

The background features a stylized agricultural landscape. At the top, a bright yellow sun with rays is set against a blue sky. Below the sky, a green field is divided into yellow and green diagonal stripes. In the distance, there are yellow farm buildings, including a barn and a silo. In the foreground, a dark green plant with three leaves and a central bud is centered.

New York State Department of Agriculture and Markets Agricultural Districts Law

**Agricultural Districts Law
Article 25-AA**

www.agriculture.ny.gov



Article XIV of the State Constitution

*Policy of the state to conserve and protect
its agricultural land for the production of
food and other agricultural products.*

The Constitution of the State of New York directed the Legislature to provide for the protection of agricultural lands

Agricultural Districts Law (Article 25-AA)

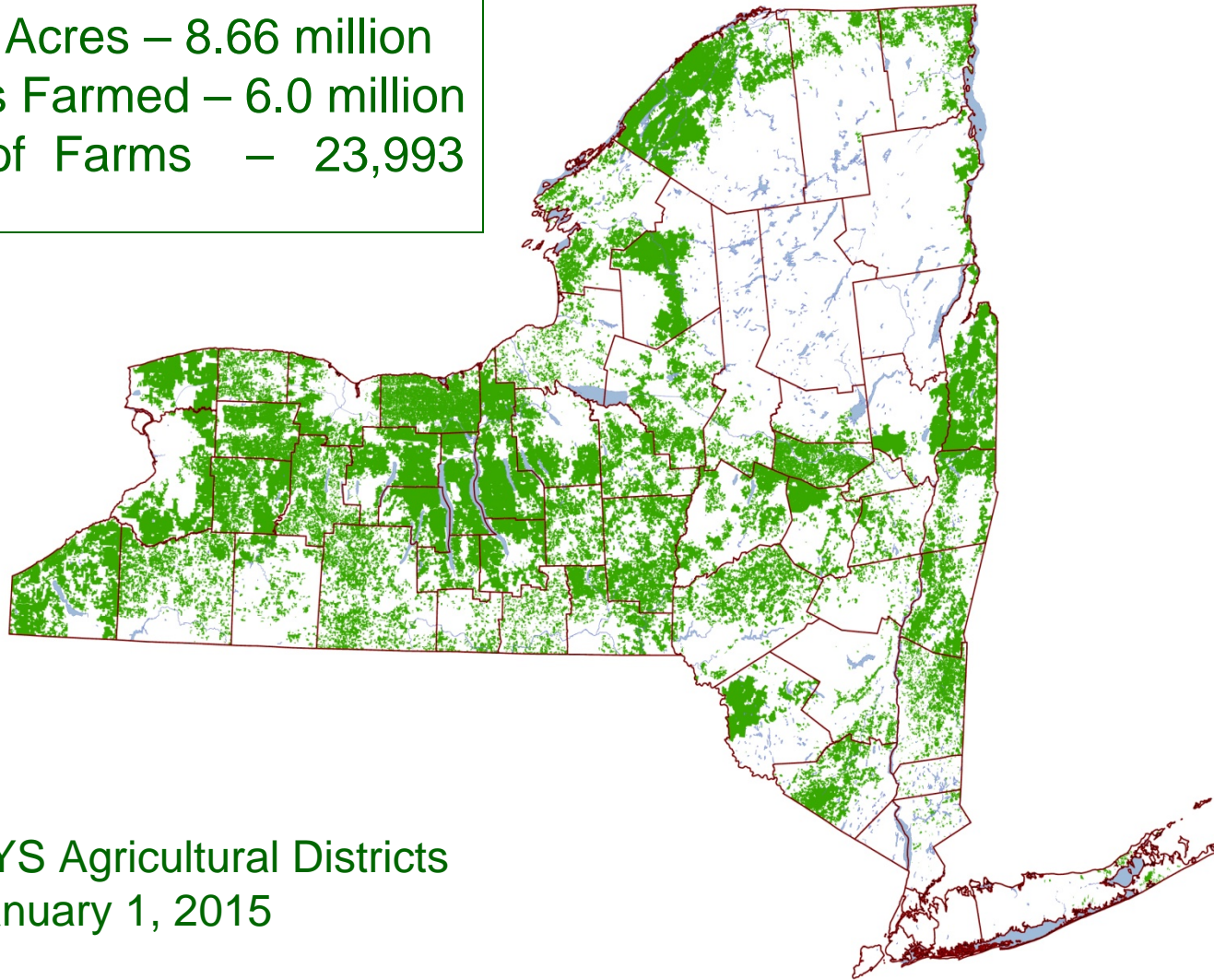
- Adopted in 1971,
- *centerpiece of state and county level efforts to conserve, protect and encourage the development and improvement of agricultural lands for food and other agricultural products...*

Purpose of Law - Provide limited protections to farm operations as long as they remain in agricultural production! – State and Local initiative

Counties Create and Review Agricultural Districts- AML §§303, 303(a) & 303(b)

- Landowner petitions county legislative body to add land to agricultural district.
- County agricultural and farmland protection board reviews petitions and makes recommendation to county legislative body.
- County legislative body holds public hearing and creates, modifies, or terminates the agricultural district.
- District reviewed every 8 years and annually may add land to a district during a county designated 30-day period.

