



**New York State Department of
Agriculture and Markets**



Before proceeding any further, two questions
about "farmland protection":

- For what?

- From what?



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Farmland Protection Assertions

Any farmland protection program *should* consider –

- Productive farmland
- Farming as a business enterprise *and* as land use activities

Farmland protection, however, need *not prohibit* all non-farm uses on the protected property. Rather, those uses deemed *compatible with* the Purpose of the conservation easement and that are *subordinate to* the agricultural use of the protected property should be considered to be allowed. *Compatible with* and *subordinate to* are limitations to, rather than prohibition of, non-farm uses.

In other words, compatible non-farm uses should be allowed if they help to financially sustain the farm operation and their conduct is limited in scope/extent/duration.



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Reserved Rights Retained by Grantor

- Right to Use Property for Agricultural Uses
- Right to Use Property for Rural Enterprises
(but only within Farmstead and/or Rural Enterprise Area(s))
- Right to Use Property for Recreational Purposes



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Additional Rights of Grantor

- Permanent structures associated with Recreational Purposes
 - Up to 1,000 sq ft in Farm Area without permission of Grantee
 - Possibly more with permission of Grantee
- Alternative Energy and Communications Structures and Improvements
 - Up to a maximum of 2% of Farm Area, but only with permission of Grantee
 - Grantor shall comply with Department guidelines for agricultural mitigation
- Mining and On-Site Extractive Activity
 - Sand and gravel removal if reasonably necessary and exclusively for Farm Operation; also, limited to no more than 2 acres at one time
 - Subsurface minerals and hydrocarbons:
 - ✓ If no existing lease, location/reclamation pursuant to Department guidelines for agricultural mitigation
 - ✓ If existing lease, Grantor shall comply with Department guidelines for agricultural mitigation at Grantor's expense if lease is not subordinated



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Proposed Changes to Our Program

- "Agricultural Use" defined in Department easement template
- State as Intervenor and Mediator Regarding Interpretation of Selected Definitions and Terms and Selected Implementation of Provisions
 - Department retains perpetual right to intervene or mediate, but limited to specific matters
 - Any intervention or mediation is non-binding advice to Grantor and Grantee



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**For more information regarding the
Agricultural & Farmland Protection Program:**

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