

**Ann Arbor Charter Township  
Agricultural Preservation Residential District**

**ORDINANCE 4-2008**

**Chapter 74, Article IV, Division 4 Additional Requirements  
Applicable to Certain Districts**

**74.547. Agricultural Preservation Residential District**

(a) *Intent.* The purpose of this section is to establish an optional means for development of lands located in the agricultural production or open space preservation areas of the Township. It is the intent of this district to preserve agricultural lands by providing clustered residential development that offers an alternative to traditional subdivisions through the use of Planned Unit Development legislation as authorized by the Zoning Enabling Act (Public Act 100 of 2006, as amended) for the purpose of:

- (1) Assuring the permanent preservation of agricultural lands, open spaces, scenic vistas, and natural features;
- (2) Encouraging a less sprawling form of development, thus preserving farmland as undeveloped land
- (3) Preserving a critical mass of contiguous farmland to encourage continuation of crop and livestock production;
- (4) Allowing innovation and greater flexibility in the design of rural residential developments while discouraging land uses that would cause conflicts with farming operations;
- (5) Facilitating the construction and maintenance of streets, utilities, and public services in rural residential developments in a more economical and efficient manner; and
- (6) Ensuring compatibility of design and use between neighboring properties.

These regulations are intended to preserve agricultural lands, open spaces, natural features, and traditional rural character in the Township through the creation of small rural residential clusters mixed with farmland, open space and less intensive land uses. The regions of the Township for which this zoning district applies are areas designated in the Township Master Plan (formerly known as General Development Plan) for Agricultural Production or Open Space Preservation. The density bonus described in the Master Plan for clustered residential development in the Agricultural Production area is only available through the Agricultural Preservation Residential District described in this Article.

In general uses and activities that induce non-farm development, generate large amounts of traffic, require substantial parking, or pose a threat to Agricultural Land uses are inconsistent with the purposes of this district. Without limiting the forgoing, the following specific uses are deemed to have the effect of altering the essential character of this district and causing substantial and permanent impairment to the prevailing

agricultural uses in the district and are not permitted: landfills, quarries, golf courses, sewage treatment plants, airports, country clubs, schools and churches.

(b) *District General Principles*

- (1) Zoning Classification. The areas of the township designated in the Master Plan as Agricultural Production or Open Space Preservation are the only areas within which an APD may be established. The density bonus described in the Master Plan for clustered residential development in the Agricultural Production area is only available through the Agricultural Preservation Residential District described in this Section 74-547.
- (2) Approval of Lots. Any division of a land in an Agricultural Preservation Residential District shall be in accordance with the zoning density provided in this Article and shall be approved by one of the following means:
  - a. Division by metes and bounds shall be approved by the Zoning Administrator in accordance with the Township Land Division Ordinance. The Zoning Administrator shall not approve any land division for an APD unless the requirements of this Article are met.
  - b. Division by Subdivision Plat in accordance with the approval process provided in the Township Subdivision Ordinance and the Township Zoning Ordinance, including this Article.
  - c. Division by Site Condominium in accordance with the approval process provided in Article V, Section 74-601 of the Zoning Code and this Article.
- (3) Guarantee of Preservation. The Dedicated Open Space shall in perpetuity remain in an undeveloped state, subject only to uses approved by the Township on the approved APD area plan. Further subdivision of Dedicated Open Space or its use for purposes other than on the approved APD Area Plan shall be strictly prohibited. As part of the APD approval process, the applicant shall submit for review and approval by the Township Board a recordable Conservation Easement or Use Restriction which shall run with the land, which shall be binding on all future owners of the Project, and which shall provide that the Dedicated Open Space will be maintained, used and preserved in accordance with the approved APD. The form and content of the Conservation Easement and Use Restriction are further described in Subsections (4) and (5) below.
- (4) Unified Control. The proposed Project, including the Dedicated Open Space shall be under single ownership or governance designed to ensure completion of the Project, and continued maintenance, use and preservation of the Dedicated Open Space in the manner approved. The applicant shall provide the proposed Articles of Incorporation and Bylaws for the entity proposed for ownership or control of the Dedicated Open Space, and the Master Deed, Bylaws, Covenants, Restrictions, Contracts or bonds that establish a mechanism for ensuring completion of the Project and continued maintenance, use and preservation of Dedicated Open Space in the manner approved. Notwithstanding the foregoing, after the approval of the Township, the Dedicated Open Space may be transferred to the Township or another entity committed to ensuring continued farming of the

Agricultural Land portion of the Dedicated Open Space in the manner described in 14.4.J. below.

