



COUNTY OF DUTCHESS

DEPARTMENT OF PLANNING AND DEVELOPMENT

October 16, 2019

To: Town Board, Town of Clinton
Re: Referral #19-308 — Events Local Law

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (GML) (Article 12B, §239-l/m).

ACTION

The Town Board is proposing to add a section to the zoning code which addresses the regulation of both “conference centers” and “agricultural event venues” in the Town.

COMMENTS

Historically, the regulation of “conference centers and dude ranches” was accomplished through the same section of the zoning code, however, conference centers and agricultural event venues are not proposed as one-in-the-same use. We suggest that the regulation of these uses would be more effective in two distinct sections of the code, each with its own set of land use controls that are specific to their unique needs and requirements.

Additionally, we find the general readability of the document to be confusing, including duplicative and conflicting statements and sections. The current organization and language should be reviewed to eliminate ambiguity; without which, we question how the law will fairly and efficiently govern these uses. As a first step, we suggest the inclusion of a purpose/intent statement to summarize the specific goals of the proposed regulations. We also suggest the proposed local law be organized and titled by subject (e.g. parking, lighting, etc.), similar to a supplemental regulations section in the zoning code.

Overall, the proposed language is very restrictive of both uses in the Town. In fact, some of the restrictions placed on agricultural event venues are in direct conflict with New York State Agricultural and Markets Law (Article 25-AA) and will likely not withstand a challenge. Under this statute, if a protected event occurs on a property in a State-certified agricultural district and takes place in conjunction with a permitted farm operation, the event has a right to proceed. This right supersedes local controls that limit agricultural event venues, such as the requirements that they occur in specific districts/zones or have specific access points (such as only major or collector roads); both of which, this local law does. For further clarification on AML and guidance regarding permitted farm operations and protected events/activities, the Town should contact the NYS Department of Agriculture & Markets. For reference, we have included a Plan On It eNewsletter entitled, *Agricultural Districts Law: Both Farmers and Municipalities Play a Role*.

We suggest the Town utilize a modified site plan review for farm-related uses – simultaneously, this process allows a community “right-sized” oversight of an agricultural project to ensure that public health, safety, and welfare is maintained, while also streamlining the process to provide the farmer time- and cost-savings. For more information on this process and other tools to enhance farm-friendliness in local land use documents, please see the Plan On It eNewsletter entitled, *Municipal Toolkit for Implementing Farm-Friendliness in Your Zoning Code*.

In addition, we offer the following comments regarding the proposal (in order of appearance in the local law):

- We question the scale of regulation for these uses, which seems unnecessarily stringent and burdensome. Although never explicitly stated in the law, one can deduce that these uses require a special use permit, which needs to be renewed on an annual basis “at least 90 days prior to such anniversary.” However, in addition to the special use permit, 30 days in advance of events, these uses also require documentation of additional permits, licenses, and certificates of insurance. Also, all structures for an event “shall be inspected and approved” by the

licenses, and certificates of insurance. Also, all structures for an event “shall be inspected and approved” by the Building Inspector at least each time the structure is erected. In §250-45(N), it is stated that the Zoning Administrator may issue a “search warrant” to inspect the subject premises if denied access. These requirements seem exceptionally specific and restrictive, especially when compared to other uses that are permitted or specially permitted in the Town.

