

Agricultural Preservation Zoning

Most municipalities that have "agricultural zones" permit residential development on one to five acre tracts. Dividing farmland into these large tracts essentially turns a farm into large residential lots. The character of the area may be maintained because the pace and density of development are slowed, but the existence of productive commercial farming is jeopardized. These agricultural districts actually impact commercial farming greatly by allowing residential lots to consume more farm land than necessary. The land, once divided, cannot easily be converted back into productive farmland. Instead, the one to five acre tracts sit as large yards for a residential development.

Agricultural Preservation Zoning is different from a typical agricultural district in a municipal zoning ordinance. Its intent is to support and protect farming by stabilizing the agricultural land base. This is done by designating areas where agriculture is the desired land use and discouraging other types. It places strict limits on the amount of development that is allowed to occur and attempts to retain the farm as a whole tract.

Land Uses

Agricultural Preservation Zoning prevents land uses that are incompatible with farming such as uses that would create excessive traffic, pollution, or consume large areas of farmland. Examples of such uses include quarries, landfills, airports, and golf courses. Agricultural Protective Zoning generally permits non-farm dwellings, but their numbers are strictly regulated.

Uses that are typically allowed in agricultural preservation zoning districts are listed below:

Permitted Uses

1. Agriculture
2. Horticulture
3. Forestry
4. Farm Dwellings
5. Single Family Detached Dwellings ¹
6. Public Uses - parks, municipal facilities, greenways
7. Home Occupations
8. Wildlife refuges, fish hatcheries
9. Temporary Housing for farm employees

Accessory Uses

1. Roadside Stands
2. Manure Storage Facilities

Special Exception or Conditional Uses

1. Farm related businesses ²
2. Farm Occupations ³
3. Kennels

4. Accessory Housing ⁴
5. Bed and Breakfasts
6. Places of Worship
7. Public and private schools without residential facilities
8. Public Utilities
9. Cemeteries
10. Veterinary Offices and Animal Hospitals
11. Saw Mills
12. Intensive Agricultural Operations ⁵

¹ Single Family Detached Dwelling - Number of dwellings is strictly regulated. Some ordinances further discourage this use by allowing it only by special exception or conditional use in an agricultural zone.

² Farm-Related Business - A business supportive of agricultural activities which may, or may not, be located on a farm tract.

³ Farm Occupation - An accessory use to the primary agricultural use of a property in which residents engage in a secondary occupation conducted on the active farm.

⁴ Accessory Housing - An additional dwelling unit on a property occupied by either an elderly, handicapped, or disabled person related by blood, marriage, or adoption to the occupants of the principal dwelling. Some ordinances refer to this use as Granny Flats or ECHO housing (Elder Cottage Housing Opportunity).

⁵ Intensive Agricultural Operations - Large livestock or poultry operations and its related uses such as slaughter area and manure storage and processing. The PA Nutrient Management Act requires high density animal operations (more than 2,000 lbs of livestock or poultry per acre) to comply with specific standards for operations. (See Intensive Agricultural Operations, page 20)

Methods

Throughout the Tri-County region (Cumberland, Dauphin, and Perry counties) it is common to find agricultural zoning districts included as part of a municipal zoning ordinance. Very few of these agricultural zones, though, could be considered Agricultural Preservation Zoning. Most allow farmland to be subdivided into one or two acre lots; without setting a limit on the number of lots per tract. The popularity of this method is primarily due to it being easy to administer by the municipality. Staff time is not spent maintaining files of individual tracts in the agricultural zone. It is also less controversial among many landowners, who prefer the least amount of restrictions on their land. As stated earlier, this method of controlling subdivisions in agricultural zones may initially slow development in rural municipalities. But in the long run, as development pressure increases, it does not discourage development, preserve the best agricultural soils, or support the existing agricultural activities of the region.

