

Town of Eden Agricultural and Farmland Protection Plan

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- Agricultural Review of the Code of the Town of Eden
- Resources for Additional Information and Technical Support
- New York State Department of Agriculture and Markets Guidance Document: *Guidelines for Review of Local Zoning and Planning Laws*
- New York Direct Marketing Association Model Zoning for Roadside Stands and Farm Markets
- American Farmland Trust Checklist: *Is Your Town Planning a Future for Agriculture?*
- American Farmland Trust Factsheet: *Cost of Community Services Studies*
- New York State Department of Agriculture and Markets – Conditions on Future Water Service

Acknowledgments

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Town of Eden Agricultural Planning Committee:

Karyn Agle, Agriculture Advisory Committee
Dave Zittel, Agriculture Advisory Committee
Frank Mantione, Conservation Advisory Board
Mary Jane Bolo, Conservation Advisory Board
Frank Meyer, Planning Board
Glenn Nellis, Town Supervisor

Interviewees:

George and Kevin Zittel
Bill Agle
Mark and B.G. Henry
Jerry and Craig Mammoser
John Kappus
Jim Salzman
Tony Weiss

Bill and Bob Feasley
Frank and Linda Meyer
Clayton, Darlene, Tim Wittmeyer
Tom Lamoreaux
Dave Walczak
Craig Hornberger
Paul Laing

Public Meeting and Public Hearing Attendees:

Frank Mantione
John Whitney
Karyn Agle
Frank Meyer
Kathy Funke
Judy Striebich
Walter Henry
Earl Henry
Kelly Thiel
Ed Krycia

Dave Zittel
Mary Jane Bolo
Glenn Nellis
Pat Szarpa
Diane Held
Bill Henry
Mike Bolo
Larry and Janice Wightman
Paul Laing
Jerry Mammoser

Others:

John Whitney, Natural Resources Conservation Service, District Conservationist

Mark Morales, Natural Resources Conservation Service, Intern

Joe Goshen, GIS Consultant

Patricia Szarpa, Western New York Land Conservancy, Executive Director

Rachel Teaman, Director of Communications and Regional Initiatives, University of Buffalo Regional Institute

Erie County Agricultural and Farmland Protection Board

David Haight, New York State Director, American Farmland Trust

Diane Held, New York Field Representative, American Farmland Trust

Doris Mittasch, Program Manager, American Farmland Trust

Lynn Wilson, New York Operations Coordinator, American Farmland Trust

Ann Knack, Town of Eden Administrative Assistant

Eden Town Board

Citizens of the Town of Eden

Section I: Executive Summary

The Town of Eden's Agricultural and Farmland Protection Plan was funded with a grant from the New York State Department of Agriculture and Markets in 2008. Eden has been proactive in supporting its agricultural industry and developed a similar report on the state of agriculture in 1998. Many changes have occurred in the past decade and it has been valuable to reassess current conditions and reevaluate appropriate tools to protect farmland and strengthen the future for agriculture.

An Agricultural Planning Committee, comprised of representatives from the Agricultural Advisory Committee, Conservation Advisory Board, Planning Board, and Town Board, guided the plan development process. This process included over 11 meetings of the Agricultural Planning Committee, two public meetings and fourteen interviews of farmers, farm landowners, and agribusiness owners.

The planning process identified three goals:

- ❖ Stabilize the town's agricultural land base and maintain 95% of the current active agricultural land in production through the next ten years. Support Eden farmers as stewards of the land and other natural resources in the Town.
- ❖ Maintain a supportive business environment for farm operations.
- ❖ Educate the non-farm public about agriculture and facilitate an ongoing dialogue between the farm community and other Eden residents.



Recommended actions to meet these goals and a matrix prioritizing the implementation of the actions are included in the Plan. Additional resources for Town leaders to access as needed are part of the Appendix.

A plan is only as good as the executed results. Town leaders, local officials, farmers, and citizens need to refer to the plan often to guide decisions and actions that may affect farmland and Eden's farm businesses.

Section II: Introduction

In 2008, the Town of Eden received a grant from the New York State Department of Agriculture and Markets to develop an Agricultural and Farmland Protection Plan focused on protecting farmland in Eden and planning for the future of the town's agricultural industry. The Town hired American Farmland Trust as the consultant to guide the planning process and develop the written Plan. Prior to developing this plan, the Town had a strong history of supporting its agricultural industry.

In the 1970s a transfer of development rights law was enacted to enable farm landowners and developers to protect farmland in exchange for higher density development in targeted areas. However, few transactions have occurred and the law has not been particularly useful in accomplishing its goal of protecting farmland. But, it is an available tool that may be useful in the future.

In 1992, three reports were generated as part of a Comprehensive Planning process. The reports were: a *Natural Resource Inventory*; *Open Space Index*; and in 1998, *Eden's Foundation for Agricultural Development and Farmland Protection*. Included in the agricultural report were recommended actions the Town could elect to implement – many of which have been addressed or accomplished since then.



Eden has also proactively supported local farmers and worked to create a supportive environment for agricultural businesses. A law establishing a permanent Agricultural Advisory Committee was enacted in 1994. This committee is charged with advising and communicating with the Town Board and County Agricultural and Farmland Protection Board about agricultural issues in the Town, as well as reviewing legislation affecting agriculture and forwarding recommendations to the Town Board.

Other specific actions taken by the Town of Eden to support local farmers include:

- Adopted the Town of Eden 2015 Comprehensive Plan in 2000 that has as a main goal “Agricultural Development and Farmland Protection: The Preservation, Protection, Enhancement and Support of Agricultural Lands, Agricultural Businesses, Soils, and Working Farms”.
- Adopted a Right to Farm Law in 2001;
- Passed a Conservation Easement Law in 2001;
- Adopted a zoning code in 2004 that contains ordinances supportive of local farmers right to farm;
- Submitted two applications to the New York State Farmland Protection Program for permanent protection of farmland in 2008;
- Member of the four town (Eden, Evans, Brant, North Collins) Southtowns Community Enhancement Coalition, commissioned by the University of Buffalo Regional Institute to develop a strategic plan for agritourism development. *Sowing the Seeds for Agribusiness: An Assessment of Farms and A Plan for the Future* was published in March 2009.



Section III: Analysis of Local Conditions

Erie County:

In 1996, Erie County was one of the first counties in the state to develop an Agricultural and Farmland Protection Plan designed to plan for agriculture as both a land use and an industry. At that time there were 995 farms in the county on 145,679 acres of farmland (1992 Census of Agriculture). Since then both the number of farms and acres of farmland have increased to 1,215 farms and 149,356 acres (2007 Census of Agriculture). Unfortunately though, these 2007 numbers are a 6% decrease in farms and an 8% decrease in farmland since a 15-year high in the 2002 Census of Agriculture.

The Census statistics also highlight the decrease in average size of a farm from 146 acres in 1992 to 123 acres in 2007 - while the number of farms was increasing. This is not unusual for an urban edge county where smaller vegetable and produce farms have ready access to a large suburban and urban population through numerous private farm markets and stands as well as through the 13 farmers markets scattered among the county's towns, villages, and cities. The economic value generated from Erie County farms is significant, totaling \$117 million of agricultural products sold in 2007.

From 1990 to 2000, the population of Erie County decreased by over 18,000 people and the number of housing units increased by 3,737. This trend, a decreasing population with an increase in housing units, occurred across upstate New York in that decade and was a classic indicator of a declining but sprawling population. This sprawl is a classic contributor to conversion pressure on agricultural lands.

Eden:

Eden's history is closely linked to its farms and farm families. It was settled in the early 1800s by some of the same families who are still farming in town now and has a population just over 8000 (2000 Census). Situated in the



“Southtowns” of Erie County about 7 miles east of Lake Erie and 9 miles south of Buffalo, Eden has approximately 40 active farms, a number of which are being farmed by the 4th and 5th generations of their family. Most visible on a drive through the Town are the vegetable and flower farms that line U.S. Route 62 as it winds through the town and the hamlet of Eden. Dairy farms are prevalent in this rural community but there are also smaller farms raising sheep, beef, alpacas, chickens, turkeys, grapes, Christmas trees, hay, and other agricultural products (See map 1). A few retail farm markets offer locally grown produce and Eden Valley Growers, a well-established grower’s cooperative, is located in the Town.

Eden Valley Growers, established in 1956, is currently an 8-member farm cooperative that markets and distributes vegetables and bedding plants throughout the northeast. Co-op

membership peaked at 20 due to farm consolidations members managing the higher per acre production. progressive cooperative in an agricultural economic invest in 3 coolers that quality of vegetables awaiting distribution.

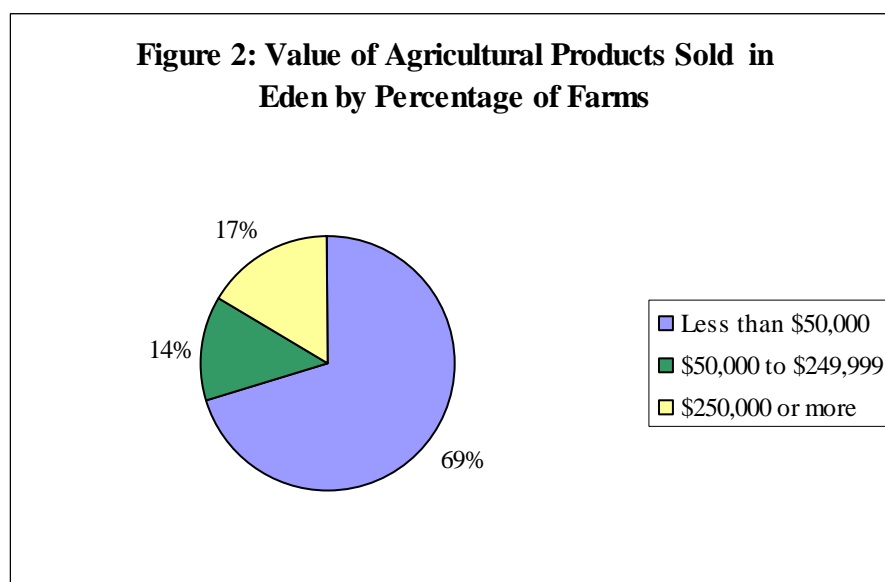
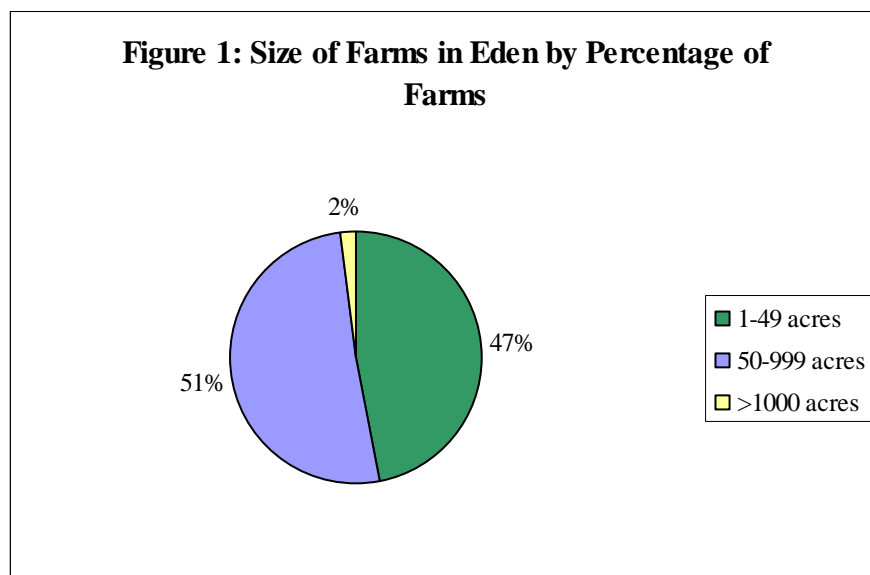


members but has declined with the current farm same acreage and achieving This highly successful and partnered with the County development project to extend the shelf life and

Approximately 75% of Eden’s land area is in a state-certified Agricultural District (See map 2). The majority of soils in the Town are productive ‘important soils’ as defined by the U.S. Department of Agriculture, with some highly productive ‘prime soils’ found throughout the Town (See map 3). Nearly 15,000 acres of the town, half of the Town’s 39 square miles, is agricultural acreage or is in woods, hedgerows, and open space associated with farms and about 8,500 acres is in active agricultural production (See map 4).

Importantly, an estimated 1/3 of the agricultural land in Eden is owned by the farms working the land, and 2/3 is land rented to these working farms (See maps 5 and 6). These numbers do not take into account the fact that some of the Eden farms are family corporations with farmland owned by various family members and then rented to the corporation.

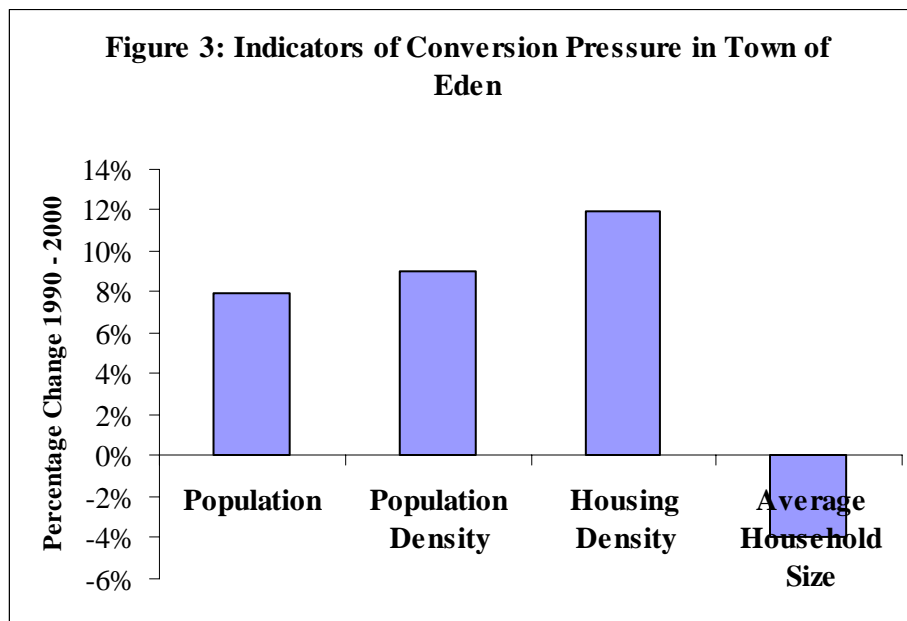
Figures 1 and 2 use 2007 Census of Agriculture data to document the size of Eden farms, and value of agricultural products sold.



Statistics for both land in farms and value of agricultural products sold, highlight the fact that Eden is comprised of predominantly smaller farms – as is the case for Erie County as a whole. Eden’s fresh market vegetable and greenhouse operations tend to operate on smaller acreages, but grow higher value crops. For example, although only 2% of Town farms worked very large

acres in 2007 (1000 acres or more), a full 17% of the farms sold \$250,000 or more in agricultural products that year.

According to U.S. Census Bureau information, in the decade from 1990 to 2000, Eden's population increased by 8%, the population density (people per square mile) increased by 9%, and the housing density (housing units per square mile) increased by 12%. At the same time that houses were being built, fewer people on average were living in each house: the average household size decreased from 2.88 people to 2.76, a 4% drop. Figure 3 shows these population statistics, which can create conversion pressure on farmland. Currently, an average of 18 new homes are built in Eden each year with an average of 2.4 people per household.



Section IV: Public Participation

Two public meetings were held as part of the Agricultural and Farmland Protection Plan process. The first, in April 2008, was attended by fifteen people – a mix of community members, farmers, committee members, and agricultural organization representatives. It was designed to educate interested individuals on the planning process and why it was being undertaken, but was primarily an opportunity for thoughts and feelings about Eden. This was done with a series of open-ended questions asked of those in attendance. The questions and response notes follow. Public meeting attendees were supportive of agriculture, generally liked Eden’s quality of life, and wanted the rural character of the community to remain while encouraging growth that would support that quality of life. Many of the comments from the public meeting highlight the open space value of agricultural lands to town residents.



The second meeting was a public hearing held on July 22, 2009 after a 30-day open review period of the draft Town of Eden Agricultural and Farmland Protection Plan. Diane Held, Plan Consultant, provided a brief overview of the Plan contents.

Following are comments shared at the public hearing:

- Want to acknowledge the success of Eden Valley Growers Cooperative;
- Eden farmers want to keep what they have in terms of agricultural resources;
- Plan outlines a commonsense approach to planning for agriculture and protecting farmland.

