

PART SEVEN: MAPPED APPROACHES TO LAND USE REGULATION

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§7-1 AGRICULTURAL LANDS

§7-1-1	PURPOSE AND INTENT
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[See Commentary]

§7-1-1 PURPOSE AND INTENT

It is found that non-agricultural uses when contiguous to farmland can affect how an agricultural use can be operated, which can lead to the conversion of agricultural land to urban, suburban, or other non-agricultural use. It is a goal of the County [City] Comprehensive Plan to preserve agricultural land in the jurisdiction that is not otherwise identified in the Comprehensive Plan as necessary for development.

It is the policy of the County [City] to preserve and encourage agricultural land use and operation within the jurisdiction, and to reduce the occurrence of conflicts between agricultural and non-agricultural land uses and to protect public health, safety, and welfare.

It is the policy of the County [City] to notify applicants for building permits for buildings or land use permits for uses on non-agricultural land abutting agricultural land or operations with notice about the County's [City's] support of the preservation of agricultural lands and operations. An additional purpose of the notification requirement is to promote a good neighbor policy by informing prospective builders and occupants of non-agricultural land adjacent to agricultural lands and operations of the effects associated with residing or operating activities close to agricultural land and operations. Another purpose of this Resolution [Ordinance] is to reduce the loss of agricultural resources in the jurisdiction by limiting the circumstances under which agricultural operations on agricultural lands may be deemed a nuisance.

It is further the policy of the County [City] to require all new developments adjacent to agricultural land or operations to provide a buffer to reduce the potential conflicts between agricultural and non-agricultural land uses. By requiring a 150-foot agricultural buffer on abutting non-agricultural lands, the County [City] finds it will be helping to ensure prime farmland remains an agricultural use.

§7-1-2 DEFINITIONS

Agricultural land: Those land areas within the County [City] that are identified as agricultural on the “Official Map of Agricultural Lands and Operations.”

Agricultural operations: Any agricultural activity, operation, or facility taking place on agricultural land shown on the “Official map of Agricultural Lands and Operations,” including, but not limited to, the cultivation and the tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting, and processing of any commercial agricultural commodity, including timber, viticulture, apiculture or horticulture; the raising of livestock, fur-bearing animals, fish or poultry; agricultural spoils areas; and any practices performed by a farmer or on a farm as incidental to or in conjunction with such operations, including the legal application of pesticides and fertilizers, use of farm equipment, storage or preparation for market, delivery to storage or to market, or to carriers for transportation to market.

Official map of agricultural lands: That map, attached to and made a part of this Resolution [Ordinance], which designates agricultural lands based on data for existing land use patterns, soils, property tax assessment, or other information.

§7-1-3 OFFICIAL DESIGNATION OF AGRICULTURAL LANDS

The agricultural lands to which this Resolution [Ordinance] applies are shown on a map titled “Official Map of Agricultural Lands” which is hereby attached to and made a part of this Resolution [Ordinance].

[See Commentary]

§7-2 AGRICULTURAL USE NOTICE AND WAIVER

- §7-2-1 REQUIRED
- §7-2-2 CONTENT

[See Commentary]

§7-2-1 REQUIRED

As a condition of and at the time any land use permit, building permit, or occupancy permit is applied for on non-agricultural land abutting or within 1,000 feet of agricultural land, permit applicants shall be provided by the Land Use Officer with an “Agricultural Use Notice and Waiver.” Prior to action on the issuance of a land use permit, building permit, or occupancy permit on property abutting or within 1,000 feet of agricultural land, the applicant for said permit shall be required to sign a waiver on a form prepared by the Land Use Officer which will indicate that the applicant understands that agricultural land exists near the subject property and an agricultural operation is ongoing adjacent to his existing or proposed use which may produce odors, noise, dust, and other effects which may not be compatible with the applicant’s development. Nevertheless, understanding the effects of adjacent agricultural operations and uses on adjacent agricultural lands, the applicant agrees by executing the form to waive any objection to those effects and understands that his or her permit is issued and processed in reliance on his or her agreement not to bring any action against adjacent landowners whose property is agricultural land or an agricultural operation, or any local government, asserting that the adjacent agricultural operations or uses of agricultural land constitutes a nuisance. Any such notice or acknowledgment provided to or executed by a landowner adjoining agricultural land or agricultural operation shall be a public record.

