



MID - COAST

REGIONAL PLANNING COMMISSION

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Agricultural Land Use Ordinance Provisions

The following is a Compilation of Provisions on Agricultural Land Use Ordinances for consideration in the drafting or amending of municipal land use ordinances. New development may be proposed on agriculturally productive lands that provide an increasingly valued resource: locally grown food. Most communities in our region do not regulate new development in these areas adequately, leaving these areas vulnerable to unplanned or poorly planned development.

Agricultural Land Use Ordinances support and protect farming by stabilizing the agricultural land base and related employment. This type of zoning designates areas where farming is the desired use, generally based on soil quality as well as a variety of location-related factors. Competing uses are discouraged or prohibited. Ordinance provisions vary in what activities are permitted in agricultural zones. The most restrictive regulations prohibit any uses that might be incompatible with commercial farming. The density of residential development is typically limited as well. The American Farmland Trust recommends ordinances that allow no more than one house for every 20 acres to support agricultural land uses and significantly restrict non-farm land uses. In areas with relatively low cost land, this may be insufficient to prevent fragmentation and therefore may hasten the decline of larger commercial farming viability. In areas with relatively high cost land, large lot sizes may be unpopular with town voters and municipal officials. Accordingly, additional strategies beyond large minimum lot sizes are presented in this compilation.

Through the comprehensive planning process, citizens can identify and prioritize which areas should remain agriculturally productive. Protection can occur through the adoption of land use ordinance provisions and through conservation efforts, like voluntary purchases and easements. It can be very helpful for planning committees and planning boards to see a range of ordinance options in use throughout the country currently. Accordingly, this Compilation may be of assistance for communities deciding what types of provisions could meet their needs. Please contact the Mid-Coast Regional Planning Commission for more information and assistance.

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Table of Contents

Ordinance Excerpts	Page
Subdivision Agricultural Buffer, Hebron, CT	3
Model Ordinance for Agricultural Tourism, MI	4
Agricultural Land Preservation District, Waukesha County, WI	8
Model Agricultural Zoning Ordinance, Lancaster County, PA	11
Land Use Notification, Clay County, MN	17
Agricultural Advisory Committee, NJ	18
Shoreland Zoning Agricultural Provisions, ME	20
Farm Stands, Gray, ME	22
A Checklist For Sustaining Rural Character, NH	24
Further Reading	27

Agricultural Buffers Rationale

Balancing agricultural practices and the desire to develop land for non-agricultural purposes can be challenging. Open space buffers between active agricultural areas and other uses, such as residential development, can help reduce land use conflicts. Buffers are generally imposed on residential developments, rather than on farming operations, because the farm was probably the first use in place. Buffers are most effective if a "no-disturb" zone is provided between residential properties and farmland. It should also be required that the buffer be described in the property deed to alert potential buyers of the need to honor the no-disturb area.

Subdivision Agricultural Buffer (Edited Excerpts)

Source: Hebron CT Subdivision Regulations

AGRICULTURE BUFFER AREAS

Buffers adjacent to actively farmed land shall be established in residential subdivisions. Said buffer areas, when required, shall be no less than fifty (50) feet in width and may be required up to a width of one hundred (100) feet as directed by the Planning Board, depending on the type of agriculture or farm use, the topography, existing vegetation and the proposed design and planting of such areas. It shall be the responsibility of the applicant, subject to approval by the Planning Board, to provide an effective barrier that will reasonably protect adjacent residential living areas. It shall be the responsibility of individual lot owners where such buffers are established on their lots, to maintain the buffer in accordance with the designed intent. Such responsibility shall be specifically noted on the subdivision plan and in the deeds of affected lots. Where a buffer area is part of a common open space, the responsibility for maintenance will be assumed by a homeowners association or by other arrangement that is acceptable to the Planning Board. In addition, the following statement shall be noted on the subdivision plan: "This property abuts or is in proximity to an active agricultural or farming operation which is a permitted zoning use. The policy of the Town is to encourage agricultural uses, which are an integral component of the existing community character. Agricultural operations sometimes emit such things as noise, odor, dust, or chemical spray drift that are unavoidable byproducts of such operations." If abutting actively farmed land comes under non-agricultural development, then these requirements are voided.

Agricultural Tourism Rationale

Agricultural tourism activities can provide farmers with increased income stability and diversification. These activities may include farm schools/workshops/educational programs, petting zoos/children's amusements/playgrounds/horseback riding/hayrides, Pick-Your-Own (U-Pick), festivals, pageants, wine tastings, sheep shearing, and numerous similar activities. Communities that promote agricultural tourism may be more successful in protecting their local agricultural economy.

Model Ordinance for Agricultural Tourism *(Edited Excerpts)*

Source: Michigan Agricultural Tourism Advisory Commission

INTENT

To promote and maintain local farming. The activities that are described have become necessary for the sustainability of farms.

GOALS

- To maintain and promote agriculture and its related activities, such as agricultural tourism.
- To preserve open space and farmland
- To maintain both an agricultural heritage and a rural character.
- To increase community benefits by having fresh, local produce for sale and working classrooms for school children's and urban residents' education
- To increase positive growing businesses that contributes to the general economic conditions of the municipality and region.

PURPOSE

- To provide standard definitions related to agricultural tourism operations.
- To provide a list of permitted activities under an agricultural tourism operation.
- To provide a list of activities that needs a special permit to guide and regulate agricultural tourism businesses on agriculturally zoned land.
- To provide for a clear understanding of the expectations for agricultural tourism businesses for operators, local residents, other businesses and local officials.

