



**PennState Law**

Center for Agricultural  
and Shale Law





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# Municipal Law & Zoning

**for Agritourism / Agritainment, Specialty Crop Processing & Sales**



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**Legal Planning for Specialty Crop Producers:  
Understanding Liability Protections, Regulatory Processes, and  
Other Legal Risks**



# Housekeeping

- Webinar is being recorded
- Access to recording available to all registrants
- Q&A
- Materials available on website



## Center Staff

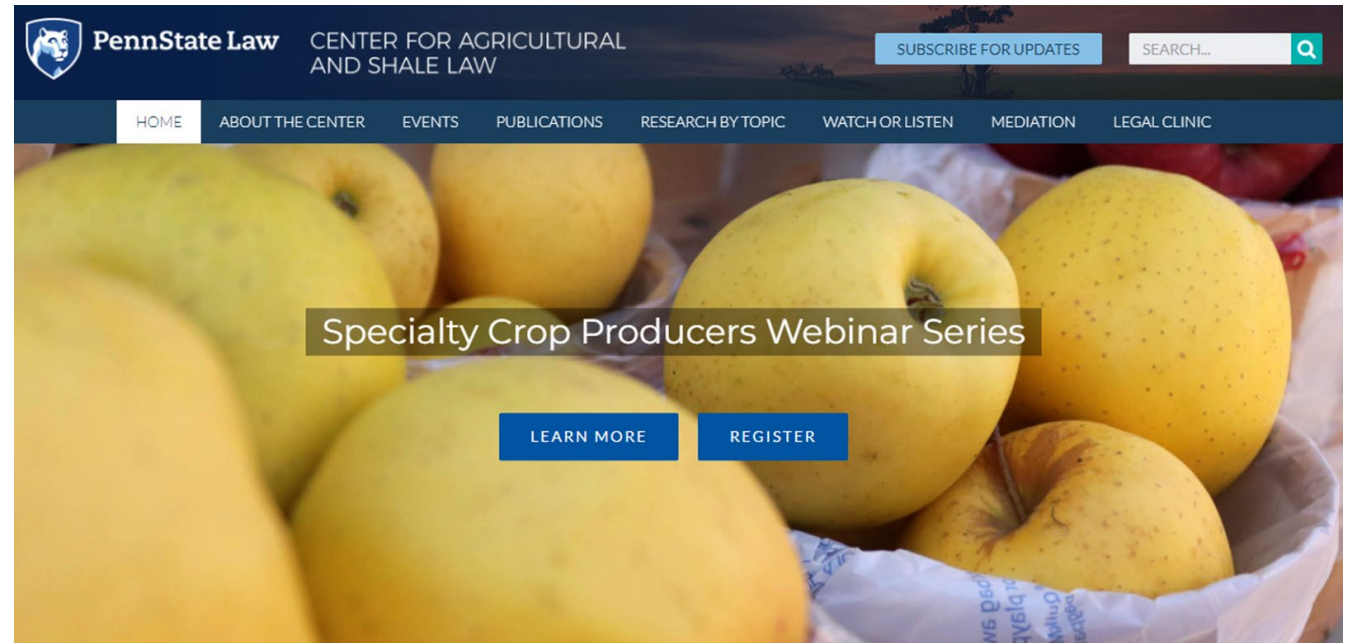
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- **Brook Duer, Staff Attorney**
- **Chloe Marie, Research Specialist**



# Ag Law Center Website Resources

<https://aglaw.psu.edu>

- Agricultural Law Weekly Review
- Agricultural Law Virtual Resource Rooms
- Agricultural Law Tracker
- Shale Law Tracker
- Agricultural Law Podcast
- Social Media
  - Twitter, Facebook, LinkedIn
- Videos/Presentations
- PA Ag Mediation Program



## Agricultural Law Weekly Review

[SEE ALL AGRICULTURAL LAW WEEKLY REVIEWS >](#)

### Agricultural Law Weekly Review—Week Ending January 21, 2022

Pesticides/Herbicides: 'Pure' Honey Label May Be Deceptive Due to Pesticide Residue On January 13, 2022, the U.S. District Court for the Eastern District of New York issued an order denying in part honey maker Sioux Honey Association Cooperative's motion to dismiss a claim against it alleging deceptive business practices, false advertising, and unjust enrichment because the company's SueBee brand honey was labeled with the words "Pure" or "100% Pure" when the honey contained trace amounts of glyphosate. *Scholder v. Sioux Honey Association*, No. 2:16-cv-05369. Sioux Honey





# Pennsylvania Agricultural Mediation Program

## Who can request mediation?

### USDA-related issues:

- Agricultural Loans
- Wetlands determinations
- Compliance with farm programs, including conservation programs
- National organic program established under the Organic Foods Production Act of 1990
- Agricultural Credit
- Rural water loan programs
- Grazing on National Forest System land
- Pesticides

### Non-USDA issues:

- Land and Equipment Lease issues.
- Family farm transition.
- Farmer-neighbor disputes.
- As approved by PA Secretary of Agriculture



## Contact us:

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[AgMediation@PennStateLaw.psu.edu](mailto:AgMediation@PennStateLaw.psu.edu)

Website: [www.PAAgMediation.com](http://www.PAAgMediation.com)





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## **Legal Planning for Specialty Crop Producers: Understanding Liability Protections, Regulatory Processes, and Other Legal Risks**

