

Town of New Paltz

New York



Farmland Preservation Plan

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SECTION 1: VISION OF AGRICULTURAL PROTECTION IN NEW PALTZ

INTRODUCTION

Agriculture is vital to the culture and identity of the Town of New Paltz as a keystone of the Town's high quality of life, far beyond its contributions to scenic vistas and rural living. It plays a central role in the economic and environmental sustainability of the Wallkill Valley, providing local food and jobs, contributing positively to the tax base, and discouraging sprawl.

The Town's farms, both large and small, also serve as a renewing source of entrepreneurship and innovation that refresh the community with new ideas and fresh approaches to the many challenges we see in today's land management and food system. Local farms have been quick to adapt to community demands for local foods in all four seasons through the growth of Community Supported Agriculture (CSA), roadside stands, value-added processing, and direct wholesale delivery of local produce. Besides supporting established farms, New Paltz has embraced new entrants into the farming community who enhance these ideals of growth and change which set it apart from many other communities.

The Town of New Paltz has engaged in the development of The New Paltz Farmland Preservation Plan (the Plan) as a means to protect these economic, social, cultural, and environmental benefits. The Plan, which has been developed with the support of the New York Department of Agriculture and Markets, has the dual purposes: 1) to analyze and understand the foundations of the agricultural economy in the Town of New Paltz ("the Town"); and 2) to create a Farmland Protection Plan that not only addresses a suite of issues facing farmers and citizens today, but also sets the stage for agricultural growth in the future.

The final recommendations encourage long-term policy formation in support of agriculture. Initially, a specific short-term framework and transition plan will help guide local programs on agricultural economic development and land-use initiatives. The result of the process is a series of seven recommendations for action relative to agricultural business and land-use conditions. These recommendations are also intended to support existing community policy as represented in the New Paltz Comprehensive Plan and the New Paltz Open Space Plan.

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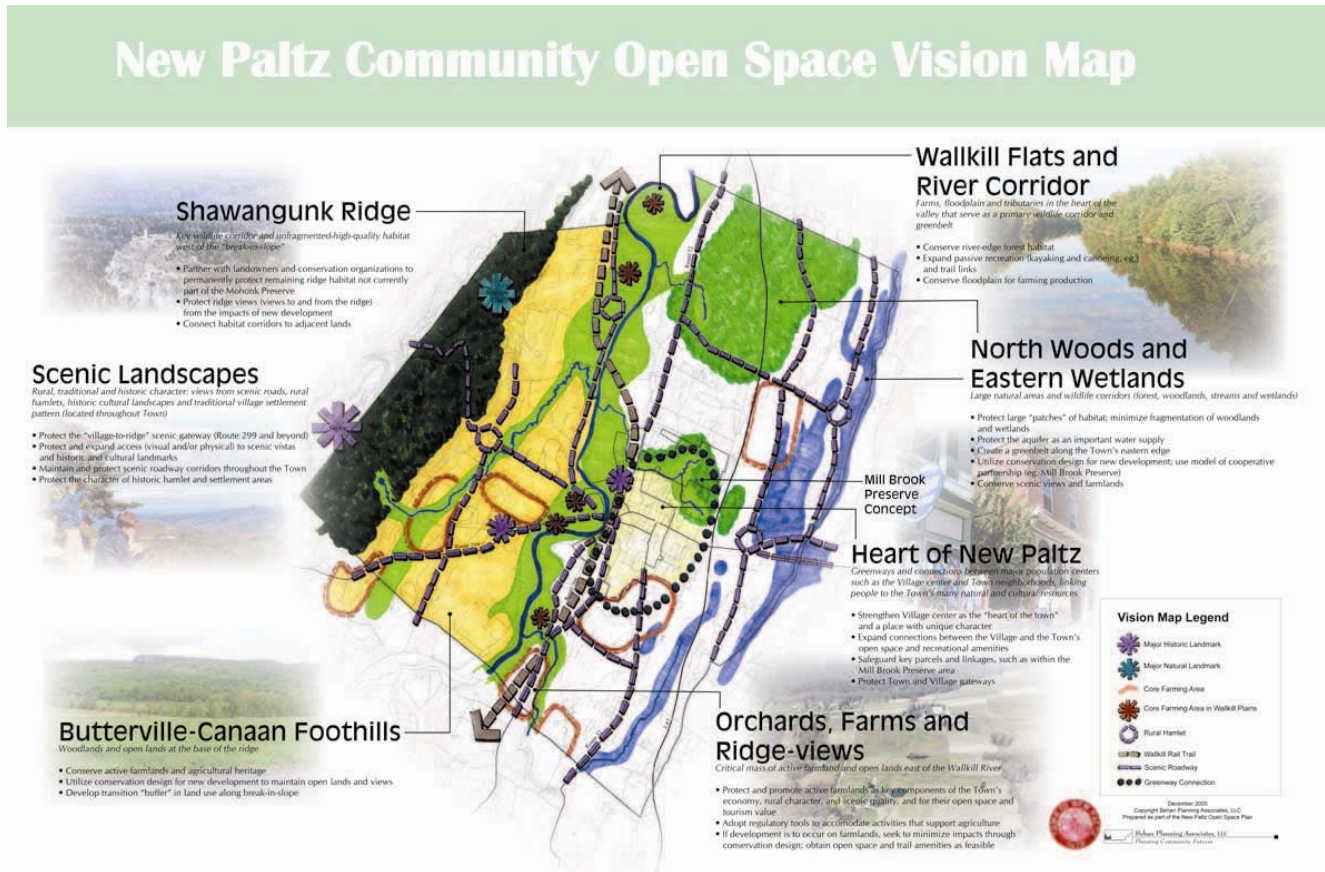
INTEGRATION WITH OPEN SPACE PLANNING

The Town of New Paltz has been engaged in a detailed open space planning process since 2004. This community-based process produced the New Paltz Open Space Plan which serves as the framework for local policy, planning, and investment in conservation initiatives. The basic elements of the Open Space Plan are depicted in the New Paltz Community Open Space Map found and enumerated below:

1. Open space conservation is cost effective.
2. Open space is important to the citizens of New Paltz.
3. Open space conservation makes a community more economically competitive.
4. Retaining farms does not reduce property tax base.
5. Conserving open space enhances property value.

The Open Space Plan specifically addresses the needs of agriculture to be economically viable, particularly within an environment where agriculture is faced with growing development pressure. In this regard, the plan illustrates the need to maintain a working landscape where farms can not only produce raw commodities, but also prepare, market, distribute, and educate consumers and citizens alike. The plan also highlights the fiscal need to maintain farmland, noting that farms in New Paltz, unlike residences, are tax positive, consuming approximately \$0.36 in public services for each dollar paid in taxes.

The community commitment represented in the plan (82% of town residents surveyed favor farmland preservation policies), is highlighted in the concept map below. This map and the Open Space Plan's recommendations provide a policy direction and means to attain conservation that lays a foundation for the recommendations provided in the New Paltz Farmland Protection Plan.



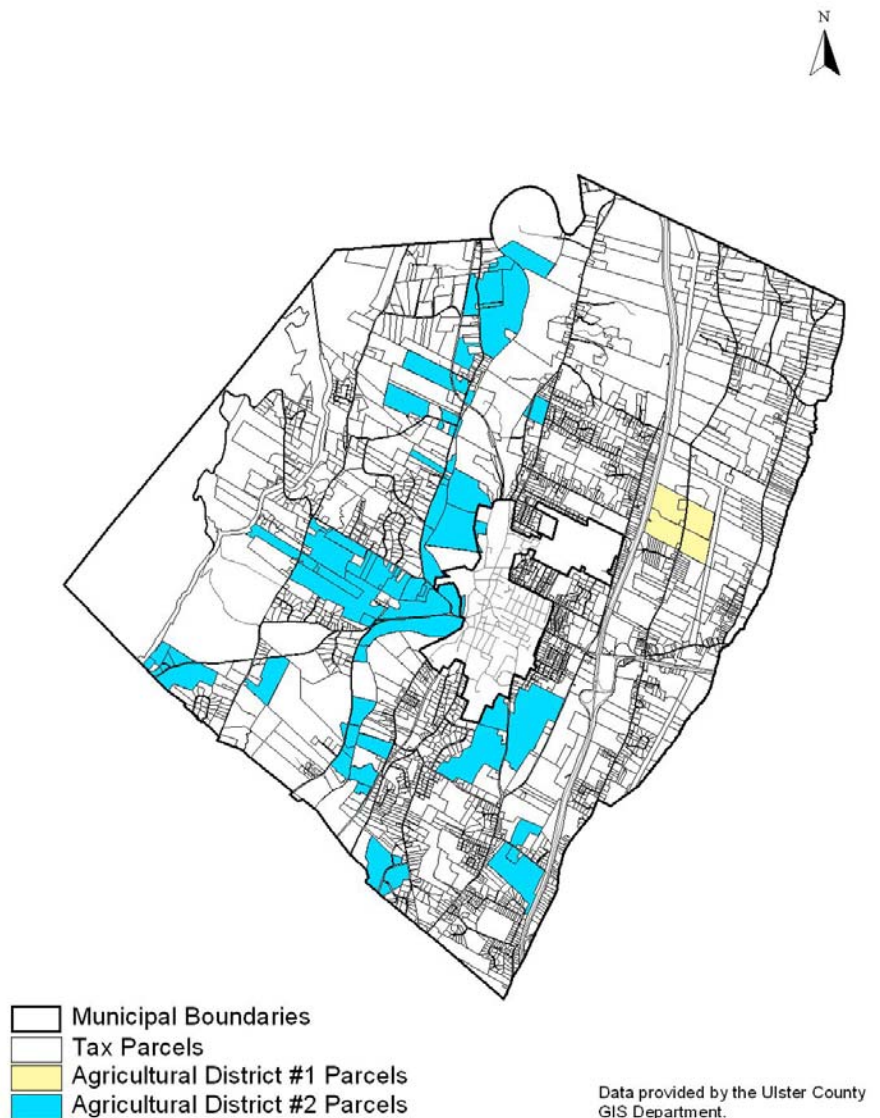
OVERVIEW OF AGRICULTURAL RESOURCES

New Paltz is located in Ulster County in the Mid-Hudson Region of New York State on the eastern side of the Shawangunk Mountains. The community consists of the Village of New Paltz and the surrounding Town of New Paltz. The location of New Paltz is midway between New York City to the south and Albany to the north. The New York State Thruway passes through the eastern portion of New Paltz. Interchange 18 provides quick and direct access to both of these and to other metropolitan areas.

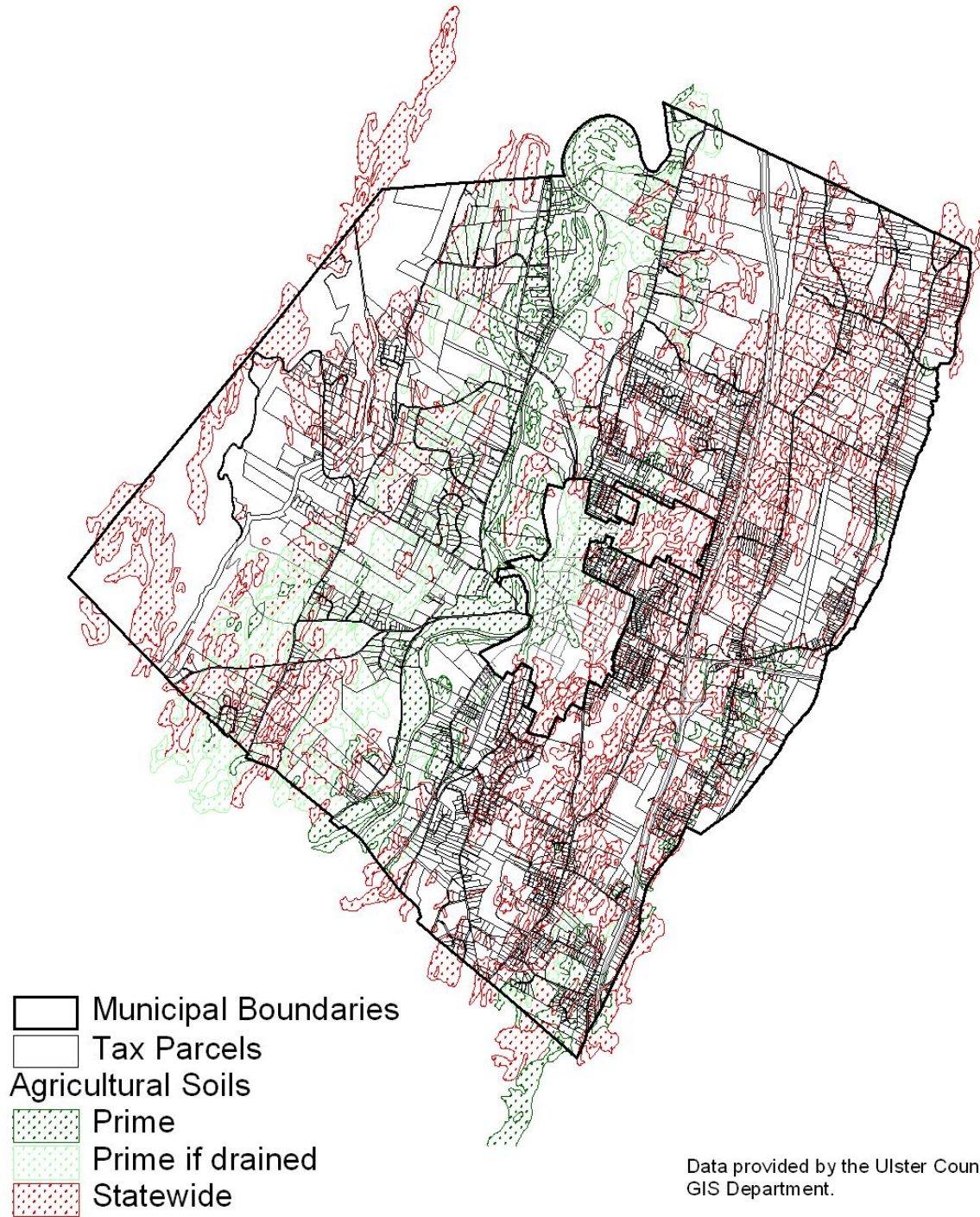
The size of the community of New Paltz is 34.2 square miles of which the Town of New Paltz covers 32.5 square miles. The shape is roughly that of a trapezoid with the incorporated Village of New Paltz occupying an irregular shaped, 1.7 square mile section in the center of the community, on the east bank of the Wallkill River. The Town of New Paltz is about 8 miles in length in the north-south direction and about 6.5 miles wide east-west at its farthest points. New Paltz, the largest community in southeastern Ulster County, provides retail outlets for the local area and the State University of New York at New Paltz serves as a regional education center.

New Paltz is bounded by the Town of Gardiner on the south, the Town of Rochester on the west, the Towns of Rosendale and Esopus on the north, and the Town of Lloyd on the east.

New Paltz has 3,003 recorded farmland acres divided into 53 parcels, making up less than 13% of the town's total land mass. Approximately half of this acreage is not being actively farmed at this time, although the parcels remain in one of the two Agricultural Districts highlighted in the map to the left. These lands offer watershed protection, wildlife habitat, scenic views, are valuable to the local tourist economy, and may have the potential to be returned to agricultural use. Some of these properties are under conservation easements, but for others the threat of development is an important concern.



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Data provided by the Ulster County
GIS Department.

Prepared by ACDC, LLC.
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Land for non-muck land truck crops and fruit production has approximately the same acreage. Together, they account for the next largest share of farmland in New Paltz. Non-muckland farming refers to the growing of specialty crops without the use of soil from humus or drained swampland. Crops produced generally include onions, snap beans, tomatoes, cabbage, lettuce, cauliflower, sweet corn, celery, carrots, beets, and peas, among other items.

The smallest percentage of farmlands in New Paltz are used for horse farms and field crops, each making up one percent of the Town's farmland inventory. Field crops include, but are not limited to, potatoes, wheat, hay, small grains, beans, corn, and oats.

Agricultural land use generally peaked in the 1960s when approximately half of the Town's land area was farmed. Since the mid-1960's, farm acreage has decreased to a total of approximately 5,000 acres as of 1995. About one-third is harvested cropland, with the remainder in undeveloped uses such as woodland. Major agricultural crops are apples and other fruit, vegetables, and hay, with some minor livestock production. Agriculture is important to the community, providing both commercial and scenic benefits, and is an ever-changing industry.

Food for thought:

- Over a third of New Paltz farmland is dedicated to high value specialty crops such as vegetables
- Total farmland has been cut in half since 1960, losing over 6,000 acres

EFFECTS OF DEVELOPMENT ON AGRICULTURAL RESOURCES

At the present time, conversion pressure on agricultural land is not high due in large part to the effects of a nationwide recession. This condition allows New Paltz a window of opportunity for planning for agriculture's future. Slow growth, however, cannot be considered a long term condition, however, since significant internal and external influences could affect a rapid increase in development pressure. These influences include a thruway interchange that is just north of the highly developed Interstate 87 and Interstate 84 intersection, an 8,000-student university that creates demand for housing, a large village center that puts growth pressure on the Town, and easy access to both New York City and Albany.

Table 1: Local Demographic and Housing Highlights 2000 to 2008

	2000	2008	Annual Change
Population	12,830	13,749	115
Building Permits	42	6	34
Housing Cost (County Average)	\$151,506.00	\$296,297.00	\$18,098.88
Source: Ulster County Data Book			

Examining housing and population trends demonstrates the slow but constant growth in population that is accompanied by ebbs and flows of housing growth. This reinforces the claims of farmers that growth, as a threat, is a gradually advancing force whose impacts are difficult to effectively characterize since they happen slowly over time in single units rather than as large subdivisions. This effect of this endemic growth pattern is to create consistent pressure on land value and availability which has greatest effect on Prime Soils due their high developability as well as creating the potential for conflict with new rural neighbors

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who may be unfamiliar with or unwilling to tolerate adjacency to working lands such as farms. The Town is attempting to deal with this issue currently by examining policies that would direct growth to development nodes where services and infrastructure are appropriate to accommodate the change and limits its impact on agriculture. Growth has provided some benefits to local farms. The steady addition to population in both the Town and Village of New Paltz has increased retail and wholesale marketing opportunities for local farms.

CHARACTERIZATION OF AGRICULTURAL VIABILITY

Effective farmland preservation is best achieved by ensuring that farm operations have every opportunity to be profitable. Economic vitality supports continuity of farming operations, the attraction of a next generation of owners and operators, and investment in the community. Historically, farms in New Paltz have demonstrated their ability to sustain multi-generation operations in a range of industry sectors from fruit production to dairy. More recently, New Paltz has served as a popular start-up destination for agricultural businesses that include numerous direct market produce farms, an off-season, community-supported agricultural operation, and others that demonstrate the continued viability of the local agricultural industry. Despite this encouraging scenario, questions persist about the future of agriculture and the forms that it may take.

In an effort to measure viability, a thorough analysis of the agriculture in a community touches on both land use and industry economics as they affect agriculture today and into the future. To accomplish this, background information was collected and assembled from published sources as well as through interviews with farmers and agribusinesses. A survey of agricultural landowners was also conducted in the spring of 2009 (see Appendix 1, *Town of New Paltz Farm Survey Results*). Results of the agricultural resources review are summarized below using a strategic planning tool known as SWOT analysis – Strengths, Weakness, Opportunities, Threats – which pulls together the land use, demographics, and economic conditions as a snapshot in time.

SWOT analysis is a tool used by strategic planners and marketers to assess the competitive environment of a region, industry, business, or product. It is a very simple technique that focuses on the Strengths, Weaknesses, Opportunities, and Threats (SWOT) facing farms in New Paltz by asking the following questions to farmers, landowners, and those with secondary agricultural functions, including processing, supplies, and distribution:

1. What are the advantages of engaging in production agriculture in New Paltz?
2. What unique local conditions support the agricultural industry?
3. What do New Paltz farmers do well?
4. What do New Paltz farmers do poorly?
5. What can be improved in New Paltz's agricultural community?
6. What are key regional/industrial trends?
7. What are the options and obstacles facing New Paltz farmers?
8. How does agriculture fit within the regional context?

For the New Paltz Farmland Preservation Plan, the strengths, weakness, opportunities, and threats were assessed for the agricultural industry overall to include production agriculture as well as agricultural support industries. The SWOT criteria identified are drawn directly from the study team's interviews with the agricultural industry within the Town and County as well as through the landowners' survey. As such, this analysis should be considered an industry self-assessment.

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SWOT factors are used in the identification of key issues facing an industry. These issues are then incorporated in the design of programmatic and policy responses.

Table 2: New Paltz SWOT Matrix	
Internal Factors	
Strengths	Weaknesses
Market Access	High Land Costs
Location	High Level of Land Parcelization
Diversification	Remote Access to Agricultural Infrastructure
Operator Characteristics	Land Tenure Characteristics
Access to Natural Resources	Regulatory Burden
Environmental Awareness	Integration with General Economy
Strong Local Farm Marketing	Presence of Next Generation
Transportation Infrastructure	Labor Availability
Presence of Market Innovators	Impermanence Syndrome
Strong Horticulture and Equine Sub-sectors	
Agricultural District	
External Factors	
Opportunities	Threats
New Market Development	Development Patterns
Regional Planning Initiatives	Regional Competitiveness
Consumer Demand	Limited Capital Investment
New Products and Services	Loss of Critical Mass
Agritourism Development	Labor Availability
Entrepreneurial Training and Venture Development	Loss of Agricultural Infrastructure
Labor Force Development	Inter-jurisdictional Competition
Public Information and Marketing	State and County Fiscal Conditions
	Federal Food Safety and Agricultural Policy

Summaries of these issues are provided in the pages that follow.

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STRENGTHS

Overall, the strength of New Paltz agriculture is driven by location and owner/operator characteristics unique to the town and the New York City metropolitan area. These resources are summarized below.

Market Access – New Paltz agriculture has the enviable position of being located adjacent to the nation's largest consumer market and one that its local producers have embraced through successful marketing efforts such as winter CSA deliveries and participation in New York City's Greenmarkets. In addition, New Paltz supports a thriving roadside stand and public farmers' market system.

Location – New Paltz is geographically situated as the gateway between New York City and the Catskill, Adirondack, and Capital Districts of New York. This provides the Town with the opportunity to act as a collection, processing, and distribution point for agricultural commodities from other areas in New York State.

Diversification – Despite its limited agricultural base, the New Paltz agricultural economy is remarkably diverse. This diversity manifests itself in the many small operations throughout the Town that produce supplemental income through agritourism, CSA, market gardening, horse boarding, and alternative livestock production. The Town also supports a robust tree fruit production sector, which provides critical mass to support agricultural infrastructure and workforce and itself demonstrates trends toward diversification in marketing and product development at the production and marketing levels.



Operator Characteristics – New Paltz has a committed core of farm operators that are diverse in age, tenure, gender, and other characteristics. This diversity adds strength to the agricultural industry which acts as an attraction to potential new farm entrants. These characteristics tend to breed a culture of entrepreneurship which is also evident in the Town of New Paltz.

Access to Natural Resources – Access to natural resources, such as wells for livestock and irrigation as well as a solid inventory of Class I – III soils and Soils of Statewide Importance are widely available. New Paltz, though somewhat challenged in topography, has ample remaining access to both soil and water resources to support active agriculture.

Environmental Awareness – New Paltz, as a community, demonstrates high levels of environmental awareness. Though this awareness can lead to conflict within a community, it more often supports an awareness of the positive environmental impacts of agriculture on water quality, wildlife habitat, and stability of land use. These factors tend to be highly supportive of locally based agricultural development and farmland protection planning.

Strong Local Farm Marketing – New Paltz is a center for direct market entrepreneurship. Consistent with regional demographics, New Paltz supports successful farm direct retail market outlets demonstrating a willingness of local consumers to patronize them. In addition, direct market wholesaling is thriving with local and regional restaurants and retailers (both small locally owned stores and major supermarket chains) purchasing increasing amounts of food directly from local farms. Out-of-season foods are now

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being made available to this marketplace through Winter Sun Farm, a local entrepreneurial firm that preserves fresh products for resale and distribution in off-season months.

Transportation Infrastructure – New Paltz’s transportation infrastructure is widely diversified—ranging from Interstate highways to small rural roads. This infrastructure adequately supports the unique mix of local farms, their orientation toward agritourism/direct marketing, and their relatively small size. It even provides a more rural “feel” than an improved local road system. However, moving equipment through the current system can be a challenge.

Presence of Market Innovators – New Paltz agriculture has historically supported innovators in agriculture, a trend that continues today. This condition seems to be a unique mix of the economic wherewithal of the community combined with the need to push innovation to stay competitive within the area’s mature land-use situation. In order for agriculture, on any scale, to remain viable, innovation must continue.

Strong Horticulture and Tree Fruit Sector – The economic anchors of New Paltz agriculture are its horticultural and tree fruit sectors. Collectively, these industries support much of the land base and direct marketing activities. They also have very strong linkages to the regional agricultural industry and serve as a large demand generator for service and supply.

Agricultural District – The Ulster County Agricultural District has been a key factor in galvanizing the agricultural industry and raising the awareness of the needs of this locally important industry. The Agricultural District also provides valuable tax and right-to-farm protections.

High Level of Technical and Professional Support – Local farmers have direct and immediate access to an array of professional and technical resources to support farm operations such as the Cornell Fruit Lab, The Lower Hudson-Long Island RC&D, and the Hudson Valley Agribusiness Development Corporation (HVADC).

WEAKNESSES

As with any industry, region, or product, New Paltz agriculture has weak elements that must be addressed while planning for the industry’s economic future. Ironically, some of New Paltz’s most significant weaknesses count among its strengths as well.

High Land Costs – Given the unique nature of New Paltz, agricultural land values can exceed those reasonable for the successful operation of a traditional agricultural enterprise. This condition is driven by the location of New Paltz at a highway interchange and the presence of the State University of New York, as well as by the high quality of life represented in the area. Thus, the opportunity cost of holding land for production purposes may not be justified on a strictly economic basis. This is a significant factor behind the out-migration of some production agriculture, which has been supplanted by avocational and supplemental income farming. For those remaining farms that must be self-supporting, the inability to acquire or even hold land was named as a primary concern for either maintaining viability or transferring the operation to a next generation. It is also named as a primary motivator in farm entrepreneurship locally and contributes to higher farm net worth.

High Level of Parcelization – The high level of parcelization within the Town makes it generally difficult for agricultural operations to expand to adjacent or nearby parcels that are of sufficient size to be economically viable (the exceptions generally being horticultural operations, market gardens, and small scale livestock operations). Parcelization also has the additional impact of increasing the “zone of conflict” between agricultural uses and potentially incompatible retail/commercial uses.

Remote Access to Commercial Agricultural Infrastructure – Given the diversity of agricultural activity and its relative small size, New Paltz no longer supports an agricultural infrastructure. This ranges from basic

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support service (e.g., tractor sales, parts, and service) to professional and technical services (e.g., agricultural risk management and agronomic services).

Land Tenure Characteristics – Much of New Paltz’s agricultural land is owned by “transitional” landowners, so some operations are at risk of transitioning out of agricultural use for reasons of age, job transition, or vocational capability. This is why many farmers support the use of purchase of development rights as a means to compensate existing landowners for their accumulated equity while allowing a younger generation to buy farmland at its production value.

Regulatory Burden – Local regulatory structures throughout New Paltz have been developed to restrict or control residential and commercial development. Because of this, the zoning code does not differentiate sufficiently between agricultural activities and residential uses, offering a conflicting regulatory environment.

Integration with the General Economy – New Paltz agriculture has insufficient integration with the local economy as evidenced by its impact on total economic output and its associated low multipliers. This lack of integration manifests itself in agriculture being left out of economic and industrial development planning and generally not being considered a productive economic use.

Next Generation – Like many areas, New Paltz faces an intergenerational farm transition issue. Farmers indicated that where a next generation was interested in farming, land costs, local limits on farming activities, and the inability to expand operations to support multi-family farm operations could present significant barriers. This is particularly true where the next generation is interested in either expanding the farm’s commodity operations or where there is interest in developing other commercial activities on the farm such as dairy processing. The increasing number of farm internships and CSA’s does, however, open the opportunity to recruit new farm operators and owners over time.

Labor Availability – Agricultural labor in New Paltz is in relatively short supply. This factor is driven by several local conditions such as a short supply of affordable housing, and labor competition. This condition, however, does not seem to be universal among farms and related industries based on factors such as pay rates, benefits, and seasonality. The uncertainty surrounding labor regulation in the State of New York and federal limitations on seasonal immigrant workers are additional concerns for farmers.

Impermanence Syndrome – Economists and industrial psychologists recognize a condition called impermanence syndrome. Simply stated, this syndrome indicates that since industries and individuals believe that their status is declining and that this decline is beyond their control, they will not make the necessary investment in their businesses and will not employ best management practices. The end result is a self-fulfilling prophesy of industry decline. Many of New Paltz’s farmers demonstrate elements of impermanence syndrome which may have a significant impact on agricultural uses and farmland development.

OPPORTUNITIES

The long-term success of the industry is dependent upon its ability to recognize the opportunities presented by changes in the business environment whether they are driven by local, regional or global forces. The opportunities facing most of New Paltz’s active agricultural operations are driven by regional market considerations as noted below.

New Market Development - The geographic and demographic strengths of New Paltz provide an unparalleled opportunity to capitalize on niche market opportunities in New York and New England. New Paltz farmers who choose to pursue these markets have a competitive advantage in transportation and

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product development due to proximity to—and an understanding of—these markets. For example, the recently-created Farm to Table Co-packers in Kingston is opening new process and distribution options for farmers to utilize, in order to reach wholesale and retail customers during the off-season.

Regional Planning Initiatives – The Hudson Valley and Catskill regions of New York are all facing similar issues of agricultural decline/transition and attempting to facilitate this change by exploring, either independently or collaboratively, policy and programmatic responses. In order to avoid duplicative or even competing initiatives, New Paltz should explore opportunities to engage regional partners such as the Hudson Valley Agribusiness Development Corporation (HVADC), Southern Ulster Alliance, and other initiatives. Collectively, these initiatives add to the structure required to support agricultural development activities.