- (5) Township Master Plan. The proposed Project shall be consistent with and shall further the implementation of the Township Master Plan.

(c) *Principal Permitted Uses and Accessory Uses, Conditional Uses and Incompatible Uses*

(1) *Principal Permitted Uses and Accessory Uses*

a. *Residential Lots.*

(i) *Permitted Uses.* Detached single-family residential dwellings, two-family dwellings and townhouse dwellings are permitted in areas not a part of the Common Areas or Dedicated Open Space, including home occupations.

(ii) *Accessory Uses.* Accessory Uses, utilities and buildings incidental to the principal permitted uses as residential dwellings as allowed in the A-1 zoning district are allowed on Residential Lots or Common Areas.

b. *Dedicated Open Space; Primary Conservation Areas*

(i) *Permitted Uses.* Primary Conservation Areas and Secondary Conservation Areas shall remain undisturbed and used only in accordance with the approved APD and any Wetland permit or Natural Features Use permit and any related Conservation Easement pursuant to the approved APD. Agricultural Land uses are permitted uses within other portions of the Dedicated Open Space subject to the terms of the Conservation Easement or Use Restrictions described in Subsections (d)(4) and (d)(5) below. For land that is actively farmed, activities normally associated with Agricultural Land use are permitted in accordance with the Michigan Right to Farm Act.

(ii) *Accessory Uses.* Buildings and uses incidental to the permitted Agricultural Land uses, including roadside stands, signs, storage buildings, barns, silos, when part of a farming operation, and other accessory uses incidental to the permitted use are allowed in the Agricultural Lands portion of the Dedicated Open Space.

(2) *Conditional Uses*

The following conditional uses may be allowed in the Agricultural Land portion of the Dedicated Open Spaces using procedures and standards defined in Article II, Division 3, Sections 74-131 through 138:

- a. Radio, television, cell towers
- b. Transmission and distribution lines in new right-of-ways
- c. Family-farm related businesses, such as the sale of incidental farm supplies, repairs and traditional arts and crafts; the farm-related business must be secondary to the farm operation.

(3) *Prohibited Uses*

Uses not specifically described in Subsections (c)(1) and (c)(2), above, are prohibited.

(d) *Agricultural and Open Space Requirements*

- (1) *Use.* All land within a Project that is not devoted to a permitted or accessory residential use or Agricultural Land use, Primary Conservation Area or Secondary Conservation Area, vehicle access, vehicle parking, a roadway, a utility easement or an approved land improvement, shall be set aside as Common Area for recreation, conservation or preserved in an undeveloped state. Grading shall be minimal in the Common Area, with the intent to use existing topography.
- (2) *Clustering.* Dwelling units shall be grouped so that Dedicated Open Space within a Project is at least eighty (80) percent of the Total Buildable Area and such that at least 80% of the predevelopment tillable farmland will be permanently protected within the Dedicated Open Space as one contiguous parcel to the extent possible.
- (3) *Dedicated Open Space.* The Dedicated Open Space shall be located to preserve significant Agricultural Lands and secondarily to preserve significant natural features and to connect open spaces throughout the Project with adjacent open space. Open space along the exterior public roads shall generally have a depth of at least one hundred (100) feet, either as farmland or landscaped with natural vegetation or preserved in a natural wooded condition. All non-farm vegetation shall be native to the area. The open space along the exterior public roads shall be agriculture or landscaped with a minimum of one (1) tree for each twenty (20) feet of road frontage. Such plantings shall be planted in staggered rows or clustered into groupings to provide a natural appearance. Preservation of existing trees is preferred and may be credited towards meeting the frontage landscaping requirement.
- (4) *Conservation Easement or Use Restriction.* The Dedicated Open Space and the Primary Conservation Areas shall be set aside by the developer through a permanent conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Act 451 of 1994, as amended (M.C.L. 324.2140 et. seq.) (“Conservation Easement”) or by a conveyance to the Township or other entity approved by the Township with restrictions on use consistent with the approved APD area plan (“Use Restriction”). Such Conservation Easement or Use Restriction shall be held by the Township or a recognized land trust or conservancy approved by the Township Board. It shall be in a form acceptable to the Township and duly recorded in the County Register of Deeds office. In the event the land trust or conservancy holding the Conservation Easement or land subject to the Use Restriction ceases to exist, the Township shall have the right to accept an assignment as grantee of the Conservation Easement or land subject to the Use Restriction or to designate another tax exempt organization dedicated to preservation of land as the grantee.

