

# Agriculture and Farmland



## **GOALS:**

- A. Promote the continued economic viability of agriculture.**
- B. Attract and retain agricultural support businesses such as suppliers and processors.**
- C. Preserve a large, contiguous area of high quality farmland to ensure a viable land base for continued agricultural production in the Towns.**
- D. Reduce the potential for conflict between farmers and non-farming neighbors.**



## Relevant Plans and Programs

### Agricultural District Program

The New York State Agricultural District Program was created by State legislation in 1971. The program encourages owners of productive agricultural land to form districts within the County. Districts should consist of predominantly "viable farmland." The Districts in Seneca County are reviewed, and may be renewed, in 8-year cycles. Inclusion in an Agricultural District denotes a commitment on the part of the County and the landowner to retain the use of such land for agriculture.

The Agricultural District Program includes the following provisions to protect farmers:

- **Agricultural use value assessments:** Land is assessed at its value for agricultural production, rather than at its full market value. If land that was receiving the agricultural exemption is sold for non-farm purposes, the landowner must repay the amount of property taxes saved over the life of the District, up to 8 years.
- **Protection from local regulations** that would restrict farm practices
- **Protection from public acquisition of farmland through "eminent domain."** Before a local or
- county government may undertake a project that affects land within an Agricultural District, it must submit a "Notice of Intent"

## Background Information

The Towns of Fayette and Varick have been agricultural communities since they were first settled.

Many productive commercial farms, large and small, are located in the Towns of Fayette and Varick. Based on tax parcel information, agricultural parcels occupy approximately 12,634 acres and comprises 63% of the land area in Varick. In the Town of Fayette, agricultural parcels occupy 12,634 acres and 76% of the land area.

Most of the land is classified as "Vacant, Productive Agricultural Land" or "Field Crops." There are several dairy farms in the towns, live-stock including cattle and hogs, horse farms, vineyards and aquaculture. Map 11: Agricultural Parcels depicts the types of farming operations in the towns based on tax parcel information.

## Economic Impact of Agricultural Industry

Agriculture is a significant industry in Seneca County as well as in the Towns of Fayette and Varick. In 2002, according to the Census of Agriculture, the market value of all agricultural products sold from county farms was \$45.2 million. The leading products sold were:

Dairy products:	\$15,804,000
Grains and dry beans:	\$10,348,000
Cattle and calves:	\$6,775,000
Fruits and berries:	\$4,165,000
Hogs and pigs:	\$3,850,000

### Soils

Map 7: Soils depicts those areas in the two towns that are well-drained, moderately to well drained, and moderate to poorly drained. The well-drained soils are generally best suited for agriculture. As shown on this map, some of the highest quality soils are located in the northwestern portion of the Town of Fayette along the Seneca River, along Route 96A in the Town of Fayette, in the eastern portion of Fayette and Varick. Areas of moderate to poorly drained soils generally coincide with the locations of regulated wetlands (See Map 9.)

### Vineyards/ Wineries

Areas along the lakeshores are well-suited for growing grapes. Several vineyards are located in the eastern portion of Varick near Cayuga Lake. One is located in the western portion of Fayette near Seneca Lake.

Wineries in Fayette and Varick contribute to the tourism economy as

well as the agricultural economy of the region. Additional information on the wineries is included in the Business and Economic Development chapter.

**Mennonite/ Amish farms**

An increasing number of Mennonite and Amish farmers operate farms in the towns of Fayette and Varick. These farms tend to be smaller than average and often incorporate ancillary businesses as part of the farm.

The population of Mennonite and Amish in Seneca County has grown since the early 1990s. This has contributed to a 13% increase in the number of farms and an 8% increase in the amount of land in farms from 1990 until 2002.

**Relevant Plans and Programs**

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*to the County Agricultural and Farmland Protection Board and the NYS Department of Agriculture and Markets for consideration of the impacts on agriculture.*

- **Protection from nuisance suits (right-to-farm provisions)**

*A person who buys property within an Agricultural District must be notified about the possible presence of noise or odors associated with farm practices and acknowledge receipt of this notice in writing..*

*Seneca County revised its Agricultural Districts maps during 2005. Map 10: Agricultural Districts depicts those lands that are included within Agricultural Districts in the Towns of Fayette and Varick..*



### Residents' Survey Highlights

- 62% of respondents identified "The rural, agricultural character of the community" in response to the question, "What do you like most about living in Fayette or Varick?"
- 67% indicated that "Open green spaces/ rural environment/ Nearby farms and vineyards" are important to the quality of life in their neighborhood.
- A total of 38% "strongly agree" and 36% "somewhat agree" that, "The Towns should preserve and protect farms and farmland from non-agricultural development."
- A total of 30% "strongly support" and 34% "somewhat support" the statement: "The Towns should provide incentives to agricultural support businesses as a means of encouraging the continuation of agriculture in our community."
- A total of 53% "strongly agree" and 31% "somewhat agree" that, "The Towns should work to reduce or prevent issues from arising between residential developments and agricultural landowners."