Consumer Demand – *The current climate* in which consumers are changing their purchasing power and food buying habits may yield an expanded level of direct marketing opportunities and product development opportunities locally. An example is the consumer's desire for locally produced foods or synthetic-hormone free animal products which offer an appropriate niche for small, vertically integrated producer cooperatives to serve.

New Products and Services - Changes in demographics and consumer demand create opportunities to develop new products and services to meet regional needs. For example, successes of this sort have been demonstrated on Long Island where local farmers are preparing fresh cut salad products to meet a high value retail niche for convenience products.

Agritourism Development – The Hudson Valley is a well-recognized tourist attraction and New Paltz is no exception. Much of this tourism is based on cultural, historical, and agricultural assets such as the region's wineries, orchards, working farm museums, etc. Counties, such as Dutchess, have been able to use such assets as a point of attraction for tourists from the New York metro area and beyond. Improved road signage will enhance the opportunity for agriculture to capture a larger share of this industry's potential.

Entrepreneurial Training and Venture Development - Continuing the region's long standing trend of agricultural entrepreneurship is important to improving the economic viability of the agricultural industry. Providing a structured environment in which such growth and development can occur may significantly alter the rate of success of agricultural entrepreneurs. By example, businesses that start and grow in an incubator setting improve chances of success from 15% to 85%.

Labor Force Development - Labor needs are changing in the agricultural community. Training this new labor force to meet the needs of modern agriculture is not being adequately addressed—for example, providing basic English-language instruction. Some local CSAs have internship programs but need more flexible housing options for interns. Adequate labor force development can have a direct and immediate impact on the bottom line of many firms, especially in the horticultural and landscape industry.

Public Information and Marketing - Many recently arrived residents in New Paltz lack a fundamental understanding of agriculture as an industry or a land use. All county and town citizens should be made aware of the important economic role that the industry serves. By conducting public education with this focus, New Paltz may achieve: greater market share for local agricultural products, better farm/non-farm neighbor relations, and greater policy support for agriculture.

THREATS

Threats represent those elements of the business environment that offer the greatest challenges to long-term survival of the agricultural industry. Threats are generally beyond the control of the local agricultural industry and local government influence and, therefore, frequently require additional resources to affect.

Development Patterns - Land-use patterns in the region are changing rapidly as the suburban reach of the New York metropolitan market places pressure on land resources in counties that are critical to maintaining a healthy agricultural infrastructure. This development manifests itself as low-density residential development and attendant retail-commercial development. The threat posed by this development is four-fold:

The first threat comes from the nature of conflicting land uses. Agriculture, despite providing a pleasant and pastoral landscape, is a commercial and industrial land use that produces dust, odors, slow moving traffic, and other conditions that conflict with residential use. There are true economic costs associated with managing farm operations, especially livestock operations, in close proximity to rural residences. In addition to the direct costs associated with operational changes, there are additional social costs to this conflict that include neighbor infighting, nuisance suits, and crop damage.

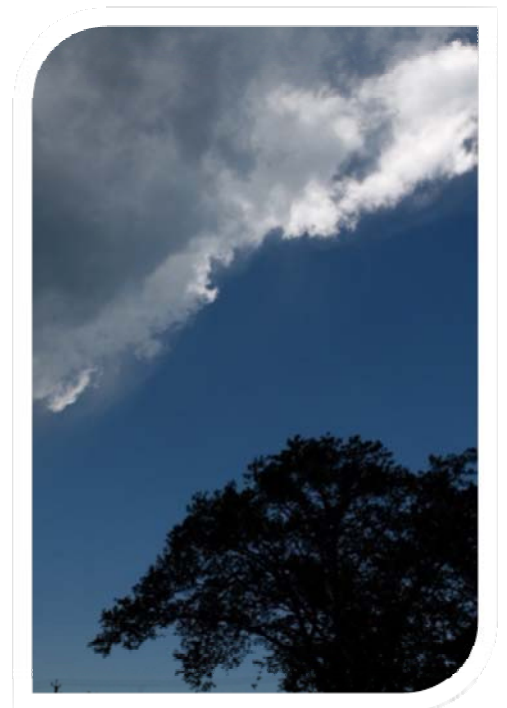
The second threat from current land development pressure comes from the patchwork of development. As developed parcels leapfrog existing farms, they limit the expansion capability of existing operations while impacting successful intergenerational transfers. In addition, the patchwork of farms requires farmers to travel greater distances between parcels increasing both the time and expense of farming.

The third issue involves the quality of land resources being consumed by development. To put it simply, the best soils and topography for farming are the easiest lands to develop and generally the first to convert. This increases the proportion of marginal soils under cultivation and has the potential to limit the efficiency of farms.

The fourth issue centers on the increase in land value due to low density development patterns. As a result of increased demand for land, farmers are forced to compete for land at higher prices. This impacts both operational costs as well as farm transition.

Regional Competitiveness – The Hudson Valley region is quickly becoming a high cost of business area driven by rapid rises in land values, taxes, labor costs, and reduced input/output options. This has the effect of forcing out marginal operations and accelerating the adoption of innovation. To keep pace with cost increases and efficiency losses, the very nature of agriculture is changing relative to national norms and some farms are operating on unsustainable margins.

Limited Capital Investment - In order for an industry to remain competitive, the industry must make capital investments in plant and equipment. Current economic conditions, combined with issues of impermanence, are slowing the rate at which these investments are being made. Attraction of young and beginning farms requires a solution to this issue such as expanded use of community loan funds.



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Loss of Critical Mass - Critical mass in agriculture is considered to be the minimum amount of economic activity that must occur to support healthy input and output industries as well as infrastructure. While the ACDS study team does not believe that the regional agricultural economy is approaching a loss of critical mass in the near term, sectors such as fruit production may reach this point in the near future.

Labor Availability - Labor is a fundamental production input for most regional agricultural industry sectors, such as dairy, fruit, vegetable, nursery, greenhouse, and equine, and it is in short supply. In fact, farmers in counties such as Ulster, Orange, Columbia, and Dutchess frequently note labor as one of the most pressing management concerns, and a primary limiting factor in farm business expansion. Uncertainty in federal immigration policy contributes significantly to the labor problem. As the labor pool gets tighter, it will become more important for farmers to have access to adequate training opportunities and retention strategies for farm labor.

Loss of Agricultural Infrastructure – Consistent with previous trends, the region's agricultural infrastructure is deteriorating as agriculture shrinks in importance relative to other economic uses. For New Paltz, this means that local farmers will have to travel longer distances to go to markets or get supplies, services, parts, and equipment from an ever shrinking base of input and output industries. In addition, public sector infrastructure such as extension services, regional research and development, and other farm support programs are diminishing.

Inter-jurisdictional Competition – As noted in the opportunities section of the SWOT, a large number of publicly and privately supported efforts are underway in the broader region focused on accessing new markets, supporting value-added development, recruiting new farm operations, and improving competitiveness. There is a risk that the limited state, local, and industry resources will be spread too thin; therefore, having limited local results.

State and County Fiscal Conditions – Poor fiscal conditions will impact the development of local and regional agricultural development initiatives. Many government officials are currently considering cuts to existing programs, a condition that will likely be in place for the next 2 to 3 fiscal cycles. In this environment, new initiatives must demonstrate a clear linkage to overarching economic development goals such as increasing tax base or employment in order to be given serious consideration.

Federal Agricultural and Food Safety Policy - Federal food safety and commodity support policies can also negatively impact local agriculture. With the recent authorization of FDA food safety regulation of farms, the cost of compliance for small produce operations is forcing them higher up the cost curve. Local farms are not significant players in federal commodity support programs due to the scale dependent nature of the programs. Many farmers feel that this puts them at a disadvantage when competing in grain and livestock markets nationally.

VISION OF AGRICULTURAL VIABILITY

Viable agricultural operations are essential to the economic, social, and community fabric of the Town of New Paltz. This sentiment was echoed throughout the course of developing this Plan and is reinforced continually throughout other policy guidance documents such as the comprehensive plans of the Town and Village of New Paltz, the New Paltz Open Space Plan, and the Ulster County Farmland Protection Plan. With a central tenant of viability in mind, this plan advances a vision of agricultural protection that focuses on future policy development regarding agriculture and on the basic need for farm operations to be economically sustainable in order to be effective contributors to New Paltz' high quality of life.

Agricultural Preservation Vision

*To enhance the economic viability of New Paltz's working lands
in a manner consistent with community character and open space needs.*

2



SECTION 2: INTEGRATING AGRICULTURAL LAND PRESERVATION TOOLS INTO THE CONSERVATION TOOL KIT

This section of the New Paltz Farmland Preservation Plan highlights the needs of local landowners and farm operators for access to improved farmland preservation tools that fit both the community context and institutional capability. This section highlights these needs and tools, and summarizes the possible actions that can be taken to implement solutions that directly relate to land conservation.

AGRICULTURAL PRESERVATION NEEDS

Citizens of the Town of New Paltz are being affected, to varying degrees, by the loss of farmland and its associated benefits of food production, stabilization of local economies, protection of the environment, and enrichment of the quality of life. Suburban sprawl-type development is the most common threat to farmland. These developments and their associated infrastructure are incompatible with agriculture; they leave those pursuing agriculture in a vulnerable position from a zoning, land acquisition, and production point of view by limiting access to fertile lands and further development of agricultural production capabilities.

However, the Town of New Paltz and other governmental and non-governmental structures have created programs to provide land conservation assistance. These programs and regulatory structures come in many forms but are anchored by New York State's Agricultural Districts Law. New York State first formalized its agriculture and farmland protection efforts in 1971 with the passage of the Agricultural Districts Law, also known as Article 25-AA. The Law recognizes that while agricultural land is one of the State's most important resources, farmland throughout New York is threatened by non-farm development. The Law's purpose is to provide local, non-regulatory mechanisms for keeping land in agricultural production.

The Agricultural Districts Law has been amended several times. In 1992, it was enhanced significantly to support New York State's farmland protection activities. These changes were included in the Agricultural Protection Act, signed into law that year. Among other amendments, the legislation included stronger right-to-farm protection and established a statewide agricultural and farmland protection program under which this planning activity is authorized.

The principal components of the agricultural and farmland protection efforts in New York State are (for definitions see Appendix 2, *Glossary of Preservation Terms*):

- Agricultural districts
- Tax relief
 - o Agricultural assessment
 - o Ad valorem limitations
 - o Farmers' school tax credit
 - o Farm building exemptions
 - o Sales tax relief for farm supplies
 - o Local tax abatement
- Right-to-farm "package"
- Agriculture and farmland protection program
 - o Planning grants
 - o Purchase of development rights (PDR) grants

The players that are charged with the implementation and improvement of these efforts include the Advisory Council on Agriculture (ACA) at the State level and the Ulster County Agricultural and Farmland Protection Boards (AFPB) at the county level. With the completion of this plan the Town of New Paltz will formally become a player in this farmland protection process.

In keeping with the intent of the above, the Town of New Paltz worked with agricultural landowners and operators to determine if the protections and land preservation techniques currently provided through the Agricultural Districts Law and the Ulster County Agricultural and Farmland Protection Board were sufficient to meet their needs. Needs were assessed using a landowners survey in the spring of 2009 (Appendix 1,

New Paltz Farmland Preservation Plan

Town of New Paltz Farm Survey Results) and following up on the issues identified in that survey by conducting interviews and meetings during the summer and fall of 2009. The land preservation issues highlighted during these fact gathering initiatives are outlined as follows:

Current agricultural preservation programs are difficult to apply in the Town of New Paltz due to unique local circumstances such as broad flood plains, small parcel sizes, dispersed prime soils, and high levels of land fragmentation.

The long time required to settle easements through State funding mechanisms, makes them unattractive and tied to state fiscal conditions. There are only limited local options to negotiate easement payments and none that are entirely privately financed.

Development pressure, land fragmentation and competition for land with non-operating uses puts a premium on agricultural land that makes it less profitable to farm and difficult to expand. As a result, there is direct pressure for farms—particularly new and expanding farmers—to grow their operations elsewhere.

The high tax burden places direct conversion pressure on farmland, particularly in poor performing economic cycles which may contribute to farmland loss.

Competition for high productivity soils is high, particularly with non-farm uses. Protection of this resource is required if farming is to continue.

Agricultural land is expected to provide a host of public benefits for which farmers are not compensated, including provision of viewsheds, protection of water resources, wildlife habitat, and cultural preservation. While farmers generally support these protections, they are concerned about the possible equity impacts of policy changes focused on those protections.

Current farmland protection program design does not easily support farm transition options, particularly for intergenerational transfer. Simple changes to approach and design in a PDR program can increase the effectiveness of PDR as a financing tool for estate planning.

In order for the Town of New Paltz to develop effective tools for the protection of farmland, the above issues must be incorporated into programmatic responses that fit both the local need and the Town's capacity to implement and manage.

With that in mind, none of the potential responses are a 'silver bullet' that ensures the continuation of agriculture. An integrated strategy combining land preservation techniques, regulatory changes and market opportunities is essential. Communities with the most success in protecting their agricultural industries are those that employ a combination of these tools in a timely way as well as a vigorous regulatory and agricultural economic development programs. These topics will be discussed in Sections 3 and 4 of this report.



REVIEW OF APPLICABLE TOOLS AND PROGRAMS

The Town of New Paltz faces three special challenges in protecting its land base: 1) the agricultural industry is rather small; 2) the Town has limited resources; and 3) the community is more developed than many that seek to employ the most widely-used preservation techniques (zoning, easement, and development rights regulations). Collectively, these issues indicate that no one program may effectively keep pace with the changes in land use and therefore no one program can achieve critical affect. With this in mind, a multi-tiered preservation program approach makes sense for the Town using the set of common tools as examined below.

Table 3: Protection Tools Analysis

Protection Tool	Definition	Benefits	Challenges	Applicability/Status- New Paltz
Transfer of Development Rights (TDR)	<p>Voluntary separation and sale of development rights from land in one part of a jurisdiction to be used to increase density in another part.</p> <p>Conservation easement placed on sending parcel.</p>	<p>Developers compensate farmland owners. Creates permanent protection of farmland and shifts some costs to private sector.</p>	<p>Difficult to establish and administer. Opposition by landowners in receiving areas.</p> <p>Needs to be an integral part of a jurisdiction's growth management strategy at a time when sending area resources are relatively intact and intensification of receiving areas is feasible.</p>	<p>Within the context of the Town of New Paltz, TDR will be difficult to implement without an inter-municipal agreement with the Village of New Paltz or the establishment of water and sewer systems in targeted growth areas in the Town of New Paltz to establish a receiving potential. Options do exist for developing commercial TDR applications and a TDR bank in New Paltz.</p> <p>Currently no TDR programs operate in any towns in the County, due to the complexity of establishing such.</p>
Private Land Trusts	<p>Local non-profit 501.c (3) corporations are designed to identify resources to be protected, accept permanent conservation easements from landowners, and monitor their provisions through time.</p> <p>Private land trusts usually receive conservation easements as donations from private owners. These trusts act as guardians to the land. The donors are typically tax motivated.</p>	<p>Can provide permanent land protection. Can forge public-private partnerships. Greatly facilitates the donation of conservation easements from landowners able to benefit from income tax benefits.</p> <p>Easements may still permit agricultural activity, may reduce property tax burden, and provide immediate charitable donation tax deduction for landowner.</p>	<p>Private land trusts may focus on specific areas and/or types of easements, such as strictly wetlands or scenic properties. Land trusts may not be able to fund a purchase-of-development-rights program. Such trusts typically prefer to work on projects with a donation component.</p> <p>Unless specifically designed for agricultural protection, farming may present problems on conservation easements designed for other purposes.</p>	<p>The Open Space Institute (OSI), Scenic Hudson, and the Wallkill Valley Land Trust are the most active land trusts in the region. These land trusts accept donated easements and provide funding for purchase of conservation easements. These trusts may partner with towns, such as New Paltz, to develop and finance easement programs and to provide easement monitoring support. They may also support new farmer and land aggregation programs.</p>

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Protection Tool	Definition	Benefits	Challenges	Applicability/Status- New Paltz
Mitigation Techniques	Section 305(4)(h-1) of the Agricultural Districts Law requires mitigation when land is taken by eminent domain, such as for a landfill. The provision became effective 01.01.98, representing the first time that a mitigation requirement has been applied to farmland in New York.	Ties the impact of development activity such as the loss of farmland directly to a solution to that impact such as the permanent conservation of a like quality and quantity of agricultural soils. Because the requirement is placed on the entity causing the mitigation requirement, it is self funded.	Town does not have direct control over site selection which can cause scattered protection problems. Rules can be difficult to develop and enforce.	New Paltz can expand the mitigation protections allowed by State law. Mitigation techniques can be used to protect specific agricultural assets such as soils, and provide a level of protection that matches development pressure. Mitigation fits Town's objectives.
Agricultural Districts	State designation of an area of at least 500 acres of viable agricultural land. Initiated by landowners, adopted by the County. Land can go in any time but can only come out when the district is reviewed every eight years. Not tied to agricultural assessment.	Farmed land within the district provided protection from local ordinances, nuisance suits, and utility ad valorem taxes. Commissioner of NY State Ag & Markets has authority to rule on local land-use conflicts.	Area defined by landowner willingness. County adopts, but Town ordinances are affected if there is a dispute. State has authority to rule on local land-use conflicts.	New Paltz supports the Agricultural District program in the State of New York and is working to fully integrate the intent of the District program into local ordinances.
Lease of Development Rights (LDR)	Leasing of Development Rights (LDR) describes a voluntary mechanism to temporarily suspend the development of agricultural real estate for a definitive time frame in exchange for some consideration.	Allows time for the planning process, both County and Town, to catch up with development pressures while providing an incentive for farmers to maintain farm real estate in agricultural use. This is often accomplished at a much lower cost than through PDR. In areas where purchase of development rights (PDR) generally does not apply, LDR can be used to provide economic and business development incentives to landowners.	Leasing of Development Rights, if improperly designed, can encourage speculative development in land by reducing the holding cost of highly developable lands. Creating lease of development rights programs can be challenging, particularly from a community finance position, since public funds are spent to achieve only temporary protections.	LDR can be attractive when the goal of the program is not solely to preserve agricultural real estate. LDR agreements can be well employed in conjunction with farm viability programs. Coupling a relatively short term period (less than 20 years) with the objectives of Town's Comprehensive Plan can be used to affect short- and medium-term preservation goals, particularly during periods of high development pressure. It may be appropriate for New Paltz to link incentives with regional agribusiness support projects such as HVADC to reduce the cost of offering incentives.

New Paltz Farmland Preservation Plan

Protection Tool	Definition	Benefits	Challenges	Applicability/Status- New Paltz
Purchase of Development Rights (PDR)	Programs that authorize and manage the purchase of agricultural conservation easements are known as Purchase of Development Rights (PDR) programs. The development rights are voluntarily separated from the land and sold, typically for the difference between the restricted value and the fair market value, in exchange for a permanent conservation easement. The land remains in private ownership and on the tax rolls, and continues to be farmed.	<p>Provides permanent protection of farmland and puts cash into farms and farm economy.</p> <p>Matches intent of Open Space Plan.</p> <p>Easements may increase tax revenues and operating efficiency of local services by reducing the need for services on conserved land, and increasing property value of adjacent properties due to their increased value to families.</p>	<p>Public cost may be high if public entity is purchasing conservation easements from private landowners.</p> <p>Combined with being voluntary, it may be difficult to protect a critical mass of farmland.</p>	<p>Within the New Paltz Open Space plan there are prescriptions for the development of local programs to support development of an easement program as well as a means to overlay the multiple environmental benefits within a local conservation easement program.</p> <p>As an outgrowth of the above, New Paltz has recently created the Clean Water and Open Space Commission as the implementing organization for town level conservation easements. The Commission's application package can be found in Appendix 8.</p>

For an expanded explanation of the protection tools below, please see Appendix 3, *Glossary of Land Use Terms and Expanded Examples*.

RECOMMENDED ACTIONS

The recommended actions that follow build on the needs and tools identified in the preceding subsections. The intent of these recommendations is to provide an outline for useful tools that can be incorporated into a series of Town managed farmland preservation programs that address the unique nature of farming in New Paltz. Once adopted, along with the recommended action in Sections 3 and 4, these tools will form the basis for a long-term farmland protection work plan.

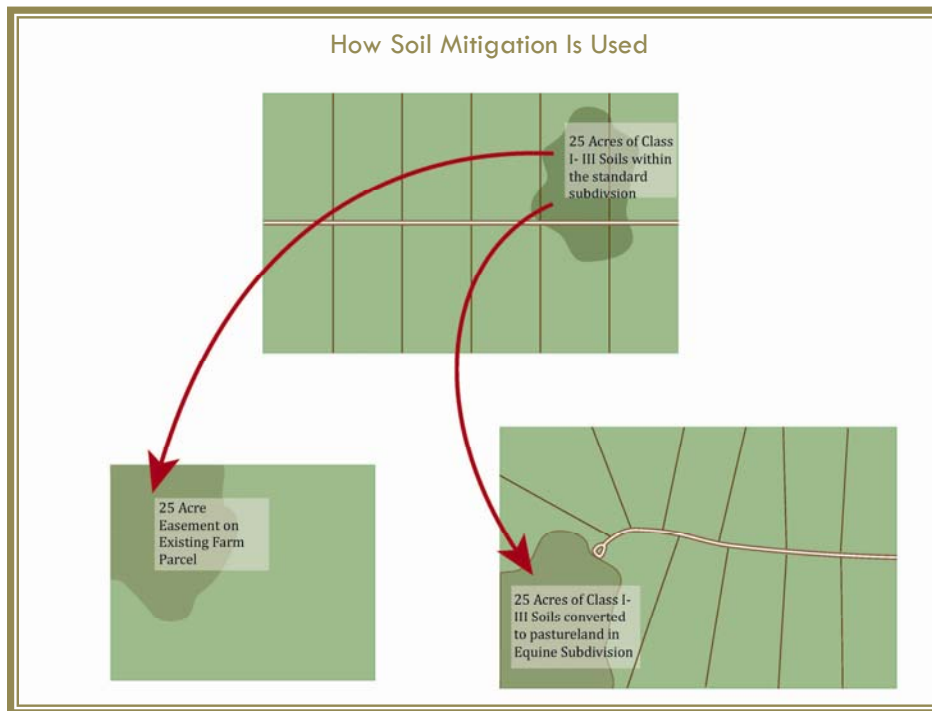
Within the farmland protection area, there are five specific recommended actions which will be described in the following pages. These recommendations are:

- A. Develop a New Paltz Agricultural Soils Mitigation Target
- B. Enhance Purchase of Development Rights Opportunities
- C. Create a Lease of Development Rights Program
- D. Create a Transfer of Development Rights Program
- E. Develop a Strategic Farmland Map

DEVELOP A NEW PALTZ AGRICULTURAL SOILS MITIGATION TARGET

Mitigation techniques applied to high quality farmland refer to a “no net loss” approach to farmland protection. Land taken out of agricultural use and/or zoning must be replaced with either new land of equal size and productivity being brought into agricultural use, or via a fee paid by a developer to permanently protect acreage elsewhere. This helps to create a self-funded market for the protection of high-quality agricultural soils using a soil definition that meets the unique nature of agriculture in the Town.

In New York, the state Legislature has created a mitigation requirement in the Agricultural Districts Law. Section 305(4)(h-1) requires mitigation when land is taken by eminent domain for use as a landfill. The provision became effective January 1, 1998, representing the first time that a mitigation requirement has been applied to farmland in New York. Amendments since this time have applied to mitigating the impact of wind energy projects on farms by requiring the replacement or recovery of agricultural soils. The Army Corps of Engineers has also routinely utilized the concepts of mitigation and “no net loss” for the protection of wetlands. Such mitigation provisions are a way to balance growth and resource protection.



Local soil mitigation ordinances are already in use to support farmland protection in many parts of the country to include Town of Kinderhook in Columbia County, New York. Appendix 4 includes a copy of the Town of Kinderhook’s zoning code.

Develop a mitigation requirement for NRCS Prime and Productive Soils and Soils of Statewide Importance in the A-1.5, A-3, and F zoning categories. The mitigation requirement should reflect the need to protect agriculturally

significant concentrations of these soils by establishing a minimum soil concentration (e.g., 20% of the parcel) before the mitigation rule kicks in. Mitigation should ensure the protection of like-kind and like-quality soils and encourage banking within the F zone to enhance other goals, such as encouraging development outside of the F zone. Inclusion of a fee-in-lieu option would allow for the mitigation requirement to serve as a source of funding for a Transfer of Development Rights Bank or an Agricultural Purchase of Development Rights Program.

Mitigation requirements may also be integrated within the subdivision code to encourage clustering where development occurs in the A and F districts. In this manner, mitigation would occur on-site, focusing on viable remaining agricultural parcels. Similarly, mitigation requirements should be suspended when development in the A and F districts is of an agricultural development nature. For instance, development of a packing house, on-farm dairy, or controlled atmosphere storage facility would not be subject to the mitigation requirement, if they were intended to support a local agricultural enterprise.

ENHANCE PURCHASE OF DEVELOPMENT RIGHTS OPPORTUNITIES

Conservation of open space is understood and supported by New Paltz citizens, primarily in the generic sense of an undeveloped landscape with a mixture of public and private ownership and a variety of land uses (forest, farm fields, pasture, meadows, open water, recreation facilities). To have an effective agricultural land conservation program, there must be a narrowing of focus to the specific needs of farming. The Purchase of Development Rights programs supported by the State and by local land trusts fill some of this void, but do not go far enough to protect a critical mass of farmland in New Paltz.

In the context of New Paltz, it will be necessary to augment the common perceptions of 'Open Space' conservation with agricultural PDR to effectively accomplish the public and private goals identified in this report and the New Paltz Open Space Plan. Looking at new payment methods and new conservation easements can serve a number of public purposes beyond protection of a critical mass of Prime

There are many different types of conservation-related easement programs which offer landowner benefits similar to Purchase of Development Rights (PDR), but which represent a different bundle of land-use rights. Where these programs are not in conflict with the intention of the PDR program, it is recommended that such overlaying of easements be permitted. This would add to the attractiveness of the PDR program, and potentially increase participation.

Soils for agriculture while meeting the landowners' financial objectives. At the same time, they can protect water quality from impervious surface coverage; provide scenic value to the community and by extension, support tourism; and they can function as wildlife habitat. Given the environmental sensibilities of the citizens of New Paltz, the most persuasive public policy argument for permanent protection is likely to be where farmland protection overlaps with environmental and scenic values.

New Paltz has already begun to target open space funding to Purchase of Development Rights on agricultural lands. To implement the Town of New Paltz Open Space Plan, the Clean Water and Open Space Preservation Commission has created a rating system for use of Open Space Bond monies which is weighted toward farmland protection (see Appendix 8: *New Paltz Clean Water and Open Space Property Evaluation Criteria*). This rating system will be reviewed periodically to assess its effectiveness for farmland preservation. To facilitate this process, New Paltz should establish a preservation target, such as protection of 50% of the undeveloped "Prime Soils" as defined in by the Natural Resource Conservation Service. To accomplish this goal would require offering landowners flexibility in easement terms and financing options, and should include options for overlaying easements that achieve multiple public benefits. By example, easement overlays may include such options as allowing, or encouraging, overlayment of the proposed EPA nutrient offset easements on agricultural easements as a means to achieve both an agricultural conservation goal and water quality goal.

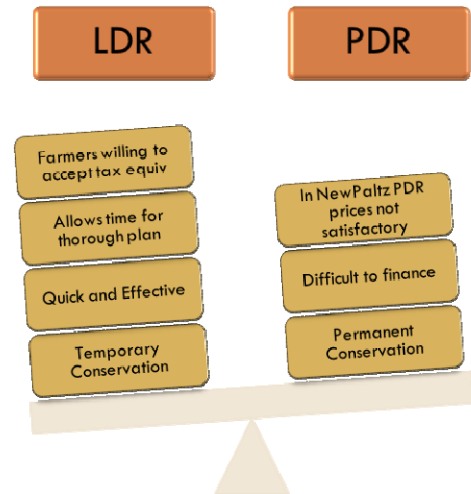
Establishing additional town-level tools should begin by providing information to local landowners on the availability and terms of open space and agricultural preservation programs including the use of these tools in estate and transition planning. Working with land trusts on tools to enhance intergenerational and new farmer transfers can also be added to the tool box using programs such as "Critical Farm" Loans (Appendix 6) and Installment Purchase Agreements (Appendix 7).

In order to use PDR more effectively, New Paltz must identify other local funding mechanisms beyond the Open Space Bond, including the real estate transfer tax capability through the New York State Community Preservation Act. Until County and State fiscal conditions improve, availability of farmland protection funding will be very limited, so low-cost programs like agricultural soil mitigation and transfer of development rights ordinances should be pursued.

CREATE A LEASE OF DEVELOPMENT RIGHTS PROGRAM

Lease of Development Rights (LDR) are perhaps best described as “Term Agreements.” Both phrases are used to describe a voluntary mechanism to temporarily suspend the development potential of agricultural real estate for a definitive time frame in exchange for some contractual (monetary or otherwise) consideration. The length of the term of the agreement will vary depending on the goals of the program. For instance, forestry-related easements may use a term of 20 or 30 years to mimic the production cycle of the crop while a deferred development agreement may take a shorter term to match a local planning cycle such as a comprehensive planning cycle.

Short-term easements with a clear link to economic development and business needs such as credit enhancement can be immediately enticing to land owners and operators based on the leverage offered. By example, an agricultural linked deposit program affiliated with the Town’s revolving loan program could be used as a credit enhancement for commercial finance. Having such an option available to farmers who wish to make capital investments could mean the difference between attaining and not attaining financing. At the Town level, conservation goals are meshed with possible improvements to the tax base and employment.



Other pricing models are available. Based on interviews with farmers, these can be as simple as matching the payment to the carrying cost of land, or opening access to economic development incentive programs such as business incubators, management training, and grant writing expertise. This could be the case when the term (speculation period) is reduced to within a reasonable planning horizon. Using this logic, the LDR payment would be equal to the property tax paid on unimproved land. Using LDR as an access point to economic incentive programs is an approach that has proven itself in New York with the application of the Forest Tax Law. This law establishes a voluntary term easement for qualifying forest parcels (under Section 480-a of the Real Property Tax Law) with land owner compensation provided through property tax relief.

