

Middletown Agricultural Overlay District

August 11, 2017

The text below is a fourth draft and updates the 12-1-16 draft. This is proposed to revise the existing Section 722 *Farm Promotion Accessory Uses* in Middletown's zoning ordinance. This will be an overlay district that will apply to all parcels in Middletown that comply with the definition of agricultural land and applicable standards as set forth in this ordinance. All proposed accessory uses under this section would be allowed by right, unless otherwise noted, but will be subject to the review and approval of either the zoning official, administrative officer, or planning board depending on the size and scale of the proposed use. Moreover, any use that would currently require a license pursuant to Title XI of the Middletown Code of Ordinances will be required to receive a license from the town council. Text in brackets and *italics* are comments/options to consider. New definitions to support this section are listed on pages 6-8.

Section 722: Farm Promotion Accessory Uses

A. Purpose. The purpose of farm-promotion accessory uses is to preserve viable agriculture and the rural character of the town by allowing farmers to conduct supplemental income-producing activities at a scale or intensity that will not unduly change the character of the area.

B. Eligibility. The farm accessory business uses listed in C below are only allowed on farms as defined in article 4 of the Middletown zoning ordinance.

C. Allowable Uses - By right. The following uses, as defined in Article 4, are allowed by right as accessory uses subject to the conditions set forth herein unless otherwise indicated. Some uses are only allowed on large farms as indicated in parentheses following each use. The uses below that are limited to large farms by right may be permitted by a special use on small farms

1. Farm guest house. No kitchen facilities in guest rooms;
 - a. Not more than one guest room per acre of land, to a maximum of nine rooms;
 - b. No guest room shall have less than 70 square feet of floor area;
 - c. Guestrooms shall not be equipped for or rented to more than two individual guests, except that children 12 or under may accompany their parents in a room;
 - f. Where public sewer is not provided, the adequacy of the existing/proposed OWTS must be demonstrated by submission of appropriate documentation from RIDEM.
2. Product stands. One product stand for the sale of agricultural products and agricultural related products may be operated on each lot or parcel devoted to an agricultural use permitted under § [602](#).
 - a. Substantially all of the products sold, or the ingredients in the products sold, must be grown or raised on the premises;
 - b.
 - c. Product stands must have a front wall area that is at least 50% open;
 - d. Product stands shall be set back at least ten feet from the nearest public way;

3. Farmers' markets. A farmer's market may be conducted on a lot or parcel of five or more acres devoted to an agricultural use permitted under § [602](#).
 - a. The products sold must be grown, raised or processed in Newport County;
 - b. Non-agricultural products, or agricultural products not grown, raised or processed in Newport County, may not be sold without a permit from the Town Council.
 - c. A structure used for a farmers' market, if enclosed, must have a front wall area that is at least 50% open;
 - d. A farmers' market shall operate only during daylight hours;
4. Equipment and trade fairs (large farms only)
5. Livestock sales and auctions
6. Arts and crafts shows
7. Hay rides, tractor rides and sleigh rides
8. Crop mazes
9. Indoor or outdoor viewing, feeding, and petting of animals
10. Indoor or outdoor agriculture related classes, seminars and tours
11. Pick- your-own crops
12. Farm home food production in compliance with RI General Laws section 21-27-6.1
13. Greenhouses
14. Farm product processing , excluding the processing of any meat which may only be allowed by a special use.
15. Farm café/limited food service (large farms only)
16. Corporate functions/meetings without entertainment

D. Allowable Uses - By Special Use Permit

1. Banquets, corporate functions/meetings with entertainment, and weddings (large farms only) *(This will remain as a special use. To avoid confusion this use along with riding academy or school can be placed in a new section for uses to be allowed only via a special use permit)*

1. Sale of gardening or landscaping materials produced on the premises including mulch, compost, potting soil and soil amendments
2. Farm brewery, distillery or winery using fruit, flowers, herbs, or vegetables grown on the farm in compliance with RI General Laws section 3-6-1. (large farms only)

Farm-based retail of agricultural products.

3. Farm based retail of agricultural related products.
4. Riding academy or school (large farms only)
5. Farm café/limited food service (Small farms only)
6. Farm based contracting business

E. Development Plan Review

- i. Development Plan Review in accordance with section 305 of this chapter shall be required for any use that meets one or more of the following criteria.

1. The use requires a Special Use Permit;
2. The use involves the processing of animals or animal byproducts;
3. The use involves animal display, boarding, and/or breeding;
4. The use involves providing overnight accommodation
5. The use shall require the installation of **more than eight (8) parking spaces**;
6. The use requires the construction or adaptive reuse of a permanent or temporary enclosure with **1,000 square feet GFA or more**.
7. The use includes on-site food and or beverage service.

The planning board shall have the authority to waive or modify any requirement from the development plan review with respect to the information and documents an applicant must submit if, in the opinion of the planning board, the information or document is not necessary for a comprehensive review of the proposed use.

