

# Developing an Agricultural Preservation Ordinance

Municipalities considering adopting an Agricultural Preservation Ordinance should consider the following items:

1. Determine which method of Agricultural preservation zoning is best for your municipality.
2. Determine which areas of the municipality should be included in the zone. Areas important to include are farms under a conservation easement, areas in a Agricultural Security Areas, and areas of Class I and II soils. Other items to consider are existing land use and slope.
3. Include the zone in the Comprehensive Plan. The Comprehensive Plan is the basis for zoning. It will help guard against legal challenges to the ordinance. The plan should state that farmland is a valuable non-renewable resource. Important to the municipality for economic viability and public health and safety.
4. Include an agriculture nuisance disclaimer in the ordinance. It can be helpful to alert existing and perspective residents that they may be subject to inconveniences caused by normal farm operations.
5. Set up a method for maintaining records. With the fixed-scale and sliding-scale APZ methods, it is important to monitor how many lots have been subdivided from a parent farm tract and how many more may be subdivided in the future.
6. Large setbacks on properties bordering the Agriculture Preservation Zone may be helpful in minimizing the conflict between agricultural and non-agricultural development.
7. When residential lots are subdivided off of a farm, encourage placement of the lots on edges of farms on the least fertile soils.

# **Model Agricultural Preservation Zone**

## **Agricultural Preservation District - Fixed Scale**

### **A. Purpose.**

Agriculture in Cumberland County is a special non-replaceable resource which needs to be preserved for the benefit of the nation as well as the county and this township. This is true because:

1. The open space of this county is valuable for the health, safety and general welfare of its inhabitants.
2. Cumberland County has an abundance of prime farmland, with exceptionally fertile soils located within a wide corridor of limestone soil.
3. Agricultural activities are an integral part of the culture and economy of Cumberland County and are therefore deserving of preservation.
4. The Commonwealth of Pennsylvania has, by provisions in the Pennsylvania Planning Code, special tax assessments, publications of various departments, and statements by top officials, shown an interest in preserving agricultural land.
5. The Cumberland County Planning Commission has determined by its Comprehensive Plan that the largest land use classification in acres should be agricultural use; with a strong recommendation that development limitations and alternative methods of agricultural preservation be imposed by local officials.

### **B. Specific Intent**

In the interest of public health, safety, and welfare, the Agricultural District is further designed and intended to accomplish the following:

1. Protect and stabilize agriculture in areas of productive soils as an ongoing, viable major component of the economy of the township and Cumberland County.
2. Permit, with limited exceptions, only those land uses and activities which are agricultural in nature.
3. Maintain agricultural parcels of farms in sizes which permit efficient agricultural operations.
4. Encourage the preservation of the most productive farmland within the township

as a valuable resource which is lost and not reclaimable once it is developed for building purposes.

5. Prevent adverse effects resulting from the encroachment and mixing of residential and other incompatible development with agricultural uses. For the farmer, such mixing would cause increased traffic on narrow roads used to move machinery and livestock; additional litter, which is a nuisance to crop farming and a danger to livestock; possible damage and loss of crops and livestock from theft, mischief or trespass; and complaints about odors, noise, dust, barbed wire or electric fences, night operations and other operations which are a normal part of farming. For the residential occupant there are the nuisances and health and safety hazards alluded to above as well as possible contamination of well water by agricultural chemicals, fertilizers, and animal waste.
6. Assure the ready availability of agricultural products to the residents of the township and region.
7. Guide development incompatible with agriculture to a more appropriate zoning district.
8. Provide maximum protection to existing and future agricultural enterprises.

#### **C. Agriculture 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 arising from normal and accepted agricultural practices and operations, including, but not limited to noise, odors, dust, and the operation of machinery of any kind, the storage and disposal of manure, the application of fertilizers, herbicides, and pesticides. Owners, residents, and users of this property should be prepared to accept these conditions and are hereby put under official notice that Section 4 of the Pennsylvania Act 133 of 1982 "The Right to Farm Law" may bar them from obtaining a legal judgement against such normal agricultural operations.

