

Farmland Preservation: Engaging & Empowering Municipal Officials: Planning for Conserving PA Agriculture

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Trends & Background

2010 State Land Use and Growth Management Report

- Development patterns: 1992 – 2005
 - Developed land in PA increased by 131.4 percent (1.2 million to 2.8 million acres)
 - PA population grew only 4.5 percent
- Since 2000, city/borough population decreased and township population increased
 - This was at a slower pace than in the prior three decades
- The decentralizing pattern slowed, but continued

Source: DCED

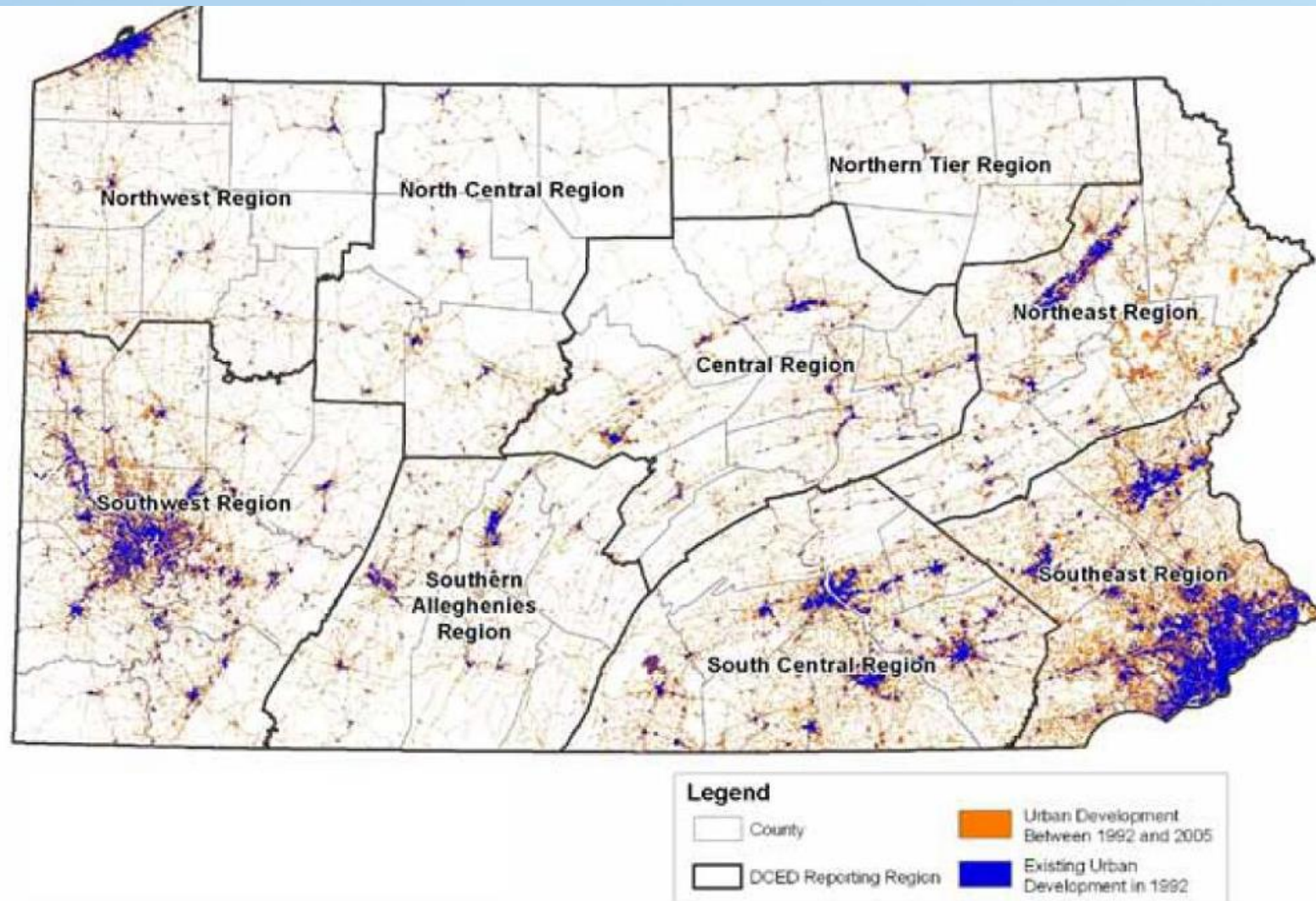


Demographic Trends (DCED)