- (5) *Purpose and Content of Conservation Easement or Use Restriction.* The Conservation Easement or Use Restriction shall assure that the Dedicated Open Space, and the Primary Conservation Areas will be protected from all forms of development and used, maintained and preserved, in an undeveloped state, except as shown on the APD approved Area Plan. The Conservation Easement or Use Restriction shall:
- (a) require that farmland be continuously made available for Agricultural Land uses;
  - (b) require a good faith effort by the landowner to farm the portion of the Dedicated Open Space designated for agricultural use on the APD area plan or make such land available for farming by others;
  - (c) provide for Township remedies in the event the Agricultural Land is not used for agricultural purposes;
  - (d) state the allowable use(s) of the Dedicated Open Space and Primary Conservation Easement Areas;
  - (e) require that the Township be notified in writing of any transfer of ownership or control of the Dedicated Open Space;
  - (f) prohibit the following within the Dedicated Open Space (provided, however, on land that is actively farmed, activities normally associated with Agricultural Land use shall be permitted in accordance with the Michigan Right to Farm Act):
    - i. Dumping or storing of any hazardous material or refuse;
    - ii. Any activity that may cause risk of soil erosion;
    - iii. Any use of motorized off road vehicles;
    - iv. Cutting, filling or removal of vegetation, with the exception of removal of invasive species, from wetland areas;
    - v. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands.
- (6) *Connection to Adjacent Dedicated Open Space or Area.* The APD area plan shall provide for connections of the Dedicated Open Space with adjacent dedicated open space, public land or existing or planned pedestrian or bike paths.
- (7) *Agricultural Maintenance Plan.* As part of the APD rezoning petition, the applicant shall provide an agricultural maintenance plan for review by the Township Planning Commission and approval by the Township Board. The agricultural maintenance plan shall be designed to ensure that the Agricultural Land shall be perpetually used for agricultural purposes.
- (8) *Allowable Structures.* Structure(s) or building(s) described in (c)(1)b above, accessory to the approved recreational, conservation or agricultural use may be

erected within the Dedicated Open Space, in accordance with the approved APD area plan. The total floor area of accessory building(s) shall not exceed, in the aggregate, one percent (1%) of the required Dedicated Open Space area.

(9) *Areas Not Considered Dedicated Open Space.* The following land areas shall not included as Dedicated Open Space for the purpose of this Article:

- a. The area of any private or public street right-of-way.
- b. Any Lot including the required setbacks surrounding a residential structure.
- c. Stormwater basins, water treatment facilities, and sanitary sewer treatment facilities.
- d. Primary Conservation Areas.

(10) *Ownership of Agricultural Lands and continued availability of land for farming.*

The Agricultural Land included in the Dedicated Open Space shall be continually made available for farming through recorded Use Restrictions or a Conservation Easement and through ownership or control by an entity that has made a demonstrated commitment to farming in the area. Woodlots and other natural areas, including Primary Conservation Areas adjacent to the protected farmland may be owned by the owner of the Agricultural Land. The Homeowners Association described in Subsection 12 below is generally not a suitable owner of the Agricultural Land. Pursuant to the recorded Conservation Easement or Use Restrictions, the owner of the Agricultural Lands must agree that the Agricultural Land will be farmed by the owner or made available to others for agricultural purposes. Pursuant to the Conservation Easement or Use Restrictions, the Township shall have the right to enforce these provisions.

