

Appendix C Evaluation of Municipal Land Use Regulations

INTRODUCTION

This review of local zoning and subdivision regulations evaluates the extent to which agriculture and related businesses are constrained or supported in Erie County. The review evaluates the regulations in the Towns based on the following:

1. Do local land use regulations unreasonably restrict standard farm practices?
2. Do land use regulations accommodate “value added” or other agriculture-related business on farms?
3. Do land use regulations accommodate non-agricultural secondary businesses on farms?
4. Do land use regulations include considerations of agricultural impacts as part of development review?
5. How well do land use regulations direct development away from high quality farmland?
6. Do subdivision regulations include provisions to minimize impacts on farm operations?

The analysis focuses on whether local land use regulations unreasonably restrict farm operations that are protected through NYS Agriculture & Markets (AGM) Law, Chapter 69, Article 25-AA, § 305-a. 1. a.:

Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, ... 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.

NYS Agricultural Districts Law (AGM Chapter 69, Article 25-AA) limits the enforcement of local land use regulations that unreasonably restrict standard farm practices, unless the restrictions are necessary to protect public health and safety. These benefits are only extended to “farm operations” located within a NYS-certified Agricultural District. Whether an operation meets the definition of a “farm operation” is at the discretion of the NYS Department of Agriculture and Markets (AGM) and is determined on a case-by-case basis. AGM has published several guides to help municipalities determine what comprises reasonable local regulation. Those relevant to communities in Erie County are appended to this report.

The protections in NYS Agricultural Districts Law from unreasonable regulations are enforced by the NYS Department of Agriculture and Markets (AGM). A municipality or a farm operator may request an opinion from the NYS AGM as to whether the regulation unreasonably restricts or regulations an agricultural practice and whether the practice is part of a “farm operation” eligible for protection.

If AGM finds the regulation to be unreasonably restrictive, the municipality will be prohibited from enforcing it against the farm operation. However, AGM’s determination does not invalidate the regulation itself. Municipalities may continue to enforce it may apply to hobby farms, agricultural uses that are accessory to a residence, or other practices that are not considered “farm operations” eligible for protection.

The AGM published several guidance documents to help municipalities determine whether a regulation may be unreasonably restrictive as applied to a farm operation. Unreasonable

regulations may address minimum lot sizes, setbacks unrelated to health and safety, excessive permitting requirements, and restrictions on the types of agricultural activities.

Zoning provisions that may be unreasonably restrictive as applied to a farm operation within an Agricultural District include prohibitions on certain types of farming, limitations such as minimum lot sizes or setbacks, or burdensome procedural requirements.

Land Use Regulations Overview

All municipalities in Erie County have adopted zoning regulations. Except for Cheektowaga, which is suburban town situated in a largely urbanized environment with no agricultural zones, all Towns have zones that are either specifically related to Agriculture or accommodate agriculture to some degree.

Zoning regulations typically list uses that are permitted “by right,” with zoning permits administered by the code enforcement officer without any board review. Some permitted uses require a site plan review by the planning board or other appointed board. The site plan review process allows for site-specific review, including consideration of the proposed use, the adequacy of access, screening, drainage, and the protection of natural resources.

Zoning regulations often list certain uses that are allowed with “special use permit” issued by the planning board or other appointed board subject to certain conditions. If the use as proposed does not meet those conditions, the board responsible for review may deny the special permit request.

Zoning regulations may also establish minimum lot sizes, setbacks from lot lines, and other provisions. These dimensional requirements vary based on the type of use and the zoning district in which they are located.

Subdivision regulations govern the way lots are split off from a parent parcel. Municipalities may adopt subdivision regulations as a local law or as regulations adopted by the Planning Board in accordance with NYS Town Law.

Provisions for “cluster” or “conservation” subdivisions allow a residential subdivision to include lots that are smaller than required by zoning, provided that a portion of the parent parcel is set aside as open space and the average density does not exceed that required in a traditional subdivision. Some subdivision regulations allow for additional units as a “bonus” if additional land is set aside for open space.

1. Do local land use regulations unreasonably restrict standard farm practices?

This assessment of whether local laws unreasonably restrict agricultural practices applies the following general principles:

- a) *The definition of farming should be broad enough to include all types of farming.*
- b) *Agriculture should be listed as a permitted use in all areas of a municipality where it occurs.*
- c) *Zoning requirements for agricultural uses should be based on public health and safety, rather than aesthetics or nuisance.*
- d) *A special use permit should not be required for agricultural uses or farm practices.*
- e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Define agriculture broadly

Several town zoning regulations specify a minimum lot size within the definition of “farm” or “agriculture.” Generally, dimensional requirements such as lot sizes or setbacks should be specified in the Zoning District requirements section of the zoning regulation, not in the definitions.

Best Practices:

- Define “Farm” or “Agriculture” broadly in zoning definitions to include all types of farming as well as buildings and on-farm operations that support the production or marketing of farm products.
- Avoid setting a minimum lot size for farms, especially in the definition. If desired, establish a minimum lot size for keeping farm animals as an accessory use to a residence but include an exception stating that the restriction does not apply to farm operations protected by NYS Agricultural Districts Law.

List agriculture or farming as a permitted use and avoid unreasonable restrictions for farm operations in NYS-certified Agricultural Districts

Agriculture, broadly defined, should be a listed permitted use in all districts where it occurs. Limitations on agriculture that apply to farm operations in certified Agricultural Districts should be based on health and safety criteria.

Requiring a minimum lot size for agricultural activities may be unreasonably restrictive as applied to farm operations in certified Agricultural Districts. Some lots are part of larger farm operations that incorporate several parcels, such as a farm operation with a two-acre homestead and larger fields elsewhere. Some intensive farming operations do not require large lot sizes. While a minimum lot size of five or ten acres may be reasonable for regulating small scale or hobby farming operations, commercial farm operations that may be viable on smaller lots or have several smaller lots as part of their farm.

Limitations or prohibitions on types of agricultural activities may be unreasonably restrictive as applied to protected farm operations. For example, some municipalities restrict or prohibit the housing or keeping of “fur-bearing animals.” Although the regulation may be intended to prevent or

mitigate odor- and/or noise-related concerns, this may be unreasonably restrictive as applied to commercial farm operations in an Agricultural District.

Avoid unreasonably burdensome procedural requirements, such as special use permits for farm operations in certified Agricultural Districts

Requiring a special use permit for certain farm operations may be unreasonably restrictive as applied to farm operations within certified Agricultural Districts. Site Plan Review may be reasonable as applied to aspects of farm operations with health and safety concerns.

Best Practices:

- Incorporate reasonable requirements into regulations rather than requiring a site plan review or special use permit
- Exempt farm operations in Agricultural Districts from review processes

2. Do land use regulations accommodate agriculture-related business on farms?

Some farms in Erie County incorporate “value-added” enterprises as part of their farm operation. While some value-added enterprises and other agriculture-related businesses are included in the definition of farm operations that are protected by NYS Agricultural Districts Law, secondary agriculture-related or other businesses are not. Such businesses help to maintain the economic viability of farm operations, which are integral to Erie County’s tourism and agricultural economy and contribute to the rural character of Erie County communities. In addition, some farmers engage in businesses unrelated to agriculture to supplement their income. This may include an equipment repair business or the manufacture of wood furniture or baked goods on the farm for sale. “Farm friendly” land use regulations allow a variety of on-farm businesses.

Value-Added Enterprises

Businesses that add value to products produced on the farm are considered a component of the farm operation as defined in (AGM) CHAPTER 69, ARTICLE 25-AA, § 301. Definitions: “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.” These enterprises may include:

- small-scale manufacturing to produce value-added products
- Retail sales of farm products
- or agri-tourism operations that bring customers to the farm to purchase farm products

Value-added enterprises are protected from unreasonable local regulation by NYS AGM Law, provided that the revenue generated by the secondary business does not exceed the value of the agricultural products produced by the farm operation. An example of an agricultural support businesses that would be protected through Ag & Markets is a “corn maze” that attracts visitors to a farm to purchase farm products. A winery is considered part of a farm operation if the grapes used to produce the wine are predominantly grown on the farm. See AGM guidance relating to wineries for more information about this distinction.

Some municipal zoning regulations require site plan review or a special use permit for value-added enterprises as part of a farm operation.

Some farms incorporate value-added enterprises into the farm operation to increase the value, increase sales, or capture a larger share of the value of the products produced on the farm. These enterprises may include on-farm retail sales, processing, packing or packaging farm products, or agri-tourism operations that bring customers to the farm to purchase farm products. These enterprises are protected from unreasonable local regulation by NYS AGM Law, which includes in the definition of “farm operation, “practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.”.

The definitions of agriculture-related businesses on farms and the extent of their regulation in municipal land use regulations varies across the municipalities. For instance, the Town of Clarence defines and permits both “Agriculture Operation (Customary)” and “Agricultural Support Structures” which, together, contemplate many agriculture-related businesses that would occur on farms. In other towns, like Alden, “Agribusiness” and “Agritourism Business” are defined broadly but require special use permit approvals.

Several municipalities permit roadside stands and retail sales of farm products. Generally, these uses are customary to agricultural operations and have little-to-no land use impacts. As such, they should be permitted as of right in every town with, where necessary, reasonable zone requirements that mitigate public and health safety concerns such as traffic sightlines and setbacks from higher-speed roadways.

Best Practices:

- Allow roadside stands that support farm operations protected by NYS Agricultural Districts Law as a permitted use in all zoning districts where agriculture occurs. The regulations may include reasonable standards such as parking and setbacks from roads but should not be subject to Site Plan Review or require a Special Use Permit.
- Allow on-farm businesses that are integral to farm operations and have little-to-no impact on neighboring properties, such as small-scale processing, as a permitted use.
- Expand the definition of “Farm” or “Agriculture” to include value-added processing, packing, packaging and other activities that help farms add value to the products produced on the farm.
- Avoid unreasonable restrictions on agri-tourism activities that support farm operations protected by NYS Agricultural District Law. Requirements for site plan review or a special use permit would be reasonable for recreational activities that are not directly related to marketing products produced on the farm.

3. Do land use regulations accommodate non-agricultural secondary businesses on farms?

Some farms in Erie County may benefit from operating non-agricultural secondary businesses to supplement their farm income and help the farm remain economically viable. Such businesses may include equipment repair, trucking, fuel storage or furniture making.

While value-added enterprises and other agriculture-related businesses are included in the definition of farm operations that are protected by NYS Agricultural Districts Law, secondary non-

agriculture-related businesses are not. “Farm friendly” land use regulations allow a variety of on-farm businesses, with appropriate review criteria and safeguards to minimize impact on neighboring properties.

If the business is located on the same parcel as the farmstead, it may be regulated as a “home occupation” or a “home business.” If the business is a principal use on a separate parcel from the farm, it would be subject to regulations as a business or industrial operation.

Local laws that accommodate such secondary businesses on farms help to maintain farms as viable businesses in their communities. It is not considered an unreasonable restriction under NYS Agricultural Districts Law to require site plan review and a special use permit for businesses that are not directly related to agricultural production.

Best Practices:

- Allow secondary businesses on farms subject to reasonable criteria and review procedures, such as a special permit. The criteria may include limitations on the type or scale of businesses and require a site plan that identifies areas for parking, access roads, storage of chemicals, and locations of equipment that may generate noise.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Development adjacent or near farmland has the potential to impact agricultural operations. For example, trees planted along a lot line that adjoins a farm field could affect crops with the impact of roots or shading. Roadside development may increase fragmentation of farm fields, damage drainage systems or eliminate access to a field. Without effective buffers, residential development adjoining farmland may lead to increased trespassing or vandalism.

Development review criteria in zoning regulations should require municipal boards to consider the potential impacts of the proposed development on farmland and agriculture and include criteria to allow the board to require modifications to the proposed development that would minimize these impacts.

Although most municipal comprehensive plans include policies in support of agriculture, zoning and subdivision regulations do not specifically state that development projects should avoid impacts on agriculture and farmland.

NYS Agricultural Districts Law 9AGM §305-B) requires submittal of an “Agricultural Data Statement” with applications for a rezoning, special use permit, site plan approval, use variance, or subdivision of parcel(s) that contains or is located within 500 feet of a farm operation located in an agricultural district. The law requires the reviewing board to consider impacts of the project on farm operations within an Agricultural District.

The Town of Evans has established an Agricultural Advisory Committee that is responsible for reviewing zoning amendments, policy changes, and development applications that may have implications in an agricultural zoning district. The Committee is tasked with advising on development considerations and whether adverse effects may result. While this approach may extend the timeline for approving a development, it is an effective measure in identifying and avoiding detrimental impacts on neighboring farms.

In addition, local reviewing boards should include farmer representation.

Best Practices:

- Revise land use regulations to require review of potential agricultural impacts during the permitting process. Require site plans to identify any accessways to existing farm fields and existing agricultural infrastructure such as tile drainage.
- Incorporate guidance in subdivision regulations, site plan review standards and special permit criteria that the reviewing board should consider potential impacts on adjoining or nearby agricultural land and may require modifications to minimize the impacts.
- Specify in zoning regulations that submittal of an “Agricultural Data Statement” is required when applicable and provide a copy of the submittal form to applicants
- Consider establishing a local Agricultural Advisory Committee with authority to review development proposals to evaluate potential impacts on farms and farmland.
- Consider appointing a farmer representative to the Planning Board

5. How well do land use regulations direct development away from high quality farmland?

Many Agricultural zoning district regulations in Erie County state that farming is a priority but also allow development of residential, institutional, and educational uses. None of the municipalities have regulations that prevent development on high quality farmland.

Municipalities may prohibit non-agricultural uses within certain zoning districts. However, this zoning approach would also limit landowner options to sell lots for development.

Another alternative is to limit subdivisions. As an example, the Town of Seneca in Ontario County limits the number of lots that can be created from a parcel that existed in 2005 to three or fewer. Few communities in New York State and no municipalities in Erie County have adopted exclusive agricultural zoning because of the extent to which it limits landowner options.

Some rural communities enact large minimum lot sizes with the intent of protecting rural character. However, requiring lot sizes of more than one or two acres often results in excessive conversion of farmland, as each house lot would require more land than is needed and the excess generally must be maintained as lawn or grows into scrub.

An alternative to limit density in rural areas is to require that new driveways or curb cuts be separated by 200 - 300 feet, depending on the speed limit of the roadway. While the main purpose of this regulation is to maintain safety, it would have the effect of reducing the density of single family residential development.

Best Practices:

- Consider zoning provisions that support farm operations in agricultural areas of the town and limit impacts of residential and other development.
- Avoid excessively large minimum lot sizes.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

Subdivision regulations enable the municipal planning board to review the proposed layout of lots. At this stage of the development review process, it is possible to plan the lot layout to avoid siting house lots on the most viable farmland and to avoid impacts on natural resources such as streams and woods.

Well-designed subdivisions should:

- avoid fragmentation of farmland;
- maintain existing access to farm fields; and
- minimize disruption of drainage patterns that would affect agricultural lands.

These considerations should be included in the criteria for subdivision review and applied by the planning board during subdivision review.

For subdivisions of five or more lots, cluster or conservation subdivisions can offer a mechanism to permanently protect farmland, natural resource protection or open space. Most Towns in Erie County permit cluster or conservation subdivisions with the intent of preserving open space. For a conservation subdivision to effectively protect farmland, the design would need to allocate a large enough area to be viable for farming and to incorporate sufficient buffers into the design to avoid the potential for conflicts between the farm and the new residential development.

Best Practices:

- Incorporate provisions for cluster subdivisions that require sufficient contiguous acreage that is Subdivision regulations should be modified to include provisions requiring developers to identify locations of agricultural infrastructure and a requirement for reviewing boards to consider impacts on agriculture in their review.
- When open space to be preserved as part of a cluster or conservation subdivisions includes farmland, ensure that the land to be preserved is feasible for continued agricultural use.

EVALUATION OF LAND USE REGULATIONS

1. TOWN OF ALDEN

The Town of Alden zoning regulations are codified as Chapter 365 of the Town Code.

Figure 1. Town of Alden Zoning Map

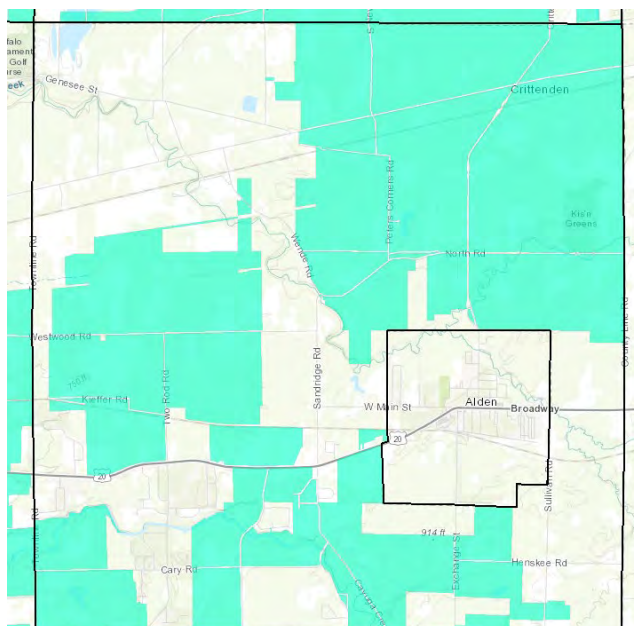
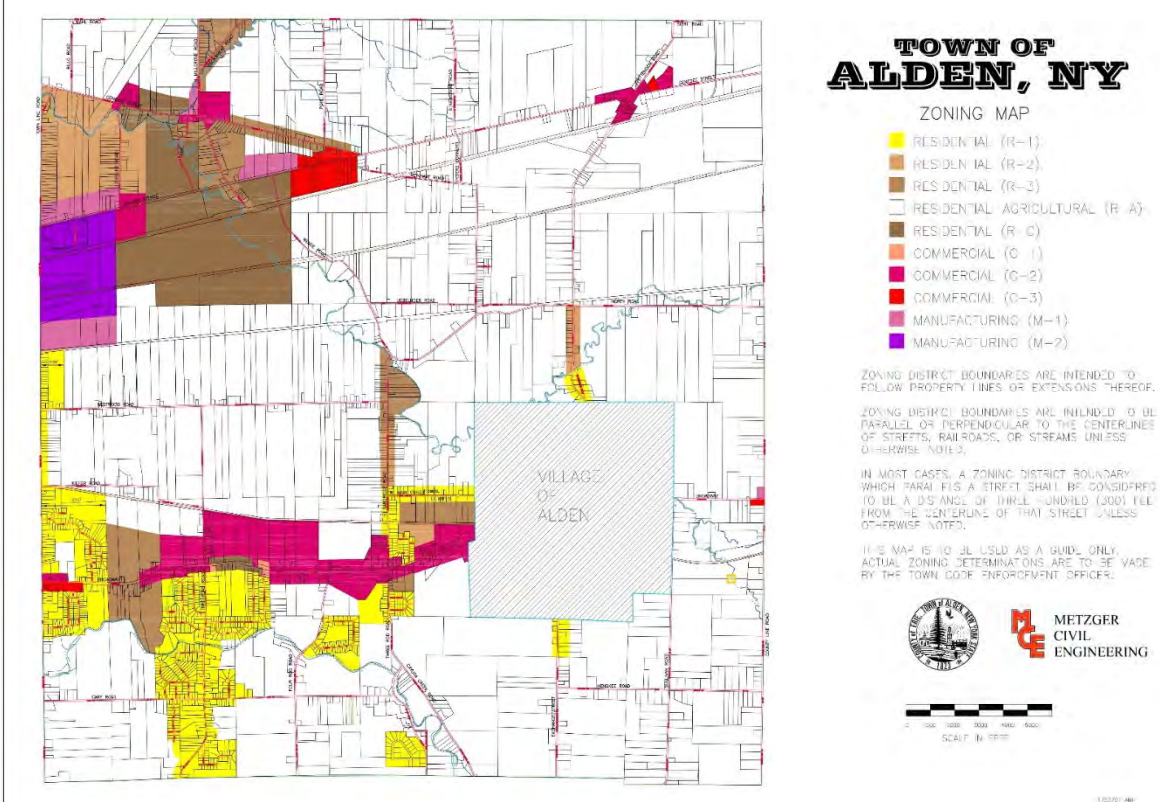


Figure 2. Land in certified Agricultural District, Town of Alden

While most of the land within an NYS-certified Agricultural Districts in the Town is within the Rural Agricultural (R-A) District, some areas are zoned Residential (R-1, R-2 or R-3), Commercial (C-1 or C-2) and Manufacturing (M-1 or M-2).

1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming*

The Town's Zoning regulations defines the following agricultural and agriculture-related terms:

- FARM - A single parcel of land 10 acres or more in size on which an owner or tenant carries on agricultural or dairying pursuits or the raising of livestock, poultry or the keeping of bees.
- STABLE - A building or part of building used to house horses or cattle.

The definition of "farm" excludes farms under 10 acres in size and does not clearly encompass all types of agriculture that may occur in the Town. Furthermore, the list of permitted uses in the R-A District regulations does not use the term "farm."

b) *Agriculture should be permitted "as of right" in all areas of the Town where it occurs*

The Rural-Agricultural (R-A) District, which applies to most of the rural area of the Town, permits agriculture as-of-right, with some conditions. The list of permitted principal uses includes:

General agricultural land uses, agricultural buildings and activities, such as the growing of field, truck and tree crops, dairying, livestock raising, poultry farming, fur farming and hog raising, subject to the following:

- (a) Buildings or structures used for the stabling of livestock (including but not limited to horses, cows, sheep, fowl or other animals) shall be located at least 150 feet from any street line.
- (b) Minimum land area for horses shall be 40,000 square feet per horse

Agriculture is not listed as a permitted use in other zoning districts.

"Barns and other farm buildings" are permitted as accessory uses in the R-A Rural Agricultural District, but not in other zoning districts. "Other customary uses normally associated with the principal use" are permitted accessory uses in all zoning districts.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

Buildings and structures used for livestock stabling are subject to minimum setback requirements from street centerlines. While setbacks for buildings from roadways are common, NYS AGM may find this setback requirement to be unreasonably restrictive as applied to specific farm operations.

A minimum lot size requirements applies to landowners keeping horses. While this requirement is appropriate for keeping horses as an accessory use to a residence, the lot size requirement for horses may be unreasonably restrictive as applied to farm operations in NYS-certified Agricultural Districts that are protected by AML.

d) *A special use permit should not be required for agricultural uses or farm practices.*

The Town zoning regulations require a special permit from the Town Board for “forest farming” in the R-A Rural Agricultural zoning district. but does not provide a definition or specific criteria for approval.

- e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

The Town of Alden does not require a site plan review for building permits associated with “general farming use.” This term is not defined and clarification should be provided regarding what constitutes a general farming use.

➤ ***Recommendations:***

- *Remove the size limit from the definition of farm*
- *Use the same terms in the list of permitted uses and the definitions*
- *List agriculture as a permitted use and “barns and other farm buildings” as permitted accessory uses in all zoning districts where farms are located.*
- *Clarify what types of farm buildings do not require site plan review*

2. Do land use regulations accommodate agriculture-related and other business on farms?

“Barns and other farm buildings” are permitted as accessory uses in the R-A Rural Agricultural District, but not in other zoning districts. “Other customary uses normally associated with the principal use” are permitted accessory uses in all zoning districts.

The definition of “Farm” in Alden’s zoning regulations does not clearly state whether value-added businesses on farms are permitted.

➤ ***Recommendations:***

- *Broaden the definition of “farm” to include agriculture-related businesses on farms and clarify that these are included in the list of permitted uses as “agricultural buildings and activities.”*

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Development review criteria in Alden’s zoning regulations do not specifically require consideration of potential impacts to farmland agricultural lands.

The zoning regulations do not mention the need to submit an Agricultural Data Statement with the application when the proposed project involves or is within 500 feet of a farm operation within a certified Agricultural District.

Farm operations are not explicitly mentioned in the subdivision regulations.

➤ ***Recommendations:***

- *Incorporate provisions for evaluating impacts to farming in Site Plan Review standards, Special Use Permit criteria.*

- *Require applications for Subdivision review to identify farm access roads, drainage and other infrastructure, and the locations of nearby farm fields. Incorporate provisions for the Planning Board to consider potential impacts on agriculture in the review of subdivisions.*

4. How well do land use regulations direct development away from high quality farmland?

Residences and other uses are permitted in the R-A District.

5. Do cluster or conservation subdivision provisions regulations incentivize effective protection of viable farmland?

Alden's cluster subdivision regulations do not specify how they might apply to farmland.

➤ ***Recommendation:***

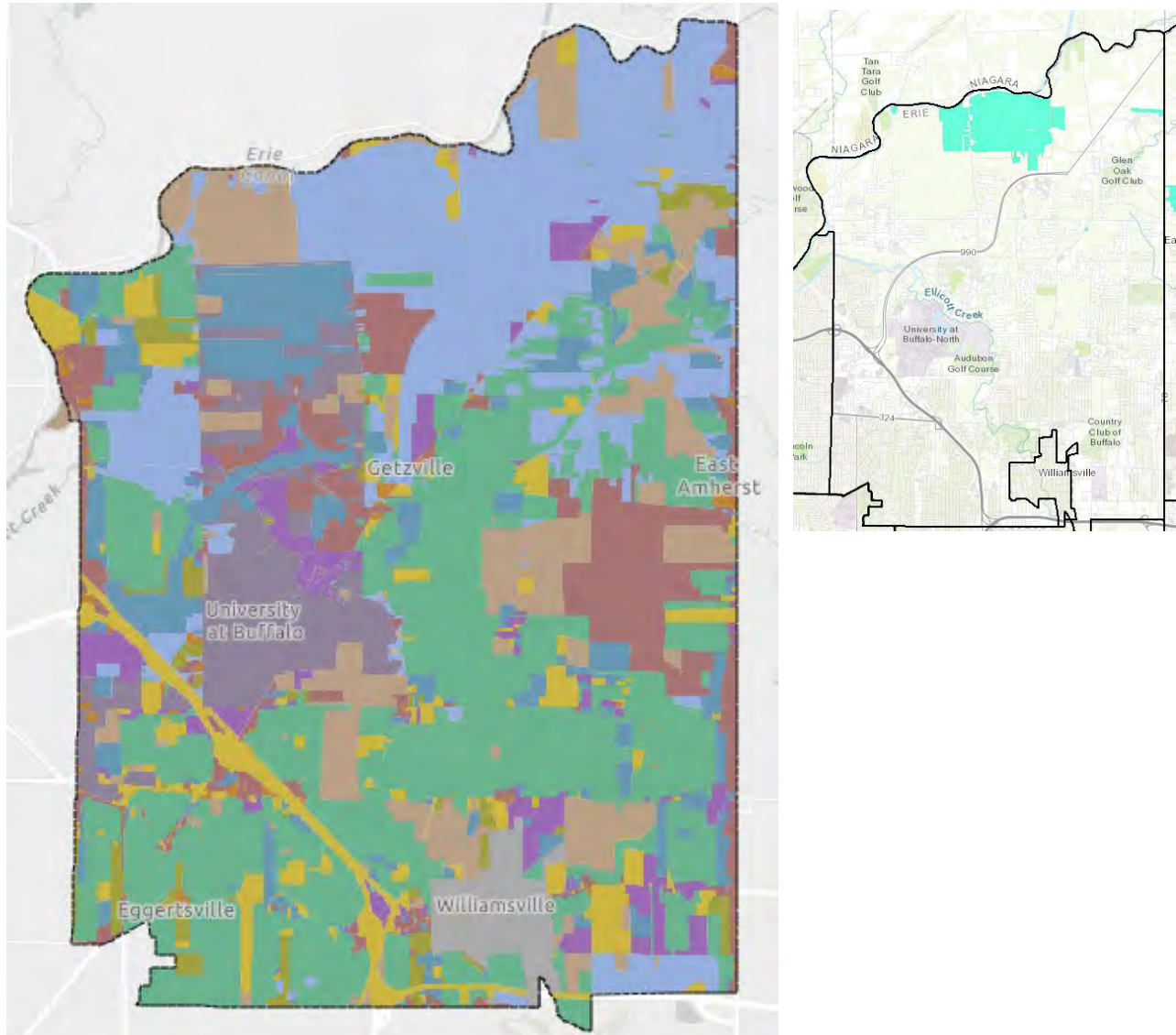
- *Incorporate provisions to guide cluster subdivision design to retain viable farmland.*

2. TOWN OF AMHERST

The Town of Amherst zoning regulations are codified as Chapter 203 of the Town Code.

