

**EAST NOTTINGHAM TOWNSHIP  
ZONING ORDINANCE**

**ARTICLE V**

**R-1 AGRICULTURAL - RESIDENTIAL DISTRICT**

**SECTION 501 STATEMENT OF INTENT**

It is the purpose of this district to provide for limited density of residential development in certain open areas of the Township, for the purpose of enabling the retention of significant agricultural land uses while preserving natural features and scenic landscapes. In this district, which contains much of the Township's most agriculturally productive soils, the intent is to minimize land uses that are incompatible with agriculture and to manage their potential impacts on the district's agricultural and open lands. The R-1 District provisions are intended to support the existing agricultural economy by limiting residential density and encouraging appropriate site design. Potential residential development also may be shifted to other, more appropriate locations within the Township through use of transferable development rights provisions. Residents of the R-1 District must be willing to accept the impacts associated with daily farming practices and related businesses.

**SECTION 502 USE REGULATIONS**

Land and buildings in the R-1 Agricultural-Residential District shall be used for only one of the following purposes:

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 one of the following principal uses, together with the permitted accessory uses, by right in accordance with the applicable standards contained in Section 1602 and any other applicable provisions of this ordinance:

1. Agriculture
2. Transfer of development rights, in accordance with the terms of Article XIV.
3. Single-family detached dwelling
4. Creation of a lot from an agricultural property for single-family dwelling purposes, in accordance with the terms of Section 505.
5. Clustered residential development of single-family detached dwellings.
6. Public utility operating facility.
7. Municipal, county, state, or federal use, excluding sanitary landfills and correctional or penal institutions

8. Forestry, as defined by this ordinance, including logging activities when in accordance with the standards in Section 406.
9. The following accessory uses, when in accordance with the applicable terms of Section 1602:
  - a. Swimming pool
  - b. No-impact home occupation
  - c. Farm-related business
  - d. Other customary residential and agricultural accessory uses

**B. Uses permitted by special exception**

The following uses shall be permitted when approved as a special exception by the Zoning Hearing Board in conformance with Article XXII, the applicable standards contained in Section 1603, and any other applicable provisions of this ordinance:

1. Major home occupation
2. Bed-and-breakfast establishment, as a use accessory to a single-family dwelling

**C. Uses permitted as conditional uses**

The following uses shall be permitted when approved as a conditional use by the Board of Supervisors in accordance with the terms of Section 2111 and all applicable standards in Section 1604

1. Cemetery
2. Place of religious worship
3. Kennel

**SECTION 503**

**AREA AND BULK REGULATIONS**

The following minimum (or maximum, where noted) requirements shall apply, as applicable, to uses permitted in the R-1 District:

- A. Agricultural use. Agriculture, farm houses, and usual farm buildings shall be permitted without restriction except as follows:
1. To qualify as agricultural use, the minimum gross lot area shall be ten (10) acres.
  2. No barn lot, mushroom house, or area for the deposit, curing, or storage of compost or manure shall be established closer than one hundred (100) feet to any property line and/or any right-of-way line.
  3. In addition to a principal single-family detached dwelling, a property in agricultural use shall be permitted a second dwelling on the property.

- a. The second dwelling unit may be attached to the principal single-family dwelling on the property or may be a detached dwelling. Where detached, such dwelling shall be located in compliance with the minimum setback and yard regulations in Section 503-b-1. Creation of a separate, subdivided lot for the second dwelling unit shall not occur.
  - b. The opportunity for a second dwelling on the property shall be separate from, and in addition to, the right to create an additional lot or lots as provided in Section 504.
  - c. Creation of a second dwelling unit under the terms of this section shall eliminate the opportunity otherwise provided in Section 1602 for placement of a temporary dwelling on the property for parents or grandparents.
  - d. The owner of the agricultural property shall submit to the Township a permit for an individual on-lot sewage disposal system issued by the Chester County Health Department, certifying that the sewage disposal facilities are adequate to serve the projected number of residents of the accessory dwelling and/or the accessory dwelling unit plus the principal dwelling unit.
4. Farm buildings shall not be constructed closer than eighty-five (85) feet to a front property line nor closer than fifty (50) feet to a side or rear property line or right-of-way line.
  5. No dwelling shall be constructed closer than fifty (50) feet to a front property line or closer than twenty-five (25) feet to a side or rear property line or right-of-way line.
  6. The composting, stockpiling, and/or storage of manure shall be prohibited unless the manure is generated from an agricultural use on the property where it shall be composted, stockpiled, or stored, and provided further that the same manure shall be composted, stockpiled, and stored for use on that same property in accordance with any other applicable standards of this ordinance. This is not intended to include temporary storage of manure from one agricultural property on a different agricultural property for ultimate spreading on the second property.
  7. The sale of farm products may be conducted on an agricultural property in accordance with the following standards:
    - a. At least half of all produce and nursery products sold must be grown, raised, or harvested on the premises.
    - b. Any permanent structure used to display and sell such goods shall be located at least one hundred (100) feet from any side or rear property line and sixty (60) feet from the legal right-of-way line of any street. Where farm products are sold from a temporary structure, such structure shall be located a minimum of twenty-five (25) feet from the street right-of-way. No temporary structure shall be larger than two hundred (200) square feet. Mobile stands (i.e., farm wagons, pick-up trucks, etc.) shall be located outside the street right-of-way.