- Between 2000 and 2010, Pennsylvania's population grew three times slower than the national average.
- Pennsylvania ranked 47th in the nation for natural population increase (the addition of births and subtraction of deaths) between 2000 and 2009
 - Pennsylvania's population increased by 323,696
 - 55 percent of those new residents arrived from other countries
- One out of every five Pennsylvanians is over age 60
 - By 2020, this age group will make up one-quarter of the population



Growth in PA Developed Land, 1992 - 2005



Sources: U.S. Geological Survey; The Pennsylvania State University

Conversion of Ag Land to Urban by Reporting Region, 1992 - 2005

Reporting Region	Total Acreage	Agriculture Acreage, 2005	Agriculture as % of Total Acres, 2005	Acres of Agriculture Converted to Urban, 1992-2005	% of Agriculture Acres Converted to Urban, 1992-2005
Central	3,695,510	791,721	21.4%	109,098	10.9%
North Central	3,247,957	376,624	11.6%	25,871	8.3%
Northeast	2,845,317	283,607	10.0%	43,497	12.8%
Northern Tier	2,535,381	402,710	15.9%	33,784	4.9%
Northwest	3,269,420	825,424	25.2%	70,794	7.9%
South Central	3,317,569	1,408,521	42.5%	260,021	14.4%
Southeast	2,411,112	663,758	27.5%	231,691	24.4%
Southern Alleghenies	2,954,622	705,690	23.9%	59,479	8.3%
Southwest	4,528,403	1,283,105	28.3%	125,019	9.9%
Pennsylvania Total	28,805,291	6,741,161	23.4%	959,254	12.0%

Source: Pennsylvania Spatial Data Access (PASDA), compiled by geographIT and PB Americas, Inc.

Agricultural Issues

- Land affordability & competition
- Land preservation attracting adjoining development
- Farm & non farm conflict
- Regulatory concerns/acceptance/understanding
- Declining value of industry from public officials



Agricultural Issues

- Public perception
- Aging farming population
- Economics and changing uses
- Farmland preservation as opposed to agricultural industry preservation
- Farmland preservation versus open space preservation
- Transportation issues
- Impermanence syndrome (result of fragmentation)



Why Farmland Preservation?

- Economic Impacts
- Aesthetics & open space
- Food & commodity production
- Aid in retaining critical mass for farming and support businesses
- Farmers and ranchers own most of the privately held land in the U.S.
- Average age: 58
- Tens of millions of acres will change hands over the next 20 years in the U.S. (Source: Tom Daniels University of PA)



Why Farmland Preservation?

- Assure a supply of agricultural rental lands
- Natural resource/environmental protection
- Municipal fiscal impacts
 - “Residential land generally costs local taxpayers, while commercial, industrial, farm, and open lands help taxpayers by paying more than they require back in services.”



Source: Fiscal Impacts of Different Land Uses

Hierarchy of Land Uses

Land Use	<i>Fiscal Impact On:</i>	
	Municipality	Schools
Research office parks	+	+
Office parks	+	+
Industrial development	+	+
High-rise/garden apartments (studio/1 bedroom)	+	+
Age-restricted housing	+	+
Garden condos (1-2 bedrooms)	+	+
Open space lands	+	+
Retail facilities	-	+
Townhouses (2-3 bedrooms)	-	+
Expensive single-family homes (3-4 bedrooms)	-	+
Townhouses (3-4 bedrooms)	-	-
Inexpensive single-family homes (3-4 bedrooms)	-	-
Garden apartments (3+ bedrooms)	-	-
Mobile homes	-	-

