

**ORDINANCE OF THE TOWNSHIP OF SOUTH HARRISON
AMENDING CHAPTER 90, THE LAND USE AND DEVELOPMENT ORDINANCE OF
THE TOWNSHIP OF SOUTH HARRISON**

WHEREAS, the Township of South Harrison strives to adopt and implement land use regulations that advance the goals and objectives of the Township in a clear and consistent fashion; and

WHEREAS, South Harrison Township officials wish to enact policies that support farming and the agricultural industry and encourage the retention of diverse farming operations; and

WHEREAS, adequate buffering between farm operations and new development will aid in the harmonious coexistence of residents, businesses and other working farms; and

WHEREAS, the Planning Board has recommended the ordinance changes consistent with sound planning and implementation of the goals and objectives of the Master Plan duly adopted on June 9, 2008 by Planning Board Resolution No. R-08-21, as a result of a periodic review pursuant to N.J.S.A. 40:55D-89.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Mayor and Council of the Township of South Harrison, County of Gloucester, State of New Jersey as follows:

SECTION I. Add the following definitions in alphabetical order within section 90-1.03B

COMMERCIAL FARM – A farm management unit 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 et seq.; or a farm management unit less than five acres, 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 – 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 – 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 percent of the annual gross sales of the retail farm market shall be generated from sales 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.

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

SECTION II. Revise section 90-5.36 “Right to Farm” in its entirety as follows:

§ 90-5.36 Right to Farm.

- A. The right to farm is hereby recognized to exist as a natural right in South Harrison Township and is hereby declared a permitted use in all zones everywhere within the Township of South Harrison. The Township Committee recognizes the benefits to society and the community that accrue as a result of home and commercial farming including supplying present and future generations with the bounty of the farm and the preservation of the rural countryside. The right to farm includes, but not by way of limitation:

- (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.
- (2) Housing and employment of necessary laborers
- (3) Erection of essential agricultural buildings, including those dedicated to the processing and packaging of the output of the commercial farm and ancillary to agricultural and horticultural production.
- (4) The grazing of animals and use of range for fowl.
- (5) Construction of fences.
- (6) The operation and transportation of large, slow-moving equipment over roads within South Harrison Township.
- (7) Control of pests, including but not limited to insects and weeds, predators and diseases of plants and animals.
- (8) Conduction of agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm and permission of the farm owner and lessee is obtained.
- (9) Use of any and all equipment, including but not limited to: irrigation pumps and equipment, aerial and ground seeding and spraying, tractors, harvest aides, and bird control devices.
- (10) Processing and packaging of the agricultural output of the commercial farm.
- (11) The operation of a farm market with attendant signage, including the construction of building and parking areas in conformance with South Harrison Township standards and minor site plan approval.
- (12) The operation of a pick-your-own operation with attendant signage.
- (13) Replenishment of soil nutrients and improvement of soil tilth.
- (14) Clearing of woodlands using open burning and other techniques, installation and maintenance of vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas consistent with best management practices.
- (15) On-site disposal of organic agricultural wastes consistent with best management practices.
- (16) The application of manure and chemical fertilizers, insecticides and herbicides, though organic material is recommended.
- (17) Installation of wells, ponds and other water resources for agricultural purposes such as irrigation, sanitation and marketing preparation.

Commercial farm operators may 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," P.L. 1968, c.410 (C.52:14B-1 et seq.).

B. Commercial farm operators are strongly advised to adhere to generally accepted agricultural management practices that have been:

- (1) Promulgated as rules by the State Agriculture Development Committee;
- (2) Recommended as site-specific agricultural management practices by the county agriculture development board;

- (3) Approved by the local soil conservation district in the form of a farm conservation plan that is prepared in conformance with the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG), revised April 20, 1998, as amended and supplemented; or
- (4) Recommended by the Rutgers Agricultural Experiment Station.
- C. The foregoing activities must be in conformance with applicable Federal and State law.
- D. The foregoing practices and activities may occur on holidays, weekdays and weekends by day or night and shall include the attendant or incidental noise, odors, dust and fumes associated with these practices.
- E. It is hereby determined that whatever nuisance may be caused to others by these foregoing uses and activities is more than offset by the benefits of farming to the neighborhood community and society in general.
- F. Any person aggrieved by the operation of a commercial farm shall file a complaint with the Gloucester County agriculture development board, or the State Agriculture Development Committee, prior to filing an action in court.
- G. To help parties resolve conflicts involving the operation of commercial farms, the State Agriculture Development Committee has also established an Agricultural Mediation Program. Mediation is a voluntary process in which a trained, impartial mediator helps disputing parties examine their mutual problems, identify and consider options, and determine if they can agree on a solution. A mediator has no decision-making authority. Successful mediation is based on the voluntary cooperation and participation of all the parties.
- H. An additional purpose of this ordinance is to promote good neighbor policy by advising purchasers and users of property adjacent to or near commercial farms of accepted activities or practices associated with those neighboring farms. It is intended that, through mandatory disclosure, purchasers and users will better understand the impacts of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near land actively devoted to commercial agriculture or in an Agricultural Development Area, meaning an area identified by a county agriculture development board pursuant to the provisions of N.J.S.A.4:1C-8 and certified by the State Agriculture Development Committee. An applicant for a major subdivision, or a minor subdivision that will result in new dwelling units shall agree as a condition of approval to include a provision in each and every contract for, and deed conveying, all or any portion of the subdivided lands, a notice disclosing that:

