

What is an agricultural district?

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

How are agricultural districts reviewed?

Districts are usually renewed every 8 years. The county legislative body (CLB), after receiving the report and recommendation of the county Agricultural & Farmland Protection Board (AFPB) and after a public hearing, determines whether the district shall be continued, terminated or modified. During the review process, land may be added or deleted from the district.

Counties are also required to designate an annual 30-day period when landowners may petition the county for inclusion of viable agricultural lands in an existing agricultural district.

Who benefits from an agricultural district?

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

Do agricultural districts consist entirely of farmland?

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

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

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

Do agricultural districts prohibit selling land?

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

Sound Agricultural Practices

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

New York's Agricultural Districts



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

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

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

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Limitation on Local Regulation

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

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

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

AGRICULTURAL DISTRICT FACTS:

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

Sound Agricultural Practices

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

Public Actions Notice Requirements

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

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

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

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

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

FOR FURTHER INFORMATION on the benefits and protections agricultural districts provide, contact the Livingston County Planning Department Office at 585-243-7550 or the NYS Department of Agriculture and Markets at 1-800-554-4501, or visit the NYS Department of Agriculture and Markets website at www.agriculture.ny.gov/AP/agservices/agdistricts.html