*A multi-part 2022 educational series to assist Pennsylvania specialty crop producers successfully augment wholesale sales revenue with income from direct sales, pick-your-own, value-added commodity processing, or agritourism, agritainment & educational activities, Penn State Law's Center for Agricultural and Shale Law is conducting an educational series of workshops and webinars over the coming year about the prevention and planning necessary to best avoid contractual, tort, and regulatory liabilities in conducting income-augmenting activities.*

**Visit our website at [aglaw.psu.edu](http://aglaw.psu.edu) for registration and details.**

### *Topic #1*

## **Legal Liability Risks from Business Invitees on the Farm**

This topic will examine the ways in which legal liability can arise from the care, custody, and control of real estate upon which visitors are invited for the purpose of doing business with a specialty crop producer, as well as liability insurance coverage, waivers, etc.

- Wednesday, Mar. 9, 2022, 12 noon, via Zoom. Register at [aglaw.psu.edu](http://aglaw.psu.edu)

### *Topic #2*

## **Legal Liabilities in Selling Raw and Processed Specialty Crop Products**

This topic will educate producers on the various theories of contractual, warranty, and common law legal liabilities, including “products liability,” that can arise from the production and sale of both raw agricultural products and value-added processed products, as well as how insurance may protect against such claims.

- Wednesday, Mar. 23, 2022, 12 noon, via Zoom. Register at [aglaw.psu.edu](http://aglaw.psu.edu)

### *Topic # 3*

## **Business Structures for Operational Resilience and Liability Avoidance**

This topic will review the various forms of business entity structures that may be employed by specialty crop producers, the attributes and pros and cons of each, the formalities that must be followed to maintain financial and legal liability protections.

- Wednesday, Apr. 6, 2022, 12 noon, via Zoom. Register at [aglaw.psu.edu](http://aglaw.psu.edu)

**Spring  
2022  
Sessions**



#### *Topic #4*

### **Licensing and Regulatory Obligations in Selling Raw and Processed Specialty Crop Products**

This topic will educate producers on the state laws and county/municipal ordinances that regulate the activity of producing and selling foods for human consumption, including health/food code licensing requirements for the storage, production and sale of food, sales tax licensing and collection, and other regulatory requirements that may apply in particular contexts, venues, or jurisdictions.

- Wednesday Nov. 16, 2022, 12 noon, via Zoom. Register at [aglaw.psu.edu](http://aglaw.psu.edu)

#### *Topic #5*

### **Municipal Law & Zoning for Agritourism / Agritainment, Specialty Crop Processing & Sales**

This topic will provide producers an understanding of local municipal government requirements and procedure for permits and approvals that may be required for agritourism, agritainment, processing, and sales activities conducted in conjunction with the production of specialty crops.

- Wednesday, Nov. 30, 2022, 12 noon, via Zoom. Register at [aglaw.psu.edu](http://aglaw.psu.edu)

#### *Topic #6*

### **Statutory Protections/Restrictions: Understanding PA's Ag Area Security, Right-To-Farm, ACRE, and Clean & Green Laws for Specialty Crop Producers**

This topic will instruct producers on how to understand the scope of, and potentially employ, the various statutory protections in Pennsylvania law for agricultural operations, and frequently also available in other jurisdictions. It will also examine business operation limitations that arise from voluntary enrollment in governmental benefit programs which seek to preserve agricultural uses of land.

- Wednesday, Dec. 14, 2022, 12 noon, via Zoom. Register at [aglaw.psu.edu](http://aglaw.psu.edu)

**Fall  
2022  
Sessions**



**December 16, 2022**, from 12 noon – 1:00pm ET

**Understanding the Basics of Licensing & Regulation of Direct Agricultural Product Sales**

**January 27, 2023**, from 12 noon – 1:00pm ET

**Understanding the Basics of Agricultural Finance**

Questions? Email Jackie Schweichler: [jks251@psu.edu](mailto:jks251@psu.edu)



# Thanks to our Partners

This presentation was created as part of the  
Pennsylvania Specialty Crop Block Grant Program



**Agricultural  
Marketing  
Service**



**pennsylvania**  
DEPARTMENT OF AGRICULTURE

Specialty Crop Block Grant Program





# **Specialty Crop Producer Survey**

**Please complete survey at the end of this  
presentation**





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# Municipal Law & Zoning

for Agritourism / Agritainment, Specialty Crop Processing & Sales

*Topic #5*

*November 30, 2022*



**PennState Law**

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**Legal Planning for Specialty Crop Producers:  
Understanding Liability Protections, Regulatory Processes, and  
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# Recap: “Liability” Prevention is the Goal

- **Civil Liability**
  - Claim or lawsuit brought by a private party
  - Usually based upon a contract or “tort” liability, e.g. negligence
  - Remedy: pay the injured party (sometimes an injunction)
- **Criminal Liability**
  - Brought by the state
  - Public wrong that is made a crime by legislature
  - Remedy: jail, pay a fine, etc.
- **Regulatory Liability**
  - Failure to follow regulations from government re: a property or business
  - Fines, correct the conduct, “injunctive relief” (“cease and desist” order)



# Example

Farmer A operates a pick your own strawberry operation. A chronically leaking manure pit discharges into the strawberry fields and contaminates the soil and strawberries and several customers become ill.

- Could there be a civil liability?                      Yes.
- Could there be a regulatory liability?                  Probably.
- Could there be a criminal liability?                    Very, very rare.