Locally LDR is attractive to transitioning farms and farms that may not score well in a competition for purchase of development rights or are not in a position to consider long-term preservation options at this time. The attractiveness of added economic development incentives, particularly when tied to transition planning or credit enhancements for expanded capital investment, makes LDR both an effective land use tool and an effective economic and business development tool at the local level.

To create this change, the Town should consider adopting a simple easement contract modeled after the Polk County North Carolina model (see Appendix 5) that includes a temporary suspension of development capability in consideration for an abatement of Town real property taxes on the covered land. Enrollment limited to Agricultural District properties in A and F zones, where agriculture is being encouraged, may have the effect of enhancing participation in the Agricultural District program and the right-to-farm protections it provides. Additional economic incentives should be considered to enhance the program in cooperation with the Ulster County Development Corporation and the HVADC.

Even though LDR programs are generally less expensive to operate than a traditional PDR program, funding is likely to be a challenge, most often involving the use of public funds to support temporary land conservation efforts. This effect can be ameliorated by tying LDR to an identifiable conservation goal that is consistent with the term selected, such as agricultural transition or temporary view shed protection – particularly where these goals are supported through existing economic development funding.

CREATE A TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

Purchase of Development Rights has a high public sector cost and is increasingly difficult in the present fiscal climate in New York. State funded programs have been severely curtailed and it is likely that funding will be nonexistent or at least limited for some time to come. Transfer of Development Rights (TDR) programs utilize the same separation and sale of rights by a landowner as PDRs, but offer an alternative market-based funding stream for the preservation of farmland and at the same time facilitate land-use planning.

Transfer of Development rights programs enable the voluntary transfer of development potential from areas where limitation of development has been determined to be of value to the community to areas which have been designated as preferable for growth. Areas where there are important resources such as active farmland or environmentally sensitive open space are designated as “sending districts.” Those areas where higher density is appropriate, such as those along major roads where water and sewer infrastructure exists or could be made available, are identified as receiving districts. Traditional TDR programs are market based and privately funded through direct transactions between individual landowners in sending districts and developers. The developers are then allowed an increased density in the receiving area, based on the number of units purchased, thus discouraging sprawl without increasing the potential total build-out of the municipality. Unfortunately, traditional TDR programs have a limited success rate because they depend on the timely matching of landowners and developers. Historically, those programs that have worked best are county-wide or regional, and the chances are fairly slim that such a program would do well within the confines of the Town of New Paltz.

Quick Facts:

- Allows the private sector to fund permanent conservation of prime soils and land.
- Uses algorithm and economic incentives to encourage more dense development on lower grade soils. For New Paltz, this could include protecting muckland and flood plains.
- Seen as flexible and developer-friendly.

Another option is the establishment by local governments of TDR banks. In this method, instead of being extinguished, purchased, or donated, development rights are held by the municipality for sale to developers who want to achieve a higher density than the zoning in receiving districts allows. The monies received from these sales replenish the funding that is available for additional farmland and open space preservation. New Paltz is at an optimum moment for exploring this option. The Open Space Bond presently being dispersed by the Clean Water and Open Space Committee could provide a source of initial funding for the bank, while the Draft Comprehensive Plan identifies five new Growth Areas which should be considered as receiving districts. Some TDR programs have developed equivalency standards for including commercial and light industrial, as well as residential development, and this would be appropriate for some of these Growth Areas.

This is a very brief discussion of TDR programs, which are complex to design and can be difficult to administer. For example, when the zoning of receiving districts is established, it will be necessary to determine base density at a level that will encourage TDRs, while at the same time considering maximum carrying capacity. This would be likely to complicate the site plan review process. Adopting a Generic Environmental Impact Statement for receiving districts might be a useful approach, but this would involve considerable time and up-front expense for the municipality. Despite these challenges, TDRs offer a powerful tool for managed growth and sustainability at a relatively low cost to already overburdened property tax payers and deserve careful consideration.

DEVELOP A STRATEGIC FARMLAND MAP

Strategic farmland mapping is a tool that is sometimes used as part of the priority-setting task for PDR programs. It can help communities decide where to start with limited funding to permanently protect their most valuable and threatened farms as well as where to work for zoning and land-use regulation changes, and where to direct land trust donation solicitation. Typically, this tool maps the soil resource, the contiguous farmland blocks, and the direction of development pressure. Usually, the maps reference large areas of farmland as strategic for one or more reasons and are rarely parcel-specific. The necessity for a strategically large area focus generally indicates that such maps are best developed on a multi-town or county basis.

Since any kind of easement purchase program is voluntary for the landowner, these areas identified as 'strategic' serve as the focus for review of local master planning and land-use regulations and they become the geography for initial solicitation of landowners for willingness to sell agricultural conservation easements. Identifying or 'targeting' of individual properties for permanent protection on a public map is not a constructive use of the tool.



Source: Ulster Co. NY GIS Dept

To target properties with the highest productive, environmental, and cultural value in New Paltz, it is recommended that the existing New Paltz Clean Water and Open Space Program (Appendix 8) site rating system be employed as the basis for developing a formulaic approach to a regional strategic farmland map. These criteria focus on the following issues:

- 1) Location in a Core Farming Area as defined in the 2006 *New Paltz Open Space Plan*. Under this Plan, acreage goals, percentage of parcel farmed, tax exemption status, and Agricultural District properties receive the highest point totals.
- 2) Presence of farming and farmland soils as defined by assessment data and Natural Resource Conservation Service soil maps. Points are awarded based on the scale of farming activities, the scale of high productive soils onsite, "Bicentennial" and "Century" farms, and the level of onsite agricultural investments. Priority should be given to existing Agricultural District properties of 25 acres or larger.
- 3) Other criteria are also used to evaluate properties, including cultural and scenic assets, conservation practices, the likelihood of the farm continuing in agriculture, and the importance of the farm to family income.

Developing a strategic farmland map is a process that is ideally undertaken as part of the Ulster County Farmland Protection Plan update to ensure that New Paltz's efforts are not orphaned when viewing the needs of agriculture in New Paltz relative to the demands of agriculture in other areas of the County that have identified agriculture as a critical economic, environmental, cultural, or social resource.

3



SECTION 3: ARTICULATING THE NEEDS OF AGRICULTURE IN LAND-USE POLICIES AND PRACTICES

This section of the New Paltz Farmland Preservation Plan highlights the needs of local landowners and farm operators for access to improved land-use policies and practices that support continued farm production, adhere to the community's development values, and are within the enforcement capacity of the Town. Section 3 highlights these needs and tools, and summarizes possible actions that can be taken to implement solutions.

LAND-USE PLANNING

Comprehensive land-use plans set the stage for the development and improvement of land-use practices and regulatory processes. As such, comprehensive plans present a vision for the community and suggest a means for extending this vision into new or refined public policies. The New Paltz Comprehensive Plan, as summarized below, specifically incorporates the need for environmental and farmland protection, paving the way for the development of new regulatory tools.

The New Paltz Comprehensive Plan serves as a development policy for the future of the Town of New Paltz¹. It is a synthesis of the basic studies and updated reports which surveyed and analyzed existing physical and social conditions, and identified fundamental trends and future needs. The Plan is a tool to help guide future growth while protecting the community's resources. It is predicated on identifying recommendations that will implement the values and preferences of the community.

The community values were determined by surveys and consultation with Town residents. The identified values are embodied in the Plan's objectives, which are the following:

- Preserve and enhance the natural beauty and rural quality of the community and protect the small-town atmosphere of the Village core.
- Protect environmentally sensitive areas and natural resources, scenic roads and vistas, waterways, floodplains, and wetlands by establishing guidelines and regulating development density.
- Establish environmentally sound land-use development policies to ensure a balanced and orderly pattern of future growth and economic stability, with regard to the community's fiscal base—including the protection of farmland.
- Accommodate the present and future population by encouraging the development of an appropriate variety and quantity of sound housing which will serve various income levels and age groups, including low and moderate income housing.
- Encourage higher density development to locate in areas served by public water and sewer facilities.
- Foster and preserve the community's heritage by protecting historic structures and sites.
- Provide adequate public utilities and recreation facilities, and minimize the fiscal burden of such services on the existing community.
- Seek, by all reasonable means, to provide better traffic conditions and adequate parking in the center of the community, and encourage circulation within secondary networks.
- Promote environmentally sound management of the waste stream.
- Encourage regional cooperation to safeguard New Paltz's environmental setting.

¹ The Town is currently updating its Comprehensive Plan.

New Paltz Farmland Preservation Plan

Based upon an evaluation of the studies and an assessment of the community's goals and values, the Comprehensive Plan makes recommendations in the five major sections, as follow:

1. Land Use

Industrial and commercial development (including professional office uses) consistent with the community character and infrastructure capacity should be encouraged as a means of reducing tax pressures on residential property owners.

2. Circulation and Transportation

Encourage near-term modifications to the circulation system of New Paltz that focus on the following improvements: planning new east-west routes to bypass the Main Street Corridor, synchronizing traffic lights, widening roads to construct turning lanes, restricting on-street parking, and installing pedestrian and bicycle ways. Long-term objectives include the construction of additional downtown parking facilities and the upgrading of main "through" roads.

3. Scenic and Historic District

Although there are no scenic or historic districts specified in the Plan, the Town Planning Board will review proposed districts upon completion and adoption of this Comprehensive Plan. These districts would protect, preserve and enhance the natural and man-made scenic beauty of New Paltz. They will promote a greater awareness and appreciation of the area's scenic, ecological, cultural, and historic attributes. Finally, they will provide economic benefits through increased tourism and the improved property values that will result from protection, preservation, and enhancement of the landscape.

4. Open Space and Recreation

Study findings on open space and recreation focus on the need to protect or develop existing parks, open space quality, and flood plain lands. There is a need to develop existing community owned recreational areas, including parks. Although private and public recreation areas in the community provide a wide variety of recreation, the Town facilities such as Moriello Park, Clearwater fields, and school grounds should be expanded to accommodate and ensure future recreational needs. In addition, consideration should be given to the acquisition of parklands to meet future recreational needs.

The location and quality of open space as well as the quantity are key considerations in the preservation of open space which may be land that is currently farmland, private preserve, wooded or non-wooded, underdeveloped or vacant, wetlands, or environmentally sensitive areas including wildlife habitat areas.

Floodplain lands, which have recognized environmental significance, add an additional component of open space to the character of the Town. The Town should provide additional protective measures to existing regulations to ensure protection from changes in the physical character of the land.

5. Community Facilities and Public Utilities

Clean, plentiful water and safe proper disposal of waste are the cornerstones of planned residential, commercial, and industrial growth. There is a need to expand services and sensibly achieve planned growth with minimum negative impacts. Coordination of governmental and private resources is essential to achieving these results and lessening the financial burden on the community. The Plan outlines possible locations for new water and sewage plants.

Beyond the Comprehensive Plan, the Town of New Paltz interviewed farmers and convened focus groups in the summer of 2009 to assess current and specific needs for improvements to land-use policies and practices. Issues ranged broadly, but generally focused on the fact that farm and non-farm uses are

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intermixed and often seen as incompatible, which shows itself in conflicts with neighbors over farm operations. Zoning and subdivision codes fail to recognize the commercial and industrial nature of agriculture and the protections afforded to agricultural uses by inclusion in Agricultural Districts under New York State Agriculture and Markets law.

Farmland owners and farm operators were most concerned about having the right to conduct farming operations as dictated by production requirements, rather than regulations being based primarily on the convenience of residential neighbors. They were also concerned about having the ability to develop farming operations as changes in the industry dictate. Some of these issues were addressed in a code review by the New York Planning Federation, which can be found in Appendix 9, *New York Planning Federation Zoning and Subdivision Code Review*.

APPLICABLE TOOLS AND PROGRAMS

Table 4: Land Use Tools

Protection Tool	Definition	Benefits	Challenges	Applicability/Status- New Paltz
Comprehensive Plan	Guiding vision of what a community wants to be in the future, and a strategy for achieving it.	An organized way to identify productive farmland, and to set growth and protection goals. Serves as basis for land-use regulations.	Not legally binding. May be changed or ignored by officials as they rule on development proposals.	New Paltz is currently updating its Comprehensive Plan. The new plan will specifically address the role of agriculture and open space in the Town. This plan is complemented by the New Paltz Open Space Plan which further refines the regulatory and policy climate with regard to land preservation tools and techniques. Both Plans employ Smart Growth principles by encouraging development where it is already concentrated.
Differential Assessment	Taxation of farmland based on its agricultural use rather than its development value.	Modest incentive to keep land in commercial farming.	Can benefit land speculators waiting to develop land.	Taxes are a major concern for farmland owners who consider them a challenge to being regionally competitive.

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Protection Tool	Definition	Benefits	Challenges	Applicability/Status- New Paltz
Agricultural Districts	State designation of an area of at least 500 acres of viable agricultural land. Initiated by landowners, adopted by the County. Land can go in any time but can only come out when district is reviewed every eight years. Not tied to agricultural assessment.	Farmed land within district provided protection from local ordinances, nuisance suits, and utility ad valorem taxes. Commissioner of NY State Ag & Markets has authority to rule on local land-use conflicts.	Area defined by landowner willingness. County adopts, but town ordinances are affected if there is a dispute. State has authority to rule on local land-use conflicts. Not meant to shield from all legal disputes with neighbors. Does not stop complaints from non-farm neighbors. May not protect major changes in farm operations or new operations.	Farmers and landowners in New Paltz do not feel that State right-to-farm laws offer sufficient protection from nuisance suits, or from inappropriate application of local land-use regulations at this time. Additional controls at the Town level can be addressed partially through adoption of agricultural performance standards and by updating the definition of agricultural operation.
Overlay/ Floating Zones	Some communities use agricultural overlay districts to direct development away from prime farmland or incentives behaviors. Are generally used to trigger other performance standards, such as cluster zoning.	Overlay Zones can be highly targeted to specific areas or assets. Overlays can be used to protect other resources such as forests and minerals. Overlays may allow greater flexibility in land use.	Generally regulate how- not if- farmland is developed. Landowners often feel like overlay zones are a precursor to limiting development capacity through regulatory controls	Overlay zones can be used in conjunction with other tools recommended in this Plan to encourage soil protection or higher density development. Overlay zones could also be used to maintain access to mineral and forestry resources.
Regulatory Ombudsman	An ombudsman is a designated neutral agent that provides informal assistance for resolving regulatory related concerns. The ombudsman is independent of the formal regulatory structure. The ombudsman cannot impose solutions, but will identify options and strategies for resolution.	Provides a means for farmers to resolve regulatory disputes in a non-confrontational manner. An ombudsman also allows for improved education and informational flow between parties.	Public cost may be high relative to the utilization of the ombudsman position. It is also difficult for the ombudsman to be proficient in all of the regulatory elements of agriculture.	Currently no local or county agency serves the role of regulatory ombudsman for agricultural dispute resolution. The need for such a position was made evident in interviews, but the volume of local issues does not warrant the creation of a position within the Town of New Paltz, but may be considered inter-municipally through the Southern Ulster Alliance.

RECOMMENDED ACTIONS

USE FLOATING ZONES TO SUPPORT AGRICULTURE

Floating, or overlay zones provide the town with flexibility in protecting prime agricultural soils and should therefore be considered as integral part of the Town's participation in the Agricultural District Program. The agricultural floating zone should be designed to apply to areas of the Town where agriculture is being encouraged, such as Zones A and F outside of any growth nodes that may be assigned by the Town and should include all parcels within Agricultural Districts. The overlay should also offer prescriptive guidance for development, encourage development of agricultural infrastructure, and create the framework for establishing an effective transfer of development rights (TDR) sending area. The agricultural overlay will not be effective without clear performance standards or definitions.

Overlay zones usually regulate how – not if – farmland, forestry, and scenic areas are developed. So far, such districts have not been used to change underlying density requirements or non-farm uses. However, an overlay district may be engineered to provide compelling economic incentives to encourage agricultural production or the protection of scenic areas. For example, for non-farm development projects, an overlay may require certain aesthetic features, occupancy limitations, height restrictions, and even landscaping requirements to discourage the building of commercial entities on prime scenic or farm areas.

The Town of New Paltz should consider augmenting the definition of agriculture in its overlays to include larger on-farm marketing facilities; high-density on-farm production; and even permitting on-farm commercial, *non-farm* entities to allow for sustainable, family farms. Such non-farm entities may include small engine repair, artisan furniture manufacturing, and guest lodging. These entities allow families to stay on the farm rather than seeking additional income off of the farm. Performance-based zoning regulations for such uses should be an integral aspect of any agricultural floating zone.



When properly designed, an overlay zone preserves the ability of a farm to conduct full business operations while allowing the underlying development-oriented equity to be preserved. The Town of Warwick, NY has successfully used overlay districts to protect prime soils, scenic views, and natural beauty. The code is provided in Appendix 10, *Town of Warwick, New York Agricultural Overlay Zone Sample*.

Sound agricultural practices policies would also be appropriate in the overlay area to protect farm operations from nuisance complaints. At a minimum, these protections would include the use of an agricultural disclosure statement that would apply to all land transactions within the overlay area. The intent of the disclosure is to ensure that new residents understand that they are locating within an active agricultural production area which includes protected industrial and commercial uses.

INCORPORATE PERFORMANCE-BASED ZONING REGULATIONS FOR AGRICULTURE

Performance-based zoning provides a base set of standards that development must meet in order to conform to the fixed or floating zone in which the entity exists. Agricultural floating zones typically have more lenient infrastructure and usage restrictions, so non-farm development proposals may attempt to take advantage of agricultural overlays. Therefore, the more lenient regulations must be specifically targeted to only those uses meeting a clear, concise, and carefully worded definition of agricultural operations.

For example, if an agricultural floating zone allows for the construction of on-farm food processing facilities, a performance metric may be that a facility not exceeding 2,500 square feet of processing area would be exempt from the Planning Board review process. The rationale for such a specification would be to limit the size of the facility to a community-appropriate scale while encouraging on-farm, value-added activities. Similarly, a performance standard may limit a facility to processing a minimum percentage of its own farm product.

Performance-based zoning for agricultural operations may be designed to support a variety of manufacturing, processing, retail, hospitality, agritourism, and home-based business uses. It should both simplify the permitting process for these uses where appropriate and at the same time assure protection of the public from potential



health and safety concerns. Recently, performance standards have been used to support small-scale energy projects located on farms such as mobile biomass processing, windmills, and solar arrays.

Examples of performance standards can be found below in Appendix 10 in Section 164-48 of the Town of Warwick, NY zoning code. For the Town of New Paltz, relevant performance standards may relate to the production capacity for prepared foods; signage for a home-based business; and the size, structure, and appearance of roadside stands and their locations in order to avoid creating traffic hazards.

DEVELOP AGRICULTURALLY FRIENDLY CLUSTER SUBDIVISION

In order to preserve open space, cluster subdivision provides for residential units to be grouped together on smaller lots than required for standard subdivisions. Development is concentrated on a portion of the property, minimizing the impact on natural resources by protecting sensitive environments, providing recreational opportunities, or preserving farmland. The undeveloped portion of the parcel is placed under a conservation easement, which prevents further subdivision or development, but agricultural activities are allowed to continue.

Cluster subdivision, like purchase of development rights, allows agricultural landowners to realize some of the economic value of their land while continuing to farm. Some municipalities offer density bonuses for clusters, but in general, cluster subdivision is based on the zone's residential density--the number of acres required for each housing unit. For example, if a zone's residential density is one unit per five acres and the parcel in question is 100 acres, this parcel could be divided into either 5-acre lots in a traditional subdivision taking up the entire property, or 1-acre lots in a cluster subdivision, leaving 80 acres undeveloped. In both examples, the result is 20 new building lots, but in the cluster example the landowner retains an agriculturally viable parcel. Cluster subdivisions also have the advantage of reducing development costs for roads and other infrastructure. While developers have been known to claim that traditional, large-lot subdivisions are more desirable to potential home-buyers, some studies have indicated that buyers will pay a premium for well-designed cluster subdivisions and they have proven to be very marketable.

Cluster subdivisions require large parcels and often work best with less intensive types of farming, such as niche farming of organic produce, or where buffering such as woodlands between the residential and agricultural uses is possible, though cluster subdivisions have been successful with larger commercial farms when there is a community culture that strongly supports agriculture. For cluster subdivision to be useful as a farmland protection tool, Agricultural Data Statements must be included on subdivision plats and deeds, potential home buyers must be well-informed about the sights, sounds, and odors associated with farming, and farmers must be willing to consider some modifications in their farming practices, where possible, in consideration of their neighbors.

ENHANCE THE DEFINITION OF AGRICULTURE

Using performance-based zoning and overlay zones to encourage agricultural development requires, at a minimum, that the Town of New Paltz zoning code adopt the definition of agricultural operation from the New York State Agricultural Districts and Markets Law, Article 25-AA of the State code. This provides an evolving baseline definition of agricultural operations which all state legislation references.

The Town of New Paltz may also clarify its definition of “agriculture” for the convenience of the constituents. Such a strategy has been adopted in many New York towns as is exemplified by the Town of Ithaca’s proposed definition of agriculture:

Definition of Agriculture

Agriculture, or farming, can be defined and interpreted in different ways for different purposes. The Town needs one consistent definition to help identify what is farming and to determine what farm operations may be appropriate for the various policies, funding, or other programs outlined in this plan. While based on definitions in NYS Agriculture and Markets Law, for the purposes of this plan the Town of Ithaca defines a “farm operation” as

“involving the production, preparation and marketing of fruit, vegetables, field crops, nursery stock and flowers, livestock and livestock products as a commercial enterprise, including commercial horse boarding and breeding operations, Christmas trees, timber processing, compost, mulch, or other biomass crops, and the management and harvesting of farm woodlands. Such farm operations include the land and on-farm buildings, equipment, manure processing and handling facilities and may consist of one or more parcels of owned or rented land, where parcels may be contiguous or noncontiguous to each other.”

The Town of Ithaca recognizes that there is a wide range of sizes and types of farms in the Town, from the small hobby farm to the large commercial farms that operate with the intent to make a profit as a business.

For the purposes of this plan, the term “Farmer” also includes other land owners that may rent or lease agricultural lands to a farmer. Any programs, funding opportunities, or other items mentioned in this Plan would apply to any agricultural land owners.

The Town of New Paltz should expand the definition of agriculture to accommodate the types of operations and activities specified under performance-based zoning. Other definitions of agriculture may include non-traditional agriculture, such as aquaculture, micro-biorefineries, and natural cosmetics production.

ACT ON THE NEW YORK PLANNING FEDERATION ZONING REVIEW

As part of the New Paltz Farmland Protection Plan development process, the New York Planning Federation conducted a review of the Town of New Paltz zoning code. This plan endorses the New York Planning Federation’s recommended update of the Town’s code to include applying cluster subdivision requirements to the A zone, cleaning up definitional references to agriculture, and requiring an Agricultural Data statement as required by Article 25-AA. Other important regulatory remedies are recommended in the zoning and subdivision review which can be found in Appendix 9, *New York Planning Federation Zoning and Subdivision Code Review*. Further zoning code revisions may also be necessary for compatibility with New York State Agriculture and Markets law and for the implementation of this plan.

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SECTION 4: USING AGRICULTURE AS AN ECONOMIC DEVELOPMENT TOOL

AGRICULTURAL ECONOMIC DEVELOPMENT NEEDS

Agriculture is an industrial and commercial endeavor that contributes positively to the community through job and tax base creation as well as to the farmer and agribusiness industry through wealth creation. Without economic balance, liquidity, and profitability agriculture cannot exist. Understanding that this economic balance must be maintained to keep agriculture in the community is therefore critical to any agricultural land preservation effort. In New Paltz, this balance is even more delicate given its dual challenges of supporting farms undergoing intergenerational transfer while encouraging continued growth in agricultural entrepreneurship.

The best land conservation, regulatory, and legislative encouragement will fail without a market viability component to agriculture. The Town of New Paltz is ideally positioned to create strong market opportunities utilizing its agricultural resources. Its resources are in viable proximity to a large population and strong food markets, it has abundant natural assets and an existing tourism industry, and there is existing production on which to build.

The chart on the next page identifies tools for economic development. Concrete examples will follow.

APPLICABLE TOOLS AND PROGRAMS

Table 5: Economic and Business Development Tools Analysis

Protection Tool	Definition	Benefits	Challenges	Applicability/ Status-New Paltz
Agricultural Incubator: <i>Planning, education, and training to support new and existing agricultural enterprises.</i>	<p>An agricultural incubator serves as a catalyst to attract new agricultural enterprises and to grow existing enterprises.</p> <p>The incubator offers services such as: business planning and financing assistance, networking, training, and education. These incubators differ from traditional business incubators by not offering real-estate assistance (office or production space) or high-tech labs. This significantly reduces the operating overhead.</p> <p>Most importantly, agricultural incubators provide specialized agricultural-industry subject matter experts and professionals.</p>	<p>Agricultural incubators are a low-cost way to increase agricultural revenues and the number of ventures.</p> <p>These entities often serve as the hub for emerging ideas, technologies, and marketing techniques in the industry. They also provide timely training and education to keep existing production competitive. These are valuable services that producers would not otherwise get by themselves.</p> <p>They differ from extension agents by focusing on the market aspect of agriculture and are not burdened by aspects such as research and documented experimentation.</p>	<p>Continuous funding must be available to help the incubator establish a strong presence and program portfolio in the community.</p> <p>Incubators must attract private investors and parties interested in agriculture; without such support, many incubator clients may never grow their businesses to sustainable, scalable, and attractive levels.</p>	<p>Currently New Paltz and Ulster County lack any agricultural incubator. Resources available to local producers are limited to Cornell Extension.</p> <p>An incubator is perfectly positioned to jumpstart agricultural development by doing the things listed in the definition and also by sending a signal to the community that agricultural ventures are supported.</p> <p>Examples of incubator services and programming can be found after this chart. These generally include classes and services centered on agricultural business; estate planning and farm continuity; and new farmer, gardener, and cottage industry production methods.</p>

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Protection Tool	Definition	Benefits	Challenges	Applicability/Status-New Paltz
Create a Local Food Culture and Marketing Infrastructure: <i>Creating the branding, marketing, and distribution infrastructure for linking buyers and sellers.</i>	<p>Increased local farm production is useless without a marketing channel for the products.</p> <p>The appropriate marketing infrastructure will encourage farm and food entrepreneurs.</p> <p>A critical part is the concept of building a “culture” that supports local foods and food businesses. In the SWOT analysis, we recognized that there is a “can’t do” attitude in the farm sector that is self destructive.</p> <p>This marketing infrastructure may include the following: central web marketplace, distribution hub(s), branding, and producer training to bridge the disconnect of farmers and buyers, especially for food safety, packaging, and cold-chain management.</p>	<p>Creating redundant marketing channels can be expensive and therefore prohibitive for individual producers.</p> <p>By New Paltz assuming this role or jumpstarting these channels, it acts as a matchmaker for buyers and sellers. It provides the infrastructure, possibly at a billed rate, which allows for safe, efficient, and professional distribution.</p> <p>The marketing infrastructure may eventually transition to the private sector, therefore limiting public sector commitment.</p>	<p>If a brand and marketing system is not executed correctly, it can stain the entire effort into the future.</p> <p>Great care must be taken to build a system that encourages entrepreneurship, encourages user interactions, and provides for a fair playing field for all parties, organic and conventional, meats and produce, etc., to prevent the audience from having a singular, inaccurate perception of the marketing brand.</p>	<p>This is a very low-cost and low-risk program that New Paltz could easily pursue.</p> <p>From experiences in other cities, much of the marketing work and organizing can be done through existing players—including farmers’ markets, co-ops, land trusts and producer associations. They will be eager to help create a more efficient local marketing channel.</p> <p>The equipment and infrastructure for distribution can be leased on a short term basis. The training pieces can be accomplished through the incubator, county extension, or a separate entity. These should be seen as marketing opportunities.</p>

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Protection Tool	Definition	Benefits	Challenges	Applicability/Status-New Paltz
Land Exchange: <i>Create program for managing land and development right transfers, serve as a matchmaker for buyers and sellers, and provide education about financing options.</i>	<p>The land exchange serves as a marketplace for land sellers, and for buyers of both land and development rights.</p> <p>This land exchange would market itself to potential buyers and sellers, offering to be a matchmaker, provide education on financing alternatives, and help close deals.</p>	<p>This will facilitate easier land sales, which will be important if local production is to increase, since producers will need access to more land.</p> <p>It also helps preserve farmland by educating the sellers about the conservation options available to them and helping match them with a private sector buyer who can finance the sale.</p> <p>By playing matchmaker between private sector parties, the land exchange reduces public sector costs for purchasing and preserving agricultural land.</p>	<p>The land exchange will require a qualified staff (already working for the Town or separately hired).</p>	<p>The land exchange is a very easy and low-cost way to market land, land development rights, and leasing opportunities to its agricultural community.</p> <p>Many of the concepts behind land sales are not well understood and difficult to differentiate between.</p> <p>The land exchange can help educate buyers and sellers about these opportunities and serve as a matchmaker. That same process would be relatively inefficient and expensive if it were performed by individuals for each transaction in the private sector.</p>

New Paltz Farmland Preservation Plan

Protection Tool	Definition	Benefits	Challenges	Applicability/Status-New Paltz
Agritourism: <i>Create a brand for New Paltz and its agricultural resources as a destination for families, corporations, and sportsmen.</i>	<p>Agritourism allows working farms and attractive forestry lands to generate revenue and market their products by hosting events, offering tours, and providing entertainment and/or education. Winery tours and tastings are a perfect example of agritourism.</p> <p>The proposed agritourism for New Paltz would include creating a marketplace for and branding of the Town as a destination including quality foods, family entertainment, and unique atmospheres for corporate, private (weddings), and family getaways and events.</p> <p>To support agritourism, the town should focus on branding and aggregating information.</p>	<p>This allows for supplementary income for a farm in several positive scenarios: farms with no more land on which to expand crop production can generate more revenue; it increases the value of farm product brands; and by leasing hunting rights, working farms and forest owners can generate revenue and manage pests.</p> <p>Agritourism is complimentary to the existing tourism in and around New Paltz. Promoting agritourism would require branding efforts and education of land-owners on how to start an agritourism business segment.</p>	<p>Developing an agritourism component of a farm can be expensive and tedious.</p> <p>Owners will need public facilities, appropriate access (improved roads), parking, liability insurance, and possibly new construction to get started.</p> <p>New Paltz will need to leverage existing agritourism opportunities—such as farm festivals, orchards, and forestry—to jumpstart the agritourism industry in New Paltz, until new attractions become available.</p>	<p>New Paltz is perfectly situated for agritourism. New Paltz is near large urban communities and is surrounded by attractions of interest to a large and diverse part of the population. These other attractions include parks, trails, riverfronts, resorts, skiing, and bed-and-breakfasts.</p> <p>Agritourism would perfectly compliment these offerings, share similar existing resources, and even compliment the other market viability recommendations, including helping to build on the branding and distribution of local foods.</p>

RECOMMENDED ACTIONS

The following are suggested uses of the tools above and supporting examples.

