

TITLE I

THE STATE AND ITS GOVERNMENT

CHAPTER 21

STATUTORY CONSTRUCTION

21:34-a Farm, Agriculture, Farming. –

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming operations or activities are carried out or conducted and shall include the residence or residences of owners, occupants, or employees located on such land. Structures shall include all farm outbuildings used in the care of livestock; in the production and storage of fruit, vegetables, or nursery stock; in the production of maple syrup; greenhouses for the production of annual or perennial plants; and any other structures used in the operations or activities named in paragraph II(a) or (b) of this section or any combination of such individual operations or activities.

II. The words "agriculture" and "farming" mean all operations or activities of a farm, including:

- (a)(1) The cultivation, conservation, or tillage of the soil.
 - (2) The storage and use of or spreading of commercial fertilizer, lime, wood ash, sawdust, compost, animal manure, septage, and, where permitted by municipal and state rules and regulations, other lawful soil amendments.
 - (3) The use of or application of agricultural chemicals.
 - (4) The husbandry of livestock which shall include but not be limited to all beef or dairy cattle, steer, oxen, goats, sheep, swine, horses, mules or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, poultry, rabbits, yaks, elk (*Cervus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), or reindeer (*Rangifer tarandus*).
 - (5) The husbandry, boarding, training, or riding instruction of equines.
 - (6) The husbandry and harvesting aquaculture products including fresh or salt water finfish, shellfish, or other aquatic organisms grown for consumption or processing.
 - (7) The husbandry of poultry or game birds or production of eggs.
 - (8) The husbandry of bees or production of honey.
 - (9) The husbandry of domesticated strains of fur-bearing animals.
 - (10) The production of greenhouse crops.
 - (11) The production, cultivation, growing, or harvesting of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to, berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees or tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any plant that can be legally grown or harvested extensively for profit or subsistence.
- (b) Any practice or activity on the farm incident to, ancillary to, or in conjunction with such farming operations, including, but not necessarily restricted to:
- (1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.
 - (2) The transportation to the farm of supplies and materials.

- (3) The transportation of farm workers.
 - (4) Forestry or lumbering operations.
 - (5) Marketing or selling at wholesale or retail, regardless of the manner or form of the transaction, any livestock or products derived principally from the production of the farm, including, but not limited to items listed in subparagraph (a), whether on-site or off-site, provided that marketing such products is not specifically prohibited by local regulations. For the purposes of this section marketing shall include agritourism, which means attracting visitors to a farm to attend events or activities that are accessory uses to the primary farm operation, including, but not limited to, being provided a meal, making overnight stays, enjoyment of the farm environment, education which shall be instruction or learning about the farm's operations, or active involvement in the activities of the farm.
 - (6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.
 - (7) The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II(a)(4).
 - (8) The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.
- III. A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.
- IV. Management practices on the farm shall include technologies recommended from time to time by the university of New Hampshire cooperative extension, the New Hampshire department of agriculture, markets, and food, or appropriate agencies of the United States Department of Agriculture.
- V. The term "farmers' market" means an event or series of events at which 2 or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include, but are not limited to, products of agriculture, as defined in paragraphs I-IV. "Farmers' market" shall not include any event held upon any premises owned, leased, or otherwise controlled by any individual vendor selling therein.
- VI. [Repealed.]

Source. 1961, 140:1. 1977, 95:1. 1979, 60:1. 1985, 6:1. 1997, 250:1. 1999, 191:2. 2005, 107:1. 2006, 11:5; 326:1. 2007, 157:1. 2008, 8:1, eff. July 4, 2008. 2014, 97:2, eff. Aug. 10, 2014. 2016, 267:1, 6, eff. June 16, 2016. 2019, 338:1-3, eff. Se

TITLE LXIV PLANNING AND ZONING

CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Agricultural Uses of Land

Section 674:32-d

674:32-d Agritourism Permitted. – Agritourism, as defined in RSA 21:34-a, shall not be prohibited on any property where the primary use is for agriculture, subject to RSA 674:32-b, II.

Source. 2016, 267:5, eff. June 16, 2016.

674:32-b Existing Agricultural Uses and Activities. –

Any agricultural use or activity which exists pursuant to RSA 674:32-a may without restriction be expanded, altered to meet changing technology or markets, or changed to another agricultural use or activity, as set forth in RSA 21:34-a, so long as any such expansion, alteration, or change complies with all federal and state laws, regulations, and rules, including agricultural best management practices guidelines adopted by the commissioner of the department of agriculture, markets, and food; subject, however, to the following limitations:

I. Any new establishment, re-establishment after abandonment, or significant expansion of an operation involving the keeping of livestock, poultry, or other animals may be made subject to special exception, building permit, site plan review, or other local land use board approval in accordance with the provisions of RSA 674:32-c, II and III.

II. Any new establishment, re-establishment after abandonment, or significant expansion of a farm stand, retail operation, or other use or activity involving on-site transactions with the public, including agritourism as defined in RSA 21:34-a, may be made subject to applicable special exception, building permit, site plan review, or other local land use board approval in accordance with the provisions of RSA 674:32-c, II and III, and may be regulated to prevent traffic and parking from adversely impacting adjacent property, streets and sidewalks, or public safety. No municipality shall adopt an ordinance, bylaw, definition, or policy regarding agritourism activities that conflicts with the definition of agritourism in RSA 21:34-a.

Source. 2000, 279:3, eff. July 1, 2001. 2016, 86:1, eff. July 18, 2016; 267:4, eff. June 16, 2016; 267:7, eff. July 18, 2016 at 12:01 a.m. 2018, 56:1, eff. July 15, 2018. 2019, 338:6, eff. Sept. 5, 2019.

674:32-c Other General Provisions. –

I. The tilling of soil and the growing and harvesting of crops and horticultural commodities, as a primary or accessory use, shall not be prohibited in any district.

II. Nothing in this subdivision, or in RSA 674:32-b, shall exempt new, re-established, or expanded agricultural operations or activities from generally applicable building and site requirements such as dimensional standards, setbacks, driveway and traffic regulations, parking requirements, noise, odor, or vibration restrictions or sign regulations; provided, however, that in circumstances where their literal application would effectively prohibit an agricultural use or activity allowed by this subdivision, or would otherwise be unreasonable in the context of an agricultural use or activity, in accordance with the provisions of RSA 672:1, III-b, the board of adjustment, building code board of appeals, or other applicable local board, after due notice and hearing, shall grant a waiver from such requirement to the extent necessary to reasonably permit the agricultural use or activity, unless such waiver would have a demonstrated adverse effect on public health or safety, or on the value of adjacent property. Such waiver shall continue only as long as utilized for the permitted agricultural use or activity.

III. Nothing in this subdivision shall apply to any aspect of an agricultural operation determined to be injurious to public health or safety under RSA 147. Nothing in this subdivision shall be deemed to modify or limit the duties and authority of the department of environmental services under RSA 485 or RSA 485-A or the commissioner of the department of agriculture, markets, and food under title XL.

IV. Nothing in this subdivision shall be deemed to affect the regulation of sludge or septage.

Source. 2000, 279:3, eff. July 1, 2001. 2019, 338:7, eff. Sept. 5, 2019.