## Issues and Opportunities

### Neighbor relations and "Right to Farm"

In general, residents of Fayette and Varick are familiar with agricultural practices and tolerant of the manure odors associated with long-standing dairy farms. However, the odors from certain hog farms that have become established in recent years have affected neighboring residents. These impacts have been more pronounced than in the past.

#### Impact of Agricultural Districts

The ability of local governments to regulate livestock operations is severely limited when the farm is located within a County Agricultural District. As depicted in See Map 9, most of the land in Fayette and Varick is currently included in a County Agricultural District. Agricultural District regulations state that local governments may not pass laws that unreasonably restrict agricultural practices. One exception is that local regulations may be established to protect health and safety. The NYS Department of Agriculture and Markets will review local laws upon request from a farmland owner and will take action to reverse local laws that are deemed to impede agricultural practices.

As the Agricultural District program provides numerous protections to farmers, removing farmland from the Agricultural District is not feasible. As a result, the Towns do not have the ability to prohibit intensive livestock operations from becoming established near hamlets and other populated areas. Reducing the odors from livestock farms needs to be addressed through improved management of manure on each individual farm.

Plans for the management of animal waste must be reviewed by both the USDA Natural Resources Conservation Service (NRCS) office in Seneca County, and, in certain cases, by the NYS Department of Environmental Conservation. The commercial farms within the Towns of Fayette and Varick that participate in federal assistance programs are required to have approved operating plans. These plans, including manure storage and disposal plans, are reviewed by NRCS to ensure that nutrients and chemicals used on farms are properly managed.

In addition, larger dairy and other livestock operations are subject to the Concentrated Animal Feeding Operation (CAFO) regulations enacted by New York State and administered by the NYS Department of Environmental Conservation. These regulations apply to farms that house 300 animal units (an animal unit is 1,000 pounds.)

Local governments may establish regulations pertaining to waste management, such as requiring a permit for the storage of manure and requiring the farmer to provide copies of materials submitted to the NYS DEC to the Town.

The Seneca County Agricultural Enhancement Board (AEB) may be able to provide advice and recommendations to local governments when there is a conflict between an agricultural operation and other local interests.

## Conversion of Farmland to Residential Development

Although most of the land in Fayette and Varick is devoted to agriculture, new residential development has the potential to convert high quality land to non-farming uses. Such conversions may result in increased neighbor conflicts in addition to the loss of land for farming. The land that is most suitable for residential development is typically the same well-drained land that is best for agriculture.

Frequently, retiring farmers will sell land for residential development in order to finance their retirement, as the price paid by developers is often higher than what the land is worth for farming. From the farmland owner's perspective, any alternative to selling land for development would need to offer a similar financial return.

Programs such as the purchase of development rights are designed to compensate farmland owners for placing a conservation easement on their property that restricts future development. The land may be sold with the restriction in place. The owner would receive the value of the land when sold for agricultural use in addition to the value of the development rights. (See "Tools and Techniques" section of this chapter.)

## Economic Diversification

Farmers may seek to operate secondary businesses, such as farm markets, agri-tourism or small scale manufacturing. Such "value added" businesses promote diversification and may increase income.

Such businesses may change the character of the land from agricultural to commercial or industrial. It may be appropriate for the Towns to develop a review process to ensure that such businesses are consistent with the surrounding neighborhood and incorporate sufficient setbacks and/or buffers. Other agricultural communities have established special use permit criteria for home-based businesses that require large minimum lot sizes and setbacks and annual inspections.

Some farms have established farm markets to sell products directly to consumers. Other farms incorporate tours or other activities to attract tourists. The vineyards and wineries have established a thriving tourist industry.



## Focus Group Highlights

### **Farmland and Agriculture Focus Group, March 7, 2005**

#### **Purchase of Development Rights**

*The development rights to some of the farmland in Fayette and Varick may have little value, as farmers may be willing to pay as much for it as developers would. However, several large parcels of undeveloped land located along the Lakes or with lake views would be valued highly for residential development; the value of development rights to these parcels may be substantial. Purchasing the development rights would compensate the landowner for the development value and enable the land to remain in agricultural use.*

*Fayette recently passed a resolution to collect back taxes owned by landowners who convert land that is in an Agricultural District to non-agricultural use. However, additional funding and grants would be needed to support purchase of development rights.*

#### **Business development on farms**

*Certain ancillary businesses on farms may be protected by NYS Agriculture and Markets under the Agricultural District program and Towns may not have the ability to restrict or require a special use permit. However, businesses such as furniture-making would not be protected under the Agricultural District program.*

#### **Manure Storage and Disposal**

*Participants discussed the potential for using methane generators on farms to generate electricity from cow manure. Two such facilities have been constructed in Cayuga County. A possible source of funding is the NYS Energy Research and Development Agency (NYSERDA).*

**Markets for Farm Products**

New ethanol plants that are being constructed in the region—including one that is planned for Seneca Falls, provide nearby markets for large quantities of farm products. Although these plants will import corn from a large area, the proximity is expected to reduce transportation costs for corn growers.

