



# **Community Guidance to Maintain Working Farms and Forests**

Rhode Island Department of Environmental Management



# Community Guidance to Maintain Working Farms and Forests

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# Introduction & Overview

## PROJECT BACKGROUND

Since the advent of zoning, communities have segregated commercial and residential uses into distinct districts. Typically most business uses are precluded in a residential zone. As a result, commercial activities are directed to specific zones – often along arterial highways – where automobile-dominated strip development creates traffic problems and replaces scenic views with parking lots. Meanwhile, landowners who historically were able to use their land for a variety of businesses can no longer do so – hampering their ability to make a living for themselves or create jobs for other people in the community.

The vast majority of land in rural Rhode Island is zoned for residential use – even if the current use is in fact agriculture or forestry. While farmers can generate revenue from selling their crops, profits can be modest in the best of years – and when the only other option is to sell the land for residential development it is no wonder



Forest Road, Exeter

that so many farms have been subdivided. On forested land, the available cash flow from sale of timber products is even less likely to sustain landowners. For many landowners, splitting off a few house lots from time to time becomes the only way to keep up with expenses.

The economic pressures on landowners, combined with the restrictions of traditional zoning, contribute to a haphazard, sprawling pattern of development that is often at odds with a town's goals to protect rural character and quality of life while encouraging appropriate economic development. It also works against elements of the State Guide Plan, including *Land Use 2025*, the



Hope Valley Meadows

*Rhode Island Strategic Plan for Agriculture, and Ocean State Outdoors: Rhode Island's Comprehensive Outdoor Recreation Plan (SCORP).*

## PURPOSE: WHY WAS THIS PROJECT NECESSARY?

The purpose of this project was to help towns to provide economic incentives for landowners to preserve their land in agriculture or forestry. The focus of this effort is to identify appropriate business uses of farm and forest lands, and to explore how towns might encourage such activities through changes in planning policies, zoning and other regulations. The primary objectives for this project include:

- Identifying small business uses or commercial operations that will help maintain the viability of our farms and provide incentives to limit the development of working farm and forest lands.
- Developing performance standards for these activities that will allow them to coexist within residential zones with neighboring homes and other uses.
- Crafting regulatory guidance that communities can use to shape local ordinances that allow for new businesses, help bring existing operations in residential zones into conformity, and apply reasonable performance standards.

## PROCESS: HOW WAS THE PROJECT ACCOMPLISHED?

Late in 2010, the Rhode Island Department of Environmental Management received a National Park Service grant that allowed them to hire a consultant to pursue the project. Early in 2011, RIDEM selected a consulting team led by Horsley Witten Group, and including Dodson & Flinker and the American Farmland Trust. The work plan established by the consulting team included the following topics:

- Assessing Appropriate Small Business Uses
- Identifying Suitable Performance Standards
- Identifying Impediments to Agricultural or Forestry Businesses
- Preparing Case Studies Illustrating Successful Approaches
- Developing Regulatory Guidance.



Case studies of typical rural towns helped to define the range of challenges faced by communities as the working landscape evolves from quiet wholesale production to include retail sales, on-site processing, tourism and entertainment.

Each of these topics is reflected in this final report, which is designed to serve both as a record of the project and a training tool. The final product of the effort is a PowerPoint presentation that has been designed to be used by local practitioners and members of the Advisory Committee to educate local boards and residents about strategies to maintain working farms and forests.

An important part of the process was the participation of an Advisory Committee, which met regularly over the course of the project to brainstorm ideas, review case studies and potential approaches, and assist with the preparation of regulatory guidance. The committee included town planners from Burrillville, Exeter, Foster, Gloucester, North Kingstown, Tiverton

and West Greenwich, staff of the Washington County Regional Planning Council, Rhode Island Statewide Planning, Narragansett Bay Research Reserve Coastal Training Program, Rhode Island Economic Development Corporation, USDA Resource Conservation and Development and Rhode Island DEM Divisions of Agriculture, Forestry and Planning and Development.

## POTENTIAL: IMPLEMENTING THESE STRATEGIES IN YOUR COMMUNITY.

The strategies described in this report focus primarily on actions that towns can take to enhance small business uses in residential zones, but currently used for farming and timber production. While non-conforming commercial uses are (and have always been) common in residential zones, their status makes it difficult for the owners to reach their full potential. Addressing current non-conforming uses, as well as promoting this approach as a tool for rural economic development, however, will naturally raise concerns among neighbors that impact the social and political landscape of any town. Therefore it is critically important to the success of any such effort that it proceed through a careful and deliberate planning process, supported by ample public education. This process should include:

**Identifying local issues and needs.** While Town Council or Planning Board members may already know that a change in zoning or other approach is most likely to be “the right answer,” the process must begin by taking a step back and looking carefully at needs and concerns of each party with a stake in the outcome. These stakeholders include, of course, the farmers, forest stewards and other large landowners, but also residents in surrounding neighborhoods and citizens in the town at large. Elected and appointed officials, paid town staff members, public safety, and others should be involved in the discussion so that all potential problems, as well as economic opportunities, can be identified. The goal of this effort is not to launch a hunt for illegal businesses, but rather to bring out into the open the underlying economic realities at work in the town and seek ways to create opportunities for landowners, while at the same time understanding that their residential neighbors have a right to be free of potential nuisances.





The comprehensive planning process provides an opportunity for a public discussion of the changing rural economy and its implications for town planning policy, zoning and other land development regulations.

**Connecting to the Comprehensive Plan and other local planning processes.** Under Rhode Island law, every town is required to prepare a Comprehensive Plan, which is the basis for making decisions about balancing conservation and development, promoting economic growth, providing housing, and maintaining local services and infrastructure. A community's comprehensive plan contains a wealth of data about existing conditions that can illuminate the issues and opportunities identified by various stakeholders. This provides a launching point for exploring the implications of promoting small businesses within residential zones, and analyzing the impact of various future scenarios. By looking at all the possibilities in an objective way, this planning process brings the discussion out of the realm of opinions and allows for a balanced discussion about the relative costs and benefits of each alternative. The goal of this process is to achieve a consensus among all stakeholders in support of some desired outcome, as well as a clear-eyed look at the likely impacts of that choice on every stakeholder and the town as a whole. This should also include a shared understanding of the implications of leaving things the way they are. Will farm and forest lands continue to be zoned for residential use and sold for development? Will the working landscape gradually be replaced by a patchwork of subdivisions and other land uses? Will successful small business be forced to leave town if they want to expand just a little bit?

**Crafting a local zoning ordinance.** If the planning process has been successful there should be little need to argue about where the town wants to be in the future, and whether current zoning and other regulations are

likely to produce the desired outcome. (For example, if the first hearing on a proposed ordinance is packed with residents wondering why the town is even considering it, the public education process ended too soon.) Instead, the focus will be on the details of determining which uses are appropriate, and how best to mitigate any potential negative impacts. As described in the following sections of this report, every town must determine the allowable uses that best fit its unique physical setting and economic base. The next step is to establish performance standards to control potential negative impacts of those uses, including such items as dimensional setbacks, parking, signage, lighting, etc.

Making good decisions about these two key elements – uses and performance standards – will allow for a more flexible range of uses in residential zones while mitigat-



Because every town is different, each will have to carefully tailor regulations allowing new uses so that they fit the local context.

ing unwanted impacts. Every town will be different: one whose economy is based in tourism and second home development, for example, will likely restrict business uses further and emphasize protection of scenic character. A town whose economy still revolves around a working landscape of farming and timber cutting may be open to a broader range of uses, with fewer restrictions on performance.

The regulatory guidance that concludes this report is therefore not meant to be taken verbatim, but rather to serve as an example of the approach. Key decisions include determining which properties will be eligible, and which uses should be allowed. The town must also decide on whether to classify and regulate uses differently depending on the proposed intensity of the use, and finally, what level of performance standards should be required for each use class.

# Assessing Possible Business Uses in Residential Zones



When it comes to allowing new uses in residential ones, opinions tend to be driven by personal experience. If the farm down the street suddenly starts a corn maze operation that crowds your previously quiet road with traffic every weekend you may be less inclined to support new farm business ideas. If you contributed so that the local land trust could purchase and preserve the farm next door, you will probably support their decision to lease the land to a young couple to start an organic farm – but what about when they want to open a farm stand? A seasonal ice cream shop? A chicken slaughtering and processing operation?

The many variables involved in setting policy in regard to such potential uses usually force towns to address them on a case by case basis. Not only do the potential uses vary widely, within each use there can be a wide



Offerings like this winery tour are important marketing tools - but they introduce a new activity into an otherwise quiet agricultural context.

range of intensity: a temporary farm stand set up by the side of the road vs. a permanent structure that supplements vegetables with ice cream and sandwiches; three weddings every weekend all summer vs. half a dozen per year. The location of a property, whether it has access from a major road, and the abutting land use make a big difference, as does the size and configuration of

the parcel. Obviously an acre of business use hidden in the center of hundreds of acres of forest will have little impact on the neighbors compared to the same use located on the edge of the property in an area surrounded by residences.

Because of these complexities, it is difficult for towns to set blanket policy to govern all possible situations in a given zone. As a result, accessory uses within residential zones are usually limited to those few that are clearly benign. This leaves farmers and forest landowners with limited choices and considerable uncertainty. If they invest the time and money to develop a business plan,



One of the challenges to regulating business uses is the widely varying scale of similar uses. In Little Compton, as in most towns, agricultural sales vary from informal front-yard displays (top) to permanent farm stands (below).

seek financing and all the rest will the use be acceptable to the town? Will it pass muster with their neighbors? If they do all the environmental permitting and go before the town council, will objectors be able to throw a monkey wrench into the whole operation for any reason? If they pursue the business without permits, will they be able to get financing and insurance? What happens when the town finds out?





**As agriculture evolves to meet the needs of today, the lines between farming, retail sales and entertainment continue to blur: towns need to discuss potential costs and benefits in the context of the Comprehensive Plan for their community.**

As with any question of local zoning, the process really needs to start with the town's Comprehensive Plan. Designed to resolve and balance the need for growth and development with protection of water supplies, farmland and other natural resources, the comprehensive planning process also helps manage the town's ability to provide needed services. The process also provides a forum for discussing these issues in an fair and balanced way with all of the affected stakeholders. The implications of alternative future scenarios can be explored from many different perspectives, comparing the opportunities they provide for supporting local farmers and forest owners with any potential negative impacts that may result. The right type and intensity of use can be identified for each area of town, as well as for parcels of different sizes, different ecological contexts, and varying neighborhood types. The results of this process, ideally representing a consensus among residents, are then incorporated into the comprehensive plan. The necessary changes in zoning will then be much easier to enact, since they were developed through a broadly-based public process.

The goal of this effort should be ordinances and regulations that provide a predictable process for everyone involved, whether farmers and landowners interested in starting or expanding a business, or residents who may

be affected by the results. This will ensure that landowners know that if they invest the money in planning and permitting they will have clear rules to follow and a predictable result, while their neighbors will likewise know from the outset what the town as a whole has defined as acceptable.

Every town will have to define for itself the type, location and intensity of business uses that its citizens feel are acceptable on farm and forest lands currently zoned for residential use. Town solicitors or other legal advisors should be included in the discussion. The following lists are designed as a starting point for that process. They were developed through discussion with the project advisory committee and research into numerous local ordinances.

## POTENTIAL USES TO ALLOW IN ASSOCIATION WITH FARM OPERATIONS:

### **"Customary" accessory agricultural use**

- Raising of crops
- Raising of animals
- Poultry Farm
- Nurseries
- Landscaping Business



### **Agriculture-Related Educational Activities**

- Agritourism
- Farm Demonstration Center



### **Ag-tivities**

- Pick-Your-Own
- Farm Winery/Brewery/ Distillery
- Equestrian Center
- On-Farm Processing
- Seasonal Attractions (hay rides, festivals, fairs, etc.)
- Special Events (concerts, weddings/receptions, etc.)