The Town's Zoning Map is web-based (see screenshot below). Lands within an Erie County Agricultural District are located in the north central part of the Town and are zoned Suburban Agricultural District (SA) (blue) and Community Facilities (CF) (yellow).

Figure 3. Town of Amherst Zoning Map (left) and Land in Certified Agricultural Districts (right)



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming.*

The Town Code defines the following agriculture and agriculture-related terms:

- FARM - A single parcel of land two acres or more in size on which an owner or tenant carries on agricultural pursuits, including but not limited to, the raising of crops, dairying pursuits or the raising of livestock or poultry or the keeping of bees.
- LIVESTOCK - Any animals raised for food or product. In addition, they include the following, regardless of purpose:
 - All animals with hooves, either single or split;
 - All members of the ovine (sheep), bovine (cows and cattle), caprine (goats), equine (horses and ponies), and swine (pigs and hogs) families;
 - Emus, rheas, and ostriches; and
 - All poultry (chickens, roosters, turkeys, ducks, geese and the like).
- PRIME FARMLAND - Land that is best suited to producing food, feed, forage, fiber and oilseed crops. It has the soil quality, growing season, and moisture supply needed to economically produce a sustained high yield of crop when it is treated and managed according to acceptable farming methods. Prime Farmland may now be in crops, pasture, woodland, or other land, but not in urban and built-up land or water areas. It must be used for producing food or fiber or be available for this use. (As defined by the Soil Survey of Erie County, New York, 1986).

Minimum lot requirements should generally not be embedded into definitions for uses. However, compared to other municipalities reviewed in this evaluation, Amherst's two-acre minimum is more reasonable than the five-, seven-, and ten-acre minimums required by other municipalities.

Generally, the definitions provided are broad and it should be noted that the definition for Farm acknowledges a tenant of land in addition to an owner.

a) *Agriculture should be permitted "as of right" in all areas of the Town where it occurs*

In the S-A zoning district, "Farm" and "Stables, public or private" are listed as permitted uses. "Greenhouse" is listed as a permitted accessory use. Farms are listed as a permitted use in the RR and AG Districts as well, but these zoning districts are not mapped.

➤ **Recommendation:**

- *Remove lot size minimum from the definition. Consider creating a new section that specifically regulates keeping of farm animals or other agricultural activities and specify that the regulations would not apply to farm operations protected by NYS Agricultural Districts Law.*

b) *Zoning requirements for agricultural uses should be based on public health and safety*

Standards for stables in §6-1-1 regulate the number of horses per acre, setbacks for stables and exercise tracks, and manure containment appear to be reasonable.

For parcels that are part of farm operations in certified Agricultural Districts, setbacks from lot lines for the storage of manure and other odor/dust producing substance may not be appropriate as they do not directly relate to health and safety, unlike setbacks from water bodies or wells.

- b) *§6-8-1 contains regulations pertaining to floor area of for accessory uses and structures. In the SA and CF zones, floor area of accessory structures is limited to 75% of the principal structure. A special use permit should not be required for agricultural uses or farm practices.*

There are no agriculture uses that require special use permits in the municipality's zoning regulations.

- c) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Site plan review is not required for agricultural uses.

2. Do land use regulations accommodate agriculture-related and other business on farms?

The Town's zoning permits permit produce stands that sell items grown on-site as Accessory Uses in the R-R and AG districts, but not in the S-A district. However, these zones are not mapped.

➤ Recommendation:

- *Add Produce stands to list of permitted Accessory Uses in the S-A district.*

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of agricultural impact is not a prerequisite for site plan approval.

4. How well do land use regulations direct development away from high quality farmland?

The Amherst zoning regulations permits residences and places of worship as-of-right in the R-R, AG and S-A districts.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations.

1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming.*

The Town's zoning defines agriculture and related uses as follows:

- AGRICULTURAL DISTRICT - A district set up under Article 25-AA of the New York State AML to conserve, protect and encourage development and improvement of agricultural lands.
- AGRICULTURE - The use of land for agricultural purposes, including tilling of the soil, dairying, pasture, apiculture, arboriculture, aquaculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry, and the necessary accessory uses for the packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and conducted in accordance with the New York State AML.
- FARM - Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, and dairy products. It includes necessary farm structures and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.
- LIVESTOCK - Includes but is not limited to horses, cattle, hogs, fowl, poultry or furred animals.
- POULTRY - Domestic fowls raised for meat or eggs; chickens, turkeys, ducks, geese, etc., collectively.

The definitions in the Town's zoning regulations are broad and do not include development standards or minimum lot sizes. The definition of "Agriculture" refers explicitly to AML (New York State Agriculture and Markets Law).

b) *Agriculture should be permitted "as of right" in all areas of the Town where it occurs.*

Most of the Town is zoned Agriculture (A), which permits "Agricultural, floricultural, and horticultural pursuits, including but not limited to dairies, general farms, horse farms, greenhouses, plant nurseries, produce farms, and the raising of bees, poultry and livestock, together with all customary buildings and structures necessary for the production and storage of the products of such pursuits."

The Rural Residential (RR) District is located along road frontages throughout the Town, splitting farm parcels with rear portions zoned Agriculture. The list of permitted uses in the RR District does not list agriculture as a permitted use in the RR District. Apiaries and "the keeping of domestic animals" in the RR zoning district are subject to restrictions.

However, a statement following the list of permitted uses for the RR zoning district notes, "These agricultural limitations shall only apply to lots improved with a residential structure. RR areas not improved with a residential structure shall be allowed full agricultural uses as stipulated in § 116-8.5 (use regulations for the A Agriculture District) until such time that a residential structure is built on the lot."

If a lot in the RR District includes a residential structure, “the keeping of domestic animals” is subject to the following limitations:

(a) Six chickens or other poultry per acre, no roosters, confined to lot boundaries and housed in the rear yard at least 25 feet from any lot line.

(b) Not more than two of any other species of domestic animals.

[1] The keeping of large domestic animals, including but not limited to horses, goats, sheep, etc., shall have a minimum of one-acre undeveloped land per animal.

[2] The keeping of pigs and cattle shall have at least two acres of undeveloped land per animal.

(c) The keeping of manure behind the residence and at a minimum of the 60 feet to the side and rear property lines.

Apiaries in the RR zoning district are limited to five hives.

➤ ***Recommendation:***

- *Consider adding an exception to the limitation on keeping domestic animals as applied to farm operations in certified Agricultural Districts.*

c) *Zoning requirements for specific agricultural practices should be based on public health and safety.*

Agricultural uses in the A zoning district are subject to front, side, and rear yard setbacks. For farm operations protected by NYS AML, setbacks are reasonable if they are designed to protect health and safety.

For parcels that are part of Farm Operations protected by AML, setbacks from lot lines may not be appropriate if they do not directly relate to health and safety.

d) *A special use permit should not be required for agricultural uses or farm practices.*

In the A zoning district, “fur farms” require a special use permit. This may be unreasonably restrictive for farm operations protected by AML.

Special permit approval is also required for “horseback training facilities” and “farm equipment sales and display.” Where these enterprises are part of a farm operation protected by AML, requiring a special use permit may be unreasonably restrictive as applied to specific businesses.

➤ ***Recommendation:***

- *Consider adding an exception to the limitation on keeping domestic animals as applied to farm operations in certified Agricultural Districts.*

e) *Site plan review requirements should be limited to those that protect public health and safety.*

The Town's zoning regulations require site plan approval for all uses except for single-family detached dwelling units. It is not clear whether agricultural facilities are expected to go through this process.

Commercial and industrial facilities as part of a farm operation, such as on-site sales, agri-tourism, processing or packaging, may be subject to site plan review and approval.

2. Do land use regulations accommodate agriculture-related business on farms?

The definition for "Agriculture" is broad and refers to various types of agriculture as well as the packing and storing of products. However, the definition does not mention farm markets or roadside stands. These uses should be built into the definition of Agriculture or separately defined and permitted as an allowable accessory or principal use.

Regarding "other businesses," horseback training facilities are subject to special use permit approvals.

➤ Recommendation:

- *Revise the definition of "Agriculture" to include accessory uses such as retail for on-farm produce including roadside stands and farm market stands.*

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Agricultural impacts are not mentioned in development review considerations.

4. How well do land use regulations direct development away from high quality farmland?

Land use regulations allow residential development, among other uses, in the same zoning districts as those that permit agriculture and do not limit development in areas with high quality farmland.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

The Town subdivision regulations allow for cluster development, but there are no criteria to guide the design in a manner that would result in the protection of viable farmland for continued agricultural production.

The Town of Boston zoning regulations are codified as Chapter 123 of the Town Code. The zoning regulations establish ten zoning districts. Most of the Town’s agricultural enterprises and land in certified Agricultural Districts (see figure to right) are in the Residential-Agricultural (“RA”) District (shown in white in the map below).



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs.*

Most of the Town of Boston is zoned R-A which permits agriculture.

b) *The definition of farming should be broad enough to include all types of farming.*

The Town includes the following definitions related to farming:

- AGRICULTURE - The cultivation of soil for food products or other useful or valuable growths in the field or garden. "Agriculture" shall be deemed to also include poultry or livestock production or breeding, and the raising of cattle for the purpose of milk production.
- FARM - Any parcel of land containing at least 10 acres which is used for gain in the raising of agricultural products, livestock, poultry or dairy products. It includes necessary farm structures within the prescribed limits, the storage of equipment used and the use of temporary stands for the sale of the produce of the "farm" on which located. It excludes the raising of fur-bearing animals, riding academies, public stables and dog kennels. Private stables and the breeding and training of not more than six dogs owned by the owner or tenant of the premises is allowed.
- FARM BUILDING - A barn, silo or other related structure, having as its principal purpose, the storage, housing or harboring of farm machinery, equipment, produce or livestock.

When combined, the above three terms encompass most farming practices. However, the Permitted Uses section of the zoning chapter does not utilize terminology defined above and describes agriculture more broadly:

- Agricultural, floricultural and horticultural pursuits, including but not limited to, general farms, greenhouses, plant nurseries, truck gardens, dairy husbandry, animal husbandry and poultry and livestock, together with all customary buildings and other structures necessary for the production and storage of the products of such pursuits, provided that buildings, pens and runways for the confinement of livestock or poultry shall be at least 100 feet from any property line of an R District and no manure or other odor- or dust-producing substances shall be stored within 100 feet of any lot line.

The description of agriculture used in the Permitted Uses section offers examples and types of agriculture and farming as well as setbacks. While examples and types of agriculture are acceptable, including the setback within the permitted use is not a best practice in zoning. The setback should be included as a district requirement and removed from the permitted use section. It is noted, however, that the setback requirement is intended to mitigate against odor- and dust-producing substances which is reasonable.

The definition of “Farm” refers to parcels at least 10 acres in size which may exclude certain farm smaller operations.

➤ ***Recommendations:***

- *Remove the lot size requirement from the definition.*
- *If needed, set the requirements in the zoning district regulations and consider excluding farm operations in certified Agricultural Districts from the minimum lot size requirements.*

c) *Zoning requirements for agricultural uses should be based on public health and safety.*

The 100-foot setback built into the definition is intended to mitigate odor and dust nuisances which can be supported.

As per §123-51.B.(2), farm buildings must be setback a minimum of 30 feet from a side lot line of a residentially zoned lot and 15 feet from a lot zoned something else.

For parcels that are part of farm operations in certified Agricultural Districts that are protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

➤ ***Recommendations:***

- *Consider excluding farm operations in certified Agricultural Districts from the minimum setback requirements.*

d) *A special use permit should not be required for agricultural uses or farm practices.*

While these uses are not defined, fur farming and the raising of domestic honeybees require special use permits. This may be unreasonably restrictive as applied to a farm operations located within a certified Agricultural District.

e) *Site plan review requirements for agricultural facilities should be limited to those that protect health and safety.*

The Town does not appear to require site plan approval for agricultural facilities.

2. Do land use regulations accommodate agriculture-related and other business on farms?

The definitions of Agriculture and Farm include structures for the sale and storage of products grown on the farm on which the stands are located, but may not include other value-added enterprises such as processing or agri-tourism. However, these businesses may be considered a customary accessory use to a farm operation if they are located on the same lot as the farm.

➤ ***Recommendations:***

- *Clarify that value-added and other agriculture-related businesses, including agri-tourism, are part of the farm operation and permitted. If needed, establish setbacks and other requirements to minimize impacts on neighboring properties.*

3. Do land use regulations include considerations of agricultural impacts as part of development review?

The Town's zoning regulations do not require evaluation of proposed developments on agriculture.

AML requires Agricultural Data Statements (ADS) to be submitted when a rezoning, special use permit, site plan approval, use variance, or subdivision occurs on property within an Agricultural District containing a farm operation or on property within 500 feet of an active farm operation located in an Agricultural District. ADS must be completed by project applicants, submitted to the Town, and referred to the Erie County Department of Environment and Planning (DEP). The reviewing board must consider the ADS during project review. are to be completed in accordance with Section 283-a of the Town Law.

➤ ***Recommendations:***

- *Specify in the zoning regulations that an Agricultural Data Statement must be submitted when applicable.*

4. How well do land use regulations direct development away from high quality farmland?

In addition to agriculture, the R-A Zone also permits residential uses and institutional uses as-of-right. High quality farmland is not protected.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

The Town adopted subdivision regulations in 1990. While "agriculture" is not explicitly mentioned in these regulations, the regulations do allow for cluster development. If executed effectively, such regulations could have the effect of conserving agricultural lands by concentrating residential lots.

5. TOWN OF BRANT

The Town of Brant zoning regulations are codified as Chapter 161 of the Town Code. Agricultural land uses are permitted in the Rural Residential (R-R), Medium-Density Residential (R-1), Seasonal Residential (R-2), Agricultural (A) and Industrial (I) Districts. The Zoning Map for the Town of Brant is not available online.

1. Do local land use regulations unreasonably restrict standard farm practices?

- a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

Agriculture is listed as a permit use in all zoning districts except for the Industrial zone.

- b) *The definition of farming should be broad enough to include all types of farming*

Section 161-3 of the Town zoning regulations defines the following agriculture and agriculture-related terms:

- FARM - A commercial horticulture, agricultural or animal husbandry operation on five or more acres of land and comprising sales of \$1,000 or more per annum.
- FARM BUILDING OR USE - Any use of land or buildings customarily a part of farm or agricultural pursuits, including the housing of farm animals, except fur-bearing animals, the repair of equipment used in the farming operations and the sale of farm products where such is clearly incidental to the overall use of the premises as a farm.

The definition of “farm” encompass a broad range of farming activities. However, excluding farm parcels smaller than five acres from the definition of “farm” may unreasonably restrict some farm operations. In addition, as the minimum lot size for “Farms” is specified in the “Schedule of Use, Area, Lot and Bulk Requirements,” it does not need to be part of the definition.

➤ **Recommendation:**

- *Remove lot size requirement from definition. Incorporate into district regulations as appropriate, with an exception for farm operations in certified Agricultural Districts.*

- c) *Zoning requirements for agricultural uses should be based on public health and safety*

The zoning schedule specifies that a minimum of five acres is required for “Farms.” The five-acre lot size requirement may not be reasonable as applied to smaller farms and smaller lots that are part of larger farm operations.

For Farm Operations protected by AML, these dimensional requirements may be considered unreasonably restrictive because they do not directly relate to health and safety.

➤ **Recommendation:**

- *Consider incorporating an exception to the 5-acre minimum for farm operations within certified Agricultural Districts that meet the threshold for protection through NYS Agricultural Districts Law.*

d) *A special use permit should not be required for agricultural uses or farm practices.*

Special use permits are not required for agricultural uses or farm practices in any zoning district.

e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Site plan review does not appear to apply to agricultural uses.

2. Do land use regulations accommodate agriculture-related and other business on farms?

“Farms and related farming activities” and “Greenhouses and nurseries are listed permitted uses in the A Agricultural, RR-Rural Residential, R-1 Medium-Density Residential, and R-2 Seasonal Residential zoning districts. In each of these districts, the “bulk storage of fuel for resale is specifically excluded from the intent of this permitted use.” It may be subject to interpretation what “related farming activities” would include.

In all zoning districts where agriculture is permitted, “customary farm buildings for the storage of products or equipment located on the same parcel as a farm” are permitted accessory uses.

The definition of “Farm building or use” includes “the sale of farm products where such is clearly incidental to the overall use of the premises as a farm.” In addition, “Roadside stands” and “Retailing and/or wholesaling of products directly from the production of agricultural, greenhouses and/or nursery operations” are specifically listed as permitted accessory uses in the A Agricultural District. The regulations do not appear to restrict retail sales to products only grown on the parcel where the stand is located. Minimum off-street parking requirements for a “Roadside farm produce stand,” specified in § 161-46.T are “adequate parking to eliminate traffic hazards.”

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval.

4. How well do land use regulations direct development away from high quality farmland?

The Town’s zoning regulations permit residences and schools as-of-right in the same zones that permit agriculture.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

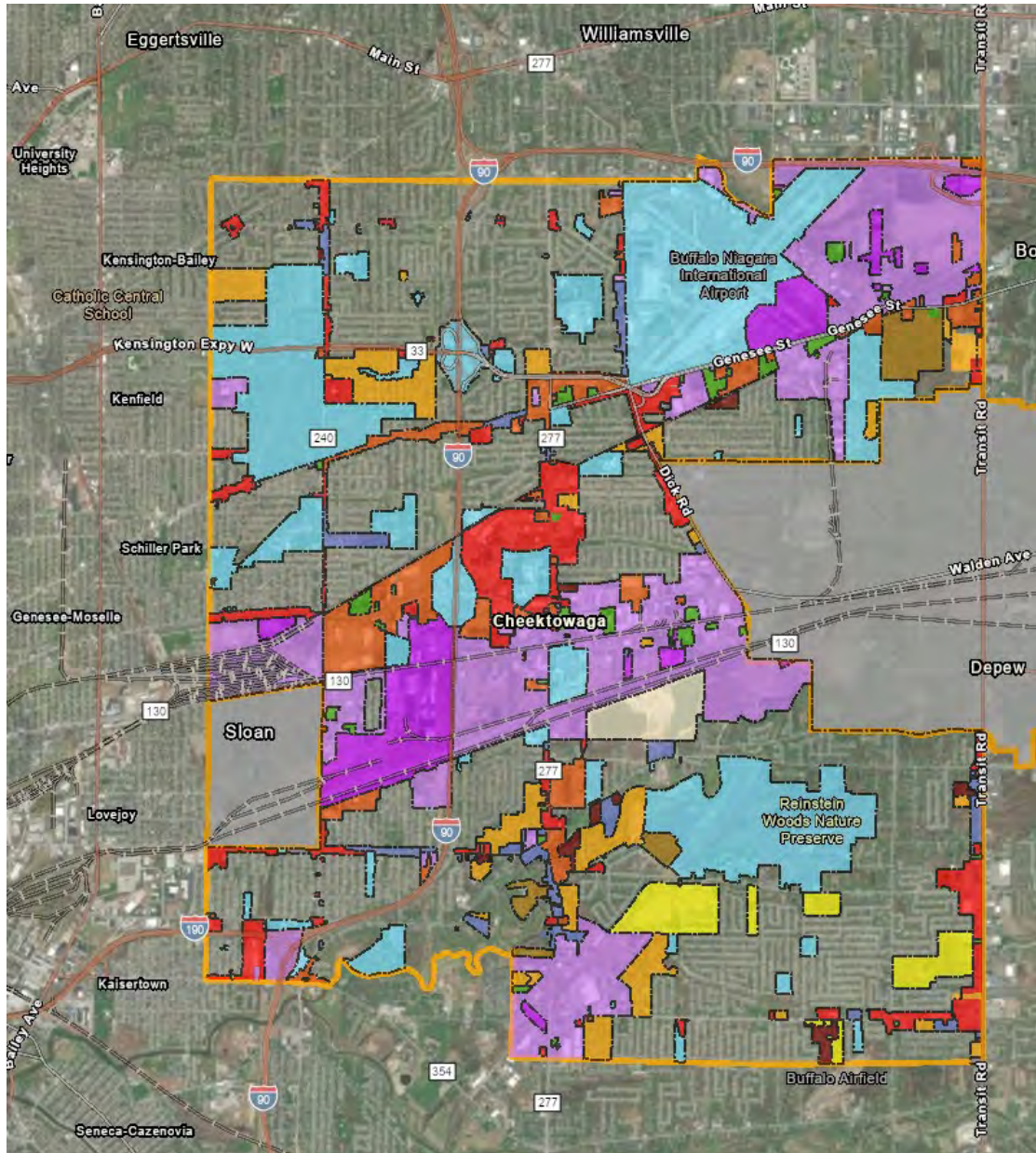
Farm operations are not explicitly mentioned in the subdivision regulations.

6. TOWN OF CHEEKTOWAGA

The Town of Cheektowaga is a largely urbanized Town and has little open land that may be suitable for agriculture. No land in certified Agricultural Districts is located within the Town of Cheektowaga is

The Town's zoning regulations do not permit agriculture or farming in any of the Town's zoning districts, except for raising crops in the Special Flood Hazard Area.

Figure 6. Town of Cheektowaga Zoning Map



7. TOWN OF CLARENCE

The Town of Clarence's zoning regulations are codified as Chapter 229 of the Town Code.

Most of the farmland and land in certified Agricultural Districts (see figure below right) are located within the Land in Zoning regulations allow agricultural uses in the Agricultural Floodzone (A-FZ), Agricultural Rural Residential (A-RR), and Residential Single-Family (R-SF) zones.

Figure 8. Town of Clarence Zoning Map, 2024

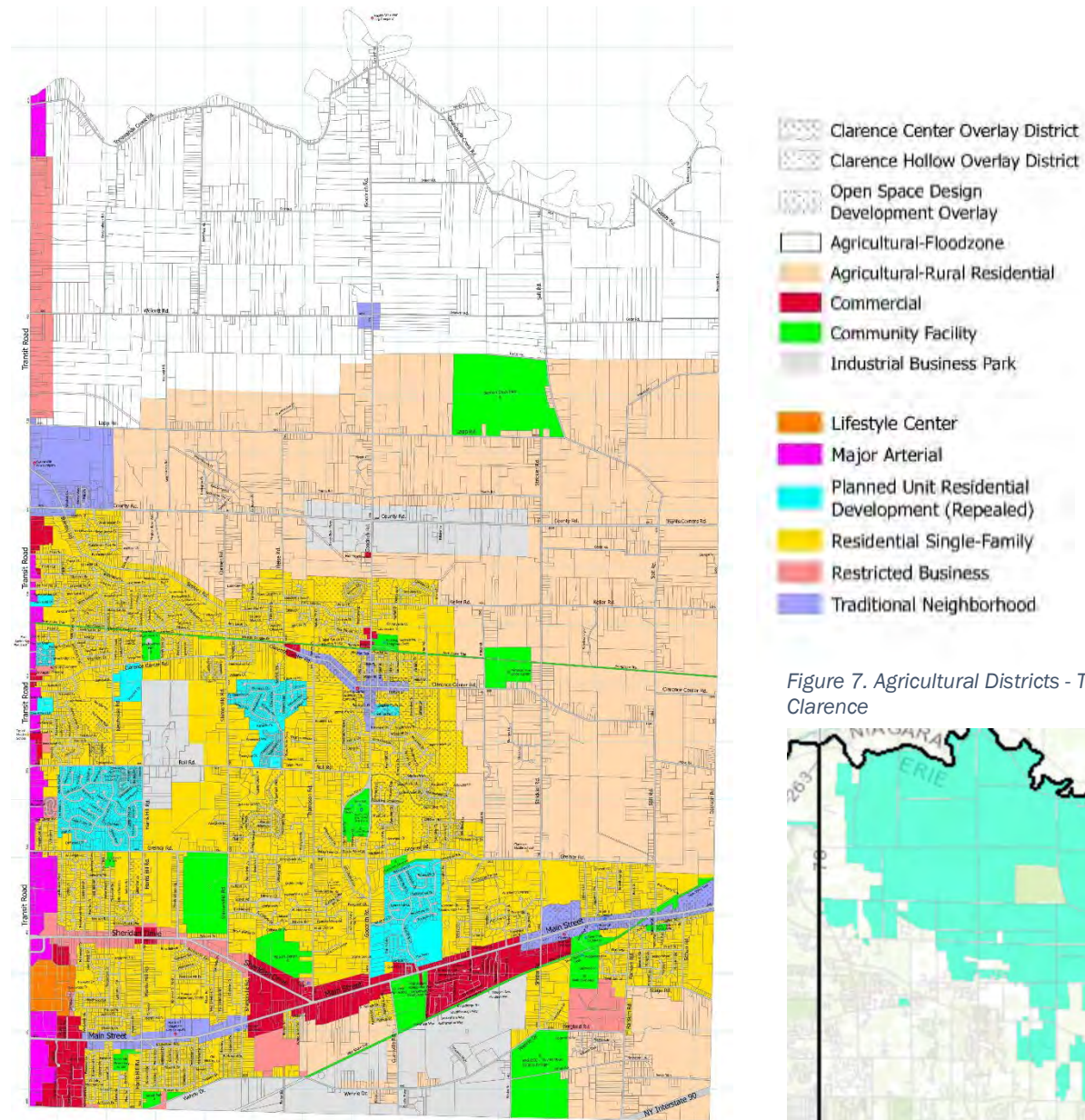
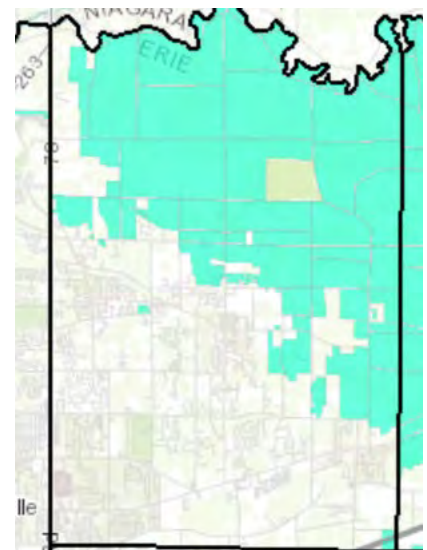


Figure 7. Agricultural Districts - Town of Clarence



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

Agricultural uses are permitted in the rural areas of the Town — the A-FZ, A-RR, and R-SF zoning districts, which encompass the agricultural areas of the Town. However, the permitted scale and intensity of agriculture varies across the three zones.

