

**BOROUGH OF TINTON FALLS
MONMOUTH COUNTY
NEW JERSEY**

ORDINANCE NO. 2023-1507

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE BOROUGH CODE TO
UPDATE REGULATIONS FOR FARMS AND AGRICULTURAL USES**

BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls as follows:

SECTION 1. Chapter 8, Section 7 of the Borough Code, entitled “Animal Control – Backyard Chickens in Tinton Falls,” is hereby amended to read as follows (underlined language to be added):

§ 8-7 BACKYARD CHICKENS IN TINTON FALLS.

§ 8-7.2 Eligibility; Restrictions.

- c. There shall be a limit of four chickens per license during the Pilot Program, unless the property and use is in accordance with Chapter 40-37.B.1 of this Ordinance. Roosters are prohibited.

§ 8-7.4 Requirements for Coops and Runs.

- j. There shall be no selling of eggs, unless the property and use is in accordance with Chapter 40-37.B.1 of this Ordinance.

SECTION 2. Chapter 40, Section 3 of the Borough Code, entitled “Land Use Ordinance – Definitions and Word Usages,” is hereby amended to read as follows (underlined language to be added):

§ 40-3 DEFINITIONS AND WORD USAGES.

AGRICULTURAL USE

Land which is devoted to the growing and harvesting of crops and/or the raising and breeding of poultry and livestock, including dairies, nurseries, greenhouses and accessory buildings incidental to agricultural uses including but not limited to: forages and sod crops; grain 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 and raising of any or all such animals; 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. Agricultural Use shall also include horticultural uses for land which

is devoted to the production of fruits of all kinds, including grapes, nuts and berries; vegetables; and nursery, floral, ornamental and greenhouse products.

FARM

A parcel or parcels of land, whether contiguous or noncontiguous, together with buildings, structures and facilities, which are actively devoted to agricultural or horticultural use, including, but not limited to, cropland, pasture, idle or fallow land, woodland, wetlands, farm ponds, roads, and enclosures related to agricultural pursuits, and which:

- a. Contains five or more acres of land and produces agricultural or horticultural products worth \$2,500 or more annually; or
- b. Contains less than five acres of land and produces agricultural or horticultural products worth \$50,000 or more annually; or

SECTION 3. Chapter 40, Section 37 of the Borough Code, entitled “Land Use Ordinance – Conditional Uses,” is hereby amended to read as follows (underlined language to be added; ~~strikethroughs~~ to be deleted):

§ 40-37 CONDITIONAL USES.

- A. General. The Planning Board shall not approve a conditional use unless it finds that the use meets all the requirements of this Chapter, does not substantially impair the use and enjoyment of surrounding properties, does not substantially impair the character of the surrounding area and does not have any adverse effect on surrounding properties.
- B. Requirements for Specific Uses.
 1. Agricultural Uses and Farms. The intent of this section is to allow for the continued use of agricultural and farm properties at a scale that is consistent with the minimum standards required for inclusion in New Jersey Department of Agriculture SADC preservation requirements. Agricultural and farm uses, buildings and structures, as defined in this Chapter, may be located, when approved as conditional uses, in the zone as specified in Schedule A subject to the following:
 - a. ~~The property on which agricultural activities are to take place must contain a minimum of five acres if the property does not include a residence and is solely used for agricultural activities.~~
 - b. ~~The property on which agricultural activities are to take place must contain a minimum of six acres if the property includes a residence and is solely used for agricultural activities.~~
 - c. The property must contain five or more acres of land and produce agricultural or horticultural products worth \$2,500 or more annually; or
 - d. The property contains less than five acres of land and produces agricultural or horticultural products worth \$50,000 or more annually; or

