

ARTICLE IV
AP – AGRICULTURAL PRESERVATION DISTRICT

401 Purpose.

In accordance with the objectives of the Hereford Township and Washington Township Joint Municipal Comprehensive Plan, and the purpose statements and community development objectives set forth in Article I of this Ordinance, the AP – Agricultural Preservation District is established to promote the preservation of agricultural land as a precious, irreplaceable natural resource and to promote continued agricultural activity. The AP District is further intended to promote the preservation of the rural-agricultural landscape, characterized by both cultivated and natural open lands, which is the physical quality most apparent to residents and visitors to the Township and the most prominent aesthetic resource of the community. The regulations set forth herein are intended to achieve the following specific purposes:

- A. To permit such development that will support the value of farmland while discouraging the conversion of productive agricultural lands to non-agricultural use;
- B. To encourage the preservation of large contiguous areas of farmland and inhibit development that is detrimental to or conflicts with agricultural activities;
- C. To protect the public investment in the Township’s existing preserved farms;
- D. To support the local agricultural economy including provision for accessory uses in association with active farms which contribute to overall economic viability;
- E. To preserve open space areas which are not necessarily used for agricultural purposes, but have scenic qualities which support the rural-agricultural character of Hereford Township or have historic features that represent the heritage of the Township;
- F. To preserve the quality and quantity of the Township’s water resources, including both surface waters and groundwater;
- G. To enable potential non-farm residential development to be transferred to other, more appropriate locations within the Township through provision for severance and conveyance of transferable development rights.

402 Use Regulations.

- A. Uses permitted by right.

A building or other structure may be erected, altered, or used, and a lot may be used or occupied, for any of the following principal uses, together with permitted

accessory uses, by right in accordance with the terms of the Ordinance:

1. Agricultural uses, including horticulture, crop farming, animal husbandry, grazing and pasturing, orchards, vineyards, tree farms, commercial greenhouses, and commercial nurseries, subject to the provisions of Section 1905.
2. Forestry, where conducted in compliance with all applicable provisions of Article XVIII of this Ordinance.
3. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
4. No-Impact Home-Based Business
5. The severance or transfer of Transferable Development Rights (TDRs) under the applicable provisions set forth herein. Net Acreage previously restricted as a result of severance of TDRs shall not be used to calculate additional available TDRs
6. Winery including facilities for the processing of grapes and the production of wine.
7. One principal single family detached dwelling provided that the dwelling and its accessory buildings shall not be located within 200 feet of any structure used for housing farm animals. Where TDRs are severed, one of the originally available TDRs shall be retained for the principal single family detached dwelling.
8. Municipal use, including municipal communications facilities.

B. Uses permitted by special exception.

Within the AP-Agricultural Preservation District the following uses may be permitted by the Zoning Hearing Board as a Special Exception in accordance with the provisions set forth in Article XVI of this Ordinance. Special Exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

1. Second principal dwelling on an active agricultural property with a Net Lot Area of 10 acres or greater, subject to the standards of Section 403.C.3 below. Where TDRs have been severed, no second principal dwelling shall be permitted unless at least one of the originally available TDRs has been retained in addition to that retained for the first principal residence.
2. Accessory dwelling unit subject to the standards of Section 1902.B.4.

3. Temporary housing for farm laborers incident and necessary to the gathering of crops grown or other agricultural uses conducted on the premises, subject to the standards of Section 1905.D.
 4. A building, structure, or facility owned and used by an electric, telephone, or other public utility or other government regulated industry, but not including communications towers or communications equipment buildings.
- C. Uses permitted as conditional use.

Within the AP-Agricultural Preservation District the following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with Section 1504, the applicable standards contained in Article XIX, and any other applicable provisions of the Ordinance:

1. Conversion of agricultural structure(s) subject to the standards of Section 1912.
2. Membership club or lodge for hunting, fishing, gunning, or other similar recreational purpose.
3. Non-commercial recreational uses.
4. Commercial stable or riding academy.
5. Heliport or private landing strip.
6. Animal shelter, animal hospital, veterinary office, or kennel, subject to the standards of Section 1906. Such uses shall not be permitted on tracts from which TDRs have been severed unless sufficient Net Acreage remains unrestricted to comply with the minimum lot area requirement for the subject use. Boarding kennels, and veterinary offices that also offer boarding service with outdoor kennels or runs, shall not be permitted in the AP District.
7. Bed and breakfast or country inn, subject to the standards of Section 1908.
8. Cemetery or mausoleum, subject to the standards of Section 1909. Cemetery or mausoleum use shall not be permitted on tracts from which TDRs have been severed unless a minimum of five (5) Net Acres remains unrestricted for each such use.
9. Church or other place of worship, subject to the standards of Section 1910. Church or other place of worship use shall not be permitted on tracts from

which TDRs have been severed unless a minimum of five (5) Net Acres remains unrestricted for each such use.

