balance of trade and protects against volatility in food prices. "Land is the bank

supporting 15 percent to 20 percent of our economy," Dan Glickman, the Secretary of Agriculture, said. "Keeping it in agriculture is extremely important."

So far, though, such talk and the measures backing it up have been too restricted and modestly financed to have much effect. In the 20 years since Suffolk County, L.I., began the first program to buy development rights from farmers, such buyouts have preserved 450,000 acres in 18 states.

But that is a drop in the bucket. In a report to be issued today, the American Farmland Trust says that urban sprawl eats up two acres a minute -- a million acres a year, including 400,000 acres uniquely suited to certain crops.

Some of the best farmland being lost is around heartland cities like Indianapolis and Des Moines that tend to be overlooked because there is so much high-quality farmland in the Midwest.

"We lose a little bit every year," said Anthony Hession, who farms 3,000 acres just west of Indianapolis, most of it rented. Mr. Hession said he had won a statewide corn-growing contest in 1995 on a 160-acre field being torn up this month for a subdivision.

Still, Mr. Grossi said, conditions might be better than ever for slowing the loss of farmland, especially in 20 hot spots highlighted by the Farmland Trust report, like California's Central Valley, the northern Piedmont stretching from Virginia to New Jersey, the region bordering the Florida Everglades and the prairie land around the Illinois-Wisconsin border. The report focuses not just on soil quality but on areas where soil and climate together are uniquely suited for certain crops.

"We have a much better understanding of the cost of losing this land than even five years ago, a lot more examples of good local programs, and the Federal action legitimizes this effort," Mr. Grossi said.

Farmland preservation would be a much easier sell, of course, if the nation seemed in even remote danger of ever being hungry. At current development rates, the worst-case scenarios suggest that the nation's surplus food for export would not dry up until the middle of the next century, when 13 percent of the prime land being farmed would be gone. Some products now produced domestically would become imports, food prices could climb substantially, and other food-short regions of the world would be politically and economically less stable.

But blessed as it is with more than 300 million acres of prime agricultural land, the United States has paid about as much attention to such pessimistic visions as a billionaire to fliers suggesting it's time to open a savings account.

After all, decades of paving over farmland has not stopped farmers from producing such huge surpluses that Americans pay less of their income for food than anyone else in the world. And agricultural goods are the nation's largest export. The Federal Government has spent hundreds of billions of dollars on price-support programs intended to prevent the farm economy from drowning in its own abundance.

"We are losing good farmland needlessly, but we don't need it to feed ourselves," said Dennis Avery, an agriculture specialist at the Hudson Institute, a conservative research group. Ending excessive losses of American farmland to development might help feed other nations and slow the destruction of rain forests, Mr. Avery said, but not as much as increased spending on agricultural research or efforts to halt urban sprawl in developing countries.

Others note that each acre lost simply increases farmers' incentives to improve output on the remaining land. And biotechnology is very likely to provide previously unimagined opportunities, such as more drought-resistant strains of key crops like wheat and corn that would make marginal land far from cities more productive.

"Our concept of what is prime land has changed dramatically over time," said Philip Raup, a land economist at the University of Minnesota, who noted that pioneer farmers wanted land with exposed salt deposits for livestock nutrition. "Genetic engineering will change it again in the next 30 or 40 years."

Regardless of their long-range accuracy, such assessments encourage political leaders and voters to vastly underrate how much the nation might gain now from paying more attention to farmland, the Farmland Trust and its allies say. In the Central Valley of California alone, where the population is expected to triple by 2040 and today's sprawling development averages three homes an acre, a million acres of farmland will be lost and 2.6 million more will become harder to farm efficiently, according to a 1995 study.

Given the same population growth, the study projected, new laws forcing "compact growth" at an average of six homes an acre would save more than 500,000 acres of farmland, protect a million acres from encroachment, add nearly \$70 billion to the agricultural economy and save taxpayers \$29 billion that would be spent extending sewers and other services to newly developed areas.

Farmland losses are easy to dramatize. Farmers on the urban edge are often featured in news reports showing how the approach of suburbia can be more disruptive and nerve-racking than the eventual outright loss of the land, which, after all, can make millionaires of them if they are lucky enough to own it.

New homeowners often push local officials to halt normal farm practices, like noisy nighttime harvesting or planting, spreading manure to fertilize fields, importing swarms of bees to pollinate fruit trees and spraying pesticides. Subdivisions can cause crop losses by altering drainage patterns in nearby fields. Dogs chase cattle and other livestock. And vandalism of machinery and crops becomes commonplace.

"There was one kid who drove around in my alfalfa one night, got stuck in a creek and had the gall to come ask me to get my tractor to pull him out," said Jim Lehrer, a dairy farmer in Kaukauna, Wis. "He said he was just having fun."

Mr. Lehrer said he pulled the vehicle out after first demanding the teen-ager's address, then drove his tractor to the offender's home and rode around on the lawn until the teen-ager's father burst out furiously demanding to know what he was doing. Mr. Lehrer said he told him he was "just having fun like your son," and then took a spin through the

backyard before going home.

Most farmers never catch the vandals, though, and in many cases, they say, there are burdens even well-intentioned suburbanites do not perceive. Sayre Miller, co-owner of 300 acres of almond groves outside Clovis, Calif., said that suburban horse riders and the cross-country team from a new school to the west had worn enough of a trail through the groves to disrupt the path of her unmanned harvesting machines.

Such problems give a human dimension to issues of urban sprawl. But cataloguing such conflicts provides no rationale for treating farms differently from any other business. That leaves it to groups like the Farmland Trust and various national agriculture and environmental groups to assemble the larger arguments for zoning and tax changes that could limit the farmland losses.

Often the actual quality of the farmland is not decisive. In Pittsford, the cost of development was what impressed voters most. Pittsford planners calculated that providing services and schools to subdivisions on the 1,200 acres would have a net cost of \$200 a taxpayer indefinitely, compared with \$67 a year for 20 years to pay off the bonds.



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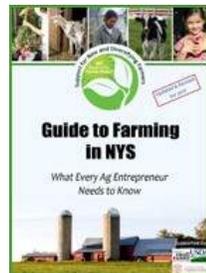
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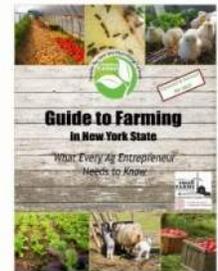
This Guide is updated annually to provide answers to questions about taxes, business planning, labor law, zoning, regulations, marketing and many other topics that farmers need to know.

You can view the Guide 3 different ways:



1. Download the entire [Guide to Farming \(PDF\)](#)
2. Browse in an [Online Reader](#), or
3. Click on [individual fact sheets](#) below.

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Getting Started

- #1 Finding a Farm to Buy or Lease – revised 12/13/16
- #2 Climate & Soil Considerations – revised 12/13/16
- #3 Infrastructure Considerations – revised 12/13/16
- #4 Financing a Farm Operation – revised 12/13/16
- #5 Farm Risk Management – revised 12/13/16
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- #20 Agricultural District Law Provisions – revised 12/13/16
- #21 Ag Value Assessment for Farmland – revised 12/13/16
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- [#25 Finding Price Information](#) – revised 12/13/16
- [#26 Direct Marketing Options](#) – revised 12/13/16
- [#27 Marketing Regulations](#) – revised 12/13/16
- [#28 Becoming a Small Scale Food Processor](#) – revised 12/13/16
- [#29 Collecting Sales Tax on Farm Product Sales](#) – revised 6/25/12
- [#30 Organic Certification](#)– 6/26/12

Resources

- [#31 Grant Opportunities for Farmers](#) – revised 12/13/16
- [#32 Opportunities for Veterans in Farming](#) – revised 12/13/16
- [#33 Agricultural Agencies and Organizations](#) – revised 12/13/16
- [#34 Information Sources for Getting Started](#) – revised 12/13/16

Not Farming in NY?

Much of the information in the *Guide to Farming in NY* is applicable no matter where you live. But if you are seeking specific tax, legal, and regulatory information and you live outside of NY, check with your state Department of Agriculture, or download the following publications to find information for these states:

- Massachusetts: [MA Agricultural Resource Guide](#) and other helpful guides available from the New Entry Sustainable Farming Project
- Connecticut: [Connecticut Agricultural Business Management Guide](#) (PDF)
- Vermont: [Legal Guide to the Business of Farming in Vermont](#)
- Pennsylvania: [Guide to Farming in Pen](#)



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URBAN GUIDE TO FARMING IN NY

The guide is designed to inform urban farmers about advocating for urban agriculture, accessing and reclaiming land, producing food and farm products in city centers, marketing, financing, and other information they need to know to launch, continue, or expand their farm businesses.

Download the entire [Guide to Urban Farming](#) here (PDF).



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- #4 Land Access and Tenure

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VI. Appendix

New York State Urban Farming Organizations



PLAN YOUR FARM

Ready to Plan your Farm?

This portal guides you through tutorials, videos, and links to people who can help you develop your farm plans.

Work through the following topics in order and you'll have a solid foundation for the start of your farm business. Complete the online worksheets in each tutorial to apply the concepts to your situation and create a written farm plan.

Tutorials:

1. [Worksheets](#) – Access the planning worksheets that are embedded throughout the tutorials below
2. [Getting Started](#) – Begin here with goal-setting and suggestions for planning
3. [Accessing and Evaluating Land](#) – Learn how to find or assess the quality of land for farming
4. [Planning and Funding Your Farm Business](#) – Start writing a farm plan and assess funding options
5. [Learning How to Farm](#) – Gain the skills you need to produce high-quality products
6. [Choosing What to Produce](#) – Consult enterprise budgets, crop ideas, and worksheets
7. [Selling What You Produce](#) – Choose the right markets for your products
8. [Taking Care of the Land](#) – Cultivate ecologically-sound practices
9. [Achieving or Improving Profitability](#) – Learn skills to improve your bottom line
10. [Understanding Taxes and Regulations](#) – Learn about the benefits and responsibilities of farming



Concept plan for Honeywood Farms designed by Farmer D Consulting <https://farmerdconsulting.com/>.
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#32 BEEKEEPING

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Bees are considered an indicator of environmental health. Honey bee populations in the last decade have severely declined, partly due to a phenomenon known as Colony Collapse Disorder (CCD). This phenomenon is due to a hive's inability to sustain itself after a sudden loss in colony worker bee population. While causes, aftermaths, and prevention of CCD are still being studied, some urban dwellers have decided to take matters into their own hands by relocating beehives to urban rooftops and balconies. Cities across the U.S. are beginning to allow urban beekeeping, though there are special considerations to take when setting up hives.

City Ordinances

As beekeeping is a relatively new desire of city dwellers, there are relatively few municipalities that prohibit beekeeping, though most do enforce "nuisance laws" that regulate conditions that people might find objectionable, such as excessive noise or odors. As such, some municipalities put constraints on urban beekeeping activities, such as limiting the number of hives that can be kept and requiring beekeepers to register their hives, as is the case in New York City.

However, there are some municipalities that prohibit beekeeping altogether in New York State, such as Ithaca and Geneva. Several other ordinances make no explicit mention of beekeeping. Before beginning any urban beekeeping project, contact your city hall or a local beekeeping association to clarify any relevant regulations.

New York City Ordinances

It is legal to keep bees in New York City, but beekeepers are required to register their hives with the New York City Department of Health and Mental Hygiene within 30 days of hive establishment and renew their registration annually. Registration and renewal forms are available at <http://www.nyc.gov/html/doh/downloads/pdf/ehs/ehs-beekeeping-guideline.pdf>.

New York State Law

Under New York State law, Department of Agriculture and Markets, Article 15, all beekeepers regardless of municipality must report outbreaks of bee disease and pests.

Tips for Keeping Bees in Urban Environments

When keeping bees in cities, certain best practices are recommended to minimize disturbance to neighbors and to prevent "nuisance conditions." The New York City Beekeepers Association (NYCBA) suggests the following:

- Hives should be kept as far away as possible from roads, sidewalks, and rights of way;
- Hives should not be placed directly against a neighboring property unless a solid fence or dense plant barrier of six feet or higher forms the property boundary;
- Hives should be situated so that bees' flight paths do not intersect human rights of way. In some cases, this might require erecting a fence or other barrier to redirect bees' flight;
- Bees should be provided with a consistent source of fresh water to prevent them from seeking water from other sources where bees might be considered a nuisance;
- Swarming should be prevented or minimized, and any hive with unusually defensive behavior or excessive swarming tendencies should be re-queened; and
- Signs should be posted to alert passersby to the presence of hives.

To download the NYCBA's Best Practices for Bee Keeping and for more information about urban beekeeping, visit <http://www.bees.nyc/nycbas-best-practices-for-beekeeping/>.

Resources for Urban Beekeepers

New York State Beekeepers Associations

Beekeepers associations and groups often provide educational resources, including classes, to interested beekeepers, are familiar with beekeeping ordinances, can refer beekeepers to trustworthy supply companies, and offer apiary services such as hive health diagnosis and swarm collecting. Below is a listing of New York State beekeeper's associations specializing in urban beekeeping.

The Finger Lakes Beekeeping Club (flbeeclub.com/)

The New York City Beekeepers Association (<http://www.bees.nyc/>)

The New York City Beekeeping Meet-Up Group (<http://www.nycbeekeeping.com/>)

The Long Island Beekeepers Club (<http://www.longislandbeekeepers.org/>)

Rochester Beekeepers (<http://www.rochesterbeekeepers.com/>)

Beekeeping Classes and Workshops

In addition to classes offered by the beekeepers associations mentioned above, other organizations and groups offering beekeeping classes and workshops in New York State include:

HoneybeeLives (<http://honeybeelives.org/>) in New Paltz and Brooklyn offers organic beekeeping classes and apiary services throughout Hudson Valley and in New York City. Class schedules and registration information are available online, or you can email HoneybeeLives@yahoo.com or call **(845) 255-6113**.

Urban Roots Community Garden Center (<http://www.urbanroots.org/>) in Buffalo hosts occasional urban beekeeping classes. Visit their website, email info@urbanroots.org or call (716) 362-8982 for more information.

