Guidelines for Review of Local Zoning and Planning Laws

Background and Objective

Municipalities utilize local zoning and planning laws, rules and ordinances to regulate uses related to public health, safety, and the environment. As communities continue to adopt or amend zoning regulations to adapt to changing conditions, potential conflicts between farm operations and local land use controls naturally increase. In addition, continuing exurban development pressures on many of the State's agricultural communities increase the need to better coordinate local planning with the agricultural districts program. Municipalities are encouraged to use the Department's guidance documents to aid in crafting zoning regulations that are compatible with agricultural activities under the Agriculture and Markets Law (AML).

Municipal officials are faced with the challenge of drafting regulations that allow landowners flexibility in the economic use of their land while continuing to maintain the long-term viability and sustainability of agriculture and protect natural resources. Many AML §305-a conflicts may be avoided in the first instance by sound comprehensive planning. The Town Law, Village Law and General City Law were amended to encourage coordination of local planning and land use decision making with the agricultural districts program. The Department continuously participates in such coordination efforts upon request from local planning officials.

The Municipal Comprehensive Plan and the Zoning Process

The preparation, adoption and administration of a municipal comprehensive plan and zoning regulation are part of a process that should be deliberate and seamless. A zoning regulation, in the final analysis, is simply a device to implement the community plan and, therefore, "… must be in accordance with [its] comprehensive plan…" In this respect, the State Legislature has codified the intent, definition and content of comprehensive plans adopted by municipalities and counties.[1] In these statutes, the New York State Legislature has specifically subjected any comprehensive plan to Articles 25-AA and 25-AAA of the AML, which establish the Agricultural Districts program and the Agricultural and Farmland Protection program, respectively. Comprehensive plans created under the noted sections of the General Municipal Law, Town Law, Village Law, and General City Law require agricultural review and coordination with the comprehensive planning process, subject to the Agriculture and Markets Law.[2]

These laws, in conjunction with AML §305-a (1), ensure that agricultural interests are taken into consideration during the review of specific land use proposals. These provisions of state law require local governments to "…exercise their powers to enact local laws, ordinances, rules or regulations that apply to farm operations in an agricultural district in a manner which does not unreasonably restrict or regulate farm

[1] General Municipal Law §239-d, Town Law §272-a, Village Law §7-722 and General City Law §28-a.

[2] *See, e.g*. Town Law 272-a(9), which states "A town comprehensive plan and any amendments thereto, for a town containing all or part of an agricultural district or lands receiving agricultural assessments within its jurisdiction, shall continue to be subject to the provisions of article twenty-five-AA of the agriculture and markets law relating to the enactment and administration of local laws, ordinances, rules or regulations. A newly adopted or amended town comprehensive plan shall take into consideration applicable county agricultural and farmland protection plans as created under article twenty-five-AAA of the agriculture and markets law."

operations in contravention of the purposes of article 25-AA of the agriculture and markets law, unless it can be shown that the public health or safety is threatened." Thus, AML §305-a (1) is not a stand-alone requirement for coordination of local planning and land use decision making with the agricultural districts program. Rather, it is one that is fully integrated with the comprehensive planning, zoning and land use review process.

Accordingly, the Agricultural Districts and the Agricultural and Farmland Protection programs play a vital role in the comprehensive planning process and the enactment of zoning regulations. State certified agricultural districts and county agricultural and farmland protection plans help to shape communities much like existing and proposed infrastructure; wetlands, floodplains, topographical features; cultural, historic and social amenities; economic needs; and other aspects of such communities. The Agricultural Districts Law is a valuable planning tool to conserve, protect and encourage the development and improvement of the agricultural economy; protect agricultural lands as valued natural and ecological resources; and preserve open space.

Review Guidelines of Local Zoning Laws and Regulations

A. Guidelines for Site Specific Reviews

Review of a zoning code pursuant to AML §305-a often involves the application of zoning regulations to a specific farm operation. Such cases typically result from applying the site plan, special use permit, use or non-conforming use sections, yard requirements, or lot density sections of the municipal zoning device to an existing farm operation.

