

**TOWNSHIP OF MORRIS**  
**MORRIS COUNTY, NEW JERSEY**

**ORDINANCE NO. 37-11**

**AN ORDINANCE AMENDING CHAPTERS 57 and 95 OF THE CODE  
OF THE TOWNSHIP OF MORRIS, MORRIS COUNTY, NEW JERSEY  
TO PERMIT COMMERCIAL FARMS AND FARMING ACTIVITY  
IN CONFORMANCE WITH THE RIGHT TO FARM ACT**

**IT IS HEREBY ORDAINED** by the Township Committee of the Township of Morris, Morris County, New Jersey, as follows:

**SECTION 1.** Chapter 57, Section 3 of the Code of the Township of Morris is hereby amended to add the following definitions in appropriate alphabetical order:

**AMP** means an agricultural management practice recommended by the State Agriculture Development Committee ("SADC") and adopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 *et seq.*

**COMMERCIAL FARM** means (1) a farm management unit, as defined herein, of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 *et seq.*, or (2) a farm management unit, as defined herein, containing less than five acres, but producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1, *et seq.*

**FARM MANAGEMENT UNIT** means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

**FARM MARKET** means a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51% of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51% of the sales area of the farm market shall be devoted to the sale of the agricultural output of the commercial farm, and except that if a retail farm market is located on land less than 5 acres in area, the land on which the farm market is located shall produce annually agricultural or horticultural products worth at least \$2,500.

**LIVESTOCK** means domesticated animals raised in an agricultural environment to produce commodities such as food and fiber or to perform labor or other services.

**PICK-YOUR-OWN OPERATION** means a direct marketing alternative wherein retail or wholesale customers are invited onto a commercial farm in order to harvest agricultural, floricultural, or horticultural products.

**SADC** means the State Agriculture Development Committee of the New Jersey Department of Agriculture.

**SECTION 2.** Chapter 57, Section 163, Subsection D, Clause (2) of the Code of the Township of Morris is hereby amended to read in its entirety as follows:

- (2) Christmas tree plantations and commercial farms, except as otherwise provided in Ordinance Section 95-34.3.

**SECTION 3.** Chapter 95, Section 5, is hereby amended by adding at the end of the list of zone districts the following:

AOZ Agricultural Overlay Zone

**SECTION 4.** Chapter 95, Section 6, is hereby amended to read in its entirety as follows:

The location and boundaries of said zones or districts are hereby established on the Zoning Map of the Township of Morris in Morris County, dated \_\_\_\_\_, 2011, which is attached hereto and hereby made a part of this ordinance. Said map and all notations, references, and designations shown thereon shall be, as such, a part of this ordinance as if the same were all fully described and set forth herein.

**SECTION 5.** A new section 27.3 is hereby added to Chapter 95, which new section shall read in its entirety as follows:

**95-27.3 AOZ Agricultural Overlay Zone.**

- A. The following are permitted principal uses in the AOZ Agricultural Overlay Zone:
  - (1) Commercial farms as permitted and regulated by Ordinance Section 95-34.3.
  - (2) Any principal permitted use in the underlying zone district.
- B. The following are permitted accessory uses in the AOZ Agricultural Overlay Zone:
  - (1) Uses customary and incidental to commercial farms as permitted and regulated by Ordinance Section 95-34.3.
  - (2) Any accessory use permitted in the underlying zone district.
- C. The following are conditional uses in the AOZ Agricultural Overlay Zone:

(1) Any conditional use permitted in the underlying zone district.

**SECTION 6.** Chapter 95, Section 34.1, Subsection A of the Code of the Township of Morris is hereby amended to read in its entirety as follows:

- A. When buffer required. All uses, other than commercial farms and single-family detached dwellings when used exclusively for residential purposes, which shall abut a single-family residential zone or use shall be required to install, plant and maintain a landscaped and planted area (referred to herein as a “buffer”) in accordance with the provisions of this section. Commercial farms shall maintain buffers as required by Ordinance Section 95-34.3. As used herein, “single-family residential zone” shall mean each of the following zones: RA-130, RA-35, RA-25, RA-15, RA-11 and RA-7.

**SECTION 7.** A new Section 34.3 is hereby added to Chapter 95 of the Code of the Township of Morris reading in its entirety as follows:

**95-34.3. Right to Farm**

- A. **Purpose.** This Ordinance is intended (a) to retain and promote farming and agricultural activities in appropriate locations within the Township of Morris, (b) to protect the operation of commercial farms from nuisance actions where approved and recognized methods of agriculture production are followed, and (c) to acknowledge and hereby give notice that commercial farming involves activities that may affect adjoining properties such as, but not limited to, generation of noise, odors, fumes, dust, smoke, insects, operation of machinery, storage and disposal of manure and compost, and application by spraying or otherwise of fertilizers, soil amendments, herbicides and pesticides.
- B. **Where Permitted.** Commercial farms shall be a principal permitted use in the Agricultural Overlay Zone (“AOZ”).
- C. **Permitted Activities.** Commercial farms that comply with the requirements of this section shall be permitted to engage in the following activities in the AOZ:
- (1) Production of agricultural and horticultural crops, trees, apiary and forest products, livestock, poultry, and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping, or included under the corresponding classification under the North American Industry Classification System;
  - (2) Processing and packaging the agricultural output of the commercial farm;

