

## CHAPTER VIII: AGRICULTURAL INDUSTRY SUSTAINABILITY, RETENTION AND PROMOTION

### Existing Agricultural Industry Support

Not only is preservation of the farmland extremely important to maintain, but so is the promotion and development of the industry, as well as the enhancement of its economic vitality. Promotion of the future viability of Morris County farms is key to ensuring a sustaining agricultural industry.

### Right-to-Farm / Agricultural Mediation Programs

To ensure farmers' continued ability to operate without nuisance complaints, the Right-to-Farm Act was enacted by the State Legislature in 1983 and amended in 1998. The Act provides protection of commercial farm operations from nuisance action, where recognized methods and techniques of agricultural production are applied, while simultaneously acknowledging the need to provide a balance among the varied and conflicting interests of all lawful activities in New Jersey. Another critical piece of legislation to support agriculture is the 1983 Agriculture Retention and Development Act. This Act created the SADC and the 18 CADBs. Both the SADC and CADBs implement the Right-to-Farm Act on the State and local levels.

The SADC works to maximize protections for commercial farmers under the Right-to-Farm Act by developing Agricultural Management Practices (AMPs), tracking Right-to-Farm cases, offering a conflict resolution process and a mediation program, and reviewing rules proposed by other state agencies for the impact they may have on agriculture. The Right-to-Farm Act provides commercial farmers with protection from restrictive municipal ordinances, as well as public and private nuisance complaints, when the farm is operated in accordance with AMPs adopted by the SADC. The Act gives primary jurisdiction in resolving complaints against agricultural operations to local CADBs (and ultimately to the SADC if the decisions of the county board are appealed), subject to a formal conflict resolution process.

In order to qualify for Right-to-Farm protection, a farm must meet the definition of a "commercial farm" in the Right-to-Farm Act; be operated in conformance with federal and state law; comply with the AMPs recommended by the SADC, or site specific AMPs developed by the Morris CADB at the request of a commercial farmer; must not be a direct threat to public health and safety; and must be located in an area where agriculture was a permitted use under municipal zoning ordinances as of December 31, 1997, or thereafter; or, must have been an operating farm as of December 31, 1997.

All Right-to-Farm complaints or issues that are brought before the Morris CADB are handled first with fact-finding and efforts to resolve differences between the parties. If the parties agree, the SADC will provide mediation at no cost to the participants. If a complaint is formally filed with the Morris CADB, and the activity in question is not addressed by an existing AMP, it is sent to the SADC for a determination as to whether the farm falls within the parameters established by the Act for Right-to-Farm protection. Once the complaint is returned to the Morris CADB from the SADC, additional fact finding, and technical review occurs, and the issue is given a public, quasi-judicial hearing at the county level. After all information has been considered, the Morris CADB will make a determination as to whether the agricultural activity is protected by the Right-to-Farm Act or whether changes to the operation may be warranted. Either party in the dispute may appeal the CADB's determination to the SADC.

New Jersey's Right-to-Farm Act is considered the strongest in the nation. The Right-to-Farm Act protects those farm operations that meet the definition of a "commercial farm" and meet the following criteria.

### *Basic Requirements for Right-to-Farm Eligibility*

To qualify for the protections of the Right-to-Farm Act, a farm must meet the following eligibility criteria:

1. The farm must qualify as a commercial farm. This means an operation larger than five acres must annually engage in agricultural or horticultural production worth at least \$2,500 and be eligible for differential property taxation under Farmland Assessment. For farms smaller than five acres, the annual production

requirement is a minimum of \$50,000 and the farm must satisfy eligibility requirements for farmland assessment, other than the farm size requirement;

2. The farm (as of December 31, 1997 or thereafter) must be located in an area in which agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan. However, if the commercial farm was in operation on the effective date of the 1998 amendments to the Right-to-Farm Act (July 2, 1998), this zoning ordinance/master plan requirement does not need to be met;
3. The farmer must conduct his operation, or a specific agricultural activity at issue, in compliance with the standards contained in agricultural management practices that have been promulgated by the SADC, or with generally accepted agricultural practices;
4. The operation must be in compliance with relevant state and federal statutes and rules; and,
5. The operation must not pose a direct threat to public health and safety.

Farms that meet the eligibility requirements listed above, may also be entitled for protection for the following activities:

1. Produce agricultural and horticultural crops, trees and forest products, livestock, poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping;
2. Process and package the agricultural output of the commercial farm;
3. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;
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 educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm;
9. Engage in the generation of power or heat from biomass, solar or wind energy within certain limits; and,
10. 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.).

When an individual or municipality is "aggrieved" by a commercial farm operation the Right-to-Farm Act requires the aggrieved party to file a complaint with the applicable CADB prior to filing an action in court. Municipalities seeking to enforce their ordinance are therefore required to file such a complaint rather than issue a summons against the farmer. Once a complaint is filed, a public hearing is held by the CADB to determine whether the farmer is entitled to the protections of the Act. If a finding by the CADB is questioned, it may be appealed to the SADC and, if necessary, to the New Jersey Superior Court, Appellate Division.