### **Farm-Based Retail Sales**

- Roadside Stand
- Sale of Compost/Manure/ Mulch
- Artisanal products/Crafts
- Sale of Timber
- Farm Cafe/Restaurant



### **Farm-Based Service Business**

- Farm Conference Center
- Riding Academy/Tack Shop
- Machinery Repair/ Mechanic Shop



### **Farm-Based Recreational Activities**

- Nature Study/Bird-Watching
- Hiking/Biking/Skiing/ Snowshoeing

### **Farm Building Re-Use**

- Accessory Dwelling (farm worker housing)
- Bed and Breakfast



### **Farm-Based Light Manufacturing**

- Crafts/Cabinetry
- Hand Tools
- Specialty Clothing



## POTENTIAL USES TO ALLOW IN ASSOCIATION WITH FOREST LOT RESIDENCES:

### Customary, Incidental, Accessory Use

- Cutting/Buying/Selling of Wood
- Wood Processing (mulch and other wood products)

### Home Occupation

- Day Care
- Bed and Breakfast
- Forest-Based Service Business

### Forest-Related Educational Activities

- Agritourism
- Forest Nature Center

### Forest-Based Recreational Activities

- Nature Study/Bird-Watching
- Hiking/Biking/Skiing/Snowshoeing
- Nature Trails
- Campground

### Forest-Based Light Manufacturing

- Crafts/Cabinetry
- Hand Tools
- Specialty Clothing



### Professional Office/Services

- Physician
- Engineer/Consultant
- Architect
- Accountant
- Contractor (electric, plumber, etc.)
- Attorney

### Small Service Businesses

- Barber
- Beautician
- Shoe/Watch/Clock Repair
- Tailor/Seamstress
- Catering
- Handcrafts
- Artist/Studio
- Teacher/Tutor (one-on-one)
- Author/Book Binding
- Small Engine Repair
- Weaving/Chair Caning
- Antique/Florist/Gift Shop
- Ceramics/Pottery





# Case Studies of a Changing Working Landscape

Throughout the Northeast, the working landscape has been changing as farmers and forest landowners explore creating approaches to staying economically viable. As part of the study, four towns were identified that have recently adopted changes to their town-wide plans, zoning and other regulations in support of agriculture.

## NORTH STONINGTON, CONNECTICUT

In its 2009 Plan of Conservation and Development (POCD), the town of North Stonington has strong goals of preserving existing farms and encouraging a new generation of farmers and new farming activity. The Town needed to strengthen its zoning ordinance and adopt agriculture-related regulations in order to reinforce its commitment to being an agricultural community. One driving force of revising its zoning ordinance was to legitimize the existing agricultural uses in Town. In 2007, it passed two ordinances to support farmers: a Right-to-Farm Ordinance and an ordinance that provides tax exemptions for farm machinery and farm buildings. In January 2009, the Town formed an Agricultural Steering Committee to help move agricultural issues forward. A revised zoning ordinance adopted in 2010 incorporates existing activities and allows for new farming opportunities. The revisions included a definition of agriculture, a revised list of allowable uses, and new performance standards.



The Jonathan Edwards Winery combines agricultural grape growing and wine making with on-site sales, tours and a steady stream of concerts and private events.



Farm on Hangman Hill Road



Roadside Stand off Rt. 2



North Stonington's ordinance provides definitions for uses that are becoming increasingly common:

### **Agricultural Tourism:**

"Visiting a working farm or any agricultural, horticultural or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation.

### **Ag-tivities:**

"Events of limited duration on a farm incidental to agricultural uses, including (but not limited to) hayrides, corn mazes, festivals and other similar activities; on-farm sales such as farm stands and pick-your-own operations retailing farm and farm-related product; recreational and/or competitive equine enterprises, and on-farm processing."

### **Non-Agriculturally Related Uses:**

"Activities that are part of an agricultural operation's offerings, but not incidental to agricultural, or tied to agricultural buildings, structures, equipment, and/or fields. Uses include (but not limited to). fee-based outdoor recreation such as bird watching, snowshoeing, and other passive recreational activities."

The ordinance provides some simple performance standards to cover the most likely impacts of these uses. Parking shall be "located in areas on the site where they will be the least visible from access roads and adjoining properties, yet allow for adequate sightlines for drivers traveling on the adjacent road." The location of the proposed use and consideration of noise levels, meanwhile, "shall take into consideration the current use of surrounding properties."

In order to manage the impact of various agricultural uses on the character of the roadside, North Stonington has specific standards for signs. They provide for seasonal or permanent **Agricultural Signs**, allowing "one seasonal agricultural sign per farm stand, seasonal farm stand, and/or agriculturally related use... plus 1 additional seasonal agricultural sign per every 300 feet of frontage on a public right-of-way." Signs may be free-standing or attached, but may not be larger than 16 square feet, with a maximum of two sides. They also allow a permanent Agriculture Directional Sign, as approved by the State Department of Agriculture.

Finally, North Stonington also has a section of its ordinance devoted to **Farm Winery Restaurant**, a use



**View from Chester Main Road**

meant to be incidental to a Farm Winery, which "allows the sale/service of food prepared/consumed at a farm winery, as well as the accommodation of special events, such as dinners, luncheons, weddings, corporate parties and/or teas, provide that the service of food and/or wine at such special events shall occur solely on the indoor and/or outdoor seating area described herein." Performance standards for the Farm Winery Restaurant include:

- Must be located on a single parcel of land on which the Farm Winery is also located, a minimum of twenty-five (25) acres.
- Maximum hours of operation: 10:00 a.m. to 10:30 p.m.
- Written request to the North Stonington Fire Marshall for comment on the suitability of any emergency access and fire protection provisions that are to be established in connection with the proposed use.
- Indoor structure not to exceed 2,500 square feet, including space for entrances, egress, storage, and cooking facilities. Outdoor patio not to exceed an additional 1,200 square feet.
- Parking lots to be located in areas on the site where they will be the least visible from access roads and adjoining properties. One (1) parking space per three (3) restaurant seats.
- Refuse areas to be screened from view from offsite/ no closer than twenty-five (25) feet to any property.
- One (1) additional sign may be permitted to identify the Farm Winery Restaurant.
- Sound systems to be comply with the State of Connecticut DEP noise standards with regard to maximum decibel output (55dB daytime/45dB night time)."



## SUFFIELD, CONNECTICUT

Suffield is considered a state-wide leader in farmland preservation. As with many communities, the Town's 2010 Plan of Conservation and Development (POCD) provides a platform to develop policies and regulations that support agricultural operations. Farming is allowed by right in all residential, commercial, and industrial zoning districts. Farmer's markets are also allowed in all districts under special permit. Accessory buildings on farms must meet the same requirements for non-farm buildings, unless they are meant to house animals. Farms are allowed to store unregistered vehicles or farming equipment. The Town also enforces an agricultural buffer, which is required when a residential development is proposed next to a farm. The size of the buffer is based on the intensity of farming activities.

In 2008, the Town amended its zoning regulations to allow permanent farm stands, as long as they only sell what is grown or produced on the premises. The town also adopted a **winery regulation** in response to individuals that who wanted to grow grapes and make wine:

"Winery: an accessory building and use to an active farm that is used for growing, bottling, and the production of wine and wine products. Wineries may include activities such as: (1) retail sale of wine and related items; (2) a tasting room; (3) wine sales by glass or bottle; (4) wine tasting; (5) tours; (6) wine/food events and (7) wine festivals."



George Hendee, founder of the Indian Motorcycle Company, retired to Suffield in 1916 and spent the rest of his life building the Hilltop Farm, a showcase of modern agricultural techniques (Photo courtesy of Bill Hawkins, Town Planner).



Development rights to the Leahey Farm were preserved with the assistance of the Connecticut Department of Agriculture (Photo courtesy of Bill Hawkins, Town Planner).



Halladay Farm Stand: small stands are an important seasonal outlet for many of Suffield's farms.



Bielonko Farm's permanent farm stand.



Performance standards for wineries include:

- Special permit required.
- The winery building location must comply with section IV.M, requirements for principle buildings.
- The winery located on the premises of and accessory to an active farm with a minimum of five (5) acres.
- Outdoor display, sales or storage of goods or materials must comply with section III.P.
- All signs must comply with section IX.
- The Commission may limit the size and scope of a winery in relation to the size of the farm based on acreage and production.
- The winery shall be operated by the farm owner or the leaseholder.
- The stand must meet all state and local codes and health requirements.”

Suffield also has an interesting ordinance for Farm Boarding Houses: “a dormitory building with group sleeping accommodations, used as an accessory building and use to a farm, for the seasonal use of farm labor.”

To mitigate the potential impacts of such a use, the ordinance requires that:

- “No accessory building on the same lot with a principal building shall be used for residential purposes other than a farm boarding house...”
- [A Farm Boarding House] is permitted not less than 100 feet from a street or lot line and not less than 150 feet from the nearest residential building on land under separate ownership.”



While not as ubiquitous as it once was, tobacco remains a common crop in the Connecticut River Valley.



As in many towns, agriculture in Suffield has evolved from a reliance on wholesale dairy, tobacco and crop production to include a broad range of direct-to-consumer nursery plants, flowers, vegetables and other products.



Bielonko Farms



## BUCKLAND, MASSACHUSETTS

Buckland has a strong agricultural community and through its Master Plan, supports agriculture. In 2008, a Farm Building Reuse Bylaw was adopted. Through the master planning process, the Agriculture Commission and Planning Board saw that many farms had underutilized structures. They recognized that this might be an opportunity to give farmers another source of income, either through expanding its own operations or by renting the building. Research did not find other examples of communities addressing this issue, so the Town drafted the regulations based on what they considered reasonable.

In addition to the new bylaw, a provision was made to the Table of Use Regulations. The square footage of the use of an historic agricultural building or structure for agricultural manufacturing is not restricted. This ensures that, for example, a cheese processing operation on a dairy farm can continue to grow without having to fall under new regulatory requirements associated with industrial uses.



Buckland's winding roads are lined with historic farm structures, most of which no longer meet the needs of modern agriculture. The Farm Building Reuse Bylaw encourages adaptive reuse of these structures - bringing new uses into the agricultural landscape while preserving its character.

Buckland's **Farm Building Reuse Bylaw** allows for up to 5,000 square feet of enclosed floor area, which can contain business or professional offices or artisan/craft businesses. Performance Standards include:

- Building/Parcel Requirements prior to Reuse: No more than 50% of the acreage can be within the 100-year floodplain or within two hundred (200) feet of a perennial stream/body of water.
- Building must have at least thirty (30) foot setbacks for both side/rear yards.
- Layout and Design Requirements for the Farm Building Reuse Overlay District: Intended to protect the current historical, scenic, and economic values currently enjoyed by abutting landowners, residents, or the community at large.
- Access gained by way of a gravel/paved driveway.
- Employee parking shall have no more than ten (10) spaces per building/contiguous to the building.
- Existing landscape surrounding the structure should be maintained as much as possible.
- Outdoor/interior lighting designed so that it does not produce a strong direct light beyond the property's boundaries or onto a public way.
- Building materials used in the construction/renovation of the exterior shall be consistent with the existing structure's siding.
- Height not to exceed original structure.
- All utilities must be run underground."





## LEBANON, CONNECTICUT

Through its Plan of Conservation and Development, Lebanon wants to maintain agriculture as its dominant land use. This was supported by adoption of a Right-To-Farm ordinance in 2009. In the Rural Agricultural Residence District, Village Rural Agriculture District and Agricultural District, farming is allowed by right. Roadside stands are also permitted for the sale of agricultural produce, provided the main portion of such produce is produced on the premises, and for the sale of homemade products also made on the premises. To further protect farmers, Lebanon enforces a 100 foot agricultural buffer when one or more residences are proposed adjacent to actively farmed land. The intent is to discourage nuisance complaints and to put new residences on notice that farming is a way of life in Lebanon. The buffer is considered part of the open space requirement and, therefore, is not viewed as taking property rights away. Finally, the town exempts farm structures from restrictions on maximum building height.



Bluebird Hill Farm has a gravel parking lot screened from the road with a low wall, as well as a permanent enclosed sales building.



Lebanon's Town Common is a community focal point, and is lined with farms as well as residences and town buildings. Several have seasonal farm stands. A weekly farmers market brings in agricultural products from across the town.



Lebanon is blessed with extraordinary historic resource that attract visitors to a museum complex on the common. Accessory agricultural uses in the historic landscape surrounding the common need to be designed carefully to preserve the character of the area.



# Obstacles to Encouraging Appropriate Business Uses

## ZONING AND DEVELOPMENT REGULATIONS

Before the advent of zoning, landowners were able to build what they wanted without much interference. Chaos was avoided, however, in large part because of a strong shared building tradition that defined how rural areas, villages, towns and cities were designed and built across New England. Another factor was the practical limitations on where you could place certain uses and the kind of buildings that could be built, especially in the days before the automobile, structural steel framing, vinyl siding, and other modern conveniences. This kept rural towns rural, and tended to concentrate development in well-defined centers accessible to port facilities and railroads.

Nevertheless, conflicts between uses were inevitable. Zoning, which first came into widespread use in the 1920s, was intended to resolve these conflicts by separating incompatible uses and promoting rational growth patterns by clearly designating allowable future uses for every parcel of land. Unfortunately, most towns adopted zoning ordinances that oversimplified the existing mix of uses prevalent in both rural neighborhoods and town centers. Working farms and forest land – which were always essentially a mix of residential, business and open space uses – is most often zoned solely for residential use. Meanwhile, in many village and town centers which always had a mix of commercial, industrial and residential uses – sometimes in the same building – current zoning often makes it impossible to build according to the same pattern.

