

**PROPOSED
LOCAL LAW _____2009
AGRICULTURAL PROTECTIVE ZONING**

A Local Law Establishing Agricultural Protection Zoning Use Districts In All Areas
Previously Zoned Residential/Very Low Density.

Section 1: The Town of Hamlin Zoning Law of 1991 is amended by adding the following definitions to Section 125-9:

- A. **COMMERCIAL HORSE BOARDING OPERATION** – An agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. A horse boarding operation provides care, housing, health related services and training to animals kept on the premises or on other properties owned or leased by the farm operator. Riding and training activities that are directly related to and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the farm owner for the horse that is boarded at the farm and used for such activities, are part of the farm operation. Horse shows for horses either boarded at or owned by the farm operation, which are not open to the general public, are also part of the farm operation. An operation, whose primary on site function is horse racing, is not considered to be a commercial horse boarding operation.
- B. **RIDING ACADEMY** – A riding academy is distinguished from a commercial horse boarding operation in that a riding academy generally offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding.

Section 2: The Town of Hamlin Zoning Law of 1991 is amended by repealing Section 125-18 entitled “R-VL District” (Residential/Very Low Density), in its entirety.

Section 3: The Town of Hamlin Zoning Law of 1991 is amended by adding Section 125-35 entitled "APZ District" (Agricultural Protection Zoning) to provide as follows:

125-35. APZ District (Agricultural Protection Zoning District).

A. Statement of Purpose. The purpose of the Agricultural Protection Zoning Use District ("APZ") is:

- (1) To facilitate existing and future agricultural land uses.
- (2) To preserve existing prime agricultural soils.
- (3) To maintain highly productive agricultural lands by limiting encroachment of non-agricultural development.
- (4) To minimize the conflicts between agricultural and non-agricultural uses.
- (5) To discourage residential sprawl and attendant increased costs which otherwise would be required to provide municipal services.
- (6) To maintain agricultural vistas, to promote agro-tourism, and to preserve the rural character of the Town of Hamlin.

B. Permitted uses.

(1) Principal uses permitted by right:

- (a) Farms, greenhouses, plant nurseries, dairy operations or similar agricultural uses, including retail sales of agricultural products predominantly (greater than 51%) produced on the farm.
- (b) Agricultural production, including but not limited to the following:
 - (i). Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
 - (ii). Fruits, including apples, peaches, grapes, cherries and berries.
 - (iii). Vegetables, including peas, tomatoes, squash, sweet corn, snap beans, cabbage, carrots, beets and onions.
 - (iv). Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
 - (v). Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.
 - (vi). Maple sap.

- (vii). Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
 - (viii). Aquaculture products, including fish, fish products, water plants and shellfish.
 - (ix). Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
 - (x). Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.
- (c) Commercial horse boarding operations.
 - (d) Dwelling, one-family.
- (2) Principal uses permitted subject to site plan approval by the Planning Board:
 - (a) In-law apartments.
 - (3) Principal uses permitted subject to Special Use Permit approval by the Planning Board.
 - (a) Commercial greenhouses or plant or nurseries or similar agricultural uses involving retail sales, when the preponderance (more than 51%) of the product(s) being sold is(are) not produced on the farm.
 - (b) Kennel, commercial.
 - (c) Shooting Preserve. A shooting preserve is permitted on contiguous lands containing 100 acres or more provided that the owner or lessee of the lands has secured a shooting preserve license from the New York State Department of Environmental Conservation pursuant to Section 11-1903 of the Environmental Conservation Law. In addition to all other requirements for special use permits set forth in Section 125-74 (B) of the Zoning Law, the applicant must furnish a copy of said shooting preserve license together with proof that such license is in good standing.
 - (4) Accessory uses:
 - (a) Bed-and-breakfast, pursuant to a special use permit issued in accordance with Section 125-74 (B) and Section 125-74(B) (1).
 - (b) Professional offices and home occupations within personal dwellings subject to the restrictions in Section 125-38.
 - (c) Private garages and carports, subject to the restrictions in Section 125-39.