AGRICULTURAL INCUBATOR

The agricultural incubator serves as a catalyst to create new agricultural ventures and grow existing ones. The incubator does so primarily by providing networking, industry specific consultation, and providing access to capital and markets. New Paltz is particularly well suited for developing such an economic development tool given the high level of agricultural entrepreneurship in the Town and the presence of a significant number of leveragable farm internship programs. This would allow the Town to be a catalyst for agricultural growth the region.

A successful agricultural incubator has very specific staffing needs. Employees must be well versed in business and familiar with the relevant land development, building, and regulatory codes for food and agricultural enterprises. Their goal is to help the entrepreneur navigate the possibly deep and confusing waters one must cross to build a profitable and scalable agricultural business.

As an example, the Hudson Valley Agribusiness Development Corporation has successfully helped agricultural entrepreneurs to flush out ideas, network with funders, and receive professional, industry-specific advice to which they would have otherwise not had access. This has allowed them to launch innovative agricultural businesses such as Local Ocean, an indoor fish farm, and Core, a top-shelf vodka produced from unmarketable apples. The HVADC is a willing partner in the development of specific incubator programming for the Town of New Paltz and has the capacity to assist in the creation of programs.

The incubator, however, does not need to be simply a resource to early stage entrepreneurs. It can encourage entrepreneurship through regular educational programs. Below is a hypothetical list of possible programs and their affects:

- **Small Farm University:** This program would combine market gardener education (production) with farm business basics, including marketing, distribution, quality control, and general business. The target audience would be individuals with an interest in cottage foods, urban farming, or small-scale rural production. This would also be complimentary to the *Local Food Culture and Infrastructure* and help identify “evangelists” to grow, via word of mouth marketing, the local food and agriculture spirit.
- **Ag-Business 101:** This program would help new and existing rural land holders and farmers understand estate planning, utilizing tax incentives, financing an agricultural venture, and deciding whether to buy or lease. It would also cover the basics of employment, insurance, and asset management for a farm business.
- **Ag-Continuity 101:** This program would be geared towards farmers looking to transition into retirement and farmers interested in transitioning out of row-crops and dairy into specialty and



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value-added production. This program would include strategies for intergenerational farm opportunities, conservation, farm planning, and market opportunities for operating farms and agricultural resources, including specialty crops, value-added production, agritourism, direct marketing, and more. This would also compliment the *Local Food Culture and Infrastructure*.

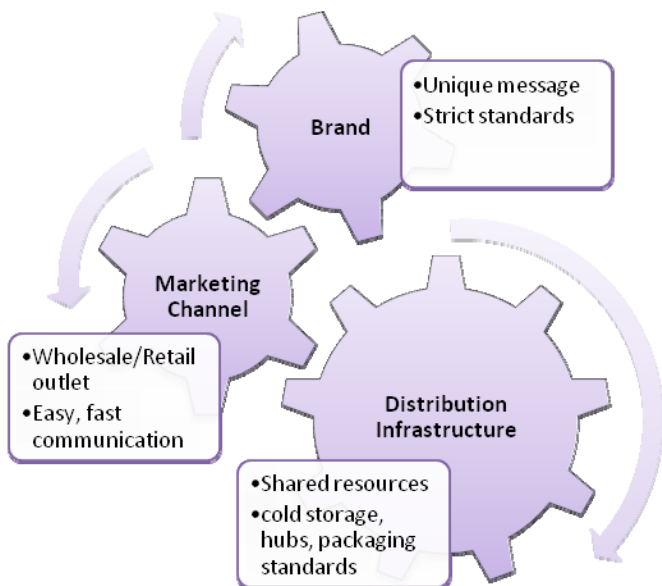
- **Agritourism Opportunities:** This program would help farmers and landowners understand whether or not agritourism presents an opportunity for them. It would help them with the business plan, marketing, and specific requirements of agritourism—including handicap access, insurance, hospitality training, and safety procedures.

LOCAL FOOD CULTURE AND MARKETING INFRASTRUCTURE

Creating a local food culture and marketing infrastructure is possible through central branding, making internet and e-commerce marketing tools available to all producers, and sharing resources such as cold storage hubs, standard packaging, and food safety certification. These initiatives are designed to create attractive market opportunities particularly for specialty crops and value-added production that holds a premium in local- and direct-market distribution.

There are three components to this program:

- **Market channel.** Low-cost and low-commitment virtual farm markets, such as Columbia County Bounty in Columbia County, New York, are available for creating a central marketplace for all locally-produced food products. Online tools require the least capital and have the shortest start-up time. Similarly, a physical producer market is possible, but is suggested after a successful e-commerce solution.
- **Branding.** A common brand for New Paltz area products should be promoted throughout the area. Branding may include appropriate marketing materials, event promotion, sponsorship, and unique packaging. Most importantly, branding is making sure the customer effectively receives a quality product and quality experience. The branding should vary from Pride of New York by having strict producer quality, packaging, and reporting standards that ensure that the New Paltz local brand is not vague or abused. It should represent the unique character of the Town.
- **Distribution infrastructure.** The marketing infrastructure is only half complete without some shared resources such as cold storage hubs, shipping-point receiving areas, and distribution partners. The program should encourage entrepreneurship in these areas; however, where entrepreneurship does not emerge, the Town may provide the service, and then charge producers for using such resources and services.



The Town of New Paltz also has an opportunity for an intermunicipal agreement with the Southern Ulster Alliance to put further energy behind this initiative. Independent and parallel branding and infrastructure solutions would be wasteful due to the relative proximity of each of the municipalities, their small size, and the limited number of farmers.

The Town of New Paltz should take a leadership position in uniting these communities, their leaders, funds, and existing resources to build a

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strong and efficient brand and marketing channel.

Beyond the southern Ulster County area, market access and promotion can be expanded to New York City either directly or through partnerships with firms like Basis Farm to Chef.

However, before executing a strong marketing campaign, an inventory of available products and the distribution-to-market process must be understood. Further, the demands of the customer must be clear and the finite possibilities of the producers must be known. This can be accomplished easily in farmer/buyer sessions that openly discuss the challenges facing each side. These sessions will provide critical insight to the localized market demands and to what needs to be communicated in the brand.

LAND EXCHANGE

Development of a formal means to link new and beginning farmers to land is essential to continuing the history of agricultural entrepreneurship in New Paltz. This is particularly true for New Paltz given the fact that there are numerous farms considered to be in transition as well as the presence of vacant or underutilized lands, some of which are in Agricultural Districts or under conservation easement.

The land exchange will serve as the central educator and matchmaker for buyers and sellers of land, development, and production rights. Partnerships with local land trusts, economic developers, educators and sources of finance are essential to making the exchange work. Successful examples of such activities exist to include the Cuyahoga National Park's Countryside Conservancy near Akron, Ohio. Their Farmlink program helps match those in need of land to those with land. It helps secure financing, and provides business and succession planning. Some of these services can be completed in conjunction with the Agricultural Incubator, particularly the farm business education.

More information on the Countryside Conservancy can be found at:
<http://www.cvcountryside.org/farmland/farmlink-program-description.php>.

The land exchange may work with the Agricultural Incubator to provide the necessary funding and business planning support that new farmers will need. It will also find needed support and structure from existing programs such as the Town's revolving loan fund, the HVADC, the New England Small Farm Institute's Growing New Farmers project, and New York Farmlink.

AGRITOURISM

Agritourism offers family, private, and corporate events, entertainment, and education on existing, operating farms and forestland. Agritourism can range from corn mazes to school tours. Other examples are farm/production festivals (apple butter festival), u-cut Christmas tree farms, camping, hunting/fishing, farm-stays (like B&B), and trail rides (horseback).

Agritourism for New Paltz should build on the existing success of New Paltz as a tourist attraction, including the existing arts and education cluster, trails, parks, and natural assets. Leveraging these assets to create a series of festivals such as a spring greens festival or harvest spirits festival would allow the Town to leverage existing agricultural and processing capacity with on-going interests in the community.

Early agritourism opportunities include utilizing existing u-picks, pumpkin patches, vineyards, and orchards to market New Paltz's agritourism as a perfect complement to the bed-and-breakfasts and food scene in the Town. Building on the success of bundling agritourism with existing attractions, the Agricultural Incubator can help new agritourism ventures emerge. This opens opportunities for hosting weddings, corporate events, and family getaways in New Paltz, all of which bring in outside revenue that support the local producers, local retailers, and local hospitality industry. A successful example of an agritourism destination is Suffolk County, NY which offers a wide array of farm based venues to attract tourists from New York City.

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SECTION 5: IMPLEMENTING THE PLAN

Implementing the recommendations included in this Plan and future plan updates will be at the discretion, and set by, the Town's annual farmland preservation work plan, funds availability, and priority of issues.

Full implementation of the Plan will also require that the Town of New Paltz adopt an outward looking vision of agricultural development and land preservation, given that many of the challenges faced by local farmers and landowners are of such a scale and scope that broader strategies and broader partnerships must be in-place to affect change. Coordinating the efforts of this plan with the implementation of land use and economic development policies of neighboring jurisdictions and the County is recommended first step. As well, the Town may seek to support or adjoin efforts with land trusts and producer groups such as the Wallkill Valley Land Trust and the Rondout Valley Growers Association to leverage program development and coordinate implementation items.

With an eye toward the overarching vision of this Plan, successful implementation should lead toward positive changes in the community as well as increased business development and profit opportunities for local farmers.

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With these factors in mind, the following chart demonstrates our suggestions for implementation in terms of near future to distant future; ranking is based on speed to action, relative costs, and expected impact and/or importance in “setting the stage” for future development.

Table 6: Implementing Farmland Preservation Recommendations			
Recommendation	Short Term	Medium Term	Long Term
Agricultural Preservation Programs			
Develop a New Paltz Agricultural Soil Mitigation Target	√		
Enhance Purchase of Development Rights Opportunities	√		
Create a Lease of Development Rights Program			√
Create a Transfer of Development Rights Program		√	
Develop a Strategic Farmland Map		√	
Land Use and Regulatory Structure			
Use Floating Zones to Support Agriculture		√	
Incorporate Performance-Based Zoning Regulations for Agriculture		√	
Develop Agriculturally-Friendly Cluster Subdivision	√		
Enhance the Definition of Agriculture	√		
Act on the New York Planning Federation Zoning Review	√		
Agricultural Economic Development Programs			
Create Agricultural Incubator	√		
Create Local Food Marketing Infrastructure	√		
Create an Agricultural Land Exchange		√	
Support Agritourism Development			√

Short-term projects are those that should begin within the next eighteen months; medium-term projects should begin within nineteen to thirty-six months; and long-term projects are those that should take shape after thirty-six months. This chart does not make any statement about the expected useful life of the programs.

While all elements of the New Paltz Farmland Preservation Plan are considered important to the continuation of agriculture in the Town, not all share the same level of importance at this time. Setting priorities for implementation is necessary for many reasons including relevance to need, program cost, Town capacity, and funding opportunity.

DEVELOPING LONG-TERM SUPPORT AND FUNDING

Success in protecting agricultural resources requires long term support and funding at the Town, County, and State levels. Given the large fiscal requirements for programs like purchase of development rights and agricultural development-oriented loan funds, the Town must rely on outside funding support. Typically this funding would be supported through state and county grants and match programs, however poor fiscal conditions make this unlikely in the near term. The result is that New Paltz must rely on non-traditional sources of funding and partnerships to implement its programmatic intent.

New Paltz Farmland Preservation Plan

Table 7: Funding Opportunities and Sources						
	USDA – Farm and Ranchland Protection Program	USDA – Rural Development	USDA – Farmer Market Promotion Program	Town of New Paltz	HVADC	Other*
Agricultural Preservation Programs						
Develop a New Paltz Agricultural Soil Mitigation Target				√		√
Enhance Purchase of Development Rights Opportunities	√			√		√
Create a Lease of Development Rights Program				√		√
Create a Transfer of Development Rights Program				√		√
Develop a Strategic Farmland Map				√		√
Land Use and Regulatory Structure						
Use Floating Zones to Support Agriculture				√		
Incorporate Performance-Based Zoning Regulations for Agriculture				√		
Develop Agriculturally Friendly Cluster Subdivision				√		
Enhance the Definition of Agriculture				√		
Act on the New York Planning Federation Zoning Review				√		
Agricultural Economic Development Programs						
Create Agricultural Incubator			√	√	√	√
Create Local Food Marketing Infrastructure			√	√	√	√
Create an Agricultural Land Exchange	√			√	√	√
Support Agritourism Development		√		√	√	√
* Other includes privately-raised funds, County agency funding, State agency funding, Assembly member items, earmarks, and other grant programs.						

Funding and support must be sought on a project-by-project basis and will require significant investment in grant writing and relationship building.

UPDATING THE PLAN

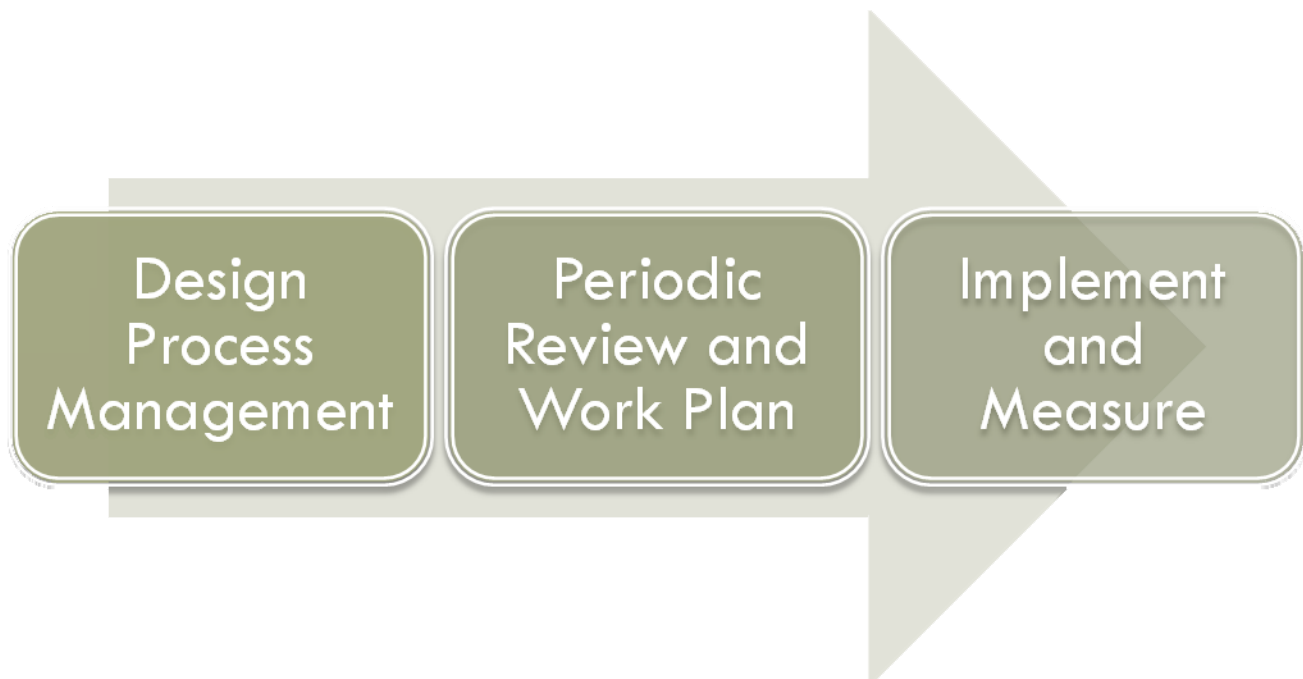
The Town of New Paltz Farmland Preservation Plan provides a guiding vision for agricultural preservation and development in the Town as well as a strategic direction for achieving those ends. Both the vision and strategy are based on long held community interests as well as the current economic realities of the agricultural industry. Over time, these conditions are likely to change in unexpected ways, which will necessitate amendments to the Plan.

Developing a process to accommodate change while keeping the Plan relevant will be critical to the success of farmland protection efforts in New Paltz. Developing a farmer-led committee to conduct periodic reviews of the Farmland Preservation Plan and prepare a work plan for implementing Plan elements is essential to maintaining the relevance of the Plan to the industry and the community. This

New Paltz Farmland Preservation Plan

agricultural advisory committee would be officially created, and then charged with identifying the top two or three initiatives to be incorporated into the Town's agricultural preservation work plan. At a minimum, the work plan will include specific actions to be taken, a budget note, staffing requirements, and other information, as needed.

The chart below summarizes the update process. It is imperative that the project team spend time establishing a thorough set of process guidelines. For example, there may be standard processes for collecting data, reviewing the data, and determining the critical data points at which actions are required. Similarly, there will be a set of policies and processes for the farmer-led reviews and a format for the work plan. Finally, there must be an effective way to implement the work plan.



THE NECESSITY OF PARTNERSHIPS

The Town of New Paltz will require support and cooperation from its farmers, agribusinesses, neighboring jurisdictions, and many others, if it is to positively influence the future of the agricultural industry. Necessary support will come in many forms ranging from funding to providing technical services. The New Paltz Farmland Preservation Plan provides a framework for developing these needed partnerships.

The Town of New Paltz Farm Survey

1. Please Indicate the part of the Town in which you farm or own land.

Top 9 Responses	Count	Percentage
Springtown	2	18.18%
NP realty of New York Corp	1	9.09%
North of 299 on Burleigh Rd.	1	9.09%
Huguenot Street	1	9.09%
Mountain Rest Rd.	1	9.09%
West of Wallkill River	1	9.09%
N. Ohioville	1	9.09%
South	1	9.09%
Jenkins Rd. off SR 299	1	9.09%
Other Responses	1	9.09%

2. How many acres do you own in the town?

	Count	Percentage	Respondent Percentage
A. Less than 20 acres	3	23.08%	23.08%
B. 20 to 39.9 acres	2	15.38%	15.38%
C. 40 to 59.9 acres	3	23.08%	23.08%
D. 60 acres or more	5	38.46%	38.46%

3. How many parcels do you rent for agricultural pursuits?

	Count	Percentage	Respondent Percentage
A. Less than 20 acres	4	40.00%	50.00%
B. 20 to 39.9 acres	2	20.00%	25.00%
C. 40 to 59.9 acres	0	0%	0%
D. 60 acres or more	2	20.00%	25.00%
Other Text Responses	2	20.00%	25.00%

Appendix 1

4. How do you use your land?

		Count	Respondent
	Count	Percentage	Percentage
A. I farm all or most of my land	6	30.00%	46.15%
B. I rent additional land to farm	0	0%	0%
C. I rent all or most of my land out to others to farm	5	25.00%	38.46%
D. My land was formerly farmed, but is no longer farmed	1	5.00%	7.69%
E. I manage part or most of my lands for timber	2	10.00%	15.38%
F. I manage part or most of my lands for mining	0	0%	0%
G. I manage part or most of my lands for aggregate use	0	0%	0%
H. I manage part or most of my lands for fish habitat	0	0%	0%
I. I manage part or most of my lands for wildlife habitat	1	5.00%	7.69%
J. My land is kept open/undeveloped but not managed to produce income	2	10.00%	15.38%
K. Other	1	5.00%	7.69%
Other Text Responses	2	10.00%	15.38%
		Count	Respondent
Top 2 Text Responses	Count	Percentage	Percentage
I rent 70% of my land to others	1	5.00%	7.69%
for wildlife (3-4 ac. nursery)	1	5.00%	7.69%

Appendix 1

5. Please list the number of acres under cultivation (versus acres owned)

	Total	Responses	Average
	557.40	11	50.67

6. If you farm, what type(s) of farming do you practice

	Count	Percentage	Respondent Percentage
A. Dairy	0	0%	0%
B. Livestock	1	4.00%	8.33%
C. Poultry	2	8.00%	16.67%
D. Pasture/hay	4	16.00%	33.33%
E. Vegetables/grain crops	3	12.00%	25.00%
F. Orchard	0	0%	0%
G. Nursery/greenhouse	5	20.00%	41.67%
H. Specialty crops/organics	4	16.00%	33.33%
I. Christmas tree farm	0	0%	0%
J. Other	3	12.00%	25.00%
Other Text Responses	3	12.00%	25.00%
	Count	Percentage	Respondent Percentage
Top 3 Text Responses	Count	Percentage	Percentage
Wood Lots	1	4.00%	8.33%
Horse Boarding	1	4.00%	8.33%
Trees sold for nursery/landscaping	1	4.00%	8.33%

7. Is farming the primary source of your household's income?

	Count	Percentage	Respondent Percentage
A. Yes	3	25.00%	25.00%
B. No	9	75.00%	75.00%

8. Do you believe that new residential subdivisions should be allowed in areas where there is active farm use?

		Count	Respondent
	Count	Percentage	Percentage
A. Yes	5	45.45%	45.45%
B. No	6	54.55%	54.55%

9. Which of the following do you believe are or would be beneficial in keeping agriculture viable in farming areas in Town?

		Count	Respondent
	Count	Percentage	Percentage
A. Farm stands	11	16.18%	100.00%
B. Farmers markets	9	13.24%	81.82%
C. Farm stores/restaurants	9	13.24%	81.82%
D. Agri-tourism	10	14.71%	90.91%
E. Expanded home occupations	6	8.82%	54.55%
F. Bed and breakfasts	6	8.82%	54.55%
G. Horse stables and riding	6	8.82%	54.55%
H. Mining	0	0%	0%
I. Welding and machine shops	3	4.41%	27.27%
J. Private contractors	0	0%	0%
K. Slaughterhouse	3	4.41%	27.27%
L. Independent truckers	0	0%	0%
M. Privately-run outdoor recreation facilities	3	4.41%	27.27%
N. Other	1	1.47%	9.09%
Other Text Responses	1	1.47%	9.09%
		Count	Respondent
Top 1 Text Responses	Count	Percentage	Percentage
Affordable housing and health services for migrant farm workers	1	1.47%	9.09%

Appendix 1

10. Do you believe there is potential in Town for agriculture that could supply local restaurants, grocers, schools and institutions?

		Count	Respondent
	Count	Percentage	Percentage
A. Yes	12	100.00%	100.00%
B. No	0	0%	0%

11. Would you consider an arrangement to sell your development rights and/or agree to a conservation easement? This would involve your receiving the development value of your land in cash without the land being developed, yet you would retain ownership of the land and not have to provide public access. (Check one or two)

		Count	Respondent
	Count	Percentage	Percentage
A. Would consider	9	75.00%	75.00%
B. Not sure	0	0%	0%
C. Would not consider	1	8.33%	8.33%
D. Would like more information	1	8.33%	8.33%
Other Text Responses	1	8.33%	8.33%
		Count	Respondent
Top 1 Text Responses	Count	Percentage	Percentage
Have already done	1	8.33%	8.33%

Appendix 1

12. Would you favor the Town supporting such a program described in question # 11? (Check as many as apply)

		Count	Respondent
	Count	Percentage	Percentage
A. Whether or not you personally participate	9	60.00%	75.00%
B. If you learned more about it	3	20.00%	25.00%
C. If your neighbors also supported it	1	6.67%	8.33%
D. I am opposed because	1	6.67%	8.33%
Other Text Responses	1	6.67%	8.33%
		Count	Respondent
Top 1 Text Responses	Count	Percentage	Percentage
Tax burden	1	6.67%	8.33%

13. Over the next 10 years, I would like to: (Check as many as apply)

		Count	Respondent
	Count	Percentage	Percentage
A. Still be farming	8	27.59%	66.67%
B. Have a member of my family continue farming the land	7	24.14%	58.33%
C. Sell/rent my land for someone else to farm	5	17.24%	41.67%
D. Still be managing my land as woodlands	2	6.90%	16.67%
E. Still be managing my land for mining	0	0%	0%
F. Still be managing my land for aggregate use	0	0%	0%
G. Still be managing my land for fish habitat	0	0%	0%
H. Still be managing my land for wildlife habitat	1	3.45%	8.33%
I. Keep my land open/undeveloped but not managed to produce income	1	3.45%	8.33%
J. Sell a few or several building lots for development	3	10.34%	25.00%
K. Sell all of my land for development	0	0%	0%
L. Sell my development rights and continue farming	2	6.90%	16.67%

14. What else should the Town local government be doing to improve local agriculture?

Top 7 Responses	Count	Percentage
Better tax relief for farm land. Also encourage farming in school programs. Encourage programs related to land management and conservation.	1	14.29%
Building inspectors should be nice to farmers, don't tax agricultural buildings. We are converting a current ag only building to be a residence and ag building only b/c of taxes. It is stupid once it's a partial residence it will then have....	1	14.29%
Purchase development rights	1	14.29%
Support farmers they need little in the way of town services, keep tax rate on farmland at minimum.	1	14.29%
Respect the farmers and make sure everyone in the area is aware of the agriculture laws.	1	14.29%
Support use of local produce schools. Encourage use of local produce at SUNY-NP. Expand community garden ok w/NY tourism to promote agri-tourisim	1	14.29%
lower farm land taxes	1	14.29%

AGRICULTURAL AND FARMLAND PROTECTION: GLOSSARY OF TERMS

AGRICULTURAL DISTRICTS: Geographic areas designated as Agricultural Districts pursuant of New York State Article 25-AA. Agricultural Districts encourage the future conservation and production on agricultural lands through a system of economic and regulatory provisions as designed and enforced by the local government entity. These provisions may include lower property taxes, more flexible building code, and government infrastructure assistance. Landowners must ask local government to dedicate their property as an agricultural district.

TAX RELIEF: The use of creative tax relief mechanisms, as found below, may make agricultural production a more economically viable solution:

AGRICULTURAL ASSESSMENT: An assessment of property value based on its production capabilities and the value of that production. Assessment does not consider value of land for development, which is usually a higher value than for agricultural production. A lower assessment saves the landowner property taxes each year. In the state of New York, this amounts to more than \$70 million annually.

AD ALOREM LIMITATIONS: These are local limitations to ad valorem taxes – taxes which are paid based on the value of real estate or personal property at both the time of a transaction (purchase or inheritance) or on an annual basis. Ad valorem limitations may include no inheritance tax on agricultural lands in an agricultural district or lower tax rates for property classes in agricultural districts.

FARMERS' SCHOOL TAX CREDITS: Allows a farmer to deduct some or all of the school district taxes from his personal income tax.

FARM BUILDING EXEMPTIONS: New barns and farm buildings are exempt from real property tax for the first 10 years after construction. To claim Farm Building Exemptions, file New York form EA 483.

SALES TAX RELIEF FOR FARM SUPPLIERS: Farm suppliers such as feed, fertilizer, seeds and more are available to farmers on a tax exempt basis.

LOCAL TAX ABATEMENT: Often, local official will provide incentives to start, grow, or simply continue farm operations and improvements through the use of tax abatements. Tax abatements provide temporary relief from paying taxes on the property.

RIGHT TO FARM "PACKAGE" - New York State Code Section 308 protects a farmers "right to farm" from nuisance suits and over-restrictive local legislation. The commissioner of agriculture may declare a local ordinance or regulation to be unduly burdensome on a farmer and that the agricultural practice is in-fact necessary to on-farm production.

AGRICULTURAL AND FARMLAND PROTECTION PROGRAM:

Under New York State Agricultural and Markets Law, 25-AAA, the Commissioner of Agriculture has monies allocated to assist county governments in developing farmland protection programs and funding some of the protection. The two granting programs available are:

COUNTY FARMLAND PROTECTION PLANNING GRANTS: State assistance is available to cover up to 50% of the costs to develop agricultural and farmland protection plans. Grants range up to \$50,000.

PURCHASE OF DEVELOPMENT RIGHTS GRANTS: State assistance is available to counties and municipalities to cover up to 75% of the total costs for implementation activities to protect viable farmland. Implementation activities include the cost of the development rights (none if donated) and any transactional costs including surveys, insurance, legal fees, consulting fees, appraisals, and recording fees.

APPENDIX 3: GLOSSARY OF LAND USE TERMS AND EXPANDED EXAMPLES

TRANSFER OF DEVELOPMENT RIGHTS (TDR): A transfer of development rights separates the development rights from the ownership of the land and transfers it from one entity to another to develop a parcel of land. The ultimate affect is that it permits more dense development, hopefully on less fertile soils, while preserving the most fertile soils for agricultural use. As you will see in the example below, this development may be more dense than traditionally allowed in the receiving zone.

Development rights are defined by the zone which a property resides. An agricultural zone will have different development rights than a residential zone. In this example, development rights will be transferred from one agricultural zone (sending zone) to a single-family suburban zone (receiving zone). For the sake of the example, we'll assume the following criteria:

- 5% right of way for development (amount of land that must be set aside for public infrastructure)
- Floodplains – 20% of sending parcel
- Easements – 25% of sending parcel (never can develop that 25% so it doesn't have development rights associated with it)
- Soil quality of sending parcel – 0.5 (1 being most productive soils, 0.1 being least productive soils)
- Minimum lot size (receiving zone) – 2 acres
- Sending parcel – 100 acres

To determine the number of development rights to be transferred, we must first find the net acreage – the total acreage of lands with development rights. In this example, it is the total parcel size (100 acres) minus the floodplains (20%), easements (25%), and right of way (5%). The net acreage is 50 acres. The net acreage must now be adjusted to reflect the soil quality. The soil quality in this example is 0.5, reflecting just OK soil. Multiply the net acreage by 0.5 to get 25 adjusted acres. This reflects that the conservation of the sending unit was not of the highest value; a unit with prime soils (soil quality factor = 1) would have been able to send 50 developable acres, which carry a higher value to the purchasing (receiving) agent.

Last, the number of development right units is configured by dividing the adjusted acreage by the lot size of two acres. The number of units that can be built is now 13 (rounded up).

