

New York State Department of Agriculture and Markets
Agricultural Districts
Frequently Asked Q & A Regarding Farm Breweries, Farm Wineries and Farm Distilleries.

1. What is an agricultural district?

A geographic area which consists predominantly of viable agricultural land. Landowners may petition their county legislature to add their property to an existing county adopted, State certified agricultural district.

2. Are protections from local laws, ordinances, rules, regulations and plans afforded to farm operations located within an agricultural district?

Yes. Agriculture and Markets Law (AML) §305-a provides the Department of Agriculture and Markets with the authority to review the enactment and administration of local laws, ordinances, rules, regulations, and comprehensive/master plans and their effect on farm operations located within a county adopted, State certified agricultural district.

3. Do farm operations have to comply with local laws, ordinances, rules, regulations and plans?

Yes. Farm operations located within an agricultural district may request a review of the local law or plan and its effect on the operation. If the Department of Agriculture and Markets determines that the local law or the enforcement of the law unreasonably regulates/restricts the farm operation, such law or administrative action may be deemed to be unreasonably restrictive in violation of the AML. The regulating municipality may show that the regulated agricultural practice is a threat to public health or safety to negate the Department's review.

4. Are farm distilleries, breweries and wineries protected under the AML?

Maybe. If the parcel of land where the agricultural activity is being conducted is located within a county adopted, State certified agricultural district, and the land is part of a farm operation as defined in AML §301(11), activities that contribute to the production, preparation and marketing of crops, livestock and livestock products are subject to protection under State Law.

5. What types of activities undertaken by distilleries, breweries and wineries are protected under the AML?

The processing, distillation, brewing and fermentation activity and the on-farm buildings and equipment which are needed to produce, store, distill, brew and/or ferment grains, grapes or other fruits, to the extent that the beverage is prepared predominantly (51+ percent) from grain, hops, grapes or other fruits grown on the farm, are subject to protection under the AML. A more detailed description of protections afforded to such farm operations can be accessed at: <http://www.agriculture.ny.gov/ap/agsservices/guidancedocuments/305-a-Winery-Distillery-Guideline.pdf>.

6. Are there other Laws that affect farm distilleries, breweries and wineries?

Yes. Other State Laws that may impact farm distilleries, breweries and wineries include Agriculture and Markets Law Article 20-C Food Processing License and the Alcoholic Beverage Control Law, which is administered by the State Liquor Authority (SLA). The SLA has jurisdiction

over alcoholic beverage licensing. Farm distilleries, breweries and wineries are obligated to comply with any and all SLA requirements applicable to the sale and processing of alcoholic beverages as well as any other applicable municipal or federal law. Farm distilleries, breweries and wineries may also need operating permits from the NYS Department of Environmental Conservation (DEC).