

## ARTICLE 6

### A – AGRICULTURAL INDUSTRY DISTRICT

#### SECTION 6.01- INTENT:

The Pennsylvania Municipalities Planning Code sets forth as part of its intent the promotion of the preservation of the Commonwealth's prime agricultural land and the encouragement of that preservation through zoning. Millcreek Township's Agricultural Industry is comprised primarily of existing agricultural areas of the Township and those areas where environmental conditions are most conducive to agriculture and animal husbandry pursuits. Consistent with the strong legislative policy of the Commonwealth, Millcreek Township does not consider its prime agricultural land as undeveloped farmland awaiting another use. Rather, it is considered as developed land. It is land being used to produce a product. Farming is a land intensive manufacturing process that converts raw materials into a product, comparable to other industrial operations, with accompanying nuisances of noise, odor, and dust. Agricultural zoning districts should not be considered holding zones, but as zones having a positive purpose of utilizing the Township's natural resources for the benefit of the entire community, and the Township should protect agricultural zoning districts from interference by incompatible uses that break down the integrity of such districts and interfere with normal and customary agricultural operations.

#### SECTION 6:02 – PERMITTED USES:

- A. All forms of agriculture, aquaculture, tree farming, pasturing, truck gardening, horticulture, nurseries, vineyards, aviaries, apiaries, noncommercial greenhouses, commercial greenhouses, hatcheries, and similar enterprises, but excluding intensive animal husbandry operations.
- B. Animal husbandry, but not including intensive animal husbandry operations.
- C. Public conservation areas and structures for the conservation of open space, water, soil, forest and wildlife resources.
- D. Single family dwellings as regulated by section 6.03 of this Ordinance.
- E. Necessary public utility structures and buildings.
- F. Customary accessory uses and buildings incidental to any of the above permitted uses, including the following:
  - 1. Road side stands for the sale of "home-grown" or "home-made" products when located not less than twenty (20) feet from the road right-of-way line.
  - 2. Signs, as provided for in Article 18 of this Ordinance.
  - 3. Home Occupations as provided for in Section 16.17 of this Ordinance and no-impact home-based businesses as provided for in Section 16.23 of this Ordinance.
  - 4. Accessory uses as provided for in Article 16 of this Ordinance.

G. Farm-related business necessary to the conduct of agricultural activities, such as the sale of seed and fertilizer and the repair of farm machinery, subject to:

1. The business shall be conducted on a farm.
2. The business shall be conducted only by the proprietor of the farm on which the business is located or by a person employed on that farm for the purpose of participating in the conduct of agricultural operations.
3. The conduct of the business on a farm shall be secondary to the use of the farm for agricultural activities.

H. Public elementary and high schools and institutions of higher education.

I. Municipal Buildings.

J. Solar energy devices for use in agricultural enterprises.

K. Collection of naturally occurring surface water for wholesale commercial purposes subject to the Delaware River Basin Commission, Susquehanna River Basin Commission, Pennsylvania Department of Environmental Protection, and the Pennsylvania Fish Commission approval and regulation, as applicable, for removal of water resources, including structures necessary for the collection, storage, and removal of the naturally occurring surface water. The term "collection" shall not include extraction, by borehole or any other method.

L. Communications Antennas mounted on an existing Public Utility Transmission Tower, building, or other structure, including existing Communications Towers, and Communications Equipment Buildings, subject to the standards set forth in Article 16, Section 16.22.