The conclusion is that the original 100 acre sending parcel is now 100% under conservation easement. The developer (receiver) has compensated the sending landowner for his development rights based on the value of the conservation (as determined by soil quality factor and existing non-developable lands). Most costs are shifted away from the public sector.

PRIVATE LAND TRUSTS: A private land trust is a 501.c (3) organization whose purpose is to obtain and monitor the conservation easements on private land parcels. The land trust may receive conservation easements on a donation basis (most typical) or may purchase the development rights (PDR) of the land. Due to the non-profit nature of the private land trust, it is unusually for them to have sufficient cash assets for PDR activities.

The private land trust unofficially acts as an educator and champion of land conservation in a community. They can take a proactive approach on educating landowners of the importance of conservation and the financial, community, and social benefits of conservation.

MITIGATION TECHNIQUES: Mitigation techniques provide for private industry cooperation in valuing and protecting land by placing an increased price on developing or failing to adhere to code on critical lands. Mitigation works by creating a “mitigation bank” in which tracts of land or monies may be received for use at a later time. This is a system of credits and debits. A developer wishing to develop on lands deemed to be of critical importance must allocate part of the land to the mitigation bank. If he violates code, he can elect to make a cash contribution to the mitigation bank. He essentially purchases a credit to offset the debit, or negative impact, of his development.

The mitigation bank will then use the land and funds to protect other lands and historical structures. Projects that a mitigation bank may take on include creating parks or providing buffers to historical districts.

Examples of mitigation plans can be found at:

- City of Davis, CA: [Click Here](http://tiny.cc/8oHzz) (<http://tiny.cc/8oHzz>)
- Tampa Bay, FL: [Click Here](http://tiny.cc/si5CJ) (<http://tiny.cc/si5CJ>)

Mitigation is often well received because it does not prohibit development, but rather creates a mitigation economy in which a private sector demand for finite credits places a fair price on the externalities of development. Further, the cost for mitigation is almost entirely on the private sector and allows for public sector preservation of green and public spaces such as parks.

AGRICULTURAL DISTRICTS: These are geographic areas designated as Agricultural Districts pursuant of New York State Article 25-AA. Agricultural Districts encourage the future conservation and production on agricultural lands through a system of economic and regulatory provisions as designed and enforced by the local government entity. These provisions may include lower property taxes, more flexible building code, and government infrastructure assistance.

Agricultural districts are designated by the State once a landowner initiates the process, the county reviews it, the State certifies it, and the county accepts the agricultural district. One of the most significant benefits of the agricultural district is that it allows for an evolving definition of agriculture as set by the state. This prevents local governments from creating regulations that would be viewed as nuances to the agricultural sector.

LEASE OF DEVELOPMENT RIGHTS: A lease of development rights (LDR) is similar to a purchase of development rights and conservation easement except that it is temporary and does not include many of the attractive tax benefits.

In an LDR arrangement, a landowner does not sell nor donate his conservation easement; instead, he sells a lease to his development rights for a finite time. The landowner collects money from the community for protecting the land temporarily. Usually, this is while the county and municipal governments revise their farmland protection plan and regulations.

This protects lands from immediate development and also allows the local government(s) to better plan their conservation. However, the LDR offer very few benefits to the landowner. There is no immediate or long term tax effect (see conservation easement). Further, the additional time may

encourage speculation as developers purchase desirable lands with the intention to sell, lease, or leverage the conservation value at some point in the future.

An example in the Shenandoah Valley: [Click Here](http://tiny.cc/4BXNi) (<http://tiny.cc/4BXNi>)

AGRICULTURAL CONSERVATION EASEMENT: For many of the tools listed above, the conservation easement is the backbone of their value. The conservation easement separates the development rights from the land and production on the land. The conservation easement is a voluntary agreement between a private landowner and a land trust or government entity that acts as the guardian to the easement into the future. The land may still be sold and, depending on how the easement is written, the current agricultural activities may continue on the easement. This protects the land indefinitely.

An alternative to a conservation easement may be a deed restriction. The difference is that the deed restriction is not indefinite and therefore does not follow the land in the event of sale. Furthermore, deed restrictions do not provide any tax benefit and are also more difficult to defend in courts. Courts will interpret a deed restriction in favor of the least restrictive, and possibly most harmful, use.

Conservation easements are often donated to land trusts because the private landowner receives an immediate and reciprocal tax benefit. The immediate tax benefit is that a part of the value of the land is considered a non-cash charitable donation (IRS Form 8283). The portion considered a donation is the difference between the value of the land with the easement and the value of the land without the easement. Land with a conservation easement on it is usually less valuable because there are no development opportunities.

Because the land is now less valuable, the annual property tax on the land is considerably less. This has several benefits. It increases the farm's economic viability, and by doing so, it increases the attractiveness of the farm operation to future generations.

Finally, conservation of farmland as well as green, scenic, and open space has proven to be a powerful economic engine. This was first documented in the 1880s when the term "Central Park Effect" was used. The argument is that citizens enjoy green, scenic, and open spaces. This attracts citizens, and the population base attracts businesses; all are taxpayers. Due to the demand for green space, property near green space has a higher value, often 10% to 20% higher. Overall, green land can help increase city revenues.

Finally, the conserved land also helps reduce city operating costs, particularly by helping to manage stormwater runoff. Runoff that goes down sewage drains must go through water treatment plants, whose size and cost are proportional to the amount of water needing treated. These lands also have lower maintenance and infrastructure costs as compared to the paved roads, sidewalks, and streetlights of developed areas.

In the Central Park example, the park is attributed to creating \$535 million in tax dollars through real property values in 2007. That was 15% of the city's entire property taxes. For more on the Central Park Effect, [Click Here](http://tiny.cc/dgtlO). (<http://tiny.cc/dgtlO>)

Town of Kinderhook Zoning Code

(Excerpted from Town of Kinderhook webpage: www.kinderhook-ny.gov on March 6, 2005)

ARTICLE I

Purpose and Definitions

~ 81-1. Purpose.

This chapter is enacted pursuant to the Municipal Home Rule Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, to protect and promote public health, safety, morals, comfort, convenience, economy, town aesthetics and the general welfare, and for the following additional purposes:

- A. To promote and effectuate the orderly physical development of the Town of Kinderhook.
- B. To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property.
- C. To provide adequate and suitably located commercial facilities.
- D. To protect rural character.
- E. To regulate building densities in order to assure access of light and circulation of air, in order to facilitate the prevention and fighting of fires, in order to prevent undue concentration of population, in order to lessen congestion on streets and highways and in order to provide efficient municipal utility services.
- F. To improve transportation facilities and traffic circulation and to provide adequate off-street parking and loading facilities.
- G. To realize a development plan properly designed to conserve the use of land and the cost of municipal services.
- H. To assure privacy for residences and freedom from nuisances and things harmful to the senses, including air pollution.
- I. To protect the community against unsightly, obtrusive and noisome land uses and operations.
- J. To enhance the aesthetic aspects throughout the entire community and maintain its present natural beauty.
- K. To accommodate development appropriate to the economic well being of the Town.

- L. To create a land use pattern that strengthens the traditional patterns and that strengthen the communities of Valatie and Village of Kinderhook.
- M. To conserve soils of statewide and local significance and current agricultural lands.
- N. To protect open space, scenic vistas. Agriculture and historical locations.
- O. To continue light industrial accessibility and use of properties adjacent to rail lines.

~ 81-2. Definitions...

FARM-RELATED BUSINESS – A business operated on a farm parcel, related to or supporting agricultural activities, including, but not limited to U-Pick operations.

FARMING OPERATIONS or FARM -- A parcel of land used for agricultural activities including horticulture, animal husbandry, forestry, and production nurseries and greenhouses for profit

FARM MARKET -- A permanent structure that is owned and/or operated by a farmer which primarily sells agricultural products and related goods to the general public.

FARM PARCEL – See Farming Operations or Farm.

FARM STAND -- A nonpermanent structure, in excess of 30 square feet in size, such as a table, vehicle, wagon or tent, used for the sale of agricultural products grown, raised or produced on the same premises.

J. Agriculture.

(1) The processing and storage of agricultural products, including packing, warehousing and storing, is permitted, except that slaughterhouses, rendering, fertilizer plants and canneries are prohibited. The unenclosed storage of manure or areas for storage of dead fowl or other odor-or-dust producing substances or use shall not be permitted within 100 feet of a property line or public street right-of-way. The storage of manure shall be done in a prudent manner with periodic removal consistent with good agricultural practices. Facilities or structures for the storage of livestock, as defined by ~ 301 of Article 25AA, Agricultural Districts, of the New York State Agriculture and Markets Law, must be set back a minimum of 100 feet from the property line. The free range of livestock outside of the property line is not permitted.

(2) However, the temporary placement of facilities or structures for the storage of livestock, used for education purposes only, would only need to meet the setback requirements noted in the density control schedule for the zoning district in which the property is located. "Temporary" means the structure or facility for the housing of livestock will be removed within a period of one year or less. In addition, the Code Enforcement Officer must be notified in writing upon the start and end date of the proposed temporary facility or structure.

(3) Facilities or structures for the storage of livestock or manure which preexist the date of this subsection can remain in place as long as they do not become a public nuisance.

(4) Right to farm. Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Kinderhook at any and all such times and at such locations as are reasonably necessary to conduct the business of farming. For any farming activity or operation, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry, as well as to advances resulting from increased knowledge and improved technology. For farms located within a designated NYS Agricultural District, the New York State Department of Agriculture and Markets shall determine what agricultural practices are to be considered reasonable.

(5) Presumption to exist. There shall exist a presumption that no agricultural use that conforms to all relevant federal, state or local statutes, rules and regulations or ordinances and which does not pose a direct threat to public health and safety shall constitute a public nuisance, nor shall any such use be deemed to otherwise invade or interfere with the use and enjoyment of any other land or property.

(6) Notice to existing and prospective residents. Any landowners who sell or transfer property located in a NYS agricultural district or within 500 feet of an existing agricultural operation are required to provide a disclosure notice to prospective buyers or transferees stating: "It is the policy of this state and this Town to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This notice is to inform prospective residents or new land users that the property they are about to acquire lies partially or wholly within an agricultural district, or adjacent to an existing agricultural operation and that farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust, odors, the operation of machinery, and the storage and disposal of manure. Owners, occupants, and users of this property should be prepared to accept such inconveniences and discomfort." Receipt of the disclosure statement must be recorded on a property transfer report prescribed

by the New York State Board of Equalization and Assessment.

(7) Subdivision in Agricultural Districts. New dwellings in any subdivision should be sited to ensure maximization of open land for agriculture. The building envelopes should be located so as to disturb the least amount of prime agricultural soils as possible.

(8) Compliance with NYS Agriculture and Markets Law 25AA. The Planning Board and Zoning Board of Appeals shall ensure that the Town follows required procedures from NYS Agriculture and Markets Law 25AA, Section 305 and 305-a prior to all zoning, subdivision and site plan approvals in and within 500 feet of a designated NYS Agricultural District. All requirements including the notice of intent, agricultural impact statement, and review of the application by the Columbia County Agriculture and Farmland Protection Board shall be followed. The Town shall ensure that local planning approvals recognize the policy and goals of the NYS agriculture districts law and avoid unreasonable restrictions on farm operations with such districts.

(9) Farm-related businesses. Farm-related businesses that are conducted outside the home, but on the farmed parcel, are subject to the following regulations:

- (a) no more than three acres of land shall be devoted to such use, including areas used for structures, parking, storage, display, setbacks, and landscaping. Any lane serving the farm-related business and a home and/or farm contained on the same lot shall not be included as lot area devoted to a farm-related business. No additional lane or curb cut to access the farm-related business shall be allowed.
- (b) No more than 50% of the area devoted to a farm-related business shall be covered by buildings, parking lots, or any other impervious surface.
- (c) The owner or occupant of the farm must be engaged in the farm-related business.
- (d) no more than two full-time and two part-time persons, other than individuals who reside on the farm may be employed in the farm-related business.
- (e) the use must be conducted within a completely enclosed building typical of farm buildings.
- (f) any outdoor storage of supplies, materials or products shall be located behind the building in which the farm-related business is conducted.

(10) For lands located in the Prime Farm Overlay District, see ~81-33.

(1) Farm Markets. The purpose of this section is to protect and regulate the establishment and operation of farm markets, as defined in ~ 81-2, so they may continue to be a resource for farmers and tourism for the Town of Kinderhook.

- (a) The size of the retail portion of the farm markets must not exceed 1,600 square feet.

(b) At least 75% of the retail floor area must be utilized for the sale of agricultural, dairy or horticultural products.

(c) No more than 25% of the retail floor area can be utilized for the sale of complimentary goods.

(d) Farm markets can offer either preharvested or customer-picked products.

(e) Minimum parking requirements are one space for 100 square feet of retail floor space.

~81-33. Prime Farmland Overlay District.

A. Applicability and Purpose. The Town of Kinderhook desires to protect its agricultural resources, especially prime farmland soils and to prevent non-agricultural uses from negatively impacting continuation of farming as a preferred use. The following standards shall apply to all lands included and mapped as being in the Prime Farmland Overlay District.

B. Standards.

(1) Conservation Subdivisions shall be mandatory for any division of land within this district (See Subdivision Regulations, Section 63-19).

(2) Avoidance of Building on Prime Soils. In reviewing any subdivision, site plan or special use permit application, the Planning Board shall require that structures, except farm structures, and impermeable surfaces be located on those portions of a tract of land where they will have the least negative impact on agricultural soils and agricultural operations. Construction of buildings on areas of steep slopes, wetness, or locations posing difficult lot configuration or road access problems shall be avoided.

(3) Buffering Agricultural Uses. Each new residence must be placed at least 200 feet away from the boundary between it and the agricultural parcel. A similar setback shall be required for placement of a new farm structure when it is adjacent to existing residential units. A buffer will be required between farmland located within a NYS agricultural district and any new residential, commercial or industrial development. A major subdivision must have a 30 foot wide vegetated buffer placed 20 feet away from the boundary of any land used for agricultural purposes. The applicant for a new land use has the responsibility to provide for this buffer. The buffer should not be established in a way that impedes farm operations. Existing hedgerows or woods, if present, shall be maintained between the new use and the agricultural operation. In cases where there is no existing vegetation, berms and landscaping can be used as buffers.

10 yr. Agricultural Conservation Agreement

Agreement between _____ (**Grantor**) residing at _____, hereinafter referred to as “Grantor”, and the Polk County North Carolina Agricultural Development and Farmland Preservation Advisory Board, with its headquarters located at P. O. Box 236, #4 Courthouse Annex Bldg., Columbus, North Carolina, hereinafter referred to as the “Board”, (Grantee).

Whereas, on April 17, 2006 the Polk County North Carolina Agricultural Development and Farmland Preservation Advisory Board adopted the Enhanced Farmland Preservation ordinance for the purpose of preserving agricultural lands through voluntary agricultural agreements, and

Whereas, Grantor presently owns a parcel(s) of land hereinafter briefly described as:

ALL THAT TRACT OR PARCEL OF LAND Situated in Township (Description of property)

Tax Account Number:

The Grantor desires to enroll in the Enhanced Farmland Preservation Program.

Now, therefore, in consideration of the above desires and purposes, the parties hereto mutually agree and covenant as follows:

1. Grantor agrees to abide by restrictions cited in Article VII of the Enhanced Farmland Preservation Ordinance, and hereby do restrict, the use and development of said parcel of land.
2. The restrictions cited in Article VII of the Enhanced Farmland Preservation Ordinance shall commence immediately upon the recording of this instrument by the parties hereto and shall continue for a term of ten (10) years. This restriction shall be considered a covenant running with land and shall apply to any successor, assignees, heirs, devisees, or transferees from the Grantor but shall not require the consent of the Board, or in any way inhibit the ability of the Grantor to convey fee title or to lease or mortgage said land.
3. The ownership of the subject parcel shall remain with the Grantor, his heirs, devisees, transferees, successors or assigns and no rights are conveyed by reason of this easement to any person nor are any rights conveyed to enter upon said land without the consent of the Grantor.
4. The parties hereto agree that this easement is offered by the Grantor and will be received by the Board under the authority conferred by the North Carolina G. S. Section 106-735 thru 106-744 Chapter 153A, in conjunction with Ratified House Bill 607, and is subject to the provisions of said law as the same and may be amended from time to time.

5. At the expiration of said term, this Agreement shall be automatically renewed for a term of three (3) years, unless notice of termination is given in a timely manner by either party as prescribed in the ordinance establishing the Enhanced Agricultural Program. If no action is taken by either party, this agreement is terminated in total at the end of thirteen (13) years.

IN WITNESS WHEREOF, the parties hereto have caused their signatures to be hereunto affixed this ____ day of _____, 20__.

Notary Signature

Grantor

Polk County North Carolina Agricultural Development and Farmland Preservation Board

By: _____
Doug Harmon, Chairman
Grantee

CRITICAL FARMS QUICK NOTE

Responding Quickly to Save Critical Farms in Carroll County, Maryland

Located within easy commuting distance of both Baltimore and Washington, DC, Carroll County, Maryland set a goal for itself in the late 1970's of permanently protecting 100,000 acres of farmland. They enacted 1:20 cluster zoning (a change from 1:1 zoning) to stabilize the land base and began vigorous participation in the state purchase of development rights program. To date they have agricultural easements on over 33,000 acres. However, they discovered that the state program could not respond quickly enough when prime land was at the critical point of changing ownership.

The county's response was the development of a 'Critical Farms Program'. It functions as an enhancement to the state PDR program and guarantees a minimum easement value for farms that are being transferred. Applicants must be the contract purchasers or recent purchasers of a farm that qualifies for the state PDR program and that ranks high on the county's preference formula. Based on an appraisal of the value of the easement, the county offers the new owner a payment of 75% of easement value for an option for the county to acquire the easement at the end of the five-year period.

When the new owners receive the money for the option contract, they are obligated to put the farm in a state agricultural district and to offer to sell the easement to the state program for five years. If the state acquires the easement, the county is repaid the exact amount that was provided up-front (no-interest payment is required). The money is then recycled into the Critical Farms Program. At the end of five years, if the easement has not been purchased by the state, the farm owner has two options: repaying the County (with interest) for termination of the option agreement; or, accepting the easement as permanent with no additional payment from the county. Since it began in 1992, the Critical Farms Program has entered into 30 option contracts on 3,946 acres. So far almost all of easements have been purchased by the state and the remainder are in the pipeline. (See Appendix V for a copy of the application and the option contract.)

Carroll County's Critical Farms Program

Carroll County, Maryland has developed an interesting compliment to the state's PDR program. The county's "Critical Farms Program", created in 1992, allows landowners to sell the county the option to buy their conservation easement. The county pays 75% of the appraised easement value. In exchange, the landowner must apply to the state PDR program. If the state approves the application, the landowner must repay the county. If it is not approved within five years, the county owns the easement, unless the landowner repays the county, with interest, in 30 days.

The Critical Farms program works much quicker than the state's PDR program – thus helping to stabilize important farm properties. This innovative approach to securing critical farming areas may deserve further attention by Orange County as a compliment to local, state or federal PDR programs.



§ 73-3. Critical Farms Program.

A. There is hereby created in Carroll County a Critical Farms Program to provide contract purchasers and new owners who have purchased farms within the previous 12 months with preservation funding. The program protects certain specific agricultural property from subdivision or residential development through the use of options to purchase development rights easements on the property. An applicant for this program shall apply to the Program Manager, who will determine the eligibility of the farm pursuant to the provisions of Subsection B herein.

B. Eligibility. To be eligible for this program a farm must meet each of the following criteria:

(1) The farm must meet the requirements of the Maryland Agricultural Land Preservation Program for district formation and easement sale that are in effect at the time of the application, and must receive a favorable recommendation for district formation from the Carroll County Agricultural Land Preservation Advisory Board; and

(2) The applicant must submit documentation that:

(a) The applicant is the contract purchaser of the farm; or

(b) The farm has been purchased by the applicant within the previous 12 months; and

(3) For the purpose of this section, property zoned "C" Conservation shall be appraised as if having the same lot yield as property zoned "A" Agriculture.

C. Scoring. Once eligibility requirements have been met, the Program Manager shall calculate the total number of points assigned to the farm, based on a priority scoring system in effect at the time of application and recommended by the Carroll County Agricultural Land Preservation Advisory Board and approved by the Board of Commissioners of Carroll County.

D. Ranking. All information regarding eligibility criteria and scoring of an individual farm property for program applications received by the Program Manager prior to the end of a calendar month shall be presented to the Carroll County Agricultural Land Preservation Advisory Board at its next monthly meeting. The Board shall decide whether or not to include the farm in the ranking system.

E. Preliminary approval.

(1) Whenever the uncommitted funds of the Carroll County Agricultural Land Preservation Program may be sufficient to allow the funding of an option to purchase a development rights easement, the Program Manager will provide the Board of County Commissioners with the list of the active applicants with ranking.

(2) The Commissioners may grant preliminary approval to one or more applicants, always giving preference to the highest score. The Commissioners may also determine that none of the properties on the list have a score which is high enough to justify an option to purchase a development rights easement through this program.

F. Easement evaluation. After preliminary approval, the County Commissioners shall authorize an appraisal of development rights easement value conducted according to the guidelines of the Maryland Agricultural Land Preservation Program and shall consider any appraisal by the applicant. The appraisal shall be used by the County as the basis for approving an easement value.

(1) The maximum value of any development rights easement shall be the difference between the fair market value of the land and the agricultural value of the land. The fair market value of the land is the price as of the valuation date for the highest and best use of the property which a vendor, willing but not obligated to sell, would accept for the property, and which a purchaser, willing but not obligated to buy, would pay for the property if the property was not subject to any restriction imposed under this chapter.

(2) The agricultural value of land is the value as determined by the Agricultural Value Formula adopted by the Maryland Agricultural Land Preservation Foundation for the fiscal year in which the application is received.

(3) When an agreement as to the easement value has been reached, the Commissioners may grant the final approval of the option to purchase the development rights easement. Preliminary approval by the Commissioners does not obligate them in any way to grant final approval.

G. Option to purchase easement.

(1) Upon final approval by the Commissioners, the County shall agree in writing to extend to the applicant an option to purchase a development rights easement, in an amount equal to 75% of the agreed upon value of the easement, which option shall extend for a period of five years.

(2) This option shall include a statement that the farm in question shall be created as an Agricultural Land Preservation District. The option shall be recorded in the Land Records of Carroll County.

H. Easement sale. The recorded option to purchase will require that the applicant and his or her heirs or assigns actively pursue for a period of five years the sale of an easement to the Maryland Agricultural Land Preservation Foundation at an asking price no lower than the amount of the option to purchase the easement extended by the County. Any offer from the Foundation that equals or exceeds the amount of the option must be accepted by the applicant.

(1) If the Foundation purchases a development rights easement from the applicant during this five year period, the full amount of the County option shall be repaid at the settlement of the easement. Any offer made by the Foundation which is equal to or greater than the amount of the County option must be accepted and the entire option amount paid to the County at the time of

easement settlement. Settlement of a Foundation easement and payment of the proceeds to the county shall release the applicant from any additional obligation of the option to purchase by the County.

(2) If a development rights easement has not been purchased by the Foundation within five years, the applicant may rescind the option to purchase by repaying to the County within 30 days the full selling price of the option, plus interest for the entire period of the option, at the legal rate in effect at the time of rescission. If the applicant does not cancel the option, the County will exercise the option contained in the agreement and purchase the development rights easement for such consideration as has already been established. The terms of the easement agreement will be the standard easement terms of the Foundation.

Chapter 173, RIGHT TO FARM

[History: Adopted 12/2/94 by Ord. No. 127. Amendments noted where applicable.]

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| § 173-1. Findings and policy. | § 173-5. Right to farm notice and real estate transfer disclosure. |
| § 173-2. Definitions. | § APPENDIX A |
| § 173-3. Limitation of actions. | § APPENDIX B |
| § 173-4. Resolution of disputes and procedure for complaints; investigation and declaration. | |

§ 173-1. Findings and policy.

A. It is the declared policy of the county to preserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. It is the purpose of this chapter to reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance, trespass, or other interference with the reasonable use and enjoyment of land, including, but not limited to, smoke, odors, flies, dust, noise, chemicals, or vibration, provided that nothing in this chapter shall in any way restrict or impede the authority of the state and of the County to protect the public health, safety, and welfare. *[Amended 11/21/02 by Ord. No. 02-18]*

B. It is in the public interest to promote a more clear understanding between agricultural operations and nonagricultural residential neighbors concerning the normal inconveniences of agricultural operations which follow generally accepted agricultural practices and do not endanger public health or safety.

C. This chapter is not intended to and shall not be construed as in any way modifying or abridging local, state, or federal laws relating to health, safety, zoning, licensing requirements, environmental standards (including those standards which relate to air and water quality), and the like.

D. An additional purpose of this chapter is to promote a good-neighbor policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or use. These potential problems include, but are not limited to, noises, odors, dust, flies, chemicals, smoke, vibration, and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

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However, this chapter shall be effective regardless of whether disclosure was made in accordance with § [173-5](#) herein.

§ 173-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL LAND -- All real property within the boundaries of Carroll County that is lying in the Agriculture and Conservation Districts, or that is lying in other zoning districts if carried on the tax rolls of the State Department of Assessments and Taxation as agricultural or that is lying in other zoning districts if it has been used as an agricultural operation continuously for one year. *[Amended 11/21/02 by Ord. No. 02-18]*

AGRICULTURAL OPERATION -- Includes, but is not limited to, all matters set forth in the definition of "operation" in the Courts and Judicial Proceedings Article of the Annotated Code § 5-308(a), as amended from time to time; the production of all matters encompassed within the definition of "farm product" in the Agriculture Article of the Annotated Code § 10-601(c), as amended from time to time; the cultivation and tillage of the soil; composting; production, harvesting, and processing of agricultural crops; raising poultry; production of eggs; production of milk and dairy products; production of livestock, including pasturage; production of bees and their products; production of fish; production of fruit, vegetables, and other horticultural crops; production of aquatic plants; aquaculture; production of timber and any commercial agricultural procedure performed as incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market; and usage of land in furtherance of educational and social goals, such as 4-H, Future Farmers of America, and the like.

GENERALLY ACCEPTED AGRICULTURAL PRACTICES -- Those methods used in connection with agricultural operations which do not violate applicable federal, state, or local laws or public health, safety, and welfare and which are generally accepted agricultural practices in the agriculture industry. "Generally accepted agricultural practices" includes practices which are recognized as best management practices and those methods which are authorized by various governmental agencies, bureaus, and departments, such as the Carroll County Cooperative Extension Service of the University of Maryland, the Carroll County Natural Resource Conservation Service, and the like. If no generally accepted agricultural practice exists or there is no method authorized by those agencies mentioned herein which governs a practice, the practice is presumed to be a generally accepted agricultural practice.

§ 173-3. Limitation of actions.

A. A private action may not be sustained with respect to an agricultural operation conducted on agricultural land on the grounds that the agricultural operation interferes or has interfered with the use or enjoyment of property, whether public or private, if the agricultural operation was, at the time the interference is alleged to arise, conducted substantially in accordance with generally accepted agricultural practices.

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B. Notwithstanding any provision of this section, no action alleging that an agricultural operation has interfered with the reasonable use or enjoyment of real property or personal well-being shall be maintained if the plaintiff has not sought and obtained a final judgment of the agricultural reconciliation committee, as defined in § [173-4](#) herein.

§ 173-4. Resolution of disputes and procedure for complaints; investigation and declaration.

A. Nuisances which affect public health.

(1) Complaints. A person may complain to the Carroll County Health Department to declare that a nuisance which affects public health exists.

(2) Investigations. The Health Officer may investigate all complaints of nuisance received against an agricultural operation. When a previous complaint involving the same condition resulted in a determination by the Health Officer that a nuisance condition did not exist, the Health Officer may investigate the complaint, but the Health Officer may also determine not to investigate such a complaint. The Carroll County Health Department may initiate any investigation without citizen complaint.

(3) Declaration of nuisance. If the Health Officer determines that a nuisance exists, the Health Department may declare the existence of a nuisance. In determining whether a nuisance condition exists in connection with an agricultural operation, the Health Officer shall apply the criteria provided in this chapter. Further, the Health Officer may consider the professional opinion of the Carroll County Cooperative Extension Service of the University of Maryland, or other qualified experts in the relevant field in determining whether the agricultural operation being investigated is conducted in accordance with generally accepted agricultural management practices.

B. Resolution of disputes regarding agricultural operations.

(1) Should any matter arise regarding an interference with the use or enjoyment of property from agricultural operations conducted on agricultural land, the parties to that matter shall submit the matter to the Agricultural Reconciliation Committee by first contacting the Agricultural Land Preservation Program Administrator, Carroll County Department of Planning, 225 North Center Street, Westminster, Maryland, 21157. *[Amended 11/21/02 by Ord. No. 02-18]*

(2) There is hereby established the Carroll County Agricultural Reconciliation Committee, which shall arbitrate and mediate disputes involving agricultural operations conducted on agricultural lands and issue opinions on whether such agricultural operations are conducted in a manner consistent with generally accepted agricultural management practices.

(3) The Agricultural Reconciliation Committee shall be composed of five persons. The Carroll County Board of County Commissioners shall appoint the members of the Agricultural Reconciliation Committee, one member shall be from a municipality and chosen from a list of recommendations submitted by the Carroll County Chapter of the Maryland Municipal League, one member shall be a member of a homeowners' association and a resident of Carroll County,

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one member shall be a resident of Carroll County who is not engaged or otherwise has a pecuniary interest in the commercial practice of agriculture, and 2 members who shall be members of the Agriculture Commission and selected as set forth herein. The Agriculture Commission shall select from among its members on a case-by-case basis, 2 people with competence in the subject matter of the dispute at issue, whose names shall be submitted to the Board of County Commissioners and upon the Board's approval shall serve as members of the Agricultural Reconciliation Committee.