Beekeeping and Urban Beekeeping Books

The NYCBA recommends the following texts as good resources for beginning beekeepers:

The Beekeeper's Handbook by Alphonse Avitabile and Diana Sammataro, Cornell University Press, 2006

The Backyard Beekeeper: An Absolute Beginner's Guide to Keeping Bees in Your Yard and Garden by Kim Flottum, Quarry Books, 2010

Beekeeping: A Practical Guide by Richard E. Bonney, Storey Publishing, LLC, 1993

Other recommended texts are listed in the NYCBA Best Practices guide

More urban beekeeping books include:

Urban Beekeeping: A Guide to Keeping Bees in the City by Craig Hughes, Good Life Press, 2010

Bees in the City: The Urban Beekeepers' Handbook by Alison Benjamin and Brian McCallum, Guardian Books, 2011

Additionally, with the rise in interest in beekeeping, there are organizations throughout cities in the US that offer to set-up and manage beehives on other people's land. In Washington, DC the DC HoneyBees provide this service (<http://www.dchoneybees.com/>). Another is Honey Love (www.honeylove.org) in Los Angeles, CA.

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#31 CHICKENS AND OTHER POULTRY

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City Ordinances

Municipalities might outright prohibit the keeping of chickens and other poultry, prohibit the keeping of roosters, limit the number of birds that can be kept, or require permits or licenses to keep poultry. City ordinances might also regulate the building and management of coops and other housing structures, and local building codes should be consulted before any construction. See Factsheet #30, Urban Livestock, for information about city ordinances pertaining to keeping chickens and other animals.

Where it is lawful to keep chickens or other poultry, it is often still illegal to cause “nuisance conditions” that might people might find objectionable, such as excessive noise or odors. Urban farmers should take care to prevent these conditions by selecting quieter breeds and properly managing coops and other housing structures.

Chickens in Urban Environments

Keeping chickens, and hens in particular, is an easy step toward developing an urban farming enterprise. An urban flock is relatively quiet, requires less space than other livestock, does not produce strong odors if properly cared for, does not require breeding for production, and does not demand significant labor, financial or other inputs. Urban farmers benefit from outputs including meat or eggs, as well as a rich source of fertilizer. Raising chickens in urban environments does, however, necessitate special considerations.

Predators

Poultry are a prey species for many animals prominent in cities, such as cats, dogs, raccoons, and rats. As such, coops and housing should be secure and birds should only be allowed to “free-range” in areas that are properly penned/fenced. Chicken feed should be stored securely in sealed, metal containers to avoid attracting rodents.

Noise and Odors

Chickens, and roosters in particular, can be noisy and their manure can create strong odors, both of which might constitute “nuisance conditions” illegal by law and disruptive to neighbors. Urban farmers raising chickens should opt for quieter breeds and not keep roosters, the latter of which are often prohibited by city ordinances. Urban farmers should ensure that coops and housing structures are well ventilated to remove the ammonia generated by their manure, and are cleaned regularly. Animal waste should be used or composted promptly and properly.

Good City Breeds

Novella Carpenter and Willow Rosenthal, authors of *The Essential Urban Farmer* (Penguin Books, 2011), recommend raising Australorp, Black Star, Rhode Island Red, Araucana, and Cochin breeds in urban environments because of their quiet natures, high productivity, and smaller space requirements. State extension offices around the country also offer advice on raising chickens in urban and suburban areas, as in this resource from North Carolina Cooperative Extension: https://www.ces.ncsu.edu/depts/poulsoci/tech_manuals/Backyard_Chickens.pdf.

Resources for Raising Urban Chickens

Chicken Keeping Classes and Organizational Resources

Just Food is a non-profit organization in New York City working to connect communities with local farms and providing several services to urban farmers. As part of their urban agriculture training work prior to 2012, **Just Food** helped community members learn how to start and maintain their own city chicken projects. While they no longer provide this programming, there are many community gardens and individuals who still do this work around the city. Check out NYC Parks and Recreation's [event page](#) for future chicken related workshops. To learn more about the laws regarding city chickens, visit the new [NYC Urban Agriculture Page](#).

Bk Farmyards is a coalition of urban farmers in Brooklyn that manages two acres of urban farmyard spread across several sites and that provides consultation and various educational opportunities for those interested in urban farming. These opportunities include The Chicken Farm at their Imani Garden, which serves as a training ground for apprenticeships in urban chicken keeping. For more information, visit <http://bkfarmyards.blogspot.com/> or email Eggs@bkfarmyards.com.

Urban Chicken Keeping Books and Websites

The following books and websites provide helpful information about raising chickens in urban environments:

Keep Chickens! Tending Small Flocks in Cities, Suburbs, and Other Small Space by Barbara Kilarski, Storey Publishing, LLC, 2003

A Chicken in Every Yard: The Urban Farm Store's Guide to Chicken Keeping by Robert and Hannah Litt, Ten Speed Press, 2011

City Chicks: Keeping Micro-Flocks of Chickens as Garden Helpers, Compost Makers, Bio-Recyclers, and Local Food Producers by Patricia L. Foreman, Good Earth Publications, Inc., 2010
"Urban Chickens" (<http://urbanchickens.org/>) is a website filled with information on keeping backyard chickens in urban and suburban environments
"Sustainable Poultry" (<https://attra.ncat.org/attra-pub/poultry/>) is an educational site sponsored by the National Center for Appropriate Technology (NCAT) featuring information on various topics pertaining to keeping chickens, including raising urban poultry.

Urban Chicken Coops

Chicken coops and housing structures in cities must not only abide by various municipal ordinances, but must also often be adapted to small, urban yards. Below are some companies specializing in urban chicken coops and structures.

The Garden Coop provides affordable do-it-yourself designs for backyard chicken coops, available for purchase and download on their website at <http://www.thegardencoop.com/>.

uBuilder Plans, a company out of Missouri, sells "City Biddy Building Plans" for "City Biddy Chicken Coops," designed for urban and suburban environments. For more information, visit <http://www.ubuilderplans.com/?q=node/5>.

Victory Chicken is a company serving chicken keepers in New York City and offering chicken coops and other supplies, as well as a "starter" package that includes delivery and installation of a coop, three young birds, and two months of feed and supplies. For more information, visit <http://www.victorychickenco.com/> or contact info@victorychickenco.com or (347) 803-0777.

Online magazines including Mother Earth News (motherearthnews.com) Rodale's Organic Life (www.rodaleorganiclife.com) and Modern Farmer (www.modernfarmer.com) and website www.backyardchickens.com are all full of resources for the urban chicken farmer.

Other Poultry

Cities often prohibit the keeping of pigeons, ducks, geese and other migratory birds. Additionally, poultry such as ducks and turkeys can be noisier than chickens, and might be more likely to create nuisance conditions. Be sure to consult your city's ordinances, and to check with neighbors, before embarking on any poultry-keeping project.

If considering raising poultry other than chickens, start by talking with other area farmers already raising flocks, or consult with local farming organizations. Additionally, urban farming books such as *The Essential Urban Farmer* by Novella Carpenter and Willow Rosenthal (Penguin Books, 2011) provide general information about raising different urban poultry.

[Back to the Guide to Urban Farming Table of Contents>>](#)



NRCS AND URBAN AGRICULTURE

Who We Are

USDA's Natural Resources Conservation Service helps farmers care for the natural resources on their land – soil, water, air, plant and animals.

How We Help Urban Farmers

NRCS provides technical and financial assistance to growers in:

- **Soil Health** - As experts in soil health, NRCS conservationists can advise urban growers on things like what cover crops to grow, using farmers' soil tests and our soil surveys.
- **Irrigation and Water Conservation** - We can help urban growers conserve water, by assisting with things like drip irrigation.
- **Weeds and Pests** - We can help with pest and weed management by planting buffers for beneficial insects, through mulching, using cover crops and various other means.
- **High Tunnels** - NRCS can provide financial assistance for high tunnels, used to extend the growing season and to protect plants from harsh weather, air pollution and pests. By making local produce available for more months in the year, fewer resources are used to transport food to plates.



NRCS AND URBAN AGRICULTURE

Why Urban Farming?

Urban agriculture pioneers are taking action in their communities, growing not only fresh, healthy produce, but increasing opportunity and knowledge and improving the beauty of their neighborhoods. Through community gardens, produce is being grown and donated to those who need it and children and adults are learning about agriculture first-hand. Farmer's markets are offering easy-access to fresh foods in areas where grocery stores are miles away and are providing new income streams for residents.

NRCS serves all agriculture – large to small, conventional to organic, rural to urban. As American agriculture continues to grow in new directions, NRCS conservation assistance is growing along with it. By bringing cultivation and opportunity to both rural and urban areas, we address many needs -- Restoring the health of the soil. Restoring the health of people.

Get Started

Starting an urban farm comes with a unique set of challenges and opportunities. NRCS can help with the challenges of conservation, and support urban farmers in their efforts to achieve local, healthy, sustainable food for their communities. Start by contacting your local NRCS Service Center, at <https://offices.sc.egov.usda.gov/locator>.



NRCS. Helping People Help the Land... Even in the City.



USDA is an equal opportunity provider, employer, and lender.

Programs

- Farm Bill
- Landscape Initiatives
- Financial Assistance
 - Agricultural Management Assistance
 - Conservation Innovation Grants
 - Conservation Stewardship Program
 - Environmental Quality Incentives Program
 - Regional Conservation Partnership Program
- Technical Assistance
- Easements
- Landscape Planning
- Alphabetical Listing & Archive

High Tunnel System Initiative



A High Tunnel System, commonly called a "hoop house," is an increasingly popular conservation practice for farmers, and is available with financial assistance through the Environmental Quality Incentives Program (EQIP). With high tunnel systems, no summer is too short or winter too cold because high tunnels:

- Extend the growing season
- Improve plant quality and soil quality
- Reduce nutrient and pesticide transportation
- Improve air quality through reduced transportation inputs
- Reduce energy use by providing consumers with a local source of fresh produce

High tunnels protect plants from severe weather and allow farmers to extend their growing seasons – growing earlier into the spring, later into the fall, and sometimes, year-round. And because high tunnels prevent direct rainfall from reaching plants, farmers can use precise tools like drip irrigation to efficiently deliver water and nutrients to plants. High tunnels also offer farmers a greater ability to control pests and can even protect plants from pollen and pesticide drift.

A number of soil health practices can be used in high tunnels, including cover crops and crop rotations, which also prevent erosion, suppress weeds, increase soil water content, and break pest cycles.

Perhaps the best thing about high tunnels is that they help farmers provide their communities with healthy local food for much of the year – food that requires less energy and transportation inputs.



Check out the high tunnel topic to learn more.

SUPPORTING PRACTICES

Supporting practices may be needed to ensure that resource concerns associated with implementing and managing high tunnel systems are addressed. These [conservation practices](#) may include:

- Critical Area Planting
- Diversion Grassed Waterway
- Mulching

"We have really cold, wet springs with a lot of rain. High tunnels allow people to get into the ground and start producing crops earlier. They can also help people extend the growing season later as we go into the rains in the fall."

--Danny Perich, Full Plate Farm, WA



[EQIP Nationwide](#)



[EQIP Payments](#)



[Apply for EQIP](#)

Programs

- [Farm Bill](#)
- [Landscape Initiatives](#)
- [Financial Assistance](#)
 - [Agricultural Management Assistance](#)
 - [Conservation Innovation Grants](#)
 - [Conservation Stewardship Program](#)
 - [Environmental Quality Incentives Program](#)
 - [Regional Conservation Partnership Program](#)
- [Technical Assistance](#)
- [Easements](#)
- [Landscape Planning](#)
- [Alphabetical Listing & Archive](#)

EQIP Organic Initiative



The National Organic Initiative, funded through the Environmental Quality Incentives Program (EQIP), is a voluntary conservation program that provides technical and financial assistance for organic farmers and ranchers, or those interested in transitioning to organic. NRCS can help organic producers improve their operations or help producers transition to organic using a conservation plan tailored to their needs.

Eligibility:

- Certified Organic** - producers with a [USDA National Organic Program \(NOP\)](#) Organic Certificate or proof of good standing from a USDA accredited certifying agent. The certification must be maintained for the life of the EQIP contract.
- Exempt from Certification of the NOP** - producers who are selling less than \$5,000 a year in organic agricultural products and are exempt from NOP's certification. Exempt organic producers are eligible for the EQIP Organic Initiative if they self-certify that they agree to develop and work toward implementing an Organic Systems Plan (OSP), as required by the NOP.
- Transitioning to Organic** - producers who are in the process of transitioning to organic. Transitioning producers self-certify that they agree to develop and work toward implementing an OSP, as required by the NOP.

Assistance begins with the development of a conservation plan based on a needs assessment and each farmer's unique goals. The plan includes conservation practices, systems or activities, and the resource concerns identified in the assessment.

Common conservation practices, systems or activities planned include:

- Improving irrigation efficiency;
- Developing a Conservation Activity Plan for Transition that can be part of the OSP;
- Establishing buffer zones;
- Creating pollinator habitat;
- Improving soil health and controlling erosion;
- Developing a grazing plan and supportive livestock practices;
- Enhancing cropping rotations;
- Nutrient and pest management activities;
- Managing cover crops; and
- Installing a [high tunnel system](#).

Additional Information

- [2015 EQIP Organic Initiative Attachment B](#)
- [NRCS Organic Farming Technical Assistance](#)
- [Find A Technical Service Provider](#)
- [National Organic Program \(AMS website\)](#)
- [National Sustainable Agriculture Information Service EQIP Organic Initiative Page](#)



[EQIP Nationwide](#)



[EQIP Payments](#)



[Apply for EQIP](#)

Additional information about the Organic Initiative:

Financial assistance is limited to no more than \$140,000 total over the 2018 Farm Bill years, 2019 through 2023.

Producers must meet all other eligibility requirements associated with EQIP

Participants who are not certified or exempt from certification, agree to develop and work towards implementing an Organic System Plan to meet National Organic Program organic certification through USDA

Although EQIP supports a wide variety of conservation practices, your local NRCS field office staff will work with you to develop an organic plan that includes practices that fits your resource needs as part of the Organic Initiative.

Organic and transitioning farmers and ranchers may also apply for assistance through general EQIP or other conservation initiatives.

For more information about NRCS resources for organic farmers, see the [Organic Farming web page](#).