(Example: Peanut Corporation of America contaminated factory case.)

**Today's Q: Is this a permitted activity at this site?**



# Forms of Regulatory Liability

- Last week: Licenses/Registration required for food processing/storage/sales from the entity enforcing food code/food safety requirements.
- This week: **Local permitting (primarily zoning)** for the operation of supplemental income generating activity(s) at the farm/home location.

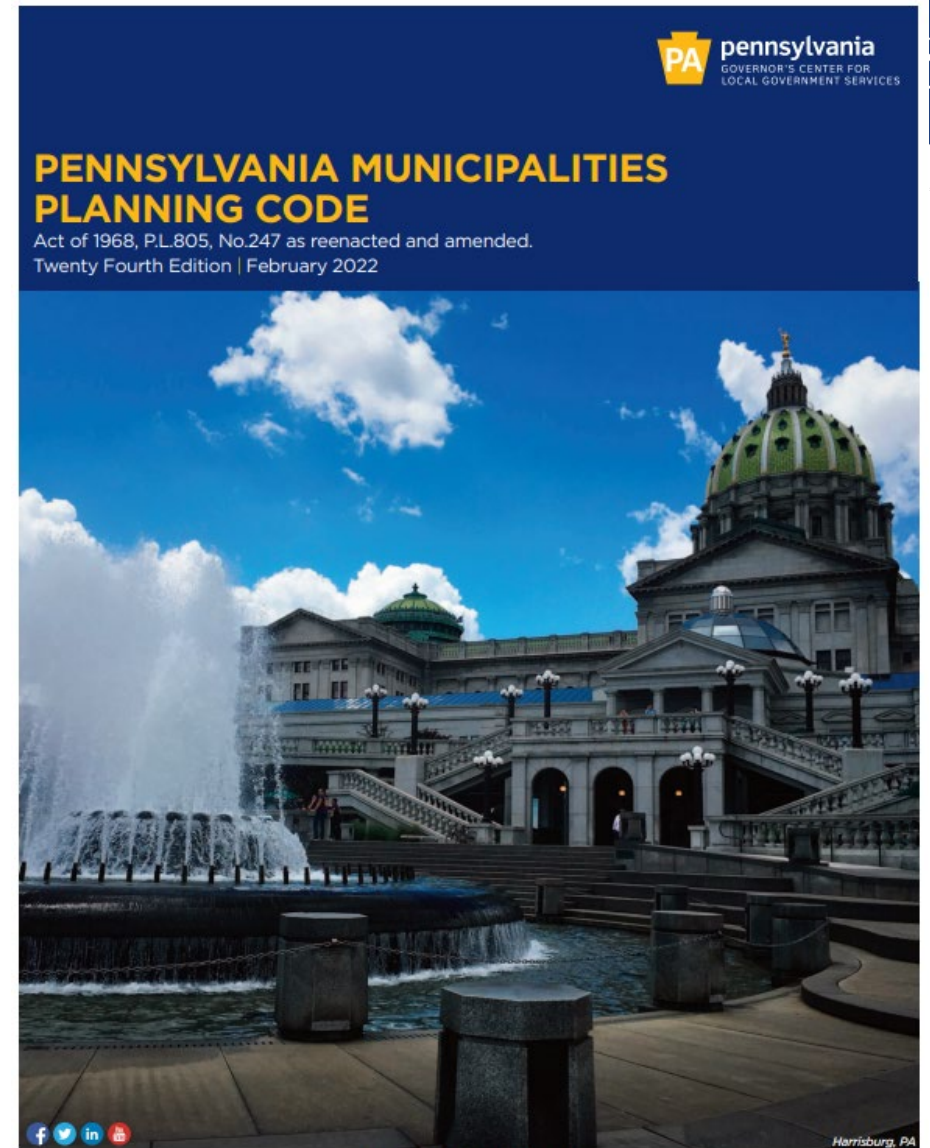




# Resources & Background

## PA Municipalities Planning Code

– The law that authorizes local municipalities (counties, cities, townships, boroughs) to **enact, administer and enforce zoning ordinances** (as well as some other ordinances such as subdivision and land development ordinances).