- (3) Operation of a farm market as an accessory use to the commercial farm, including the construction of a building and parking area in conformance with the standards set forth in Section 95-34.3.F. below;
- (4) Replenish soil nutrients and improve soil tilth;
- (5) Control pests, predators and diseases of plants and animals;
- (6) Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;
- (7) Conduct on-site disposal of organic agricultural wastes;
- (8) Conduct agriculture-related education and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm;
- (9) Erection of essential agricultural buildings including those dedicated to processing and packaging of the output of the commercial farm;
- (10) Construction of fences;
- (11) Pick-your-own operations;
- (12) Grazing of farm animals and use of range for fowl;
- (13) Use of farm equipment, including irrigation pumps, aerial and ground seeding and spraying, tractors, harvest aides, and bird control devices;
- (14) The application of manure and chemical fertilizers, insecticides and herbicides;
- (15) Installation of wells, ponds, and other water resources for agricultural purposes such as irrigation, sanitation and marketing preparation; and
- (16) Engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq.

The right to engage in these farming activities shall exist on weekdays, weekends, and holidays, during all hours of the day and night.

To qualify to engage in the activities permitted by this section, a commercial farm and its operations must: (a) conform to agricultural management practices recommended by the State Agriculture Development Committee and adopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq., or the commercial farm's specific operations or practices must have been determined by the Morris County Agriculture Development Board to constitute a generally accepted agricultural operation or practice, (b) conform to all relevant Federal and State

statutes, rules and regulations, (c) not pose a direct threat to public health and safety, and (d) comply with all applicable provisions of Chapters 57 and 95 of the Code of the Township of Morris, including applicable stormwater management regulations in Ordinance Section 57-164.

**D. Limitations.** Notwithstanding anything to the contrary in Section 95-34.3.C. above, the following regulations shall apply to all commercial farms within the Township of Morris:

- (1) Except as otherwise provided in the AMP for equine activities on commercial farms, no livestock and/or fowl shall be kept on a commercial farm in excess of the density limits in Ordinance Section 98-2.C.
- (2) No farmworker housing shall be permitted on a commercial farm other than one detached single-family residence for the owner of the commercial farm and his or her family.
- (3) No overnight outdoor storage of farm vehicles or equipment shall be permitted within 100 feet of any property line.
- (4) No tree located within 25 feet of a property boundary of a commercial farm may be cut down or otherwise removed except in conformance with Ordinance Section 57-163. A tree shall be deemed to be located within 25 feet of a property boundary if any part of its trunk shall be located within that area.
- (5) Manure shall be stored and disposed of in conformance with Ordinance Section 98-3, Subsections A, B, C, and E, and the AMP establishing standards for manure management. In the event of a conflict, the more restrictive standard shall govern.
- (6) Fencing.
  - (a) No barbed wire fence shall be permitted upon or within any commercial farm.
  - (b) Except as permitted by the AMP establishing standards for fencing for protection against wildlife damage in N.J.A.C. 2:76-2A.9.a.1 (permitting electric fencing for such purpose to be up to 7 feet high and high-tensile woven wire fencing for such purpose to be up to 10 feet high), no fence on a commercial farm shall exceed a height of six (6) feet above surrounding grade.
- (7) Commercial farms shall maintain a 25 foot setback between all property lines and all areas of the commercial farm devoted to the production, raising, or keeping of livestock, poultry, or other domesticated animals. No non-domesticated animals shall be produced, raised, or kept on a commercial farm.
- (8) No silage pits or outdoor storage of silage shall be located within 100

feet of any property line.