## Tools and Techniques

Several tools and techniques are available to local governments, individual landowners and private organizations to help meet the goal of retaining farmland and encouraging the continued viability of agriculture.

### Land Conservation Through Conservation Easements

#### Private, voluntary conservation easements

Landowners may place farmland under a permanent conservation easement to be held and monitored by a private land trust or other non-profit organization. The donation of easements may be helpful to some families in estate planning as the value of the easement can be claimed as a tax deduction. The Finger Lakes Land Trust is active in Seneca County and holds easements to agricultural parcels elsewhere in the region. The American Farmland Trust also holds easements to farm properties.

#### Public purchase of development rights

Purchase of Development Rights (also referred to as “Purchase of Agricultural Conservation Easements” (PACE)) is a program which compensates owners of farmland in exchange for an agreement to keep land from being developed. The value of development rights is calculated as the difference between the value of the land for agricultural purposes and its value for development. A temporary or permanent easement restricts development on the parcel. Placing an easement on a property does not affect the ownership of the parcel. The owner may continue to farm the parcel, and/or sell it. The easement holder is responsible for monitoring the property to ensure that it is not developed.

Conservation easement programs have the following advantages and disadvantages:

#### Advantages:

- Protects agricultural land on a permanent basis (or for a specified period of time).
- Participation among landowners is voluntary

#### Disadvantages

- High cost
- Time and administrative work involved in purchasing easements
- Requires on-going monitoring by the easement holder

### **Public Programs to Assist Farmers**

Several “resource people” representing agencies that provide services to farmers presented information at the Farmland and Agriculture Focus Group, held on March 7, 2005

Ronald Vanacore, USDA Natural Resource Conservation Service, presented information about programs funded by the 2002 Farm Bill. He noted that changes in these programs are expected as a result of the 2007 Farm Bill. Programs of interest include:

The following land preservation/ easement programs purchase easements from landowners: Marilyn Stevensen coordinates the easement programs for Seneca County.

- The **Wetland Reserve** program offers permanent easements with 100% 30-year restoration cost-sharing for the purchase and rehabilitation of wetlands. This program may be utilized to restore wetlands on the former Seneca Army Depot. In 2004, \$6.6 million was spent on this program statewide, with seven easements purchased in Seneca County.
- The **Grassland Reserve** program provides rental agreements at full market value for hay and grazing lands. \$750,000 was available statewide.
- The **Farm and Ranchland Protection Program** provides funding for the purchase of development rights. In 2004, the program provided funding to 12 entities including NYS Department of Agriculture and Markets, American Farmland Trust, counties, municipalities and land trusts. The land needs to be viable agricultural land

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### Public Programs to Assist Farmers

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*which is accessible to markets and is surrounded by other viable agricultural land. USDA NRCS staff are available to review draft applications.*

*Philip Griswold presented information about the **Graze New York** program. This program provides technical assistance on grazing.*

*The **E-Farm** program assists farmers with the preparation of nutrient management plans in accordance with the requirements of the NYS Department of Environmental Conservation.*

*The **Agricultural Environmental Management** program is a voluntary, tiered approach to implement plans to protect water quality. The program assists farmers with the cost of installing conservation practices. The program can be used to address air quality and odors as well as water quality. Seneca County prepared a 5-year Strategic Plan in 2004 and encourages farmers to participate.*

*Jim Capron of Cornell Cooperative Extension (CCE) reported on the role of CCE in education – “Putting Knowledge to Work.” CCE has regional teams of experts that specialize in such topics as small farms, dairy, grapes, vegetables, etc. CCE publishes guidelines and sponsors clinics on topics such as manure odor and water quality.*

## Zoning Techniques

### Agricultural Protection Zoning

Agricultural Protection Zoning involves the creation of a zoning district that designates farming as the primary, preferred land use. Such a district targets the most productive soils and large contiguous areas of active farms. The minimum lot size is based on the size of the smallest viable farm unit -- such as 25 to 40 acres.