**SECTION 6.03 - LIMITATIONS WITH RESPECT TO SINGLE FAMILY DWELLINGS:**

Single family dwellings shall be subject to the following limitations:

A. Upon each farm, and upon each lot not within the definition of farm, as the same existed on April 9, 2003, or as the same existed on the date the farm or lot was first designated as being in an Agricultural District, if that designation first occurred after April 9, 2003, there shall be permitted the following number of single family dwellings, including those existing on April 9, 2003, provided there is compliance with all requirements and limitations hereinafter set forth in this section:

<u>Size of Farm or Lot</u>	<u>Maximum Number of Single Family Dwellings</u>
0 acres to less than 10 acres	Any number in accordance with subsection D below
10 acres to less than 50 acres	3
50 acres to less than 100 acres	4

100 acres to less than 175 acres	5
175 acres to less than 250 acres	6
250 acres to less than 400 acres	7
400 acres or more	8

Existing unsubdivided single family dwellings shall be considered part of the permitted allotment. The maximum permitted number of single family dwellings shall apply regardless of whether individual lots are subdivided at the time the dwellings are established. Further subdivision of lots created after the enactment date of this Ordinance shall be subject to the maximum allotment determined for the farm or lot as set forth herein.

The transfer of separately deeded tracts or separate tracts under a single deed where such tracts are part of a farm as defined in this Ordinance, shall be prohibited unless such tracts comply with the maximum lot size set forth in Section 6.03D hereinbelow, and each such transfer shall be considered part of the permitted allotment. Provided, however, that a separately deeded tract containing a single family dwelling may be transferred irrespective of the maximum lot size set forth in Section 6.03D, and a separate tract under a single deed, where that tract contains a single family dwelling may be transferred irrespective of the maximum lot size set forth in Section 6.03D. In all cases such transfers shall be considered part of the permitted allotment.

B. All applications for Building and Zoning Permits to erect a single family dwelling on unsubdivided land and all applications for subdivision shall be accompanied by an agricultural plan identifying the following:

1. Size, shape, and dimensions, of the farm or other lot; size and location of all existing buildings; and size, location, and use of all proposed buildings and lots.
2. All lots previously approved under these regulations.
3. Land under active cultivation and land in woodlots or forests.
4. Soil information for the farm or other lot, including soil series and soil capability class, subclass, and unit as classified within the latest revision of the Soil Survey of Lebanon County, Pennsylvania, prepared by the United States Department of Agriculture.

C. All applications to erect a single family dwelling and to subdivide or resubdivide a farm or other lot shall be subject to the following:

1. All single family dwellings and lots to be subdivided shall be established or located on farmland classified as Soil Capability Classes III - VII, when such land is available; and
2. The least suitable farmland (highest numbered Soil Capability Units) shall be utilized for development in all cases, unless the applicant can demonstrate its unsuitability for the proposed use. When a soil has been determined to be unsuitable because of slope, drainage, flooding, sewage disposal deficiencies, or other physical characteristics,

then the least suitable remaining farmland, based on soil capability classes, shall be utilized for development; and

3. When the land to be developed is comprised entirely of farmland classified as Soil Capability Classes I and II, then the least suitable (highest numbered Soil Capability Units) shall be utilized for development; and
  4. Single family dwellings shall be grouped, where possible, adjacent to other similar uses and lots to avoid scattering of development. Dwellings shall be located as far from intensive animal husbandry operations as possible. No subdivision or development shall necessitate any new streets; and
  5. A property owner submitting a subdivision plan shall specify on the plan which lot or lots will carry with them the right to erect or place any unused portion of the quota of dwellings the original farm or lot may have, and the deeds for such lots shall recite the extent of the unused portion of said quota assigned to them. The property owner shall be required to assign to each lot the right to erect or place at least one dwelling and demonstrate that the lot can be approved as a location for the placement or erection of a dwelling unless the lot is being permanently merged with another parcel that has either an existing dwelling or the right to erect, or place at least one dwelling; and
  6. Application for the last single family dwelling permitted within a farm or other lot shall be accompanied by a proposed deed for the residue land. This proposed deed shall contain a restriction stating that subdivision and development allotments have been used and that no further subdivision, development, or establishment of additional single family dwellings shall be permitted. This restrictive deed shall be recorded within thirty (30) days of subdivision or permit approval for the last allowable dwelling. Failure to record this deed, subsequent removal of the deed restriction, or subsequent subdivision or establishment of additional dwellings shall constitute a violation of this Ordinance, punishable in accordance with this Ordinance and the Pennsylvania Municipalities Planning Code; and
  7. A limit of one single family dwelling lot may be subdivided every five (5) years, without regard to any changes in ownership, if any subdividable lot remains from the quota allocated to the farm. Rights to subdivide lots for single family dwellings shall not accumulate over time; there shall be five (5) years between each such subdivision. The right to subdivide the first single family dwelling lot shall accrue immediately upon the effective date of the enactment of this subsection; and
  8. Any landowner who disagrees with the classification of his or her land or any part of it by the latest revision of the Soil Survey of Lebanon County, Pennsylvania, prepared by the United States Department of Agriculture, may submit an engineering analysis of the soils on the portion of the land that the landowner seeks to have reclassified, and if the Board of Township Supervisors finds the analysis to be correct, it shall alter the Township Soil Map to reflect the results of such analysis.
- D. Lot area, lot width, lot coverage, yard depths, and building height shall satisfy the following requirements for every single family dwelling hereinafter erected, altered, or established in this district.