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Fiscal Impact–Resident Perspective

2006 PSU studies

	Residential	Commercial	Industrial	Farm & Open
Bullskin Twp, Fayette	1 : 1.11	1 : 0.02	1 : 0.02	1 : 0.02
Antrim Twp, Franklin	1 : 1.03	1 : 0.43	1 : 0.18	1 : 0.07
Scott Twp, Lackawanna	1 : 1.13	1 : 0.14	1 : 0.14	1 : 0.14
Lehman Twp, Pike*	1 : 0.94	1 : 0.20	-	1 : 0.27
Buffalo Twp, Union**	1 : 1.19- 1.21	1 : 0.05- 0.08	1 : 0.05- 0.08	1 : 0.91- 0.11
Kelly Twp, Union	1 : 1.48	1 : 0.07	-	1 : 0.07
Canton Twp, Washington	1 : 1.23	1 : 0.06	1 : 0.13	1 : 0.03
Mt. Pleasant, Washington	1 : 1.08	1 : 0.09	1 : 0.08	1 : 0.08

**Lehman Township & the school district had a \$2 million+ budget surplus, equal to 8% of total expenditures. With no surplus - Residential 1 : 1.02 Comm. 1 : 0.21 Ag 1 : 0.30*

***Buffalo Township reported significant road maintenance expenses related to large farms. The results give a range of possible impact.*

So what does all this mean?

- Ag & Open Land provides clear fiscal benefits to the community
- Development DOES affect local revenues and expenditures (*yet all residential development doesn't necessarily cost you*)
- **MUST** maintain a balance of land uses and consider the impacts of your decisions
- **MUST** balance fiscal concerns with other community concerns – don't live/die solely by the \$\$\$

Agricultural Protection Programs

Agricultural Programs

- Agricultural Security Areas (ASA)
 - Local government cannot enact ordinances that restrict normal farming operations, unless the activity is directly related to public health and safety
 - Precursor for purchase of development rights program
 - Barriers for eminent domain
 - A minimum of 250 acres from among all the participating farmers is required

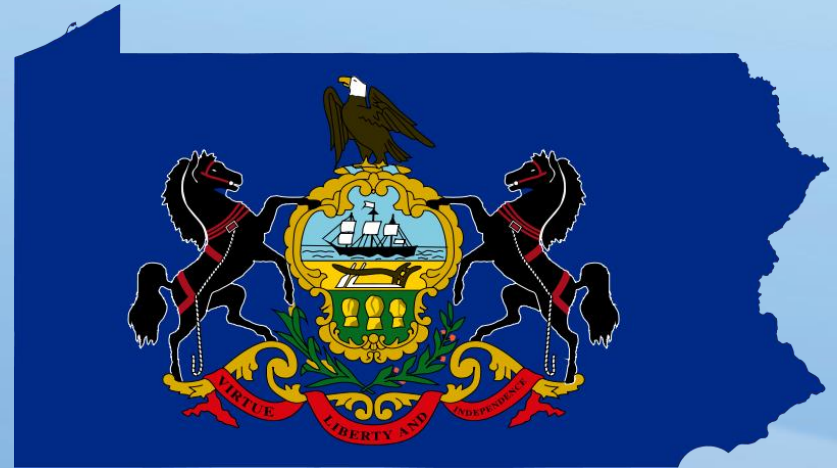
Agricultural Programs

- Agricultural Security Areas (ASA)
 - An ASA may include non-adjacent farmland parcels that are at least ten acres or able to produce \$2000 annually from the sale of agricultural products
 - An ASA does not control future use of the land
 - Seven year reviews are required for existing ASA's
 - Property owners can apply to be added at any time



Agricultural Programs

- Agricultural Security Areas
- Enrollment as of 2013
 - Pennsylvania
 - 3,953,820 acres
 - 40,030 landowners
 - 990 townships
 - 65 counties



Agricultural Programs

- PA Agricultural Conservation Easement (PACE) Program
 - Enables state and county governments to purchase conservation easements from farmers
 - Local governments may participate in conjunction with the county board
 - Provides grants for land conservancies for ag preservation
- Easements as of 2013 (under Farmland Preservation Act 149 of 1988)
 - Pennsylvania
 - 4,532 easements
 - 484,270 acres

Other Easement/Preservation Programs

- County/municipal
- Private, non-profit
 - Often require donated versus purchased easements
 - Easement may or may not contain agricultural land
 - Often focus on environmentally sensitive areas, woodland, recreational, etc.



