

Proposed Regulatory Changes to Include Agritourism

Madbury NH

October 28, 2016, Rev. 11-1-16

1. Amend Definition Article in Zoning

Article III Definitions

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.

PROPOSED DEFINITION (Fritz Green)

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.*

Optional Definition 1—shaded phrases differ from the Proposed Definition Above

Includes the definition set forth in RSA 21:34-a (VI), and shall specifically include, but not be limited to, farm-to-table events, **overnight stays**, corn mazes, **agricultural-based educational activities**, fairs, on-farm weddings and similar events, hay rides, petting zoos, pick-your-own produce operations, agriculture tours, nature walks, **outdoor sporting activities, snowmobile, ATV trails, bike trails**, hiking, snowshoeing, x-country skiing, horse trails, camping, bird watching, **historical and agricultural exhibits and museums**, as well as other commercial agricultural activities on farms that are intended or designed to attract visitors to a working farm. (Henniker, NH)

Optional Definition 2—Town of Lee—Note Special Exception Language

The purpose of Agricultural Tourism is to attract people to farms, promote the sale of agricultural products using agriculture related tours, events and activities, as well as non-agricultural related activities. These tours, events, and other activities are to supplement farm income. Activities include, but are not limited to petting farms, farm animal attraction, school tours, outdoor trails, crop mazes, hayrides, pony rides, livestock and or equine events, group picnics, on-and- off site food catering services, craft shows, outdoor recreation, and educational activities. If a fee is charged, in order to be a permitted use, the farm must be actively producing agricultural products for sale. Farms where the seller is not actively producing agricultural products for sale will require a Special Exception.

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 Land Use Regulatory Standards

Background:

Agritourism may be regulated locally through local land use regulations administered by the Planning Board or simply by allowing the use by right which might only require a building permit if there were any physical structures required. Because of the potential for an agritourism activity to attract large numbers of visitors on a periodic basis as well as the potential for engaging in uses that may affect community resources or neighboring properties, permitting such activity through the Planning Board is a good option.

Regulatory Options:

If we assume the Planning Board should regulate this activity, there are three alternative approaches—One would be to allow this use as Permitted by Right (not recommended since there would be not control by the Planing Board); a second would be simple site plan review with additional standards for this particular use or a third would require site plan review that would also require a Conditional Use Permit (CUP). At present, Madbury requires a CUP in a number of instances, especially where particular uses are proposed for resource areas such as the Aquifer Overlay. Article IV, General Provisions; Section 9, Conditional Use Permits lays out the requirements and standards to obtain a CUP. If the planning board chooses to pursue the CUP approach, it could require additional conditions to be met in order for an applicant to receive an approval. Below are two regulatory approaches to permitting agritourism. In either instance, it is recommended that “Agritourism” be identified as a permitted use In Article V, General Residential and Agricultural District (RA); Section 2. Permitted Uses. For example:

A. Amend RA District to allow for agritourism

Article V General Residential and Agricultural District

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 Site Plan Review as per the Town of Madbury Site Plan Review Regulations (and will require a Conditional Use Permit as per Article IV, General Provisions; Section 9, Conditional Use Permits. OPTIONAL)*
- 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.

B (1). Review/Amend Site Plan Review Regulations Only

MADBURY SITE PLAN REVIEW REGULATIONS

**Article VII
Standards**

- Section 1.** Off-Site Impacts
- Section 2.** Landscaping
- Section 3.** Parking
- Section 4.** Loading
- Section 5.** Erosion and Sediment Control
- Section 6.** Stormwater Runoff
- Section 7.** Nuisances
- Section 8.** Highway Access
- Section 9.** Water and Sewage
- Section 10.** Utilities
- Section 11.** Emergency Services
- Section 12.** Hazardous Materials

Please refer to the full text of standards in the current Site Plan Review Regulations to better understand or determine the level of review required. Further, are these adequate for reviewing an agritourism proposal?

NOTE: Are the current standards sufficient to manage Agritourism impacts or are additional standards required. For example, Henniker employs the following
The Planning Board may consider the following when reviewing Agritourism uses:

1. *Road width, construction, and type (dead-end roads, through roads, State roads), existing traffic volumes, and proposed traffic volumes*
2. *Proximity of abutting residential dwellings to the proposed activities/uses;*
3. *Existing site characteristics (topography, natural vegetation, proximity to surface water/wetlands, etc.) and the likelihood that the natural site characteristics will adequately buffer or mitigate potential impacts;*
4. *Site design and how uses are placed on the site to avoid adverse impacts and how the site is proposed to be configured or modified to mitigate and prevent adverse impacts;*
5. *The nature and design of the proposed activities and uses, including their proposed scale, size, frequency, and operating hours, and the likelihood that they produce unreasonable impacts or nuisances given the above factors.*

I believe the current standards in Madbury’s Site Plan Review Regulations are adequate to review and permit an agritourism use except for perhaps a standard(s) that address the scale, frequency and operating hours such as in #5 in the Henniker Standards.

Or:

B (2). Amend Site Plan Review Regulations & Conditional Use Permit (Article IV, General Conditions)

In this option, the current Site Plan Review standards would remain as is. Additional language could be added referencing the necessity to obtain a CUP. This could additional language could be added to the Site Regulations or to Zoning as an additional section under Conditional Use Permits in Article IV, General Provisions.

MADBURY SITE PLAN REVIEW REGULATIONS—REMAIN THE SAME

**Article VII
Standards**

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|--------------------|------------------------------|
| Section 1. | Off-Site Impacts |
| Section 2. | Landscaping |
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Additional Section in General Provisions

Subject to the provisions of RSA 674:21, the Planning Board is hereby authorized to issue Conditional Use Permits for Agritourism uses subject to the process and criteria in this Section. The Planning Board may issue a Conditional Use Permit for an agritourism use that meets the following provisions.

1. That public safety is protected;
2. That neighborhood character is considered;
3. That substantial negative impacts to the neighborhood are avoided; and
4. That the quality of environmental resources are protected.