Regulations for this district typically limit non-agricultural development. Such a district may allow farm-related businesses and home-based businesses. Agricultural zoning districts may incorporate “density averaging” or “sliding scale” provisions to limit the number of dwellings permitted. The regulations may also specify maximum (as well as minimum) lot sizes for non-farm development.

Agricultural protection zoning may be combined with purchase of development rights, transfer of development rights or incentive zoning. This technique has the following advantages and disadvantages:

#### Advantages:

- Effective in limiting non-farm development and reducing conflicts between agriculture and non-farm neighbors.
- Can protect large areas of farmland at no cost to the public

#### Disadvantages:

- May reduce the market value of land.
- Is not permanent. Zoning can be changed by the Town Board.
- Limits resale options for farmland owners

### Density averaging

Density averaging allows residences to be built on smaller lot sizes than typically permitted by zoning, provided that the average density of the original parcel is not increased. For example, if zoning requires a maximum density of 1 dwelling per 10 acres, a farm of 100 acres would be entitled to develop up to 10 dwelling units. If the 10 dwellings were built on a total of 20 acres of the parcel (with an average lot size of 2 acres), 80 acres would remain open.

The smaller lots should be sited in locations that are least suitable for farming, and that offer the most appealing views of open space and natural resources. The design of a proposed clustered subdivision should include buffers between the new residential development and the remaining farmland. A conservation easement would be placed on the remaining 80 acres to prevent future development.



Density-averaging subdivisions have the following advantages and disadvantages:

### Advantages

- Relatively simple to administer through the subdivision review process
- Provides for permanent protection of farmland or open space
- Landowner retains full development potential (number of building lots)

### Disadvantages

- Results in non-agricultural development in close proximity to farming.
- May be more appropriate for open space preservation and retention of rural character than for retention of agricultural land.

### Incentive zoning

Incentive zoning may be used to encourage the private acquisition of agricultural conservation easements (development rights) or to collect money toward a public fund to purchase such easements. Municipalities must designate an area or areas in which higher densities or more intensive uses may be permitted, provided that the applicant offer certain amenities that would meet specified community needs. Acceptable amenities may include conservation easements on farmland or cash to be used in a purchase of development rights program. Advantages and disadvantages include:

### Advantages

- Flexibility in administration
- Can result in permanent protection of farmland if agricultural easements are provided as an amenity in exchange for higher density of housing
- Allows conservation easements to be purchased privately

### Disadvantages

- Requires designation of an area within which higher densities can be sustained.

## **Local “Right to Farm” Law**

Several municipalities in New York State have passed local “Right to Farm” laws. Such laws typically establish a town policy in support of farming, define “generally accepted agricultural practices,” and affirm a farmer’s right to employ such practices. The laws also include a requirement that purchasers of property within the town be notified of the policy of encouraging farming, and that farm practices may include odors, noise and other activities.

A “grievance” procedure is established to resolve complaints between farmers and non-farm neighbors. A local grievance committee may be formed to hear and resolve complaints. Such a committee would include local farmers and may include non-farm representatives. Municipalities may appoint an existing committee, such as the Conservation Advisory Council or Planning Board, to act as the Grievance Committee. In some counties, the Agricultural and Farmland Protection Board may take on the responsibility of handling local grievances under the “Right to Farm” law.

A new committee would need to follow the requirements of the NYS Open Meetings Law and schedule and advertise its meetings in advance.

### **Recommended Actions:**

1. Establish a local “right to farm” law and designate a committee to address grievances. Such a committee may be a subcommittee of the Planning Board with at least one farmer and one non-farmer.
2. Work with landowners and private land trusts to acquire the development rights to large areas of farmland. Target land along the lakeshores and with lake views.
3. Revise zoning regulations to permit farm-related businesses, such as farm markets and craft manufacturing, to be established on farm property in conjunction with agricultural operations.
4. Revise zoning regulations to require a permit for intensive livestock operations. The permit would require that applicants provide the town with copies of materials submitted to the NYS DEC under CAFO regulations.
5. Work with County and State economic development agencies to attract and retain agricultural support businesses.
6. When residential subdivisions are proposed that abut active farmland, require effective buffers to be incorporated into the subdivision design.
7. Work with government agencies and farm support businesses to encourage farmers to site intensive livestock operations away from concentrations of residences and to consider the input of the County Agricultural Enhancement Board before developing location and site plans.
8. Encourage farm managers and their consultants to address odors and consider potential impacts on residential neighbors when making decisions about the siting and management of intensive livestock operations.
9. Encourage the Seneca County Board of Supervisors to charge the Seneca County Agricultural and Farmland Protection Committee to assist local governments and local planning boards and zoning boards of appeal in mediating conflicts between agricultural operations and residential neighbors.