- (d) Swimming pools, subject to the restrictions in Section 125-40.
- (e) Fencing, subject to the restrictions in Section 125-41.
- (f) Sheds, cabanas or similar accessory structures, subject to the restrictions in Section 125-42.
- (g) Temporary or permanent roadside stands, subject to the restrictions in Section 125-43.
- (h) Cell towers, radio, television, satellite dish or citizens band antennas, subject to the restrictions in Section 125-44.
- (i) Windmills, wind turbines, wind chargers or similar wind energy conversion systems (WECS), subject to the restrictions of Section 125-45.
- (j) Solar energy structures or devices, subject to the restrictions of Section 125-46.
- (k) Signage, subject to the restrictions in Section 125-47.
- (l) Keeping of poultry and animals, subject to the restrictions in Section 125-50.
- (m) Tennis courts and similar private recreational uses or facilities, subject to the restrictions in Section 125-51.
- (n) Artificial or man-made ponds, subject to the restrictions of Section 125-52.
- (o) Off-street parking, subject to the restrictions of Section 125-53.
- (p) Above ground or underground storage tanks, subject to the restrictions in Section 125-65.
- (q) Farm labor camp, subject to the restrictions of Section 125-37.
- ® Pier, docks and wharves on Sandy Creek, subject to the restrictions of Section 125-66 and the Town of Hamlin LWRP.
- (s) Dumpsters or other refuse containers or enclosures, subject to the restrictions in Section 125-57.
- (t) Meteorological (MET) Tower, subject to the restrictions of Section 125-68.

C. Dimensional requirements.

(1) Minimum lot size and width:

- (a) Minimum lot size: two (2) acres, except:
 - (i) If owner can prove an acceptable “perc” test and the property is served by municipal water, minimum lot size is one (1) acre, or
 - (ii) If lot contains an existing, single-family dwelling and owner can prove that existing well and septic are both safely and adequately functioning, minimum lot size is one (1) acre.
- (b) Minimum lot width: two hundred fifty feet (250’), except:

- (i) If owner can prove an acceptable “perc” test and the property is served by municipal water, minimum lot width is one hundred ninety feet (190’), or
 - (ii) If lot contains an existing, single-family dwelling and owner can prove that existing well and septic are both safely and adequately functioning, minimum lot width is one ninety feet (190’).
- (2) Minimum front, side and rear yard setbacks:
 - (a) Minimum front setback: seventy feet (70’).
 - (b) Minimum side setback: fifteen feet (15’).
 - (c) Minimum rear setback: fifteen feet (15’).
 - (d) Minimum side yard (not front yard) on corner lot: seventy-five feet (30’).
 - (e) With respect to any structure existing prior to September 1, 1991, the least distance from the front line of the lot to the front building line shall constitute the minimum front setback required for any modification, alteration or addition to said structure.
- (3) Setback Standards for Wells: The NYS Department of Health’s (DOH’s) standards for water well construction (private supplies) (10 NYCRR, Appendix 5-B) include a minimum distance of 100 feet between a new well and barnyards, silos, barn gutters and animal pens and 200 feet between a new well and storage areas for a manure pile. According to the standards, the separation distance between a new well and a manure pile may be reduced to 100 feet if the area is managed to prevent contamination of surface and ground water. In view of this, the Department concluded that a 100 feet setback from any existing wells and new barnyards, silos, barn gutters, livestock confinement structures, and animal pens would be reasonable. A 200 feet setback from any existing wells would also be reasonable for a manure pile, or 100 feet from a manure pile managed to prevent contamination of surface and ground water. A 100 feet setback is also reasonable for lined manure storage ponds or fabricated units, while a 300 feet setback is reasonable for unlined self-sealing manure storage facilities (based on USDA Natural Resources Conservation Services standards and specifications for waste storage facilities).
- (4) Minimum unit size (square footage of floor area): For a single-family dwelling, exclusive of attached garages, carports, unenclosed porches and breezeways, there shall be provided not less than one thousand two hundred (1,200) square feet of living area.
- (5) Maximum building height:
 - (a) Maximum height for principal buildings or structures in Subsections B(1) and B(2) above shall not exceed two (2) stories or forty (40) feet, whichever is higher, with the

exception of barns, silos, stables and other farm-related structures, which shall not exceed sixty-five (65) feet.