E. Accessory Use Conditions.

The accessory uses established by this section shall remain subordinate to the principal bona fide farm use, and their existence shall not be considered establishment of a legal nonconforming principal use. Failure to clearly demonstrate compliance with the design criteria below shall result in the denial of an application. Failure of existing uses permitted under this section of the zoning ordinance to maintain compliance with these conditions shall constitute a zoning violation. Nothing in this section supersedes the RI Right to Farm Act. (*The farm bureau requested this change*)

F. Design Criteria

(1) Signage – One free-standing sign shall be allowed and comply with the standards from Article 12..

(2) Parking - No accessory business shall be developed unless adequate off-street parking is provided in accordance with Article 13, except that Instead of using paved surfaces for parking and driveways, the use of pervious materials including, but not limited to, turf, crushed shells, 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 Chapter 153 Stormwater Management, Middletown Code of Ordinances.

(3) Lighting – Any outdoor lighting shall be hooded and controlled so that the source of light is not visible from any adjoining property line. Lighting fixtures shall be directed away from property lines to avoid light trespass and glare onto adjacent properties. All lighting practices shall be compliant with the International Dark Sky Association. (*Middletown's existing code of ordinances requires compliance with the Dark Sky Standard.*)

(4) Setbacks - *(I deleted since this may cause someone to go to the ZBR for relief and it's not really needed)* Accessory agricultural buildings conform to the dimensional requirements of the underlying district. Event spaces, whether outdoors or in a temporary or permanent building, shall be located behind any primary residential structure or other primary agricultural building. With the exception of product stands and farm retail sales buildings *accessory uses that have the potential to create noise that could adversely impact adjacent property owners, shall have a minimum setback of 150 feet from the front yard and-100 feet from the side and rear lot lines.*

(5) 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] 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.

(6) 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 when viewed from a town road.

(7) Fencing – Fencing used to demarcate storage areas shall be made of wooden material or other synthetic materials designed to simulate traditional fencing material.

(8) Temporary Agricultural Buildings –Temporary agricultural buildings, including tents, shall conform to the dimensional requirements of the underlying district. These agricultural buildings shall be erected and removed in accordance with local licensing agreements, and inspected by municipal safety officials as required by law.

(9) Noise –The use shall not exceed a sound level of 65 decibels for more than 15 minutes within a 60-minute time period as measured at or within the real property boundary of the receiving land use, between the hours of 7 a. m. to 10 p.m. Between 10 p.m. and 7am the use shall not exceed a decibel level of 55 decibels for more than 15 minutes within a 60 minute time period as measured at or within the real property boundary of the receiving land use. The sound level in decibels shall be measured using the A-weighted network as specified by the American National Standards Institute most recent standard for sound level meters. Noise from livestock or farm equipment used in normal, generally accepted farming procedures is exempt from this noise standard in accordance with Section 2-23-5 of RIGL Amplified outdoor sound systems can only be used between 10am and 10pm.

(10) Licensing- In addition to the accessory use conditions listed above, some accessory uses will be required to obtain a license from the Town Council pursuant to the requirements of Title XI.

*This issue is addressed in definition of farm based contracting business. **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 Town's Zoning Ordinance.*

Other sections of the Zoning Ordinance to revise to be consistent with the new language proposed above

Section 501: Consider adding purpose of the agricultural overlay district for section 501 as follows:
The purpose of farm-promotion accessory uses is to preserve viable agriculture and the rural character of the town by allowing farmers to conduct supplemental income-producing activities at a scale or intensity that will not unduly change the character of the area.

Section 602: Need to revise Use Table to include new farm uses

Section 703: Accessory Uses and Structures Need to amend section (F) Farm-Promotion Accessory Uses.

Definitions: Terms in *italics* are new. All others are from article 4 of the Middletown Zoning Ordinance.

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

Agricultural Awareness Program. An educational or recreational program, which is clearly incidental and subordinate to the primary agricultural use that enables non-farm residents, including children, to reconnect to the rural character of the land. Such programs may include farm or garden tours, seminars and lectures; petting zoos or children's farms; hay rides; corn mazes; and similar activities.

Agricultural land. As defined in R.I. Gen. Laws § 45-22.2-4, 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 farm land or additional farm land of statewide importance for Rhode Island by the Soil Conservation Service of the United States Department of Agriculture.

Agricultural building. A structure designed, constructed and primarily intended for support of an agricultural operations, such as, but not limited to, storage of farm animals, implements and equipment, supplies or products, and the production of farm related products, that contains no residential use and is not open to the public. Residential structures and residential garages shall not be considered as agricultural buildings.

Agricultural products. Cultivated or raised plant and animal life that has been harvested or processed for consumption, including feed and forage; floriculture and nursery products; grains; herbs; vegetables; fruits and nuts; viticulture; honey; eggs; dairy; cattle; sheep; poultry; game and game birds; and fiber for clothing.

Agricultural related products. Products, other than agricultural products as defined above, which are (*Exeter thought this was too open ended*), constructed, crafted or manufactured on a farm by a farmer and/or his/her family members such as crafts, art, books, clothing or quilts. This definition also includes lawn and garden supplies such as potting soil, peat moss or other soil amendments, seed, pots, planters and the like. This definition specifically excludes products not produced on the premises, or , which, by their very nature must be manufactured in a commercial or industrial location, including, but not limited to, automotive products, farm machinery, lawn mowers, chain saws, fabricated metal products, tools, or hardware.