- For clarity and ease of use, we recommend adding the titles of the specific code sections that are internally referenced in the proposed local law. For example, we suggest amending the reference to §250-28(C) in §250-45(I) to “Section 250-28(C) (Glare and heat)” and amending the reference to §250-28(A) in §250-45(J) to “Section 250-28(A) (Noise).”
- We note that the definition of “conference center” does not match the conventional definition of this use. Did the Board expressly choose to make this distinction? Does the Town currently have conference center uses operating in this vein (as outlined by the proposed local law)?
- Additionally, “recreational facilities” are included as part of the definition of conference center but are not currently defined in the code; we suggest adding a definition for this use.
- Similarly, “agri-tourism” is mentioned as part of the “agricultural event venue” definition but is not currently defined in the code; we suggest defining this use in the code. Also, agri-tourism can be affiliated with an agricultural event venue but may also take place outside of one. In consultation with the NYS Department of Agriculture & Markets, the Board should consider amending the use table to include this use and adding supplemental regulations to govern its use in the Town.
- In §250-45(A), conference centers are limited to one event per day. It does not appear that agricultural event venues are constrained to the same event requirement, but the Board should clarify its intent for agricultural event venue events. We note that, in many cases, conference centers have multiple events happening on-site at the same time. Likely, agricultural event venues could also have more than one event happening at the same time if multiple barns/structures/fields are permitted as part of the event area. The language included in the local law, however, precludes these uses from having this kind of flexibility.
- We question the minimum size requirements for conference centers and agricultural event venues as 50 and 75 acres, respectively. Outside of the aforementioned conflict with a potential protected event for a permitted farm operation in a State-certified agricultural district, these geographic thresholds seem very high. Other localities in Dutchess County have these uses operating in their bounds on significantly smaller lots.
- In §250-45(C), for any structure within 200 feet of any road or property line, it is stipulated that, before their use for either a conference center or an agricultural event venue, they must be certified as structurally sound and determined to have an appropriate occupancy limit. Wouldn’t these requirements already be satisfied during the building permit and certificate of occupancy processes?
- We question the rationale behind allowing the maximum number of attendees at a given conference center or agricultural event venue event, which is 50 and 200 people, respectively.
- In §250-45(G), “farmland” should be added as one of the areas to be preserved in these site plans whenever possible.
- There are many instances where items are included within the proposed local law, but would be more appropriate on a special permit application. For example, all references to insurance requirements associated with these uses and §250-45(S), which mentions uses of firecrackers and other loud noises, are two instances of this.
- In §250-45(N), these uses are subject to “additional inspections, as necessary,” but the instances in which these inspections will or could be necessary are not indicated in the law, nor is what these additional inspections could consist of.
- In §250-45(O), the proposed local law states that complaints received related to conference centers and agricultural event venues will be verified by the Zoning Administrator “within 30 days of such receipt and may, in appropriate circumstances, direct the Conference Center or Agricultural Event Venue to cease and desist from conducting Events until a verified complaint has been addressed or remediated.” These complaints should be reviewed and verified immediately. Otherwise, permitted events could be held up for potentially unjustified reasons, which would, more than likely, greatly financially impact these uses.

- §250-45(P) notes that an annual fee is required for the initial granting, as well as for the renewal of the special use permit for either a conference center or an agricultural event venue. We suggest adding this fee to the Town's fee schedule and referencing the schedule here.
- In §250-45(Q), the reference to the "Stop Order" that the Zoning Administrator may issue if violations are determined on a property should be in accordance with §250-89(F) (Issuance of stop orders), not §250-98(F) (Zoning Board and Appeals powers and duties).
- Instead of including references to code sections that conference centers and agricultural event venues must comply with, the Board should re-write the law to include a standard clause stating that in the case of any conflict in the code, when related to these particular uses, this section supersedes any others.
- The requirements for the number of events to be held in a given year, like the minimum size requirements and number of attendees permitted on-site during an event, seem arbitrary and overly restrictive. The first part of this section (§250-45(T)(i)) only applies to agricultural event venues because in a previous section of the proposed local law, it is stipulated that only these uses may have over 50 attendees. Alternatively, it appears that the second part of this section applies to both conference centers and agricultural event venues.
- In §250-45(W), the proposed regulation states that the Chief of the Fire District should be notified "no fewer than five business days" in advance of any event with 50 or more attendees. The Town should check with local fire districts to ensure this is an appropriate amount of time.

As always, we are available to discuss and clarify our comments with representatives from the Board and/or the Town's attorney.

RECOMMENDATION

The proposed law is overly restrictive of agriculture and ag-related uses, and squarely conflicts with NYS Agriculture & Markets Law. In addition, there are several ambiguities, which will impede any effectual governance and regulation of these uses. For these reasons and for the additional reasons stated above, our Department recommends that the Board **not adopt** the proposed law as written.

Voting and Reporting Requirements: If the Board acts contrary to our recommendation, the law requires that it do so by a majority plus one of the full membership of the Board and that it notify us of the reasons for its decision.

Eoin Wrafter, AICP
Commissioner

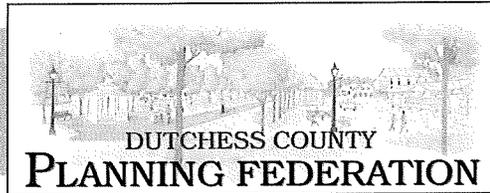
By



Shelby Frangk
Planner

C: Shane Egan, Town of Clinton Attorney (via email)
Jennifer Fimbel, Dutchess County Agricultural Navigator (via email)
Bob Somers, New York State Department of Agriculture and Markets (via email)

Att: Plan on It eNewsletter: *Agricultural Districts Law: Both Farmers and Municipalities Play a Role*, 5 pages
Plan on It eNewsletter: *Municipal Toolkit for Implementing Farm-Friendliness in Your Zoning Code*, 6 pages



November/December 2017

Agricultural Districts Law: Both Farmers & Municipalities Play a Role

By: Shelby Frangk, Planner

What comes to mind when you think of the quintessential Dutchess County experience? More than likely, you are inundated with thoughts of the many cultural, recreational, environmental, and historical draws that Dutchess County has to offer. Undoubtedly though, a "Distinctly Dutchess" experience would not be complete without the mention of our vast and highly valued agricultural resources. Woven into the fabric of our county, the long-standing tradition of farming in Dutchess County has changed and evolved over time. Today, our diversity of agriculture has been hailed as one of its most unique qualities. Whether it's traditional livestock and dairy farming; fruit and vegetable operations; local wineries and breweries; or newer farming ventures such as u-pick farms and community supported agriculture, Dutchess County has all of it, in spades.

