

**A Strategic Plan for  
Preserving Agricultural Lands and  
Revitalizing the Agricultural Economy  
in the Town of Porter, New York**

*Prepared by*  
**Comprehensive Plan Implementation Committee**  
*in collaboration with*  
**George R. Frantz and Associates**

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## **Introduction**

The purpose of this project is to identify key issues related to preservation and revitalization of agriculture in the Town of Porter, New York and to develop specific strategies and activities that the Town of Porter, in collaboration with its farm community, can implement to enhance the long-term viability of agriculture in the town. The report represents a first step in the process: creating a “snapshot” of agriculture in the Town of Porter today.

A long tradition of home rule in local land use planning and growth management in New York give local governments such as the Town of Porter substantial influence over the future of agriculture within their respective boundaries and in surrounding communities. Local governments have the power to implement land use policies and zoning regulations that directly impact on the ability of farmers and farmland owners to maintain their property in agricultural production.

They also can determine the future of agriculture by deciding when and where to invest in municipal water and sewer services. Traditionally the focus on planning in local governments tends to be on new residential, commercial and industrial development, enlarging the local tax base and providing for streets, roads and public parks. In some communities, agriculture has been viewed as a temporary land use in planning and zoning, one that will disappear gradually as land is developed for its “highest and best” use.

It is not that growth and infrastructure development are not critical areas in terms of public policy. They are indeed critical areas in public policy. The issue is that while communities focus on these issues they sometimes fail to pay attention to the issues facing their farm communities and to devote the necessary resources to sustaining their farmers and protecting the agricultural land resources. Until only recently in New York agriculture has not been recognized as a business enterprise or as a valuable long-term community asset in planning and zoning practice.

The State of New York through the Department of Agriculture and Markets is also a major player in setting land use policies related to agriculture, primarily through the agricultural districts program. In addition to providing partial relief from property taxes by controlling the way in which agricultural properties enrolled in the program are assessed, agricultural districts also limit local governments’ ability to levy benefit assessments for municipal water and sewer infrastructure on farmland.

## **The Setting**

The Town of Porter, New York is located in the northwest corner of Niagara County. It has a population of approximately 6,910 residents according to the U.S. Census of Population for 2000. It is bounded on the north by Lake Ontario and on the west by the Niagara River and the international boundary with Canada. In general the terrain is relatively flat to moderately sloping. Although there is a limited amount of industry or commercial development locally, the Town of Porter is primarily a bedroom community for the Niagara Falls/Buffalo metropolitan area to the south. It is also home to an estimated 100 to 150 seasonal homes located primarily on the lake Ontario shore. The Robert Moses State Parkway limited access highway places the community within easy commuting range of employment centers in the cities to the south. The town is a rural community where approximately 70% of the land is not occupied by structures or other permanent improvements. Lands utilized for residential, industrial, commercial and institutional uses account for just over 20% of total area. Agriculture is the largest land use, covering some 10,453 acres of land or about 54% of the total land area<sup>1</sup>. In addition there are just under 2,700 acres of land covered with woodland, brush and meadow, or are otherwise vacant. Lands dedicated to park and recreational uses, including two New York state parks, account for almost 4% of land area. The Town is thus blessed with an abundance of open space resources that contribute to an overall rural character, create an attractive community within which to live, and support a wide range of bird and other wildlife species.

The Town of Porter is located within the Lake Ontario plain, a unique geographical feature, which runs along the southern and eastern shores of Lake Ontario to its outlet to the St. Lawrence River. The lake plain is characterized by good to excellent soils (silty-loams) and a high proportion of prime farmland. In addition to good soils the region is blessed with a favorable climate, including a temperature moderating lake effect that provides two week later growing season in the fall than 20 miles (inland) to the south. The cold lake in the spring also delays early budding out of fruit trees and vines thus preventing bud death. These climatic and edaphic conditions combine to make the Town well-suited for fruit and vegetable production, as well as field crops and livestock.

Due to the presence of Lake Ontario and the Niagara River recreation plays an important role in the local economy. Major recreational activities that residents and non-residents engage in in-

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<sup>1</sup> peter j. smith & company. Town of Porter Comprehensive Plan. December 2004. p. 57.

clude sailing, sport fishing, hunting and birding. Fort Niagara, once a key military outpost of the U.S. today contributes to the rich history of the community and attracts tourists from around the world. Fort Niagara State Park and adjacent Four Mile Creek State Park provide public access to both the lake and the river for both the community and out of town visitors as well as other opportunities for passive and active recreational pursuits.

Most of the non-farm population in the Town of Porter is concentrated in the Village of Youngstown, on the Niagara River, and in Ransomville, a hamlet<sup>2</sup> located on the eastern border of the Town of Porter. Some 1,957 residents or 28% of residents, live in the Village of Youngstown. Another 1,488 or 22% of residents, live in the Ransomville Census Designated Place (CDP). Altogether these two communities are home to one in every two Town of Porter residents. The shores of Lake Ontario and the Niagara River shore are two other areas where the residential population is concentrated.

According to the Town of Porter Comprehensive Plan population is expected to increase modestly in the coming two decades. In the year 2025 the town's population is projected to be approximately 7,500 residents. This equates to an increase of between 250 and 300 new housing units in the community between now and 2025. Although this is a relatively small number of projected new homes, where these new homes are constructed could have a significant impact on both the character of the community and on its agricultural sector.

As is the case in most of rural New York, agriculture in the Town of Porter is no longer the economic engine that it was even half a century ago. Although its economic contributions are still significant locally, less than 1% of all town residents are employed full-time in agriculture.

Statistical data on farming that are disaggregated down to the town level are not available. According to the Niagara County farmland protection Board, however, on the county level the number of acres in agriculture in Niagara County dropped from 155,835 acres in 1974 to 127,355

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<sup>2</sup> For the purpose of this planning document the term hamlet refers to an unincorporated village or other center of population within a town.

acres in 1997.<sup>3</sup> This represents a loss county-wide of approximately 18 percent of the agricultural land base.

According to New York State Department of Agriculture and Markets data the highest percentage of farms in County Agricultural District No. 8 which covers the Towns of Wilson and Porter are dairy, grains and livestock. These farms account for a total of 43 out of 102 farms, or 42 percent. Fruits and vegetables were the primary crops for another 44 farms in District No. 8. Within this group some 25 farms were classed as vegetable, 14 were orchards and 5 were vineyards.

Town level data is also not reported in the Census of Agriculture and must be estimated from zip code data which the USDA does publish. The Town of Porter has two zip codes: Youngstown (14174) and Ransomville (14131). Youngstown is found entirely in the Town of Porter. Ransomville's zip code however crosses into three adjacent towns and its farm data must be proportionally adjusted. The data reported in this analysis has therefore been adjusted to reflect Porter's estimated 25% proportion of the zip code acreage.

Based on this it appears that there are approximately 43 farms in the Town of Porter (Table 1). Most are crop farms (30), including nursery and greenhouses (25), orchards and vineyards (14), farms with vegetable and melon for sale, and farms with forages (hay, haylage, grass silage, and greenchop (10). There are relatively few livestock operations including cattle, milk cows, pigs, and chickens, although farms with horses are likely increasing as the Town attracts "back to the landers" – people moving from cities into the country and establishing small part-time farm operations.

Farms in Porter are perhaps slightly smaller than those in other towns in Niagara County which tend to have more dairy and field crop farms. Farms in Niagara County are likewise smaller on average (186 acres) than those in New York State as a whole (206 acres). Similarly, the Town of Porter has a higher proportion of farms generating less than \$50,000 in sales per year than the county as a whole, 84% versus 81%. This would explain, in part, why only 66% of principal farm operators in the town report farming as their primary occupation, and why over one-third (36%) reported working off the farm more than 200 days in 2002.

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<sup>3</sup> Niagara County Agricultural and Farmland Protection Board. Farmland Protection: a plan for Niagara County. 1998

The Town of Porter in December 2004 completed and adopted a new Comprehensive Plan. The maintenance of the rural, agricultural character of the town is a key goal that underpins many of the Plan's recommendations. The plan calls for measures to ensure the protection of viable farmland, and to minimize development that infringes on the character and productivity of agricultural land. The primary mechanism for doing this would be to channel the bulk of future residential development into the areas in and adjacent to the Village of Youngstown and the Hamlet of Ransomville.

Comparison of some of the above 2002 Census data to 1997 provides some interesting, but not surprising, trends including growth in the total number of farms during the five year period, especially vegetable and melon farms, with a decline in the number of farms with orchards (including vineyards), and other crop farms, as well as a decline of livestock farms. These trends are similar to what is happening at the state and national level, which relate to commodity pricing issues, rising production costs, poor weather during the period (especially drought), and the aging (and retiring) farm population. However given the unreliability of Census data at the zip code level further speculation of any local effects is not possible without more farm community input.

### **Strengths and Opportunities**

Balancing the weaknesses and threats to the future of agriculture in the Town of Porter are a number of strengths and opportunities.

The new Comprehensive Plan for the Town of Porter expresses a clear commitment to efforts to preserve and enhance the long-term viability of agriculture and the agricultural community as an important part of the Town's future. The Plan calls for the protection of its most productive and most viable agricultural lands. Key to this is an explicit strategy within the Comprehensive Plan to:

- reduce the potential for new development that could compromise the efficiency of agricultural enterprises and the productivity of agricultural land;
- accommodate future population growth by channeling major new residential growth in the community toward those areas adjacent to existing centers of population;
- not extend sewer and water services beyond the more densely populated areas in and around the Village of Youngstown and the Hamlet of Ransomville.

*A Strategic Plan for Preserving Agricultural Lands and Revitalizing  
the Agricultural Economy in the Town of Porter, New York*

*Insert Table 1 here*

Farmland in the Town of Porter is characterized by good to excellent soils, relatively level land and a favorable climate for a wide variety of crops. The positive effect of Lake Ontario on local temperature fluctuations, especially in the fall and winter provides local farmers with a wider range of production options than the peers elsewhere in the state. Location and climate combine to make the Town well-suited for fruit and vegetable production, as well as for cultivating field crops and animal husbandry.

Proximity to major urban areas in the form of the Buffalo metropolitan area to the south and the Rochester metropolitan area to the east is also a plus for agriculture in the Town of Porter. Both areas provide potential markets for local farmers who are adapting or desire to adapt their marketing and sales efforts to direct sales to customers. As the food production system here in the United States and elsewhere in the world continues to emphasize large-scale production, extreme cost cutting and uniformity in agricultural products, farmers are being forced to either expand their capacity to produce or specialize in higher quality, lower volume production that targets local and regional markets. The Town of Porter's location places its farm community in a good position to compete whether they decide to go "global" or to stay "local."

### **Weaknesses and Threats**

Economics and demographics continue to pose the greatest threats to the long-term viability of agriculture in the Town of Porter. While significant amounts of farmland statewide, in Niagara County and in the Town of Porter have been lost to development, a larger component of the loss is due to abandonment and reversion to woodland. Agriculture since World War II has gradually been retrenching in New York. This trend is directly tied to the economic viability of agriculture and soils quality. In regions of the state where soils are poorer abandonment and reversion to woodland has been much greater. Generally this has also been true at the community level as well. The farms located in poorer soils are being abandoned, while those in the areas with high quality soils are being purchased by neighboring farms and are continued in production.

Demographically the farm community in the Town of Porter, as it is across the United States, is growing older as fewer younger people take up farming. In many communities the average age of farmers is 60 years old or older. This is a disturbing trend in agriculture in many parts of the country. Put simply, without farmers there can be no farms.

Communities that desire to maintain their agrarian character must in the coming years tackle this particular problem. Some communities have done so by recruiting farmers from elsewhere, especially from closer to the major metropolitan centers of the eastern seaboard. In those areas farmers who desire to continue to farm have the option of selling their operations and moving to areas where development pressures are less.

Creeping sprawl has the potential to become a major issue for agriculture in the Town. Between 1968 and 1998 approximately 3,200 acres of land were converted from agricultural use to other uses. This represents a loss of one-third of the agricultural land resources in the Town in that time period. Much of the land lost was converted to residential uses, primarily in the form of single-lot frontage subdivisions or small scale developments. Although on the surface this appears to be a relatively benign process, the slow but consistent creation of scattered residential lots within major agricultural areas can have a major impact on agricultural operations.

New residential development within agricultural areas can create major conflict between long-time farmers and newcomers who move into farming communities with little knowledge of the nature of contemporary agriculture and unrealistic expectations regarding “life in the country.” Moreover as this trend in residential development continues, tracts of contiguous farm land may become fragmented, forcing active farmers to travel farther and farther between fields. Today as the amount of land they till increases many farmers across the state find themselves spending a growing amount of time traveling with machinery on public roads to get to distant fields. This increases operating costs due to added time, fuel and wear on equipment. It can also increase the cost to the municipality of maintaining local roads due to additional wear caused by heavy farm machinery.

A drawback of traditional zoning, especially when it is coupled with aggressive expansion of municipal utilities such as water and sewer, is that it can generate a phenomenon known as the “impermanence syndrome” within the farm community. As more and more land is converted from agriculture to other uses surviving farmers may become reluctant to invest in new machinery and capital improvements. The efficiency of their operations may begin to erode, profitability declines and basic upkeep and repairs begin to be deferred. Eventually the farm operations shut down and the land either goes fallow or is rented or sold to another farmer.

Controlling residential development within most agricultural areas of New York however must be approached with care. In most communities the typical approach of reducing development poten-

tial by simply reducing permitted residential densities can have significant adverse impacts on agricultural land values. This in turn can have a significant adverse impact on the ability of farmers to finance both operational costs and capital improvements. In recent years some communities have adopted a different approach that involves 1) increasing permitted densities in non-agricultural areas; 2) strategic investments in public water and sewer infrastructure to encourage more compact development in non-agricultural areas; 3) recognition that residential and agricultural land uses are inherently incompatible, just as residential and industrial land uses are inherently incompatible; and 4) revamping zoning for agricultural areas to permit select uses that can supplement the traditional farm revenue streams.

These approaches permit continued population growth within the community without placing the burden of regulations designed to preserve farmland entirely on the farm community. They encourage more efficient use of investments in public infrastructure, and provide better protection to non-agricultural community members from many of the adverse impacts of acceptable practices in contemporary agricultural activities. Moreover by permitting non-traditional sources of income they can also reduce the need for farmers and farmland owners to subdivide off and sell residential lots to supplement their incomes.

Although overlooked in most communities, traditional zoning regulations no longer reflect or accommodate the needs of contemporary agricultural operations. The primary reason for this is that agriculture has historically been treated in zoning ordinances as a temporary or subsidiary land use. Hence the general practice to permit farmers to farm, but give equal or greater status to residential and other non-agricultural land uses. In some cases well-intentioned zoning can in fact be a hindrance to farmers and their ability to maintain the viability of their operations.

The Zoning Law of the Town of Porter as currently adopted was reviewed as part of this assessment. As is the case with many ordinances in New York, certain provisions within the Zoning Law warrant closer scrutiny for possible unintended negative impacts on the farm community and its long term economic viability. They include:

- Sect. 202, Definitions, should be reviewed to ensure that existing definitions such as those for farm, farm market, bed and breakfast inns, home occupation, junkyard, road side stand and stables, among others, are both accurate and adequately protect both the Town and landowner. In some cases specific terms that should be defined, such as “agricultural recreation” or “professional office” are not defined, but should be.

