

New York State's Agricultural Districts Program (Article 25 AA, Agriculture and Markets Law, as amended)

State Policy

New York State's Constitution directs the State Legislature to provide for the protection of agricultural lands. To achieve this directive the State Legislature enacted New York State's *Agricultural Districts Law* in 1971. The Agricultural Districts Law created a locally-initiated procedure for the creation of County agricultural districts and declared that it is the State government's policy (1) to conserve and protect agricultural lands as valued natural resources and open space and (2) to encourage the improvement of agricultural lands for the production of food and other agricultural products.

The State Legislature has enacted several amendments of the Agricultural Districts Law since 1971. New York State's *Agricultural Protection Act*, enacted in 1992, strengthened the Agricultural Districts law by adding various provisions addressing right-to-farm issues and by creating a statewide agricultural and farmland protection program under the direction of the New York State Department of Agriculture and Markets.

Establishment and Review of County Agricultural Districts

New York's Agricultural Districts Law authorizes *County legislative bodies* to create agricultural districts. Agricultural districts are initiated when interested landowners submit a proposal to the County legislative body. Such landowners must collectively own at least 500 acres or at least 10% of the lands proposed to be included in a district (whichever is greater). Following its enactment by the County legislative body, an agricultural district must be certified by the Commissioner of the New York State Department of Agriculture and Markets.

By law, each agricultural district must be reviewed by the County legislative body every eight, 12, or 20 years. County legislative bodies are authorized to *continue, terminate, or modify* any agricultural district following such reviews on the basis of recommendations submitted by the County Legislature's Agricultural and Farmland Protection Board, the County Planning Board, and any public comments submitted at an official hearing conducted by the County legislative body at a place located within the agricultural district undergoing review.

Lands included within an agricultural district cannot be legally withdrawn from the district except at the time that the County legislative body officially modifies or terminates the district.

Agricultural Districts In Chemung County

The Chemung County Legislature created Chemung County's first agricultural district in 1976. To date, five agricultural districts have been created within Chemung County by the County Legislature. These five districts comprise approximately 33,000 acres of farmland. Each district is reviewed by the County Legislature at eight year intervals following the district's creation date. During 2001 the County Legislature will conduct its required eighth-year review of Agricultural District Number 2, which consists of more than 10,000 farmed acres of land in the Towns of Ashland and Chemung.

Agricultural District Benefits to Farmland Owners

New York State's Agricultural Districts Law establishes various benefits and protections for owners of farm operations conducted within certified County agricultural districts.

Farmland Assessment and Taxation

Eligibility For Agricultural Assessment

In New York State real property is assessed at its fair market value or at a uniform percentage thereof. This valuation standard sometimes poses problems for farmland owners because the market value and the resulting assessment of farmland may exceed the land's value for agricultural production, particularly in areas where real

estate values are high due to urban pressures. To provide an additional financial incentive for farmland owners to retain their lands in agricultural use, New York's Agricultural Districts Law provides for a partial tax exemption available to eligible farmland owners under the *agricultural value assessment* program. Under this program eligible farmland is taxed at its estimated value for agricultural uses rather than at its fair market value. The State's Board of Equalization and Assessment annually establishes specific values per acre for various categories of agricultural land, which are used by local assessors to calculate agricultural assessments for particular parcels of farmland. Any owner of land used for agricultural production may qualify for an agricultural assessment if the land meets specified qualification requirements or is rented to an eligible farm operation.

Land does *not* have to be included in a certified County agricultural district to qualify for an agricultural assessment. To obtain an agricultural assessment, a farmland owner must file an application each year with the local assessor. Soils information needed to complete this annual application is available from the Chemung County Soil and Water Conservation District.

To qualify for an agricultural assessment, farmland within an agricultural district must meet the following requirements:

- * The land must consist of at least ten acres used in the preceding two years to produce crops, livestock or livestock products, or for the commercial boarding of horses. Nonuse or abandonment of farm operations disqualifies land from its eligibility for an agricultural assessment.
- * Agricultural products produced on the land must have had an average gross sales value of at least \$10,000 for the two years preceding the application.
- * Land consisting of fewer than 10 acres may qualify if the land supports a farm operation that has an average gross sales value of at least \$50,000.