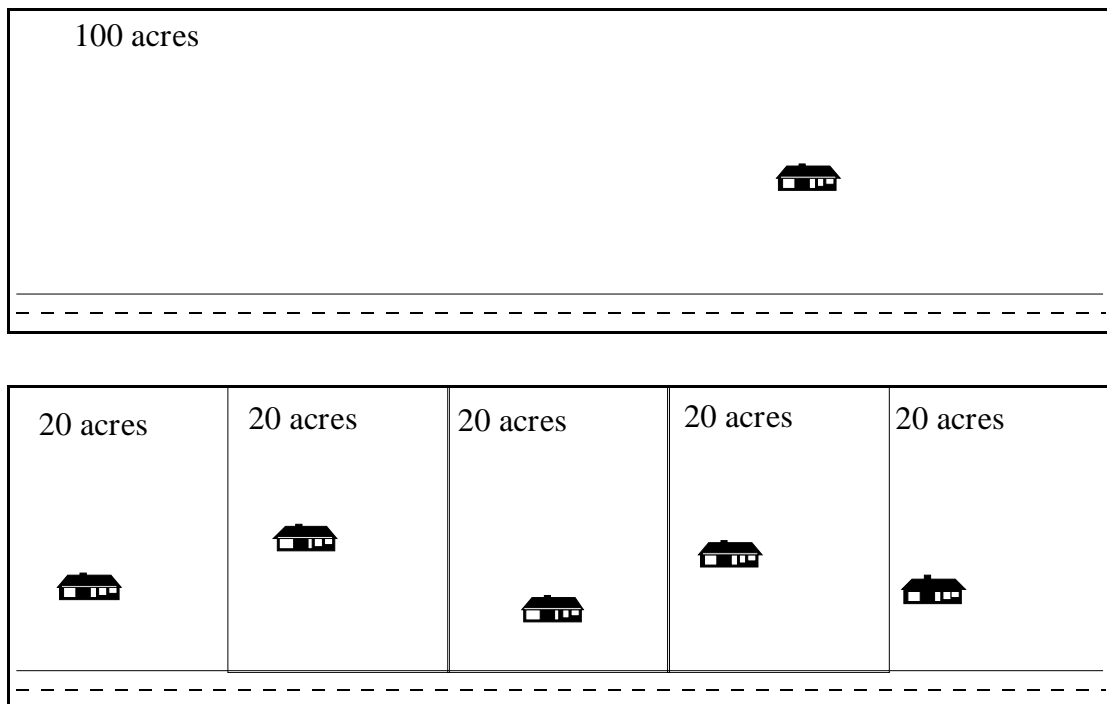
Of the twenty-two townships in Cumberland County, only two have adopted versions of

Agricultural Preservation Zoning. Fourteen townships have the standard Agricultural Zone which permits the entire original tract to be subdivided into 1-5 acres lots. These zones generally allow agricultural uses by right, along with numerous other development options. Currently, there are six townships in the County that have not adopted zoning regulations. Three of these six townships contain some of the richest soils in the County.

There are five methods of Agricultural Preservation Zoning currently in use in Pennsylvania today.

Large Lot Agricultural Preservation Zoning

This is the simplest type on Agricultural Preservation Zoning. It is similar to the standard agricultural zones, commonly used by area municipalities, which require a minimum lot area. This method, though, requires a very large minimum lot size. Most ordinances using this method have set a minimum lot size of 20-30 acres; although larger lot sizes have been adopted. This method generally preserves the rural landscape by not allowing the typical suburban housing projects to be developed. But it does cut up the farm into 20-30 acre properties which may be too small for most kinds of farming.



If an existing lot is less than the required minimum lot area, it is generally treated as a non-conforming lot. It may be used for any use permitted in the district, provided that all other requirements are met.