(11) *Agricultural Disclosure.* Agricultural Lands within the ADP are used for commercial agricultural operations. To minimize conflict between such commercial agricultural operations and adjacent residential uses, the petitioner and current Project owners shall agree, as part of the APD Agreement described in Subsection (k) below, to provide Lot Owners and the Homeowners Association with the following Agricultural Disclosure:

**“DISCLOSURE OF AGRICULTURAL CONDITIONS**

“Lands within the Agricultural Preservation Residential District associated with and adjacent to your residence are used for commercial agricultural operation. Owners, residents and other users of this property or neighboring properties may be subject to inconvenience, discomfort and possible health concerns for susceptible individuals arising from normal and accepted agricultural practices and operations in accordance with Generally Accepted Agricultural Management Practices, including but not limited to, noise, odor, dust, the operation of machinery, the storage and disposal of manure, and the application of fertilizers, herbicides, and pesticides. Owners, residents and users of this property should be prepared to accept such inconveniences, discomfort and possible health

concerns for susceptible individuals from agricultural operations in accordance with Generally Accepted Agricultural Management Practices, and are notified that such agricultural operations are protected in accordance with the Michigan Right to Farm Act.”

(12)*Homeowners Association.* The Primary Conservation Areas, the Secondary Conservation Areas and other Common Areas and associated facilities shall be held in common ownership by the Homeowners Association. The Homeowners Association Articles of Incorporation and Bylaws shall be included in the APD plan submissions and shall be subject to review and recommendation by the Planning Commission and approval by the Township Board in accordance with the following:

- a. The petitioner shall provide a description of the Homeowner’s Association and include in its Articles of Incorporation and Bylaws methods for maintaining Common Areas, Primary Conservation Easement Areas and Secondary Easement Areas, and ensuring the integrity of the dominant natural features.
- b. The Homeowners Association shall be organized by the Petitioner or the Project owner and shall be operated with a financial subsidy from the Petitioner, or the Project owner, before the sale of any Lots within the Project.
- c. Membership in the Homeowners Association shall be automatic and mandatory for all purchasers of Lots in the Project and their successors. The conditions and timing of transferring control of the Homeowners Association from the Project Owner to Lot owners shall be identified.
- d. The members of the Homeowners Association shall share equitably the costs of maintaining the Primary Conservation Areas, Secondary Conservation Areas, and Common Areas. Assessments of the Homeowners Association for such purpose shall be a lien on the Lots.
- e. The Homeowners Association or Lot owners shall be responsible for payment of any property taxes and maintenance of all Primary Conservation Areas, Secondary Conservation Areas, and Common Areas and facilities under its control, and maintenance of liability insurance and similar duties of ownership.

(e) *Density Calculations.*

The maximum permitted density in an APD shall be determined as follows:

- (1) The Total Buildable Area is calculated by subtracting acreage in Primary Conservation Areas, Storm Water Basins, water treatment facilities or sanitary sewer treatment facilities and private and public road right-of-ways from the gross Project acreage.
- (2) Multiply the acreage of the Total Buildable Area by 0.14 to determine the maximum number of dwelling units permitted.

- (3) Lots may vary in size.
- (4) The maximum ground floor coverage on any Lot shall be 10%; the maximum floor area ratio shall be 0.2.

(f) *Design Standards*

(1) *Agricultural Preservation.* The Project shall be designed to promote the preservation of Agricultural Lands. Individual lots, buildings, streets and parking areas shall be designed and situated to maximize Agricultural Land.

(2) *Location of Lots.* Residential lots shall be laid out, to the greatest extent feasible, to achieve the following objectives:

- a. In locations that maximize preservation of high quality Agricultural Land.
- b. On the most suitable soils for subsurface septic disposal.
- c. In locations least likely to block or interrupt scenic vistas, as seen from public roadways.

(3) *Setbacks:* Minimum setback requirements shall be established in a manner which permits variation in siting of individual dwelling units in order to encourage creativity in design and compatibility with agricultural lands and natural features.