"the property being purchased is located near land actively devoted to commercial agriculture or in an Agricultural Development Area, meaning an area identified by the county agriculture development board pursuant to the provisions of N.J.S.A.4:1C-18 and certified by the State Agriculture Development Committee. You may be affected by these agricultural activities or practices. The effect of these activities or practices may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure and compost, and the application by spraying or otherwise of fertilizers, soil amendments, herbicides and pesticides. One or more of the effects described may occur as the result of any agricultural operation which is in conformance with existing Federal and State laws and regulations and accepted customs and standards. If you live near an agricultural area, you should strive to be sensitive to the needs of commercial farm operators, as their presence is a necessary aspect of an area with a strong rural character and a strong agricultural sector. The State Agriculture Development Committee has established a formal complaint process as well as an informal Agricultural Mediation Program to assist in the resolution of any disputes which might arise between residents of South Harrison Township regarding the operations of commercial farms."

SECTION III. Rename section 90-2.28 “Buffers” to “Farmland Buffers” and revise in its entirety as follows:

- A. Consistent with the purposes of the “Right to Farm” ordinance, all residential subdivisions that may ultimately result in the construction of new residential dwellings shall be designed such that any lot abutting or sharing a boundary with land that is currently assessed as farmland or that has been qualified within any of the three calendar years preceding the application as qualified farmland under the New Jersey Farmland Assessment Act, shall include, in addition to the required yard and setbacks, a buffer as follows:
- (1) For minor subdivisions, major subdivisions and site plans the buffer strip shall be a minimum of 50 feet in width.
 - (2) The buffer shall include a six foot high vinyl coated fence located on the inside of the buffer area on the lot being developed. Another type of fence may be approved at the discretion of the Planning Board.
 - (3) The buffer strip shall contain evergreen plantings, 6 feet high at the time of planting placed 15 feet on centers to provide an adequate and effective visual buffer and to assist in buffering noise and odor.
 - (4) The buffer strip shall be restricted by deed and by final subdivision plat against construction of any buildings or structures other than fences, walls and drainage facilities and against removal of any screen or tree or hedges, so long as the adjacent land is assessed or qualified as farmland under the New Jersey Farmland Assessment Act, or is actively farmed should the Farmland Assessment act be revoked or substantially altered.
- B. Exceptions for which the buffer may be reduced or is not required are as follows:
- (1) If the lot being subdivided is substantially wooded and the vegetation and trees within the buffer area will remain, the Planning Board may waive the fence requirement with the approval of the adjacent farmer.
 - (2) If the subdivided lots are five acres or more in size and are intended to be farmed.
 - (3) Farmland assessment on the adjacent land has been terminated and rollback taxes have been imposed due to change of use of said adjacent land to a use other than agricultural or horticultural.

SECTION IV. Rename section 90-5.24 from “Landscape transition buffers; screening of non residential from residential uses” to “Landscape Transition Buffers and Rural Vistas” and revise the section in its entirety as follows:

- A. Landscape Transition Buffers between incompatible uses. A landscape transition buffer a minimum of 50 feet in width shall be provided and maintained by the owner between any nonresidential use and any contiguous residentially zoned lands or lots where the principal use is residential.
- (1) The buffer landscaping must be designed consistent with the requirements of section 90-4.18N and be designed to compliment any existing trees or vegetation.
 - (2) The buffer shall include a planting strip a minimum of 25 feet in width and may incorporate a fence
 - (3) Where a non-residential development takes place adjacent to an occupied residential dwelling within a non-residential zone, the buffer may be reduced to 25 feet in anticipation of future conversion to a commercial use, however the area must be heavily landscaped.
 - (4) Where an existing structure in a neighborhood commercial district is being converted from a residence to a commercial or office use, the buffer shall be 15 feet, and a 6 foot high fence may be required to shield parking areas.
- B. Scenic Rural Corridors. Scenic Rural Corridors are established along all State and County roadways within the Township as well as along the following local roads: Cedar Grove Road, Lincoln Road, Lincoln Mill Road, Marl Road, Porches Mill Road and Vestry Road. The purpose of the scenic rural corridors is to preserve natural features and the visual character of the Township to the greatest extent possible and to prevent visual pollution and driver distraction caused by unplanned and uncoordinated development.

