

(Model for Discussion)

TOWNSHIP OF _____
_____ COUNTY, PENNSYLVANIA

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF _____, _____ COUNTY, PENNSYLVANIA AMENDING THE TOWNSHIP ZONING ORDINANCE OF _____, AS AMENDED, AND THE TOWNSHIP ZONING MAP, AS AMENDED, TO ESTABLISH AN EFFECTIVE AGRICULTURAL PRESERVATION DISTRICT

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of _____, _____ County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

The _____ Township Zoning Ordinance of _____, as amended (the "Zoning Ordinance") and the _____ Township Zoning Map, as amended (the "Zoning Map"), are hereby further amended as specified below.

Article _____, entitled "District Regulations," of the Zoning Ordinance is hereby supplemented by adding thereto the following new Sections 400 through 400.14:

Section 400. AP - EFFECTIVE AGRICULTURAL PRESERVATION DISTRICT.

Section 400.1 SPECIFIC INTENT.

The purposes of the Effective Agricultural Preservation District are:

- To protect and promote the continuation of agriculture in areas with primary agricultural lands, per the Governor's Executive Order of October 14, 1997. Those areas being Preserved Farmland, Farmland in Agricultural Security Areas, Farmland enrolled in Act 319 of 1974 as amended (Clean and Green), and Land Capability Classes I, II, III and IV and other soils of statewide importance as defined by the Natural Resources Conservation Service.
- To support the Governor's Executive Order regarding the irreversible conversion of primary agricultural land to uses that result in its loss as an environmental and essential food and fiber resource across the State of Pennsylvania.

- To strengthen and preserve strong agricultural activity where farming is a viable component of the local economy.
- To promote agricultural land uses and activities and other uses and activities which act in direct support of agriculture.
- To protect and stabilize the essential characteristics of these areas, to minimize conflicting land uses detrimental to agriculture enterprises, and to limit development which requires highways and other public facilities in excess of those required by agricultural uses.
- To maintain, protect and stabilize agriculture as an ongoing economic activity by permitting only those land uses and activities which are either agricultural in nature or act in direct support thereof.
- To maintain the land resource base, that is, agricultural parcels or farms in sizes which will permit efficient, profitable agricultural operations.
- To keep separate agricultural land use and activities from incompatible residential, commercial and industrial development, and public facilities.
- The regulations set forth in this section seek to achieve the protection of land for agricultural purposes which is a legitimate zoning objective under the Municipalities Planning Code.
- To further Sections 603(b)(5) and 604(3) of the Municipalities Planning Code which directs that zoning ordinances contain provisions designed to "preserve prime agriculture and farmland considering topography, soil type and classification, and present use."
- To recognize that farming and agriculture activities are the highest, best, and a fully developed land use.
- To put into action the goals of the _____ Township Comprehensive Plan which contains the goal of preserving agriculture and farmlands and promoting them as a part of the local economy.
- To support the goals and land use plan of the Berks County Comprehensive Plan which determined that _____ Township is an area which needs to be preserved for agricultural uses.

Section 400.2 USES PERMITTED BY RIGHT.

The following, as a principal use, their accessory uses and no other, are permitted in the Effective Agricultural Preservation District, provided that the use, type, dimensional, and all other applicable requirements of this Ordinance are satisfied.

- a. General Agricultural Uses, subject to Section 400.8 of this Ordinance.
- b. Intensive Agricultural Uses, such as but not limited to, subject to Section 400.9 of this Ordinance.
 - (1) Swine, Dairy, Poultry, and Other Animal Agriculture - Up to _____ (3-4) animal units per acre on _____ (25-50) owned acres, and _____ (5) animal units per acre on _____ (50) or more owned acres.
 - (2) Mushroom - Up to _____ (100,000) sq. ft. of growing area on a minimum of _____ (25) acres, subject to Section _____ of this Ordinance.
 - (3) Greenhouses - Up to _____ (50,000) sq. ft. of growing area, subject to Section 400.7 of this Ordinance.
- c. Municipal use.
- d. Woodland or game preserve, wildlife sanctuary or similar conservation use.
- e. Home business, subject to Section _____ of this Ordinance.
- f. Farm-related business, subject to Section 400.6 of this Ordinance.
- g. Accessory uses and structures to the above permitted used when on the same lot as the permitted use.
- h. Single family detached dwelling, subject to Section 400.10 of this Ordinance.
- i. Animal hospital, veterinary facilities, and kennels, subject to Section 400.8(f) of this Ordinance.