10. Communications antennas, communications towers and communications equipment buildings, subject to the standards of Section 1911.
11. Public or private academic schools approved by the Pennsylvania Department of Education, but not including correctional institutions, subject to the standards of Section 1914. Public or private academic school use shall not be permitted on tracts from which TDRs have been severed unless a minimum of five (5) Net Acres remains unrestricted for each such use.
12. Any other use not elsewhere provided for in this Ordinance which is, in the judgment of the Board of Supervisors, of the same general character as the uses permitted by right, special exception or conditional use. Any other use not elsewhere provided shall not be permitted on tracts from which TDRs have been severed unless a minimum of five (5) Net Acres remains unrestricted for each such use.

D. Accessory Uses.

The following accessory uses shall be permitted, where in compliance with all applicable provisions of Article XIX and provided that they shall be incidental to any of the foregoing uses permitted by right, special exception or conditional use:

1. Private garage or private parking area.
2. Uses accessory to agricultural uses to the extent which they support the activity of the farm upon which they are located, including barns, silos, bulk bins, and other structures essential to the farm operation; farm stands; accessory dwellings and secondary principal dwelling may be permitted by Special Exception as provided herein.
3. Signs, pursuant to Section 1713.
4. Home occupation, pursuant to Section 1917.
5. Non-commercial swimming pool.
6. Other customary accessory structures and uses.

403 Area, Bulk and Development Regulations.

A. Pre-Existing Parcels with a Net Lot Area less than Three (3) Acres:

1. Use shall be limited to only one single-family detached dwelling and customary accessory residential uses.
2. Maximum Lot Coverage: 15%, except as provided below.
3. Maximum Lot Coverage may be increased to no more than 30%, where approved as a special exception subject to the following:
 - a. The sewage system shall be certified as adequate.
 - b. The Township Engineer shall certify that adequate stormwater recharge or storage facilities adequate to handle roof drainage and resolve any existing problems exist or shall be installed.
 - c. No such increase in coverage shall be permitted where any building requiring such increase shall require the installation of a sand mound or other non-conventional sewage system on a substandard lot of less than 1 acre.
4. Minimum Front Yard Setback: Fifty (50) feet
5. Minimum Rear Yard Setback: Fifty (50) feet
6. Minimum Side Yard Setbacks: Twenty (20) feet for one yard; fifty (50) feet aggregate.
7. Maximum Building Height: Thirty-five (35) feet, except as otherwise permitted by Section 1703.B.

B. Conventional Residential Development Option for Pre-Existing Parcels with a Net Lot Area less than Ten (10) Acres.

1. The use of this option shall be limited to tracts existing at the time of adoption of this Section with a Net Lot Area less than ten (10) acres.
2. The use of this option shall be limited to single-family detached residential use and customary residential accessory uses.
3. Application of Area & Bulk Regulations.
 - a. The conventional area and bulk regulations set forth in Subsection 403.B.4 below shall apply to the following situations:
 - 1) Any conventional subdivision NOT utilizing lot-averaging

- 2) Any residential lot existing at the time of adoption of this Section with a Net Lot Area greater than three (3) acres and not otherwise subject to subdivision or land development.
 - b. The lot-averaging area and bulk regulations set forth in Subsection 403.B.5 below shall apply to any conventional subdivision utilizing lot-averaging, where permitted subject to conditional use approval.
- 4. Conventional Area & Bulk Regulations
 - a. Minimum Net Lot Area: Three (3) acres.
 - b. Minimum Lot Width at building line: 200 feet.
 - c. Minimum Lot Width at street line: 200 feet, except that in the case of lots entirely fronting on a cul-de-sac turnaround, the lot width at street line may be reduced to no less than one-quarter (1/4) of the perimeter of the cul-de-sac turnaround.
 - d. Minimum Front Yard Setback: 50 feet.
 - e. Minimum Rear Yard Setback: 100 feet.
 - f. Minimum Side Yard Setback: thirty (30) feet.
 - g. Maximum Lot Coverage: 15%.
 - h. Maximum Building Height: 35 feet, except as otherwise permitted by Section 1703.B.
- 5. Lot-Averaging
 - a. Eligibility
 - 1) In consideration of conditional use approval for use of lot-averaging, each proposed subdivision shall be evaluated individually as to its impacts upon natural, scenic and cultural resources. It shall be the burden of the applicant to demonstrate to the satisfaction of the Board of Supervisors that the proposed design using lot-averaging promotes the conservation of local resources to a greater degree than would conventional subdivision design.
 - 2) Except where public or community sewage disposal acceptable to the Township is provided, all lots shall be capable of supporting individual on-lot sewage systems. Where on-lot sewage systems are proposed, each lot of the proposed subdivision shall have passed a percolation test prior to receiving subdivision approval.