Development regulations often add to the unintended consequences of growth in rural areas. Some towns have subdivision road standards, for example, that require new roads to be much wider than the existing roads to which they connect. Parking standards have often been adopted verbatim from those more appropriate to suburban strip malls. Setback and frontage requirements also help spread new buildings across the landscape, making it hard to fit buildings into the varied topography and vegetative patterns that often characterize rural properties.



The suburban-style residential subdivision is often the only option for development in rural areas allowed by zoning - unfortunately it rarely fits in well with traditional rural land uses.

## COMMUNITY POLICIES.

For much of the 20<sup>th</sup> Century, gradual conversion of “vacant” farm and forest land into residential house lots was seen as progress, and community policies supported the process. Seen as a way to increase the tax base, conventional residential subdivisions are often the easiest thing to do under local zoning ordinances. Farms and forests don’t generate much tangible income (and are often subject to current use tax rates designed to promote conservation of open space). To financially-stressed towns, any kind of development seems preferable, especially when the increase in assessed value results in an immediate increase in tax revenue. It has been well-documented, however, that residential development usually requires towns to spend more to provide services than they receive in tax revenue. While farms and forests don’t pay as much per acre in taxes, they require little in the way of town services, resulting in positive net tax revenue. Unfortunately, many towns continue with policies that promote development as the “highest and best use” of the land.

This approach to development is difficult to change, since it has become embedded in the entire process, with the construction industry, banks, insurance companies and their design and legal teams doing their part, and town planners, boards and elected officials playing their roles as defined by local regulations. This makes the process relatively efficient and predictable, but as a result forces the design into a narrow range of common design solutions that treat every site as if it were the same blank slate. As a result, most residential subdivi-

sions are virtual clones of a thousand others. Where farms or forest operations are allowed to renovate or expand their business or light industrial uses, community policies generally push them toward safe, “suburban” models, with unnecessarily wide roads, too much parking, useless buffer zones, and pointless landscaping.



While often picturesque, farms are businesses, with a certain amount of mud, noise, dust and smells to be expected.

## NEIGHBORHOOD RESISTANCE

An inevitable outcome of focusing on residential development as the “highest and best use” is the incremental replacement of farm and forest land by residential subdivisions. New people move in, attracted by the beauty of the countryside, but unfamiliar with the realities of the working landscape that shaped much of that beauty. While many learn to appreciate the sights, smells and noises of a working farm or forest operation, many would rather not, and turn to the town for help. If all the farmers and loggers were perfect citizens this would probably be less of a problem. Unfortunately, as in any profession there is a broad range of philosophies, and not all of them are focused on enhancing the rural ambiance.

To protect the rights of farmers and to help maintain agriculture, Rhode Island has adopted the “Right to Farm” act, Chapter 2-23 of the Rhode Island General Laws. This law protects farmers from nuisance complaints related to essential farming practices (refer to Appendix A for the text of the act). Nevertheless, the real or imagined conflicts that result create an environment where asking the public to support additional business uses on working lands within residential zones can be an uphill battle.



Most people like farm animals, but would rather visit them than have to live next door.

## ASSESSMENT OF ZONING IN TYPICAL RHODE ISLAND COMMUNITIES

As part of this project, the Advisory Committee identified three Rhode Island communities for analysis to see what impediments their zoning ordinances might pose for agricultural or forestry businesses. The three communities selected, Exeter, Foster and Tiverton, literally form a cross section of Rhode Island’s working farm and forest landscape, with an interesting range of social, environmental and economic conditions.

All three communities allow some of the uses on farms and forests recommended in this guidance, while prohibiting many others. All allow home based occupations, for example, but none of the three towns allows for on site retail, other than farm products. Exeter allows farm stands by right but restricts the size of the stand to 200 square feet. In Foster there is also a 200 square foot size restriction and it requires a special use permit. Tiverton does not establish a size limit on farm stands but limits sales to agricultural products grown on site.

This is just one example of how all of the towns could benefit from re-examining their zoning use tables and eliminating restrictions that limit appropriate business uses. Moreover each of the three towns lacked enforceable performance standards for many allowed uses. None of the towns reported nuisance complaints with the business uses that are allowed, when they complied with the town requirements.

## EXETER ZONING REVIEW

Horsley Witten reviewed Exeter's Zoning Ordinance to determine how the town regulates uses on farm and forest lands. The first step was to review the Zoning Definitions to determine if the language is clear and consistent with what follows in the various other sections of the Ordinance .

**Assessment:** The Definitions section is the ideal location to expand on the permitted uses/standards by providing detailed definitions as well as ranges of use-intensities dependent upon parcel size. All acronyms should be spelled out and defined. Note that many of these definitions are written as mandated by the RI Zoning Enabling Act



Exeter is characterized by a working landscape of farms and forests: with marginal economic returns on traditional land uses, both are threatened by low-density residential development.

### Section 1.2 Definitions

(\* mandatory definition under RI Zoning Enabling Act)

\* *Accessory family dwelling unit.* An accessory dwelling unit contained within the principal unit for the sole use of one or more members of the family of the occupant or occupants of the principal residence, but need not have a separate means of ingress and egress.

\* *Accessory use.* A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. Such accessory use may be restricted to the same lot as the principal use. Such accessory use shall not be permitted without the principal use to which it is related.

\* *Agricultural land.* Agricultural land as defined in G.L. 1956, § 45-22.2-4.

\* *Day care, family day care home.* Any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six or less individuals who are not relatives of the care giver, but may contain more than a total of eight individuals receiving such care.

\* *Home occupation.* Any activity customarily carried out for gain by resident, conducted as an accessory use in the resident's dwelling unit.

*Landscaping business.* Any business whose purpose is to change or improve the natural scenery of a business or residence by placing or arranging trees, bushes, shrubs, ornamental grasses or other vegetation and also maintaining existing vegetation by pruning, mowing or other normal vegetative maintenance and also includes installation and maintenance of landscape features such as decorative ponds, waterfalls or other water elements as part of an overall landscape design.



## ARTICLE II ZONING DISTRICT USE REGULATIONS

Horsley Witten examined the Zoning District Use Regulations to determine if the types of accessory uses or home businesses discussed in the project are listed in the use table. Where they are not, HW highlighted where the Zoning Enforcement Officer might try to reference the Use Table if such a use were proposed or discovered.

**Assessment:** Exeter has defined many uses that could potentially be connected with farms or forest lots. However, for the purposes of the Use Table, Exeter regulates these non-residential uses as “primary” uses. So, for example, any manufacturing of vinegar is not allowed in the rural residential zones as it is likely only considered as a primary large-scale operation or industrial scale use. A home-based, artisanal vinegar operation is something that could easily be allowed through more specific definitions. Exeter will need to revisit how it defines these accessory uses on a more detailed level in order to allow for a wider range of home-based or farm-based businesses. The Use Table could also be expanded to incorporate many of the Farm/Forest-based ‘accessory’ uses discussed in this project including: retail sales (compost, manure, mulch); light manufacturing (crafts, cabinetry, tools and clothing; service businesses (conference center, contracting business, riding academy/tack shop); building re-use (business/professional office, artisan/craft business); and, and ag-tivities/agri-tourism (seasonal festivals, PYO operations, passive recreation).

### Section 2.1 Zoning Districts

2.1.1 Residential District, RE-2: to provide land suitable for residential development, at a density that would maintain an adequate water supply and suitable soil for individual septic disposal systems.

2.1.2 Rural District, RU-3: to provide adequate land suitable for low density residential rural development blended with forestry, farming and recreational activities.

2.1.3 Rural District, RU-4: to protect land now used for forestry, farming and related activities and the natural habitat and wildlife and to preserve the area’s rural character. Provides land suitable for low

density residential development and reserves land for future farming, forestry, conservation practices and recreational uses.

2.1.4 Conservation Recreation, CR-5: to preserve and protect an area abundant with natural resources, landscapes and native soils having severe limitations, and too provide for a natural mixture of residential and recreational uses.

### Section 2.4 Zoning Use Table

Use Category	District		
	RE-2	RU-3	RU-4
Home Occupations (as per Article IV, Section 2)	Y	Y	Y
Raising of animals/fowl by a resident of the premises not to exceed USDA animal unit equivalent w/out management plan by SRICD	Y	Y	Y
Farming; nurseries; forestry activities (cutting/buying/ selling of firewood) and excluding wood processing (listed as a special use). Buying/selling/breeding/ boarding of animals (except dogs) but not including raising of pigs for consumption of garbage disposal.	Y	Y	Y
Landscaping businesses			
Home Occupation	Y	Y	Y
Non-Home Occupation	N	N	S
Erection of roadside stand not to exceed 200 SF for the sale of agricultural products as accessory use	Y	Y	Y

Key to table:

Y(Yes): the use is permitted by right .

N (No): the use is not permitted.

S (Special Permit Required): the use is allowed by special use permit only.

Grocery, deli, bakery or other retail food stores	N	N	N
Arts and crafts shops	N	N	N
Personal service shops (tailor/dressmaking/barber/beauty/shoe repair/laundry and/or dry cleaning pickup/watch repair.	S	S	S
Antique, art, book/stationary, or gift shops	S	S	S
Florists, greenhouses and nurseries	N	N	S
Restaurants, taverns or catering establishments	N	N	N
Sale of lumber, building materials, hardware/grain/feed	N	N	N
Woodworking and furniture refinishing shops	N	N	N

Manufacture of food products other than from meat, vinegar, and yeast	N	N	N
Wood Processing	S	S	S
Bed & Breakfast	S	S	S
Family Day Care Homes	Y	Y	Y
Swimming areas, country clubs, golf courses, skiing and commercial horseback riding. Private/public fishing/hunting areas, sports clubs (excluding shooting ranges). Private/commercial campgrounds/recreation including sports clubs.	N	N	S
Manufacture of food products from meat, vinegar & yeast	N	N	N
Breweries or distilleries	N	N	N

## ARTICLE IV SUPPLEMENTARY REGULATIONS

Horsley Witten reviewed the Supplementary Regulations of the Exeter ordinance as these provisions specifically address “Accessory Buildings and Uses”, “Home Occupations” and “Operating Standards for all Uses”. The provisions were reviewed to see if this section provided any guidance as to which accessory uses would be allowed for farm and forest lots and whether specific performance standards are included. Relevant text from the Zoning Ordinance is provided at right.

**Assessment:** Home Occupations are allowed and Exeter has chosen criteria that appear more prescriptive than most, yet also leave much for interpretation, in the use of the term ‘beyond what is normal’. Also, the criteria may be limiting relative to employees, location, and coverage – particularly when considering the potential range of uses appropriate for forest lands. Standards for parking and business practices are set by other provisions of the ordinance.

### Section 4.1 Accessory Buildings and Uses

Accessory buildings and uses as defined include, but are not limited to, home occupations, accessory dwelling units, private garages, barns, carports, vehicle storage, recreational vehicle storage, boat and RV storage, outbuildings, greenhouses, swimming pools or any other structure.

In RE-2, RU-3, RU-4 and CR-5 are permitted which:

- Are clearly incidental to/associated with the principal use.
- Are operated/maintained under the same ownership and on the same lot as the principal use.
- Do not exceed 20 FT in height for detached bldgs., except for barns.
- Do not contain dwelling units.

### Section 4.2 Home Occupations

The Town wishes to encourage minor home-based activities, yet, it also recognizes that the need to protect the integrity of its residential areas is of paramount concern.



Criteria: Providing that all following conditions are met, no permit is required for home occupations, and license is automatically granted by the Town. However, all such commercial or business activities are required to be registered with the Town. (as per Article IV, Section 2):

- No Permit is required, automatic, however, all commercial/business activities to be registered with the Town.
- Residents only, with 2 assisting non-residents, otherwise Special Use
- Conducted entirely inside with no alteration to appearance and not conducted in a manner to differ from its residential character by colors, materials, construction, lighting, signs, or the emission of sounds, noises, or vibrations
- No more than 25% of GFA/500 SF
- No outdoor use of material/equipment not recognized as part of normal practices within the district.
- No storage/display of materials, goods, supplies of equipment related to operations visible from outside the premises.
- No material, equipment or process hazardous to public health, safety, morals, welfare, or which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the premises.
- No beyond-normal use of utilities or community facilities.
- Customers visits/deliveries of products, merchandise to/from shall not exceed normal occurrences.
- Will not generate pedestrian/vehicular traffic beyond what is normal.