DEFINITIONS

- "Agricultural Tourism", "ag-tourism" and/or "agri-tourism" means the practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation.

- “*Value-added agricultural product*,” means the enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product to a higher value. The enhancement or improvement includes, but is not limited to marketing, agricultural processing, transforming, or packaging, education presentation, activities and tours.
- “*Agricultural products*” includes, but is not limited to, crops (corn, wheat, hay, potatoes); fruit (apples, peaches, grapes, cherries, berries, etc.); cider; vegetables (sweet corn, pumpkins, tomatoes, etc.); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, and fur, etc.); aquaculture products (fish, fish products, water plants and shellfish); horticultural specialties (nursery stock, ornamental shrubs, flowers and Christmas trees); maple sap, etc.
- “*Agriculturally related products*” means items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promoting farming and agriculture and value-added agricultural products and production on site.
- “*Non-agriculturally related products*” means those items not connected to farming or the farm operation, such as novelty t-shirts or other clothing, crafts and knick-knacks imported from other states or countries, etc.
- “*Agriculturally related uses*” means those activities that predominantly use agricultural products, buildings or equipment, such as pony rides, corn mazes, pumpkin rolling, barn dances, sleigh/hay rides, and educational events, such as farming and food preserving classes, etc.
- “*Non-agriculturally related uses*” means activities that are part of an agri-tourism operation’s total offerings but not tied to farming or the farm’s buildings, equipment, fields, etc. Such non-agriculturally related uses include amusement rides, concerts, etc., and are subject to special use permit.
- “*Farm Market/On-farm market/roadside stand*” means the sale of agricultural products or value-added agricultural products, directly to the consumer from a site on a working farm or any agricultural, horticultural or agribusiness operation or agricultural land.
- “*Seasonal*” means a recurrent period characterized by certain occurrences, festivities, or crops; *harvest, when crops are ready*; not all year round.
- “*Seasonal sign*” means a sign erected for a limited period of time during the year when retailing activities for a particular farm product is available to the public.

USES PERMITTED BY RIGHT

1. General and specialized farming of agricultural products and agricultural activities, including the raising or growing of crops, livestock, poultry, bees and other farm animals, products and foodstuffs. Any building or structure may be located thereon and used for the day to-day operation of such activities, for the storage or preservation of said crops or animals, products and collection, distribution, or processing, and for the incidental sale of crops, products and foodstuffs raised or grown on said parcel or in said building or structure.
2. Storage, retail or wholesale marketing, or processing of agricultural products into a value-added agricultural product is a permitted use in a farming operation if more than fifty (50) percent of the stored, processed, or merchandised products

- are produced by the farm operator for at least three (3) of the immediately preceding five (5) years.
3. Cider mills or wineries selling product, in a tasting room, derived from crops grown primarily on site for at least three (3) of the immediately preceding five (5) years.
 4. Direct marketing of produce in a farm market, on-farm market or roadside stand no greater than one-thousand (1,000) square feet in building area.
 5. Seasonal U-pick fruits and vegetables operations.
 6. Seasonal outdoors mazes of agricultural origin such as straw bales or corn.
 7. Food sales/processing, processing any fruits/produce.
 8. Sale of Nursery Stock and Related Products such as shrubs, trees, plants, seeds and landscape materials such as mulch, stones, etc.
 9. Uses listed above may include any or all of the following ancillary agriculturally related uses and some non-agriculturally related uses so long as the general agricultural character of the farm is maintained and the income from these activities represents less than fifty (50) percent of the gross receipts from the farm.
 - Value-added agricultural products or activities such as education tours or processing facilities, etc.
 - Bakeries selling baked goods containing produce grown primarily on site (e.g., minimum fifty (50) percent).
 - Playgrounds or equipment typical of a school playground, such as slides, swings, etc. (not including motorized vehicles or rides).
 - Petting farms, animal display, and pony rides.
 - Wagon, sleigh and hayrides.
 - Nature trails.
 - Open air or covered picnic area with restrooms.
 - Educational classes, lectures, seminars.
 - Historical agricultural exhibits.
 - Kitchen facilities, processing/cooking items for sale.
 - Gift shops for the sale of agricultural products and agriculturally related products.
 - Gifts shops for the sale of non-agriculturally related products such as antiques or crafts, limited to twenty-five (25) percent of gross sales.
 - Lodging facilities for agricultural homestays, where the primary purpose of the lodging is for the education and active participation in the on-site agricultural activities of the guest(s).

USES PERMITTED BY SPECIAL USE PERMIT

1. Bed and Breakfast.
2. Direct marketing of produce, farm market, on-farm market or roadside stand if the sales area is greater than one-thousand (1,000) square feet in building area.
3. Restaurant operations related to the agricultural use on the site.
4. Non-agriculturally related uses listed as permitted uses in the zone but which include any of the following ancillary uses may require a special use permit.

- Small-scale entertainment (e.g., music concert, car show, art fair).
- Family oriented animated barns (e.g., fun houses, haunted houses, or similar) and small mechanical rides.
- Organized meeting space for use by weddings, birthday parties, and corporate picnics.
- Designated, permanent parking for more than twenty (20) vehicles.