The Town Board maintained an open comment period for an additional 14 days, and then approved the Plan on August 12, 2009.

In order to have significant input from the farm community, one-on-one interviews were conducted with fourteen farmers, agribusiness owners, and farm landowners. The summary of these interviews follows.

Town of Eden Farmland Protection Plan to be completed in 2009 under a New York State Department of Agriculture and Markets grant.

1st Public meeting

1. Review zoning code
2. Interview select farmers
3. Fall-draft plan (with help of committee)
4. Fall public meeting in the fall
5. Finalize (including T. Board, Ag's FPB, Ag & Markets)
6. SEQRA?

Will likely also produce an outreach piece suitable for events and public distribution.

Questions

A. How would you describe the character of the Town of Eden?

- Primarily agricultural, 2nd residential
- Community pride
- Right at the edge between suburban & rural
- Wide open space quality of the land makes it economically feasible to continue forming land blocking development)
- Very "kind" town
- Prefer to keep agriculture as first priority with community based on that
- Economy of the area has helped avoid severe pressure
- "Old fashion feel" but society pressures complicate the traditional small town style and character (trying to be ready for change and directing and controlling change)
- Good master plan
- Farmers "need it in writing"
- State & Federal Laws are some of the biggest challenges
- Cooperative Community (agricultural especially)
- "The playing field needs to be leveled" (on a lot of issues) A community that cares
- 200th Anniversary of Eden in 2012 (and always a farming community)

B. How important is it to you to maintain that character – or do you want to see it change and how?

- Less traffic

- Small businesses surviving and thriving
- Maintain character of the “core” of Eden
- Have to keep and expand some services
- Prepare to deal with the big box challenge
- How do we continue to have development that doesn’t impact farms?
- Direct growth to planned areas
- The City of Buffalo needs to be far stronger (schools) see the “Framework for Regional Growth”
- (130 miles of underutilized sewer capacity should help direct development)
- The “IDA Paradigm” - Town hasn’t been vulnerable to the pressures of a local IDA – if IDA activity comes along be sure to include agricultural business development
- Energy crisis may help reduce sprawl.

C. How important is it to you to encourage local farming in Eden?

- Active role
- Important. That’s why we’re all here.
- Want to buy food close to home

D. How important is it to you to have lands available for recreational opportunities; for wildlife habitat and other environmental benefits?

- High school, tennis courts, snow mobile, some private land used for cross country skiing, fishing, hunting, horse back riding
- Society expectations for plenty of active and passive recreation opportunities
- NYS General Recreation Law
- Is there enough park land?
- Wildlife Lands
- Very important, ecological imperative Eden V “Agro-ecosystem” – critical habitat for wildlife. Some nuisance issues but not bad
- Valley corridor
- Fair amount of woodland & hunting
- Horses? Are there zoning & regulatory issues? Is there enough trail capacity?
- Ski hill (could it come back?)
- Cross-country skiing

E. Do you support the town in efforts to create a supportive environment for agriculture and open space?

- Just one case so far has come before the Ag Advisory Committee

Other comments:

- Purchase of development rights: State pays up to \$25,000, Town pays a 25% match, 80% of which can be “in kind”
- The Plan is an enabling document for implementation and help in securing future funding.

- The Plan should be a” living document.”
- Have to take a common sense approach.
- This is a “vision” statement. There is a difference now in the number of actual farmers although the land base is similar. Labor is the big issue and “outsourcing” creates a “vision” – which will likely include Hispanic workers in the community.
- The alternative is the farms will just close up shop.
- The farm museum is a part of the education process (include the Hispanic labor as part of the face of the community).
- “This is what the people of Eden want.” (Before there’s a crisis).

Committee will be emailed about the date of the next meeting.

Adjourn 8:45.

Notes taken by John Whitney



Agricultural Stakeholders: Interview Summary

Fourteen farmers, farm landowners, and agribusiness owners were interviewed in the summer and fall of 2008 with regard to their perceptions of the current and future state of agriculture in the Town. This is a summary of findings from those individual discussions.

Agricultural profitability/viability is the number one concern of farmers in the Town.



Restructuring immigration policies to provide a legal, reliable workforce is viewed as critical to the viability of the industry. So, too, is relief from regulatory burdens. Farmers appreciate any support the Town can provide in acknowledging the affect these issues have on the local agriculture industry.

Although the Town's ability to have a significant effect on these concerns is minimal, other profitability concerns offer an opportunity for the Town to initiate change.

Since farmers own a significant portion of land in the Town, they pay a significant portion of the property taxes, even when agricultural assessment reductions are accounted for. This feels onerous to some farmers. And infrastructure needs, specifically the need for potable water in sufficient quantity, was stressed as a necessity by vegetable/greenhouse farm operators and dairy/livestock farmers alike. Just as critical to the survival of these farms is the ability to utilize water from Eighteen Mile Creek for irrigation purposes. Recognition of this by the Town is key.

A real plus for the Eden vegetable/greenhouse farmers is their grower cooperative *Eden Valley Growers* "the most progressive sales organization in the state and the farmer's lifeline".

Agritourism opportunities in the town can help boost awareness of the cooperative and focus attention on the local food and plant offerings available in Eden. Growing recognition of Eden Valley Growers across the state will also expand marketing opportunities for the cooperative.

There are a number of support agribusinesses in the Town, which is a sign of the health of the local agricultural industry, but the nature of those businesses has changed to include a higher percentage of non-farm customers. Although these businesses have been successful, their

longevity is dependent on a next generation who chooses to continue in business. Their concerns for the future are similar to production agriculture concerns – relief from unnecessary regulations, a thriving agricultural economy, a supportive local business environment.

Competition for good farmland within the farm community is of equal concern to land conversion pressure from housing or other development.

Scattered lot residential development is evident throughout Eden and is of some concern to farmers particularly to those who have dealt with non-farm neighbor conflicts and/or trespass issues. “Farming and residential development don’t mix well,” said one farmer. All of the farmers interviewed felt that they have established reasonably good relationships with their neighbors by working hard to acknowledge and address their concerns. In addition, a number of the interviewees echoed that “competition with other farmers for farmland in Eden is huge” and this sentiment related to land for purchase as well as rental land. Farmers acknowledged that they needed additional land for expansion and for rotation of vegetable crops. There were a few farmers interviewed who expressed concern that they would need to subdivide their land and sell it for homes in order to have the money needed to retire. Selling to another farmer might not get them the highest price.

Farmers are an integral part of the Eden community, with involvement in local government, community organizations, and schools.

“Because the farming community is very involved in local government, the planning board in particular, it allows for easier problem solving.” Eden is a vibrant agricultural town with a number of multi-generational farm families. The ancestors of these farmers were early residents of Eden and the families have continued as the backbone of the community. Of the 10 farm businesses interviewed, 6 farms are operated by the third generation or more. Agricultural interests are well represented in town decision making which lessens the likelihood of uninformed planning. In addition, the fact that younger generations return to these family farms bodes well for the future of agriculture in Eden.



Eden is supportive of its agricultural industry and the farm community has interest in working with the Town to utilize tools to support the business of farming and protect farmland.

“The best part of my farm is sharing what we have with the community.” Although the traditional agricultural businesses in the town are the mainstay of the farming industry, there are some small part-time niche farms that add diversity to the landscape, help to retain farmland and buffer larger farms, and offer the opportunity for increased public interaction and agritourism. Educating the public about agriculture was an identified need by almost everyone interviewed.

In the 1970s Eden passed a transfer of development rights (TDR) law designed to move “development rights” from areas of lower density development such as farmland to areas of higher density development such as the hamlet residential area. Some transactions have occurred over the years, but TDR is viewed by many town farmers as having had limited impact in the Town. That said, Eden was willing to try an innovative technique to protect farmland. Farmers in Eden have mixed feelings about the use of purchase of development rights (PDR) as a similar tool. The general sense was to be supportive of farmers and farm landowners with interest in pursuing this protection tool.



Section V: Farmland Protection and Prioritization

The majority of the farmland in the Town of Eden is in the current Agricultural and Conservation zoning districts (See map 7). The farmland in these zoning districts was identified as the land most important to protect with the appropriate tools identified in the recommendations section of this Plan.

A land-ranking tool (Prioritizing Agricultural Land, which follows) was developed to prioritize agricultural land, if necessary, for purchase of development rights, and for use in guiding town land use-planning work in agricultural areas. When considering non-farm development in the Agricultural or Conservation zoning districts, the Planning Board can use the land-ranking tool as an added level of information to assist in determining the relative value of neighboring agricultural land and farms. This in turn can lead the Planning Board to request further review and/or design modifications to minimize the impact of non-farm development on valuable farmland.

Conversion Pressure:

As presented in the Analysis of Local Conditions section, an average of 18 new homes per year are built in Eden and in the past decade housing density per square mile increased by 12%. Targeting these new builds to the hamlet residential areas of the Town (in the Recommendations section) is key to reducing the fragmentation of agricultural lands that occurs with scattered lot residential development. Based on a visual drive through the Town, Eden has lost agricultural land to scattered lot residential development. Thus far, it has not been rapid nor has it happened on the very best soils to any large degree. But the potential certainly exists, particularly along U.S. Route 62 where the majority of the Town's limited prime soils are located. At the northern edge of the Town, and literally knocking on Eden's door, is the Town of Hamburg's sprawling population of 56,000. A new housing subdivision, Water Valley Preserve, was built on farmland in Hamburg at the Eden/Hamburg town line.

Water lines exist throughout a good portion of the Town and new lines are under consideration. Among the farmers interviewed for this Plan there was an expressed concern that public water be available to insure that farms have access to potable water. New home pressure is greater when water lines are present so zoning techniques and lateral line and hook up restrictions become important tools to manage growth in agricultural areas of the Town.

And finally, it is important that the Town recognize and track rental farmland with regard to possible conversion. Land rented to working farms is by nature less stable land and more susceptible to conversion pressure because the landowner may not have a direct tie to the farm business that is using the land. In Eden, as noted in the Analysis of Local Conditions, approximately two thirds of the farmland is rented. What is unclear with this number is how

much of that actually owned member of the simply rented to that owns and business, thus of rental land because it really by the family



rental acreage is by a family working farm and the corporation manages the farm making this type more secure is being worked who owns the

business. Regardless, it is important for the Town to monitor the amount and stability of rental farmland in order to implement appropriate recommendations to maintain land in production agriculture.

TOWN OF EDEN

ERIE COUNTY, NEW YORK

Prioritizing Agricultural Land

Objectives:

- ❖ To assist in ranking projects for agricultural and farmland protection programs, such as a Purchase of Development Rights program;
- ❖ To provide information for the town to identify important farmland and to use in land planning efforts.

Review Committee:

- ❖ 1 member from the Town Planning Board
- ❖ 1 member from Ag Advisory Committee
- ❖ 1 member from Conservation Board
- ❖ 1 member from Western New York Land Conservancy Board
- ❖ 1 member from County Agricultural and Farmland Protection

Ranking Formula: (maximum of 150 points)

Farm Characteristics

1. Soil Quality

Using the USDA soil group classification, rate the soils for agricultural productivity. Priority will be given to soils of prime and statewide importance as well as unique soils.

30 pts. Property has more than 40% prime or statewide important soils

10 pts. Property has 40% or less prime or statewide important soils

2. Size of Application
Priority will be given to farms/parcels with a greater quantity of tillable acres.

15 pts. 51 or more acres

10 pts. 21-50 acres

5 pts. 20 acres or less

Location Factors

3. Proximity to Other Farm Parcels
An active farming area provides a setting that is more supportive of farming and farm practices. Emphasis will be given to farms that are located near other actively farmed parcels.

20 pts contiguous to other active farmland not in application

10 pts within 500 ft. of other active farmland not in application

4. Within an Agricultural District.
Agricultural districts can strengthen farming by providing important incentives and protections for farms. Priority is given to projects located within an agricultural district.

10 pts. if property is within an Agricultural District

Development Pressure

5. Public Road Frontage
Priority is given to projects with significant road frontage.

15 pts if property has more than 1,000 linear feet of road frontage

10 pts if property has between 500-999 linear feet of road frontage

6. Proximity to Water and/or Sewer
Priority is given to projects that are closer to public water and sewer lines with the highest priority given to parcels that have water or sewer lines at road frontage.

10 pts if property has water and/or sewer lines within ¼ mile or less

5 pts if property has water and/or sewer lines within ½ mile or less

Environmental Benefits

6. Buffers Significant Public Natural Resource and contains important ecosystem or habitat characteristics.

15 pts if property serves as a buffer

Prospects for Succession as a Farm

7. Level of Potential for Succession as a Farm

This factor gives emphasis to farms with high potential to continue as agricultural businesses, either with the current owners, a next generation, or interested party.

10 pts if high potential for succession as a farm

5 pts if average potential for succession as a farm

8. Level of Farm Investments

Farm operations that have made extensive agricultural operation investments (such as in barns, tile drainage, manure storage, or other soil and water conservation measures) will be easier to keep in agriculture than farms where substantial investments are needed to update the business.

10 pts if high level of on-farm investment

5 pts if average level of on-farm investment

Discretionary Points

9. Up to 15 points based on any of the following considerations. Rationale for awarding points should be clearly delineated.

- ***Value of the easement purchase (cost of easement relative to appraised value)***
- ***Consistency of application with County and/or Town Plans***
- ***Imminent sale or intergenerational transfer***
- ***Cultural or historic significance***
- ***Scenic vista***
- ***Gatekeeper parcel***

Section VI: Vision, Goals, Recommendations, and Actions

Vision: *In order to protect farmland and preserve the open space and rural character of the Town, Eden is striving to maintain the viability of the local agricultural economy and support the vibrant farming community that enhances the lives of its residents.*

Recommendation 1: Stabilize the town agricultural land base and maintain land in active agricultural use. Maintain 95% of the current active agricultural land in production through the next ten years. Support Eden farmers as stewards of the land and other natural resources.

Maintaining the agricultural land base in Eden is good fiscal policy for the town. Farmland requires less in services than the property taxes paid on the land, and the businesses that work the land contribute to the local economy. As development in neighboring Hamburg pushes at the edge of Eden and scattered lot residential development puts pressure on local farmland, it is necessary to proactively protect the land on which these farms depend.

Actions

- Implement Eden’s conservation easement law, Chapter 95, to provide participating agricultural landowners with a property tax reduction in exchange for a term conservation easement on their agricultural property.
- As needed, hire a grant writer to develop and support applications to the New York State Farmland Protection Program and the USDA-NRCS Farmland Protection Program, when approached by farm landowners who are interested in selling their development rights.
- Utilize the form, “Prioritizing Agricultural Land”, to rank multiple requests for purchase of development rights applications to the State Farmland Protection Program or the Federal Farmland Protection Program. The Town Board, Planning Board, and Zoning Board of Appeals can also use this form when determining impact of non-farm development on valuable agricultural land and neighboring farms.
- Strive to submit at least one competitive application each year to the New York State Farmland Protection Implementation Grants program to permanently protect farmland in the Town.
- Establish a dedicated agricultural land protection fund designated for use in farmland protection projects in the town. Research the legal parameters of establishing a Community Preservation Fund and follow these parameters in establishing the land protection fund. Evaluate local funding options and opportunities.



- Research creation of a program to make farmland ownership more affordable for beginning farmers. Link property tax reductions for a specified time period to minimum land use and percentage of income from farming.
- Assist matching sellers of agricultural land with interested buyers who will keep the land in active agricultural production.
- Encourage new residential development in the Hamlet Residential zone and away from the Agricultural and Conservation zones.
- Follow the recommendations of the Framework for Regional Growth (as adopted by Erie County) to discourage investments that would hinder agricultural protection and/or would require additional infrastructure extensions, specifically limiting water and sewer district expansions in agricultural districts. Encourage future infrastructure development in the Hamlet Residential zone.
- Adopt the New York State Department of Agricultural and Markets recommended guidelines for connections to water lines in the Agricultural District. Consider additional lateral restrictions or constraints on the size of water lines in the Agricultural and Conservation Zones.
- Consider a minimum lot size of 2 acres in the Agricultural zone combined with a fixed density of one lot for every 4 acres.
- Explore the use of buffers between active agricultural land and residential/developed areas of the Town. If this zoning tool is used, require that the land used for buffers be on new developments and not on active agricultural land.

Implementation Responsibility: Agricultural Advisory Committee; Conservation Advisory Board; Eden Town Board; Eden Planning Board; Town Attorney; Eden Town Supervisor

Budget Considerations: Town staff time; Volunteer Committee time; Grant Writer for purchase of development rights applications; Local match money for NYS Farmland Protection Implementation Grants

Funding Resources: Allocation of funding for Town staff time and Grant Writer; Western New York Land Conservancy fund for Town of Eden farmland protection; NYS Dept. of Agriculture and Markets grant opportunities; USDA Farmland Protection Program grants.