- e. The following shall be exempt from the requirements of this § 40-37: the keeping of backyard chickens in compliance with § 8-7 of this Code.
- f. The following nonexclusive list of farming activities shall be considered permitted farm uses when in accordance with this Chapter:
 - i. Production of 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.
 - ii. The housing and grazing of animals and use of range for fowl. The raising of cattle and horses shall be permitted on any farm, provided that there shall be an open area of at least 10,000 square feet for each head of livestock. The raising of chickens shall be permitted on any farm, provided that the area utilized for such chickens is no closer than 100 feet to any property line. Roosters are not permitted on any property in the Borough.
 - iii. The operation of public and private stables, riding academies, horse breeding, training, and boarding facilities.
 - iv. Erection of essential agricultural buildings, including those dedicated to the processing and packaging of the output of commercial farms and ancillary to agricultural and horticultural production.
 - v. Construction of fences.
 - vi. Control of pests, including but not limited to insects and weeds, predators and diseases of plants and animals.
 - vii. 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.
 - viii. Use of any and all equipment, including but not limited to irrigation pumps and equipment, aerial and ground seeding and spraying, tractors, harvest aides, traps, and animal and bird control devices.
 - ix. Storing, processing and packaging of the agricultural output of the farm.
 - x. The wholesale and retail marketing, including pick your own marketing, and sales of agricultural output of farms or commercial farms, including related products that contribute to farm income, including the construction buildings and parking areas in accordance with the applicable standards set forth in the Right to Farm Act for On-Farm Direct Marketing Facilities and this Chapter 40.
 - xi. Replenishment of soil nutrients and improvement of soil tilth.
 - xii. On-site disposal of organic agricultural waste.
 - xiii. The application of manure and chemical fertilizers, insecticides, pesticides, and herbicides in accordance with labeled instructions as approved by the New

Jersey Agricultural Experiment Station and the United States Environmental Protection Agency.

- xiv. Installation of wells, ponds and other water resources for agricultural purposes such as irrigation, sanitation and marketing preparation.
- xv. 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, fumes, and lighting associated with these practices.
- xvi. Any other agricultural activity determined by the State Agriculture Development Committee to be a generally accepted agricultural management practice within the meaning of N.J.S.A. 4:1C-1, et seq.
- g. The farm operation (practices, activities, and structures) must conform to generally accepted agricultural management practices, comply with all relevant Federal and State statutes and regulations, and not pose a direct threat to public health and safety.
- h. Slaughterhouses are not permitted.
- i. Commercial poultry farms shall not be permitted unless the poultry house walls and brooder house walls are at least 500 feet from any lot line. A “commercial poultry farm” shall be deemed to be any farm on which there are more than 50 fowl.
- j. Any property used as a farm that abuts a residential zone or use must contain a buffer along all side and rear property lines. The buffer shall be a minimum width of 15 feet, or 10% of the lot width, whichever is greater and shall be planted with dense evergreen trees a minimum of six feet high at the time of planting.
- k. § 40-33.B (Accessory Structures and Uses) shall not apply to agricultural and farm uses operated in accordance with this Chapter. Accessory structures shall be constructed in accordance with the following standards:
 - i. The maximum permitted building and lot coverage for the zone shall govern the maximum permitted size of the principal structure and any associated accessory structures.
 - ii. With the exception of farm stands in accordance with § 40-37.B.1.m, no accessory building or structure shall be located closer to a right-of-way line than the principal building. On corner lots, accessory buildings or structures shall not be located closer to a street than the minimum required front yard setback requirement for the zone and shall be screened by evergreen landscaping.
 - iii. Accessory buildings used solely for the storage of goods or equipment that are no larger than 400 square feet and no greater than 10 feet high shall be setback no less than 5 feet from any side or rear lot line. Accessory buildings used solely for the storage of goods or equipment that are greater than 400 square feet or 10 feet high shall be setback no less than 25 feet from any side or rear lot line.
 - iv. Accessory buildings or barns used for the housing of animals shall be located at least 100 feet from any lot line and at least 100 feet from any dwelling.
 - v. The height of any accessory structure shall not exceed 25 feet or the height of the principal building, whichever is less, with the exception of silos, which have no height limitation.
 - vi. No accessory building or structure shall be used for human habitation.

