

**Article ---, Agricultural Protection Zoning Use District (APZ)**

**§ 108-1. Purpose and intent.**

The intent of the Agricultural Protection Zoning Use District (“APZ”) is to facilitate existing and future agricultural land uses; to preserve existing prime agricultural soils; to maintain highly productive agricultural lands by limiting encroachment of non-agricultural development; to minimize the conflicts between agricultural and non-agricultural uses; to discourage residential sprawl and minimize adverse fiscal impacts through the extension of municipal services; to maintain agricultural vistas, to promote agro-tourism, and to preserve the rural character of the Town of Riverhead.

**§ 108-2. Uses.**

In the APZ, no building, structure or premises shall be used or arranged or designed to be used, and no building or structure shall be hereafter erected, reconstructed or altered, unless otherwise provided in this chapter, except for the following permitted uses or specially permitted uses and their customary accessory uses:

A. Permitted uses.

- (1) Agricultural production, including but not limited to the following:
  - a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans.
  - b. Fruits, including apples, peaches, grapes, cherries and berries.
  - c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
  - d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, fur-bearing animals, milk, eggs and furs.
- f. Christmas trees grown in a managed Christmas tree operation, whether dug for transplanting or cut from the stump.
- g. Commercial horse boarding operation.

- (2) Dwelling, one-family.
- (3) Attached single family dwellings.
- (4) Riding academy, corral or facilities for the training of horses, including but not limited to private polo chukkers.
- (5) Greenhouse, provided that the subject parcel is a minimum of five acres and further subject to site plan review.

B. Specially permitted uses, by special use permit of the Town Board.

- (1) Golf course (standard) with or without clubhouse.
- (2) Bed-and-breakfast.
- (3) Overhead electrical power transmission and distribution lines in excess of 13 kilovolts.
- (4) Kennel, commercial.
- (5) Educational institution without boarding facilities or dormitories, private.
- (6) Day care facility conducted in a residence.
- (7) An accessory dwelling unit on lot of ten (10) acres or more with a maximum living area of 1,000 square feet, provided that the total number of dwelling units yielded by the original subdivision creating such lot is not exceeded.

C. Accessory Uses. Accessory uses shall include those uses customarily incidental to any of the above permitted uses or specially permitted uses when located on the same lot. Specifically permitted are the following:

- (1) Home occupations or professions conducted within the dwelling by the residents thereof or in a building accessory thereto.
- (2) The sale at retail of homegrown or homemade products provided that all retail uses shall be subject to site plan approval pursuant to Article XXVI of the Riverhead Town Code and the provisions of Chapter 108. The farmer may sell supporting farm products and farm products not grown by the farmer provided that the area devoted to the sale of said products at no time exceeds forty percent (40%) of the total merchandising area.
- (3) Agricultural worker housing pursuant to the requirements of § 108-64.4.
- (4) Farm operations.

**§ 108-3. Accessory buildings and structures.**

A. Location.

- (1) No accessory building or structure shall be erected, reconstructed or altered so as to be situate as follows:
  - a. In a front yard.
  - b. In a side yard unless the accessory building is sixty (60) feet from a side street line, twenty-five (25) feet from a property line and ten (10) feet from any other building.
  - c. In a rear yard unless the accessory building is twenty (20) feet from a property line, ten (10) feet from any other building and sixty (60) feet from a side street line and rear street line.

d. One (1) accessory building with a maximum floor area of one hundred (100) square feet or less, a maximum height of twelve (12) feet or less, located in the rear yard, shall be excepted from the provisions of Subsection A(1)(c) and additionally shall not require a permit. It shall be permitted five (5) feet from a property line, ten (10) feet from any other building and sixty (60) feet from a side street line and rear street line.

(2) Excepted from Subsection A(1)(a), (b) and (c) of this section are fences not exceeding four (4) feet in height which may be erected on the lot lines of the front yard or any existing street line of a one-family dwelling, and fences not exceeding six (6) feet in height which may be erected on other lot lines of a one-family dwelling. Fences on a corner lot must comply with § 108-68. On lots used for other than one-family dwellings, wire strand or open woven wire fences up to six (6) feet in height may be erected on all lot lines. If such fence is erected along any street, the permitted height thereof shall be measured from the existing elevation of the center line of such street.

B. Where an accessory building is constructed as a building subordinate to the use of a park or playground, the building shall be erected, reconstructed or altered in conformity to the requirements hereof for a main building.

**§ 108-4. Living Area.**

No dwelling shall be erected unless provisions shall be made therein as follows:

A. For a single-family dwelling, exclusive of attached garages, carports, unenclosed porches and breezeways, there shall be provided not less than one thousand five hundred (1,500) square feet of living area.

