

Plan On It

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Agricultural Districts Law: Both Farmers & Municipalities Play a Role

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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.

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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 “agritainment” 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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