PARKING

1. For agricultural tourism and seasonal agriculturally related uses one space for each two-hundred fifty (250) square feet of retail area and one space for every five thousand (5,000) square feet of outdoor related activities such as agricultural mazes, petting farms, outdoor play equipment, etc.
2. For uses permitted by right under the agricultural district, parking facilities may be located on a grass or gravel area for seasonal uses such as road side stands, u-pick operations and agricultural mazes. All parking areas shall be defined by either gravel, cut lawn, sand or other visible marking.
3. For uses permitted by special use permit parking may be either gravel or paved as determined by the Planning Board, based on applicant estimates for seasonal parking and the intensity of the use. Overflow parking areas may be required by the Planning Board to accommodate seasonal peak demand.
4. All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.
5. Unpaved parking areas shall not be located in required side and rear parking setback areas. Paved parking areas must meet all design, landscape screening and setback requirements set forth in this zoning ordinance.

SIGNS

Seasonal signs may be erected for a limited period during the year when retailing activities for a particular farm product is available to the public.

Agricultural District Rationale

Enacting a land use district or zone where agriculture is recognized as the primary use and where residential uses are limited or conditional can reduce property tax assessments based upon the current prevailing use rather than on the potential for residential use. Ever-increasing property taxes due to the potential for residential use are often cited as contributing to the loss of farmland. Just as communities may zone for commercial, industrial, and civic uses, so to should they consider creating districts or zones to protect agricultural uses.

Agricultural Land Preservation District (Edited Excerpts)

Source: Shoreland & Floodland Protection Ordinance, Waukesha County WI

AGRICULTURAL LAND PRESERVATION (A-P) DISTRICT

PURPOSE AND INTENT

The purposes of the A-P agricultural land preservation district are:

1. To preserve productive agricultural lands for the production of food and fiber.
2. To preserve productive farms by preventing land use conflicts between incompatible uses.
3. To control the cost of public services through efficient extension of those services.
4. To maintain a viable agricultural base and associated agricultural supportive uses.
5. To pace and shape development in the changing rural landscape.
6. To implement the provisions of the Municipal/Regional Land Preservation Plan.

LOCATION

Lands to be included with the A-P agricultural land preservation district are as follows:

1. Lands historically exhibiting good crop yields or those capable of such good crop yields by virtue of their good soil characteristics.
2. Lands that have been demonstrated to be productive for dairying, livestock raising and grazing and have records of good production levels.
3. Other lands which form an integral part of such farm operations.
4. Lands use for the production of specialty crops such as onions, herbs, sod, fruits and vegetables.
5. Lands that are capable of productive use through economically feasible improvements such as irrigation or tile draining when wetlands are not thereby disturbed or converted.

USE REGULATIONS:

PERMITTED USES

1. General farming, including agricultural, dairying and floriculture forestry, livestock grazing, hay baling, grain drying for grain originating on or in connection with a single farm operation, livestock raising, paddocks, stables, truck farming, viticulture, nurseries, sod farms, providing only that farm buildings housing animals, barnyards and feedlots, shall not be located within a flood zone nor closer than one hundred (100) feet to any navigable water course nor closer than one hundred (100) feet to an existing adjacent dwelling or residentially zoned lot.
2. Farm dwellings for farm owners, which for the purpose of this ordinance, shall include residences to be occupied by a person who, or a family at least one member of which earns a substantial part of his or her livelihood from the farm operations on the farm parcel, or is a parent or child of the operator (owner) of the farm. Each such additional dwelling shall be placed on a separately described parcel created under subdivision regulations of the municipality and/or under the municipal Shoreland Zoning and Floodplain Management Ordinance subject to the following:
 - A. Conveyance to a person or persons other than those related to the farm operator shall be restricted by Deed restriction at the time of recording of the deed, until such time as the parcel becomes rezoned to a zoning district other than A-P agricultural land preservation district permitting single family residences as a right within a flood zone nor closer than one hundred (100) feet to any navigable water course nor closer than one hundred (100) feet to an existing adjacent dwelling or residentially zoned lot.
3. Warehousing, transfer and transport services of agricultural commodities.
4. Horticultural services, including the retail sale of nursery landscape material and other agricultural crops and related commodities.
5. Feed milling operations.
6. Agricultural machinery sales and services.
7. Bulk milk collection, storage and distribution facilities.
8. Veterinarian services.
9. Custom grain drying.
10. Poultry and/or egg production.
11. Existing dwellings or dwellings remaining after the consolidation of a farm enterprise. Parcels thereby created as a result of consolidation shall be not less than one (1) acre in size and shall meet the offset and setback requirements of the R-1 residential district. New non-farm dwellings are prohibited

CONDITIONAL USES

Conditional uses may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands which make up the major portion of lands in the A-P district (i.e., private hunt clubs during the non-growing season and sand and gravel removal on non-productive lands with restoration of the site to a condition suitable for agricultural use).

BUILDING LOCATION

1. Setback: Fifty (50) feet minimum.
2. Offset: Fifty (50) feet minimum, One hundred (100) feet minimum for buildings used for the housing of livestock or animal waste storage.

[Definition of *Offset*: The horizontal distance measured from the side or rear lot line, not along a street, to any roofed or enclosed portion of a building, and not including roof overhang, as defined herein, of twenty-four (24) inches or less.]

HEIGHT

1. Principal structures and residential structures: Thirty-five (35) feet maximum.
2. Accessory non-residential structures: Sixty (60) feet maximum
3. Exceptions: Both principal non-residential and accessory non-residential structures may be increased to not more than one hundred (100) feet where the setback and offset equals or exceeds the height of the structure and the structure is used for agricultural purposes only.

AREA

1. Floor area, minimum required
 - a. First floor: Nine hundred (900) square feet.
 - b. Total, one (1) family: One thousand one hundred (1,100) square feet.
2. Maximum floor area ratio permitted: Ten (10) percent.