The State's Agricultural Districts Law provides that if farmland that has received an agricultural assessment is subsequently *converted to any nonagricultural use*, the land's owner is subject to a *penalty or rollback tax*. The amount of this rollback tax equals five times the taxes saved in the last year during which the land received an agricultural assessment, plus 6% interest compounded annually for each year that the assessment was granted.

Limitation on Local Benefit Assessments and Special Ad Valorem Levies

Within an agricultural district, the State's Agricultural Districts Law limits the tax imposed upon farmland for certain municipal improvements (e.g., public sewer or water supply lines) to a one-half acre lot surrounding any dwelling or non-farm structure. This limitation does not apply if the improvement district or benefit area was created prior to the creation of the agricultural district.

Limitations on Local Regulation of Farm Operations

The Agricultural Districts Law prohibits the enactment of laws, ordinances, or land use regulations by local governments that would "unreasonably restrict or regulate farm operations within agricultural districts" unless it can be shown that the public health or safety is threatened. The Law also authorizes the Commissioner of the State's Department of Agriculture and Markets to respond to complaints submitted by persons within agricultural districts and, if warranted, to bring enforcement actions to ensure compliance with this provision of the Law.

The Agricultural Districts Law further requires that applications for certain local zoning or subdivision approvals involving land within an agricultural district that contains a farm operation (or on land within 500 feet of a farm operation in an agricultural district) include an *agricultural data statement*, prepared by the applicant, describing possible impacts of the proposed action on farming operations in the district. The statement must be mailed to owners of affected farmland prior to the local approval body's final decision on the proposed action.

Notices of Intent - Public Acquisitions of Land and Funding Actions

The Agricultural District Law requires that any State agency, public benefit corporation, or local government in New York State that intends to acquire more than one acre of land from an actively operating farm in an agricultural district (or ten or more acres of land in a single agricultural district), through easement or purchase, to file a *notice*

of intent with the Commissioner of the New York State Department of Agriculture and Markets at least 30 days prior to taking the action. This filing requirement also applies to any action in which public funds will be spent to construct non-farm structures or facilities within an agricultural district. The Law further requires that at least 65 days prior to a proposed land acquisition or advance of public funds, a detailed **agricultural impact statement** describing the action must be filed with the Commissioner of the New York State Department of Agriculture and Markets and with the County Agricultural and Farmland Protection Board. The Commissioner of Agriculture and Markets is authorized by the Law to determine whether the proposed action would “have an unreasonably adverse effect on the continuing viability of a farm enterprise or enterprises within the district” and, if warranted, to bring legal action to enforce any mitigation measures proposed by the sponsoring agency to minimize or avoid adverse agricultural impacts that may result from the action.

The Law provides that in the case of public acquisitions of farmland, this notice of intent filing requirement may be *waived* by the owner of the land to be acquired provided that the owner signs a document to this effect and submits a copy to the Commissioner of Agriculture and Markets.

Disclosure Notices for Real Estate Purchases

The Agricultural Districts Law requires an owner of land within an agricultural district to provide a prospective purchaser with a disclosure notice prior to the signing of a purchase contract. This disclosure notice is designed to inform prospective purchasers that the property that they are about to acquire lies partially or wholly within an agricultural district and that farming activities will occur that may produce noise, odors, and dust. Purchasers are also informed that the location of the property within an agricultural district could “impact the ability to access water and/or sewer services for such property under certain circumstances.”

“Sound Agricultural Practice” Determinations

The Agricultural Districts Law authorizes the Commissioner of the State Department of Agriculture and Markets to issue opinions, upon request, about whether a particular agricultural practice is sound. Upon the Commissioner’s issuance of such an opinion, the owner of property upon which the practice is conducted and the adjoining property owners are notified. The Commissioner’s opinion provides a legal defense against private nuisance actions challenging that particular agricultural practice. The Law does not prohibit an aggrieved party from recovering damages for personal injury or wrongful death.

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