- Contradictory objectives within the Purpose statement for the Agriculture and Rural Residence District (Sect. 401.0): the “...continuation of farming...” and the “...quiet enjoyment of the residences...” within the zoning district do not recognize the potential for conflict between farmers engaged in legitimate agricultural practices and non-farm residents in agricultural areas of the Town.
- Specific restrictions on the location of agricultural facilities in favor of residential development, including in Sect 401.1(A) very large setback requirements for farm buildings housing animals and for manure storage facilities, limits on numbers of specific types of livestock.
- Sect. 401.2 (H) permits dwelling for one tenant farmer on a parcel not less than 50 acres in size, but lacks provisions permitting use for housing farm workers, either seasonal or permanent, while Sect. 401.3(R) could be interpreted to mean that only mobile homes may be used to house farm workers and only one mobile home is permitted on a farm.
- In Sect. 401.3 and Sect. 402.3, Uses Requiring Special Permit, the implied subordination of typical agricultural land uses and operations to residential development is apparent in the requirement that farmers receive a special permit for such uses from the Zoning Board of Appeals. In many cases the requirement for receipt special permit may not be necessary or may do little in the furtherance of the public health safety or welfare. It may also be perceived as excessively burdensome by farmers, and lead to decisions not to invest in improvements to their operations.
- Many of the Special Permits issued per Sect. 401.3 and 402.3 also expire after a specified period of time (i.e. 6, 10, 12 years, etc.), with the possibility of renewal. (see also Sect. 710) Moreover the burden is on farm operators to request any renewals of the special permit by a specified date or lose their right to request a renewal. These provisions may be perceived as excessively burdensome by farmers and lead to decisions not to invest in improvements to their operations, especially in the case of major capital improvements for which the payback period exceeds the time limits on a special permit.
- In Sect 411.1(A) the setback requirements and sunset provision may be excessively restrictive.

In recent years the Department of Agriculture and Markets has taken a more active role in ensuring that farmers whose lands are enrolled in the agricultural district program are protected from land use regulations that may adversely affect a farmer’s ability to manage his or her operation effectively and efficiently or be unduly burdensome on a farm enterprise. Section 305-a of the Agriculture and Markets Law permits the commissioner of Agriculture and Markets to review local zoning and other regulations and to determine if they are unreasonably restrictive or burdensome as applied to farm operations in agricultural districts. In extreme cases the commis-

sioner can take action to nullify such regulations as they are applied to farm operations within the agricultural district.

While it is desirous to protect the important agricultural lands of the Town of Porter from development, it is just as important to ensure, to the extent practicable, that the town's farm community is also economically viable. Contemporary agricultural operations many times require supplemental sources of income in order to remain economically viable. New types of zoning for agricultural areas can be adopted that provide farmers with options in land use that will enhance the economic viability of their farms and ensure their long-term existence.

Many communities have responded with the concept of "agriculture-related commercial enterprises." These are businesses that are subordinate to and compatible with the principal agricultural use of the land. Examples include support businesses such as grain, seed, fertilizer, farm equipment or farm building suppliers, the processing of agricultural products, as well as bed and breakfast inns.

The above issues relating to existing zoning regulations as they impact agriculture in the Town of Porter are by no means unique to the Town, nor are they insurmountable. Moreover they can be resolved in the coming months as the Town has recently commenced the process of re-writing the Zoning Law to conform to the newly adopted comprehensive plan. Key considerations in crafting new "agriculture-friendly" zoning regulations is ensuring that they grant agricultural uses and activities primacy as a land use in areas zoned for agriculture, and that they recognize the nature of contemporary agricultural enterprises and the economic climate within which they operate.

### **Proximity to Canada**

Overall the proximity of the Town of Porter to the international border is considered neither a plus nor a minus for the agricultural sector. Town farmers benefit somewhat from the farm supply and other services available across the border in Canada, and a limited market for their products. At the same time Canadian farmers also compete with Town of Porter farmers in the regional farm market. Town farmers also on occasion are affected by the trade policies of the U.S. and Canadian governments, particularly temporary restrictions on agricultural imports by Canada in response to U.S. exports that can effectively shut Town farmers out of markets on the other side of the river.

## **Conclusion – The State of Agriculture**

For decades now naysayers have predicted the demise of agriculture in New York and elsewhere in the country. Yet while sweeping changes have indeed taken place in agriculture since the end of World War II, agriculture still remains a \$3 to \$4 billion industry and a critical player in the New York economy, turning out a wide variety of foods and other products.

Our farmers have proven extremely adept at adapting to rapid changes in both the economics and the technologies of agriculture. Individually and collectively they continue to buck the trends toward uniformity and globalization by developing innovative production and marketing strategies in order to survive in a hostile economic climate.

There are a promising number of strategies that local communities can embark on to enhance the economic viability of their agricultural sector number of strategies. They involve both the local government and local residents – food consumers. The basis of a successful approach to creating a more viable local agricultural economy includes engaging the wider community in the development process; building a strong collaborative partnership between farmers, consumers and local government; and integrating social, environmental and economic concerns into a development strategy.

## **Introduction**

This section of the report outlines a strategic plan for preserving agricultural lands and revitalizing the agricultural economy in the Town of Porter, Niagara County, New York State. The Town of Porter Comprehensive Plan (2004) called for the Comprehensive Plan Implementation Committee (CPIC) to develop a plan that addresses farmland preservation and agricultural viability in the Town of Porter. George R. Frantz and Associates, Inc., was hired to assist in this process. To date, the committee and the consultant have prepared a State of Agriculture Report; conducted a public meeting at which the agriculture community's strengths, weaknesses, opportunities, and threats were outlined; conducted a series of "key informant" interviews with local farmers; and prioritized the issues raised in the Town. The SWOT analysis and key informant interviews are summarized below.

### **Town of Porter SWOT Analysis Summary**

At a public meeting on the evening of March 27, 2006, in the Town Hall, George R. Frantz and Associates took attendees (including farmers and other local residents) through a SWOT Analysis. SWOT, which stands for "strengths, weaknesses, opportunities, and threats" is a common public participation tool for identifying issues and concerns in a community. This process included brainstorming, clarification, and limited discussion. Later members of the CPIC and individual members of the public, ranked the brainstormed list through a simple voting method. The results indicate that while the participants are discouraged by rising costs, development pressure, and a number of issues out of their (and the Town's) control, they also see opportunities in diversification, adding value, agritourism, and alternative energy development. See Appendix A for complete results of SWOT Analysis and Prioritization.

### **Key Informant Interviews Summary**

Nine farmers identified as leaders in the Town of Porter's farm community were interviewed by members of the CPIC about their farm operations, challenges, and opportunities. They were also asked to describe their short- and long-term goals, and how the town could help them meet these goals. The farmers included fruit growers, beef and dairy producers, vegetable growers, and a mushroom producer. The key informants' opinions were consistent with the SWOT Analysis (above). However, the interviews provide a more candid and specific insight into farmers' challenges and opportunities:

### *Reported Challenges*

- Taxes are too high
- Farm assessments
- CAFO regulations
- Ditch program has ended (need it to help drain fields)
- NAFTA has hurt (Free trade, Chinese, killing us.)
- Not a balanced playing field with Canada
- High cost of fuel, spray, labor, taxes, insurance (compensation)
- Soils not good for wine (need potash)
- Lost total apple crop in hail storm few years back.
- Convenience of Tops/Wegmans; what do we do to capture market share?
- How do we get people to buy our products?
- Has dislike of agritourism that involves the “Donkey rides,” “face painting”; it doesn’t work and it gets away from core value of farm, which is to produce food.
- Lost infrastructure such as the storage facility in Youngstown
- Broker had office on Main Street in Village next to Diner. Was great asset to farmers. Stopped in the 1950s.
- Big challenges out of town control. Federal and State issues.
- Need Long-Term Vision
- Most all the issues negatively affecting operation are on the state and federal levels.

### *Reported Opportunities*

- Specialty products
- Agritourism
- Horse trails
- Ethanol, windmills exciting.
- Signs on parkway promoting farm produce.
- More involvement/help from Chamber.
- Get area supermarkets involved, apples year round
- Organize a co-op program of ordering and mailing gift packages of farm produce.
- We look to take on the types of products that the large farmers won’t touch
- Foster climate that doesn’t hinder us
- Proper land use planning and implementation
- Keeping housing development out of farmland — the two can’t co-exist
- Moratorium on development for subdivisions and development requiring zoning changes while we’re reviewing and changing our zoning laws
- Current comprehensive plan implementation
- Simplify and streamline permit requirements
- Recognize that agriculture is not a temporary use of land — it has open space role

It is clear that, while the Town may be able to address many of the concerns of farmers at the local level, several key issues will require collaboration with county, state, and federal agencies and governments to be successfully addressed.

## **Vision**

It may be useful for the Town of Porter to adopt a vision statement that reflects the above issues identified by the community, and guide the choice of strategies and policies that it will adopt. Vision statements can be effective planning and implementation tools that in effect focus efforts on multiple fronts toward a single common goal. In the case of agriculture in the Town of Porter there are a number of diverse strategies ranging from marketing to land use regulations. A single vision statement can tie the efforts to implement the various strategies together and ensure a successful outcome.

The following is an example which the CPIC might consider adopting:

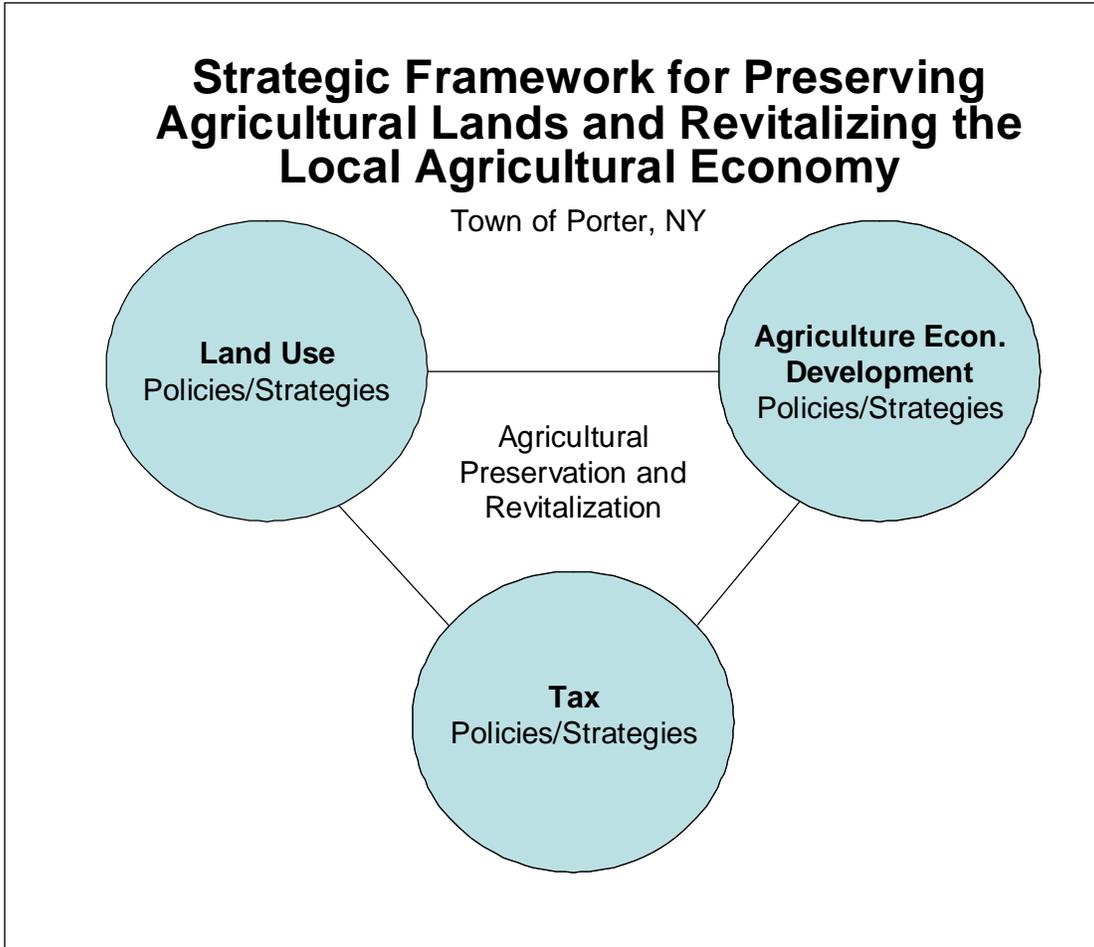
*The Town of Porter envisions a vibrant local agricultural community which is using its natural advantages to the fullest, capitalizing on market opportunities, creating gainful and satisfying employment for farm families and farm labor, wisely using its environmental resources, and contributing to the quality of life in the Town of Porter.*

## **Strategic Framework**

Based on the desires of the CPIC and input of the farm community and local residents, George R. Frantz and Associates has developed a framework upon which the strategic plan is based. The Town of Porter has three general tools to guide the preservation of agricultural lands and the revitalization of the agricultural economy. These include: (1) agriculture economic development policies and strategies, (2) land-use policies and strategies, and (3) tax policies and strategies (see below).

Agricultural preservation and revitalization is a complex community and economic development goal. The Town's mission should be to help provide the fertile ground upon which the agricultural community can thrive, and thus maximize its multiple positive contributions back to the Town. Consequently, we believe that it will require a comprehensive and integrated approach that addresses all three sets of tools simultaneously. For example, land-use and tax policies affect the ability of farmers in the Town to undertake alternative agricultural enterprises such as retailing and processing.

In the following sections we outline the rational and specific strategies of each component of the framework.



## **Section 1: Agriculture Economic Development Policies and Strategies**

### **Operating Assumptions**

The SWOT analysis clearly suggests that the Town will need to employ a mix of short- and long-term economic development strategies, as well as strategies which help mainstream commodity farmers as well as alternative agricultural enterprises that tap growing market opportunities. That said, there are several operating assumptions (including limitations) that ground our objectives and ultimately the chosen strategies in reality:

1. The Town cannot save every farm, nor every acre of farmland that is in production today.
2. Not everyone shares the same vision for agriculture in the community.
3. Geographically and culturally, the Town of Porter has more in common with Niagara-on-the-Lake and its surrounding area than with Niagara Falls (US).
4. Not all of the strategies identified in this report can be accomplished by the Town of Porter alone. Some agriculture economic development strategies will require collaboration with Niagara County, with New York State, neighboring towns and villages, the USDA, and the Canadian Province of Ontario.

### **Town of Porter Agriculture Economic Development Objectives**

The following list of objectives are based on (1) public input (SWOT Analysis conducted on March 18, 2006), (2) in-depth interviews of farmers (key informants), and observations by the consultants. The list is specific but not exhaustive, and new objectives can be added at any time. The list can also be consolidated into clusters by theme. However, for the purposes of this report we thought that a full disclosure of possible objectives would be useful. These objectives will generally guide which agriculture development strategies are ultimately chosen. Possible objectives include:

- Increase market opportunities;
- Promote diversification;
- Increase farmer cooperation;
- Create opportunities for niche producers;
- Increase sideline income;
- Identify and encourage alternative enterprises;
- Create opportunities for conventional farmers;
- Collaborate with other farm communities on ag development policy;
- Exploit Buffalo-Rochester markets;
- Capitalize on natural advantages (soils, climate, proximity to large urban populations);

- Increase food businesses (restaurants, bakeries, specialty grocers, etc.);
- Attract customers to the Town;
- Develop a unique regional identity;
- Educate the public about benefits of agriculture;
- Create an agricultural tourism destination (package);
- Lessen farmers' need to develop land;
- Encourage youth interest in farming;
- Expand Niagara wine trail into the Town;
- Explore hydroponic opportunities;
- Develop direct wholesale markets (e.g., sales directly to restaurants and grocery stores);
- Strengthen regional connection with the "Greater Niagara Region" (especially Canada);
- Improve availability of cold storage (Youngstown?);
- Explore aquaculture opportunities;
- Increase positive outlook among farmers in the Town;
- Connect food and agriculture with local tourism attractions (e.g., Fort Niagara);
- Establish farm trails (cider trail, flower trail, trail riding, birding trails);
- Collaborate to increase waterfront destinations;
- Increase the link between Niagara-on-the-Lake and Porter (Youngstown in particular);
- Reduce farm production expenses;
- Provide access to capital;
- Increase availability of farm labor;
- Increase viability of farms staying in their families;
- Consider ways local corporations can contribute to agricultural community stability; or
- Improve farm and town beautification.