- a. Front, rear and side yard setbacks shall be staggered to provide for variety in siting and appearance.
- b. In the case of subdivisions and site condominiums:
  - i. The minimum front, rear, and corner yard setbacks shall be twenty-five (25) feet, provided the total of the front and rear setback shall be seventy (70) feet.
  - ii. The minimum side yard shall be ten (10) feet provided the total side yard setbacks on the same lot is thirty (30) feet.
  - iii. The minimum distance between buildings on adjacent lots shall be thirty (30) feet.
- c. In the case of traditional condominiums:
  - i. The minimum front, rear, and corner yard setbacks shall be twenty-five (25) feet, provided the total of the front and rear setback is seventy (70) feet.
  - ii. The minimum distance between buildings when located side to side shall be thirty (30) feet. The minimum distance between all other building orientations shall be fifty (50) feet.

- d. Dwelling placement on a lot shall be as far as possible from Primary Conservation Areas or agricultural areas, but in no cases, shall they be closer than one hundred (100) feet from said area.

(4) *Required Road Frontage:* There shall be no required minimum lot width provided all applicable setbacks set forth in Subsection (f)(3)c. above are met. All lots shall have frontage on a public road which has been accepted for maintenance by the Washtenaw County Road Commission, or a private road approved by the Township. The extent of road frontage shall be determined by the Township, in its discretion, taking into consideration: the extent and importance of natural resources, topographical conditions, floodplains, and wetlands to be preserved on the property, the size and shape of the development site; public safety, aesthetics; and, impact upon the surrounding developments.

(5) *Open Space Between Clusters.* Dedicated Open Space between clusters of residential dwellings, including those spaces used as recreation areas, shall be at least one hundred (100) feet wide.

(6) *Landscaping and Buffering.*

- a. Landscaped or native vegetative cover shall provide a screened buffer between dwellings and neighboring properties.

- b. Where the Agricultural Preservation Residential District abuts an adjacent single-family residential use, the Planning Commission may recommend and the Township Board may require a transition setback which may include a high, non-climbable fence. Grading within the transition area shall be minimal unless necessary to provide effective buffering or to accommodate proper drainage. If the Project grade change adjacent to a single-family residential use is to be varied by more than three (3) feet, the area plan shall include cross sections illustrating existing and proposed grades in relation to existing and proposed building heights. Perspective renderings that depict the view from adjacent residential units are encouraged. The Planning Commission may recommend and the Township Board may require that the transition area adjacent to a single family residential use shall consist of one or more of the following:

- i. Woodlands, natural features or a landscaped greenbelt sufficient to provide an effective buffer.
  - ii. Open or recreation space.
  - iii. Significant changes in topography that provides an effective buffer.
- c. Buffer zones of at least one hundred (100) feet in width shall be required between the building envelope line in adjacent residential areas and agricultural areas in Agricultural Preservation Residential Districts. Buffers shall be provided with a high, non-climbable fence and planted with fast growing native shrubs and trees to create an

effective barrier separating residential yards from fields and pastures, however no shrub shall be planted within twenty (20) feet and no tree shall be planted within thirty (30) feet of any land used for agricultural purposes.

- (7) *Dwelling Placement.* Dwelling placement shall be planned to screen homes from off-site vantage points, away from environmentally sensitive areas, existing agricultural areas, sites suitable for open space and upwind from areas subject to land management practices that may cause dust, noise, smoke, odors or similar problems.
- (8) *Preserving Road Frontage.* All dwellings and accessory structures shall be no less than one hundred (100) feet from the edge of the public access road. The one hundred (100) foot set back area shall be maintained with native plants and trees so as to create a buffer between the roadway and the dwellings and accessory structures.
- (9) *Septic Tanks and Fields.* The placement of septic tanks and fields shall comply with requirements of the Washtenaw County Department of Environment and Infrastructure Service (WCEIS). Drain fields may be placed in the Dedicated Open Space or transition areas if permitted by the WCEIS as long as such drainfields do not interfere with farming operations.
- (10) *Public Road Access.* Direct access onto a public road shall be required for an Agricultural Preservation Residential District which shall also meet or exceed the access standards contained in 74-11.
- (11) *Internal Roads.* Internal roads within an Agricultural Preservation Residential District may be public or private.
  - a. Construction of private roads as a means of providing access and circulation is encouraged. Private roadways within an Agricultural Preservation Residential District must meet the design requirements of the Township Private Road Ordinance. The Planning Commission may recommend that the Township Board grant a variance in accordance with the Private Road Ordinance in the following circumstances:
    - i. There is no potential that the internal roads will connect with abutting land or be extended to serve additional land in the foreseeable future.
    - ii. Significant natural features such as mature trees, natural slopes, wetlands or other water bodies would be preserved through allowing a variance from the Private Road standards.
  - b. Both sides of all internal Project roads shall consist of Agricultural Land or shall be landscaped with street trees, provided however, that no shrub or tree shall be planted within twenty (20) feet of, and no tree shall be planted within thirty (30) feet of any Agricultural Land. Internal road frontages of individual Lots shall have a minimum of two (2) canopy trees per Lot. For sections of the internal roads that do not abut residential