**§ 108-5. General lot, yard, bulk and height requirements.**

No buildings shall be erected nor any lot or land area utilized unless in conformity with the Zoning Schedule incorporated into this article by reference and made a part hereof with the same force and effect as if such requirements were herein set forth in full as specified in said schedule, except as may be hereafter specifically modified. Further, all non agricultural buildings constructed within the APZ shall be of a design and incorporate exterior materials as to exhibit rural character.

**§ 108-6. Cluster development and additional subdivision requirements.**

A. Purpose and intent. It is the purpose of this article to require cluster development pursuant to § 278 of the Town Law in order to allow for maximum flexibility in achieving a compatible arrangement of agricultural and residential land uses and to protect prime agricultural soils and scenic vistas without impeding agricultural land use on a portion of a property or on adjacent or nearby properties.

In order to accomplish the clustering of residential lots within the APZ, an applicant for subdivision shall provide a standard yield plan and a cluster plan, which succeeds in preserving agricultural land for agricultural use to the greatest extent practicable. In its review of a cluster subdivision plan, the Planning Board shall consider the following:

- (1) The location and extent of prime agricultural soils;
- (2) The location of wooded areas;
- (3) The location and extent of natural features;
- (4) The general topography and the location and extent of sloped areas;
- (5) The spatial relationship of the property to contiguous or neighboring preserved agricultural land;

- (6) The general storm water tributary area and the extent and direction of overland drainage.

Cluster development in this article shall require that a minimum of seventy (70) percent of Class I or Class II prime agricultural soils are preserved through the creation of farm lots and the recording of agricultural easements, except that the Planning Board may approve a cluster subdivision with a lower percentage of preserved prime agricultural soils in order to ensure appropriate arrangement of lots, streets, and public facilities.

In the event that the Planning Board approves a cluster plat that preserves less than seventy (70) percent of the prime agricultural soils, the reasons supporting such decision shall be set forth within the resolution approving the preliminary plat. The Planning Board shall not approve a cluster subdivision plat with less than fifty (50) percent of the area of the tract being preserved as prime soils or open space areas.

#### **§ 108-7. Guidelines.**

The following guidelines are to be applied in addition to Subdivision Regulations (Article XX) and Cluster Development (Article XIX) and shall apply to all cluster subdivisions within the APZ:

- (1) In order to better preserve agricultural vistas, the cluster subdivision plat shall be designed so as to situate agricultural lots along Sound Avenue or NYS Route 25.
- (2) The cluster subdivision plat must locate and arrange the residential lots so as to protect, to the maximum extent practicable, that portion of the tract preserved for agricultural use.
- (3) The cluster subdivision plat must depict an arrangement of residential lots so as to reduce, to the maximum extent practicable, any nuisance or conflict between residential and agricultural uses, both within the tract and in relation to adjoining and nearby tracts and to demonstrate compatibility

of the cluster plat with existing residential development and agricultural land uses.

- (4) The residential portion of the cluster subdivision plat must be so laid out, and protected during construction, as to remain as harmonious to the greatest extent practicable with the natural environment minimizing the clearing of treed areas, the grading of earth, removal of soils, and precluding the disturbance of surface waters and wetlands and other similar disturbances of the natural environment pursuant to Chapter 107 of the Riverhead Town Code.
- (5) The agricultural lots of a cluster subdivision plat must be so laid out as to provide for a minimum lot size of ten (10) acres, a minimum building area of one (1) acre, contiguity with existing agricultural tracts, bounding of prime agricultural soils and retention of all storm water runoff.
- (6) The cluster subdivision tract must demonstrate the ways in which scenic vistas are being considered or enhanced and shall depict a lot arrangement which has considered the visual impact of residential development upon such vistas.
- (7) The Planning Board shall not cluster lots in order to create golf courses, playgrounds, tennis courts, swimming pools or any other amenity as required open space. The purpose of the cluster plan is to preserve agricultural land for agricultural use and other natural features to the greatest extent practicable.

**§ 108-8. Nonconforming lots.**

With the exception of lots improved prior to the enactment of zoning within the Town of Riverhead, a lot held in single and separate ownership and having legal improvements upon it at the effective date of this Article shall not be considered “nonconforming” pursuant to §108-51 as to lot area and setback requirements. Such improved properties shall be entitled to maintain the existing lot areas and setbacks that were required at the

time the structure were issued Certificates of Occupancy. To preclude an unintended merger of nonconforming lots due to the zoning changes adopted herein, a twelve month “grace period” commencing with the effective date of this local law shall be imposed to provide those whose lots would merge by operation of law the opportunity to “checkerboard” the ownership of their lots to preclude the merger.