



# RIGHT TO FARM & FARMLAND ASSESSMENT

In 40 years, farming has changed....

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# FARMS ARE GROWING COMMERCIAL USES



CROP PRODUCTION  
GREEN HOUSES  
HYDROPONIC BLDGS  
ANIMAL BLDGS  
SOIL MOVEMENT  
PEST CONTROL  
COMPOSTING  
FERTILIZING  
PROCESSING  
PACKAGING  
AG EDUCATION  
ENERGY PRODUCTION



FARM STORES/MARKETS  
CRAFT STALLS  
VALUE-ADDED ITEMS  
FIREWOOD SALES  
COMMUNITY SUPPORTED AG  
FURNITURE/HOME GOODS  
SHEDS/PLAY EQUIPMENT  
FARM SUPPLIES/TRACTORS



RESTAURANTS  
DELIS  
ICE CREAM  
BREWERIES  
WINERIES  
DISTILLERIES



U-PICK  
HAY RIDES  
PETTING  
ZOOS  
FALL  
FESTIVALS  
WEDDINGS  
CATERING  
GLAMPING

# RIGHT TO FARM

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- The Right to Farm Act protects eligible farms from:
  - Restrictions from local ordinances – preempts local zoning regulations and county ordinances.
  - Protects farmers from neighbor and municipal nuisance suits.
    - Gives Farmers an irrebuttable presumption that no commercial agricultural operation constitutes a public or private nuisance.
- How
  - A farm that has met the threshold criteria of the Right to Farm Act:
  - Has been determined by the County Agricultural Development Board (CADB) to be a commercial farm.

# RIGHT TO FARM

- Right to Farm Act Qualifying Criteria (as decided by CADB or SADC):
  - Criteria 1: Farm meets definition of Commercial Farm in N.J.S.A. 4:1C-3
    - 5 acres or more of property that satisfies the Farmland Assessment Criteria and is producing \$2,500 or more annually from farm products; or
    - 5 acres or less of property satisfying Farmland Assessment Criteria and producing more than \$50,000 annually from products; or
    - A bee-keeping operation that produces \$10,000 or more annually.
  - Criteria 2: Location- The farm is located in an area where agriculture is permitted as of 12/31/97 or was in operation prior to 12/2/98.
  - Criteria 3: Protected Activity- The activity is included in the list of protected activities in N.J.S.A. 4:1C-9.

# RIGHT TO FARM

Criteria 3: Protected Activity- The activity is included in the list of protected activities in N.J.S.A. 4:1C-9 which include:

- Produce **agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities** with SIC classifications for agriculture, forestry, fishing and trapping.
- **Process and package** agricultural output of the farm.
- Provide for the operation of a **farm market, including the construction of building and parking areas in conformance with municipal standards.**
- **Replenish soil nutrients** and improve soil tilth.
- **Control pests, predators and diseases** of plants and animals.
- **Clear woodlands** using open burning and other techniques, install and maintain vegetable and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas.
- Conduct **on site disposal of organic agricultural** uses.
- Conduct **agricultural related educational and farm-based recreational activities** provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm.
- **Engage in the production of power or heat from biomass, solar or wind energy**, provided that the energy generation is consistent with the provision to PL 2009 c. 213.
- Engage in **any activity as determined by the SADC** and adopted by rule.

# RIGHT TO FARM

## OTHER APPLICABLE CRITERIA

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**Criteria 4: Compliance with any other applicable State and Federal laws and regulations. Examples:**

- Stormwater Management Control
- Uniform Construction Code
- Freshwater Wetlands Regulations
- Animal Waste Management

**Criteria 5: Does not pose a direct threat to public health and safety. Example**

- Entrance driveway/exit creates a traffic hazard on public roadway

**Criteria 6: Activity conforms to generally accepted agricultural management practices. Example**

- 12 adopted Agricultural Management Practices (AMPs)
- Farmers can also apply for a Site-Specific Agricultural Management Practice (SSAMP)

# RIGHT TO FARM

## AGRICULTURAL MANAGEMENT PRACTICES (AMPS)

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- Apiaries (Bee Keeping)
- Poultry Manure
- Land Application of Food Byproducts
- Commercial Vegetable Production
- Commercial Fruit Tree Production
- Natural Resource Conservation
- On-Farm Composting
- Fencing for Wildlife Control
- Equine Activities
- Aquaculture
- Solar Energy
- On-Farm Direct Marketing
- Pick Your Own Operations

# LAND USE AND ZONING — RTE IMPACTS

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- The NJ Right to Farm Act was enacted to help address conflicts among farmers, neighbors, municipalities and counties regarding farm practices.
- The Right to Farm Act provides broad protections for farm related practices which can include a variety of ways to sell their products, i.e. farm to table (restaurants/catering); wineries/breweries/distilleries; seasonal festivals and events; etc.
- Farms must be a “commercial farm” to qualify for Right to Farm protections. This requirement generally includes being farmland assessed or eligible to be farmland assessed.
- Most Farms are in residential zones.
- Right to Farm can supersede zoning ordinances.