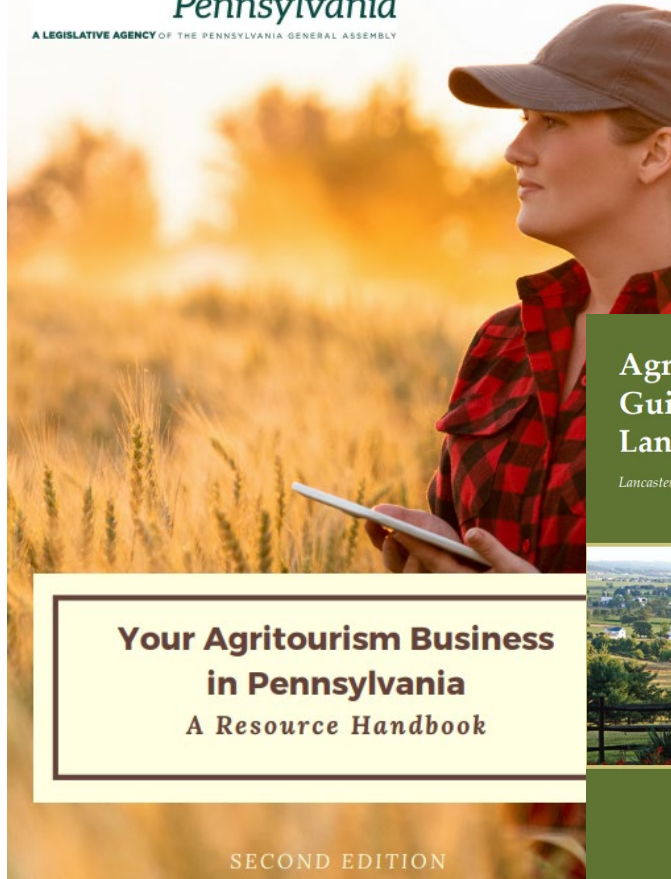
*Pa.Gov*

**Business One-Stop Shop**: Includes a **municipal permitting & zoning entity search** function by address.

*Center for Rural Pennsylvania*  
**Your Agritourism Business in Pennsylvania – A Resource Handbook**

*Lancaster County Planning Commission*  
**Agritourism Guidelines for the Promotion and Regulation of Farm-based Tourism Enterprises**

**Agricultural Zoning District Guidelines for Lancaster County, Pennsylvania**



## Agritourism Guidelines

For the Promotion and Regulation of Farm-based Tourism Enterprises

Lancaster County, Pennsylvania



### Agricultural Zoning District Guidelines for Lancaster County, Pennsylvania

Lancaster County, Pennsylvania

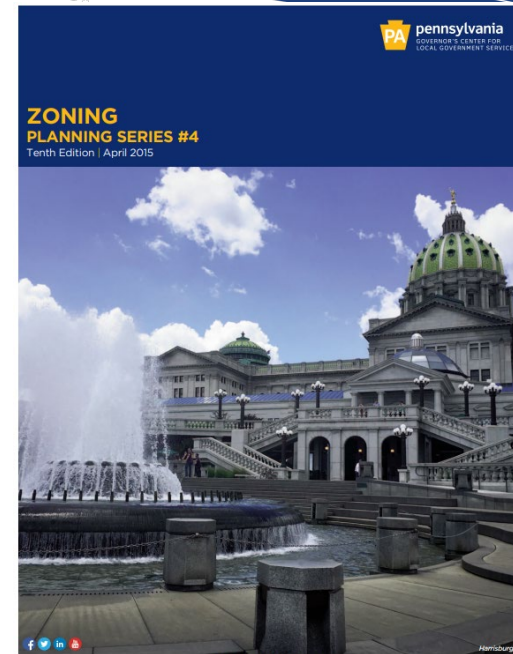




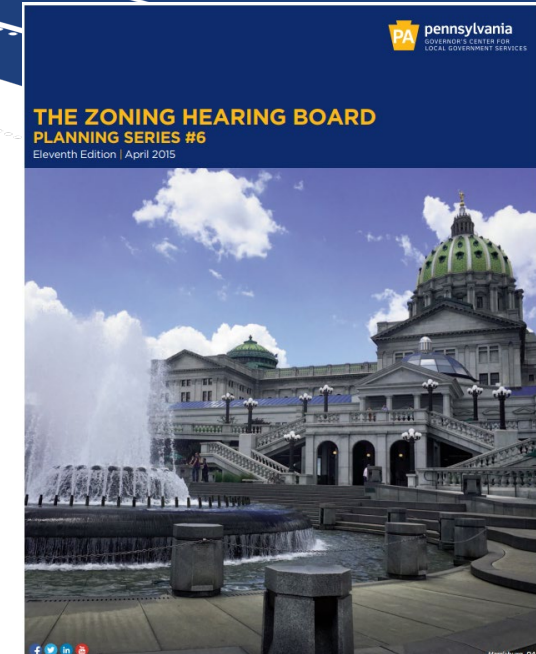


# PA Local Gov. Services Publications

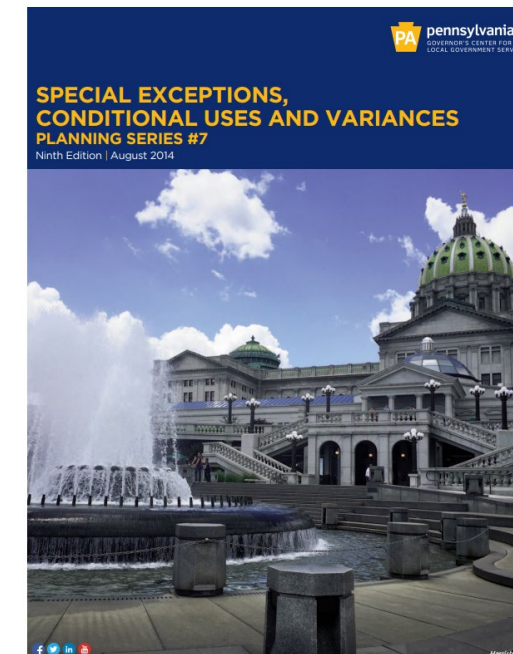
- Zoning
- The Zoning Hearing Board
- Special Exceptions, Conditional Uses and Variances
- The Zoning Officer (not pictured)
- Planning for Agriculture