Uses Allowed with Zoning Board approval:

- Barber shop, beauty salon, massage parlor
- Boarding, lodge or bed n' breakfast or more than 5 rooms
- Health care provider, medical, dental animal grooming facilities



Exeter has many former barns, mills and other structures which can easily be adapted to a range of accessory uses.

#### Section 4.3 Accessory Dwelling Unit

- In RE-2, RU-3, RU-4 and CR-5 one accessory family dwelling unit is permitted provided that:
- Shall only be located on a lot that complies with the plat area regulations of the district in which it is located
- Shall not have a separate entrance to the structure servicing only the accessory family dwelling unit
- Shall not be larger than 600 SF, or 30% of the GFA of the entire building, whichever is smaller
- Shall only be occupied by a family member, including by birth, adoption or marriage, of the principal occupant of the structure
- Shall not have separate utility connections and service
- Requires a Certificate of Occupancy

**Section 4.3 Assessment:** The requirements for accessory dwelling units may be limiting in size and occupancy, particularly for agricultural operations and housing for farm hands.

**Section 4.5 Assessment:** The standards for the top three bullet points leave much room for interpretation and would be better served if expanded/defined to include types/materials/sizes of screening appropriate for various uses.



Farm on the old New London Turnpike.

#### Section 4.5 Operating Standards for all Uses

All uses in all zoning districts are subject to the following operating standards:

- Noise/Vibration: shall be muffled, insulated or screened to min. vibration/deflect sound waves
- Glare, Light and Heat: shall be shielded beyond the limits of the lot
- Odor, Smoke and Dust: in concentrations that are noxious, toxic, corrosive or a nuisance shall not be permitted
- Waste: ISDS shall be approved by RIDEM before issuance of building permit
- Storm Water/Surface Water Drainage: Runoff shall be provided for on-site, with no net increase/discharge onto abutting properties, into fresh-water wetlands. Must be designed by a licensed engineer.
- Public Safety: location of all buildings, structure, parking, driveways, loading areas and the number/location/size/adequate supply of water shall be approved by Exeter Fire Department.



## FOSTER ZONING REVIEW

Horsley Witten examined the Zoning Definitions to determine if the language is clear and consistent with what follows in the various sections.

**Assessment:** The Definitions section is in the ideal location to expand on the permitted uses/standards by providing detailed definitions as well as ranges of use-intensities dependent upon parcel size. Foster's definition of customary Home Occupation demonstrates a local acceptance of the larger-scale home business activities that are identified as part of this project.

### Article II Definitions

(\* mandatory definition under RI Zoning Enabling Act)

*Accessory family dwelling unit.* An accessory dwelling unit contained for the sole use of one or more members of the family of the occupant or occupants of the principal residence, but not needing to have a separate means of ingress and egress.

\* *Accessory use.* A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. Such accessory use may be restricted to the same lot as the principal use. Such accessory use shall not be permitted without the principal use to which it is related.

\* *Agricultural land.* Agricultural land as defined in R.I.G.L. § 45-22.2-4.

*Customary Home Occupation.* Any occupation which may normally be carried on in a residence by the occupant without the provision of normal business or industrial equipment and displays except for simple tools and machinery designed for home use. No structural alteration to the residence and no nuisance to neighboring dwellings and may include: knitting, sewing, cooking, handcrafts, artist, dressmaker, teacher, author, lawyer, architect, accountant, or consultant.

\* *Day care, family day care home.* Any home other than the individual's home in which day care in lieu of



Foster is marked by rolling topography, winding roads and small farms.

parental care or supervision is offered at the same time to six or less individuals who are not relatives of the care giver, but may contain more than a total of eight individuals receiving such care.

\* *Home occupation.* Any activity customarily carried out for gain by resident, conducted as an accessory use in the resident's dwelling unit and may include: small engine repair shop, weaving, book binding, chair caning.

\* *Recreational Events and Amusements (Open).* Outdoor recreational events that are temporary and characteristic of the town and cause minimal noise, traffic and inconvenience to neighboring properties (horse shows, art shows).

### Article III Zoning Districts

#### Section 1. AR Agricultural/Residential

This District is characterized by a mixture of low density residential and farming uses with certain light industrial uses requiring special use permits. This district is designed to help preserve the rural character of the Town, to regulate the development of the Town so that the tax base will be adequate to support necessary public expenditures, to protect land now used for agriculture and forestry from haphazard encroachment and to safeguard the health, safety and welfare of the residents of the District.

## ARTICLE IV ZONE REGULATIONS/ USE TABLE

Horsley Witten examined the Zone Regulations to determine if the types of accessory uses or home businesses discussed in the project are listed in the use table. Where they are not, HW highlighted where the Zoning Enforcement Officer might try to reference the Use Table if such a use were proposed or discovered.

**Assessment:** Foster has defined many uses that could potentially be connected with farms or forest lots. However, for the purposes of the Use Table, it could be expanded to incorporate many of the Farm/Forest-based uses discussed in this project including: retail sales (compost, manure, mulch); light manufacturing (crafts, cabinetry, tools and clothing; service businesses (conference center, contracting business, riding academy/tack shop); building re-use (business/professional office, artisan/craft business); and, and ag-tivities/agri-tourism (seasonal festivals, PYO operations, passive recreation).



Garden in Foster Center

X = Permitted

S = Special Use Permit

O = Not Allowed

Description of Uses	District - AR
<b>Section 1 Agricultural Uses</b>	
Raising of animals for home use	X
Raising of animals for sale or for sale of animal products Maximum of 35 animals on 5 acres or less: 5 additional animals for each additional acre over 5 acres Animals exceeding above, See Article VI, Section 19 for Supplementary Regs.	X S
Raising crops and forest products	X
Commercial nursery structures	S
Poultry farm with capacity for more than 10,000 birds	S
One 200 SF wooden building not less than 120 SF wooden building, not for the purpose of housing animals.	S
<b>Section 2 Residential Uses</b>	
Community residences and family daycare homes	X
Lodging/guest house/bed n' breakfast animals but not the raising of swine.	S
Customary home occupation	X
<b>Section 3 Open Recreation Uses</b>	
Open rec. events and amusements	S
Campground	S
<b>Section 4 Public and Semi-Public Uses</b>	
General purpose hall for recreation, social or other int. functions	S
<b>Section 5 Office Uses</b>	
Professional office in the home	X
<b>Section 7 Business</b>	
Barber, beautician, shoe repair, tailor, laundry pickup and similar service shops	S



Antique shop, gift shop, florist shop, pet shop, and similar specialty shops	S
Fruit and vegetable stand and grocery variety store	S
<b>Section 11 Industrial Uses</b>	
The manufacture, compounding, processing, or packaging of bakery goods, candy, cosmetics, drugs, food products (excluding meat, fish, yeast, vinegar and the rendering of fats and oils) and other similar operations	O
The manufacture, compounding or assembly of articles using shell, cellophane, plastic, fur, glass, leather, precious metals or stones, wood, textiles or tobacco and other previously prepared products	O
The manufacture and assembly from prepared materials of musical instruments, precision instruments, clocks, toys, novelties, appliances, electronic devices, metal products, machine tools and machinery (not requiring the use of drop hammers and punch presses over 100 tons) and other similar products	O
Blacksmith or welding shop	O
Woodworking or cabinet making	O
Ceramics or pottery manufacture	O
Brewery or distillery	O
<b>Section 12 Accessory Uses</b>	
Any use customarily incident to a use permitted in the district and located on same lot	X
Any use customarily incident to a use permitted in the district as a special use permit and located on same lot	S

X = Permitted

S = Special Use Permit

O = Not Allowed

### Section 13 Dimensional Regulations

#### AR Agricultural District

min. lot size:	200,000 SF
min. lot frontage:	300 Feet
min. lot width:	300 Feet
front yard:	50 Feet
side yard:	100 Feet
rear yard:	20 Feet
max. building coverage:	3%
max. building height:	35 Feet

### Section 14 Prohibited Uses

- Brewery or distillery
- Commercial slaughterhouse



The Colwell Farm, founded in 1765, is currently home to a boarding stable, an herb and perennial shed, and Noah's Suitcase, an apparel and toy business catering to cats and dogs.

## TIVERTON ZONING REVIEW

Horsley Witten examined the Zoning Definitions to determine if the language is clear and consistent with what follows in the various sections.

**Assessment:** The Definitions section is the ideal location to expand on the permitted uses/standards by providing detailed definitions as well as ranges of use-intensities dependent upon parcel size. Tiverton also has included a new term, “Low influx sustainable agriculture (LISA)” that was not observed within the document outside of the definitions section.



As in towns throughout New England, agriculture has changed in Tiverton, with equestrian uses supplementing traditional dairy farms (above), and old cow barns awaiting new uses (below).



### Article II Definitions

(\* mandatory definition under RI Zoning Enabling Act)

**\* Accessory use.** A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use. Such accessory use shall not be permitted without the principal use to which it is related.

**Agricultural land.** Land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes. Agricultural land includes that defined as prime farmland or additional farmland of statewide importance for RI by the Soil Conservation Service of the US Dept. of Ag.

**Aquaculture.** The cultivation, rearing or propagation of aquatic plants or animals under either natural or artificial conditions.

**Bed and Breakfast.** A single-family dwelling offering transient lodging accommodations to the general public within a portion of said dwelling, and which must include limited food preparation and the serving of food within a common area.

**Campground.** An area which provides sites and sanitary facilities for the overnight parking of motorized dwelling units, camping trailers, tents and other similar structures. A campground may be commercial, public or private enterprises.

**\* Day care, family day care home.** Any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six or less individuals who are not relatives of the care giver, but may contain more than a total of eight individuals receiving such care.

**\* Home occupation.** Any activity customarily carried out for gain by resident, conducted as an accessory use in the resident's dwelling unit.

**Low influx sustainable agriculture (LISA).** Agriculture techniques that promote the use of biological interactions and cultural practices over the use of agricultural chemicals. The goal of LISA is productive, profitable farming that protects natural resources and is economically sustainable. It includes such measures as integrated pest management, crop and livestock



diversification, soil and water conservation practices and green manures whose application reduces the need for purchased pesticide and fertilizer input.

**Professional Home Office.** Not more than one office or studio of a physician, dentist, attorney, architect, engineer, land surveyor, real estate broker, accountant, insurance agent or other professional person licensed by law or certified by a recognized professional society or agency and providing professional services, residing on the premises, and having not more than one employee or associate, and utilizing not more than 250 SF of GFA.

**Residential Arts and Crafts.** The creation of art objects or functional items by a person residing on the premises, provided the following standards are met: no heat, smoke, glare, dust, odors, vibration or offensive noise detectable beyond the edge of the lot; no outside storage of materials; and no substantial increase in traffic. Does not include tattoo parlors.

## ARTICLE IV DISTRICT USE REGULATIONS

Approach: HW examined the Zoning District Use Regulations to determine if the types of accessory uses or home businesses discussed in the project are listed in the use table. Where they are not, HW highlighted where the Zoning Enforcement Officer might try to reference the Use Table if such a use were proposed or discovered.

**Assessment:** Tiverton has defined many uses that could potentially be connected with farms or forest lots. The Use Table could be expanded to incorporate many of the Farm/Forest-based 'accessory' uses discussed in this project including: retail sales (compost, manure, mulch); light manufacturing (crafts, cabinetry, tools and clothing; service businesses (conference center, contracting business, riding academy/tack shop); building re-use (business/professional office, artisan/craft business); and, and ag-tivities/agri-tourism (seasonal festivals, PYO operations, passive recreation).

## Article III Zoning Districts

### Section 1 Establishment of Districts

**Residential R-80:** This district contains areas of the town which are composed of agricultural uses, low density residential areas and certain open spaces for which development at a density at or lower than one dwelling unit per 80,000 SF is considered appropriate. The R-80 District consists of the residential portions of the entire area of Tiverton south of Bulgarmarsh Rd.

**Open Space/Conservation OS:** The district includes areas of coastal land and open space which are either owned publicly or by a private land conservation entity (e.g. land trust, Nature Conservancy, Audubon Society) and which are protected for one or more of the following purposes: keeping the land in a natural undeveloped condition, providing passive recreational opportunities to the public, and preserving specific habitat areas or agricultural uses. The district does not include undeveloped land which is privately owned but unprotected or protected by means of the purchase of development rights by the town or state, nor does it include land set aside as common open space as part of a rural residential development.