PA Agricultural Programs



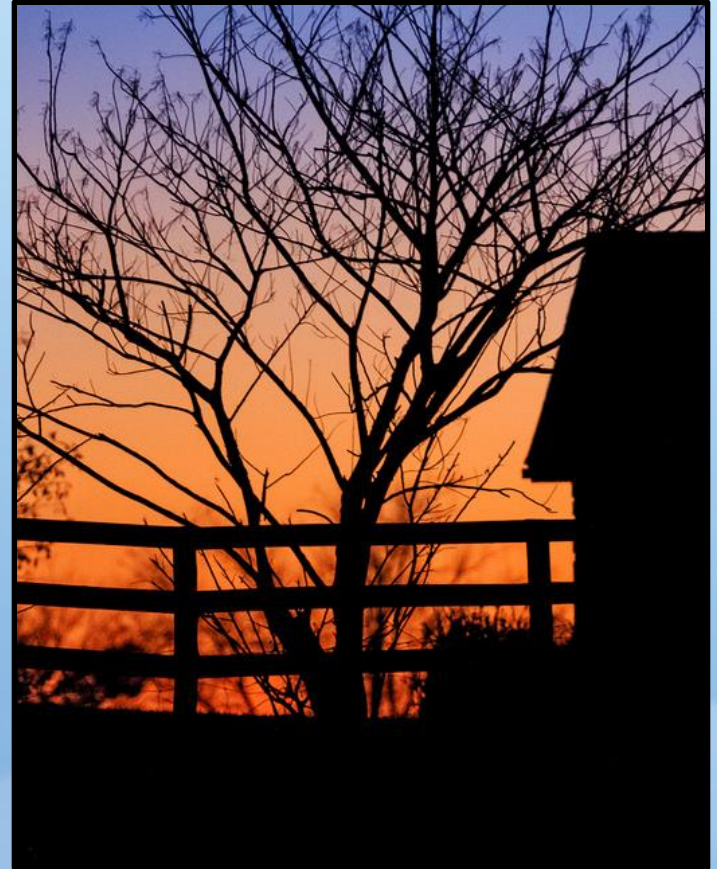
- Clean & Green
 - Intent is to preserve farmland, forest land and open space
 - Taxes land according to its use as farmland rather than its market value and its potential use for activities other than agriculture
 - Eligibility Requirements
 - Ten acres in size, and in Agricultural Use, Agricultural Reserve, or Forest Reserve
 - Agricultural use may be less than 10 acres if the property is capable of generating at least \$2,000 annually in farm income
 - Residential "Split-offs" allowance (maximum of two acres per year {unless zoned for three acres} with a cumulative maximum of 10 acres or 10%)
 - "Separations" allowance- lands of 10+ acres that meet use requirements

PA Agricultural Programs

- Clean & Green
 - Use values are provided by the PA Department of Agriculture each year
 - Counties can:
 - Use the values provided by PDA
 - Lower the use values
 - Pick a use value between county-established use values and the PDA values
 - Counties can not use values higher than the PDA values

Agricultural Programs

- Clean & Green
- 2013 Enrollment in PA
 - 9,195,989 acres
 - 184,675 parcels



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Right to Farm Act (Protection of Agricultural Operations from Nuisance Suits and Ordinances Act)

- Prevents municipalities from including normal farming operations within their nuisance ordinances
- Limits municipalities from restricting sales of agricultural commodities on the farm in their zoning ordinances
- Limits nuisance suits against agricultural operations

