

## Proposed Zoning Ordinance Amendments

### Agricultural and Farm-related Businesses

Proposed Zoning Ordinance amendments would revise the existing Section 722 *Farm Promotion Accessory Uses* in Middletown's zoning ordinance to allow more uses and not limit or restrict any existing uses.

#### **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. Such accessory uses shall be subordinate to the primary agricultural use of the property. This section does not restrict or limit any agricultural activities currently allowed in Middletown by town ordinance or State law. It adds new accessory uses for farms if these uses can comply with applicable accessory use conditions in Section 722 (F).

**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 farms with a lot size of 10 acres or greater 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. Product stands must have a front wall area that is at least 50% open;
  - c. 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
6. Arts and crafts shows
- ~~6~~7. Hay rides, tractor rides and sleigh rides
- ~~7~~8. Crop mazes
- ~~8~~9. Indoor or outdoor viewing, feeding, and petting of animals
- ~~9~~10. Indoor or outdoor agriculture related classes, seminars and tours
- ~~10~~11. Pick- your-own crops
- ~~11~~12. Farm home food production in compliance with RI General Laws section 21-27-6.1
- ~~12~~13. Greenhouses
- ~~13~~14. Farm product processing, excluding the processing of any meat which may only be allowed by a special use.
- ~~14~~15. Farm café/limited food service (By right on large farms only)
- ~~15~~16. Corporate functions/meetings without entertainment
17. Farm based retail of agricultural related products
18. Sale of gardening or landscaping materials produced on the premises including mulch, compost, potting soil and soil amendments

#### **D. Allowable Uses - By Special Use Permit**

1. Banquets, corporate functions/meetings with entertainment, and weddings not to exceed 200 attendees. (large farms only)
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)
3. Riding academy or school (large farms only)
4. Farm café/limited food service (Special use permit required for small farms only)
5. Yoga and other similar classes.
6. Livestock Auctions

#### **E. Development Plan Review**

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 providing overnight accommodation
4. The use shall require the installation of **more than twenty (20) parking spaces;** (
5. The use requires the construction or adaptive reuse of a permanent or temporary enclosure with **1,000 square feet GFA or more.**
6. 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.

#### **F. 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 (RIGL xxx).

#### **G. Design Criteria**

1. Retail space – Except for farmers markets, no more than 1,000 square feet of space, whether in a building or outdoors, shall be devoted to any retail use.
2. Signage – One free-standing sign shall be allowed and must comply with the standards of this chapter Article 12.
3. Parking - No farm promotion accessory use 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, lattice finishes that allow for turf to grow within the parking area, or re-enforced turf are strongly encouraged. Where pavement or other impervious surface is proposed, treatment of storm water runoff from these surfaces shall comply with Chapter 153 Storm water Management, Middletown Code of Ordinances.
4. 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. Interior lighting of greenhouses is exempt from this requirement.
5. Setbacks - Accessory agricultural buildings shall 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, non-agricultural 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.
6. Screening– For any farm promotion accessory use, 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 of equipment and materials related to non-agricultural uses 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.

7. Storage— Storage of any non-agricultural equipment or materials related to a farm promotion accessory use shall be indoors to the extent practicable. Outside storage of equipment, materials, or vehicles associated with the use shall be located in a manner that effectively shields them from view when viewed from a town road.
8. Fencing – Fencing shall be made of wooden material or other synthetic materials designed to simulate traditional fencing material.
9. Temporary Buildings –Temporary buildings used as part of the farm promotion accessory use, including tents, shall conform to the dimensional requirements of the underlying district. These buildings shall be erected and removed in accordance with local licensing requirements, and inspected by municipal safety officials as required by law.
10. Licensing- In addition to the accessory use conditions listed above, some accessory uses may be required to obtain a license from the Town Council pursuant to the requirements of Town Code, Title XI.

**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 602:** Need to revise Use Table for Farm Promotion Accessory Use to reference section 722.

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

(F) Farm-promotion accessory uses are allowed consistent with the provisions of Section 722 of this chapter.

**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 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, 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.

**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-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 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.