

EXETER TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-854

**AN ORDINANCE OF THE TOWNSHIP OF EXETER, BERKS COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 390 REGARDING AGRICULTURAL
OPERATIONS**

WHEREAS, Section 1601 of the Second Class Township Code, 53 P.S. § 66601, authorizes the Exeter Township Board of Supervisors (“Board”) to adopt, amend, repeal or revise existing ordinances;

WHEREAS, Part II, Chapter 390 of the Code of the Township of Exeter (“Code”) governs and addresses agricultural operations within the Township; and

WHEREAS, the Township desires to amend its Code to ensure compliance with federal and state laws and regulations with respect to agricultural operations;

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Exeter, Berks County, Pennsylvania, as follows:

SECTION 1. The following definitions within Part I, Chapter 390, Section 6 of the Code are hereby amended as follows:

AGRICULTURAL OPERATIONS

The activities, practices, equipment and procedures that farmers adopt, use or engage in the production and preparation for market of animals and their products on a farm that is not less than ten contiguous acres in area, and if less than ten acres, has an anticipated yearly gross income of at least \$10,000, as defined in the Right to Farm Act (3 P.S. §§ 951-957).

AGRICULTURE (INTENSIVE)

Concentrated animal feeding operations (CAFOs) and concentrated animal operations (CAOs).

ANIMAL EQUIVALENT UNIT (AEU)

One thousand pounds live weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit.

COMMISSION

The State Conservation Commission established by the Conservation District Law, 3 P.S. § 849 *et seq.*

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO)

A combined animal operation (CAO) with greater than 300 animal equivalent units (AEUs), any agricultural operation with greater than 1,000 AEUs, or any agricultural operation defined as a large CAFO under 40 CFR § 122.23.

CONCENTRATED ANIMAL OPERATION (CAO)

An agricultural operation with eight or more animal equivalent units (AEUs) where the animal density exceeds two AEUs per acre on an annualized basis. To determine if a particular agricultural operation is a CAO, the procedure set forth under 25 Pa. Code § 83.262 shall be followed.

SECTION 2. Part I, Chapter 390, Section 32 of the Code is hereby repealed and replaced in its entirety with the following:

A. General agricultural standards.

- (1) Agricultural uses shall be conducted on a farm which shall be a minimum of three acres in size.
- (2) General agricultural uses shall be limited to non-CAOs and non-CAFOs. Uses that meet the criteria for CAOs or CAFOs are subject to the intensive agricultural standards of Subsection B. Animals not defined in the AEU table of § 390-6 shall be limited to one per acre.
- (3) No farm or any other outbuilding other than a dwelling shall be constructed closer than 75 feet to any property line.
- (4) All grazing or pasture areas utilized for this purpose shall be fenced.
- (5) No slaughter area or manure storage shall be established closer than 200 feet to any property line.
- (6) Except as noted in the AP Zoning District, no more than one single-family detached dwelling shall be permitted for each farm.
- (7) To control erosion and pollution, a buffer zone of 12 feet or as required by the Exeter Township Floodplain Ordinance, whichever is greater, shall be established from the edge of all streams, which shall be kept in an all-season ground cover.
- (8) The sale of farm products is subject to:
 - (a) Signs shall be subject to the provisions of § 390-69.

(b) At least 50% of such products shall have been produced on the property on which they are offered for sale.

(c) Parking spaces for at least three cars shall be provided behind the street line.

(d) Sale of farm products shall be conducted from a portable stand, removed at the end of the growing season, or from a permanent building located no closer to the street than the applicable building setback line.

B. Combined animal operation (CAO) and concentrated animal feeding operation (CAFO) standards.

(1) All open storage shall be screened in such a manner that it shall not be visible from any point on the lot lines.

(3) No more than three persons not related to the family operating the use shall be housed on the lot.

(4) All buildings and structures designated for the use of any regulated activity shall be painted and maintained in good condition.

(5) A fence shall be maintained around all areas in which animals are kept outside of buildings.

(6) Solid and liquid waste shall be disposed of in a manner consistent with Nutrient and Odor Management Act (3 Pa.C.S § 501 *et seq.*) as it shall exist from time to time, the Clean Streams Law (35 P.S. § 691.1 *et seq.*) as it shall exist from time to time, and the Water Resources Planning Act (27 Pa.C.S § 3101 *et seq.*) as it shall exist from time to time.

(7) Agricultural odors are governed by the Nutrient and Odor Management Act (3 Pa.C.S. § 501 *et seq.*) and accompanying regulations.

(8) A nutrient management plan shall be prepared for all proposed intensive agricultural uses. The nutrient management plan shall be submitted to the Township and shall be reviewed and approved by the Berks County Conservation District.