#### **D. Permitted Uses**

1. Agriculture
2. Horticulture
3. Forestry
4. Farm Dwellings
5. Single Family Detached Dwellings
6. Public Uses - parks, municipal facilities, greenways
7. Wildlife refuges, fish hatcheries

8. Home Occupations (subject to municipal regulations)
9. Temporary housing for farm employees, subject to the following:
  - a. For each farm, one (1) mobile home is permitted for the use of farm workers (and their families) who are employed by the owner of the farm, for such time as the employee works the land of the owner;
  - b. All such units shall be located within the rear yard of the farm dwelling and shall further comply with all setback requirements imposed upon single-family detached dwellings;
  - c. Such mobile homes shall be securely anchored to a mobile home stand; a six (6) inch thick poured concrete slab over a six (6) inch stone base, the length and width shall be at least equal to the dimensions of the mobile home. Each mobile home pad shall include properly-designed utility connections; and,
  - d. The mobile home shall be occupied at least one hundred twenty (120) days a year by at least one (1) person who is employed on the farm where the mobile home is located. If this condition is not satisfied, the mobile home shall be removed within one hundred twenty (120) days.
10. The following accessory uses customarily incidental to the above permitted uses:
  - a. Roadside Stands, subject to the following:
    1. Roadside stands shall not exceed three hundred (300) square feet of floor area;
    2. Roadside stands must be located at least ten (10) feet from the street right-of-way line;
    3. At least fifty percent (50%) of the products sold must be produced on the site;
    4. A maximum of two signs will be permitted and shall not exceed fifteen (15) square feet in total area, nor exceed a maximum height of fifteen(15) feet for wall signs; five(5) feet for free-standing signs.
    5. Off-street parking must be provided for all employees and customers.
  - b. Manure Storage Facilities, subject to the following:
    1. All manure storage facilities shall be designed in compliance with the guidelines outlined in the publication Manure Management for Environmental Protection, Bureau of Water Quality Management Publication No. 43, and any revisions, supplements and replacements thereof, published by the Pennsylvania Department of Environmental Protection, copies of which are available from the Water Quality Management in the Department of

2. Environmental Protection's regional offices;
2. All manure waste storage facilities' designs shall be reviewed by the County Conservation District. The applicant shall furnish a letter from the County Conservation District attesting to approval of the design of the proposed facility; and,
3. Construction and subsequent operation of the waste storage facility shall be in accordance with the permit and the approved design. Any design changes during construction or subsequent operation will require the acquisition of another review by the County Conservation District.

#### **E. Special Exception Uses/Conditional Uses**

1. Nurseries and Greenhouses (See Section H.5)
2. Farm occupations (See Section H.3)
3. Kennels (See Section H.1)
4. Riding Schools and Stables (See Section H.2)
5. Accessory Housing (See Section H.9)
6. Bed and Breakfasts (See Section H.10)
7. Places of Worship (See Section H.6)
8. Public and private schools without residential facilities
9. Public Utilities
10. Cemeteries (subject to municipal regulations)
11. Veterinary Offices and Animal Hospitals (See Section H.4)
12. Saw Mills
13. Facilities for the warehousing, sale, and service of agriculture equipment, vehicles, food, or supplies (See Section H.7)
14. Facilities for Commercial Processing of agricultural products (See section H.8)
15. Intensive Agricultural Operations (See Section H.11)

#### **F. Incompatible Uses**

Uses not specifically permitted under sections D. and E. 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-Agriculture Preservation District. Without limiting the foregoing, the following specific uses are deemed by the Township Board of Supervisors to have the effect of altering the essential character of the A-Agriculture Preservation District and causing substantial and permanent impairment to the prevailing agricultural uses within this district and hence, are detrimental to the public welfare, and such uses would therefore be in contravention of the requirements set forth in Section 910.2 of the Pennsylvania Municipalities Planning Code for consideration of variances: landfills, quarries, golf courses, sewage treatment plants, airports, and country clubs.