These cases often evolve because, although the zoning regulations may appear to be consistent with the Agricultural Districts Law, its particular application to a specific set of facts may not be entirely consistent. In such cases, the Department recommends that the municipality ask the following questions:

- Is the zoning regulation or restriction being applied to a use customarily associated with a "farm operation" as defined in AML Article 25-AA?
- Does the regulation or restriction materially limit the expansion or improvement of the farm operation without offering some compelling public benefit?
- Is the regulation or restriction applicable to the specific farm operation in question or, under the same circumstances, would it apply to other farms in the community?
- Does the zoning regulation impose greater regulation or restriction on a use or farming activity than may already be imposed by State or federal statute, rule or regulation?
- Is the regulation or restriction the result of legislative action that rendered the farm operation a "non-conforming use"?

If the answer to any of these questions is yes, then the zoning regulation or restriction under review is likely to be problematic and may be in violation of the statutory prohibitions against unreasonably restrictive regulation of farm operations in an agricultural district, unless a threat to the public health or safety is demonstrated.

B. Guidelines for Generic Reviews

Generic reviews involve the Department's evaluation of a municipality's comprehensive set of zoning regulations, sections of such zoning regulations or proposed amendments to zoning that may impact the farm community as a class or multiple farm operations in the same way. Examples of actions which might result in a generic review include the adoption or administration of an entirely new or substantially amended zoning regulation that results in a material change in use and area standards applied to farm operations in a State certified agricultural district. In such cases, the Department recommends that the municipality consider the following questions:

- Do the regulations materially limit the definition of farm operation, farm or agriculture in a way that conflicts with the definition of "farm operation" in AML §301(11)?
- Do the regulations relegate any farm operations within agricultural districts to "non-conforming" status?
- Is the production, preparation and marketing of any crop, livestock or livestock product as a commercial enterprise materially limited, restricted or prohibited?
- Are certain classes of agriculture subject to more intensive reviews or permitting requirements than others? For example, is "animal agriculture" treated differently than crop production without demonstrated links to a specific and meaningful public health or safety standard designed to address a real and tangible threat?
- Are any classes of agricultural activities meeting the definition of "farm operation" subject to a special permit, site plan review or other original jurisdiction review standard exceeding ministerial review?
- Are "farm operations" subject to more intensive reviews than non-farm uses in the same zoning district?
- Are "farm operations" treated as integrated and interdependent uses, or as collections of independent and competing uses on the same property?
- Is the regulation in conflict with a comprehensive plan, or is such a plan inconsistent with AML Article 25-AA, or as required by Town or Village Law?

If the answer to any of the above six questions is "yes," the zoning regulations may be in violation of AML §305-a (1). Certainly, such regulations would appear to be facially inconsistent with the statutory requirement that local governments "exercise these powers in such manner as may realize the policy and goals set forth in [Article 25-AA-Agricultural Districts]."

Local Administrative Approval and Permitting Processes

In general, the construction of on-farm buildings and the use of land for agricultural purposes should not be subject to site plan review, special use permits or non-conforming use requirements when conducted within a county adopted, State certified agricultural district. The purpose of an agricultural district is to encourage the development and improvement of agricultural land and the use of agricultural land for the production of food and other agricultural products as recognized by the New York State Constitution, Article XIV, Section 4. Therefore, agricultural uses and the construction of on-farm buildings as part of a farm operation should be allowed uses when the farm operation is located within an agricultural district.

The application of site plan and special permit requirements to farm operations can have significant adverse impacts on such operations. Site plan and special permit review, depending upon the specific requirements in a local law, can be expensive due to the need to retain professional assistance to certify plans or simply to prepare the type of detailed plans required by the law. The lengthy approval process in some local laws can be burdensome, especially considering a farm's need to undertake management and production practices in a timely and efficient manner. Site plan and special permit fees can be especially costly for start-up farm operations.

Generally, farmers should exhaust their local administrative remedies and seek, for example, permits, exemptions available under local law or area variances before the Department reviews the administration of a local law. However, an administrative requirement/process may, itself, be unreasonably restrictive. The Department evaluates the reasonableness of the specific requirement/process, as well as the substantive requirements imposed on the farm operation. The Department has found local laws which regulate the health and safety aspects of the construction of farm buildings through provisions to meet local building codes or the State Building Code (unless exempt from the State Building Code[3]) and Health Department requirements not to be unreasonably restrictive. Requirements for local building permits and certificates of occupancy to ensure that health and safety requirements are met are also generally not unreasonably restrictive.