Morris County encourages municipalities with local farms to adopt Right-to-Farm ordinances. The following 11 Morris County municipalities have Right-to-Farm ordinances in place:

- Boonton Township

- Chester Borough
- Chester Township
- Denville Township
- Harding Township
- Jefferson Township
- Lincoln Park Borough
- Long Hill Township
- Mendham Borough
- Mendham Township
- Mine Hill Township
- Montville Township
- Morris Township
- Mount Olive Township
- Randolph Township
- Rockaway Township
- Washington Township

Morris CADB offers a number of resources online to landowners and municipal officials revolving around the Right-to-Farm, such as:

- Right-to-Farm Act, N.J.S.A. 4:1C-1 et seq.
- Right-to-Farm Procedural Rules
- Adopted Agricultural Management Practices (AMPs)
- Proposed New Rules/New AMPs
- “Am I Protected by the Right-to-Farm Act?” brochure
- Application for a Site Specific AMP
- Conflict Resolution Process, N.J.A.C. 2:76-2.7
- Right-to-Farm Mediation Program Request Forms (for Right-to-Farm and agricultural credit disputes)
- Model Municipal Right-to-Farm ordinances

For more information, visit [https://www.morriscountynj.gov/Departments/County-Agriculture-Development-Board/Right to Farm-Program](https://www.morriscountynj.gov/Departments/County-Agriculture-Development-Board/Right%20to%20Farm-Program)

While the Right-to-Farm process is effective overall and one of the strongest in the country, Board members have determined that the process of Right-to-Farm needs tweaking. The most pressing issue with the Right-to-Farm process has to do with determining whether a conflict exists between an applicant and a Board member. The Local Finance Board determines whether a conflict exists between farmers coming to the Board and Board members. Most common conflicts can be due to a business or family relationship. It can take several months to receive a determination from the Local Finance Board, which slows down the process.

Board members feel that the Board attorney should be able to determine conflicts. In addition, CADBs should have the ability to have alternate members who can step in if conflicts occur. Without having alternate members, the County may not have a quorum to hear certain cases due to having a conflict. The Board feels that cases should be able to be heard by other County Agriculture Development Boards as a means to move cases along in a timelier fashion, which is not currently allowed within the existing regulations.

#### Farmland Assessment

The Farmland Assessment program offers a tax incentive, which reduces property taxes on any active farmed land, thereby assisting farmers with a critical financial aspect in helping to keep land in agricultural production. This tax

incentive is made possible by the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq. The application for farmland assessment is due annually before August 1. The basic eligibility requirements include:

1. The applicant must own the land;
2. The property owner must apply annually for Farmland Assessment on or before August 1 of the year immediately preceding the tax year;
3. Land must be devoted to agricultural and/or horticultural uses for at least two years prior to the tax year;
4. Land must consist of at least five contiguous farmed and/or woodland management plan acres. Land under or adjoining a farmhouse is not counted towards the minimum five acres;
5. Gross sales of products from the land must average at least \$1,000 per year for the first five acres, plus an average of \$5.00 per acre for each acre over five. In the case of woodland or wetland, the income requirement of \$500 per year for the first five acres, plus \$.50 per acre for any acreage over five. Dependent on the agricultural or horticultural products being produced, the farmer can also offer clear evidence of anticipated yearly gross sales, payments, or fees within a reasonable period of time; and,
6. The property owner must represent that the land will continue in agricultural or horticultural use to the end of the tax year.

When land that is in agricultural or horticultural use (and is being valued under the Farmland Assessment Act), is changed to a different use, it is subject to additional taxes. These are referred to as roll-back taxes, and they are charged in an amount equal to the difference, if any, between the taxes paid or payable on the basis of "Farmland Assessment" and the taxes that would have been paid or payable had the land been valued, assessed, and taxed as other land in the taxing district. In the case of a change in use, the roll-back taxes shall be applicable in the year in which the change took place and in each of the two tax years immediately preceding, in which the land was valued, assessed and taxed under the Farmland Assessment Act.

Land is deemed to be in *agricultural use* when devoted to the production for sale of plants and animals, including but not limited to: forages and sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding, boarding, raising, rehabilitating, training or grazing of any or all of such animals, except that "livestock" shall not include dogs; bees and apiary products; fur animals, trees and forest products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. Although beekeeping and apiary products are excluded from the statutory definition, such operations are protected under the Right-to-Farm Act, provided that they produce apiary-related products or provide crop pollination services worth at least \$10,000 annually.

Land is deemed to be in *horticultural use* when devoted to the production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral ornamental and greenhouse products; or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. There are additional requirements for the boarding, training, or rehabilitation of livestock and for forestlands under a woodlot management program.