Advantages

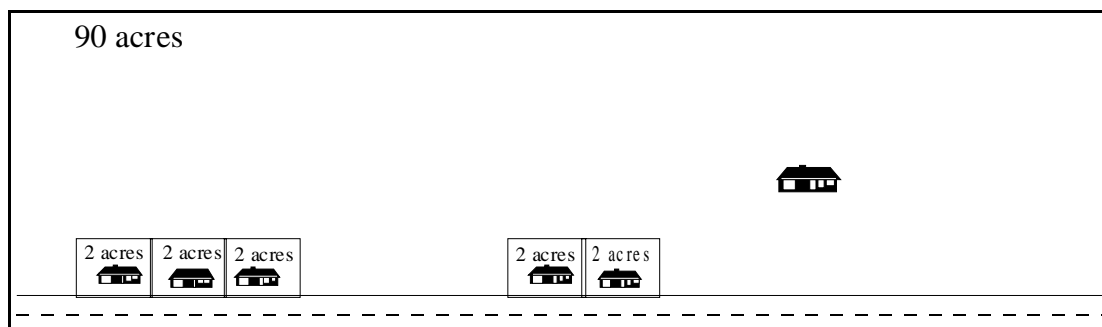
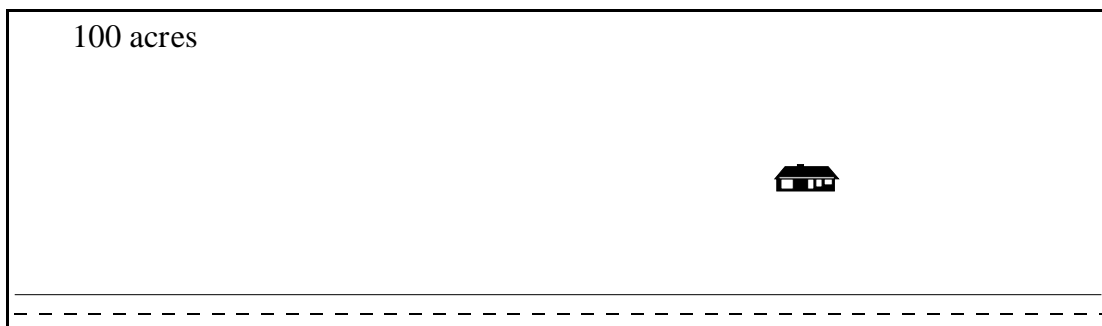
1. Easy to administer - does not require much record keeping and monitoring.
2. Encourages slow growth in agricultural zones.
3. Generally retains the rural landscape.

Disadvantages

1. Subdivides farms into smaller parcels that are usually too small to be operated economically.
2. The Preservation of prime farmland soils is not emphasized.
3. The method has been criticized for being too exclusive and limiting affordable housing.

Percent of Land Agricultural Preservation Zoning

This method specifies the percentage of the entire tract that can be developed. It does not list a specific number of dwellings that can be developed on the tract. That number is determined by the landowner, based on the size of the original tract and



proposed sizes of the new lots.

Ordinances using this method typically set the percentage of land that can be taken out of agricultural use at 10%. For example, a tract containing 100 acres would be permitted to subdivide 10 one-acre lots, 5 two-acre lots, 2 five-acre lots, etc., or any combination, as long as the allowable percentage is not exceeded.

Existing tracts of land that are less than 10 acres are usually allowed to subdivide at least one lot, as long as lots meet the minimum required standards (i.e. setbacks, area, width, etc.). Since farming is usually not viable with less than 10 acres of land, existing tracts of that size have been allowed to subdivide more than one lot.

Advantages

1. Preserves most of the original farm tract to allow future agricultural activities.
2. Allows landowners to determine the number of non-farm lots to be developed based on the area of the original tract and percentage requirements.
3. Retains the agricultural character of the region if a low percentage is set.

Disadvantages

1. Administration of this method requires record keeping and monitoring of each tract in the zone.
2. Existing small tracts of land (10-20 acres) that are difficult to farm and may be more appropriate for the residential market could be restricted from subdividing based on the percentage requirements.

Area-Based Agricultural Preservation Zoning

This is the most common type of agricultural Preservation Zoning in the region. It is extensively used in York and Lancaster counties. The two municipalities in Cumberland County that have adopted Agricultural Preservation Zoning use this method.

The area-based method specifically regulates the number of dwellings that can be built based on the area of the original tract. Unlike traditional zoning ordinances that require a certain amount of acreage per dwelling, the area-based method specifies the number of dwellings per acreage. For example, a tract that is between 5-15 acres in size may be permitted to subdivide two non-farm lots. The amount of dwellings per acreage can vary from one ordinance to another. A major feature of this method is that new dwellings must be built on small building lots (1-2 acres) in order to leave large areas intact for agricultural use.