(9) All aspects of mushroom production shall be in accordance with best practices for environmental protection in the mushroom farm community, prepared under the authority of the Solid Waste Management Act (35 P.S. § 6018.101 *et seq.*) and regulations at 25 Pa. Code Chapter 289, effective date December 12, 1997. The commercial production, processing, or cultivation of mushrooms shall be construed as an intensive agricultural activity and therefore shall comply with the applicable requirements of Subsection B.

(10) No discharge of liquid waste and/or sewage shall be permitted into a reservoir, sewage or storm disposal system, holding pond, stream or other open body of water, or into the ground unless treated so that the discharge is in total compliance with the standards approved by the appropriate local, state and federal regulatory bodies and/or agencies.

(11) The design, construction, location, operation, maintenance and removal from service of manure storage facilities shall be consistent with the requirements set forth in 25 Pa. Code §§ 83.351 and 91.36.

C. Setbacks for manure storage facilities

(1) For operations that were producing livestock or poultry on or before October 1, 1997, manure storage facilities, except reception pits and transfer pipes, may not be constructed:

(a) Within 100 feet of an intermittent or perennial stream, river, spring, lake, pond or reservoir.

(b) Within 100 feet of a wetland that is identified on the National Wetlands Inventory maps, if the following apply:

[1] The wetland is within the 100-year floodplain of an Exceptional Value stream segment.

[2] Surface flow is toward the wetland.

(c) Within 100 feet of a private water well, or open sinkhole.

(d) Within 100 feet of an active public drinking water well, unless other State or Federal laws or regulations require a greater isolation distance.

(e) Within 100 feet of an active public drinking water source surface intake, unless other State or Federal laws or regulations require a greater isolation distance.

(f) Within 100 feet of a property line, unless the landowners within the 100 feet distance from the facility otherwise agree and execute a waiver in a form acceptable to the Commission.

(g) Within 200 feet of an intermittent or perennial stream, river, spring, lake, pond or reservoir, or any water well, or wetland described in clause (B), if a facility (except permanent stacking and compost facilities) is located on slopes exceeding 8% or a facility has a capacity of 1.5 million gallons or greater.

(h) Within 200 feet of a property line, if a facility (except permanent stacking and compost facilities) is located on slopes exceeding 8% and if the slope is toward the property line, or a facility has a capacity of 1.5 million gallons or greater, unless the landowners within the 200 foot distance from the facility otherwise agree and execute a waiver in a form acceptable to the Commission.

(2) For operations that come into existence after October 1, 1997, manure storage facilities, except reception pits and transfer pipes, may not be constructed:

(a) Within 100 feet of an intermittent or perennial stream, river, spring, lake, pond or reservoir.

(b) Within 100 feet of a wetland that is identified on the National Wetlands Inventory maps, if the following apply:

[1] The wetland is within the 100-year floodplain of an Exceptional Value stream segment.

[2] Surface flow is toward the wetland.

(c) Within 100 feet of a private water well, or open sinkhole.

(d) Within 100 feet of an active public drinking water well, unless other State or Federal laws or regulations require a greater isolation distance.

(e) Within 100 feet of an active public drinking water source surface intake, unless other State or Federal laws or regulations require a greater isolation distance.

(f) Within 200 feet of a property line, unless the landowners within the 200 foot distance from the facility otherwise agree and execute a waiver in a form acceptable to the Commission.

(g) Within 200 feet of an intermittent or perennial stream, river, spring, lake, pond, reservoir or any water well, or wetland described in clause (B), if a facility (except permanent stacking and compost facilities) is located on slopes exceeding 8% or has a capacity of 1.5 million gallons or greater.

(h) Within 300 feet of a property line, if a facility (except permanent stacking and compost facilities) is located on slopes exceeding 8%, and if the slope is toward the property line, or a facility has a capacity of 1.5 million gallons or greater, unless the landowners within the 300 foot distance from the facility otherwise agree and execute a waiver in a form acceptable to the Commission.

SECTION 3. REPEAL OF ORDINANCES AND RESOLUTIONS

Any ordinance, parts of ordinances, resolutions or parts of resolutions conflicting with the provisions of this Ordinance are hereby repealed in so far as they are inconsistent with this Ordinance’s provisions.

SECTION 4. SEVERABILITY

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the within Ordinance. The Board of Supervisors of the Township of Exeter, Pennsylvania hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 5. EFFECTIVE DATE

This Ordinance shall become effective at the earliest date permitted by law.

SECTION 6. CODE OF ORDINANCES

The Code of Ordinances of Exeter Township shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances of Exeter Township upon enactment.

DULY ORDAINED and ENACTED as an Ordinance this 11th day of September, 2023.

BOARD OF SUPERVISORS OF EXETER TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

Chairman

Vice Chairman

Member

Member

Member

ATTEST:

Secretary

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2023-854 adopted by the Board of Supervisors of Exeter Township, Berks County, Pennsylvania at a regular meeting held on September 11, 2023, pursuant to notice as required by law.

Dated: _____

Exeter Township Secretary