### **Agriculture Economic Development Strategies Which Capitalize on Natural Advantages and Stated Strengths and Opportunities**

Using the above objectives as a guide, we have briefly outlined a number of possible agriculture economic development strategies for consideration. See Appendix B for a table which shows how each agricultural economic development strategy relates to the above proposed economic development objective. The strategies outlined below are not in any particular order.

#### **AED Strategy 1. "Agri-cluster" Project**

An "agri-cluster" is a group of geographically clustered food, agriculture, recreation, and hospitality businesses that collaborate in marketing and in providing their products and services. The members of the cluster can be similar or different, but they are always compatible, supportive, and together promote a clearly defined food and agriculture *theme*.

An example of agri-cluster in Porter might include all of the apple cider producers working together to create "Cider Trail" on which tourists and locals can enjoy tastings of varietal ciders and other orchard products. Each stop on the trail provides a unique experience within the overall

theme. To create an agri-cluster, the members go through an “agripreneurship” training program (see below), during which they not only develop their individual business and marketing plan, but also work as a team on a business and marketing plan for the cluster as a whole. Such a cluster plan includes how they will promote their products and services as a group, how they will encourage customers to visit all the members on the trail, and how they will remain cooperatively competitive (since price fixing is illegal).

The “gite” (pronounced “szheet”) system in France is an interesting cluster model which typically includes a group of recreation, farm, and hospitality business with a central reservation service. The enterprise components of the gite could include a bed and breakfast, a bike rental business, a pasture poultry producer, a canoe rental businesses, and so on — all contributing to the rural experience of the tourist and all sharing in the “package deal” income. Wine trails are certainly another successful example of an agri-cluster approach. Following these examples, greenhouses might organize a weekend “Plant Sale Trail” in the spring to get the garden season off to a good start. The scale and variety of a greenhouse cluster could work particularly well in luring suburban Buffalo gardeners out to Porter. Other clusters appropriate for the Town or Porter include an “Equine Cluster” and a “Nature Cluster” that includes nature trails and related environmental education activities.

### **AED Strategy 2. “Agri-preneurship” Program**

The term “agri-preneurship” is simply a clever way of describing the essential business attitude and aptitude necessary to survive in today’s global food system. As commodity markets dry up, farmers have to change their mind sets and develop entrepreneurial skills. For some folks this comes naturally, but many others can develop into agri-preneurs. Several classroom-type educational programs (such as “NextLevel” and “Fast Trac”) are available for a reasonable fee to help farmers in this regard, typically through Cooperative Extension or other Farm Service Agencies. These can take from several weeks to several months to complete. Usually an instructor guides a class of farmers through the entire business planning process, including management, marketing, operations, and proforma financial projections of a new proposed enterprise. Once completed the farmer has a business plan which can be used for debt or equity financing. However, a wide range of skills are taught along the way, including risk management, merchandising, adding value, and promotion.

The Town of Porter may be able to work with local educational institutions such as Niagara County Community College, BOCES and Lewiston-Porter Centrals School District or other agencies to establish classes in agricultural management skills.

### **AED Strategy 3. Loan Programs**

Without access to the right amount *and* type of financing, farmers in Porter will have a difficult time in making critical changes on the farm. If there is not enough debt or equity financing, the enterprise may starve to death from the inability to generate cash flow. Too much financing can artificially sustain a flawed business model until it comes crashing down due to debt load.

Some community and economic development agencies have capital development tools such as revolving loan funds which are designed to nurture local business development or attract industry to the community. The Niagara County Industrial Development Agency (IDA) carries out its mandate by offering incentives to attract, retain, and expand businesses within Niagara County. Such incentives could include one or more of the following: issuance of low-interest bonds, exemption from real property tax, exemption from sales tax, exemption from mortgage recording tax, and low-interest loans from a revolving loan fund. Intermediary Re-lending programs are where a local agency receives a large grant of funds from a state or the federal government which can then be used to capitalize a local loan fund. Local development agencies often have little experience with the needs of the agricultural community. However, there are examples of IDAs supporting value-adding activities of farms, and the Town could play a key role in helping to leverage these resources.

### **AED Strategy 4. Culinary Bounty Program (A Taste of Place)**

The first “culinary bounty” program was established in New York’s Finger Lakes by French-born Henry Benveniste. Benveniste is a James Beard Award–winning chef who follows the European culinary tradition of focusing meals on seasonal local foods — meats, produce, wines, cheeses, breads, etc. According to Benveniste, the closer the food is to its source of production, the better. Benveniste established a regional organization (Finger Lakes Culinary Bounty) that helps restaurants and other food businesses make contact with local farms and food producers. Since 2000, a number of culinary bounty programs have popped up in New York, including a new one in the Concord Grape Belt. Strategies to promote the farm-food service link include tastings, trade shows, conferences, Web sites, and printed materials such as point-of-sale posters and menu la-

bels. The goal is to encourage chefs to source fresh local food in season and promote “gout de terroir” (a taste of place).

### **AED Strategy 5. New Generation Farm Co-ops**

To approach regional markets such as chain stores or processors, farmers can work together to achieve as a group what is difficult to achieve as an individual. That is, to muster the economies of scale that will help open these markets. Wholesale buyers are looking for large and consistent supplies of a product, and co-ops have worked for generations of small farmers. The problem is that co-ops have gotten a bad name in recent years due to poor management and organizational structure, and they are consolidating rapidly. A recent innovation has been the “new generation” cooperative or “value-adding” cooperative, which is essentially farmers working together to process (value-add) and brand their products instead of just shipping the raw, undifferentiated commodity to a food manufacturer. By controlling their product further up the supply chain, they can theoretically generate a higher rate of return. New generation cooperatives number near 100 in the U.S. (primarily in the Upper Midwest) and produce everything from baked bread and spaghetti to yogurt and fresh lamb. Perhaps the fruit or horticultural concerns in Porter can work together with other producers in Niagara County to ship fresh cut flower bouquets, or varietal apple cider blends?

### **AED Strategy 6. Food Festivals**

The Food Channel has popularized the concept of food festivals. Today they number in the thousands across the U.S. and celebrate just about any food item one can imagine. With a highly diverse agricultural community, the Town of Porter, perhaps in collaboration with Niagara County, is in the position to host a wide variety of so-called “harvest festivals” in a sequence that corresponds with the ripening of fruits and vegetables (strawberries, blueberries, cherries, apples, sweet corn, tomatoes, pumpkins, etc.). The “harvest” of local livestock such as poultry, beef, pork (and maybe even lamb) may also be celebrated through barbecues, cooking contests, and the like. These events do not replace, and in fact complement, the county fairs which generally focus on production and not on regional cuisine and unique local food traditions. The Town’s cabbage festival could be a good starting point for a series of food festivals (called “A Taste of Porter”?).

### **AED Strategy 7. Farmer-Owned Grocery Store**

The concept of a year-round farmer-owned grocery store, whether individually owned or cooperatively owned by farmers, has taken root in the Northeast U.S. In France, these stores typically have 10 farmer members who specialize in different products, such as fruits, breads, vegetables, wines, cheeses, poultry, beef, port, etc. The store operates year-round with processed products, meats, bakery items, and other value-added products largely sold in the cold months, but some greenhouse-grown micro-greens may also be available. Some cooperative farm groceries require a farmer to be present at all times to answer customer questions. Several states have begun to develop stores and many farmers will be watching closely to see how they manage.

### **AED Strategy 8. Farmers' Markets**

The Town of Porter should consider the creation of a farmers' market to provide a local food shopping venue for local consumers as well as tourists. It could perhaps be a midweek satellite of the existing Lockport Farmers' Market. Roadside stand and U-pick operators may initially resist farmers' markets for fear of competition, but they often later find that they benefit from the additional exposure at the farmers' market. Farmers' markets are great for farmers who are new to direct marketing because they offer the chance to develop marketing and merchandising skills, get immediate feedback on new products, and generate cash flow at low cost and low risk. A variation on the farmers' markets is a "mobile farmers' market" which can ride a circuit around the town on a given schedule.

### **AED Strategy 9. Conduct Feasibility Studies**

Some agriculture economic development projects that work in one community may not work in another. Feasibility studies, though sometimes expensive, reduce risk to the community by nipping an infeasible project in the bud. Consultants can conduct feasibility studies which typically include (1) a survey of potential participants in a project (to gauge their needs and likelihood of committing themselves to the project), (2) market research of customers or buyers, (3) case studies of similar projects (including post-mortem analysis of failures), and (4) some financial data. In addition to "red lights" (the project is a no-go), the feasibility study may produce a "green light" (go for it) or "yellow light" which means more work (typically financial) needs to be completed before moving forward on a project. Feasibility studies are often precursors of business plans.

### **AED Strategy 10. Explore Energy Alternatives**

Due to the rising price of oil and gas, there is growing interest among farmers and landowners throughout the country in developing alternative sources of energy. Biofuels (for example ethanol, which can be produced from corn and other plant materials) and wind power are two of the most popular concepts. The College of Agriculture and Life Sciences at Cornell University and the state of New York are beginning to explore these in great detail. It is possible that successful biofuel processing plants will emerge in Upstate New York in the next few years. However, given volume requirements and likely stiff competition from large producers in the Midwest and Plain states and provinces, it is unclear at this time how feasible these plants will be. Studies do seem to suggest that Lake Ontario may be suitable for commercial-scale wind turbines. See Appendix C for a list of wind energy information, resources and projects.

### **AED Strategy 11. Leverage Corporate Support**

Corporations, especially large ones, are increasingly recognizing their critical role in the stewardship and sustainability of their host communities. As members of not only the business community, but also as residents and consumers of local goods and services, company employees generally do wish to contribute to improving the quality of life in the community. Of course, this is not always the case, and a company's bottom line will always be #1 in a stockholder's mind. However, there does seem to be room for communities to negotiate "fringe benefits" with large companies which dominate their economy and the local landscape. It is our recommendation that the Town of Porter consider leveraging support from local corporations which benefit from their unique location in the community. A thoughtful approach which begins with an emphasis on mutual interests could lead to valuable assistance and goodwill gestures that can benefit the farming community. For example, it might be possible for a corporation to underwrite the cost of festivals, trail development, promotion, rehabilitating critical storage infrastructure, or perhaps even the purchase of development rights on some local farms.

### **AED Strategy 12. Farm-to-Institution Program**

One of the most popular agriculture economic development strategies today is "farm-to-school" programs. The USDA and New York State have put resources into linking farmers with school district food services, and a number of successful models are emerging. There are some technical and distribution challenges to the concept, but there is no reason why local Niagara grape juice can not be served in 4-oz. containers in Western New York schools — or throughout New York for that matter. Some regional and nationwide food service companies have begun to take an

interest in regional foods. Prisons, jails, hospitals, senior care facilities and the like may also be interested in procuring locally produced and processed agricultural products. To assist in promoting healthier eating and to reduce healthcare costs the Kaiser-Permanente healthcare system has established a program of farmers markets on the grounds of its hospitals. They have published a Farmers Market Resource Guide to help other healthcare institutions partner with local farm communities.

### **AED Strategy 13. Flower or Produce Auction**

Because of its climate and other factors there is a long tradition of growing flowers and other horticultural products in Western New York. Fresh cut flowers, dried flowers, and related products have seen growth in the last 15 years. Fruits and vegetables, too, generally do well in the Lake Plains. Auctions have begun to pop up, especially near Amish and Mennonite communities, as a clever way to wholesale products to other farmers (e.g., roadside stand operators looking to round out their offerings) as well as to grocery stores and restaurants. Typically, the farmers have a capital drive amongst themselves to fund and construct the auction house. However, in at least one case, the farmers sold stock to residents of the community to help capitalize the facility. The Town of Porter (or Niagara County) might consider working with neighboring communities in locating a flower and/or produce auction on the outskirts of Buffalo or between Buffalo and Rochester that could capture the suburban market that does not want to drive to the Buffalo Wholesale Flower Market on a weekday (they are also not open on Sunday).

### **AED Strategy 14. FarmLink Program**

Farmers who wish to leave farming may want to pass the farm on to a family member or sell to another farmer who will be just as good a steward of the land as they were. Cornell's FarmNet has an allied program called NY FarmLink. The program offers technical assistance in helping plan the transfer or sale of a farm from one farmer to another or from a parent to a son or daughter. These can be very complex and emotional ordeals for all parties concerned and FarmLink has expertise in helping with all phases of the transaction.

It might also be feasible for the Town of Porter to train a local real estate agent to specialize in intergenerational farm sales and marketing farm properties to other farmers in other areas of the Northeast. Some counties in the state have actively marketed their farms to Amish and Mennonite farmers in Pennsylvania. Possibilities may also exist for recruiting farmers, including fruit farmers, from rapidly urbanizing areas of the lower Hudson River Valley.

### **AED Strategy 15. Shared-Use Kitchen**

There have been many fortunes made and lost in the last 20 years on specialty foods: artisanal breads, farmstead cheeses, and gourmet conserves of all types. To make these types of products, farmers are likely to be required to have a food-processing establishment license (called a 20-C) from the NYS Department of Agriculture and Markets, Division of Food Safety Inspection. (The Buffalo Regional Office can be reached at (716) 847-3185.) As a general rule, any product that requires acidification (e.g., the addition of vinegar) or that is classified as potentially hazardous needs to have a “process approval” and be produced in a licensed and inspected kitchen. Jams and jellies made from fruit are a possible exception, as they are permitted to be processed in a home kitchen if no commercial equipment is used and adequate hygienic conditions are maintained.

In any case, having access to a pilot or test kitchen before making an investment in equipment and facilities is a real plus. A number of communities around the United States are investing in “shared-use kitchens,” which provide a certified and inspected commercial kitchen with all the requisite equipment and storage facilities. For a rental fee (hourly or by the square foot), a would-be food entrepreneur can use the kitchen and do product development, small production runs, etc., in a hygienic environment. Sometimes technical assistance is provided in developing recipes, packaging, marketing, and business management. Communities that host a kitchen benefit from new businesses and new employment. There are issues in underestimating the cost of operating shared-use kitchens and overestimating rental income, and a number of kitchens have failed in recent years. An alternative is to develop an “incubator without walls” program which helps start-up processors find existing licensed kitchens, such as in restaurants, churches, VFW halls, etc., and provides business management and marketing counseling through existing programs and agencies.

