

**ARTICLE VI  
AGRICULTURAL PROTECTION DISTRICT**

**A. Findings and Purpose**

The Town of Northumberland finds that the protection of agriculture is essential to the implementation of the goals and objectives of the Town of Northumberland's Comprehensive Land Use Plan. Protection of land for agricultural purposes is a legitimate and important zoning objective under New York State's statutes, which the regulations in Article VI of the Town of Northumberland's Zoning Ordinance seek to achieve. It is also a policy of the New York State Constitution to preserve agriculture. The purposes of the Agricultural Protection District (hereafter referred to as the APD), among others, are as follows:

1. To protect and maintain the Town's farmland for present and future agricultural use within the Town's Agricultural District as established under Article 25AA of New York State Agricultural and Markets Law;
2. To implement the Town of Northumberland Comprehensive Land Use Plan, which contains the goals of protecting rural and agricultural lands, discouraging nearby incompatible land uses, and promoting agriculture as an important and integral component of the local economy;
3. To support and protect farming by stabilizing the agricultural land base;
4. To maintain a viable agricultural base which will support agricultural processing and service industries;
5. To separate agricultural land uses and activities from incompatible residential, commercial, industrial development, and public facilities;
6. To prevent the fragmentation of the Town's existing farming community by non-farm development; and
7. To reserve the Town's most productive soils for agriculture.

**B. Permitted Uses**

1. Farms
2. Single family dwellings
3. Agricultural pursuits
4. Agricultural use structures
5. Forestry use
6. Forestry use structures

**C. Special Permitted Uses**

1. Farm employee dwelling units:
  - a. To be located on a farm of at least twenty-five (25) acres;
  - b. May utilize a mobile home or other temporary manufactured housing;
  - c. Can be used only to house paid farm employees;
  - d. Must be removed when farm employees no longer occupy the dwelling unit
2. Home occupations
3. Bed and breakfasts
4. Garden shops
5. Mining
6. Marinas
7. Parks
8. Composting facilities
9. Agribusinesses
10. Sawmills
11. Riding stables

**D. Density**

1. In accordance with this zoning ordinance and case law, the Town of Northumberland must provide for limited development of land contained within the Agricultural Protection District. However, prospective developers are "put on notice" that they must diligently seek out locations upon and near farms for such development that are not characterized by agriculturally productive soils and will not disrupt farm operations. These areas must be developed on a priority basis before other farm areas will be considered for subdivision and land development.
2. All permitted and special permitted uses located within the APD shall require a minimum of five (5) acres of land. Said uses shall conform to the siting and design standards for development specified in Section E of this Article. In addition, all minor and major subdivisions of property located within the APD shall be required to utilize "conservation subdivision design" techniques which conform to the siting and design standards contained in Section E, subject to the approval of the Town Planning Board.

**E. Siting and Design Standards for Development**

1. Mandatory conservation subdivision design of all subdivisions to be constructed within the APD is required of all applicants whenever deemed to be beneficial for the protection of agricultural lands by the Town Planning

Board. This process will require the applicant to submit an alternate conservation subdivision design based on the establishment of a "net" conventional density as referenced in the *Town of Northumberland Conservation Subdivision Design Regulation* found within Supplementary Regulations, Article XI, Section R, of this ordinance. This mandatory process is intended to provide the Planning Board with sufficient siting flexibility to create innovative subdivision site designs which will provide for the increased protection of the APD's agricultural viability and the rural character of the land within the District. All active agricultural lands located on the site should be identified and avoided by subdivision development to the greatest extent possible. In its evaluation of each site, the town planning board is urged to review and utilize design and siting methods and criteria such as those utilized in "*Preserving Rural Character*" by Fred Heyer, APA, PAS Report # 429, 1990. Existing land and natural features and views, whose preservation would benefit the town and the subdivision, should be encouraged through sensitive and innovative design techniques contained within the town's conservation subdivision design regulation. Such features include but are not limited to:

- a. The use of "keyhole" or "flag" lots to minimize disturbance along the District's roads and corridors;
  - b. The use of alternate road/driveway designs, to reduce the number of entrances entering the District's rural roads;
  - c. The use of driveway "offsets" which allow adequate screening of structures from the road;
  - d. Any other design technique the Planning Board feels is appropriate in providing visual and functional protection to rural roads and their corridors located within the Town of Northumberland's APD.
  - e. Groves of mature trees
  - f. Large individual trees
  - g. Hedgerows
  - h. Woodlands along roadways, property lines, and streams
  - i. Scenic vistas
  - j. Water features such as streams, ponds, floodplains, and wetlands
  - k. Stone walls
  - l. Steep slopes in excess of fifteen (15) percent
  - m. Habitats of endangered or threatened species
  - n. Visually prominent agricultural landscape features such as fields, pastures and meadows
  - o. Historic structures or sites
  - p. Other similar irreplaceable assets
2. Residential structures in the APD shall be located according to the following criteria, which are listed in order of significance (some of which may conflict with each other on a particular site, in which case, the Planning Board shall use its discretion to

resolve such conflicts):

- a. Evaluation of all available alternative locations;
  - b. On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use;
  - c. Away from the boundaries of any preserved farm, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm;
  - d. In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses;
  - e. To avoid disturbance to the existing environmental, cultural and scenic features noted in Section E., 1. above;
  - f. To be as visually inconspicuous as possible when seen from State, County and local roads;
  - g. Next to other residences or building lots on adjacent properties;
  - h. To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads;
  - i. On suitable soils for subsurface sewage disposal (where applicable); and
  - j. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland, to reduce encroachment upon agricultural soils, provide shade in summer and shelter in winter, and to enable new residential development to be visually absorbed by the natural landscape.
  - k. Vegetated buffer zones adjacent to actively farmed and shall be established in residential subdivisions. Said buffer zones shall be no fewer than 50 feet in width and may be required to be up to 100 feet in width depending upon the type of agriculture or farm use, the topography and the proposed design and planting of such buffer. If naturally occurring vegetation is not present, thickly planted, fast-growing native trees and shrubs shall be planted to create an effective barrier separating residential yards from farm fields and pastures to reasonably protect adjacent residential areas from farming activities including dust and spray drift. However, no new trees shall be planted within 25 feet and no new shrubs shall be planted within 10 feet of any property line adjacent to actively farmed land, to avoid shade and plant roots on adjacent property that could interfere with farming. These buffer requirements may be modified by the Planning Board, as appropriate, in order to maintain or create scenic views or if the circumstances of the specific farm are such that other means are available to buffer potentially incompatible uses.
3. In granting a special use permit for a farm related use or other special permit uses allowed in the APD, the Planning Board shall consider the following

relevant factors, in addition to the standards set forth in other sections of this zoning ordinance and the APD regulations:

- a. The potential for conflict with agricultural uses;
- b. The need of the proposed use for a location in agricultural area;
- c. The availability of alternative locations;
- d. Compatibility with existing or permitted uses on adjacent lands;
- e. The agricultural productivity of the lands or soils involved;
- f. The need to minimize the amount of agricultural soils converted to non agricultural use;
- g. The need for public services created by the proposed use;
- h. The availability of adequate soils for subsurface sewage disposal; and
- i. The effect of the proposed use on the Town's natural resources.

#### **F. Agricultural Nuisance Disclaimer**

Most lands within the APD are located within an area where land is used for commercial agricultural production. Owners, residents, and other users of this property may be subjected to inconvenience, discomfort, arising from normal and accepted agricultural practices and operations, including but not limited to noise, odors, dust, the operation of machinery of any kind including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants and users of this property should be prepared to accept such inconveniences, discomfort and the possibility of injury from normal agricultural operations. Town of Northumberland Local Law #7 of 1991 entitled "*The Right to Farm Law of the Town of Northumberland*," may bar the owners, occupants, and users of such properties from obtaining a legal judgment against such normal agricultural operations.