- l. Temporary farm stands may be constructed in accordance with the following standards:
 - i. Farm stands must be located on a qualified owner's or operator's commercial farm which is under active, continuous farming operation and upon which 51% or more of the marketed products are raised, and the farm must meet the requirements of the Farmland Assessment Act.
 - ii. Farm stands shall not exceed a maximum area of 500 square feet and shall be setback a minimum of 15 feet from any street right-of-way line and 30 feet from any side lot line.
 - iii. A maximum height of 15 feet is permitted for any structure, tent or canopy.
 - iv. Farm stands shall be accompanied by a paved, gravel and/or grassed area for customer parking that can accommodate not less than three vehicles, which parking area shall be located in such a location as to facilitate the safe flow of traffic. There shall be adequate and safe access, ingress and egress from any adjacent public road or street, including provisions for an adequate turnaround area to prevent vehicles from backing out onto any public street.
 - v. Farm stands shall be operated during daytime hours only, from 8:00am to dusk.
 - vi. Operators must apply for and obtain a Zoning Permit for any proposed farm stand.
- m. Seasonal farm advertising signs may be constructed in accordance with the following standards:
 - i. No more than one such sign shall be located on any one property or properties used as a single farm.
 - ii. No such sign shall exceed 20 square feet in area, 6 feet in height or be located within 10 feet of a street right-of-way line.
 - iii. No such sign shall be internally or externally illuminated.
 - iv. All seasonal farm advertising signs shall be temporary in nature, and nonpermanent structures.
 - v. All seasonal farm advertising signs shall be properly maintained and shall not be allowed to fall into disrepair.
 - vi. No such sign shall be an obstruction to any neighbor exiting their driveway.
- n. Apiaries and beekeeping activities are excluded from this ordinance, as they are preempted by State law per N.J.S.A. 40:48-1.5. All such activities shall be in accordance with N.J.A.C. 2:24.

SECTION 4. Chapter 40, Section 39 of the Borough Code, entitled “Land Use Ordinance – Off-Street Parking and Loading,” is hereby amended to read as follows (underlined language to be added; ~~strikethroughs~~ to be deleted):

§ 40-39 OFF-STREET PARKING AND LOADING.

- B. Minimum Required Off-Street Parking Schedule for Nonresidential Uses. The number of off-street parking spaces required for any nonresidential use shall be determined by reference to Parking Schedule 1 below. "GFA" shall mean "gross floor area."

Parking Schedule 1

Parking Requirements for Nonresidential Uses

Use	Minimum Number of Off-Street Parking Spaces
Automobile Car Wash	10 spaces/washing lane and 2 spaces/vacuum or similar machine
Automobile Fueling Stations	1 space/fueling pump
Any Associated Retail	4 spaces/1,000 square feet GFA
Automobile Oil Change and Lubrication Shop	8 spaces/service lane and 2 spaces/vacuum or similar machine
Automobile Repair Shop	4 spaces/service bay
Assisted Living Residence	0.5 space/unit
Banks and Fiduciary Institutions	1 space/250 square feet GFA
Bowling Alley	2 spaces/lane or alley
Car and Truck Dealers	1 space/300 square feet showroom area, sales area and office area
Child Care Center	As specified in § 40-35A
Church	1 space/5 seats
Community Center	1 space/800 square feet GFA
Communication/Radio Tower	2 spaces minimum
Continuing Care Retirement Community	0.9 space per independent living unit to be distributed to meet the particular needs of individual buildings on site
Contractors/Landscaping Yards	1 space/300 square feet display area, sales area and office area
Delicatessens/Specialty Food	1 space/1,000 square feet GFA
Family Day Care Home	2 for the dwelling unit + 2 for clients
Farm Stand	6 <u>3</u> spaces minimum
Fitness Centers, Weight Rooms, Gyms	1 space/200 square feet GFA
Flex Space Buildings	1 space/800 square feet GFA
Golf Course	
Full-size	3 spaces/green
Par-3	3 spaces/green
Miniature golf	2.2 spaces/hole
Pitch and putt	2.2 spaces/hole
Driving range	1.4 spaces/tee
Home Occupation	3 spaces minimum

