



Township of Penn, PA
Tuesday, June 13, 2023

Chapter 27. Zoning

Part 2. DISTRICT REGULATIONS

§ 27-204. AG Agricultural District.

[Ord. No. 2022-01, 1/10/2022]

1. Limitation on Subdivision and Principal Nonagricultural Uses.

- A. In order to preserve agricultural tracts, the subdivision of lots and the development of nonagricultural uses and structures on existing farms shall be limited. In addition, the maximum size of lots created for any use other than agriculture is limited in order to provide for the retention of lots of sufficient size to be usable for agriculture. These provisions implement the mandate of § 604(3) of the MPC^[1] to preserve prime agricultural lands.

[1] *Editor's Note: See 53 P.S. § 10604(3).*

- B. Number of Lots, Dwellings or Other Principal Nonagricultural Buildings Permitted. For each parent tract, there shall be permitted the subdivision of one lot (which shall specifically include, but not be limited to, a subdivision to create a farm or farms, and subdivision to change lot lines or a "lot add-on" subdivision, which removes land from the parent tract to add the land to another lot), or the erection of one single-family dwelling or other principal nonagricultural building on the parent tract, but not both, with the portion of the existing or newly created lot used for residential purposes limited to the maximum lot size set forth in the following sections for the acreage held as of April 1, 1989, or if the parent tract was not classified as Agricultural District on April 1, 1989, on the date when such land was first included in the Agricultural District after April 1, 1989. A tabular example of this limitation on the creation of lots or the erection of dwellings is as follows:

Parent Tract Size in Acres	Number of Lots Permitted to Be Subdivided or Principal Nonagricultural Buildings Permitted to Be Erected
At least 2, but less than 50	1
At least 50, but less than 100	2
At least 100, but less than 150	3
At least 150, but less than 200	4
At least 200, but less than 250	5

- (1) For those parent tracts equal to or greater than two acres, but less than 50 acres, one new lot may be subdivided or one single-family dwelling or other principal nonagricultural building may be erected (but not both), provided that wherever possible, such new lot contains soils predominantly within the agricultural land capability classifications of IV, VI, VII, or VIII as defined by the Natural Resource Conservation Service (NRCS), or such dwelling shall be constructed upon such types and be surrounded predominantly by such soil types and be immediately adjacent an existing public road. No further subdivision or erection of additional single-family dwellings or other principal nonagricultural buildings shall be permitted.

- (a) Any plan for subdivision of any such lot or the erection of any such dwelling or other principal nonagricultural building shall contain a note stating that further subdivision of the parent or the erection of additional dwellings or other nonagricultural principal buildings is prohibited. The deed for any lot so created shall contain a similar notation.
 - (2) For those parent tracts which contain at least 50 acres, the table set forth above shall be followed to determine the number of lots which may be created or the number of dwellings or other principal nonagricultural buildings which may be erected. Whenever possible, each lot shall be created to contain and each dwelling or other nonagricultural building shall be erected on soils with the agricultural land capability classifications of VI, VII, or VIII as defined by the NRCS.
 - (a) The burden shall be upon the applicant to demonstrate that development on such soils or the location of a dwelling or other principal nonagricultural building upon such soils is not possible; the lot or dwelling or other principal nonagricultural building shall be so located as to be directly adjacent to an existing public road.
 - (3) The number of lots which may be created or single-family dwellings or other principal nonagricultural buildings which may be erected on the parent tract shall be fixed according to the parent tract. This number shall not be increased by the subdivision of such parent tract. Any subsequent owner of a parent tract or land remaining in a parent tract after subdivision shall be bound by the actions of his predecessor.
 - (4) Any land development, the purpose of which is to permit the erection of a permanent single-family dwelling on a parent tract which has been previously improved with a dwelling which also will remain upon the parent tract or to permit the erection of a structure for additional principal use on the parent tract, shall be considered a subdivision for the purposes of this section. It is the purpose of this section to limit the development of agricultural tracts for nonagricultural purposes, regardless of whether such development is accomplished by subdivision or land development, as those terms are defined in the Act.
 - (5) No subdivision shall be permitted which shall increase the lot size of a lot of record used or to be used for residential purposes in excess of the maximum lot size as set herein. Any lot which is less than 20 acres in size shall be presumed to be for a principal residential purpose.
 - (6) If a parent tract is to be subdivided to create a new lot for a farm, the remainder parent tract and the new lot to be created for the new farm each must contain a minimum 20 acres. The applicant shall have the burden to present substantial evidence to support the applicant's position that the principal use of the new lot will be a farm.
- C. Exemptions from Limitation on Subdivisions. The following types of subdivisions shall not be counted against the maximum allowed number of lots:
- (1) A subdivision, the sole purpose of which is to transfer land to increase the size of a lot being used for agricultural purposes.
 - (2) A subdivision, the sole purpose of which is to transfer not more than one acre of land to increase the size of an existing residential lot where the residential lot shall not exceed the maximum lot area for single-family dwellings set forth in § 27-204.2.
 - (3) The limitations upon acreage that may be subdivided and upon the number of lots that may be created shall not apply to a lot of five or fewer acres used for:
 - (a) One place of worship;
 - (b) One primary or secondary school serving fewer than 100 students;
 - (c) Public outdoor recreation land;
 - (d) Land transferred to a municipal authority for a public water supply well; or

(e) Land transferred to the Township or PennDOT for a stormwater management or water quality improvement under the MS4 program, or a public road improvement.