(4) The Agricultural Reconciliation Committee will conduct its proceedings in an informal manner, and the rules of evidence shall not apply. The Agricultural Reconciliation Committee has the power, but is not required hereunder, to hold hearings, to compel testimony under oath and the production of documents. In each case before it the Agricultural Reconciliation Committee shall issue orders settling or otherwise resolving controversies arising out of agricultural operations, including but not limited to the invasion of property and personal rights by agricultural operations conducted on agricultural land. Proceedings shall be conducted in accordance with the duly adopted Rules of Procedure for the Carroll County Agricultural Reconciliation Committee which may be amended from time to time. The Reconciliation Committee will render a written decision within 30 days of the final proceedings and may extend the decision deadline for one additional 30 day period. *[Amended 11/21/02 by Ord. No. 02-18]*

(5) Orders of the Agricultural Reconciliation Committee shall be binding on the parties as a matter of law, but their enforcement shall be suspended by operation of law if, within 30 days of the date of the Committee's judgment, a party appeals such order to the Circuit Court for Carroll County. Appeal from orders of the Committee shall be by a trial de novo.

(6) If the Agricultural Reconciliation Committee or a Court finds that the conduct of a party in bringing or maintaining an action in connection with an agricultural operation conducted on agricultural land was in bad faith or without substantial justification, the Reconciliation Committee or Court may require that party to pay to the owner of the agricultural operation (or any other party opponent) the costs of the proceeding and the reasonable expenses, including reasonable attorney's fees, incurred by that party in defending against the action.

§ 173-5. Right to farm notice and real estate transfer disclosure.

A. Upon any transfer of real property by any means, the transferor shall provide the purchaser or lessee a statement specifically advising the purchaser or lessee of the existence of this chapter which shall be in substantially the form set forth in Appendix A at the end of this chapter.

B. Any person who violates any provision of this section is guilty of an infraction punishable by a civil penalty not exceeding \$100.00. Failure to comply with any provision of this right to farm notice and real estate transfer disclosure section shall not prevent the recording of any document, or the title to real property or any mortgage or deed of trust made in good faith or for value, and it shall not affect the application of this chapter. *[Amended 11/21/02 by Ord. No. 02-18]*

APPENDIX A **REAL ESTATE TRANSFER DISCLOSURE STATEMENT**

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY LOCATED IN THE COUNTY OF CARROLL, STATE OF MARYLAND, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE EXISTENCE OF THE CARROLL COUNTY RIGHT TO FARM ORDINANCE IN COMPLIANCE WITH CHAPTER 173 OF THE CODE OF PUBLIC LOCAL LAWS AND ORDINANCES OF CARROLL COUNTY (RIGHT TO FARM).

SELLER'S INFORMATION

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

AGRICULTURAL OPERATIONS (as defined in the Carroll County Right to Farm Chapter) LAWFULLY EXIST IN ALL ZONING DISTRICTS WITHIN THE COUNTY. You may be subject to inconveniences or discomforts arising from such operations, including but not limited to noise, odors, fumes, dust, flies, the operation of machinery of any kind during any 24-hour period (including aircraft), vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, and pesticides. Carroll County has determined that inconveniences or discomforts associated with such agricultural operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural management practices. Carroll County has established a reconciliation committee to assist in the resolution of disputes which might arise between persons in this county regarding whether agricultural operations conducted on agricultural lands are causing an interference with the reasonable use and enjoyment of land or personal well being and whether those operations are being conducted in accordance with generally accepted agricultural practices. If you have any questions concerning this policy or the reconciliation committee, please contact the Carroll County Planning Department for additional information.

Seller _____

Date: _____

Seller _____

Date: _____

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT:

Buyer _____

Date: _____

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Buyer_____

Date:_____

IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

APPENDIX B **CARROLL COUNTY RIGHT TO FARM NOTICE**

Carroll County recognizes and supports the right to farm agricultural lands in a manner consistent with generally accepted agricultural management practices. Residents of property on or near agricultural land should be prepared to accept the inconveniences or discomforts associated with agricultural operations, including but not limited to noise, odors, flies, fumes, dust, the operation of machinery of any kind during any 24-hour period (including aircraft), vibration, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Carroll County has determined that inconveniences or discomforts associated with such agricultural operations shall not be considered to be an interference with reasonable use and enjoyment of land, if such operations are conducted in accordance with generally accepted agricultural practices. Carroll County has established an agricultural reconciliation committee to assist in the resolution of disputes which might arise between persons in this county regarding whether agricultural operations conducted on agricultural lands are causing an interference with the reasonable use and enjoyment of land or personal well being and whether those operations are being conducted in accordance with generally accepted agricultural practices. If you have any questions concerning this policy or the reconciliation committee, please contact the Planning Department.

Installment Purchase Agreements to Save Farmland

Introduction

The use of installment purchase agreements to save farmland is an innovative funding mechanism that has generated a great deal of interest as PACE programs gear up around the country. Its two-fold purpose is to help programs successfully compete with developers by providing unique financial and tax advantages to landowners and to enable jurisdictions to leverage present and future revenues to protect land while it is still available. First applied to the purchase of development rights in Howard County, Maryland in 1989, installment purchase agreements are now being used in a number of other jurisdictions as well to protect farmland.

What is an installment purchase agreement?

An installment purchase agreement (IPA) to save farmland is an alternative to a lump sum payment for the purchase of an agricultural conservation easement (PACE). Jurisdictions with PACE programs may use this landowner payment method if it suits their goals and conditions are right. An IPA is used by a governmental entity to buy agricultural conservation easements and pay for them over time with dedicated revenues and maturing zero coupon bonds that were purchased at closing.

What are the components?

An agricultural conservation easement is a binding legal instrument, recorded in the land records, that restricts land to its agricultural and natural resource uses. The landowner continues to own the land and may sell it for its restricted value. The easement is permanent and binds all future owners as well.

An installment purchase agreements (IPA) is the vehicle of payment by the jurisdiction to the landowner. Instead of cash at settlement, the landowner is given an installment purchase agreement, which is a legal, valid and binding promise to pay in 20 or 30 years (typical time periods). While the principal will not be paid until the end of that time period, tax-free interest on the face value of the IPA will be paid to the landowner (or whomever holds the IPA) twice a year for the term of the agreement. While IPAs are used to buy permanent easements that bind all future owners of the land, the IPA itself is separate from the land and the easement and can be transferred to someone other than the original grantor of the easement.

A dedicated revenue source is a steady income stream to the jurisdiction during the term of its IPA commitments that is used to make the interest payments to the holders of the IPA's.

A zero-coupon bond is the means of financing the principal “balloon” payment at the end of the term of the IPA. A jurisdiction buys these U.S. Treasury bonds at a deep discount from their face value because they pay no periodic interest payments. Instead, the interest from the zero-coupon bond builds up over time (accretes) and is paid in a lump sum at maturity when the bond is

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redeemed at its face value. After buying the “zero”, the government entity simply holds it until maturity in order to make the final principal payment to the holder of the IPA.

How does it work?

A landowner voluntarily applies to sell an agricultural conservation easement to a government farmland preservation program. After going through a process of eligibility determination, public notice, priority ranking, price determination, and official approval action, a date is set for settlement of purchase of the easement. The day before settlement, the jurisdiction purchases a zero-coupon bond with a face value equal to the purchase price of the easement. Because these bonds are deeply discounted, the jurisdiction only spends a small percentage (approximately 27% to 18% for a 20 to 30 year obligation) of the purchase price of the easement at the time of sale. On that same day, the interest of the IPA is locked in at a at least equal to the yield on the zeros purchased. A jurisdiction may choose to guarantee a minimum interest rate on the IPAs for predictability during the easement acquisition process. If this is the case, then, on the day of settlement, the interest rate to the landowner from the IPA is the higher of the jurisdiction’s minimum or the zero’s yield . This interest remains the same throughout the term of the IPA.

At settlement, the landowner grants a permanent agricultural conservation easement to the jurisdiction that is recorded in the land records. An installment purchase agreement (IPA), which has the full faith and obligation of the jurisdiction behind it, is given to the landowner to hold until the end of its term (typically 20 or 30 years). The jurisdiction makes twice yearly interest payments to the holder of the IPA over this term. These interest payments come from whatever identified revenue source the jurisdiction has established.

Why use it?

The use of installment purchase agreements has advantages for both the landowners and the jurisdiction that is purchasing conservation easements.

The **landowner**, who has sold the easement and accepted an installment purchase agreement as compensation, receives semi-annual interest payments on the face value of the IPA. This stream of **interest income** over the term of the agreement (typically 20 or 30 years) is **tax exempt** from federal, state and local income taxes. By entering into an IPA for the sale of a conservation easement, a landowner may **defer capital gains** until they actually receive the principal amount at the end of the term.

If the landowner needs to realize the purchase price of the easement during the term of the agreement, the IPA can be securitized, that is, sold on the bond market. This particular course of action does trigger capital gains, however. The ability to sell the IPA offers **flexibility for better estate planning**. If they choose, the heirs can sell the IPA rather than having to sell the land to pay estate taxes.

As with lump sum payments for easements, if a landowner agrees to a price for the easement that is less than its appraised value, they may be able to realize a **charitable tax deduction** on their federal income taxes for the difference.

All of these financial and tax advantages are in addition to the traditional advantages to selling an easement rather than selling out to development – namely, the ability to keep one’s home, land

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and livelihood. As one Howard County farmer said when weighing his choices, “It’s not what you get, it’s what you get to keep!”

When a jurisdiction enters into an IPA with a landowner, it purchases zero-coupon bonds for the face value of the easement. The “zeros” cost the jurisdiction approximately 10% of their face value. The jurisdiction holds this bond while it accrues in value and then uses it to pay the “balloon” principal payment at the end of the term of the IPA. The use of these two components offers several **advantages to jurisdictions**. Payment with an IPA requires **minimal depletion of program funds** while protecting large numbers of acres at a critical point in time. By financing the principal payments with zeros, the jurisdiction **leverages dollars over time** but does not leave future governments with balloon payments.

The landowner’s “bundle of benefits” - financial, tax, flexibility, and intangibles – can make the jurisdiction’s offer competitive with developers and may make some landowners willing to sell easements at less than full easement value. This allows for further leveraging of current dollars by the jurisdiction.

History

The use of installment purchase agreements for farmland protection was pioneered in Howard County, Maryland in 1989. Equidistant between Baltimore, Maryland and Washington, D.C., Howard County experienced intense development pressure in the 1970s and 1980s. The county participated in the state purchase of development rights (PDR) program for a number of years, beginning in 1980. In 1982, after a public referendum, the county began its own program, funded by a dedicated portion of a 1% real estate tax. By 1987, the state and county programs had protected 7,500 acres. The late eighties brought intense development pressure and the purchase of development rights program stalled because land prices had risen dramatically and the lump sum payments were not nearly enough to be a viable option for farmers. The farmland available for protection was rapidly diminishing and the county was challenged to find a way to make the program work or give up on ten years of farmland protection.

The solution came in the form of a reinvigorated program conceived by financial advisor Daniel P. O’Connell that combined installment purchase agreements and zero-coupon bond financing with traditional elements of a farmland protection program. Directed by the County Executive, county agencies, financial advisor and bond counsel worked together to develop the innovative approach. Once up and running in 1989, the county began buying easements at a rate that allowed it to double, in the first three years, the acreage accomplishments of the previous ten years. It became a viable alternative to development for almost 80 landowners, preserving another 9,000 acres to date. In the process it has allowed the county to leverage \$9 million upfront and \$3 million annually to enter into \$55 million worth of IPAs . Ten of the IPAs have been sold by landowners through competitive bids to local brokerage firms in order to liquidate them. In 1990, the new program won The Government Finance Officers Association Award for Excellence in Financial Management.

Since then, Harford County, Maryland, Burlington County, New Jersey, Peninsula Township, Michigan, and Virginia Beach, Virginia have developed PACE programs using installment purchase agreements and zero-coupon bonds.

Transferability

The basic concept of paying for preservation easements through a long-term installment purchase agreement offering tax-exempt interest income and principal at the end of the term should be applicable in other public jurisdictions. The financing plan is adaptable for use by jurisdiction that 1) seeks to preserve for public purposes valuable assets owned by individuals, 2) is enabled under state and any applicable local laws to enter into bonding multi-year obligations. and 3) has a predictable cash flow for the term of the obligation.

Issues to Consider

Dedicated revenue stream - Since IPAs have the “full faith and obligation” of the jurisdiction behind it, the interest payments must be made throughout the term of the agreement. The ability to make the interest payments should be secured with a dedicated revenue source to ensure the smooth operation of the financing mechanism. The act of dedicating a revenue source to farmland protection, rather than leaving it to the uncertainties of annual budget allocations, reinforces the notion that farmland protection is a long-term investment, both in the land base for agriculture and in growth management.

Administrative costs – Once the program is set up, most of the operating expenses are those that accompany the running of the easement program itself, rather than the IPA. Somewhat more support from the county’s legal and finance departments may be needed and the county’s bond counsel assists in each settlement. A bank, serving as paying agent, mails semi-annual checks to IPA holders.

Authority - Since IPAs constitutes long-term debt, each agreement will require approval of the purchaser’s governing body in the same manner that bonds require approval. Different state and local laws may mandate voter or state regulatory/legislative approval, and may dictate the time and terms of each IPA. Finally, any state or local limitations on negotiating the sale of IPAs with balloon payments at the end will need to be addressed, potentially by using another government agency or authority as a conduit for payments. In general, however, a local government can enter into IPAs if it can negotiate the sale of general obligation bonds.

FOR MORE INFORMATION, CALL:

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INTRODUCTION:

The following guidelines will be used by the Town of New Paltz Clean Water and Open Space Preservation Commission as a screening system for all conservation projects. A project is not expected to meet all of the criteria within this document. Some projects may have a single purpose (such as farmland protection or stream protection). Other projects may provide multiple benefits – such as a farm property adjacent to a stream with views of the Shawangunk Mountains. Projects will be evaluated for their significance in a single category or categories as well as their cumulative benefit to the community.

Some of the questions in this document will require on-site analysis of the property as well as discussions with the landowner. Time should be allocated for at least one site visit. Two visits may be required depending on the time of year and other factors. The results will be reviewed with the landowner.

A summary of the evaluation categories and maximum score follows:

Category	Maximum Score
1. Working Farms	100
2. Water Resources	80
3. Biodiversity and Ecological Resources	60
4. Scenic and Cultural Resources	60
5. Recreational and Educational Opportunities	40
6. Project Viability Subtotal	120
7. Discretionary Points	30
CUMULATIVE BENEFIT SUMMARY (TOTAL POSSIBLE SCORE)	480

Instructions: Record information about the project being evaluated below. Use the following pages to evaluate the project in each of the seven categories. Use the project rating summary sheet to tally the score.

Project name and location:

Parcel number(s):

Primary contact:

Name of person who prepared this form:

Date:

CATEGORY 1: WORKING FARMS

10 QUESTIONS; MAXIMUM SCORE = 100 POINTS

NOTE: SKIP THIS SECTION IF PROJECT DOES NOT INVOLVE A FARM PROPERTY

1. Is the parcel in a **“core farm area?”**

- ☐ > 1,000 – 10 points (block #1)
- ☐ 750 – 999 acres – 8 points (block #2)
- ☐ 500 – 749 acres – 6 points (block #3)
- ☐ 300 – 499 acres – 4 points (blocks 4 & 5)
- ☐ <300 acres – 2 points (block #6)
- ☐ No core farm area – 0 points

Explanation: Large clusters of working farms have the conditions and support systems that are likely to maintain agriculture in the long-term.

Note: see the “core farm areas” map.

2. What is the **size of the farm property** (or properties)?

- ☐ More than 200 acres – 10 points
- ☐ 151 – 200 acres – 8 points
- ☐ 101 – 150 acres – 6 points
- ☐ 51 – 100 acres – 4 points
- ☐ 26 – 50 acres – 2 points

Explanation: Preserving large farm properties helps to retain more land for agriculture.

3. What **percentage of the farm property is actively being farmed** or used for agricultural purposes (such as field crops, pasture, row crops, orchard, etc.)?

- ☐ 80% or more – 10 points
- ☐ 60% to 79% – 8 points
- ☐ 40 to 59% – 6 points
- ☐ 20-39% – 4 points
- ☐ Less than 20% – 2 points

Explanation: Lands actively being farmed are a good indication of the percentage of the land available for agriculture in the future.

4. Does the parcel receive an **agricultural exemption** or is it within an **agricultural district** (or to be included upon district revision)?

- ☐ Yes – 10 points
- ☐ No – 0 points

Explanation: Participation in the agricultural district implies that there is some level of commitment to agriculture on the part of the landowner (even if temporary).

Agricultural district number (if applicable):

5. How much of the farm property contains **prime farmland soils** (as designated by the USDA)?

- ☐ More than 80% of the property contains prime farmland soils – 10 points
- ☐ 60% –80% of the property contains prime farmland soils – 8 points
- ☐ 40 – 59% of the property contains prime farmland soils – 6 points
- ☐ 20 – 39% of the property contains prime farmland soils – 4 points
- ☐ Less than 20% of the property contains prime farmland soils – 2 points

Explanation: According to the USDA, “Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods.” *U.S. Department of Agriculture, Natural Resources Conservation Service, 2007. National Soil Survey Handbook, title 430-VI. [Online] Available: <http://soils.usda.gov/technical/handbook/>.*

6. How would you characterize the level of **on-farm investment** (barns, storage buildings, fruit trees, processing equipment, etc.)?

- ☐ High level of on-farm investment – 10 points
- ☐ Average level of on-farm investment – 6 points
- ☐ Low level of on-farm investment – 2 points

Explanation: The level of investment in on-farm equipment is one indicator of the farm’s ability to survive into the near future.

7. Is the farm a “**Bicentennial Farm**” or “**Century Farm**” as designated by New York State Agricultural Society or locally?

- ☐ State designated bicentennial farm (currently none in New Paltz) – 5 points
- ☐ State designated century farm – 4 points
- ☐ Locally-known century farm – 3 points

Explanation: Farms with a history of family ownership are often deeply rooted in the community and likely to remain into the future.

Notes: A bicentennial farm is one in operation by the same family for 200+ years. A century farm is one in operation by the same family for 100+ years. There are currently no *designated* century farms or bicentennial farms in New Paltz.

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8. Does the farm have **community ties and/or visibility** (CSA, farm stand, farm market, agri-tourism opportunities or similar)?

Explanation: People may be more likely to support local agriculture when they have a connection to the land that grows their food.

- ☐ Yes – up to 5 points
- ☐ No – 0 points

9. Are **conservation practices** or low-impact farming practices such as the use of buffers, conservation tillage, crop rotation, or nutrient management practiced on the farm?

Explanation: The use of conservation practices in agriculture helps to balance the protection of agricultural lands with the protection of natural resources.

- ☐ Yes – up to 10 points
- ☐ No, but landowner has agreed to integrate conservation practices into this conservation project – 5 points
- ☐ No – 0 points

10. What is the **likelihood that this farm will continue to remain a farm** in the future (next 50 years)?

Explanation: The goal of farmland preservation is to maintain the best farmland for food and other crops into the future. This is a discretionary judgment based on many factors, including the farm ownership and generational transfer opportunities, level of investment in the farm, surrounding development pressure, etc.

- ☐ Highly likely – 10 points
- ☐ Moderately likely – 6 points
- ☐ Unsure or unlikely – 2 points
- ☐ Very unlikely – 0 points

11. Is the farm a **primary source of income** for a farmer?

- ☐ Farm is owner-operated and serves as a principal source of income for the owner -10 points
- ☐ Farm is leased to a farmer that generates a principal source of income from the farm - 8 points

Explanation: Farms that serve as a primary source of income for a farmer are an indication of commitment to agriculture. They are also important to the economy.

SUM OF CATEGORY 1: WORKING FARMS:

MAXIMUM SCORE = 100 POINTS

CATEGORY 2: WATER RESOURCES

7 QUESTIONS; MAXIMUM SCORE = 80 POINTS

1. Would the project preserve **frontage on the Wallkill River**?

- ☐ 1,000 feet or more – 10 points
- ☐ 500 to 1,000 feet – 8 points
- ☐ 100 to 500 feet – 6 points
- ☐ Less than 100 feet – 2 points
- ☐ No frontage – 0 points

Explanation: Preservation of frontage on the Wallkill River would provide riparian buffer protection, flood protection and many other associated benefits.

2. Would the project preserve **frontage on a permanent river or stream** other than the Wallkill River?

- ☐ 1,000 feet or more – 10 points
- ☐ 500 to 1,000 feet - 8 points
- ☐ 100 to 500 feet – 6 points
- ☐ Less than 100 feet – 2 points
- ☐ No frontage – 0 points

Explanation: Preservation of frontage on permanent rivers provides riparian buffer protection, flood protection, and many other associated benefits.

3. Would the project preserve a **large wetland and buffer area** for a state (DEC)-regulated wetland, a wetland mapped by the National Wetland Inventory, or another local wetland or pond?

- ☐ Buffer area – up to 20 points
- ☐ No buffer/wetlands – 0 points

Explanation: Wetlands help to improve water quality by removing toxins and sediments. They also help to moderate the effects of flooding, recharge groundwaters, provide habitat for many important species, and offer recreational benefits.

4. Would the project preserve a significant area of **100-year floodplain**?

- ☐ More than 40% of site within FEMA 100-year floodplain – 10 points
- ☐ More than 30% of site within FEMA 100-year floodplain – 8 points
- ☐ More than 20% of site within FEMA 100-year floodplain – 6 points
- ☐ More than 10% of site within FEMA 100-year floodplain – 4 points
- ☐ Less than 10% of site within FEMA 100-year floodplain – 2 points
- ☐ No portion of site within FEMA 100-year floodplain – 0 points

Explanation: The 100-year floodplain is our storage bank for floods. The floodplain holds water during floods preventing costly damage to homes, roads and other built features.

5. Would the project preserve a significant area of **500-year floodplain**?

- ☐ More than 40% of site within FEMA 500-year floodplain* – 10 points
- ☐ More than 30% of site within FEMA 500-year floodplain* – 8 points
- ☐ More than 20% of site within FEMA 500-year floodplain* – 6 points
- ☐ More than 10% of site within FEMA 500-year floodplain* – 4 points
- ☐ Less than 10% of site within FEMA 500-year floodplain* – 2 points
- ☐ No portion of site within FEMA 500-year floodplain – 0 points

**Not including any portion within the 100-year floodplain*

Explanation: The 500-year floodplain is an extended storage bank for floods. The floodplain holds water during floods preventing costly damage to homes, roads and other built features.

6. Would the project protect wetlands associated with the headwaters of a stream or river (**headwater wetlands**)?

- ☐ Yes – 10 points
- ☐ No – 0 points

Explanation: Headwater wetlands are associated with a first or second order stream (a headwater or source of a stream). Headwater wetlands are significant for water quality protection, groundwater recharge, and natural habitat, as well as many other functions.

7. Is the project within a mapped or publicly-identified **priority aquifer, groundwater recharge area, or wellhead protection zone**?

- ☐ Yes – up to 10 points
- ☐ No – 0 points

Explanation: Protecting drinking waters provides a tangible community benefit and is also more cost-effective when compared with the potential costs of treating and distributing water to town residents.

SUM OF CATEGORY 2: WATER RESOURCES

MAXIMUM SCORE = 80 POINTS

CATEGORY 3: BIODIVERSITY AND ECOLOGICAL RESOURCES

6 QUESTIONS; MAXIMUM SCORE = 60 POINTS

1. Is the project within a **large forest block** (one that is not fragmented with roads or other features) or stepping stone forest?

- ☐ Within a global forest system (greater than 15,000 acres) – 10 points
- ☐ Within a regional forest system (500 – 1,000 acres) – 8 points
- ☐ Within a local forest system (200 – 500 acres) – 6 points
- ☐ Stepping stone forest (100 – 200 acres) – 4 points
- ☐ Adjacent to one of the above – 2 points
- ☐ Not within one of the above – 0 points

Explanation: Large unfragmented forest areas provide many benefits for wildlife and people. They help to cleanse and purify air and water. They also serve as critical habitat for many plant and animal species. The Shawangunk Mountains are considered a global forest system because of their size and significance in the regional landscape. Smaller forest blocks serve as “stepping stones” for wildlife between large forest blocks.

2. Is the project located within one of the **Northern Wallkill Biodiversity Areas**– as designated in Northern Wallkill Biodiversity Plan?

- ☐ Yes – up to 10 points
- ☐ No – 0 points

Explanation: The *Northern Wallkill Biodiversity Plan*, completed by the Metropolitan Conservation Analysis, identified several areas in New Paltz (and adjacent towns) that are significant for their biodiversity.

3. Does the project site harbor documented **endangered or threatened species under the Endangered Species Act (Federal)**?

- ☐ Yes – 10 points
- ☐ No – 0 points

Explanation: The Federal Endangered Species Act and the NYS Environmental Conservation Law are both aimed at protecting imperiled species on the federal and state levels. Preserving lands associated with these species will contribute to their long-term recovery or survival.

OR

Does the project site harbor documented **endangered, threatened, rare, or special concern species under the NYS Environmental Conservation Law (State)**?

- ☐ Yes – 10 points
- ☐ No – 0 points

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4. Does the project contain **NYS Natural Heritage Program Important Area(s)**?

- ☐ Yes – up to 10 points
- ☐ No – 0 points

Explanation: The New York State Natural Heritage Program maintains a database of Important Areas, which includes natural communities, plants and animals. The Natural Heritage Program data indicate opportunities for proactive preservation of important areas, however the data should be reviewed and discussed with resource experts to determine the relative significance of an important area (hence the discretionary point system).

5. Are there any **unique/important features** present (cliff, bog, etc.)?

- ☐ Yes – up to 10 points
- ☐ No – 0 points

Explanation: Unique features, such as the Bonticou Crag, that may not be identified in other rating categories can be important natural or geological features.

6. Is the area within or adjacent to the **Shawangunk Ridge Protection Area** (break in slope)

- ☐ Within Shawangunk Ridge Protection Area – 10 points
- ☐ Adjacent to Shawangunk Ridge Protection Area – 5 points
- ☐ Not within or adjacent to Shawangunk Ridge Protection Area – 0 points

Explanation: The Shawangunk Ridge Protection Area is the area of the Shawangunk Mountains within the break in slope (the topographical line at which the percent slope dramatically increases). The Shawangunk Ridge Protection Area is significant for its unique combination of climate, soils and geology which supports a very diverse assemblage of species and natural communities.

SUM OF CATEGORY 3: BIODIVERSITY AND ECOLOGICAL RESOURCES

MAXIMUM SCORE = 60 POINTS

CATEGORY 4: SCENIC AND CULTURAL RESOURCES

6 QUESTIONS; MAXIMUM SCORE = 60 POINTS

1. Would the project preserve significant **scenic views** to or from Shawangunk Mountains; or would the project preserve a significant vista, landscape or views of a cultural feature (such as the gate house)?

Explanation: Scenic views are important to the New Paltz community and they also help to support the region's tourism initiatives. Scenic viewpoints were systematically mapped as part of the *New Paltz Open Space Plan*.

- ☐ Yes – up to 10 points
☐ No – 0 points

2. Does the project preserve significant frontage along the **Shawangunk Mountains Scenic Byway** (state-designated scenic byway)?

- ☐ Parcel has 1,000 feet of frontage along scenic byway – 10 points
☐ Parcel has more than 800 feet of frontage along scenic byway – 8 points
☐ Parcel has more than 600 feet of frontage along scenic byway – 6 points
☐ Parcel has more than 400 feet of frontage along scenic byway – 4 points

Explanation: The Shawangunk Mountains Scenic Byway is a state-designated scenic byway. It is 87 miles long and loops around the Shawangunk Mountains. It passes through nine towns and two villages and many historic hamlets. Preservation of frontage along the scenic byway will help to maintain the intrinsic character of the byway. In New Paltz, the byway travels along Route 299, Route 208 and Route 7 (Springtown Road).

3. Does the project preserve significant frontage along a locally-identified **scenic road or travel corridor**?

- ☐ Parcel has 1,000 feet of frontage along scenic roadway – 10 points
☐ Parcel has more than 800 feet of frontage along scenic roadways – 8 points
☐ Parcel has more than 600 feet of frontage along scenic roadways – 6 points
☐ Parcel has more than 400 feet of frontage along scenic roadways – 4 points

Explanation: Preservation of road frontage will help to retain the scenic character of the road or corridor. See *Cultural Resources Map in the New Paltz Open Space Plan* for more information on Scenic Roads.

4. Does the project protect or enhance the experience or **character of historic hamlets**?

Explanation: The hamlet surrounded by the countryside (town-country) is an important settlement pattern in the town.

- ☐ Yes – up to 5 points
☐ No – 0 points

5. Is the parcel, or portion of parcel, listed on the **National Register of Historic Places**?

Explanation: The National Register includes historic districts, sites, buildings, structures and objects. These historic places have a significant role in the New Paltz community, and their permanent preservation is important. Preserving buffer lands adjacent to historic resources is also an important community goal.

- ☐ Yes - 20 points
☐ No, but it abuts a National Register listed parcel – 10 points
☐ No – 0 points

6. Does the project protect resources within a **local historic district or landscape**?

- ☐ Yes – up to 5 points
☐ No – 0 points

SUM OF CATEGORY 4: SCENIC AND CULTURAL RESOURCES

MAXIMUM SCORE = 60 POINTS

**CATEGORY 5: RECREATIONAL AND
EDUCATIONAL OPPORTUNITIES**

4 QUESTIONS; MAXIMUM SCORE = 40 POINTS

1. Is there potential for **active or passive recreational use** of parcel (park)?

- ☐ Yes – 10 points
☐ No – 0 points

Explanation: Projects that provide opportunities for active recreation (structured activities such as baseball or soccer) or passive recreation (such as bird watching, hiking or canoeing) provide a community benefit. Not all properties will be suitable for recreational use due to their sensitive environmental nature or because they are being used for agriculture or other private use. Public access and/or recreation is NOT a requirement for any project.

2. Does the project provide **potential for trail connections** in one of the following categories below? (select one only – 10 points total)

- A. Does the parcel abut Wallkill Valley Rail Trail or can it provide expanded connections to the Wallkill Valley Rail Trail (such as from other trails, parks, destinations, or neighborhoods)?

Explanation: Trail connections provide a community benefit and opportunities for recreation, exercise and connection with nature.

- ☐ Yes – 10 points
☐ No – 0 points

- B. Does the parcel provide for trail connections from the village to natural resources or parks?

- ☐ Yes – 8 points
☐ No – 0 points

- C. Does the parcel provide new or expanded trail connections in the countryside (i.e., not in village or direct to rail trail)?