Building and Zoning Permits

In accordance with the minimum standards for administration and enforcement, "*Building permits shall be required for work which must conform to the Uniform Code.*" (19 NYCRR Section 1203.3 [a][1]). Local governments are permitted to require administration and enforcement provisions imposing higher or more restrictive standards beyond the Uniform Code pursuant to Executive Law §379. Therefore, although Uniform Code standards do not require a building permit for the construction of a building meeting the definition of an agricultural building, the local law for the municipality where the building is located may require a building permit. The building may then be reviewed for compliance with local laws, rules, and regulations other than the Uniform Code, such as local zoning provisions.

Special Use Permits

Town Law, City Law, and Village Law[4] allow local governments to authorize a planning board or other designated administrative body to grant special use permits as set forth in a zoning ordinance or local law. A "special use permit" is defined as "…an authorization of a particular land use which is permitted in a zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met."

Agricultural uses in an agricultural district are not, however, "special uses." They are constitutionally recognized land uses protected throughout state law. Further, agricultural districts are created and reviewed locally through a process which includes public notice and hearing, similar to the process of adopting and amending zoning laws. Therefore,

[3] The New York State Uniform Fire Prevention and Building Code is discussed below, under the heading "Agricultural Exemptions from Statutory Requirements."
[4] General City Law § 27-b, Town Law § 274-B, and Village Law § 7-725-b.

absent any showing of an overriding local concern, generally, an exemption from special use permit requirements should be provided to farm operations located within an agricultural district.

Site Plan Review

Under the “home rule” doctrine, local governments retain broad powers and flexibility in crafting procedures in relation to site plans (e.g., the selection of a reviewing board; the uses which trigger submission of site plans; whether to have a public hearing and the length of time to review an application). Town Law §274-a and Village Law §7-725-a define a site plan as “a rendering, drawing, or sketch prepared to specifications and containing necessary elements as set forth in the applicable zoning ordinance or local law which shows the arrangement, layout and design of the proposed use of a single parcel of land.” However, these site plans must consider agricultural uses and are limited by the AML, Town Law, and Village Law, among other provisions, to avoid unreasonable restrictions and regulation of farm operations.

Many local governments share the Department's view that farm operations should not have to undergo site plan review and exempt farms from that requirement. However, the Department recognizes the desire of some local governments to have an opportunity to review farm operations and projects within their borders, as well as the need of farmers for an efficient, economical, and predictable process. In view of both interests, the Department has developed a model streamlined site plan review process which attempts to respond to the farmers' concerns, while ensuring the ability to have local land use issues examined. The process may be used to examine a parcel’s current characteristics and its surroundings in relation to any proposed activities on the farm and their potential impact to neighboring properties and the community. For example, municipalities could specify that farm operations located within specific zoning districts submit to an expedited site plan review. Municipalities may also elect to exempt farm operations, located within a county adopted, State certified agricultural district, from their site plan review process.

A common problem found in site plan requirements adopted by municipalities is the requirement of additional or optional components, such as preliminary conferences, preliminary site plan reviews and public hearings. These additional phases can result in a costly delay for the farmer. As such, the Department offers the following model site plan process that municipalities can adopt for farm operations.

For the sake of simplicity, the model site plan process outlined in this section presumes that the planning board is the reviewing authority. The applicant for site plan review and approval shall submit the following:

1) Sketch of the parcel on a location map (e.g., tax map), showing boundaries and dimensions of the parcel of land involved, and identifying contiguous properties and any known easements or rights-of-way and roadways.

   Show the existing features of the site including land and water areas, water or sewer systems and the approximate location of all existing structures on or immediately adjacent to the site.

2) Show the proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic.

Show the proposed location and arrangement of specific land uses, such as pasture, crop fields, woodland, livestock containment areas, or manure storage/manure composting sites.

3) Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views. Include copies of any available blueprints, plans or drawings.

4) Provide a description of the farm operation (existing and/or proposed) and a narrative of the intended use and/or location of proposed buildings, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.

5) If any new structures are going to be located adjacent to a stream or wetland provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.

6) Application form and fee (if required).

The Department urges local governments to consider the size and nature of the particular agricultural activity, including the construction of farm buildings/structures when setting and administering any site plan requirements for farm operations. The review process, as outlined above, should generally not require professional assistance (e.g., architects,engineers or surveyors) to complete or review, and should be completed relatively quickly.[5] The Department understands, however, that in some cases, a public hearing and/or a more detailed review of the project which may include submission of a survey, architectural or engineering drawings or plans, etc., may be necessary. The degree of regulation that may be considered unreasonably restrictive depends on the nature of the proposed activities, the size and complexity of the proposed agricultural activity and/or the construction of buildings or structures and whether a State agricultural exemption applies.