This agricultural diversity provides many benefits to our community including local food security, healthy local economies, preserved open space, scenic viewsheds, and agri-tourism. It also, however, presents a challenge to municipalities trying to navigate the do's and don'ts of regulating these diverse, yet often interrelated and interdependent activities. Municipal land use planning and decisions may impact existing agricultural operations and continued farm viability, and many farms are expanding on-site activities that may raise concerns for communities. The interplay between local farming operations and communities does not have to be a strained one. In fact, it is an opportunity to define and clarify each party's role in ensuring the future of agriculture in Dutchess County, and encourage cooperation between these groups.

*There is a common misconception that **Agricultural Districts Law affords farms the right to change and expand their operation at will.** While the State statute does provide protections from the enactment and enforcement of unreasonably restrictive laws...it does not dismiss farms from being subject to the same laws that govern all other community uses.*

Ensuring Farms Can Grow and Thrive

This past October, the Dutchess County Planning Federation welcomed Dr. Bob Somers from the New York State Department of Agriculture & Markets and Brian Scoralick from the Dutchess County Soil & Water Conservation District for a course highlighting agricultural districts and the responsibilities of both farmers and municipalities related to these districts. The county-administered Agricultural Districts Law (Article 25-AA) of the Agriculture and Markets Law (AML) was created in 1971, among the wake of residential and commercial development pressures, suburban sprawl, and eroding farmland. New York State recognized the value of promoting and protecting State agricultural resources, and through Agricultural Districts Law, provided "right-to-farm" provisions for accepted agricultural practices, including defense from private nuisance lawsuits and restrictive local ordinances. Locally, Dutchess County has four agricultural districts, encompassing over 197,000 acres of farmland.

Fielding Agricultural Districts – No One is Above the Letter of the Law

As local planning, zoning and municipal board members, you know that municipalities are responsible for the regulation of land uses through comprehensive planning, local zoning, local ordinances, and code enforcement. In practice, “the rapidly changing agricultural industry does not always allow zoning and the comprehensive planning process to keep pace. This can result in the application of outdated regulations to contemporary land uses and gives rise to potentially unreasonable restrictions.”^[1] It is important to periodically update community planning documents, zoning codes, and official maps in order to apply fair and consistent regulations to community agricultural uses. Dr. Somers encouraged municipalities to confer with the NYS Department of Agriculture & Markets before enacting or updating any local laws. As with anything else, addressing questions and concerns is much easier and more productive at the drafting stage than after the provision is in place.



*Our rural heritage continues to diversify as Dutchess County enters the hops market.
(Photo Credit: Jennifer Fimbel, Dutchess County Agricultural Navigator)*

Dr. Somers explained that Agricultural Districts Law acknowledges “home rule” but protects accepted farm operations in agricultural districts. Neither farmers nor municipalities have a “carte blanche” to undertake or regulate farming activities without consequence. Both entities are obliged to follow the letter of the law – farmers must abide by the standards of a legal farm operation and sound agricultural practices, and municipalities must ensure that any local laws or statutes comply with Agricultural Districts Law. Dr. Somers outlined some general guidelines for municipalities regarding farms in agricultural districts:

- Special use permits for an accepted agricultural activity (unless it is a special event) are generally viewed by the NYS Department of Agriculture and Markets as being unreasonably restrictive. Agricultural activities are Constitutionally protected in New York and should be a permitted use by right.
- If a community would like oversight of a proposed agricultural activity, depending on its nature and complexity, a modified and expedited site plan approval process could be utilized.
- Most agricultural buildings used for agricultural purposes are exempt from the International Building Code requirements and should not require a special use permit. However, once the public enters a building, employees process agricultural products in a structure, or a building is used for human habitation, it is no longer considered an exempt agricultural building. Under the AML, however, these buildings are considered on-farm buildings and are still protected from unreasonably restrictive zoning regulations.
- It is unreasonably restrictive to prohibit mobile or manufactured homes as permitted farm housing.

There is a common misconception that Agricultural Districts Law affords farms the right to change and expand their operation at will. While the State statute does provide protections from the enactment and enforcement of unreasonably restrictive laws, rules, regulations, and ordinances, it does not dismiss farms from being subject to the same laws that govern all other community uses. Dr. Somers clearly outlined that farm operations are required to exhaust administrative options (i.e. area variance, special use permit, or expedited site plan approval) before seeking intervention from the NYS Department of Agriculture & Markets. Once this step has been taken, the Department has an appeal process in which they will, on a case-by-case basis, examine farmers' complaints of unreasonably restrictive local regulations. When reviewing these appeals, the Department strives to reach a solution that is satisfactory to both the farmer and the municipality.



