

NYS Agricultural Districts Explained

WELCOME!

Sarah Gatti, Senior Planner | Erie County Office of Agriculture
Jeff Kehoe, Agricultural Protection Planner | NYS Dept. of Ag & Markets



What is the Erie County Office of Agriculture?

- Division of the Erie County Department of Environment and Planning
- Founded 2020
- Among other tasks, administers the NYS Agricultural District program and supports the Erie County Agriculture and Farmland Protection Board



What is the Agricultural District Program?

WHEN

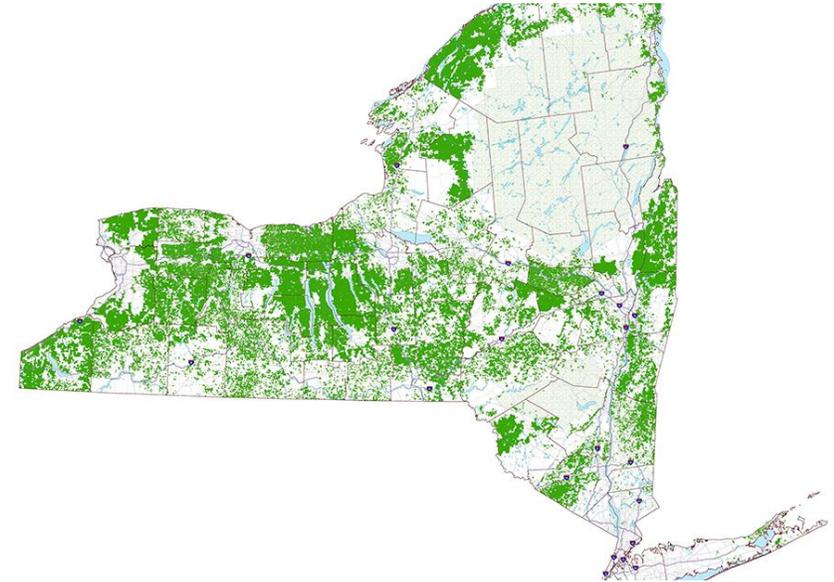
Enabled in 1971 by NYS Agricultural Districts Law (ADL).

WHY

Protect and promote the availability of land for farming purposes and farmers.

WHAT

Geographic areas which consists predominantly of viable agricultural land and in which agricultural operations are the priority land use.



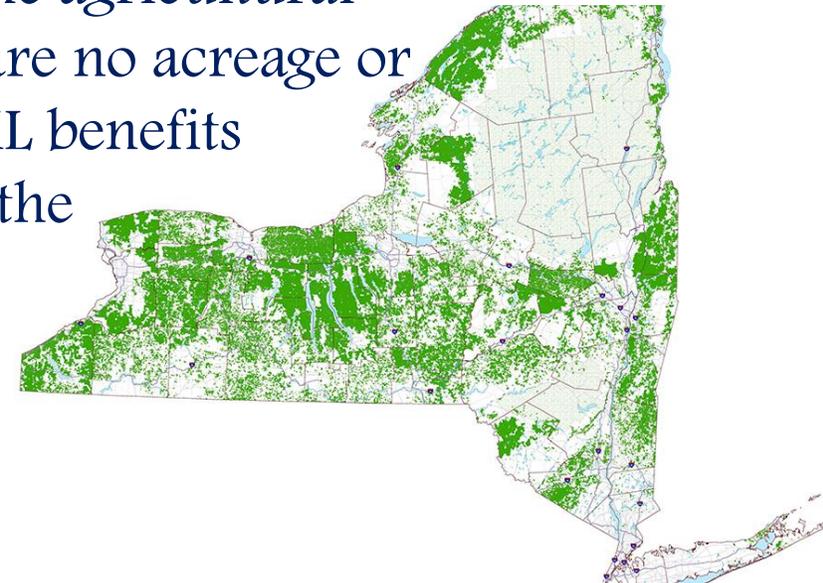
What is the Agricultural District Program?

HOW

Counties administer program, NYS Commissioner of the Department of Agriculture and Markets certifies districts. Article 25AA of Agriculture and Markets Law (AML 25AA) authorizes the creation of a county agricultural and farmland protection board (AFPB) to review proposed modifications.