Section 400.3 USES PERMITTED BY SPECIAL EXCEPTION.

The following, as a principal use, their accessory uses and no other, are permitted in the Effective Agricultural Preservation District when a special exception is granted by the Zoning Hearing Board subject to and in accordance with Section _____ and Section 400.11 of this Ordinance.

- a. Public utility uses, not to include commercial telecommunication signal facilities, subject to Section _____ of this Ordinance.
- b. Churches and cemeteries.

- c. Mushroom production of more than _____ (100,000) sq. ft. of growing area.
- d. Greenhouse production of more than _____ (50,000) sq. ft. of growing area.
- e. Animal agriculture of more than _____ (5) animal units per acre.
- f. Other agriculture or plant and animal production not listed.
- g. Stockyards, subject to Section 400.12 of this Ordinance.
- h. Bed and Breakfast, subject to Section 401.2.1 of this Ordinance.
- i. Radio and television receiving and transmitting towers, subject to Section _____ of this Ordinance.
- j. Quarries and mines for the extraction of natural resources, subject to:
 - (1) Trucks loaded with quarried material shall have their loads washed to remove dust.
 - (2) Ten (10) foot high chain link fencing must be erected around the site.
 - (3) All access roads are paved.
 - (4) A plan for rehabilitation and reclamation of the land after cessation of the extraction activity is submitted and the owner posts a performance bond to ensure his compliance with such requirements based upon engineering data furnished with the application, with reviews biannually.
 - (5) Pits shall not be excavated, operation structures shall not be erected and materials shall not be stored nearer than one hundred (100) feet to a street right-of-way, nor nearer than five hundred (500) feet to an R-1, R-2, or B/VC district or existing dwelling.

Each of the following maximum and minimum dimensional requirements shall apply to each permitted use in the Effective Agricultural Preservation District, except as specifically provided for in this Ordinance.
(See separate chart below.)

	Agricultural Non-Residential Uses	On-Site Sewage Disposal Single-Family Detached	Non-Agricultural Non-Residential Uses
<u>Maximum Permitted</u>			
Lot Size	None	3 Acres *	None
Building Height (except barns, silos, and grain elevators)	35 Feet	35 Feet	35 Feet
Lot Area Covered by Buildings	25 Percent	25 Percent	25 Percent
Paved Area	15 Percent	10 Percent	15 Percent
<u>Minimum Requirements</u>			
Lot Size	50 Acres	1 Acre	3 Acres
Lot Width			
At Street Line	150 Feet	100 Feet	150 Feet
At Building Setback line	150 Feet	150 Feet	150 Feet
Rear Yard	40 Feet	30 Feet	40 Feet
Building Setback Line	40 Feet	30 Feet	40 Feet
Side Yard			
Total	50 Feet	40 Feet	50 Feet
One Side	25 Feet	20 Feet	25 Feet

NOTE: The numbers above are suggestions for discussion.

* See Section 400.10 of this Ordinance for the maximum number of proposed single family detached dwellings. Any lot sold larger than the maximum lot size permitted will result in the loss of additional building lots. One lot will be lost for each up to three acres of lot size added above the maximum lot size of three acres. For example, if a landowner is entitled to sell four lots but sells a four acre lot for the first lot, he is entitled to two additional lots, not three. If the

landowner sells a seven acre lot for the first lot, he is entitled to one additional lot. If he sells a ten acre lot for the first lot, he has no lots left to sell.

Another example. If a landowner is entitled to sell four lots and sells a two acre lot for the first lot, he is entitled to three additional lots. If the next lot sold is one acre, he is entitled to two additional lots. If the third lot is 3.5 acres, he is not entitled to any additional lots.

Section 400.5 ADDITIONAL LAND REQUIREMENTS FOR NEW INTENSIVE AGRICULTURAL USES.