ACRE (Agriculture, Communities & Rural Environment Act)

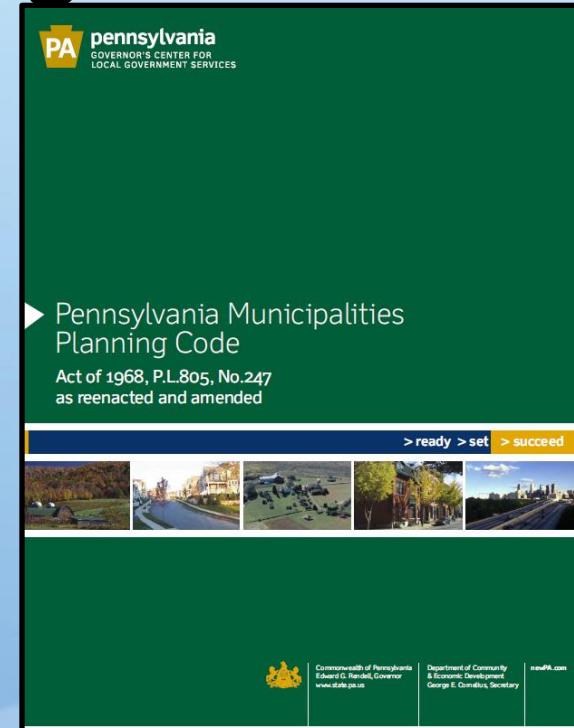
- Bans unauthorized local ordinances
- Injured farmer can forward a grievance to the state's Attorney General's Office for review
- AG has 120 days to bring any action against the local government
- Also created a requirement for an odor management plan for large scale animal operations



PLANNING TOOLS AND THEIR RELATIONSHIP TO AGRICULTURE

PA Municipalities Planning Code (MPC)

- Enabling legislation for planning in PA
- Purpose (Section 105)
 - Coordinated community development
 - Provide for the general welfare
 - Guide use of land and structures
 - **Preserve natural resources and prime agricultural land**
 - **Ensure zoning ordinances facilitate present and future economic viability of agricultural operations**

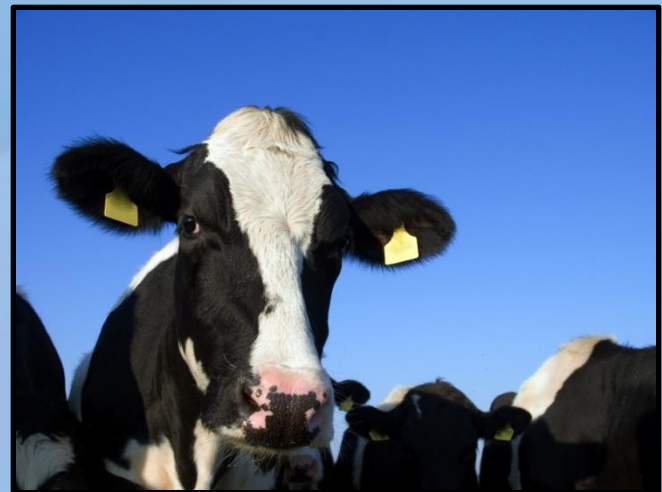


Planning Tools under the PA Municipalities Planning Code (MPC)

- Comprehensive Plans
 - Municipal policy and guidance document
 - Analyzes existing conditions
 - Determines community objectives
 - Makes recommendations for the future
- Subdivision & Land Development Ordinance
 - Regulates lot layout and design, improvements
- Zoning Ordinance
 - Regulates land use location, density, dimension
- All have some preemptions

The MPC Agricultural Definitions

- Definitions - Section 107: **Agricultural Operation**
- Includes types of activities: crops, livestock, etc.
- Includes changes in production practices and procedures normally engaged by farmers or that are consistent with technological development within the agricultural industry



The MPC: Comprehensive Plans & Agricultural Provisions

- Section 301a(7)iii: Shall identify a plan for the preservation and enhancement of prime agricultural land and encourage the compatibility of land use regulation with existing agricultural operations
- Section 301b(2): Shall contain a statement that commercial agricultural production impacts water supply sources.