- ☐ Yes – 8 points
☐ No – 0 points

3. Does the project provide opportunities for **natural or cultural interpretation or education**

(environmental/agricultural/historical, etc.)?

- ☐ Yes – up to 10 points
☐ No – 0 points

Explanation: Opportunities to leverage the natural or cultural assets of a property or resource provide large community benefits. For example, the use of a site for a natural history lesson might help to connect school children to the landscape in a meaningful way.

4. Does the project provide opportunities for public **waterfront access** areas (trails, boat launch areas, fishing access, etc.)?

- ☐ Yes – 10 points
☐ No – 0 points

Explanation: There are currently few waterfront access sites in the Town of New Paltz. One of the goals of the *New Paltz Open Space Plan* is to develop a system of waterfront access points for people to enjoy the Walkill River through kayaking, fishing, and other activities.

SUM OF CATEGORY 5: RECREATIONAL AND EDUCATIONAL OPPORTUNITIES

MAXIMUM SCORE = 40 POINTS

CATEGORY 6: PROJECT VIABILITY

MAXIMUM SCORE = 100 POINTS

1. Has **the landowner demonstrated commitment to the project** through one of the following actions?

- ☐ Yes – up to 10 points
☐ No – 0 points

Explanation: The landowner's commitment to the project is a major indicator of the long-term success of the project. Commitment can be demonstrated through signing a letter of intent, offering a bargain sale, or through other ways.

Describe how the landowner documents interest in conservation:

2. Is the **conservation value of the property is in imminent threat** of being lost (such as to development pressure)?

- ☐ Yes – up to 20 points
☐ No – 0 points

Explanation: Properties of conservation value that are under immediate threat should be prioritized for preservation. Threat can be documented in many ways: a development proposal has been submitted to the planning board; a landowner has property listed for sale; a landowner has an offer from a developer; generational transfer is about to take place, etc.

Describe threats that have been documented:

3. Is there a **strong expression of community support** for project?

- ☐ Yes – up to 10 points
☐ No – 0 points

Explanation: Community support can be documented through phone calls or letters of support. Support should not be limited to adjacent property owners but should represent broader public sentiment.

Describe how the community has expressed support for the project:

4. Is the project sponsored by a **partner conservation organization** (such as a land trust)?

- ☐ Yes – up to 10 points
☐ No – 0 points

Identify the name of the land trust and contact person:

Explanation: In many cases, a partner land trust will be needed to hold and steward a conservation easement on the property. Conservation easements require a long-term commitment from a land trust. A land trust commits to a conservation easement only when it meets particular conservation goals and has funds committed for the future stewardship of the property. The participation of a land trust indicates that the project has long-term value and will engender a partnership approach.

5. Is the project identified as a **priority in regional or state plans** (such as the NYS Open Space Conservation Plan)?

- ☐ Yes – 10 points
☐ No – 0 points

Identify the name of the priority area and page reference of New York State Open Space Plan:

Explanation: Currently, the only regional or state plan that lists priority projects relevant to New Paltz is the *New York State Open Space Conservation Plan*. Projects that have already been identified as priority at the state level would also most likely be eligible for state funding.

6. Is the project adjacent to, or will it **expand an existing open space/conservation area**?

- ☐ Yes – 20 points
☐ No – 0 points

Identify the name of the park/protected area that the project expands or abuts:

Explanation: Expansion of existing open space areas enlarges or buffers the area under protection, providing significant benefits to the resource under consideration.

7. Is **outside funding available** to support the project (such as state or federal grants for farmland protection or Hudson River Estuary Grants)? In other words, is there a grant program that can be applied to for this project within the next year?

Explanation: In order for the Town of New Paltz to leverage its funds to the highest capacity, all additional sources of funding will be explored. Outside funding is a key consideration in the selection of a project for advancement.

- ☐ Yes – up to 10 points
☐ No – 0 points

Identify potential outside funding sources, such as the names of state or private grant programs:

8. What is the requested/anticipated **town share** of the project?

- ☐ No cost or minimal cost – 30 points
☐ Less than 25% of project cost – 20 points
☐ 25% to 50% of project cost – 10 points

Explanation: When the town's share of the project costs is relatively low, it is able to accomplish its goals at a minimal cost and leverage its funds to complete more projects.

Describe how the requested/anticipated town contribution was determined:

SUM OF CATEGORY 6: PROJECT VIABILITY

MAXIMUM SCORE = 120 POINTS

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Town of New Paltz ~ Clean Water and Open Space Program
PROJECT RATING FORM

CATEGORY 7: PROJECT IMPACT

MAXIMUM SCORE = 30 POINTS

This category captures the overall impact of the project on the town's Clean Water and Open Space Program. It offers an opportunity to discuss aspects of the project that may not be captured in the above criteria, as well as the opportunity to look holistically at the project's role in the town's Clean Water and Open Space Program.

In this category, the landowner and commission may discuss and add additional points as necessary for the project's overall impact on conservation, provided that they represent a benefit to the town or the community. In other words, the benefits can not be isolated to the landowner or his/her surrounding neighbors. Points can also be given to projects that alone may not score highly in these criteria, but when considered in a larger context, may be important.

Example: A small parcel of land may not score high in isolation, but may be critical in closing a gap in a trail or conservation network. The larger benefit to the town and region should be supported.

Points should be documented below.

SUM OF CATEGORY 7: PROJECT IMPACT

MAXIMUM SCORE = 30 POINTS

Appendix 8
Town of New Paltz ~ Clean Water and Open Space Program

LANDOWNER INTEREST APPLICATION FORM

Instructions:

This form is to be completed by a landowner (or representative) that is interested in discussing a potential conservation project with the Town of New Paltz. Submission of this form does not commit a landowner or the Town of New Paltz to a project; it is merely an expression of potential mutual interest. The form should be completed to the best of your ability and returned to the Clean Water and Open Space Protection Commission at:

**Town of New Paltz
1 Veterans Drive
P.O. Box 550
New Paltz, New York 12561**

All information submitted in this form will remain confidential and will be used by the Clean Water and Open Space Protection Commission to review and evaluate potential conservation projects. Once the form has been received and reviewed, a commission member or representative will contact you to discuss the project further. If you have questions, please call ____ at ____.

1. DATE:

2. NAME OF PRIMARY CONTACT (LANDOWNER OR REPRESENTATIVE):

3. NAME OF LANDOWNER (IF DIFFERENT FROM ABOVE):

4. PRIMARY CONTACT INFORMATION:

ADDRESS:

PHONE (HOME):

PHONE (CELL):

PHONE (OTHER):

EMAIL ADDRESS:

HOW AND WHEN DO YOU PREFER TO BE CONTACTED?

5. REASON FOR APPLICATION (WHY ARE YOU INTERESTED IN CONSERVATION AT THIS TIME?)

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6. IDENTIFY ANY OTHER PARTIES INVOLVED IN DECISIONS REGARDING THE PROPERTY (SUCH AS CO-OWNERS, CHILDREN, PARENTS, SPOUSES).
7. PARCEL NUMBER(S) OF CONSERVATION PROPERTY (OR PROPERTIES):
8. ADDRESS OF CONSERVATION PARCEL(S):
9. TOTAL ACRES OF CONSERVATION PARCEL(S):
10. ZONING DESIGNATION OF CONSERVATION PARCEL(S) (IF KNOWN):
11. DESCRIBE HOW THE PROPERTY IS ACCESSED OR INDICATE IF THE PROPERTY IS LANDLOCKED. (EXAMPLE: PROPERTY IS ACCESSED FROM A PRIVATE DRIVEWAY OFF OF BUTTERVILLE-CANAAN ROAD).
12. DESCRIBE THE CURRENT USE(S) OF THE PROPERTY (SUCH AS AGRICULTURAL, VACANT LAND, COMMERCIAL, RESIDENTIAL, ETC.)
13. DESCRIBE THE PREDOMINANT LAND COVER TYPE OR TYPES ON THE PROPERTY (FOREST, AGRICULTURE, WETLANDS, FLOODPLAIN, ETC.).

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14. PLEASE NOTE ANY LIENS, EASEMENTS, RIGHTS OF WAY OR ANY OTHER ISSUES AFFECTING THE LEGAL STATUS OF THE PROPERTY.
15. CIRCLE THE TYPE OF CONSERVATION PROJECT DESIRED (IF KNOWN). IF NOT KNOWN, CIRCLE UNKNOWN AND THE COMMISSION WILL DISCUSS OPTIONS FURTHER WITH YOU.

Conservation Easement Land Acquisition Conservation development Unknown

13(A): IF YOU CIRCLED CONSERVATION EASEMENT ABOVE, HAS A LAND TRUST OR THIRD PARTY BEEN CONTACTED (NOT REQUIRED)? IF YES, IDENTIFY THE NAME OF THE LAND TRUST AND CONTACT INFORMATION.

16. WHAT IS YOUR DESIRED TIMEFRAME FOR PROJECT COMPLETION?
17. DESCRIBE ANY PREVIOUS ACTIONS TAKEN REGARDING THIS CONSERVATION PROJECT. HAVE YOU APPLIED FOR GRANTS, MET WITH LAND TRUSTS, MET WITH DEVELOPERS, ETC?
18. ARE THERE ANY EXCLUSIONS OR CONDITIONS NECESSARY IN ORDER FOR THE PROJECT TO BE COMPLETED?

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19. ARE YOU ABLE TO CONTRIBUTE TO THE COST OF THE PROJECT?

20. PLEASE PROVIDE A SUMMARY OF THE MOST NOTEWORTHY CONSERVATION VALUES OF THE PROPERTY. USE THE SUMMARY SHEET AS A GUIDE.

21. PLEASE USE THE SPACE BELOW TO PROVIDE ANY OTHER INFORMATION THAT YOU THINK WE SHOULD KNOW ABOUT THE PROJECT.

This portion of the form is to be completed by Clean Water and Open Space Protection Commission

Date application received:

Date application reviewed by commission:

Date landowner contacted for follow-up:

MEMO

TO: New Paltz Agricultural and Farmland Protection Committee
FROM: Katherine Daniels, NYPF
SUBJECT: Review of Zoning and Subdivision ordinances
DATE: June 17, 2008

I have reviewed the Town's Zoning and Subdivision ordinances both for language that could be problematic for farmers, as well as for opportunities to allow a greater variety of farm-related uses in farming areas.

1. Problematic language that should be corrected or clarified: Zoning Ordinance

S. 140-3. Purpose. Among the many listed purposes of the zoning ordinance, including the protection of open spaces, recreation areas, wooded areas, scenic areas and waterways, there is no mention of agriculture or farming.

S. 140-4. Word Usage and Definitions. There is no definition of agriculture or agricultural uses. The definition of Farm is as follows:

“Any parcel of land containing at least 10 acres which is used for gain in raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

The 10 acre minimum is at odds with the State's requirement of seven acres for agricultural assessment, as well as with the fact that some commercial farms can be smaller than 10 acres. I don't know what the “prescribed limits” are that apply to farm structures. The definition of what constitutes farming is fairly narrow. Commercial horse boarding is specifically enabled under AML §301(11) and should be part of the definition of farm.

The only other definition of any kind of agricultural use is Road Stand.

S. 140-5. Enumeration of Districts. There are two Agricultural zoning districts - A-1.5 and A-3, with 1.5 and 3 acre minimum lot sizes, respectively. The F (floodplain) District also functions as an agricultural zoning district and has all the same dimensional requirements as the A-3 District. These minimums and outright permitted allowance of single family dwellings encourage the conversion of farmland to residential uses and should be reconsidered. I do not see purpose statements for the Town's districts. A purpose statement for the A and F districts that puts agriculture first and states that the extension of public sewer and water lines to these districts is not allowed is recommended. The Town can also consider the option of including a disclosure statement in the A and F district language that conveys that these are areas where normal agricultural practices are undertaken that may conflict with residential uses and that this

is to be expected. If the A-1.5 District is intended to be primarily a rural residential district, it should be so named.

Agriculture, excluding livestock, is allowed in all zones except the B-2 zone. Livestock may be raised only in the A-1.5, A-3 and F zones, the latter subject to site plan review standards. More meaningful and less cumbersome might be to apply the Flood Damage Prevention standards of chapter 82 of the Town's code.

Retail sale of agricultural produce grown on the same lot from a road stand is allowed in most zones subject to site plan review. It is recommended that a clear and specific definition of what constitutes a road stand be substituted for the site plan review process. Also, roadside stands often need to be able to sell the produce from a number of farms to be profitable and therefore it is recommended that the current limitation on sales be modified.

Single mobile homes are allowed for agricultural laborers as part of a working farm, subject to the site plan review process. Accessory uses are allowed in both A zoning districts and the F District. Those that are on the same lot in the A districts are permitted outright, while those that are not on the same lot or are on the same lot but in the F District require site plan review. Farm holdings typically consist of more than one lot and there is no reason to subject accessory uses on adjacent lots in the same ownership to a site plan review process. And again, rather than using any site plan review process in the F District, use of chapter 82 standards may be more appropriate. Riding academies are allowed with a special use permit in both A zoning districts and the F District.

Potential conflicting uses that are allowed in the A districts with a special use permit include: hotels, restaurants, bars or nightclubs, dance halls or skating rinks. Potential conflicting uses allowed in the A districts with site plan review include: schools, hospitals, nursing homes, public utilities and others. All of these uses should be considered for deletion from the A districts as they are either growth-inducing, too intense or bear no relation to agriculture.

Comparing the Town's zoning map with some of the mapping for the Regional Open Space Plan, most of the Town's prime farm soils fall within the F District. However, there appear to be some areas with working farms, in designated agricultural districts and/or with good soils that lie within the A-1.5, R-1 and I-1 districts and should be considered for inclusion of the more protective A-3 District.

S. 140-9. Prohibited Industrial Uses. This section prohibits from any zone a few potential agricultural-related uses, including: brewing or distilling of liquors, slaughterhouses and stockyards. These uses should be considered for inclusion in the A districts.

S. 140-12. Modification of Yard Requirements. This section states that accessory uses not enclosed in a building "may" be located in a rear yard. Does may mean must? Agricultural accessory uses should be allowed in any yard.

S. 140-13. Exceptions to Height Requirements: The list of exceptions does not include silos or other farm-related structures that may exceed height limits.

S. 140.26. Home Occupations. This section requires that there be no external evidence of the home occupation and that there shall not be any exterior storage of materials or equipment. This is fairly strict as it might apply to home occupations on a farm.

S. 140-28. Activity Standards. This section, which applies generally, states that no offensive or objectionable odor shall be noticeable at or beyond the property line. There should be an exemption here for customary agricultural practices.

S. 140-32. Fences and walls. This section applies to any district in which residences are permitted, yet there are no special standards or exemptions for farms. A fence of any type requires a building permit and may not be higher than 4 feet in the front yard and 6 feet in the rear and side yards (2.5 feet for corner lots). Wire fences are prohibited except to contain livestock. There is no mention of deer fencing. These standards were clearly written with residential dwellings and not farms in mind. Agricultural operations should either be exempted from these standards or deer fencing should be allowed on farms.

S. 140-34. Off-street parking and loading. Because no parking requirements are prescribed for road stands, a variance would be required to establish them. It would be better to add parking standards for road stands or other nonlisted uses. All off-street parking requires aisles and must be paved, marked and landscaped. There should be an exemption from these requirements for road stands.

S. 140-99 to 101. Permits. All signs require a permit. There is an exempt sign list but it does not include road stands. Off-premises signs are not allowed except for non-profits or community events. Off-premises road stand signs should also be allowed.

S. 140-117.3. Definitions. This is part of an article on clearing and grading control. There is a definition of agriculture here that does not appear to apply to the rest of the ordinance. It reads:

“All agricultural operations and activities related to the growing or raising of crops, livestock or livestock products, and agricultural products, as such terms are defined in or governed by the Agricultural and Markets Law of the State of New York on lands qualified under Ulster County and NYS law for an agricultural exemption by the Assessor of the Town of New Paltz.”

There should be just one definition of agriculture in the zoning ordinance. This one differs somewhat from the earlier definition of Farm in that it defines agriculture in a narrow sense. If lands within Agricultural Districts only are intended to be exempted from the standards, the language should be changed to simply say this and the definition of agriculture here deleted.

Finally, I don't see any requirement for an Agricultural Data Statement as part of proposed site plan reviews, special use permits or use variances, as required by Town Law §283-a. – coordination with agricultural districts programs.

Subdivision Ordinance:

S. 121-4 to 8. Definitions and Approval Procedure. The definition of subdivision is “the division of a parcel of land into two or more lots...” It includes any alteration or modification of lot lines, even where no new lot is created. There is also no minor and major subdivision process, but rather a single process for all subdivisions that includes sketch plan review, preliminary plat review and final plat review. This imposes a very cumbersome, expensive, long and unnecessary process on farmers seeking a lot line adjustment. It also is a difficult process for farmers wanting to occasionally split off a single lot.

S. 121-25. Residential Cluster Subdivision Design. This section applies only to residential zones, even though stated objectives include preserving prime agricultural soils and active agricultural land. There is no reason cluster could not apply to the A districts.

Finally, I don't see any requirement for an Agricultural Data Statement as part of proposed subdivisions, as required by Town Law §283-a. – coordination with agricultural districts programs.

2. Opportunities for new farm-related uses:

There is great potential for the introduction of a number of farm-related uses in the Town's A districts that could help farmers stay on the land by providing options for supplemental means of income. Only a very few types of farm-related businesses are now allowed in the A districts. Other uses would likely either be judged not allowable by the zoning officer or be required to go through an unpredictable variance process. Below is a partial listing of a number of potential agri-tourism, farm-support and farm-compatible businesses that the Town could consider allowing in the A districts. They could be allowed as either outright permitted uses, accessory uses or uses requiring a special use permit or site plan review.

Agri-tourism: u-picks, CSAs, expanded road stands, corn mazes, hay rides, pumpkin patches, seasonal events, school programs, weddings and parties, farm markets, dairy barns, bakeries, farm stores and restaurants, bed and breakfasts, farm stays

Farm support businesses: slaughterhouse, community kitchen, farm labor housing

Farm-compatible businesses: expanded home occupations, child or adult care center, outdoor recreation (define), contracting (define), etc.

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(12) Water wells. All water supply wells shall be constructed in accordance with the requirements of the Orange County Department of Health.

(13) Abandoned wells. All abandoned wells shall be sealed in accordance with the requirements of the Orange County Department of Health.

§ 164-47.3. Agricultural Protection Overlay District.

A. Findings and purpose. The Town of Warwick finds that protection of agriculture is essential to implementing the goals of the Town of Warwick Comprehensive Plan.⁵⁴ Protection of land for agricultural purposes is a legitimate zoning objective under New York State's statutes, which the regulations set forth in this section seek to achieve. It is also a policy of the New York State Constitution to preserve agriculture. The purposes of the Agricultural Protection Overlay District (hereafter the AP-O District), among others, are as follows:

- (1) To protect and maintain the Town's farmland for continued or future agricultural use, including operating farms, lands that contain prime agricultural soils, soils of statewide significance or black dirt soils and lands within Agricultural Districts;
- (2) To implement the Town Comprehensive Plan, which contains the goals of protecting rural and agricultural lands, discouraging incompatible nearby land uses, and promoting agriculture as a component of the local economy;
- (3) To support and protect farming by stabilizing the agricultural land base;
- (4) To maintain a viable agricultural base to support agricultural processing and service industries;
- (5) To encourage the voluntary transfer of development rights from farms within the AP-O District to suitable nonfarm receiving areas of the Town as identified in § 164-47.4;
- (6) To separate agricultural land uses and activities from incompatible residential, commercial, industrial development, and public facility development;
- (7) To prevent fragmentation of the Town's existing farming community by nonfarm development; and
- (8) To reserve the Town's most productive soils for agriculture.

B. Applicability.

- (1) The AP-O District qualifying area is hereby established as an overlay district as shown on the Town of Warwick Agricultural Protection Overlay District Qualifying Area Map, and containing a critical mass of lands meeting the following criteria:
 - (a) Contiguous land in single ownership as of the effective date of this chapter on which at least 50% of the surficial soils are classified as prime farmland soils (Class 1 and 2), soils of statewide significance (Class 3 and 4) or black dirt soils

⁵⁴ Editor's Note: The Comprehensive Plan is on file in the office of the Town Clerk.

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as established by criteria of the Natural Resources Conservation Service, United States Department of Agriculture (hereinafter “agricultural soils”); or

- (b) Parcels of land included in Agricultural District 2 established pursuant to the New York State Agriculture and Markets Law, Article 25-AA, §§ 303 and 304, both as of the effective date of this chapter and as may thereafter be added to the District; or
 - (c) Parcels of land receiving farm tax assessment as of the effective date of this chapter and as may thereafter receive such assessment; or
 - (d) Parcels of land that are part of operating farms as of the effective date of this chapter; and
 - (e) Other parcels of land, which because of their location within or adjacent to lands described in Subsection B(1)(a), (b), (c) and/or (d) above and their undeveloped nature, large size or siting amidst farmlands are necessary to include in the AP-O District to prevent the proliferation of conflicting adjacent uses that could jeopardize the future survival of farming within the District.
- (2) The Town Board hereby adopts the map entitled “Town of Warwick Agriculture Protection Overlay District Qualifying Area Map”, reflecting lands included within the AP-O District as described in Subsection B(1) above. Said map shall be the basis for administration of the regulations contained in this District.
 - (3) Any landowner whose land has not been mapped on the Town of Warwick Agriculture Protection Overlay District Qualifying Area Map may request to be covered by the regulations of this District. If the Town Board finds that such land satisfies the criteria for AP-O designation in § 164-47.3B(1) above, it may amend the AP-O Map to include such land.
 - (4) Should any provisions of the AP-O District differ with any other provisions of this chapter, the provisions of the AP-O District shall control.
 - (5) Landowners who are within the AP-O Qualifying Area may voluntarily choose to participate in the provisions of this Overlay District and thereby afford themselves of its benefits as discussed below. The benefits of the AP-O District shall not apply until a landowner files a statement with the Town Clerk. To participate, landowners shall file a statement with the Town Clerk, on forms available from the Clerk’s Office, advising the Town Board that they wish to participate. The Town Clerk shall certify a landowner’s statement and shall refer the statement to the Town Board within 14 days. The Town Board shall then amend the AP-O District Qualifying Area Map to indicate participation by the subject landowner. **[Amended 9-11-2003 by L.L. No. 4-2003]**

C. Special benefits. In addition to the permitted uses and special uses allowed in the underlying zoning districts, there are a number of benefits available to farmers who participate in the AP-O District’s provisions. These include the following:

- (1) A transfer of development rights/purchase of development rights density bonus that affords a lot yield based on the minimum acreage requirements established in the

1989 Zoning Law of the Town of Warwick. This density bonus is illustrated in the following table:

Zoning District	2001 Zoning Law Minimum Lot Size (acres)	1989 Zoning Law Minimum Lot Size (acres)
SL (old SR-.7)	3	1½
RU (old RR-.5)	4	2
MT (old MR-.3)	5	3
CO (old CR-.25)	6	4

- (2) Qualified participation in the Town of Warwick Open Space Leasing Program;
 - (3) Farm market development as an accessory use involving less than 4,000 square feet of gross floor area. Farm markets more than 4,000 square feet shall require a special use permit in accordance with § 164-46;
 - (4) Subdivision of one additional residential lot under the 1989 Zoning Law is permissible in accordance with § 164-45.1F. **[Added 1-24-2002 by L.L. No. 2-2002]**
- D. Siting guidelines for residential development. Residential subdivision within the AP-O District shall conform to the additional standards set forth in Subsection D(2)(a) and (b) below for all new residential development on parcels that have been certified for participation in the AP-O District.
- (1) Cluster subdivision is encouraged in the AP-O District to allow flexibility while preserving the agricultural viability and rural character of the land. All surficial soils classified as prime farmland soils (Class 1 and 2) or soils of statewide significance (Class 3 and 4) or black dirt soils should be avoided by subdivision development to the greatest extent practical. Other existing features, whose preservation would benefit the Town and the subdivision, should be avoided through sensitive design of the cluster subdivision. Such features include, but are not limited to:
 - (a) Groves of mature trees.
 - (b) Large individual trees.
 - (c) Hedgerows.
 - (d) Woodlands along roadways, property lines, and streams.
 - (e) Scenic vistas.
 - (f) Water features, such as streams, ponds, floodplains, lakes and wetlands.
 - (g) Stone walls.
 - (h) Steep slopes in excess of 15%.
 - (i) Habitats of endangered or threatened species.
 - (j) Visually prominent agricultural landscape features, such as fields, pastures and meadows on knolls and hilltops.
 - (k) Historic structures or sites.

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- (1) Similar irreplaceable assets.
- (2) Residential structures in the AP-O District should be located according to the following guidelines, which are listed in order of significance (some of which may conflict with each other on a particular site, in which case, the Planning Board may use its discretion to resolve such conflicts):
 - (a) On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use;
 - (b) Away from the boundaries of any preserved farm, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm;
 - (c) In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses;
 - (d) To avoid disturbance to the existing environmental, cultural and scenic features noted in Subsection D(1) above;
 - (e) To be as visually inconspicuous as practical when seen from state, county and local roads, and particularly from designated scenic routes;
 - (f) Next to other residences or building lots on adjacent properties;
 - (g) To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads;
 - (h) On suitable soils for subsurface sewage disposal (where applicable);
 - (i) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland, to reduce encroachment upon agricultural soils, provide shade in summer and shelter in winter, and to enable new residential development to be visually absorbed by the natural landscape; **[Amended 1-24-2002 by L.L. No. 2-2002]**
 - (j) In locations where the greatest number of dwelling units could be designed to take advantage of solar heating and solar electric opportunities; and **[Amended 1-24-2002 by L.L. No. 2-2002]**
 - (k) Any other mitigation measure imposed under SEQR.

§ 164-47.4. Transfer of development rights (TDR).

- A. Purpose and intent. The purpose and intent of this section, consistent with § 261-a of New York State Town Law and the Town of Warwick Comprehensive Plan,⁵⁵ is to enable the voluntary transfer of development potential from one parcel to another. The transfer of development rights (TDR) makes it possible to limit development in one area (called the “sending district”) where there is an important resource, such as active farmland or significant open space, and transfer those development rights to another area (called the

⁵⁵ Editor’s Note: The Comprehensive Plan is on file in the office of the Town Clerk.

“receiving district”) where there are little or no impediments to higher density, such as areas adjacent to the Town’s three village centers, where public water and sewer are available or planned, or in the Town’s five hamlets, where central services are available or have the potential to become available. The density is transferred from a sending parcel to a receiving parcel. By creating receiving parcels as markets for the sale of unused development rights in the sending parcels, Warwick’s TDR program encourages the maintenance of agriculture, low-density land use, open space, historic features, critical environmental areas, and other sensitive features of the designated sending parcels. When the owner of a sending parcel sells development rights to the owner of a receiving parcel, the purchaser increases the development rights beyond otherwise permissible limits. In this manner, the Town of Warwick can protect resources of critical importance to its citizens while providing a mechanism to compensate sending area landowners for any diminution in land development potential. The Town of Warwick’s TDR program is consistent with the purposes of this chapter and Comprehensive Plan to further the conservation and preservation of agriculture as an important industry; natural and undeveloped areas, wildlife, flora and habitats for endangered species; protection of groundwater, surface water quality, as well as other natural resources; balanced economic growth; the provision of adequate capital facilities, including transportation, water supply, and sanitary waste disposal facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; the development of an adequate supply of affordable housing; and the preservation of historical, cultural, archaeological, architectural and recreational values.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

DEVELOPMENT RIGHTS — The rights allocated to a lot, parcel or area of land under this chapter respecting permissible density allowed thereon. The rights to develop are expressed as the maximum number of dwelling units per acre for residential parcels that could be permitted on a designated sending parcel under Warwick’s applicable Zoning Law and Chapter 137, Subdivision of Land, in effect on the date of the transfer of development rights. Determination of the maximum number of development rights available for transfer shall be made by the Planning Board as described in § 164-47.4E(2).

RECEIVING DISTRICT — One or more designated districts to which development rights generated from one or more sending districts may be transferred and in which increased development is permitted to occur by reason of such transfer.

RECEIVING PARCEL(S) — Parcel(s) of land within a receiving district to which development rights may be transferred.

SENDING DISTRICT — A designated overlay zoning district in which development rights are designated for use in one or more receiving districts.

SENDING PARCEL(S) — Parcel(s) of land within a sending district from which development rights may be transferred.

TRANSFER OF DEVELOPMENT RIGHTS (TDR) — The process by which development rights are transferred from one lot, parcel, or area of land in any sending district to another lot, parcel, or area of land in one or more receiving districts.

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- C. Development rights bank. The Town of Warwick hereby establishes a development rights bank, to be known as the “TDR Bank,” in which development rights may be retained and sold in the best interests of the Town. The Town is authorized to accept for deposit within the bank gifts, donations, bequests or other development rights. All receipts and proceeds from sales of development rights sold by the Town shall be deposited in a special municipal account to be applied against expenditures necessitated by the Town’s development rights program. Development rights shall be transferred reflecting the normal market in land, including sales between owners of property in sending and receiving districts.
- D. Restrictions on development in sending districts.
- (1) Land owners who desire to protect sensitive environmental areas may voluntarily sell development rights from sending parcels and enter into permanent development restrictions on those parcels. If located within a sending district, a landowner may either:
 - (a) Existing density controls. Develop the parcel(s) in compliance with existing density limitations imposed by the zoning regulations as well as those that may be imposed as a condition of a special use permit; or
 - (b) Permanent development restrictions. Permanently restrict the development rights of the land area equivalent to the percentage of the rights transferred.
 - (2) Upon receipt of a special permit for development within a sending district, where such special use permit is conditional upon the voluntary, permanent restriction of development rights set forth in § 164-47.4I, the land owner may sell or otherwise transfer those development rights affected by such restrictions to a receiving district according to the guidelines of §164-47.4E.
- E. Guidelines for transfer of development rights.
- (1) Schedule of development rights. Subject to approval by the Planning Board, development rights from sending parcel(s) may be transferred to receiving parcel(s) proposed by the applicant and identified by the Town Tax Map and approved by the Planning Board.
 - (2) Determination of development rights to be transferred. To establish the development rights available for transfer, the Planning Board shall require the applicant for residentially zoned land to determine density based on the formula that follows. As an alternative, landowners may prepare a yield subdivision plan meeting the requirements of this chapter and Chapter 137, Subdivision of Land. **[Amended 1-24-2002 by L.L. No. 2-2002; 9-11-2003 by L.L. No. 4-2003]**
 - (a) The total number of permitted units will be determined by the following formula:

$$\text{Net Area/TDR Bulk Requirements} = \text{Total Number of Units Permitted}$$
 - (b) Net area calculation:
 - [1] Calculate the gross soil group area (GSA) in acres for each soil group (Groups I-XV).