P = Permitted					
S = Special Use Permit					
N = Not Allowed					
Use Category	District				
	R-30	R-40	R-60	R-80	OS
Section 2 Residential Uses					
Family Day Care	P	P	P	P	N
Bed & Breakfast	S	S	S	S	N
Home Occupation carried on by the occupant of the residence, including arts/crafts, excluding sales of such items	P	P	P	P	N
Sale of agricultural products grown on the premises	P	P	P	P	N

Use Category	District				
	R-30	R-40	R-60	R-80	OS
Accessory bldg. including a garage, shed, studio and any other bldg. incidental to/located on the same lot	P	P	P	P	N
Section 3 Farming or Raising of Animals					
Commercial raising of crops, including associated greenhouse or nursery stock	P	P	P	P	S
Commercial raising of animals or fowl, includes kennels for the raising/boarding/sale of dogs/cats/other fur-bearing animals but not the raising of swine.	N	S	S**	S**	N
An accessory bldg./structure for the display/sale of the	P	P	P	P	S
agr. products produced by the uses allowed on said land.					
Accessory bldg. including a garage, greenhouse, stable, barn, pen, coop, kennel, crib, silo and any other bldg., equipment or activity incidental to/necessary for/located on the same lot	P	P	P	P	S
Aquaculture	N	S	S	S	N
Section 6 Open Recreation Uses					
Riding stable or academy	N	S	S	S	N
Campground	N	S	S	S	N
Section 7 Office Uses					
Professional Home Office	S	S	S	S	N

Use Category	District				
	R-30	R-40	R-60	R-80	OS
Section 9 Service Business					
Personal convenience services, including but not limited to:	N	N	N	N	N
barber shop, beautician, shoe repair, tailor					
Specialty services, including but not limited to: printing shop, photo studio, int. decorating shop, catering services	N	N	N	N	N
Electronic or appliance repair shop	N	N	N	N	N
General automotive repair shop	N	N	N	N	N
Section 10 Retail Business					
Retail sales accessory to the manufacture/assembly of	N	N	N	N	N
products on the premises					
Retail sales of agricultural products, the majority of which are not grown on the premises	N	N	N	N	N
Section 13 Industrial Uses					
Manufacturing, storing, processing, fabricating activities in	N	N	N	N	N
conformance with Article XIII					
<p>** Commercial raising of animals or fowl shall become a use allowed by right rather than a special use permit where the subject property is five acres or greater in area.</p> <p>P = Permitted S = Special Use Permit N = Not Allowed</p>					



## Article V District Dimensional Regulations

### Farming/Raising of Animals (R30)

min. lot width	front yard	rear yard	side yard	bldg. coverage	height (main)	Height
40,000 SF	150 FT	40 FT	50 FT	15 %	35 FT	20 FT

### Commercial Raising of animals/fowl (R40)

100,000 SF	200 SF	40 FT	60 FT	10 %	35 FT	40 FT
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### Other uses allowed under Article IV, Section 3 Farming/Raising of animals (R40)

40,000 SF	150 FT	40 FT	60 FT	15 %	35 FT	20 FT
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### Commercial Raising of animals/fowl (R60)

100,000 SF	200 SF	40 FT	60 FT	10 %	35 FT	40 FT
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### Other uses allowed under Article IV, Section 3 Farming/Raising of animals (R60)

60,000 SF	175 FT	40 FT	60 FT	20 %	35 FT	20 FT
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### Commercial Raising of animals/fowl (R80)

100,000 SF	200 SF	50 FT	100 FT	10 %	35 FT	40 FT
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### Other uses allowed under Article IV, Section 3 Farming/Raising of animals (R80)

80,000 SF	200 FT	50 FT	100 FT	15 %	35 FT	25 FT
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### Commercial Raising of animals/fowl (GC)

100,000 SF	200 SF	40 FT	60 FT	10 %	35 FT	40 FT
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### Other uses allowed under Article IV, Section 3 Farming/Raising of animals (I)

40,000 SF	150 FT	40 FT	60 FT	15 %	35 FT	40 FT
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## ARTICLE VI OTHER DISTRICT DIMENSIONAL REGULATIONS

Horsley Witten reviewed the Other District Regulations of the Tiverton ordinance as these provisions specifically address “Accessory Structures” and “Home Occupations”. The provisions were reviewed to see if this section provided any guidance as to which accessory uses would be allowed for farm and forest lots and whether specific performance standards are included. Relevant text from the Zoning Ordinance is provided below.

**Assessment:** The requirements for Home Occupations appear more prescriptive than most, yet, also leave much for interpretation, in the use of the term ‘result in a substantial increase in traffic’. Also, the criteria may be limiting relative to location, and coverage – particularly when considering the potential range of uses appropriate for forest lands. Standards for parking and business practices are set by other provisions of the ordinance.

### Section 3 Accessory Structures

b. In a residential district, a permitted accessory structure may cover up to 25 percent of the rear yard area, but may not be placed closer to a boundary line than the minimum side or rear yard requirements of that district, unless the structure is on a temporary footing, in which case it may not be placed closer than five feet to any lot line.

### Section 6 Home Occupation

Home Occupation is allowed as an accessory use within all residential zoning districts, provided that it conforms to the following requirements:

- The occupation is clearly incidental to the use of the dwelling as a residence.
- It is conducted entirely within the dwelling only by members of the residing family.
- No more than 200 SF of GFA is devoted to such use.
- It does not create a nuisance to neighboring dwellings or result in a substantial increase in traffic.
- There is no exterior building alteration or evidence of the occupation.

# Performance Standards

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Traditional zoning and development regulations are most effective where every possible site is more or less identical, as in a city street or suburban office park. They produce a predictable result by setting down specific dimensions, setbacks, lot coverage and other design requirements for each aspect of the project. In complex rural landscapes, however, these “one size fits all” density and dimensional requirements often result in a host of unintended consequences. In the right locations, the use of Performance Standards offers a better solution to



**In the complex rural landscape, the best approach to development is to reuse historic structures and cluster new uses together, options that require a flexible approach to dimensional standards and other regulations.**

this challenge, especially when dealing with “by-right” development. Rather than defining the specific design standards for how to build everything, performance standards focus more on the desired outcome, and allow a certain amount of flexibility for how that outcome should be achieved. For example, instead of trying to identify every possible accessory use that could occur on a farm, performance standards can allow for more general categories of use, but prevent negative impacts by requiring greater attention to buffers, visual screening, etc.

To be useful as a regulating tool, Performance Standards should be simple, predictable and enforceable. Practicality demands that what is required fits generally into the common range of construction processes. Predictability means that the standard has a clearly defined and measurable outcome. Enforceability requires that the adherence to the standard can be measured and documented with the tools available -- recognizing that rural towns often have much less staff capacity, equipment and funding to manage complex enforcement requirements. The performance standards exam-

ined as part of this project vary in how well they meet these three criteria and communities will need to consider the trade-offs associated with applying them to local conditions. Legal staff should be consulted when working to define standards that best fit the needs of the town involved.

In effect, performance standards often combine a description of desired outcomes with specific dimensional or density requirements that clearly state the range of acceptable solutions. Usually this is expressed as a minimum or maximum number, depending on the critical issue at hand.

As part of this project, ordinances from communities throughout New England were researched to examine how different rural towns regulated different activities. The range of topics addressed in the research and the different approaches to regulation are diverse. The following examples describe the type of standards or thresholds that are most commonly covered with a brief description of why these standards are useful or how they may be applied. A more detailed presentation of these uses is provided in the Regulatory Guidance in Section VI of this report.

## 1. MINIMUM LOT SIZE AND SETBACKS

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Two basic standards covered by many zoning ordinances for specific activities include minimum lot sizes and setbacks. Although these standards are considered a “blunt” approach to regulating site design, they can be useful in setting some basic minimum thresholds for allowing home businesses or other accessory uses. Minimum lot sizes and setbacks from neighboring properties will not likely be a “one size fits all” situation and local planners may want to consider different standards for different uses. Different standards may also be applied based on whether the accessory use occurs on a farm versus a forest lot.

Local planners and Planning Boards will also want to consider how additional standards, such as landscape buffering (discussed below) can help to strengthen the effect of setbacks between a home business and a neighboring property.

## 2. LOCATION OF USE

In the research performed for the project, one of the important thresholds identified by several communities deals with the location of the use in question. Impacts to neighboring properties may be different depending on whether a use occurs inside the primary residence (as with home occupation), in an accessory structure (such as a garage or a barn), or takes place outside. The size of the parcel in relation to that of abutters is also very important. Communities will want to carefully consider the different impacts that could occur in these distinct situations and tailor performance standards accordingly.

## 3. PARKING

Parking requirements will vary on the type and scale of a proposed accessory use, but can be regulated in the same basic manner as a conventional parking schedule in the Zoning Ordinance. In general, the number of employees, the scale of the business, the location on the site, and the potential for equipment storage were the factors used to set the required parking. What communities may wish to address more specifically is the location of parking on farm and forest lots and the manner in which buffering and surfacing are designed. Alternative surfaces such as crushed stone and well designed landscape buffers may help to soften the visual impact of these areas.



Parking for rural uses can have a simple pervious surface such as this gravel lot, but should still be carefully designed and surrounded with trees and other landscaping

## 4. SIGNAGE

Signage related to farm or forest lot businesses are unique and planners will need to consider the size, location and design of allowable signs carefully. Guidance that is too vague can lead to makeshift signage that detracts from the character of neighborhoods and landscapes. Guidance that is too strict can provide an impediment to small business viability. Planners will need to carefully consider local conditions and the need for different levels of visibility to help with small business development. Planners will also need to consider the difference between permanent signage for year-round operations versus temporary signage that may be used for festivals or other special events.



Well-designed signs are easy to read and communicate clearly, but also fit into the particular site and neighborhood where they are located.

## 5. TEMPORARY STRUCTURES AND STORAGE

Farm and forest lot small businesses may benefit from the use of temporary structures such as large retail stands, small food service stands, and similar structures. The extent to which these can be regulated by a zoning ordinance is generally confined to applying setbacks or other dimensional requirements. Planners can recommend that applicable licensing requirements spell out the other conditions of operation such as daily hours of operation, the types of goods being sold, and the length of time the structure will be standing. The storage of equipment or other business related items is also something that planners will want to consider. As with temporary structures, ensuring setbacks, screening or other applicable standards from the zoning ordinance will be important.





Temporary structures and displays allow businesses to expand and contract with the seasons with minimal investment, while adding life to the street that would be impossible with a more traditional enclosed structure.

## 6. LANDSCAPING/SCREENING

In addition to dimensional setbacks, landscaping and buffering can be required to mitigate visual and other nuisance-related impacts from business activities. Examples of requirements found in the project research include those for outdoor storage facilities, machinery, dumpsters and any other use that may be visible or audible from neighboring properties.

## 7. NUISANCE STANDARDS

Nuisance-related standards generally deal with impacts from dust, vibration, smoke, glare, odor, etc. While many Zoning Ordinances have stock language that states the municipality may prohibit uses that will create unreasonable nuisances, it is very difficult to enforce the control of nuisances through zoning. For example, it is simply not practical to expect that town employees can travel to a site at a moment's notice to deal with a noise complaint. Planners may want to turn to other sections of the local Code of Ordinances to put standards in place that are more easily enforceable related to noise or similar impacts.

## 8. OTHER AESTHETIC CONSIDERATIONS

The introduction of business use into an agricultural or rural residential setting can have impacts on the “community character” of an area if specific design elements are not considered. Depending on the anticipated level of visibility in different neighborhoods, local planners may wish to place limited performance standards for architectural or site design elements to protect scenic resources or community character.

## 9. LICENSING REQUIREMENTS

Some farm or forest lot operations may include activities that require state and/or local licensing. The selling or processing of food, for example, would require oversight at the state level and specific licenses. Special events would also require licensing at the local level. Planners will want to be involved with these discussions to understand specific allowances within licensing such as hours of operation, the number of times a special event can occur, the duration of seasonal events, etc.

# Bringing it Together: The Farm and Forest Lot Small Business Regulatory Guidance



## INTRODUCTION

The research that occurred as part of this project found that towns are allowing some limited businesses on farms but very few encourage businesses on forest lots. The following guidance represents examples of how communities can expand the list of allowable uses to maintain working farms and forests and encourage more small businesses. As with any sample language provided for a project of this nature, **this document cannot be simply copied into an existing Zoning Ordinance in its current form.** Local officials will need to tailor the language to their own definitions and processes, and there are several “policy decisions” noted for consideration. Local officials are encouraged to review the language within this guidance, and any adjustments that may be developed locally, with their legal counsel.