The following special requirements shall apply to areas where other zones and Effective Agricultural Preservation District zones are in close proximity: No intensive agricultural use established after _____(specific date) of this amendment shall be located a minimum of _____ (1,000) feet for swine, mink and duck and _____ (500) feet for all other animals from the boundary of any other zoning district.

Section 400.6 FARM-RELATED BUSINESS REGULATIONS.

Within the Effective Agricultural Preservation District, a farm-related business may be a permitted Use By Right. The proposed farm occupation is subject to the following standards:

- a. For the purposes of this Ordinance, a farm-related business may involve any one of a wide range of uses, as listed below, so long as the use is compatible with the primary agricultural use of the land. The applicant must demonstrate that the farm business is compatible with the rural setting and will not create nuisances for nearby residences and agriculture production activities. All activities and services should be directed at meeting the needs of those engaged in local farming. The facility should be directed at providing materials and services necessary to local farming and the processing and distribution of goods produced on the farm. Additionally, farm-related businesses are subject to the following standards.

For the purposes of this Ordinance, farm-related businesses may involve the following types of uses.

- (1) facilities for the manufacturing, warehousing, sales, repair and service of agricultural equipment, vehicles (including carriages and buggies), or supplies;
- (2) blacksmith shops, farrier, harness making;
- (3) grain mills;
- (4) processing of locally produced agricultural products;
- (5) feed supply, fuel and fertilizer distributors;

- (6) other uses similar in character to those listed above.
- b. No more than a total of _____ (5) full time equivalent non-resident employees of the farm parcel shall be employed by the farm-related business.
 - c. The farm-related business shall occupy an area no greater than a maximum of _____ (10,000) square feet of gross floor area.
 - d. The maximum acreage devoted to a farm-related business (including the structure, parking, storage, and driveway if separate) shall be no more than _____ (3) contiguous acres.
 - e. Where practicable, farm-related businesses shall be conducted within an existing farm building.
 - f. The maximum impervious lot coverage of a farm-related business shall not exceed _____ (25)% of the _____ (3) acres.
 - g. Any new building constructed for use by the farm-related business shall be:
 - (1) located at least _____ (100) feet from rear and side property lines,
 - (2) meet current front setback requirements,
 - h. Off-street parking shall be provided per Section _____ of this Ordinance.
 - i. Any outdoor storage of supplies, materials or products shall be located no closer than _____ (50) feet from property lines. Such outdoor storage shall also have an evergreen plant screen from adjoining properties.
 - j. One outdoor sign shall be permitted for a farm-related business. Such signs shall not exceed _____ (15) square feet in total area.
 - k. The length of any access drive shall be sufficient to accommodate delivery and customer vehicles.
 - l. Composting and other farm waste storage facilities shall not be permitted within _____ (200) feet of any property line.
 - m. Evergreen screening must be provided when a farm-related business is within _____ (150) feet of any property used principally for residential purposes.
 - n. No construction or other improvements required to support a farm-related business will be permitted except pursuant to an approved Land Development Plan.

o. Standards for Roadside Stands

- (1) The stand shall be at least _____ (50) feet from the center of a road and _____ (75) feet from the center of an intersection. The road leading into the parking area must exceed _____ (75) feet from the center of the intersection. In addition, all off-street parking and access driveways shall be designed in accordance with Section _____ of this Ordinance.
- (2) Fifty percent of the products sold must be grown from seed or seedlings on the farm on which the roadside stand is located.

Section 400.7 STANDARDS FOR NURSERIES, GREENHOUSES, AND TREE FARMS

- a. Greenhouses will be permitted Use by Right up to a maximum of _____ (50,000) sq. ft. of growing area. Higher levels of production require a special exception.
- b. When direct sales to the general public are part of such operations, the farm-related business standards shall apply.
- c. An off-street area plan shall be provided at the time of application to allow maneuverability, parking, and loading of two delivery, supply trucks, or other similar vehicles.
- d. Greenhouses shall be included in the impervious coverage of the tract whether or not the cover material is permanent.
- e. Off-street parking shall be provided per Section _____ of this Ordinance.
- f. Size of Greenhouse Operations

<u>Area in Contiguous Acres</u>	<u>Allowed Square of Growing Area</u>
up to _____ (3) acres	_____ (1,000) sq. ft. per acre
_____ (3-15) acres	_____ (1,500) sq. ft. per acre
_____ (>15-30) acres	_____ (2,000) sq. ft. per acre
_____ (>30) acres	_____ (2,500) sq. ft. per acre

Higher levels of growing space require a special exception.