Recommendation 2: Maintain a supportive business environment for farm operations.

Farms are an important sector of the local economy and need town support to continue to operate productively. As is typical of many upstate New York towns, Eden's history and rural character are based on the multi-generational farms in the town. Without that agricultural business base, the town would cease to be "the garden spot" of New York State.

Actions

- Support Erie County with its update to the County Agricultural and Farmland Protection Plan. Engage Eden farmers and local officials in the County plan update process.
- Strive to have at least one farmer on all local boards especially the Town Board, Planning Board, and Zoning Board of Appeals, in order to have consistent representation from the farm community in all aspects of local government. Historically, Eden farmers have been active members of these boards. In 1994, the Town established an Agricultural Advisory Committee comprised of 5 farmer members. This committee is a direct conduit from the agricultural community to the Town and Planning Boards. The single best way to insure that agricultural business interests are represented in local decisions is to continue to have farmer members on all local boards and committees.



- Engage town, county, state and federal officials in a tour of a representative group of Eden farms and agribusinesses. Coordinate planning support for the tour with the Erie County Department of Environment and Planning, Cornell Cooperative Extension, and the Southtowns Community Enhancement Coalition. Hold this tour every 2-3 years and always at the 8-year Agricultural District review. Local officials often have limited opportunities to visit working farms and there is no better way to explain how a farm operates and to highlight the unique needs of agricultural businesses.
- Establish a \$1000 annual college scholarship to be given to a student residing in the Town, who is attending college and majoring in agriculture with the intention to return to farm in Eden. Administer this scholarship through the Eden Community Foundation. Farms in Eden owe a significant portion of their success to the regular return of the next generation to the farm. Encouraging this return with a scholarship – whether to a student from a farm family or a student who would like to establish a farm business – is an added incentive to farm in Eden.
- Encourage Town farmers to develop business and marketing plans with particular emphasis on businesses that are considering new agritourism enterprises. Coordinate local business plan trainings with Cornell Cooperative Extension and the Southtowns Community Enhancement Coalition. Assist farmers with implementation of their plans.
- Adopt the Eden Agricultural and Farmland Protection Plan as part of the Town of Eden's 2015 Comprehensive Plan. This action will strengthen both the Agricultural and Farmland Protection Plan and the Comprehensive Plan. Update the Agricultural and Farmland Protection Plan at regular intervals, such as when the Comprehensive Plan is updated, and closely review agricultural sections of zoning code when Comprehensive Plan or code updates are done.
- Work with the Erie County Department of Environment and Planning and the Erie County Farm Bureau to develop a menu of financial incentive programs targeted to the agricultural industry.

- Support New York’s agricultural industry and Eden farmers by working with agricultural coalitions and organizations to:
 - Develop labor policies that provide a legal, reliable work force for agricultural businesses;
 - Support relief from regulatory burdens;
 - Fund agricultural infrastructure needs;
 - Increase funding for purchase of development rights; and
 - Increase support for agricultural economic development.
- Review the Zoning Analysis in Eden’s Municipal Agricultural and Farmland Protection Plan and amend Eden’s Code per recommendations in the analysis. Ensure that the zoning code is supportive of agritourism business opportunities.

Implementation responsibility: Agricultural Advisory Committee; Conservation Advisory Board; Town Board; Erie County Dept. of Environment and Planning, Cornell Cooperative Extension, Southtowns Community Enhancement Coalition.

Budget Considerations: Volunteer Committee time; Erie County Dept. of Economic Development, Environment and Planning staff time; College Scholarship cost - \$1000

Funding Resources: Eden Community Foundation, other Foundations.

Recommendation 3: Educate the non-farm public about agriculture. Facilitate an ongoing dialogue between the farm community and other Eden residents. Encourage appreciation of the agricultural resources located in the Town.

Although Eden is a farm town, many residents are a few generations removed from the farm and have limited occasions to visit working farms. This can create a disconnect between the producers of food and the consumers, sometimes leading to misunderstandings about production practices, food safety, and environmental stewardship. The Town can help to facilitate discussions between farmers and the non-farm public, and provide educational opportunities.

Actions:

- Promote the Welch Farm Museum as an educational tool to teach students and adults about both the history of agriculture in the Town and modern-day farming. Capitalize on the museum’s close proximity to the Eden Elementary School and the Eden Boys and Girls Club to offer regular educational opportunities.
- Continue involvement with the Southtowns Community Enhancement Coalition and promote their focus on agritourism. Eden



agritourism attractions can offer “teachable moments” about farming.

- Institute an “Ag Giveaway Day”. Provide Town property owners with a coupon, mailed with their tax bill, for free farm products and vegetables on a given day at a given drive-thru location.
- Utilize the “Eden Agricultural and Farmland Protection Plan” publication to promote understanding of agriculture in the Town. Distribute copies at the Corn Festival, Welch Farm Museum, Ag Giveaway Day, and other agricultural events. Include a promotional item in the publication such as a coupon for free admission to the Welch Farm Museum.

Implementation Responsibility: Agricultural Advisory Committee; Town farmers; Town Supervisor; Welch Farm Museum Board of Directors

Budget Considerations: Volunteer Committee time; Town Supervisor time; farmer donations; approximately \$2000-\$3000 for printing of the “Eden Agricultural and Farmland Protection Plan” publication.

Funding Resources: Eden Community Foundation; other Foundations; NYS Dept. of Agriculture and Markets grant opportunities



Appendix

Agricultural Review of The Code of the Town of Eden

(Revisions to consider are in italics.)

- ❖ Chapter 5: Agricultural Advisory Committee Law
 - Advises the Town Board and County Agricultural and Farmland Protection Board (AFPB) regarding Agricultural Districts;
 - Reviews proposed zoning or development in agricultural districts and serves in an advisory capacity;
 - Reviews county, state, and federal agricultural legislation for any affect it may have on Eden agriculture and reports to the appropriate board in town; and,
 - Serves as a communication vehicle between the agricultural community, Town, and County AFPB.
- ❖ Chapter 61: Air Pollution
 - Considers discharge or escape of offensive odors to be unlawful.
 - *Exempt agricultural odors in accordance with Right to Farm provisions in Agriculture and Markets Law.*
- ❖ Chapter 72: Animals
 - Exempts agriculture to allow working dogs to run at large.
- ❖ Chapter 95: Conservation Easement Law
 - Provides for the preservation of open space in the Town.
 - *Include language to allow agricultural term easements in exchange for property tax abatement.*
- ❖ Chapter 103: Excavations
 - Farm pond excavation is allowed where soil and stone remain on the property and with a no-fee permit.
- ❖ Chapter 106: Farming
 - Right to Farm: includes agricultural definitions and dispute resolution process for the Town; resolution committee decision is advisory.
 - When rezoning, site plan approval, or special use permit is requested on a property within 1 mile of a farm, a decision will be made on a case-by-case basis to require a declaration, deed restriction, and/or covenant with the land to notify future owners of the property, that they may be exposed to conditions associated with agricultural practices.
 - *Consider requiring such a declaration whenever a property is transferred, within or outside of the agricultural district, and within one mile of a farm.*
- ❖ Chapter 142: Mobile Home Park
 - Regulates mobile home parks.
- ❖ Chapter 146: Noise
 - Sounds created by farmers necessary in the operation of a farm are permitted.

- ❖ Chapter 175: Solid Waste
 - Exempted: disposal of manure in normal farming operations; recycling facility associated with a farm
 - *Farm junk piles are not noted in this section. Code provisions should be reviewed to insure compliance with Agriculture and Markets Law (AML) in the Agricultural District.*
- ❖ Chapter 177: Stormwater Management and Erosion Control
 - Agriculture is exempted from the stormwater management and erosion control plan requirements.
- ❖ Chapter 184: Subdivision of Land
 - Included in purpose statement: “to allow for residential development through cluster development which is in harmony with the rural character of Eden, while guiding development away from sensitive lands and active or potential agricultural lands.”
- ❖ Chapter 217: Wind Energy Conversion Systems
 - Windmills allowed in Agriculture and Conservation zoning districts with a maximum height limit of 200 feet.
- ❖ Chapter 225: Zoning
 - Definitions:
 - *Consider including Right to Farm language in the purpose statement.*
 - *Definition of agriculture or horticulture does not include horse boarding or greenhouses. Adopt AML definition of agriculture.*
 - *No definition of a farm listed in this chapter. Use AML definition as basis for code definition.*
 - *Definition of livestock does not include poultry. Include fowl/poultry.*
 - *Definition of agricultural solid waste does not include greenhouse waste. Include greenhouse waste.*
 - Article III: Zoning Districts and Zoning Map:
 - Agriculture allowed in Conservation, Agriculture, Rural Residential, and Suburban Residential districts. No agriculture allowed in Hamlet Residential after January 1, 1998.
 - Where agriculture is allowed, animal raising is allowed on 20 acres or more and fowl raising on 5 acres or more.
 - *Remove these acreage limitations in the Agricultural District,, as they do not follow Agriculture and Markets Law.*
 - Rural Residential and Suburban Residential District:

Do not allow for temporary farm worker housing; have the same screening requirement as the Conservation and Agriculture Districts; display of products grown by the landowner/tenant is allowed but no processed products are allowed, and the sale of products is within the confines of the property on which they were grown.

 - *Review provisions related to temporary farm worker housing for property in the Agricultural District.*
 - *Do not require that agriculture provide screening in the Conservation District. If needed, screening should be required in residential developments.*
 - *Do not limit types of agricultural products for sale in farm stands and markets.*

- General Business District:
Allows buildings or open stands for the sale of agricultural products.
- Creekside Open Space Overlay District:
Customary agricultural activities do not have to meet the requirements of the overlay district.
- Article VI: Supplementary Regulations:
 - Nonresidential buildings: chimneys, flues, towers, and spires may exceed the height limitations but no mention is made of agricultural buildings, specifically silos.
 - *List agricultural buildings in this section allowing for them to exceed height limitation in the Agricultural District..*
 - Performance standards, prohibited uses: prohibited uses in all zoning districts include bulk or wholesale storage of gasoline aboveground; dumps and junkyards; advertising signs pertaining to uses or operations not on the same lot or site.
 - *In the agricultural district, exempt off site directional signs for farm stands and markets.*
 - Supplemental use regulations: “Home occupations ... may be permitted upon approval of the Board of Appeals.” Property owners must obtain a special permit for bed-and-breakfasts.
 - *Home occupations should be exempt per AML requirements in the Agricultural District in the Conservation and Agricultural zones and per 2008 New York State law regarding home occupations.*
 - Transfer of development rights: “Transfer of development rights provides for increased density of residential development in the Rural Residential, Suburban Residential, and Hamlet Residential Districts when suitable open space land in a Conservation or Agricultural District is permanently reserved from specified development uses. The transfer of development rights is accomplished by execution of an open space easement, and the increased density is permitted by issuance of an optional density permit...”

Resources for Additional Information and Technical Support

American Farmland Trust

Providing technical assistance to towns and counties to develop and implement farmland protection plans

21 South Grove Street, Suite 200
East Aurora, NY 14052
(716)652-0100
www.farmland.org

Cornell Cooperative Extension of Erie County

Providing technical assistance to farmers and farm businesses

21 South Grove Street, Suite 300
East Aurora, NY 14052
(716)652-5400 <http://counties.cce.cornell.edu/erie>

Erie County Department of Environment and Planning

Providing technical assistance in planning and matching grant funding for farmland protection

Rath Office Building
95 Franklin Street, 10th Floor
Buffalo, NY 14202
(716)858-8390
www.erie.gov/environment

Western New York Land Conservancy

Providing technical assistance in farmland protection and planning to farmers interested in protecting their properties

P.O.Box 471
East Aurora, NY 14052-0471
(716)687-1225
www.wnylc.org

New York State Department of Agriculture and Markets

Providing technical assistance and grant funding for farmland protection, marketing and many others

10B Airline Drive
Albany, NY 12235
(518) 457-3880 or 800-554-4501
www.agmkt.state.ny.us

New York State Department of State

Providing technical assistance in planning

99 Washington Avenue
Albany, NY 12231-0001
(518) 474-4752
www.dos.state.ny.us

New York State Office of Real Property Services

Providing technical assistance in agricultural assessment

16 Sheridan Avenue

Albany, NY 12210-2714

(518) 474-2982

www.orps.state.ny.us

NY Farm Net

Providing counseling and technical assistance in farm succession and business planning, and linking farmers and landowners

415 Warren Hall

Ithaca, NY 14853-7801

800-547-3276

www.nyfarmnet.org

Guidelines for Review of Local Zoning and Planning Laws

Background and Objective

As communities adopt or amend zoning regulations, potential conflicts between farm operations and local land use controls may increase. This, coupled with continuing exurban development pressures on many of the State's agricultural communities, increases the need to better coordinate local planning and the agricultural districts program, and to develop guidelines to help address conflicts which may occur. Proactively, guidelines can aid in crafting zoning regulations by municipalities with significant farming activities.

Zoning and Farm Operations: Practical Limitations and Problems

Farms are host to several discrete but interdependent land uses which may include barns, commodity sheds, farm worker housing, garages, direct farm markets, silos, manure storage facilities, milking parlors, stables, poultry houses and greenhouses, to name but a few. The typical zoning regulation, in addition to establishing minimum lot sizes and separations between uses, often prohibits more than one "principal" structure on each parcel of record. Many zoning devices, then, are unable to distinguish between on-farm structures as part of a *farm operation* from the same building when it is used for an independent, freestanding use.

The minimum separation and "yard" requirements of zoning are designed to avoid over concentration, maintain adequate spaces for light and air, and to reduce fire hazard in more urban environments. The application of such requirements to suburban and rural communities and farm operations often results in the unintended regulation of farm operations and uses not as an integrated whole, but as separate improvements.

The rapidly changing nature of the agricultural industry does not always allow zoning and the comprehensive planning process to keep pace. This can result in the application of outdated regulations to contemporary land uses and gives rise to potentially unreasonable restrictions. Local governments may run afoul of the letter and intent of the Agricultural Districts Law by limiting the type and intensity of agricultural uses in their communities and by narrowly defining "farm" or "agricultural activity." This is sometimes problematic even in municipalities with a significant base of large, "production" level farming operations. Inadequately defined terms also give rise to conflict between the zoning device and farm operations.

Because of the inherent nature of zoning, there is essentially no discrete administrative authority to waive its standards, even when those standards are at variance with the community's land use policy and what may be deemed its "intent." A municipal zoning board of appeals may, consistent with specific tests

found in Town, Village and City Law, vary the use and area standards of a zoning regulation, and reverse or affirm determinations of the zoning administrative official. Such a remedy: i.e., an area or use variance, may, however, in and of itself be considered “unreasonably restrictive” if it is the only means available to establish, expand or improve a “farm operation” in a county adopted, State certified agricultural district.

These and other limitations and problems that can lead to AML §305-a violations may be avoided in the first instance by sound comprehensive planning. The Town Law, Village Law, General City Law and the Agricultural Districts Law are designed to encourage coordination of local planning and land use decision making with the agricultural districts program.

Agricultural Districts and County Agricultural and Farmland Protection Plans: Their Influence on the Municipal Comprehensive Plan and the Zoning Process

The preparation, adoption and administration of a municipal comprehensive plan and zoning regulation are not independent actions of local government, but should be part of a well thought out, seamless process. A zoning regulation is, in the final analysis, simply a device to implement the community plan and, in fact, “... must be in accordance with a comprehensive plan ...” [Town Law §272-a(11)(a)]

The State Legislature has codified the intent, definition and content of the comprehensive plan (Town Law §272-a, Village Law §7-722 and General City Law §28-a). In so doing, the Legislature has given significant status to “agricultural uses” in general, and State certified agricultural districts and county agricultural and farmland protection plans created under Agriculture and Markets Law Articles 25-AA and 25-AAA in particular. Town Law §272-a (9) requires agricultural review and coordination with the comprehensive planning process:

“A town comprehensive plan and any amendments thereto, for a town containing all or part of an agricultural district or lands receiving agricultural assessments within its jurisdiction, shall continue to be subject to the provisions of article twenty-five-AA of the agriculture and markets law relating to the enactment and administration of local laws, ordinances, rules or regulations. A newly adopted or amended town comprehensive plan shall take into consideration applicable county agricultural and farmland protection plans as created under article twenty-five-AAA of the agriculture and markets law.”

(The same language is found in Village Law and General City Law.)