Farm markets provide a great benefit to local communities, but should comply with basic public health, safety, and welfare standards. Requiring patrons to park adjacent to and back onto a main road to exit the site can cause potentially unsafe conditions. It is critically important to ensure that individuals can safely navigate to, from, and within any site .

Regulating Diverse, Yet Interdependent Agricultural Uses

Agriculture is a unique industry where planning and zoning is concerned. In many cases, farms thrive from diversifying their market – having a few staple crops, utilizing direct sales, and employing agricultural tourism, or “agritainment.” This fact may complicate planning and zoning for agriculture, as most zoning codes are designed with separate land uses and zoning districts, and specific guidance for each one. Local board members play a critical role in cultivating a viable future for Dutchess County farming by creating, enacting, and administering the regulations that plan and zone for agriculture in our communities. In order to adequately promote and protect local agriculture, it is important to recognize the unique requirements of operating a farm business in an agricultural district while making sure that public health and safety are protected.

Definitions are the foundation of any zoning code, and municipalities should be familiar with the definitions contained within the Agricultural Districts Law. Local governments may include the AML definitions in their local law or may expand on these definitions to further protect activities and commodities that are not mentioned in State Law. Dr. Somers highlighted current examples of potentially complicated agricultural uses:

- **Wineries, Breweries, Distilleries, & Cideries:** In order for these activities to be protected under the AML, at least 51% of the crops required to produce alcohol must be grown by the farm operation and the farm must produce, to some extent, all of the major ingredients used to make the alcoholic beverage. If a farm wants to hold public events (i.e. winery weddings) that are protected by the statute, then the intent of the event must be to sell the farm’s alcohol and only 30% of the gross profit may come from incidental charges (i.e. rental fees). The law clearly states that tasting rooms and direct sales to the public are protected. Furthermore, other agencies, such as the State Liquor Authority, administer State Laws that provide protections to the craft beverage industry; these laws may differ from the AML.

- **Agricultural Tourism & “Agritainment:”** Similar to the category above, agricultural tourism and “agrainment” are protected by Agricultural Districts Law, but only if the activities contribute to the permitted farm operation. As stated in guidance provided by the NYS Department of Agriculture & Markets, at least 51% of the crops marketed must be grown by the farm operation; additional crops may be sold to diversify products offered to the public. Examples of protected activities are: on-farm sales, farm markets, corn mazes, hay rides, pumpkin patches, and produce sling shots. The state encourages the production of value-added products and making farms accessible to the public; there is no substitute for actually bringing people to the farm to see where their food is grown, harvested, and processed. Agricultural Districts Law does not protect farm-compatible businesses, such as farm stays, Airbnb, and bed-and-breakfast establishments, but may protect farm-support businesses, such as the slaughter of livestock, educational classes, and licensed kitchens that exclusively process crops and livestock grown on the farm.

It is important to note that just because these uses are protected by Agricultural Districts Law, it does not mean that farms can implement them without approval from local governments and without consideration of public health, safety, and welfare, especially if the public is accessing the farm directly. Farm operations are expected to maintain basic standards of public well-being and are not automatically exempt from local laws or local review. Farm operations must go through the same administrative processes as other community uses and, only after doing so, have a right to appeal to the NYS Department of Agriculture & Markets if the local regulation is thought to be unreasonably restrictive.



Direct farm sales provide immediate cash income to farms, reduce transportation costs to the farmer, and educate people about local agricultural practices. (Photo: Jennifer Fimbel)

Our Rural Heritage

Agricultural Districts Law has gone a long way to ensuring land can and will remain in agricultural production in New York State. This assurance gave farms the ability to expand what our “rural heritage” means with new and innovative farming techniques, activities, and businesses. Though agriculture in Dutchess County does not look the same as it did fifty years ago, it is continuing to evolve, thrive, and grow. Dutchess County communities, and their comprehensive plans and zoning codes, need to similarly evolve as the nature of farming changes over time. Dutchess County agriculture relies on fair and consistent municipal regulations, and municipalities rely on productive and prosperous farms – this symbiotic relationship holds the key to the continued expansion of farming in Dutchess County.

^[1] NYS Department of Agriculture & Markets: Guidelines for Review of Local Zoning and Planning Laws, p.1.