USE	<u>LOT REQUIREMENTS</u>			<u>YARD REQUIREMENTS</u>			REAR
	MAX. LOT AREA	MIN. LOT WIDTH	MAX. LOT COVERAGE %	FRONT	ONE SIDE	TOTAL SIDES	
Single Family Dwelling	2 acres	125'	15%	50'	20'	40'	50'

Minimum Lot Area shall be the minimum area that will permit:

1. The construction of the proposed dwelling.
2. A driveway to serve it.
3. An approved on-lot sewage disposal system that includes a primary absorption area, a replacement absorption area and any groundwater recharge area required by the Township's Act 537 Plan, the regulations of the Pennsylvania Department of Environmental Protection, and any approved sewage planning module applicable to the lot; and
4. An on-lot well with the required isolation distance separating it from the absorption areas.

In the event the application of this Township's Act 537 Plan, the regulations of the Pennsylvania Department of Environment Protection, and any approved sewage planning module applicable to the lot require a groundwater recharge area such that the total lot size exceeds the two (2) acre maximum lot size set forth in this section, the residential lot to be developed shall not be increased to more than two (2) acres. Rather, the remaining, land necessary to provide the required groundwater recharge area shall be supplied by way of a groundwater recharge easement in adjoining lands that are hydrogeologically appropriate, with corresponding land use restrictions. The form and language of such easements and restrictions shall be approved by the Township Board of Supervisors.

**SECTION 6.04:** The following special exceptions upon approval by the Zoning Hearing Board:

- A. Accessory use not located on the same lot with a permitted principal use to which it is accessory.
- B. Building height greater than 2 1/2 stories or 35 feet that is not exempted by other provisions of this Ordinance.
- C. Intensive animal husbandry operations; provided that new structures or the renovation, conversion, or expansion of existing structures to house an intensive animal husbandry operation are permitted only when the following requirements are met:
  1. The minimum lot size shall be twenty-five (25) acres.
  2. The maximum lot coverage shall be ten (10) percent.

