

Chapter 350. Zoning

Article II. Terminology

§ 350-201. Word usage.

Certain words, phrases and terms are listed and defined in § 350-202 to facilitate the interpretation of this chapter for administrative purposes and in the performance of duties by appropriate officers and by the Zoning Hearing Board. In addition, the following provisions and rules shall be observed and applied throughout this chapter, except as otherwise expressly stated in the text:

- A Words used or defined in one tense or form shall include other tenses and derivative forms
- B Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- C The masculine gender shall include the feminine and the feminine gender shall include the masculine
- D The word "shall" is mandatory
- E The word "may" is permissive.
- F The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities.
- G Unless otherwise expressly stated herein, the word "occupied" includes the words "designed or intended to be occupied," the word "used" includes the words "arranged, designed or intended to be used."
- H The words "Township" or "municipality" mean Southampton Township, Cumberland County, Pennsylvania
- I The words "Township Board," "Board" or "governing body" mean the Board of Supervisors of Southampton Township
- J The words "Planning Committee" mean the Southampton Township Planning Committee
- K The words "Recorder" and "Recorder of Deeds" mean the Cumberland County Recorder of Deeds
- L In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

§ 350-202. Definitions.

As used in this chapter, the following terms shall have the meanings indicated

A nightclub, bar, restaurant or similar commercial establishment which features:

- (1) Persons who appear in a state of nudity;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities, or
- (3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

D. ADULT MOTEL

A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from a public right-of-way which advertises the availability of these adult types of photographic reproductions, or
- (2) Offers sleeping rooms for rent four or more times in one calendar day during five or more calendar days in any continuous thirty-day period.

E ADULT MOTION-PICTURE THEATER

A commercial establishment where for any form of consideration films, motion pictures, videocassettes, slides, or similar photographic reproductions are shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

F. ADULT THEATER

Theater, concert hall, auditorium, or similar commercial establishment which features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities

AGRICULTURAL

Preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged in by farmers or are consistent with technological development within the agricultural industry

AGRICULTURAL OPERATION

An enterprise that is actively engaged in the commercial production and operation and preparation for market of crops, livestock, and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged in by farmers or are consistent with technological development within the agricultural industry

AGRICULTURAL USES

Agricultural uses shall include the following.

- A The tilling of the soil, the raising of crops, fruits and vegetables, greenhouses, and nurseries
- B Processing and direct marketing of agricultural products produced by the farmer in their natural or manufactured state

- C. The hatching and raising on a commercial scale of poultry, rabbits, fish, or dairy farming
- D. The raising and grazing of horses, cattle, sheep, goats, and other like animals including supplementary feeding of such animals, provided that such raising, or grazing is not part of, nor conducted in conjunction with, a livestock slaughterhouse or animal by-products business.
- ~~E. The keeping and raising of hogs, provided that there shall be no feeding of any market or house refuse, garbage, or offal, other than that produced on the premises~~
- F. The slaughtering, dressing, and marketing of poultry, cattle, sheep, hogs, and rabbits incidental to the operation of a farm.
- G. Public and private stables and riding academies
- H. Beekeeping
- I. Viticulture.
- J. Horticulture.
- K. Aquaculture

AGRICULTURE, INTENSIVE (INTENSIVE AGRICULTURAL USE)

Intensive agricultural uses include but are not limited to:

- A. Slaughter areas;
- B. Areas for processing of manure;
- C. Concentrated animal feeding operations, as defined herein, and
- D. Concentrated animal operations, as defined herein.

(1) CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)

Federal regulations define a CAFO as an animal feeding operation that: (a) confines more than 1,000 animal units (AU); or (b) confines between 301 to 1,000 AU and discharges pollutants into waters of the United States through a man-made ditch, flushing system or similar man-made device, or directly into waters of the United States that originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation (1 AU = 1,000 pounds) Animal quantities equivalent to 1,000 AU are 1,000 slaughter and feeder cattle; 700 mature dairy cattle; 2,500 swine each weighing more than 25 kilograms (55 pounds); 30,000 laying hens or broilers (if a facility uses a liquid manure system), and 125,000 broilers or 82,000 laying hens (if a facility uses something other than a liquid manure system)

(2) CONCENTRATED ANIMAL OPERATIONS (CAO)