More Information

[NYS Department of Agriculture & Markets: Agricultural Districts and Farm Operations](#) (PowerPoint presentation from October 2017 DCPF Short Course)

NYS Department of Agriculture & Markets:

- [Agricultural Districts Program](#)
- [Guidelines and Information Regarding Review of Restrictive Local Laws](#)
- [Guidelines for Review of Local Zoning and Planning Laws](#)

Dutchess County:

- [Dutchess County Agricultural and Farmland Protection Plan](#)
- [State of Agriculture in Dutchess County 2017](#)
- [Agricultural Infographic](#)
- [Agricultural Districts vs. Agricultural Assessments: What is the Difference, and Why Do They Matter?](#)

Cornell Cooperative Extension Dutchess County:

- [Dutchess County Agricultural Navigator](#)
- [Town Agricultural Profiles](#)

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This newsletter was developed by the Dutchess County Department of Planning and Development, in conjunction with the Dutchess County Planning Federation.

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Plan On It

A Dutchess County Planning Federation eNewsletter



January/February 2019

Municipal Toolkit for Implementing Farm-Friendliness in Your Zoning Code

By Shelby Frangk, Planner

678 local businesses.
112,482 acres of land.
\$50 million products sold annually^[1].

Of all the industries in Dutchess County, would you believe that these figures are actually referring to local agriculture? Despite the perception that farming is a lost profession, agriculture in Dutchess County is thriving. Creating *local* food security, *local* tourism, and healthy *local* economies, we all have a vested interest in ensuring that local agriculture continues to grow (pun intended). To ensure future prosperity, it takes a team effort on the part of farmers, engaged citizens, and local governments – that means you as planning, zoning, and municipal board members and us as your County Planning Department.

Farm-Friendly Audit

To do our part, over the past year we reviewed all 30 Dutchess County municipalities' comprehensive plans and zoning codes for farm-friendliness, based on an initiative outlined in the [2015 Dutchess County Agricultural and Farmland Protection Plan](#). At this point, you may be wondering what farm-friendliness means. Essentially, it is the acknowledgment that farms and farmland are valued in your community, and that agriculture is an industry worth supporting, preserving, and perpetuating for future use.

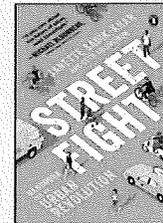
The farm-friendly audit revealed a number of important points, but none more striking than this: 61% of Dutchess County communities acknowledge the positive impact of farming and farmland, but 72% have barriers that make it harder for agriculture to operate effectively. Although communities may be supportive of agriculture in their

NEW! What We're Reading

*Ever wondered what your friendly County planners are reading these days? We are launching a new segment called **What We're Reading**. We'll share interesting books, blogs, websites and the like, in the hopes of further sparking your interest in the how's and why's of placemaking. We hope you find it inspiring!*

Heather's BOOK REVIEW

**Streetfight:
Handbook for an
Urban Revolution**
by [Janette Sadik-Khan](#)



Although this book features urban on a scale that our tiny-by-comparison communities may struggle to relate to, one can still find inspiration in how New York City's former transportation commissioner took on the status quo in a quest to fundamentally shift both mindsets and modes when tackling the movement of people in and around the Big Apple. Anchored in scads of data that revealed sometimes unexpected trends, Sadik-Khan tackled everything from bike lanes and bikeshare programs to reclaiming roadways as pedestrian plazas, and the somewhat-counterintuitive maneuver of reducing the number of vehicle lanes to actually improve traffic flow.

Outlining an underlying focus on safety for all users, Sadik-Khan illustrates how many of our urban streets are outdated in their hyper-focus on cars alone. By studying the numbers, she was able to tease out strategies for redesigning streets that ultimately

comprehensive plans, regulatory barriers often exist in municipal zoning codes that make supporting this industry challenging. The audit demonstrates that a farm-friendly comprehensive plan does not necessarily translate to a farm-friendly zoning code. The audit highlighted four general barriers to farm-friendliness found in the majority of Dutchess County zoning codes, many of which:

- Do not allow agriculture or ag-related uses in many different districts;
- Require a special use permit and/or site plan review for ag-related uses;
- Regulate farms by acreage or the number of animals; and
- Do not allow personal windmills or solar panels as a permitted use by right for farms.

improved the safety and experience for pedestrians, bicyclists and drivers alike. Utilizing an approach often referred to as “tactical urbanism,” the NYC DOT undertook a number of relatively low-cost projects using materials on-hand and deployed in a relatively quick fashion to show New Yorkers what their streets could really be like, a strategy which won them enough public and political buy-in to continue tackling bigger projects on a more permanent scale (think: converting Times Square into a public plaza!).

This readable treatise will interest professional planners and citizen enthusiasts alike, and will make you want to hop the next train down to the City to check out some of the transformations for yourself!