“Customary agricultural operations” are permitted uses in the A-RR zoning district and “Pre-existing agricultural operations” are permitted uses in the R-SF zoning district.

It should be noted that the Town’s Right to Farm law (Town Code §96-3) declares that agricultural practices may be undertaken in all areas of the Town.

b) *The definition of farming should be broad enough to include all types of farming*

The zoning regulations defines the following agricultural and agriculture-related terms:

- **AGRICULTURE OPERATION (CUSTOMARY)** - The raising or production for compensation, of crops, livestock, poultry, dairy products, fish or other wildlife, trees and other similar pursuits. Tree growing and harvesting, animal husbandry, horticulture operations, forestry operations and the sale, at wholesale or retail, of farm products upon the premises where the same are grown or produced shall be considered agriculture operations.
- **AGRICULTURAL SUPPORT SERVICES** - Includes, but shall not be limited to, barns, silos, sheds, coops, shops, commodity buildings, machine or equipment storage buildings, greenhouses, stables, riding rings or arenas, exercise tracks, runs, dry lots, stalls, paddocks, pens, corrals or fences, windmills, water supply ponds, farm stands, manure storage facilities, wineries or vineyards, maple sugaring facilities or other storage buildings, outbuildings or enclosures.
- **FARM** - Any parcel of land containing at least five acres which is used for economic gain in the raising of agriculture products, livestock, poultry, dairy products, and tree farms, including related accessory structures.

The definitions above are comprehensive and appear to encompass diverse farming activities.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

Agricultural Support Structures are permitted as accessory uses as-of-right in the three A-FZ, A-RR, and R-SF zoning districts. These structures are exempted from dimensional and citing requirements in the RSF zoning district, but not in the A-FZ and A-RR zoning districts.

d) *A special use permit should not be required for agricultural uses or farm practices.*

In the A-RR zoning district, “turf farming” is permitted by special use exception permit issued by the Town Board. §229-116 specifies that this permit requires a vote in favor by four members of the Town Board. The zoning regulations do not specify the criteria for approving a special use permit for turf farming beyond the general requirements for all special exception use permits: “Town Board may authorize and direct the issuance of a special exception use permit for uses that require certain mitigating conditions specific to

their design and/or operation. Such conditions ensure compatibility among building types so that different uses may be located in proximity to one another without adverse effects to neighboring residential uses and each other.” Turf farming is also referenced in the Town’s regulations on Excavations. The production of turf as an agricultural operation may be protected by NYS Agricultural Districts Law.

- ***Recommendation:*** Consider deleting the special exception use requirement for “turf farming” or specify review processes and criteria that are not unreasonably restrictive to farm operations in Agricultural Districts.

- e) Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.

2. Do land use regulations accommodate agriculture-related business on farms?

The definitions of “customary agricultural operations” includes “the sale, at wholesale or retail, of farm products upon the premises where the same are grown or produced.” “Agricultural support services,” which are permitted in the zoning districts where agriculture occurs permitted, also encompass a variety of related uses.

“Produce stands” are permitted in the Agricultural-Flood and Agricultural-Rural Residential zoning districts but limit sales to produce “grown on site.” This requirement may be unreasonably restrictive, as many farms produce products on multiple sites and may supplement their own products with those grown by other farms.

- ***Recommendation:*** Revise regulations for “roadside stands” to allow sales of farm products grown primarily by the farm that operates the roadside stand.

It should be noted that only existing agricultural uses are permitted in the R-SF zoning district. Restrictions on the expansion of Farm Operations subject to AML may be considered unreasonably restrictive by AGM.

3. Do land use regulations accommodate secondary business on farms?

Secondary businesses do not appear to be permitted, except as a “customary home occupation.”

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of agricultural impact is not a prerequisite for site plan approval.

5. How well do land use regulations direct development away from high quality farmland?

The Town’s zoning regulations permits residences, schools, and golf courses as-of-right in the same zoning districts that permit agriculture. There are also several uses that may be permitted subject to special exception use permit including personal services and places of worship greater than 10,000 square feet.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly considered in the subdivision regulations.

8. TOWN OF COLDEN

The Town of Colden zoning regulations are codified as Chapter 108 in the Town Code.

Most of the farms and land in certified Agricultural Districts (see figure below right) are within the AG Agriculture uses are permitted only in the Agricultural (AG) District.

Figure 10. Town of Colden Zoning Map

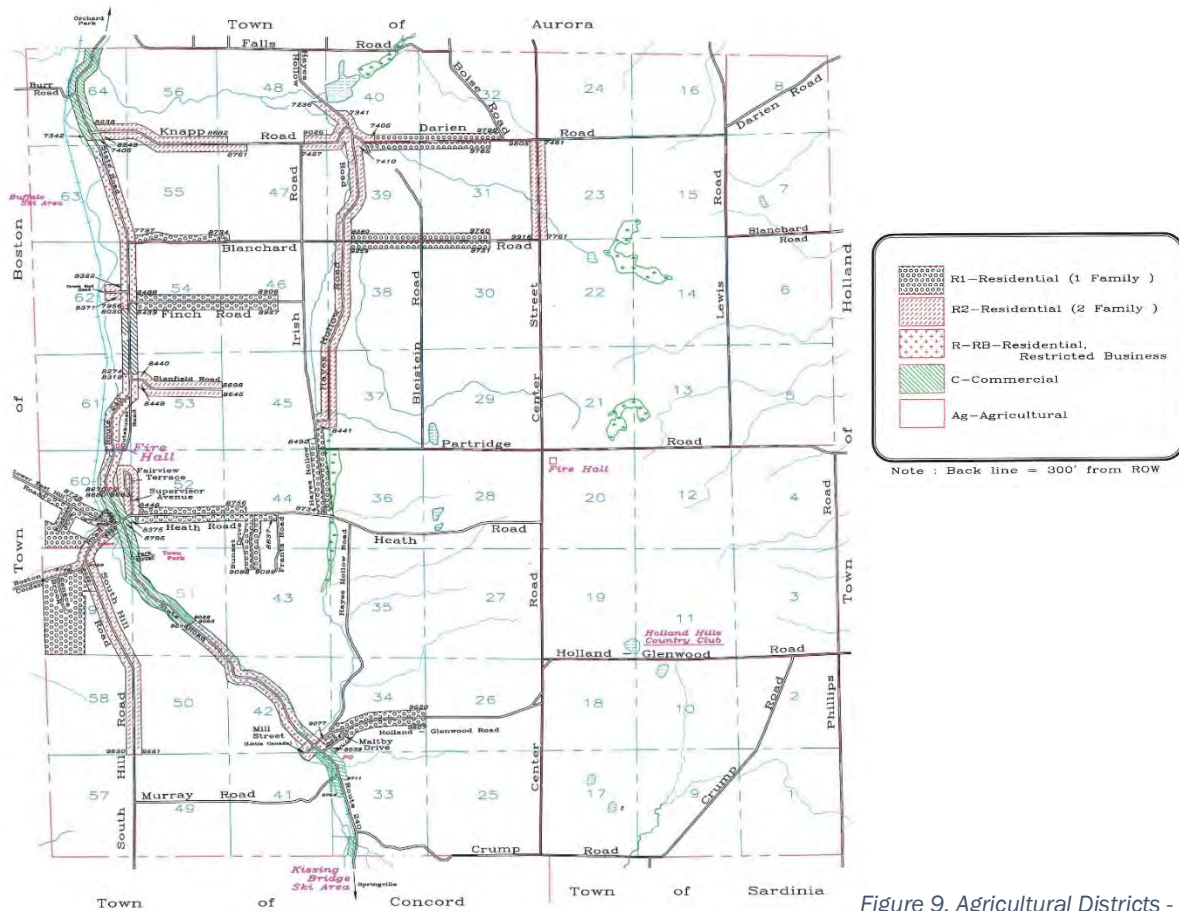
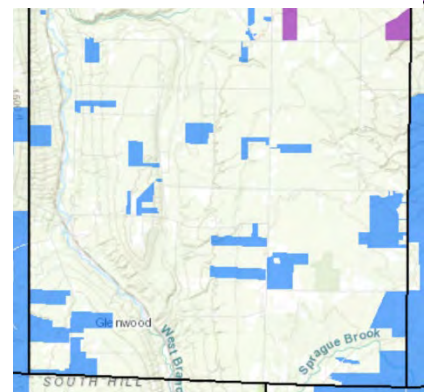


Figure 9. Agricultural Districts - Town of Colden



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

The list of permitted uses in the AG Agricultural zoning district includes:

- Agricultural, floricultural and horticultural pursuits, including but not limited to general farms, greenhouses, plant nurseries, truck gardens, dairy husbandry, animal husbandry and the raising of bees, poultry and livestock, together with all customary buildings and other structures necessary for the production and storage of the products of such pursuits, provided that no buildings, pens and runways for the confinement of livestock or poultry and no manure or other dust-producing substances shall be stored within 100 feet of any lot line; and
- Forest farming, including tree farming.

The AG district encompasses most of the land in the Town. Agricultural uses are not specifically allowed in the other zoning districts within the Town (SF-1, SF-2, R-RB and C). Portions of farm properties and land within the certified Agricultural Districts are located within these zoning districts, which extend 300 feet from many roadways in the Town.

b) *The definition of farming should be broad enough to include all types of farming*

There are no definitions for, or related to, agriculture and/or farming in Definitions section (§108-132) of the zoning regulations. However, the description of agriculture in the list of permitted uses is broad enough to include virtually all types of farming.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

The minimum lot size in the AG district is three acres and there does not appear to be relief for existing lots with less acres. Clarification should be provided on whether or not farming can occur on non-conforming lots.

The required 100-foot setback from lot lines for manure and dust-related nuisances may be unreasonable in specific circumstances, such as when the farm owns two adjacent lots. For parcels that are part of farm operations and protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

d) *A special use permit should not be required for agricultural uses or farm practices.*

The zoning regulations require a special use permit authorized by the Town Board for “Commercial horseback riding stables with trails on a minimum of 30 acres, with no portion thereof less than 100 feet from any lot line.” There are no specific criteria for this special use.

Special use permits are not required for other agricultural uses or farm practices.

e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Site plan review does not appear to apply to agricultural uses.

2. Do land use regulations accommodate agriculture-related business on farms?

Roadside stands or other buildings used for selling and/or displaying farm produce are permitted in the AG district as accessory uses. These buildings are limited to 600 square feet and must be set back at least 20 feet from the roadway. The size limit may be restrictive depending on the volume of produce someone may want to sell. The setback is reasonable considering sight lines and traffic speeds along roadways.

Other than roadside stands, the zoning regulations do not clearly permit other agriculture-related or agri-businesses on farms such as agri-tourism or small-scale packing or processing.

3. Do land use regulations accommodate non-agricultural secondary business on farms?

Non-agricultural secondary businesses are not permitted, except for home occupations.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval.

5. How well do land use regulations direct development away from high quality farmland?

The Colden zoning regulations permits residences, schools, and golf courses as-of-right in the AG District.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations.

9. TOWN OF COLLINS

The current Town of Collins zoning regulations are codified as Chapter 305 of the Town Code.

Agricultural uses are permitted in the Residential (R) and Residential-Agricultural (R-A) districts, which encompass most of the Town. Agricultural uses existing at the time of adoption of the Town's Wellhead Protection regulations (2009) are permitted to continue in the Wellhead Protection Overlay District.

Town of Collins Zoning Map



NEED ZONING MAP

1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted "as of right" in all areas of the Town where it occurs*

The list of permitted uses in both the R and R-A districts includes:

- Agricultural, floricultural and horticultural pursuits, including, but not limited to, general farms, greenhouses, plant nurseries, truck gardens, dairies, and the raising of bees, poultry, and livestock, together with all customary buildings and other structures necessary for the production and storage of the products of such pursuits
- Forest farming
- Riding stables, and the keeping of small animals, including fur-bearing animal farms; provided, however, that buildings, pens, or runways for the confinement of animals be at least 100 feet from any adjoining property line. The above distance restriction shall not apply to pasture or exercise tracks for horses.

of the municipality. However, buildings for keeping "hooved animals" are not permitted in the R district.

b) *The definition of farming should be broad enough to include all types of farming*

The zoning regulations define the following agriculture and agriculture-related terms:

- FARM - Any parcel of land which is used for the raising of agricultural products, livestock, poultry and dairy products by a resident owner or tenant as a primary source of income.
- FARM STRUCTURE - Any structure necessary to the operation of a farm and for the storage of farm equipment, except dwellings, garages used for the storage of non-farm vehicles, and roadside stands used for the sale of products raised on the premises.
- RIDING STABLE - The use of a lot, building, structure or lands for the pasturing, stabling, grooming, training, exercising, working, raising, shoeing, feeding, breeding, trail riding or riding of one or more horses, donkeys, ponies or mules, including any activity utilizing horses, donkeys, ponies or mules to haul wagons, sleds, buggies, carriages or similar equipment. A private stable may be operated for hire or open to the public.

The definition for “Farm” is broad and acknowledges both owner and tenant use of a property. Additionally, there is no minimum acreage requirement stated. Generally, these definitions encompass standard agriculture operations.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

In the R-A district, it appears that setback requirements apply to farm buildings as there is no explicit relief provided. However, farm structures are exempt from a maximum building height limit.

For parcels that are part of farm operations and protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

d) *A special use permit should not be required for agricultural uses or farm practices.*

Special use permits are not required for agricultural uses or farm practices.

e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Site plan review does not appear to apply to agricultural uses.

2. Do land use regulations accommodate agriculture-related business on farms?

Farm stands are permitted in both the R and R-A districts, subject to the following requirements:

"Farm stand" means permanent or nonpermanent structure that is owned and/or operated by a farmer which primarily sells agricultural products and related goods to the general public. Farm would consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

- The size of the retail portion of the farm stand must not exceed 600 square feet.
- At least 75% of the retail area must be utilized for the sale of agricultural, dairy or horticultural products. A minimum of 50% of the retail area utilized for agricultural products must be dedicated to products grown on lands owned or leased by the farmer.
- No more than 25% of the retail floor area can be utilized for the sale of complimentary goods.
- All agricultural, dairy or horticultural products to be sold must be produced in New York State.
- Farm stands can offer either harvested or customer-picked products.
- Minimum off-road parking requirements are one space for 100 square feet of retail floor space.
- Stand must be 40 feet from shoulder of road

3. Do land use regulations accommodate non-agricultural secondary business on farms?

Non-agricultural businesses are not permitted on farms, except as home occupations.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval or subdivision approval.

However, the Town's Right to Farm law (Chapter 160) specifies that all actions by Town officers and boards should consider the legislative intent and purposes of the Right to Farm law in the review of applications, including to "allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction." (§160-1.B)

5. How well do land use regulations direct development away from high quality farmland?

The Collins Town Code permits residences, schools, and hospitals as-of-right in the Rural Residential and Agricultural District.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations.

However, the Town's Right to Farm law (Chapter 160) specifies that all actions by Town officers and boards should consider the legislative intent and purposes of the Right to Farm law in the review of applications, including to "allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction." (§160-1.B)

10. TOWN OF CONCORD

The zoning regulations for the Town of Concord are codified as Chapter 150 of the Town Code.

Most of the Town's farmland and land in certified Agricultural Districts is zoned Residential-Agricultural (R-AG). The note on the map below indicates that "All lands are zoned R-AG unless otherwise noted."

Figure 11. Town of Concord Zoning Map

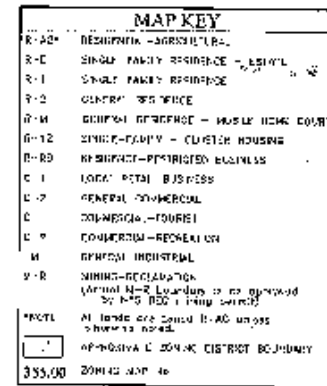
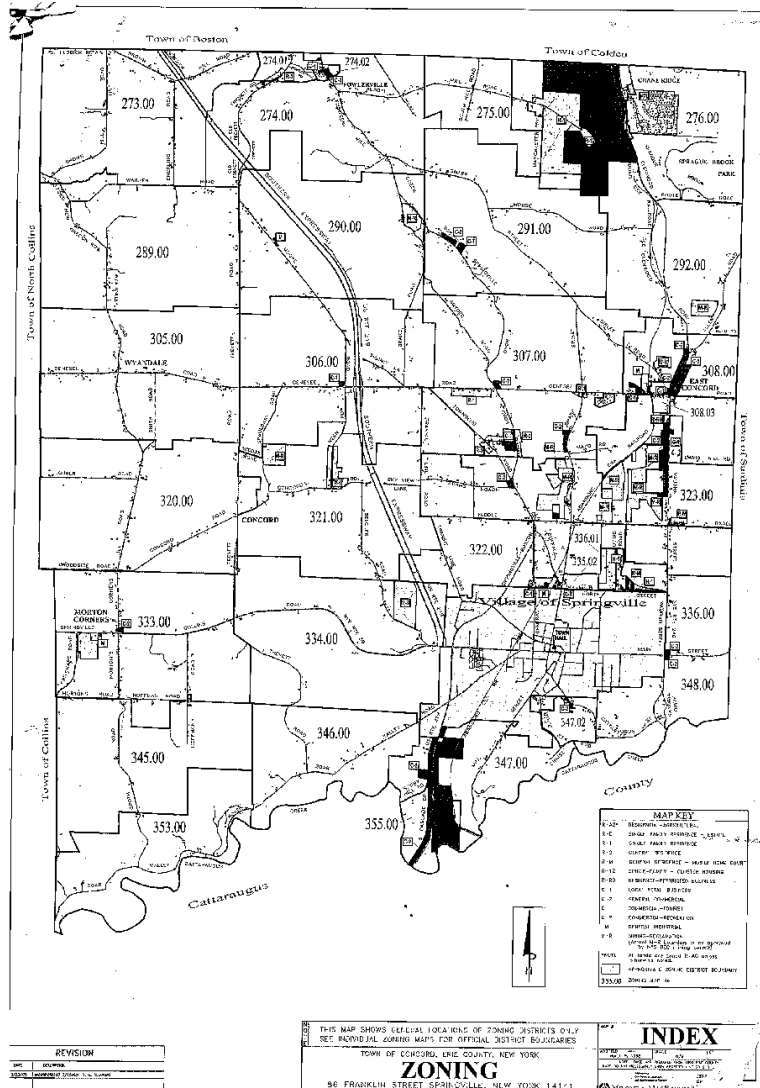
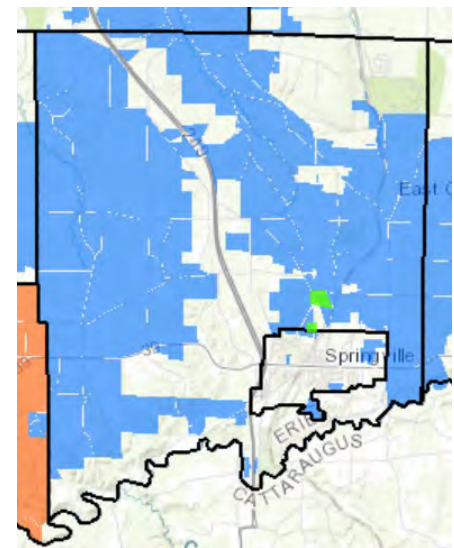


Figure 12. Agricultural Districts - Town of Concord



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

The list of permitted uses in the R-AG district, which encompasses virtually all of the Town’s agricultural lands, includes the following:

- Agricultural, floricultural and horticultural pursuits, including but not limited to general farms, greenhouses, plant nurseries, truck gardens, dairy husbandry, animal husbandry and the raising of bees, poultry and livestock, together with all customary buildings and other structures necessary for the production, processing and storage of the products of such pursuits. No manure or other odor- or dust-producing substances shall be stored within 100 feet of any lot line
- Nursery and farming

“Raising of fur-bearing animals” requires a special use permit from the Town Board.

Agricultural uses are not specifically permitted in any other zoning district. Private horticultural uses and the keeping of horses are permitted as accessory uses in some other zones.

Concord’s Right to Farm (RTF) regulations are embedded into the zoning regulations. The RTF regulations include definitions and a Right-to-Farm declaration. The RTF section of the zoning regulations states that, “farmers...may lawfully engage in agricultural practices within the Town of Concord at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture.”

b) *The definition of farming should be broad enough to include all types of farming*

There are no agricultural or farming related terms defined in the Definitions section of the zoning regulations. However, the description of agricultural practices in section, §150-47 Permitted uses and structures in the R-AG district, encompasses a broad range of agricultural activities.

As described at the beginning of this section, the municipality has embedded Right to Farm regulations within the zoning regulations, which include definitions. The included Right to Farm definitions are as follows:

- **AGRICULTURAL PRACTICES** - All activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and the on-farm production, processing and marketing of agricultural products, including, but not limited to, the collection, transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and pesticide application; storage and use of legally permitted fertilizers, limes and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use, and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock for the sale of agricultural products and for the use of a farm labor as permitted by local and

state building codes and regulations; including the construction and maintenance of fences.

- AGRICULTURAL PRODUCTS - Those products as defined in Section 301(2) of Article 25-AA of the Agriculture and Markets Law.
- FARM – The land, buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.
- FARMER – Any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur-bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.
- GENERALLY ACCEPTED AGRICULTURAL PRACTICES – Those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in the definition of "agricultural practices."
- RESOLUTION COMMITTEE - Made up of the Chairman of the Conservation Board or designee, and a member of one other standing committee of the Town designated by the Town Supervisor.

➤ ***Recommendation:*** Consider moving these definitions from the RTF section to the definitions section of the zoning regulations.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

In the R-AG district, it appears that setback requirements apply to farm buildings as there is no explicit relief provided. However, farm structures are exempt from a maximum building height limit.

Manure- and odor- producing uses are required to be 100 feet from a lot line. For parcels that are part of farm operations and protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

d) *A special use permit should not be required for agricultural uses or farm practices.*

Special use permits are not required for agricultural uses or farm practices, except for the "raising of fur-bearing animals."

e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Site plan review does not appear to apply to agricultural uses.

2. Do land use regulations accommodate agriculture-related and other business on farms?

"Structures necessary for the production, processing and storage" of agricultural products are permitted uses in the R-AG zoning district. Roadside stands and buildings for the sale and display of agricultural products are permitted accessory uses in the R-AG district, subject to compliance with requirements for setbacks (minimum 20 feet from the right-of-way) and size (maximum 600 sq. ft.)

Larger retail facilities do not appear to be permitted on farms, as commercial uses are not permitted uses in the R-AG zoning district.

3. Do land use regulations accommodate non-agricultural secondary businesses on farms?

Non-agricultural businesses may be permitted as a home occupation. However, other commercial and industrial uses are not permitted uses in the R-AG zoning district.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

The RTF section of the zoning regulations describes the requirement for Town officers/boards to consider the potential impacts of rezoning, subdivision, temporary conditional permit, site plan and/or special use permit applications on agricultural operations when the subject property is within one mile of an existing farm.

5. How well do land use regulations direct development away from high quality farmland?

The municipality's zoning regulations allow residences, schools, places of worship and other public facilities as permitted uses in the R-AG district.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

The RTF section of the zoning regulations requires Town officers/boards to consider the potential impacts of subdivision applications on agricultural operations when the subject property is within one mile of an existing farm.

11. TOWN OF EVANS

The Town of Evans Zoning regulations are codified as Chapter 200 of the Town Code. Agricultural uses are permitted in the Agricultural and Open Space (A-OS) (dark green in the map below) and Rural Agriculture (R-A) (pale green in the map below) Districts, which encompass the majority of the Town. Agriculture-related uses—private stable and horse farm, agricultural buildings and barns, keeping of chickens and bees—are also permitted in the Rural Residential (R-R) District, subject to criteria

The R-A District is bordered by I-90 on the east and the A-OS district on the south and is applied to lands west of Eden Evans Center Road and south of Wisconsin Road.

Figure 14. Town of Evans Zoning Map

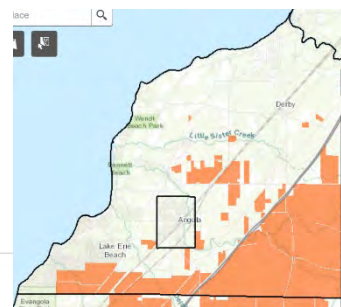
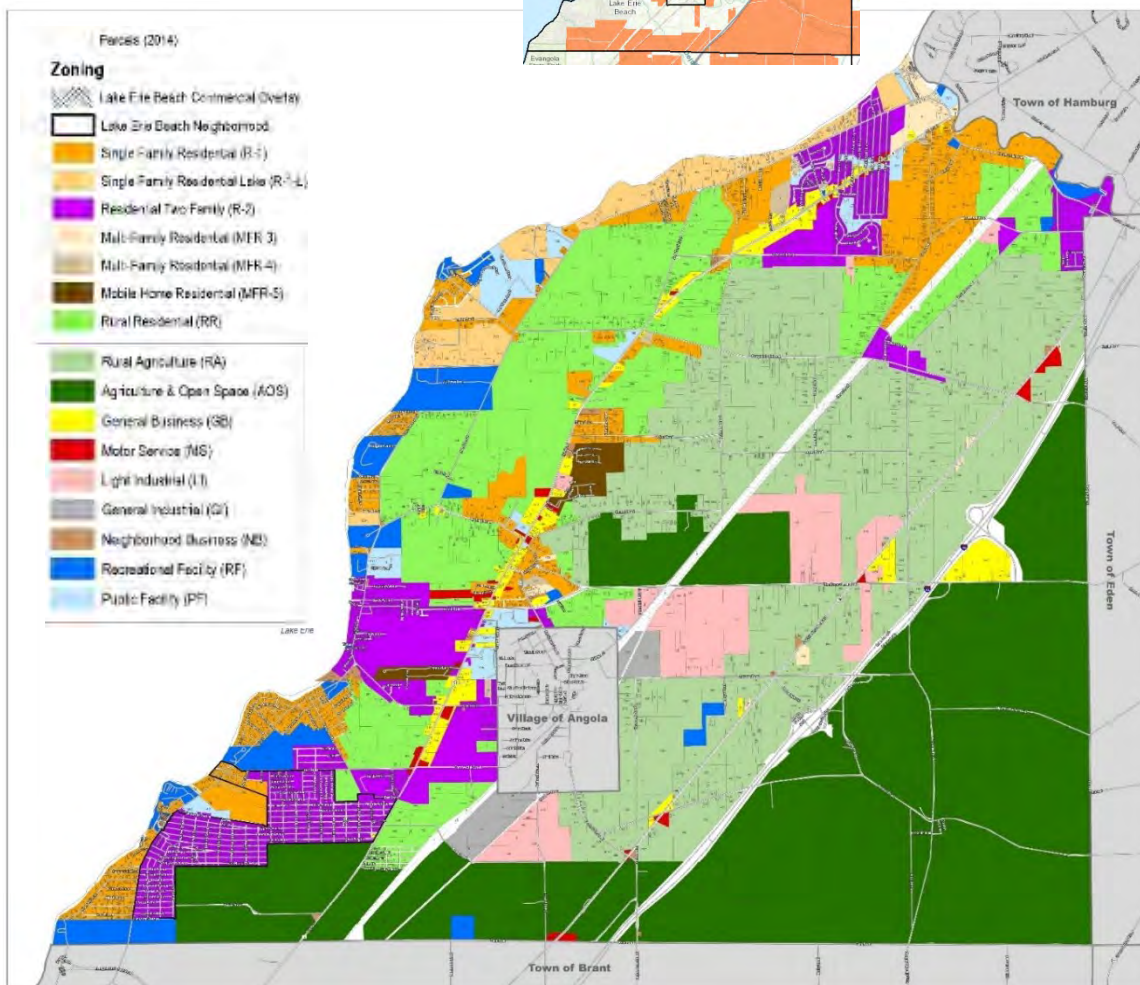


Figure 13. Agricultural Districts, Town of Evans

1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs.*

Uses permitted in both the A-OS and R-A zoning districts include:

- Agricultural, floricultural, aquaculture and horticultural pursuits, including but not limited to general farms and farm-related operations and industry, organic farming, greenhouses, plant nurseries, truck gardens, vineyards, dairy husbandry, animal husbandry and the raising of crops, bees, poultry, livestock and livestock products, together with all customary buildings and other structures necessary for the production and storage of the products of such pursuits.
- Wineries
- Public and private boarding stables and commercial horse boarding operations, provided that temporary manure storage facilities and other odor-, dust-, or nuisance-producing substances are stored at least 60 feet from any property line and 100 feet from any nearby residential structure. Temporary manure storage facilities shall be prohibited in front yard areas
- Farms equipped for horse training and/or horse breeding.
- Forestry, silviculture, farm woodland and tree-farming activities

Additional agricultural uses permitted in the A-OS district only are:

- Farmers market
- Agritourism uses and activities

It should be noted that Town’s right to farm provisions, which are incorporated into the Town’s zoning regulations as §200-8.3 of the Town Code, declare that agricultural practices may be undertaken in all areas of the Town that are reasonably necessary to conduct the business of agriculture.

b) *The definition of farming should be broad enough to include all types of farming*

The Zoning regulations define the following agricultural and agriculture-related terms:

- **AGRICULTURAL ACTIVITY or PRACTICE** - All activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and on-farm production, processing, and marketing of agricultural products, including but not limited to the collection, transportation, distribution, storage, and land application of animal wastes; storage, transportation, and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and government-certified pesticide application; storage and use of legally permitted fertilizers, limes and pesticides, all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products and livestock, for the sale of agricultural products, and for the use of farm labor,

as permitted by local and state building codes and regulations, including the construction and maintenance of fences.