Time Frame for Review and Decision

Town Law §274-a and Village Law §7-725-a require that a decision on a site plan application be made within a maximum of 62 days after receipt of the application or date of a public hearing, if required. Town and Village Law authorize town boards and village boards of trustees to adopt public hearing requirements and local laws often provide planning boards with the discretion whether to hold a public hearing. The Department recommends that, if the municipality requires construction of farm buildings and structures within a state certified agricultural district to undergo site plan review, the review and decision be expedited within 45 days, without the need for a public hearing. Although Town and Village Law allow municipalities to determine which uses must undergo site plan review, the time frame for review (within the 62 day maximum), and whether to conduct a public hearing, such a protracted review of most agricultural projects would result in significant economic impacts to farmers, which may be unreasonably restrictive.

[5] Please see discussion below in the subheading entitled “Time Frame for Review and Decision.”

Local Variances

Consistent with authority found in Town, Village and City Law, a municipal zoning board of appeals may vary the use and area standards of a zoning regulation and reverse or affirm determinations of the zoning administrative official. However, such a remedy – i.e. an area or use variance – may be considered "unreasonably restrictive" if it is the only available means to establish, expand or improve a "farm operation" in a county adopted, State certified agricultural district. Generally, the Department views the requirement of use variances as unreasonably restrictive in relation to agricultural activities being conducted on a farm operation within a county adopted, State certified agricultural district, unless there is a showing of an overriding local concern or a demonstrable threat to public health and safety.

The processes outlined in this guidance afford the community an opportunity to examine a proposed agricultural project and to evaluate and mitigate potential impacts in light of public health, safety and welfare without unduly burdening farm operations. However, these processes must also be administered in a manner that does not unreasonably restrict or regulate farm operations. For example, conditions placed upon an approval or the cost and time involved to complete the review process could be unreasonably restrictive.

Agricultural Exemptions from Statutory Requirements

State Environmental Quality Review (SEQR) – The New York State Department of Environmental Conservation (DEC) establishes and regulates SEQR requirements. DEC has designated "Agricultural farm management practices, including the construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming" as Type II actions, which do not require preparation of an Environmental Assessment Form (EAF).[6] SEQR regulations require localities to recognize the Type II actions contained in the statewide list.

New York State Uniform Fire Prevention and Building Code – While farmers must comply with local requirements which regulate health and safety aspects of the construction of farm buildings, many farm buildings are exempt from certain provisions and requirements of the State Uniform Fire Prevention and Building Code ("Uniform Code").

- Section 101.2 of the 2020 Building Code of New York State ("2020 BCNYS") states that "*agricultural buildings, including barns sheds, poultry houses and other buildings and equipment on the premises that are used directly and solely for agricultural purposes, shall not be subject to the* <u>*construction-related*</u> *provisions of this code."* [underline added for emphasis]

[6] 6 NYCRR §617.5(a), (c)(3). See *In the Matter of Pure Air and Water Inc. of Chemung County v. Davidsen*, 246 A.D.2d 786, 668 N.Y.S.2d 248 (3d Dept. 1998), for application of the exemption to the manure management activities of a hog farm, and *In the Matter of Humane Society of the United States v. Empire State Development Corporation*, 53 A.D. 3d 1013, 863 N.Y.S. 2d 107 (3d Dept. 2008) where ESDC's classification of the issuance of a grant for the construction or renovation of on-farm buildings for treatment of manure and raising livestock as a Type II action was upheld.

- Section 102.2 of the 2020 Fire Code of New York State ("2020 FCNYS") also exempts agricultural buildings from the *"construction and design provisions,"* however, it does not provide an exception from the *"administrative, operational, and maintenance*" provisions of Section 102.3.

- The 2020 Property Maintenance Code is applicable to *"all existing residential and nonresidential structures and all existing premises"* without exception.