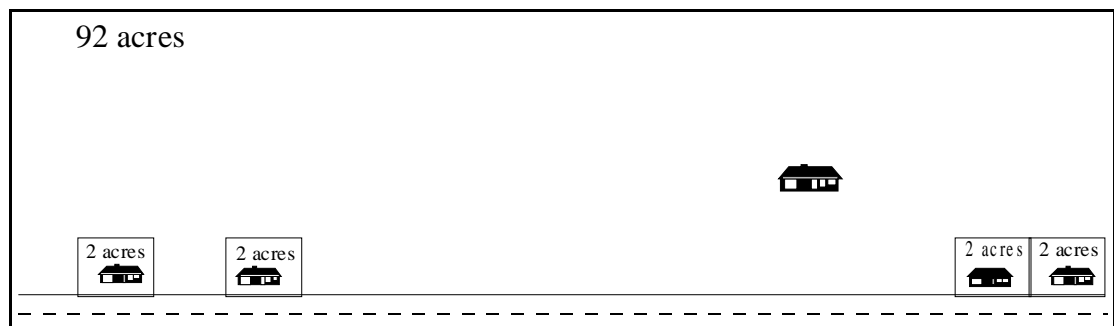
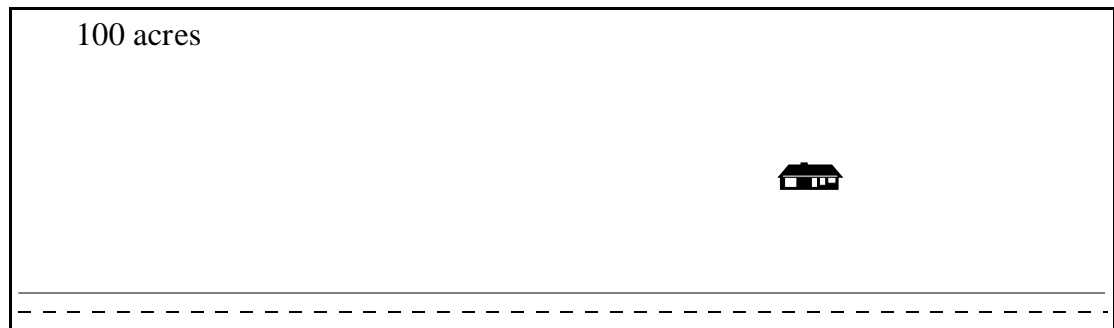
There are two methods of area-based Agricultural Preservation Zoning - the fixed scale and the sliding scale.

1. **Fixed Scale Area-Based**

The Fixed Scale method allows one dwelling unit for a specified number of acres. For example, an ordinance could allow one dwelling for every 25 acres of the original tract. A 110 acre farm would be permitted to subdivide four non-farm lots.

Fixed Scale APZ

Size of Tract	Number of Dwellings Permitted
at least / less than	
25 - 50	1
50 - 75	2
75 - 100	3
100 - 125	4
125 - 150	5
150 and over	6 plus 1 per each 25 acres over 150



Existing lots of less than 25 acres are usually allowed to subdivide at least one non-farm lot.

If the number of acres specified per dwelling is small, some ordinances have allowed more than one non-farm lot be subdivided from a small existing lot. For instance, if one dwelling was permitted for every 10 acres of land and the existing lot was only eight acres, the ordinance may permit more than one non-farm lot be created. This action may be appropriate since the existing eight acres is not viable as a farm.

Municipalities in different regions have addressed this issue of small existing (non-conforming) lots in different ways. Generally, though, all permit at least one additional lot be subdivided. For example, East Hanover Township's draft ordinance proposes 20 acres per dwelling and up to two dwellings permitted on existing lots less than 20 acres. Lancaster County's model Agricultural Zoning District requires one dwelling per 50 acres and allows only one dwelling for existing lots that are less than 50 acres.

Advantages

1. Preserves most of the original tract to allow future agricultural activities.
2. The concept is easy to understand.
3. The fixed number of dwellings per acreage provides an equitable method for landowners to subdivide.
4. Retains the agricultural character of the region.
5. The best farmland soils can be preserved by requiring dwellings to be located on poorer soils.