Want a preview? [Watch Janette’s TED Talk](#)

Based on the results of the audit, a variety of tools are highlighted below to foster farm-friendliness in municipal zoning codes. These tools are context-sensitive, based on the priorities of your municipality, and focused on “right-sizing” the local review process to meet both the needs of farmers and your community. Agriculture across Dutchess County is not created equally; in municipalities with a more urban- or village-context, agriculture may not play as large a role as in the more rural communities. If your municipality deems that agriculture is an important part of your community, then these tools may be for you.



The degree of farm-friendliness that is both possible and desirable varies by community. What works in our rural communities may not be appropriate in our villages and downtown areas. To the extent practicable and desired, municipalities can pick and choose from these tools to create a farm-friendly regulatory environment in their zoning code. (Photo: Jennifer Fimbel, DC Ag Navigator)

Tool: Definitions for Agricultural Uses

24 of 30 communities define agricultural terms

Definitions are the foundation of any zoning code; details of the ordinance are defined and clarified in this section. Communities should adopt the NYS Agriculture and Markets Law (AML) definitions ([Article 25-AA, §301](#)), by reference, into their code. This alleviates any potential conflicts that could arise if a municipality's definitions are not aligned with the State statute. For example, per AML "farm operation" means "the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise...". Despite their inclusion in the State's definition, only half of the 30 communities allow accessory farm structures (i.e. garages, equipment storage, and barns) and only a third allow farm processing facilities (i.e. community kitchens and slaughterhouses) as-of-right. These farm-support uses and structures should not be precluded from being allowed in conjunction with a permitted farm operation due to limitations or unintentional barriers in the definitions section.

In most cases, if a use is not defined in the zoning code (or omitted from the use table), it is prohibited. To prevent against unreasonably restrictive local ordinances, it is critical for agriculturally related definitions (from AML) to be included in the code.

Tool: Regulating Farms in the Zoning Code

5 of 30 communities do not regulate farms by acreage or number of animals

Generally, the NYS Department of Agriculture and Markets (Ag and Markets) considers the regulation of farms by acreage or the number of animals to be unreasonably restrictive. Minimum acreage requirements can be a significant barrier for new start-up operations, niche farms, and other specialty operations that do not need a lot of land to operate. Regulating farms by the number of animals often subjects "certain classes of agriculture to more intensive reviews or permitting requirements than others" without demonstrating a specific and tangible threat to public health and safety^[2]. Instead, when crafting a zoning ordinance, the community should refer to the farm uses/structures permitted by AML. It is important to remember that a community whose aim is to be farm-friendly would not want to have more restrictive regulations than AML.

As hybrids of several different uses, agriculture has unique circumstances that require alternative approaches, strategies, and land use tools compared to other commercial businesses. Communities should allow multiple primary uses on agricultural parcels, and ensure that the zoning ordinance does not prescribe past or current conditions, but is forward thinking and permits future growth of agricultural operations.

Tool: Modified Site Plan Review

6 of 30 communities do not require a special use permit and/or site plan approval for agriculture or ag-related uses

Ag and Markets generally views special use permit requirements for farm-related activities as unreasonable. If a community would like oversight of a proposed agricultural activity, a [modified and expedited site plan approval process](#) could be utilized, depending on the nature of the proposed activities, the size and complexity of the proposed activities, and whether the construction of buildings or structures is required. For example, requiring "a small farm market, which sells only a minimal amount of off-farm product, to obtain site plan approval may be unreasonably restrictive"^[3].

Through this process, municipalities can specify that farm operations located within specific zoning districts must undergo a modified site plan review. This way, farmers can clearly understand what is required to do business in your community. Municipalities may elect

to exempt farm operations located within a State-certified agricultural district from their modified site plan review process.

This streamlined process allows the community to respond to farmers' concerns while ensuring the ability to have local land use issues examined.

Tool: Broadening Support for Farm Markets and Roadside Stands

- *3 of 30 communities do not limit farm stands to selling products produced at one farm*
- *11 of 30 communities do not require farm stands to acquire a special use permit or site plan approval before operating*
- *14 of 30 communities allow on- and off-site signs by right to direct the public to farm stands*



*Farm stands are an important seasonal income source for farmers. If a community does not want to allow these types of uses by right, then a modified site plan approval process may be utilized.
(Photo: Jennifer Fimbel, DC Ag Navigator)*

In many cases, farms thrive from diversifying their market – having a few staple crops, utilizing direct sales, and employing agricultural tourism. Farm stands, farm markets, and roadside stands are all critical components of the farm business plan and should be included in the definitions section of the zoning code (Note: AML includes these uses in the definition for “farm operation” (see above)).

Farming is not a singular use operating in isolation in a community, as regional efforts to sustain farming are being employed all over the county. Regulations for retail-based uses should not preclude this kind of regional support and should not limit sales to items farmed/produced at one farm.

If a community would like oversight of the placement and regulation of these stands/markets then the use of a modified site plan approval process may be utilized.