Total Acres – 8.66 million
Acres Farmed – 6.0 million
No. of Farms – 23,993



NYS Agricultural Districts
January 1, 2015

Produced by IRIS, Cornell University

What is a “Farm Operation”?

Defined by AML §301(11) as:

“...the **land and on-farm buildings, equipment**, manure processing and handling facilities, **and practices** which *contribute to the production, preparation and marketing of ‘crops, livestock and livestock products as a commercial enterprise, including a ‘commercial horse boarding operation’* as defined in subdivision thirteen of this section and **‘timber operation’** as defined in subdivision fourteen of this section and **‘compost, mulch or other biomass crops’** as defined in subdivision sixteen of this section and **‘commercial equine operation’** as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.”

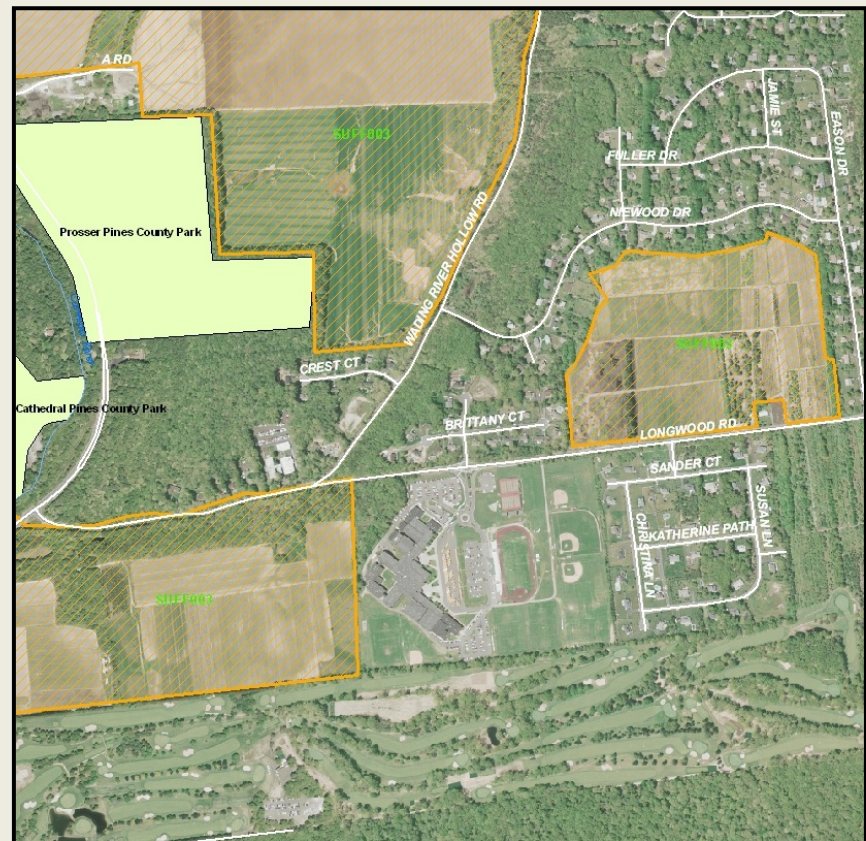


Crops, Livestock and Livestock Products Include:

- **Field Crops** – corn, wheat, hay, dry beans, potatoes...
– *Including hops*
- **Fruits** – apples, grapes, berries, cherries, peaches...
- **Vegetables** – tomatoes, snap beans, carrots, onions...
- **Horticultural Specialties** – flowers, nursery stock, trees...
- **Livestock/Livestock products** – cattle, hogs, eggs, milk...
- **Maple Sap**
- **Christmas Trees** – live or cut
- **Aquaculture Products** – fish, shellfish, water plants...
- **Woody Biomass** – short rotation woody crops...
- **Apiary Products** – queens, honey, nucs, pollen...

Agricultural Districts and the Local Planning Process

- Municipalities are responsible for the regulation of land uses through comprehensive & master plans, zoning, local laws, and building code enforcement.
- **Farmers must comply with all local laws.** A farm operation in an Agricultural District may ask for an AML 305-a review.



AML §305-a(1) Policy of Local Governments

Imposes affirmative obligation upon local governments to enact and administer local laws and ordinances to effect the policy of AML Article 25-AA, which is to protect and enhance New York's farmland.



AML §305-a(1) Policy of Local Governments

...And prohibits local governments from unreasonably restricting or regulating **farm operations** in agricultural districts unless the locality can show that the public health or safety is threatened.