- b. Minimum Average Net Lot Area Over Entire Subdivision: Three (3) acres
- c. Area & Bulk Regulations, applicable to lots resulting from a subdivision utilizing lot-averaging:
 - 1) Lots with a Net Lot Area in excess of three (3) acres shall comply with the conventional area and bulk regulations set forth in Subsection 403.B.4 above. No lot that is of sufficient size to otherwise be capable of further subdivision under the district regulations shall be included in determining the average lot area unless the possibility of such further subdivision is eliminated by a deed restriction or agreement in a form acceptable to the Township and duly recorded in the Office of the Recorder of Deeds of Berks County.
 - 2) Lots with a Net Lot Area less than three (3) acres shall comply with the following:
 - a) Minimum Net Lot Area per individual lot: One (1) Acre.
 - b) Minimum Lot Width at building line: 150 feet.
 - c) Minimum Lot Width at street line: 150 feet, except that in the case of lots entirely fronting on a cul-de-sac turnaround, the lot width at street line may be reduced to no less than one-quarter (1/4) of the perimeter of the cul-de-sac turnaround.
 - d) Minimum Yard Setbacks: All yards on lots abutting the perimeter of the tract shall comply with the conventional setbacks set forth in Subsection 403.B.4 above. All other yards shall comply with the following:
 - i. Minimum Front Yard Setback: 50 feet.
 - ii. Minimum Rear Yard Setback: 50 feet.
 - iii. Minimum Side Yard Setback: twenty (20) feet one yard, fifty (50) feet aggregate.
 - e) Maximum Lot Coverage: Twenty-five (25) percent,
 - f) Maximum Building Height: 35 feet, except as otherwise permitted by Section 1703.B.

C. Options for Parcels with a Net Lot Area of Ten Acres or Greater1. Transferable Development Rights (TDRs).

The owner of any property with a Net Lot Area of 10 acres or greater, or having a Net TDR Area of 10 acres or greater as defined in Section 703.B.1, may sever TDRs and may transfer such rights to another party as set forth in Article VII, provided that at least one available TDR is retained for each existing or future principal dwelling located on the property. Where no principal dwelling presently exists on a property from which TDRs are severed, at least one TDR shall be retained for the potential future erection of such a dwelling unless the subject property is merged in title with another property upon which a principal dwelling may be erected. Net Acreage restricted as a result of severance of TDRs may not subsequently be used to calculate TDRs nor to meet the minimum lot area for certain uses as specified herein.

2. Limited Agricultural Subdivision. Except for development under the Conservation Design Option as provided in Article VI, subdivision of any property with a Net Lot Area of 10 acres or greater, for purposes of development of principal single-family detached dwellings, shall comply with the following standards:

a. On any tract undergoing subdivision or land development for residential purposes, the total maximum number of principal residential units, including new and existing units, shall be equal to:

- 1) Two (2) units for the first six (6) Net Acres, plus
- 2) Net Tract Area in acres, less 6, X 0.1

Computations resulting in fractional numbers of units shall be rounded to the nearest whole number; fractions of one half (0.5) shall be rounded up. Net Acreage restricted as a result of severance of TDRs may apply to this computation only to the extent that a number of the originally available TDRs have been retained at least equal to the number of permitted principal residential units resulting from this calculation.

b. Each lot subdivided under the provisions of this section for a single-family detached dwelling shall be as follows:

- 1) Minimum Lot Area: 1 Net Acre.
- 2) Minimum Lot Width at building line: 150 feet.
- 3) Minimum Lot Width at street line: 150 feet, except that in the case of lots entirely fronting on a cul-de-sac turnaround,

the lot width at street line may be reduced to no less than one-quarter (1/4) of the perimeter of the cul-de-sac turnaround.

- 4) Minimum Front Yard Setback: fifty (50) feet.
 - 5) Minimum Rear Yard Setback: fifty (50) feet.
 - 6) Minimum Side Yard Setback: twenty (20) feet one yard, fifty (50) feet aggregate.
 - 7) Maximum Lot Coverage: Twenty-five (25) percent .
 - 8) Maximum Building Height: Thirty-five (35) feet, except as otherwise permitted by Section 1703.B.
- c. No single residential lot created according to the standards of this Section shall occupy more than 1.5 acres of prime farmland or farmland of statewide importance, as defined in the Soil Survey of Berks County, US Department of Agriculture, Natural Resources Conservation Service, except under the following circumstances:
- 1) To the minimum extent necessary to provide for suitable individual sewage disposal service on the same lot;
 - 2) Where otherwise approved by the Board of Supervisors as a conditional use;
 - 3) Where a housesite has been allocated to a remaining lands parcel as provided in Section 403.C.2.d, below, the 1.5 acre limitation shall not apply.
 - 4) There shall be no limitation on the area of a single residential lot occupied by soils not classified as prime farmland or farmland of statewide importance.
- d. Remaining lands.
- 1) Subdivision of residential lots according to the standards of this Section shall be configured so as to create the least practicable disruption to agricultural operations. Not more than one (1) remaining agricultural parcel shall have a Net Lot Area less than ten (10) acres and in no case shall have a Net Lot Area less than five (5) acres.
 - 2) Each remaining agricultural parcel shall be allocated one residential development right from among the total permitted number of principal residential units calculated in accordance with Section 403.C.2.a above, unless such parcel is joined in deed with another parcel with an existing principal dwelling or retaining the right to build such.