Ready to improve your organic operation or transition to organic? Check out [Apply for EQIP](#).

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Tax Credit Program Information

The Farmers' School Property Tax Credit: *How can it work for YOU?*



New York Farm Bureau • 159 Wolf Rd, PO Box 5330, Albany, NY 12203 • 800-342-4143 • <http://www.nyfb.org>

What is the Farmer's School Property Tax Credit?

The Property Tax Credit enables farmers to receive a tax credit from the state personal income tax or the corporation franchise tax to reimburse some or all of the school district property taxes paid by the farmer.

Am I eligible?

- An individual farmer or corporation must be defined as an "eligible farmer."
- The individual or corporation must own qualified agricultural property.
- The individual or corporation must pay eligible school taxes during the year.
- The individual's or corporation's income must be below the income limitation amount.

Who is an "eligible farmer"?

An individual or corporation that receives at least **2/3 of his or her excess federal gross income from farming**. *Excess* federal gross income is federal gross income, reduced by up to \$30,000. ***In other words, take gross income and subtract \$30,000. If 2/3 of the remaining amount is from the farm, you generally will qualify.***

As an example: your federal gross income is \$75,000. Included in that gross income is \$25,000 from your spouse's job, \$10,000 from your part-time job and \$40,000 **gross income** from the farm. Your excess federal gross income would be \$45,000 (\$75,000-\$30,000). 2/3 of \$45,000 is \$30,000 so your \$40,000 **gross income** from farming would more than meet the 2/3 requirement and you would be considered an "eligible farmer".

Farming is defined as an individual or corporation that cultivates, operates or manages a farm for gain or profit, even though the operation may not produce a profit each year. Also included in the definition of farming are members of a limited liability company, a shareholder of an S or C corporation, and the beneficiary of an estate or trust that is engaged in the business of farming. Many commodities are included in the definition of farming as well, so check the IT-217-I form to be sure.

There may be years when, due to unforeseen circumstances such as crop failures, an eligible farmer does not meet the 2/3 requirement. When this occurs the eligible farmer is now allowed to use an **average** gross income from farming in calculating their excess federal gross income. The average gross income from

CHANGES IMPROVE BENEFITS TO FARMERS:

New York Farm Bureau has successfully advocated for recent changes to the Farmer's School Property Tax Program that will address agriculture's changing needs.

- Land owned by immediate family members now qualifies for the program.
- Commercial Horse Boarding Operations are eligible for the program.
- Christmas Tree Operations and farms organized as C-corporations are now eligible for the program.
- Acre eligibility has increased from 250 acres to 350 acres.
- The modified adjusted gross income limit has increased from \$150,000 to \$250,000.

Over A small, black, curved arrow icon pointing to the right.

farming is calculated using the gross income from farming of the respective taxable year and the gross incomes from farming of the two previous consecutive taxable years.

How is the amount of my deduction determined?

The credit equals 100% of the school taxes paid on qualified agricultural property where the acreage does not exceed the base acreage amount, and 50% of the school taxes paid on acres exceeding the base acreage amount. The base acreage amount for 2006 and thereafter is 350 acres.

What is defined as qualified agricultural property?

Qualified agricultural property includes land and land improvements in New York State that are used in agricultural production. Also included are structures and buildings that are located on the land and are used or occupied in order to perform agricultural production. In addition, land set aside in federal supply management programs or soil conservation programs are included.

Is my residential property considered qualified agricultural property?

No, residential property is not qualified agricultural property. This includes your personal house, mobile home, etc. and any buildings associated with the owner's residence (garage, shed). Housing that is provided for essential farm employees (not including the owner's) does meet the definition of qualified agricultural property and can receive the credit.

What about woodland?

Woodland property that is used for agricultural production or for the production of woodland products used in the farm operation is included as qualified agricultural property. So, woodland used for pasture does qualify, as does woodland adjacent to agricultural property because it provides erosion control or wind protection.

Does rented land qualify for the credit?

Land that you rent for agricultural purposes does not qualify; only land that you own qualifies for the credit. If you own land that you rent to someone else, and that person uses the land for agricultural purposes, then you may consider those acres as part of your qualified agricultural property.

In the case of a land contract, the buyer will be treated as the owner of the property as long as they are obligated under the land contract to pay the school district property tax and deduct those taxes as a tax expense for federal income tax purposes.

What is the income limitation amount?

The income limitation reduces or eliminates the credit for higher income taxpayers. The limitation is based on modified adjusted gross income (individuals) or modified entire net income (corporations). If your taxable income is between \$200,000 and \$250,000 your credit will be reduced by a percentage.

How do I apply & claim the credit?

You claim the credit on your personal income tax return or the corporation franchise tax return when you file each year. Individuals and estates/trusts complete the Form IT-217-I, *Claim for Farmers' School Tax Credit*, and corporations complete the Form CT-47, titled the same.

Where can I go for more information?

For tax information you can call 1-800-462-8100 or for forms and publications call 1-800-462-8100. Many of the resources needed for the program can be linked on the NYFB website: www.nyfb.org under the "Farm Management Resources: Tax Link" site.



Claim for Farmers' School Tax Credit

Submit this form with Form IT-201, IT-203, or IT-205.

Name(s) as shown on return	Identifying number as shown on return
----------------------------	---------------------------------------

Note: Before completing this form, complete Form IT-201 through line 33, Form IT-203 through line 32, or Form IT-205 through line B.

Part 1 – Eligibility (see instructions)

If you mark an **X** in a *No* box for item A, B, C, or D, **stop**; you do not qualify for this credit.

A Did you have qualified agricultural property for tax year 2013? (see instr., Form IT-217-I) Yes No

B Were eligible school district property taxes paid on that property during tax year 2013? (see instructions) Yes No

C Complete Worksheet A on page 3 of the instructions. Is the amount shown on line 6 of Worksheet A less than \$300,000? Yes No

D Form IT-201 and Form IT-203 filers, complete Worksheet C on page 6 of the instructions. Form IT-205 filers, complete Worksheet D on page 9 of the instructions. Is the percentage shown on line 28 of Worksheet C or line 28 of Worksheet D at least 0.6667 (66.67%)? (see instructions) Yes No

E If you and one or more related persons (see instructions) each owned qualified agricultural property on March 1, 2013, mark an **X** here and see the instructions for Part 2, line 5

F If all or part of your qualified agricultural property was converted to nonqualified use during tax year 2013, mark an **X** here (see instructions)

Part 2 – Computation of credit (see instructions)

1 Individuals: Enter the total acres of qualified agricultural property owned by you during tax year 2013 (see instructions)	1	
2 Partners, S corporation shareholders, and beneficiaries of estates and trusts: Enter the amount from Part 4, line 7, column A	2	
3 Fiduciaries: Enter fiduciary's share of qualified agricultural property from Part 5, column C	3	
4 Add lines 1, 2, and 3	4	
5 Enter total base acreage amount (see instructions)	5	
6 Subtract line 5 from line 4 (if zero or less, skip lines 7 and 8, enter 1.0000 (100%) on line 9, and continue on line 10) ...	6	
7 Multiply line 6 by 50% (.5)	7	
8 Add lines 5 and 7	8	
9 Divide line 8 by line 4 and round the result to the fourth decimal place	9	
10 Individuals: Enter the eligible school taxes you paid during 2013 (see instr.)	10	.00
11 Partners, S corporation shareholders, and beneficiaries of estates and trusts: Enter the amount from Part 4, line 7, column B	11	.00
12 Fiduciaries: Enter fiduciary's share of eligible taxes from Part 5, column D	12	.00
13 Add lines 10, 11, and 12	13	.00
14 Multiply line 13 by line 9	14	.00
15 Enter amount from Worksheet A, line 6, on page 3 of the instructions (if line 15 amount is \$200,000 or less, skip lines 16, 17, and 18, and enter the line 14 amount on line 19; see instr.)	15	.00
16 Enter the excess of line 15 over \$200,000 (cannot exceed \$100,000)	16	.00
17 Divide line 16 by \$100,000, and round the result to the fourth decimal place (cannot exceed 1.0000 (100%))	17	
18 Multiply line 14 by line 17	18	.00
19 Farmers' school tax credit (subtract line 18 from line 14; see instructions)	19	.00



Part 3 – Partnership, S corporation, and estate or trust information (see instructions)

If you were a partner in a partnership, a shareholder of a New York S corporation, or the beneficiary of an estate or trust that **owned** qualified agricultural property during 2013, complete the following information for each partnership, S corporation, or estate or trust. For *Type* column, enter **P** for partnership, **S** for S corporation, or **ET** for estate or trust.

Name of entity	Type	Employer ID number	Location of property

Part 4 – Partner’s, shareholder’s, or beneficiary’s share of qualified agricultural property and eligible taxes (see instr.)			A – Acres of qualified agricultural property	B – Eligible taxes
Partner	1	Enter your share of acres of qualified agricultural property from your partnership		
	2	Enter your share of eligible taxes from your partnership00
S corporation shareholder	3	Enter your share of acres of qualified agricultural property from your S corporation		
	4	Enter your share of eligible taxes from your S corporation00
Beneficiary	5	Enter your share of acres of qualified agricultural property from the estate or trust		
	6	Enter your share of eligible taxes from the estate or trust00
	7	Totals00

Fiduciaries: Include the line 7, column A amount, on Part 5, column C, and include the line 7, column B amount, on Part 5, column D.

All others: Enter the line 7, column A amount, on Part 2, line 2, and enter the line 7, column B amount, line 11.

Part 5 – Beneficiary’s and fiduciary’s share of acres of qualified agricultural property and eligible taxes (see instr.)

A – Beneficiary’s name	B – Identifying number	C – Acres of qualified agricultural property (see instructions)	D – Eligible taxes (see instructions)	E – Acres of qualified agricultural property converted to nonqualified use (see instructions)
Totals			.00	
			.00	
			.00	
Fiduciary			.00	

Part 6 – Credit recapture on qualified agricultural property converted to nonqualified use

(Complete this part only if you first claimed a credit for 2011 or 2012. See instructions.)

A – Total acres of qualified agricultural property converted to nonqualified use (see instructions)	B – Total acres of qualified agricultural property before conversion (see instructions)	C – Column A ÷ column B	D – Total credit claimed for 2011 and 2012 (see instructions)	E – Total amount of 2011 and 2012 credit to be recaptured (column C × column D; see instr.)
			.00	E .00



**Questions and Answers on
New York State's**

**Farmers' School
Tax Credit**

Update to Publication 51
Questions and Answers on New York State's
Farmers' School Tax Credit

Note: This update supersedes Publication 51.1 dated April 2006. The current version of Publication 51 is dated 11/97.

Legislation passed by the legislature and signed into law by Governor Pataki during 1998, 1999, 2003, 2005, and 2006 provides new enhancements to the *Farmers' School Tax Credit*. In addition, information is added concerning several issues addressed in the original publication. The law changes and the additional information about the credit are explained below. Except as explained in this update, all other issues addressed in Publication 51 remain valid.

Legislative Changes

Part II - Eligible Farmer

For tax years **beginning on or after January 1, 2003**, the statutory definition of *eligible farmer* has been expanded. Taxpayers will meet the definition of *eligible farmer* if their:

- federal gross income from farming for the tax year is at least two-thirds of their excess federal gross income; or
- average of federal gross income from farming for the tax year and the two consecutive tax years immediately preceding that tax year is at least two-thirds of their excess federal gross income for the tax year.

Prior to the amendment, taxpayers met the definition of *eligible farmer* only if their federal gross income from farming for the tax year was at least two-thirds of their excess federal gross income.

The following revisions have been made to question 2 on page 5 and questions 3 and 4 on page 6.

For purposes of question 2, *What is considered farming for purposes of this credit?*, for tax years **beginning in 2006 and after**, a person is also engaged in the business of farming if the person is a shareholder of a New York C corporation that has made a special gross income from farming election on Form CT-47.1, *Election or Termination of Election to Deem Income for Purposes of the Farmers' School Tax Credit*.

In addition, *farming* will include commercial horse boarding operations as defined in section 301(13) of the Agriculture and Markets Law and the growing of Christmas trees, for purposes of transplanting or cutting from the stump, under a managed Christmas tree operation.

For purposes of question 3, *What is considered gross income from farming for an individual?*, and for question 4, *What is gross income from farming for a corporation?*, for tax years **beginning in 2006 and after**, gross income from farming will also include gross income from commercial horse boarding operations as defined in section 301(13) of the Agriculture and Markets Law, to the extent not included in farm income reported on the individual's or corporation's federal income tax return and gross income from the growing of Christmas trees, for purposes of transplanting or cutting from the stump, under a managed Christmas tree operation.

Also for purposes of question 3, for tax years **beginning in 2006 and after**, gross income from farming includes:

- your pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1;
- your pro rata share of your partnership's gross income from farming that represents the partnership's pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1; and
- your pro rata share of your New York S corporation gross income from farming that represents the S corporation's pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1.

Part III - Qualified Agricultural Property

For tax years **beginning in 2001 and thereafter**, the statutory definition of *qualified agricultural property* has been expanded to include land set aside or retired under a federal supply management or soil conservation program. (Note: This amendment merely confirms existing Tax Department policy that such property qualifies for the credit: See Part III, question 10, on page 11.)

Also, for tax years **beginning in 2006 and after**, the definition of *qualified agricultural property* includes land that at the time it becomes subject to a conservation easement would have been *qualified agricultural property*. (Note: Prior to this amendment, land that was subject to a conservation easement would have been *qualified agricultural property* **only** if such land was used in agricultural production.)

Part IV: Eligible Taxes

The answer to question 1 on page 13 states that only real property taxes levied by a school district on qualified agricultural property **owned** by the taxpayer qualify for the credit. For tax years **beginning in 1999 and thereafter**, in the case of the sale of qualified agricultural property under a land sales contract,* the buyer will be treated as the owner of the property if the following conditions are met:

- the buyer must be obligated under the land sales contract to pay the school district property taxes on the purchased property; and
- the buyer must be entitled to deduct those taxes as a tax expense for federal income tax purposes.

A buyer who meets these conditions will be considered the owner even though legal title to the property (i.e., the deed) has not been transferred to the buyer. Accordingly, the buyer, if an eligible farmer, will be entitled to claim the credit (subject to the credit limitation based on income).

