

DISCLAIMER

The following four pages is an example of an actual self audit that was conducted by a municipality regarding its municipal laws affecting agricultural lands and farm operations. This audit was done to ascertain if the municipality's laws were "farm friendly."

Please consider this sample as an agriculture-centric audit whose purpose is to identify unreasonable restrictions regarding agricultural lands and farm operations.

The Department is NOT endorsing the actual content (evaluation OR the specific recommendations) of this audit. Rather, the Department is merely offering the following pages as an illustration of the breadth and depth of analysis that is expected in an audit that must accompany a municipality's application for funding under this Request For Applications.

Agricultural Zoning Audit

The *Zoning Law* and *Subdivision Regulations* were audited with respect to their implications for agricultural development and farmland protection. The following are observations and recommendations regarding these laws (numbers refer to relevant section numbers. Recommended revisions can be found in Appendix D.

Zoning Law

4.21 Planned Development District

This section, which provides a valuable tool for agricultural development and protection as open space within planned developments, includes an unnecessarily complicated procedure that treats each new project as a zoning law amendment, discouraging the use of the technique. It also fails to cover SEQRA requirements and does not adequately define open space so as to ensure working landscapes such as farms can be included.

It is recommended this provision be amended to allow for simple Town Board approval as part of a Special Use process particular to this use with other revisions to address the deficiencies identified.

4.3 Special Conditions and Special Permits

This section, and several others related to it, use different terminology little of which is in accord with *New York State Town Law*. This makes the whole discretionary permit process very confusing. Moreover, the designation of roles for both the Planning Board and Zoning Board of Appeals adds to that confusion. Because a rural community zoning law must allow for flexibility to deal with new uses in its large undeveloped areas, the handling of these uses often demands such a discretionary review process. It can, therefore, have major impacts on agricultural activities if not constructed properly.

It is recommended this section be revised, along with others, to consolidate all such permit procedures in one place, using consistent terms from the *Town Law* and providing for site plan review as part of the Special Use process.

4.41 General Provisions - Farm Labor Housing

The second paragraph of Sub-section 3 allows for the placement of up to two mobile homes on a R-R District lot for housing of agricultural employees, provided the lot is at least 10 acres in size. This provision may conflict with Section 305-a of the *Agriculture and Markets Law*.

The Department of Agriculture and Markets *Guidelines for Review of Local Laws Affecting Farm Worker Housing* indicate:

"... requiring a minimum lot size exceeding 10,000 to 15,000 square feet may be unreasonably restrictive. ... Presumably, minimum lot size requirements are adopted to prevent over concentration of residences and to assure an adequate area to install a properly engineered well and waste disposal system. Farm worker housing 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. ... the Department has not considered the need to

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undergo site plan review, where more than two mobile homes are sited on the same farm complex, unreasonable. However, conditions placed upon the issuance of a permit and/or the cost and time involved to complete site plan review requirements may be unreasonable.”

It is recommended this paragraph be revised to simply require site plan review of farm labor housing, where more than two dwelling units of such housing are to be provided, regardless of the zoning district, provided there is a minimum of 10,000 square feet of lot area per dwelling unit.

4.41 General Provisions - Height Exceptions

Sub-section 6 dealing with height exceptions should be made broader with respect to agricultural uses and reworded slightly to read better.

It is recommended this paragraph be revised to make it clear commercial horse facilities and other commercial but nonconventional agricultural structures are exempted from height restrictions.

4.41 General Provisions - Temporary Vendors

Sub-section 10.a dealing with temporary vendors appears to prevent the location of farm stands in parking lots and yards, which are obvious places to locate them.

It is recommended this paragraph be revised to allow the location of temporary farm stands in both parking and yards.

4.41 General Provisions - Activity Standards

Sub-section 11 dealing with “activity standards for noisome and injurious substances, conditions and operations” is awkwardly introduced and titled with insufficient protections for agricultural uses.

It is recommended the title and introductory paragraph be revised to clarify agricultural protections and cross-reference right-to-farm statutes.

4.431 General Provisions - Signs

Sub-section 2 indicates freestanding signs larger than eight (8) square feet require site development plan approval, which conflicts with a 24 square feet permit exemption for farm product signs in Section 4.433. Sub-section 16 establishes requirements for “non-compliance signs” which are, by ordinary definition, not permitted.

It is recommended a cross-reference to Section 4.433 be added in Sub-section 2 to eliminate any confusion and Sub-section 16 be deleted, as it has no obvious purpose and most signs already require a site plan. Moreover, Sub-section 1.c of Section 4.432 prohibits off-premises signs this Sub-section is supposed to permit. The Town may also want to delete that sub-section if it does intend to permit such signs, as is probably the case.

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4.432 District Provisions - Signs

Sub-section 2.d refers to a sub-section that would be deleted under these recommendations. Therefore, it, too, should be deleted.

Table 1 *Size Standards For Signs By District*, establishes a maximum of 20 square feet in sign area (10 square feet or a mere 2' X 5' per sign) for free standing pole signs in RR Districts. This is inadequate for many agricultural enterprises that might locate in RR Districts. A winery, riding stable or farm lodging facility, all appropriate in a RR District, could each easily demand larger signs than this. A 48 square feet standard (24 square feet per side), which is half the commercial standard, is appropriate.

Likewise, the limitation on wall signs in the RR District is too restrictive and would effectively prohibit classic barn signs. It is recommended the wall sign area standard be revised to a simple 10%, as the existing formula is incomprehensible.

Finally, the table is difficult to use. It is not clear, for example, whether the standards for the number of signs applies to all signs or just wall signs. There is also an asterisk for which there is no explanation.

4.462 Quarries, Stripping of Topsoil and Sand and/or Gravel Pits

Sub-sections 2 and 3 do not appear to comply with the pre-emption provisions of New York State law regarding mining. It is recommended these sections be replaced by new sub-sections addressing those mines outside New York State DEC jurisdiction and allowing these activities subject to Site Plan Review.

4.481 Mobile Homes

Sub-section 3 conflicts with Section 305-a of the *Agriculture and Markets Law*, as noted earlier with respect to Section 4.41. The revisions proposed for that Section make Sub-section 3 of Section 4.481 redundant. They should be deleted.

4.55 Temporary Storage Units

Sub-sections 8, 9 and 10 are redundant with other enforcement provisions of the Zoning Law and do not belong here. They should be deleted.

5.1 Non-conforming Uses, Buildings and Structures

Sub-section 3 limiting changes of non-conforming uses to conforming uses is unrealistic and should be revised to allow other non-conforming uses, provided they are of no greater intensity of use.

5.2 Temporary Uses and Structures

The second and third paragraphs of this section are redundant with Section 4.41 (10) and should be deleted, as they also do not relate to the general purpose of this section.