Parking Schedule 1	
Parking Requirements for Nonresidential Uses	
Use	Minimum Number of Off-Street Parking Spaces
Hospital	1.5 spaces/bed
Hotel	
Guest Room	1 space/guest room
Employee	1 space/employee on largest shift
Restaurant/Lounge/Banquet/Conference	1 space/3 seats in restaurant, lounge and conference/banquet space
Library	1 space/300 square feet GFA
Light Industrial/Fabrication/Assembly	1 space/800 square feet GFA
Lumber and Contractor's Yard	1 space/5,000 square feet storage area and 1 space/250 square feet retail GFA
Manufacturing	1 space/800 square feet GFA
Mortuary	10 spaces/viewing room and/or chapel
Office (Non-Medical)	1 space/250 square feet GFA
Office Park	1 space/300 square feet GFA
Office (Medical and Dental)	
Less than 5,500 square feet GFA	6 spaces/1,000 square feet GFA
5,500 square feet to 10,000 square feet GFA	5.5 spaces/1,000 square feet GFA
More than 10,000 square feet GFA	5 spaces/1,000 square feet GFA
Pharmacy	3 spaces/1,000 square feet GFA
Pro Shop	1 space/300 square feet GFA
Research/Testing/Experimentation	1 space/800 square feet GFA
Restaurant	
Sit-down	1 space/3 seats
Take-out	1 space/40 square feet GFA
Mixed	1 space/3 seats plus 1 space per 40 square feet of floor area
Retail Sales and Services	
Less than 400,000 square feet GFA	4.0 spaces/1,000 square feet GFA
400,001 to 600,000 square feet GFA	4.5 spaces/1,000 square feet GFA
600,001 + square feet GFA	5.0 spaces/1,000 square feet GFA
Retail Warehouse	5.5 spaces/1,000 square feet GFA

Parking Schedule 1	
Parking Requirements for Nonresidential Uses	
Use	Minimum Number of Off-Street Parking Spaces
Schools	
Elementary (Pre-K through 8)	1.2 spaces/classroom; min. 1/staff
Middle (5-8)	1.2 spaces/classroom; min. 1/staff
High School (9-12)	2.0 spaces/classroom; min. 2/staff
Scrap Metal	1 space/employee
Shipping/Receiving	1 space/5,000 square feet GFA
Shopping Centers	Same as Retail Sales and Services
Swim Club	1 space/30 square feet water surface
Tavern	1 space/2.5 seats
Tennis Club	2 spaces/court
Theater	1 space/4 seats
Training and Instructional Classes, Dance and Rehearsal Studios	1 space/250 square feet GFA
Veterinary Clinic/Hospital	6 spaces/doctor
Warehousing	1 space/5,000 square feet GFA
Wireless Telecommunications Equipment	1 space minimum

SECTION 5. The Appendix for Chapter 40 of the Borough Code, entitled “Schedule A – District Use Regulations – Residential Uses,” is hereby amended and supplemented as indicated in the revised Schedule below (underlined language to be added):

SCHEDULE A - DISTRICT USE REGULATIONS – RESIDENTIAL USES

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District	Permitted Principal Use	Permitted Accessory Uses	Permitted Conditional Uses
RA RESIDENTIAL AGRICULTURE	<ol style="list-style-type: none"> 1. Single Family detached dwellings 2. Public Library, parks and playgrounds 3. Borough uses, firehouses and first aid stations 4. Utility services 	<ol style="list-style-type: none"> 1. Fences and walls 2. Patios and decks 3. Barns for keeping of sheep, cattle, pigs and other livestock. 4. One (1) accessory building for household goods and equipment such as a barn, tool shed, storage shed, or garden shed, accessory to a detached single-family dwelling 5. Gazebos, pergolas, greenhouses, atriums, orangeries and other such roofed structures 6. One (1) detached garage and associated driveway provided there is no attached garage. 7. One (1) swimming pool and hot tub with related decking and coping 8. One (1) amateur radio and television transmitting and receiving tower 	<ol style="list-style-type: none"> 1. Agricultural uses and farms 2. Cemetery, with or without mausoleum or crematory. 3. Churches and places of worship. 4. Schools
R-1 SINGLE FAMILY RESIDENTIAL	<ol style="list-style-type: none"> 1. Single family detached dwellings 2. Public Library, parks and playgrounds 3. Borough uses, firehouses and first aid stations 4. Utility Services 	<ol style="list-style-type: none"> 1. Fences and walls 2. Patios and decks 3. One (1) detached garage and associated driveway provided there is no attached garage. 4. One (1) swimming pool and hot tub with related decking and coping. 5. One (1) accessory building for household goods and equipment such as a barn, tool shed, storage shed, or garden shed, accessory to a detached single-family dwelling 6. One (1) amateur radio and television transmitting and receiving tower 	<ol style="list-style-type: none"> 1. Cemetery, with or without mausoleum or crematory. 2. Churches and places of worship. 3. Schools 4. <u>Agricultural uses and farms</u>
R-2 SINGLE FAMILY RESIDENTIAL	Any principal use permitted in the R-1 Single Family Residential District	Any accessory use permitted in the R-1 Single Family Residential District	Any conditional use permitted in the R-1 Single Family Residential District
R-3 Residential	<ol style="list-style-type: none"> 1. Single Family detached dwellings 2. Public Library, parks and playgrounds 3. Borough uses, firehouses, and first aid stations 4. Utility services 	Any accessory use permitted in the R-1 Single Family Residential District	<ol style="list-style-type: none"> 1. Townhouses 2. Garden Apartments 3. Churches and places of religious worship 4. Schools
R-4 Residential	Any principal Use permitted in the R-3 Residential District	Any accessory use permitted in the R-1 Single Family Residential District	Any conditional use permitted in the R-3 District
AR Age Restricted Housing	1. Active adult community of single family detached dwelling units with at least one resident with a minimum age of fifty-five (55)	<ol style="list-style-type: none"> 1. Fences and walls 2. Patio and decks 3. Club house with meeting rooms, social rooms, indoor and outdoor recreation area. 	1. Townhouses