- (1) Except as provided for in this section, no permit shall be issued for development within the scenic rural corridor for development other than farm markets and other ancillary commercial agricultural uses unless the applicant demonstrates that buildings are set back at least 200 feet from the centerline of the scenic rural corridor in addition to the required front yard setback.
- (2) Within the Scenic Rural Corridor setback, a minimum of 70% of the linear distance along the corridor shall be screened and designed to incorporate existing healthy trees and vegetation where they exist. Where existing vegetation is insufficient the area shall be designed with berms, trees and landscaping to create a varied year round buffer. Where berms are used they must be sufficiently wide to support the vegetation planted upon them. Berms and landscaping are in addition to street trees. Native vegetation is preferred.
- (3) Where the front façade of a structure faces the scenic rural corridor, and the lot is an existing lot (not part of a major subdivision) the front yard setback may be included in the scenic rural corridor. Where the rear or side façade of a structure faces the scenic rural corridor or where the lot is part of a major subdivision, the required yards shall be in addition to the scenic rural corridor.
- (4) Existing structures as of the date of adoption of this section may continue to exist and improvements may be permitted as long as the addition/improvements do not further encroach upon the scenic rural corridor.
- (5) Where the scenic rural corridor is part of a major subdivision, the lands within the corridor may be maintained by a homeowners association or in the event that no homeowners association exists the scenic rural corridor may be part of individual lots, but it must be deed restricted to prevent future development or significant alteration.
- (6) If compliance with the 200 foot setback is constrained by environmental or other physical considerations, such as wetlands, active agricultural operations, or existing lot size, the building shall be setback as close to 200 feet as practical and the site shall be landscaped in accordance with the provisions of 90-4.18N as to provide screening from the corridor. A variance will be required.

SECTION V. Amend section 90-4.18N "Landscaping" as follows:

Revise section 90-4.18N (5) (b) [1] and [3] to read:

- [1] Where more intensive land uses abut less intensive land uses, a planted buffer strip 25 feet in width shall be planted within the buffer area defined in section 90-5.24. Where the lot is narrow and additional land is unavailable, the Land Use Board may consider reducing the buffer area and buffer strip to 25 feet total with 15 feet of planting.
- [3] Where residential subdivisions abut higher order streets, the Scenic Rural Corridor standards shall be applied. The scenic corridor shall contain a landscape buffer strip a minimum of 25 feet in width within the required setback.

Revise section 90-4.18N (5) (a) to read:

- (a) Function and materials. Buffering is intended to provide a year round visual screen in order to minimize adverse impacts and to enhance the visual character of the Township. Buffering may consist of decorative fencing, evergreens, berms, rocks, boulders, mounds, shade trees and ground cover to achieve the stated objectives. All buffer areas shall be planted and maintained with a combination of grass or groundcover, live shrubs and trees, and other landscape materials. Preserved wooded tracts may be calculated as part of the required buffer area, provided that the growth is of a sufficient density to serve the purpose of the buffer.

SECTION VI. Amend section 90-5.23 Accessory Structures and Uses to add section I as follows:

- I. Fences.
- (1) No fence or wall within 50 feet of a public right of way or within the front yard of a residential dwelling shall exceed four feet in height.
 - (2) Fences on commercial properties may not exceed 8 feet in height.
 - (3) Where fences are visible to the general public, they shall be designed to be architecturally compatible with the surrounding area and to enhance the visual environment.

SECTION VII. REPEALER

Ordinances or provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency.

SECTION VIII. INVALIDITY

If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall only apply to the section, paragraph, subdivision, clause or provision and the remainder of this Ordinance shall be deemed valid and effective.

SECTION IX. EFFECTIVE DATE

This Ordinance shall take effect upon adoption and publication according to law and the filing of same with the Gloucester County Planning Board in accordance with N.J.S.A. 40:55D-16.

TOWNSHIP OF SOUTH HARRISON

CHARLES TYSON, MAYOR

ATTEST:

NANCY KEARNS, RMC
MUNICIPAL CLERK

CERTIFICATION

The foregoing Ordinance was introduced at a Special Meeting of the Township of South Harrison held on the 17th day of June, 2008 and will be considered for final passage and adoption at a meeting to be held on the 9th day of July, 2008, at 7:30P.M., at the South Harrison Township Municipal Building, 664 Harrisonville Road, Harrisonville, NJ 08039, at which time any person interested therein will be given an opportunity to be heard.

Nancy Kearns, RMC
Municipal Clerk

NOTICE

NOTICE is hereby given that the foregoing Ordinance O-08-12 was finally adopted at a meeting of the South Harrison Township Committee held on the 9th day of July 2008 at 7:30 pm in the South Harrison Township Municipal Building, 664 Harrisonville Road, Harrisonville, New Jersey.

Nancy E. Kearns, RMC
Municipal Clerk