Note: If the buyer is treated as the owner under these provisions, the seller may not claim the credit for the same property.

For tax years **beginning in 2005 and after**, eligible school district property taxes levied by a school district on qualified property owned by the taxpayer's father, mother, grandfather, grandmother, brother, or sister qualify for the credit if (1) the taxpayer has a written agreement with the owner(s) that the taxpayer intends to eventually purchase that qualified agricultural property, even if the taxpayer did not actually pay the school district property taxes on the qualified agricultural property, and (2) the owner(s) has given the taxpayer a document stating that the owner(s) is waiving his/her right to claim the credit, if any, on the qualified agricultural property that is subject to the written agreement.

The written agreement does not have to be in any particular legal form but it must be signed by all parties to the agreement and must have been in effect for at least part of the tax year to which the credit relates. The waiver document does not have to be in any particular form, but it can be for only one tax year and must include (1) the name of the owner(s), (2) the name of the relative with whom the owner(s) has entered into a written agreement to sell his/her qualified agricultural property, (3) a statement that the owner(s) is waiving his or her right to claim the farmers' school tax credit, (4) the tax year to which the waiver applies, (5) the date the agreement to sell was entered into, and (6) the signature of the owner(s). The waiver document must be given to the taxpayer even if the owner(s) does not qualify to claim the farmers' school tax credit on the property. Once the waiver is made for a tax year, it cannot be revoked for that tax year, but the owner(s) may decide whether or not to issue a waiver for any subsequent tax year.

* A land sales contract, commonly referred to as an *installment land contract*, is an agreement to transfer land ownership in exchange for a series of principal and interest payments. The seller does not transfer formal title to the property to the buyer until all or a certain number of payments are made. A land sales contract may also be referred to as *contract for deed*, *bond for deed*, *conditional sale of real estate*, *contract for sale of land*, and *land contract*. A *lease with an option to purchase* type arrangement is not a land sales contract.

Part V: Base Acreage and Related Party Rules

Under question 2, on page 15, the base acreage amount of 250 acres will now apply to tax years **beginning after 1997 and before 2006**. Previously, this increase was scheduled to take effect for tax years beginning in 1999 and thereafter. For tax years **beginning in 2006 and after**, the base acreage amount is increased to 350 acres.

Also, for tax years **beginning in 2001 and thereafter**, the base acreage amount is increased by acreage enrolled or participating in a federal environmental conservation acreage reserve program pursuant to Title Three of the Federal Agricultural Improvement and Reform Act of 1996. This provision will allow farmers who participate in this program and whose acres of qualified agricultural property exceed the base acreage amount to receive a larger Farmers' School Tax Credit.

Example: For tax year 2001, a farmer owns 300 acres of qualified agricultural property. Thirty acres of that property are enrolled or participating in a federal environmental conservation acreage reserve program pursuant to Title Three of the Federal Agricultural Improvement and Reform Act of 1996. Assuming the farmer otherwise qualifies for the Farmers' School Tax Credit, the farmer's base acreage amount for 2001 will be 280 acres (250 + 30). Accordingly, for 2001, the farmer will receive a credit of 100% of the school taxes paid on 280 acres of property and a credit for 50% of the taxes paid on 20 acres of property. Under prior law, the farmer would have only received a 100% credit for the taxes paid on 250 acres of property and a 50% credit for the taxes paid on the remaining 50 acres of property.

Part VI: Credit Limitation Based on Income

For tax years **beginning in 2006 and after**, the income limitation for purposes of determining credit eligibility is increased. The phaseout of the credit now occurs if the farmer's modified New York adjusted gross income or modified entire net income is between \$200,000 and \$300,000, with no credit allowable if the taxpayer's modified adjusted gross income or entire net income is over \$300,000. Previously, this phaseout occurred when the farmer's modified New York adjusted gross income or modified entire net income was between \$100,000 and \$150,000, with no credit allowable if the taxpayer's modified adjusted gross income or modified entire net income was over \$150,000.

Appendix A: Federal Gross Income for Individuals

Appendix A is revised to provide that for tax years **beginning in 2006 and after**, federal gross income from all sources includes:

- your pro rata share of gross income from a New York C corporation that has made a special gross income from farming election on Form CT-47.1, *Election or Termination of Election to Deem Income for Purposes of the Farmers' School Tax Credit*, and
- your pro rata share of your partnership's gross income and your pro rata share of your New York S corporation gross income that represents the partnership's and S corporation's pro rata share of gross income from a New York C corporation that has made a special gross income from farming election on Form CT-47.1.

Note: This information should be obtained from the New York C corporation, the partnership, and the New York S corporation.

Appendix B: Federal Gross Income *From Farming* for Individuals

Appendix B is revised to provide that for tax years **beginning in 2006 and after**, gross income from farming also includes:

- gross income from commercial horse boarding operations as defined in section 301(13) of the Agriculture and Markets Law, to the extent not included in farm income reported on the individual's federal income tax return and gross income from the growing of Christmas trees, for purposes of transplanting or cutting from the stump, under a managed Christmas tree operation,

- your pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1, *Election or Termination of Election to Deem Income for Purposes of the Farmers' School Tax Credit*, and

- your pro rata share of your partnership's gross income from farming and your pro rata share of your New York S corporation gross income from farming that represents the partnership's and S corporation's pro rata share of gross income from farming from a New York C corporation that has made a special gross income from farming election on Form CT-47.1.

Note: This information should be obtained from the New York C corporation, the partnership, and the New York S corporation.

Appendix D: Federal Gross Income *From Farming* for Corporations

Appendix D is revised to provide that for tax years **beginning in 2006 and after**, gross income from farming also includes gross income from commercial horse boarding operations as defined in section 301(13) of the Agriculture and Markets Law, to the extent not included in farm income reported on the corporation's federal income tax return and gross income from the growing of Christmas trees, for purposes of transplanting or cutting from the stump, under a managed Christmas tree operation.

Additional Information

Part III: Qualified Agricultural Property

The answer to question 1 on page 10 states that a structure or building is not qualified agricultural property if it is used for the **processing** of agricultural commodities. However, in the case of the production of maple syrup and cider, and the sale of wine from a farm winery, buildings and structures used to process the sap into syrup, the apples into cider, or the grapes into wine **are** considered qualified agricultural property even though the property is used in processing.

Part VI: Credit Limitation Based on Income

Under question 5 on page 17, for purposes of computing modified New York adjusted gross income, *farm indebtedness* does not include debt, or that portion of the debt, that is secured by the farmer's principal residence, even if the proceeds of the loan are used for farm expenditures.

Part VII: Credit Recapture

The answer to question 1 on page 19 contains examples showing how the recapture rules apply when qualified agricultural property is converted to nonqualified use. The following additional example illustrates the recapture rules that apply when a farmer acquires additional qualified agricultural property in a year after the year in which the farmer first claimed the credit.

Example: A farmer first claims the credit for tax year 1997. The credit is claimed on 100 acres of qualified agricultural property. In 1998, the farmer purchases an additional 100 acres of qualified agricultural property and claims the credit for 1998 on the total 200 acres of qualified agricultural property. On June 1, 2000, the entire property is converted to nonqualified use. In this instance, no credit is allowed for the year 2000. However, since the conversion took place after the end of the second year following the year in which the farmer **first** claimed the credit (1997), the farmer is not required to add back the credit claimed in 1997, 1998, or 1999. This is so even though 100 acres of the converted property were not purchased until 1998, and the credit on that portion of the converted property was first claimed in 1998.

Part VIII: Disallowance of Deduction for School Taxes

The answer to question 1 on page 21 states that you must include the amount of your credit in your New York adjusted gross income or entire net income in the tax year following the year for which the credit is allowed. However, you **do not** have to make this adjustment if you were required to report the amount of the credit as income on your federal income tax return in the tax year following the year for which the credit is allowed.

Appendix A: Federal Gross Income for Individuals

Item 8 states that capital gains from federal Schedule D are to be included in federal gross income from all sources. However, if you had capital gain distributions from a mutual fund but were not required to file federal Schedule D for the year, include in federal gross income any capital gain distributions you entered on line 13 of federal Form 1040.

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Introduction

For tax years beginning after 1996, an eligible farmer may be entitled to an income tax or corporation franchise tax credit for the school district property taxes the farmer pays. The credit is allowed only for school taxes paid on land, structures, and buildings owned by the farmer that are located in New York State and used or occupied for agricultural production. An eligible farmer may be a corporation subject to tax under Article 9-A of the Tax Law (the corporate franchise tax), or an individual or married couple subject to tax under Article 22 of the Tax Law (the personal income tax). In addition, an eligible farmer may be entitled to the credit if the farmer is a partner in a partnership or a shareholder of a New York S corporation that owns property used in agricultural production. Furthermore, an estate or trust or the beneficiaries of an estate or trust may also be eligible for the credit.

The farmers' school tax credit was enacted as part of the Farmer's Protection and Farm Preservation Act of 1996. The credit provides school property tax relief to farmers to help protect and enhance the agricultural industry in New York State and to preserve our valuable open spaces, an important resource for

the tourism industry. The credit is allowed against the farmer's income tax or corporation franchise tax, and is fully funded by the state. It is not a real property tax exemption nor is it part of the agricultural assessment program. In addition, since the credit is fully funded by the state, it will not affect the revenue received by local school districts, nor will it shift the school tax burden to the farmer's neighbors.

The credit provisions were further amended in the 1997-1998 New York State budget. The new amendments, which apply to tax years 1998 and thereafter, will enable more farmers to qualify for the credit.

We have prepared the following questions and answers to provide general information to farmers and tax practitioners concerning the new credit. For purposes of clarity, the questions are generally written in the context of individual farmers. However, the rules apply equally to corporate farmers unless otherwise stated, or unless the context of the question indicates otherwise. Due to the diversity of the agricultural industry, it was not possible to address every situation. Taxpayers who have questions not addressed in this publication should contact the Tax Department. Telephone numbers and addresses are listed on the back cover of this publication.

Part I: General Information

1. What is the farmers' school tax credit?

The farmers' school tax credit is a tax credit allowed against the personal income tax (Article 22 of the Tax Law) or the corporation franchise tax (Article 9-A of the Tax Law), to reimburse some or all of the school district property taxes paid by farmers.

2. How do I claim the credit?

You claim the credit on your personal income tax return or corporation franchise tax return when you file it each year. Individuals and estates and trusts will compute the credit on Form IT-217, *Claim for Farmers' School Tax Credit*. Corporations will compute the credit on Form CT-47, *Claim for Farmers' School Tax Credit*. These forms will be available in early December of each year. To obtain these forms, see *Need Help* on the back cover of this publication.

3. For what tax years does the credit apply?

The credit applies to income or corporation tax years beginning in 1997 and thereafter.

4. Who qualifies for the credit?

An individual or corporation meeting all the following conditions will qualify for the credit:

- The individual or corporation is an eligible farmer (see Part II)
- The individual or corporation owns qualified agricultural property during the year (see Part III)
- The individual or corporation pays eligible school taxes during the year (see Part IV), and

-- The individual's or corporation's income is below the income limitation amount (see Part VI).

5. Does my farm have to be located in an agricultural district or must I apply for a special agricultural assessment in order to qualify for this credit?

No. The credit is not part of the agricultural district or agricultural assessment programs. Accordingly, the availability of this credit does not depend on the land's status for agricultural district or agricultural assessment purposes.

6. Do I have to own a minimum amount of land or have agricultural sales exceeding a certain dollar amount in order to qualify for the credit?

No. There are no minimum land or sales requirements to qualify for this credit. However, you must be an eligible farmer as described in Part II, which means that a significant part of your income must be from farming.

7. Do I have to submit any advance application or certification in order to qualify for this credit?

No. If you qualify for the credit, you simply claim the credit when you file your personal income tax return or corporate franchise tax return for the tax year.

8. Will the amount of credit allowed depend upon the type of soil on my property, as in the case of the special agricultural assessments?

No. The amount of credit does not depend on soil types.

9. Does my local school board have to take any action in order for me to claim the credit?

No. The credit is a state funded credit allowed under the personal income tax or corporate franchise tax. No action by your local school board is necessary. In addition, because the credit is state funded, the allowance of the credit will not affect the revenue the school district receives, nor will it result in a shift of the school tax burden to your neighbors.

10. How is the credit computed?

The credit equals 100% of the school taxes paid on qualified agricultural property where the acreage does not exceed the base acreage amount (see Part V) and 50% of the school taxes paid on acres in excess of the base acreage amount.

11. What if the amount of the credit exceeds my personal income tax or corporate franchise tax liability for the year?

If the credit exceeds your personal income tax for the year, reduced by any other credits, the excess amount will be refunded to you, without interest. If the credit exceeds your corporation franchise tax for the year, reduced by any other credits, the excess may be refunded to the corporation, without interest, or the corporation may elect to carry the excess over to future tax years.

12. Our farm is a corporation that is not a New York S corporation. Can the credit be applied against the corporation's fixed dollar minimum tax or alternative minimum tax?

No. The credit cannot be applied against those two taxes, but it can be applied against the entire net income tax and the capital based tax.

Note: Although by statute the credit is not allowed against the fixed dollar minimum tax and the alternative minimum tax, before any refund is issued, the Department will

apply the credit against those taxes and issue a refund for the net amount. However, if the corporation elects to carryover the credit to succeeding years, the corporation would have to pay the fixed dollar minimum or the alternative minimum tax and would receive a carryover for the credit.

13. Our farm is a New York S corporation. Does the corporation claim the credit on its franchise tax return or do the shareholders claim their share of the credit on their individual income tax returns?

The corporation may not claim the credit. In the case of a New York S corporation that owns qualified agricultural property, the shareholders of the corporation may claim the credit on their personal income tax returns, based upon their shares of the corporation's acres of qualified agricultural property and eligible taxes. However, the individual shareholders must be eligible farmers to claim the credit.

14. Can partners of a partnership (including members of a limited liability company that is treated as a partnership for federal tax purposes) that owns qualified agricultural property claim their share of the credit?

Yes. The partners or members will claim the credit on their personal income tax returns, based upon their share of acres of qualified agricultural property and eligible taxes from the partnership. However, the partner (or member) may claim the credit only if the partner or member is an eligible farmer.