Tool: Allow Agri-Tourism/Recreational Activities

2 of 30 communities allow non-traditional farm businesses as-of-right

Ag and Markets considers hayrides, petting zoos, cornfield mazes, and harvest festivals to be allowed agricultural activities if they contribute to a permitted farm operation. To meet this standard, the events/activities must be:

- Directly related to the sale and promotion of the crops, livestock, and livestock products produced at the farm;
- Incidental and subordinate to the retail sale of the farm's crops, livestock, and livestock products;
- Hosted by the farm; and
- Feature the farm's crops, livestock, and livestock products.

To ensure public health and safety is maintained at all times, a municipality may employ a modified site plan approval process and/or have the farmer obtain an event permit for these types of activities.

Tool: Include Farmworker Housing

6 of 30 communities define and allow farmworker housing (including mobile homes)

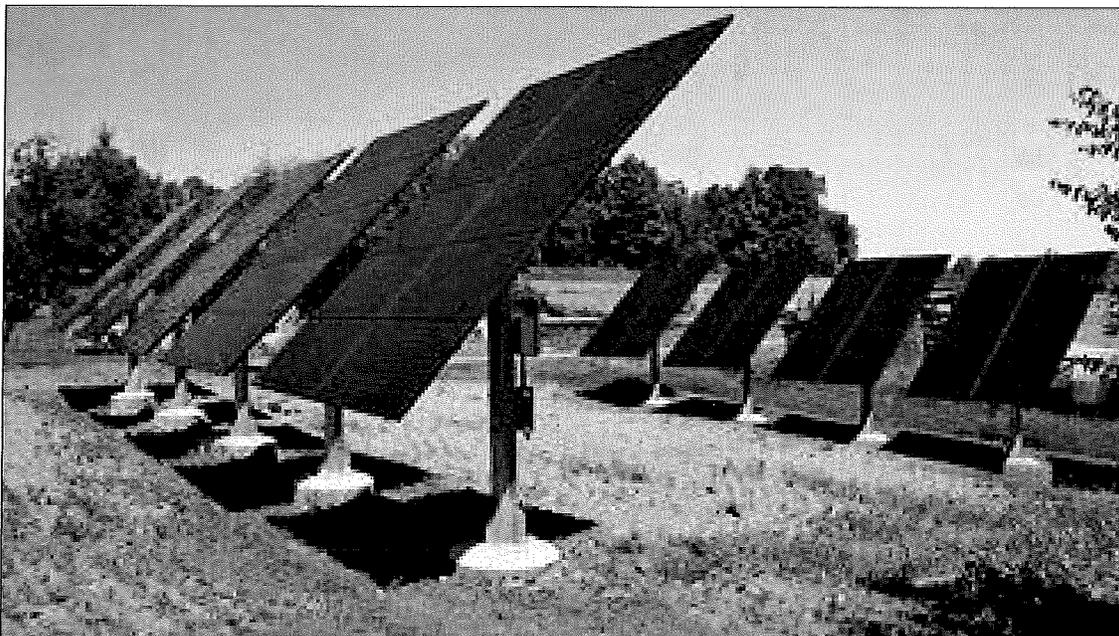
Currently, most local zoning regulations do not include any provisions for farmworker housing. Per AML, farmworker housing is considered one of the "on-farm buildings" associated with a farm operation. As such, it is unreasonably restrictive to prohibit mobile or manufactured homes as permitted farm housing.

"Farm worker housing" should be included in the definition for "agriculture," and should be added to the schedule of uses and allowed where agriculture is permitted.

If a community would like oversight of the placement and regulation of these residences then the use of a modified site plan approval process may be appropriate.

Tool: Alternative Energy for Agricultural Purposes

6 of 30 communities allow personal windmills and solar panels for farm operations



Dutchess County's own Northwind Farm (Tivoli) utilizes solar panels as a way to offset some of the energy costs of the farm. Although this system gathers 120% of the electricity that the farm uses and would not be considered a "farm structure" under AML, alternative energy systems on farms are becoming more commonplace locally^[4]. (Photo: Scenic Hudson)

Looking towards future sustainability, solar and wind power generation will continue to become more commonplace locally. Ag and Markets considers small wind and solar facilities, which are used to generate power for the farm (not exceeding 110% of demand), as a farm structure.

Communities should allow personal windmills or solar panels as a permitted use by right and, if desired, employ a modified site plan approval process for these projects.

A Lid for Every Pot

As arbiters of policy in your municipality, these tools can help you create a regulatory environment where farms can succeed. Although not every tool listed above may be appropriate for your community, a combination, unique to your specific needs, may be most effective in sustaining your local agriculture. As your County Planning Department, our job is to provide you with the information and tools needed to plan for future growth and preservation, including with respect to agriculture. Together, we can continue to make Dutchess County a great place to live, work, play, raise a family, and farm.