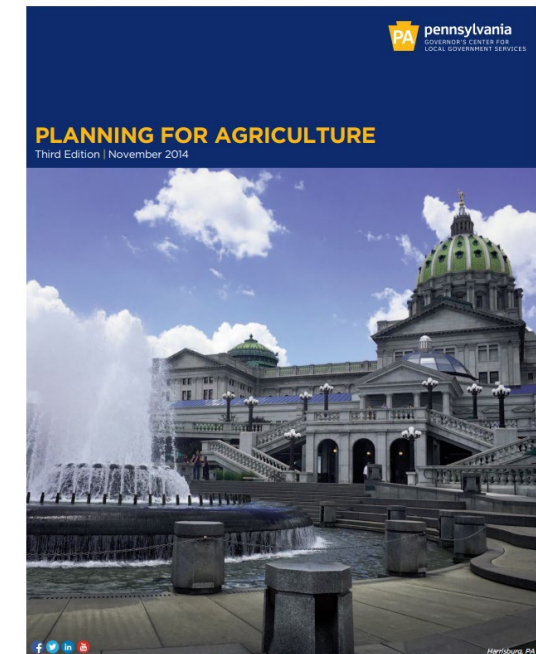
Commonwealth of Pennsylvania  
PA Department of Community & Economic Development | dced.pa.gov



Commonwealth of Pennsylvania  
PA Department of Community & Economic Development | dced.pa.gov



Commonwealth of Pennsylvania  
PA Department of Community & Economic Development | dced.pa.gov



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PA Department of Community & Economic Development | dced.pa.gov



# **Municipal Ordinances/Local Requirements**

- 1. Zoning** – is the use permitted?
- 2. Uniform Construction Code (UCC)** – is any structure utilized sufficient for occupancy by the public?
- 3. Subdivision and Land Development Ordinance (SALDO)**
- 4. Stormwater Management Act (SWA)**





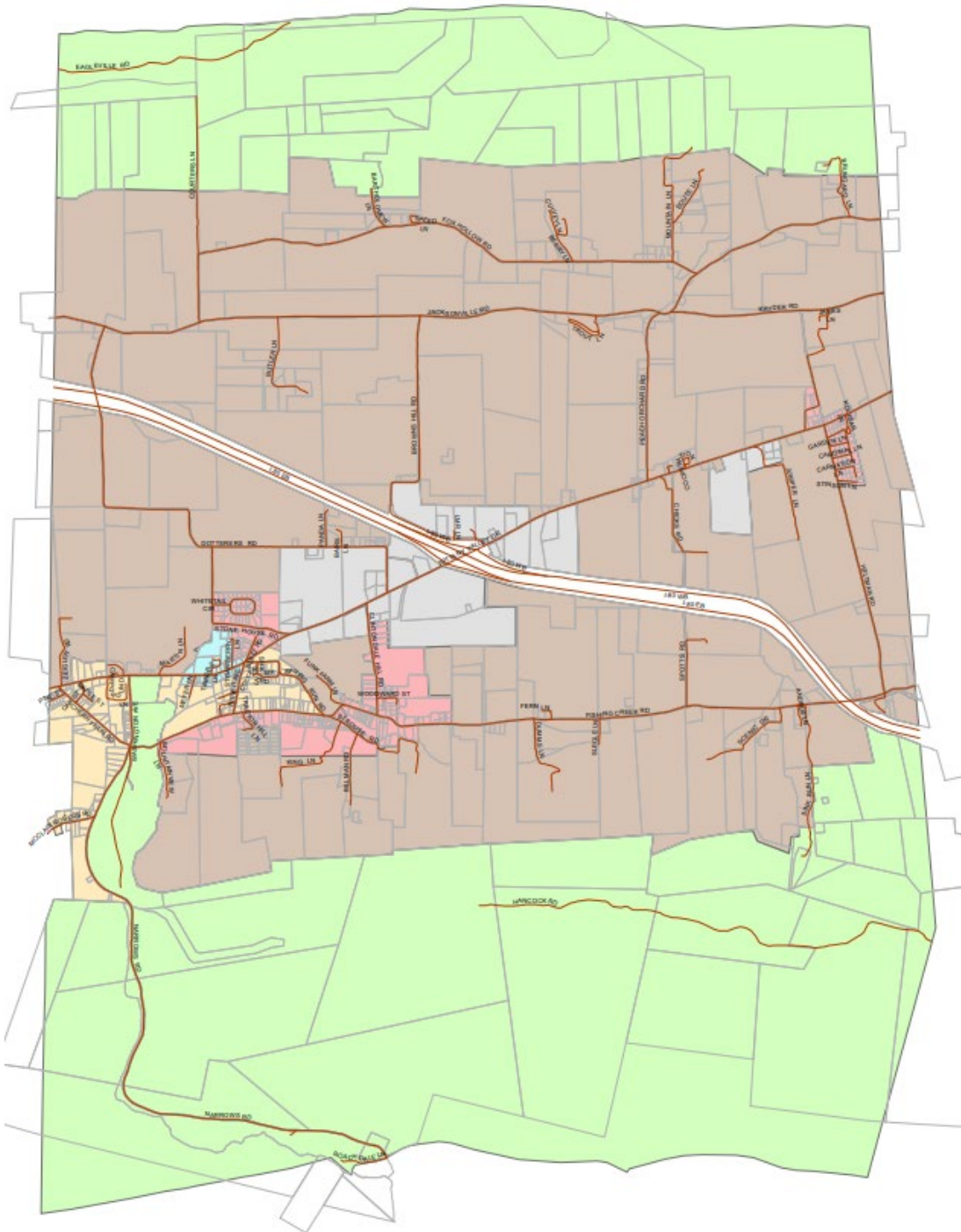
# ZONING

- The regulation of *land uses & their requirements*.
- Municipalities Planning Code – **MPC** controls entire process.
- A buried “nugget” in the “Purpose of Act,” MPC Section 105:  
“to ensure that municipalities enact zoning ordinances that facilitate the present and future economic viability of existing agricultural operations in this Commonwealth and do not prevent or impede the owner or operator’s need to change or expand their operations in the future in order to remain viable; . . .”

