

**MODEL ORDINANCE
FENCING TO SUPPORT AGRICULTURAL PRODUCTION**

Fencing is a major management element for many types of farms as well as a significant expense. For livestock farms, fencing is necessary to keep animals inside the farm and to protect them from the public. The requirements for fencing vary, depending upon the species, numbers, and ages of the animals. Other fencing is intended to keep out wildlife or unwanted trespassers. Often it is useful to include fencing in the buffers that separate farms from other land uses, especially residential development. Other types of fencing include temporary electrified fencing used for pasture management and fencing to keep livestock from water bodies.

Review of the fencing provisions of many municipal ordinances shows that many do not recognize the special and varied fencing requirements for farms in that section of their ordinances. Protection of a crop is permitted by the Right to Farm statute, and this pre-empts municipal ordinances. Requiring farmers to get a variance when the ordinance is insensitive to farming requirements, and Right to Farm encourages crop protection, creates more expense for the farm operation, in addition to the time and stress of having to educate the municipal government and the public as to their needs.

Municipalities seeking to preserve many acres of farmland must support the agricultural industry as well as protecting the land. Because farmland preservation is forever, a general provision that differentiates agricultural fencing from residential or other types, but is flexible enough to cover many types of fencing would serve to enable the wide variety of fencing that may be necessary long into the future as agriculture changes.

Fencing

Section 1. Definitions

A more narrow eligibility standard for this exemption might be use of the definition of the Commercial Farm from the Right to Farm Act (see Ordinance under Agriculture Protection and Viability in the Hunterdon County Environmental Toolbox) rather than merely the standard for Farmland Assessment:

(1) A farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually and satisfying the eligibility criteria for differential property taxation pursuant to the “Farmland Assessment Act of 1964.” or (2) A farm management unit less than five acres producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility for differential property taxation, etc.

A.M.P.: Agricultural Management Practices.

Agricultural operation: Activities that meet the requirements of the Farmland Assessment Act (N.J.S.A. 54:4-23.1 et. seq.).

C.A.D.B.: County Agriculture Development Board.

Fence: A structure constructed of wood, masonry, stone, wire, metal or any other material or combination of materials serving as an enclosure, barrier or boundary.

Livestock: means cattle, horses, ponies and other domestic equidae, swine, sheep, goats, llamas, ratites such as emus, aquaculture , and rabbits.

Open Fence: (alternative definition) A fence in which at least two-thirds (2/3) of the area between grade level and the top cross member (wire, wood or other material) is open.

R.C.E.: Rutgers Cooperative Extension

S.A.D.C.: State Agricultural Development Committee

Section 2. Standards

<p><i>Add to a general statement in the municipal ordinance that applies to all fencing requirements.</i></p>

A. General Provisions

All fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties.....etc.

No fence shall be erected of barbed wire, razor wire, topped with metal spikes or other sharp objects, nor be constructed of any material or in any manner which may be dangerous to persons or animals, except agricultural fencing.

Fences shall be erected in such a way as to avoid damming or diverting the flow of stormwater.

B. Agricultural Fencing:

Fencing for different forms of agriculture takes different forms, heights, and requires different materials depending upon the crop to be protected or enclosed and the purpose of the fencing. Farm fencing types adopted by the SADC include, among others, eight (8) ft. woven wire fencing erected according to an AMP to reduce deer depredation of crops, equine fencing of several different types and heights (AMP being developed), and electric fencing of one-to-five or more strands of wire, sometimes used temporarily in a pasture improvement program. Fencing to prevent livestock access to water bodies is yet another type and design.

Since fence height and materials vary, the expense of fencing varies but can be significant. Whether to fence, and what kind of fence to install is a farm management decision that depends upon the value of the crop to be protected.

If a municipality sets a rigid height and material standard or expects farms to conform to general fencing standards appropriate for residential properties, it may force the farm operator to install more fencing than he/she needs or can justify even as the fence fails to protect the crop in question. It also gives rise to Right to Farm conflicts that are costly in time and money, even if they are referred properly to the CADB for a Site Specific Agricultural Management Practice determination.

Farmers learn about fencing appropriate for their needs from many sources typical for their commodity. County agricultural agents of the RCE have access to fact sheets and research information about many types of fencing that can be recommended for the farmer's use. This information is useful in educating the general public about what is needed for adequate agricultural fencing.

The RCE recommended fencing to reduce deer depredation has been so effective that, in municipalities where deer damage is serious, all property owners might want the ability to install it to better protect their woods and landscaping. It is the most expensive type of deer fencing but, properly installed and maintained, it has cut depredation as much as 85 percent (85%).

On properties that meet the definition of a farm for Farmland Assessment under N.J.S.A. 54:4-23.1 et. seq., fence design including location, height, and materials shall be in accordance with AMP's adopted by the SADC, Site Specific Agriculture Management Practices approved by the CADB, or recommendations from RCE for the type of farm commodity to be produced or the purpose of the fence.

1. Before installing fencing for livestock, a farm landowner shall consult agents of RCE for recommendations on design and location.

2. Fencing designed to exclude wildlife or reduce wildlife damage to crops or vegetation shall be designed and installed in accordance with AMPs adopted by the SADC, or recommendations of the RCE.