## **G. Design Standards**

### **1. Agricultural, horticultural, and forestry-related uses**

- a. Minimum lot size - The minimum lot area with the Agricultural District shall be 20 acres for agriculture and horticulture, 10 acres for forest and wildlife refuge.
- b. Minimum lot width - Two hundred (200) feet
- c. Maximum lot coverage - ten percent (10%)
- d. Maximum permitted height - one hundred fifty (150) feet for uninhabitable accessory farm structures, thirty-five (35) feet for other structures.
- e. Minimum setback requirements
  1. Front Yard - Fifty (50) feet
  2. Side Yard - Fifty (50) feet on each side
  3. Rear Yard - Fifty (50) feet

### **2. Single-family detached dwellings**

- a. For each 30 acres, or fraction thereof, of contiguous land in single and separate ownership as of the effective date of this ordinance, there may be one lot sold or utilized for a single family detached dwelling
- b. For each tract of contiguous land in single ownership that is two acres or more, but less than 30 acres, as of the effective date of this ordinance, there may be only two total dwellings permitted.
- c. The provisions of paragraphs a. and b. of this section shall apply to all parcels of land legally existing on the effective date of this ordinance. Regardless of size, no tract of land subsequently subdivided from its parent tract shall qualify for additional single-family dwellings or lots pursuant to this section. Similarly, any subsequent owner of any parcel of land legally existing on the effective date of this ordinance shall be bound by the actions of previous owners, in that such current owner may only subdivide for purposes of additional single-family dwellings the number of lots, if any, remaining from the original number permitted by this section.
- d. Minimum Lot Area - One (1) acre
- e. Maximum Lot Area - Two (2) acres
- f. Minimum lot width - One hundred Fifty (150) feet
- g. Maximum lot coverage - Twenty-five percent (25%)
- h. Minimum Setback Requirements
  1. Front Yard - Fifty (50) feet
  2. Side Yards - Twenty-five (25) feet
  3. Rear Yard - Fifty (50) feet

3. Other permitted Uses and Uses Permitted by Special Exception

- a. Minimum Lot size - One (1) acre
- b. Minimum lot width - Two hundred (200) feet
- c. Maximum lot coverage - Thirty percent (30%)
- d. Maximum permitted height - Thirty (35) feet
- e. Minimum Setback Requirements
  - 1. Front Yard - Fifty (50) feet
  - 2. Side Yards - Fifty (50) feet
  - 3. Rear Yard - Fifty (50) feet

**H. Specific Regulations for Special Exception Uses**

- 1. Kennels
  - a. All animal boarding buildings that are not completely enclosed, and any outdoor animal pens, stall or runways shall be located within the rear yard;
  - b. All outdoor recreation areas shall be enclosed to prevent the escape of animals; all such enclosures shall be set back a minimum of one hundred (100) feet from all property lines;
  - c. The applicant shall furnish evidence of effective means of animal and veterinary waste collection and disposal which shall be continuously implemented; and
  - d. The applicant must demonstrate compliance with all State requirements.
- 2. Riding Schools and Stables
  - a. Any structure used for the boarding of horses shall be set back at least fifty (50) feet from any property line;
  - b. All stables shall be maintained so to minimize odors perceptible at the property line;
  - c. All parking compounds and unimproved overflow parking areas shall be set back at least ten (10) feet from adjoining lot lines. Unimproved overflow parking areas shall also provide a fence delineating such occasional parking facilities and preventing the parking and/or movement of vehicles across neighboring properties;
  - d. These provisions shall not apply to horses kept for non-commercial uses, for farming activities, or for transportation.
- 3. Farm Occupations
  - a. For the purposes of this section, farm occupations may involve any one of a wide range of uses, so long as it remains secondary to and compatible with the active farm use. Retail sales shall only be permitted to production of goods on the site;