- [2] Subtract 100% of land encumbered by the one-hundred-year floodplain (FP) as determined by FEMA maps from each soil group.
- [3] Subtract 100% of permanent easements (E) that restrict buildability from each soil group.
- [4] Reduce each soil group area by 5% to adjust for land necessary for rights-of-way (ROW).
- [5] Multiply each remaining soil group area by the environmental control factor (ECF) found in § 164-41.3, Table ECF.
- [6] Sum the environmental acreage products. This is the net area.

Net Area = $\Sigma[(GSA - FP - E - ROW) \times ECF]$ where:

GSA = Gross soil group area in acres.

FP = 100% of land encumbered by the one-hundred-year floodplain as determined by FEMA maps.

E = 100% of permanent easements that restrict buildability.

ROW = 5% of the (GSA – FP – E).

ECF = Environmental control factor.

F. Districts.

- (1) Sending districts. Sending districts include the Agricultural Protection Overlay District.
- (2) Receiving districts. Receiving districts consist of the Town of Warwick's SL, SM, and LB Districts, as shown on the Zoning Map, and defined as future settlement areas in the Town of Warwick Comprehensive Plan⁵⁶ and/or this chapter. Development of receiving parcels shall comply with the TN-O District requirements in § 164-47.

G. Special use permit review. The Planning Board shall be designated for special use permit review and approval under this section. In reviewing a proposed development under this section, the Planning Board shall apply this criterion to applications for a special permit under § 164-46 in addition to other relevant special use permit conditions provided for in this chapter.

- (1) The Planning Board shall require, as a condition for special use permit approval under this section, where the land owner opts to permanently restrict development, that the record owner of sending parcel(s) in the sending district record at the Orange County Clerk's Office a conservation easement running in favor of the Town or such other legal instrument acceptable to the Town Attorney as identified herein.

H. Intergovernmental transfer of development rights.

- (1) Required Town action. The Town Board may, by local law and consistent with § 284 of New York State Town Law and § 7-741 of New York State Village Law, approve a joint program for TDR including transfers from sending parcel(s) in the Town of Warwick to receiving parcel(s) in the villages within the Town. Such local law shall

⁵⁶ Editor's Note: The Comprehensive Plan is on file in the office of the Town Clerk.

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designate which portions of the villages will be designated as receiving districts for TDR originating from outside the respective municipality's corporate boundaries. A village may designate receiving districts for intermunicipal transfers that are the same as, or different from, those designated for intratown transfers.

- (2) Satisfaction of transfers of development rights. If authorized by the recipient village(s), the TDR authorized by § 164-47.4 may be satisfied by the restriction and transfer of development rights in more than one municipality.
- (3) Recipient approval. Intermunicipal TDRs require approval from the village with receiving parcel(s). The village receiving TDRs shall notify the Town from which the development rights are being transferred of the date of the public hearing required by New York State Village Law, in a manner and time coincident with notification of parties in interest to the public hearing.

I. Title recording, tax assessment and restriction of development rights.

- (1) All instruments implementing the transfer of development rights shall be recorded in the manner of a deed in the Office of the Town Clerk and the Office of the Orange County Clerk for both sending and receiving parcels. The instrument evidencing such TDRs shall specify the section, lot, and block number of the sending parcel(s) and the section, lot and block number of the receiving parcel(s).
- (2) The Office of the Orange County Clerk shall transmit to the applicable municipal assessor(s) for both the sending parcel(s) and receiving parcel(s) all pertinent information required by such assessor to value, assess and tax the respective parcels at their fair market value as enhanced or diminished by the TDRs.
- (3) The record owner of the sending parcel(s) shall, as a condition of a special permit authorizing TDRs, record at the Office of the Orange County Clerk a conservation easement as defined by Article 49 of the New York State Environmental Conservation Law, running in favor of the Town prohibiting, or such other legal instrument as approved by the Town Attorney in accordance with § 164-41.1, in perpetuity, the construction, placement or expansion of any new or existing structure or other development on said sending parcel(s). Evidence of said recording shall be transmitted to the Planning Board of the Town, indicating the date of recording and liber and page number at which the recording can be located. The grant of the special use permit to transfer development rights shall be conditioned upon such restriction, and no special permit for a transfer of development rights shall be effective until the restriction noted above has been recorded at the Office of the Orange County Clerk.

§ 164-47.5. Land use mediation.

- A. Purposes. The Town Board of the Town of Warwick recognizes that disputes between developers, home owners, and other interested parties may occur in connection with decisions made by the Town of Warwick. Often these disputes result in litigation that is contentious, costly, and time consuming for all concerned. In an effort to provide an alternative to litigation for resolving such disputes, the Town of Warwick encourages the use of voluntary mediation as set forth herein. Nothing herein shall be construed to abridge

the powers of decisionmaking authority of the Town Board or any other board, office, committee, or official to which the Town Board has delegated the responsibility for issuing permits, granting approvals, or otherwise advising the Town Board.

- B. Costs. All costs associated with voluntary mediation conducted pursuant to this section shall be allocated among the parties of interest in a manner to be determined by the parties of interest by agreement. The Town Board is hereby authorized to enter into agreements for sharing the costs of mediation.
- C. Procedures. Mediation shall supplement, not replace, planning and zoning practices (including public hearings) otherwise applicable in the Town of Warwick. The use of mediation shall be voluntary and shall be available in any dispute in which two or more parties of interest agree to voluntary mediation. Any party of interest whose request(s) for permit(s) or approval(s) from the Town of Warwick are the subject of voluntary mediation under this chapter may seek consent from the Town Board for the suspension of time limits found in New York State Town Law or the local law of the Town of Warwick, relevant to such permit(s) or approval(s). The Town Board's decision to consent to the suspension of time limits is entirely within the discretion of the Town Board. The Town Board's consent, if given, shall be conditioned, at a minimum, on the following:
 - (1) Public notice of the proposed voluntary mediation shall be given in the official newspaper, by one or more parties of interest, at least 10 days and not more than 60 days prior to the granting of such consent by the Town Board. An affidavit of service of public notice shall be filed with the Town Clerk. Such notice shall include at a minimum, the basis of the dispute and the permit(s) and/or approval(s) being sought; the name of the interested party seeking the permit(s) and/or approval(s); and directions for contacting someone who will be responsible for providing information regarding the mediation and the procedure for joining the mediation.
 - (2) The suspension of time limits shall not exceed 60 days. Upon expiration of the 60 days, the party of interest originally requesting the suspension of time limits may request an additional suspension period, not to exceed 60 days. There is no limit to the number of additional suspension periods to which the Town Board may consent. The Town Board may receive evidence at a public hearing from any interested party with regard to the progress of the mediation to determine whether the consent to an extension of the suspension of time limits would be appropriate. Public notice of the hearing shall be published at least 10 days prior to the hearing in the official newspaper.
 - (3) Nothing in this section shall be construed to limit the Town Board's authority to impose additional or more restrictive conditions upon its consent to the suspension of time limits.
- D. Confidentiality. Unless otherwise required by law, the parties of interest may agree that the proceedings of the mediation shall remain confidential.
- E. Accepted practices. Any mediation undertaken pursuant to the provisions of this chapter shall be conducted in accordance with accepted mediation practices including, but not limited to, those developed by the New York State Dispute Resolution Association, Inc. for use by community dispute centers established pursuant to Article 21-A of the Judiciary

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Law or by any other qualified and impartial person acceptable to the parties and the applicable review board.

- F. Effect of agreement. The mediator shall have no power to impose a settlement or bind the Town of Warwick to the terms or conditions of any agreement resulting from voluntary mediation conducted pursuant to this chapter, and any settlement reached shall require approval by the applicable review board to assure compliance with all provisions of this chapter. Terms or conditions of such an agreement may be presented at a public hearing on the requested permit(s) and/or approval(s) or appeal of their denial. The Town Board, Zoning Board of Appeals, Planning Board, or other reviewing authority may refuse to consider such terms or conditions presented if the parties of interest fail to provide justification for them on the record.

§ 164-47.6. Incentive zoning for open space preservation.

- A. Intent. The Town Board of the Town of Warwick, consistent with § 261-b of New York State Town Law and the Town of Warwick Comprehensive Plan,⁵⁷ has determined that it is appropriate to make adjustments to permissible density and area requirements for the specific purpose of preserving open space at a minimum cost to the residents and taxpayers of the Town. To achieve this intent, an application for an open space preservation project shall address the following objectives:
- (1) The preservation and enhancement of natural and cultural features of a site.
 - (2) The accommodation of land uses and physical site arrangements which are not contemplated under conventional zoning but which would further the land use conservation and development goals of the Town.
 - (3) The creation of usable open space and recreation lands.
 - (4) The preservation of scenic viewsheds, scenic roads, greenway corridors, water resources, forests, meadows, geologic features, environmentally sensitive areas, significant plant and animal habitats, biodiversity, and important ecological resources.
 - (5) The provision of a more desirable environment than what would be possible through the strict application of existing zoning regulations.
 - (6) The promotion of the general health, safety, and welfare of the Town.
- B. Open Space Preservation District. Where open space preservation is deemed appropriate, through the rezoning of land to an Open Space Preservation District by the Town Board, the use and dimensional specifications elsewhere in the Zoning regulations are herein replaced by an approval process in which an approved open space preservation plan becomes the basis for continuing land use controls.
- C. Definitions. For the purpose of this article, the terms used are defined as follows:
- COMMUNITY BENEFITS OR AMENITIES — Open space which has physical, social or cultural benefit to the residents of the community.

⁵⁷ Editor's Note: The Comprehensive Plan is on file in the office of the Town Clerk.

INCENTIVES — Adjustments to the permissible density and other area requirements and open spaces of this chapter of the Town of Warwick and any amendments thereto in exchange for a specific community benefit or amenity that provides for the significant preservation of open space in a manner not otherwise allowed by this chapter; these adjustments may incorporate two or more noncontiguous parcels of land.

OPEN SPACE PRESERVATION ZONING — The system by which specific incentives are granted to applicants pursuant to this section on condition that specific physical, social or cultural benefits or amenities inure to the community.

D. Application procedure.

- (1) An application in the form of a letter of intent and two concept plans, one showing conventional development of the tract(s) and one showing the proposed open space preservation development, should be submitted to the Town Board. Not fewer than 15 copies shall be provided for distribution and review. The Town Board, upon receipt of an application, and as part of its review, shall refer the application to the Planning Board and to the Conservation Board for their review and recommendations.
- (2) The Planning Board's report and recommendations to the Town Board should consider the following:
 - (a) The suitability of the tract(s) for the general type of open space preservation proposed, the physical characteristics of the land and the relation of the proposed development to surrounding existing and probable future development.
 - (b) The adequacy of major roads, utilities and other facilities and services to serve the development.
 - (c) That the proposal is conceptually sound, is consistent with the Town of Warwick Comprehensive Plan, meets local and area-wide needs, and conforms to the Town of Warwick Design Guidelines.⁵⁸
- (3) The Conservation Board's report and recommendations should consider all pertinent environmental issues.
- (4) When required by § 239 of the General Municipal Law, the application shall be copied to the Orange County Planning Department for its review. The Town Board and/or Planning Board may also refer the application to the Town Engineer and Town Planner as well as other local and county officials, representatives of federal and state agencies and consultants as deemed appropriate.
- (5) The application shall explain and show the following information:
 - (a) Location and extent of all proposed land uses, including development areas and open spaces, with areas shown in acres.
 - (b) All interior streets, roads, access easements and their planned private or public ownership, as well as all points of access and egress from existing public rights-of-way.

⁵⁸ Editor's Note: The Design Guidelines are on file in the office of the Town Clerk.

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- (c) An area map showing adjacent parcels; that portion of the applicant's property under consideration; all properties, zoning districts, subdivisions, streets, access easements, watercourses and other significant natural and built features within 300 feet of the applicant's property, and all uses of abutting lands.
 - (d) Area water, sanitary and storm sewer systems with proposed points of connection and their impact on existing systems.
 - (e) A description of the manner in which any common areas that are not to become publicly owned are to be maintained, including open space, streets, lighting and other considerations relevant to the proposal.
 - (f) A narrative description of any covenants, grants of easement or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
 - (g) A written statement by the applicant setting forth the reasons why, in his or her opinion, the proposal would be in the public interest and would be consistent with the Town's goals and objectives, as expressed in its Comprehensive Plan.⁵⁹
 - (h) A generic environmental impact statement pursuant to the provisions of 6 NYCRR 617.15 (to be paid for by the applicant) which addresses at least the following
 - [1] The impact on community resources, including roads, traffic, sewers, water supply, public utilities, schools, emergency services, waste disposal and fire protection.
 - [2] The impact on the natural environment, stormwater management (including quantity and quality), groundwater, streams, wetlands, significant filling and grading and aesthetics.
- (6) The Town Board shall then hold a public hearing to consider the application for open space preservation.
- (a) The Town Board may grant incentive zoning for open space preservation only after finding that the open space has community value and that the development area has adequate resources and public facilities, including transportation, water supply, waste disposal and fire protection, to accommodate the density being proposed. The Town Board must also determine that there will be no significant environmentally damaging consequences and that the development area incentives or bonuses are compatible. **[Amended 9-11-2003 by L.L. No. 4-2003]**
 - (b) If the Town Board grants incentive zoning for open space preservation, the Zoning Map shall be so revised. The Town Board may, if it feels it necessary, in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. If the applicant refuses to accept the conditions outlined, the

⁵⁹ Editor's Note: The Comprehensive Plan is on file in the office of the Town Clerk.

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Town Board shall be deemed to have denied approval. The Town Board shall also determine in each case the appropriate density and area requirements for the individual projects and shall consider any recommendation on the same from the Planning Board. Factors to be considered in determining density will also include consistency with the Town Comprehensive Plan including the provision of affordable housing. The determination of land use density shall be documented, including all facts, opinions and judgments justifying the proposed project. **[Amended 9-11-2003 by L.L. No. 4-2003]**

- (c) Public hearings shall be held on any application submitted pursuant to this article, and public notice shall thereby be given thereof by the publication in the official newspaper of such hearing at least five days prior to the date thereof.
- (7) Once Town Board approval is given for incentive zoning for open space preservation, the applicant shall submit his or her application to the Planning Board for preliminary and final subdivision and/or site plan approval pursuant to this chapter and Chapter 137, Subdivision of Land, of the Warwick Town Code.
- (8) Required modifications during subdivision approval. If, in the subdivision or site plan review process, it becomes apparent that certain elements of the application, as it has been approved by the Town Board, are not feasible and in need of modification, the applicant shall present a proposed solution. The Town Board shall then determine whether or not the modified plan is still in keeping with the intent of the zoning resolution.

§ 164-47.7. Conservation easements.

- A. Purpose and intent. The Town of Warwick may acquire Conservation Easements over real property in accordance with § 247 of the General Municipal Law and Article 49, Title 3 of the Environmental Conservation Law. This section establishes guidelines and criteria for the evaluation of such easements in order to clearly establish the public benefit associated with any offer to donate or sell such easements. The proposed easement shall have a definite public purpose, which benefits the Town and the community as a whole.
- B. Term of easement. Any conservation easement offered to the Town shall be perpetual.
- C. Evaluation. The proposed easement should be further evaluated according to the following criteria:
 - (1) The proposed easement shall conserve, preserve and protect one or more of the following:
 - (a) An area which is significant because of its value as agricultural or forest land.
 - (b) An area which is significant because of its unique scenic or natural beauty.
 - (c) An area which is significant because of its value as a watercourse, water body, freshwater wetland or aquifer recharge area.
 - (d) An area which is significant because of its unique geological or ecological character.

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- (e) An area which is significant because of its historical, archaeological, architectural or cultural amenities.
 - (f) An area which is significant because of its value as a community recreational area, greenway corridor, or its relationship to an adjacent recreational area.
 - (g) An area which is significant because of its value as a wildlife habitat or its relationship to an adjacent wildlife preserve or wildlife corridor.
 - (h) An area which is significant because of its intrinsic value as open space necessary to preserve scenic vistas or otherwise enhance community character and attractiveness.
 - (i) An area which is significant because of its intrinsic value as open space in determining future land use development patterns within the Town.
- (3) Although conservation easements are not required to confer public use of the property, in certain cases, public use may be considered a factor in determining the significance of an area.
- D. Enforcement. Responsibility for enforcement shall reside with the Town. The easement should contain the necessary terms and restrictions to ensure that the original character of the area is maintained and to provide sufficient detail that the Town can effectively enforce all the terms and conditions of the easement. It shall be clearly stated that the owner of the property is responsible for the maintenance of the area.
- E. Additional structures. The fundamental purpose of the conservation easement is to conserve, preserve and protect open space. In the case of the reserved open space, limited structures or other improvements may be permitted to be constructed on the property under terms of the easement. Any structures or other improvements permitted under the easement must be strictly limited, must not encroach on the character of the area, and shall be fully defined in a manner satisfactory to the Town and consistent with zoning and other regulations prior to Town Board acceptance of the easement donation.
- F. Donor donations. The Town Board may request an initial donation for costs relating to acceptance and ongoing monitoring of the conservation easement.
- G. Review by other agencies. The Town is responsible for annual review of each conservation easement to verify the continued integrity of the easement. The Town Board may request advisory opinions from the Town Conservation Board, the Town Planning Board and the Town Recreation Commission, and other appropriate agencies prior to acquisition of such an easement.
- H. Public hearing. In accordance with law, the Town Board is required to hold a public hearing on the proposed acquisition prior to any action.
- I. Recording. The approved conservation easement shall be recorded with the Town Clerk, Town Tax Assessor, and the Orange County Clerk.

§ 164-47.8. Agricultural Advancement Districts. [Added 9-11-2003 by L.L. No. 4-2003]

- A. Purposes.

- (1) Agricultural Advancement Districts (AAD) are intended to advance the business of farming in the Town of Warwick. Agriculture is an eighty-million-dollar industry that maintains over 15,000 acres of Warwick as open space. Its importance to the economic base and as a creator of working landscapes that provide the Town with much of its rural, rustic character and charm has been recognized in several programs and zoning provisions. The Town Board also finds that regulatory protection of farmland must be accompanied by economic encouragement if farmland preservation is to achieve its intended goals. Regulations cannot be allowed to reduce farm owners' equity if the economic vitality of the industry is to be maintained.
- (2) Preserving farm owners' equity can be accomplished using a number of techniques, including public purchase of development rights (PDR) and transfer of density rights (TDR). The Town offers some programs of this nature but is not equipped to enter the real estate marketplace and compete with others for land. It needs to be in a position to match private offers and return equity to farmers based on the market if farmland protection programs are to work effectively.
- (3) It is the intent of these regulations to provide a system of zoning and other incentives that provide substantial community benefits or amenities in accordance with § 261-b of the Town Law of the State of New York and § 247 of the General Municipal Law of the State of New York.
- (4) Under AAD Agricultural Advancement District rezoning, the farm owner and the Town will enter into an agreement that provides the Town with a right of first refusal to purchase the property outright or to purchase development rights for a minimum of 10 years. This right of first refusal shall provide the Town with the option to acquire the property on matching terms in any case where a sale for nonfarm use is proposed. During this period while the agreement remains in effect, the landowner will be granted specific density rights. While the agreement remains in place, the Town and the landowner can explore a number of preservation options, including purchase of development rights, transfer of development rights, fee simple acquisition and conservation subdivision. The agreement will further provide for a mandatory Town offer to purchase developments rights or fee title, based on the density rights granted under the agreement, prior to the expiration of the agreement.

B. Requirements and incentives.

- (1) Eligibility for inclusion in an AAD Agricultural Advancement District shall be limited to the following:
 - (a) Parcels of 10 acres minimum lot area, located within existing Conservation (CO), Mountain (MT), Rural (RU) and Suburban Districts (SL). A parcel may, for purposes of AAD eligibility, consist of a lot designated as a single tax number, or of two or more contiguous lots with separate Tax Map numbers.
 - (b) Parcels used for agricultural production, as defined in § 301 of the Agriculture and Markets Law.
 - (c) Parcels on which the owner has, under an agreement with the Town, granted a right of first refusal to the Town of Warwick to purchase the property outright or to purchase development rights for a minimum of 10 years. This right of first

refusal shall provide the Town with the option to acquire the property on matching terms in any case where a sale for use other than bona fide agricultural production, as defined in § 301 of the New York State Agriculture and Markets Law, is proposed. Such right-of-first-refusal agreement shall be recorded with the Orange County Clerk's office. During this period while the agreement remains in effect, the landowner will be granted density rights as provided below. The agreement shall further provide for a mandatory Town offer to purchase development rights or fee title, based on the density rights granted under the agreement, prior to the expiration of the agreement.

- (2) Early termination. A landowner may petition the Town Board for termination of the right of first refusal agreement and rezoning of the property during the initial ten-year period after the AAD Agricultural Advancement District is granted, but not until after the AAD Agricultural Advancement District has been in effect for five years. The Town Board may, in its discretion, grant such a petition after a public hearing upon a finding of undue hardship or extraordinary circumstances, including but not limited to death, illness or catastrophic economic loss. The property owner may also request development according to the restrictions set forth in the AAD Agricultural Advancement District, the regulations of which shall be enacted by amendment of this chapter simultaneously with approval of the landowner's application. The Town Board may, at its own discretion, grant such a request.
- (3) Right of first refusal prior to termination. At least 150 days prior to the termination of the right-of-first-refusal agreement, the Town shall make an offer to purchase the development rights or fee title for all or part of the parcel if it has not already done so. The Town shall make an offer on the basis of fair market value of the property in accordance with the zoning regulations defined in the agreement. If an agreement on the price is not reached within 30 days of the offer or the time to negotiate a fair price is not extended by mutual consent by the parties, the landowner may develop the property in accordance with the AAD Agricultural Advancement District zoning regulations. The landowner will then have two years to submit an application to the Planning Board that will be reviewed by the Planning Board according to the AAD Agricultural Advancement District and the zoning regulations defined in the agreement. This two-year limitation can be extended only by a resolution by the Town Board.
- (4) Solicitation of offer during agreement period. During the first 10 years of the agreement, the landowner may also seek an offer from the Town for purchase of development rights or fee title, subject to the following procedures:
 - (a) Submission of a letter of interest and request for an appraisal to the Town Clerk.
 - (b) Appraisal by the Town based on the density yields defined in the AAD Agricultural Advancement District or the highest and best use of the property.
 - (c) The Town will make an offer within 120 days of receiving the landowner's request.
 - (d) The landowner has the option to accept or refuse the offer without any violation or amendment of the conditions of the AAD Agricultural Advancement District.

- (5) Negotiation of farmland incentive options. The Town Board shall, while the agreement is in place, negotiate with farmland owners to find the best methods of continuing agricultural use of the land and preserving farm owners' equity. Options that may be employed include, but are not limited to, the following:
 - (a) Purchase of the development rights on all or a part of the property, employing conservation easements provided for in § 164-47.7.
 - (b) Purchase of all or part of the property in fee title for continued agricultural use on a leaseback or resale basis with conservation easements in place.
 - (c) Incentive zoning for open space preservation, as provided in § 164-47.6, where a portion of the property is developed, but the active farmland is placed under a conservation easement.
 - (d) Transfer of development rights, as provided in § 164-47.4, where development rights are transferred to either a TDR bank or a sending district. Also, the Town Board and landowners may, independent of the provisions of § 164-47.4, agree to a private transfer of development rights from AAD farmland parcels to other parcels outside of AAD Districts, in conjunction with development plan approvals. This shall be accomplished by placing a conservation easement on affected farmland and rezoning the development parcel(s) concurrently with creation of the AAD District.
 - (e) Cluster subdivision, as provided in § 164-41.1, where residences are clustered on a portion of a property to preserve farmland or other open spaces on the remainder.
 - (f) Village annexation, as provided in the Town and Village of Warwick Intermunicipal Annexation Policy, where increased density is permitted for traditional neighborhood development in areas appropriate for annexation to the Village, subject to cash payments for agricultural preservation in other areas. Other options shall, within those areas of the Town covered by the Annexation Policy, be designed to complement such Policy.
- (6) Density yield.
 - (a) In consideration for not developing a parcel for 10 years, the landowner will be guaranteed the density established as of January 24, 2002, for the underlying zoning district in which it is located as of that date and while the AAD Agricultural Advancement District remains in effect. Minimum density yield shall be determined by applying the Environmental Control Formula specified in § 164-41.3 of this chapter.
 - (b) The Town shall, within six months, assist the landowner in hiring an independent consultant to verify yield. Upon further written agreement between the parties, this shall become the guaranteed density for purposes of the agreement. A landowner who does not agree with the verified density yield may submit additional evidence from qualified land development professionals for consideration by the Town Board and the parties may also agree to arbitrate the matter. Should the parties not be able to agree, either party may withdraw from

the agreement, which shall then become null and void, causing zoning standards to revert to those then in effect for the underlying zoning district.

- (7) Economic assistance in advancing agriculture. The Town shall assist landowners of parcels zoned as AAD Agricultural Advancement Districts in obtaining federal, state, county and local grant monies to advance agricultural economic development initiatives. These programs may include, but are not limited to those designed to promote product diversity, marketing or otherwise encourage economic development of agriculture within the Town of Warwick.

§ 164-48. Performance standards.

No land or building shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard, noise or vibration, smoke, dust, electromagnetic or other disturbance, glare, liquid or solid refuse or wastes or other substance, condition or element in such a manner or in such amount as to adversely affect the reasonable use of the surrounding area or adjoining premises (referred to herein as “dangerous or objectionable elements”), provided that any use permitted or not expressly prohibited by this chapter may be undertaken and maintained if it conforms to the regulation of this section limiting dangerous and objectionable elements at the point of the determination of their existence.

- A. Uses requiring performance standard procedure. Only manufacturing uses and uses accessory thereto shall be subject to performance standards procedures as specified in Subsection D of this section in obtaining a building permit, unless the Building Inspector has reasonable grounds to believe that another proposed use is likely to violate performance standards, in which event the applicant shall comply with performance standards procedures.
- B. Enforcement provisions applicable to other uses. Even though compliance with performance standards procedures in obtaining a building permit is not required for some particular uses, initial and continued compliance with the performance standards themselves is required of every use. The provisions for enforcement of continued compliance with performance standards shall be invoked by the Building Inspector against any use if there are reasonable grounds to believe that performance standards are being violated by such use.
- C. Performance standard regulations.
 - (1) Fire and explosive hazards. All activities involving and all storage of inflammable and explosive materials shall be provided at any point with adequate safety devices against the hazard of fire and explosion, adequate fire-fighting, fire-suppression equipment and devices standards in the industry. Burning of waste material in open fires is prohibited at any point. The relevant provisions of state and local laws, ordinances and regulations shall also apply.
 - (2) Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity at any point beyond the property line, or electromagnetic

Table I

Octave Band Range (cycles per second)	Sound Pressure Level (decibels re 0.0002 dyne/cm²)
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disturbance adversely affecting the operation at any point of any equipment other than that of the creator of the disturbance.

- (3) Noise. The maximum sound pressure level radiated by any use or facility (other than transportation facilities) at the property line shall not exceed the values in the designated octave bands given in Table I, after applying the corrections shown in Table II below. The sound pressure level shall be measured with a sound-level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, 224, 3-1944, American Standards Association, Inc., New York, New York, and American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24, 10-1953, American Standards Association, Inc., New York, New York, shall be used.)

Table I

Octave Band Range (cycles per second)	Sound Pressure Level (decibels re 0.0002 dyne/cm²)
20 to 300	60
300 to 2,400	40
Above 2,400	30

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in Table II shall be applied to the decibel levels given in Table I.

Table II

Type or Location of Operation or Character of Noise	Correction (decibels)
Daytime operation only	5
Noise source operates less than 20% of any one-hour period	5
Noise source operates less than 5% of any one-hour period	10
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, screech, etc.)	-5

Property is not within 500 feet
of any residence district

5

- (4) Vibration. No vibration shall be permitted which is discernible without instruments at the property line.
 - (5) Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Poer's Micro-Ringelmann Chart, published by McGraw-Hill Publishing Company, Inc., and copyrighted 1954 (being a direct facsimile reduction of the standard Ringelmann Chart as issued by the United States Bureau of Mines), except that visible gray smoke of a shade equal to No. 2 on said chart may be emitted for four minutes in any 30 minutes. These provisions applicable to gray smoke shall also apply to visible smoke of different color but with an apparently equivalent opacity.
 - (6) Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted with the ratio of one volume of odorous air emitted to four volumes of clean air. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail. (As a guide in determining such quantities of offensive odors, see Table III, Odor Thresholds, in Chapter 5, Air Pollution Abatement Manual, copyright 1951 by Manufacturing Chemists' Association, Inc., Washington D.C., and said manual and/or table as subsequently amended is to be used.)
 - (7) Fly ash, dust, fumes, vapors, gases other forms of air pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling at any point on the property of others and, in no event, any emission from any chimney, or otherwise, of any solid or liquid particles in concentrations exceeding 0.3 grain per cubic foot of the conveying gas. For measurements of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500°F. and 50% excess air.
 - (8) Glare. No direct or sky-reflected glare, whether from floodlights, buildings, or structural surfaces, or from high-temperature processes, such as combustion or welding or otherwise, shall be permitted. This restriction shall not apply to signs otherwise permitted by the provisions of this chapter, nor to security lighting, lighting of a road system or parking lot lighting not otherwise prohibited.
 - (9) Liquid or solid waste. No discharge shall be permitted at any point into any public sewer, private sewage disposal system or stream, or into the ground, except in accord with standards approved by the County Department of Health or similarly empowered agency, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements.
- D. Performance standards procedure. An application for a site plan, special use permit, building permit or a certificate of occupancy for a use subject to performance standards procedures shall include a plan of the proposed construction and a description of the proposed machinery, operations and products, and specifications for the mechanisms and