An agricultural operation where the animal density of all livestock and fowl on the farm exceeds two animal units (2,000 pounds) per acre of crop, hay, and pastureland. An operation with less than eight animal units shall not be considered a CAO, regardless of the animal density. Animal units shall be calculated using the Standard Animal Weights listed in Pennsylvania Act 38⁽¹⁾ Nutrient Management Program Technical Manual, by the Pennsylvania State Conservation Commission

AGRITOURISM ENTERPRISE

Accessory uses conducted on a working farm and offered to the public or to invited groups for the purpose of recreation, entertainment, education, or active involvement in the farm operation. These activities must be related to agriculture or natural resources and incidental to the primary farm operation on the site. These activities may include a fee for participants. Examples include

purposes, in buildings of a movable, temporary, or seasonal nature, such as cabins, trailer campers, tents or shelters, but not including a mobile home camp court, or park where a fee for membership or use is collected for service

CARPORT

An open space for the storage of one or more vehicles in the same manner as a private garage, which may be covered by a roof supported by columns or posts.

CELLAR

A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground with a floor ceiling height of less than 6 5 feet A cellar shall not be considered in determining the required number of stories.

CEMETERY

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbarium, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CLUSTER DEVELOPMENT

A development design option which allows the minimum lot areas and yard requirements to be reduced so that buildings and lots can be grouped together

COMMERCIAL BREEDING OF ANIMALS

As a person or company, engaged in the business of breeding animals for sale and who harbors more than two intact females for the primary purpose of breeding animals for sale

COMMERCIAL USE

Any reproduction or purpose that is marketed, promoted, or sold and incorporates a financial transaction.

COMMON OPEN SPACE

A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities Additionally, the open space shall not include floodplains, stormwater management facilities, and environmentally sensitive areas

COMMUNICATION TOWER

A structure and necessary auxiliary components used for the purpose of sending and receiving electronic signals as an integral component of a communication system

CONDITIONAL USE

A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Board of Supervisors in conjunction with Article IX of the Pennsylvania Municipalities Planning Code,^[2] and is subject to special requirements in addition to the usual requirements of the district in which it may be located.

CONDOMINIUM

Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, together with individual ownership in fee of a particular unit or apartment in such building or on such parcel of land, and may include dwellings, offices, and other types of space in commercial buildings or on property

CONSERVATION AREA

Environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance, or character, except in cases of overriding public interest.

companies and emergency services under agreement with the municipality or for the public health or safety or general welfare

FACILITY OWNER

The person or persons or entity or entities having a legal or equitable interest in the wind energy facility, including the respective successors and assigns.

FAMILY

One or more persons related to each other by blood, adoption, marriage, or otherwise by law, who are occupying the same dwelling unit and are living and cooking together as a single housekeeping unit, exclusive of foster children, household servants, and not more than two additional persons who are not so related. Apart from the above, not more than four persons living and cooking together as a single housekeeping unit though not so related shall be deemed to constitute a family. A "family" as herein defined specifically excludes a boarding- or rooming house, lodging house, club, fraternity, hotel or any similar group living arrangement.

FARM

Any parcel of land which is used for gain in the raising of agricultural products, livestock, poultry, or dairy products, including necessary farm structures within the prescribed limits and the storage of equipment customarily incidental to the primary use. For the purpose of this chapter, a farm shall not include the raising of fur-bearing animals, riding academy, livery or boarding stables, or dog kennels.

FARM BUILDING

A building on a farm used for storing grain or animal feed and housing farm animals.

FARM-RELATED BUSINESS

A use at which goods and services are rendered in support of local farming operations or to supplement on-farm income. Examples of farm-related businesses include, but are not limited to:

- A Sales or repair of agricultural equipment
- B Blacksmith shops, farriers
- C Butcher shops.
- D Grain mills
- E Processing and sales of agricultural products not produced by the owner
- F Seed, feed, fuel, and fertilizer distributors.
- G Composting and other farm waste storage facilities.
- H Welding shops.
- I Arts and crafts manufacturing and sales
- J Woodworking, furniture and cabinet-making shops
- K Nurseries
- L Other similar uses not specifically listed as permitted which, in the opinion of the Zoning Officer, are of the same general character and which will not be detrimental to the district

FENCE

Any structure, constructed of wood, metal, wire mesh or masonry, erected for the purpose of screening one property from another either to assure privacy or to protect the property screened. For this chapter, a masonry wall is considered to be a fence.

whether or not affixed to the land. "Structure" means a building of any kind and includes a fence and a shed, whether or not affixed to the land

TEMPORARY USE

A use or structure on improved or unimproved real estate which is of impermanent nature, and is used for less than 60 days.