LOT SIZE

1. Minimum parcel size: Thirty-five (35) acres, except as may be provided for those residual existing dwellings and parcels that result due to farm consolidation.
2. Minimum average width: Six hundred (600) feet.

Model Agricultural Zoning Ordinance (Edited Excerpts)

Source: Lancaster County, PA

DEFINITIONS

Church - A separate detached building devoted primarily to religious worship.

Farm or Farm Parcel - A tract or parcel of land containing at least twenty-five (25) acres, devoted primarily to agricultural uses, together with a dwelling and/or other accessory uses.

Farm-Related Business - A business operated on a farm parcel, related to or supportive of agricultural activities, such as blacksmithing, farm implement repair, and/or roadside sale of agricultural products.

Intensive Agricultural Use - Intensive Agricultural Uses include, but are not necessarily limited to: a) slaughter areas, b) areas for the storage or processing of manure, garbage, or spent mushroom compost, c) structures housing more than fifty (50) animal units.

Non-farm Lot - The following constitute non-farm lots within an agricultural district: a) a lot or parcel containing less than twenty-five (25) acres and containing one or more dwelling units. Agricultural activities may be carried on as part of the use of a non-farm residential lot; b) a lot within an agricultural district devoted to uses other than agricultural or residential uses.

Parent Tract - Each tract of land located within an A-Agricultural District on the effective date of this ordinance, and held in single and separate ownership is a parent tract.

AGRICULTURAL DISTRICT

The following provisions shall apply to all land within an A-Agricultural.

PURPOSES.

The purposes of the agricultural district are:

- to protect and promote the continuation of farming in areas with prime soils (SCS Class I and II) and soils of statewide importance (SCS Class III) where farming is a viable component of the local economy, and to promote the continuation of farming in areas where it is already established;
- to permit, with limited exceptions, only agricultural land uses and activities;
- to separate agricultural land uses and activities from incompatible residential, commercial, and industrial development, and public facilities. The protection of land for agricultural purposes is a legitimate zoning objective under the State Planning Statutes, which the regulations set forth in this Section seek to achieve;
- to put into action the local comprehensive plan, which contains the goal of protecting agricultural lands and promoting agriculture as a component of the local economy.

USES BY RIGHT

- All forms of agriculture (except new Intensive Agricultural Activities, see Section below), horticulture, and animal husbandry, including necessary farm structures;
- Forestry uses, including sawmills;
- Farm dwellings;
- Production nurseries and production greenhouses;
- Wildlife refuges and fish hatcheries;
- Private elementary schools which may include classes only through grade nine;
- The following uses accessory to a principal use:
 - Roadside stands for the sale of agricultural products, at least half of which are grown on the premises. Off-road parking shall be provided for all employees and customers and the stand shall be set back at least 20 feet from all property lines and road rights of way. The stand shall not be more than 300 square feet in size;
 - Garages;
 - Signs pursuant to the local sign ordinance;
 - Beekeeping;
 - Manure storage facility;
 - Non-commercial recreation (family pool, tennis court, etc.);
 - Non-commercial antenna or communications facility (see Section ___);
 - Worship services in the home which require no exterior modification of the dwelling;

CONDITIONAL USES

(Requiring approval of the Municipal Board of Appeals)

- Temporary Farm Housing, provided that this use:
 - Takes place on a farm of at least twenty-five (25) acres;
 - Utilizes mobile home or manufactured housing, and
 - Is only used to house farm laborers;
 - Is removed when farm laborers no longer occupy the housing;
- New Intensive Agricultural Uses, where adjacent to a residential zone, shall not be located closer than two hundred (200) feet from any residentially zoned property line, or residence on an adjacent property;
- Water treatment and transmission facilities and wastewater collection facilities;
- Public utilities;
- Farm-related businesses that are conducted outside the home, subject to the following regulations:
 - No more than two (2) acres of land shall be devoted to such use including areas used for structures, parking, storage, display, setbacks, landscaping, et cetera. Any lane serving the farm-related business and a home and/or farm contained on the same lot shall not be included as lot area devoted to

- the farm-related business. No additional lane or curb cut to access the farm-related business shall be allowed; and
- No more than fifty (50) percent of the area devoted to a farm-related business shall be covered by buildings, parking lots, or any other impervious surface; and
 - The owner or occupant of the farm must be engaged in the farm-related business; and
 - No more than two (2) full-time and two (2) part-time persons, other than individuals who reside on the farm, may be employed in the farm-related business; and
 - The use must be conducted within a completely enclosed building typical of farm buildings; and
 - Any out building used for the farm-related business shall be located behind the principal farm residence on the site, or shall be located at least two hundred (200) feet from the closest street right-of-way.
 - Any outdoor storage of supplies, materials, or products shall be located behind the building in which the farm-related business is conducted.
- Churches, subject to the following regulations:
 - A minimum of two (2) and a maximum of four (4) acres of land shall be devoted to such use including areas used for structures, parking, storage, display, setbacks, landscaping, et cetera; and
 - No more than forty (40) percent of the area devoted to a church shall be covered by buildings, parking lots, or any other impervious surface.
 - For other criteria, including accessory uses, see Section ___;
 - Dwellings located on non-farm lots, provided that:
 - Each application includes a scaled drawing indicating the location of the proposed dwelling to the surrounding farms;
 - The dwelling is sited on that portion of the lot which separates it as much as possible from adjacent farming, including minimizing the length of property lines shared by the residential lot and adjoining farms;
 - The dwelling and its lot are located on the least productive farmland wherever practical;
 - The dwelling is sited on the smallest practical area to satisfy the requirements of this Ordinance and on-site sewage disposal regulations;
 - Communications antennas, towers, and equipment, provided that:
 - Antennas greater than forty-five (45) feet in height and tower-mounted antennas shall require a statement from a registered professional engineer regarding the structural integrity of the antenna and/or tower. Such statement shall analyze the forces on the foundation (including live and dead loads), allowable and actual forces of cables, rods, and braces, soil bearing pressures, wind loading forces, and safety from overturning. Communications structures shall be designed and installed to resist a minimum wind load of thirty (30) pounds per square foot of projected

horizontal area and shall have a minimum safety factor against overturning of two (2.0);