Agricultural operations. Any commercial enterprise which has as its primary purpose horticulture, viticulture, viniculture, floriculture, forestry, dairy farming, or aquaculture, or the raising of livestock, furbearing animals, poultry or bees, or as such definition may be amended from time to time in Section 2-23-4 of the Rhode Island General Laws entitled "The Rhode Island Right to Farm Act."

Farm (small). Agricultural land consisting of one or more contiguous parcels totaling less than 10 acres in area, together with principal and accessory buildings, upon which agricultural operations are conducted.

Farm (large). Agricultural land consisting of one or more contiguous parcels totaling 10 acres or more in area, together with principal and accessory buildings, upon which agricultural operations are conducted.

*(The farm bureau objected to this definition. It isn't necessary to define farmer so can be deleted.)***Farm Guest House.** An owner-occupied single-family dwelling offering guest rooms without kitchen facilities for rent on a daily or weekly basis, provided the dwelling is located on a parcel of at least two acres primarily devoted to an agricultural use permitted under § [602](#).

Farm- Promotion Accessory Use. An accessory use which is not customarily incidental to a use permitted as an agricultural use under § [602](#) but which tends to preserve and/or promote the use of land for farming and is clearly incidental and subordinate to the primary agricultural use. Farm-promotion accessory uses include: equipment and trade fairs, farmers' markets, farm guest houses, livestock sales and auctions, and, when conducted in a farm setting, arts and crafts shows, banquets, corporate functions, and weddings.

Farm- Related Accessory Use, Traditional. An accessory use customarily incidental to a use permitted as an agricultural use under § [602](#), regardless of whether it is located on the same lot as the principal use.

Farm retail sales building. A building located upon a farm, not exceeding 1,200 square feet in total floor area per farm (small) the principal use of which is the sale of farm or farm-related products at retail to the general public as provided in section ____ Farms (intermediate) may have a farm retail sales building not to exceed 2,000 square feet in total floor area. Farms (large) may, subject to the issuance of a special use permit by the zoning board of review be permitted a farm retail sales building greater than 2,000 square feet but not exceeding 5,000 square feet in total floor area.

Farm-based retail. The retailing on a farm of agricultural products and agricultural related products. May also include a farm café with limited food service.

Farm- based contracting business. The use of an owner- occupied dwelling or of a building accessory thereto as a place for an office or incidental storage of supplies and equipment in conjunction with an off-premises trade by a builder, carpenter, electrician, painter, plumber, arborist, or similar contractor where such use is clearly subordinate to the primary use of the premises as a residence or farm, employs no more than four non-resident employees and involves no retail sales from the premises. There shall be no parking or storage of vehicles with over 20,000 pounds gross vehicle weight, except farm vehicles, in a residential zone. *(This was previously not defined. The vehicle limit will address concerns about large vehicles being parked in home driveways.)*

Farm café/limited food service. A type of farm-based retail in a farm retail sales building engaged in the sale and service of food and beverages to order, prepared and consumed at a farm, and which operates as an accessory use clearly subordinate to the farm operation. There shall be no more than

twenty seats for patrons for a farm café.

Farmer's Market. An area, which may include a structure, used by growers or producers of agricultural products to display and sell their products.

Home Occupation. Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit, subject to the following conditions:

- (a) The activity is carried on by a member of the family residing in the dwelling unit;
- (b) The activity is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and
- (c) Conforms to the following conditions:
 1. No person who is not a resident member of the family shall be employed in the home occupation;
 2. There shall be no exterior display, no exterior sign, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building;
 3. No vibration, dust, odors, heat or glare or offensive noise shall be produced;
 4. No traffic shall be generated by such home occupation in greater volumes than would normally be expected from a single dwelling unit in a residential neighborhood; and
 5. Any parking required for the conduct of such home occupation shall be provided off the street.

Livestock Farm. A farm of at least two acres substantially devoted to breeding and raising animals such as dairy cows, poultry, game and game birds, beef cattle, sheep, horses and bees.

Pick-Your-Own-Produce. Fee-based operations on farms that allow customers to harvest produce.

Product Stand. A stand or structure for the display and sale of agricultural products limited to no more than 100 square feet in total floor area and 10 feet in height. Permitted as an accessory use to a single family residence for the sale of fruits, vegetables, flowers, eggs, or honey grown or produced on the premises.

Riding Academy or School. A structure or premises used to:

- (a) Board and care for horses;
- (b) Give instruction or training in riding, jumping and/or showing horses; and
- (c) Rent horses for riding

Winery/Brewery/Distillery. An agricultural operation that grows and processes grapes, other fruit products, grains or vegetables to produce wine, beer or spirits in accordance with RI General Laws Section 3-6-1. Processing includes wholesale sales, crushing, brewing, distilling, fermenting, blending, aging, storage, bottling, administrative office functions and warehousing. Retail sales and tasting facilities of wine, beer, spirits and related promotional items, as well as a farm café with limited food service, may be permitted as part of the winery, brewery or distillery operations.

DRAFT