Thus, the statutory influence the Agricultural Districts Law and the Agricultural and Farmland Protection programs have on the comprehensive planning process and zoning regulations is significant. State certified agricultural districts and

county agricultural and farmland protection plans are community shaping influences in much the same way as existing and proposed infrastructure; wetlands, floodplains, topographical features; cultural, historic and social amenities; economic needs; etc. are viewed. The Agricultural Districts Law is a valuable planning tool to conserve, protect and encourage the development and improvement of the agricultural economy; protect agricultural lands as valued natural and ecological resources; and preserve open space.

In addition to AML §305-a, limitations on local authority in Town Law §283-a and Village Law §7-739 were enacted to ensure that agricultural interests are taken into consideration during the review of specific land use proposals. Town Law §283-a (1) and Village Law §7-739(1), as recently amended by Chapter 331 of the Laws of 2002, require local governments to "...exercise their powers to enact local laws, ordinances, rules or regulations that apply to farm operations in an agricultural district in a manner which does not unreasonably restrict or regulate farm operations in contravention of the purposes of article twenty-five-AA of the agriculture and markets law, unless it can be shown that the public health or safety is threatened." The recent amendments make the Town and Village Law provisions consistent with AML §305-a regarding showing a threat to the public health or safety. AML §305-a, subd.1 is not a stand-alone requirement for coordination of local planning and land use decision making with the agricultural districts program. Rather, it is one that is fully integrated with the comprehensive planning, zoning and land use review process.

Application of Local Laws to Farm Operations within Agricultural Districts

In general, the construction of on-farm buildings and the use of land for agricultural purposes should not be subject to site plan review, special use permits or non-conforming use requirements when conducted in a county adopted, State certified agricultural district. The purpose of an agricultural district is to encourage the development and improvement of agricultural land and the use of agricultural land for the production of food and other agricultural products as recognized by the New York State Constitution, Article XIV, Section 4. Therefore, generally, agricultural uses and the construction of on-farm buildings as part of a farm operation should be allowed uses when the farm operation is located within an agricultural district.

Town Law §274-b, subdivision 1 allows a town board to authorize a planning board or other designated administrative body to grant special use permits as set forth in a zoning ordinance or local law. "Special use permit" is defined as "...an authorization of a particular land use which is permitted in a zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met." Agricultural uses in an agricultural district are not, however, "special uses." They are constitutionally recognized land uses which are protected by AML §305-a, subd.1. Further, agricultural districts are created

and reviewed locally through a process which includes public notice and hearing, much like zoning laws are adopted and amended. Therefore, absent any showing of an overriding local concern, generally, an exemption from special use permit requirements should be provided to farm operations located within an agricultural district.

The application of site plan and special permit requirements to farm operations can have significant adverse impacts on such operations. Site plan and special permit review, depending upon the specific requirements in a local law, can be expensive due to the need to retain professional assistance to certify plans or simply to prepare the type of detailed plans required by the law. The lengthy approval process in some local laws can be burdensome, especially considering a farm's need to undertake management and production practices in a timely and efficient manner. Site plan and special permit fees can be especially costly for start-up farm operations.

Generally, farmers should exhaust their local administrative remedies and seek, for example, permits, exemptions available under local law or area variances before the Department reviews the administration of a local law. However, an administrative requirement/process may, itself, be unreasonably restrictive. The Department evaluates the reasonableness of the specific requirement/process, as well as the substantive requirements imposed on the farm operation. The Department has found local laws which regulate the health and safety aspects of the construction of farm buildings through provisions to meet local building codes or the State Building Code (unless exempt from the State Building Code ¹) and Health Department requirements not to be unreasonably restrictive. Requirements for local building permits and certificates of occupancy to ensure that health and safety requirements are met are also generally not unreasonably restrictive.

Site Plan Review for Farm Operations within an Agricultural District

Many local governments share the Department's view that farm operations should not have to undergo site plan review and exempt farms from that requirement. However, the Department recognizes the desire of some local governments to have an opportunity to review agricultural development and projects within their borders, as well as the need of farmers for an efficient, economical, and predictable process. In view of both interests, the Department developed a model streamlined site plan review process which attempts to respond to the farmers' concerns while ensuring the ability to have local issues examined. The process could be used for farm buildings and structures (new and significant expansions) proposed for a site, but should not be required for non-structural agricultural uses. For example, to require farm operations in an agricultural district to undergo site plan review to engage in the production,

¹ A discussion of the New York State Uniform Fire Prevention and Building Code follows below.

preparation and marketing of crops, livestock and livestock products, would generally be unreasonably restrictive.

The authorizing statutes for requiring site plan review are quite broad and under "home rule" municipalities retain significant flexibility in crafting specialized procedures (e.g., the selection of a reviewing board; uses which trigger submission of site plans; whether to have a public hearing and the length of time to review an application). Town Law §274-a and Village Law §7-725-a define a site plan as "a rendering, drawing, or sketch prepared to specifications and containing necessary elements as set forth in the applicable zoning ordinance or local law which shows the arrangement, layout and design of the proposed use of a single parcel of land... ." These sections of law further outline a list of potential site plan elements including parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses as well as additional elements.

Many municipalities have also added optional phases to the site plan review. While a preliminary conference, preliminary site plan review and public hearings may assist the applicant earlier in the review process and provide the public an opportunity to respond to a project, they can result in a costly delay for the farmer.

For the sake of simplicity, the model site plan process and the following guidance presume that the planning board is the reviewing authority.

Site Plan Process

The applicant for site plan review and approval shall submit the following:

- 1) Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways.

Show the existing features of the site including land and water areas, water or sewer systems and the approximate location of all existing structures on or immediately adjacent to the site.

- 2) Show the proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic.
- 3) Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views. Include copies of any available blueprints, plans or drawings.

- 4) Provide a description of the project and a narrative of the intended use of such proposed buildings, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.
- 5) If any new structures are going to be located adjacent to a stream or wetland provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
- 6) Application form and fee (if required).

If the municipality issues a permit for the structure, the Code Enforcement Officer (CEO) determines if the structures are subject to and comply with the local building code or New York State Uniform Fire Prevention and Building Code prior to issuing the permit. Similarly, the Zoning Enforcement Officer (or the CEO in certain municipalities) would ensure compliance with applicable zoning provisions.

The Department urges local governments to take into account the size and nature of the particular farm buildings and structures when setting and administering any site plan requirements for farm operations. The review process, as outlined above, should generally not require professional assistance (e.g., architects, engineers or surveyors) to complete or review and could be completed relatively quickly.² The Department understands, however, that in some cases, a public hearing and/or a more detailed review of the project which may include submission of a survey, architectural or engineering drawings or plans, etc., may be necessary. The degree of regulation that may be considered unreasonably restrictive depends on the nature of the proposed activities, the size and complexity of the proposed buildings or structures and whether a State agricultural exemption applies.

Time Frame for Review and Decision

Town Law §274-a and Village Law §7-725-a require that a decision on a site plan application be made within a maximum of 62 days after receipt of the application or date of a public hearing, if one is required. Town and Village Law authorize town boards and village boards of trustees to adopt public hearing requirements and local laws often provide planning boards with the discretion whether to hold a public hearing. The Department recommends that if the municipality requires construction of farm buildings and structures within a state certified agricultural district to undergo site plan review, that the review and decision be expedited within 45 days, with no public hearing. The Department recognizes that the Town Law allows municipalities to determine which uses

² Please see discussion of Agricultural Exemptions below.

must undergo site plan review, the time frame for review (within the 62 day maximum), and whether to conduct a public hearing. A protracted review of most agricultural projects could, however, result in significant economic impacts to farmers.

The process outlined above affords the community an opportunity to examine a proposed agricultural project and to evaluate and mitigate potential impacts in light of public health, safety and welfare without unduly burdening farm operations. Of course, the “process” must also be administered in a manner that does not unreasonably restrict or regulate farm operations. For example, conditions placed upon an approval or the cost and time involved to complete the review process could be unreasonably restrictive.

Agricultural Exemptions

State Environmental Quality Review (SEQR) - Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with “generally accepted principles of farming” are designated as Type II actions which do not require preparation of an Environmental Assessment Form (EAF) and are not subject to compliance with State Environmental Quality Review (SEQR). 6 NYCRR §617.5(a), (c)(3). [See *In the Matter of Pure Air and Water Inc. of Chemung County v. Davidsen*, 246 A.D.2d 786, 668 N.Y.S.2d 248 (3rd Dept. 1998), for application of the exemption to the manure management activities of a hog farm.] The SEQR regulations require localities to recognize the Type II actions contained in the statewide list.

New York State Uniform Fire Prevention and Building Code - While farmers must comply with local requirements which regulate health and safety aspects of the construction of farm buildings, many farm buildings are exempt from the State Uniform Fire Prevention and Building Code (“Uniform Code”). The Uniform Code recently underwent major revisions and now is comprised of seven sub-codes (the Building Code, Fire Code, Residential Code, Plumbing Code, Mechanical Code, Fuel Gas Code, and the Property Maintenance Code). The exemption for agricultural buildings has been incorporated in the following portions of the revised Uniform Code and the Energy Conservation Construction Code, which became fully effective on January 1, 2003.

- Agricultural building is defined in §202 of the Building Code as “A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.”

- Building Code §101.2(2) provides an exemption from the Building Code for "[a]gricultural buildings used solely in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation."
- Section 102.1(5) of the Fire Code of New York State provides that "[a]gricultural buildings used solely in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation" are exempt from the provisions of the Fire Code pertaining to construction but are subject to applicable requirements of fire safety practice and methodology.
- Section 101.4.2.5 of the Energy Conservation Construction Code ("ECCC") exempts "nonresidential farm buildings, including barns, sheds, poultry houses and other buildings and equipment on the premises used directly and solely for agricultural purposes" from the provisions of the ECCC.

The above briefly highlights the agricultural buildings exemptions. Any specific questions regarding the interpretation and applicability of the revised State Uniform Fire Protection and Building Code should be directed to the Department of State's Codes Division at (518) 474-4073.

Professionally Stamped Plans - Education Law §7209(1) provides that no official of the State or any city, county, town or village charged with the enforcement of laws, ordinances or regulations may accept or approve any plans or specifications that are not stamped with the seal of an architect, or professional engineer, or land surveyor licensed or authorized to practice in the State. Thus, where local laws, ordinances or regulations require that plans and specifications for private construction be accepted or approved, they may not be accepted or approved without the required seal, subject to the exceptions set forth in the statute. 1981 Op Atty Gen April 27 (Informal).

However, the exceptions contained in Education Law §7209(7)(b) include "farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes." As a result, plans and specifications for such buildings are not required to be stamped by an architect, professional engineer or land surveyor.³

Against this backdrop, specific guidelines for review of zoning and planning regulations by local governments and the Department can best be understood.

Generic Review Guidelines

Generic reviews are those of entire zoning regulations or sections of zoning regulations that impact the municipality's farm community as a class or several farm operations in the same way. Examples of actions which might result in a generic review include the adoption or administration of an entirely new or

³ Similar requirements and exceptions are also provided in Education Law §7307(1) and (5).

substantially amended zoning regulation that results in a material change in the use and area standards applied to farm operations in a State certified agricultural district. In such cases, the Department recommends that the municipality ask itself the following questions:

- Do the regulations materially limit the definition of farm operation, farm or agriculture in a way that conflicts with the definition of “farm operation” in AML §301, subd.11?
- Do the regulations relegate any farm operations in agricultural districts to “non-conforming” status?
- Is the production, preparation and marketing of any crop, livestock or livestock product as a commercial enterprise materially limited, restricted or prohibited?
- Are certain classes of agriculture subject to more intensive reviews or permitting requirements than others? For example, is “animal agriculture” treated differently than crop production without demonstrated links to a specific and meaningful public health or safety standard designed to address a real and tangible threat?
- Are any classes of agricultural activities meeting the definition of “farm operation” subject to special permit, site plan review or other original jurisdiction review standard over and above ministerial review?
- Are “farm operations” subject to more intensive reviews than non-farm uses in the same zoning district?
- Are “farm operations” treated as integrated and interdependent uses, or collections of independent and competing uses on the same property?
- Is the regulation in accordance with a comprehensive plan and is such a plan crafted consistent with AML Article 25-AA as required by law?

If the answer to any of the first six questions is “yes,” or if the answer to either of the last two is “no,” the zoning regulations under review are likely to be problematic and may be in violation of AML §305-a, subd.1. Certainly such regulations would appear to be on their “face” inconsistent with the statutory requirement that *“Local governments ...shall exercise these powers in such manner as may realize the policy and goals set forth in this article [Article 25AA-Agricultural Districts].”*

Guidelines for Site Specific Reviews

AML §305-a zoning case reviews often involve application of zoning regulations to a specific farm operation. Such cases typically result from applying the site plan, special use permit, use or non-conforming use sections, yard requirements, or lot density sections of the municipal zoning device to an existing farm operation.

These cases often evolve because although the zoning regulation may appear to be consistent with the agricultural districts law, its application to a specific issue or set of facts is not. In such cases, the Department recommends that the municipality ask itself the following questions:

- Is the zoning regulation or restriction being applied to a use normally and customarily associated with a “farm operation” as defined in AML Article 25-AA?
- Does the regulation or restriction materially limit the expansion or improvement of the operation without offering some compelling public benefit?
- Is the regulation or restriction applicable to the specific farm operation in question or, under the same circumstances, would it apply to other farm operations in the community?
- Does the zoning regulation impose greater regulation or restriction on a use or farming activity than may already be imposed by State or federal statute, rule or regulation?
- Is the regulation or restriction the result of legislative action that rendered the farm operation a “non-conforming use”?

If the answer to any of these questions is yes, then the zoning regulation or restriction under review is likely to be problematic and may be in violation of the statutory prohibitions against unreasonably restrictive regulation of farm operations in an agricultural district, unless a threat to the public health or safety is demonstrated.

Guidance on Specific Zoning Issues

The following are some specific factors that the Department considers when reviewing local zoning laws⁴:

A. Minimum and Maximum Dimensions

Generally the Department will consider whether minimum and maximum dimensions imposed by a local law can accommodate existing and/or future farm needs. For example, many roadside stands are located within existing garages, barns, and outbuildings that may have dimensions greater than those set by a local ordinance. Also, buildings specifically designed and constructed to accommodate farm activities may not meet the local size requirements (e.g., silos and barns which may exceed maximum height limitations). The size and scope of the farm operation should also be considered. Larger farms, for example, cannot effectively market their produce through a traditional roadside

⁴ Please see other Department guidance documents for further information on issues related to specific types of farm buildings and practices.

stand and may require larger farm markets with utilities, parking, sanitary facilities, etc.

B. Lot Size

Establishing a minimum lot size for farm operations within a zoning district that includes land within a State certified agricultural district might be unreasonably restrictive. The definition of "farm operation" in AML §301, subd. 11 does not include an acreage threshold. Therefore, the Department has not set a minimum acreage necessary for protection under AML §305-a and conducts reviews on a case-by-case basis. For example, a nursery/greenhouse operation conducted on less than 5 or 10 acres may be protected as a "farm operation" under §305-a if the operation is a "commercial enterprise" and more than a hobby farm.

For agricultural assessment purposes, however, AML §301, subd. 4 states that a farm must have "land used in agricultural production" to qualify (either seven or more acres and gross sales of an average of \$10,000 or more in the preceding two years *or* have less than seven acres and average gross sales of more than \$50,000 in the preceding two years). A recent amendment to AML §301, subd. 4 also provides for an agricultural assessment on seven or more acres which has an *annual* gross sales of \$10,000 or more "...when such land is owned or rented by a newly established farm operation in the first year of operation." AML §301, subd. 4.h. *Laws of 2003, Chapter 479*, effective September 9, 2003.

Local requirements for minimum lot sizes for farm buildings raises concerns similar to those involving minimum and maximum building dimensions. A farmer may be unable to meet a minimum lot size due to the configuration of the land used for production or lying fallow as part of a conservation reserve program. The need to be proximate to existing farm roads, a water supply, sewage disposal and other utilities is also essential. Farm buildings are usually located on the same property that supports other farm structures. Presumably, minimum lot size requirements are adopted to prevent over concentration of buildings and to assure an adequate area to install any necessary utilities. Farm buildings should be allowed to be sited on the same lot as other agricultural use structures subject to the provision of adequate water and sewage disposal facilities and meeting minimum setbacks between structures.

C. Setbacks

Minimum setbacks from front, back and side yards for farm buildings have not been viewed as unreasonably restrictive unless a setback distance is unusually long. Setbacks that coincide with those required for other similar structures have, in general, been viewed as reasonable.