WHO

Land that contributes to the overall viability of the agricultural industry are allowable in the District and there are no acreage or monetary thresholds for inclusion. However, AML benefits are only available to parcels that are enrolled in the District and associated with a **Farm Operation**. While any landowner may submit an application, the determination rests with the County Legislature and NYSDAM.



Agriculture and Farmland Protection Board (AFPB)

- Per AML §303-b (2)(a) AFPBs are charged with making recommendations to the County Legislative Body *“as to whether the land to be included in the agricultural district consists predominantly of ‘viable agricultural land’ as defined in [AML §301(7)] and the inclusion of such land would serve the public interest by assisting in maintaining a viable agricultural industry within the district.”*
- AFPBs are 11-member boards
 - Farmers
 - Agribusiness
 - Agricultural Land Preservation
 - Soil and Water Conservation District
 - County Legislature
 - Cooperative Extension
 - County Planning Director
 - County Real Property Services
- Agricultural District recommendations based on two criteria:

Agriculture and Farmland Protection Board (AFPB)

1 Does the parcel of land consist predominantly of “viable agricultural land?”

- Defined as “land *highly suitable for a farm operation*”
- Land need **not** be actively farmed
- **F**arm **O**perations include land and on-farm buildings, equipment, manure processing and handling facilities, crops, commercial livestock and product, commercial horse boarding operations, timber operations, compost, mulch, biomass crops, commercial equine operations.



Agriculture and Farmland Protection Board (AFPB)

2 Would the inclusion of the land serve the public interest by assisting in maintaining a viable agricultural industry within the district?

- AFPBs understand the County agricultural industry
- May still need more information, including:
 - Agricultural assessment (yes/no)
 - Farm's land base and sales
 - Conservation easement (yes/no/pending)
 - Investment or planned investment
 - Future plans



Agriculture and Farmland Protection Board (AFPB)

In past years, the Erie County AFPB has considered the following factors:

Soils present on the site

- Are they good for farming?
- Are they prime?

Access to parcel

- Is it landlocked?
- If easements are required, are they secured?

Location

- Is the area highly developed?
- Is it densely-populated residential?



- ⊗ Highly Developed
- ⊗ Densely Residential

Good Soils ✓
Highly Agricultural ✓



What are the Benefits of Agricultural Districts?

- The obligation of State agencies, as a matter of policy, to encourage the maintenance of viable farming in agricultural districts.
- Limitations on the exercise of eminent domain and other public acquisitions, and the advance of public funds for certain construction activities.
- Limitations on the siting of solid waste management facilities on land dedicated to agricultural production.



What are the Benefits of Agricultural Districts?

- Limitations on the power to impose benefit assessments, special ad valorem levies, or other rates or fees in certain improvement districts or benefit areas.
- Requirements that applications for certain planning and zoning actions impacting a designated farm operation within an agricultural district, or on lands within five hundred feet of such farm operation within an agricultural district, include an agricultural data statement designed to allow the review agency to evaluate any possible impacts of the proposed action on farm operations.



What are the Benefits of Agricultural Districts?

- Requirements that direct local governments to realize the intent of the Agricultural Districts Law and to avoid **unreasonable restrictions** in the regulation of farm operation.
 - An aggrieved farmer may submit a §305-a application to commence a review by NYSDAM.
 - NYSDAM considers the following during a §305-a review
 - In an Agricultural District?
 - Farm Operation as defined in AML?
 - Is the local law or ordinance unreasonably restrictive?
 - Is public health or safety threatened?



Unreasonable Restrictions

The evaluation of reasonableness consists of two parts:

- 1** Whether the law or ordinance is unreasonably restrictive “on its face”
 - Law or ordinance is unreasonable at first look
 - Laws may be so vague that they inhibit farmers from undertaking certain activities out of concern for violating the law or ordinance
- 2** Whether it is unreasonably restrictive as applied to a particular situation
 - Law or ordinance may appear reasonable but may unreasonably restrict or regulate a particular farmer in practice

Unreasonable Restrictions

Examples of Unreasonable Restrictions

Issue: Whether an ordinance that restricts the number of mobile homes on a farm to one and requires that the mobile home be situated “as nearly as possible to the center of the farm’s operations” unduly restricts farming practices and structures.

Facts: NYSDAM received a complaint from a farmer who had one mobile home on his property and wanted to add another to house a relief milker. He also wanted to choose the location of the mobile home. The local zoning ordinance restricted these activities as outlined above.

