



**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING
DEPARTMENT POLICY AND PROCEDURE
Patrick Rutter, Executive Director**

**PPM # MD-RI-002
Issued: 04/01/00
Effective: 10/29/15
Revised: 08/30/17**

SUBJECT: PROCESSING BUILDING PERMIT AND ZONING APPLICATIONS FOR FARMS

AUTHORITY: Florida Statutes sections 604.50, 163.3162, 823.14, 479.11, and 193.461

PURPOSE: This PPM provides guidance to Department staff in reviewing and processing applications for building permits and zoning applications on land used for farming operations. Florida Statutes cited above limit the County's ability to regulate farming. As explained in detail below, sections 163.3162 and 823.14 prohibit the County from applying any regulations on land classified as Agricultural when those regulations duplicate implemented best management practices or regulations promulgated by several state and federal agencies. Section 604.50 exempts non-residential farm buildings, farm signs, and farm fences from the Florida Building Code and all County codes and fees, except for code provisions implementing local, state, or federal floodplain management regulations. Section 604.50 applies to signs and fences located on land classified as Agricultural and, as explained in Part 2 below, to non-residential farm buildings that are used primarily for agricultural purposes.

POLICY: In order to ensure compliance with applicable codes and observe the exemptions provided for by state law, staff will observe the following procedures.

PROCEDURE: **Part 1. Determine whether the land in question has an Agricultural Land classification.** As outlined below, in almost all instances, the limitations on local government's regulatory authority covered in this PPM apply only on lands classified as Agricultural under Fla. Stat. §193.461, by the Palm Beach County Property Appraiser. In order to receive the protections of the Right to Farm Act exemptions, applicants must demonstrate that the property in question is classified Agricultural, under Florida Statutes §193.461. PZB staff shall verify this information independently by contacting the Property Appraiser's Office, or by performing a check of the Property Appraiser's website. In some instances, only a portion of a given parcel is classified Agricultural. In such cases, staff shall ensure that the proposed development will occur on the part of the parcel with an Agricultural classification before exempting the property from the local government regulations at issue. Proposed development activity on land that does not have an Agricultural classification is subject to the Florida Building Code and all local regulation, with one important exception:

Section 604.50 applies to non-residential farm buildings, as defined below, whether the building is located on land classified as agricultural or not. If an application does not include non-residential farm buildings, farm signs, or fences, skip to PART 3 of the Policy and Procedure section.

PART 2. Non-Residential Farm Buildings, Farm Signs, and Farm Fences

Reference: section 604.50, Florida Statutes

Applications that include construction of non-residential farm buildings, farm signs or farm fences, whether part of a larger application or not, will be evaluated and processed as follows:

Non-Residential Farm Buildings- this structure can be any temporary or permanent building or support structure on a farm that is used primarily for agricultural purposes and is not intended to be used as a residential dwelling. Examples include but are not limited to a barn, greenhouse, farm office, storage building or poultry house. A non-residential farm building does not have to be located on land classified as agricultural in order for these exemptions to apply, but the structure does have to be on lands used for bona fide agricultural purposes. According to state law, "bona fide agricultural purposes" means, "good faith commercial agricultural use of the land." A building that meets this description is exempt from the Florida Building Code and every County regulation and fee except for code provisions implementing local, state, or federal floodplain management regulations. In order for these exemptions to apply, applicants must complete and submit the Non- Residential Farm Building Application and Affidavit.

Farm Signs – these are signs located on land classified as Agricultural, that are erected, used or maintained by the owner or lessee of the farm which relate solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the farm. These signs are also exempt from the Florida Building Code and every County regulation and fee except for code provisions implementing local, state, or federal floodplain management regulations. These signs are subject to several statutory limitations to ensure driver safety. Please refer to the specific list of prohibitions contained in Exhibit 1 to this **PPM**. Staff's role in reviewing farm signs is limited to floodplain management issues and any prohibitions contained in Exhibit 1.

Farm Fences - these are fences located on land classified as Agricultural and are likewise exempt from the Florida Building Code and every County regulation and fee except for code provisions implementing local, state, or federal floodplain management regulations.

