

# Recommended Zoning Changes to Incorporate Agritourism

Prepared by Agritourism Subcommittee of Madbury Planning Board

Madbury NH

11-15-16

Please refer to memo of October 28, 2016 with attachment which discusses agritourism as local land use that under NH RSA 21:34-a enables local governments to permit such activities through their land use regulations. Those documents also provided several regulatory options for permitting such activities in Madbury.

Below are the Agritourism Committee's recommended changes to the Madbury Zoning Ordinance to incorporate the regulation of agritourism activities. The first recommendation is to insert the a definition of agritourism into the Definition Article of the Zoning Ordinance. The second incorporates agritourism provisions into Article V, General Residential and Agricultural District. This recommendation has two options for consideration. One is the Keep it Simple approach and the other incorporates agritourism but also suggests a simple reorganization of Article V making this section more consistent with other articles and sections of the Zoning Ordinance

## 1. Amend Definition Article in Zoning Ordinance by Inserting New Definition for Agritourism. Additions in yellow shading.

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### Article III Definitions

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For the purpose of this ordinance, certain terms are defined as provided in this Article.

**ABUTTER:** Any person whose property adjoins or is directly across the street or stream from the land under consideration by the Planning Board, including that located in another town and as further defined in NH RSA 672:3.

**ACCEPTANCE OF APPLICATION BY THE BOARD:** The receipt, review, and signing of a completed application at a formal meeting of the Planning Board where abutters have been notified and notice has been posted.

**ACCESSORY BUILDING OR USE:** A building or use subordinate to the main building or use and customarily incidental to the main purpose of such building or use.

**ACCESSORY SIGN:** Any smaller sign relating to activities or business on the premises upon which the sign is located.

**AGRITOURISM:** An activity as set forth in RSA 21:34-a (VI) including, but not be limited to, farm-to-table events, crop mazes, fairs, on-farm weddings and similar events, hay rides, petting zoos, pick-your-own produce, agriculture tours, nature walks, hiking, snowshoeing, x-country skiing, camping, bird watching, and any other commercial agricultural activities on farms that are intended or designed to attract visitors to a working farm.

**APPROVAL:** Recognition by the Planning Board certified by written endorsement on the plat, that the final plat meets the requirements of these regulations and satisfies, in the judgment of the Planning Board, all criteria of good planning and design.

**APPROVAL, CONDITIONAL:** An approval with further criteria to be satisfied by the applicant prior to the recording of the final plat by the Planning Board.

**AQUIFER:** A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.

**2. Amend RA District to allow for agritourism—additions in yellow shading.**

**a. Option 1: Keep it Simple—make minor amendments.**

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**Article V**  
**General Residential and Agricultural District**

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**Section 1. Purpose**

**Section 2. Uses Permitted**

- A. It shall be a district of dwellings and farms. No other uses than those specified will be permitted except the special exception uses which may be granted by the Board of Adjustments as provided under Article XV, SECTION 2.
- B. A single-family or a two-family dwelling is permitted in this district.
- C. General farming, including horticulture, floriculture, dairying, livestock and poultry raising, and other agricultural uses, or the raising of animals for other purposes are permitted in this district. *Agritourism is permitted but will be subject to the granting of a Conditional Use Permit as per Article IV, General Provisions; Section 9, Conditional Use Permits in addition to the following criteria:*
  - 1. Sufficient off-street parking is provided to accommodate any employees and visitors.
  - 2. Any internal vehicular roadways can accommodate proposed traffic volumes.
  - 3. The proposed site design is configured in a manner that minimizes and mitigates any impacts to environmental resources and neighboring properties.
  - 4. The scale, size, frequency of events, and operating hours shall not produce unreasonable impacts or nuisances to the surrounding neighborhood.
- D. Home produce and home products and agricultural products may be bought and sold and exposed for sale in this district.
- E. Tourist homes may be maintained and operated in this district.