- c. The structure and necessary parking area shall, in combination, occupy not more than four-thousand (4,000) square feet of the lot area.
- d. All vehicular parking facilities shall be located outside of the street right-of-way.

B. Single-family detached dwellings

- 1. On a lot or tract with a gross area of less than five (5) acres as of the date of adoption of this ordinance [Nov. 25, 2003]
  - a. Net lot area -- 1 acre
  - b. Lot width at building setback line – 150 feet
  - c. Lot width at street line – 50 feet
  - d. Front yard – 50 feet
  - e. Side yards – 25 feet each
  - f. Rear yard – 50 feet
  - g. Maximum impervious surface – 25% of the net lot area
- 2. On a lot or tract with a gross area of five (5) acres or greater as of the date of adoption of this ordinance [Nov. 25, 2003] where single-family detached dwellings are proposed without utilizing the cluster development design provisions authorized by this section:
  - a. Net lot area -- 5 acres
  - b. Lot width at building setback line – 200 feet
  - c. Lot width at street line – 50 feet
  - d. Front yard – 50 feet
  - e. Side yards – 25 feet each
  - f. Rear yard – 100 feet
  - g. Maximum impervious surface – 5% of the net lot area
- 3. Clustered residential development of single-family detached dwellings with either individual or central water supply and individual sewage facilities
  - a. Gross tract area – 5 acres
  - b. Maximum density -- The maximum number of dwellings permitted shall be determined by establishing the net tract area, as defined by this ordinance, and multiplying the resulting net acreage by 0.4.
  - c. Net lot area – not less than one acre, in order to accommodate individual on-site sewage facilities
  - d. Lot width at building setback line – 150 feet
  - e. Lot width at street line – 50 feet
  - f. Front yard – 50 feet
  - g. Side yards – 25 feet each
  - h. Rear yard – 50 feet
  - i. Maximum impervious surface – 25% of the net lot area
  - j. Minimum amount of protected open space -- 40% of the gross tract area



1. Except as otherwise required or permitted by this section, the standards contained in Sections 1309 and 1310 of this ordinance pertaining to Retained Open Space Development shall be met.
2. Where dwellings are proposed to be served by individual water service and individual sewage facilities, as defined by this ordinance, such facilities shall be in compliance with the requirements of the East Nottingham Township Subdivision and Land Development Ordinance, the Chester County Health Department, and the Pa. Department of Environmental Protection.
3. The following standards shall apply to protected open space areas that are part of clustered residential development in the R-1 District:
  - a. The preferred use of protected open space areas shall be agriculture. Any proposed design of a clustered residential development shall demonstrate measures to connect the protected open space on the tract with adjacent open space and agricultural land and to minimize the intrusion of the residential portion of the tract on agricultural activities.
  - b. There shall be a minimum separation of one hundred (100) feet between any non-farm dwelling constructed as part of the clustered residential development and: [i] any portion of the proposed protected open space on the tract that is to be used for agricultural purposes; and [ii] any land that is permanently restricted by conservation easement or similar perpetual limitation to agricultural use. Where it deems necessary and appropriate, the Board may require additional and/or alternative protection for agricultural lands in the form of architectural and/or vegetative screening, located within the yard areas of the proposed residential lots.
  - c. Where some or all of the proposed protected open space on the tract is to be used for agriculture, such use shall be a factor in the design of the site for residential purposes. Proposed dwelling units, roads, and sewage facilities shall, where feasible and practical, be located so as to minimize disturbance to the tract's Class I, Class II, and/or Class III agriculturally-suitable soils, as those soils are designated in the Soils Survey of Chester and Delaware Counties (U.S. Dept. of Agriculture, 1963, as amended and updated.).
  - d. On any tract with a gross area of forty (40) acres or more that is served by community water service and community or public sewage facilities, the area of protected open space shall include the

following minimum buffer areas adjacent to new non-farm residential lots within the tract:

[1] A buffer area with a minimum width of fifty (50) feet, located between the residential lot line and any existing street frontage, shall be provided. Such buffer area shall be landscaped with street trees meeting the requirements of Section 507.03 of the Township Subdivision and Land Development Ordinance that would otherwise be applicable to individual residential lots. The Board may require additional landscaping in the form of shrubs where it deems such landscaping necessary to mitigate and soften visual impacts on the road corridor from new residential lots. The buffer area shall contain no structures or any non-farm residential driveway.