- **CROPS, LIVESTOCK, AND LIVESTOCK PRODUCTS**
 - Shall include but not be limited to:
 1. Field crops, such as corn, wheat, oats, rye, barley, hay, potatoes and dry beans;
 2. Fruits, such as apples, peaches, grapes, cherries and berries;
 3. Vegetables, such as tomatoes, snap beans, cabbage, carrots, beets and onions;
 4. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers;
 5. Livestock, such as cattle, bulls, sheep, swine, goats, horses, donkeys, mules, ponies, farmed deer, llamas, buffalo, fur-bearing animals, and ratites (e.g., ostrich, emus, rheas and kiwis);
 6. Poultry, such as all domesticated and semidomesticated edible fowl, e.g., chickens, turkeys, ducks, guinea fowl, pheasant and pigeons;
 7. Maple sap;
 8. Christmas trees derived from a managed Christmas tree farm operation, whether dug for transplanting or cut from the stump;
 9. Aquaculture products, such as fish, fish products, water plants and shellfish; and
 10. Woody biomass, which means short-rotation woody crops raised for bioenergy or retail merchandising and woodland products.

The Town of Evans embeds the following additional definitions into the zoning district regulations for the A-OS and R-A Districts:

- **AGRICULTURAL BUILDINGS, STRUCTURES OR FACILITIES** - Shall include, but not be limited to, barns, silos, sheds, coops, shops, commodity buildings, farm machine or equipment storage buildings, greenhouses, stables, riding rings or arenas, exercise tracks, runs, dry lots, stalls, paddocks, pens, corrals or fences, windmills, water supply ponds, farm stands, manure storage facilities, wineries or vineyards, maple sugaring facilities or other storage buildings, outbuildings or enclosures.
- **AGRITOURISM** - Agricultural uses, such as farms, ranches and vineyards, that through promotion and advertising of facilities and activities seek to attract visitors, guests and vacationers.
- **ANIMAL** - Any animal, such as but not limited to poultry, birds, sheep, fish, cows, horses and other livestock.
- **BARN** – A building used for the housing and care of horses or other livestock and for the storage of feed, hay, other crops and farm or equine equipment and permitted uses accessory to those listed herein.
- **BOARDING STABLE** – A structure designed for the feeding, housing and exercising of horses not owned by the owner of the premises and for which the owner of the premises may receive compensation (see "horse farm").

- **COMMERCIAL HORSE BOARDING OPERATION** – An agricultural enterprise or farm operation consisting of at least five acres and boarding at least 10 horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually from fees generated through boarding, breeding, training and/or sale of horses and the production and/or sale of crops associated with such operation.
- **CORRAL** – A fenced enclosure used for the regular confinement of livestock.
- **FARM AUCTION** – The sale of agricultural property or products to the highest bidder.
- **FARM EQUIPMENT** – Equipment and machinery required for the active production of crops and keeping of livestock, and equipment actively utilized for other farm operations.
- **FARM or FARM OPERATION** – Land and on-farm buildings, farm dwellings, farm equipment and manure processing and handling facilities; equestrian and other equine pursuits, including but not limited to the raising, breeding, boarding, care, training and sale of horses; land uses for the production for sale of woodland products, including but not limited to logs, lumber, posts and firewood; and practices that contribute to the production, preparation and marketing of crops, horticultural products, livestock and livestock products as an enterprise, whether for profit or otherwise. Such farm operation may consist of one or more parcels of owned or rented land, with the parcels being contiguous or noncontiguous to each other.
- **HORSE FARM** – A farm primarily used for the breeding and boarding of horses (see "boarding stable").
- **ORGANIC FARMING** – A farming production system that avoids or largely excludes the use of synthetically compounded fertilizers, pesticides, growth regulators and livestock feed additives. Such systems rely on crop rotations, crop residues, animal manures, legumes, green manures, off-farm organic wastes, mechanical cultivation, mineral-bearing rocks and aspects of biological pest control to maintain soil productivity and tilth, to supply plant nutrients and to control insects, weeds and other pests.
- **PADDOCK** – A fenced area for turn out and/or exercising of animals.
- **PASTURE** – An area used seasonally for grazing animals.
- **RIDING ACADEMY** – An enterprise where horses may be boarded and cared for, offering instruction in riding, jumping and showing horses and/or horseback riding to the general public and/or to individuals that do not own or have a long-term lease for the horse that is boarded or otherwise kept and used at the facility for such riding.
- **RIDING ARENA** – An enclosed area or structure for equestrian training, shows and/or entertainment.
- **SILVICULTURE** – A branch of forestry dealing with the care and development of forests.
- **STALL** – An enclosure provided and designed for the feeding and housing of one horse.
- **WORKING DOG** – Any of various breeds of dogs developed and trained to do useful work, such as herding animals, pulling wagons or sleds, rescue activities, guarding property or guiding the blind.

Within the Town's zoning code, §200.8.5 Agritourism and agribusiness enterprises includes its own set of enterprises that has its own defined terms:

- **AGRIBUSINESS** – An agribusiness is an enterprise operated as an accessory use to an active farm on the same premises, providing products or services principally utilized in agricultural production, including structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, or the sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations, and including breweries, cideries, distilleries, wineries, and juice production that are not otherwise specifically defined as a farm operation.
- **AGRICULTURAL BUILDINGS, STRUCTURES OR FACILITIES** – A building, structure, or facility directly and customarily associated with agricultural use.
- **AGRITOURISM** – Agricultural uses that seek to attract visitors, guests and vacationers through the promotion and advertising of facilities and activities related to recreational, education, and entertainment activities. Agritourism uses are incidental and subordinate to an existing, active farm operation, are intended to supplement farm income and economic viability and are conducted to enhance the public's understanding, awareness, and enjoyment of farming and farm life. This would include, but not be limited to, activities such as petting zoos, hayrides, corn mazes, U-pick activities, horticulture, sugar shacks, agricultural education tours, and other such recreational activities and educational demonstrations.
- **CANNABIS MICROBUSINESS** – An enterprise that is licensed by the New York State Office of Cannabis Management (NYSOCM) to act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor and a cannabis retailer under the New York State Marihuana Regulation and Taxation Act (MRTA); provided such licensee complies with all requirements imposed by the MRTA and NYSOCM on licensed producers, processors, distributors and retailers to the extent the licensee engages in such activities.
- **FARM BREWERY** – An enterprise engaged in the production and sale of beer, operated as an accessory use to an active farm operation on the same premises, licensed and regulated as a farm brewery by the State of New York, and including as subsidiary activities the sale of gifts, clothing, beverage tastings, prepared foods and other items that promote the sale of agricultural products.
- **FARM CIDER** – An enterprise engaged in the production and sale of cider, operated as an accessory use to an active farm operation on the same premises, licensed and regulated as a farm cidery by the State of New York, and including as subsidiary activities the sale of gifts, clothing, beverage tastings, prepared foods and other items that promote the sale of agricultural products.
- **FARM DISTILLERY** – An enterprise engaged in the production and sale of liquor, operated as an accessory use to an active farm operation on the same premises, licensed and regulated as a farm distillery by the State of New York, and including as subsidiary activities the sale of gifts, clothing, beverage tastings, prepared foods and other items that promote the sale of agricultural products.

- FARM MARKET – A permanent structure, with or without appurtenant open-display area, for the retail and wholesale sale of agricultural produce and other natural, processed, or manufactured food products which are directly linked to and promote the use and sale of agricultural products.
- FARM MEADERY – An enterprise engaged in the production and sale of mead, operated as an accessory use to an active farm operation on the same premises, licensed and regulated as a farm meadery the State of New York, and including as subsidiary activities the sale of gifts, clothing, beverage tastings, prepared foods and other items that promote the sale of agricultural products.
- FARM WINERY – An enterprise engaged in the production and sale of wine, brandies distilled as the by-product of wine or other fruits, or fruit juice, operated as an accessory use to an active farm operation on the same premises, licensed and regulated as a farm winery by the State of New York, and including as subsidiary activities the sale of gifts, clothing, beverage tastings, prepared foods, food and drink service, and other items that promote the sale of agricultural products.
- ON-FARM COMMERCIAL PROCESSING – The production or processing of whole fruit and vegetables, baked cakes, muffins, pies or cookies, candy, jellies, jams, preserves, marmalades, and fruit butters, cheeses, butters, and other milk-derived products, meats and meat products and other foodstuffs, as regulated by state and federal law, for wholesale or retail sale, and operated as an accessory use to an active farm operation engaged in the production, preparation and marketing of crops, animal husbandry, livestock and livestock products as a commercial enterprise.
- ROADSIDE STAND - A temporary structure or permanent accessory structure, wagon, or trailer, from which agricultural products produced on-site may be sold seasonally.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

Depending on the use, setbacks from lot lines and lot size requirements may be in place to minimize odor and noise concerns, and direct manure storage away from water sources. The Town Code is specific in its application of setbacks. There are also setbacks for roadside stands to minimize sightline issues or concerns pertaining to vehicular traffic along roads. Setbacks and lot size requirements should be reviewed for consistency with AML, although it should be noted that consistency is not required for lands not in a NYS Agricultural District

For Farm Operations protected by AML, setbacks from lot lines may be considered unreasonably restrictive if they do not directly relate to health and safety.

d) *A special use permit should not be required for agricultural uses or farm practices.*

Special use permits are not required for typical agricultural uses or farm practices, but are required for related uses including offices, farm auction activities, and farm equipment sales and storage.

- e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Agricultural uses and facilities are not subject to site plan review.

2. Do land use regulations accommodate agriculture-related and other business on farms?

There are a variety of agriculture-related and other business uses permitted in the Town's agricultural districts. Of the municipalities reviewed as part of this evaluation, the Town of Evans has the most comprehensive list of defined terms, uses, and regulations.

3. Do land use regulations include considerations of agricultural impacts as part of development review?

The Town of Evans has an active Agricultural Advisory Committee that is tasked with reviewing zoning amendments, policy changes, and development that may affect farms in the Town's agricultural zoning districts. It is this Committee's responsibility to advise on the implications of proposal and whether adverse effects may result. Such a committee does not exist in the other municipalities reviewed as part of this analysis.

4. How well do land use regulations direct development away from high quality farmland?

Evans limits permitted uses in the A-OS a to primarily agriculture and agriculture-related although single-family detached dwellings are also permitted. The RA District is less rigid.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

Based on the scope of the Agricultural Advisory Committee, proposed subdivisions would be reviewed and commented on.

12. TOWN OF EDEN

The Town of Eden zoning regulations are codified as [Chapter 225](#) of the Town Code.

Most of the Town's agricultural land and land in certified Agricultural Districts (see figure below) is within the AG-Agricultural Priority, RR-Rural Residential or R-2 – Neighborhood Residential zoning districts.

Figure 16. Town of Eden Zoning Map

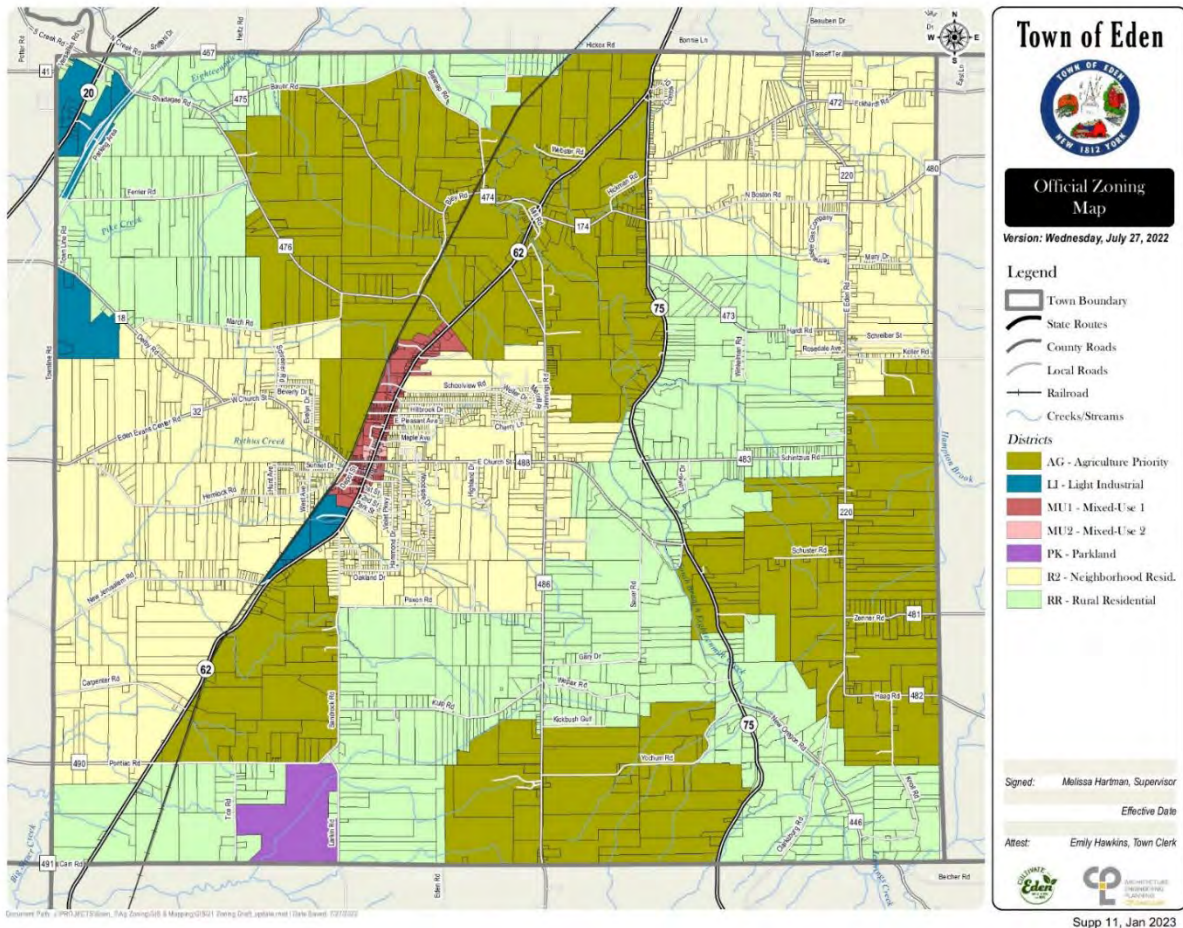
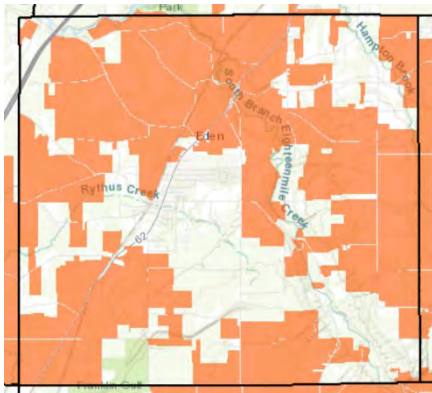


Figure 15. Agricultural Districts - Town of Eden



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

“Commercial farming” is listed as a permitted use in the AP, RR and PK zoning districts. However, “Commercial farming” in the R-2 district requires a special use permit from the Town Board, subject to general criteria that apply to all special use permits, a public hearing, and the specific criteria:

- Commercial farming. Operations and accessory uses thereto shall have no stable or similar animal housing or the storage of manure or other odor- or dust-producing substance or use, except spraying and dusting to protect vegetation, within 50 feet of any lot line.
- Livestock and animal husbandry. The keeping, breeding and raising of cattle (including dairies), sheep, goats, pigs and horses and rental of horses shall be on lots a minimum of 20 acres or more. The keeping, breeding and raising of fowl shall be on lots a minimum of five acres or more.

In addition, “Agricultural accessory uses” are permitted as follows:

- Agricultural accessory uses. Barns, silos and produce storage and packing warehouses, and other such similar incidental and supporting structures associated with agricultural operations, provided that such accessory buildings shall conform to the yard requirements for principal buildings.

While zoning regulations may limit farming in certain zoning districts, the Town’s Right to Farm Law (Chapter 106, Farming) states:

- Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Eden at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture.

b) *The definition of farming should be broad enough to include all types of farming*

The zoning regulations define the following agriculture and agriculture-related terms:

- AGRICULTURE or COMMERCIAL FARMING - The commercial cultivation of soil for food products or other useful or valuable growths in the field or garden, exclusive of facilities for display of products and marketing on the premises, whether wholesale or resale. Agriculture shall be deemed also to include those uses further outlined in NYS Agriculture and Markets Law § 301, including, but not limited to, maple sap, timber operations, horticulture, livestock and livestock products, field crops, and fruits.
- HOBBY FARM - Any use accessory to the principal use in which property owners are engaged in personal farming activities and are not involved in commercial operations or retail sales as a means of primary income.
- LIVESTOCK - Animals, including but not limited to domestic animals, such as sheep, horses, cattle and goats.

- RETAIL SALES, AGRICULTURAL PRODUCTS - Facility for seasonal or year-round sales of agricultural products predominantly grown or raised on the site or other properties owned or leased by the farm operator and pre-packaged goods processed from on-site agricultural production. Facilities for the on-site preparation/processing of such products may be included.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

Regulations for Agricultural uses (§225-13.A.) specify a minimum lot size of five acres and minimum setback requirements (50 feet front setback and 35 feet side and rear setback) and a maximum of 35 feet in height for agricultural structures in the AP, RR and R2 districts. Additionally, a minimum lot size of 20 acres is required for “keeping, breeding and raising of cattle, sheep, goats, pigs or horses” (§225-13.B.) and a minimum of five acres for “keeping, breeding and raising of fowl.” provides further regulations relating to the storage of manure and keeping of hooved animals.

For parcels that are part of farm operations and protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

d) *A special use permit should not be required for agricultural uses or farm practices.*

As per section §225-10, a special use permit from the Town Board is required for “commercial farming” and for “livestock and animal husbandry” in the R2 and LI districts. There do not appear to be specific special use permit criteria for these uses.

- ***Recommendation:***

- *Remove the requirement that commercial farming in the R-2 District require a special use permit from the Town Board. The specified criteria can be enforced by the Town as appropriate without requiring the farmer to apply for a special use permit.*

e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

As per §225-10.D., agricultural uses and facilities are not subject to site plan review.

2. Do land use regulations accommodate agriculture-related and other business on farms?

Agricultural accessory uses, including barns, silos and produce storage and packing warehouses, are permitted as accessory uses subject to compliance with the dimensional requirements for principal buildings and structures.

“Retail agricultural sales” as a principal uses are permitted uses in the AP and RR zoning districts, and allowed with a special use permit from the Town Board in the R2 and LI districts. Based on the definition of “Retail sales, Agricultural Products, “Facilities for the on-site preparation/processing of such products may be included.”

Farm stands are also permitted as an accessory use in the AP, RR, and R2 zoning districts subject to floor area and setback requirements.

Home occupations, Mobile food units and food-based agricultural processing/production uses are permitted uses in the AP and LI zoning districts.

3. Do land use regulations accommodate non-agriculture-related secondary business on farms?

As a variety of business uses are permitted in the AP and __ zoning districts, these secondary businesses may be permitted for farm parcels located in these districts .

Home occupations are also permitted accessory uses.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval or subdivision approval, however, applications are reviewed against *Cultivate Eden: Town of Eden Comprehensive Plan Update* which has regards for protection of agriculture.

5. How well do land use regulations direct development away from high quality farmland?

The Eden zoning regulations permits residences, schools, and places of worship as-of-right in the PK, AP and RR districts. Without explicitly including impacts to agricultural lands/operations in the evaluation criteria, it could be perceived that such impacts do not need to be evaluated.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations. However, as described in #3 above, applications are reviewed against *Cultivate Eden: Town of Eden Comprehensive Plan Update* which has regards for protection of agriculture.

13. TOWN OF ELMA

The Town of Elma zoning regulations are codified as Chapter 144 of the Town Code. Farms and land in certified Agricultural Districts are located in Residential C and Agricultural Zone (white in the map below.)

Figure 17. Agricultural Districts, Town of Elma

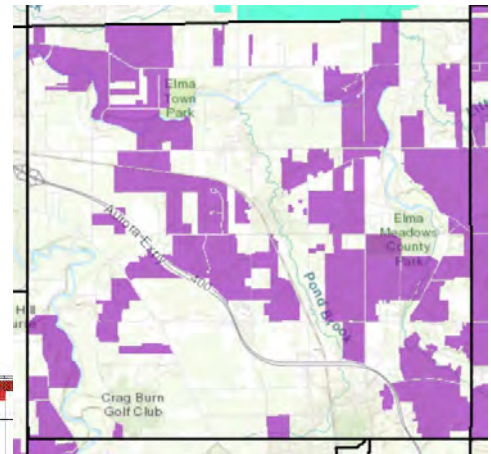
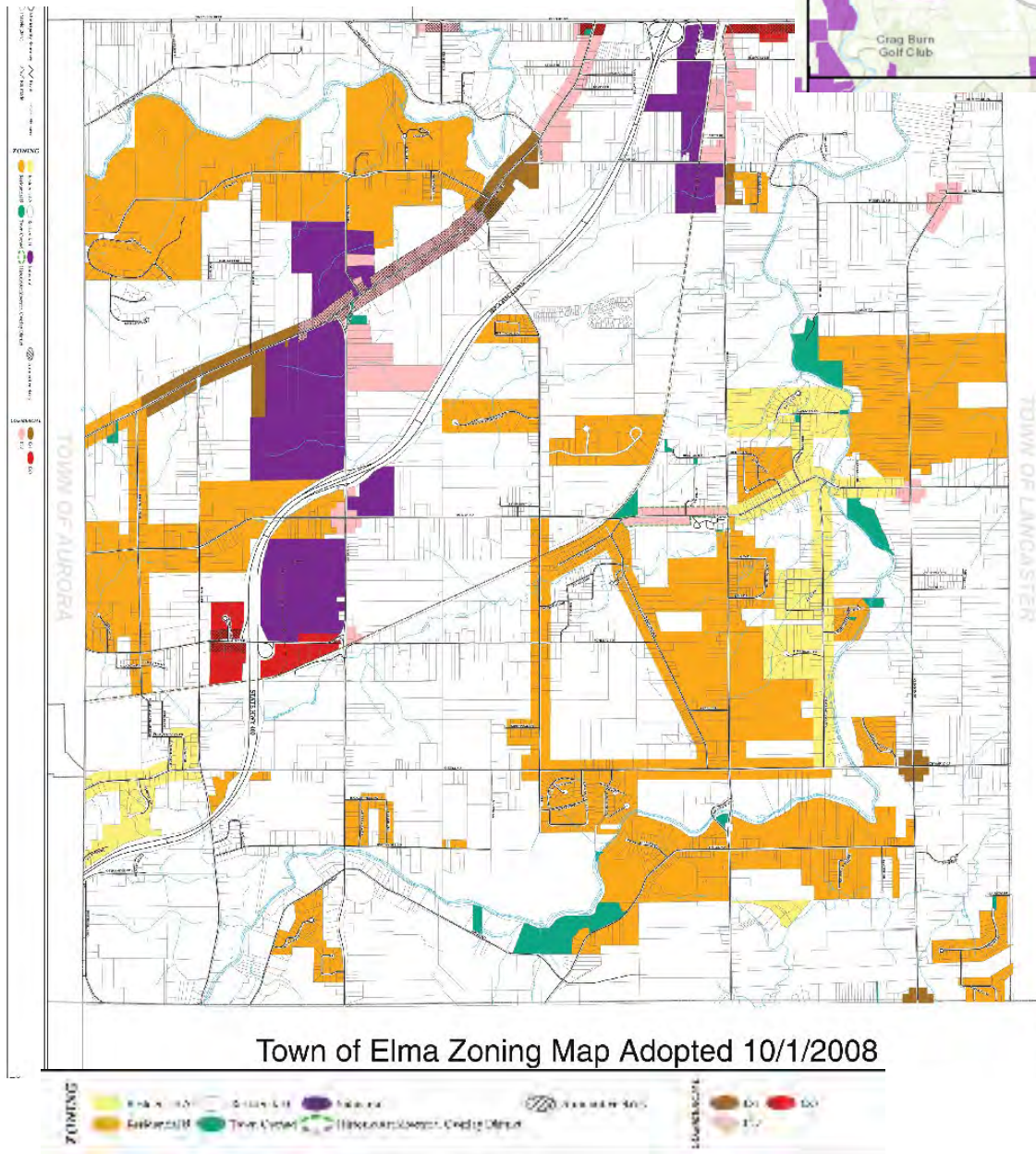


Figure 18. Town of Elma Zoning Districts



Town of Elma Zoning Map

1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

Permitted uses in the “Residential C and Agriculture Zone” include:

- Any building, structure or premises used, and any building or structure erected, on any one lot intended and designed as a private residence to accommodate not more than two families, a farm building, greenhouse, library, church, school, park or playground.
- Riding or boarding stables, kennels and fur farms are subject to the filing, with the Zoning Board of Appeals, written unanimous consent of all property owners within a radius of 1,000 feet of the lot on which such riding or boarding stable, kennel or fur farm is proposed

§144-65 specifies that a building permit is required for agricultural structures:

- Building permits shall be required for the erection, construction or alteration of any building or structure to be used for customary agricultural purposes. The location of any building or structure shall be governed by the regulations limiting height, bulk and arrangement of buildings.