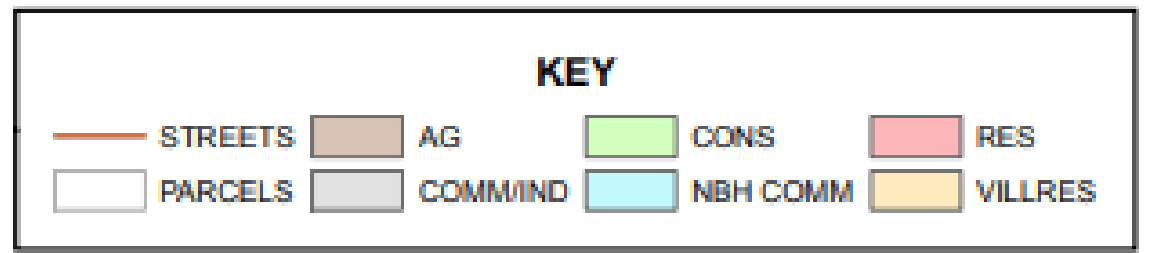


# Steps to understand your land's zoning reqs.

- Township's current adopted **Official Zoning Map**.
- Identify the **Zoning District** in which located.
- List of "**Permitted Uses.**" (*"permitted by right"*)
- Uses can also be allowed by "**Special Exception,**" and "**Conditional Use.**"
- "**Dimensional regulations**" - may be deviated from by granting of a "Variance."
- Objective: Zoning Officer issues a "**zoning permit**" approving your use, and all it entails, at this location. Terminology can vary.



# Example of a ZONING MAP





# ZONING DISTRICTS

- Terminology can differ and the formal name of the districts is irrelevant.
- The list of permitted uses and what uses are not permitted by right, but by other means (special exception or conditional use), defines a district.
- Uses themselves are defined in the Definitions section.





## Definitions: “Agriculture”

- Zoning ordinances can define “Agriculture” as a use differently. Must consult the ordinance. No state-wide definition for zoning purposes. All other uses are also defined in Definitions section.
- Ordinance Example: “Agriculture – the use of land for farming, dairying, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce and equipment for housing and feeding the animals and housing the equipment. The use of land for a dwelling site is not an agricultural purpose.”



# MPC Definition of “Agricultural Operation”

**"Agricultural operation,"** an enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

***Compare to Right to Farm Law (which has become somewhat of a standard):***

**“Normal agricultural operation.”** The activities, practices, equipment and procedures that farmers adopt, use or engage in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities and is: (1) not less than ten contiguous acres in area; or (2) less than ten contiguous acres in area but has an anticipated yearly gross income of at least \$10,000.

The term includes new activities, practices, equipment and procedures consistent with technological development within the agricultural industry. Use of equipment shall include machinery designed and used for agricultural operations, including, but not limited to, crop dryers, feed grinders, saw mills, hammer mills, refrigeration equipment, bins and related equipment used to store or prepare crops for marketing and those items of agricultural equipment and machinery defined by the . . . Farm Safety and Occupational Health Act. Custom work shall be considered a normal farming practice.

**Note: Neither includes on-farm “marketing” of commodities.**



# “Principal” and “Accessory” Uses

- Zoning ordinances employ the concept of **farm-related businesses** conducted on site as an accessory use.
- “Businesses in the Agricultural District provide at-home employment opportunities that are intended to serve residents of the agricultural community. The business shall not become the primary use on the parcel. The primary use of the parcel shall be (1) residential or (2) occupied farm use...”
- **Farm Occupations** are “An accessory use to the primary agricultural use of a farm in which residents engage in a secondary occupation conducted on the active farm.”
- **Rural Occupations** are defined as “A commercial or industrial activity that is conducted as an accessory use to the primary residential use of a lot, which is clearly incidental and subordinate to the residential use of the lot.”



# Permitted Uses

The following **example** from Warwick Township, Lancaster County, is a good illustration of the types of uses typically permitted by right in a so-called Agricultural District.

- (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*





# Uses by Special Exception

**Example** in the Earl Township, Lancaster County, Ag District:

1. Bed and breakfast establishments (conversion of existing residential structures only).
2. Churches.
3. Commercial grain or commercial feed mills.
4. Communications towers and antennas for the purpose of facilitating communications services and attendant support structures
5. Facilities for the sale, repair, and service of agricultural equipment, vehicles, feed, or supplies.
6. Kennels, including commercial animal breeding operations.
7. On-farm occupations.
8. Outdoor recreational uses with no permanent buildings or structures.
9. Public and private schools having a total enrollment of more than fifty (50) students.
10. Retail sale of nursery and garden materials.
11. Riding school or commercial horse boarding stable.
12. Wholesale agricultural produce sales, stockyards, and buying stations.