- b. No more than the equivalent of two (2) full-time nonresidents shall be employed by the farm occupation, and at least one (1) owner of the farm occupation must reside on the site;
- c. The use must be conducted within one (1) completely-enclosed building. Where practicable the farm occupation shall be conducted within an existing farm building. However, any new building constructed for use by the farm occupation shall be located behind the farm's principal buildings, or must be no less than one hundred (100) feet from any adjoining roads or properties;
- d. Any new building constructed for use by the farm occupation shall be of design so that it can be readily converted to agricultural use, or removed, if the farm occupation is discontinued;
- e. No part of a farm occupation shall be located within one hundred (100) feet of any side or rear lot line, nor three hundred (300) feet of any adjoining land within a residential zone. Such distances shall be measured as a straight line between the closest points of any physical improvement associated with farm occupation and property/zoning line;
- f. The farm occupation shall occupy no more than four thousand (4,000) square feet of gross floor area, nor more than one (1) acre of lot area. However, any access drive serving the farm occupation and the farm shall not be calculated as land serving the farm occupation;
- g. No more than fifty percent (50%) of the land devoted to a farm occupation shall be covered by buildings, structures, parking or loading areas, or any other impervious surfaces; and,
- h. Any sign used for a farm occupation shall not exceed ten (10) square feet in size.

4. Veterinary Offices and Animal Hospitals

- a. All outdoor facilities shall be enclosed and located within the rear yard, such enclosures shall be setback a minimum of one hundred (100) feet from any lot line.

5. Nurseries and Greenhouses

- a. No storage of inventory or materials shall be within 25 feet of any residential property or residential district;
- b. All facilities involving sales area or more than 10,000 gross square feet (both indoors and outdoors) shall have access to an arterial or collector road.

6. Places of Worship

- a. 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, etc.;
  - b. No more than forty percent (40%) of the area devoted to a church shall be covered by buildings, parking lots, or any other impervious surface.
- 7. Facilities for the warehousing, sale, and service of agricultural equipment, vehicles, feed, or supplies
  - a. A minimum of two (2) and a maximum of four (4) acres of land shall be devoted to such use.
- 8. Facilities for commercial processing of agricultural products
  - a. A minimum of two (2) and a maximum of four (4) acres of land shall be devoted to such use.
- 9. Accessory Housing
  - a. The accessory housing shall be of portable construction and may not exceed nine hundred (900) square feet of floor area, or it shall be provided as a separate unit within a dwelling or accessory building, existing on the effective date of this ordinance;
  - b. The total building coverage for the principal dwelling, accessory structures and the accessory housing shall not exceed the maximum lot coverage requirement for the principal dwelling;
  - c. The accessory housing shall only be occupied by at least one person who is at least fifty (50) years of age, handicapped or disabled, and is related to the occupants of the principal dwelling by blood, marriage, or adoption;
  - d. The accessory housing shall be occupied by a maximum of two (2) people;
  - e. Unless provided within an existing building, the accessory housing shall adhere to all side and rear yard setback requirements for principal uses;
  - f. The accessory housing shall be removed from the property within three months after it is no longer occupied by a person who qualifies for the use;
  - g. Utilities:
    - i. For sewage disposal and water supply and all other utilities, the accessory housing shall be physically connected to those systems serving the principal dwelling; no separate utility systems or connections shall be constructed or used, unless required by DEP. All utilities shall meet the applicable utility company standards;
    - ii. If no on-site sewer or water systems are to be used,

the applicant shall submit evidence that the total number of occupants in both the principal dwelling and the elder cottage will not exceed the maximum capacities for which the one-unit systems were designed, unless those systems are to be expended, in which case the expansion approvals are to be submitted. Any connection to an existing on-site sewer system shall be subject to the review and approval of the sewage enforcement officer.

10. Bed and Breakfasts

- a. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character, shall be permitted;
- b. All floors above and below grade shall have direct means of escape to the ground level;
- c. One (1) off-street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit;
- d. All parking areas shall be set back a minimum of twenty-five (25) feet from all property lines;
- e. A bed and breakfast may erect one (1) sign no larger than twelve (12) square feet in size, which must be set back ten (10) feet from all lot lines;
- f. Meals shall be offered only to registered overnight guests;
- g. The applicant shall furnish proof of approval from the PA Department of Labor and Industry.

