FREQUENTLY ASKED QUESTIONS REGARDING AGRICULTURAL DISTRICTS:

What is an agricultural district?

A geographic area which consists predominantly of viable agricultural land. Agricultural operations within the district are the priority land use and afforded benefits and protections to promote the continuation of farming and the preservation of agricultural land. In practice, districts may include land that is actively farmed, idle, forested, as well as residential and commercial.

How is an agricultural district created?

Interested landowners who own at least 500 acres or 10 percent of the land proposed for a district submit a proposal to their county legislative body (CLB). The county agricultural and farmland protection board (AFPB) and the county planning board (CPB) review the proposal and make recommendations to the CLB. The CLB considers the following factors:

- viability of farming in the area
- presence of viable farmland
- the extent of other land uses
- county development patterns and needs

Once the CLB adopts the district plan it is submitted to the Commissioner. The Commissioner determines whether the area consists of predominantly viable agricultural land, whether it is feasible and will serve the public interest. The Commissioner shall certify if the above conditions are met and the Department of Environmental Conservation has determined that the area is consistent with state environmental plans, policies and objectives.

How are agricultural districts reviewed?

Districts are usually renewed every 8 years. The CLB, after receiving the report and recommendation of the AFPB and after a public hearing, determines whether the district shall be continued, terminated or modified. During the review process, land may be added or deleted from the district. Counties are also required to designate an annual 30-day period when landowners may petition the county for inclusion of viable agricultural lands in an existing agricultural district.

Who benefits from an agricultural district?

Everyone benefits. Besides its value for the production of food, agricultural land provides many environmental benefits including groundwater recharge, open space, and scenic viewsheds. Agriculture benefits local economies too, by providing on-farm jobs and supporting agribusinesses. Agricultural land requires less public services than developed land and results in cost savings for local communities.

Does an agricultural district guarantee a farmer's "right to farm"?

The ADL protects farm operations within an agricultural district from the enactment and administration of unreasonably restrictive local regulations unless it can be shown that public health or safety is threatened. The Department evaluates the reasonableness of a specific requirement or process imposed on a farm operation on a case-by-case basis. The Commissioner may institute an action or compel a municipality to comply with this provision of the ADL.

Do agricultural districts prohibit selling land?

The ADL does not restrict the transfer of real property. The ADL does provide for a real estate transfer disclosure by the seller to the prospective purchaser. The disclosure states that the property is located within an agricultural district and that farming activities including noise, dust and odors occur within the district. Prospective residents are also informed that the location of the property within an agricultural district may impact the ability to access water and/or sewer services.

Do agricultural districts consist entirely of farmland?

Districts must consist predominantly of viable agricultural land. Predominance has been interpreted as more than 50 percent of land in farms. On average, districts statewide contain approximately 70 percent farmland. The benefits and protections under the ADL, however, apply only to farm operations and land used in agricultural production.

Does an agricultural district preserve farmland?

Agricultural districts do not preserve farmland in the sense that the use of land is restricted to agricultural production forever. Rather, districts provide benefits that help make and keep farming as a viable economic activity, thereby maintaining land in active agricultural use.

Do agricultural districts eliminate a municipality's ability to control growth?

No. To the contrary, an agricultural district can be an effective tool in helping local governments to manage growth. The existence of a district, for example, can help direct development away from traditional farming areas.

Can government acquire or condemn farmland within an agricultural district against a landowner's wishes?

The ADL does not supersede a government's right to acquire land for essential public facilities like roads or landfills. However, the ADL provides a process which requires a full evaluation of the effects of government acquisitions on the retention and enhancement of agriculture and agricultural resources within a district.

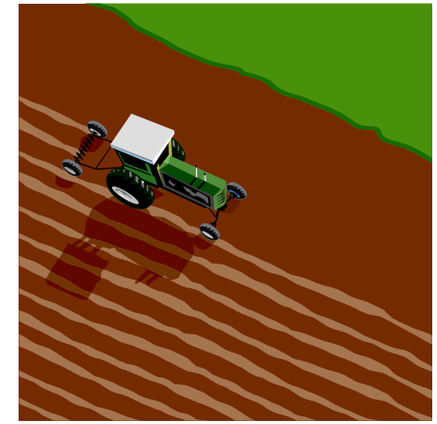
Who bears the cost of the agricultural assessment benefit?

Property taxes saved by farmers as a result of agricultural assessments must ultimately be made up by all taxpayers in the affected municipality. Farmers, as other homeowners, must bear their fair share of any tax shift since their residences are not subject to an agricultural assessment.

AGRICULTURAL DISTRICT FACTS:

- Agricultural districts have been created in 53 of New York's 62 counties.
- As of 2009, 251 districts captured over 8.5 million acres, including 6.2 million farm acres on 22,000 farms.
- The average district size in New York is approximately 20,000 acres.

New York's Agricultural Districts



Enacted in 1971, New York's Agricultural Districts Law (ADL) is a very effective tool for maintaining lands in agriculture, and ensuring New York's position as an outstanding agricultural state.

The ADL recognizes that agricultural lands are important and irreplaceable resources, which are in jeopardy of being lost as a result of increasing costs of agricultural businesses, development pressures and regulatory constraints.

The Law seeks to create economic and regulatory incentives which encourage farmers to continue farming. Relying primarily on the initiative of landowners and local governments, with state oversight, the law provides agricultural landowners with a number of benefits and protections described in this brochure.