- Antennas which are capable of transmitting signals shall not create electrical, electromagnetic, microwave, or other interference off-site;
- If an antenna represents a health risk due to the signals transmitted, the site shall be completely enclosed by an eight (8) foot high fence and self-locking gate. The fencing shall include signs on all sides warning of such hazards and shall be arranged in a manner which clearly protect persons outside the fence from such hazards;
- Communications structures shall have a setback from all property lines equivalent to the height of the structure, but in no event shall an antenna or tower exceed a height of two hundred (200) feet from grade;
- Communications structures shall be sited so as to separate them from adjacent farming activities and residential structures;
- The applicant must demonstrate that the proposed location on agricultural land is necessary for the efficient operation of the communication system, and that alternative locations outside of the agricultural district are not available;
- The applicant must submit notice of approval for the proposed installation from the Federal Aviation Administration and the Federal Communications Commission.

INCOMPATIBLE USES.

Uses not specifically permitted under subsections above are not permitted in the agricultural zone. In general, uses and activities that induce non-farm development, generate large amounts of traffic, require substantial parking, or could pose a threat to agricultural water supplies are inconsistent with the purposes of the A-Agricultural District. Without limiting the foregoing, the following specific uses are deemed to have the effect of altering the essential character of the A-Agricultural District and causing substantial and permanent impairment to the prevailing agricultural uses within this district and hence, are detrimental to the public welfare: junkyard, automobile junkyard, municipal waste transfer station, sewage treatment plant, non-agricultural waste storage, golf course; or a non-agricultural commercial/industrial structure in excess of five thousand (5,000) square feet of floor area.

AREA REQUIREMENTS

MINIMUM AREA

- Except when conducted as an accessory to a residential use of a non-farm lot, agricultural uses shall require a minimum area of twenty-five (25) acres, and no farm parcel shall be subdivided from a parent tract unless it shall meet the minimum area requirement for agricultural uses.
- A non-farm lot subdivided from a parent tract shall have a minimum of one (1) acre and a maximum of two (2) acres.
- All other uses permitted by right, or conditional use shall have a minimum lot area of one (1) acre.

LIMITATIONS ON SUBDIVISION OF PARENT PARCELS/TRACTS.

- In order to protect agricultural uses within the A-Agricultural District, it is the intent of this provision that the creation of non-farm lots and the subdivision of farm parcels from parent tracts shall be limited, in order to provide for the retention of tracts of sufficient size to be used reasonably for agricultural purposes.
- Each parent parcel/tract containing fifty (50) or more acres shall be permitted limited rights of subdivision. Each parent tract of fifty (50) or more acres shall be permitted to subdivide a combination of one or more farm parcels and/or non-farm lots up to, but not in excess of, a total of one such non-farm lot or one such farm parcel for each fifty (50) acres of area within the parent tract. For example, a parent tract having one hundred twenty-five (125) acres is permitted an ultimate subdivision into a total of two lots or parcels, such as i) two farm parcels, ii) one farm parcel and one non-farm lot, or iii) two non-farm lots.
- A single-family detached dwelling may be erected on any single undeveloped lot of record (parent tract) as of the effective date of this ordinance. Such lot must be a parent tract in single ownership and not contiguous with other tracts in the same ownership. The parent tract must meet applicable requirements for minimum lot size, and any buildings erected on the lot must meet yard setback, lot coverage, and height regulations.
- The provisions of this section shall apply to all parent tracts as of the effective date of this ordinance. Regardless of size, no parcel or lot subsequently subdivided from its parent tract shall qualify for additional single-family detached dwellings or lots pursuant to this section. All subsequent owners of parcels of land subdivided from a parent tract shall be bound by the actions of the previous owners of the parent tracts. Any subdivision or land development plan hereafter filed for a parent tract in the A-Agricultural District shall specify which lot or lots shall carry with them the right to erect or place thereon any unused quota of single-family detached dwellings or farm parcels as determined and limited by the provisions of this section.
- In the event a tract of land not originally classified as part of the A-Agricultural District on the effective date of this Ordinance is hereafter classified as part of the A-Agricultural District, the size and ownership of such tract of land and its classification as a parent tract, shall be determined as of the effective date of the change in the zoning classification to A-Agricultural.

YARD, COVERAGE, AND HEIGHT REQUIREMENTS.

- All lots or parcels shall have minimum width of one hundred (100) feet at the building setback line and sixty (60) feet at the street right-of-way line.
- All structures located on non-farm lots shall have a minimum front and rear yard of fifty (50) feet respectively, and a minimum side yard of twenty-five (25) feet on each side.
- All structures located on farm parcels shall have front, rear, and side yard setbacks of at least fifty (50) feet. New intensive agricultural uses shall be set back an additional distance as required this Ordinance.