NYSDAM

- Mobile homes as on-farm housing are common practice
- On-farm housing is beneficial to both the farm worker and the farmer
- No facts were presented to demonstrate a threat to public health or safety
- LL is unreasonably restrictive



Unreasonable Restrictions

Examples of Unreasonable Restrictions

Issue: Whether a proposed local law prohibiting the disposal and landspreading of food processing waste, septage, sludge and composted sludge (spreading) unreasonably restricts farming practices.

Facts: A town requested advice concerning a proposed local law which would prohibit disposal and landspreading of food processing waste, septage, sludge and composted sludge, except under strict permit conditions. NYSDAM reviewed and commented on several drafts of the proposed local law.

NYSDAM:

- Spreading supports the production function of the farm and is an agricultural practice benefitting the production of crops
- LL was not consistent with DEC regulations on spreading
- No facts were presented to demonstrate a threat to public health or safety
- LL is unreasonably restrictive

Unreasonable Restrictions

Examples of Reasonable Restrictions

Issue: Whether a 100-foot setback required for buildings constructed along state roads and a 75-foot setback for buildings constructed along county roads unreasonably restricts farm structures.

Facts: NYSDAM received a complaint from a farmer generally opposing local setback requirements. The farmer did not cite any specific impact upon either his operation or any other farmer in the agricultural district. The setbacks required by the ordinance applied equally to farmland and land used for other purposes. The municipality justified the ordinance as an effort to “lessen congestion in the roads” and “facilitate adequate provision of transportation.”

NYSDAM: LL is not unreasonably restrictive



Unreasonable Restrictions

Examples of Reasonable Restrictions

Issue: Whether a proposed ordinance which would limit the size of a roadside stand to 150 square feet, require that agricultural commodities sold be limited to products raised solely on the premises and limit the zones in which roadside stands are permitted unreasonably restricts farm buildings.

Facts: NYSDAM received a request from a farmer to review a proposed zoning law which impacts on agriculture by restricting roadside stands.

NYSDAM

-
- NYSDAM did not find the proposed restrictions to violate ADL per se.
- Roadside stands are not exempt from local regulation.
- However, the square footage requirement may not be sufficient to meet the needs of existing and future farm operations.
- The zoning districts that allow roadside stands may not encompass all AD lands.
- Application of the LL to specific roadside stands is critical in determining whether it is unduly restrictive.



Agricultural Districts Misconceptions

Misconception Farmers can do whatever they want!

Truth

- Certain practices are extended to Farm Operations (FOs) enrolled in an Ag. District, including: open burning, hours of operation, and certain commercial activities
- Farmers must follow all local laws including notification to Towns. But FOs may benefit from streamlined fee schedules and local review
- Unless found to be unreasonably restrictive, FOs must adhere to local zoning and regulations.