- (b) Maximum height for accessory buildings or structures in Subsection B(3) above shall not exceed twenty-five (25) feet, with the exception of antennas, windmills and MET towers, which are subject to height restrictions in Section 125-44, Section 125-45 and Section 125-68, respectively.
- (6) Maximum lot coverage with impervious surface shall be ten percent (10%).

D. Subdivision restrictions and limitations.

- (1) To protect existing agricultural areas from suburban and urban development and to encourage the continuation of agriculture while still providing the land owner an ability to achieve some financial benefit by selling a portion of his/her land, limited subdivisions are allowed per the following restrictions and limitations:

- (a) Effective Date. For the purpose of this section, each existing parcel shall be identified by the Tax Map of the Town of Hamlin dated (**note: date will be the date this local law is filed with the State**) and single ownership shall be determined by deed filed as of (**same date as above**). It is the express intent of this chapter that no such existing parcel as defined herein may be changed or reconfigured after (**same date as above**) for the purpose of applying or avoiding the restrictions of this Article.
- (b) Maximum subdivisions allowed when existing parcel is:
 - (i) 5 - 20 acres in total size: one.
 - (ii) Above 20-100 acres in total size: two.
 - (iii) Greater than 100 acres in total size: one per 50 acres.
- (c) Minimum lot size, width and dimensional requirements per Subsection D above.
- (d) In the event any such proposed subdivision contains more than one residential lot, the provisions of Subsection F below shall apply.

E. Cluster development and cluster guidelines.

- (1) Pursuant to § 278 of the Town Law and in order to allow for maximum flexibility in achieving a compatible arrangement of agricultural and residential land uses and to protect prime agricultural lands and scenic vistas without impeding agricultural land use on a portion of a property or on adjacent or nearby properties, an applicant for subdivision with the intent to develop residential lot(s) shall provide the Planning Board a proposed

cluster plan, which succeeds in preserving agricultural land for agricultural use to the greatest extent practicable.

- (2) In its review of a proposed cluster subdivision plan, the Planning Board shall consider the following:
 - (a) The location of prime agricultural land within and contiguous to the planned subdivision;
 - (b) The location of wooded areas;
 - (c) The location and extent of natural features;
 - (d) The general topography and the location and extent of sloped areas;
 - (e) The spatial relationship of the property to contiguous or neighboring agricultural land;
 - (f) The general storm water tributary area and the extent and direction of overland drainage.
- (3) A proposed cluster plan shall strive to preserve a minimum of ninety (90) percent of agricultural land 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 agricultural land only in order to ensure appropriate arrangement of lots, streets, and public facilities.
- (4) In the event that the Planning Board approves a cluster plat that preserves less than ninety (90) percent of the agricultural land, 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 seventy (70) percent of the area of the tract being preserved as open space areas.
- (5) 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.
- (6) 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.
- (7) 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 The Development Regulations of the Town of Hamlin, the Town of

Hamlin LWRP and other regulations contained in these regulations.

- (8) 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.
- (9) 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.

F. Additional regulations/requirements.

- (1) Preexisting, non-conforming lots are subject to the provisions of Section 125-55.
- (2) One dwelling unit shall be allowed per parcel, with exception of farm labor camp uses, subject to Section 125-37.
- (3) All publicly accessible establishments will comply with regulations promulgated under Title III of "The Americans with Disabilities Act of 1990."
- (4) Septic subject to current Monroe County Health Regulations as outlined on dimensional chart requirements.

Section 4: Article II of the Town of Hamlin Zoning Law of 1991, entitled "Residential Districts" is amended by the following changes to Section 125-17, entitled "Purpose":

- A. The first sentence is modified to delete the words "and for viable farm and agricultural operations".
- B. Subparagraph "B" is repealed.
- C. Subparagraphs 125-17(C) through 125-17 (K) are renumbered 125-17(B) through 125-17(J) respectively.