- The total impervious coverage, including both buildings and other impervious surfaces, of a non-farm lot shall not be more than twenty (20) percent; the total lot coverage of a farm parcel shall not be more than ten (10) percent.
- The maximum height of a residential building shall be thirty-five (35) feet. The maximum height of all other buildings, excluding silos and windmills, which shall, however be set back a distance at least equal to their height from all property lines.

AGRICULTURAL NUISANCE DISCLAIMER.

Lands within the Agricultural District are used for commercial agricultural production. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, and the possibility of injury to property and health or even death arising from normal and accepted agricultural practices and operations, including, but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, herbicides, and pesticides. "The Right to Farm Law," may bar them from obtaining a legal judgment against such normal agricultural operations.

Notification Rationale

Informing prospective residents of the proximity of agricultural activities and the potential nuisances from these activities, can reduce conflicts between residents, agricultural operators and municipal officials, and can reduce expenses related to litigation. Everyone can make better decisions when they learn more about the area in which they seek to live.

Land Use Notification (Edited Excerpts)

Source: Land Development Ordinance, Clay County MN

No permit for the construction of or addition to a dwelling unit, or permit for a septic system in the Agricultural District shall be issued until the landowner reads and signs an agricultural land use notification and records it, at the owner's expense, against the property that is the subject of the permit of development. Once such a land use notification has been recorded against a property it does not need to be recorded again related to subsequent permits on the same property. Agricultural land use notification forms shall inform the landowner:

1. The land that is the subject of the permit or development is located in an agricultural area where the municipality has determined that agricultural uses are primary uses.
2. Agricultural uses may be accompanied by noise, dust, odor, light, smoke, and other off-site impacts at any time of day and year.
3. Agricultural uses may include new or expanded feedlots that conform to all state or federal standards, operation of machinery, storage and disposal of manure, and application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.
4. Agricultural uses are given preference over other uses in agricultural areas.
5. The management of significant biological resources may include controlled burning of large areas. Such burning may produce smoke, dust, odor, light, and other off-site impacts.
6. If you live within an agricultural district, you should be prepared to accept inconveniences or discomfort associated with management of biological resources as a normal and necessary aspect of living in an agricultural district.
7. If you live near an agricultural area, you should be prepared to accept inconveniences or discomfort associated with agricultural practices as a normal and necessary aspect of living in agricultural areas.

Agricultural Advisory Committee Rationale

Those who control municipal planning and regulation may have little knowledge about agriculture in general or how they can use municipal regulatory powers to sustain and encourage farming. By forming an advisory committee, municipal officials can stay in contact with farmland owners, and find ways to enhance farming opportunities.

Agricultural Advisory Committee (Edited Excerpts)

Source: Chesterfield Township, NJ

INTENT

An active, representative Agricultural Advisory Committee can benefit the municipality by providing assistance to town officials and the residents in general and for farmland owners and farm operators in particular. It can help both the governing body and other town officials plan and regulate to meet the needs of all residents while, at the same time, it can provide encouragement for farmland owners and operators to commit to longer term farming in a community where their interests and concerns have a voice.

ESTABLISHMENT

There is hereby established within the Town of _____ an Agricultural Advisory Committee, which will serve as an ad hoc advisory committee to the Town Committee for the purposes of discussion of matters of interest to the farming community, current and pending township ordinances affecting the farming community, farmland preservation planning, and other issues of interest to the farming community which will have an impact upon the township as a whole.

COMPOSITION

The municipal agricultural advisory board shall be composed of at least three, but not more than five, residents of the municipality; and a majority of the members actively engaged in farming and owning a portion of the land they farm.

The governing body shall appoint representatives from the various scales of farming and commodities existing in the community to facilitate a broad spectrum of response and to maintain its knowledge about the ever-changing practices of this dynamic industry. Members shall be appointed by the Mayor/Select Board with the consent of the municipal governing body. Each member shall serve a term of three years. Members shall choose a chairman, who shall serve as liaison between the Committee and the Township Committee and Planning Board. The Chairman shall keep notes of the meeting, which shall be deemed to be the property of the township. The Chairman shall serve as the spokesperson for the Committee in discussions with the township committee and planning board.

DUTIES.

The Agricultural Advisory Committee shall meet on no fewer than four occasions per year or as needed for the following purposes:

1. To assist the Town Committee in carrying out its duties and responsibilities by informing it of developments in the farming community that should be considered when using municipal regulatory and land use powers.
2. To assist the Town Committee in development of ordinances by reviewing them for impacts upon the farming community, including all ordinances affecting land use in the Agricultural Development Area (ADA).
3. To assist the Planning Board in the development for adoption of a farmland preservation plan and/ or an agriculture retention plan in accordance with ordinance _____. This plan shall include at a minimum:
 - An inventory of farm properties in the entire municipality and a map illustrating what the community considers significant areas of agricultural land.
 - A detailed statement showing that municipal plans and ordinances such as a Right to Farm ordinance and other agricultural viability ordinances and promote agriculture as a business.
 - A plan for preserving as much farmland as possible in the short term by leveraging monies made available from farmland preservation funding programs through a variety of mechanisms.
 - A statement of farming trends, characterizing the type(s) of agricultural production in the municipality;
 - A discussion of plans to enhance the agricultural industry in the municipality.
4. To assist, through consultation, the Planning Board and the governing body in adjustments and amendments to the Farmland Preservation and or Agricultural Retention Master Plan Element and the list of farms to be included in the easement purchase acquisition program.
5. To assist the Planning Board in developing and considering amendments developed through master plan re-examinations and any other changes that would have an affect on the viability of farms within Agricultural Development Area of the town.
6. To provide educational opportunities for residents to learn about the history of farming in the community, how to support the local farming community, and how to become involved in the agricultural industry. This could include development of farm tours to promote the preservation of farms and public education about farming operations.
7. The Agricultural Advisory Committee shall meet with the Select Board/Council at least once a year to report on its activities and discussions and provide the Committee with a summary of the issues it has discussed and the positions it believes should be advanced on behalf of the farming community as a whole in the municipality.