- An "agricultural building" is defined in Section 202 of the 2020 BCNYS and 2020 FCNYS as:

  > *A structure designed and constructed to house farm equipment, farm implements, poultry, livestock, hay, grain, or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.*

  For the purposes of determining whether a structure is a "place of employment" the first step is to determine if one or more "employees" work in the structure. The Department of State is of the opinion that, for this purpose, an "employee" is any individual engaged in or permitted to work on the farm, subject to the following exception: any member of the "immediate family" of the owner or operator of the farm is not considered to be an "employee" if they work on the farm out of familial obligations and are not paid wages or other compensation based on hours or days of work. The "immediate family" of an owner or operator includes persons related to the owner or operator by up to the third degree of blood or law. Therefore, a structure that is used to process, treat, and package agricultural products grown on the farm, where there are no "employees" as described above, could be considered an *agricultural building*, provided the structure meets all other applicable criteria.[7]

  Based upon these definitions and considerations, a structure that is used to process, treat and package agricultural products grown on the farm only by the farmer and his/her immediate family, or a structure only used house farm products, equipment, or implements is an "agricultural building" and exempt from the construction-related provisions of the 2020 BCNYS and the construction and design provisions of the 2020 FCNYS.

The above briefly highlights the agricultural building exemptions. Any specific questions regarding the interpretation and applicability of the revised State Uniform Fire Protection and Building Code should be directed to the Department of State's Codes Division at (518) 474-4073.

Professionally Stamped Plans – Education Law §7209(1) generally prohibits any State or local official charged with the enforcement of laws, ordinances or regulations from accepting or approving any plans or specifications that are not duly stamped with the seal of an architect, professional engineer, or land surveyor licensed or authorized to practice in the State. However, this requirement does not apply to "farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes…" Education Law §7209(7)(b). As a result, plans and

[7] For further discussion, see Department of State Technical Bulletin TB-2007-BCNYS, effective May 12, 2020 (https://www.dos.ny.gov/DCEA/TB-2007-agricultural-building-guidance.pdf).

specifications for such buildings are not required to be stamped by an architect, professional engineer or land surveyor.[8]

Guidance on Specific Zoning Issues

The following are some specific factors that the Department considers when reviewing local zoning laws:[9]

Minimum Lot Sizes and Separation

Farms, inherently, are hosts of various discrete and interdependent land uses which may include such uses as barns, commodity sheds, farm worker housing, garages, direct farm markets, silos, manure storage facilities, milking parlors, stables, poultry houses and greenhouses. Typically, zoning regulations often establish minimum lot sizes and separations between such uses and the prohibition of more than one "principal" structure on each parcel of record. Consequently, many municipalities in implementing zoning devices find it difficult to manage differing agricultural uses because they are unable to distinguish between on-farm structures used as part of a *farm operation*, and when used for another independent and freestanding use.

Minimum separation and "yard" zoning requirements are designed to avoid over concentration, maintain adequate spaces for light and air, and reduce fire hazard in urbanized environments. The application of such requirements to suburban and rural communities often results in unintended overregulation of farm operations in relation to these discrete and interdependent uses.

Establishing a minimum lot size for farm operations within a zoning district that includes land within a State certified agricultural district may be unreasonably restrictive. The definition of "farm operation" in AML §301(11) does not include an acreage or income threshold. Therefore, the Department, with few exceptions,[10] has not set a minimum acreage or income necessary for protection under AML §305-a and conducts reviews on a case-by-case basis. For example, a nursery/greenhouse operation conducted on less than 5 or 10 acres may be protected as a "farm operation" under §305-a if the operation is a "commercial enterprise" as determined by the Department. For purposes of determining whether an operation is a "farm operation," the statutory definition of "land used in agricultural production" is not relevant, and strictly pertains to agricultural assessment eligibility.

A farmer may be unable to meet a minimum lot size due to the configuration of the land used for production or lying fallow as part of a conservation reserve program. The need to be proximate to existing farm roads, a water supply, sewage disposal and other utilities is also essential. Farm buildings are usually located on the same property that supports other farm structures. Presumably, minimum lot size requirements are adopted to prevent over concentration of buildings and to assure an adequate area to install any necessary utilities. Farm buildings should be allowed to be sited on the same lot as other agricultural use structures subject to the provision of adequate water and sewage disposal facilities and meeting minimum setbacks between structures.

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[8] Similar requirements and exceptions are also provided in Education Law §7307(1) and (5).

[9] Please consult other Department guidance documents for further information on issues related to specific types of farm buildings and practices.

[10] See AML §301(13); AML §301(14); and AML §301(18).