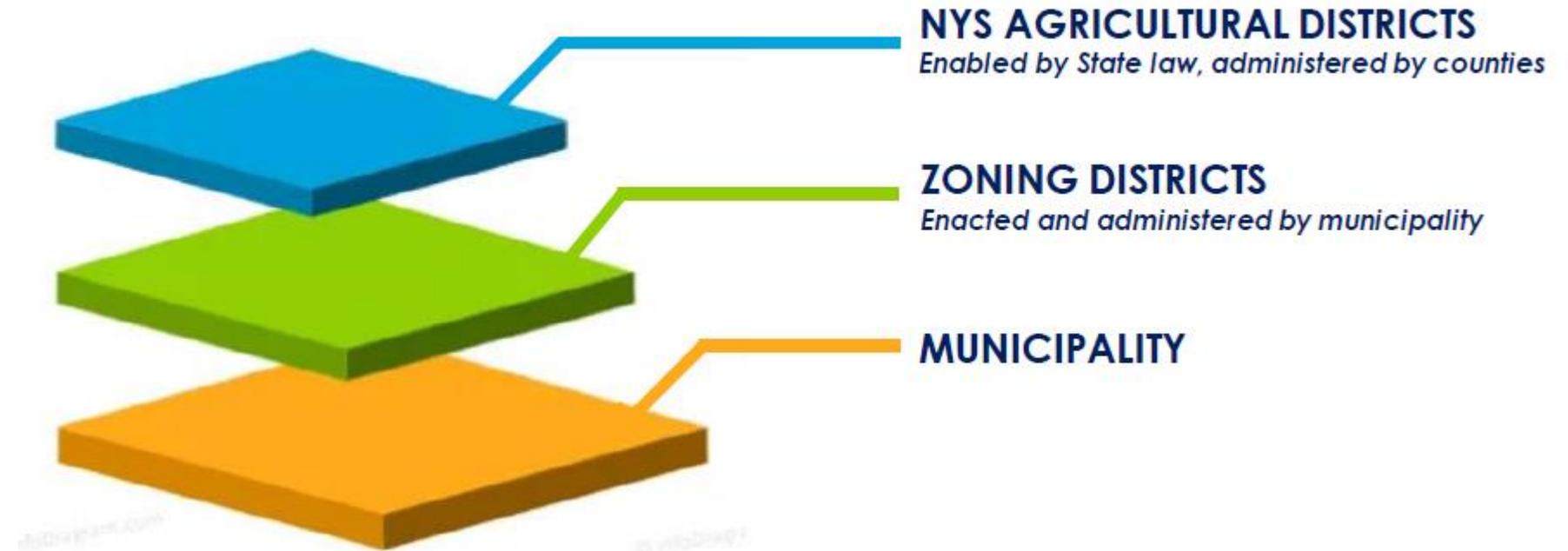


Agricultural Districts Misconceptions

Misconception ADs and Zoning Districts are the same.

Truth

- ADs are not the same as zoning. Zoning is a local land use regulation. Land in a certified agricultural district is in a New York State program to encourage the use of land for farming.
- Enrollment in an AD does not change the underlying zoning district.
- Local agricultural zoning may allow for growth-inducing land uses.



Agricultural Districts Misconceptions

Misconception ADs and Local Right-to-Farm (RTF) Laws are the same.

Truth

- AML does include an RTF provision requiring the resolution of disputes regarding farm practices on Farm Operations within ADs. These provisions are only applicable to land in ADs.
- Municipalities can enact their own RTF laws. Local RTF laws set forth a process to mediate complaints by non-farm neighbors about farming operations and practices at the local level. Applicable to farmers engaged in reasonable agriculture practice.



Agricultural Districts Misconceptions

Misconception Farm Operations in Agricultural Districts are exempt from zoning

Truth

- Precedent has been set on local regulations that are considered restrictive on their face. Enactment of such regulations should be avoided.
- Otherwise, a Farm Operation in an AD may request a 305-a review but is not exempt from local zoning.
- Unless found to be unreasonably restrictive, Farm Operations must adhere to local zoning and regulations.



Agricultural Districts Misconceptions

Misconception Farm Operations in ADs are permanently protected and conserved forever.

Truth

- The land in an AD is not restricted to agricultural production.
- ADs provide benefits that help make and keep farming as a viable economic activity, thereby maintaining land in active agricultural use.

Tip Farmers interested in permanent land conservation should contact the Western New York Land Conservancy at 716-687-1225 or info@wnylc.org.



Agricultural Districts Misconceptions

Misconception ADs prohibit the sale of land.

Truth

- ADL requires a real estate transfer disclosure during sale, but does not restrict the transfer of real property.
- Disclosure includes notice that the property is located within in AD and that farming activities including noise, dust, and odors occurs within the AD.
- Also include notice that the location of the property within AD may impact the ability access to water and/or sewer services.