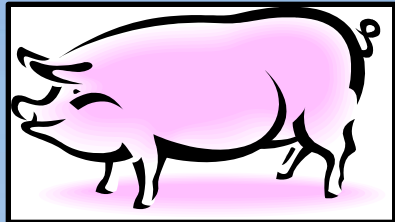
The MPC: Comprehensive Plans & Agriculture

- Section 301a(2): Land use plan which may include agriculture
- Section 301a(6): A plan for the protection of natural and historic resources – includes prime agricultural land



The MPC: Subdivision and Land Development Agricultural Provisions

- Subdivision (Section 107)
 - Allows for an exemption for agricultural lease of land over 10 acres
 - To qualify for this exemption, it also must not involve any new street, access easement or residential dwelling
- Agricultural “development” may fall under subdivision and land development regulations



The MPC: Subdivision and Land Development Agricultural Provisions

- Contents of Subdivision and Land Development Ordinance – Section 503(1.1): Allows for certain exclusions from the definition of land development
- Section 503(1.1)ii: Excludes the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building



The MPC: Zoning & Agricultural Provisions

- Ordinance Provisions – Section 603(a): should reflect the policy goals of the community development objectives and give consideration to the character of the municipality
- Sections 603b(5) & 603c(7): protection and preservation of natural and historic resources and prime agricultural land and activities.
- Section 603g(1):shall protect prime agricultural land and may promote the establishment of agricultural security areas

The MPC: Zoning and Agriculture

- Section 603h:shall encourage the continuity of development and viability of agricultural operations.
-shall not restrict agricultural operations or changes to or expansion of agricultural operations in geographic areas where agriculture has traditionally been present
 - unless the agricultural operation will have a direct adverse effect on the public health and safety.

The MPC: Zoning & Agriculture

- Zoning Purposes – Section 604(3): To preserve prime agriculture and farmland considering topography, soil type and classification, and present use
- Statement of Community Development Objectives- Section 606: may relate...to the need for preserving agricultural land and protecting natural resources

Other Planning Issues

- MPC requires considerations of various issues in addition to agriculture
 - Population density
 - Housing
 - Commerce & industry
 - Community facilities,
 - Environment, etc.



AGRICULTURAL PROTECTION ZONING (APZ)

Purpose of APZ

- Primary
 - Minimize land use conflicts
 - Protect prime agricultural soils from development
 - Retain critical mass for agriculture
 - Fills the gaps of other programs/techniques
 - Protect public easement investments by limiting development on surrounding land
- Secondary or Spin-off
 - Open space
 - Community character
- Need to decide your purpose for protection zoning and determine if APZ fits your situation



Types of APZ

- Exclusive
 - Allows only farm residences and agricultural activities
 - Not used by municipalities as often as non-exclusive
 - May be more vulnerable to legal challenge (Planning for Agriculture: DCED)
- Non-exclusive
 - Allows for non-farm dwellings on a limited basis
 - Allows for other non-farm uses, often as conditional uses or special exceptions (may include criteria such as on non-productive soils, distance from farm buildings, etc.)
 - Most common type of agricultural zoning

Large Lot Minimum APZ

- Seeks to limit the number of dwelling units
- Can create non-functioning “farmettes”
- Can result in estate lots and loss of farmland as well as connectivity of farmland
- Some “Agricultural” ordinances allow unlimited residential dwelling lots on lot sizes of 1 to 5 acres – **this would not be effective agricultural protection zoning**

Area Based Allowance APZ

- Area Based Allowance
 - Number of dwelling units are based on original parent parcel size
 - Limits the non-farm dwelling lot size
 - Allows for more land to be kept available for agricultural purposes
 - (may include criteria such as on non-productive soils, distance from farm buildings, etc.)
 - Can direct dwelling(s) on lower quality soils and areas of least conflict with agricultural operations