Disadvantages

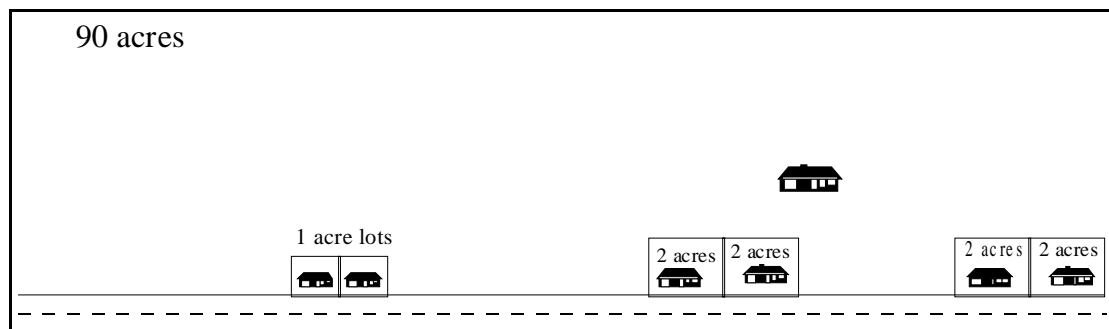
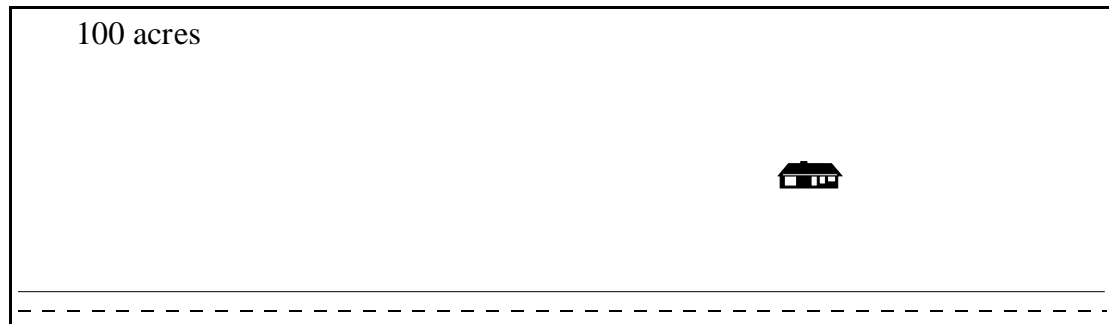
1. Administration requires record keeping and monitoring of each tract in the zone to determine when landowners reach their limit of permitted dwellings.
2. Existing small tracts of land which may be more appropriate for residential development are restricted as to the number of lots that can be subdivided.

2. **Sliding Scale Area-Based**

The sliding scale method also bases the number of permitted dwellings on the amount of acreage owned, but it requires more acreage per dwelling for larger tracts than for smaller ones. For example, a 10

acre tract may permit two dwellings while a 50 acre tract permits four dwellings. An example of a sliding scale ordinance is the one adopted by Shrewsbury Township, York County.

Shrewsbury Township - Sliding Scale	
Size of Parcel	Number of Dwellings Permitted
0-5 acres	1
5 - 15 acres	2
15 - 30 acres	3
30 - 60 acres	4
60 - 90 acres	5
90 - 120 acres	6



The rationale behind this method is to allow more non-farm development to take place on existing small lots because they are difficult to farm. It is concluded that these small tracts have passed out of the agricultural land market and into the residential market.

Many variations of the sliding scale method occur from one

ordinance to another, based on the particular circumstances of the municipality. The following are examples in the South Central Pennsylvania region:

Peach Bottom Township, York County	
Size of Tract	Number of Dwellings Permitted
0 - 7	1
7 - 30	2
30 - 80	3
80 - 130	4
130 - 180	5
180 - 230	6
230 - 280	7
280 - 330	8

Silver Spring Township, Cumberland County	
Size of Tract	Number of Dwellings Permitted
2 - 20	2
20 - 40	3
40 - 60	4
60 - 80	5
80 - 100	6
100 - 120	7
120 - 140	8
140 - 160	9
160 - 180	10

Lower Mifflin Township, Cumberland County	
Size of Tract	Number of Permitted Non-farm Single Family Lots
0 - 5	1
6 - 10	2
11 - 20	3
21 - 30	4
31 - 40	5
41 - 50	6
51+	1 per each 10 acres

Advantages

1. Preserves most of the original farm tract to allow future agricultural activities.
2. Allows owners of small tracts to subdivide their lots for an economically beneficial use where farming is less feasible.
3. Retains the agricultural character of the region.
4. The best farmland soils can be preserved by requiring dwellings to be located on poorer soils.

Disadvantages

1. Administration requires record keeping and monitoring of each tract in the zone to determine when landowners reach their limit of permitted dwellings.
2. Owners of large tracts may feel penalized because they are not permitted the densities of owners of smaller tracts.

Exclusive Agricultural Use Zoning

This method is a less common type of agricultural zoning, in which only farming and related uses are allowed. It prohibits non-farm residential development and construction of farm housing is governed by the needs of the farming families.