§7-2-2 CONTENT

The Agricultural Use Notice and Waiver shall include the following information in substantially the same or similar format and content:

“You are hereby notified that the property you are proposing to use or build upon is located within 1,000 feet of agricultural land with one or more agricultural operations. You may be subject to inconvenience or discomfort from lawful agricultural operations. Discomfort and inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. One or more inconveniences may occur as a result of agricultural operations that are in compliance with existing laws and regulations and accepted customs and standards. If you live or operate a use near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. Your signature constitutes an agreement not to bring any action against adjacent landowners whose property is agricultural land or in agricultural operation, or against local government, asserting that the adjacent agricultural operation or uses of agricultural lands constitutes a nuisance.

Signature of Applicant: _____”

§7-3 AGRICULTURAL BUFFER REQUIREMENTS

- §7-3-1 PURPOSE
- §7-3-2 AGRICULTURAL BUFFERS REQUIRED
- §7-3-3 BUFFER SPECIFICATIONS
- §7-3-4 BUFFER SITE PLAN REQUIRED
- §7-3-5 BUFFER AS A CONDITION OF PERMIT
- §7-3-6 DESIGNATION OF BUFFER ON SUBDIVISION PLAT

§7-3-1 PURPOSE

To minimize future potential conflicts between agricultural and non-agricultural land uses and to protect public health, safety, and general welfare, all new non-agricultural development adjacent to designated agricultural land shall be required to provide an agricultural buffer in accordance with the provisions of this section. In addition, for the same purposes, all new poultry houses and hog pens shall be required to provide a setback and agricultural buffer in accordance with the provisions of this section.

§7-3-2 AGRICULTURAL BUFFERS REQUIRED

§7-3-2.1 Buffer Abutting Agricultural Land. Any non-agricultural use on property abutting agricultural land as defined by this Resolution [Ordinance] shall provide an agricultural buffer with a minimum width of 150 feet along all property lines abutting designated agricultural land (see Figure).