Section 5: Section 125-37 of the Town of Hamlin Zoning Law of 1991 entitled "Farm Labor/Camp" is modified by substituting the words "APZ District" for the words "R-VL District".

Section 6: Section 125-41 of the Town of Hamlin Zoning Law of 1991, entitled "Fencing" is modified as follows:

Subparagraph D is revised to change the last sentence as follows:
Any wire fence is not permitted in a front yard unless being used in conjunction with farm operations located within a County Legislature approved agricultural district.

Subparagraph H is revised to add a second sentence as follows:
Excepted is fencing on vacant lots or lots without a house or dwelling

within a County Legislature approved agricultural district where the only setback is the road right of way.

Subparagraph I is revised by changing the first sentence to provide as follows: Barbed wire fencing or electrification of any fence is permitted in the APZ District and County Legislature approved agricultural district only.

Section 7: Section 125-42 of the Town of Hamlin Zoning Law of 1991, entitled “Sheds and Similar Structures” is revised as follows:

A. Subparagraph A is revised to substitute “APZ” for “R-VL(3)” and to add a third sentence as follows: Run-in sheds used by farmers in a County Legislature approved agricultural district to provide shelter for various types and sizes of livestock may exceed the maximum allowable limit with approval of the Zoning Board of Appeals.

Section 8: Section 125-43 of the Town of Hamlin Zoning Law of 1991, entitled “Roadside Stands” is modified as follows:

A. Subparagraph A is modified by substituting a comma for the period at the end of the second sentence and by adding the following words after the comma: except Christmas tree farm stands which may be maintained until December 26th of each year.

B. Subparagraph D is modified by substituting the words “Only agricultural products and campfire wood” for the words “Only produce products and campfire wood” at the beginning of the second sentence.

Section 9: Section 125-50 of the Town of Hamlin Zoning Law of 1991, entitled “Keeping of Animals and Poultry: Required Enclosures and Fences for Farm Animals” is modified as follows:

A. Subparagraphs (C)(1)(a) is amended by adding a fourth subparagraph to provide as follows:

[4] Regulations in County Legislature approved agricultural districts.

4. On operating farms located in a County Legislature approved agricultural district, the number of livestock is not restricted by 125-50(C)(1)(a)[1] or 125-50.C(1)(a)[2] but is further clarified in 125.C(4) herein.

B. Subparagraph (C)(3)(a) is modified by substituting “APZ Districts and County Legislature approved agricultural district only” for “R-VL Districts only”.

C. Subparagraph (C)(3)(b) is modified by substituting “APZ Districts and County Legislature approved agricultural district only” for “R-VL Districts only”.

D. Subparagraph (C)(3)(c) is modified by adding subparagraph 3 to provide as follows:

[3] In the APZ District or in a County Legislature approved agricultural district, the only setback is the road right-of-way.

E. The second subparagraph (C)(3) is re-designated (C)(4) and is amended to provide as follows:

For lots located in the APZ or a County Legislature approved agricultural district or that have entered into an individual commitment pursuant to Article 25AA of the New York State Agricultural and Markets Law, all customary farm practices involving the keeping of farm animals are permitted, provided that such practices are not injurious to the public health and safety and do not violate the standards set forth in the Monroe County Sanitary Code.

F. The first sentence of Subparagraph (D) is revised to substitute “Riding academies are permitted in the APZ District only for the words “Public stables are permitted in the R-VL District only”.

G. Subparagraph (D)(3) is revised by substituting “The details of operations of a riding academy” for “the details of operation of a stable”.

Section 10: Section 125-52 of the Town of Hamlin Zoning Law of 1991, entitled “Ponds” is amended by substituting “Ponds shall be permitted with APZ Districts” for “Ponds shall be permitted within R-VL Districts”.

Section 11: Effective Date. This local law shall become effective upon filing with the Secretary of State.