A farm operation's barns, storage buildings and other facilities may already be located within a required setback, or the farm operation may need to locate new facilities within the setback to meet the farm operation's needs. Also, adjoining land may consist of vacant land, woodland or farmland. The establishment of unreasonable setback distances increases the cost of doing business for farmers because the infrastructure needed to support the operation (e.g., water supply, utilities and farm roads) is often already located within, and adjacent to, the farmstead area or existing farm structures. Setbacks can also increase the cost of, or make it impracticable to construct new structures for the farm operation.

D. Sign Limitations:

Whether or not a limitation on the size and/or number of signs that may be used to advertise a farm operation is unreasonably restrictive of a farm operation depends upon the location of the farm and the type of operation. A farmer who is located on a principally traveled road probably will not need as many signs as one who is located on a less traveled road and who may need directional signs to direct the public to the farm. The size of a sign needed may depend on whether the sign is used to advertise the farm's produce or services (e.g., for a commercial horse boarding operation) as part of the farm's direct marketing, or just for directional purposes.

E. Maximum Lot Coverage

Establishing a maximum lot coverage that may be occupied by structures may be unreasonably restrictive. For example, it may be difficult for horticultural operations to recoup their investment in the purchase of land if they are not allowed to more fully utilize a lot/acreage for greenhouses. Farm operations within an agricultural district should be allowed the maximum use of available land, consistent with the need to protect the public health or safety. Generally, if setbacks between buildings are met and adequate space is available for interior roads, parking areas (where required), and safe operation of vehicles and equipment, health and safety concerns are minimized.

F. Screening and Buffers

Some municipalities impose buffer requirements, including setbacks where vegetation, landscaping, a wall or fencing is required to partially or completely screen adjacent land uses. Often, the buffer area cannot be used or encroached upon by any activities on the lot. Requirements for buffers or setbacks to graze animals, construct fences and otherwise use land for agricultural purposes are generally unreasonably restrictive.

Buffers and associated setbacks may require farmers to remove land from production or otherwise remove land from use for the farm operation. The impact on nursery/greenhouse operations is especially significant since they are often

conducted on smaller parcels of land. Maintenance of the buffer also creates a hardship to the landowner. If a setback is required for fencing, the farmer may have to incur the expense of double fencing the perimeter of the property, or portion thereof, to prevent encroachment by neighboring property owners.

A requirement to screen a farm operation or agricultural structures such as farm labor housing or greenhouses from view has been found by the Department to be unreasonably restrictive. Screening requirements suggest that farm operations and associated structures are, in some way, objectionable or different from other forms of land use that do not have to be screened. Farmers should not be required to bear the extra costs to provide screening unless such requirements are otherwise warranted by special local conditions or necessary to address a threat to the public health or safety. While aesthetics are an appropriate and important consideration under zoning and planning laws, the purpose of the Agricultural Districts Law is to conserve and protect agricultural lands by promoting the retention of farmland in active agricultural use.

New York Direct Marketing Association Model Zoning for Roadside Stands and Farm Markets

Permitted Uses

The following sections contain proposed language that would incorporate into a zoning ordinance, as permitted uses, roadside stands and farm markets. The language should be inserted into the district regulations for each zoning district within the community where roadside stands or farm markets exist, or are being considered as allowed uses.

Included in the proposed language are statements of purpose for each of the two types of markets. These statements provide the community's rationale for allowing the uses within the framework of their zoning regulations.

Roadside Stand

The purpose of a roadside stand is to allow farmers, who are actively farming, low cost entrance into direct marketing their farm products. It is characterized as a direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts. Permitted activities include: the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts; pick-your-own fruits, vegetables and nuts; community supported agriculture (CSA)

Farm Market

The purpose of a farm market is to provide opportunities for actively producing farms to retail their products directly to consumers and enhance income through value-added products, services and activities. Permitted activities include: the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts; agricultural commerce, agricultural tourism, pick-your-own operation; community supported agriculture; bed & breakfast inn; farm vacations.

The following are allowed as accessory uses to the farm market operation: Petting zoo and animal attractions; children's games and activities; crop mazes; holiday-oriented activities; miniature golf course, incorporating farm themes; food service if growing any portion of the food served, such as vegetables with a deli, fruit in desserts, etc; horseback riding arenas

Definitions

Definitions are critical to ensuring clarity and uniformity in the interpretation of zoning regulations. Clear definitions can inoculate the community from legal actions related to their zoning regulations. At the same time they can protect the individual property owner by ensuring

consistent and uniform application of the regulations. For this purpose the following definitions should be incorporated into the zoning ordinance when it is amended to allow roadside stands or farm markets.

Actively Producing Farm: Pursuant to Section 301, Sub. 4 of the Agriculture and Markets Law, the farm must have a minimum of 7 acres in production with \$10,000 in sales, or \$50,000 in sales if under 7 acres of land are in production. In addition, a predominance of the agricultural products being sold at the farm be New York State produced. This would be on an annual basis and would be determined by volume of product.

Agricultural Commerce: Additional enterprises permitted at farm markets to attract customers and promote the sale of agricultural products. These include, but are not limited to gift shops, on-farm brewery, Community Supported Agriculture, bakery, florist shop, garden center, nursery, ice cream shop, food processing where the predominant ingredient is grown by the market operator, cider mills, on-site artistry and pick-your-own operations.

Agricultural Products: Pursuant to Section 301, Sub. 2 of the Agriculture and Markets Law: Crops, livestock and livestock products, including, but not limited to the following:

- a) Field crops, including corn, wheat, oats, 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, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk, eggs, and furs.
- f) Maple sap
- 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.

Agriculture-related products: items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, clothing and other items promoting the farm enterprise operating the farm market and agriculture in New York, value-added agricultural products, Christmas trees and related products and on-farm wineries.

Agricultural Tourism: Agricultural related tours, events and activities, as well as non-agricultural related activities used to attract people and promote the sales of farm produce and agricultural products. These tours, events and activities include, but are not limited to petting zoos, school tours, outdoor trails, corn mazes, hayrides, pony rides, group picnics, on- and off-site food catering services, musical events, craft shows, outdoor recreation. To be a permitted use, the farm must be actively producing agricultural products for sale. Farm markets where the

seller is not actively producing agricultural products for retail sales will require a special use permit for agricultural tourism activities.

All-Weather Surface. Any roadway, driveway, alley or parking lot surface paved with crushed stone, asphalt, concrete or other pervious or impervious material in a manner that will support the weight of anticipated vehicular traffic in all weather conditions and minimize the potential for ruts, potholes or pooling of water.

Community Supported Agriculture: The retail sale of agricultural products to customers through a subscription paid in cash or labor, or a combination thereof

Enhanced Agricultural Products: An agricultural product that has been altered or processed in a way to increase its value to consumers and increase the profitability of the product to the farmer.

Farm Brewery: Facility for the production of malt liquors operated as a subordinate enterprise to a farm by the owner or owners of the farm on which it is located.

Farm Market: A permanent structure, operated on a seasonal or year-round basis, that allows for agricultural producers to retail their products and *agriculture*-related items directly to consumers and enhance income through value-added products, services and activities.

Farm Vacation: Temporary residency on the premises by paying transient guests for the purpose of observing or participating in the ongoing activities of an agricultural operation and learning about agricultural life.

Farm Winery: any place or premises, located on a farm in New York State, in which wine is manufactured and sold, and is licensed by the State Liquor Authority as a farm or commercial winery.

Glare: Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Handcrafted Item: An object that requires use of the hands, hand tools and human craft skills in its production, and which is usually not adaptable to mass production by mechanical means.

Pick Your Own Enterprise: A fruit or vegetable growing farm which provides the opportunity for customers to pick their own fruits or vegetables directly from the plant. Also referred to as a PYO.

Roadside Stand: A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.

Seasonal Sign: any sign that is removed for three consecutive months. These signs must be removed whenever business is closed for seven or more consecutive days. Because seasonal signs will be removed for a minimum of three months at a time, size and quantity restrictions do not apply.

Design and Operations Standards

In addition to clear definition of what would constitute the permitted activities associated with a roadside stand or farm market, specific design and use standards governing the design and operations of such enterprises should also be incorporated into the zoning ordinance.

Recommended standards include:

There shall be no sales of fuel and related products, tobacco products, alcoholic beverages except those listed under permitted uses, lottery tickets, vehicles or related products.

Food franchises are prohibited in any roadside stand or farm market operation.

To ensure public safety, roadside stands will be required to have off-street parking with an all weather surface and adequate ingress and egress with an area for turn-around.

There shall be one 10 x 20 parking area per 200 sq. ft. of selling and display area, with a minimum of 2 spaces. Parking spaces are exclusive of driveways and turnarounds. For the purpose of calculating the required number of parking spaces, production facilities, garden plots, planting beds and outdoor storage area opened to the public are excluded. Pick-your-own operations will require a greater number of off road parking spaces based on expected number of cars per day.

Parking: To ensure public safety, farm markets will be required to have off-street parking with adequate ingress and egress with an area for turn-around. A minimum of one 10 x 20 parking area per 200 sq. ft. of selling and display area, with a minimum of two spaces, shall be required. For the purpose of calculating the required number of parking spaces, production facilities, garden plots, planting beds and outdoor storage area opened to the public are excluded. The above notwithstanding, adequate off street parking shall be provided. Parking spaces are exclusive of driveways and turnarounds. Entrances and exits onto roadways must have an all-weather surface. PYO operations will require a greater number of off-road parking spaces based on the expected number of cars per day. Overflow parking should be, minimally, grass covered.

Setbacks: Frontyard - 20 feet from the right of way line to front of sales area, excluding production facilities, garden plots, planting beds and outdoor storage areas open to the public. No parking is allowed within frontyard setback or within 20 feet of the edge of roadway, whichever distance is less.
Sideyard - 20 foot setback from property line.

Rear - 40 foot setback from property line.

Where a roadside stand or farm market is located on a separate parcel of land, maximum lot coverage by buildings shall be 30%. Total coverage, including parking areas, shall not exceed 70%.

Signs: Seasonal signs are allowed, but cannot be placed anywhere it would create a traffic hazard. All other town signage regulations may apply.

Lighting: No outdoor lighting shall produce glare beyond the boundary of the property. No rotating or flashing lights on advertising signage *shall be permitted*.

Buffers: Buffers shall be a minimum of 15 feet in width, and planted with plant materials reaching a minimum of 6' within 5 years and producing a continuous visual barrier, or alternately, include a solid fence or wall with a minimum height of 6'.

(Buffers are recommended in addition to any required setbacks if next door use is substantially different.)

Water: Potable water on site is required.

These rights and privileges extend to any active farm in any zoning district.

Is Your TOWN Planning a Future for Farms?

A Checklist for Supporting Farms at the Town Level in New York

Encourage Public Appreciation for Local Agriculture

Does your town...

☐ YES ☐ NO

...have any visible demonstration of the value of local farms? Does your town support a fair, an apple festival or other farm events? When agriculture is visible to the public, residents will better understand the benefit of having farms in town.

☐ YES ☐ NO

...publicize where to go to get advice and assistance on farm questions? Towns should help connect farmers with local, state and federal agricultural and conservation organizations that can serve as resources.

☐ YES ☐ NO

...recognize the property tax benefits of farmland and support tax policies that are fair to farmland owners? While farmland may provide less tax revenue per acre than other land uses, it also requires significantly less in local services. Cost of Community Services studies in more than 15 New York towns have demonstrated that farmland generally pays more in taxes than it receives in local services. By comparison, residences generally require more in local services than they pay in taxes. Has your town considered adopting agricultural assessment values for fire, library or other service districts as a means of demonstrating that farmland requires fewer public services?

Strengthen Economic Opportunities for Farms and Related Businesses

Does your town...

☐ YES ☐ NO

...allow agricultural uses in more than one zoning district? Agricultural businesses are not the same as other commercial development. Some towns confine agricultural businesses to the commercial zone only, while other towns prohibit such uses in the commercial zone. Farm enterprises often are hybrids of several different uses. Ordinances and regulations should allow farm business flexibility.

☐ YES ☐ NO

...allow flexibility in regulations to accommodate the unusual needs of agricultural businesses?

Does your town have appropriate regulations for farm retailers such as expanded hours of business, temporary and off-site signs, parking near pick-your-own fields, or on street parking? The land use impact and off-site impact of a seasonal farm business can be much less than that of a full-time retail business. Pick-your-own operations or Christmas tree farms may have a hard time staying viable in a town that treats farms like all other retailers.

☐ YES ☐ NO

...allow farm stands to sell produce purchased elsewhere?

Many towns have rules that require a certain percentage of farm stand produce to be grown on the farm. The basis for allowing a farm stand shouldn't be limited to how much is grown on the farm but should also consider what benefits the farm provides to the town in terms of open space, wildlife habitation, watershed purification and natural resource protection.

☐ YES ☐ NO

...allow rural businesses compatible with agriculture in farming areas?

Home-based occupations such as farm machinery repair shops, sawmills and other rural businesses can help farm families make ends meet. They can also provide an economically viable alternative to selling farmland for development.

☐ YES ☐ NO

...have business infrastructure that supports modern farms?

Modern farming operations require services, as do other businesses. To support farm businesses, towns should ensure that telephone, electric and other wires are high enough to prevent accidents with farm equipment. They also should make snowplowing on roads leading to dairy farms a priority so that milk trucks can collect milk easily and should maintain good culverts and drainage systems to help move water away from farm fields. Towns should also check their roads and bridges to determine whether they can handle tractor-trailers, which are commonly used to provide goods and services to farms.

☐ YES ☐ NO

...act as a resource for information about property tax reduction programs aimed at farmers and other farmland owners?

Local governments and New York state have developed a number of programs aimed at reducing property taxes for farmers and other owners of farmland. Does your town encourage the use of New York's Agricultural Assessment and Farm Building Exemption programs and the Farmers' School Tax Credit?

Encourage the Long-Term Viability of Farming and Food Production

Does your town...

☐ YES ☐ NO

...have a detailed section on agriculture in the town's comprehensive plan?

The comprehensive or master plan is the big picture view for the future of the town. Does your town's comprehensive plan refer to "maintaining rural character" but overlook

agriculture as the primary component? Consider having a town-appointed committee profile local farms to demonstrate the economic, cultural and environmental benefits of agriculture. Agriculture shouldn't be an afterthought!

☐ YES ☐ NO

...have policies aimed at limiting the impact of new development on productive farmland?

Does your town have strategies for limiting the footprint of new development? Creative site planning can accommodate new development while limiting the loss of your town's best farmland.

☐ YES ☐ NO

...require buffer zones between farmland and residential uses?

The old saying "good fences make good neighbors" has a modern corollary that says, "good buffer zones make new neighbors into good neighbors." New development should not place the burden on existing farms to give up boundary land as a buffer zone between agricultural and residential areas. New residential development should provide for its own buffer zone and/or landscape plantings for screening when necessary.

☐ YES ☐ NO

...have an "agricultural zone" that limits the impacts of new development on farms?

Does your town have a strategy for managing new development in agricultural zones in a way that supports agriculture over the long term? Many towns in New York have zoning ordinances with "agricultural zones" that permit scattered development next to farms—a recipe for future conflict.

Support Positive Relationships Between Farmers and Others in Your Community

Does your town...

☐ YES ☐ NO

...have farmers serving on local planning boards, zoning boards or local economic development committees?

Having farmers serve on town committees is one of the most effective ways for

towns to incorporate agricultural concerns into local land use or economic development plans. Town Law Sect. 271(11) permits towns with state agricultural districts to allocate planning board seats to farmers. Agricultural advisory committees can also be established to provide guidance to a town.

☐ **YES** ☐ **NO**

...have a consistent approach for local procedures that deal with agriculture?

Town boards, planning boards and zoning boards have different responsibilities, but a common regulatory outlook is possible. Update your comprehensive plan to reflect the value that agriculture contributes to your town's quality of life through open space, wildlife habitation, watershed purification and natural resource preservation. Establish, as a policy, that agriculture is beneficial to your town and fairness will follow.

☐ **YES** ☐ **NO**

...work to pro-actively address trespassing on farmland?

When people trespass on farmland, crops, fields and infrastructure can be damaged. Communities can help protect public safety and prevent needless farm losses by pro-actively addressing trespassing problems.

☐ **YES** ☐ **NO**

...properly assess specialized agricultural structures?

Has your town assessor received training on assessing farmland and farm buildings? Specialized structures such as silos, milking parlors and permanent greenhouses depreciate in value over time. If your town frequently overvalues agricultural structures, this can have a chilling effect on all types of farm investment.

☐ **YES** ☐ **NO**

...have planning tools that are supportive of New York State Agricultural Districts?