Section 400.8 GENERAL AGRICULTURAL STANDARDS

- a. Unless otherwise stipulated within this Zoning Ordinance, General Agricultural activities and uses as described below are permitted by right in the Effective Agricultural Preservation District.
- b. The growing of crops, trees, nursery stock, flowers, and other agriculture plants.

- c. The raising and ownership of horses, cattle, pigs, hogs, sheep, goats, poultry, rabbits or similar animals shall be based on the following chart:

<u>Area in Contiguous Acres</u>	<u>Animal Units Per Open Acre(s)</u>
_____ (3-5)	_____ (1)
_____ (>5 to 25)	_____ (1.5)
_____ (25 and over)	_____ (2.0)

- d. The display and sale of farm products shall be permitted provided that at least _____ (50) percent of the quantity of products for sale have been produced from seed or seedlings on the property on which they are offered for sale. The sale of farm products shall be conducted in a structure or stand which shall not be located closer than _____ (50) feet from the center of any road and _____ (75) feet from the center of an intersection. The road leading into the parking area must exceed _____ (75) feet from the center of the intersection. In addition, all off-street parking and access driveway shall be designed in accordance with Section _____ of this Ordinance.
- e. No farm building or other accessory outbuilding housing animals shall be constructed closer than _____ (200) feet to any adjacent residence, or _____ (50) feet from a property line, whichever is greater.
- f. Standards for Animal Hospitals, Veterinary Facilities, Kennels:
- (1) All buildings in which animals are housed shall be located at least _____ (200) feet from all lot lines or existing center of a road.
 - (2) All kennels shall comply with all applicable state codes and regulations.
 - (3) No kennel shall be located on less than _____ (4) acres.
 - (4) Outdoor pens, feed yards, and runs shall be:
 - (i) _____ (200) feet from any residential lot line.
 - (5) A plan for an evergreen buffer shall be submitted with the building plans.
 - (6) Operations open after hours of darkness shall be adequately lighted but in such a manner that no glare or light is directed toward adjacent properties or onto public streets. No unshielded lights shall be permitted. No lighting shall be utilized in such a manner to produce illumination greater than _____ (0.5) foot-candles beyond the lot boundaries.
 - (7) No dogs shall be permitted outdoors between the hours of _____ (9:00) p.m. and _____ (8:00) a.m.

Section 400.9 INTENSIVE AGRICULTURAL STANDARDS

- a. Unless specifically stipulated within this Zoning Ordinance, Intensive Agricultural Activities are a permitted use by right within the Effective Agricultural Preservation Zoning District. No intensive agricultural use established after _____(specific date) of this amendment shall be located a minimum of _____ (1,000) feet for swine, mink and duck and _____ (500) feet for all other animals from the boundary of any other zoning district.
- b. Agricultural activities that exceed the standards and provision specified under Section 400.8 (General Agricultural Standards) shall be construed as Intensive Agriculture.
- c. The raising and ownership of horses, cattle, pigs, hogs, sheep, goats, poultry, rabbits, or similar animals shall be based on the following chart:

<u>Area in Contiguous Owned Areas</u>	<u>Maximum Animal Units Per Acre</u>
_____ (25-50)	_____ (3.0)
_____ (> 50)	_____ (5.0)

- d. A Nutrient Management Plan shall be prepared and approved under the guidelines of Title 25, Chapter 83, Subchapter D, Pennsylvania Code for all proposed Intensive Agricultural uses. The approved Nutrient Management Plan shall be submitted to the township with the building application.
- e. A Stormwater Management Plan shall be prepared pursuant to the SALDO and approved by the township engineer for all proposed Intensive Agricultural uses.
- f. A Conservation Plan shall be approved by the Soil Conservation District for all proposed Intensive Agricultural uses. The approved Conservation Plan shall be submitted to the Township with the building application.
- g. A buffer plan shall be prepared for all proposed Intensive Agricultural uses, to include evergreen barriers that will aid in visibility, sound, and odor protection. The plan is to be submitted with building plans.
- h. A site plan for buildings, manure structures, etc., to include sizes of structures, prevailing winds, distance to neighbor's buildings, boundaries, vegetation shall be submitted for review by the zoning officer when application for building permit is submitted.
- i. Solid and liquid wastes shall be disposed of in a manner to avoid creating insect or rodent problems. All intensive animal operations shall develop a fly abatement plan which shall be submitted with the building application.