➤ **Recommendation:** Clarify that use of land for agriculture is a permitted use in the “Residential C and Agriculture Zone.

b) *The definition of farming should be broad enough to include all types of farming*

The municipality’s zoning regulations defines the following agriculture and agriculture-related term:

- FARM - Any parcel of land which is used primarily for the raising of agricultural products, including fruits, vegetables, dairying, livestock, poultry, eggs or meat, together with the necessary buildings and equipment which houses such birds, animals or crops and necessary buildings for the storage and housing, processing, packaging or other processes necessary for the conduct of an individual farm business.

While this definition is broad and includes various forms of agriculture as well as related buildings.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

§144.99 prescribes lot development standards of buildings and structures in the Residential C and Agricultural Zone, which farm buildings are subject to. For buildings housing animals, the setbacks from property lines are slightly higher than buildings not housing animals.

For parcels that are part of farm operations and protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

d) *A special use permit should not be required for agricultural uses or farm practices.*

Special use permits are not required for agricultural uses or farm practices.

- e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

As per Town Code §117-1. Site Plan Review, agricultural uses are not subject to site plan review.

2. Do land use regulations accommodate agriculture-related and other business on farms?

Farm produce stands and agricultural accessory uses are permitted accessory uses in the Residential C and Agriculture Zone. §144-70 describes agricultural accessory uses as:

- Farm truck garden, dairy, nursery or greenhouse and all other customary incidental agricultural occupations are permissible, such as, without thereby limiting the generality of the foregoing, the housing of livestock regularly maintained on such farm, farm equipment and crops or supplies; the making of cider; the bottling of milk and cream produced on the premises from livestock on such farm when approved by the County Department of Health; the cold storage of farm produce produced upon said farm, together with the use of structures for these and similar purposes.

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval, however, applications are reviewed against the *Town of Elma 2018 Comprehensive Plan Update*, which has regards for protection of agriculture.

4. How well do land use regulations direct development away from high quality farmland?

The municipality's zoning regulations permits residences, schools, and places of worship as-of-right Residential C and Agriculture Zone. Without explicitly including impacts to agricultural lands/operations in the evaluation criteria, it could be perceived that such impacts do not need to be evaluated.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

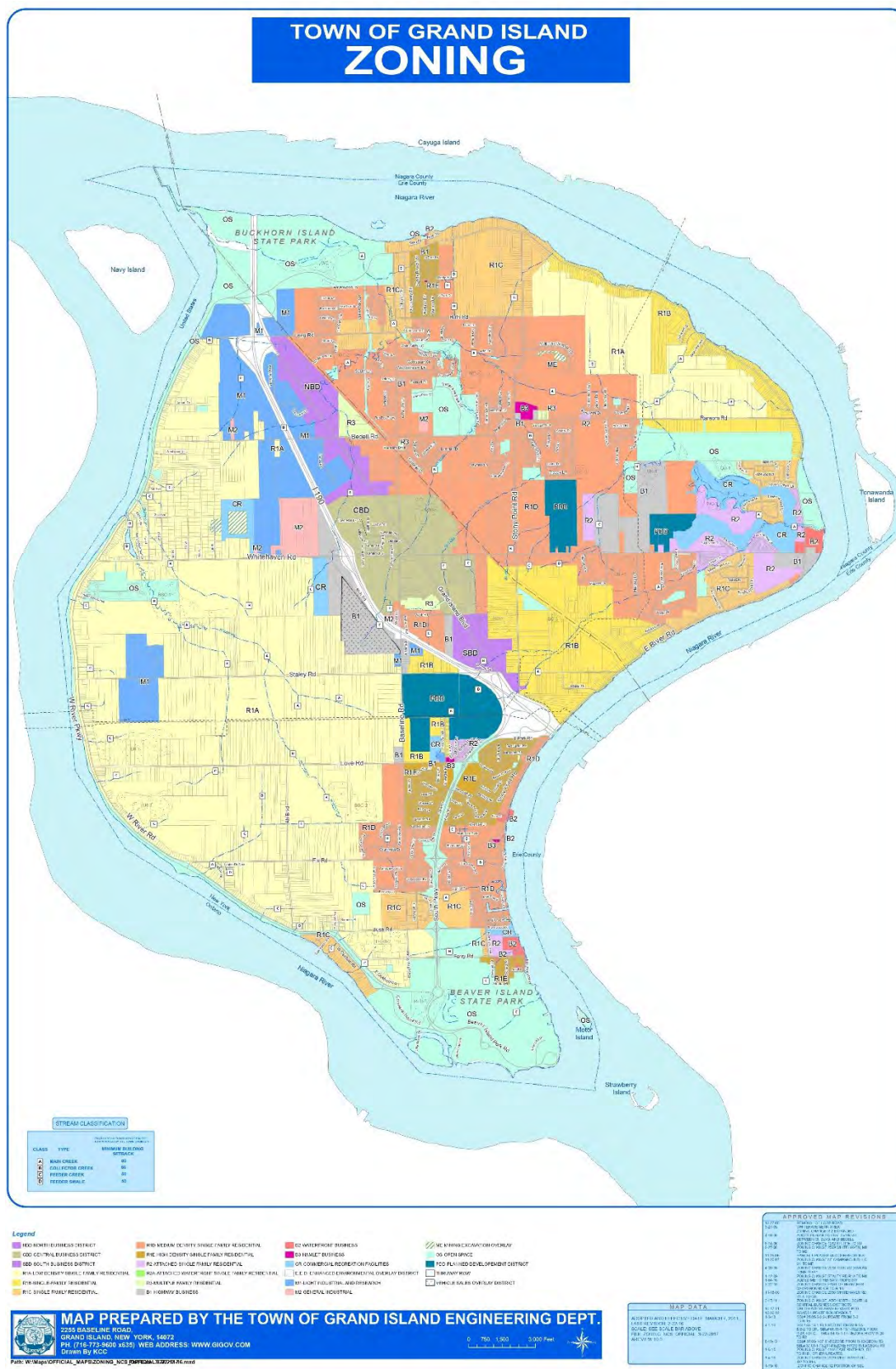
Farm operations are not explicitly mentioned in the subdivision regulations. However, as described in #3 above, applications are reviewed against the *Town of Elma 2018 Comprehensive Plan Update* which has regards for protection of agriculture.

Recommendations:

14. TOWN OF GRAND ISLAND

The Town of Grand Island's current zoning regulations was adopted in July 2004 with various amendments undertaken since. Agriculture uses are permitted in the Low-Density Single-Family Residential (R-1A) District, Single-Family Residential (R-1B) District, Single-Family Residential (R-1C) District, Medium-Density Single-Family Residential (R-1D) District, High-Density Single-Family, Residential (R-1E) District, and Open Space (OS) District. The municipality also has two overlay districts, both of which permit underlying agricultural uses: Enhanced Environment (EED) Overlay District and Vehicle Sales Overlay District. These zones cover much of the municipality and include shorelines, and lots of varying shapes and sizes.

Town of Grand Island Zoning Map



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

Agriculture uses are permitted in the Low-Density Single-Family Residential (R-1A) District, Single-Family Residential (R-1B) District, Single-Family Residential (R-1C) District, Medium-Density Single-Family Residential (R-1D) District, High-Density Single-Family, Residential (R-1E) District, and Open Space (OS) District. Agriculture uses are also permitted in the EED and Vehicle Sales Overlay Districts when permitted in the underlying zone.

The permitted use sections of the above-mentioned districts refer back to the permitted uses of the previous district rather than prescribe separate permitted uses. For instance, the permitted uses of the R-1C district indicate that permitted uses are those that are in the R-1B district. This approach can be confusing and result in contradictory provisions. For instance, §407-144 acknowledges that agricultural animal special use permits are required for the keeping of up to 10 agricultural animals in the R-1B, R-1C, and R-1D districts. The permitted use provisions of the R-1E district tie back to those of the R-1D district but the R-1E district is not mentioned in §407-144.

b) *The definition of farming should be broad enough to include all types of farming*

The municipality's zoning regulations defines the following agriculture and agriculture-related terms:

- AGRICULTURAL ANIMAL PERMIT - A permit issued in accordance with the provisions of § 407-144 of the Town Code.
- AGRICULTURAL ANIMALS - Animals normally found on farms including horses, cattle, poultry, swine, goats, sheep, mules and donkeys, but not including chickens or domestic animals such as dogs and cats.
- AGRICULTURAL USE - The commercial cultivation of the soil for food products or other useful or valuable growths of the field, garden or tillage. It includes necessary structures appurtenant to such use. This definition shall not include dairying or raising of livestock, fowl or other animals, which is only allowed pursuant to the rules for agricultural animals.

There are also agriculture and agriculture-related definitions in Chapter 145 Farming:

- AGRICULTURAL PRACTICES - Those practices necessary for the production, preparation, and marketing of agricultural products. Examples of such practices include, but are not limited to, operation of farm equipment on and off-site, proper use of agricultural chemicals and other crop protection methods, direct sales to consumers of agricultural products produced on-site, agricultural tourism, and construction and use of farm structures and fences.
- AGRICULTURAL PRODUCTS - Those products as defined in § 301(2) of Article 25-AA of the State Agriculture and Markets Law, including, but not limited to:
 - Field crops, including corn, wheat, rye, barley, hay, potatoes, soybeans and dry beans.
 - Fruits, including apples, peaches, grapes, cherries, and berries.

- Vegetables, including tomatoes, beans, cabbage, carrots, beets, and onions.
 - Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees, and flowers.
 - Vineyards and wineries.
 - 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.
 - Aquaculture products, including fish, fish products, water plants and shellfish.
 - Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs (small honey bee colonies created from larger colonies including the nuc box), and queens.
 - Actively managed log-grown woodland mushrooms.
 - Industrial hemp and hemp products.
 - Maple sap.
 - Christmas trees derived from a managed Christmas tree operation, whether dug for transplanting or cut from the stump.
 - Woody biomass which means short rotation woody crops raised for bioenergy and shall not include farm woodland.
 - Woodland products, including, but not limited to, logs, lumber, posts, and firewood.
- FARM or FARMLAND - The land, including buildings and equipment, which is used in the production, whether for profit or otherwise, of agricultural goods and services, including but not limited to, cultivation, raising of crops or livestock, poultry, dairy pursuits, equestrian and other equine activities, timber harvesting, or the practicing of horticulture or keeping of bees, without reference to its extent or the tenure by which it is held. Such farm or farmland may consist of parcels that are contiguous or noncontiguous.
 - FARMER - Any person, organization, entity, association, partnership, limited liability company, or corporation engaged in agricultural practices, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.
 - FARM OPERATION - 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, and other agricultural products as a commercial or noncommercial enterprise. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.
 - FARM WOODLAND - Includes land used for production and sale of woodland products, including, but not limited to, logs, lumber, posts, and firewood.

There are discrepancies between the definitions used in the zoning regulations section and the farming chapter. For consistency, it's recommended that the definitions used in the farming chapter be carried forward to the zoning regulations section.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

In the R-1B, R-1C, R-1D and R-1E districts, agricultural uses are only permitted on lots that are at least five acres in size. In §407-145 Agricultural Uses, it is stated that agricultural uses shall be conducted on a minimum three-acre lot. It's recommended that clarification be provided on what lot size is required by the municipality for agricultural uses to occur.

§407-145 Agricultural Uses also contains regulations for farms, fowl, and poultry that require setbacks for the storage of manure and other odor/dust producing substance, which are reasonable and grounded in health and safety practices.

For parcels that are part of farm operations and protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

- d) *A special use permit should not be required for agricultural uses or farm practices.*

The keeping of up to ten agricultural animals and/or any number of chickens requires agricultural animal permit and/or chicken permit approval in the R-1A District.

In the R-1B, R-1C and R-1D districts, the keeping of up to ten agricultural animals requires special permit approval, and the keeping of any number of chickens requires chicken permit approval. In the R-1E district, the keeping of any number of chickens would require chicken permit approval.

- e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

§407-107 Required Site Plan Review does not explicitly exempt agricultural uses and facilities from this process. Generally, agricultural facilities would not be expected to go through this process. Commercial and industrial facilities as part of a farm operation may be subject to site plan review and approval, which is a reasonable approach. The Site Plan Review requirement for these uses would be overly restrictive if applied in a way that is unreasonably burdensome without a basis in health and safety. (See the guidance documents prepared by NYS Ag & Markets for review of local laws relating to: direct farm marketing; wineries, breweries, cideries and distilleries; greenhouses; nutrient management systems; and farmworker housing.) When reviewing site plan proposals for agricultural uses within a certified Agricultural District, the Planning Board will need to ensure that the process the conditions imposed through site plan review are not overly burdensome.

2. Do land use regulations accommodate agriculture-related and other business on farms?

The municipality's zoning regulations does not appear to permit agriculture-related uses. It is recommended that the municipality consider incorporating low-impact agriculture-related uses such as roadside stands or retail of farm produce.

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval, however, applications are reviewed against *Bridging the Future, Town of Grand Island 2018 Comprehensive Plan* which has regards for protection of agriculture.

4. How well do land use regulations direct development away from high quality farmland?

Residences, schools, and places of worship are permitted as-of-right in the same zones where agriculture is permitted. Without explicitly including impacts to agricultural lands/operations in the evaluation criteria, it could be perceived that such impacts do not need to be evaluated.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations. However, as described in #3 above, applications are reviewed against *Bridging the Future, Town of Grand Island 2018 Comprehensive Plan* which has regards for protection of agriculture.

Recommendations

15. TOWN OF HOLLAND

The Town of Holland zoning regulations are codified as Chapter 120 of the Town Code.

Farms and land within certified Agricultural Districts in the Town of Holland are located within the R-A Rural Residential and Agriculture District and in the R-2 Medium Density Residence Districts.

The Town's Zoning Map is web-based. For the purposes of this evaluation, a screenshot has been included below.

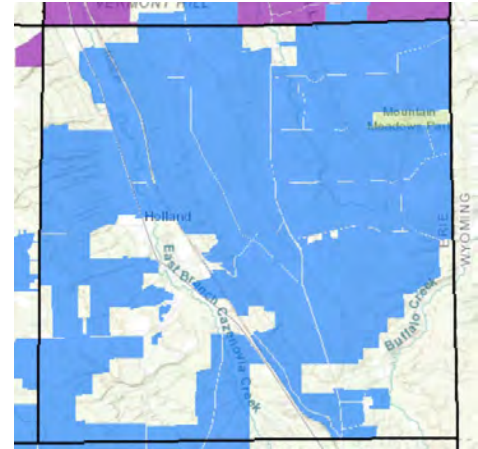


Figure 19. Land in Certified Agricultural Districts, Town of Holland

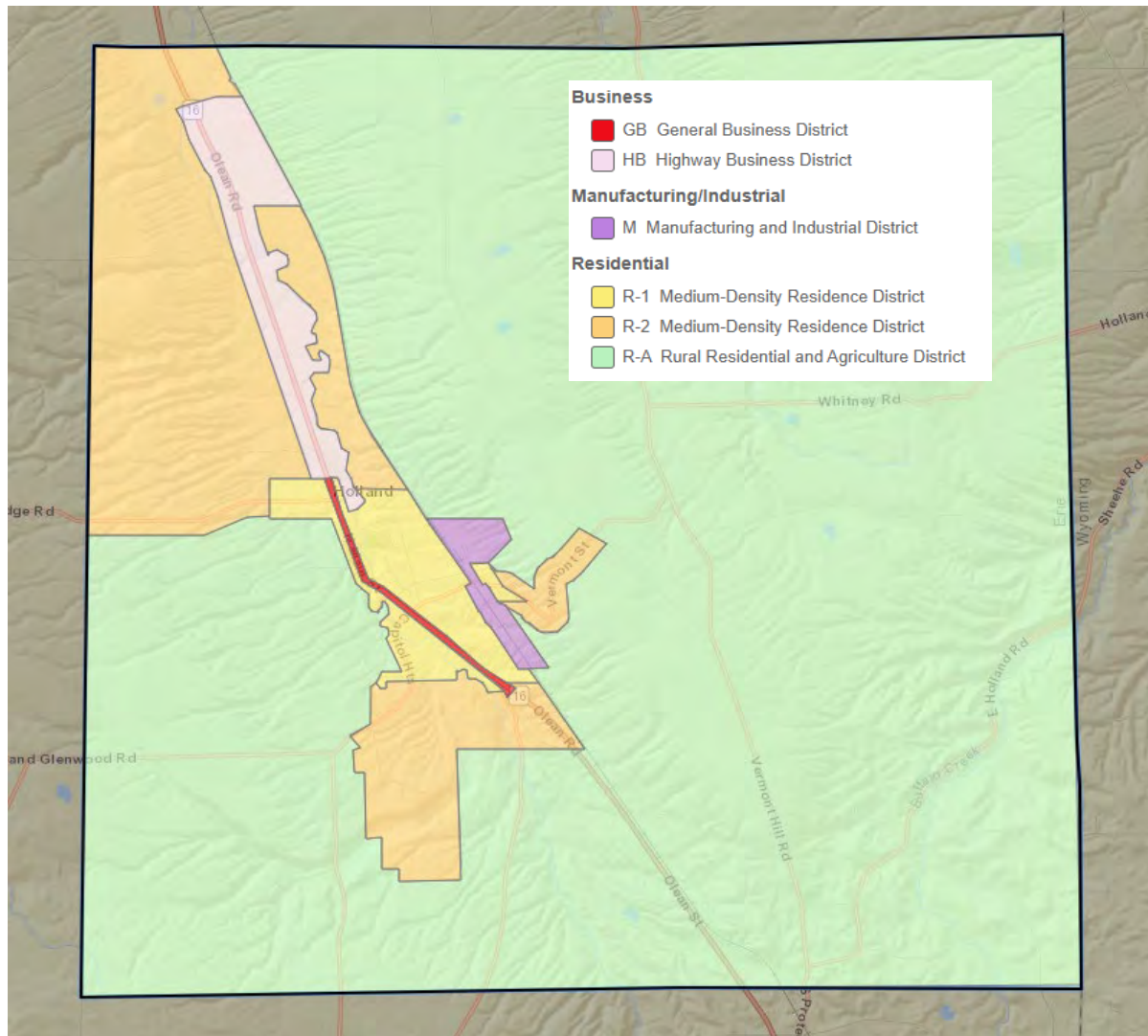


Figure 20. Town of Holland Zoning Map

1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

The list of permitted uses in the R-A Rural Residential and Agricultural District includes:

- Farming and gardening, floriculture and horticulture pursuits, including but not limited to gardens, greenhouses, plant nurseries, truck gardens, and any other crop farming, excluding farm animal operations and housing.

Permitted accessory uses in the R-A district include, “Customary farm buildings for the storage of products or equipment located on the same parcel as a farm.”

In the R-2 Medium Density Residential District, the list of permitted principal uses includes:

- Farms and related farming activities, provided that no storage of manure or odor- or dust-producing substance shall be permitted within 100 feet of an adjoining lot line, except as provided in Subsection C(6).

Subsection C(6) allows “Farms of less than 10 acres but five or more acres” with a special permit.

Permitted accessory uses include “Farms of 10 acres or more.”

Farms are not permitted uses in the R-1 Medium Density Residential District. However, there do not appear to be farms within this zoning district.

In addition, the Town’s Right to Farm Law (§97-2 of the Town Code) states:

- Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Holland at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture.

b) *The definition of farming should be broad enough to include all types of farming*

The Town’s Zoning regulations define the following agricultural and agriculture-related terms:

- FARM - A parcel or parcels of 10 or more acres in a permitted district devoted to farming as a primary use which may consist of one or more parcels which may or may not be contiguous to each other.
- FARM BUILDING OR USE - Any use of land or buildings customarily a part of farm or agricultural pursuits, including the housing of farm animals, except fur-bearing animals, the repair of equipment used on the premises and the sale of farm products where such is clearly incidental to the overall use of the premises as a farm.

The definition of “Farm” excludes farm operations on lots of less than 10 acres. In addition, the definition of “farm building or use” excludes “fur bearing animals.”

- ***Recommendation: Remove the 10-acre lot size requirement and the exclusion of “fur-bearing animals” from the definition. The Town may include restrictions on farms in district regulations; however such restrictions may not be enforceable as applied to farm operations located in certified Agricultural Districts.***

While the definitions within the Zoning regulations include limitations that may be inconsistent with NYS Agricultural Districts Law, the Town’s Right to Farm law includes the following definitions:

- **AGRICULTURAL PRACTICES** - All activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and the on-farm production, processing, and marketing of agricultural products including, but not limited to, the collection, transportation, distribution, storage, and land application of animal wastes; storage, transportation, and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and pesticide application; storage and use of legally permitted fertilizers, limes, and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use, and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations, including the construction and maintenance of fences.
- **AGRICULTURAL PRODUCTS** - Those products as defined in § 301, Subdivision 2, of Article 25-AA of the AML.
- **FARM** - The land, buildings, farm residential buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.
- **FARMER** - Any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.
- **GENERALLY ACCEPTED AGRICULTURAL PRACTICES** - Those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe, and typical to the industry or unique to the commodity as they pertain to the practices listed in the definition of "agricultural practices."

- ***Recommendation: Consider incorporating the definitions in the Town’s Right-to-Farm Law into the zoning regulations (Chapter 120)***

c) *Zoning requirements for agricultural uses should be based on public health and safety*

The Zoning Regulations require setbacks of 100 feet from lot lines for the storage of manure and other odor or dust producing substances.

For Farm Operations protected by AML, setbacks from lot lines may not be appropriate if they do not directly relate to health and safety.

- d) *A special use permit should not be required for agricultural uses or farm practices.*

§120.49.2 Farms; fowl and poultry specifies that a special use permit from the Town Board is required for the housing of animals on lots between 3-10 acres.

While this section of the zoning regulations states that, “the conditions of a special use permit shall not unreasonably restrict or regulate farm operations in contravention of the New York AML unless it can be shown that the public health or safety is threatened,” it may be found unreasonable to require a special use permit for keeping animals on a parcel smaller than 10 acres.

In all of the Town’s Zoning Districts, the keeping of fowl and/or poultry is permitted by special use permit. Conditions imposed by the special use permit include that applicants for the special use permit must live in detached single-family homes, raise chickens for noncommercial purposes, and may not have more than 12 fowl. Roosters are not permitted in the Medium-Density Residence or Medium-Density Residential Zoning Districts. The Town Board may impose conditions prior to grant a special use permit including the storage of manure, consideration of adjoining properties and neighbors, and such other restrictions as the Town may deem proper under the circumstances.

To keep horses and hoofed animals on lots less than 10 acres in any zoning district, a special use permit is required.

The Town’s requirement for special use permits on undersized lots is limiting and, at times, confusing.

- ***Recommendation:*** Review and streamline §120-49.2 to clarify that the requirement for a special use permit does not apply to farm operations within certified Agricultural Districts.

- e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Except for requiring a special use permit for livestock and fowl, agricultural facilities do not require site plan review.

2. Do land use regulations accommodate agriculture-related and other business on farms?

Although the zoning district regulations do not list roadside stands or the retail of farm products as an allowed accessory use, §120-59.B states that,

- Accessory buildings used for the sale of farm products, where such use is clearly incidental to the overall use of the premises as a farm, shall be permitted to be placed in the front yard off the road right-of-way. Such permitted use shall be temporary in nature and cease when no such products are offered for sale. When not in use for the sale of products, such accessory buildings must be stored on the subject premises in conformity with the Zoning Chapter. The construction of the accessory building shall be limited to the ordinary and customary construction for the use or sale of such farms products. Under no circumstances shall such farm use be construed to permit any use other than sale of normal farm products on a temporary basis.

- ***Recommendation:*** Add “roadside stands” to the list of permitted accessory uses in the regulations for the R-A and R-2 zoning districts.

It is recommended that the Town of Holland review zoning chapter of the Code against Chapter 97 Right to Farm to confirm that appropriate definitions are used.

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval. However, Section 305-a of Agriculture & Markets Law requires submittal of an Agricultural Data Statement if the project occurs on property within a certified Agricultural District containing a farm operation or within 500 feet of a farm operation located within a certified Agricultural District.

- ***Recommendation:*** Incorporate the requirement for submitting an Agricultural Data Statement into the sections that specify procedures applying for Site Plan Review, Special Use Permit, Use Variance and Subdivision approval.

4. How well do land use regulations direct development away from high quality farmland?

Residences, schools, and places of worship are permitted uses in the RR and RA Zoning District.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations. An Agricultural Data Statement would be required if the subdivision may impact a farm operation within an Agricultural District.

16. TOWN OF LANCASTER

The Town of Lancaster's Land Use Regulations are codified as Chapter 400 of the Town Code. Agriculture uses are noted in The Agriculture Residential (A-R) District (bright green in the map below) encompasses approximately half of the Town. While most of the agricultural land in the Town is within the A-R zoning district, portions of a certified Agricultural District (see figure below) and some farm operations may be located within other zoning districts.

Figure 21. Certified Agricultural Districts - Town of Lancaster

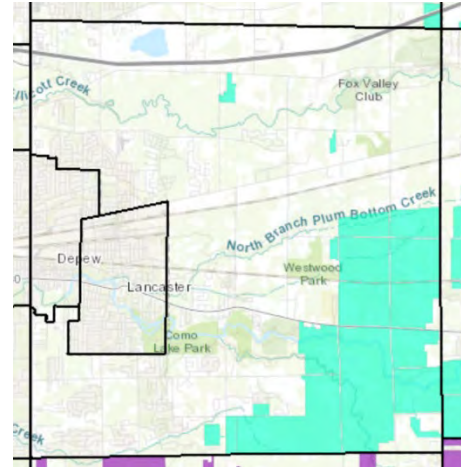
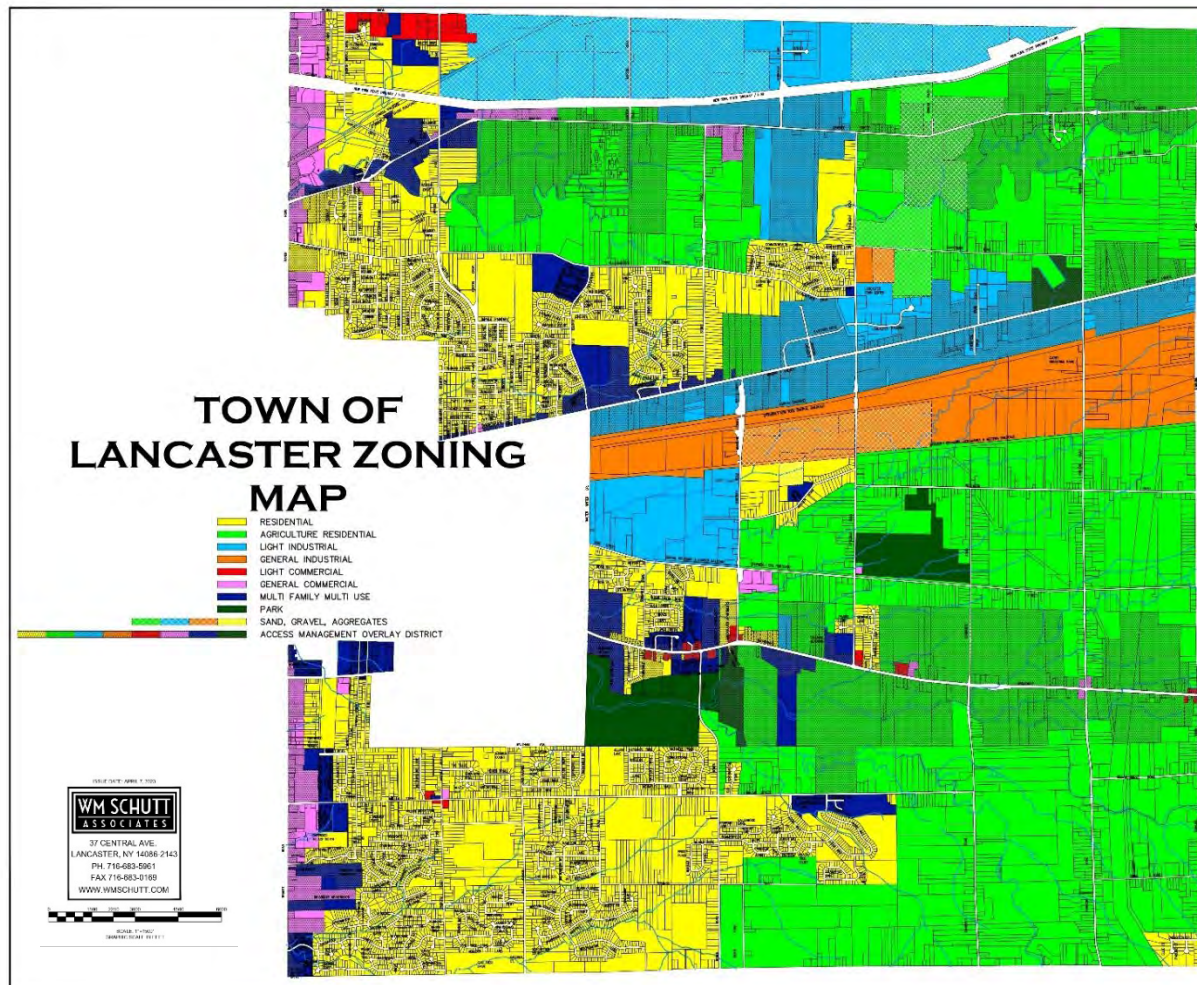


Figure 22. Town of Lancaster Zoning Map



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

“Agricultural activities; farms and farm operations, and buildings incident thereto” are listed as permitted uses in the Agricultural Residential District (A-R), but are not listed as permitted in the Single-Family Residential or Multifamily Residential Mixed-Use zoning districts.