# Use Approval by Special Exception (ZHB) or Conditional Use (Supervisors)

In addition to uses by right,

- a **Zoning Hearing Board** may approve, upon petition and after a public hearing, a use by **special exception**, with or without conditions.
- the **Township's Board of Supervisors** may approve, upon petition and after a public hearing, a petition for a use by **conditional use**, with or without conditions.
- In designating uses permitted by special exception or conditional use, the Township Board of Supervisors have **already made the determination that these uses generally are not contrary to public health, safety, and welfare**. Rather, they are permissible and legitimate uses within the zoning district. Their designation as special exceptions or conditional uses **subjects them to additional criteria and safeguards and a closer examination by a body beyond the zoning officer in granting their approval**.



# Spec. Except. & Cond. Uses (cont.)

- Special exceptions and conditional uses are usually reserved for those land uses that will have a significant impact on the zoning district or the whole community, or for those uses that necessitate additional safeguards. **These additional safeguards take the form of specific standards for special exceptions and conditional uses stated in the zoning ordinance.**
- The applicant for a special exception or conditional use is required to **demonstrate conformance with the specific standards stated in the zoning ordinance; having done so, the applicant is entitled to approval** of his or her special exception or conditional use.
- Often a zoning ordinance contains **subjective standards** as well as specific standards. However, those objecting to the application – not the applicant – bear the burden of proving that the proposed development does not conform to the subjective standards.
- And the objector must prove noncompliance with a subjective standard with credible and particularized evidence and further **prove that the proposed use will create harm greater than normal for a use of that type.**

## **Farm Related Businesses**

**PURPOSE** – Goals and Intent of Farm-Related Businesses: Farm occupations provide at-home employment opportunities that are intended to supplement family income during non-growing seasons. The farm occupation opportunity is a method which can enhance and preserve the agricultural viability of the parent tract, and should be a secondary use of part of the parent tract, and should not become the primary use on the parcel. The primary use of the parcel should remain an agricultural use. Therefore, the applicant must provide evidence that the proposed use is important to local farming and is specifically sized to primarily serve local users. Farm-related businesses shall meet the following standards and conditions:

1. **ACCESSORY BUILDINGS** – A farm related business shall be conducted either in a farm dwelling or in an accessory building (including a roadside stand).  
[Note: some municipalities may require that the farm related business only be conducted in an existing accessory building]
2. **BUILDING CONVERSION** – Any building constructed for the use of the farm occupation shall be of the nature that it can be converted to agricultural use or removed from the property if the farm occupation is discontinued.
3. **COMPATIBLE USES** – For the purposes of this Ordinance, farm occupations may involve any one of a wide range of uses, so long as the use is not incompatible with the primary agricultural use of the land. The applicant must demonstrate that the farm occupation is compatible with the rural setting and will not create nuisances for nearby residences.
4. **MAXIMUM LOT COVERAGE** – The maximum lot coverage of a farm related business shall be two (2) acres, including all structures, buildings, parking and outdoor storage, but shall not exceed a total of five thousand (5,000) square feet of building space.
5. **MINIMUM SETBACK** – Farm-related businesses shall not be located within one hundred (100) feet of any property used principally for residential purposes, any farm dwelling in separate ownership, or from any roadway.

6. **MOBILE HOMES** – No mobile home may be utilized as part of the farm related business.
7. **OUTSIDE EMPLOYEES** – No more than five (5) persons in addition to occupants of the parcel, shall be employed in the farm business.
8. **OUTDOOR STORAGE** – Outdoor storage of supplies, materials and products shall be screened from adjoining roads and properties. The display of farm equipment for sale shall be excluded from this provision.
  - a. No outside storage areas shall be located closer than ten (10) feet to any rear property line and no closer than twenty (20) to any side property line.
  - b. All such storage shall be screened from roads and residences (except from dwellings located on the parcel). Such screening shall be composed of a year round vegetative visual barrier, which shall attain a height of six (6) feet within two (2) years of planting.
9. **OWNER OCCUPANCY** – At least one owner of the farm business shall reside on the premises.
10. **PARKING** – Off-street parking and loading shall be provided in accordance with the provisions of Section 313.
11. **PERMITTED USES** – For the purposes of this Ordinance, farm related businesses may involve any of the uses satisfying the requirements of subsection 425.3
12. **RESIDENTIAL SUBDIVISIONS** – For farm parcels up to fifty (50) acres in size, while the farm related business is in operation, non-farm related residential subdivisions... will not be permitted.
13. **SIGNS** – One outdoor sign shall be permitted for a farm-related business.
14. **VEHICLE STACKING** – The length of access drive shall be of a sufficient length to accommodate the stacking of delivery and customer vehicles.
15. **VEHICLE ACCESS** – If any portions of the farm related business are not paved, the farm related business must provide a paved apron and a gravel scraping area adequate to prevent tracking of mud and manure onto any public roadway.





## PA's Uniform Construction Code (UCC)

- Any new structure, or existing structure put to a new use, into which the public is invited to enter, must be UCC compliant. A building permit is needed from the Zoning Officer for new construction or renovating structures. May also need a Construction E&S Plan if temporary earth disturbance.
- The state-wide PA Uniform Construction Code (UCC) was enacted in the mid-2000s and over the years PA has tweaked it a bit re: **two exemptions** to the kind of buildings to which it applies **in the context of a property devoted to agriculture.**
- The following slides set forth those exemptions as they appear in Pennsylvania law as of 2022. While it is possible, very few townships have adopted anything of their own different from the state-wide code.