- j. The applicant shall show that they can meet the standards as may be set forth in treatises recognized by agricultural authorities or as the same may be produced by the Pennsylvania Department of Agriculture, Department of Environmental Protection, Pennsylvania State University, College of Agricultural Sciences, or similar entity. These shall include "Best Practices for Environmental Protection in the Mushroom Community," "The Environmental Standards of Production for Large Pork Producers in Pennsylvania" and others as they are developed.
- k. No discharges of liquid wastes and/or sewage shall be permitted into a reservoir, sewage or storm sewer disposal system, holding pond, stream or open body of water, or into the ground unless the discharges are in compliance with the standards approved by the local, state and/or federal regulatory agencies.
- l. Any and all Intensive Agricultural uses and activities shall be reviewed by the Berks County Soil Conservation District and Berks County Cooperative Extension within _____ (30) days of the forwarding of the plan for review. Applicant must submit review letter at time building plans are submitted.
- m. The applicant shall prepare and show the ability to comply with an odor abatement plan. Recognition must be given that certain agricultural activities do produce odors, but the applicant shall show that odors can be reduced to a minimum or abated. The plan of the applicant shall show that such steps as may be necessary to abate odors or to allow odors at times that there would be minimal interference with neighbors will be taken.
- n. The applicant shall dispose daily of solid and liquid waste in the manner that will avoid creating insect or rodent problems or public nuisance.
- o. The applicant shall also show that the use of pesticides will be within standards as may be set by the federal or state regulatory agencies.
- p. No Intensive Agricultural buildings can be built in the one hundred year flood plain.
- q. The Governing Body can lower compliances to these regulations when alternative standards are provided and demonstrate equal or better results, and not contradictory to the public interest.

Section 400.10 DEVELOPMENT PERMITTED WITHIN THE EFFECTIVE AGRICULTURAL PRESERVATION ZONING DISTRICT.

- a. The applicant shall show that at the time of submission of a subdivision that an attempt has been made to meet the following standards:
 - (1) Any residential lots are located on the least productive soils of the parent farm.

(2) Any proposed lots shall be "clustered" or "grouped" in such a manner as to preserve the greatest extent of productive and valuable farm land as possible.

b. The total number of single-family dwelling units allowed in the Effective Agricultural Preservation District in accordance with the size of tracts of land existing on _____(specify date) is as follows:

<u>Size of Original Tract of Land</u>	<u>Maximum Number of Dwelling Units</u>
_____ (≥ 1 to < 5 acres)	1
_____ (≥ 5 to < 19 acres)	2
_____ (≥ 20 to < 49 acres)	3
_____ (≥ 50 to < 99 acres)	4
_____ (≥ 100 to < 149 acres)	5
_____ (≥ 150 to < 199 acres)	6
_____ (≥ 200 to < 299 acres)	7
_____ (≥ 300 to < 399 acres)	8
_____ (≥ 400 to < 499 acres)	9
_____ (500 or more acres)	10

c. All existing single-family residential dwellings and/or lots approved prior to the first legal public notice of the Effective Agriculture Preservation Zoning Ordinance of _____(specify date) shall be permitted in addition to the maximum number of dwellings specified under this Section.

d. An applicant submitting a subdivision and land development plan will be required to specify on the plan which lot or lots shall carry with them the right to erect or place any unused quota of dwelling rights his tract may have.

e. Subdivision, land development, and building permit applications will include a conspicuous Agricultural Use Notification as follows: All lands within the Effective Agricultural Preservation Zoning District in the Zoning Ordinance are located in an area where land is used for commercial agricultural production. Owners, residents and other users of this property or neighboring property owners may be subjected to occasional inconvenience, discomfort and the possibility of injury to property and health arising from normal and accepted local agricultural practices and operations. These include, but are not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizer, soils amendments, herbicides and pesticides. These operations can occur any time of the day or night. Owners, occupants and uses of this property should be prepared to accept such conditions and inconveniences, discomfort and possibility of injury from normal agricultural operations, and are hereby put on official notice that the state Right-to-Farm Law

(Act 133 of 1982) may bar them from obtaining a legal judgment against such normal agricultural operations.