Lots, one canopy tree shall be provided on each side for every fifty (50) feet of road frontage. Existing trees that are preserved and that are located within the right of way or road easement and those that are outside these areas but within five (5) feet of the road right-of-way or road easement line may be credited towards this requirement.

(g) *Regulatory Flexibility*

- (1) To encourage flexibility and creativity consistent with the intent of the Agricultural Preservation Residential District, the Township Board may grant specific deviations from the following requirements of the Zoning Ordinance as a part of the APD approval process: height, setback, off street parking, ground floor coverage, floor area ratio, yard and Lot width standards, provided that such modifications results in enhanced buffering from adjacent land uses or public right-of-ways, or preservation of natural features or farmland. The petitioner shall provide sufficient evidence for the Township Board to make a finding that such deviations are justified by unique topographic conditions, vegetation, grades, or to preserve natural features and open areas. Such evidence shall include calculations, data, expert opinions and other information and documentation demonstrating that (i) the requested deviation is the minimum change necessary, (ii) the deviation will not adversely affect public or private services to the project, (iii) special circumstances or conditions exist peculiar to the project that warrant the proposed deviation and do not result from actions of the applicant, and (iv) the requested deviation will not be harmful or injurious to the neighboring areas, will not be detrimental to the public interest, and will further the intent of this Article. Any regulatory modification shall require Township Board approval after Planning Commission recommendation and findings that the deviation shall fulfill the intent of this Article. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals.
  
- (2) A table shall be provided on the area plan that specifies the details of all proposed deviations, including ordinance provisions from which deviations are sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this Ordinance shall be considered.

(h) *Application procedures and final site plan requirements*

- (1) *Pre-application conference and petition and area plan approval processes*
  - a. *Pre-Application Conference and Application Process.* A pre-application conference for an Agricultural Preservation Residential District zoning shall be required using the procedures outlined in Section 74-542 (Pre-application conference). The APD petition and Area Plan shall be submitted in accordance with Section 74-542. (Petition and area plan approvals). The area

plan shall constitute the preliminary site plan and shall be reviewed in accordance with the requirements and standards of Section 74-171 through 74-183.

b. *Final Site Plan Requirements.*

After approval of the APD rezoning and area plan, a final site plan shall be submitted for review and action by the Planning Commission for each phase of an APD as delineated on the approved area plan. Each final site plan shall be submitted and reviewed and shall meet all provisions of Article II, Division 4 Section 74-174, Final Site Plan. The Planning Commission shall transmit the approved final site plan to the Township Board for its information.

c. *Subdivision Plats.*

If an Agricultural Preservation Residential District is developed as a subdivision plat the procedures defined in Section 74.542(g) and Article 58 of the Code, being the Township Subdivision Ordinance, shall apply.

d. *Site Condominium.*

If an APD is developed as a site condominium, the procedures of Section 74-601 shall apply.

(i) *Project Standards*

In considering any application for approval of an Agricultural Preservation Residential District petition and area plan, the Planning Commission shall determine and shall provide evidence in its report to the Township Board that Petition and Area Plan meets the following standards:

(1) *Compliance with the Agricultural Preservation Residential District Principles, Requirements and Design Standards.*

The overall design and land uses proposed in connection with an Agricultural Preservation Residential District shall be consistent with the intent, principles and requirements of the APD district, and the specific design standards set forth herein.