### **AED Strategy 16. Public Education Campaign**

Investing in the above types of organizational infrastructure will be wasted without public support. Should the Town of Porter move forward on these types of agriculture development strategies, a public education campaign will be essential. Agriculture contributes many economic and noneconomic benefits to the community (from jobs, tax revenue, and business, to bucolic landscapes, open space, and wildlife habitat). No other industry provides so much and receives so little in return from the local community. It is therefore critical to the success of this work that the public be engaged, educated, and supportive. Public education campaigns take many forms,

but typically include printed materials, newspaper articles, events, and the like which are utilized on a continuous basis. It is important to develop indicators to measure how effective the campaign is and determine whether new information strategies are needed.

### **AED Strategy 17. Grant Writing**

Grant writing is essential to developing the financial resources to support specific projects, conduct feasibility studies, develop and print materials, travel, organize, promote, conduct meetings, and so forth. A list of grant programs administered by New York State Department of Agriculture and Markets as well as the USDA is in Appendix D. The authors of this report strongly recommend making sufficient resources available to retain a grant writer. *COST: Between \$500 and \$2,500 per grant proposal, depending on the length and complexity of the proposal and the level of input from the community.*

### **AED Strategy 18. Create a “Growing Home” Partnership**

Regardless of what agriculture development strategies are implemented, it is advisable to establish an overall agriculture development program. This could be in the form of an informal task force, working group, or committee, but it is even better to establish a more formal organizational structure such as a private nonprofit (501(c)(3)), or at least formally affiliate with a local development group (e.g., the Chamber of Commerce, IDA, etc.) which can serve as an organizational partner and pass-through agency. This formality has many benefits, including being able to receive tax deductible contributions and grants, having memberships which lead to more stakeholder engagement, having more structured meetings, and having a clearly defined leadership — which is important for public relations. A “Growing Home” program or partnership is a collective term we use to describe the package of activities and programs that related to agriculture development at the local level. “Growing Home: A Guide to Reconnecting Agriculture, Food, and Communities” is available at CFAP, call (607) 255-9832, e-mail at [gcg4@cornell.edu](mailto:gcg4@cornell.edu), or visit the CFAP Web site at [www.CFAP.org](http://www.CFAP.org).

### **Resource Organizations**

A list of agriculture economic development resource organizations which can support the above strategies are listed in Appendix E.

## **Section 2: Land-Use Policies and Strategies**

This plan anticipates that agriculture can continue to be an important and valuable use of land in the Town of Porter in the long term. At the same time it recognizes that the agricultural sector in the town will require a level of attention that it has not traditionally received. This section addresses the issue of long-term viability of agriculture through land use policies and related actions that the Town of Porter can implement.

A critical aspect of future land policies in the Town as they affect agriculture must be the recognition that agriculture is a legitimate, long-term land use, viewed in the same light as residential, commercial, industrial and other traditional land uses. The long-standing approaches to land use planning and growth management that have viewed agriculture as merely a temporary state pending development for a “higher” use must be discarded if agriculture is to have a future. This is particularly true in the more urbanized Northeast, with its relatively limited quantity of prime quality agricultural land and greater competition for land resources.

This plan thus recommends a four-pronged strategy for protecting agricultural land resources and promoting a more viable agricultural sector in the Town of Porter:

1. Establishment of a new *Town Agriculture Committee* to advise the Town Board and other boards on issues pertaining to agriculture in the Town of Porter;
2. Adoption of a local Right-to-Farm law to protect farmers from so-called nuisance suits;
3. A new zoning district for the agricultural areas in the Town of Porter; and
4. A program to identify and permanently protect, through the purchase of development rights, the best farmland in the Town of Porter.

### **Town Agriculture Committee**

Across Upstate New York agricultural communities are finding that, as their numbers decrease, their voice in local government has disappeared. To ensure that the Town’s agricultural community continues to have a voice in local government decision-making, the Town Board should establish an advisory committee composed of members of the farming community. The primary charge of this committee should be to advise the Town Board and other local boards and committees on matters related to agriculture in the Town of Porter. The committee could also serve as a

liaison with the Niagara County Agricultural and Farmland Protection Board and oversee the administration of the proposed purchase of development rights program.

### **Right to Farm Local Law**

In the wake of a growing number of lawsuits by nonfarm residents in rural areas against farmers over so-called “nuisances” created in the course of farm operations, towns in New York now have the authority to enact local laws to protect farmers engaged in any generally accepted agricultural practices from such actions. These “right to farm” local laws are intended to ensure that farmers can engage in lawful agricultural practices at all such times and in all such locations as are reasonably necessary to maintain their agricultural operations.

Under a local right to farm law, agricultural practices that are: (1) reasonable and necessary to the particular farm or farm operation; (2) conducted in a manner which is not negligent or reckless or which does not pose a threat to public health and safety or cause injury to health or safety of any person; (3) conducted in conformity with generally accepted agricultural practices or in conformity with all local, state and federal laws and regulations; or (4) conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadway, would be legislatively determined to not constitute a public or private nuisance. While such a law would not fully protect farmers from lawsuits brought by neighbors upset over the sounds of tractors early in the morning, dust, pesticide spraying and the smell of manure, it would make it much more difficult for plaintiffs to prevail in court.

Moreover, in many communities right to farm laws require that prospective homebuyers in agricultural areas receive information that alerts them to the character of modern agriculture and possible issues that they may have to cope with. Appendix F contains a sample local right to farm law.

### **Zoning Law Amendments**

The proposed new zoning district would grant agriculture the primacy as a land use that is traditionally accorded to residential development in a residential zoning district; commercial development in a commercial district; or industrial development in an industrial zoning district. It also reflects the reality that agriculture and residential development are inherently incompatible land uses. Hence the purpose of the proposed district is “to protect the agricultural land resources of

the Town...” and to “promote...as much as possible, the continued economic and operational viability of agricultural enterprises.”

Appendix G contains recommendations regarding land uses and standards for a new Agricultural zoning district that could be included in a new Town of Porter zoning law.

The proposed Purpose statement for the new district should explicitly state that agriculture is the primary land use within the district. It should further state that any agricultural practice determined to be a sound agricultural practice by the New York State Commissioner of Agriculture and Markets, pursuant to Article 25-AA, Section 308, shall be deemed an appropriate use of the land and its resources, and shall not constitute a private nuisance. In short the proposed district should directly incorporate the language of the traditional “right to farm” laws into the zoning law.

Elsewhere in the country communities have adopted more aggressive zoning approaches to reduce the potential for development in important agricultural areas. Techniques such as fixed-ratio zoning, coupled with densities as low as one nonfarm dwelling for every 20, 25 or even 40 acres of land have proven successful in a number of jurisdictions in Maryland, Virginia and Pennsylvania.<sup>4</sup> A few towns in New York have adopted some variations of this type of zoning to protect their agricultural land resources. Recent analysis of this approach, however, has revealed that it can reduce the market value of farmland by between 10 and 20 percent. Given the relatively low value of farmland in the Town of Porter, such a reduction in farmers’ equity can adversely impact their ability to borrow money for operating expenses and capital improvements.

Another approach used by some communities to protect agricultural lands from overdevelopment has been setting extra-large minimum lots sizes, such as 10 acres, 15 or 20 acres or more. In addition to the potential negative impacts on land values and farmers’ equity positions, experience has shown that setting high lot size minimums has resulted in farms being carved up into lots that “are too big to mow and too small to farm.”

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<sup>4</sup> In general fixed-ratio zoning controls residential development potential and protects agricultural lands by (1) limiting the number of lots that can be subdivided off a particular tract of land (e.g., “one lot for each 20 acres...”); and (2) setting a maximum size for nonagricultural lots, usually at two acres or smaller. For a hypothetical 200 acre tract of land, the above parameters would permit up to 10 residential lots, each no more than two acres in size. Use of the remaining 180 acres would be limited to agriculture.

Rather than relying on dramatic reductions in development potential to protect valuable agricultural land resources, the emphasis of the proposed new zoning district is on recognizing the changing character of contemporary agricultural enterprises, and broadening the opportunities for generating income available to farmers. Today zoning regulations for the agricultural areas must be flexible enough to allow farmers to make a reasonable economic return on their substantial investments. Many farmers now supplement their incomes with income generated by agriculture-related businesses such as grain, feed, seed, farm implement or farm building dealerships, as well as wholesale and retail distribution of agricultural products. Providing such options for generating revenue in zoning regulations gives farmers or farmland owners alternatives to the sale of land for development purposes.

It is critical however that any zoning regulations that would allow agriculture-related enterprises carefully define what such enterprises could and could not include. Zoning language must be carefully crafted so that such enterprises do not evolve into retail operations that are not associated with a farm operation, or primarily sell products not produced on a farm, or sell nonfarm-produced items or services that are not marketed primarily to the farm community.

An alternative to increases in minimum lots sizes that could be particularly effective in protecting agricultural land resources would be the use of cluster subdivision design as permitted under Section 504.4 of the current zoning law. Although many people think of high-density townhouse or condominium development whenever they hear the term cluster subdivision, it has also proven to be an effective tool for protecting open space resources in lower-density zoning districts by permitting landowners to condense the size of lots for single-family homes as well.

In the case of the Town of Porter in areas where soils permit, or where public water or sewer service is available, cluster subdivision designs that utilize one-half or even one-quarter acre single-family home lots could accommodate appropriate levels of rural residential development and preserve agricultural lands. Within the proposed agricultural areas, the Town should promote the use of cluster subdivision design whenever possible.

Some communities have facilitated the use of cluster subdivision design to preserve agricultural lands by replacing the traditional "...minimum lot size shall be..." zoning language with language such as "...one non-agricultural lot for each one acre of land..." This second approach to zoning language utilizes the size of the parent tract of land, at the time the zoning ordinance is

adopted, as the determinant for how many lots may be possible. Although both examples may permit the same hypothetical number of lots on any tract of land, the second approach, by not setting a minimum lot size, permits great flexibility in the size of new non-agricultural residential lots. For example if public water service were available to a hypothetical 50-acre tract of farmland, lots as small as one-half acre or one-quarter acre may be possible. If a farmer or farmland were to utilize all their rights to subdivide, with one lot per one-acre of land permitted, the maximum number of 50 permitted lots, at one-quarter to one-half acre each, would only consume between 13 and 25 acres of land, leaving 25 to 37 acres in agricultural production.

The flexibility of the second approach moreover would make it easier for farmers and farmland owners to allocate their poorer lands to house lots, and reserve their best lands for farming. In a number of communities that utilize this approach farmers and farmland owners are required to avoid converting lands covered with prime agricultural soils to residential use when subdividing off house lots.

Another technique that communities have successfully utilized to protect their more valuable agricultural lands is the “panhandle” or “flag” lot concept. These are residential lots that meet the minimum lot area, lot width and lot depth requirements of the zoning district within which they may be located, but are connected to the public road or highway right of way by a strip of land. In New York such lots are permitted under Section 280 of Town law, provided that they have a minimum of 20 feet of frontage on a public highway.

Flag lots can be utilized to conserve better farmlands by permitting more flexibility in where new residential lots can be located on a tract of land. In many cases a small strip of higher quality land can be sacrificed to permit a home to be built on poorer quality lands that are located a few hundred feet off the public right of way.

It is important however that standards be established in the zoning ordinance to ensure that proposed flag lots meet minimum dimensional requirements, and ensure adequate access for public safety vehicles. Sample standards for flag lots are included in Appendix G.

## **Purchase of Development Rights**

### *An Overview*

Important to ensuring the continued viability and presence of agriculture in the Town of Porter will be preserving large tracts of contiguous, actively farmed land, without adversely impacting the equity farmers have in their lands. One of the major threats to the future of agriculture in many New York communities is the fragmentation of agricultural lands. This is becoming increasingly problematic in areas where farms are growing in size.

Scattered residential development can break up large blocks of agricultural land and prevent farmers from expanding their holdings through acquisition of parcels of land contiguous to their farms. This forces farmers to acquire property farther afield. As a result they must move equipment and other resources from farm to farm, at a cost measured in terms of time, fuel, and wear and tear on equipment. It also leads to more farm equipment traveling on local roads and highways, which increases maintenance costs for public works departments, traffic congestion, and the potential for traffic accidents.

An effective and equitable way of preserving large tracts of contiguous, actively farmed land, without adversely impacting the equity farmers have in their lands, would be through a purchase of development rights (PDR) program. Purchase of development rights programs have important advantages over other farmland protection tools. They protect farms permanently through perpetual conservation easements. PDR is popular with farmers in many parts of the United States because it is voluntary, nonregulatory, and provides financial compensation for restrictions on the use of the land. Also, PDR programs generally enjoy broad nonfarm public support and offer an opportunity for cooperation between state and local governments and private organizations.

The use of PDR as a way to protect agricultural and other open space resources is based on the tradition that ownership of land conveys to an individual or individuals a variety of rights. Examples of such rights include the right to sell or lease, enter onto the premises, water rights, mineral rights, or easements for utilities or access. Landowners have the ability to convey such rights, through sale, lease or other mechanism, to other parties, while retaining ownership of the land.

Another right that comes with land ownership is the right to develop the land to the extent allowed by law, including zoning and subdivision regulations. By purchasing from the landowner the rights to develop their property (development rights) the Town of Porter would remove the potential for development from the land, and permanently preserve it for future agricultural use. The development rights are “extinguished” through a “deed of easement” which is conveyed by the landowner to the buyer of the development rights. The deed of easement limits the use of the property, usually to farming and open-space purposes, so that if the land is sold or passed on to heirs, the restrictions in the deed of easement still apply. Each easement is unique and tailored to meet the needs of the farmland owner and easement holder.

The Town of Porter should establish an Agricultural Lands Preservation Program as a means of protecting its best agricultural lands. This program would provide the means by which the Town of Porter could preserve the Town’s farmland resources for future generations by purchasing the development rights to the land. The program envisioned for the Town of Porter would be a voluntary program through which a willing buyer — the Town Board on behalf of all Town residents — would purchase from willing sellers the development rights to their land. In exchange for a monetary consideration the landowner would convey to the Town of Porter an *agricultural conservation easement*.

The landowner would retain all other rights to the land, including the right to farm, rent, sell or give it away. He or she would also retain the right to control access to the land. The sale of development rights to the Town of Porter would not convey to the Town the right to allow the public access to the landowner’s property for hunting, fishing or other activities. Conversely, the sale of development rights to the Town does not limit a landowner in the right to allow public access to the land.

An Agricultural Lands Preservation Program in the Town of Porter could contribute to farmland protection and the economic viability of agriculture by:

1. Creating a financially competitive alternative to selling land for nonfarm uses, by allowing farmers to cash in on a fair percentage of the equity in their land;
2. Providing farmers with cash that can be reinvested in the farm operation to keep them financially stable;
3. Helping to facilitate farm transfer from parents to children, and making farmland more affordable to beginning farmers and others who want to buy it for agricultural purposes;

4. Reducing nonfarm development and the potential for farmer-neighbor conflicts;
5. Reducing the fragmentation of farmland, if strategically targeted;
6. Protecting natural resources, such as watersheds and wildlife habitat, as well as agricultural resources;
7. Giving the broader community a way to share the costs of protecting farmland with farmland owners;
8. Encouraging a long-term commitment to preserving agricultural land by landowners through financial incentives and stabilization of land use patterns favorable to agriculture.

In some cases, the sale or donation of an agricultural conservation easement to the Town of Porter may have positive tax benefits for the landowner. Participation in a PDR program can also be a useful tool in estate planning and the transfer of a farm to the next generation. Participation in a PDR program can ease the transfer of a farm from one generation to another by generating cash that can be divided amongst siblings who do not desire to stay in agriculture. This can eliminate the need for the sibling(s) who desire to remain in agriculture having to either sell assets or take on additional debt in order to buy out other members of the family.