[2] A buffer area with a minimum width of twenty (20) feet, located between the residential lot line and any immediately abutting side or rear tract boundary line, shall be provided. Such buffer area shall be landscaped to achieve visual screening in accordance with the terms of Section 507.01 of the Township Subdivision and Land Development Ordinance. The buffer area shall contain no structure or any non-farm residential driveway.

B. All uses permitted in the R-1 District shall be governed by the terms of the following provisions of this ordinance, as applicable:

1. Article XVII, General Development Regulations.
2. Article XVIII, Signs.
3. Article XIX, Off-Street Parking and Loading.

**SECTION 505            CREATION OF LOTS FROM AGRICULTURAL PROPERTIES**

A. To be eligible under the terms of this section, a property must qualify as agricultural land. To qualify as agricultural land:

1. The property shall be enrolled under and subject to the restrictions of Pa. Act 319 or Act 515; or
2. The property shall be contained within the East Nottingham Township Agricultural Security Area; or
3. If not qualified under the terms of (1) or (2), above, and only where deemed acceptable by the Board of Supervisors, the property shall be shown to be producing or potentially productive farmland on the basis of:

[a] current agricultural activity on the property, investments made, and/or loans secured by the landowner for agricultural practices on the property; and [b] a majority of the gross tract area of the property contains prime agricultural soil (Soil Classes I, II, or III in the Soil Survey of Chester and Delaware Counties, U.S. Natural Resources Conservation Service).

- B. An eligible property shall have a gross tract area of not less than ten (10) acres.
- C. The owner of an eligible property may create a lot through subdivision from the tract under the terms of this section. Such terms shall supercede the otherwise applicable standards of this zoning district.
- D. The landowner shall be permitted to create, in any one (1) 12-month period, one (1) lot intended solely for residential use with a single-family detached dwelling unit.
- E. The following minimum (or maximum, where noted) requirements shall apply to any lot created under the terms of this section:
  - 1. Net lot area -- 1 acre
  - 2. Maximum net lot area -- 2 acres
  - 3. Lot width at building setback line -- 150 feet
  - 4. Lot width at street line -- 50 feet
  - 5. Front yard -- 50 feet
  - 6. Side yards - 25 feet each
  - 7. Rear yard - 100 feet
  - 8. Maximum impervious surface - 25% of the net lot area
- F. Starting from the date of enactment of the ordinance, the total acreage of the lots created under the terms of this section cumulatively shall not exceed ten (10) acres of gross tract area or ten percent (10%) of the gross area of the tract at the date of enactment of the ordinance, whichever is less.
- G. When proposing to create a lot under the terms of this section, the landowner shall comply with the requirements for a minor plan under the terms of the East Nottingham Township Subdivision/Land Development Ordinance (except that the limitation on further subdivision contained in Section 302.01-A-5 shall not apply). The landowner shall discuss the land use and site design implications of the proposed lot with the Township Planning Commission regarding road access, driveway location, avoidance of a strip of frontage lots on existing roads, compatibility with Township objectives concerning retention of rural character, the viability of continuing or potential agricultural use of the tract, and maximum protection for prime agricultural soils on the tract. Consistent with these objectives, and unless deemed clearly infeasible or otherwise undesirable by the Township, the additional dwelling unit should be located adjacent to any existing dwellings.

- H. The landowner shall demonstrate that the proposal is consistent with the applicable terms of Acts 319 or 515, the Township Agricultural Security Area, or any other program, covenant, or restriction affecting the tract.
- I. Upon creation of a lot under the terms of this section, a note shall be placed on the final plan for recording, indicating the maximum amount of acreage and number of lots eligible to be created in the future under the terms of this section.

**SECTION 506**

**AGRICULTURAL NUISANCE DISCLAIMER**

Lands within the R-1 Agricultural-Residential 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 this property may be subjected to inconvenience, discomfort, and the possibility of injury to property 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 this property 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.