(2) *Compatibility with Adjacent Uses.*

The proposed location of uses or structures that are of a significantly different scale or character than the abutting residential district, such as access drives, parking areas, solid waste pick-up points, swimming pools, tennis courts, and facilities of a similar nature shall not be located near the boundary of the development or so as to have a negative impact on the residential uses of adjacent lands. The proposed Agricultural Preservation Residential District area plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features and shall exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:

- a. The bulk, placement, and materials of construction of proposed structures.
- b. Pedestrian and vehicular circulation.
- c. The location and screening of vehicular use or parking areas.
- d. The provision of landscaping and other site amenities.

(3) *Impact of Traffic.*

The Agricultural Preservation Residential District shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.

(4) *Protection of Agricultural Capacity and Natural Environment.*

The proposed Agricultural Preservation Residential District shall protect the agricultural capacity of the land within the Project and, secondarily, the natural environment and shall comply with all applicable environmental protection laws and regulations. Natural features as defined in Chapter 18 of the Ann Arbor Township Land Development Standards shall be preserved to the maximum extent feasible. If animal or plant habitats of significant value exist on the site, the Planning Commission may recommend and the Township Board may require, as a condition of approval, that the Project plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas. The development shall follow the design standards provided in Chapter 18 of the Ann Arbor Township Land Development Standards.

(5) *Compliance with Applicable Regulations.*

The proposed Agricultural Preservation Residential District shall comply with all applicable Federal, State, and local laws, ordinances and regulations.

(6) *Township Master Plan.*

The proposed Agricultural Preservation Residential District shall be consistent with and further the implementation of the Township Master Plan.

(j) *Conditions.*

Reasonable conditions may be required by the Township Board for approval of an Agricultural Preservation Residential District, for the purpose of

- (1) ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,
- (2) protecting agricultural lands or the natural environment,
- (3) ensuring the continuing viability of farming operations on the Project,
- (4) conserving natural resources and energy,
- (5) ensuring compatibility with adjacent uses of land, promoting the use of land in a socially and economically desirable manner

- (6) further the implementation of the Township Master Plan and
- (7) protection of the public health, safety and welfare of individuals in the Project or those in the immediately adjacent area;

All conditions imposed shall be made a part of the record of the approval, and the APD Agreement. The Planning Commission shall make recommendations to the Township Board of proposed conditions for approval.

*(k) Recording of Action; APD Agreement; Development Agreement.*

Promptly after approval by the Township Board of the APD, the applicant, the Township and the Project owner shall sign and the Township shall record an APD Agreement which shall incorporate all conditions for approval of the APD, including, but not limited to, the agreement for Disclosure of Agricultural Conditions, reference to the Conservation Easements or Use Restrictions, obligations pertaining to the Homeowners Association, the full legal description of the Project, and the date of Township approval. The APD Agreement shall declare that all uses of and improvements at the Project will be carried out in accordance with the approved Agricultural Preservation Residential District rezoning and area plan unless an amendment is adopted by the Township. The petition and area plan for the APD rezoning shall not be deemed officially approved and the applicant shall not be entitled to submit a site plan or obtain grading or building permits for the Project until the APD Agreement is signed and recorded.

In addition, the Use Restrictions and Conservation Easements shall be duly filed with the register of deeds of the County of Washtenaw and copies of the recorded documents provided to the Township.

The APD Agreement, the Use Restrictions and Conservation Easements shall be reviewed by the Township attorney and Township, staff and consultants as to form and consistency with the APD approval and conditions and this Article prior to recording.

As part of the final site plan approval for the Project, the applicant, the Township and the Project owner will enter into a Development Agreement with Performance Guarantees as described in 74-180 of the Ordinance.

*(l) Permits.*

Following approval of the Agricultural Preservation Residential District final site plan and final approval of the engineering plans by the Township Engineer, grading and building permits may be applied for. For an Agricultural Preservation Residential District that is a subdivision plat, grading and building permits may be applied for only after approval by Township and all other applicable agencies is received. It shall be the responsibility of the applicant to obtain all other applicable Township, County, State, and Federal permits.

*(m) Initiation of Construction.*

If construction has not commenced within eighteen (18) months of final approval, all Township approvals become null and void, unless the Township Board approves an extension. The applicant may apply in writing to the Township Board for an extension,

which shall not exceed twelve (12) months. A maximum of two (2) twelve month extensions may be allowed.