[1] [2012 Census of Agriculture: County Profile: Dutchess County, New York, p.1.](#)

[2] [NYS Department of Agriculture & Markets: Guidelines for Review of Local Zoning and Planning Laws, p.9.](#)

[3] [NYS Department of Agriculture & Markets: Guidelines for Review of Local Laws Affecting Direct Farm Marketing Activities, p.1.](#)

[4] [Abby Luby, Northwind Farm Goes Solar. The Valley Table \(2012\).](#)

More Information

Farm-Friendly Audit: Review of Dutchess County Comprehensive Plans & Zoning Codes — *Coming Soon to our [website!](#)*

Making Your Community More Farm-Friendly through Planning and Zoning: [Presentation \(.pdf\)](#) | [Resources List \(.pdf\)](#)

[Inventory of Agricultural Resources \(.pdf\)](#)

[Dutchess County Agricultural Navigator](#)

[New York State Department of Agriculture & Markets \(NYSDAM\)](#)

[Planning for Agriculture in New York: A Toolkit for Towns and Counties \(.pdf\)](#), American Farmland Trust

[Community Agricultural Profiles](#), Cornell Cooperative Extension

[Click here to view past issues of Plan On It.](#)

This newsletter was developed by the Dutchess County Department of Planning and Development, in conjunction with the Dutchess County Planning Federation.

To be removed from our mailing list, send an "**UNSUBSCRIBE**" email to DCPlanningFederation@dutchessny.gov. Please **include your name and email** address in the message.

Post-it® Fax Note	7671	Date	10/16/19	# of pages	15
To	Carol Mackin	From	Shelby Frangk		
Co./Dept	Town Clerk	Co.	DC Planning		
Phone #	(845) 266-5853	Phone #	(845) 486-3400		
Fax #	(845) 266-5932	Fax #	(845) 486-3410		

Dutchess County Department of Planning and Development

Fax Info

239 Planning/Zoning Referral - Exemption Communities

Municipality: Town of Clinton

Referring Agency: Planning Board Zoning Board of Appeals Municipal Board

Tax Parcel Number(s): _____

Project Name: Events Local Law

Applicant: Town Board

Address of Property: _____

Please fill in this section

Parcel(s) within 500 feet of:

State Road _____

County Road _____

State Property (w/public building or recreation area)

County Property (w/public building or recreation area)

Municipal Boundary

Farm operation in an Agricultural District

Actions Requiring 239 Review

Comprehensive/Master Plans

Zoning Amendments (standards, uses, definitions, district regulations, etc.)

Rezoning involving all map changes

Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)

Site Plans (all)

Special Permits for all non-residential uses

Use Variances for all non-residential uses

Area Variances for all non-residential uses

Exempt Actions:*

239 Review is NOT Required

- Administrative Amendments (fees, procedures, penalties, etc.)
- Special Permits for residential uses (accessory apts, home occupations, etc.)
- Use Variances for residential uses
- Area Variances for residential uses
- Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals
- Subdivisions / Lot Line Adjustments
- Interpretations

Exempt Action submitted for informal review

Date Response Requested (if less than 30 days): October 8, 2019

If subject of a previous referral, please note County referral number(s): _____

* These actions are only exempt in municipalities that signed an intermunicipal agreement with Dutchess County to that effect.

FOR COUNTY OFFICE USE ONLY

Response from Dutchess County Department of Planning and Development

<p>No Comments:</p> <p><input type="checkbox"/> Matter of Local Concern</p> <p><input type="checkbox"/> No Jurisdiction</p> <p><input type="checkbox"/> No Authority</p> <p><input type="checkbox"/> Project Withdrawn</p> <p><input type="checkbox"/> Exempt from 239 Review</p>	<p>Comments Attached:</p> <p><input type="checkbox"/> Local Concern with Comments</p> <p><input type="checkbox"/> Conditional</p> <p><input checked="" type="checkbox"/> Denial</p> <p><input type="checkbox"/> Incomplete — <i>municipality must resubmit to County</i></p> <p><input type="checkbox"/> Incomplete with Comments — <i>municipality must resubmit to County</i></p> <p><input type="checkbox"/> Informal Comments Only (Action Exempt from 239 Review)</p>
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Date Submitted: <u>9/17/19</u>	Notes:	<input type="checkbox"/> Major Project
Date Received: <u>9/17/19</u>		
Date Requested: <u>10/8/19</u>		
Date Required: <u>10/16/19</u>	<input checked="" type="checkbox"/> Also mailed hard copy	Referral #: <u>ZR19-308</u>
Date Response Faxed: <u>10/16/19</u>	Reviewer: <u>Shelby Frangk</u>	