- E. Complaints Against Commercial Farms.** Any person who considers himself aggrieved by the operation of a commercial farm shall file a complaint with the Morris County Agriculture Development Board prior to instituting any action in any court.
- F. Farm Markets.** Farm markets shall comply with the following regulations:
- (1) Except as permitted by Paragraphs (6) and (7) below, all farm markets shall be located within a fully enclosed building.
  - (2) Floor area occupied by a farm market building shall not exceed 1,000 square feet.
  - (3) No farm market building shall exceed one story or 20 feet in height.
  - (4) Farm market buildings shall comply with the following setback requirements:
    - (a) Setback from a public right-of-way: 60 feet.
    - (b) Setback from any other property line: 100 feet.
  - (5) A farm market shall be permitted a maximum of one business sign. The sign shall be freestanding. Maximum permitted sign area shall be 24 square feet. Only external illumination shall be permitted. Maximum permitted sign height shall be 6 feet. The sign must be setback at least 15 feet from any public right-of-way. Sign lighting shall be turned off within 30 minutes after the farm market closes for the day.
  - (6) Pick-your-own operations and Christmas tree sales (including sales where purchasers are required or permitted to cut their own tree) shall be exempt from the requirements of Section 95-34.3.E.(1) above.
  - (7) Notwithstanding the provisions of Section 95-34.3.E.(1) above, farm markets may provide for seasonal outdoor operations (in addition to those in Paragraph 6 above), subject to the limitations of this paragraph. The area occupied by such seasonal outdoor operations shall not exceed 1,000 square feet. The outdoor operations area shall be set back at least 25 feet from a public right of way, and 100 feet from any other property line. No additional signage shall be permitted for seasonal outdoor farm market areas. Such seasonal outdoor operations shall be limited to March 1 through November 30 of each calendar year.
  - (8) Hours of operation for farm markets shall be limited to 10:00 am through 7:00 pm. Farm markets may operate seven (7) days per week.
  - (9) No farm market shall utilize any sound amplification equipment for any purpose.

- (10) Farm markets shall be located on a collector street unless the commercial farm lacks collector street frontage.

**G. Other Farm Buildings.** Farm buildings other than buildings devoted to farm markets (“non-farm-market buildings”), including greenhouses, shall comply with the following requirements:

- (1) Floor area occupied by greenhouses used for growing agricultural or horticultural products shall not exceed, in the aggregate, 10% of the total area of the lot on which such greenhouses are located. Floor area occupied by other non-farm-market buildings shall not exceed, in the aggregate, 5% of the total area of the lot on which the buildings are located.
- (2) Non-farm-market buildings shall not exceed two stories or 35 feet in height.
- (3) Non-farm-market buildings shall comply with the following setback requirements:
  - (a) Setback from a public right-of-way: 100 feet.
  - (b) Setback from any other property line: 100 feet.

**H. Farm Market Access and Parking.** Commercial farms shall provide access to and parking for a farm market in conformance with the requirements of this section.

- (1) Vehicular access shall be provided to a farm market by a two-way driveway having a width no greater than 24 feet. The access driveway shall be set back at least 100 feet from any side property line or street intersection located on the same side of the street. The access driveway shall have a gravel surface constructed of a minimum of six (6) inches of gravel, quarry processed stone, or other porous stone without asphalt binder.
- (2) Farm markets shall provide one on-site parking space for each 200 square feet of floor area within the farm market building.
- (3) One on-site parking space shall be provided for each 500 square feet of outdoor area used seasonally as a farm market.
- (4) Parking areas for farm markets shall have a gravel surface constructed of a minimum of six (6) inches of gravel, quarry processed stone, or other porous stone without asphalt binder, except that handicap parking spaces shall be paved. Parking spaces shall be delineated by landscape ties installed flush to the ground surface, or other suitable methods approved by the Planning Board.
- (5) Parking spaces for a farm market shall be 9 feet wide by 18 feet deep.

- (6) Parking spaces serving a farm market shall be served by a 24 foot wide access aisle.
- (7) Parking areas serving a farm market shall be set back at least 12 feet from a street right of way and 100 feet from any side property line or street intersection located on the same side of the street.
- (8) Lighting for farm market parking areas shall meet the following standards:
  - (a) Fixtures shall not exceed 15 feet in height, and shall be decorative in style, with the light source recessed in the fixture head so as not to be visible from the street or surrounding properties.
  - (b) Parking area illumination shall be 0.5 foot candles average, and 0.1 foot candles minimum.
  - (c) All parking area light fixtures shall be turned off by 7:30 pm.
- I. **Residential Buffers.** When reviewing an application for construction of any building on a commercial farm, the Planning Board may require a buffer up to 25 feet deep between such building and any adjoining properties zoned or used for residential purposes. Buffer areas shall be maintained in their natural state.
- J. **Zoning Permits.** No building shall be erected, constructed, reconstructed, or altered on a commercial farm, or used as a farm market, or for any purpose other than commercial farming activities until a zoning permit has been issued by the zoning officer confirming that such activity complies with all applicable provisions of this Chapter and Chapter 57.
- K. **Site Plan Approval.** No building permit or zoning permit shall issue for the erection, construction, reconstruction, or alteration of any building on a commercial farm, or for the use of any such building as a farm market, or for any purpose other than commercial farm activities until a site plan for such activity is first submitted to and approved by the Planning Board.

**SECTION 8.** Chapter 95, Section 35, Subsection A of the Code of the Township of Morris shall be deleted in its entirety, and the remaining subsections of Section 35 shall be re-designated in proper alphabetical order.

**SECTION 9.** All ordinances of the Township of Morris which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 10.** If any provision of this ordinance is declared to be invalid by a court of competent jurisdiction, this declaration shall not affect the remainder of the ordinance.

**SECTION 11.** This ordinance shall take effect upon final passage and publication as provided by law.