(n) *Continuing Adherence to Plan.*

Any owner of land within an approved APD who fails to comply with the terms, conditions and restrictions of the APD shall be deemed in violation of the Zoning Ordinance and shall be subject to the penalties for same.

(o) *Scheduling Phasing*

(1) *Scheduled Phasing.*

When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the Agricultural Preservation Residential District and the residents of the surrounding area.

(2) *Timing of Phases.*

Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void unless the Township Board approves an extension.

(p) *Revision of Approved Plans*

(1) *Minor Changes*

a. Minor changes to an approved Agricultural Preservation Residential District plan may be permitted by the Planning Commission following normal site plan review procedures outlined in Article II Division 3 Sections 74-131 through 74-138 for the following:

1. Reduction of density;
2. Changing non-single family dwelling units to single family dwelling units;
3. Realignment of roads;
4. Modifications to setbacks;
5. Increasing the amount of open space;
6. Changes to landscaping, provided the number of plantings is not decreased;
7. Change in the size of detention ponds by no more than 10%;
8. Changes to septic / drain-fields in common areas;
9. Changes to phasing plan; and

b. Minor changes shall be subject to the finding of all of the following:

1. Such changes will not adversely affect the initial basis for granting approval,

2. Such minor changes will not adversely affect the overall Agricultural Preservation Residential District in light of the intent and purpose of such development as set forth in this Article; and
3. Such changes shall not result in the reduction of Dedicated Open Space area as required herein.

*(2) Major Revisions.*

Approved plans for an Agricultural Preservation Residential District that do not qualify as minor under Subsection (p)(1) above may be revised by resubmitting a revised Agricultural Preservation Residential District area plan for approval following the procedures of Subsection (h) above.

## **New Definitions for Chapter 74-2(b)**

***Agricultural Land*** means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot. **[NOTE – NO EXCLUSION FOR CONCENTRATED ANIMAL FEED OPERATIONS]**

***Agricultural Preservation Residential District (APD)*** is a rural residential development in which 2 or more dwelling units are placed together into one or more groupings within a defined project area. The dwelling units are separated from adjacent properties and other groupings of dwellings by Agricultural Land that is perpetually protected from development and shall remain in an undeveloped state.

***Area Plan*** is a plan that is submitted with and is part of either a PUD, APD or OSPD rezoning request. It shall conform to the requirements provided in 74-542 of this Article. For the purposes of a PUD, APD or OSPD the Area Plan is in addition to and subject to the requirements for a subdivision plat or a site condominium review and site plan review.

***Common Areas*** means the area to be used by all residential Lot owners that is not Dedicated Open Space.

***Dedicated Open Space*** is open land that is permanently set aside by the owner for protection in a generally undeveloped state. It is used in APD and OSPD. It includes the Agricultural Land and the Secondary Conservation Area.

***Greenway*** means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

***Homeowners Association*** means an association of Lot owners of perpetual duration governing and administering the affairs of the residential Lot owners, including a condominium association.

***Lots*** means residential parcels created by platting, recording of a condominium or land divisions.

***Primary Conservation Area*** is all area in watercourses or wetlands, as defined in the Township wetland ordinance, any area devoted to natural or improved flood control channels, or those areas encumbered by floodway or county drain easements. Land in a

Primary Conservation Area is not counted in computing the net residential density for an APD .

**Project** means the total area of land being proposed for development and preservation under this Article and described in an Area Plan under this Article.

**Secondary Conservation Area** is an area with sensitive natural features, such as lands with slopes exceeding 12% or highly erodable soils and all areas within natural features setbacks as defined in Article VII, Sections 74-681 through 74-690 of the Township Zoning Code pertaining to Natural Features Setbacks. In an OSPD or APD, such areas are generally to be included in Dedicated Open Space and can be counted in computing the net residential density for an OSPD or APD.

**Total Buildable Area** is an area calculated by subtracting from the gross Project acreage, the areas comprised of right-of-ways for public and private roads and the Primary Conservation Areas and the area of Intensive Livestock Operations. This is the area used to compute the allowable maximum residential density for an OSPD or APD.

**Undeveloped State** means a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural land use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park.

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