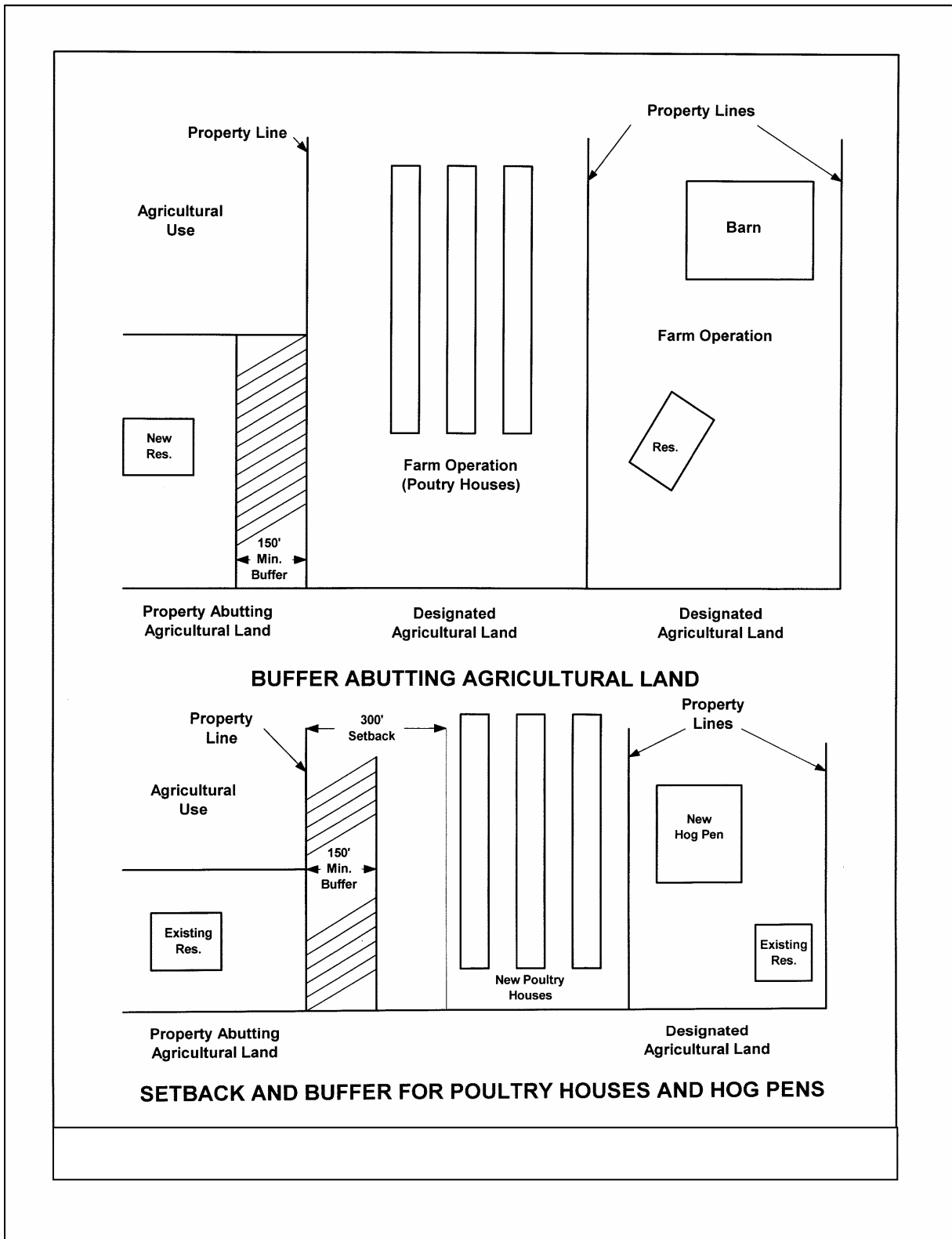
§7-3-2.2 Setback and Buffer Required for New Poultry Houses and Hog Pens. When a new poultry house is proposed to be erected or a hog pen established on property, whether designated as agricultural land or not, there shall be a building and use setback of 300 feet, including an agricultural buffer with a minimum width of 150 feet, abutting any property not designated as agricultural land pursuant to this Resolution [Ordinance] (see Figure).

§7-3-3 BUFFER SPECIFICATIONS

All required agricultural buffers shall consist of natural undisturbed areas to the extent that native plants, trees or hedge rows exist, and they shall be replanted where sparsely vegetated so that they provide a more or less opaque screen between the non-agricultural land and the agricultural land. Drainage features, determined by the Land Use Officer to be consistent with the use of the property as an agricultural buffer, may be permitted within a required buffer.

§7-3-4 BUFFER SITE PLAN REQUIRED

Any applicant for a land use permit or building permit for non-agricultural use on property abutting agricultural land as defined by this Resolution [Ordinance], or any applicant for a land use permit or building permit for a poultry house or hog pen on any property, shall submit a buffer site plan for review and approval. The buffer site plan shall include provision for the establishment, management and maintenance of the agricultural buffer. To ensure management of the agricultural buffer, the property owner may at his or her discretion dedicate the agricultural buffer as a conservation easement in favor of a land trust, provided that such easement is legally valid and an executed copy is submitted to the Land Use Officer.



§7-3-5 BUFFER AS A CONDITION OF PERMIT

The Land Use Officer shall not issue a land use permit or authorize issuance of a building permit until and unless a buffer site plan has been submitted by the applicant and approved by the Land Use Officer, and until or unless the buffer has been installed by the applicant; provided, however, that if guarantees have been made by the applicant, acceptable to the Land Use Officer, that the agricultural buffer will be installed prior to occupancy of the building or initiation of use, the Land Use Officer may issue said land use permit or authorize issuance of a building permit subject to such assurances or guarantees. It shall be unlawful to destroy, remove, selectively clear, or otherwise modify an agricultural buffer required by this section after it is established.

§7-3-6 DESIGNATION OF BUFFER ON SUBDIVISION PLAT

If a non-agricultural property which abuts an agricultural land defined by this Resolution [Ordinance] is proposed for subdivision, the subdivider shall be required to designate all land within 150 feet of a property line of an agricultural land as an agricultural buffer on said subdivision plat.