It should be noted that §173-3.A, the Town’s “Right to Farm” law, declares that agricultural practices may be undertaken in all areas of the Town:

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all such times and at all such locations as are reasonably necessary to conduct the business of agriculture.

b) *The definition of farming should be broad enough to include all types of farming*

The Town’s Zoning regulations define the following agriculture and agriculture-related terms:

- **AGRICULTURE ACTIVITY** - The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural and horticultural products, organic farming, composting, forestry and cutting timber for sale, together with the customary building and other structures necessary for the production and storage in such pursuits.
- **AGRICULTURAL BUILDINGS, STRUCTURES OR OTHER FACILITIES** - Includes, but is not limited to, barns, silos, sheds, coops, shops, commodity buildings, farm machine or equipment storage buildings, greenhouses, stables, riding rings or arenas, exercise tracks, runs, dry lots, stalls, paddocks, pens, corral or fences, windmills, water supply ponds, farm stands, manure storage facilities, and outbuildings or enclosures.
- **BOARDING STABLE** - A structure designed for the feeding, housing and exercising of horses not owned by the owner of the premises and for which the owner of the premises may receive compensation (see "horse farm").
- **FARM or FARM OPERATION** - The land, buildings and equipment used in the production, whether for profit or otherwise, of agricultural goods and services, including the cultivation of land, raising of crops or livestock, poultry, dairy pursuits, equestrian and other equine activities, timber harvesting, the practicing of horticulture or keeping of bees, without reference to its extent or the tenure by which it is held. Such farm operations may consist of one or more parcels of owned or rented land, with parcels being contiguous or noncontiguous to each other.
- **HORSE FARM** - A farm primarily used for the breeding, boarding and training of horses, including associated structures and areas required for farm operation (see "boarding stable").

- **LIVESTOCK** - Animals with hooves associated with agricultural activities, including but not limited to cows, horses, pigs, goats, sheep, donkeys, mules. Exotic animals including but not limited to llamas, alpaca, bison, and exotic large birds (ostrich, emu) are included under this definition.

The definitions above are comprehensive and appear to encompass diverse farming activities.

c) Zoning requirements for agricultural uses should be based on public health and safety

Specific criteria for livestock, poultry, small animals, and stables are described in the A-R Zone. Setback requirements are a traditional zoning mechanism used to minimize public health and safety concerns. Provided that these requirements are reasonable and align with sound agricultural practices, they are acceptable.

For parcels that are part of Farm Operations protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

d) A special use permit should not be required for agricultural uses or farm practices.

Special use permits are not required for agricultural uses in the A-R Zone.

e) Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.

Site plan review does not appear to apply to agricultural uses.

2. Do land use regulations accommodate agriculture-related and other business on farms?

Agriculture-related uses listed as permitted accessory uses in the A-R zoning district include:

- Agricultural buildings, structures and facilities
- Greenhouses and nurseries for public or private use
- Roadside sale and display of agricultural products raised on the premises, provided that the roadside stand shall not exceed 300 square feet in net floor area.

Agriculture-related uses listed as permitted principal uses in the A-R zoning district include:

- Stables, public or private, provided that: 1] The area of the lot is five acres or more; and, 2] The stable and all exercise tracks are located at least 100 feet from any lot line.
- Forestry.

3. Do land use regulations accommodate non-agricultural secondary business on farms?

Secondary businesses that are not strictly agricultural or accessory to an agricultural operation may be permitted as a home occupation with a special use permit.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Site Plan Review regulations do not include provisions to require the site plan to note locations of farm access roads, drainage improvements or to consider potential impacts on adjoining agricultural lands.

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval. However, NYS Agricultural Districts Law (AGM Section 305-a) requires submittal of an Agricultural Data Statement when a proposed project is within 500 feet of a farm operation located within a certified Agricultural District.

- **Recommendation:** Incorporate the requirement for submitting an Agricultural Data Statement into the sections that specify procedures applying for Site Plan Review, Special Use Permit, Use Variance and Subdivision approval. Add criteria that require consideration of impacts to nearby agricultural operations during the review of proposed developments.

5. How well do land use regulations direct development away from high quality farmland?

The Lancaster Zoning regulations permit residences and golf courses as-of-right in the same zone that permits agriculture.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations. However, , NYS Agricultural Districts Law (AGM Section 305-a) requires submittal of an Agricultural Data Statement when a proposed project is within 500 feet of a farm operation located within a certified Agricultural District.

- **Recommendation:** Incorporate the requirement for submitting an Agricultural Data Statement into the sections that specify procedures applying for Site Plan Review, Special Use Permit, Use Variance and Subdivision approval. Add criteria that require consideration of impacts to nearby agricultural operations during the review of proposed developments.

17. TOWN OF MARILLA

The current zoning regulations for the Town of Marilla are codified as [Chapter 700](#) of the Town Code. Agricultural uses are permitted in the Agricultural (A) District (green on the zoning map below). The A zoning district encompasses most of the farms and land within certified Agricultural Districts, although some farm operations in certified Agricultural Districts may be located in the RR or other zoning districts (see figure).

Figure 24. Town of Marilla Zoning Map

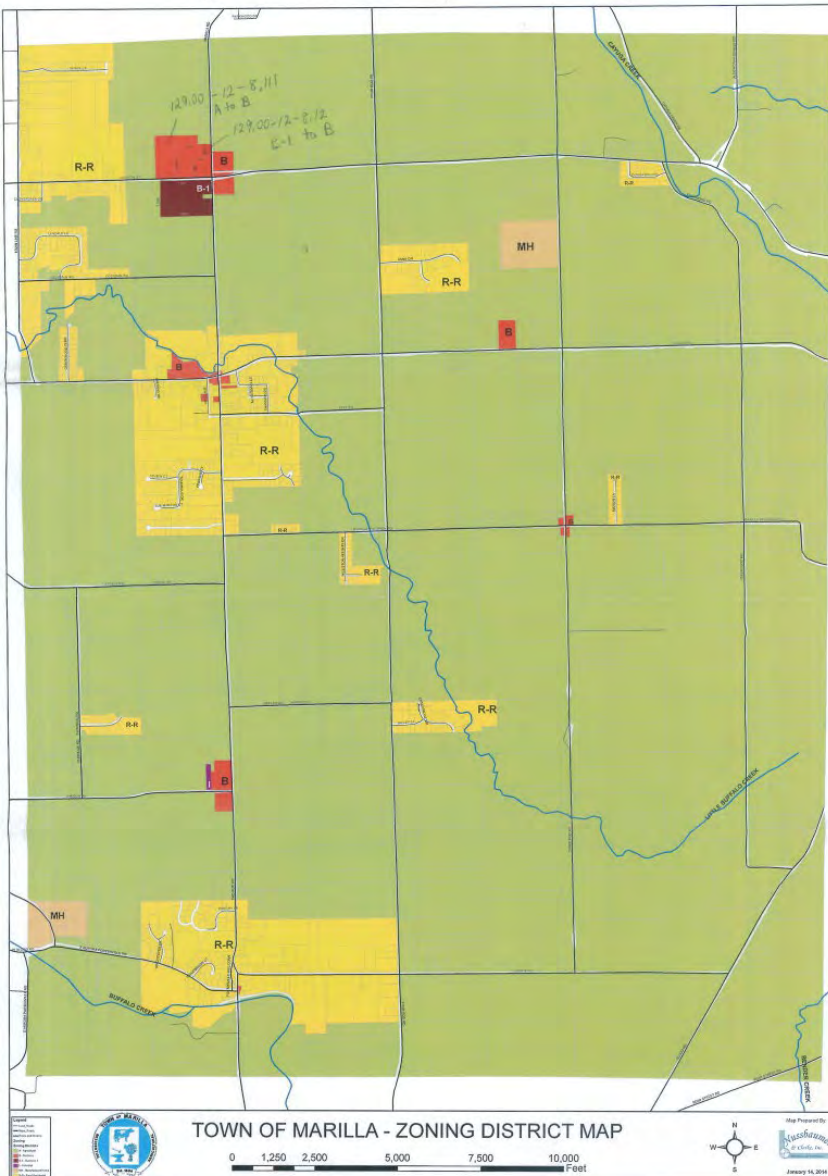
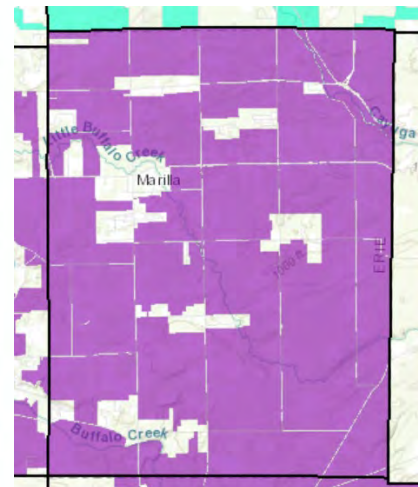


Figure 23. Certified Agricultural Districts, Town of Marilla



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

The list of permitted uses in the A zoning district includes agricultural uses subject to setback requirements.:

- General or specialized farming, truck gardening, greenhouses, nurseries and animal or poultry husbandry, provided that no killing shall be done on the farm other than of animals raised on the farm for the use of farm residents; provided, further, that on land devoted to the housing or breeding of horses, cattle, swine, poultry, sheep or goats, the shelters for such animals shall not be closer than 30 feet to the boundary of any nonagricultural zoning district. Kennels, including runways, used for the housing or breeding of dogs shall not be closer than 100 feet to the side or rear lot line or closer than 150 feet to the street right-of-way
- Customary farm buildings for the storage of products, livestock or equipment shall not be any closer to the road than the front of the principal structure or 150 feet from the road center line, whichever is less. The minimum side and rear lot allowance shall be 30 feet from the property line. The construction of farm buildings shall be limited to farms

Permitted accessory uses in the A zoning district include:

- The housing of farm animals (i.e., horses, cattle) shall be a permitted accessory use, subject to the following conditions:
 - On a minimum lot size of 1.5 acres, one large animal shall be permitted, plus one acre for each additional animal. This restriction shall not apply to farms.
 - Any solid manure storage shall be a minimum distance of 75 feet from any property line.
 - Any liquid manure storage shall be a minimum distance of 150 feet from any property line

Agriculture is not listed as a permitted use in other zoning district. However, the Town's Right to Farm law states that:

- Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Marilla at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture.

b) *The definition of farming should be broad enough to include all types of farming*

The Town of Marilla zoning regulations defines the following agriculture and agriculture-related terms:

- **AGRICULTURAL OR FARMING ACTIVITIES** - The use of land for agricultural purposes, including farming, dairying, pasturage, truck farms or nurseries, agriculture, horticulture, viticulture, apiaries and animal and poultry husbandry and the necessary accessory uses for storage; provided, however, that the

operation of any such accessory use shall be incidental to that of the principal agricultural activities.

- **FARM** - The land used in agricultural production, farm buildings, equipment and farm dwelling. A farm excludes riding academies, livery or boarding stables and kennels. Farm activities may be permitted on parcels of land of less than 10 acres; however, the raising of fur-bearing animals, swine and poultry on smaller parcels of land in residential districts may only be permitted with a special permit.
- **FARM BUILDING** - Any building used for the housing of agricultural equipment, produce, livestock or poultry or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with and necessary to the operation of the farm as defined by this article. The term "farm building" shall not include "farm dwelling."
- **FARM DWELLING** - A dwelling located on a farm and occupied by a family engaged in agricultural activities.
- **LAND USED IN AGRICULTURAL PRODUCTION** - Not less than 10 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 \$10,000 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:
 - Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.
 - Land of not less than 10 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, which 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 qualifies for an agricultural assessment.
 - 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.
 - 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 50 acres.
 - Land set aside through participation in a federal conservation program pursuant to Title One of the Federal Food Security Act of 1985 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.
- **ROADSIDE STAND** - Retail outlets with all related structures for the sale of farm products.

The above definitions define terms that are not used elsewhere in the zoning regulations.

- c) *Zoning requirements for agricultural uses should be based on public health and safety*

§700-33.B.3. prescribes setback requirements for farming and agricultural uses which are reasonable and grounded in health and safety practices.

For parcels that are part of farm operations and protected by AML, setbacks from lot lines may not be appropriate as they do not directly relate to health and safety.

- d) *A special use permit should not be required for agricultural uses or farm practices.*

The keeping of chickens in the Rural Residential (R-R) district requires special use permit approval. It appears that permit approval is based on the appropriateness of chicken containment. These provisions apply to raising chickens as an accessory use to a residence and not as an agricultural operation.

Additionally, as described above in 1.b., special use permits are required for the keeping of hooved animals on farms less than 10 acres. Should permit approval be subject to setbacks from adjacent properties to mitigate odor/nuisance concerns, this would be reasonable.

A special use permit from the Town Board is required for “Stables or riding academies.” (§700-56)

- e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Site plan review does not appear to apply to agricultural uses, except for where a special use permit is required.

2. Do land use regulations accommodate agriculture-related business on farms?

Roadside stands for the retail of farm products are permitted subject to setback and size criteria as well as signage specifications.

- §700-11.(6) No business establishment shall place or display goods for purposes of sale or permit any coin-operated vending machine of any type to be placed in any location which would infringe upon the required yard areas specified in this chapter. However, a temporary roadside stand meeting requirements of Article VIII is not prohibited, and any such temporary roadside stand is exempted from yard and setback requirements for the use district in which it is located.
- §700-43.(7) No more than two temporary signs for a roadside stand selling agriculture produce grown on the premises in season, providing that such sign does not exceed 24 square feet.

3. Do land use regulations accommodate non-agricultural secondary business on farms?

Secondary businesses may be permitted as home occupations.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval. However, Section 305-a of Agriculture & Markets Law requires submittal of an Agricultural Data Statement if the project occurs on property within a certified Agricultural District containing a farm operation or within 500 feet of a farm operation located within a certified Agricultural District.

- ***Recommendation:*** Incorporate the requirement for submitting an Agricultural Data Statement into the sections that specify procedures applying for Site Plan Review, Special Use Permit, Use Variance and Subdivision approval.

5. How well do land use regulations direct development away from high quality farmland?

The Holland zoning regulations permit residences in the A Agricultural District. There are also several uses that may be permitted subject to special use permit approval including private airstrips and camping grounds.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations. However, Section 305-a of Agriculture & Markets Law requires submittal of an Agricultural Data Statement if the project occurs on property within a certified Agricultural District containing a farm operation or within 500 feet of a farm operation located within a certified Agricultural District.

18. TOWN OF NEWSTEAD

The Town of Newstead zoning regulations are codified as § 450 of the Town Code.

Most of the Town, except for commercial corridors along major roads and land adjacent to the Village of Akron, is zoned Rural-Agricultural (R-A). Most of the town's farm operations and land within County-certified Agricultural Districts are within the R-A zoning district, although some farms and land in certified Agricultural Districts may be located in other zoning districts.

Figure 26. Town of Newstead Zoning Map

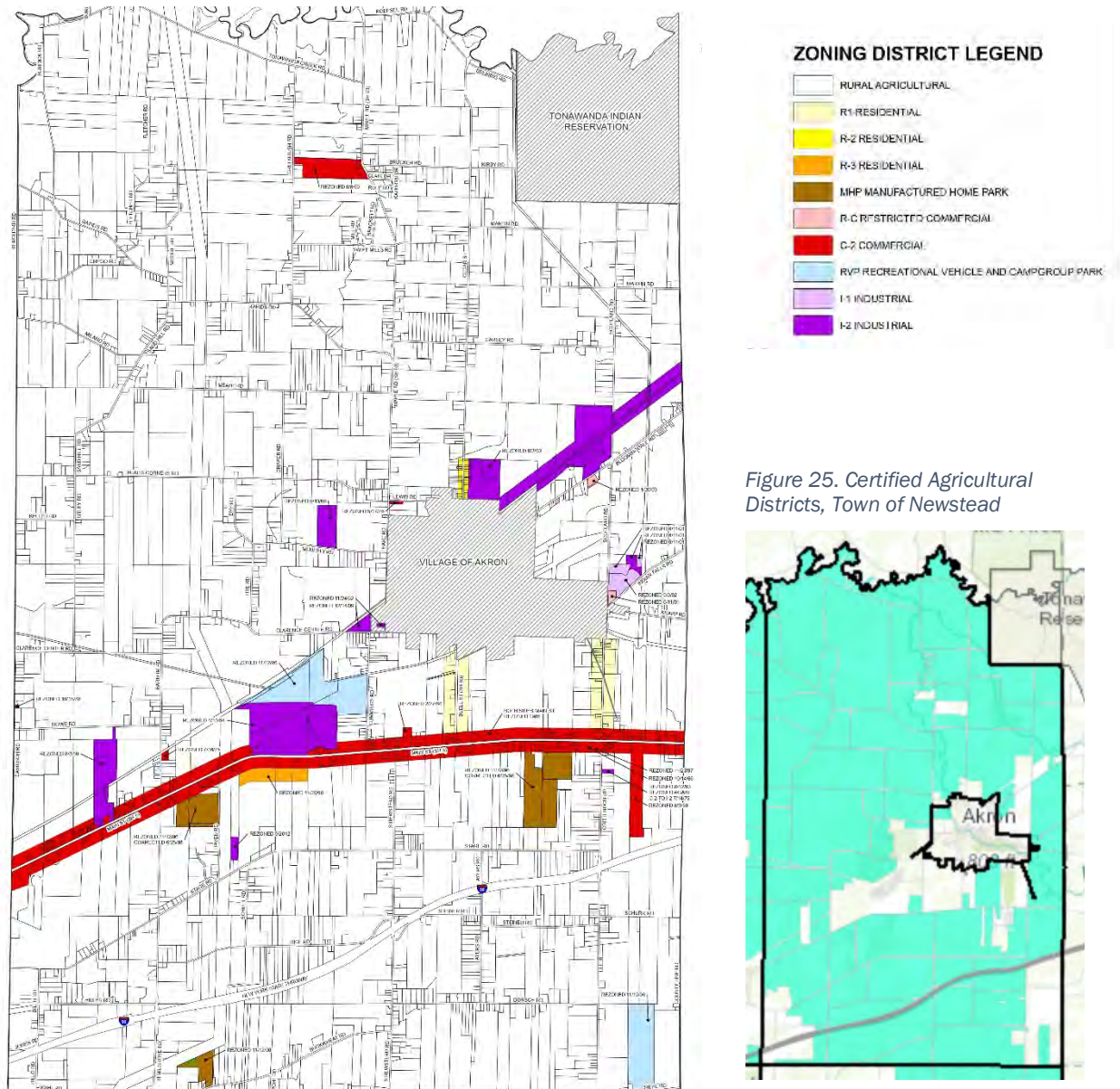
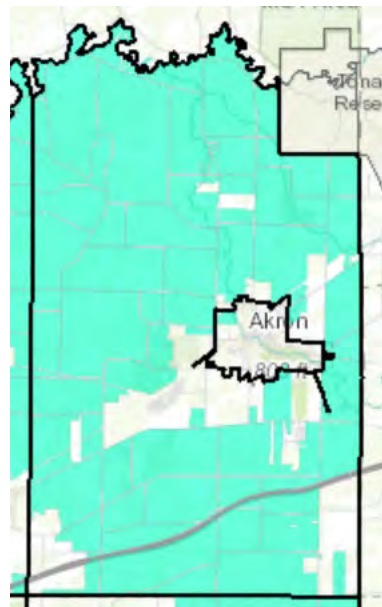


Figure 25. Certified Agricultural Districts, Town of Newstead



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs.*

The list of permitted uses in the R-A District includes the following agricultural uses:

- General agricultural land uses, buildings and activities , such as the growing of field, truck and tree crops, dairying, livestock raising, poultry farming, fur farming and hog raising, subject to the following:
 - With the exception of general pasture, buildings, structures and fences enclosing any pen, corral, track or other such enclosure within which livestock are kept may not be located any closer than 100 feet to any existing neighboring dwelling.
 - Minimum land area for one animal unit (as defined in the New York State Agricultural and Markets Law, with one animal unit equal to 1,000 pounds) on parcels under 10 acres shall be two acres in addition to one acre reserved for the dwelling. Each additional animal unit above the initial animal unit on the minimum two-acre parcel (three acres if there is a dwelling on the parcel) shall require one additional acre of land. This particular limitation on animal units does not apply to parcels of 10 acres or greater.
 - All manure or other odor- or dust-producing substances that are not disposed of in an agriculturally accepted manner must be removed from the premises on a regular basis
- Nurseries and greenhouses
- Riding academies and stables
- Pole barns or other enclosed storage structures, for use as storage or in connection with an agricultural operation, but not for commercial nonagricultural businesses, are permitted provided the following provisions are met:
 - Minimum lot size and setback requirements:
 - Minimum lot size is three acres;
 - Minimum 150-foot setback from the edge of the right-of-way, and adherence to all other setback requirements for a permitted principal structure

Permitted accessory uses include, “Barns and other farm buildings.”

b) *The definition of farming should be broad enough to include all types of farming.*

The Town’s Zoning regulations define the following agricultural and agriculture-related terms:

- AGRIBUSINESS - Business that provides products and services directly to consumers and where a majority of the goods sold are grown or produced on-premises.
- AGRITOURISM BUSINESS - Agribusiness that conducts activities by and for the enjoyment or education of the public, which primarily promotes the sale, marketing, production, harvesting or use of the products of the farm to enhance the public's understanding and awareness of farming and farm life.

- FARM - A parcel or parcels of land aggregating 10 acres or more in size, on which an owner or tenant carries on agricultural or dairying pursuits or the raising of livestock or poultry or the keeping of bees.
- STABLE - A building or part of building used to house horses or cattle.

While the definition of “farm” is broad, the zoning district regulations do not use the term “farm.” The term “agricultural land uses” is not defined but it is sufficiently descriptive in the zoning district regulations for the R-A district.

c) Zoning requirements for agricultural uses should be based on public health and safety

In the R-A District, setback and lot size requirements are applied to structures and buildings used to house livestock.

§400-13.B.(1)(g) lists “Raising of livestock and poultry on lots of not less than five acres” as a permitted use, provided that:

- All such animals shall be housed in a structure to ensure safety and protection from the elements;
- Housing structures (barns, pens, runways, etc.) shall be a minimum of 100 feet from any lot line;
- Fencing and other enclosures utilized for corralling shall keep the livestock and poultry a minimum of 15 feet from any lot line; and
- Any manure or other odor- or dust-producing substance shall be stored a minimum of 100 feet from any lot line.

The R-A District also requires that manure and all other odor- and -dust-producing substances be disposed of in an “agriculturally accepted manner” and removed from the premises on a regular basis.

Minimum lot size and setback requirements are outlined for other storage structures and buildings related to agriculture but not intended to house livestock. For farm operations in Agricultural Districts, these setback requirements should be enforced only to ensure separation between manure storage or animal housing and private wells or water bodies. There is also a zone requirement that states manure and all other odor-/dust-producing substances be disposed of in an “agriculturally accepted manner” and removed from the premises on a regular basis.

For parcels that are part of Farm Operations protected by AML, setbacks from lot lines may not be appropriate if they do not directly relate to health and safety.

d) A special use permit should not be required for agricultural uses or farm practices.

A special use permit is required for “forest farming,” “agribusiness”, and “agritourism business”.

e) Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.

Site plan review does not appear to apply to agricultural uses, except for those agriculture-related businesses that require a special use permit.

2. Do land use regulations accommodate agriculture-related and other business on farms?

In the A-R zoning district, “Seasonal roadside stands for the sale of farm products produced on the premise” is listed as a permitted accessory use. As roadside stands may sell products grown on fields that may be part of the farm operation but located elsewhere, the requirement that products must be “grown on the premise” may be unreasonable as applied to farm operations within certified Agricultural Districts. In addition, guidance prepared by the NYS Department of Agriculture and Markets states that farm stands should be able to sell some products not grown by the farm.

- **Recommendation:** *Revise the accommodation for roadside stands to state that products sold must be primarily produced by the farm that manages the roadside stand, rather than limiting it to products produced “on the premise.”*

“Agribusiness” (defined as “Business that provides products and services directly to consumers and where a majority of the goods sold are grown or produced on-premises” and “agritourism business” (defined as “Agribusiness that conducts activities by and for the enjoyment or education of the public, which primarily promotes the sale, marketing, production, harvesting or use of the products of the farm to enhance the public's understanding and awareness of farming and farm life”) are permitted with a special use permit in the R-A zoning district. While no specific criteria exist for the evaluation of these uses, the general requirements for a special use permit require detailing proposed hours of operation and, on a site plan, parking areas, lighting, and distances from parking to neighboring properties. The requirement for a special permit may be unreasonable for some farm operations located within a NYS-certified Agricultural District, as the definition of “agribusiness” and “agritourism” are quite broad and would include a small farm stand or any enterprise that brings customers to the farm.

- **Recommendation:** *Allow some agribusinesses and agritourism businesses to be permitted as an accessory use to a farm. Establish a threshold for requiring a special use permit, such as expected number of visitors, size of proposed building, or other suitable metric.*

3. Do land use regulations accommodate non-agricultural secondary business on farms?

Secondary businesses may be permitted as a home occupation but are not specifically permitted on farms.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval. However, Section 305-a of Agriculture & Markets Law requires submittal of an Agricultural Data Statement if the project occurs on property within a certified Agricultural District containing a farm operation or within 500 feet of a farm operation located within a certified Agricultural District.