(4) The property line between two existing abutting lots can be changed, provided that all requirements of this chapter are met.

D. Requirements for Plans and Deeds Relating to Lands Within the AG District. Any subdivision or land development plan hereafter filed with the Township in the AG District shall specify on the recorded plan which lot or lots shall carry a right of further subdivision or development of single-family dwellings or other principal nonagricultural buildings, if any such right remains from the maximum number allocated to the parent tract on April 1, 1989, or on the date when such land was first included in the AG District, whichever is later.

(1) The right of further subdivision or erection of single-family dwellings or other principal nonagricultural buildings, or a statement that no further subdivision or erection of single-family dwellings or other principal nonagricultural buildings is permissible, shall also be included in the deed to the newly created lot. If the designation of the right of further subdivision or erection of additional single-family dwellings or other principal nonagricultural buildings was not included on a subdivision or land development plan of a parent tract, it shall be conclusively presumed that the largest lot remaining after subdivision shall carry the right of further subdivision or erection of additional single-family dwellings or other principal nonagricultural buildings.

2. The following are AG District dimensional regulations for allowed uses, unless a more restrictive requirement is established by another provision of this chapter (such as for concentrated animal feeding operations).

Use	Lot Area (acres)	Minimum Lot Width (feet)	Minimum Front Yard Setback (feet)	Minimum Side Yard Setback (each of 2 sides) (feet)	Minimum Rear Yard Setback (feet)	Building Height ² (feet) (maximum)	Lot Coverage (%) (maximum)
Other Allowed Use, such as Agri-cul- tural Uses ²	20	150	40	50	50	150 for agricul- tural uses; 40 for other uses	15
Single- Family Detached Dwelling	Min. 1; Max. 2 ¹	150	40	15	30	40	30
Use Allowed by § 204.1C(3) above	Min. 1; Max. 5 ¹	150	40	50	50	40	40

NOTES:

- 1 The maximum lot area shall apply to a new principal nonagricultural lot and may be increased to meet septic requirements in accordance with § 27-317, or to meet DEP nitrate requirements related to septic systems.
- 2 Any structure having a height greater than 40 feet shall have a setback from all lot lines a distance equal or greater than the height of the structure.

3. Additional Setback Requirements.

A. Except as provided in Subsection 3A(1) below, no new slaughter area, area for the storage or processing of garbage or spent mushroom compost, structures for the cultivation of

mushrooms, or a building housing a commercial poultry or livestock operation shall be permitted within 300 feet of any property line within the V, RM or SR Districts.

(1) The Zoning Hearing Board may, as a special exception, reduce the above setback requirements where it is shown that, because of prevailing winds, unusual obstructions, topography, or other conditions, a lesser distance would protect adjoining lands from odor, dust, or other hazards. In no case, however, shall the Zoning Hearing Board reduce the 300-foot setback requirement to less than 100 feet. The burden shall be upon the applicant to prove that a lesser distance would not be detrimental to the health, safety, and general welfare of the community.

(2) Manure storage structures shall meet setbacks established under state regulations. Where a state regulation does not apply, a 100-foot setback shall apply from each lot line.

B. In addition to the setbacks listed above, every single-family detached dwelling (unless it is on the same lot as the specified use or unless the owner of the specified use provides a written signed and notarized waiver of the setback) proposed within the AG District shall be set back in accordance with the following chart. Required setback distances shall be measured as a straight line between the closest property line of the proposed dwelling to the specified use.

Specified Use	Required Setback
Facilities or area for the storage or processing of manure, garbage, or spent mushroom compost; structures for the cultivation of mushrooms, or buildings for the principal raising of livestock or poultry	200 feet
Beehives	50 feet
Farm-related businesses	100 feet

4. Agricultural Nuisance Disclaimer. All lands within the AG District 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, and the possibility of injury to property and health 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 possibility of injury from normal agricultural operations, and are hereby put on official notice that § 4 of the Pennsylvania Act 133 of 1982, the Right to Farm Law, 3 P.S. § 954, may bar them from obtaining a legal judgment against such normal agricultural operations.

A. This notice, or closely similar text pre-approved by the Zoning Officer, shall be included as a notation accompanying every deed of a newly created residential lot in the AG District.

5. Tree and Shrub Setback Requirement. On a residential lot abutting a lot with an active principal agricultural use, no tree or shrub shall be planted within 20 feet of the agricultural lot in such a manner that it may grow to obstruct agricultural machinery or to grow over the lot line.

6. Conservation and Nutrient Management Plans. See requirements of DEP for erosion and sedimentation control plans and nutrient management plans. The Township may require proof of compliance with state regulations as a condition of any Township permit or approval.