The guidance developed for this project represents a performance-based approach to local land use regulation. This approach relies less on trying to appropriately select all of the individual uses that should occur in a given area. Instead of focusing primarily on **what** will get developed, form-based codes rely more on **how** things are developed and designed. In accordance with that approach, this guidance relies less on **what the uses are**, but more on **how they perform** in the particular site and the context of the existing neighborhood. To implement this approach, the regulatory guidance offers four basic steps of regulatory review:

**1) Eligibility:** Based on the definition of a “farm lot” or a “forest lot”, is the property owner eligible to participate in small business development?

**2) Allowed Use:** The second basic step in using the guidance is to see whether the desired use is allowed. A list of uses is provided. Several of the uses listed are actually broader categories of use (e.g. on-site retail; personal service business; etc.) Providing these broader categories is consistent with a performance-based approach and will allow communities to get away from problems with how to classify very specific uses (i.e. “What is it?”) and focus more on the potential impacts to the neighborhood (i.e. “How does it perform?”).

**3) Classification:** Once a property owner determines that he or she can potentially perform the desired use, the use must be “classified”. A series of use intensity thresholds is provided to determine the proper classification for the proposed use. Uses may be ranked from “Class I” (least intense) to “Class IV” (most intense).

**4) Applicable Standards:** Once a property owner knows the use is allowable and the intensity classification, he or she must build and/or operate the use in accordance with the performance standards associated with each classification.



The Farm and Forest Lot Small Business Regulatory Guidance begins on Page 38. As a precursor to the guidance, which is a more technical document, the following examples are provided to illustrate how a farm stand would be regulated under the performance based approach. For the purposes of these examples, the first step listed above (eligibility of the lot) is presumed to be satisfied.

### FARM STAND SCENARIO #1:

Joe Gardner owns a large lot and grows far more tomatoes and cucumbers than he and his family can eat. Joe would like to place a couple of card tables next to his driveway and display produce for sale. He plans to run the stand himself, or with help from his daughter.

#### ***Is the use potentially allowable under this ordinance?***

Yes, as “on-site retail”.

#### ***What is the classification of the use?***

The most intense thresholds that Joe triggers in the classification section of the ordinance are located in “Class II”. These include:

1. The use occurs outside of the primary residence either outdoors, at a roadside stand, or in an accessory structure.
2. The use is designed to generate income through on-site retail sales, but does not require the labor of employees that do not live at the residence.

This intensity of activity is simply allowed as a matter of right and does not trigger any permit review procedures. However, Joe’s use would need to comply with the applicable performance standards associated with a Class II Use. Note that some activities may require local licensing that may further regulate issues such as hours of operation.

### FARM STAND SCENARIO #2:

Suzy Grower owns a small farm and grows a wide variety of produce at a scale that goes well beyond what can be consumed at home. Suzy would like to construct a roughly 400 square foot farm stand that would sit within her front yard setback. As part of the operation, Suzy would like to set aside enough space for eight cars to park.

#### ***Is the use potentially allowable?***

Yes, as “on-site retail”.

#### ***What is the classification of the use?***

Suzy’s stand is more intense than Joe’s and triggers two criteria located in “Class III”. These include:

1. The use is designed to generate income through on-site retail sales.



A South County Farm Stand

2. The use requires maintaining a parking area that could accommodate more than four (4) but no more than eight (8) automobiles. Suzy’s use is therefore regulated in accordance with the performance standards associated with any Class III Use.

### FARM STAND SCENARIO #3:

Janet Farmer owns a significant farm operation and grows acres of produce at a large scale. Janet would like to diversify her business further through the development of a large farm stand (covering approximately 800 square feet) that serves as a local attraction. As part of the operation, Janet would like to set aside enough space for 24 cars to park. She will have several seasonal full-time staff and products will include a small food service stand where grilled pizza, veggie burgers, falafel and soft drinks will be sold.

#### ***Is the use potentially allowable?***

Yes, as “on-site retail” and “café/limited food service”.

#### ***What is the classification of the use?***

Janet’s operation is more intense than Joe’s or Suzy’s, and triggers two criteria located in “Class IV”. These include:

1. The use shall require the installation of more than eight (8) parking spaces;
2. The use includes regular service of food and/or beverage.

Janet’s use is therefore regulated in accordance with the performance standards associated with any Class IV Use.



This guidance is constructed so that the classification system (not necessarily the use) drives the associated performance standards and, as illustrated with the farm stand example, the scale and intensity of the use determines how it will be regulated. Another example that is useful to consider deals with food processing. Within this guidance, all manner of food processing would be grouped under the use “on-farm processing”. However, the scale of the operation and whether the processing includes animals will drive whether this use is regulated more or less intensely. Similarly, farms that host small educational demonstrations will be regulated differently than farms that have corn mazes and weddings. In summary:

**the more intense the use...**

**the greater the scrutiny...**

**the tighter the performance standards.**



Young Farm, Little Compton

### THREE OPTIONS FOR ALLOWING BUSINESS ACTIVITIES IN RESIDENTIAL ZONES

It is important to note that the guidance is designed to provide communities with three broad options to allow business activities within residential zones.

**The first option** is to allow a limited number of uses with no defined performance standards. This method is used by other towns researched for this project, and is recognized as a simple approach for communities. As one example, the Town of Little Compton, RI allows the following by right in the residential and business zones:

Agricultural uses: including the growing, processing, value added production, displays, education, promotion and sales of agricultural products including but not limited to wineries.

Aquacultural uses: storage of nets, sealed bait barrels, lobster traps, and related fishing equipment.

The tradeoff of this simple approach is that, because of its broad-stroke nature, it tends to limit the scope of potential business activities that some farm and forest owners may desire. A broader scope of uses may be what some land owners need to generate the income necessary to prevent selling their land for development. Moreover, since there are no performance standards, it would be very difficult to control the intensity of any of the uses allowed by right. For example allowing processing by right could lead to a

slaughter house for animals that may not be appropriate on some parcels and create nuisance issues for adjacent property owners.

**The second option** is to allow more small business activities by right that would typically be allowed in most community ordinances for farm or forest lots, but control the uses with reasonable performance standards. If a land owner meets the definitions of farm and forest lot and the proposed use is allowed by right, they can go forward with the use as long as they comply with the designated performance standards. There would not be any community review or approval needed other than any licensing requirements that may apply.

**The third option** is similar to the second option with the critical difference of required town review and approval of the proposed use before it would be allowed. Referring back to the three farm stand scenarios as examples, farm stand scenario #1 would not require any community review or approval, farm stand scenario #2 would require an administrative development plan review, and farm stand scenario #3 would require a development plan review from the Planning Board. Communities can decide for themselves what level of review and approval, if any, they believe is appropriate to meet their needs.

## THE FARM AND FOREST LOT SMALL BUSINESS REGULATORY GUIDANCE

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### Potential New Definitions

*The Rhode Island Zoning Enabling Act provides a list of common definitions which towns must use if they include the same terms in their ordinances. Where no definition exists for a term, towns may create their own. The following sample definitions relate to the actual uses identified as small business opportunities in the regulatory guidance. Definitions provided here were researched from a variety of sources including the community case studies developed for the project and A Planner's Dictionary, APA PAS Report 521/522, April 2004. It is important to note that most definitions do not include any restrictions on size or other measurable characteristics, leaving those measures to be regulated within the performance standards. Planners will need to review their own definitions before adopting any of these to ensure there are no conflicts or to make necessary adjustments for local conditions. Any numeric thresholds that can easily be adjusted to local preference are placed in **[brackets]**.*

**Accessory Structure:** A building, structure or use on the same lot or another lot in common ownership with, and of a nature customarily incidental to the principal use or structure, provided the building, structure or use shall be constructed after or concurrently with the principal structure.<sup>1</sup>

**Artisan Business:** Business used principally for the repair, manufacture and sale of domestic furniture, arts and crafts.

**Active Recreational Activities:** Leisure, sports or game activities that have any of the following characteristics:

- The activity is designed for competitive team participation, or
- The activity requires significant alteration to the landscape; or
- The activity involves the use of uniforms or organized sports equipment; or
- The activity involves significant levels of physical exertion.

**Artisan Business/Craft Production:** A service business in which a craftsperson produces and sells individually crafted goods or wares produced on-site including, but not limited to, pottery, furniture, artwork, clothing, jewelry, and fishing lures.

**Bed and Breakfast:** A private owner-occupied business that offers sleeping accommodations in up to **[four (4)]** rooms and a morning meal for guests.

**Limited Food Service:** On a Farm Lot, the preparation of food or beverage to order in a setting that provides no more than **[eight (8)]** indoor seats and **[twenty (20)]** outdoor seats and operates as an accessory use clearly subordinate to the farm operation.

**Commercial Fleet Vehicle:** Any vehicle bearing or required to bear commercial license plates and which falls into one or more of the following categories: 1) truck tractor; 2) semi-trailer including flat beds, stake beds, roll-off containers, tanker bodies, dump bodies, and full or partial box-type enclosures; 3) vehicles that are commonly used for the delivery or bulk supply items including those vehicles for the transport of contractor tools and supplies; 4) tow trucks or vehicle repair service trucks; 5) commercial hauling trucks; 6) vehicle with equipment attached for plowing or grading; 7) any construction vehicle such as a bulldozer, backhoe, etc.

**Competitive Equine Enterprises:** Facilities that house and host horses for the purpose of fee-based horse riding

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<sup>1</sup> The definition provided for Accessory Structure is adapted from stock language that was originally provided by the courts and has become generally accepted. One important difference with this definition from what is commonly used is that the accessory structure is not described as "subordinate to" the principal use. Although many local officials understand the intent of that phrase, it can cause confusion when a barn is larger than a primary residence. Note that "Accessory Dwelling Unit" and "Accessory Use" are defined in RIGL 45-24-31.

competitions, not including horse track racing.

Conference Center/Meeting Space: On a Farm Lot, an indoor facility used to convene members of a service organization, business or professional community, or other organized group in forum that requires an invitation or registration.

Equestrian Supply Store: A retail establishment supplying goods specifically for horse-related activities and husbandry.

Farm Animal Food Production and Service: On a Farm Lot, the processing of non-animal based food materials grown on-site for sale to livestock owners.<sup>2</sup>

Farm-Based Light Manufacturing: Assembly, processing or production of goods that can generally be performed by hand, through the use of hand-held machinery, or through the use of readily available workshop machinery. Light manufacturing shall not include any activity that requires machinery which, by its scale, is typically associated with manufacturing plant operations, uses hazardous liquid materials other than fuel in volumes greater than 25 gallons, or produces goods in a volume that exceeds the storage capacity of the site where the manufacturing occurs. Light manufacturing shall not include any process that requires the actual fabrication of any rubber, plastic or similar raw material or changes the chemical composition of these materials through excessive heating or cooling.<sup>3</sup>

Farm Demonstration Projects: On a Farm Lot, the use of a portion of customary farm operations as an educational forum where small groups visiting the farm will observe the operation and be taught, trained or guided on aspects of said operation.

Farm Lot – Land that has the following elements:

- At least **[five (5) acres]** of contiguous land dedicated to or available for agricultural production;<sup>4</sup>
- One platted lot or more than one platted lot in a contiguous group;

Forest Lot: Land that has the following elements:

- At least **[ten (10) acres]** of contiguous forest, meadow or other naturally functioning landscape;<sup>5</sup>
- One platted lot or more than one platted lot in a contiguous group;

Home-Based Contractor: The use of an owner-occupied dwelling or of a building accessory thereto as a place for incidental work and storage in conjunction with an off-site trade by a resident builder, carpenter, electrician, painter, plumber, logger, or similar contractor, where such use is clearly subordinate to the primary use of the premises as a residence.

Home Repair or Appliance Repair Service Business: A facility providing repair services for appliances or other household items. Said service may operate either in the site of the business owner or as a house call service.

2 Note the differences here between the definitions for Farm Material Processing and Limited Food Processing.

3 Definitions for Light Manufacturing were found to be the most varied in research performed for this project. It is recommended that communities examine this definition closely and consider tailoring it to local conditions and planning objectives.

4 The minimum area of five acres is used here as an example. This value is based upon definitions for farm land used by the Agricultural Land Preservation Commission (ALPC), but could change based on local conditions.

5 The minimum area of 10 acres is used here as an example and is consistent with the amount of land needed for inclusion in the Farms, Forest and Open Space program. This value could change based on local conditions.



Landscaping Service Business: A facility designed to provide a fee-based service for the installation and/or maintenance of landscape materials including, but not limited to, lawn mowing, irrigations systems, stone, pavers, and tree pruning.

Light Food Processing: The cleaning, cutting, cooking, and/or packaging of non-animal food at a scale appropriate to a domestic kitchen.<sup>6</sup>

Nurseries: A facility designed to grow and temporarily store plant specimens that will be purchased, installed, and maintained at another site. These businesses may also sell accessory goods such as planters, soil, compost, and hand-held gardening tools.