- ***Recommendation:*** Incorporate the requirement for submitting an Agricultural Data Statement into the sections that specify procedures applying for Site Plan Review, Special Use Permit, Use Variance and Subdivision approval.

5. How well do land use regulations direct development away from high quality farmland?

The Town's Zoning Regulations permits residences, schools, and places of worship as-of-right in the same zoning districts that permit agriculture. There are also several uses that may be permitted subject to special use permit approval including fire stations, golf courses, and hospitals.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

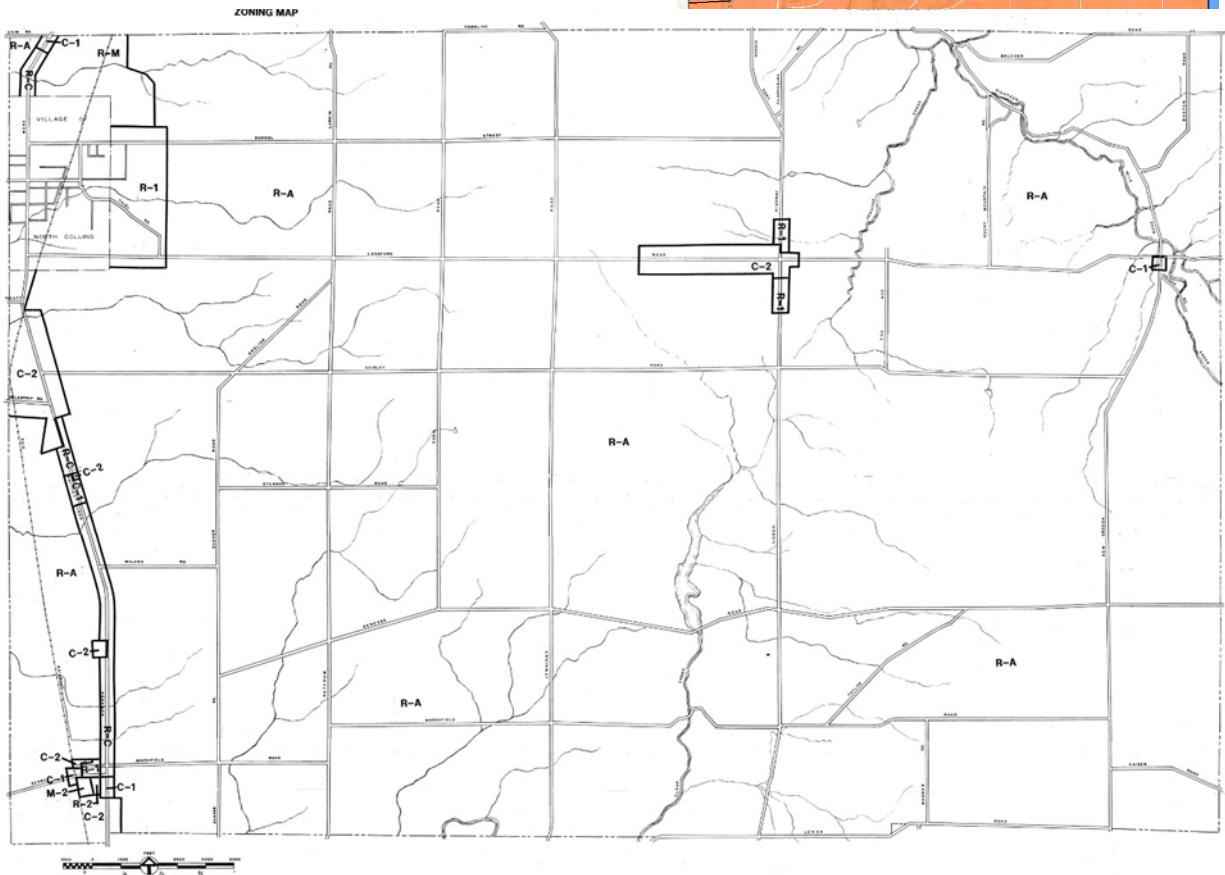
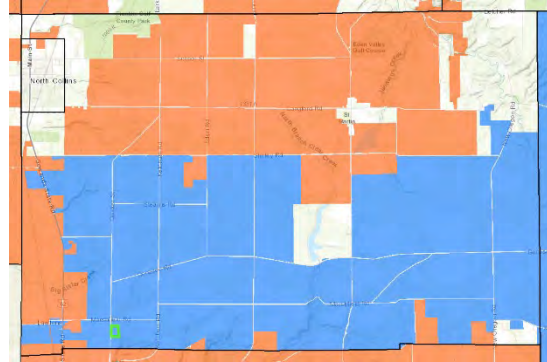
Farm operations are not explicitly mentioned in the subdivision regulations. However, Section 305-a of Agriculture & Markets Law requires submittal of an Agricultural Data Statement if the project occurs on property within a certified Agricultural District containing a farm operation or within 500 feet of a farm operation located within a certified Agricultural District.

19. TOWN OF NORTH COLLINS

The Town of North Collins Zoning Regulations are codified as Chapter 265 of the Town Code. Right-to-Farm provisions, adopted in 2005, are found in Chapter 128.

Most of the Town is within the Residence Agricultural (R-A) zoning district. Most of the farmland in North Collins is located in the north-central and south-central areas. Nearly all of the Town is within certified Agricultural Districts (see figure to right).

Figure 27. Town of North Collins Zoning Map



R - A RESIDENCE AGRICULTURAL

R - 1 SINGLE FAMILY RESIDENCE

R - 2 GENERAL RESIDENCE

R - C RESIDENCE - RESTRICTED BUSINESS

R - M RESIDENCE MOBIL HOME COURT

C - 1 LOCAL RETAIL BUSINESS

C - 2 GENERAL COMMERCIAL

M - 1 PLANNED LIGHT INDUSTRIAL

M - 2 GENERAL INDUSTRIAL

1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming*

The Town Code Zoning Section defines the following agriculture-related terms:

- AGRICULTURAL PRACTICES – Those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop-protection methods, manure application and construction and use of farm structures and fences.
- PRODUCTS – Include, but are not limited to:
 - A. Field crops, including corn, wheat, 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, farmed deer, farmed buffalo, fur-bearing animals, milk, eggs, and furs
 - F. Woodland products, including maple sap, logs, lumber, posts, and firewood
 - 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.
- FARMER – Any person, organization, entity, association, partnership; limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.
- FARMLAND – Land used in agricultural production, as defined by the above Agricultural Products.
- FARM OPERATION - As defined in § 301, Subdivision 11, of Article 25-AA of the State Agriculture and Markets Law.
- FARM WOODLAND – Includes labor used for production and sale of woodland products, including but not limited to logs, lumber, posts, and firewood

There is no definition for “farm,” or “agriculture,” in the Zoning Regulations. It is recommended that definitions for these terms are added to the Town’s zoning and that such definitions are comprehensive, permissive, and consistent with AML.

a) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

The list of permitted principal uses in the Residence-Agricultural zoning district, which encompasses most of the Town’s land area, includes:

- Agricultural, floricultural and horticultural pursuits, including but not limited to general farms, greenhouses, plant nurseries, truck gardens, dairy husbandry and the raising of bees, poultry and livestock, together with all customary buildings and other structures necessary for the production and storage of the products of such pursuits, provided that buildings, pens and runways for the confinement of livestock or poultry shall be at least 100 feet from any property line in an R District and no manure or other odor- or dust-producing substance shall be stored within 100 feet of any lot line

Agricultural uses are not listed as permitted in any other zoning districts. However, the right-to-farm declaration found in §128-3 states that, “farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all such times and all such locations as are reasonably necessary to conduct the business of agriculture.”

b) Zoning requirements for agricultural uses should be based on public health and safety

The regulations for the RA zoning district specify that “no manure or other odor-producing substances shall be stored within 100 feet from any lot line” and that, “buildings, pens and runways for the confinement of livestock or poultry shall be at least 100 feet from any property line in an R District.” As setbacks to lot lines, in contrast to setbacks from wells or waterbodies, do not directly relate to health and safety, these requirements may not be applicable to farm operations within certified Agricultural Districts.

c) A special use permit should not be required for agricultural uses or farm practices

No agricultural uses require a special use permit.

d) Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety

The Town zoning (§206-5) specifically exempts from site plan review, “Nonstructural agricultural or gardening activities not involving substantial timber-cutting” and “the sale of agricultural produce and temporary structures associated with the sale of agricultural produce.” It is not clear whether other buildings utilized on a farm would require site plan review.

2. Do land use regulations accommodate agriculture-related businesses on farms?

Permitted agricultural uses in the RA district include “customary buildings and other structures necessary for the production and storage of the products” but do not include processing, packing, packaging or other related activities.

Accommodation for on-farm retail sales is limited to roadside stands as a permitted accessory use in the RA district:

- Temporary stands for the sale and display of agricultural products grown on the premises. Any stand used for the sale and display of such products shall contain not more than 200 square feet of floor area and shall be set back at least 20

feet from the street line. Not more than two nonilluminated signs, each not exceeding six square feet in area, shall be permitted to advertise the sale of said products, in accordance with Chapter 200, Signs.

➤ ***Recommendations:***

- *Incorporate provisions for agricultural-related businesses such as processing, packing or packaging into the description of permitted agricultural uses in the RA zoning district. Consider establishing a threshold such as building size, into these provisions and require site plan review for agriculture-related enterprises on the farm that exceed this threshold.*
- *Consider adding provisions to allow additional retail sales or agritourism activities, subject to design standards to ensure safe access, parking and minimal impact on neighboring properties.*
- *Revise regulations for roadside stands to state that products sold must be “predominantly” grown by the farm operation, rather than limiting to products exclusively grown on “the premise”, which may be interpreted to mean the specific lot where the stand is located.*

3. Do land use regulations accommodate non-agricultural secondary businesses on farms?

Zoning regulations for the RA district do not permit businesses (other than home-based professional offices.)

4. Do land use regulations include considerations of agricultural impacts as part of development review?

The zoning regulations do not specifically require consideration of agricultural impacts as part of the review of applications for site plans or special permits. However, pursuant to Section 283-a.2. of Article 16 of NYS Town Law, any application for a special use permit, site plan approval, use variance, or subdivision approval that requires review by the Planning Board, Zoning Board of Appeals, or Town Board must include an Agricultural Data Statement if the proposed action takes place on property within an agricultural district containing a farm operation or within 500 feet of a farm operation in an agricultural district.

5. How well do land use regulations direct development away from high quality farmland?

The R-A District permits all principal uses and structures in the R-1 District. Additionally, this district allows for two-family dwellings, veterinarians, riding stables, small-animal hospitals, private wildlife reservations, cemeteries, picnic grounds, and nonprofit private clubs. Permitted accessory uses and structures include those regulated in the R-2 District, those customary to permitted principal uses, temporary stands for agricultural products, and refreshment stands dispensing food and nonalcoholic beverages.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

In addition to agricultural uses, the R-A District permits single family dwellings, two-family dwellings, veterinarians, riding stables, small-animal hospitals, and several public or community service uses.

20. TOWN OF ORCHARD PARK

The Town of Orchard Park zoning regulations are codified as Chapter 144 of the Town Code.

Areas within certified Agricultural Districts are located in the Agricultural A-1 (southern portion of the Town, shown in green below) and the Residential R-1 (red), R-2 (yellow) and R-3 (blue) zoning districts.

Figure 29. Town of Orchard Park Zoning

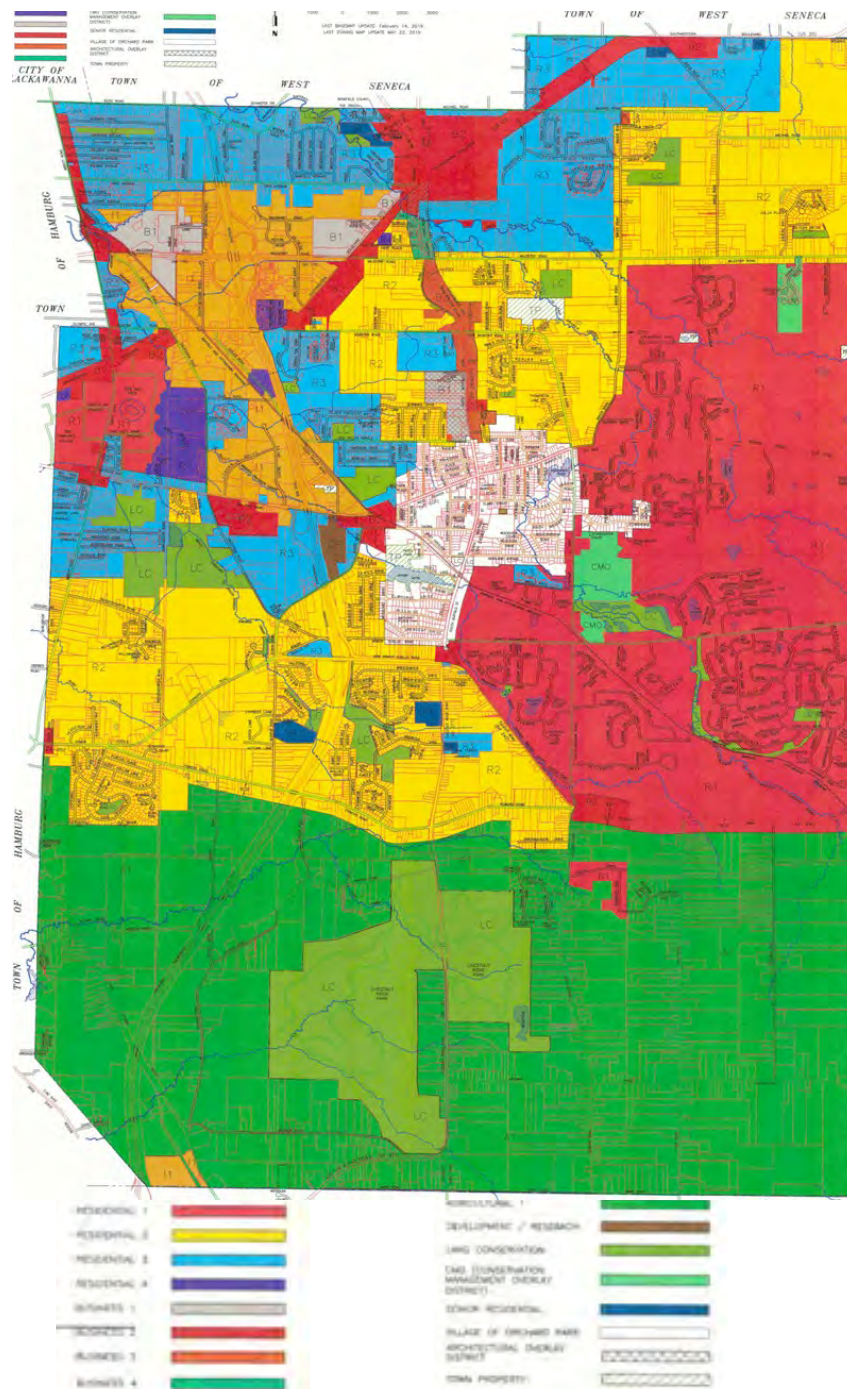
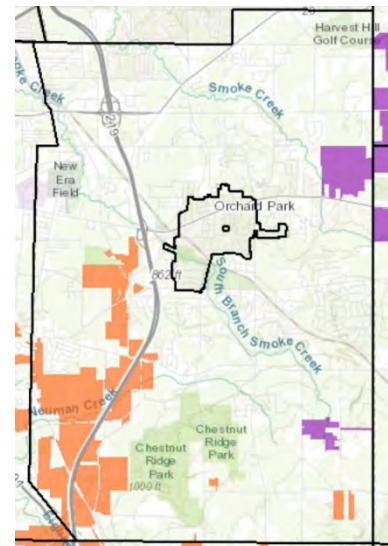


Figure 28. Agricultural Districts - Town of Orchard Park



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming*

The zoning regulations define “Farm” as:

- Any parcel of land containing at least five acres which is used for gain in the raising of agricultural products, livestock, poultry or dairy products. It includes necessary farm structures within the prescribed limits, the storage of equipment used and the use of temporary stands for the sale of the produce of the "farm" on which located. It excludes the raising of fur-bearing animals, riding academies, public stables and dog kennels. Private stables and the breeding and training of not more than six dogs owned by the owner or tenant of the premises is allowed.

While the definition includes most types of farms, it excludes riding stables, public stables, and the raising of fur-bearing animals. These types of enterprises may be considered farm operations that would be protected by NYS Agricultural Districts Law when located within a certified Agricultural District.

The Town’s Right to Farm law (Town Code [Chapter 63](#). Farming) defines the following agriculture and agriculture-related terms:

- AGRICULTURAL PRODUCTS – § 301(2) of Article 25-AA of the Agricultural and Markets Law
- FARM – The land, buildings, farm residential buildings and machinery used in the production, whether for profit or otherwise, of agricultural products.
- FARMER – Any person, organization, entity, association, partnership or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops or the raising of livestock, poultry, fur-bearing animals or fish, the harvesting of timber or the practicing of horticulture or apiculture.
- GENERALLY ACCEPTED AGRICULTURAL PRACTICES - Those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in the definition of "agricultural practices."

b) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

The following agricultural uses are listed as Permitted Principal Uses In the A-1 zoning district, permitted principal uses include, “Agricultural, dairying, forestry, general farming, greenhouse, hatcheries, horticulture, livestock raising, paddocks, truck farming.” In the R-1, R-2 and R-3 Residential zoning districts, “Farm” is a permitted principal use.

In the A-1 Agricultural zoning district, public stables and retail nurseries require a special Exception Use permit, and public stables require an annual license as well. For nurseries and stables that are farm operations protected by NYS Agricultural Districts Law, requiring a special exception use permit may be unreasonably restrictive.

Farms and agricultural uses are not specifically permitted in the Town's other zoning district and would therefore be prohibited unless they are pre-existing non-conforming uses.

However, the Town's Right to Farm Law (§63-3) states that:

- Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Orchard Park at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

b) Zoning requirements for agricultural uses should be based on public health and safety

§144-32.(1) under Miscellaneous uses requires 100-foot setbacks from lot lines for animal housing but exempts farms from these requirements.

Requirements for public and private stables include minimum five acre lot size and 150-foot setbacks from lot lines for manure storage and prohibition on public exhibitions, shows and sales.

c) A special use permit should not be required for agricultural uses or farm practices.

A Special exception use permit is required for "public stables" and "retail nurseries" in the A-1 and for "public stables" in the Agricultural zoning district. agricultural uses or farm practices within the permitted districts.

Farms are permitted principal uses in the A-1, R-1., R-2, and R-3 Districts. As per section §63-2, practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the farming industry or unique to the commodity as they pertain to the practices listed under "agricultural practices" are generally accepted.

d) Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.

Site plan review is not required for agricultural uses, except for those uses (public stables and retail nurseries, that require a special exception use permit.

2. Do land use regulations accommodate agriculture-related business on farms?

The Town of Orchard Park requires that farm stands, defined as a temporary sale of produce, may be located no less than fifteen feet from the street line, provided that such stand has a ground area of no more than 100 square feet.

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval, however, applications are reviewed against the Comprehensive Plan which has regards for protection of agriculture.

3. Do land use regulations accommodate non-agricultural secondary business on farms?

As most business uses are not permitted in the A-1, R-1, R-2 and R-3 zoning districts, secondary businesses on farms would not be allowed on farms, except for as permitted home occupations.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Consideration of impacts on agriculture is not specifically referenced in the criteria for review of site plans or special use permits. However, pursuant to Section 283-a.2. of Article 16 of NYS Town Law, any application for a special use permit, site plan approval, use variance, or subdivision approval that requires review by the Planning Board, Zoning Board of Appeals, or Town Board must include an Agricultural Data Statement if the proposed action takes place on property within an agricultural district containing a farm operation or within 500 feet of a farm operation in an agricultural district.

5. How well do land use regulations direct development away from high quality farmland?

In the A-1, R-1, R-2, and R-3 zoning districts residences, and certain public and community service uses are permitted uses.

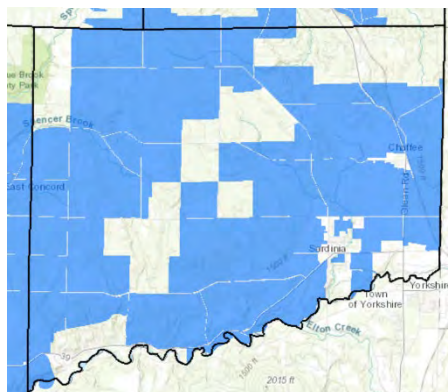
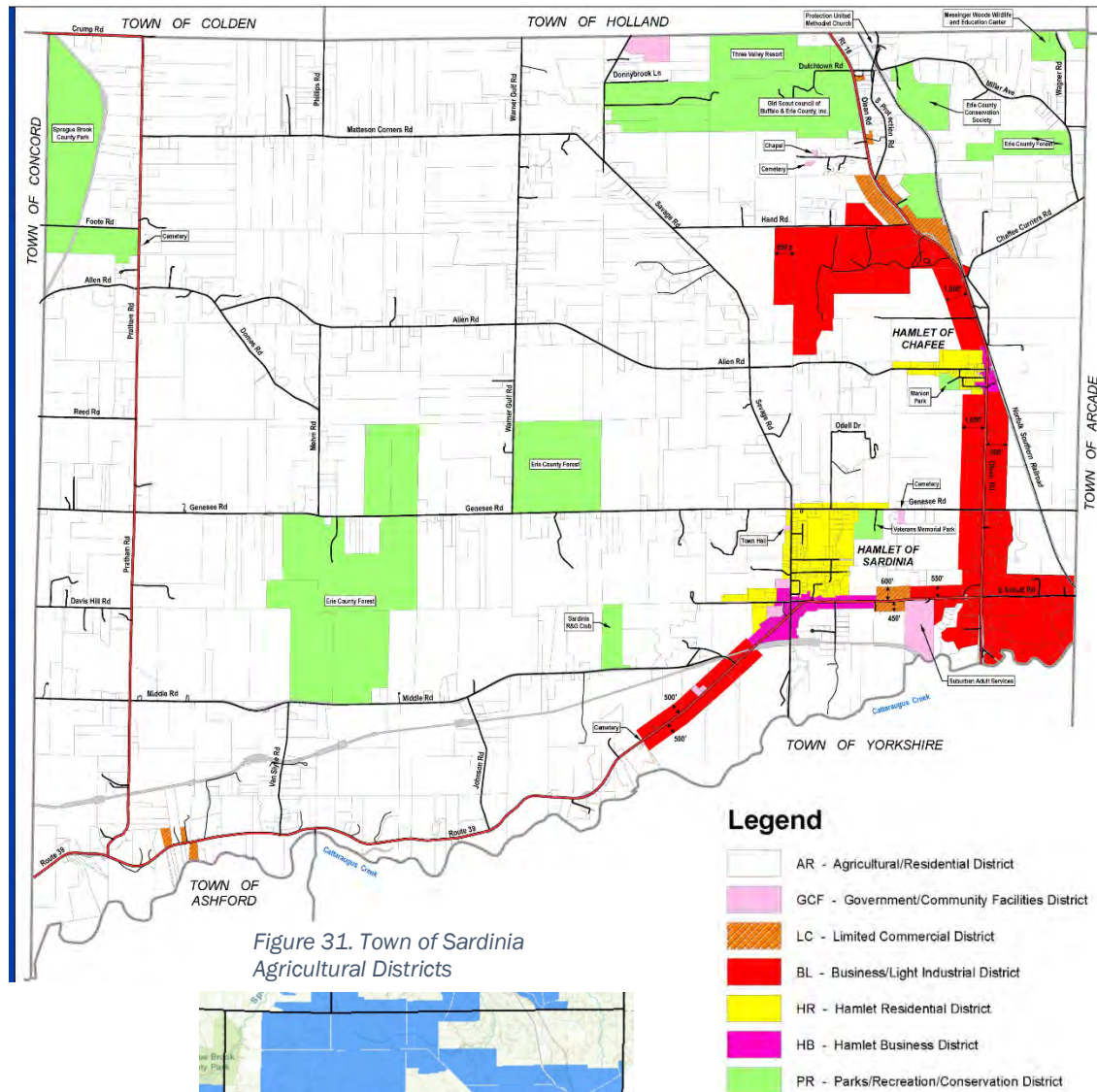
6. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations. However, the Town of Orchard Park Comprehensive Plan states that subdivision requirements should include improved requirements for buffers between industrial, commercial, and agricultural properties.

21. TOWN OF SARDINIA

The Town of Sardinia zoning regulations are codified as Chapter 115 of the Town Code. Agriculture uses and certified Agricultural Districts are mostly located within the AR Agricultural Residential zoning district, but may be located in other zoning districts as shown in the figures below.

Figure 30. Town of Sardinia Zoning Map



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming*

The Town of Sardina zoning regulations define the following agriculture and agriculture-related terms:

- **AGRICULTURAL PRACTICES** – All activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm, and the on-farm production, processing and marketing of agricultural products, including, but not limited to, the collection, transportation, distribution, storage and land application of animal wastes; storage, transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and pesticide application; storage and use of legally permitted fertilizers, limes, and pesticides, all in accordance with local, state, and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use, and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock; for the sale of agricultural products; and for the use of farm labor as permitted by local and state building codes and regulations, including the construction and maintenance of fences.
- **AGRICULTURAL PRODUCTS** – Those products as defined in § 301, Subdivision 2, of Article 25-AA of the Agriculture and Markets Law.
- **FARM** – The land, buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.
- **FARMER** – Any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur-bearing animals, fish, the harvesting of timber, or the practicing of horticulture or apiculture.
- **GENERALLY ACCEPTED AGRICULTURAL PRACTICES** – Practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe, and typical to the industry or unique to the commodity as they pertain to the practices listed in § 61-2A, entitled “Agricultural Practices.”

b) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

Agricultural uses specifically permitted as principal uses in the AR Agricultural-Residential zoning district, which encompasses most of the Town’s land area and farms, include:

- agricultural uses and the structures to support such uses
- commercial keeping of agricultural animals
- crop production
- dairy farming
- forestry (without milling operations)
- poultry production
- plant nurseries and greenhouses

Permitted accessory uses in the AR district include “Customary agricultural accessory uses/structures (excluding windmills)”

The stated purpose of the AR District is to encourage the use of land for agrarian purposes, and to limit the density and location of residential development within the district to preserve existing agrarian practices and to protect prime farmland soils for future agricultural purposes.

A special use permit is required for “commercial riding stables/ equestrian facilities.

Agricultural uses are not specifically permitted in any other zoning districts.

c) Zoning requirements for agricultural uses should be based on public health and safety

§61-4 requires that agricultural practices must be conducted in a manner which does not constitute a threat to public health and safety or cause injury to the health and safety of any person. Additionally, §115-17 requires that all uses should not create dangers to health and safety, nor should they create offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences on an unnecessary extent.

d) A special use permit should not be required for agricultural uses or farm practices.

A special use permit is required for “commercial riding stables/ equestrian facilities. For those stables that are considered farm operations protected by NYS Agricultural Districts Law, requiring a special use permit may be unreasonably restrictive.

e) Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.

Site plan review does not appear to apply to agricultural uses in the Town of Sardinia, NY.