3. No building housing livestock that is a part of an intensive animal husbandry operation shall be permitted within four hundred (400) feet of any residential zoning district, unless a portion of the building is used for the primary purpose of containing the manure generated in the building prior to the spreading or export thereof, in which case the setbacks required by the Nutrient Management Act and its implementing regulations shall control. Notwithstanding the foregoing exception, all animal confinement areas of poultry houses, horse stalls, free stall barns, and bedded pack animal housing systems shall be subject to the four hundred (400) foot setback provided for in this paragraph.
4. No building housing livestock that is a part of an intensive animal husbandry operation shall be permitted within two hundred (200) feet of any property line or road right-of-way line, unless a portion of the building is used for the primary purpose of containing the manure generated in the building prior to the spreading or export thereof, in which case the setbacks required by the Nutrient Management Act and its implementing regulations shall control. Notwithstanding the foregoing exception, all animal confinement areas of poultry houses, horse stalls, free stall barns, and bedded pack animal housing systems shall be subject to the two hundred (200) foot setback provided for in this paragraph.
5. Where it is shown that, because of prevailing winds, topography, unusual obstructions, or other conditions, a lesser distance would protect adjoining lands from odor, dust, or other hazards, the Zoning Hearing Board may reduce the above special setback requirements. In no case, however, shall the Zoning Hearing Board reduce any special setback requirement to less than two hundred (200) feet. The burden shall be on the applicant to prove that a lesser distance would not be detrimental to the health, safety, and general welfare of the community.
6. When engaging in subdivision or land development, the plans filed shall show, and require, on either the subdivided or land developed lot, or the remaining land, the setbacks required hereunder.
7. The applicant shall present written evidence from the Lebanon County Conservation District certifying that the Lebanon County Conservation District has agreed to review the applicant's Act 6 Nutrient Management Plan for compliance with Act 6 and all regulations promulgated thereunder. In the event the Zoning Hearing Board grants the application for special exception, it shall impose as a condition of that grant a requirement that no building permit for any construction pursuant to the special exception shall be issued unless the applicant presents to the Township Zoning Officer written evidence from the Lebanon County Conservation District that an Act 6 Nutrient Management Plan for the proposed intensive animal husbandry operation has been approved by the Conservation District.
8. The applicant shall present written evidence from the Lebanon County Conservation District certifying that the applicant has applied for approval of a conservation plan for the proposed intensive animal husbandry operation. In the event the Zoning Hearing Board grants the application for special exception, it shall impose as a condition of that grant a requirement that no building permit for any construction

pursuant to the special exception shall be issued unless the applicant presents to the Township Zoning Officer written evidence from the Lebanon County Conservation District that the applicant's conservation plan has been approved.

9. The applicant shall present written evidence from the Lebanon County Conservation District certifying either (i) that the Lebanon County Conservation District has agreed to design all manure storage facilities required by the application in compliance with the Pennsylvania Technical Guide developed by the Natural Resource Conservation Service or (ii) that the Lebanon County Conservation District has agreed to review and approve the design of the applicant's manure storage facilities prepared by applicant's private consultant as being in compliance with the aforesaid Pennsylvania Technical Guide. In the event the Zoning Hearing Board grants the application for special exception, it shall impose as a condition of that grant a requirement that no building permit for any manure storage facility constructed pursuant to the special exception shall be issued unless the applicant presents to the Township Zoning Officer written evidence from the Lebanon County Conservation District that the design for such facility has been approved by the Lebanon County Conservation District and is in compliance with the aforesaid Pennsylvania Technical Guide.
10. The applicant shall present written evidence from the Lebanon County Conservation District certifying that the applicant has applied for Chapter 102 Erosion and Sediment Control Plan approval for disturbances involving 5,000 square feet or more and/or a NPDES permit for disturbances involving one acre or more. In the event the Zoning Hearing Board grants the application for special exception, it shall impose as a condition of that grant a requirement that no building permit for any construction pursuant to the special exception shall be issued unless the applicant presents to the Township Zoning Officer written evidence from the Lebanon County Conservation District that the applicant's Chapter 102 Erosion and Sediment Control Plan and/or NPDES permit application have been approved.
11. The applicant shall present to the Zoning Hearing Board a plan certified by a traffic professional that the intensive animal husbandry operation allows for the safe and efficient movement of all motorized vehicles associated with the intensive animal husbandry operation, and including, but not limited to, information concerning traffic generation, size of vehicles, number of trips per day, and a design, and improvement where necessary, of each proposed entrance and/or exit to the intensive activity that does not allow mud, gravel, or other material to be deposited upon or to accumulate on or along abutting public roads.
12. The applicant shall provide for buffering with respect to any structure, access drive, parking, loading, or unloading area located within three hundred (300) feet of any residential structure or lot of record that is three (3) acres or, less in size.
13. The applicant shall present to the Zoning Hearing Board a Water Impact Study prepared by a professional hydrogeologist licensed by the Commonwealth of Pennsylvania which, among other things, certifies that the proposed intensive animal husbandry operation's use of water will not be so great as to adversely affect the groundwater table or existing wells on nearby properties. This impact study shall be performed in accordance with and also address the following:

- a. The dependence of much of the Township upon groundwater as a source of water for many uses;
- b. The preservation of groundwater and surface water resources;
- c. The impact of the proposed development on groundwater recharge as the result of newly created impervious surfaces or modified land cover conditions by making determinations and providing supporting data;
- d. The impact of groundwater pumping by making determinations and providing supporting data;
- e. The impact of the proposed development upon surface water quality and quantity, including suitability for human consumption, for recreational use, and as a habitat for indigenous aquatic life by making determinations and providing supporting data;
- f. Average rainfall and storm patterns;
- g. An analysis of the soils and geologic conditions on the site to establish the degree of groundwater recharge occurring prior to the proposed development;
- h. A pre-development and post-development water budget, specifying the total volume of water lost to the site as the result of the creation of new impervious surfaces or of the land cover alteration on the site, and any pumping of groundwater; wastewater disposal methods must also be evaluated within the water budget;
- i. An estimation of the effects upon the base flow of nearby streams, with special attention given to critical low-flow periods;
- j. Any special groundwater quality issues;
- k. Any special surface water quality issues, including pollutant loading analysis using an accepted methodology to address Metals/inorganics, hydrocarbons, suspended solids, nutrients, biological oxygen demand/chemical oxygen demand, volatile organics, and fecal coliform.

14. Operations utilizing food processing wastes shall be subject to the following:

- a. All putrescible food processing wastes shall be fed to the animals on the premises or be removed from the premises within seventy-two hours after delivery;
- b. All food processing waste shall be stored in enclosed buildings or covered containers prior to being feed to the animals;
- c. Only such food processing wastes as can reasonably be expected to be



consumed by the animals on the premises shall be stored on site;

- d. Food processing waste shall be transported to and from the premises only in covered containers;
- e. The owner shall at all times comply with all applicable state and federal laws and regulations governing the transportation, storage, use, and disposal of food processing wastes.

D. Communications Towers subject to the standards set forth in Article 21 Section 21.02F.

E. Churches and associated cemeteries provided that:

1. Any cemetery must be located on the same tract of land as the church with which it is associated.
2. The minimum lot area shall be three (3) acres notwithstanding anything to the contrary set forth in Section 6.05 hereof.
3. The applicant complies with all other provisions of this Ordinance.

F. Convalescent homes, hospitals, clinics, animal hospitals, and sanitariums.

G. Semi-public or private uses such as recreation areas, game and wildlife hunting, gun clubs, camps, and structures operated by membership clubs for the benefit of their members and not for gain.

H. Riding academies and stables.

I. Golf courses and country clubs.

J. Kennels.

K. Carnivals, outdoor circuses and migratory amusement enterprises.

L. Commercial amusement or recreation establishment such as outdoor theaters, miniature golf courses, race tracks, and other similar recreational uses requiring large segregated land areas, providing that any of these uses shall not be located nearer than fifty (50) feet from road right-of-way.

M. Commercial recreation areas involving campgrounds, travel trailer campgrounds, and similar uses provided that the following conditions are met:

1. Minimum: lot area of twenty-five (25) acres.
2. All permanent structures and accessory structures shall be located no closer than two hundred (200) feet to any adjoining lot line or road right-of-way so as to provide a buffer area for the adjacent property owners.