Elsewhere many purchases of development rights on agricultural lands have occurred at the time of sale of the farm. The seller may sell the development rights to the land, and then reduce the sale price to the buyer, or the buyer may purchase the farm at full market value, and then sell the development rights. The result is that a younger farmer can acquire a farm at a price that reduces the amount of debt he or she may need to acquire the farm, or the new owner may be able to direct more money toward capital improvements to the new operation. Whether it reduces overall debt or permits needed capital improvements, a planned sale of development rights as part of a conveyance can facilitate the transfer of a farm operation and increase the chances of success for the new owner.

The above scenarios are intended to only illustrate possible ways that a PDR program could be used to preserve agricultural lands by facilitating intergenerational transfers of farms. The various tax-related and estate planning implications of conveying an agricultural conservation easement are too numerous and complex to be discussed in this document. Farmers and farmland owners should consult their own advisors prior to participating in any PDR program.

#### *Establishing a PDR Target Area*

A first step in developing a comprehensive and strategic approach to farmland protection is to determine the quality and quantity of farmland needed to maintain viable blocks of farmland in

the Town of Porter. As attractive as it may be, it is not economically feasible, or even appropriate, to purchase the development rights to all farm parcels.

The basic criteria utilized to identify areas best suited for inclusion in a possible PDR program in the Town of Porter are:

1. A program should target only the better quality soils for protection;
2. Land chosen for protection should be located outside areas selected for future development through the adopted comprehensive plan, zoning or infrastructure investments;
3. Areas where there is indication of increased loss of farmland due to creation of frontage lots and nonfarm residential construction should be included to reduce the potential of this type of incremental farmland loss;
4. A program should target larger parcels with a higher percentage of land available for production;
5. A program should seek to protect large tracts of contiguous active farmland and the most viable farm operations;
6. Farmland that is located within an agricultural district or outside a district but receiving agricultural assessment indicates some commitment on the part of the owner or owners to agriculture;
7. Participation in federal conservation programs and practicing generally accepted best-management practices in agriculture indicate a commitment to both agriculture and the environment; and
8. Agricultural conservation easements can protect environmentally sensitive areas and preserve large swaths of open space.

The quality of farmland is generally defined in terms of the U.S. Department of Agriculture system of soils classification. Under this system, Class I and Class II soils are considered the higher quality soils. Class III soils are considered very good soils and also worthy of protection. In the case of the Town of Porter, a number of Class III soils, such as the Madalin, Rhinebeck and Ovid silt loams and silty clay loams predominate, with pockets of Class I and Class II soils interspersed. The primary limitations of the silt loams and silty clay loams for agricultural uses is that they tend to be somewhat poorly drained to poorly drained. Nonetheless they are still well suited to many crops and relatively productive soils.

In terms of quantity of farmland, it is also important that preservation efforts focus on large tracts of contiguous acreage that comprise clusters of farms, rather than scattered, individual farms. In the Town of Porter there has not been substantial residential and other non-agricultural develop-

ment over the past several decades. As a result agricultural lands have not been broken up to any great extent. Preserving large contiguous tracts of farmland thus will not be as challenging as it can be.

Altogether some 9,200 acres of land have been identified for potential inclusion in an agricultural lands preservation program.(Map 1) Approximately 8,650 acres are located in the area east of Creek Road. The remaining 550 or so acres are located astride NYS Rte.93 west of Creek Road.

Acquisition of the development rights to all parcels of land within the proposed target areas is not anticipated. Evidence from long-standing PDR programs indicates that protecting 50 percent of higher-quality farmland can create a critical mass that stabilizes agricultural land resources and farm viability in the town<sup>5</sup>. Hence a program in the Town of Porter that acquired easements on about half of the target properties could succeed in preserving its key agricultural land resources for generations to come.

#### *Potential Program Costs*

A preliminary estimate of the cost of a prospective PDR program can be determined using local assessment data. According to Town of Porter Assessment Department data, the average assessed value per acre of farmland parcels in Porter is roughly \$1,350 per acre. General experience in areas that have established PDR programs is that the value of development rights should equal at least 60 percent of the total value of land. When the value of the development rights is less than 60 percent of total value the option is not as attractive to farmers and participation in programs is not as high. Of course the higher the value of development rights are in proportion to the total market value of land, the more attractive PDR becomes to farmers.

For the purpose of estimating the cost of a PDR program the 60 percent threshold applied to the estimated value of \$1,350 per acre would equal \$810. As stated earlier this number is used to simply estimate the total cost of a potential PDR program. The actual cost of an agricultural conservation easement is determined through a formal appraisal process.

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<sup>5</sup> Daniels, Tom, and Mark Lapping. *Farmland Preservation in America and the Issue of Critical Mass*. Paper presented to annual conference of the American Farmland Trust. November 13, 2001.

Table 2-1 below outlines the potential costs of a PDR program for the Town of Porter, based on recent land assessment values, and the costs typically associated with acquiring easements and administering a PDR program. While the following figures are preliminary, it appears that a successful purchase of development rights, implemented over a 20-year period, would cost between \$4.7 million and \$8.8 million, or between \$235,000 and \$440,000 per year on average.

**Table 2-1  
Estimated Costs of a 20-Year Purchase of Development Rights Program  
for Agricultural Land in the Town of Porter**

<i>Program Element</i>	<i>100% Participation Rate</i>	<i>50% Participation Rate</i>
Easement acquisition costs (@ \$810/acre)	Approx. \$7.45 million	Approx. \$3.73 million
Appraisals, surveys, legal costs	Approx. \$480,000	Approx. \$240,000
Administration		
Program leader (half-time position at \$30,000/yr. including benefits)	Approx. \$600,000	Approx. \$600,000
Easement monitoring and enforcement (approx. \$275 per year per easement)	\$248,000	\$124,000
<b>Total Estimated Cost</b>	<b>Approx. \$8.78 million</b>	<b>Approx. \$4.69 million</b>

The investment needed to protect the Town of Porter’s key agricultural assets would be substantial. It would not be necessary, however, for the Town of Porter to bear all of the above costs. There are now funding programs in place at both the state and federal levels that the Town could tap to fund significant portions of the cost of acquiring conservation easements. In addition, in some cases the donation by a landowner of an agricultural conservation easement to the Town of Porter could have positive tax benefits for the landowner while reducing costs to the public.

Critical to the success of any purchase of development rights program is adequate staff support. In the early years of the program the primary task of a program administrator would be education and marketing. The decision to sell such an important asset as the development rights to land is one of the most important decisions a farmer can make. The focus of program staff in the early years generally is less on administering acquired easements than it is on meeting with members of the farm community; getting to know them and gaining a solid understanding of their operations and the issues they face; and providing them with basic information on the program. As a result the above estimate for staffing assumes the need for at least a half-time position immediately.

Program administration also need not be done by Town of Porter staff. In some communities private, not-for-profit land trusts have implemented and administered programs on behalf of local governments. Precedence for such a public-private partnership already exists in the region. In Erie County and Chautauqua County the Western New York Land Conservancy is working with towns to initiate PDR programs. In Tompkins County the Finger Lakes Land Trust is also stepping in and agreeing to accept and administer agricultural conservation easements on behalf of local governments.

Finally, the financial cost of acquiring agricultural conservation easements does not have to rest solely on the Town of Porter. The State of New York has for the past decade provided financial assistance to local communities to help them protect farmland through PDR. Currently the state pays up to 75 percent of acquisition costs, including the cost of the easement and the cost of appraisals and legal fees. The federal government's Farmland Protection Program also provides grants to local governments to cover part of the cost of acquiring agricultural conservation easements. Aggressive use of state and federal funding can substantially reduce the investment needed by the Town of Porter.

Insert map 1 here

## **Section 3: Tax Policies and Strategies**

### **Farms, Local Government Finance, and Local Tax Policy**

While the pace of change may be slower than in parts of the state that have faced persistently strong development pressure, agriculture in Niagara County and the Town of Porter has moved along a trajectory that has long been familiar throughout much of upstate New York: a declining number of farms and farmers producing increased value of agricultural product, consolidation of active farmland into larger operations, reversion of farmland to brush and eventually woodland through abandonment, and a piecemeal but cumulatively significant amount of conversion of farmland associated with the “thinning” of urban centers and redistribution of development across suburban and rural landscapes.

Agriculture continues to benefit the town in economic, fiscal, environmental, cultural, and a variety of other ways. However, as the mix and character of farming have changed, the balance of benefits has also shifted. With over half of the town’s land base still maintained in agricultural uses, the town’s Comprehensive Plan suggests that at this point in time the most important benefits of local agriculture for the town as a whole may well be the contributions farms make to the local quality of life and community character.

Many of the recommendations in this document are fundamentally about enhancing the earnings opportunities of farmers or, from a tax policy perspective, reducing their costs. But it should be emphasized that the local farm and nonfarm economies are interdependent in complex ways, and land use, fiscal, and economic development policies that are not necessarily focused on agriculture can often have profound implications for farm viability. While policies affecting land use or encouraging development in existing settlements rather than in farming areas may be quite directly related to farm viability even if they are motivated by multiple goals, more subtle connections also exist. One example is policies promoting nonfarm job creation that can indirectly benefit farmers; many farm families benefit by supplementing farm incomes with off farm income sources, especially among the majority of local farm families with small to medium sized operations. Similarly, local policies that promote entrepreneurship and appropriately planned nonfarm business growth may lead to increases in the overall tax base and, only indirectly, tax relief for existing landowners.

The future of agriculture in the town, and the ability of farmers to sustain their farms and the quality of life benefits they provide is, however, fundamentally dependent on the success of farms as businesses. In the end, an unforgiving balance of farm revenues and expenses determines the long term fate of most farmland. Farmers whose costs exceed revenues on their operations cannot as a rule maintain farmland and its associated aesthetic, open space, and related amenities on a sustainable basis.

Along with concern about maintaining commodity price levels on the revenue side, property taxes on the expense side rank at the top of farmers' and farmland owners' financial concerns. Not least because public policy decisions so obviously influence them greatly, complaints about property taxes are particularly vocal. For general purpose local government, property taxes function as a shock absorber. They become the reservoir dipped into to meet budget goals after other sources of revenue, typically less amenable to influence by direct local government action, are exhausted. Because New York's total local tax burden is the highest in the country by quite a bit (at \$67 per \$1,000 of personal income; Maine comes next at a distant \$55 per \$1,000; see <http://www.osc.state.ny.us/localgov/pubs/research/propertytaxes.pdf>), the property tax issue has particularly high salience in New York State. On average, New York towns get about half of their revenues from the property tax, and are more dependent on this source than villages, counties, and cities. With fewer alternative local revenue raising options, special purpose taxing jurisdictions such as school and fire districts are even more highly dependent on the property tax. Indeed, school taxes usually represent the largest single property tax burden on property owners. Moreover, on a statewide basis (excluding New York City) school taxes account for more than 60% of all property taxes levied and have been growing faster than municipal property taxes.

Local taxes are, as noted, high across the board and not just for farmers, and politicians have long been under pressure to provide tax relief by reducing the overall burden, not just shifting it from one local property owning class to another. The STAR program was one major property tax relief initiative, in effect shifting the burden of local property tax payment from local homeowners to state taxpayers. However, because farmers' livelihoods are dependent upon ownership or access to land, local governments' traditional dependence on the property tax base as a primary, back-stop source of revenues can be especially burdensome to farmers. Moreover, as demonstrated repeatedly in Community Cost of Service Studies promoted by the American Farmland Trust, farmland owners typically contribute more to the local government revenues than they receive in public services. Not incidentally, Cost of Community Service Studies can help raise awareness

among the public, policy makers, and farmers themselves about the fiscal benefits of farmland and the fairness of tax relief programs benefiting farmers. However, not all real property owned by farmers qualifies for or is even submitted for preferential tax treatment, and even relief programs focused on benefits for farmers are unlikely to alleviate farmer concerns about the property tax.

Aside from the general increased pressure on the property tax base, in areas with significant pressure on the farmland base from development uses, increased property values can raise the carrying costs of land, not to mention the opportunity costs of not selling, to the point that conversion to nonfarm uses is the only economically viable option. Thus, a recent statewide *Rural Landowner Survey* ([http://www.agmkt.state.ny.us/rl\\_survey.pdf](http://www.agmkt.state.ny.us/rl_survey.pdf)) sent to owners of undeveloped land found that among those who planned to sell their land within the decade, property taxes were ranked as the most important reason they intended to sell. Respondents from the western part of the state were markedly more likely than other respondents to cite property taxes as the reason they planned to sell.

In recognition of such concerns, New York has adopted a number of property tax relief policies tailored to farmers or farmland owners. The farmers' school tax credit was enacted as part of the Farmer's Protection and Farm Preservation Act of 1996, providing a credit against the farmer's income or corporate franchise tax that is funded by the state and doesn't impact local revenues. Like all other states, New York has also implemented use value assessment policies for farmland. These abatement policies are intended to reduce the share of local property taxes that are paid by agricultural landowners.

Most significantly, the New York Agricultural Districts Law (Article 25-AA of NYS Agricultural and Markets Law) was enacted in 1971 to protect and promote the preservation of land for farming purposes. In addition to providing a locally initiated mechanism for the creation of agricultural districts, the Law enables farmers with eligible land in agricultural production to reduce property tax payments. This reduction is achieved by limiting the assessment of eligible farm land to its agricultural assessment value rather than its ordinarily assessed value based on the market.

The agricultural assessment values are based on soil groups, where values for each soil group are determined each year by the New York State Board of Real Property Services. For qualifying land, therefore, the taxes levied are based on the state determined rates; the locally assigned as-

assessment only influences, in effect, the amount of tax savings insofar as it establishes the taxes that would have been paid in the absence of the agricultural assessment. Of course, savings are only large when the differential between the agricultural and full assessed values of the land are large.

To qualify for an agricultural assessment, landowners (including owners of land leased to farmers) must apply annually. Though farmland in agricultural districts benefits from a number of other protections, farmland outside of agricultural districts can also qualify for agricultural assessments. The agricultural assessments provision applies only to land, but farm structures may qualify for property tax benefits under Real Property Tax Law Sections 483, 483-a, 483-b, 483-c. In fact, a number of special exemption programs are available to the state's farmland owning community, including:

1. RP Tax Law -305 - Exemption for New Orchards and Vineyards;
2. RP Tax Law - 480- Real Property Tax Exemption For Forest Land;
3. RP Tax Law - 483 - Application for Tax Exemption of Agricultural and Horticultural Buildings and Structures;
4. RP Tax Law - 483-A - Tax Exemption of Farm Silos;
5. RP Tax Law - 483-B - Tax Exemption for Reconstructed or Rehabilitated Historic Barn;
6. RP Tax Law - 483-C - Tax Exemption for Temporary Greenhouses;
7. RP Tax Law - 483-D - Tax Exemption for Farm or Food Processing Labor Camps or Commissaries.

Information on eligibility and application for these programs is provided online at <http://www.orps.state.ny.us/ref/forms/subjects/exempt.htm>.

### **Taking Advantage of the Opportunity in Porter**

In 2000, the Porter town tax rate was \$0.64 per \$1,000 assessed value and had increased to \$0.79 in 2005. The combined rate for municipal and school district jurisdictions, on an equalized basis, range from \$24.68-24.07 per \$1000 assessed valuation in 2000, and increased to \$32.07-34.67 per thousand in 2005. These combined rates are in line with other Niagara and New York rural municipalities.