Shoreland Zoning and Agricultural Rationale

Agricultural activities in shorefront areas can have a detrimental impact on water quality and natural habitats. Accordingly, the State of Maine mandates that municipalities regulate these activities with the shoreland zone.

Those *Maine Shoreland Zoning Agricultural Provision (Excerpts)*

Source: Maine Shoreland Zoning Regulations, Maine Department of Environmental Protection

AGRICULTURE

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with

the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

NOTE:17 M.R.S.A. section 2805(4) requires a municipality to provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

DEFINITION

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Farm Stand Regulation Rationale

Allowing farmers to sell their products directly to the public can be an important source of revenue. Regulations protecting motorists and pedestrians should be part of such ordinance provisions as well.

Agricultural *Farm Stands Ordinance Provisions (Edited Excerpts)*

Source: *Land Use Ordinance, Gray, ME.*

DEFINITIONS

Agriculture, General: Includes the cultivation of the soil for food products or other useful or valuable growth of the field, garden, nursery, or greenhouse, but does not include dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business or gainful occupation.

Animal Husbandry: Dairying, raising of livestock, breeding or keeping of animals, horses, lamas, deer, alpacas and other fur bearing animals, emus, fowls or birds as a business or gainful occupation, which are considered commercial and come under other State laws.

Farm Stand: A roadside stand not exceeding 200 square feet in floor area selling only farm, garden, greenhouse, or nursery products, and between Labor Day and Christmas, cut Christmas trees, garlands, wreaths, and wreath material.

FARM STANDS

Farm Stands for the sale of farm, garden, greenhouse and nursery products shall conform to the following standards:

1. They shall be used exclusively for the sale of farm, garden, greenhouse, and nursery products.
2. No farm stand shall be permitted unless such use is allowed in the underlying zoning district.
3. They shall be located on land owned or leased by the producer or the operator of the farm stand, and not within or on any public ways.
4. The licensee must demonstrate to the Code Enforcement Officer that there is sufficient access, parking and maneuvering space, that the location and adequacy of approached are sufficient, and that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the farm stand.
5. Front, rear and side setbacks shall conform to those of the underlying zoning district.
6. No farm stand shall operate within two hundred (200) feet of any fixed base retail establishment or other farm stand offering the same or substantially similar goods or services.

7. Farm Stand Signs: Farm Stands must conform to the Municipal Sign Ordinance.
8. The hours of operation shall be from sunrise to sunset.
9. Noise Level: No loud speakers or any unnecessary noise will be allowed on the site. Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness. The average d.b.a. count resulting shall not exceed sixty (60) A-weighted decibels (dBA) at any point on or beyond the site.
10. A sufficient number of covered, metal rubbish containers shall be provided at each site immediately adjacent to the farm stand to hold material.
11. The licensee shall keep sidewalks, roadways, and other public and private spaces adjacent

Checklist/Survey of Municipal Support for Agricultural

This checklist may help to gauge the extent to which your municipality currently supports agricultural, and what further actions, including ordinance provisions might be worthwhile.

A Checklist for Sustaining Rural Character (Edited Excerpts)

Source: New Hampshire Coalition for Sustaining Agriculture and UNH Cooperative Extension.

Practical Land Use Ordinances and Regulations

Does your town...

...have a detailed section on agriculture in the Comprehensive Plan? The Comprehensive Plan is the big picture view of what land uses are encouraged, protected, or excluded within a town.

...allow agricultural uses in more than one zoning district? Agricultural businesses are not the same as other commercial development. Some towns confine agricultural businesses to the commercial zone only, while other towns prohibit such uses in the commercial zone! Farm enterprises are often hybrids of several different uses; ordinances and regulations should allow farm businesses flexibility.

...allow simpler design standards for Site Plan Review regulations on agricultural businesses limited to seasonal use? Simpler standards for certain aspects of Site Plan Review regulations make sense for agricultural uses, such as parking requirements for seasonal retailing or events. When agricultural uses are limited in scope and impact, they need not be treated as if they were year-round permanent businesses. Does your town apply the same site design requirements to a seasonal farm stand as to a grocery store?

...allow flexibility in regulations to accommodate the unusual needs of agricultural businesses? Both the land use impact and the off-site impact of a seasonal farm business is much less than that of a full-time business. Do your town's regulations provide for reduced restrictions such as expanded hours of business operation, temporary signs, parking near pick-your-own fields, or on street parking?

...require buffer zones between farmland and residential uses? The old saying "good fences make good neighbors" has a modern corollary that says "good buffer zones make new neighbors good neighbors." New development should not place the burden on existing farms to give up boundary land as a buffer zone between agricultural and residential uses. New residential development should provide for its own buffer zone and/or landscape plantings for screening when necessary.

...provide for the agricultural use of open space land created by innovative residential subdivisions? Many towns have adopted innovative subdivision regulations like cluster housing, which provide for setting aside open space land within the subdivision. Ideally, such land should be the most valuable agricultural land, be big enough for commercial agricultural purposes, and specifically allow long term agricultural use to provide consistent resource management. Smaller plots of set aside land could accommodate community gardens. Land set aside for open space can stay productive agricultural land and at the same time contribute to the ecological health and scenic quality of the area -- instead of becoming grown over with brush.