Minimum and Maximum Dimensions

Generally, the Department will consider whether minimum and maximum dimensions imposed by a local law can accommodate existing and/or future farm needs. For example, many roadside stands are located within existing garages, barns, and outbuildings that may have dimensions greater than those set by a local ordinance. Also, buildings specifically designed and constructed to accommodate farm activities may not meet the local size requirements (e.g., silos and barns which may exceed maximum height limitations). The size and scope of the farm operation should also be considered. Larger farms, for example, cannot effectively market their produce through a traditional roadside stand and may require larger farm markets with utilities, parking, sanitary facilities, etc.

Maximum Lot Coverage

Establishing a maximum lot coverage that may be occupied by structures may be unreasonably restrictive. For example, it may be difficult for horticultural operations to recoup their investment in the purchase of land if they are not permitted to fully utilize a lot/acreage for greenhouses. Farm operations within an agricultural district should be allowed the maximum use of available land consistent with the need to protect the public health or safety. Generally, health and safety concerns are minimized if setbacks between buildings are met and adequate space is available for interior roads, parking areas (where required) and the safe operation of vehicles and equipment.

Setbacks

Minimum setbacks from front, back and side yards for farm buildings are not generally considered unreasonably restrictive unless a setback distance is unusually large. Further, setbacks for farm buildings that coincide with those required for other similar structures have, in general, been viewed as reasonable.

A farm operation's barns, storage buildings and other facilities may already be located within a required setback, or the farm operation may need to locate new facilities within the setback to meet the farm operation's needs. Also, adjoining land may consist of vacant land, woodland or farmland. The establishment of unreasonable setback distances increases the cost of doing business for farmers because the infrastructure needed to support the operation (e.g., water supply, utilities and farm roads) is often already located within, and adjacent to, the farmstead area or existing farm structures. Setbacks can also increase the cost of, or make it impracticable, to construct new structures for the farm operation, as well as reduce the amount of land in production. In summary, setback requirements may adversely affect the farm operator's ability to manage the farm operation effectively and efficiently.

Screening and Buffers

Some municipalities may choose to impose buffer requirements, including screening setbacks consisting of vegetation, landscaping, a wall or fencing[11] to partially or completely screen adjacent land uses. Often, the buffer area cannot be used or

[11] For further discussion on fencing, please see *Guidelines for Review of Local Laws Affecting Animal Control and On-Farm Fencing*.

encroached upon by any activities on the lot. Requirements for buffers or setbacks to graze animals, construct fences and otherwise use land for agricultural purposes are generally unreasonably restrictive.

Buffers and associated setbacks may require farmers to remove land from production, or otherwise remove land from use for the farm operation. The impact on nursery/greenhouse operations is especially significant since they are often conducted on smaller parcels of land. Maintenance of the buffer also creates a hardship to the landowner. If a setback is required for fencing, the farmer may have to incur the expense of double fencing the perimeter of the property, or portion thereof, to prevent encroachment by neighboring property owners.

Generally, requirements to screen a farm operation or agricultural structures, such as farm labor housing or greenhouses from view, has been considered by the Department to be unreasonably restrictive. Screening requirements suggest that farm operations and associated structures are, in some way, objectionable or different from other forms of land use that do not have to be screened. Farmers should not be required to bear the extra costs to provide screening unless such requirements are otherwise warranted by special local conditions, or necessary to address a threat to the public health or safety. While aesthetics considerations are appropriate and important under zoning and planning laws, the purpose of the Agricultural Districts Law is to conserve and protect agricultural lands by promoting the retention of farmland in active agricultural use. Imposing screening or buffer requirements on a farm reduces the amount of farmland in active agricultural use.

Sign Limitations

The type of farm operation and location are considered in determining whether a limitation on the size and/or number of signs used to advertise a farm operation is unreasonably restrictive. A farm operation which is located on a principal road will likely not require as many signs as one located on a more remote road, which may need additional directional signs to direct the public to the farm’s location. The required sign size depends on whether the sign is used to advertise the farm's products/services (e.g. a “u-pick” operation or a commercial horse boarding operation) as part of the farm's direct marketing efforts, or simply for directional purposes.

Narrow Definitions

The rapidly changing nature of the agricultural industry does not always allow zoning and the comprehensive planning process to keep pace. This can give rise to potentially unreasonable restrictions that result from the application of outdated regulations to contemporary land uses. Local governments often conflict with the intent of the Agricultural Districts Law by limiting the type and intensity of agricultural uses in their communities, and by narrowly defining “farm” or “agricultural activity.” This is problematic even in municipalities with a significant base of large, "production” farming operations. Inadequately defined terms also give rise to conflict between the zoning device and legitimate farm operations.