Agricultural Districts Misconceptions

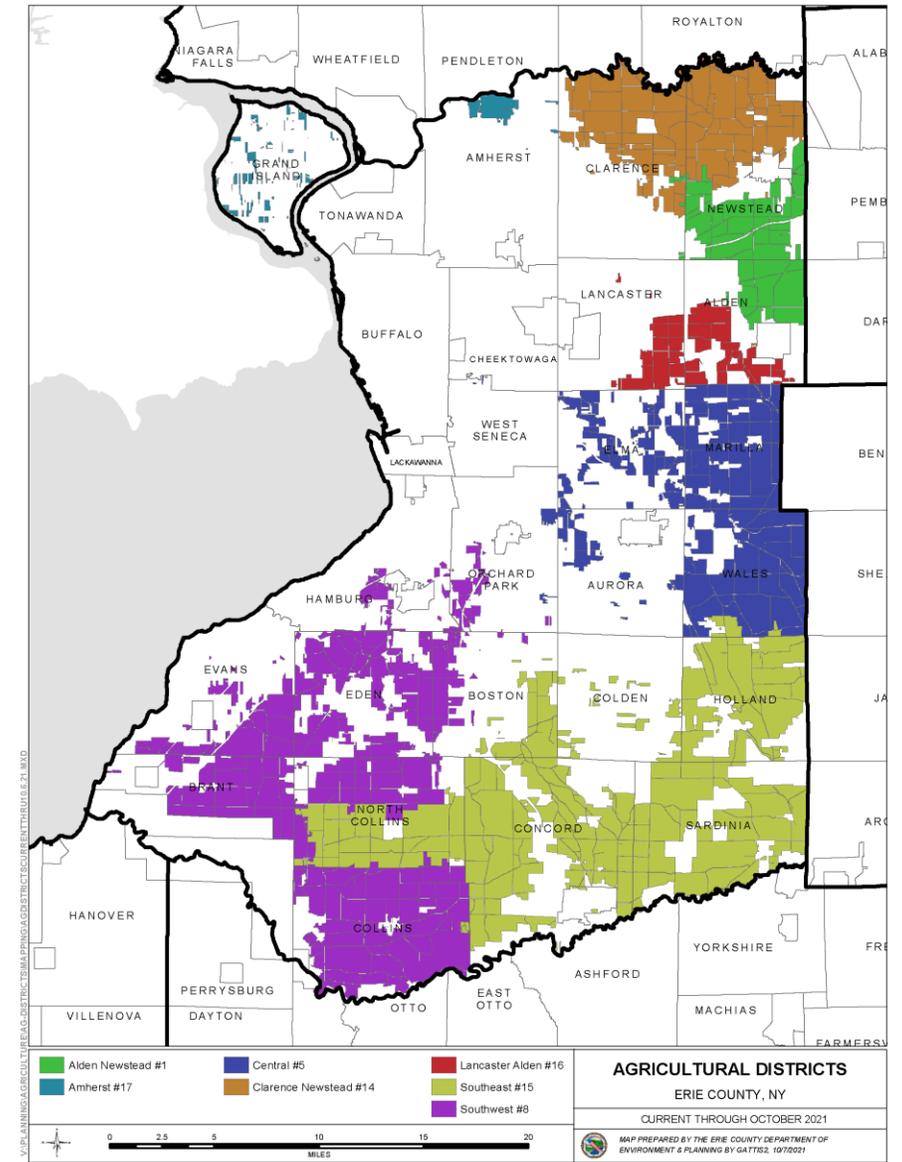
Misconception ADs and the Agricultural Assessment program are the same.