TIMBER HARVESTING

The cutting or removal of timber for purposes of sale or profit for wood product purposes, such as lumber, biomass, or firewood,

TINY HOUSE

A dwelling unit placed on a property for occupancy as either a primary or principal use dwelling unit with a habitable floor area of 400 square feet or less with a foundation or on wheels.

TINY HOUSE CLUSTER

More than one tiny house per lot.

TOTAL HEIGHT

When referring to a wind turbine, the distance measured from the surface of the tower foundation to the highest point of a wind rotor blade when the blade is positioned at 90° to the surface of the ground.

TOTAL TRACT AREA

The land area contained within the boundaries of a tract, exclusive of the areas of such permanent easements as are associated with overhead power transmission lines and underground pipelines, and land within the right-of-way of existing public roads that are present on the land at the time of development

TOWER

The supporting structure of a wind turbine or communication antennas are placed, on which a rotor and accessory equipment are mounted

TRAILER

An unpowered vehicle towed by another.

TREE FARMING

A commercial operation or business such as a tree plantation, tree nursery, or Christmas tree farm that grows trees for sale, and includes a privately owned forest that is managed for timber production

TRUCK TERMINAL

Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term accessory storage for principal land uses at other locations. The terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal.

USE

The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

USE OF BUILDING

Any and every use conducted within a building or accessory thereto

USE, PRINCIPAL

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Article X. Specific Criteria for Conditional Uses and Uses Permitted by Right

§ 350-1001. Application.

In addition to the supplemental regulations listed in Article XI, the following sets forth standards that shall be applied to each individual conditional use or use permitted by right. These standards must be satisfied prior to approval of any applications for a conditional use. The applicant for a conditional use shall be required to demonstrate compliance with these standards and must furnish whatever evidence is necessary to demonstrate such compliance. All uses must comply with the standards expressed within the underlying zone unless the standards of this article expressed for each conditional use or use permitted by right specify different standards. In such cases, the specific conditional use or use permitted-by-right standards of this article shall apply.

§ 350-1006. Agritourism.

~~Agritourism permitted by right in within~~ (A) Agricultural, (WC) Woodland Conservation, and by conditional use in Village Center, subject to the following criteria

- A. No part of an agritourism enterprise shall be within 200 feet of any land within a residential zone, nor 100 feet of any existing residence (excluding a farm dwelling).
- B. An agritourism enterprise must comply with the coverage requirements in the zoning district in which it is located.
- C. An agritourism enterprise must comply with the access and driveway provisions in Article VII of Chapter 295, Subdivision and Land Development, of the Code of Southampton Township.
- D. The length of any on-site access drive(s) shall be sufficient to allow the stacking of delivery and/or customer vehicles. Furthermore, any use that potentially involves the movement of vehicles through mud and/or manure shall provide a paved apron of at least 50 feet from the street right-of-way. In addition, another fifty-foot gravel section shall be located just beyond the paved apron.
- E. The applicant must provide for sufficient off-street parking spaces and off-street loading spaces for all uses proposed according to the off-street parking and loading provisions of this chapter.
- F. If, at any time after the opening of the facility, the Township determines that parking, loading or traffic backups are occurring on adjoining roads, and such are directly related to the lack of on-site facilities on the subject property, the Township can require the applicant to revise and/or provide additional on-site parking and/or loading space to meet the off-street parking and loading provisions of this chapter within 30 days.
- G. The Township may require an unimproved grassed overflow parking area to be provided for

peak use periods. Such overflow parking areas shall be accessible only from the interior driveways of the permanent parking lot.

- H Parking areas may be required to be fenced or include other appropriate devices to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads.
- I Signage for agritourism enterprises shall be in accordance with § 350-1212 of this chapter.
- J The applicant should become familiar with the applicable federal, state, and local laws and regulations regarding the preparation of food in order to be aware of those regulations.
- K The hours of operation shall be developed at the discretion of the Board of Supervisors and protect neighbors from noise, disturbance or interruption.
- L Agritourism enterprises shall be owned or operated by the landowner, landowner's immediate family member, operator of the farm, or persons residing on the farm
- M Agritourism enterprises shall comply with the performance standards in § 350-1202 of this chapter.