Exclusive Agricultural Zones usually include the following key elements to be successful:

1. Allow only uses that are agricultural, supportive of agriculture, or commercial

- forestry. It allows no other by-right principal uses.
2. Impose a large minimum lot area for all uses - at least 40 acres per farm.
 3. Any newly created non-farm use must include right-to-farm covenants in deeds which would absolve farmers from legal actions over nuisances of farming operations.

The obvious advantage to this method of zoning is that the entire farm tract is preserved for future agricultural activities. Also, any prime farmland soils on the tract are preserved and can continue to be used for its highest and best use. Although this method is the best in preserving farmland, it is usually unpopular among landowners because of the restrictions placed on land use and subdivision. As a result, few municipalities have adopted such regulations.

Additional Provisions of an Agricultural Preservation Zone

There are other important provisions that Agricultural Preservation Zoning ordinances can include to increase the probability that farmland will be preserved.

Purpose Statement

In the beginning of the Agricultural Preservation section of the zoning ordinance, the reasoning behind the zone should be explained in a purpose statement. The purpose statement should reinforce the vision and policy statements in the Comprehensive plan. It should include a statement noting the fertile land and a viable farm industry in the municipality. In addition, it should state that the agricultural zone has been specifically designed to protect farmland as a non-renewable resource for future generations. The purpose statement can be helpful in guarding against legal challenges. It can also be used as a guide by municipal officials when making decisions on zoning changes.

Minimum size farm lot

This provision is intended to prevent the creation of lots that are too small to be farmed by themselves. It sets a minimum lot size for any proposed agricultural use so that a large farm may be subdivided into smaller parcels, as long as its use remains agricultural. This minimum parcel size is sometimes referred to as a farm core and its size can vary from one municipality to another. The farm core is the part of the farm that is most efficient to operate and has the most permanence.

A comparison of minimum lot sizes of different municipalities demonstrates the wide range that has been adopted. Silver Spring Township sets their minimum agricultural lot size at 10 acres while Shrewsbury Township requires a 50 acre minimum. The model Agricultural Zoning District, developed by the Lancaster County Planning Commission and Agricultural Preserve Board, proposes 25 acres as a minimum agricultural lot size.

Maximum size non-farm lot

Most ordinances require a minimum lot size based on the area needed for on-site

sewerage disposal or the desire to avoid high density development. The goal, though, in Agricultural Preservation Zoning is to retain the best land for production. To accomplish this goal, most area-based APZ ordinances require a maximum lot area for new dwellings as well as a minimum. Maximum lot sizes are generally set at two acres.

Site Design Guidelines

The intent of these guidelines is to ensure non-farm construction is placed in areas that are least disruptive to agricultural activities. For example, provisions could require that new dwellings be constructed on the least fertile soil on the property. Guidelines could also be used to preserve the rural character of the region. They may prevent development along ridges or in the middle of fields and encourage new houses in clusters or adjacent to existing development.

East Drumore in Lancaster County uses site design guidelines in their Agricultural District. They have adopted a fixed scale method to limit the number of dwellings on a farm tract. Any new dwellings located on soils with the classifications of IV, V, VI, VII, and VIII are considered permitted uses. New dwellings located on I, II, or III soil classifications are considered special exceptions and are subject to that review process.

Setbacks in Residential Zones

Some ordinances require larger setback distances in residential zones when they abut an agricultural zone. For instance, a residential zone may require a 100 foot setback from an agricultural zone. This protects new residents from insecticides, and other sprays, and reduces the probability of complaints from new residents.

Intensive Agricultural Operations Setbacks

A greater setback, such as 500 feet, should be provided between an intensive agricultural operation and an adjacent property line. Setbacks between these operations and adjacent residential zones have been set as high as 1000 feet.

Agricultural Nuisance Notice

Many ordinances require that buyers of land in an agricultural zone be notified that agriculture is the primary economic activity in that zone. The notices clearly state that residents may experience inconvenience or discomfort from agricultural practices such as noise, spraying of pesticides, odors, and flies.

The Agricultural Nuisance Notice is usually placed on the subdivision or land development plan at the time of review, and may be recorded on the deeds of new homes. This disclaimer helps ensure that people who purchase homes in the zone will accept the inconveniences associated with agricultural activities. It also helps farmers build a legal defense if they are sued for creating a nuisance.