<p>CCRC Continuing Care Retirement Community</p>	<ol style="list-style-type: none"> 1. Continuing Care Retirement Community (CCRC) with a minimum age of fifty-five (55). 2. Townhouses 3. Garden Apartments 4. Apartment Buildings 5. Assisted Living/Skilled Nursing Facilities. 	<ol style="list-style-type: none"> 1. Fences and walls 2. Health Center 3. Club house with meeting rooms, social rooms, indoor and outdoor recreation areas 4. Cafeterias and eating areas 5. Lecture halls, libraries, places of worship, post office, banks, news and entertainment centers, and swimming pools. 6. Operation and maintenance facilities related to the principal use such as, administrative office, food and record storage areas, property maintenance facility, radio and satellite dish antennas, non-age restricted day care center for relatives of employees, security operations and off-street parking as surface parking or garages 	
<p>R-3-I, R4A Residential</p>	<ol style="list-style-type: none"> 1. Single family detached dwellings 2. Townhouses 3. Public Libraries, parks and playgrounds 4. Borough uses, firehouses and first aid stations 5. Utility Services 	<ol style="list-style-type: none"> 1. Fences and walls 2. Patio and decks 3. Community Clubhouse 4. One (1) detached garage and associated driveway provided there is no attached garage 5. One (1) swimming pool and hot tub with related decking and coping 6. Outdoor recreation facilities such as a putting green, bocce courts, tennis courts, etc. 	<ol style="list-style-type: none"> 1. Any conditional use permitted in the R-3 Residential District
<p>AH Affordable Housing</p>	<ol style="list-style-type: none"> 1. Single family detached dwellings 2. Townhouses 3. Garden Apartments 4. Apartment Buildings 	<ol style="list-style-type: none"> 1. Fences and walls 2. Patio and decks 3. Community Clubhouse 4. One (1) detached garage and associated driveway provided there is no attached garage 5. One (1) swimming pool and hot tub with related decking and coping 6. Outdoor recreation facilities such as a putting green, bocce courts, tennis courts, etc. 	<ol style="list-style-type: none"> 1. Churches and places of worship 2. Schools
<p>CECOM Redevelopment Area</p>	<p>Pursuant to the district use standards of the CECOM Redevelopment Plan</p>		

SECTION 6. All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

SECTION 7. This Ordinance shall take effect immediately upon final passage and publication as provided by law.

Introduced: September 5, 2023.

Adopted:

JOHN MANGINELLI
COUNCIL PRESIDENT

VITO PERILLO
MAYOR

ATTEST:

MICHELLE HUTCHINSON
BOROUGH CLERK

APPROVED AS TO FORM:

KEVIN N. STARKEY, ESQ.
DIRECTOR OF LAW