15. Can an estate or trust, or the beneficiary of an estate or trust, claim their share of the credit?

Yes. An estate or trust may claim the credit, based upon its share of the acres of qualified agricultural property and eligible taxes, if

the estate or trust is an eligible farmer. A beneficiary of an estate or trust can claim the credit based on his or her share of the acres and taxes, if the beneficiary is an eligible farmer. In general, the rules relating to individual farmers as discussed in this publication also apply to estates or trusts. However, certain special rules apply to estates or trusts. These rules are discussed in Part IX.

16. **Can a nonresident individual claim the credit if the individual owns qualified agricultural property located in New York State?**

Yes. The allowance of the credit does not depend upon the resident status of the taxpayer.

Part II: Eligible Farmer

1. Who is an eligible farmer?

For tax years beginning in 1997 only, an eligible farmer is an individual or corporation that receives for the taxable year at least 2/3 of his or her **federal gross income** (see Question 9) from farming. An individual who qualifies for the farmer estimated tax treatment under the federal and state income taxes qualifies as an eligible farmer for 1997.

For tax years beginning in 1998 and thereafter, an eligible farmer is an individual or corporation that receives for the taxable year at least 2/3 of his or her *excess* **federal gross income** from farming (see Question 11).

2. What is considered farming for purposes of this credit?

An individual or corporation (collectively, a person) is engaged in the business of farming if the person cultivates, operates or manages a farm for gain or profit, even though the operation may not produce a profit every year. A person is also engaged in the business of farming if the person is a member of a partnership (including a limited liability company that is treated as a partnership), a shareholder of an S corporation or the beneficiary of an estate or trust that is engaged in the business of farming.

Farming includes the operation or management of livestock, dairy, poultry, fish, fruit, fur-bearing-animal and vegetable (commonly referred to as truck) farms. Farming also includes the operation and management of plantations, ranches, ranges and orchards. Furthermore, farming includes, but is not limited to, the raising or production of the following commodities:

- field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans;
- fruits, including apples, peaches, grapes, cherries and berries;
- vegetables, whether raised conventionally or hydroponically, including tomatoes, snap beans, cabbage, carrots, beets and onions;
- horticultural specialties, including nursery stock, ornamental shrubs and ornamental trees and flowers;
- livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, ostrich, emus, fur-bearing animals, milk and eggs;
- aquaculture products, including fish, fish products, water plants and shellfish (provided the aquaculture products are grown and raised as opposed to merely harvested or caught);
- honey and beeswax produced from your own bees; and
- maple syrup and cider, provided the income from these operations is properly includable on federal Schedule F, *Profit or Loss From Farming*.

A person who rents farm property to others may also be engaged in the business of farming (see Question 5).

Forestry and logging, including the growing of Christmas trees, is **not** farming unless the forestry or logging products are used in the operation of a farm or are connected with an otherwise qualifying farm operation as described above (i.e., the income from these operations is properly reportable on federal Schedule F.)

You are **not** engaged in farming if your principal source of income is from providing agricultural services, such as soil preparation, veterinary services or farm labor. In addition, you are **not** engaged in farming if you manage or operate a farm for

a salary or fee. Furthermore, a person cultivating or operating a farm for recreation or leisure (e.g., a hobby farm) is **not** engaged in the business of farming.

For tax years beginning in 1998 and after, the following activities are also considered farming:

- the production of maple syrup or cider, regardless of whether the income is reportable on federal Schedule F; and
- the sale of wine from a licensed farm winery as provided for in Article 6 of the Alcoholic Beverage Control Law.

3. **What is considered gross income from farming for an individual?**

Gross income from farming is the total farm income reported on the individual's federal income tax return for the year. This includes:

- gross farm income from federal Schedule F, *Profit or Loss From Farming*;
- gross farm rents from federal Form 4835, *Farm Rental Income and Expenses*;
- your share of partnership or S corporation gross income from farming (this amount will be shown on your federal Schedule K-1);
- your share of distributable net income of an estate or trust from farming (this amount will be shown on your federal Schedule K-1); and
- gains from sales of draft, breeding, dairy or sporting livestock shown on federal Form 4797, *Sales of Business Property*. (Note: Gains from the sale of farm equipment or farm real estate are not includable in gross income from farming even though those gains may be reportable on Form 4797.)

For tax years beginning in 1998 and after, gross income from farming also includes:

- gross income from the production of maple syrup and cider, to the extent that income is not included in the items listed above; and
- gross income from the sale of wine from a licensed farm winery as provided for in Article 6 of the Alcoholic Beverage Control Law.

Gross income from farming for individuals is also listed in Appendix B.

4. **What is gross income from farming for a corporation?**

Gross income from farming is the total farm income reported on the corporation's federal income tax return for the year. This includes:

- gross receipts, less cost of goods sold, attributable to farming activities;
- gross rents from the rental of qualified agricultural property (including land and buildings), provided the terms of the rental satisfy the conditions described in Question 5 below;
- the corporation's share of partnership gross income from farming (this amount will be shown on the federal Schedule K-1 received by the corporation); and
- gains from sales of draft, breeding, dairy or sporting livestock shown on federal Form 4797, *Sales of Business Property*. (Note: Gains from the sale of farm equipment or farm real estate are not includable in gross income from farming, even though those gains may be reportable on Form 4797.)

For tax years beginning in 1998 and after, gross income from farming also includes:

- gross income from the production of maple syrup and cider, to the extent that income is not included in the items listed above; and

- gross income from the sale of wine from a licensed farm winery as provided for in Article 6 of the Alcoholic Beverage Control Law.

Note: A corporation that has both farm and non-farm income may find it helpful to complete a pro-forma federal Schedule F to determine its gross receipts, less cost of goods sold, from farming.

Gross income from farming for a corporation is also listed in Appendix D.

5. **Does the income which an individual or corporation receives from renting farm property to another person qualify as gross income from farming?**

The answer to this question depends upon how the rental of the property is set up.

Material Participation

If the rental is for a fixed amount per month or per year, or a fixed amount per acre (i.e., a cash rental agreement), or if the carrying costs of the property, such as property taxes, interest and insurance, constitute the rent, then the rental income does not constitute gross income from farming **unless** the person participates to a material extent in the operation or management of the farm. This kind of material participation rental income constitutes gross income from farming and is reported for federal purposes on Schedule F. (See Question 6 for information on material participation.) Also, see **Note** below.

Crop Share

If the amount of rental is a crop share (shared rental agreement; that is, the amount of rent is based upon the actual production of the land), then rental payments, whether made in cash or in kind, would constitute gross income from farming, regardless of whether you materially participate. For example, you rent your farmland to another person who is growing corn. The rental

payment is 20% of the corn produced on the property, or, at your election, a cash payment equal to the market value of 20% of the corn produced. In this instance, the rental income would constitute gross income from farming and is generally reported for federal income tax purposes on Form 4835. Also, see **Note** below.

Note: If you receive rental income from the rental of agricultural property (regardless of the type of rental) **and** you materially participate in the operation, the gross rental income you receive is reported on federal Schedule F and you may be subject to federal self-employment taxes.

6. **What does *participates to a material extent* mean for purposes of question 5?**

You *participate to a material extent* if you have an arrangement with your tenant for your participation and you meet one of the following four tests:

Test No. 1. You do **any** three of the following: (1) pay or stand good for at least half the direct costs of producing the crop; (2) furnish at least half the tools, equipment and livestock used in producing the crop; (3) consult with your tenant ; and (4) inspect the production activities periodically.

Test No. 2. You regularly and frequently make, or take an important part in making, management decisions substantially contributing to or affecting the success of the enterprise.

Test No. 3. You work 100 hours or more spread over a period of 5 weeks or more in activities connected with crop production.

Test No. 4. You do things which, considered in their total effect, show that you are materially and significantly involved in the production of farm commodities.

7. **I work on my neighbor's farm. Are the wages I receive considered gross income from farming?**

No. Wages you receive as a farm employee are not gross income from farming.

8. **My farm is set up as a corporation, and I receive wages from that corporation. Are those wages gross income from farming?**

No. Wages you receive from a farm corporation, even if you are the owner of the corporation, are not gross income from farming.

9. **What is federal gross income for purposes of determining whether I am an eligible farmer for tax year 1997?**

Gross income is income before the deduction of expenses. However, gross income from sales is after the deduction for cost of goods sold.

For an individual, gross income from all sources is all income you (and your spouse, if you are filing a joint federal return) receive during the tax year in the form of money, goods, property and services that is not exempt from **federal** income tax. For a list of items includable in the gross income of an individual, see Appendix A.

For a corporation, gross income is all income received by the corporation during the tax year that is not exempt from **federal** tax. For a list of items includable in the gross income of a corporation, see Appendix C.

10. **Do social security retirement benefits constitute gross income?**

This depends. Only the portion of the social security you receive **that is subject to federal income tax** is considered gross income. The amount of social security subject to federal tax varies with the level of your income from other sources.

11. **What is excess federal gross income for purposes of determining whether I am an eligible farmer for tax years 1998 and after?**

For an individual, excess federal gross income is federal gross income, computed as discussed in Question 9, reduced by the sum, not to exceed \$30,000, of the following items included in federal gross income:

- wages, salaries, tips and other employee compensation;
- interest and dividends;
- pension payments, including social security payments;
- those items of gross income that are includable in the computation of net earnings from self-employment for federal income tax purposes.

Example: Your federal gross income for the year is \$50,000. Included in gross income is \$15,000 of wages, \$10,000 of interest and dividends and \$25,000 of gross income from farming. (The \$25,000 of gross income from farming is included in determining your net earnings from self-employment.) Your excess federal gross income for the year is \$20,000 (\$50,000-\$30,000).

For a corporation, excess federal gross income is federal gross income, computed as discussed in Question 9, reduced by \$30,000.

12. **In addition to growing and harvesting my commodities, I also process those commodities to make them more valuable. Is all the income I receive from the sale of those commodities considered gross income from farming?**

No. Only the value of the commodities before they are processed constitutes gross income from farming. The value added by the processing is not considered gross income from farming. Processing means doing something to an agricultural commodity beyond what is needed to make it **initially** marketable.

For example, a person operates a dairy farm and also processes and bottles the milk for retail sale. If the person sold the raw milk to a processing plant, it would be worth \$14 per hundred weight. However, after pasteurizing and bottling, the person sells the milk for \$35 per hundred weight. Only the value of the raw milk (\$14) would be considered gross income from farming. The value added by the processing (\$21) would not be gross income from farming. However, it would be considered gross income from all sources for purposes of the gross income test.

Note: For tax years 1998 and after, gross income from farming includes income from the production of maple syrup and cider, and income from the sale of wine from a licensed farm winery, even though that income is from processed products.

13. **Under federal income tax rules, for purposes of individual estimated taxes, I am considered a farmer for 1997 if two-thirds of my gross income for 1996 or 1997 is from farming. Two-thirds of my gross income for 1996 was from farming, but I did not meet the test for 1997. Does the federal rule apply for purposes of the New York credit?**

No. New York law specifically provides that two-thirds of your gross income must be from farming for the year for which you are claiming the credit.

Note: For tax years 1998 and after, you may still qualify for this credit even though you are not considered a farmer for estimated tax purposes.

14. **If a married couple files a joint federal income tax return, do they use their separate or joint income in determining the gross income from farming and federal gross income?**

If you are married and file a joint return, your joint incomes must be used to determine if you are an eligible farmer.

15. **What if a married couple files separate returns?**

If you file separate returns, only your separate income is used to determine if you are an eligible farmer.

Caution: Although filing separate New York returns may enable you to meet the eligible farmer requirements, a married couple may generally file separate New York returns only if they file separate federal returns. Since many federal and New York tax benefits are eliminated or reduced when separate returns are filed, you may want to figure your federal and state taxes both ways to determine the best way to file. In addition, if you file separate returns and your farm property is owned jointly, your credit may be limited. See Part V.

Part III – Qualified Agricultural Property

1. What is qualified agricultural property?

Qualified agricultural property includes land and land improvements located in New York State that are used in agricultural production. It also includes structures and buildings (except for buildings used by the taxpayer for residential purposes) that are located on the land and used or occupied to carry out agricultural production.

Agricultural production means those activities discussed in Part II, Question 2.

Land used in agricultural production includes land under buildings which are qualified agricultural property, and land in support of a farm operation, such as farm ponds, drainage swamps, wetlands and access roads.

2. What structures are considered qualified agricultural property?

A structure or building qualifies if it is used either (1) in the raising and production for sale of agricultural commodities, or (2) for the storage of agricultural commodities for sale at a future time, or (3) for the storage of supplies or for the storage or servicing of equipment necessary for agricultural production.

A structure or building is not qualified agricultural property if it is used for (1) the processing of agricultural commodities, or (2) the retail merchandising of agricultural commodities, or (3) the storage of commodities for the personal consumption of the farmer or the farmer's family, or (4) the residence of the farmer or the farmer's immediate family.

For this purpose, *agricultural commodities* includes those items discussed in Part II, Question 2.

Note: If only a portion of a building or structure is used for qualified purposes, see Question 4.

3. What is considered processing for purposes of question 2?

Processing means doing something to a farm commodity beyond what is needed to make it initially marketable. For example, milk is initially marketable in raw form.

Accordingly, buildings used to produce and store the raw milk qualify for the credit. However, if a farmer also pasteurizes the milk and bottles it for sale, that operation is considered processing and the buildings or portions of buildings used for that operation do not qualify. The mere sorting, washing and packaging of fruits and vegetables is not considered processing.

When the processing carried on in an otherwise qualified building is only incidental to the main use of the building, or the building is used for processing only on a limited basis, the building is treated as qualified property.

4. What if only a portion of a building or structure is used for qualified agricultural production?

If only a portion of a building or structure is used for qualified agricultural production, then only that portion of the structure is qualified agricultural property. Only the school taxes paid on that portion qualify for the credit (see Part IV).

5. When would a building or structure not qualify because it is being used for retail sales of farm commodities?

Any building or structure or portion thereof that is used for the retail sale of an agricultural or horticultural product cannot qualify. For example, a roadside stand or store in which agricultural products are sold to the public would not qualify.