Truth

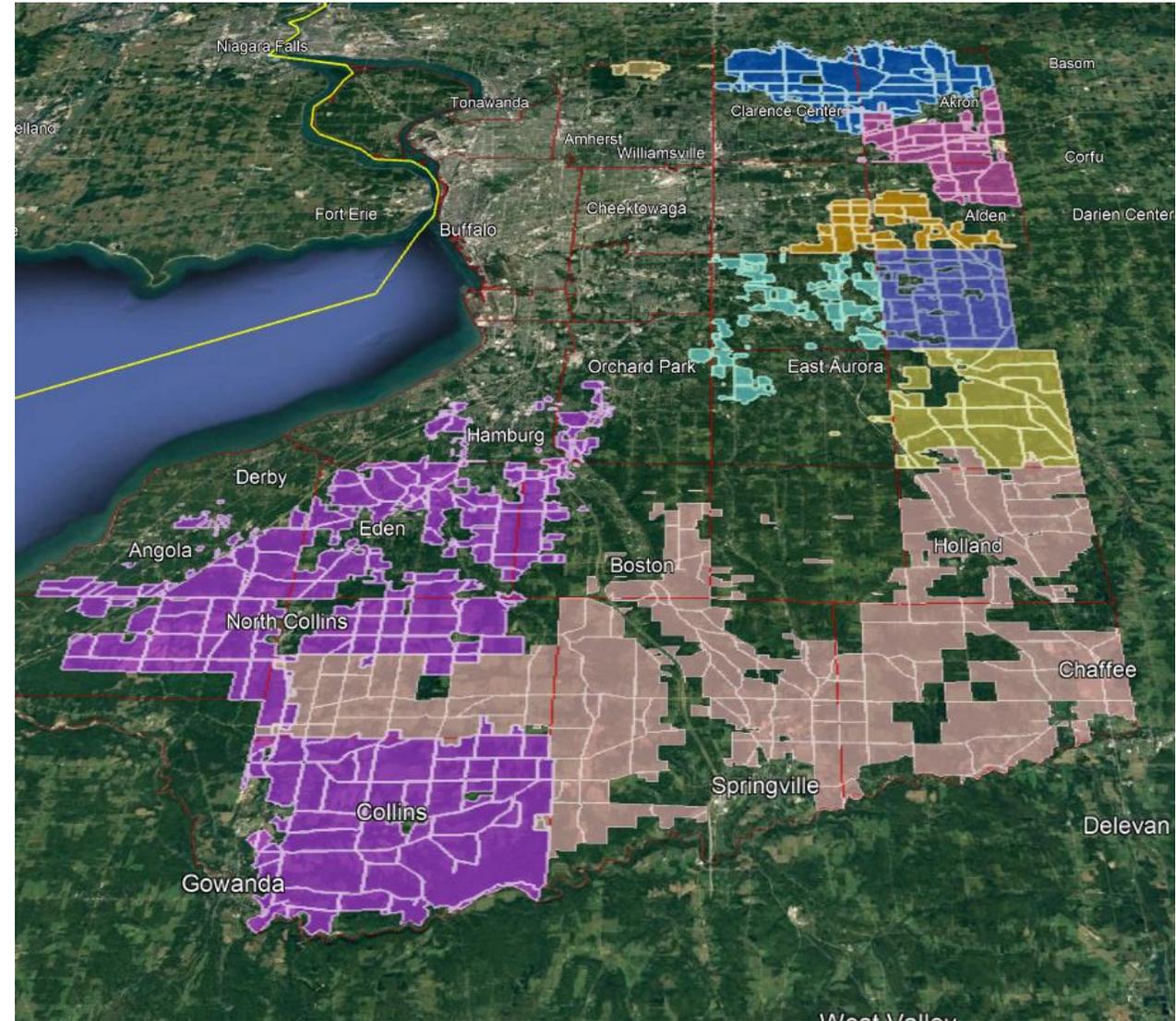
- Land can be enrolled in an AD and not receive an Agricultural Assessment.
- Land can receive an Agricultural Assessment and not be enrolled in an AD.
- To receive an Agricultural Assessment
 - Land must have been used in the preceding two years for the production or sale of crops, livestock, or livestock products; and
 - Land must remain in agricultural use for eight years or be subject to a payment for conversion to non-agricultural use; and
 - Land must be seven or more acres, and Farm Operation must \$10,000/year average annual gross sales;
 - Land may be less than seven acres, if Farm Operation has \$50,000/year in average annual gross sales.

Erie County Agricultural Districts

- Currently seven (7) Agricultural Districts (ADs) in Erie County
- 261,241.37 enrolled acres
- Consolidation plan in progress



Agricultural District Mapping Resources



Tools

- [SMS This](#)
- [Web services](#)

Download

- Shapefile
- PDF
- KML

Export Formats

- KMZ (generated) [Export](#)
- GeoJSON (generated) [Export](#)