2. Do land use regulations accommodate agriculture-related and other business on farms?

In the Town of Sardinia, customary agricultural accessory uses and structures, excluding windmills, are allowed as of right. The noncommercial keeping of agricultural animals is also permitted as of right. Additionally, roadside stands, provided they do not exceed 200 square feet, are allowed as of right, though their initial location requires approval, and they must be removed at the end of each growing season. Accessory sales for plant nurseries and greenhouses are permitted as of right, with a maximum allowable area of 1,000 square feet.

3. Do land use regulations accommodate non-agricultural secondary business on farms?

As few businesses are permitted uses in the AR zoning district, non-agricultural businesses on farms would not be allowed.

4. Do land use regulations include considerations of agricultural impacts as part of development review?

Agricultural uses are not subject to site plan review. However, pursuant to Section 283-a.2. of Article 16 of NYS Town Law, any application for a special use permit, site plan approval, use variance, or subdivision approval that requires review by the Planning Board, Zoning

Board of Appeals, or Town Board must include an Agricultural Data Statement if the proposed action takes place on property within an agricultural district containing a farm operation or within 500 feet of a farm operation in an agricultural district.

A Mined Land Overlay District may be created within the Town's AR zoning district. This would permit the establishment of sand, clay, and gravel mines, provided that the property owner obtains and New York State Department of Environmental Conservation mining permit, and subject to mitigation for loss of agricultural lands as follows:

- Mitigation for lost prime farmland due to mining shall occur acre-for-acre within the Town of Sardinia. For each acre permanently removed, another must be improved off-site within one year. Acceptable methods include aiding local farmers with grading, drainage, erosion control, or securing conservation easements. These efforts are subject to public review by the Town of Sardinia Town Board, Town of Sardinia Planning Board, and the Erie County Soil and Water Conservation District.

5. How well do land use regulations direct development away from high quality farmland?

In addition to agriculture, permitted structures and uses in the Agricultural Residential zoning district include residences, seasonal use cottages, and places of worship.

The Town's Prime Farmland Overlay District (PFO) aims to, "balance the demand to convert lands which have prime farmland soils to more intensive land uses with the community's goal of promoting the retention of productive farmland for future generations." To fulfil this balance, the Town promotes the use of:

- Conservation easements
- Sliding scale zoning
- Open space development design (density averaging)
- The transfer of development rights as a means to preserve the continues vitality of farming within the Town of Sardinia

Non-agricultural commercial uses are permitted within the Prime Farmland Overlay District, if also permitted in the underlying zoning district, "with consideration given for the preservation of such lands which are actively utilized for agrarian purposes" such as through:

- The preservation of such lands through purchase of conservation easements from willing sellers.
- The use of creative development designs which maximize the preservation of prime farmland soils.
- The allocation of open space as required in the landscaping provisions of this chapter as a means to preserve actively utilized prime farmland soils

The development of single family homes and seasonal cottages are permitted based on a sliding scale, with potential for additional dwellings with a "Bonus Incentive" if some of the farmland is protected through a permanent conservation easement or deed restriction.

6. Do subdivision regulations include provisions to minimize impacts on farm operations?

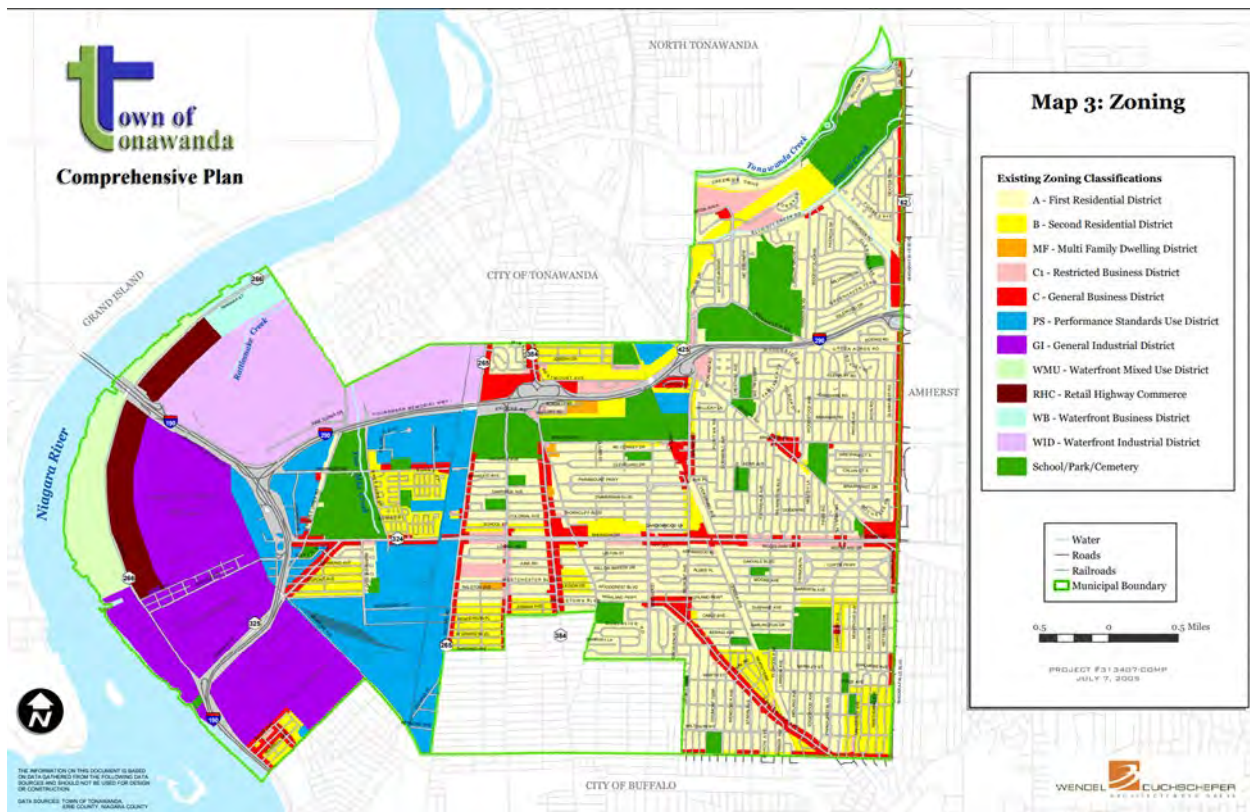
Consideration of impacts on farm operations are not explicitly mentioned in subdivision regulations. However, pursuant to Section 283-a.2. of Article 16 of NYS Town Law, any application for subdivision approval must include an Agricultural Data Statement if the proposed action takes place on property within an agricultural district containing a farm operation or within 500 feet of a farm operation in an agricultural district. The Town has provided an outline for the contents of an Agricultural Data Statement in its zoning regulations.

22. TOWN OF TONAWANDA

The Town of Tonawanda adopted Land Use Regulations in April 2024 with various amendments undertaken since. There are restrictions on commercial farming and livestock throughout the Town.

There is no portion of the Erie County Agricultural District located within the Town of Tonawanda boundary.

Figure 32. Town of Tonawanda Zoning Map



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming*

The Town Code Zoning Section defines the following agriculture and agriculture-related terms:

- AGRICULTURAL ACTIVITY – The activity of an active farm, including grazing and watering livestock, irrigation crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.
- VERTICAL FARMING – The practice of growing crops in vertically stacked layers, often incorporating controlled-environment agriculture, which aims to optimize plant growth, and soilless farming techniques such as hydroponics, aquaponics, and aeroponics.

There is no given definition of farm or farming, nor is there a right-to-farm declaration.

It is recommended that definitions surrounding farming and agriculture are defined, as it is crucial to ensure clarity, consistency, and fair application of regulations. Precise definitions help prevent misunderstandings, legal disputes, and unintended restrictions on farming activities. They also establish clear guidelines for what qualifies as agriculture, avoiding ambiguity that could lead to inconsistent enforcement or unnecessary regulatory hurdles. Well-defined terms support farmers by providing certainty in land use policies while helping municipalities balance agricultural needs with community planning and development goals.

b) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

The breeding, raising, or keeping of bees, fowl, farm animals, exotic animals, pigeons, reptiles, or more than three dogs on any property are expressly prohibited in the Single-Family Residential District (R-1), the Two-Family Residential District (R-2), and the Mixed Residential District (MR).

Agricultural Uses are specified as a prohibited use in any Planned Unit Development.

23. TOWN OF WALES

The Town of Wales zoning regulations are codified as Chapter 200 of the Town Code.

Most of the Town's land area and agriculture uses are within in the Agricultural District (A).

NYS-certified Agricultural Districts encompass most of the Town (see figure below.)

Figure 33. Town of Wales Zoning Districts

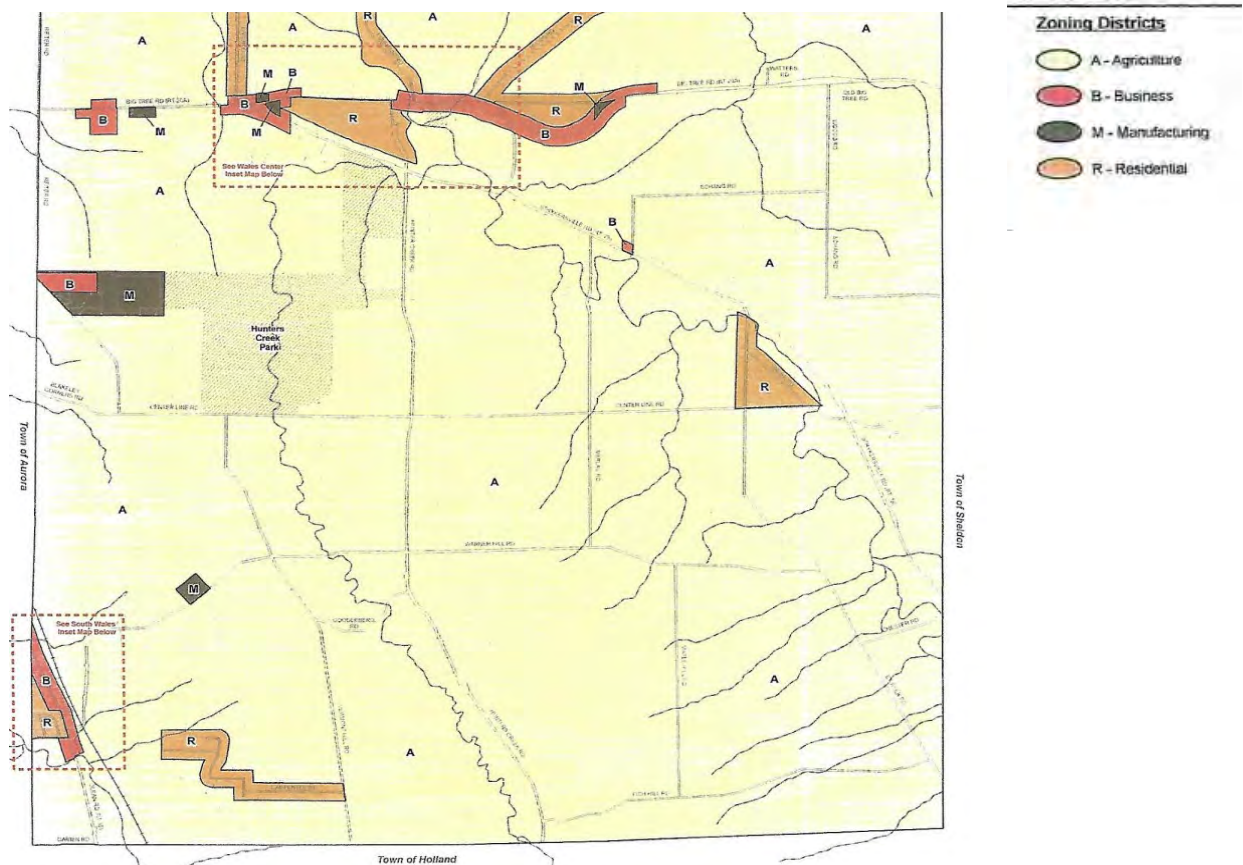
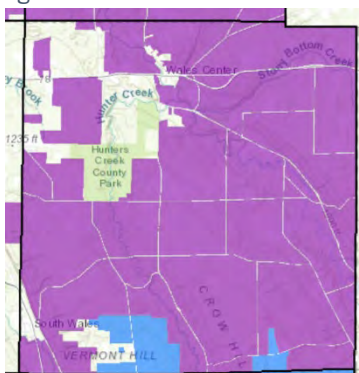


Figure 34. Town of Wales Agricultural Districts



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming*

Agricultural uses defined in §200-3 of the Town's zoning regulations include:

AGRICULTURE. A use customarily defined as farming, dairying, pasturage, agriculture, horticulture, viticulture, animal and poultry husbandry, and the sale of such products by one engaged in agriculture.

BARN. A structure customarily used in farming, dairying, agriculture, horticulture, viticulture, and animal and poultry husbandry.

FARM. A parcel or parcels in an R-Residential or A-Agricultural District devoted to farming as a primary use

The Town's Right to Farm Law, in Code Zoning Section defines the following agriculture and agriculture-related terms:

- AGRICULTURAL PRACTICES - All activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and the on-farm production, processing, and marketing of agricultural products including, but not limited to, the collection, transportation, distribution, storage, and land application of animal wastes; storage, transportation, and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and pesticide application; storage and use of legally permitted fertilizers, limes, and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products and livestock, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations; including the construction and maintenance of fences.
- AGRICULTURAL PRODUCTS - Those products as defined in § 301(2) of Article 25-AA of the Agricultural and Markets Law.
- FARMER - Any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur-bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.
- FARMING - The land, buildings, farm residential buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.

b) Agriculture should be permitted “as of right” in all areas of the Town where it occurs

Permitted principal uses in the Agricultural (A) zoning district, which encompasses most of the Town, include:

- Farms, truck gardens, dairies, nurseries, greenhouses, farm structures, and all other customary incidental agricultural occupations. Farms may consist of one or more parcels of owned or rented land, which parcels may or may not be contiguous with each other.

Farms and agricultural uses are not listed as a permitted principal use in any other zoning district. The Residential (R) zoning district allows , include “Farming and gardening. Gardens, truck gardens, nurseries or greenhouses and any other crop farming, excluding farm animal operations and housing” as permitted accessory uses.

A special permit is required for farm animal operations on less than ten acres in Agricultural and Residential Districts.

Although farming may not be specifically permitted in certain zoning districts, the Town’s Right to Farm declaration ([Chapter 168 Right to Farm](#)) states:

- Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Wales at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture.

c) Zoning requirements for agricultural uses should be based on public health and safety

As mentioned in the right to farm declaration, agricultural practices conducted on farmland must be conducted in a manner which does not constitute a threat to public health and safety or cause injury to the health or safety of any person. The Town Code also provides the following public health and safety guidelines for farm operations and animal housing in §200-26:

- Farms over 10 acres. Within 100 feet of any property line of a lot in any A, R or B District, no storage of manure or other odor- or dust-producing substance or use shall be hereafter established, and no building or pen shall be hereafter erected or changed in use to house or contain horses or other farm animals, more than 30 chickens or other fowl or a dog kennel. Within 250 feet of any residence on adjacent property, no fur farm, hog pen or commercial livestock feed lot shall be hereafter established or extended.
- Farms under 10 acres. Special use permits for animal housing shall be required from the Town Board subject to such conditions as the Town Board may impose regulating housing of animals, storage of manure or other odor- or dust-producing substances and consideration of neighbors and such similar restrictions as the Town Board may deem proper under the circumstances.

d) A special use permit should not be required for agricultural uses or farm practices.

As mentioned, special use permits for agricultural uses or farm practices are only required when farm animal operations occur on less than ten acres. While this

requirement may help manage land use conflicts, it could also place unnecessary restrictions on small farmers, potentially hindering local agriculture. The impact depends on how the permitting process is structured and whether it is fair, efficient, and supportive of small farm viability.

- e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

In the Town of Wales, all uses requiring a special use permit are subject to site plan review. Site plan review does not appear to apply to agricultural uses. Generally, agricultural facilities would not be expected to go through this process. Commercial and industrial facilities as part of a farm operation may be subject to site plan review and approval, which is a reasonable approach. The Site Plan Review requirement for these uses would be overly restrictive if applied in a way that is unreasonably burdensome without a basis in health and safety. (See the guidance documents prepared by NYS Ag & Markets for review of local laws relating to: direct farm marketing; wineries, breweries, cideries and distilleries; greenhouses; nutrient management systems; and farmworker housing.) When reviewing site plan proposals for agricultural uses within a certified Agricultural District, the Planning Board will need to ensure that the process the conditions imposed through site plan review are not overly burdensome.

2. Do land use regulations accommodate agriculture-related and other business on farms?

Roadside stands for selling farm products grown on the same property are permitted as an accessory use in the Agricultural District. However, roadside sales are limited to a maximum of 30 consecutive days or two separate 30-day periods per calendar year.

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval, however, applications are reviewed against the Comprehensive Plan which has regards for protection of agriculture.

Pursuant to Section 283-a.2. of Article 16 of NYS Town Law, any application for a special use permit, site plan approval, use variance, or subdivision approval that requires review by the Planning Board, Zoning Board of Appeals, or Town Board must include an Agricultural Data Statement if the proposed action takes place on property within an agricultural district containing a farm operation or within 500 feet of a farm operation in an agricultural district.

4. How well do land use regulations direct development away from high quality farmland?

The Town of Wales Code permits residences, farms and gardening, and municipally maintained recreational use in the Agricultural District, as-of-right. There are also several uses that may be permitted subject to special permit, including farming or animal housing on less than ten acres, telecommunications facilities, schools, churches, and other similar uses allowed by the Town Board upon recommendation to the Town planning board.

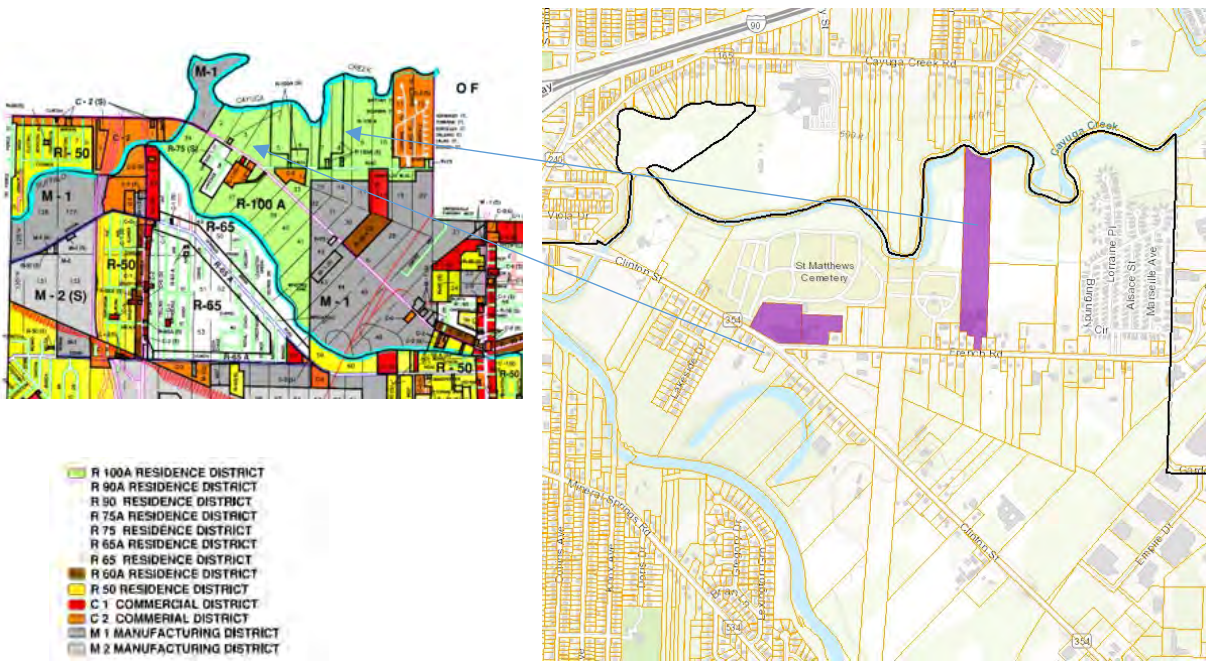
5. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations. However, pursuant to Section 283-a.2. of Article 16 of NYS Town Law, any application for subdivision approval must include an Agricultural Data Statement if the proposed action takes place on property within an agricultural district containing a farm operation or within 500 feet of a farm operation in an agricultural district.

24. TOWN OF WEST SENECA

The Town of West Seneca adopted Land Use Regulations in March of 1963 with various amendments undertaken since. Very little agriculture takes place within the Town. Only two small parcels in the northwest part of the Town are within a County-certified Agricultural District. This area is within the R-100A Residential District.

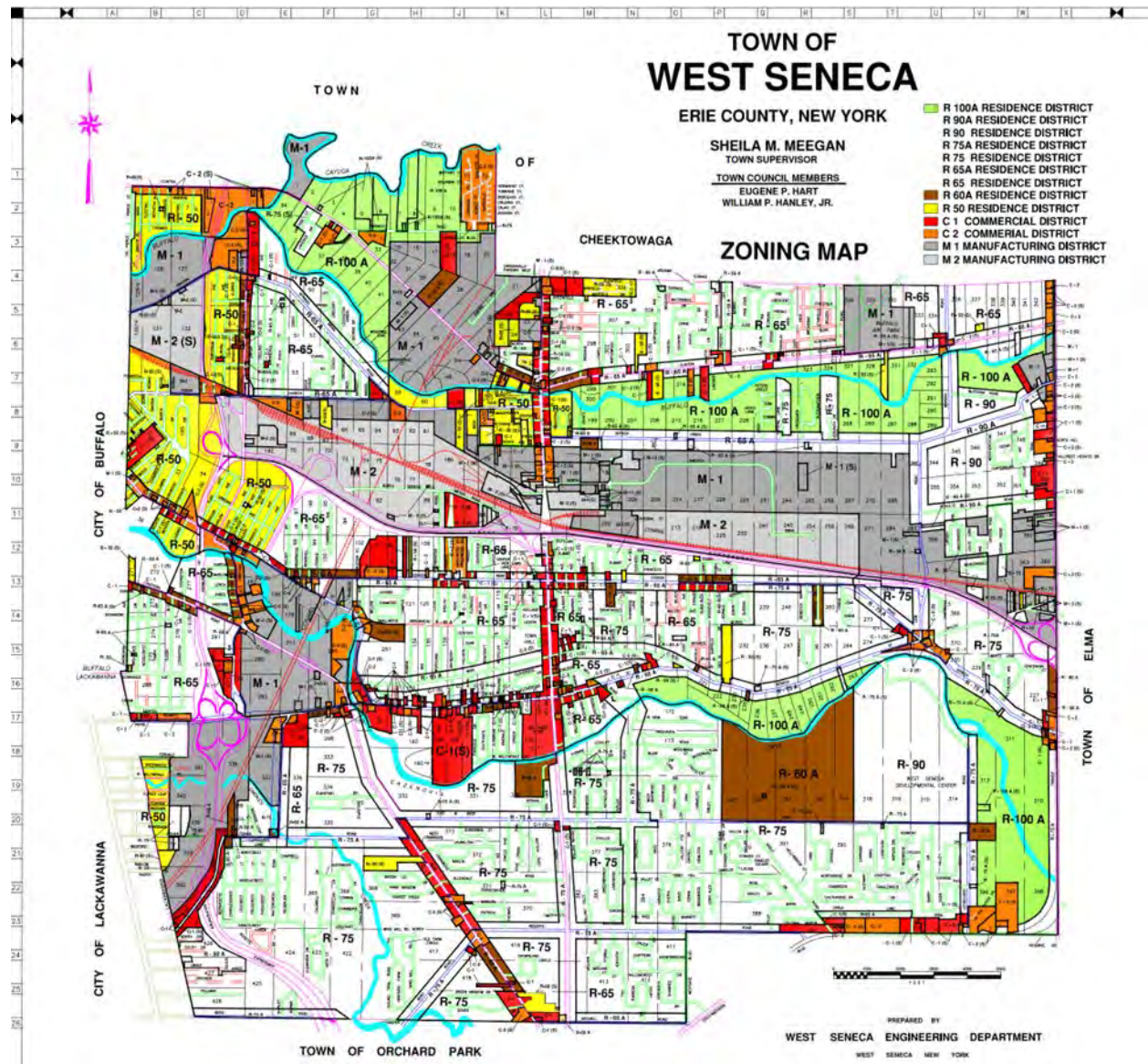
Figure 35. Town of West Seneca Zoning Map and Agricultural Districts map excerpts



Zoning Map excerpt

Agricultural District Map excerpt

Town of West Seneca Zoning Map



1. Do local land use regulations unreasonably restrict standard farm practices?

a) *The definition of farming should be broad enough to include all types of farming*

The Town Code Zoning Section defines the following agriculture and agriculture-related terms:

- **AGRICULTURAL ACTIVITY** – The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

Excluding “new structures associated with agricultural activities” may be unreasonably restrictive as applied to farm operations within a certified Agricultural District.

b) *Agriculture should be permitted “as of right” in all areas of the Town where it occurs*

The list of permitted uses in the R-100A District includes:

Agricultural operations conducted for gain, including but not limited to plant nurseries, greenhouses or truck farms, provided that:

- The lot area is five acres or more.
- No odor- , smoke- or dust-producing substance or use shall be located within 100 feet of any abutting lot line in any R District.
- Such operation shall not include the raising or breeding of poultry, farm animals or fur-bearing animals

The 5-acre lot size minimum and prohibition on poultry or animals may be deemed to be unreasonably restrictive as applied to a farm operation in a certified Agricultural District.

A 2024 zoning amendment allows, “Raising of poultry for personal use on property and not for sale or barter to any third party,” in the R-100A zoning district subject to certain conditions.

c) *Zoning requirements for agricultural uses should be based on public health and safety*

§ 120-17 prohibits any odor, smoke, or dust producing substance be located within 100 feet of any abutting lot line in any R district.

d) *A special use permit should not be required for agricultural uses or farm practices.*

The Town Code does not require a special use permit for agricultural principal uses.

e) *Site plan review criteria for agricultural facilities should be limited to those that protect public health and safety.*

Site plan review does not appear to apply to agricultural uses.

2. Do land use regulations accommodate agriculture-related and other business on farms?

The Town of West Seneca zoning regulations allow “Seasonal display for the sale of locally grown produce” as a permitted accessory use but specifies that, “No new building shall be constructed for such display or sale.”

3. Do land use regulations include considerations of agricultural impacts as part of development review?

Review of impacts to agricultural lands and operations does not appear to be a requirement for site plan approval.

Pursuant to Section 283-a.2. of Article 16 of NYS Town Law, any application for a special use permit, site plan approval, use variance, or subdivision approval that requires review by the Planning Board, Zoning Board of Appeals, or Town Board must include an Agricultural Data Statement if the proposed action takes place on property within an agricultural district containing a farm operation or within 500 feet of a farm operation in an agricultural district.

4. How well do land use regulations direct development away from high quality farmland?

The zoning regulations for the R-100A district allows single family dwellings, churches, schools and cemeteries and permits veterinaries, small animal hospitals, kennels, radio towers, and transmitting stations, by special use permit.

5. Do subdivision regulations include provisions to minimize impacts on farm operations?

Farm operations are not explicitly mentioned in the subdivision regulations.