6. **We operate a plant nursery. We raise all our own flowers and plants in greenhouses. Each spring and summer, we open the greenhouses to the public so they can pick out their purchases themselves. Is this considered using the greenhouses for retail sale?**

No. This activity would be considered incidental to the main function of raising horticultural products in the greenhouses. Accordingly, the greenhouses would be qualified agricultural property.

7. **Residential property is not qualified agricultural property. What is residential property in the case of an individual farmer?**

Residential property includes a house, mobile home, etc., and any other buildings associated with it, such as a garage or shed, that are used by the farmer or his or her individual family for residential purposes.

8. **What is residential property in the case of a corporate farmer?**

Property described in Question 7 that is held by a corporation is considered used for residential purposes if it is used as a residence by any of the executive officers of the corporation.

9. **Does housing provided to regular or essential farm employees meet the definition of qualified agricultural property?**

Yes. Regular employees are those who are usually and customarily hired for raising and producing a farm product. Essential employees are those without whose help a necessary aspect of farm production could not take place (such as workers hired to plant or harvest a crop). Employees are regular or essential as long as their duties are primarily connected with farming operations rather than processing, retail sale or other non-farm operations. Housing for the farm owner and the immediate family of

the farm owner does not qualify. However, separate housing for children or other relatives of the farmer will qualify if these persons are regular or essential employees of the farm operation **and** if they don't have an ownership interest in the farming operation.

10. **Part of my farmland has been set aside or retired under a federal supply management or soil conservation program. Is that property qualified agricultural property?**

Yes.

11. **I own several pieces of agricultural property that are not connected or adjacent to each other. Are all these parcels qualified agricultural property?**

All parcels that are located in New York State and used in agricultural production are considered as one farm even if they are not connected or adjacent to each other. However, only the parcels that are actually used in producing agricultural products qualify. Parcels that are held for investment or other non-farm purposes do not qualify.

12. **A group of eligible farmers form a partnership to construct and operate a storage facility for the partners' produce. The structure is located on property owned by the partnership. However, the partnership itself does not raise any produce. Is this property qualified agricultural property?**

No. The law provides that qualified agricultural property means land used in agricultural production and structures located **on that land** that are used to carry out that production. In this case, the land on which the building is located is not being used for agricultural production by the partnership. Accordingly, the school taxes paid on the land and storage facility structure would not qualify for the credit.

13. **Part of my farm property consists of woodland. Does all or a part of that woodland constitute qualified agricultural property?**

If the woodland property is actually used in agricultural production or for the production of woodland products that are used in the farm operation, the property would qualify. For example, woodland used for pasturing cattle would qualify. Furthermore, the woodland property would qualify if it is an adjunct to agricultural property, such as in providing erosion control or wind protection to the agricultural property.

14. **I own farm property that I rent to another person. The other person actually uses the property for agricultural production. Is this property qualified agricultural property for me?**

Yes. Accordingly, if you are an eligible farmer, you may claim a credit for the taxes paid on the property. However, the person that rents the property from you may not claim the credit because he or she does not own the property.

Part IV: Eligible Taxes

1. **What type of property taxes qualify for this credit?**

Only real property taxes levied by a school district on qualified agricultural property (see Part III) **owned** by the taxpayer qualify for the credit. Property taxes levied by towns, villages, cities or other municipal governments do not qualify for the credit.

2. **What are real property taxes levied by a school district?**

Real property taxes levied by a school district include all property taxes, special ad valorem levies and special assessments levied by a school district. Included are taxes levied by a school district for the support of local libraries. Penalties and interest are not included.

3. **I am an eligible farmer but I rent qualified agricultural property from another person. My rental agreement provides that I must pay the school district property taxes on that property. Can I claim the credit for those taxes?**

No. Only school district property taxes paid on qualified agricultural property **owned** by an eligible farmer qualify for the credit. This is true even if the rental payment is based upon the amount of taxes paid on the land, or the rental agreement requires the lessee to actually pay the taxes. However, the person from whom you rent the land may claim the credit for these taxes if that person is an eligible farmer. (See Part III, Question 14).

4. **In 1996, I did not pay my school taxes on my qualified agricultural property. However, in 1997 I paid both the back taxes for 1996 and the current taxes for 1997 on that property. Are both the 1996 and 1997 taxes eligible for the credit?**

Yes. The law only requires that the taxes be paid in tax years 1997 or thereafter to qualify for the credit.

5. **I own agricultural property jointly with my spouse. What amount of taxes paid on the property may I include in computing my credit?**

If you file a joint return with your spouse, you may include the total taxes paid on the jointly held qualified agricultural property in computing the credit. However, the joint incomes of you and your spouse will be used to determine if you are an eligible farmer (see Part II) or whether you are subject to the credit limitation based on income (See Part VI).

If you and your spouse jointly own qualified agricultural property but file separate New York returns, you may include only one-half of the taxes paid on qualified agricultural property in computing your credit, unless you **both** agree to an unequal division. If you both agree, you may divide the taxes any way you wish. You must also divide the acres of qualified agricultural property in the same manner as you divide the eligible taxes. In addition, the related party rules (see Part V) may limit the credit if separate returns are filed.

6. **What if I purchase a farm during the year or purchase additional farmland during the year. How do I determine the amount of taxes paid during the year?**

The documents that were prepared when you closed on the property usually indicate the amount of school taxes paid by the seller that are prorated to the purchaser. This will occur when you purchase property after the date when the school tax bills are issued. You may include your prorated amount of school taxes in determining your credit for the year of purchase. You may also include any school taxes which you paid directly to the school district during the year.

7. **I started my farm operation during the year. May I claim all the school taxes paid during that year for purposes of the credit, or is some proration required?**

You may claim all the taxes you actually paid during the year in computing the credit. No proration is required even if you operated your farm for only part of the year.

8. **My school tax bill only shows the total taxes paid on all my real property, including my personal residence and other nonqualified property. How can I determine the amount of the total taxes applicable to my personal residence or other nonqualified property?**

Your local assessor should be able to tell you the value of your residence and other nonqualified property because this information is often required for agricultural assessment purposes. If this information is not currently available, your local assessor may be willing to make the determination for you. In general, an assessor's determination of the value of the residence and other nonqualified property will be accepted by the Tax Department.

9. **What if my local assessor cannot supply this information, or what if I do not agree with the value assigned by the assessor. Do I have any other options?**

Yes. You may hire a private appraiser to determine the values to be assigned to your residence or other non-qualified property. In addition, you may use any other reasonable method, such as basing the value on the recent sale price of similar property in your residence area, to determine the value. However, in these cases, you must be able to substantiate how you determined the value.

10. **What is considered the residence for purposes of determining its value?**

Your residence includes the house, mobile home, etc., and any other buildings associated with it, such as garages and storage sheds, that are used for residential purposes. Your residence also includes any land abutting it that is used for residential purposes, such as lawns and gardens.

11. **Only a portion of one of my buildings is qualified agricultural property. Using the methods described in Questions 8 and 9 above, I can only determine the value of the entire building. How do I determine the value of the portion of the building that is qualified agricultural property?**

You may allocate the total value of the building between the qualified and nonqualified portions using any reasonable method. Reasonable methods would include, but are not limited to, methods based upon the percentage of square footage or time used for each purpose.

12. **Our farm is located in two different school districts. Can we claim the credit for the taxes paid to both districts on our qualified agricultural property?**

Yes. The credit does not depend on which school district you pay your taxes to.

13. **If I am a partner in a partnership, a shareholder of a New York S corporation, or the beneficiary of an estate or trust that owns qualified agricultural property, may I claim a credit for my share of the eligible taxes paid by the entity?**

Yes. However, you may claim the credit only if you are an eligible farmer (see Part II).

Part V: Base Acreage and Related Party Rules

1. What is the base acreage?

The base acreage is used to determine the amount of the credit. The credit equals the total eligible taxes paid on qualified agricultural property where the acreage does not exceed the base acreage amount, and 50% of the eligible taxes paid on acres in excess of the base acreage amount. However, this credit amount is subject to the credit limitation based on income (see Part VI).

2. What are the base acreage amounts?

The base acreage amounts are 100 acres for tax years beginning in 1997, 175 acres for tax years beginning in 1998, and 250 acres for tax years beginning in 1999 and thereafter.

3. Can the base acreage amount be applied to any property I choose, such as the property that contains the farm buildings?

No. The base acreage must be applied proportionately to all acres of qualified agricultural property owned by the farmer. For example, if a farmer owns 500 acres of qualified agricultural property in 1997, when the base acreage is 100 acres, the farmer would get a full credit for one-fifth of the school taxes paid on the property (including the school taxes paid on farm buildings located on the land). Note: The farmer would also get a credit for 1997 for 50% of the remaining four-fifths of the taxes paid on the property.

4. What are the related party rules?

The base acreage of an eligible farmer may be limited if the farmer and a related person each own qualified agricultural property on March 1 of the taxable year. In this case, a single base acreage limitation applies to all

Of the related persons, and can be divided among them in whatever manner they elect.

A different division can be elected each year. If the farmer and the related person(s) fail to elect a division of the base acreage, it will be divided equally among them.

Example: For 1997, when the base acreage is 100, the farmer and a related person elect to allocate the base acreage 60% to the farmer and 40% to the related person. The farmer is allotted 60 acres of the base acreage, and the related person is allotted 40. If they do not elect, 50 acres is allotted to each. For 1998, when the base acreage is 175, they elect to allocate the base acreage 80% to the farmer and 20% to the related person, in which case the farmer is allotted 140 acres and related person is allotted 35 acres. If they do not elect, 87½ acres is allotted to each.

5. Who is a related person to an individual farmer?

If you are an individual farmer, your related persons include:

- your spouse (if you and your spouse are filing a joint return, it is not necessary to allocate the single base acreage limitation amount (e.g., 100 acres in 1997) between yourselves);
- any "C" corporation (a corporation that is not a New York S corporation) that is subject to the Article 9-A franchise tax and of which you and your spouse, if you are married, collectively own more than 50% of the stock; and
- any estate or trust in which you, and your spouse, if you are married, collectively own more than 50% of the beneficial interest.

To determine whether you own more than 50% of the stock of a corporation, stock owned by a corporation, partnership or estate or trust in which you have an ownership interest is deemed to be owned by you in proportion to your interest.

Example 1: You and your spouse are filing separate New York State returns for the year. You and your spouse, either individually or jointly, each owned qualified agricultural property on March 1 of the tax year. You and your spouse are related persons and must allocate the base acreage amount between yourselves.

Example 2: You owned qualified agricultural property on March 1, 1997. Your spouse also owns 75% of the stock in a "C" corporation that also owned qualified agricultural property on March 1, 1997. You and the corporation are related persons.

6. **Who is a related person if the farmer is a corporation?**

If the farmer is a corporation, a related person to the corporation includes:

- another corporation subject to the corporation franchise tax (Article 9-A) where both corporations are members of the same controlled group as defined in section 267(f) of the Internal Revenue Code;
- an individual, estate or trust that owns more than 50% of the corporation's stock;
- another corporation subject to tax under the Article 9-A franchise tax if the same person owns more than 50% of the value of the outstanding stock of each corporation; and
- an estate or trust of which the corporation owns, directly or indirectly, more than 50% of the capital, profits or beneficial interest.

Example: Corporation A and Corporation B each own qualified agricultural property on March 1, 1997. The same individual owns 100% of the stock of both corporations. Corporations A and B are related persons.

7. **I am an eligible farmer and own qualified agricultural property individually. I also belong to a farming partnership that owns qualified agricultural property. Do I get 200 base acres in 1997, 100 for my own property and 100 for the partnership property?**

No. Each eligible farmer is entitled to only one base acreage amount of 100 acres. Your own acreage and your share of the partnerships acreage are added together to determine the acreage in excess of the 100 acres.

8. **Do partners in a partnership, shareholders of New York S corporations or estates and trusts and their beneficiaries have to divide the allowable base acreage amount (e.g., 100 acres for 1997) among themselves?**

No. Each individual taxpayer is entitled to his own base acreage amount. For example, if a partnership has three partners, each partner is entitled to a base acreage amount of 100 acres for 1997.

However, the base acreage amount of 100 acres may be limited if any of the partners, shareholders or beneficiaries are subject to the related party rules (see Question 4). For example, a husband and wife are shareholders of a New York S corporation that owns qualified agricultural property. Since a husband and wife are related parties, they are entitled to a single base acreage amount of 100 acres in 1997.

Part VI: Credit Limitation Based on Income

1. What is the credit limitation based upon income?

The income limitation reduces or eliminates the credit for higher income taxpayers. The limitation is based on New York adjusted gross income (individuals) or entire net income (corporations) for tax years beginning in 1997. The limitation is based on modified adjusted gross income (individuals) and modified entire net income (corporations) for tax years beginning in 1998 and after.

2. How does the credit limitation apply for tax year 1997?

For individuals, the amount of credit allowable, after applying the base acreage limitation, is further limited if the farmer's New York adjusted gross income is between \$100,000 and \$150,000. If the farmer's New York adjusted gross income is \$150,000 or more, no credit is allowable. Married taxpayers filing a joint return use their joint New York adjusted gross income to determine the limitation. Married taxpayers filing separate returns use their separate New York adjusted gross incomes.

For a corporation, the limitation is the same as for individuals, except that the limitation is based upon the corporation's entire net income (before any allocation to out-of-state operations).

3. How does the credit limitation work for tax year 1997 when my adjusted gross income or entire net income is between \$100,000 and \$150,000?

If your New York adjusted gross income (individuals) or entire net income (for corporations) is between \$100,000 and \$150,000, your credit must be reduced by a percentage. The percentage is determined by a fraction, whose numerator is the

amount (limited to \$50,000) by which the adjusted gross income or entire net income exceeds \$100,000, and whose denominator is \$50,000.

Example: An eligible farmer, after application of the base acreage limitation, is entitled to a potential credit of \$10,000. The farmer has New York adjusted gross income of \$130,000. The numerator of the fraction is \$30,000 and the denominator is \$50,000, resulting in a percentage of 60%. Accordingly, the potential credit of \$10,000 must be reduced by \$6,000 ($\$10,000 \times 60\%$), resulting in an allowable credit of \$4,000.

4. How does the credit limitation apply for tax years 1998 and after?

The credit limitation works the same way as described in Questions 2 and 3, except that modified New York adjusted gross income or modified entire net income is used in place of New York adjusted gross income or entire net income, respectively.