3. All buffer yards shall be appropriately landscaped and well maintained. Side and rear yards may be developed for campground related recreation activities (e.g. hiking trails, bicycle paths, passive recreation areas, campsites, travel trailer storage, etc.) to within one hundred (100) feet of any adjoining lot line or road right-of-way.
4. Detailed development plans showing the campsites, parking, recreation areas, utilities, sewage disposal facilities, etc., shall be submitted.
5. No less than eight (8) percent of the gross site area shall be devoted to recreational facilities such as adult recreation areas, child play areas, swimming pools, etc.
6. There shall be no permanent structures or, additions constructed and attached to any travel trailer, tent or other recreational dwelling unit which is located on an approved campsite.
7. Campsite areas shall contain no less than three thousand (3,000) square feet and shall be so designed that any travel trailer, tent or other camping structure shall be located no closer than ten (10) feet to the designated campsite lot lines.
8. Any campsite shall be rented by the day or week only, and the occupant(s) of said space shall remain in the same campground not more than thirty (30) days. This does not imply that camper vehicles cannot be stored on the site.
9. No part of any campground shall be used for non-residential purposes, except such uses as are required for the direct servicing and well being of camp residents and for the management and maintenance of the campgrounds.

N. Saw mills and other establishments associated with forestry.

O. Agriculturally oriented commercial establishments as follows:

1. Commercial establishments shall bear relationship to the agricultural district and uses permitted therein (i.e. farm implement dealer; feed mill, commercial greenhouse, etc.).
2. On-premises butchering operations, as an accessory use, provided that the following conditions are met:
  - a. Butchering operations shall be conducted only by an immediate member of the family, owning and residing on the property.
  - b. Butchering operations shall be limited to the employ of not more than one (1) assistant.
  - c. Any building or structures which involve this use or in which this use is conducted shall be located at least one hundred (100) feet from any adjoining property line.
  - d. Any remains, entrails, carcasses, etc., resulting from this use shall be stored on

the property only on a temporary basis and such storage shall be located at least one hundred (100) feet from any adjoining property line.

- e. No objectionable noise, fumes, odors, dust or electrical interference shall be created through this use.

P. Group Care Facilities provided that:

1. Plans for the facilities are approved by the appropriate local and state agencies, including the Department of Public Welfare, and the grant of the special exception shall contain a condition that the applicant comply with all requirements of the Uniform Construction Code.
2. The group homes do not cluster in large numbers in the municipality, that is, no more than 3% of the population (according to the most recent U.S. Census) of the municipality can be residents of group homes.
3. There shall be no more than thirteen (13) aged, handicapped, or disabled or mentally ill residents and no more than eight (8) mentally retarded residents in any one (1) group care facility unless the applicable state standards are changed, then the new standards shall apply.
4. Factors that are to be considered by the Zoning Hearing Board when reviewing Special Exceptions for group care facilities are the following:
  - a. Appropriate off-street parking should be provided as required in Section 17.04 of this Ordinance for homes for the aging or nursing homes.
  - b. A plan showing the layout of the home and the facilities should be presented to the Board for approval.
  - c. The applicant should meet all safety requirements for such homes as required by any Federal, State, or Local Laws.
  - d. The Zoning Hearing Board shall attach any other reasonable special conditions to their decision that would be necessary to protect residents in the surrounding neighborhood as well as the residents of the group care facility.
  - e. In reviewing the applications for a Special Exception, the Zoning Hearing Board shall also consider all relevant factors specified in other sections of this Ordinance.

**SECTION 6.05 - LOT AREA, BUILDING HEIGHT AND YARD REQUIREMENTS:**

Requirements, except for single family dwellings, the requirements for which are found in Section 6.03.D:

Building Height.....farm structures – none; all other structures 2 ½ stories (35 ft.) maximum unless by Special Exception.

Lot Coverage.....15% maximum

Building Setback Minimum.....front.....50 feet  
rear.....50 feet  
side, one.....20 feet  
side, total.....40 feet

Lot Area.....fifty (50) acre minimum; no subdivisions shall be permitted except those that (i) comply with Section 6.03 of this Ordinance, (ii) have the effect of increasing the size of another farm without reducing the size of the farm being subdivided to less than fifty (50) acres, or (iii) result in the farm being subdivided being completely absorbed by one or more adjacent farms.

Lot Width.....200 feet minimum

**SECTION 6.06 - MINIMUM OFF-STREET PARKING REQUIREMENTS:** Off-street parking shall be provided for in accordance with Article 17 of this Ordinance.