

Act 67 and 68 Updates for Zoning for Farming April 2001

Amendments to the Pennsylvania Municipalities Planning Code (Act of 1968, P.L. 805, No. 247 as reenacted and amended) made by Acts 67 and 68 in June 2000 impact the practice of agricultural zoning in the Commonwealth. While these changes do not significantly affect the information included in the Center for Rural Pennsylvania's publication, *Zoning for Farming*, a few references in the publication would be affected if instituted at this time.

The amendments to the MPC, by section, are included below. The references included in *Zoning for Farming* that may be affected by the amendments and the pages in which they are found are also included below.

AMENDMENTS BY SECTION

Section 107 (Definitions) *This is a new definition.*

“‘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.”

Section 603 (b) (Ordinance Provisions) *Amended provision.*

Noted in this amended section are references to state statutes that specifically supercede and preempt local zoning authority. Among these are: the Nutrient Management Act, regardless of whether any agricultural operation within the area affected by the zoning ordinance was a concentrated animal operation as defined in the Nutrient Management Act; The Agricultural Area Security Law, Act 43 of 1981; Act 133 of 1982, “An Act Protecting Agricultural Operations from Nuisance Suits and Ordinances Under

Certain Circumstances. (The latter statute is commonly referred to as “The Right to Farm Law.”)

Section 603 (h) *This is a new provision.*

“Zoning ordinances shall encourage the continuity of development and viability of agricultural operations. Zoning ordinances may not restrict agricultural operations or changes to or expansions 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.”

REFERENCES IN “ZONING FOR FARMING”

Page 29. The references to setback regulation of agricultural facilities found in several ordinances would probably not be permitted now because they would be preempted by the Nutrient Management Act.

Pages 64-67: Appendix G

Notes c, d, e and g on page 67 refer to features found in some agricultural zoning ordinances. These provisions would probably not be permitted now because they would be preempted by the Nutrient Management Act.

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