Derived Datasets

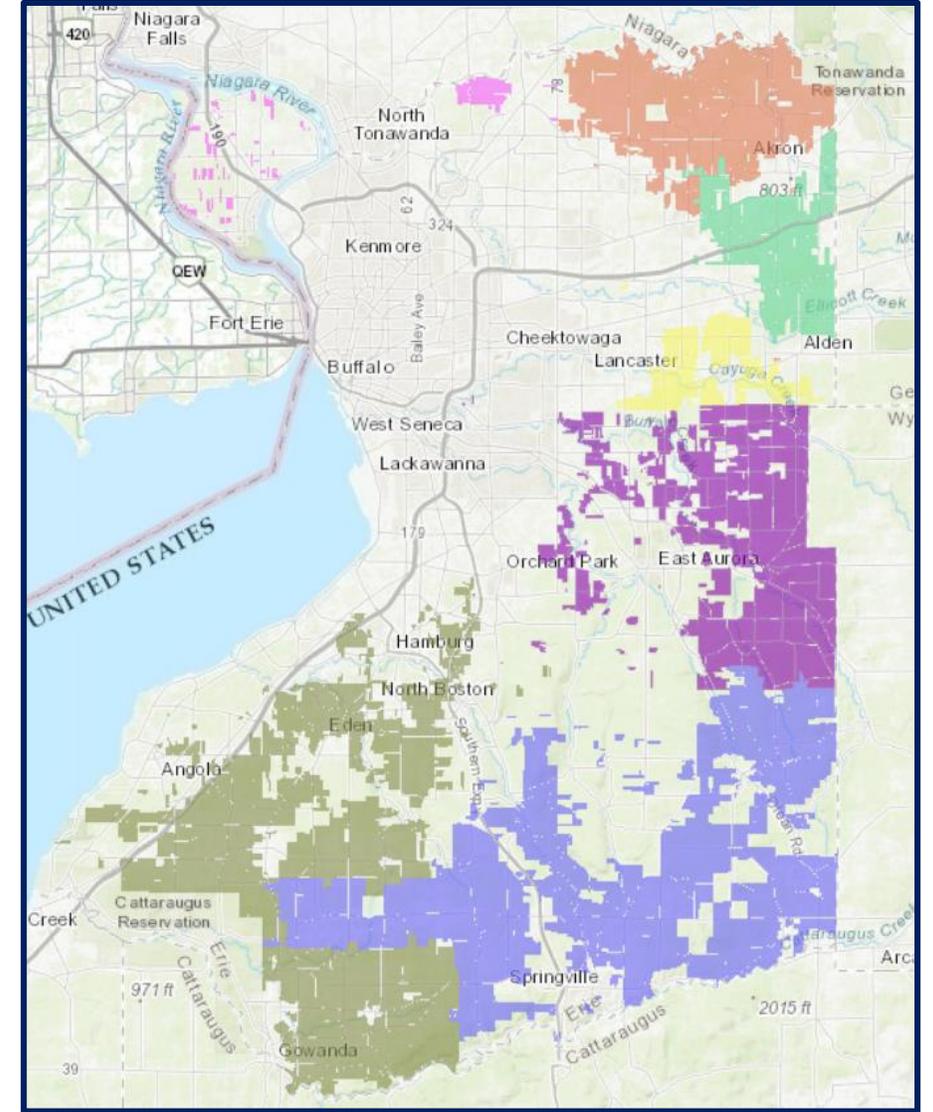
- [Agricultural Districts, New York State, 2021](#)

<https://cugir.library.cornell.edu/catalog/cugir-007961>



Agricultural District Mapping Resources

- Check if a property is in an Erie County agricultural district
- Search for by owner, SBL, or address
- Export map to PDF or image
- erie.gov/agmap



Erie County Agricultural Districts – Open Enrollment

- Annually every September 1-30
- Landowners can request to add land to **any** Erie County AD
 - Modification forms available on erie.gov/agenrollment
- AFPB reviews modification requests and provides recommendations to County Legislature
 - County Legislature approves or denies requests
 - NYSDAM Commissioner certifies District



Erie County Agricultural Districts – Eight Year Review

- Per AML § 303-a, every eight years ADs must be reviewed.
- Landowners can request to **add or remove** land to the ADs being reviewed.
- AFPB reviews modification requests and provides recommendations to County Legislature
 - County Legislature approves or denies requests
 - NYSDAM Commissioner certifies District



Erie County Agricultural Districts – Agricultural Data Statement

AML requires the submission of an Agricultural Data Statement when a rezoning, special use permit, site plan approval, use variance, or subdivision is proposed on property:

1 In an Agricultural District

2 Within 500 feet of an active farm operation located in an Agricultural District

➔ ADS must be submitted to Erie County **and** all farm operations within 500 feet of the project

➔ ADS includes project details and a history of farming on the site

➔ ADS available at bit.ly/agdatastatement



THANKYOU



Questions?

Sarah Gatti, Erie County Senior Planner
716-858-6014 | sarah.gatti@erie.gov
erie.gov/agriculture

Jeff Kehoe, NYS Agricultural Protection Planner
518-457-4626 | jeffrey.kehoe@agriculture.ny.gov
<https://agriculture.ny.gov/>