5. What is modified New York adjusted gross income and modified entire net income?

For individuals, *modified New York adjusted gross income* means New York adjusted gross income for the tax year reduced by the amount of principal paid on farm indebtedness during the year.

For corporations, *modified entire net income* means entire net income for the tax year (before any allocation to out-of-state operations), reduced by the amount of principal paid on farm indebtedness during the tax year.

Farm indebtedness means debt incurred or refinanced which is secured by farm property, where the proceeds of the debt are used for expenditures incurred in the business of farming.

Example: The farmer in the Question 3 example made principal payments on farm indebtedness of \$10,000 during 1998. Accordingly, the farmer's modified New York adjusted gross income is \$120,000. For 1998, the numerator of the fraction is therefore \$20,000, resulting in a percentage of 40% ($\$20,000/\$50,000$). The potential credit of \$10,000 must be reduced by 40% ($\$4,000$), resulting in credit of \$6,000.

6. **I am married filing a joint New York income tax return. Must I include my spouse's income in determining the income limitation?**

Yes. If you file a joint return, both spouses' incomes must be included in determining the limitation.

7. **What if my spouse and I elect to file separate returns?**

If you file separate New York returns, only the farmer's separate income will be used to determine the income limitation. In general, filing separate returns will only be beneficial for purposes of the credit limitation if your joint New York adjusted gross income (1997) or joint modified adjusted gross income (1998 and after) exceeds \$100,000.

Caution: In most instances, a married couple may file separate New York returns only if they file separate federal returns. Since many federal and state tax benefits are eliminated or reduced when separate returns are filed, you may want to figure your federal and state taxes both ways to determine the best way to file.

8. **I am a nonresident who owns qualified agricultural property in New York. How do I determine my New York adjusted gross income or modified New York adjusted gross income for purposes of the limitation?**

Your New York adjusted gross income or modified New York adjusted gross income

is determined as if you (and your spouse, if filing a joint return) were a New York State resident for the entire tax year. That is, your income from **all** sources will be used to determine if you are subject to the limitation.

9. **If the farming business is a partnership or S corporation, is the income limitation determined using the income of the partnership or corporation?**

No. Each partner or shareholder will determine their limitation based upon the income reported on their own returns. Of course, the partner's or shareholder's share of income from the partnership or corporation will be included in the computation.

Part VII: Credit Recapture

1. Do I have to recapture all or part of the credit if my qualified agricultural property is converted to nonqualified use?

If qualified agricultural property is converted to nonqualified use, the following rules apply:

- No credit is allowed for the year in which the property is converted. This is true even though the property may have been qualified property for part of the year. No proration of the credit is permitted.
- If the conversion takes place before the end of the second tax year following the year in which you **first** claimed a credit, the entire credit claimed on the converted property in the two previous years must be added back in the year of the conversion.

If the property is converted after the end of the second tax year following the year in which the credit is first claimed, there is no recapture and no addback is made.

Example 1: A farmer first claims the credit for tax year 1997. On August 1, 1999, all the farmer's qualified property is converted to nonqualified use. In this instance, no credit will be allowed for 1999, and the entire amount of the credits claimed for 1997 and 1998 must be added back in 1999.

Example 2: A farmer first claims the credit for tax year 1997. On June 1, 2000, the entire property is converted to nonqualified use. In this instance, no credit is allowed for the year 2000. However, since the conversion takes place after the end of the second year (1999) following the year in which the credit was first claimed (1997), the farmer is not required to add back the credit claimed in previous years.

2. What constitutes a conversion to nonqualified use?

Conversion means an outward or affirmative act changing the use of agricultural land. The idling, nonuse or sale of the land is not by itself a conversion.

Example 1: A farmer sells 100 acres of land to a developer. The developer actually builds a housing development on the land, and as a result the land is no longer used for agricultural production. This would be considered a conversion to nonqualified use.

Example 2: A farmer discontinues farming, but continues to hold the land for investment purposes. Neither the farmer nor anyone else uses the land for agricultural production. This would not constitute a conversion to nonqualified use. Note: Even though this is not a conversion, the farmer cannot claim a credit in years after the year farming operations discontinue because the land is no longer used for agricultural production. However, if the individual qualifies as an eligible farmer in the last year of operation, the individual may claim the credit for that last year.

Example 3: You sell your qualified agricultural property to another person. That person continues to use the property for agricultural production. No recapture is required as long as the property continues to be used for agricultural production, and you may also claim the credit for your share of the taxes paid in the year of sale, if you continue to qualify as an eligible farmer for that year. However, if the property is converted before the end of the second year after **you** first claimed the credit, recapture would be required. In addition, the person who purchased the property will also have to recapture the credit he claimed on the property if the conversion takes place before the end of the second year after he claimed the credit.

3. **What if I convert only a part of my qualified agricultural property?**

If you convert only a part of your qualified agricultural property, the following rules apply:

- In the year of conversion, no credit will be allowed for the portion of the property converted.
- If the conversion takes place before the end of the second year following the year in which you first claimed the credit, the credit allowed on the converted property for the previous tax years must be added back in the year of conversion.

4. **How do I determine the amount of credit allowed in prior years on the part of the property that is converted?**

The amount of credit that must be recaptured is that portion of the credit that bears the same ratio to the total credit as the amount of land converted bears to the total amount of qualified land before the conversion.

Example: You own 500 acres of qualified agricultural property and convert 100 acres of that property during the recapture period. You must recapture (add back) one-fifth (100/500) of the credit claimed for the previous years.

5. **How do I determine the taxes paid on my remaining qualified property when only a portion of the land is converted?**

If you continue to own the property after the conversion to nonqualified use, and the taxes on the converted property are included as part of your total tax bill (i.e., the converted property is not on a separate deed), you may allocate the total taxes to the converted land on the basis of the amount of acreage converted to total acreage covered by the tax bill.

If the converted land is sold, the closing documents will show the amount of school taxes reimbursed to you by the buyer. You

must reduce your current year's tax paid by the amount of these reimbursed taxes in determining the credit.

6. **Are there any exceptions to the recapture rule even though a conversion may have taken place?**

Yes. Recapture is **not** required if the property is converted to nonqualified use by reason of an "involuntary conversion." An involuntary conversion is a conversion because of casualty or natural disaster, theft, or by condemnation (or by agreement under a threat of condemnation), such as when a governmental agency takes your land under the eminent domain rules.

Example: The state takes by eminent domain 20 acres of your farmland to be used for a new highway. The condemnation is an involuntary conversion and no recapture is required. However, you may not claim the credit for that land in the year of the conversion.

7. **I qualified for the credit in 1997. In 1998, I still farm the same land, but I do not qualify for the credit because I do not meet the gross income test or because my income exceeds the credit limitation amount. Am I required to recapture any part of the credit claimed in 1997?**

No. This is not considered a conversion, and no credit recapture is required.

8. **I am a partner in a partnership (or a shareholder of a New York S corporation) that owns qualified agricultural property. In the previous year, I claimed my share of the credit attributable to the partnership (or corporation). In the current year, I sell my interest in the partnership or my stock in the corporation. Is this sale considered a conversion requiring recapture?**

No. The sale by itself is not a conversion provided the partnership or corporation continues to use the land for agricultural production.

Part VIII: Disallowance of Deduction for School Taxes

- 1. I deduct my school taxes on agricultural property as an expense of doing business for federal income tax purposes. Do I have to make an adjustment for state income tax purposes since I am receiving a credit for all or part of those taxes?**

Yes. You must include the amount of the credit in your New York adjusted gross income or entire net income in the tax year following the year for which the credit is allowed. For example, for tax year 1997 you claim a farmers' school tax credit of \$5,000. You must include the \$5,000 in your New York adjusted gross income or entire net income for tax year 1998.

Part IX: Estates and Trusts and Their Beneficiaries

- 1. Can an estate or trust that is engaged in the business of farming claim the credit on its fiduciary income tax return?**

Yes, provided the estate or trust is an eligible farmer. However, if an estate or trust distributes all or part of its income currently, its acres of qualified agricultural property and eligible taxes must be allocated entirely or in part to its beneficiaries.

- 2. How does the estate or trust allocate its acres of qualified agricultural property and eligible taxes among itself and the beneficiaries?**

If the estate or trust does not distribute any of its income currently (i.e., the trust is an accumulating trust), then the entire amount of acres of qualified agricultural property and eligible taxes is allocated to the estate or trust and is used to compute the estate's or trust's credit.

If the estate or trust distributes all or part of its income currently, the acres of qualified agricultural property and eligible taxes must

be allocated between the estate or trust and its beneficiaries. These amounts are allocated on the same basis as the income of the estate or trust is allocated.

Example: A trust distributes 75% of its income to the beneficiaries and retains the other 25%. The trust would allocate 75% of its acres of qualified agricultural property and eligible taxes to the beneficiaries and 25% to itself. If the trust qualifies as an eligible farmer, it computes its credit based on its 25% share of acres and taxes. In addition, if the beneficiaries individually qualify as eligible farmers, they will compute their credit based on their 75% share of the acres and taxes. (For the base acreage amounts applicable to estates and trusts and their beneficiaries, see Part V, Question 8).

Note: Any beneficiary who qualifies as an eligible farmer may claim the credit based upon his or her share of acres and taxes, even if the estate or trust or some of the other beneficiaries do not qualify to claim the credit on their share. Likewise, the estate or trust, if it qualifies as an eligible farmer, may claim the credit on its share of acres and taxes even if the beneficiaries do not qualify to claim the credit on their shares.

- 3. How does an estate or trust determine if it is an eligible farmer?**

An estate or trust uses the same rules applicable to individual farmers. (See Part II.)

- 4. How does an estate or trust compute its New York adjusted gross income for purposes of the credit limitation based on income?**

The New York adjusted gross income of an estate or trust is its federal adjusted gross income increased or decreased by its net share of New York addition and subtraction modifications. For more information, see the Form IT-205-I, *Instructions for Form IT-205, Fiduciary Income Tax Return*.

Appendix A

Federal Gross Income for Individuals

Federal gross income from all sources for individuals is the sum of the following:

- 1) Wages, salaries, tips, etc.
- 2) Taxable interest.
- 3) Dividends.
- 4) Taxable refunds of state and local taxes.
- 5) Alimony received.
- 6) Gross business income from federal Schedule C.
- 7) Gross receipts from federal Schedule C-EZ.
- 8) Capital gains from federal Schedule D. Include only short and long-term gains. You cannot net losses against the gains. However, reduce your total gains reported on Schedule D by the amount of any gains from partnerships, S corporations, estates and trusts, and gain from Form 4797 that are reported on Schedule D.
- 9) Gains on sales of business property from federal Form 4797. You cannot offset losses against the gains.
- 10) Taxable IRA distributions, pensions, annuities and social security benefits.
- 11) Gross rental income from federal Schedule E. This is the total rents received before any deduction for expenses.
- 12) Gross royalty income from federal Schedule E.
- 13) Your taxable net income from an estate or trust from federal Schedule E.
- 14) Income from a REMIC reported on federal Schedule E.
- 15) Gross farm rental income from federal Form 4835.
- 16) Gross farm income from federal Schedule F.
- 17) Your distributive share of gross income from a partnership or limited liability company treated as a partnership for federal tax purposes.

- 18) Your pro-rata share of gross income from an S corporation
- 19) Unemployment compensation
- 20) "Other income" reported on federal Form 1040, not reported with any of the items listed above.

Appendix B

Federal Gross Income From Farming for Individuals

- 1) Gross farm income from federal Schedule F.
- 2) Gross farm rents from federal Form 4835.
- 3) Your distributive share of a partnership's gross income from farming. A partnership includes a limited liability company that is treated as a partnership for federal income tax purposes.
- 4) Your share of distributable net income from farming of an estate or trust.
- 5) Your pro-rata share of an S corporation's gross income from farming.
- 6) Gains (not losses) from sales of draft, breeding, dairy or sporting livestock shown on federal Form 4797. (Note: Gains from the sale of farm equipment or farm real estate are not includable in gross income from farming even though those gains may be reportable on Form 4797.)

For tax years beginning in 1998 and after, gross income from farming also includes:

- 7) Gross income from the production of maple syrup and cider, to the extent that income is not included in items 1-6 above.
- 8) Gross income from the sale of wine from a licensed farm winery as provided for in Article 6 of the Alcoholic Beverage Control Law.

Appendix C

Federal Gross Income for Corporations

Federal gross income from all sources for a corporation is the sum of the following:

- 1) Gross profit from federal Form 1120 or 1120-A.
 - 2) Dividends, interest, gross rents and gross royalties from federal Form 1120 or 1120-A.
 - 3) Long and short term capital gains from Schedule D (Form 1120). Include only gains from Schedule D. Losses cannot be netted against gains. Do not include any gain included in Schedule D that was carried forward from federal Form 4797.
 - 4) Other income (not loss) includable on federal Form 1120 or 1120-A (do not include the corporation's share of income from a partnership).
 - 5) The corporation's share of the gross income from a partnership or limited liability company treated as a partnership.
 - 6) Gains from federal Form 4797. You cannot offset losses against gains.
- 2) Gross rents from the rental of qualified agricultural property (including land and buildings), provided the terms of the rental satisfy the conditions described in Part II, Question 5.
 - 3) The corporation's share of partnership gross income from farming. A partnership includes a limited liability company treated as a partnership for federal tax purposes.
 - 4) Gains (not losses) from sales of draft, breeding, dairy or sporting livestock shown on federal Form 4797. (Note: Gains from the sale of farm equipment or farm real estate is not gross income from farming, even though gains may be reportable on Form 4797.)

For tax years beginning in 1998 and after, gross income from farming also includes:

- 5) Gross income from the production of maple syrup and cider, to the extent that income is not included in Items 1-4.
- 6) Gross income from the sale of wine from a licensed farm winery as provided for in Article 6 of the Alcoholic Beverage Control Law.

Appendix D

Federal Gross Income *From Farming* for Corporations

- 1) Gross receipts, less cost of goods sold, attributable to farming activities.

Note: A corporation that has both farm and non-farm income may find it helpful to complete a pro-forma federal Schedule F to determine its gross receipts, less cost of goods sold, from farming.

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Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.