Section 400.11 SPECIAL EXCEPTIONS.

The Zoning Hearing Board may demand additional standards than those in preceding sections. These standards include but are not limited to the following:

- a. In consideration of the application for Special Exception, the Zoning Hearing Board shall consider the ability of the applicant to meet the standards generally accepted in Pennsylvania for such Large Scale Agricultural activities.
- b. The Zoning Hearing Board shall consider the applicant's ability to reduce or abate odors and the continuing ability of the applicant to reduce or abate odors. The Zoning Hearing Board shall not consider the requirement that odors not be noticeable at the property line.
- c. In consideration of the request for Special Exception, the Zoning Hearing Board shall consider the amount of traffic that may be caused by the proposed activity and the condition of public roadways serving such activity. The applicant shall show that the proposed activity will not overburden township or state roadways nor will it cause nuisance to other neighboring agricultural activities or residences.
- d. Agricultural activities determined to need a special exception must be done on more than 100 contiguous acres, except for public utility uses, churches and cemeteries, and bed and breakfasts.
- e. Buildings used for intensive agricultural activities must be a minimum of _____ (1,000) feet from the nearest residence not on the same property as the agricultural use and _____ (500) feet from the center of any public road.
- f. The Zoning Hearing Board can lower compliances to these regulations when alternative standards are provided and demonstrate equal or better results, and not contradictory to the public interest.

Section 400.12 STANDARDS FOR STOCKYARDS

- a. A site plan shall be provided at the time of application. This plan will allow maneuverability, parking and loading of trucks, trailers, or other vehicles.
- b. Off-street parking shall be provided per Section _____ (505) in this Ordinance.
- c. Slaughter activities shall not be permitted.

- d. If any stockyard presents a fire hazard, emits smoke, dust or other air pollutants, noise, light/glare, or creates a nuisance as a result of the operation, conditions may be attached as deemed necessary to adequately control and mitigate the potentially detrimental effects that the activity may have on the surrounding area.
- e. Waste storage shall not be permitted within _____ (300) feet of any property line.
- f. Any area to be utilized for animal holding or grazing purposes shall be fenced with a minimum of 5 strands of high tensile wire. Fences shall be located outside of the legal right-of-way of any street.
- g. Solid and liquid wastes shall be disposed of in such a manner that insect or rodent problems are avoided and shall be consistent with the nutrient management plan.
- h. A buffer plan using evergreens is required when building plans are submitted.
- i. Operations open after hours of darkness shall be adequately lighted but in such a manner that no glare or light is directed toward adjacent properties or onto public streets. No unshielded lights shall be permitted. No lighting shall be utilized in such a manner to produce illumination greater than _____ (0.5) foot-candles beyond the lot boundaries.

OPTIONS

Section 400.13 ANNEXATION FROM A FARM

Land can be annexed from a farm to an adjoining property provided that the land is not used for development or future development purposes, is not used to allow development or future development through increasing parcel size, is not used as a building lot, is not otherwise used to be conducive to development or increase development potential, and is combined in deed with the land to which it is annexed. Such annexation may occur no matter what the size of the parcel to which land will be annexed and the parcel from which annexation occurs.

Section 400.14 ADDITIONAL DWELLING UNITS ON A FARM

Up to two additional dwelling units may be located on a farm by right, subject to:

- a. Such dwelling units shall be for farm family members or farm employees.
- b. Separate dwellings shall be situated such that each dwelling could be contained on a lot meeting the requirements of this Zoning District. Only single family detached dwellings are permitted as separate dwellings.
- c. Such dwelling units may be located within an existing farm dwelling located on the farm.
- d. Such dwelling units must remain a part of the farm unless they are sold and counted as dwelling units per Section 400.10(b) of this Ordinance.