Area Based APZ Formulas

- Fixed Based System
 - Based on a number of dwellings per set acreage
 - Proportionally the same for varying lot sizes
 - i.e. 1 dwelling per 25 acres = 4 dwellings per 100 acres
- Sliding Scale System
 - Based on a number of dwellings per set acreage
 - Number of allowable dwellings are based on the size of the parent tract being subdivided
 - Smaller tracts are usually allowed a higher proportion of lots to retain the viability of larger tracts
 - » i.e. 1 dwelling per acre for 5 acre parcel; 7 dwellings for 150 acre parcel

Percentage System APZ

- Limits the percent of a parent tract that can be developed or subdivided
 - Example: 10% of tract can be developed
- This is as opposed to regulating the number of dwellings allowed
- Not often used as a technique



Transfer of Development Rights (TDR)

- Based on ordinance adoption allowing TDR
- Purpose is to encourage development in areas targeted for growth or better suited for development
- TDR involves:
 - Developer purchasing development rights from farmer (landowner) in “sending” area
 - Developer using TDR’s to increase the density of their development in “receiving” area

Transfer of Development Rights (TDR)

- Ordinance can be structured for TDR's to be transferred:
 - From within the agricultural zone to a designated area outside the agricultural zone
 - From within the agricultural zone from prime agricultural areas to non-prime areas
 - Combination of inside and outside the agricultural zone
- TDR's cannot be transferred across municipal lines unless there is a multi-municipal zoning ordinance

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APZ Permitted Uses

- Consider uses that allow for the functioning of agriculture
 - Poultry, livestock, horticulture, etc
 - Accessory uses..... roadside stands, etc
 - Some municipalities have intense agricultural zones
- Some include uses that support agricultural as special exceptions or conditional uses
 - Examples: Kennels, B & B, etc
- Being too broad in defining agricultural uses can defeat the purpose of APZ
 - i.e. grocery store



APZ Summary

- Can protect large areas of land
- Costs less than land purchase & easements
- Can help meet municipal/community objectives
- Ordinances can be rescinded or amended and need a long term political commitment
- Ordinances can be challenged
- Consensus can be difficult



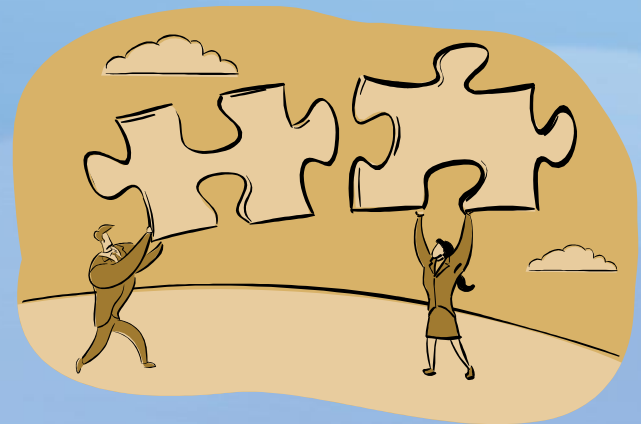
Other Tools

- Communication
- Education
- Information sharing
- Involvement & inclusion
 - Ag Advisory Committee
 - Planning Commission



Putting the Pieces Together

- Need to coordinate the aspects and implications of the various programs
- Where does Ag Zoning fit in, and what impact does designation in other programs have?
 - ASA
 - PACE
 - Clean & Green
 - Infrastructure Planning
 - ACRE
 - Right to Farm



Lancaster County

Agricultural Land Use Tools



APZ Examples

Union County Planning Commission APZ Recommendations

Table B.1 Proposed Use Restrictions in Effective Agricultural Preservation Zones

Use	Use Allowed	Max. Impervious Coverage	Max. Density	Min. Lot Area	Max. Lot Area
Agriculture	Permitted	10% capped at 10 acres	N/A	25 acres*	N/A
Farm Dwellings	Permitted	20%	N/A	1 acre	2 acres
Single Family Detached**	Not Permitted Or Conditional Use	20%	1 unit/50 ac	1 Acre	2 Acres
Rural Enterprise/ Home Occupations***	Permitted	1% Or 50%	N/A	1 acre	2 acres
Ag-related Businesses	Conditional Use	50%	N/A	1 acre	2 acres

* Twenty-five acres is the recommended minimum. If localities choose to establish a larger minimum, the county would support a minimum lot area as large as 50 acres.

