

## ORDINANCE 2012-27

### AN ORDINANCE AMENDING CHAPTER 188 (DEVELOPMENT REGULATIONS), ARTICLE I (TITLE; PURPOSE; DEFINITIONS) OF THE CODE OF THE TOWNSHIP OF HILLSBOROUGH, COUNTY OF SOMERSET, STATE OF NEW JERSEY, TO REVISE SUBSECTION 188-99.3 J IN ORDER TO CLARIFY THE AGRICULTURAL DEED RESTRICTION

**BE IT ORDAINED** by the Township Committee of the Township of Hillsborough, County of Somerset, State of New Jersey as follows:

**Section 1.** Chapter 188 of the Code of the Township of Hillsborough shall be amended by revising Subsection 99.3 J to read as follows:

*J. Agricultural deed restriction. For purposes of complying with the requirements of this subsection<sup>1</sup>, any requirement imposing an agricultural deed restriction or a deed restriction for agricultural purposes or uses means that the landowner shall deed restrict his/her land in accordance with the following requirements:*

*(1) The deed restriction is in perpetuity and binds the landowner, and his/her heirs, personal representatives, successors, and assigns.*

*(2) Only agricultural use and production is permitted on the deed-restricted lands. "Agricultural use" shall mean the use of deed-restricted lands for common farmsite activities, including but not limited to production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.*

*(3) All nonagricultural uses, if any, existing on this deed-restricted land may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:*

*(a) No new structures or the expansion of preexisting structures for nonagricultural use is permitted;*

*(b) No change of the preexisting nonagricultural use is permitted;*

*(c) No expansion of the preexisting nonagricultural use is permitted; and*

*(d) In the event that the preexisting nonagricultural use is abandoned, its use is extinguished.*

*(4) No sand, gravel, loam, rock or other minerals shall be deposited on or removed from the deed-restricted lands, except only those materials required for the agricultural purposes for which it is used.*

*(5) No dumping or placing of trash or waste materials shall be permitted on the deed-restricted lands.*

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<sup>1</sup> Bold text to be deleted in codified version.

*(6) No activity shall be permitted on the deed-restricted lands which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the deed-restricted lands.*

*(7) A landowner may use the deed-restricted lands to derive income from certain recreational activities, such as hunting, fishing, cross-country skiing and ecological tours, only if such activities do not interfere with the actual use of the deed-restricted lands for agricultural production and that the activities only utilize the deed-restricted land in its existing condition.*

*(8) A landowner may use, maintain and improve existing buildings on the deed-restricted lands for agricultural, residential and recreational uses subject to the following conditions:*

*(a) Improvements to agricultural buildings shall be consistent with agricultural uses;*

*(b) Improvements to residential buildings shall be consistent with agricultural or single-family and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the deed-restricted lands; and*

*(c) Improvements to recreational buildings shall be consistent with agricultural or recreational uses.*

*(9) A landowner may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use shall be prohibited, except as follows:*

*(a) To provide structures for housing of agricultural labor employed on the property, but only with the approval of the entity holding the deed restriction.*

*(b) To construct a single-family residential building anywhere on the property in order to replace any single-family residential building in existence at the time of the deed restriction, but only with the approval of the entity holding the deed restriction.*

*(10) The deed restriction shall be enforceable by the Township of Hillsborough through its duly appointed zoning and planning enforcement official.*

*(11) It is the intention of this chapter that the agricultural deed restriction be substantially in the form utilized in the New Jersey Agricultural Retention and Development Program.*

*Consequently, the agricultural deed restriction shall be modified and augmented as required to follow the form utilized by such program. In any event, the deed restriction shall be in recordable form and shall be submitted to and approved by the Township Attorney as a condition of the involved development approval.*

**Section 2.** Severability. If any provisions of this ordinance shall be adjudged invalid, such adjudication shall not affect the validity of the remaining provisions, which shall be deemed severable there from.

**Section 3.** Effective Date. This ordinance shall take effect immediately upon passage and publication according to law.

ATTEST:  
HILLSBOROUGH:

TOWNSHIP

OF

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Pamela Borek  
Acting Township Clerk

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Carl Suraci, Mayor

*Introduced: 9/11/12*  
*Published: 9/27/12*  
*Public Hearing: 10/9/12*  
*Adopted: 10/9/12*  
*Published: 10/18/12*