Building Division Procedure: Staff will enter the application into ePZB as an Agricultural Facilities Review Application. Upon determination that a structure, sign, or fence is exempt, staff will route the non-residential farm building applications to a Building Division Plans Examiner for floodplain management regulation review, and to Fire Rescue, if the owner of the building will allow occupancy of more than 35 persons pursuant to section 633.202(16)(b)(1), Florida Statutes. For Farm Signs, the

application will also be routed to the Building Division Permit Technician to determine whether any prohibitions contained in Exhibit 1 apply. If the exemptions for non-residential farm buildings, farm fences, and farm signs do not apply, and the application does not involve land classified as Agricultural, the Florida Building Code and all local regulations apply. Where necessary, the Building Division will route any application to the Zoning Division to verify that the proposed use is consistent with use regulations in the ULDC.

PART 3. Review of applications for development on lands that have an Agricultural Classification

Reference: sections 163.3162 and 823.14, Florida Statutes

Non-residential farm buildings, farm signs, and farm fences that meet the applicable exemptions above, whether part of a larger application or not, are exempt from additional review, except for code provisions implementing local, state, or federal floodplain management regulations. Aside from these structures, applications for development activity on lands classified Agricultural require additional review to determine whether certain local regulations apply. State law prohibits the County from applying any local law regulating farming activity when the law is duplicative of an implemented Best Management Practice of a state agency (BMP), an interim measure, state regulations of the Department of Environmental Protection, the Department of Agriculture and Consumer Services, a water management district, or federal regulations promulgated by the U.S. Department of Agriculture, the Army Corps of Engineers, or the Environmental Protection Agency.

What is farming? The law broadly defines farm operation to include all activity that occurs on a farm in connection with the production of farm products. Examples of farm operation activity include, but are not limited to, marketing of produce at farm stands and farmer markets, operation of machinery, application of fertilizers, herbicides and insecticides, and the employment and use of labor. Farm products include any plant or animal, or any product derived from either, that may be useful to humans. Applicants seeking to take advantage of state law must demonstrate first that proposed development constitutes "farming" as described here.

Determining whether duplication exists. Assuming the application involves a farming operation, the applicant next must demonstrate that the activity will take place on land classified as Agricultural under Fla. Stat. §193.461. As explained above, this information shall be independently verified by PZB staff through the Property Appraiser's Office. Classification of the property under the ULDC or Comprehensive Plan as "Agricultural" is irrelevant when determining whether the property is classified Agricultural under Fla. Stat. §193.461. Finally, the applicant must produce documentation to demonstrate that the County regulation in question duplicates an implemented BMP, an interim measure, state regulations of the Department of Environmental Protection, the Department of Agriculture and Consumer Services, a water management district, or federal regulations promulgated by the U.S. Department of Agriculture, the Army Corps of Engineers, or the Environmental Protection Agency. As to BMPs, the applicant must furnish a copy of the applicant's Notice of Intent to the relevant state agency that applicant intends to comply with the BMP, where such compliance is voluntary. As to applicable

state or federal regulations, the applicant must produce the applicable regulation found in the Florida Administrative Code or Code of Federal Regulations. Applications will be routed as necessary to the Zoning Division, the Engineering Department, the Health Department, ERM, and Fire Rescue to determine whether or to what extent an exemption applies.

Unresolved issues regarding this PPM as applied to a particular application will be addressed through discussions with the Planning, Zoning and Building Executive Director.

Exhibit 1

Sign Prohibitions as derived from subsections 479.11(5) (a), and (6) through (8) Florida Statutes:

No farm sign shall be erected, used, operated or maintained:

Which displays intermittent lights not embodied in the sign, or any rotating or flashing light within 100 feet of the outside boundary of the right-of-way of any public road or which is illuminated in such a manner so as to cause glare or to impair the vision of motorists or otherwise distract motorists so as to interfere with the motorists' ability to safely operate their vehicles.

Which uses the word "stop" or "danger," or presents or implies the need or requirement of stopping or the existence of danger, or which is a copy or imitation of official signs, and which is adjacent to the right-of-way of any public road.

Which is placed on the inside of a curve or in any manner that may prevent persons using the public road from obtaining an unobstructed view of approaching vehicles and which is adjacent to the public road.

Which is located upon the right-of-way of any public road.



Executive Director

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09/10/13, 09/10/15, 10/29/15, 8/30/17

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