§ 350-1014. Commercial breeding of animals

Permitted by right, (A) Agricultural, and by conditional use in the (WC) Woodland Conservation Zoning District, subject to the following criteria:

- A Setbacks:
 - (1) One hundred feet from rear a side property line
 - (2) Not permitted in the front setback
- B Fencing All animals shall be within a fenced enclosure at all times when said animals are not leashed haltered or bridled and under control of the owner or authorized agent of the owner of the animals.
- C Lot size. A minimum of one acre exclusive of buildings and impervious surfaces must be provided for the first one AU which is to be housed or pastured on the lot. One additional acre of land shall be provided for each additional animal unit.
- D No animal shall have direct access to a jurisdictional wetland, impoundment, stream, spring or well on the lot which the commercial breeding of animals use is located. However, stabilized stream crossing areas designed and constructed as such shall be exempted from this requirement.
- E The proposed use shall comply with all applicable state, federal and local regulations, including, but not limited to, nutrient management, building codes, erosion and sedimentation control and stormwater management.

§ 350-1019. Farm-related business.

Farm-related businesses are permitted by conditional use in the (A) Agricultural and (WC) Woodland Conservation Zoning District, subject to the following criteria:

- A No part of a farm-related business shall be within 200 feet of any land within a residential zone, nor within 100 feet of any existing residence (excluding a farm dwelling)
- B The existing roadway that will provide access to the property must be appropriate for the expected type and volume of road traffic that will be generated by the proposed use.

The length of any on-site access drive(s) shall be sufficient to allow the stacking of delivery and/or customer vehicles. Furthermore, any use that potentially involves the movement of vehicles through mud and/or manure shall provide a paved apron of at least 50 feet from the street right-of-way. In addition, another fifty-foot gravel section shall be located just beyond the paved apron.

- D. The Township may require that any outdoor storage of supplies, materials, or products be screened from adjoining roads and properties. The display of farm equipment for sale shall be excluded from this provision.
- E. One sign shall be permitted for a farm-related business in accordance with § 350-1212.
- F. Vegetative screening may be required in accordance with § 350-1210 of this chapter when a farm-related business abuts any property used principally for residential purposes. Certain pieces of apparatus used for farm-related businesses, which create noxious dust, odor, light, or noise, may require greater setbacks and vegetative screening, as determined by the Board of Supervisors.
- G. Parking areas may be required to be fenced or to include other appropriate devices to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads.
- H. The applicant must provide for sufficient off-street parking spaces and off-street loading spaces for all uses proposed according to the off-street parking and loading provisions of this chapter.
- I. A farm-related business must comply with the coverage requirements in the zoning district in which it is located.
- J. Permanent structures associated with a farm-related business shall comply with the setback requirements of the underlying zoning district.
- K. Temporary structures and outdoor displays associated with a farm-related business shall not encroach into a public road right-of-way, and must comply with the side and rear yard setback requirements of the underlying zoning district.
- L. New structures required for accessory farm-related businesses are limited to 4,000 square feet of gross floor area in the aggregate.
- M. Farm-related businesses must comply with the access and driveway provisions in Article VII of Chapter 295, Subdivision and Land Development, of the Code of Southampton Township.
- N. Farm-related businesses shall be owned or operated by the landowner, landowner's immediate family member, operator of the farm, or persons residing on the farm.
- O. Farm-related businesses shall comply with the performance standards in § 350-1202 of this chapter.

§ 350-1021. Forestry, timber harvesting, and lumber mills.

Forestry, permitted by right in all zoning districts, timber harvesting is permitted by right (WC) Woodland Conservation Zoning District, and lumber mills are permitted by conditional use in the (A) Agricultural and (WC) Woodland Conservation Zoning District, subject to the following criteria:

- A. These provisions do not apply to the cutting of trees for the personal use of the landowner or for pre-commercial timber stand improvement.
- B. Notification and preparation of a logging plan.
 - (1) For all timber harvesting operations, the landowner shall notify Zoning Officer at least 10 business days before the operation commences and within 10 business days before the

Transportation, whichever is responsible for maintenance of the thoroughfare

- (2) No tops or slash shall be left within 25 feet of any public thoroughfare or private roadway providing access to adjoining residential property
 - (3) All tops and slash between 25 feet and 50 feet of any public roadway or private roadway providing access to adjoining residential property or within 50 feet of adjoining residential property shall be lopped to a maximum height of four feet above ground.
 - (4) No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner thereof.
 - (5) No tops or slash shall be left within 50 feet of any perennial or intermittent stream or the designated floodplain of any stream, whichever is greater
 - (6) No harvest of trees shall occur within 150 feet of any stream designated as high quality or exceptional value or 100 feet of any other stream in accordance with 25 Pa Code Chapter 102
 - (7) Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator
- E Responsibility for road maintenance and repair: road bonding Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49, and Title 67, Pennsylvania Code, Chapter 189, the landowner and the operator shall be responsible for repairing any damage to Southampton Township roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic and may be required to furnish a bond to guarantee the repair of such damages.
- F Lumber mills shall address noise, hours of operations, and screening.