Cornell Climate Change Fact Sheet – Farming Success in an Uncertain Climate

CLIMATE CHANGE FACTS

CORNELL COOPERATIVE EXTENSION

FARMING SUCCESS IN AN UNCERTAIN CLIMATE

Climate preparedness makes good business sense. The Earth's climate is always in flux, but today's pace of change is far beyond what previous generations of farmers have had to face. Climate change is already posing new challenges, such as increased risk of flooding, summer heat stress, and more intense pest and weed pressures.

Some farmers are beginning to plan to minimize the risks and capitalize on opportunities. In New York, there will be plenty of both. Making business decisions on future scenarios is always a hair-raising endeavor, even more so with the complication of trying to discern between normal weather variability and long-term climate shifts. Many of the commodities that currently dominate the New York agricultural sector, like dairy products, apples, cabbage, and potatoes, are not well suited for the warming trends predicted for this century. However, there will be profitable opportunities to experiment with new crops or new crop varieties as temperatures rise and the growing season lengthens.



FLOODING

More precipitation is occurring in heavy rainfall events (more than 2 in / 48 hrs), and this trend is expected to continue.

Flooding Challenges:

- Springtime flooding can delay planting
- Root damage and reduced yield due to flooding
- Soil compaction from use of heavy machinery on wet soils
- Soil loss from erosion during heavy rain events
- Contamination of waterways from agricultural run-off

Flooding Solutions:

- Increase soil organic matter for better drainage with practices such as reduced tillage, cover cropping, and use of composts or other organic amendments
- Invest in tile or other drainage systems for problem fields
- Shift to more flood tolerant crops
- Buy or lease new acreage with better drainage
- Shift planting dates to avoid wet conditions



DROUGHT

New York does not face the severe water shortages predicted for some other regions, but the risk of short-term summer drought is expected to increase over this century. Warmer temperatures and longer growing seasons will increase crop water demand, while summer rainfall will remain about the same or possibly decline.

Drought Challenges:

- Declining and more variable yields of rain-fed crops
- Decline in quality of high-value fruit and vegetable crops

Drought Solutions:

- Increase irrigation capacity, particularly for high-value crops
- Shift to drought-tolerant crop varieties
- Shift plant dates to avoid dry periods



HEAT STRESS

The growing season across the state has already increased on average by 8 days. The number of summer heat stress days (e.g., exceeding 90°F) is expected to increase substantially, while winters grow milder. These changes will create both opportunities and challenges for farmers.

New Crops for a New Climate

The increase in average temperatures and longer growing season will allow experimentation with new crops, varieties, and markets. Peaches, melons, tomatoes, and European red wine grapes are a few examples of longer growing season crops that will be favored by a warming climate.



Heat Stress Challenges:

- Warmer summer temperatures have been shown to lower yields for certain varieties of grain crops (field corn, wheat, and oats) by speeding the development cycle and shortening the period during which grain heads mature
- Hot daytime or nighttime temperatures during critical phases of plant development can reduce yield and quality of even those crops considered heat-adapted
- Potatoes, cabbage, snap beans, apples, and other heat-sensitive plants will be more challenging to grow
- Warmer and more variable winters can ironically increase the chance of frost and freeze damage for perennial fruit crops by inducing premature leaf-out and interfering with cold-mediated winter hardening

Heat Stress Solutions:

- Shift planting dates to avoid heat stress during critical periods of plant development
- Explore new varieties of heat-resistant crops, and be prepared to diversify production to reduce reliance on heat-sensitive crops
- Capitalize on the opportunity to grow longer season crops. For example, some field corn growers are already experimenting with new longer growing-season varieties



INSECT INVASIONS AND SUPER WEEDS

Interactions between climate, crops, insects, and disease are complex, but evidence suggests that climate change will require New York farmers to invest in earlier and more intensive pest and weed management. Anticipating the challenge of increased weed and pest pressure will allow for better control and more cost-effective management.

Insect Challenges:

- Spring populations of insect pests will expand, as survivorship rates of marginally over-wintering insect species increase, and migratory insects arrive earlier
- A longer growing season means more insect generations per season, requiring increased intensity of management

Case-Study: Brown Marmorated Stink Bug

If not for its diminutive size, the brown marmorated stink bug (BMSB) could be the subject of a 1950's horror movie. Described as "the bug from hell" after BMSB ate \$37 million of the 2010 MD apple crop, the hungry bugs will munch on anything from orchard crops, to corn and soybeans. First introduced in PA during the '90s, BMSB are teeming northward, taking advantage of recent warm winters and long summers. BMSB was first sighted in NY in 2008, increasing yearly since then. Some pesticides have proven effective against BMSB, but control has been limited.



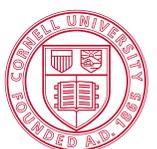
Weed Challenges:

- Warmer weather and increasing concentrations of carbon dioxide in the atmosphere favor weed growth over crop plants in many cases
- Weeds will have to be controlled for longer and weed seed production will be greater
- Certain weed species currently restricted to the warmer south are migrating northward, such as kudzu, while some familiar weed species, e.g. lambsquarters, are projected to become stronger competitors
- Pressure to use chemical control methods will increase as pest and weed infestation intensifies, but studies have shown the climate change may reduce the efficacy of certain commonly used pesticides (pyrethroids, spinosad) and herbicides (e.g. Glyphosphate)



Insect and Weed Management Solutions:

- Improved rapid response plans and regional monitoring efforts will allow for targeted control of new weeds and pests before they become established
- Enhanced monitoring and implementation of integrated pest management (IPM) will help farmers balance pest and weed control while avoiding the economic, environmental and health-related costs of increased chemical application



CHANGE IN THE DAIRY AND LIVESTOCK INDUSTRIES

Heat stress can have devastating consequences for livestock. Keeping cool in the heat of the next century will be critical for maintaining the milk production levels that have made dairy the dominant industry in New York's agricultural sector.

Livestock Challenges:

- Heat stress associated with hotter summers will create dangerous and unhealthy conditions for livestock, reducing productivity and reproductive capacity
- Availability and cost of animal feed will fluctuate as climate affects crops like corn grain and silage
- New costs will be incurred from investments to improve cooling capacity of livestock facilities

Heat Stress and Dairy

- Even moderately warm temperatures, e.g. above 75°F, when combined with moderate humidity, can lead to milk production decline
- In 2005, unusually warm temperatures reduced milk production 5 to 15 lbs per cow per day for many dairies (leading to losses of 8 to 20%)
- The frequency of heat-stress events is expected to increase with climate change



Livestock Solutions—Low Cost:

- Reduce over-crowding and improve barn ventilation
- Minimize heat exposure, e.g. feed during the cool part of the day and maximize shade
- Increase water availability and adjust diet (more fat, less protein)

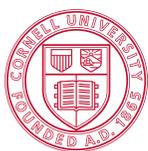
Livestock Solutions—Moderate to High Cost:

- Improve cooling capacity with additional fans, sprinkler or mister systems, and ventilation renovations
- Insulate under barn roofs to buffer extreme heat and save on cooling costs
- Build new barns with adequate cooling capacity for future heat loads

When is it Time to Make a Change?

This will be the critical question for farmers. Climate scientists can provide useful information to help determine when a poor season or two is due to just “normal” bad weather, and when it is due to a shift in the climate that will likely be here to stay. At Cornell, we are working on new decision tools that will allow farmers to examine different future climate scenarios for their region, impacts these might have on crops and livestock, and evaluate various options for timing adaptation investments to minimize negative effects or take advantage of opportunities brought about by climate change.

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Glossary, Resources, References

Glossary

ACS – American Community Survey

AEM – Agriculture Environmental Management

AFSIC - Alternative Farming Systems Center

AFT – American Farmland Trust

AMA – Agricultural Management Assistance

CBD - Cannabidiol

CCE – Cornell Cooperative Extension of Erie County

COCS – Cost of Community Services Study

CSA – Community Supported Agriculture

ECSWCD – Erie County Soil and Water Conservation District

EQIP – Environmental Quality Incentive Program

FEMA – Federal Emergency Management Agency

FSA – New York State Farm Service Agency

GDP – Gross Domestic Product

GRP – Gross Regional Product

LESA – Land Evaluation and Site Assessment

NRCS – Natural Resources Conservation Service

NYS – New York State

NYS DAM – New York State Department of Agriculture and Markets

NYS DEC – New York State Department of Environmental Conservation

PACE – Purchase of Agricultural Conservation Easement

PDR – Purchase of Development Rights

REDC – Regional Economic Development Council

SARE – Sustainable Agricultural Research and Education

THC - Tetrahydrocannabidiol

TDR – Transfer of Development Rights

USDA – US Department of Agriculture

Resources

Agricultural Marketing Services

www.ams.usda.gov/services/local-regional/food-sector/urban-agriculture

Alfred State College of Technology

www.catalog.alfredstate.edu/current/department/agriculture-veterinary-technology

American Farmland Trust

New York State Office

(518) 581-0078

www.farmland.org/newyork

Farmland Information Center

(800) 370-4879

www.farmlandinfo.org

Western New York Office

(716) 652-0100

Amherst Chamber of Commerce

(716) 632-6905

<https://amherst.org>

Amherst Industrial Development Agency

(716) 688-9000

www.amherstida.com

Buffalo and Erie County Botanical Gardens

(716) 827-1584

www.buffalogardens.com

Buffalo Niagara Heritage Village

(716) 689-1440

www.bhhv.org

Cornell College of Agriculture and Life Science

<https://cals.cornell.edu/>

Cornell Cooperative Extension

(607) 255-2237

www.cce.cornell.edu

Erie County Office

(716) 652-5400

erie.cce.cornell.edu

Farm to School

(607) 255-2730

<http://farmtoschool.cce.cornell.edu>

Cornell Small Farms Program

Cornell University

<https://smallfarms.cornell.edu>

Erie County Agricultural Society

(716) 649-3900

www.ecfair.org

Erie County Department of Environment and Planning

(716) 858-8390

www2.erie.gov/environment

Erie County Farm Bureau

(716) 652-5151

www.ecfarm.com

Erie County Soil and Water Conservation Service

(716) 652-8480

www.ecswcd.org

Farm Answers

University of Minnesota Center for Farm Financial Management/
USDA National Institute of Food and Agriculture
<https://farmanswers.org>

Farm Foundation

(630) 571-9393
www.farmfoundation.org

“Farmland for a New Generation New York” Program, American Farmland Trust.
<https://nyfarmlandfinder.org>

Internal Revenue Service

(800) 829-4933
www.irs.gov

Invest Buffalo Niagara

(800) 916-9073
<https://buffaloniagara.org>

Land Trust Alliance, Northeast Office

(518) 587-0774
www.lta.org

National Agricultural Statistics Service

<https://www.nass.usda.gov>

National Young Farmers Coalition

www.youngfarmers.org

New Farmers

<https://newfarmers.usda.gov>

New York Farm Bureau

(518) 436-8495
www.nyfb.org

New York FarmNet

(800) 547- 3276
www.nyfarmnet.org

New York Farm Viability Institute

(315) 453-3823
<https://nyfvi.org>

New York State Soil and Water Conservation Committee

(518) 457-3738
https://agriculture.ny.gov/soil-and-water/soil-water-conservation-committee?utm_medium=301&utm_source=www.nys-soilandwater.org

New York State Department of Agriculture and Markets

(518) 457-3880
(800) 554-4501
<http://agriculture.ny.gov>

New York State Department of Environmental Conservation, Region 9

(716) 851-7000 General

Water quality (716) 851-7070 Permits (716) 851-7165 Forests (716) 851-7010

www.dec.ny.gov

New York State Department of Parks, Recreation and Historic Preservation

(518) 237-8643

www.nysparks.state.ny.us/shpo/tax-credit-programs/

New York State Department of State

(518) 474-4752

www.dos.state.ny.us

New York State Energy Research and Development Authority

(866) NYSERDA

(518) 862-1090

www.nyserda.org

New York State Environmental Facilities Corporation

(800) 200-2200

www.nysefc.org

New York State Farm Service Agency

(315) 477-6300

www.fsa.usda.gov/ny

New York State Department of Taxation and Finance

www.tax.ny.gov

New York State Office of Real Property Services, Agricultural Unit

(518) 486-5446 / (518) 474-2982

www.orps.state.ny.us

New York State Soil and Water Conservation Committee - NYS Soil and Water Conservation Districts

(518) 457-3738

www.nys-soilandwater.org

Niagara County Community College

www.niagaracc.suny.edu/programs

Niagara Wine Trail

<https://niagarawinetrail.org>

Northeast Sustainable Agriculture Research and Education Program (SARE)

(802) 656-0471

www.nesare.org

Small Business Administration

(800) 827-5722

www.sba.gov

University at Buffalo Center for Entrepreneurial Leadership

<https://mgt.buffalo.edu/entrepreneurship/center-for-entrepreneurial-leadership-cel.html>

University at Buffalo School of Pharmacy and Pharmaceutical Sciences
(716) 645-2825
<http://pharmacy.buffalo.edu>

USDA Alternative Farming Systems Information Center
www.nal.usda.gov/asfic

USDA Farm Services Agency
(716) 652-1400 (Erie County Office)
<https://fsa.usda.gov>

USDA National Institute of Food and Agriculture
<https://nifa.usda.gov>

USDA Natural Resources Conservation Service
www.nrcs.usda.gov
www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/urbanagriculture/

USDA Natural Resources Conservation Service – New York
(315) 477-6504
www.ny.nrcs.usda.gov
<https://offices.sc.egov.usda.gov>

USDA Rural Development - USDA Rural Business Cooperative Service
(315) 477-6400
www.rurdev.usda.gov/

Western New York Incubator Network
(716) 645-7367
www.wnyincubators.com

Western New York Land Conservancy
(716) 687-1225
<https://wnylc.org>

Williamsville Farmer's Market'
(716) 984-6572
www.williamsvillefarmersmarket.com

Young Farmers Coalition
(518) 643-3564 / 866) 926-0438
www.youngfarmers.org

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U.S. Army Corps. of Engineers, Buffalo District Office.

Western New York Regional Sustainability Plan, New York State Regional Economic Development Council.

Your Land Is Your Legacy: A Guide to Planning for the Future of Your Farm; American Farmland Trust.