Goodyear Farms, Suffield, CT

Farm Material Processing: On a Farm Lot, the processing of farm-related raw materials for the purposes of use on the farm or for retail sale as may be allowed. Said materials may include, but shall not be limited to, produce, wood, compost, fiber, wool, and livestock subject to all applicable state licensing requirements.<sup>7</sup>

Passive Recreation: Leisure outdoor activities with the following qualities:

- The activity is not designed for competitive team participation, and
- The activity does not require significant alteration to the landscape except where a trail, staging or lookout structure may be used; and
- The activity does not involve the use of uniforms or organized sports equipment; and
- The activity is not designed to require significant levels of physical exertion.

Personal Services Business: A facility for the sale of personal services. Typical personal service uses may include but are not necessarily limited to the following uses: designers (architects, etc.), accountants, attorneys, a barber/beauty shop, computer service/repair, financial advisors, shoe repair, a tailor, an instructional arts studio, a photography studio, a dance or yoga studio, and a custom printing or duplicating shop.<sup>8</sup>

Pick-Your-Own Produce: Fee-based operations that allow customers to harvest produce for their own purchase and consumption.

Riding Academy: An equestrian facility that provides fee-based instruction for horseback riding.

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<sup>6</sup> Many communities may want to allow processing of foods like berries (jellies), dairy (cheese), or the production of baked goods. It is important to coordinate these operations with any state licensing requirements.

<sup>7</sup> This definition is another that should be examined closely by communities as allowing for these uses could include slaughter house operations.

<sup>8</sup> Each community should carefully evaluate this list, which is not intended to be all inclusive, and customize to meet their needs. Communities must also cross reference their definition of home occupation to ensure consistency with provisions of the local ordinance already in place.

## POTENTIAL REGULATORY LANGUAGE TO REGULATE FARM AND FOREST LOT SMALL BUSINESS USES

### I. Purposes

*A well-crafted “Purposes” section may be required if a local community chooses to approach this as a stand-alone section of the Zoning Ordinance. These purposes establish that the regulatory language is designed to enable small business AND protect neighborhoods. It also establishes a direct link between the Zoning Ordinance and the Comprehensive Plan, as required by state law.*

The purposes of the Farm and Forest Lot Small Businesses Ordinance are as follows:

- a. To promote the preservation of rural landscapes and a sustainable rural economy consistent with the Comprehensive Plan.<sup>9</sup>
- b. To provide use allowances and standards that can help foster a strong and diverse rural economy;
- c. To provide a comprehensive regulatory framework that will allow for the appropriate integration of small business operations into residential and agricultural settings as a means of providing additional income to property owners; and
- d. To provide clear performance standards for allowable uses on farm and forest lots that protect both neighboring property and rural character.
- e. To provide incentives for property owners to maintain significant tracts of forest thereby providing wildlife habitat, scenic vistas, air quality, and water quality benefits.

### II. Procedures

*This section of the regulatory guidance sets up the graduated structure of regulatory review. As uses become more intense, a higher level of permitting is required. These are extremely important policy decisions that must be tailored to local conditions. Outreach prior to the development of any Comprehensive Plan and/or Zoning Ordinance amendments, as described in the larger report, will be critical to the success of setting these permit review thresholds.*

Applicants for any use allowed under this ordinance are encouraged to discuss the definition and classification of their proposed use with the **[Zoning Enforcement Officer and the Director of Planning]**<sup>10</sup> in advance of preparing application materials. Applicants will require administrative or Planning Board approval depending on the use classification (Section IV) and shall follow the procedures for Development Plan Review [cite relevant ordinance section] as applicable.

### III. Uses Allowed

*The allowable uses in this regulatory guidance are all listed as “by-right” provided they meet the associated performance standards. Local communities may wish to consider the need for a Special Use Permit for uses under Classification IV as described later in the ordinance. The allowable uses encompass the majority of uses that were “brainstormed” as part of this project. As discussed in the introduction, several of these uses are fairly broad in scope (e.g. on-site retail). This framework is consistent with the previously discussed performance-based approach; however, local officials may want to consider whether a more detailed list of uses is appropriate to their goals. As part of the report generated for this project, a more detailed list of uses that could be included under these broader categories is provided. Conversely, a community may also wish to condense the list of uses provided above and rely more heavily on the performance standards depending on their comfort level with potential activities and their capacity for enforcement.*

<sup>9</sup> This last purpose reinforces the idea that a community will have discussed these policies as part of an update or amendment to the Comprehensive Plan. Since the Zoning Ordinance must be consistent with the Comprehensive Plan by state law, it is considered “best practice” to reference the Comprehensive Plan as part of the Purposes section in any ordinance where possible.

<sup>10</sup> The authority cited here may change based on local practice and which permitting processes a community chooses to connect with different intensity uses.

The following business or non-residential uses are allowed by-right on farm lots or forest lots provided the applicable performance standards are met and maintained pursuant to Section V. Where a particular use is only considered appropriate to either a farm or a forest lot, that distinction is provided below. Where no distinction is provided, the use shall be considered appropriate to either a farm or forest lot.

- |  |   |
|--|---|
| a. Accessory dwelling units <sup>11</sup>              | n. Home-Based Contractor                                    |
| b. Active Recreation                                   | o. Home Repair or Appliance Repair Service Business         |
| c. Artisan Business/Craft Production                   | p. Landscaping Service Business                             |
| d. Bed and Breakfast                                   | q. Light Food Processing                                    |
| e. Café/Limited Food Service (farm only)               | r. Nurseries  |
| f. Competitive Equine Enterprises                      | s. Small-scale On-Farm Processing (farm only)               |
| g. Conference Center/Meeting Space                     | t. On-Site Retail Sales of Farm and Forest Products         |
| h. Equestrian Supply Store                             | u. Personal Service Business                                |
| i. Farm Animal Food Production/Service (farm lot only) | v. Pick-Your-Own Produce                                    |
| j. Farm-Based Light Manufacturing (farm lot only)      | w. Riding Academy   |
| k. Farm Building Re-Use (farm lot only)                | x. Seasonal Attractions (hay rides, festivals, fairs, etc.) |
| l. Farm Demonstration Projects (farm lot only)         | y. Special Events (concerts, weddings/ receptions, etc.)    |
| m. Passive Recreation                                  | z. Winery/Brewery/Distillery                                |

## V. Classification of Uses

*The classification of uses represents a systematic way of separating small business operation by function or scale, rather than just by use. This approach recognizes that not all craft making operations or accessory retail will operate in the same manner and uses the **characteristics** of these small businesses as a means to regulate. As with the different permit review thresholds, any community that wishes to adopt a classification system similar to what is presented here will need to perform a significant amount of outreach to identify the thresholds that meet the needs of property owners, neighborhoods, and the broader community.*

*The classification system, as a whole, illustrates how the scrutiny of application review can intensify with the intensity of use. In the guidance below, communities need to determine what level of review and approval, if any, they wish to use for each classification. Suggestions for the appropriate level of review, if desired, are given for each class. The Class I Use is a customary home occupation and would follow the level of review currently in place in each community. A Class II use will be granted a permit from the zoning enforcement officer. Class III will require Administrative Development Plan Review, and Class IV will require Development Plan Review with the Planning Board. Local communities will need to determine if this structure needs to be adjusted to reflect their own current practice. Further, if the Special Use Permit is applied to Class IV, this obviously shifts authority to the Board of Appeals and would need to be reflected in the regulatory language.*

<sup>11</sup> Many municipalities choose to regulate accessory dwelling units as part of a separate stand-alone portion of the zoning ordinance. This may be the appropriate place to distinguish between accessory dwelling units that are for rent, for farm hands, or just for family.



The uses enumerated in Section III shall be classified in accordance with the following characteristics. These classifications shall be used to identify the applicable performance standards in Section V. Where a use has characteristics across more than one category, the use shall be classified as the most intense (i.e., with the highest applicable number). Potential applicants are encouraged to consult with the **[Zoning Enforcement Officer and the Director of Planning]**<sup>12</sup> in advance of application to ensure proper classification for their proposal. Where a use was previously approved, but has expanded to a point where it should be classified as a more intense classification, the use shall require a new permit in accordance with the requirements below.

- a. A Class I Use is considered a Home Occupation<sup>13</sup> and shall be regulated in accordance with [insert ordinance section] of the Zoning Ordinance.
- b. A Class II Use is any use that has any of the following characteristics and shall require a permit from the **[Zoning Enforcement Officer]**<sup>14</sup>. (Communities can customize the criteria below and require all characteristics or just some.)
  1. The use occurs outside of the primary residence either outdoors, or in an accessory structure;
  2. The use is designed to generate income through on-site retail sales, but does not require the labor of employees that do not live at the residence;
  3. Dumpsters or other similar outdoor waste holding facilities are proposed.
- c. A Class III Use shall have any of the following characteristics and shall require **[Administrative Development Plan Review]**.
  1. The use is designed to generate income through on-site retail sales and requires the labor of employees that do not live at the residence;
  2. The use involves the mechanical processing of vegetable, fruit or fiber material;
  3. The use includes a commercially or farm registered vehicle;
  4. A parking area that could accommodate more than **[four (4)]** but no more than **[eight (8)]** automobiles is proposed<sup>15</sup>;
  5. The use is likely to generate noise between 45 and 60 decibels as measured at the property line.<sup>16</sup>;
  6. Regular outdoor storage of heavy equipment (not including vehicles) or bulk materials is proposed.
- d. A Class IV Use shall have any of the following characteristics and shall require Development Plan Review approval from the Planning Board. This classification shall not apply to private parties or celebrations held at a residence.<sup>17</sup>

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12 The authority cited here may change based on local practice and which permitting processes a community chooses to connect with different intensity uses.

13 Discussion with the project committee suggested that almost all RI communities contain Home Occupation provisions and that referencing this here would be an appropriate way to address any potential conflicts with this ordinance.

14 The authority and permitting process chosen by individual communities may vary.

15 Parking requirements will be determined by the standard parking schedule.

16 Communities will need to check to see if noise is regulated as part of their general Code of Ordinances. While this threshold may still be useful in the Zoning Ordinance, it may be preferable from an enforcement perspective to enforce standards in the general Code of Ordinances.

17 Intense uses such as weddings can be allowed by zoning but further regulated by local license. Planners can make recommendations and provide feedback to licensing applications and maintain records of these requirements in conjunction with zoning permits.

1. The use includes a special or seasonal event that would involve over **[twenty (20) people]** in a single day;
2. The use includes a special or seasonal event that may operate after sunset;
3. The use involves the storage of more than **[two (2) commercial fleet vehicles]**;
4. The use involves the processing of animals or animal byproducts;
5. The use involves providing overnight accommodations, except as otherwise permitted;
6. The use is an active team-based outdoor recreational use;
7. The use shall require the installation of more than **[eight (8) parking spaces]**;
8. The use includes regular service of food and/or beverage, except as otherwise permitted.

## V. Performance Standards

*The performance standards are designed to fit with the classifications in the previous section. Generally, performance standards become more prescriptive as the intensity of the use grows. Communities will need to carefully tailor each of these standards to meet local needs and ensure the viability of small business enterprise.*

Where applicable, the different farm and forest lot uses identified in Section III shall comply with the following performance standards in accordance with the correct classification. Failure to clearly demonstrate compliance for a proposed use shall result in denial of an application. Failure of existing uses permitted under this section of the Zoning Ordinance to maintain compliance with these standards shall constitute a zoning violation.

### a. Class I Use Performance Standards

See Home Occupation provisions [insert appropriate citation]

OR

1. Signage<sup>18</sup> – No additional signage shall be allowed that is related to the business operation.
2. Lighting<sup>19</sup> – All lighting should be International Dark Skies compliant.
3. Parking – No additional parking shall be provided related to the business operation.
4. Coverage – The space allocated to the home occupation business shall occupy no more than the greater of **[600 square feet or 20% of the gross floor area of the structure]**<sup>20</sup>.
5. Licensing – Any food production activities shall require necessary licensing from the state.

### b. Class II Use Performance Standards

1. Signage<sup>21</sup> – One sign not exceeding **[four (4) square feet]** shall be allowed to identify the business, and shall be flush mounted to the primary residence or to the accessory structure.
2. Parking – Up to **[four (4) parking spaces]**<sup>22</sup> may be provided related to the business operation and shall be located behind the primary residential structure, as shown on an approved plan. Parking areas for these

<sup>18</sup> Check for consistency with local Signage provisions.

<sup>19</sup> Check for consistency with local Lighting provisions.

<sup>20</sup> The coverage cap provided here is only for business use inside the primary residence. This avoids the confusion of limiting coverage within the accessory structure. Limiting space in accessory structures can be very difficult (and unnecessary) in structures like garages or barns.