In the Town of Porter, the tax base of town taxable property (outside village parcels) comprises a total assessed value of \$302,611, 231 (2006). This includes more than \$21 million of assessed value for properties that are wholly exempt from taxation (Roll Section 8). In addition to the taxes levied by general purpose local government against this tax base, some of this property is also subject to special taxing districts that fund fire, refuse, lighting, sewer and water services. There are currently 806 total town parcels in the Agricultural District, with a total taxable value of \$64,373,575 (including commercial and residential as well as agricultural parcels).

The state Office of Real Property Services summarized agricultural exemptions for the Town of Porter as of the 2004 Roll (Table 1). At this time, 112 agricultural parcels, all but 2 of which were in an agricultural district, qualified for exemptions. Though significant for affected farmers, from the perspective of the town overall these exemptions are small, equaling just 1.3% of the value of all exemptions.

According to the latest 2006 data provided by the town assessor, the tax rolls currently list 2,055 exemptions of all kinds in the entire town outside village area. The sum of exempt assessed value in the town varies by taxing jurisdiction, from nearly \$32 million for the town to about \$78 million for the school district. By far the largest exemption program by value is the state's STAR programs reducing school district assessments for homeowners. Only 96 farm properties receive agricultural exemptions. The agricultural district farmland exemptions total \$1,743,242, a benefit of about a 21% reduction from the full assessed value of this agricultural property of \$7,965,400.

Framed differently, the agricultural district reductions constitute approximately 5% of the exemptions granted on the county and town tax rolls, and only about 2% of the school district exemptions. Six farm parcels also receive agricultural building exemptions, and four receive agricultural silo exemptions. These additional exemptions reduce farm assessments by an added \$488,475, which accounts for about 19% of the full assessed value of these structures.

Given a modest 2005 town tax rate of \$0.79 per \$1000 assessed value, all the agricultural exemptions, totaling \$2.23 million, would have saved all the farm property owners less than \$2,000. However, considering the combined overlapping school, county, and town tax rate of \$32.07-34.07 per \$1,000 assessed full value, the exemptions save farm property owners more than \$70,000.

**Table 3-1.**

**Town of Porter Agricultural Exemptions, 2004 Roll Year (Source: ORPS)**

<b>Exemption Description:</b>	<b>Number of Exemptions</b>	<b>Total Equalized Value of Exempt Parcels (\$000)*</b>	<b>Total Equalized Value of Exemptions (\$000)*</b>	<b>Percent of Value Exempted</b>	<b>% of Total Muni Exempt Value</b>
AGRICULTURAL BUILDING	5	766	56	7.31	0.054
AGRICULTURAL DIST. (NYS,CO)	97	6,899	1,078	15.63	1.031
AGRICULTURAL LAND NOT IN DIST	2	134	14	10.45	0.013
ORCHARDS OR VINEYARDS	2	177	15	8.47	0.014
SILOS, STORAGE TANKS, ETC.	4	787	162	20.58	0.155
FARM OR FOOD PROC LABOR CAMP	2	448	64	14.29	0.061
<b>TOTAL</b>	<b>112</b>		<b>1,389</b>		<b>1.329</b>

**Possible Strategies for the Town of Porter**

With much of the most powerful tools established by state policy, for local governments, the leverage on tax policies and fiscal strategies that can make a “big difference” to the farm communities are somewhat limited. There are nonetheless steps that the Town of Porter can take, including:

1. Most important if also the most general, pursuit of appropriate land use and economic development policies that are in accord with the comprehensive plan and promote growth in locations and patterns that complement but do not degrade or create friction with farm enterprises.
2. From a fiscal perspective for the farm community, pursuit of policies that grow the overall town tax base faster than service demands, and the promotion of efficiencies in government service delivery to keep revenue needs as low as possible.
3. A program of continued education and outreach so that farmers (and the public) are educated about the state programs available to reduce property taxes on actively managed farmland, and that no eligible landowners who might wish to benefit from the programs inadvertently fail to apply. Consider the potential benefits of conducting a Community Cost of Services study.
4. An initiative to raise awareness about the benefits of the newly adopted Conservation Easement Tax Credit. The credit will give New York State landowners whose land is restricted by a conservation easement an annual income tax refund of 25% of the property taxes paid on that land, up to \$5,000 per year, so long as

the easement was wholly or partially donated to a land trust or a governmental agency.

5. Establishment of a local tax abatement program, modeled on commercial and industrial abatements usually tied to job creation, that abates taxes, perhaps on a declining schedule, over limited time period to encourage socially beneficial goals through term deed restrictions; possibly tied to innovative farm enterprises, management practices that maintain lands that might not otherwise fit the landowner's business model, or desirable investments in agriculture, facilitating farm transitions to new ownership, commitments to farming of younger farmers, etc.
6. An initiative to foster a dialogue between the assessment and farm community on assessment strategies to increase understanding of issues and continue to ensure that assessment practices are generally as fair and supported as possible. The recent process by which the assessors from several other rural Niagara County towns worked with ORPS, the Farm Bureau, and appraisers from Farm Credit in Batavia to review agricultural assessment practices should be repeated on a regular basis.

## **Section 4: Implementation Priorities**

A total of 22 potential initiatives have been identified in the course of preparing this strategic plan for agriculture in the Town of Porter. After the public discussion of the draft plan at the June 29, 2006 public forum, attendees participated in an exercise to rank these initiatives. Table 4-1 on the following page lists each initiative and its score.

The ranking exercise was conducted in a town meeting style with participants raising their hand to indicate a vote. Each participant was given ten votes that they could allocate among the 22 choices. As the consultants went down the list of possible initiatives the audience was given the opportunity to both ask questions, and seek clarification, as well as discuss in a limited manner the pros and cons of each initiative. A final tally of votes on each initiative was then taken.

The intent of the ranking exercise was not to eliminate potential initiatives, but rather to assist the Town of Porter to focus on those initiatives that the community should pursue in the short term, and to allocate its resources accordingly. Participants utilized a number of criteria in their assessment of each initiative, including feasibility, particularly in the short term; the perceived need for the action; the potential positive impact on the agricultural community; and its potential positive impact on furthering the goals of the comprehensive plan and this strategy. Another important criterion was timeliness: a number of initiatives are attractive and have potential for positive impact; however they may not be feasible at this particular time, but may be at some future point in time.

At the end of the ranking exercise five initiatives stood out as being most important for the Town of Porter to pursue:

1. L-Use Strategy 2. *Right to Farm Local Law* (highest number of votes);
2. AED Strategy 16. *Public Education Campaign* (tied for #2 in vote tally);
3. AED Strategy 17. *Grant Writing* (tied for #2 in vote tally);
4. L-Use Strategy 1. *Town Agriculture Committee* (tied for #2 in vote tally);
5. L-Use Strategy 3. *Zoning Law Amendments* (tied for #2 in vote tally).

These five initiatives are steps that the Town of Porter could implement relatively quickly. The local Right to Farm law is a generally accepted practice in New York, with well-established language. Currently a number of other towns in Niagara County are considering such local laws. The Town Agriculture Committee is not a common body in local government, but nonetheless

represents a relatively simple concept. The Town of Ithaca established such a committee in 1993 through a local law. Another possible model would be the county-level Agriculture and Farmland Protection Board.

The Town of Porter has selected a consultant to write a new zoning law for the Town as part of overall implementation of the new Comprehensive Plan. This consultant is expected to review the recommendations of this strategy and use them as a guide in their work.

The remaining two initiatives selected, the Public Education and Grant writing initiatives, were seen as critical elements in the implementation of an overall strategy to preserve agricultural land resources and enhance the economic viability of the agricultural community. Public education is viewed as an important tool for 1) increasing the awareness of and understanding of contemporary agricultural practices among an ever increasing population of non-farm residents and 2) developing support for many of the initiatives recommended in this document. Public education can take many forms, but typically includes printed materials, newspaper articles and events related to agriculture. Grant writing is essential to developing the financial resources to support specific projects, conduct feasibility studies, develop and print materials, travel, organize, promote, conduct meetings, and so forth.

For both the proposed educational and the grant writing initiative the Town of Porter could seek partnerships with other agencies, including Cornell Cooperative Extension of Niagara County, the Niagara County Agriculture and Farmland Protection Board, Lower Niagara Chamber of Commerce, Farm Bureau and other organizations. By pooling Town resources with those available through such organizations the Town of Porter can create more effective programs.

**Table 4-1 Ranking Scores for Proposed Strategic Plan Initiatives**

<b>Proposed Strategy</b>	<b>Raw Score</b>	<b>Priority Rank</b>
AED Strategy 1. “Agri-cluster” Project	5	6
AED Strategy 2. “Agri-preneurship” Program	5	6
AED Strategy 3. Loan Programs	3	NR
AED Strategy 4. Culinary Bounty Program (A Taste of Place)	5	6
AED Strategy 5. New Generation Farm Co-ops	1	NR
AED Strategy 6. Food Festivals	1	NR
AED Strategy 7. Farmer-Owned Grocery Store	3	NR
AED Strategy 8. Farmers’ Markets	1	NR
AED Strategy 9. Conduct Feasibility Studies	5	6
AED Strategy 10. Explore Energy Alternatives	7	4
AED Strategy 11. Leverage Corporate Support	3	NR
AED Strategy 12. Farm-to-Institution Program	6	5
AED Strategy 13. Flower or Produce Auction	0	NR
AED Strategy 14. FarmLink Program	8	3
AED Strategy 15. Shared-Use Kitchen	0	NR
AED Strategy 16. Public Education Campaign	9	2
AED Strategy 17. Grant Writing	9	2
L-Use Strategy 1. Town Agriculture Committee	9	2
L-Use Strategy 2. Right to Farm Local Law	12	1
L-Use Strategy 3. Zoning Law Amendments	9	2
L-Use Strategy 4. Purchase of Development Rights	5	6
Tax Policies Education and Outreach	7	4
<i>NR = Not ranked due to insufficient votes.</i>		

## **Second Tier Priorities**

Four additional strategies were identified in the priority ranking process. These strategies comprise a second tier of initiatives. They are as follows:

1. AED Strategy 14. FarmLink Program (#3 in vote tally)
2. Tax Policies Education and Outreach (tied for # 4 in vote tally)
3. AED Strategy 10. Explore Energy Alternatives (tied for # 4 in vote tally)
4. AED Strategy 12. Farm-to-Institution Program (#5 in vote tally)

The FarmLink strategy is seen as a means through which new farmers can be recruited to replace retiring or other farmers who desire to turn to other occupations or scale back their operations. The program offers technical assistance in helping plan the transfer or sale of a farm from one farmer to another or from a parent to a son or daughter. It can also be used to bring prospective buyers together with prospective sellers of farms and farmland.

Tax policy education and outreach is intended to provide up-to-date information to farmers regarding possible abatements and other programs that may be available through the County agricultural Districts program. This is to ensure that farmers are taking advantage of any reductions in their property taxes and other taxes that may be possible.

Both the exploration of energy alternatives and the farm-to-institution initiatives can be seen as direct economic development programs. Alternatives to the traditional petroleum-based fuels as well as to the traditional sources of electricity have recognized potential in terms of cost savings in agricultural production. With increased interest in crop-based fuels and the improvements in wind-based electric generating technology, however, these alternatives also have income-generating potential for farmers.

Finally, farm-to-institution marketing is already being actively pursued in the Niagara region and across Upstate New York. This approach can open up new markets for Town of Porter farmers and is worthy of effort.

The nine initiatives discussed above represent the areas where the Town of Porter should focus its attention. The remaining priorities should not be ignored or forgotten. At least once each year the Town of Porter, possibly through the proposed Agriculture Committee, should review pro-

gress on the actions or programs currently under way. As old projects are closed out or become self-sustaining, the priority list should be revisited and new opportunities should be evaluated.

Moreover there may be opportunities that arise in the coming years that may warrant moving a particular activity higher on the priority list, or even begin implementation of it ahead of activities higher on the list. For this reason the priority rankings must be seen as flexible to permit constant evaluation and the exploitation of opportunities as they present themselves.

*A Strategic Plan for Preserving Agricultural Lands and Revitalizing  
the Agricultural Economy in the Town of Porter, New York*

## Appendices

### Appendix A: Town of Porter SWOT Analysis Results

	<b>Priority (# of votes)</b>
<b>STRENGTHS</b>	
Favorably positioned to attract tourists .....	4
Community support for agriculture .....	3
Climate/Niagara Escarpment.....	3
Historical, multigeneration tradition of agriculture in town.....	1
Best tasting apples .....	1
Highest percentage ambient sunlight.....	1
Growth in wineries on Niagara county wine trail.....	1
Sophisticated markets .....	1
Niagara County Microenterprise program .....	1
Water resources .....	1
Scenic orchard landscape .....	1
Implementation Committee .....	1
Good soil .....	1
Cheap land .....	1

	<b>Priority (# of votes)</b>
<b>OPPORTUNITIES</b>	
Ethanol .....	2
Hydroponics .....	2
Development .....	2
Collective marketing program .....	2
Horse farms/stables .....	2
Tap into regional opportunities .....	2
Tourism .....	1
Added value producers .....	1
Ferry service Youngstown to n\Niagara-on-the-Lake .....	1
Funding sources/grants .....	1
Porter/Wilson/Cambria/Lewiston .....	1
Aging population .....	1
Grazing-based agriculture (goats, dairy, beef, deer) .....	1
Broker for products .....	1
Signs along roads for farms .....	1

	<b>Priority (# of votes)</b>
<b>WEAKNESSES</b>	
Cost of operations.....	7
Local government need for long-term plan .....	4
Globalization .....	3
Consumer shopping patterns .....	2
Farmer debt .....	2
Population-decline, age .....	1
Economy .....	1
Parochial local government—conservative .....	1

<b>THREATS</b>	<b>Priority (# of votes)</b>
Taxes .....	4
Aging farm population .....	3
NAFTA.....	3
Canadian developers .....	2
Sprawl .....	2
Loss of hope .....	2
Pollution from CWM .....	1
Perception of pollution in local waters .....	1
High oil, other energy costs .....	1
Outdated land use regulations .....	1
Debt .....	1