**Option 2: Amend the language of the R/A Zone while including provision for Agritourism**

<b>Changes to Article V, General Residential and Agricultural District</b>	
<b>Proposed Change</b>	<b>Comment</b>
1. Section 2 title changed to <b>Permitted, Prohibited and Regulated Uses</b>	<i>Replaces Section 2 title: Uses Permitted</i>
2. Establish new format and organization to Section 2 to reflect the types of uses in the proposed title.	<i>Revise ordinance structure and organization to be consistent with other sections in the Zoning Ordinance.</i>
<p>A. Permitted Uses</p> <ol style="list-style-type: none"> <li>1. It shall be a district of dwellings and farms.</li> <li>2. A single-family or a two-family dwelling is permitted in this district.</li> <li>3. <b>Agriculture except Agritourism as defined in RSA 21:34-a.4.</b></li> <li>4. Home produce and home products and agricultural products may be bought and sold and exposed for sale in this district.</li> <li>5. Tourist homes may be maintained and operated in this district.</li> <li>6. Property owners shall be allowed two information-advertising signs for produce sold on the premises or professional or business signs not to exceed fifteen square feet in area, set back at least 25 feet from the right of way; flashing or rotating lights are not permitted.</li> <li>7. Building, structures, and uses, which are accessory to buildings or uses permitted by this ordinance</li> <li>8. Accessory Apartments in accordance with Section 4 of this Article.</li> </ol> <p>B. Prohibited Uses</p> <ol style="list-style-type: none"> <li>1. No other uses than those specified will be permitted except the special exception uses which may be granted by the Board of Adjustments as provided under Article XV, SECTION 2.</li> <li>2. Storage of waste or junk</li> </ol> <p>C. Limited and Regulated Uses</p> <ol style="list-style-type: none"> <li>1. Nursing homes, assisted living facilities and hospice facilities are permitted in this district if they have frontage on and are accessed by State Routes 108, 155 or 9. The facility must receive Site Plan Review approval by the Planning Board.</li> </ol>	<p><i>Replaces Section 2c of existing ordinance providing a definition for agriculture based upon RSA 21:34-a.4.</i></p> <p><i>Agritourism is dealt with in Paragraph C, Limited and Regulated Uses.</i></p> <p><i>Uses in #4 may be redundant with the state's definition of Agriculture but kept for clarity.</i></p>

- a. "Nursing home" means a place which shall provide, for 2 or more persons, basic domiciliary services (board, room, and laundry), continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required<sup>1</sup>.
- b. "Assisted Living Facility" means a supported residential health care facility, reflecting the availability of social or health services, as needed, from appropriately trained or licensed individuals, who need not be employees of the facility, but shall not require nursing services complex enough to require 24-hour nursing supervision. Such facilities may also include short-term medical care for residents of the facility who may be convalescing from an illness and these residents shall be capable of self-evacuation.<sup>2</sup>
- c. "Hospice Facilities" means a free standing 24-hour residential setting licensed under RSA 151 as a supported residential care facility for terminally ill individuals with less than one year to live who no longer have a home or cannot remain safely there. Palliative care such as room, meals, personal care, medication monitoring and emotional support, is provided. Additional health care services may be provided to residents through arrangements with outside organizations as is currently available if the resident was in his own home.<sup>3</sup>

2. Agritourism uses are permitted if a Conditional Use Permit is granted by the Planning Board in accordance with the procedures and criteria in Article IV, Section 9 of this ordinance. Such permits shall identify specific permitted activities and relevant limitations for the permitted use. In addition to the criteria established in Section 9, any proposed activity will be subject to the following criteria:

- a) Sufficient off-street parking is provided to accommodate any employees and visitors.
- b) Any internal vehicular roadways can accommodate proposed traffic volumes.
- c) The proposed site design is configured in a manner that minimizes and mitigates any impacts to environmental resources and neighboring properties.

*New section under Limited and Regulated Uses. Some criteria may be redundant with the CUP provisions in Section 9, but these address key considerations for these types of uses.*

*This provision appears to cover the whole town and not just the R/A District. Maybe this prohibition should be placed into General Provisions or into all the Zoning Districts.*

<p>d) The scale, size, frequency of events, and operating hours shall not produce unreasonable impacts or nuisances to the surrounding neighborhood.</p> <p>3. No junkyard shall be established or operated in the Town of Madbury without a written permit from the Town Selectmen. All junkyards so permitted to operate in the Town of Madbury shall be required to meet all the standards set by the State of New Hampshire for the operation of such facilities.</p> <p>4. Residential Cluster Development in accordance with Article V-A</p> <p>5. Home Occupations in accordance with Article V-B</p>	
<p><b>The Issue of Permitted Uses J, L, M that do not fit the proposed Article re-organization.</b></p>	<p><i>These uses really don't really fit well in the current organization and should be re-considered on their own or in concert with the proposed changes.</i></p>
<p>J. No dwelling or any other building shall be constructed less than fifty(50) feet from wetland soils.</p> <p>L. Impervious improvements shall not cover more than 25% of the lot area.</p> <p>M. All trailer coaches and mobile homes moved into Town shall conform as to safety, convenience, and welfare of the Town</p>	<p><i>J. Redundant with Article IX Section 5 B, which lists Wet Area setbacks. <b>Recommend delete this provision and let Article IX govern this.</b></i></p> <p><i>L. Following the structure of other Articles, this would fall under Design and Development standards. Since there is no such section here. <b>recommend this provision be included in Section 3 Minimum Dimensional Requirements as Item F.</b></i></p> <p><i>M. This provision is not appropriate in this section. Not a use or dimensional reference. This provision is more related to Building Code/Regulations. Either implicit or explicit in building and life safety code. Not be needed here. <b>Recommend this item be deleted.</b></i></p>