# Agricultural Building Exemption to UCC

*Section 104. Application.*

\* \* \*

*(b) Exclusions.--This act shall not apply to any of the following:*

*(4) Any agricultural building.*

**"Agricultural building."** *A structure utilized to store farm implements, hay, feed, grain or other agricultural or horticultural products or to house poultry, livestock or other farm animals, a milk house and a structure used to grow mushrooms, agricultural or horticultural products. The term includes a carriage house owned and used by members of a recognized religious sect for the purposes of housing horses and storing buggies. The term includes a structure that is less than 1,000 square feet in size which is utilized to process maple sap. The term shall not include habitable space or spaces in which agricultural products are processed, treated or packaged and **shall not be construed to mean a place of occupancy by the general public.***

The language "a place of occupancy by the general public" means that allowing the public to enter an existing barn will require that structure to be fully UCC compliant.



# “3-sided Small Temporary Farm Market” Exemption

*Section 104. Application.*

\* \* \*

*(b) Exclusions.--This act shall not apply to any of the following:*

*(9) **No more than one structure** per parcel of land which meets all of the following requirements:*

- (i) The structure is used for the **direct, seasonal sale of agricultural commodities.***
- (ii) The structure is **open on at least 25%** of the perimeter of the structure when in operation.*
- (iii) The structure is operated by a producer whose products make up **not less than 50%** of the agricultural commodities being sold.*
- (iv) **If not located on the producer's property,** the structure is erected for **less than 180 days** of a calendar year.*
- (v) The structure has an area of **not more than 1,000 square feet.***



## Other relevant definitions in UCC

*"Producer." A person engaged within this Commonwealth or a production area within this Commonwealth in the business of producing agricultural commodities or causing agricultural commodities to be produced.*

*"Agricultural commodity." Any of the following, transported or intended to be transported in commerce:*

- (1) Agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products.*
- (2) Livestock and the products of livestock.*
- (3) Ranch-raised fur-bearing animals and the products of ranch-raised fur-bearing animals.*
- (4) The products of poultry or bee raising.*
- (5) Forestry and forestry products.*
- (6) Products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption.*





## **Stormwater Management Act (1978)**

Any exemptions for agriculture have gone away.

Obviously, stormwater management is at the heart of the efforts to reduce nitrogen, phosphorus and sediment contributions to the Chesapeake Bay and is too large an issue to cover in this webinar.

Stormwater Management Ordinances vary by municipality.

But one stormwater management issue re: agriculture use of land is small enough to address here.



# High Tunnel Exemption from Storm Water Management Plan Requirement (2018)





A high tunnel shall be **exempted from the provisions of this act** if:

1. the high tunnel or its flooring **does not result in an impervious area exceeding 25% of all structures located on the owner's total contiguous land area**; and
2. the high tunnel meets one of the following:
  - i. The high tunnel is located at least 100 feet from any perennial stream or watercourse, public road or neighboring property line.
  - ii. The high tunnel is located at least 35 feet from any perennial stream or watercourse, public road or neighboring property line and located on land with a slope not greater than 7%.
  - iii. The high tunnel is supported with a buffer or diversion system that does not directly drain into a stream or other watercourse by managing storm water runoff in a manner consistent with requirements of this act.

**Note:** Unclear if each high tunnel can be up to 25% of the impervious surface, or if the sum of all high tunnels must be  $\leq 25\%$ .

**"High tunnel."** A structure which meets the following:

1. Is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity . . . or for the storage of agricultural equipment or supplies.
2. Is constructed consistent with all of the following:
  - i. Has a metal, wood or plastic frame.
  - ii. When covered, has a plastic, woven textile or other flexible covering.
  - iii. Has a floor made of soil, crushed stone, matting, **pavers or a floating concrete slab**.

**Note:** Same definition is used for an exemption to property tax assessment in Act 114 of 2013 and Act 130 of 2013.





**Instead of an  
exemption for this:**



**The exemption also  
includes this:**







# SALDO & Land Development Plans

(SALDO = Subdivision and Land Development Ordinance)

- Each SALDO's terms vary by municipality. Very few universals.
- Consult the applicable ordinance, but the MPC does have some provisions relevant to ag uses. How these resolve can have significant financial implications.
- The threshold question of “**what qualifies as land development?**” requiring plan preparation/submission is the universal question with agricultural clients.

But first, there is also a smaller threshold question of “**what qualifies as subdivision?**” regarding leases.

- “Subdivision,” the division or redivision of a lot, tract or parcel of land **by any means** into two or more lots, tracts, parcels or other **divisions of land including changes in existing lot lines for the purpose**, whether immediate or future, **of lease**, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: **Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.**



# What Qualifies as Land Development?

## Section 107. Definitions.

“Land development,” any of the following activities:

(1) The **improvement** of one lot or two or more contiguous lots, tracts or parcels of land **for any purpose** involving:

\* \* \*

(ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, . . . leaseholds.

\* \* \*

(3) Development in accordance with section 503(1.1)

**Section 503. Contents of Subdivision and Land Development Ordinance.** The subdivision and land development ordinance ***may*** include, but need not be limited to:

(1.1) Provisions for the exclusion of certain land development from the definition of land development contained in section 107 only when such land development involves:

(ii) the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; . . .



# THANK YOU!

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