# LAND USE AND ZONING – NUANCES

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- State laws must still be complied with; however municipalities may not be more stringent than State law as it applies to farms, i.e. stormwater regulations.
- County Ag Boards are the decision makers for Right to Farm but can defer back to the municipality if they find the issue to be too complex.
- Ag Boards are required to consider impacts to public health and safety when making decisions.
- Ag Boards are also required to consider the impact of municipal land use ordinances when making their decisions.
- Ag activities may preempt municipal and county regulations; however appropriate deference and consideration must be given to local standards.
- Ag Boards notify local boards of hearings and provide an opportunity to comment.

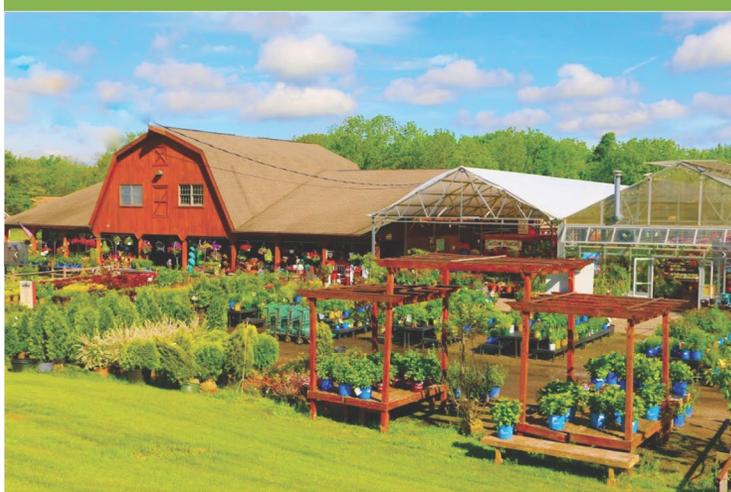
# LAND USE AND ZONING – SITE PLAN

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- Site Plan review can be granted by the CADB for on-farm direct marketing activities.
- The CADB can refer certain aspects of Site Plan review back to the municipality.
- Farmers can apply to the municipality first or the CADB first for site plan review.
- Both the CADB and municipalities can waive certain requirements for farms based on site specific considerations.
- CADB decisions can be appealed to the SADC. SADC decisions can be appealed to the Appellate Division.

# COMMERCIAL FARM EXAMPLES

- Heaven Hill Farm – 451 NJ-94, Vernon: Farm Market, Garden Center, Home Goods & Furniture, Bakery, Pumpkin Fest, Earth Fest, Taste of Vernon, Easter Egg Hunt, Garden Classes, Wine Tasting, also approved on-site but not constructed – restaurant/bar/brewery.



# COMMERCIAL FARM EXAMPLES

- The Farm at Glenwood Mountain – 1801 County Road 565, Vernon (Glenwood): Weddings, Catering, Farm to Table Dinners, Farm Store, Farm-Raised Beef, Pork, Chicken and Turkeys.



# COMMERCIAL FARM EXAMPLES

- Farm 94 LLC (Moon Valley Campground) – 442 NJ-94, Vernon: received Land Use Board approval to allow expansion of two on-site barns into a farm store, commercial kitchen/butcher shop, catering facility, art gallery, craft studio and campground. So far the campground has been opened.



# COMMERCIAL FARM EXAMPLES

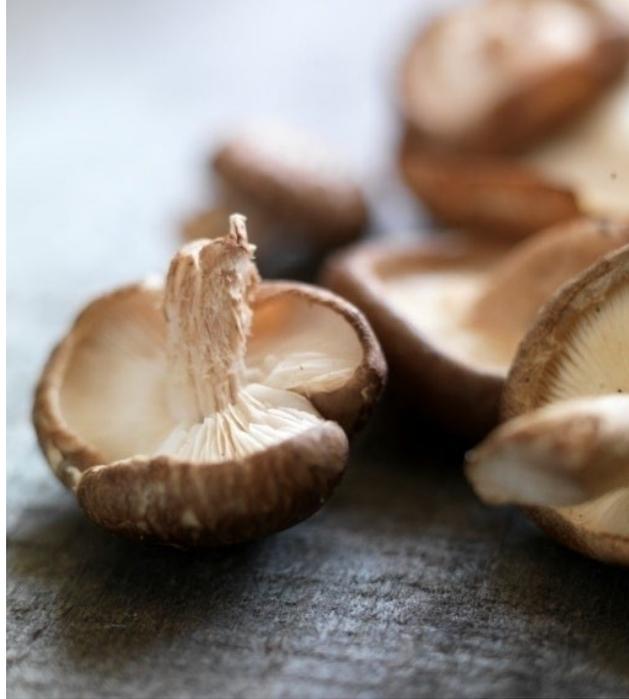
- Wesselhof Farms – 58 Sunset Inn Road, Lafayette:
- Marketplace and Café (farm to table restaurant), organic meat and produce.



# COMMERCIAL FARM EXAMPLES

- Tranquility Farms – 47 Decker Pond Road, Green: Farm Market, Garden Supplies and Flowers, Seasonal Produce, Beef and Pork, Dairy and Eggs, Homemade Ice Cream, Community Supported Agriculture memberships, Apple Picking, Seasonal Festivals, Parties and Pavilion Rentals.





# FARMLAND ASSESSMENT CONCERNS



How does RTF overlap with Farmland Exempt?



When are farm uses assessed commercially?



How do assessors get the right information to make decisions?



# QUESTIONS?

New Jersey League of Municipalities

40 Years of Farmland Preservation and Right to Farm