§ 350-1027. Intensive agricultural operations

not a use by right?

Intensive agricultural operations are permitted in the (A) Agricultural and (WC) Woodland Conservation Zoning District as a conditional use, subject to the following criteria

- A. The parcel of contiguous land owned by the owner of an intensive agricultural operation shall be and remain at least 50 acres in the Agriculture Zoning District
- (1) Irrespective of the provisions of this section, any intensive agricultural operation in existence prior to the enactment of this chapter may not expand such operation without obtaining a conditional use approval from Southampton Township.
 - (2) Any building or building addition constructed after the date of the enactment of this chapter to house animals in an intensive agricultural operation must maintain the following setbacks:
 - (a) From a dwelling not owned by the owner of the intensive agricultural operation, a church, a building used in connection with a home occupation or incidental business, or other building occupied by human beings at least 10 hours a week: 500 feet from an occupied building located in the Agriculture or Woodland Conservation Zoning District and 1,000 feet from an occupied building in a nonagriculture zoning district.
 - (b) From a property line or watercourse: 100 feet.
 - (c) From a well not owned by the owner of the intensive agricultural operation: 150 feet.
 - (d) Buildings housing animals shall not be located within the floodplain

- B The owner of the intensive agricultural operation must establish and maintain an access to the operation so that all motor vehicles making a right turn, whether entering or leaving the property, can do so without first having to enter the left-hand side of the public highway
- C The intensive agricultural operation must establish and maintain compliance at all times with the requirements of the Pennsylvania Nutrient Management Law ^[1]

[1] *Editor's Note. See now the Nutrient Management and Odor Management Act, 3 Pa.C.S.A. § 501 et seq.*

- D The intensive agricultural operation must ensure dead animals, if disposed of on the property, are disposed of in strict accordance with the applicable standards of the Pennsylvania Department of Environmental Protection. *PA Dept. of Ag, not DEP*

- E New construction or expansion of concentrated animal feeding operations (CAFOs) or concentrated animal operation (CAOs) shall have an approved odor management plan in accordance with Pennsylvania Act 38, Nutrient and Odor Management Act ^[2] A copy of the approved odor management plan shall be provided to the Township, along with any subsequent amendments and notices of violations by the Department of Environmental Protection

[2] *Editor's Note See 3 Pa.C.S.A. § 501 et seq*

- F Intensive agricultural operations involving animal housing facilities with ventilation fans shall provide vegetative planting strips in accordance with the following standards:

(1) A planting strip shall be installed opposite the ventilation fan(s) and be of sufficient length to minimize the impacts on adjacent residences. At a minimum, the length of the planting strip shall extend an additional 20 feet from the beginning and end of the ventilation fans.

(2) The planting strip shall be set back from the animal housing facility a distance equal to 10 times the diameter of the ventilation fan, with a minimum setback of 50 feet from side walls and 80 feet from end walls. Where multiple fans are used in one location, the setback distance may be extended five feet for each additional fan but shall not exceed 150 feet.

(3) Planting strips shall consist of two rows, which may contain a mixture of deciduous and evergreen plants. The first row may include shrubs and grasses. The second row shall consist of at least 50% evergreen trees or shrubs and grow to a minimum of 15 feet tall at maturity. Spacing between plants shall be two feet for grasses, six feet for small shrubs (four feet to 12 feet tall) and 10 feet for large shrubs and trees (greater than 12 feet tall). Spacing between rows shall be 16 feet to 20 feet. Plant species shall have a high tolerance to pollutants.

(4) The planting strip shall be maintained in a healthy condition. Any landscaping that dies or is severely damaged shall be replaced by the property owner as soon as is practical, considering growing seasons.

§ 350-1045. Tree farming.

Tree farming is permitted by right in the (WC) Woodland Conservation and Agricultural Zoning Districts, subject to the following criteria

- A Christmas trees and nursery stock, etc. sales are only permitted on slopes of less than 10%