#### **Other Strategies**

Over the last 50 years, the State of New Jersey has increasingly transformed from a largely rural and agricultural landscape to a more urban and suburban landscape. However, farming remains strong and viable in many regions of the state. If the County's remaining agricultural areas are to survive and prosper, the non-farming public needs to be aware of, and be financially supportive of, the continuing economic, cultural, scenic and agricultural contributions made by Morris County farmers. Public education and outreach will increase the recognition of the farm industry's importance to the non-agriculture resident. Agritourism is one form of public outreach that exists in the County and should be expanded when appropriate. Other public outreach mechanisms should be explored and instituted when feasible.

*Permit Streamlining*

Streamlining the permitting process can help to facilitate ease of access for new farming operations. Permit streamlining can be practiced by allowing a farmer to interact with one office in a single location as opposed to multiple offices and people at multiple locations, instituting preliminary consultation services, implementing expedited reviewing periods, or lowering fees to encourage activity.

*Agricultural Vehicle Movement / Routes*

Continued development and redevelopment in the County will further impact roadways. Farmers often need to move their slow-moving equipment over roadways to access other noncontiguous portions of the land they farm, while other roadway users, such as cars, trucks, tractor trailers, and buses, use these same roads to get to their destinations. These users often compete for the same road space, which can create unsafe road conditions for all roadway users.

The SADC model Right-to-Farm ordinance protects farmers' abilities to operate and transport large, slow-moving heavy equipment over roads. Morris County municipalities would benefit from reviewing their ordinances to ensure that farmer vehicles are protected. Should future conflicts arise, the County could consider working with the municipalities to install signage that alerts drivers on roadways to be mindful of farming equipment on the road. Signs can be a helpful tool to not only inform the local community that agriculture is a necessary and permanent fixture in Morris County, but to also provide a clear warning that slow-moving vehicles may be on the road ahead.

*Agricultural Labor Housing / Training*

The County can help its municipalities provide housing and training opportunities for existing agricultural labor. Through a partnership with the Morris County Housing Authority, the County can also provide employment opportunities at Morris County farms to the residents of Housing Authority sites.

The Community College of Morris County offers an associate degree in agribusiness as well as landscape and horticultural technology; both disciplines can directly serve the agricultural operations in Morris County.

*Wildlife Management Strategies*

Like many New Jersey counties, Morris County has been impacted by the overpopulation of white tail deer, which requires anything grown in the ground to be enclosed with fencing. Black bears, groundhogs, and rodents also present issues for Morris County farmers. Farmers across the state are contending with invasive pests such as the Bag Fly, Spotted Lanternfly, Spotted Winged Drosophila, Emerald Ash Borer, Asian Longhorned Beetle, Mexican Bean Beetle, Marmorated Stink Bug, Gypsy Moth and Pine Shoot Beetle. The County should work with the Rutgers Agricultural Experimental Station, Rutgers Cooperative Extension of Morris County, and the SADC to develop ways to mitigate their impacts. Farms in Morris County are also threatened by a proliferation of invasive vegetation, such as the water chestnut and Japanese stilt grass.

*Agricultural Education and Promotion*

A well-trained and educated workforce is paramount to the success of the local agricultural industry. Educational opportunities must be readily available for industry participants, to advance the knowledge gained through the continued study, research and development of industry issues and topics. Education and training in areas related to business management, marketing, and the industry in general help to advance the efforts of local farmers who wish to expand their business and maximize profitability. Apart from the programs and educational opportunities offered through various organizations dedicated to agriculture, secondary schools, colleges and other higher education institutes should offer programs for those interested in entering the field or wishing to expand their knowledge and keep up with the latest industry advancements.

The significance of the local agricultural industry can be conveyed at the local K-12 level through school curriculum as well as programs offered through area organizations such as the 4-H Club. Such programs offer a hands-on approach to learning, and provide opportunities to help build confidence, learn responsibility and develop skills. Information related to local 4-H programs in Morris County can be found online at [Morris.njaes.rutgers.edu/4h/](http://Morris.njaes.rutgers.edu/4h/).

The New Jersey Agricultural Society's Agricultural Leadership Program is a two-year program providing educational programming to individuals involved in farming, focusing on leadership development, management skills, communication, decision making, conflict resolution, as well as other areas. More information on this program can be found at <http://www.njasociety.org/leadership-development-program.html>.

The National Future Farmers of America Organization (FFA) was founded in 1928, and currently has 7,242 chapters across the country with nearly 500,000 members. The program is open to students in middle school and high school. Although originally focused solely on the agricultural industry, the organization now seeks to prepare students for a broad range of career opportunities. According to the National website, there are currently no Morris County chapters. The County should consider encouraging the creation of a Morris County chapter as a way to support future Morris County farmers. More information about the FFA Organization can be found at <https://www.ffa.org/>.

Educational opportunities are equally important to those currently involved in agriculture as well as to those who have an interest in entering the field. To be effective, the industry's leadership and employment needs must be identified and communicated to decision makers and educators preparing young people for careers in agriculture. The NJDA offers technical, financial, and regulatory assistance, and provides educational outreach to landowners throughout the state. The Department also offers, in conjunction with the USDA, farm risk management and crop insurance education programs to assist farmers. Additional programs are highlighted throughout this document, which also provide educational opportunities and programs for local farmers.