11. Intensive Agricultural Operations

- a. Any building, used for the housing, feeding, watering, or running of livestock or poultry shall be set back at least five hundred (500) feet from the nearest property line of any existing residence other than the principal residence of the applicant;
- b. Any building, or area used for the housing, feeding, watering, or running of livestock or poultry shall be set back at least one thousand (1000) feet from any land within a residential zone;
- c. As required by the Nutrient management Act, the applicant shall submit a copy of an approved nutrient management plan for the proposed use, which has been reviewed by the appropriate reviewing agency. All subsequent operations and activities shall be conducted in accordance with such plans. If, at any time, the nutrient management plan is amended, the applicant must again submit the amended plan to the Zoning officer;
- d. The applicant shall furnish evidence from the County Conservation

District that the proposed use has an approved conservation plan. All subsequent operations and activities shall be conducted in accordance with such conservation plan. If at any time, the conservation plan is amended, the applicant must again furnish evidence from the County Conservation District that the amended plan has been approved;

e. The applicant shall submit, abide by and demonstrate a working knowledge of written qualified evidence describing those methods that will be employed to:

1. Minimize odor on nearby properties. Unless these methods employ the best possible techniques and materials that can be practicably applied to the proposed use, the application will be denied;
2. Dispose dead animals according to the regulations of the Pennsylvania Department of Agriculture. In the event in which mass disposal is warranted, the Pennsylvania Department of Agriculture can require whatever disposal methods are deemed appropriate to safeguard animal and public health; and
3. Comply with the above required nutrient management plan and conservation plan.

f. Any exhaust or ventilation fans employed shall be oriented and directed away from the closest residence that is not that of the operator. If said fans are within one thousand (1,000) feet of the closest residence that is not of the operator, the applicant shall construct a dispersion buffer between the exhaust of the fan and that/those residence(s). Such dispersion buffer shall include a vegetative berm that will effectively disperse or redirect fan exhaust so that no direct exhaust velocity is perceptible at the property line;

g. Any driveway or access drive providing for vehicular access to the proposed use shall maintain a fifty (50) foot wide radius for all turns and intersections;

h. Any on-site manure storage facilities shall comply with the requirements of Section D.10.b;

i. All buildings used for the housing of livestock shall be fitted with a solid concrete slab or slotted floor.

## Agricultural Preservation District - Sliding Scale

Development of an Agricultural Preservation Zone which uses the sliding-scale method is similar to the fixed-scale method previously discussed. The text of both is generally the same including sections describing purpose, intent, nuisance disclaimer, permitted uses, and special exception/conditional uses.

The methods section of the Agricultural Preservation Zoning chapter of this report provides several examples of sliding-scale tables that are used in the region. The sliding-scale shown below is from the Shrewsbury Township zoning ordinance. It provides a standard method for sliding-scale ordinances. It has also withstood legal challenge.

To create a sliding-scale Agricultural Preservation Zone, the following text and table should replace Section G.2 - Single Family Detached Dwellings in the fixed-scale ordinance.

2. Single Family Detached Dwellings

a. For each tract of contiguous land in single and separate ownership at the effective date of this ordinance, the maximum number of non-farm dwellings shall be according to the following schedule:

Lot area	Number of Dwellings Permitted
At least / less than	
0-5 acres	1
5 - 15 acres	2
15 - 30 acres	3
30 - 60 acres	4
60 - 90 acres	5
90 - 120 acres	6
120-150 acres	7
over 150 acres	8 plus 1 dwelling for each 30 acres over 150 acres

b. Regardless of size, no tract of land subsequently subdivided from its parent tract shall qualify for additional single-family dwellings or lots pursuant to this section. Similarly, any subsequent owner of any parcel of land legally existing on the effective date of this ordinance shall be bound by the actions of previous owners, in that such current owner may only subdivide for purposes of additional single-family dwellings the number of lots, if any, remaining from the original number permitted by this

section.

- c. Minimum Lot Area - One (1) acre
- d. Maximum Lot Area - Two (2) acres
- e. Minimum lot width - One hundred Fifty (150) feet
- f. Maximum lot coverage - Twenty-five percent (25%)
- g. Minimum Setback Requirements
  - 1. Front Yard - Fifty (50) feet
  - 2. Side Yards - Twenty-five (25) feet
  - 3. Rear Yard - Fifty (50) feet