The Agricultural Districts Law, which was enacted in 1971, is one of New York's oldest farmland protection tools. Agricultural districts provide important right-to-farm protections to farmers. Does your town incorporate the boundaries of agricultural districts into your zoning maps and other local land use policies?

☐ **YES** ☐ **NO**

...have policies to mitigate conflicts between farmers and non-farm neighbors?

A local right-to-farm law expresses a community's support for

agriculture. It can also prevent unnecessary lawsuits between farmers and non-farm neighbors by referring conflicts to mediation before the courts are involved. Cornell Cooperative Extension, Soil and Water Conservation Districts, the New York State Agricultural Mediation Program and other groups can serve as partners in addressing conflicts before they grow into painful disputes or expensive lawsuits.

Protect Agricultural Land and Keep It Actively Farmed

Does your town...

☐ **YES** ☐ **NO**

...identify areas where it wants to support agriculture over the long term?

Do you know where the best agricultural soils are located in your town? The USDA Natural Resources Conservation Service (NRCS) and Soil and Water Conservation Districts can be important partners in identifying productive agricultural soils. Soil data combined with other information can help towns identify priority farming areas where they want to support agriculture over the long term.

☐ **YES** ☐ **NO**

...have policies aimed at retaining large blocks of farmland that are able to support a variety of farm businesses?

Farmers don't want to be an "island in a sea of development." Has your town developed policies to keep large blocks of land in agricultural use over the long term? Larger areas of farmland provide greater opportunities for farms to adapt to changing market conditions. Retaining such blocks helps to ensure a future for farming.

☐ **YES** ☐ **NO**

...limit expansion of infrastructure in areas where it wants to support agriculture over the long term?

Extending water and sewer lines through farmland should be done with caution. Providing these services without accompanying planning measures can accelerate the loss of farmland. Focusing water, sewer and other services in already developed areas can help limit the development of a town's best farmland.

☐ YES ☐ NO

...have a strategy for protecting its best farmland?

Once your town identifies its priority farming areas, complementary land use policies should be developed to encourage the retention of that land in continued agricultural use. General language about agriculture in a comprehensive plan isn't good enough. Work with farmers to turn the ideas expressed in your comprehensive plan into specific policies to retain your town's best farmland.

☐ YES ☐ NO

...encourage the use of conservation easements on farmland?

Does your town support applications to the state or federal government to purchase agricultural conservation easements on local farms? Have you considered providing funding for acquiring conservation easements on farmland? Agricultural conservation easements can be used to protect the natural resource base for agriculture. Once a conservation easement is recorded on farmland, the land will permanently be kept available as a resource for future generations of farmers.



Total Your Score!

Your results...

Yes on 20-24

Your town is very active in supporting a future for farming!

Yes on 15-19

Your town knows that farmers are good neighbors who provide lots of benefits to your quality of life, but you may need help in pro-actively supporting them.

Yes on 10-14

Careful! Your town may be less supportive of farms than you think—even unfriendly, perhaps inadvertently.

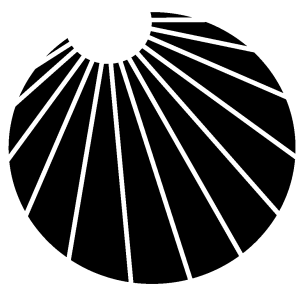
Yes on 5-9

It's time to get to work on understanding farmers in your town and how you can help support their business and land use needs.

Yes on 0-4

Yours is not a farm friendly town, but there is still hope. Seek help immediately from farmers, farm groups and related organizations.

This questionnaire was developed based upon a section of *Preserving Rural Character through Agriculture*, written by Gary Matteson for the New Hampshire Coalition for Sustaining Agriculture.



FARMLAND
INFORMATION
CENTER

FACT SHEET

COST OF COMMUNITY SERVICES STUDIES



FARMLAND INFORMATION CENTER
(800) 370-4879
www.farmlandinfo.org



DESCRIPTION

Cost of Community Services (COCS) studies are a case study approach used to determine the fiscal contribution of existing local land uses. A subset of the much larger field of fiscal analysis, COCS studies have emerged as an inexpensive and reliable tool to measure direct fiscal relationships. Their particular niche is to evaluate working and open lands on equal ground with residential, commercial and industrial land uses.

COCS studies are a snapshot in time of costs versus revenues for each type of land use. They do not predict future costs or revenues or the impact of future growth. They do provide a baseline of current information to help local officials and citizens make informed land use and policy decisions.

METHODOLOGY

In a COCS study, researchers organize financial records to assign the cost of municipal services to working and open lands, as well as to residential, commercial and industrial development. Researchers meet with local sponsors to define the scope of the project and identify land use categories to study. For example, working lands may include farm, forest and/or ranch lands. Residential development includes all housing, including rentals, but if there is a migrant agricultural work force, temporary housing for these workers would be considered part of agricultural land use. Often in rural communities, commercial and industrial land uses are combined. COCS studies findings are displayed as a set of ratios that compare annual revenues to annual expenditures for a community's unique mix of land uses.

COCS studies involve three basic steps:

1. Collect data on local revenues and expenditures.
2. Group revenues and expenditures and allocate them to the community's major land use categories.
3. Analyze the data and calculate revenue-to-expenditure ratios for each land use category.

The process is straightforward, but ensuring reliable figures requires local oversight. The most complicated task is interpreting existing records to reflect COCS land use categories. Allocating revenues and expenses requires a significant amount of research, including extensive interviews with financial officers and public administrators.

HISTORY

Communities often evaluate the impact of growth on local budgets by conducting or commissioning fiscal impact analyses. Fiscal impact studies project public costs and revenues from different land development patterns. They generally show that residential development is a net fiscal loss for communities and recommend commercial and industrial development as a strategy to balance local budgets.

Rural towns and counties that would benefit from fiscal impact analysis may not have the expertise or resources to conduct a study. Also, fiscal impact analyses rarely consider the contribution of working and other open lands, which is very important to rural economies.

American Farmland Trust (AFT) developed COCS studies in the mid-1980s to provide communities with a straightforward and inexpensive way to measure the contribution of agricultural lands to the local tax base. Since then, COCS studies have been conducted in at least 151 communities in the United States.

FUNCTIONS & PURPOSES

Communities pay a high price for unplanned growth. Scattered development frequently causes traffic congestion, air and water pollution, loss of open space and increased demand for costly public services. This is why it is important for citizens and local leaders to understand the relationships between residential and commercial growth, agricultural land use, conservation and their community's bottom line.

COCS studies help address three misperceptions that are commonly made in rural or suburban communities facing growth pressures:

1. Open lands—including productive farms and forests—are an interim land use that should be developed to their “highest and best use.”
2. Agricultural land gets an unfair tax break when it is assessed at its current use value for farming or ranching instead of at its potential use value for residential or commercial development.
3. Residential development will lower property taxes by increasing the tax base.

While it is true that an acre of land with a new house generates more total revenue than an acre of hay or corn, this tells us little about

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Colorado				
Custer County	1 : 1.16	1 : 0.71	1 : 0.54	Haggerty, 2000
Sagauche County	1 : 1.17	1 : 0.53	1 : 0.35	Dirt, Inc., 2001
Connecticut				
Bolton	1 : 1.05	1 : 0.23	1 : 0.50	Geisler, 1998
Brooklyn	1 : 1.09	1 : 0.17	1 : 0.30	Green Valley Institute, 2002
Durham	1 : 1.07	1 : 0.27	1 : 0.23	Southern New England Forest Consortium, 1995
Farmington	1 : 1.33	1 : 0.32	1 : 0.31	Southern New England Forest Consortium, 1995
Hebron	1 : 1.06	1 : 0.47	1 : 0.43	American Farmland Trust, 1986
Lebanon	1 : 1.12	1 : 0.16	1 : 0.17	Green Valley Institute, 2007
Litchfield	1 : 1.11	1 : 0.34	1 : 0.34	Southern New England Forest Consortium, 1995
Pomfret	1 : 1.06	1 : 0.27	1 : 0.86	Southern New England Forest Consortium, 1995
Windham	1 : 1.15	1 : 0.24	1 : 0.19	Green Valley Institute, 2002
Florida				
Leon County	1 : 1.39	1 : 0.36	1 : 0.42	Dorfman, 2004
Georgia				
Appling County	1 : 2.27	1 : 0.17	1 : 0.35	Dorfman, 2004
Athens-Clarke County	1 : 1.39	1 : 0.41	1 : 2.04	Dorfman, 2004
Brooks County	1 : 1.56	1 : 0.42	1 : 0.39	Dorfman, 2004
Carroll County	1 : 1.29	1 : 0.37	1 : 0.55	Dorfman and Black, 2002
Cherokee County	1 : 1.59	1 : 0.12	1 : 0.20	Dorfman, 2004
Colquitt County	1 : 1.28	1 : 0.45	1 : 0.80	Dorfman, 2004
Columbia County	1 : 1.16	1 : 0.48	1 : 0.52	Dorfman, 2006
Dooly County	1 : 2.04	1 : 0.50	1 : 0.27	Dorfman, 2004
Grady County	1 : 1.72	1 : 0.10	1 : 0.38	Dorfman, 2003
Hall County	1 : 1.25	1 : 0.66	1 : 0.22	Dorfman, 2004
Jackson County	1 : 1.28	1 : 0.58	1 : 0.15	Dorfman, 2008
Jones County	1 : 1.23	1 : 0.65	1 : 0.35	Dorfman, 2004
Miller County	1 : 1.54	1 : 0.52	1 : 0.53	Dorfman, 2004
Mitchell County	1 : 1.39	1 : 0.46	1 : 0.60	Dorfman, 2004
Morgan County	1 : 1.42	1 : 0.25	1 : 0.38	Dorfman, 2008
Thomas County	1 : 1.64	1 : 0.38	1 : 0.67	Dorfman, 2003
Union County	1 : 1.13	1 : 0.43	1 : 0.72	Dorfman and Lavigno, 2006
Idaho				
Booneville County	1 : 1.06	1 : 0.84	1 : 0.23	Hartmans and Meyer, 1997
Canyon County	1 : 1.08	1 : 0.79	1 : 0.54	Hartmans and Meyer, 1997
Cassia County	1 : 1.19	1 : 0.87	1 : 0.41	Hartmans and Meyer, 1997
Kootenai County	1 : 1.09	1 : 0.86	1 : 0.28	Hartmans and Meyer, 1997
Kentucky				
Campbell County	1 : 1.21	1 : 0.30	1 : 0.38	American Farmland Trust, 2005
Kenton County	1 : 1.19	1 : 0.19	1 : 0.51	American Farmland Trust, 2005
Lexington-Fayette County	1 : 1.64	1 : 0.22	1 : 0.93	American Farmland Trust, 1999
Oldham County	1 : 1.05	1 : 0.29	1 : 0.44	American Farmland Trust, 2003
Shelby County	1 : 1.21	1 : 0.24	1 : 0.41	American Farmland Trust, 2005

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Maine				
Bethel	1 : 1.29	1 : 0.59	1 : 0.06	Good, 1994
Maryland				
Carroll County	1 : 1.15	1 : 0.48	1 : 0.45	Carroll County Dept. of Management & Budget, 1994
Cecil County	1 : 1.17	1 : 0.34	1 : 0.66	American Farmland Trust, 2001
Cecil County	1 : 1.12	1 : 0.28	1 : 0.37	Cecil County Office of Economic Development, 1994
Frederick County	1 : 1.14	1 : 0.50	1 : 0.53	American Farmland Trust, 1997
Harford County	1 : 1.11	1 : 0.40	1 : 0.91	American Farmland Trust, 2003
Kent County	1 : 1.05	1 : 0.64	1 : 0.42	American Farmland Trust, 2002
Wicomico County	1 : 1.21	1 : 0.33	1 : 0.96	American Farmland Trust, 2001
Massachusetts				
Agawam	1 : 1.05	1 : 0.44	1 : 0.31	American Farmland Trust, 1992
Becket	1 : 1.02	1 : 0.83	1 : 0.72	Southern New England Forest Consortium, 1995
Dartmouth	1 : 1.14	1 : 0.51	1 : 0.26	American Farmland Trust, 2009
Deerfield	1 : 1.16	1 : 0.38	1 : 0.29	American Farmland Trust, 1992
Deerfield	1 : 1.14	1 : 0.51	1 : 0.33	American Farmland Trust, 2009
Franklin	1 : 1.02	1 : 0.58	1 : 0.40	Southern New England Forest Consortium, 1995
Gill	1 : 1.15	1 : 0.43	1 : 0.38	American Farmland Trust, 1992
Leverett	1 : 1.15	1 : 0.29	1 : 0.25	Southern New England Forest Consortium, 1995
Middleboro	1 : 1.08	1 : 0.47	1 : 0.70	American Farmland Trust, 2001
Southborough	1 : 1.03	1 : 0.26	1 : 0.45	Adams and Hines, 1997
Sterling	1 : 1.09	1 : 0.26	1 : 0.34	American Farmland Trust, 2009
Westford	1 : 1.15	1 : 0.53	1 : 0.39	Southern New England Forest Consortium, 1995
Williamstown	1 : 1.11	1 : 0.34	1 : 0.40	Hazler et al., 1992
Michigan				
Marshall Twp., Calhoun County	1 : 1.47	1 : 0.20	1 : 0.27	American Farmland Trust, 2001
Newton Twp., Calhoun County	1 : 1.20	1 : 0.25	1 : 0.24	American Farmland Trust, 2001
Scio Twp., Washtenaw County	1 : 1.40	1 : 0.28	1 : 0.62	University of Michigan, 1994
Minnesota				
Farmington	1 : 1.02	1 : 0.79	1 : 0.77	American Farmland Trust, 1994
Independence	1 : 1.03	1 : 0.19	1 : 0.47	American Farmland Trust, 1994
Lake Elmo	1 : 1.07	1 : 0.20	1 : 0.27	American Farmland Trust, 1994
Montana				
Carbon County	1 : 1.60	1 : 0.21	1 : 0.34	Prinzing, 1997
Flathead County	1 : 1.23	1 : 0.26	1 : 0.34	Citizens for a Better Flathead, 1999
Gallatin County	1 : 1.45	1 : 0.16	1 : 0.25	Haggerty, 1996
New Hampshire				
Brentwood	1 : 1.17	1 : 0.24	1 : 0.83	Brentwood Open Space Task Force, 2002
Deerfield	1 : 1.15	1 : 0.22	1 : 0.35	Auger, 1994
Dover	1 : 1.15	1 : 0.63	1 : 0.94	Kingsley, et al., 1993
Exeter	1 : 1.07	1 : 0.40	1 : 0.82	Niebling, 1997
Fremont	1 : 1.04	1 : 0.94	1 : 0.36	Auger, 1994
Groton	1 : 1.01	1 : 0.12	1 : 0.88	New Hampshire Wildlife Federation, 2001
Hookset	1 : 1.16	1 : 0.43	1 : 0.55	Innovative Natural Resource Solutions, 2008
Lyme	1 : 1.05	1 : 0.28	1 : 0.23	Pickard, 2000
Milton	1 : 1.30	1 : 0.35	1 : 0.72	Innovative Natural Resource Solutions, 2005