Alcohol Related Activities Protected Under AML

- Processing, distillation, brewing and fermentation;
- On-farm buildings and equipment needed to produce, store, distill, brew and/or ferment grains, grapes or other fruits;
- On-farm marketing of wine, distilled, fermented and brewed products as long as **(> 50 %)** of ingredients (grain, hops, grapes, other fruit) are grown on land owned and/or rented land.



Other Activities/Products - Protected?

- On-farm marketing of distilled, brewed and wine-related products (cheese, pies, ice cream made with wine or distilled products);
- Products used for transport, preparation and consumption of distilled or brewed products or wine such as shot glasses, cork screws, chillers and serving glasses as long as consistent with size/scope of farm;
- Start-up farms provided reasonable period of time to meet predominance standard (>50%); and
- Private weddings and public harvest festivals, tastings, charitable events, etc. evaluated on case-by-case basis (primary purpose to market farm's products).

Tasting Room and Processing Facility morphed into other **ACTIVITIES**



- Bed and Breakfast (not protected);
- Weddings/Parties;
- Charitable Events;
- Festivals; and
- Special Events

Reviewed on case-by-case basis and activity may include:

- Bands
- Catered or Prepared Food
- Alcohol not produced by farm operation

Primary purpose of ACTIVITY must be the sale of farm's wine, beer, cider, or distilled products!

Reasonable Review of Activities by Local Government?

- Farm may be required to undergo expedited agricultural site plan review process, consistent with A&M model, or obtain an event permit from the regulating municipality.
- Special Use Permits deemed by A&M as unreasonably restriction in violation of AML §305-a
 - Nielsen v. Town of Jerusalem, NY, et. al, Monroe County Index No. 2012/05552

Nielsen v. Town of Jerusalem, NY, et. al, Monroe County Index No. 2012/05552

- Farmer applied to town to operate winery business on property to market wine and have small private parties, with additional parking to accommodate patrons.
- Since land in Agricultural District, use permitted by town, did not require a special use permit, site plan review or SEQRA.
- Petitioners filed Article 78 arguing the Board acted arbitrarily and capriciously, failed to give proper notice, violated their due process rights, failed to consider impact of winery to neighbors, failed to conduct proper SEQRA review, failed to determine if winery is compatible with existing landowners as required by Town Zoning, and the ZBA's granting of a special use permit to operate a wine sales business in the zoning district is illegal.

Nielsen v. Town of Jerusalem, NY, et. al, Monroe County Index No. 2012/05552

- Court found that proposed winery and supporting operations are fairly defined as a “farm operation” and as such, are not subject to a special use permit.
- Since site plan review is required for “uses requiring a special use permit or use variance,” the court stated that no site plan approval was required.
- The Court found that no SEQRA investigation was required.

Other State Laws that Affect Farm Distilleries, Breweries and Wineries

- Agriculture and Markets Article 20-C Food Processing License;
- Alcoholic Beverage Control Law administered by the State Liquor Authority;
- Applicable municipal or federal laws;
- Health Department; and
- Possibly various types of permits from the NYS Department of Environmental Conservation.

Confusion Between AML and ABC Law

- ABC Law – regulates and controls the manufacture, sale and distribution of alcoholic beverages within the State. ABC Laws:
 - “Farm Cidery” (§7-d), “Farm Distillery” (§11-a), “Farm Winery” (§12-1) and “Farm Brewery” (§12-aaa) means any place or premises located on a farm in NYS.
 - “Farm” (§12-aa) means land, buildings and equipment used to produce, prepare and market crops, livestock and livestock products as a commercial enterprise. A farm may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other. **Does not reference “farm operation” as defined in AML §301(11).**

Special Provisions Relating To:

- Distillers License [ABC Law §61(2-c)(a through g)] referred to as a “Farm Distillery License”
 - Manufacture of liquor from “farm and food products” as defined in AML §282(2)
 - AML §282(2) pertains to the direct marketing of NY grown products and **is not** part of the Agricultural Districts Law.
- Farm Winery License [ABC Law §76-a(1) through (9)]
- Farm Brewery License [ABC Law §51-1(1) through 15]

A “farm winery” as licensed by the SLA may or may not be considered a “farm operation” under the Agriculture and Markets Law for purposes of AML §305-a protection from unreasonably restrictive local laws.

Guidance Documents

The Department has produced a number of guidance documents on topics affecting farm operations located within a county adopted, State certified agricultural district, including:

- **Guideline for Review of Local Laws Affecting Farm Distilleries, Breweries and Wineries**

- Guidance Documents can be accessed from www.agriculture.ny.gov. See “Divisions,” “Ag Protection & Development Services,” “Agricultural Districts – Farmer Benefits and Protections,” and then, “Guidance Documents.”



CONTACT INFORMATION

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