

Plan On It

A Dutchess County Planning Federation eNewsletter



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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

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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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