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
New Hampshire (continued)				
Mont Vernon	1 : 1.03	1 : 0.04	1 : 0.08	Innovative Natural Resource Solutions, 2002
Stratham	1 : 1.15	1 : 0.19	1 : 0.40	Auger, 1994
New Jersey				
Freehold Township	1 : 1.51	1 : 0.17	1 : 0.33	American Farmland Trust, 1998
Holmdel Township	1 : 1.38	1 : 0.21	1 : 0.66	American Farmland Trust, 1998
Middletown Township	1 : 1.14	1 : 0.34	1 : 0.36	American Farmland Trust, 1998
Upper Freehold Township	1 : 1.18	1 : 0.20	1 : 0.35	American Farmland Trust, 1998
Wall Township	1 : 1.28	1 : 0.30	1 : 0.54	American Farmland Trust, 1998
New York				
Amenia	1 : 1.23	1 : 0.25	1 : 0.17	Bucknall, 1989
Beekman	1 : 1.12	1 : 0.18	1 : 0.48	American Farmland Trust, 1989
Dix	1 : 1.51	1 : 0.27	1 : 0.31	Schuyler County League of Women Voters, 1993
Farmington	1 : 1.22	1 : 0.27	1 : 0.72	Kinsman et al., 1991
Fishkill	1 : 1.23	1 : 0.31	1 : 0.74	Bucknall, 1989
Hector	1 : 1.30	1 : 0.15	1 : 0.28	Schuyler County League of Women Voters, 1993
Kinderhook	1 : 1.05	1 : 0.21	1 : 0.17	Concerned Citizens of Kinderhook, 1996
Montour	1 : 1.50	1 : 0.28	1 : 0.29	Schuyler County League of Women Voters, 1992
North East	1 : 1.36	1 : 0.29	1 : 0.21	American Farmland Trust, 1989
Reading	1 : 1.88	1 : 0.26	1 : 0.32	Schuyler County League of Women Voters, 1992
Red Hook	1 : 1.11	1 : 0.20	1 : 0.22	Bucknall, 1989
Rochester	1 : 1.27	1 : 0.18	1 : 0.18	Bonner and Gray, 2005
North Carolina				
Alamance County	1 : 1.46	1 : 0.23	1 : 0.59	Renkow, 2006
Chatham County	1 : 1.14	1 : 0.33	1 : 0.58	Renkow, 2007
Henderson County	1 : 1.16	1 : 0.40	1 : 0.97	Renkow, 2008
Orange County	1 : 1.31	1 : 0.24	1 : 0.72	Renkow, 2006
Union County	1 : 1.30	1 : 0.41	1 : 0.24	Dorfman, 2004
Wake County	1 : 1.54	1 : 0.18	1 : 0.49	Renkow, 2001
Ohio				
Butler County	1 : 1.12	1 : 0.45	1 : 0.49	American Farmland Trust, 2003
Clark County	1 : 1.11	1 : 0.38	1 : 0.30	American Farmland Trust, 2003
Hocking Township	1 : 1.10	1 : 0.27	1 : 0.17	Prindle, 2002
Knox County	1 : 1.05	1 : 0.38	1 : 0.29	American Farmland Trust, 2003
Liberty Township	1 : 1.15	1 : 0.51	1 : 0.05	Prindle, 2002
Madison Village, Lake County	1 : 1.67	1 : 0.20	1 : 0.38	American Farmland Trust, 1993
Madison Twp., Lake County	1 : 1.40	1 : 0.25	1 : 0.30	American Farmland Trust, 1993
Madison Village, Lake County	1 : 1.16	1 : 0.32	1 : 0.37	American Farmland Trust, 2008
Madison Twp., Lake County	1 : 1.24	1 : 0.33	1 : .030	American Farmland Trust, 2008
Shalersville Township	1 : 1.58	1 : 0.17	1 : 0.31	Portage County Regional Planning Commission, 1997
Pennsylvania				
Allegheny Twp., Westmoreland County	1 : 1.06	1 : 0.14	1 : 0.13	Kelsey, 1997
Bedminster Twp., Bucks County	1 : 1.12	1 : 0.05	1 : 0.04	Kelsey, 1997
Bethel Twp., Lebanon County	1 : 1.08	1 : 0.17	1 : 0.06	Kelsey, 1992
Bingham Twp., Potter County	1 : 1.56	1 : 0.16	1 : 0.15	Kelsey, 1994
Buckingham Twp., Bucks County	1 : 1.04	1 : 0.15	1 : 0.08	Kelsey, 1996

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Pennsylvania (continued)				
Carroll Twp., Perry County	1 : 1.03	1 : 0.06	1 : 0.02	Kelsey, 1992
Hopewell Twp., York County	1 : 1.27	1 : 0.32	1 : 0.59	The South Central Assembly for Effective Governance, 2002
Kelly Twp., Union County	1 : 1.48	1 : 0.07	1 : 0.07	Kelsey, 2006
Lehman Twp., Pike County	1 : 0.94	1 : 0.20	1 : 0.27	Kelsey, 2006
Maiden Creek Twp., Berks County	1 : 1.28	1 : 0.11	1 : 0.06	Kelsey, 1998
Richmond Twp., Berks County	1 : 1.24	1 : 0.09	1 : 0.04	Kelsey, 1998
Shrewsbury Twp., York County	1 : 1.22	1 : 0.15	1 : 0.17	The South Central Assembly for Effective Governance, 2002
Stewardson Twp., Potter County	1 : 2.11	1 : 0.23	1 : 0.31	Kelsey, 1994
Straban Twp., Adams County	1 : 1.10	1 : 0.16	1 : 0.06	Kelsey, 1992
Sweden Twp., Potter County	1 : 1.38	1 : 0.07	1 : 0.08	Kelsey, 1994
Rhode Island				
Hopkinton	1 : 1.08	1 : 0.31	1 : 0.31	Southern New England Forest Consortium, 1995
Little Compton	1 : 1.05	1 : 0.56	1 : 0.37	Southern New England Forest Consortium, 1995
West Greenwich	1 : 1.46	1 : 0.40	1 : 0.46	Southern New England Forest Consortium, 1995
Tennessee				
Blount County	1 : 1.23	1 : 0.25	1 : 0.41	American Farmland Trust, 2006
Robertson County	1 : 1.13	1 : 0.22	1 : 0.26	American Farmland Trust, 2006
Tipton County	1 : 1.07	1 : 0.32	1 : 0.57	American Farmland Trust, 2006
Texas				
Bandera County	1 : 1.10	1 : 0.26	1 : 0.26	American Farmland Trust, 2002
Bexar County	1 : 1.15	1 : 0.20	1 : 0.18	American Farmland Trust, 2004
Hays County	1 : 1.26	1 : 0.30	1 : 0.33	American Farmland Trust, 2000
Utah				
Cache County	1 : 1.27	1 : 0.25	1 : 0.57	Snyder and Ferguson, 1994
Sevier County	1 : 1.11	1 : 0.31	1 : 0.99	Snyder and Ferguson, 1994
Utah County	1 : 1.23	1 : 0.26	1 : 0.82	Snyder and Ferguson, 1994
Virginia				
Augusta County	1 : 1.22	1 : 0.20	1 : 0.80	Valley Conservation Council, 1997
Bedford County	1 : 1.07	1 : 0.40	1 : 0.25	American Farmland Trust, 2005
Clarke County	1 : 1.26	1 : 0.21	1 : 0.15	Piedmont Environmental Council, 1994
Culpepper County	1 : 1.22	1 : 0.41	1 : 0.32	American Farmland Trust, 2003
Frederick County	1 : 1.19	1 : 0.23	1 : 0.33	American Farmland Trust, 2003
Northampton County	1 : 1.13	1 : 0.97	1 : 0.23	American Farmland Trust, 1999
Washington				
Okanogan County	1 : 1.06	1 : 0.59	1 : 0.56	American Farmland Trust, 2007
Skagit County	1 : 1.25	1 : 0.30	1 : 0.51	American Farmland Trust, 1999
Wisconsin				
Dunn	1 : 1.06	1 : 0.29	1 : 0.18	Town of Dunn, 1994
Dunn	1 : 1.02	1 : 0.55	1 : 0.15	Wisconsin Land Use Research Program, 1999
Perry	1 : 1.20	1 : 1.04	1 : 0.41	Wisconsin Land Use Research Program, 1999
Westport	1 : 1.11	1 : 0.31	1 : 0.13	Wisconsin Land Use Research Program, 1999

Note: Some studies break out land uses into more than three distinct categories. For these studies, AFT requested data from the researcher and recalculated the final ratios for the land use categories listed in this table. The Okanogan County, Wash., study is unique in that it analyzed the fiscal contribution of tax-exempt state, federal and tribal lands.

American Farmland Trust's Farmland Information Center acts as a clearinghouse for information about Cost of Community Services studies. Inclusion in this table does not necessarily signify review or endorsement by American Farmland Trust.

COST OF COMMUNITY SERVICES STUDIES

For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service and online library with fact sheets, laws, sample documents and other educational materials.

www.farmlandinfo.org
(800) 370-4879



AFT NATIONAL OFFICE
1200 18th Street, NW, Suite 800
Washington, DC 20036
(202) 331-7300
www.farmland.org



a community's bottom line. In areas where agriculture or forestry are major industries, it is especially important to consider the real property tax contribution of privately owned working lands. Working and other open lands may generate less revenue than residential, commercial or industrial properties, but they require little public infrastructure and few services.

COCS studies conducted over the last 20 years show working lands generate more public revenues than they receive back in public services. Their impact on community coffers is similar to that of other commercial and industrial land uses. On average, because residential land uses do not cover their costs, they must be subsidized by other community land uses. Converting agricultural land to residential land use should not be seen as a way to balance local budgets.

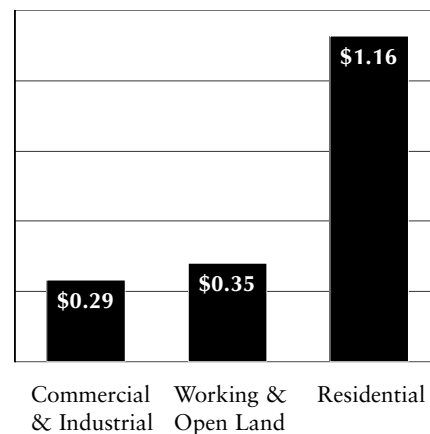
The findings of COCS studies are consistent with those of conventional fiscal impact analyses, which document the high cost of residential development and recommend commercial and industrial development to help balance local budgets. What is unique about COCS studies is that they show that agricultural land is similar to other commercial and industrial uses. In nearly every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for

public services. This is true even when the land is assessed at its current, agricultural use. However as more communities invest in agriculture this tendency may change. For example, if a community establishes a purchase of agricultural conservation easement program, working and open lands may generate a net negative.

Communities need reliable information to help them see the full picture of their land uses. COCS studies are an inexpensive way to evaluate the net contribution of working and open lands. They can help local leaders discard the notion that natural resources must be converted to other uses to ensure fiscal stability. They also dispel the myths that residential development leads to lower taxes, that differential assessment programs give landowners an "unfair" tax break and that farmland is an interim land use just waiting around for development.

One type of land use is not intrinsically better than another, and COCS studies are not meant to judge the overall public good or long-term merits of any land use or taxing structure. It is up to communities to balance goals such as maintaining affordable housing, creating jobs and conserving land. With good planning, these goals can complement rather than compete with each other. COCS studies give communities another tool to make decisions about their futures.

Median COCS Results



Median cost per dollar of revenue raised to provide public services to different land uses.

Department of Agriculture and Markets Guideline – Conditions on Future Service

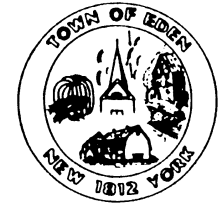
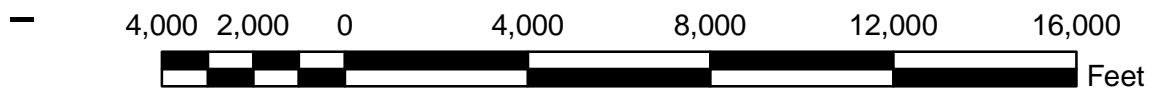
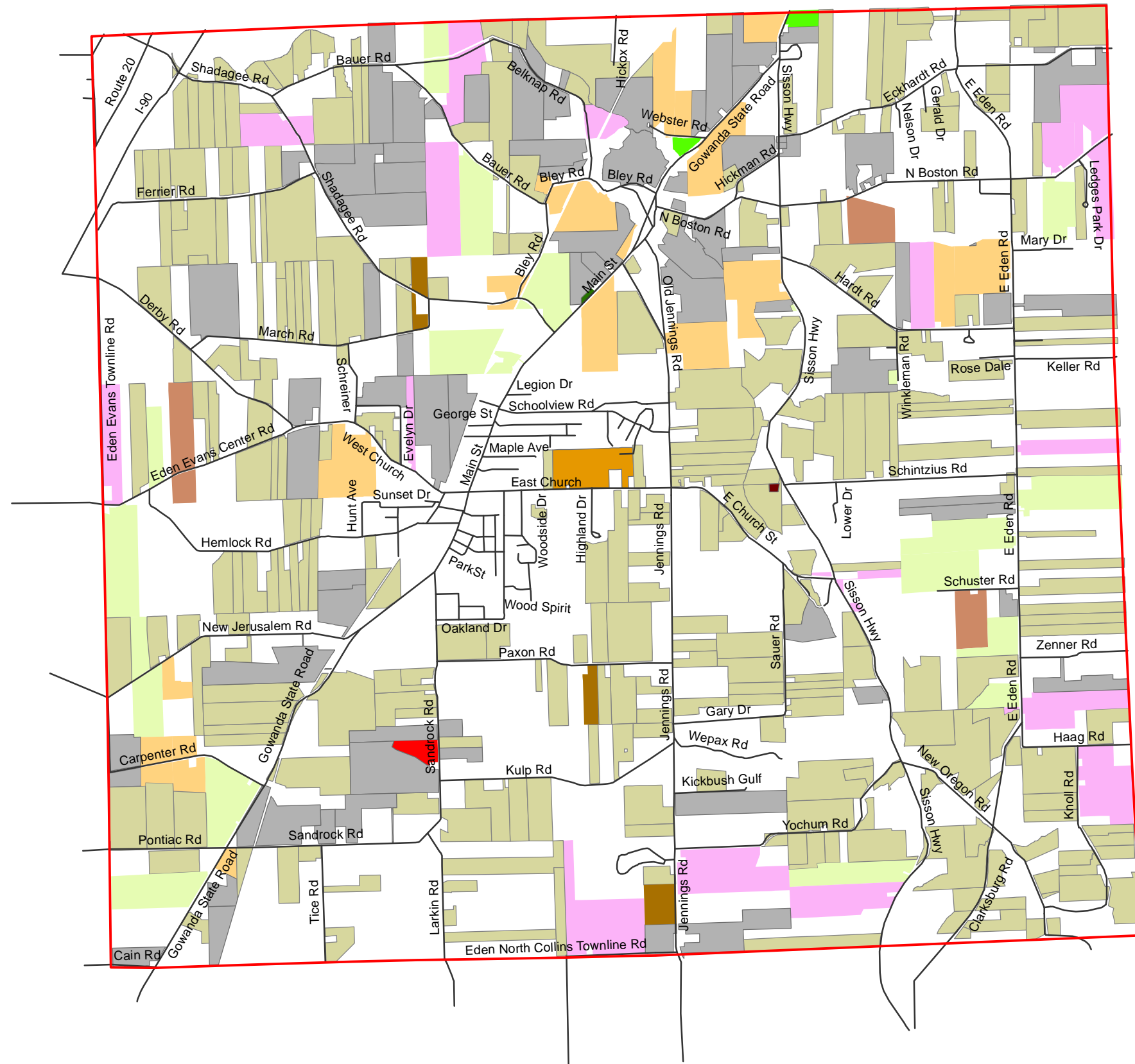
The Project sponsor/permittee should impose the following conditions, as warranted or recommended on the management of water/sewer lines within agricultural districts:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within the agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a “subdivision,” in part, as “any tract of land which is divided into five or more parcels.” Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident’s property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department’s satisfaction that the landowner requested the county to remove his or her land from the agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

Eden_project_Parcels_with_AgClass.mxd



Town of Eden
Farmland and Agricultural Protection Plan

TAX PARCELS WITH
AGRICULTURAL
CLASSIFICATION

Legend:

- Town of Eden
 Eden Roads
- Eden Parcels**
Property Description
- Cattle farm
 - Dairy farm
 - Field crops
 - Greenhouse
 - Horse farm
 - Nursery
 - Poultry farm
 - Rural res
 - Sheep farm
 - Truck crops
 - Vac farmland
 - Vineyard

Data Sources:

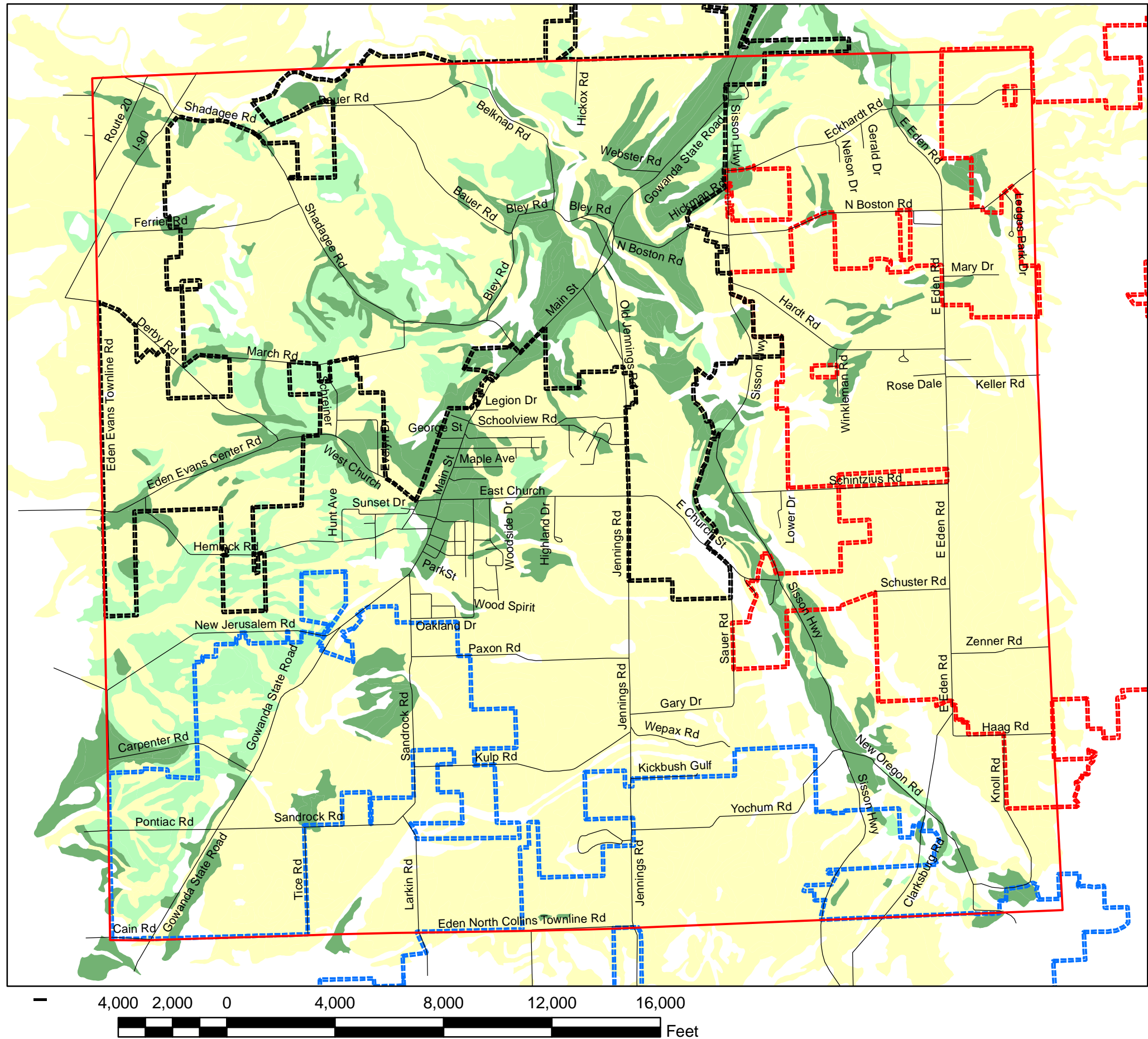
Tax Parcel data provided by Erie County
Department of Real Property Tax
Services.

Prepared by:



Date: January 2009

Eden_project_USDA_Prime_Farmlands_with_AgDistricts.mxd



Town of Eden
Farmland and Agricultural Protection Plan
PRIME USDA FARMLAND
SOILS AND AGRICULTURAL
DISTRICTS

Legend:

- Town of Eden
- Eden Roads
- Agricultural Districts**
- Name**
- Eden-Boston
- Eden-Langford
- Eden-Valley
- Prime USDA Farmland**
- USDA PRIME**
- Important Where Applicable
- Prime Farmland
- Prime Farmland (where drained)

Data Sources:

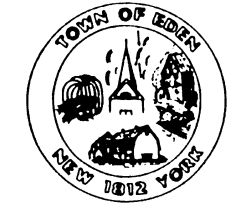
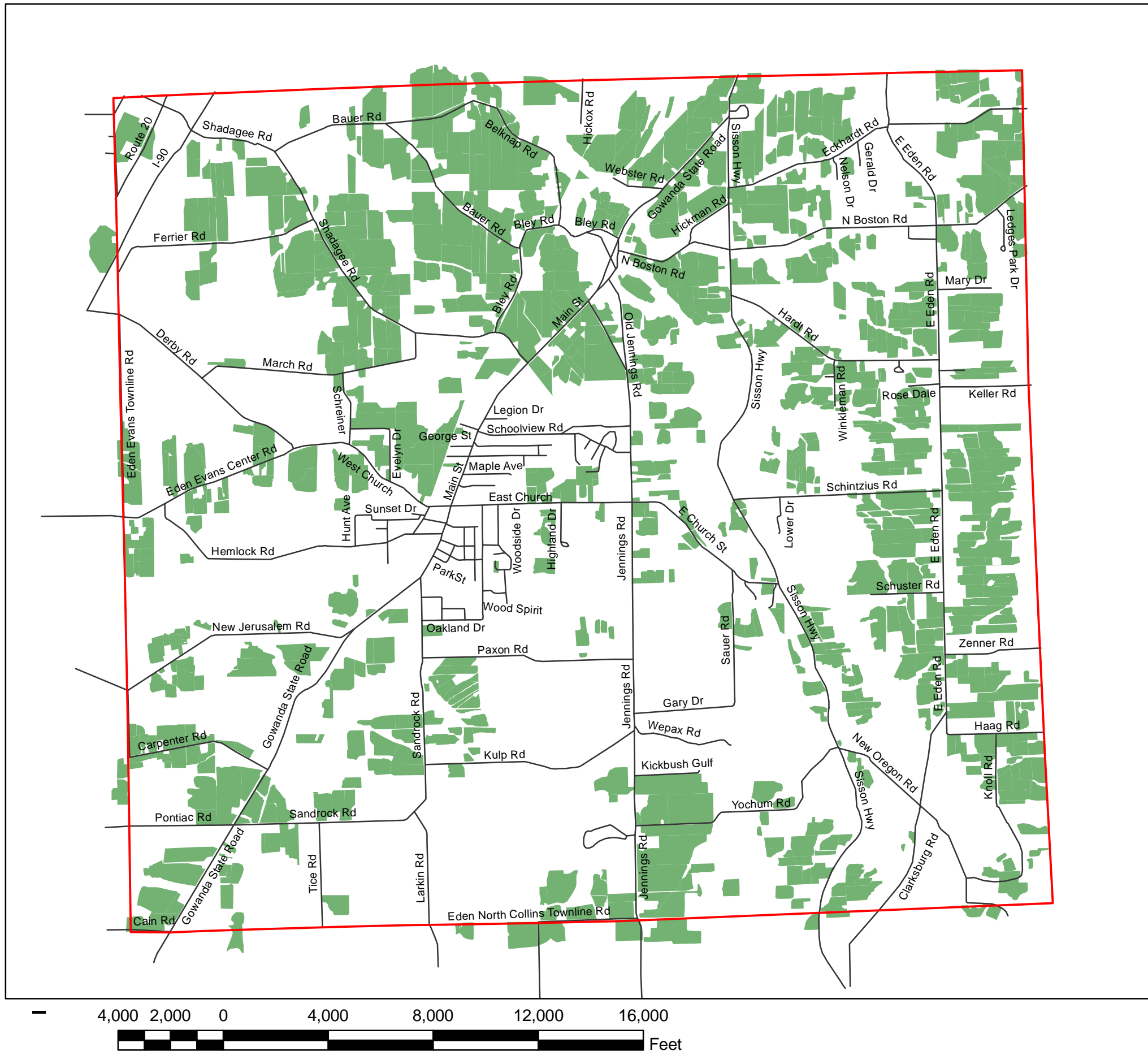
The Prime Farmland soils data were provided by the USDA-NRCS. The Agricultural Districts data were provided by Erie County Department of Environment and Planning.

Prepared by:



Date: December 2008

Figure ____



Town of Eden
Farmland and Agricultural Protection Plan
COMMON LAND UNIT (CLU)
ACTIVE AGRICULTURAL FIELDS

Legend:

- Town of Eden
- Eden Roads
- Eden CLU Fields

Data Sources:

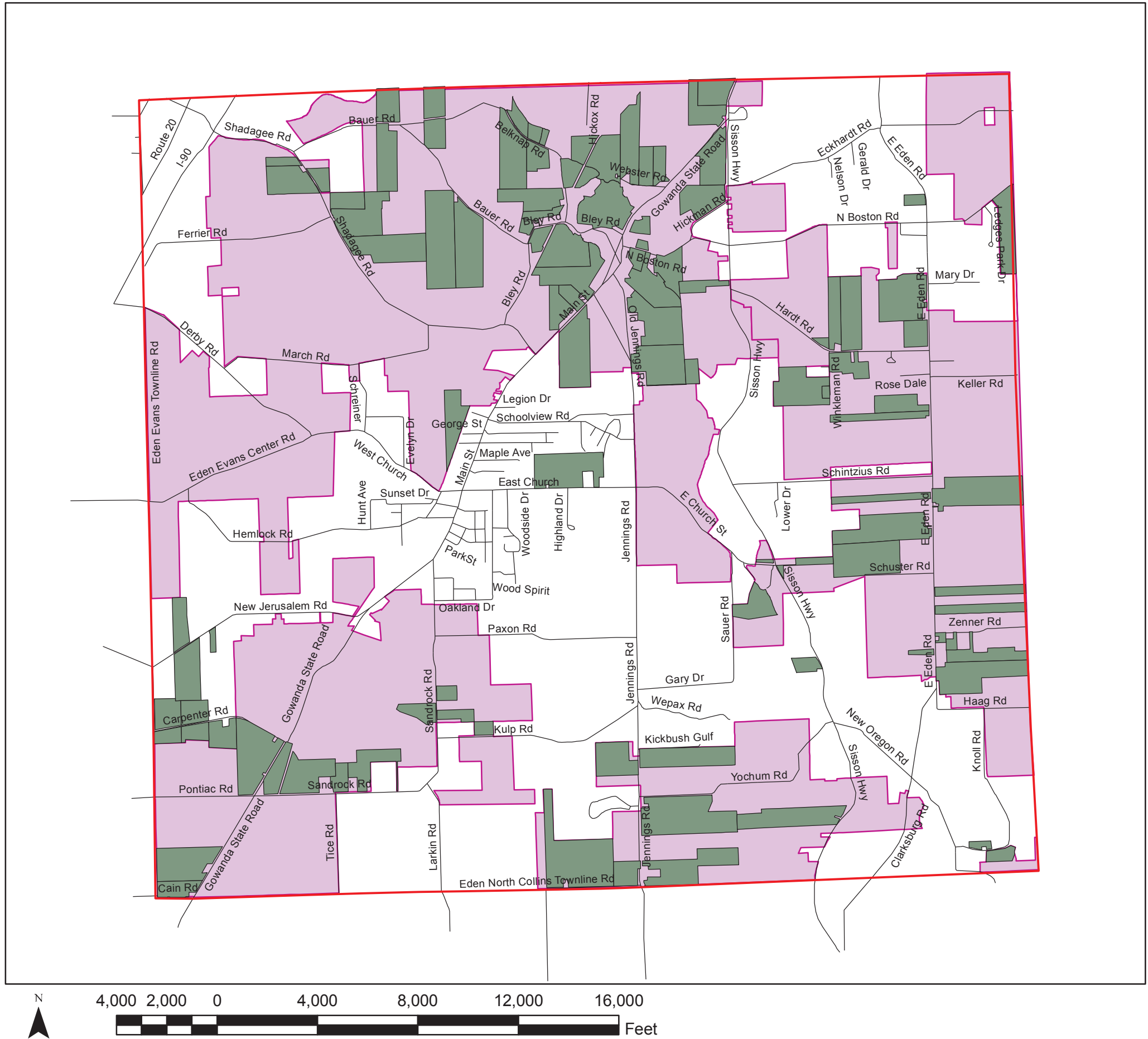
The active agricultural fields data was provided by the USDA Farm Service Agency.

Prepared by:



Date: December 2008

Eden_project_Owned_Farms_with_AgDistricts.mxd



Town of Eden
Farmland and Agricultural Protection Plan

OWNED EDEN FARMS WITH
AGRICULTURAL DISTRICTS

Legend:

- Town of Eden
- Eden Farms Owned
- Eden Roads
- 2006 Agricultural Districts

Data Sources:

The data on renting farmers was derived from Erie County Department of Real Property Tax Services parcels. The roads data were provided by the NYSDOT. The Agricultural Districts data were provided by Erie County Department of Environment and Planning.

Prepared by:



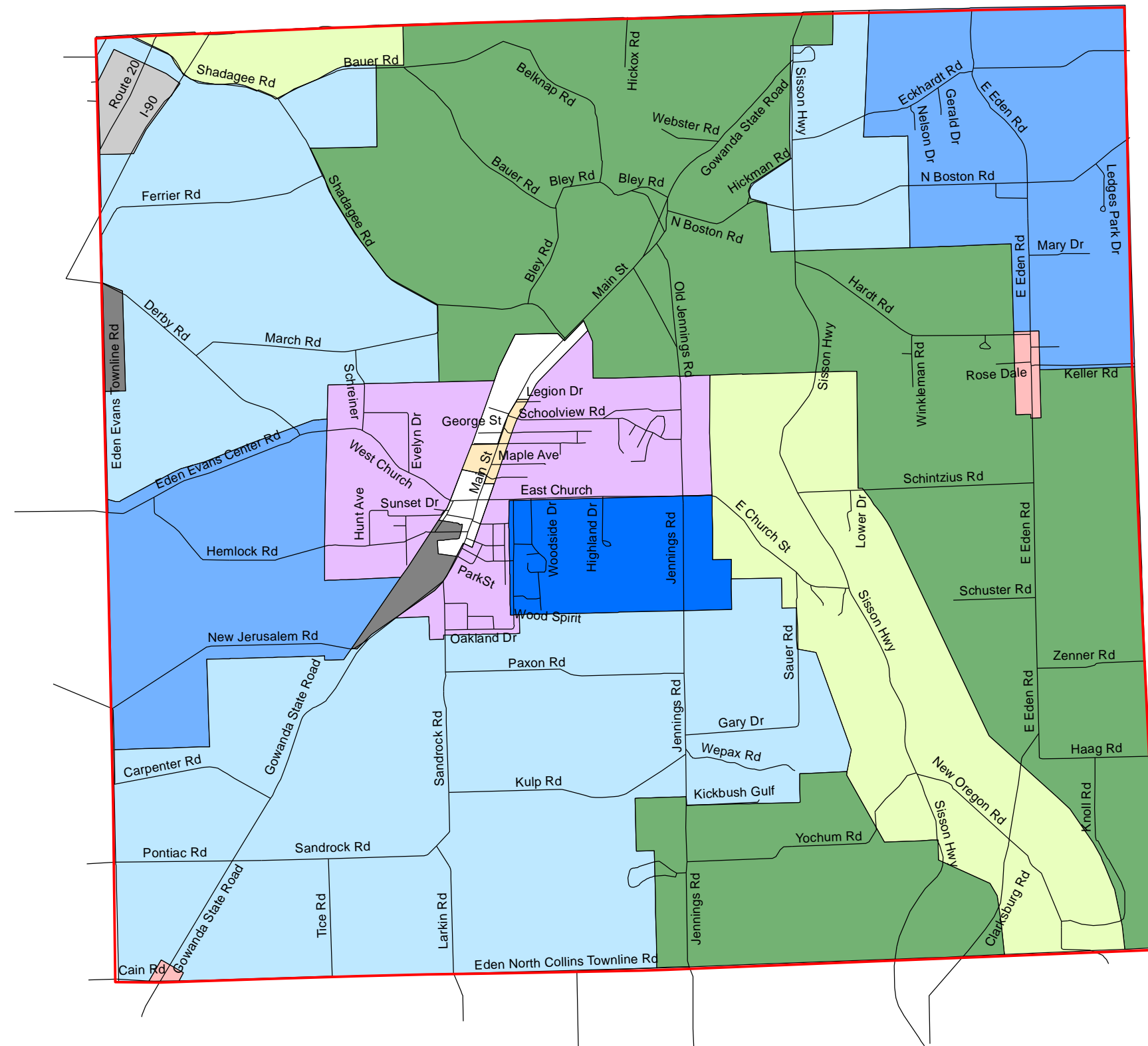
Date: February 2009

Figure ____



Date: February 2009

Eden_project_Zoning_Class.mxd



Town of Eden
Farmland and Agricultural Protection Plan
ZONING

Legend:

- Town of Eden
- Eden Roads
- Eden Zoning**
- ZONE CLASS**
- Agricultural
- Conservation
- Local Business
- Office Business
- General Business
- Planned Industrial
- General Industrial
- Rural Residential
- Hamlet Residential
- Suburban Residential
- Suburban Residential, Restricted Use

Data Sources:
Zoning data was provided
by South Arrow Consulting
from data produced by
Wendel Engineers.

Prepared by:



Date: December 2008

Figure ____