**Appendix B: Town of Porter Agricultural Economic Development Strategies by Development Objective**

OBJECTIVE	Create "Growing Home Partnership"	Grant Writing	"Agri-cluster" Project	"Agri-preneurship Program"	Loan Programs	Culinary Bounty Program	Farm Co-ops or Marketing Pools	Food Festivals	Year-Round Farm Store	Farmers' Market(s)	Conduct Feasibility Studies	Explore Energy Alternatives	Leverage Corp Support	Farm-to-Institution Program	Flower/Produce Auction	FarmLink Program	Shared-Use Kitchen	Farmer Recruitment	Public Ed. Campaign
Collaborate with other farm communities on ag policy	X			X	X	X	X	X		X	X	X	X	X	X	X	X	X	X
Increase market opportunities	X	X	X	X		X	X	X	X	X	X		X	X	X	X	X	X	X
Promote diversification	X	X	X	X	X	X	X		X	X		X		X	X		X	X	
Increase farmer cooperation	X	X	X	X	X	X	X	X	X	X		X		X	X	X			X
Create opportunities for niche producers	X	X	X	X	X	X	X	X	X	X				X	X		X		
Increase sideline income	X	X	X	X	X	X	X	X	X	X		X			X		X		
Identify/encourage alternative enterprises	X	X	X	X		X	X	X	X	X	X	X		X			X		
Create opportunities for conventional farmers	X	X		X	X		X		X		X	X		X	X	X		X	
Exploit Buffalo-Rochester markets	X	X	X	X	X	X	X	X				X		X	X				
Capitalize on natural advantages (soils, climate)	X	X	X	X	X		X	X		X				X	X				
Increase food businesses	X	X	X	X	X	X		X	X	X	X						X		
Attract customers to the Town	X	X	X			X		X	X	X			X			X			X
Develop a unique regional identity	X	X	X	X		X		X	X	X						X			X
Educate the public about benefits of agriculture	X	X	X			X		X	X	X			X	X		X			X
Create an agricultural destination (package)	X	X	X			X		X	X	X	X							X	
Lessen farmers' need to develop land	X	X	X	X	X				X	X		X		X	X	X		X	
Encourage youth interest in farming	X	X	X	X				X	X	X						X	X	X	
Expand Niagara wine trail into the Town	X	X	X	X	X	X		X		X							X	X	
Explore hydroponic opportunities	X	X	X	X	X		X		X		X	X	X						
Develop direct wholesale markets	X	X	X	X	X	X					X		X	X					
Strengthen regional connection with Niagara (CA)	X	X	X			X		X	X		X			X	X			X	
Improve availability of cold storage (Youngstown)	X	X	X	X	X		X		X		X		X						
Explore aquaculture opportunities	X	X		X	X		X		X		X	X							
Increase positive outlook among farmers	X		X	X			X	X				X	X			X		X	
Connect with local tourism attractions	X	X	X	X		X		X					X			X			X
Establish farm trails (cider, flowers, horse, birding)	X	X	X	X	X	X	X												
Collaborate to increase waterfront destinations	X	X	X		X	X					X		X						
Link between Niagara-on-the-Lake and Porter	X	X	X	X				X	X		X								
Reduce farm production expenses	X		X	X			X					X							
Provide access to capital	X	X	X	X	X														
Increase availability of farm labor	X	X	X		X		X												
Increase viability of farms staying in their families	X	X	X	X												X			
Consider ways local corporations can contribute	X	X										X	X						
Improve farm and Town beautification	X	X											X						X

## **Appendix C: Wind Energy Information**

From <http://counties.cce.cornell.edu/niagara/Niag-feb-2005.pdf>:

Chris Dorociak, a Cornell University graduate student in the department of Applied Economics and Management, is conducting some research on producer experiences in investigating utility scale wind power. The resulting document, to be published by May 2005, will assist landowners with information and questions to ask for the decision-making process. If you know of any producers (that have investigated or are investigating large scale wind power opportunities) that might be willing to participate in this survey, please contact us.

Wind Energy is the world's fastest growing energy technology. By 2012 NYS will source 25% of its energy from renewable energy. Wind energy will be one of those. There are three possible ways that wind energy can affect New York farmers:

1. **Small Wind Projects.** Turbines for this level of wind generation tend to be between 10-500kw. Farmers purchase the turbines to supply their home and business with energy. The turbines may be grid-connected so the farmer can sell excess energy produced back to the utility company. Similarly, if there is insufficient wind-generated energy, the farmer can purchase energy from the utility company. There are some strong financial incentive programs to encourage farmers to purchase small wind turbines.
2. **Wind Farms.** Wind-energy generating companies (between 10-20 in the state) are approaching farmers and landowners in areas with high wind potential to lease their land and construct large turbines (in the region of 1 MW). Turbines are constructed in relatively close proximity to each other on an individual or group of individuals' land. There are financial incentives for wind-energy generating companies in New York, landowners and their neighbors.
3. **Groups of farmers** are investigating opportunities for businesses using wind energy. In some parts of the country, farmers have formed cooperatives to purchase their own turbines and build their own utility-scale wind operations.
4. If you need further information, there is a group of educators at Cornell Cooperative Extension and Cornell University who are building information to assist producers. Please feel free to contact Jude Barry ((607) 254-4741) or Brian Henehan ((607) 255-8800), of the New York Agriculture Innovation Center, to direct you to the network that is building across NYS.

From <http://www.utilities.cornell.edu/utl.windstudy.html>:

### **Examples of wind projects and Web sites worth checking out:**

#### **Madison, NY**

Take Rt. 13 to Cazenovia, turn east on Rt. 20, go east to Madison where you will see the wind farm on the hilltop to the south. There is a information kiosk at the top of the hill. There are seven Vestas wind turbines, 1.6 MW each. Unfortunately the project has no Web site.

**Fenner, NY**

<http://www.enel.it/northamerica/>

This project north of Cazenovia consists of 20 GE 1.5 MW turbines. It has been very well received by the municipality of Fenner and the residents, with one notable negative exception. The Fenner/Madison area is expecting to build another 30-35 turbines built in the very near future.

**Hull, Massachusetts**

[http://www.vma.cape.com/~relweb/Case\\_Study\\_Hull\\_Wind\\_One.pdf](http://www.vma.cape.com/~relweb/Case_Study_Hull_Wind_One.pdf)

**Monfort, Wisconsin**

Carol L. Anderson, Professor Emerita, Cornell University, [cla6@cornell.edu](mailto:cla6@cornell.edu). Carol recently relocated to her family farm in Wisconsin from Ithaca, NY, and has five GE 1.5 MW turbines on her property. She has since become a strong advocate for wind energy and regularly does wind education and tours of this wind farm.

**Primary Web sites:**

- 1) American Wind Energy Association: [www.awea.org](http://www.awea.org) ;
- 2) Windustry: [www.windustry.org](http://www.windustry.org) ;
- 3) British Wind Industry Association: [www.bwea.com](http://www.bwea.com)

**Other Web sites:**

<http://www.nyserda.org> The New York State Energy Research and Development Authority, NYSERDA, is charged with developing and promoting energy conservation and generation strategies, including renewable energy.

<http://www.eere.energy.gov/windandhydro/> The U.S. Department of Energy supports renewable energy sources and offers numerous resources. The National Renewable Energy Laboratory, NREL is funded by DOE.

<http://www.nationalwind.org> The National Wind Coordinating Committee develops resources, including a series of papers.

<http://www.NEED.org> National Energy Education Development offers a variety of resources.

<http://ewea.org> The European Wind Energy Association presents an overview of wind energy in Europe and contributes to expanding global understanding.

<http://canwea.ca> The Canadian Wind Energy Association highlights the activities of neighbor to the north.

<http://www.fplenergy.com> FPL Energy is the largest U.S. generator of wind power.

<http://www.gewind.com> GE Wind manufactures, installs, and maintains state-of-the-art equipment.

<http://www.renewwisconsin.org> Renew Wisconsin promotes clean-energy strategies for powering the state's economy in an environmentally responsible manner.

<http://www.focusonenergy.com> Focus on Energy is an innovative partnership of organizations to help Wisconsin residents and businesses save energy.

## **Appendix D: Agricultural Development Funding Opportunities**

### **Farmers Market Grant Program.**

Agency: NYS Ag & Markets; Amount: \$50K max.; 1:1 cost match; Applicant: Municipality;

Due: Usually May.

Use: Bricks and mortar construction of market facilities (for two or more farmers).

### **Farmland Protection Implementation Projects**

Agency: NYS Ag & Markets; Amount: 25% local cost match; Applicant: County Ag and Farmland Protection Boards; Due: Usually January.

Use: Implementation of farmland protection projects, including purchasing of development rights from farmers.

### **Food and Agriculture Industry Development Grants (FAID)**

Agency: NYS Ag & Markets; Amount: NK max; 1:1 cost match; Applicant: Municipality and producers; Due: Usually December.

Use: Promote diversification and value-adding.

### **Application for Farm, Apple & Cuisine Trail Designation**

Agency: NYS Ag & Markets; Amount: NK max; NK cost match; Applicant: Municipality and producers; Due: NK; RFP is not out yet; this is a new program from Ag & Markets.

Use: Establish tourism trails which promote local food and agriculture.

### **Rural Business Opportunity Grants (USDA)**

Agency: USDA; Amount: \$50,000; max; cost match: NK; Applicant: Municipality and producers; Due: Usually May

Use: Promote diversification and value-adding.

### **Value-Added Producer Grant**

Agency: USDA; Amount: \$100,000; max; cost match: NK; Applicant: Producer groups; Due: Usually March

Use: Promote diversification and value-adding.

Note: "NK"= Not known at this time

## **Appendix E: Agriculture Economic Development Resource Organizations**

### **Binational Tourism Alliance, Inc.**

P.O. Box 293  
Buffalo, NY 14201-9998  
Business hours: 8:30 a.m. to 5:00 p.m., Monday to Friday  
Tel.: (905) 871-6454  
Toll free (Canada & U.S.): (888) 333-1987  
Staff e-mail addresses:  
Arlene White: [arlene.white@btapartners.com](mailto:arlene.white@btapartners.com)  
Bruce Harris: [bruce.harris@btapartners.com](mailto:bruce.harris@btapartners.com)  
Helga Honey: [helga.honey@btapartners.com](mailto:helga.honey@btapartners.com)  
Web site: [www.btapartners.com](http://www.btapartners.com)

### **NY FarmLink**

c/o NY FarmNet  
415 Warren Hall  
Cornell University  
Ithaca, NY 14853  
Toll-free: (800) 547-FARM  
Business hours: 9:00 a.m. to 4:00 p.m., Monday to Thursday; 9:00 a.m. to 3:00 p.m., Friday  
E-mail: [info@nyfarmlink.org](mailto:info@nyfarmlink.org)  
Web site: [www.nyfarmlink.org](http://www.nyfarmlink.org)

### **Small Business Development Center**

Buffalo State College, GC206  
Buffalo, NY 14222-4222  
Director: Susan McCartney  
Tel.: (716) 878-4030  
Fax: (716) 878-4067  
Business hours: 9:00 a.m. to 5:00 p.m.  
E-mail: [buffalobdc@yahoo.com](mailto:buffalobdc@yahoo.com)

## **Appendix F: Sample Local Right to Farm Law**

Be it Enacted by the \_\_\_\_\_ Town Board as follows:

### Section 1. Legislative Intent and Purpose:

The \_\_\_\_\_ Town Board finds, declares and determines that agriculture is vital to the Town of \_\_\_\_\_, New York because it is a livelihood and provides employment for agricultural services businesses; provides locally produced, fresh commodities; agricultural diversity, promotes economic stability; agriculture maintains open space and promotes environmental quality; and agricultural land does not increase the demand for services provided by local governments. In order to maintain a viable farming economy in the Town of \_\_\_\_\_, farmers must be afforded protection allowing them the right to farm. When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operation or are discouraged from making investments in agricultural improvements.

It is the purpose of this law to reduce the loss to the Town of \_\_\_\_\_ of its agricultural resources by limiting the circumstances under which farming may be deemed to be a nuisance and allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

### Section 2. Definitions

- a) “Agricultural Practices” shall mean all activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and the on-farm production, processing and marketing of agricultural products including, but not limited to, the collection, transportation, distribution, storage, and land application of animal waste; storage transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization and pesticide application; storage and use of legally permitted fertilizers, limes and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers’ instructions and warnings’ storage and use and application of animal feed and foodstuffs; construction and use of farm structures and facilities, for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock for the sale of agricultural products and for the use of farm labor as permitted by local and state building codes and regulations; including the construction and maintenance of fences.
- b) “Agricultural Products” shall mean those products defined in Section 301(2) of Article Twenty-five –AA (25-AA) of the Agricultural and Markets Law.
- c) “Farm” shall mean the land, buildings and machinery use in the production, whether for profit or otherwise, of agricultural products.
- d) “Farmer: shall mean any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.

- e) “Generally Accepted Agricultural Practices” shall mean those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in Section 2a entitled “agricultural Practices”.
- f) “Resolution Committee” shall be made up of the Chairman of the Conservation Board or designee, and a member of one other standing committee of the town designated by the Town Supervisor.
- g) Unless specifically defined, the above words or phrases used in this local law shall be interpreted so as to give them meanings they have in common usage, and to give this Local Law its most reasonable application.

### Section 3. Right to Farm Declaration

Farmers as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of \_\_\_\_\_ at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture. For any agriculture practice, in determining the reasonableness of the time, place and methodology of such practice, 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 technologies.

Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1. reasonable and necessary to the particular farm or farm operation
2. conducted in a manner which is not negligent or reckless
3. conducted in conformity with generally accepted agricultural practices
4. conducted in conformity with all local, state and federal laws and regulations
5. conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
6. conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadway.

Nothing in the Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to failure to follow sound agricultural practices, as set forth in this section.

### Section 4. Duty of Town Officers and Board to Consider Impact of Farm Operations on Certain Applications

The legislative intent and purposes of this law shall be taken into consideration by each town officer an/or board in processing any application requesting rezoning, subdivision approval, temporary conditional permit approval, site plan approval and/or special use permit approval when the property which is the subject of such application is located within one (1) mile of an existing farm. Such town officer an/or board shall, as part of its review of such application, would further the purposes and intent of this law as part of an approval of the application. Such appropriate and reasonable conditions shall be determined on a case by case basis and may include, but not lim-

ited to, requiring declaration, deed restrictions an/or covenants which run with the land which would notify future purchasers and owners of the subject property that owning and occupying such property might expose them to certain discomforts or inconveniences resulting from the conditions associated with agricultural practices and operations in the town.

Section 5. Informal Resolution of Disputes

- a. Should any controversy arise regarding any inconveniences or discomforts occasioned by agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties may submit the controversy to the resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.
- b. Any controversy between the parties may be submitted to the resolution committee whose decision shall be advisory only, within thirty (30) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.
- c. The effectiveness of the resolution committee as a forum for resolution of grievances is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.
- d. The controversy shall be presented to the committee by written request of one of the parties within the time limits prescribed above. Thereafter, the committee may investigate the facts of the controversy but must, within thirty (30) days, hold a meeting to consider the merits of the matter and within twenty (20) days of the meeting must render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each party considers to be the pertinent facts.

Section 6. Severability Clause.

If any section, subdivision, paragraph, sentence or other portion of this chapter shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, it is the intention of the Town Board that such section, subdivision, paragraph, sentence or other portion so adjudged invalid illegal or unenforceable shall be deemed separate, distinct and independent, and the remainder of this chapter shall be and remain in full force and effect.

Section 7. Effective Date.

This local law shall be effective immediately upon acceptance by the Town of \_\_\_\_\_ Town Board and filing within the New York Secretary of State.

## **Appendix G: Recommended Approaches for New Agricultural District Zoning Regulations**

In order to further the objectives of the strategy, the Town of Porter, as it develops its new Zoning Law with the assistance of Peter J. Smith and Company, can incorporate the following concepts and provisions into the new zoning ordinance currently being drafted. They could be included in a new type of zoning district designed to both protect agricultural lands and enhance the opportunities for farm operators to expand their enterprises into areas that can complement traditional farming.

### **Permitted Uses and Dimensional Requirements.**

The following uses and dimensional requirements are proposed to be part of a new zoning district within which agriculture would be the preeminent land use. They are written solely as a guide for the Town of Porter and do not represent recommended zoning language. The task of drafting specific language has been given to Peter J. Smith and Company.

1. Include a purpose clause that conveys the message that agriculture is the primary land use within the zoning district. Such language could include, for example:

“The purpose of this district is to protect the agricultural land resources of the Town which are not designated on the general plan for commercial or industrial use, permit rural residential development and to promote, as much as possible, rural character and the continued economic and operational viability of agricultural enterprises.”