** Localities could opt to prohibit non-farm residential development or permit as a conditional use. Conditions for approval could include: 1. Siting dwellings on the least productive soils and/or in locations where they would cause the least impact on current agricultural activities and future agricultural viability; and 2. Conformance with a maximum setback from public roads (e.g., 200 feet).

*** The definition for rural enterprise should be consistent with the county PACE program's policy and the state's definition of a rural enterprise contained in the Clean and Green Act to ensure that agricultural landowners remain eligible for these programs. If the rural enterprise/home occupation is conducted on the farm unit, impervious surface coverage is limited to 1% and capped at 2 acres. If the enterprise is conducted on a separate tract, the maximum lot area is 2 acres and up to 50% may be covered by impervious surfaces.

Lancaster County Planning Commission

Recommended Items for Inclusion in Agricultural Zoning Districts

- **Adopt fixed scale agricultural zoning allowing one subdivided lot for every 50 acres owned**
- **Adopt a minimum permitted farm size of 50 acres**
- **Implement Transfer of Development Rights provisions**
- **Include regulations for agri-tourism and farm businesses**

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Winterstown Borough

Single family dwellings are permitted in the Rural Agricultural (RA) Zone according to the following sliding scale:

Winterstown Borough	
Size of Parcel	Number of Dwelling Units permitted
1.0 - 5.0 acres	1 per acre
5.1 - 50.0 acres	5 total
50.1 - 100 acres	7 total
100.1 or more acres	10 total

Lots must be located on the least agriculturally productive soils. Minimum lot size is one (1) acre and the maximum is one and one half (1.5) acres, unless low quality land is involved.

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Section 001.3

Uses Permitted by Right

Most townships in Lancaster County are very restrictive in the uses permitted by right in the agricultural zoning district, primarily limiting these uses to agriculture and agriculture-related uses and municipal and utility uses. Some townships will permit the subdivision of lots or construction of dwellings by right, others will utilize the special exception process to ensure proper siting of residential uses on the farm. The following example from Warwick Township is a good illustration of the types of uses typically permitted by right.

- (1) *Agriculture, including one single-family detached dwelling contained on the site and including commercial poultry operations and commercial livestock operations as defined herein.*
- (2) *Horticultural and forestry-related uses*
- (3) *Municipal uses*
- (4) *Public utilities structures*
- (5) *Accessory uses customarily incidental to the above permitted uses including, but not limited to, the following*
 - (a) *roadside stands...*
 - (b) *family day-care facilities...*
 - (c) *manure storage facilities, as an accessory use to the farm...*
 - (d) *beekeeping*
- (6) *On any parcel where the principal use is a residential use established before November 13, 1985, accessory uses permitted by the R-1 Residential Zone*



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Resources

- Penn State Extension: <http://extension.psu.edu>
- Penn State Agricultural Law Center's Publications Library:
<https://pennstatelaw.psu.edu/academics/research-centers/agricultural-law-resource-and-reference-center>
- PA Department of Agriculture:
www.agriculture.state.pa.us
- PA Land Trust:
<http://conservationtools.org/libraries/1/topics/99>

Resources

- PA Department of Community & Economic Development:
www.newpa.com/local-government/
- Lancaster County Planning Commission Toolbox:
www.lancastercountyplanning.org/161/Publications
- York County Planning Commission Publications:
www.ycpc.org/Long_Range_Docs/Comp_Plan/Ag_Protection_Plan.pdf

Contact Information

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