<sup>21</sup> Check for consistency with Signage provisions.

<sup>22</sup> This number may vary depending on local conditions, but must be consistent with the classification threshold in Section IV.

uses shall be finished with pervious materials that maintain the character of a rural setting including, but not limited to, crushed shells or stone, gravel, lattice finishes that allow for turf to grow within the parking area, or re-enforced turf. Incidental parking for roadside stands is exempt from these requirements.

3. Licensing – Any food production activities shall require necessary licensing from the town and/or state.
4. Lighting<sup>23</sup> – All lighting practices associated with the use shall be International Dark Sky compliant.<sup>24</sup>
5. Setbacks – With the exception of retail stands, the closest edge of an accessory structure used for a small business shall be located at least **[ten (10) feet]**<sup>25</sup> farther back from the frontage road than the primary residence. Accessory structures and parking shall conform to the dimensional requirements of the underlying district.
6. Screening – Any outdoor dumpsters or similar large-scale trash collection bins shall be fully screened either through the use of opaque wooden fencing and/or evergreen vegetated screening.
7. Storage – Storage of any equipment related to the business shall be indoors.
8. Coverage – The space allocated to the home occupation business within the primary residence shall occupy no more than the greater of **[600 square feet or 20% of the structure's total gross floor area of the structure]**<sup>26</sup>.
9. Employees – The number of employees shall be limited in accordance with local licensing agreements.

c. Class III Use Performance Standards

1. Signage<sup>27</sup> – One sign not exceeding **[six (6) square feet]** shall be allowed to identify the business. Said signage may be flush-mounted to the primary residence or to the accessory structure. Said sign may be also affixed to a wooden sign post in the front yard of the property.
2. Parking – Up to **[eight (8)]**<sup>28</sup> parking spaces may be provided related to the business operation and shall be located behind the primary residential structure, as shown on an approved plan. Parking areas for these uses shall be finished with pervious materials that maintain the character of a rural setting including, but not limited to, crushed shells or stone, gravel, lattice finishes that allow for turf to grow within the parking area, or re-enforced turf. Incidental parking for roadside stands is exempt from these requirements.
3. Commercial Vehicle – Vehicles associated with the use shall not exceed 26,000 pounds.<sup>29</sup>
4. Licensing – Any food production activities shall require necessary licensing from the town and/or state.
5. Lighting<sup>30</sup> – All lighting practices associated with the use shall be International Dark Sky compliant.<sup>31</sup>

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23 Check for consistency with local Lighting Ordinance

24 <http://www.darksky.org/>

25 This standard is a typical rural design standard that ensures accessory structures will be set further back from the main structure. This standard is generally deemed important for those areas where the primary structure is readily visible from the road. Local communities may wish to add flexibility to this design standard depending on local conditions.

26 See note 2.

27 Check for consistency with local Signage Ordinance.

28 This number may vary depending on local conditions, but must be consistent with the classification threshold in Section IV.

29 This weight represents the limit on Class 6 trucks and will allow for the use of large pickup truck and flatbed vehicles. Communities may wish to research whether this weight should be adjusted to Class 5 or 7 depending on local demand.

30 Check for consistency with local Lighting Ordinance.

31 <http://www.darksky.org/>



6. Noise – The use shall not exceed a decibel level of **[50]** at the property line.

*Research showed that noise limitations measured at the property line in decibels, ranged from a maximum of 45 to 65 decibels. In some cases the requirement changed based on the time of day. The manner in which noise would be measured was specified in one set of regulations as follows:*

Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI S1.4-1983 or latest edition) "American National Standard Specification for Sound Level Meters." Measurements shall be conducted in accordance with the American National Standards Institute (ANSI/ASA S12.51-2002 or latest edition) "Acoustics - Determination of sound power levels of noise sources using sound pressure - Precision methods for reverberation rooms, Includes Corrigendum 1

7. Setbacks – With the exception of retail stands, the closest edge of an accessory structure used for a small business shall be located at least **[ten (10) feet]**<sup>32</sup> farther back from the frontage road than the primary residence. Accessory structures and parking shall conform to the dimensional requirements of the underlying district.
8. Storage – Storage of any equipment or materials related to the business shall be indoors to the extent practicable. Outside storage of equipment, materials, or vehicles associated with the business shall be located in a manner that effectively shields them from view using the allowable buildings on the site when viewed from the road.
9. Screening – In addition to using existing structures to shield outdoor storage from view, opaque fencing or evergreen vegetated buffers at least six (6) feet in height shall be used to screen any outdoor storage that occurs within **[fifty (50) feet]**<sup>33</sup> of a side or rear lot line. Any outdoor dumpsters or similar large-scale trash collection bins shall be fully screened either through the use of opaque wooden fencing and/or evergreen vegetated screening.
10. Fencing – Fencing used to demarcate storage areas shall be made of wooden material or other synthetic materials designed to simulate traditional fencing material. Chain link fencing along lot lines or visible from any public way shall not be allowed.
11. Employees – The number of employees shall be limited in accordance with local licensing agreements.

d. Class IV Use Performance Standards

1. Frequency – Special events such as weddings, concerts, fee-based picnics or other similar events may only occur at the frequency specified within local licensing agreements.
2. Permanent Signage – One sign not exceeding **[ten (10) square feet]**<sup>34</sup> shall be allowed to identify the business. Said signage may be flush mounted to the primary residence or to the accessory structure. Said sign may be also affixed to a wooden sign post in the front yard of the property.
3. Licensing – Any food production activities shall require necessary licensing from the town and/or state.
4. Temporary Signage – One temporary free-standing sign per driveway entrance is allowed and may be placed at the entranceway in a manner that does not obstruct sight lines for automobiles exiting the property. Temporary free-standing signs shall be no larger than **[ten (10) square feet]**. In addition to the allowable free-standing sign, one banner that does not exceed **[twenty (20) square feet]** may also be used the day of a special event and removed in accordance with any local licensing agreements.
5. Temporary Structures – Temporary structures shall conform to the dimensional requirements of the underlying district and shall be erected and removed in accordance with local licensing agreements.

<sup>32</sup> This standard is a typical rural design standard that ensures accessory structures will be set further back from the main structure. This standard is generally deemed important for those areas where the primary structure is readily visible from the road. **Local communities may wish to add flexibility to this design standard depending on local conditions.**

<sup>33</sup> This distance may vary to be consistent with existing setbacks requirements or other unique local conditions.

<sup>34</sup> Check for consistency with local Signage Ordinance.

6. Parking – Parking spaces shall be located behind the primary residential structure. The use of pervious materials that maintain the character of a rural setting including, but not limited to, crushed shells or stone, gravel, lattice finishes that allow for turf to grow within the parking area, or re-enforced turf are strongly encouraged. Where pavement shall be used, treatment of stormwater runoff from these surfaces shall comply with the most recent version of the *Rhode Island Stormwater Design and Installation Standards Manual*. Incidental parking for roadside stands is exempt from these requirements.
7. Lighting<sup>35</sup> – Lighting associated with the use shall be compliant with International Dark Sky specifications.<sup>36</sup>
8. Noise – Activities that generate noise from special events such as rides, music, etc. shall comply with noise limitations as set in the general Code of Ordinances and restrictions set through local licensing agreements. [Refer to performance standard 6 for Class III uses for more information regarding noise standards.]
9. Setbacks – With the exception of retail stands, the closest edge of an accessory structure used for a small business shall be located at least **[ten (10) feet]**<sup>37</sup> farther back from the frontage road than the primary residence. Accessory structures and parking shall conform to the dimensional and locational requirements of the underlying district.
10. Storage – Storage of any equipment or materials related to the business shall be indoors to the extent practicable. Outside storage of equipment, materials, or vehicles associated with the business shall be located in a manner that effectively shields them from view using the allowable buildings on the site when viewed from the road.
11. Screening and Boundaries – In addition to using existing structures to shield outdoor storage from view, opaque fencing or evergreen vegetated buffers at least six feet in height shall be used to screen any outdoor storage that occurs within **[fifty (50) feet]**<sup>38</sup> of a side or rear lot line. Any outdoor dumpsters or similar large-scale trash collection bins shall be fully screened either through the use of opaque wooden fencing and/or evergreen vegetated screening. Screening and buffers shall also be used to discourage pedestrian trespass onto adjacent properties.
12. Fencing – Fencing used to demarcate storage areas or discourage pedestrian trespass shall be made of wooden material or other synthetic materials designed to simulate traditional fencing material. Fencing used for setting boundaries shall be determined as appropriate by the reviewing authority.

## VI. Severability

If any provision of this ordinance is held invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this ordinance shall not affect the validity of the remainder of the municipality's Zoning Ordinance.

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35 Check for consistency with local Lighting provisions.

36 <http://www.darksky.org/>

37 This standard is a typical rural design standard that ensures accessory structures will be set further back from the main structure. This standard is generally deemed important for those areas where the primary structure is readily visible from the road. **Local communities may wish to add flexibility to this design standard depending on local conditions.**

38 This distance may vary to be consistent with existing setbacks requirements or other unique local conditions.

# Appendix A: The Rhode Island Right to Farm Act

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## § 2-23-1. Short title

This chapter shall be known as “The Rhode Island Right to Farm Act”.

## § 2-23-2. Legislative findings

The general assembly finds:

- (1) That agricultural operations are valuable to the state’s economy and the general welfare of the state’s people;
- (2) That agricultural operations are adversely affected by the random encroachment of urban land uses throughout rural areas of the state;
- (3) That, as one result of this random encroachment, conflicts have arisen between traditional agricultural land uses and urban land uses; and
- (4) That conflicts between agricultural and urban land uses threaten to force the abandonment of agricultural operations and the conversion of agricultural resources to non-agricultural land uses, whereby these resources are permanently lost to the economy and the human and physical environments of the state.

## § 2-23-3. Declaration of policy

The general assembly declares that it is the policy of the state to promote an environment in which agricultural operations are safeguarded against nuisance actions arising out of conflicts between agricultural operations and urban land uses.

## § 2-23-4. “Agricultural operations” defined

- (a) As used in this chapter, “agricultural operations” includes any commercial enterprise which has as its primary purpose horticulture, viticulture, viniculture, floriculture, forestry, stabling of horses, dairy farming, or aquaculture, or the raising of livestock, including for the production of fiber, furbearing animals, poultry, or bees, and all such other operations, uses, and activities as the director, in consultation with the chief of division of agriculture, may determine to be agriculture, or an agricultural activity, use or operation. The mixed-use of farms and farmlands for other forms of enterprise is hereby recognized as a valuable and viable means of contributing to the preservation of agriculture. (b) Nothing herein shall be deemed to restrict, limit or prohibit nonagricultural operations from being undertaken on a farm except as otherwise restricted, regulated, limited or prohibited by law, regulation or ordinance or to affect the rights of persons to engage in other lawful nonagricultural enterprises on farms, provided, however, that the protections and rights established by this chapter shall not apply to such nonagricultural activities, uses or operations.



#### **§ 2-23-5. Nuisance actions against agricultural operations**

- (a) No agricultural operation, as defined in this chapter is found to be a public or private nuisance, due to alleged objectionable:
- (1) Odor from livestock, manure, fertilizer, or feed, occasioned by generally accepted farming procedures;
  - (2) Noise from livestock or farm equipment used in normal, generally accepted farming procedures;
  - (3) Dust created during plowing or cultivation operations;
  - (4) Use of pesticides, rodenticides, insecticides, herbicides, or fungicides.
- This provision pertains only to nuisance actions under chapter 1 of title 10. (b) In addition, no city or town ordinance adopted under § 23-19.2-1 shall be enforced against any agricultural operation as defined in this chapter. In addition, no rule or regulation of the department of transportation shall be enforced against any agricultural operation to prevent it from placing a seasonal directional sign or display on the state's right-of-way, on the condition that that sign or display conforms with the local zoning ordinance, and that sign or display is promptly removed by the agricultural operation upon the conclusion of the season for which said sign or display was placed.

#### **§ 2-23-6. Negligence actions--Pesticide use not affected**

The provisions of this chapter do not apply to agricultural operations conducted in a malicious or negligent manner, or to agricultural operations conducted in violation of federal or state law controlling the use of pesticides, rodenticides, insecticides, herbicides, or fungicides.

#### **§ 2-23-7. Severability**

If any provision of this chapter, or determination made under this chapter, or application of this chapter to any person, agency, or circumstances is held invalid by a court of competent jurisdiction, the remainder of this chapter and its application to any person, agency, or circumstances shall not be affected by the invalidity. The invalidity of any section or sections of this chapter shall not affect the remainder of this chapter.