New York State Department of Agriculture & Markets
Agricultural Protection & Development Services
10B Airline Drive, Albany, NY 12235
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Agricultural Assessment

The agricultural assessment program allows eligible farmland located both within and outside agricultural districts to be taxed at its agricultural assessment, rather than at its fair market value. The agricultural assessment value establishes an "upper limit" for taxable assessments on eligible farmland. Any assessed value which exceeds the equalized agricultural assessment on the land is exempt from real property taxation.

Any owner of at least seven acres of land which produces a minimum of $10,000 annually, or any owner of less than seven acres of land which produces a minimum of $50,000 annually, on average, in the preceding two years from the sale of crops, livestock, or livestock products, is eligible to receive an agricultural assessment.

Start-up farm operations are eligible to receive an agricultural assessment in the first year of operation on owned or rented land if they meet the minimum acreage and sales thresholds.

Owners of rented land may qualify for an agricultural assessment if their land independently satisfies the minimum acreage and sales requirements or is being used pursuant to a lease agreement of five or more years in conjunction with land which independently qualifies. Landowners must apply to their local assessor annually for an agricultural assessment.

Owners who convert lands benefiting from an agricultural assessment to non-farm use are liable for conversion payments based on the amount of taxes saved. Owners contemplating a conversion may determine the payment owed by contacting their assessor or their county real property tax office.

FOR FURTHER INFORMATION on the creation of agricultural districts or the benefits and protections they provide, contact your County Cooperative Extension Office or the NYS Department of Agriculture and Markets at 1-800-554-4501.

Limitation on Local Regulation

An increase in the number of non-farm residents in agricultural areas may result in new zoning and regulatory actions by localities which inhibit farming operations. To safeguard against this, §305-a of the ADL prohibits the enactment and administration of comprehensive plans, laws, ordinances, rules or regulations by local governments which would unreasonably restrict or regulate farm operations within an agricultural district, unless it can be shown that the public health or safety is threatened.

The Commissioner may independently or upon a complaint initiate a review of the enactment or administration of a local law. The Commissioner is authorized to bring an action or issue an order to enforce ADL §305-a.

The Department has developed guidelines on the effect of ADL §305-a on enactment and administration of local laws and regulations. These documents are updated periodically and may be obtained from the Department's website at www.agmkt.state.ny.us by clicking on Divisions and then Agricultural Protection and Development Services, or by contacting the Department at 10B Airline Drive, Albany, New York 12235 or (518) 457-7076.

Sound Agricultural Practices

The Commissioner may, in consultation with the Advisory Council on Agriculture (ACA), issue opinions upon request as to whether a particular agricultural practice is sound (ADL §308). A sound agricultural practice (SAP) refers to the practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. An agricultural practice conducted in an agricultural district or on land receiving an agricultural assessment shall not constitute a private nuisance provided that the practice is determined to be an SAP pursuant to an opinion of the Commissioner. The Commissioner is also authorized, in consultation with the ACA, to issue advisory opinions on a case-by-case basis as to whether particular land uses are agricultural in nature.

Public Actions Notice Requirements

Government actions may impact farms and agricultural resources through the acquisition of property interests or funding of infrastructure development. The ADL (§305, subd. 4) requires that State agencies, local governments and public benefit corporations which intend to acquire more than one acre of land from any active farm within an agricultural district or more than 10 acres in total from a district, must file a notice of intent with the Commissioner at least 65 days prior to taking the action. Similarly, a notice must be filed for all actions where the government sponsor intends to advance a grant, loan, interest subsidy or other form of public funding for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities to serve non-farm structures within an agricultural district. The notice requirement does not apply in the case of an emergency project which is immediately necessary for the protection of life or property.

The notice requirement provides for a full evaluation of the potential impacts of a government-sponsored acquisition or construction project on farms and farm resources. The ADL and implementing regulations require a project sponsor to provide information essential to analyzing agricultural impacts along with a report justifying the proposed project.

Upon receipt of a notice of intent that has been determined by the Department to be complete, the Commissioner has 45 days to determine the effect the action would have on agricultural operations within the district.

If it is determined that the proposed action would have an unreasonably adverse effect, the Commissioner may issue an order delaying the action for an additional period of 60 days. During this time, the Commissioner may conduct a public hearing, upon providing public notice, within or accessible to the area affected. On or before the expiration of the 60 days, the Commissioner must report his or her findings to the project sponsor, the public at large and any public entity having the power of review or approval of the action.

The Commissioner may propose that an alternative which minimizes or avoids adverse impacts be accepted. The project sponsor must provide a detailed evaluation and reasons if the proposed mitigation is rejected. At least 10 days prior to commencing the action, the project sponsor must certify to the Commissioner that adverse impacts will be minimized or avoided. The Commissioner may bring an action to enforce mitigation measures. He or she may also request that the Attorney General institute an action to compel compliance with these requirements.

Limitation on Local Benefit Assessments

Benefit assessments, special *ad valorem* levies and other rates or fees for local improvements in certain improvement districts or benefit areas are generally calculated on the basis of the value, acreage, or frontage of the properties benefited. Agricultural operations commonly involve large tracts of land and multiple structures. The ADL restricts assessments for local improvements to a lot not exceeding one-half acre surrounding any dwelling or non-farm structure located on land used in agricultural production in an agricultural district, and to farm structures directly benefited by the services. This limitation does not apply in those instances where the benefit assessments, special *ad valorem* levies or other rates or fees were imposed prior to the formation of the agricultural district.

Policy of State Agencies

The ADL (§305, subd. 3) directs all State agencies to encourage the maintenance of viable farming in agricultural districts and directs the modification of their administrative regulations and procedures to effectuate this policy insofar as is consistent with the promotion of public health and safety and any federal laws, standards, criteria, rules, regulations, policies or requirements, including provisions applicable only to obtaining federal funding.