- 3) Any remaining parcel with a Net Lot Area of 10 acres or greater shall be eligible to sever TDRs as provided in Section 403.C.1 and Article VII. Parcels in the RC District created under this Section (by reference) must have a Net Lot Area of not less than 15 acres to be eligible for severance of TDRs.
 - 4) Remaining agricultural parcels with a Net Lot Area of 10 acres or greater may be eligible for a second principal dwelling as provided in Section 402.B.1.
 - 5) Remaining lands, including any subdivided agricultural parcels, shall collectively have frontage on a public street equal to or greater than forty (40) percent of the frontage of the tract prior to subdivision.
 - 6) When the maximum number of residential lots has been created from the parent tract as it existed at the time of adoption of this Section, as determined by Section 403.C.2.a above, the remaining lands, regardless of use, shall be restricted from further subdivision or development for other than agricultural or open space purposes, except as specifically provided herein, by deed restriction, conservation easement, or other agreement in a form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Berks County. Such restrictions shall not preclude such remaining lands from being leased for agricultural uses as defined by this Ordinance.
3. In addition to the principal single family detached dwelling permitted by right (referred to hereafter as the “primary dwelling”), active agricultural properties with a Net Lot Area of ten (10) acres or greater may accommodate a second principal single family detached dwelling for a total of two (2) such dwellings upon a single tract. Approval for the second principal dwelling shall be granted upon satisfaction of the following conditions.
- a. Each dwelling shall have its own independent on-site water supply and sewage disposal system. Such systems may be shared only if they are DEP-approved community systems.
 - b. The second dwelling shall not be closer than sixty (60) feet to the primary dwelling at any point. The second dwelling shall not be closer than two hundred (200) feet to any other agricultural structure at any point.

- c. The second dwelling shall comply with all applicable area and bulk requirements of this Article, including street setback and building height.
 - d. The location of the second dwelling shall be arranged so that future subdivision of the property to create a separate lot for the second dwelling could result in a lot which satisfies all applicable requirements of this Ordinance.
- D. Conservation Design Option. Subdivision and development in accordance with the Conservation Design Option shall be permitted subject to the provisions of Article VI. Net Acreage restricted as a result of TDR severance shall not be available toward any calculation of permitted residential density nor toward compliance with minimum open space requirements in any development under the Conservation Design Option.
- E. Non-Residential & Non-Agricultural Uses. The following standards shall apply to tracts or lots used for any principal use permitted by right, special exception or conditional use, not subject to any of the residential development options or provisions for prime agricultural properties set forth herein, and except where otherwise provided in this Ordinance:
 - 1. Minimum Net Lot Area: Five (5) acres, except where otherwise set forth in Article XIX, Supplemental Regulations.
 - 2. Minimum Lot Width: 200 feet
 - 3. Minimum Street Frontage: 200 feet, except that in the case of lots entirely fronting on a cul-de-sac turnaround, the lot width at street line may be reduced to no less than one-quarter (1/4) of the perimeter of the cul-de-sac turnaround.
 - 4. Minimum Front Yard Setback: 50 feet
 - 5. Minimum Rear Yard Setback: 50 feet.
 - 6. Minimum Side Yard Setback: 50 feet.
 - 7. Maximum Lot Coverage: 15%.
 - 8. Maximum building height: 35 feet, except as otherwise permitted by Section 1703.B.

404 Design Standards.

All applicable standards provided in Article XVII of this Ordinance shall apply to any use within the AP - Agricultural Preservation District.

405 Agricultural Nuisance Disclaimer.

Lands within the AP - Agricultural Preservation District are intended principally for use in commercial agricultural production, including the keeping or raising of livestock or poultry. Owners, residents, and other users of a lot may be subjected to inconvenience, discomfort, and the possibility of injury to a lot and health arising from normal and accepted agricultural practices and operations, including but not limited to: noise, odor, dust, the operation of machinery of any kind, the storage and disposal of manure, the application of fertilizers, herbicides, and pesticides. Owners, residents, and users of a lot should be prepared to accept these conditions and are hereby put on official notice that Section 4 of the Pennsylvania Act 133 of 1982, “The Right to Farm Law”, may bar them from obtaining a legal judgment against such normal agricultural operations.

