

# Ordinance 400 – Empire Township Zoning Ordinance

## 6.13 Residential Building Rights Transfer

Within the AG Agricultural Preservation District the transfer of non-farm residential building rights is allowed from one parcel to another, subject to the provisions of this Section.

### A. Residential Building Right

A “residential building right” as described in this Section is the entitlement of a non-farm residential dwelling unit within the AG District. Non-farm residential dwellings are permitted at a maximum density of one dwelling per quarter-quarter section not containing another farm or non-farm dwelling unit. The Planning Commission and Town Board shall verify that any party wishing to transfer a residential building right has such an entitlement or building eligibility. In addition to the maximum density limitations, building eligibility is determined by the suitability of the land for residential building purposes. If an entire quarter-quarter section is encumbered by surface water, wetlands, floodplain, easements or other legal encumbrances, or if a potential residential building site is surrounded by and inaccessible due to such encumbrances, there shall be no residential building entitlement or eligibility.

### B. Residential Building Rights Transfer

Any party wishing to convey a residential building right to another party may do so as a private transaction subject to the conditions and requirements of this Section.

### C. Eligible Building Rights Transfer

Building rights may be transferred from one parcel to another within the AG District subject to the following conditions and requirements:

1. The Planning Commission and Town Board must verify the eligibility of the residential building right to be transferred.
2. The residential building right must be transferred to a legal lot of record, with public street access and suitability for an Individual Sewage Treatment System (ISTS), or to a parcel pending subdivision approval by the Township. A residential building right must be assigned to a specific parcel of land approved by the Township. All other Zoning Ordinance and Subdivision Ordinance provisions apply to the proposed building site.
3. A residential building right may only be transferred from eligible AG District quarter-quarter parcels where the principal use is agriculture.
4. Residential building rights may not be transferred from property located within the Metropolitan Urban Service Area, property subject to an Orderly Annexation Agreement, property on which a mining permit has been issued, property used for commercial recreation purposes, property used for education or religious purposes, or property used for public purposes.
5. Residential building rights may only be transferred to and used within the Southeast Quarter (SE ¼) of Section 1, East Half (E ½) of Section 12, East Half (E ½) of Section

28, East Half (E ½) of Section 33, Sections 23-27, and Sections 34-36, Township 114, Range 19.

6. The applicant for a building rights transfer shall be required to furnish a title opinion by an attorney or title insurance company on the status of the title and encumbrances of the property subject to a transfer of building rights for review and approval by the Township attorney.
7. A Building Rights Transfer Agreement must be executed by the applicant and recorded against the property from which the transfer of a residential building right is allowed.
8. A maximum of two residential building rights may be transferred at any one time from one party to another.

D. Recording of the Residential Building Rights Transfer and Conservation Easement Agreement

A Residential Building Rights Transfer and Conservation Easement Agreement prepared by the Township must be executed by the applicant and submitted to the Township for review and recording. The Residential Building Rights Transfer and Conservation Easement Agreement will legally identify the property involved in the transfer and note the elimination or loss of residential building rights on said property. The Agreement will also identify the property on which the building right will be assigned.

E. Fee and Reimbursement of Out-Of-Pocket Expenses

The applicant for a transfer of building rights shall submit a letter of request for a building rights transfer with a non-refundable fee of \$250.00. The applicant shall also be obligated to reimburse the Township for all out-of-pocket expenses incurred in the review and approval of the residential building rights transfer, including but not limited to planning fees, legal fees, and recording fees. The Township may require a cash escrow up to \$2000.00 to guarantee the payment of such costs.