2. Include “right to farm language” in the zoning district Purpose statement. This is to supplement existing or proposed protections for farmers from nuisance suits that are sometimes brought against legitimate farm operations. The primary benefit is educational: in general the public is more likely to consult a zoning ordinance than specific local laws, and so having the provision in the zoning regulations provides increased exposure and relevance for the right to farm concept.

Sample language for the Town to consider in a new Zoning Law is:

“In this district agriculture shall be the primary land use. Any agricultural practice determined to be a sound agricultural practice by the New York State Commissioner of Agriculture and Markets, pursuant to Article 25-AA, Section 308, shall be deemed an appropriate use of the land and its resources and shall not constitute a private nuisance. Said agricultural practices include but are not limited to practices necessary for on-farm production, preparation and marketing of agricultural commodities, such as the operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; and construction and use of farm structures.”

3. Suggested permitted uses in a new agricultural zoning district include:
  - Agriculture;
  - Single-family residences;
  - Two-family residences;
  - Farm worker residences as regulated by New York State Uniform Code;
  - Commercial stable; (see suggested definition below)
  - Roadside stand;
  - Cemeteries and structures incidental to cemetery operations;
  - Flag lot;
  - Conservation Club.
  
4. Suggested permitted accessory uses in a new agricultural zoning district could include:
  - Such necessary uses as are customarily incidental to the permitted uses;
  - Tourist directional signs, subject to limitations set forth in the existing Section 503; (see below for suggested standards for such signs.)
  - Home occupations;
  - Lodge; (see suggested definition below)
  - Professional offices where a) such office is part of the residence building, and b) no more than three (3) persons not residing on the premises are employed;
  - Signs as regulated under the existing Section 503;
  - Wind energy conversion systems operated as part of an agricultural operation.
  
5. Some specific uses that are being recommended as part of an overall strategy for agriculture are appropriate in a new agricultural zoning district, but with an added layer of oversight by the Town of Porter. As a result the following types of activities are recommended, but subject to site plan approval:
  - Agricultural enterprise; (see suggested definition below)
  - Bed and breakfast establishments;
  - Home industry; (see suggested definition below)
  - Kennels.
  
6. Some specific uses that are being recommended as part of an overall strategy for agriculture are appropriate in a new agricultural zoning district, but because of their nature they may have specific impacts or other ramifications that may require a closer look. Although these uses may be appropriate uses for the zoning district in general, they may not be so for specific sites, or may need specific conditions attached to an approval to ensure potential adverse impacts are mitigated prior to construction. As a result the following types of activities are recommended, but subject to the Town Special Permit approval process:
  - Airport or aircraft landing field;
  - Churches, synagogues and other places of worship, convents, rectories, parish houses.
  - Day camp, over-night camp and tent or trailer camp;
  - Elder cottages; (subject to design standards such as those outlined in #11 below)
  - Public and private schools, nursery schools, institutions of higher education, including dormitory accommodations.
  - Towers and wind energy conversion systems not operated as part of an agricultural operation;

- Golf course or country club, except miniature golf courses operated on a commercial basis;
  - Public utility sub-station;
  - Hunting club, conservation club;
  - Veterinarian office and related animal hospital.
  - Public park or picnic grounds or private park or picnic grounds maintained and operated by an organization for its members or by a business for its employees.
7. Suggested parameters for the typical dimensional requirements for lots, setbacks, lot coverage, height and other density and physical character regulations include:
- Minimum recommended lot area: 1 acre;
  - Minimum lot width at front lot line: 200 feet, except for a flag lot laid out in accordance with the standards outlined below and also suggested for inclusion in a new set of zoning regulations;
  - Maximum land coverage by buildings: 10 percent;
  - Minimum front yard setback: 60 feet;
  - Minimum side yard setbacks: 15 feet for residential, buildings; 50 feet for other buildings;
  - Minimum rear setback: 50 feet;
  - Maximum height for any residential building: 28 feet;
  - Maximum height for any non-residential or non-agricultural building: 35 feet;
  - Maximum height for any non-agricultural structure other than a building as defined in Section 202: 100 feet.
8. If the Town of Porter includes in a new zoning district for agriculture the "lodge" concept, then it should also set an appropriate scale for such operations. These include: a cap on the size. For instance the maximum permitted size of any lodge, or the cumulative capacity of all lodges on a parcel of land, could be controlled by not permitting more than one (1) overnight guest for each 20 acres of land encompassed by the parcel on which the lodge is located.
9. Flag lots have been utilized successfully in many communities as a means to permit the subdivision of house lots while protecting valuable agricultural soils and lands. Nonetheless specific standards should be embedded in any new zoning regulations in order to protect the Town and general public and ensure consistency in applying the regulations. Examples of such standards include:
- With the exception of the strip of land connecting it to a public right of way, (i.e. the "pole.") all flag lots should meet the minimum lot area, width, and depth requirements of the zoning district within which they are located;
  - The pole of the flag lot shall have a minimum width of 25 feet at every point;
  - For the purpose of ensuring access by fire department and other emergency vehicles, all driveways serving flag lots that are in excess of 200 feet in length should be a minimum of twelve (12) feet in width and be constructed with a sub-base comprised of at least twelve (12) inches of crushed limestone or crushed bank run gravel;
  - Flag lots should be located on the least productive agricultural lands, and be configured so as to minimize interference with the agricultural use of the lands;
  - Whenever practicable, flag lots should be platted in a manner that permits the sharing of driveway access points onto the public highways and roads;

- The property line of any flag lot that is parallel to or approximately parallel to and nearest to a public right of way or private road, as determined by the Code Enforcement Officer, should be defined as the front lot line of a flag lot.

10. Some additional standards for campgrounds are recommended:

- A maximum density of no more than ten (10) sites per acre, based on the total area of the parcel;
- Minimum setback distances from the right of way of a public road or highway: 200 feet;
- Minimum widths for all roads within the campground: 12 feet for one-way traffic and 20 feet wide for two-way traffic;
- Requirements that all roads be constructed with an all-weather surface material, and properly marked with appropriate directional and traffic safety signage;
- Minimum campsite dimensional requirements such as minimum width of 30 feet and a minimum depth of 70 feet;
- Limits on retail sales, such as to patrons of the campground only, and limits on items that could be sold; (e.g. firewood, charcoal or other fuel for camping purposes, miscellaneous and sundry items for the accommodation and use of campers and their guests);
- Designated area for a campfire for each camp site;
- Adequate parking for campground patrons and guests: 1 parking space for each ten (10) campsites;
- Limits on the winter storage of camping vehicles, campers, motor homes and boats on trailers.

11. If it does include elder cottage housing as a permitted use in a new Zoning Law the Town should establish standards that would apply to all such installations. These could include:

- No elder cottage shall exceed one (1) story in height;
- Any elder cottage shall be sited in accordance with the lot area and yard requirements of the zoning district within which it is located;
- At least one (1) of the occupants of the elder cottage shall be a person at least 55 years of age related by blood, marriage or adoption to an occupant of the principle dwelling on the lot where the elder cottage is situated;
- No person or persons other than those named on the Special Permit application may occupy said elder cottage;
- Any elder cottage shall be designed and constructed in a manner that would allow easy removal from the premises and restoration of the site to its original use and appearance upon removal of the elder cottage;
- Any elder cottage shall be removed from the property within 120 days of being vacated by the occupant or occupants, and the location restored to its prior state;
- At least one (1) parking space shall be provided for the elder cottage;
- Adequate water and sewerage disposal arrangements shall be provided for the elder cottages. These arrangements may include connections to such facilities of the existing principal residence, or may be separate;
- Any elder cottage placed on a lot shall be considered an accessory structure and shall be clearly subordinate to the principal residence on the lot.

12. If it does include roadside stands as a permitted use the Town should establish standards that would apply to all such installations. These could include:

- Non-agricultural roadside stands should not occupy more than 240 square feet of area;

- No agricultural enterprise or roadside stand should be permitted within the right of way of any public road or highway;
  - No agricultural enterprise or roadside stand should be placed in a manner that limits the sight distance available to the motoring public or that in any other way obstructs their vision while driving;
  - Owners should be required to provide an all-weather surface to allow patrons adequate space to park their vehicles in such a manner that they are outside the outer edge of the road or highway shoulder.
13. If it does include commercial stables as a permitted use the Town should establish standards that would apply to all such installations. These could include:
- Require that there be at least one (1) acre of land for every five (5) horses or ponies kept on the premises when stabled;
  - No building except residences should be permitted within 50 feet of a side or rear property line, and no building or parking areas shall be located within the front yard of the property;
  - A requirement that all buildings and enclosures shall be cleaned frequently of waste materials;
  - A requirement that all manure be disposed of in a manner that eliminates pollution problems such as odors, dust, leaching and runoff into watercourses.
14. If it does include the concept of business directional signs as a permitted use the Town should establish standards that would apply to all such installations. These could include:
- A limit of no more than four (4) such signs within the Town of Porter for any one (1) business;
  - A limit on size of not more than nine (9) square feet in area, nor exceed six (6) feet in height;
  - A limit on the distance from the intersection at which prospective customers are being directed to turn off the road or highway; (500 - 1,000 feet)
  - Requirement that all business directional signs be designed and constructed to conform to New York State Department of Transportation specifications, including specifications related to breakaway sign posts.

In addition to the above provisions the Town of Porter should also consider the following recommendations as it drafts new zoning regulations:

Leave out of the new regulations the following language:

Section 710.01(C) - fur farm;

Section 710.01(D) - industrialized poultry farm;

Section 710.01(E) - kennel;

Section 710.01(M) - pig farm;

Section 710.01(N) livery or commercial stable;

Section 710.01(P) - seasonal roadside stand and Section P-1;

Section 710.01(R); - mobile home for seasonal farm labor employed primarily on the premises;

Section 710.01(U) - parking of a truck of more than one ton capacity.

The above sections are recommended for deletion primarily because they are in conflict with the provisions of Article 25-AA, Section 308 of the Agriculture and Markets Law, as interpreted by the Department of Agriculture and Markets (D&AM). In recent years D&AM has taken a more active role in ensuring that farms located within county agricultural districts are not subject to

unduly burdensome regulation by local governments. In general a requirement that a Special Permit be obtained is considered to be unduly burdensome; as are time limits, excessive setbacks, lot size requirements and restrictions on housing for farm workers.

In some cases the need for Special Permit and the standards for obtaining Zoning Board approval do not further a reasonable public policy or accrue any tangible benefit to the Town.

The Town of Porter can also safely eliminate the minimum 10-acre lot size requirement for a veterinarian office or related animal hospital. The minimum proposed lot size requirement of one (1) acre in the proposed Agricultural District, coupled with the required yard setbacks (50 ft. min.) and maximum lot coverage limit of 10% (e.g. 4,360 sq. ft. building area for a 1-acre lot), would be more than adequate protection to the public and surrounding properties from any potential adverse impacts from a veterinary offices or animal hospital.

### **Proposed New Zoning Definitions**

The following new definitions are recommended for inclusion in the new zoning ordinance currently being drafted. In some cases the definition below would replace an existing definition.

**Agriculture:** The use of 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 the Agriculture and Markets Law Article 25-AA, Section 301.

**Agricultural Enterprise:** A retail or wholesale enterprise providing services or products principally utilized in agricultural production, including structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations, or for the retail sale of processed or unprocessed foods such as milk and milk products, baked goods, meats, canned or bottled goods produced as part of an ongoing agricultural operation.

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

**Commercial Stable:** (*suggested replacement for an existing definition*) A facility where one (1) or more horses are kept for riding, driving, training, breeding, sale, or are boarded for a fee, including indoor and outdoor riding arenas and paddocks, and where more than 50 percent of feed, bedding and other supplies are produced at off-premises locations, and manure and other wastes are disposed of off-premises.

**Elder Cottage:** A separate, detached one (1)-family dwelling of not less than 560 square feet and not more than 700 square feet designed to be temporarily placed on a lot as an accessory dwelling to the principle dwelling, for the purpose of providing housing for one (1) or more persons related by blood, marriage or adoption.

**Farm:** *(replaces existing definition)* The land and 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 the Agriculture and Markets Law Article 25-AA, Section 301.

**Farm Worker Residence:** A temporary or permanent structure that is clearly accessory to an agricultural operation and occupied by farm workers employed on the premises and their families.

**Feedlot:** A structure, pen or corral wherein cattle, horses, sheep, goats, and swine are maintained in close quarters for the purpose of fattening such livestock for shipment to market.

**Flag Lot:** A lot that meets all the minimum lot area, lot width and lot depth requirements of the zoning district within which it is located, with the exception of minimum road frontage requirements, and which is connected to a public road or highway right of way by a strip of land not less than twenty-five (25) feet in width anywhere along its length, including at the highway right of way line.

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

**Home Industry:** A manufacturing, construction or service enterprise owned and operated by a resident of the principle dwelling on a lot, but which is not engaged in retail sales, product distribution, or services on the premises, and which does not employ more than ten (10) persons on site not residing on the premises.

**Home Occupation:** An occupation, profession, activity or use that is clearly a customary, incidental and secondary use of a residential property including but not limited to dressmaking, hair-dressing, cooking, baking, and meal preparation for consumption off-premises, wholesale or retail sales not involving the display of goods, wood- and metalworking, word- and data processing, and which does not affect the use of the property for residential purposes or alter the exterior residential character of the property.

**Hunting Club:** A building, facility or organization catering exclusively to members and their guests, including facilities for trap shooting, target shooting, and archery, for both practice and competition, and other outdoor recreational pursuits by members and their guests, except motorized racing, provided, however, that there are not conducted any vending stands, merchandising or other commercial activities except as may be incidental to the operation and maintenance of the facility, and generally for the benefit of members and to further the purposes of the club.

**Junkyard:** *(replaces existing definition)* An open area used for the storage or accumulation of wastes, used and secondhand materials including but not limited to building materials, scrap metal, plastic, paper, rags, glass, broken appliances and electronic equipment, rubber tires, bottles, refuse, inoperative vehicles and other machinery, and other debris that is not generated by or used in any ongoing agricultural operations on the premises. For the purpose of this Zoning Law an automobile wrecking yard is also considered a junkyard.

**Kennel:** *(replaces existing definition)* Any building or lot where four (4) or more dogs are raised and/or boarded for the purpose of sale, breeding, training or exhibition, or are boarded for a fee or are sheltered for humanitarian reasons.

**Lodge:** A building or buildings in which overnight accommodations and meals may be offered to paying transient guests, in individual rooms, dormitory or barracks style quarters, where such use is secondary to an active farm operation.

**Mining:** The excavation, drilling or quarrying for export off of the property of sand, clay, dolomite, gravel, shale or other rock materials, as well as the processing of such materials. For the purpose of this ordinance borrow pits or excavations for the purpose of removing materials for filling purposes, operated in conjunction with an ongoing agricultural operation and not exceeding 2,000 tons per year, are not considered mining operations.

**Office, Professional:** A place of business or practice of an accountant, architect, engineer, or other design professional, veterinarian, doctor or other duly licensed medical practitioner or therapist, dentist or orthodontist, insurance agent, lawyer, real estate agent or broker, securities broker or similar profession, or the place of business or practice of a group of such professionals operating as a partnership, corporation or other legal business arrangement.

**Roadside Stand:** (*replaces existing definition*) A temporary or permanent accessory structure, wagon or trailer, located within a required front or side yard abutting a street, situated for the purpose of retail sale of produce, baked goods, and handicraft items to the public.

**Sign, Tourist Directional:** Any sign, not exceeding six (6) square feet in area, posted by a business at an location along a public road or highway not on the same premises as the business, for the purpose of guiding tourists and other prospective customers to their location.