....allow off-site signs to attract and direct farm stand customers? Farm stands are often seasonal businesses that need to capture potential sales at harvest time. Signs that give directions to the farm stand and let customers know what's available (such as strawberries, corn, apples) are vitally important.

...allow accessory uses to agriculture? Remember, it's not just the farmland that makes farming possible: businesses related to agriculture (veterinarians, equipment and supply dealers, custom farm providers, feed milling and delivery, etc.) have to be close enough to serve farmers' needs.

Fair Enforcement of Local Regulations

Does your town...

...have a consistent policy approach for local land use procedures that deal with agriculture? Planning Boards, Zoning Boards, and Conservation Commissions have different responsibilities, but a common regulatory outlook is possible. Update your Comprehensive Plan to express the value agriculture contributes to your town's quality of life through open space, wildlife habitation, watershed purification and natural resource preservation. Establish a policy presumption that agriculture is of beneficial use in your town, and fairness will follow.

...have a good idea of how much agriculture there is in town? Consider having a Town appointed committee formulate an Agricultural Profile to demonstrate the economic, cultural, and resource stewardship value of agriculture in your Town.

...allow roadside stands or pick-your-own operations by right? Consider amending your Town's zoning ordinance so that certain agricultural operations don't need a Special Exception or Variance. Write flexibility into ordinances or regulations that may apply to agricultural land uses so the intent is clearly to promote such use, not to deny because the rules don't fit the unique situations that frequently arise with agricultural businesses.

...use zoning definitions such as "agricultural accessory uses"; in a broad and inclusive manner? "Agricultural accessory uses" refers to everything from machinery sheds to housing for seasonal workers. Various agricultural businesses have very different needs that can test the balance of rule and exceptions. Flexibility written into the ordinances and regulations can prevent many denials of the sort where "the rules don't fit."

...allow farm stands to sell produce purchased elsewhere? Many towns have rules that a certain percentage of farm stand produce be grown on the farm. The unintended consequence of such regulation is to penalize farm operators who have a crop failure! The rational basis for allowing a farm stand shouldn't only be how much is grown on the farm, but what benefit the farm provides to the town from the open space, wildlife habitation, watershed purification and natural resource preservation it accomplishes.

...properly assess specialized agricultural structures? Specialized structures such as silos, milking parlors, and permanent greenhouses depreciate in value over time. Providing assessors with depreciation schedules may enable more accurate valuations, which can lead to lower assessments. If your town frequently overvalues agricultural structures, this can have a chilling effect on all types of farm investment.

...allow non-traditional or retail-based farm businesses in an agricultural zoning district? Agricultural businesses don't all look alike. Trying to decide what constitutes an agricultural business can involve splitting hairs to make unfamiliar distinctions between what is "commercial" and what is "agricultural." Ordinances defining agriculture based on state law may be accurate, yet need local interpretation. Your town should recognize that newer types of farm businesses such as horse arenas, landscape nurseries, or greenhouses are more intensive in land use, but still carry valuable elements of rural character that benefit the town.

...address agricultural structures in building and safety codes? Building practices that are state of the art for a specialized use in agriculture may not fit the specifics of codes meant for housing or commercial structures. Bringing up to code agricultural buildings that are historic structures may destroy the very qualities that make them special.

Understanding and Encouraging Farming

Does your town....

...consider farmland a natural resource and encourage conservation easements, discretionary easements, and purchase of farmland? Easements and outright purchases of farmland ensure preservation of the natural resource base for agriculture. Once a town has applied these techniques, the benefits of keeping farmland in private ownership can be more clearly appreciated. By understanding and allowing for the peculiarities of agricultural land use, towns can encourage working farms that contribute to the town's well-being at no cost to the taxpayers.

...have any visible demonstration of the value of agriculture? Does your town have a county fair, an apple festival, or an Old Home Day parade? Making agriculture visible to the general public helps establish the economic, cultural, and resource stewardship value of having active farms in a town.

...respect the state Right to Farm law, which has specific exemptions for odor and noise? The State Right to Farm law provides a backstop to farmers if local officials overreach their regulatory authority. Conflicts between agriculture and other

land uses can be reduced when town officials are informed about Best Management Practices (BMP's) that may alleviate nuisance complaints.

...encourage farmers to use the Soil Productivity Index (SPI) calculations to reduce Current Use tax burdens? Using Soil Productivity Index (SPI) information may reduce the Current Use assessment on less productive agricultural land. By reducing the tax burden on agricultural land, towns can encourage the maintenance of open space at a relatively low cost.

...have farmers serving on local land use Planning and Zoning Boards, Conservation and Heritage Commissions? There are few better ways to incorporate agricultural concerns into local land use ordinances and regulations than having farmers serve. Help your town's land use boards keep a broad perspective by asking, "Have you thought of the consequences...?"

...have farmers serving on the local Economic Development Committee? Agricultural businesses are frequently undervalued in terms of their effect on the community. Most of the economic activity generated by farms stays within the community. Having successful farmers on Economic Development Committees can change these misperceptions.

FURTHER READING

Agricultural Zoning. Stephen J. Hudkins. Ohio State University Extension's Land Use Series CDFS-1266-99.

Saving American Farmland: What Works. American Farmland Trust, Northampton, MA, 1997.

State Environmental Laws Affecting Maine Agriculture: A Project of the National Association of State Departments of Agriculture Research Foundation through the National Center for Agricultural Law Research and Information. <http://www.nasdaq-hq.org/> under the Research Foundation Section