

**Land Use and Development Code Amendment: Agricultural Tourism**

**Town of Gorham  
Planning Board Ordinance Committee Workshop  
February 7, 2022**

**ITEM 1 - Land Use and Development Code – Discussion**: – Proposed amendment to the Land Use & Development Code to allow for agricultural events and agricultural tourism.

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**AMENDMENT TRACKING**

<b>DESCRIPTION</b>	<b>COMMENTS</b>	<b>STATUS</b>
<b>Town Council Meeting</b>	The Town Council forwards the item to the Planning Board for a public hearing and recommendations. (7 ayes)	<b>August 3, 2021</b>
<b>Planning Board - Meeting Discussion</b>	The Item was forward to the PLBD Ordinance Committee for review and recommendations.	<b>September 13, 2021</b>
<b>PLBD Ordinance Committee</b>	The committee request staff provide additional performance standards for review.	<b>October 4, 2021</b>
<b>PLBD Ordinance Committee</b>	The committee reviewed the additional standards added and recommended no further changes. The committee forward the item to the next available Planning Board meeting for a public hearing.	<b>December 6, 2021</b>
<b>Planning Board – Public Hearing</b>	The Planning Board forward the item to the PLBD to outline some more permitting requirements for larger events.	<b>January 3, 2022</b>
<b>PLBD Ordinance Committee</b>		<b>February 7, 2022</b>

The Planning Board refers to staff notes during the review process; however, it shall be noted that staff recommendations are noncommittal and all final decisions are those of the Planning Board and not Town Staff.

**Memo completed by Thomas Poirier, Director of Community Development.**

# Land Use and Development Code Amendment: Agricultural Tourism

## 1. Overview

The PLBD held a public hearing on the item at the January 3, 2022 meeting and requested the item be forward back to the Ordinance Committee. The request was for the Ordinance Committee to review and make recommendations on the following: a tiered approach to the size of event being allowed, adding a limit on the number of larger events being held on a property, and outlining permitting requirements for larger events.

Staff has drafted a set of performance standards based on direction from the PLBD at the public hearing for the committee's review and recommendations. The new proposed changes are shown **red, bolded, underlined and struck through**.

Below information shown in italics are comments from the October 4<sup>th</sup>, 2021 staff notes. *The Town Council forwarded a request to the Planning Board to allow existing farms to utilize agritourism as a way to generate revenue. This is not a zoning change to allow for dedicated event centers in old barns; that is something that would need to be done under a contract zone as outlined under the new Rural District's performance standard G, 13. The **amendment includes** adding new definitions, new permitted use in the Rural District, as well as new Rural District performance standards. The Town Council has forwarded the drafted ordinance amendment identified below with proposed changes shown as underlined. The Town Attorney has reviewed and provided edits to the proposed ordinance which have been incorporated.*

*The Planning Board may want to review to see if there are any farms in the Suburban Residential District that could utilize the proposed amendment. If so, the Planning Board may want to consider an amendment that would allow agritourism in the Suburban Residential District.*

### **Proposed Amendment:**

#### Chapter 1: ZONING REGULATIONS

#### SECTION 1-5 – Definitions

Agriculture: The science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products.

Agritourism: Any agricultural activity carried out on a farm or ranch that members of the general public are allowed to view or participate in, including farming, ranching, historical and cultural activities, harvest-your-own activities and attractions related to farming or ranching, including, but not limited to, marketing or selling of any products from the farm or ranch. Examples of agritourism include farm markets; roadside stands; enjoyment the farm environment; harvest your own operations; ice cream/bakery facilities; Maine Maple events; Christmas tree farm, including cut your own operations; wineries, winery tours and tastings; local product retail operations; corn mazes; farm-related interpretive facilities and exhibits, agricultural education programs and experiences; agriculturally related fairs and festivals; on-site farm, garden and nursery tours; trails; farm stay; recreation related operations; horseback riding; weddings; corporate events/retreats; and banquets. An activity is an agritourism activity whether or not the participant pays to view or participate in the activity.

Farming: The commercial production of agricultural products as a livelihood and includes dairy

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farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm or ranch that are incident to or in conjunction with these farming operations, as defined by the Maine Revised Statutes, Title 7, Sec. 251, as amended.

Marketing: The promotion of buying and selling a product or service, including agritourism, which means attracting visitors to a farm to attend events and activities that are accessory uses to the primary farm operation.

### Section 1-8 – RURAL DISTRICT

#### B. PERMITTED USES

##### 24) Agritourism

#### G. Performance Standards for Agritourism Activity

1. The farm must be an existing and operating working farm.

2. Agritourism activity must be incidental to **and directly supportive of** the agricultural use of the property.

**a. Events that have under one hundred (100) attendees or less at any one time are required to have ten (10) acres under continuous ownership or leased farmland uses for the location where the agritourism activity will occur.**

**b. Events that have one hundred (100) to two-hundred and fifty (250) attendees at any one time are required to have twenty (20) acres or more under continuous ownership or leased farmland uses for the location where the agritourism activity will occur.**

3. Permits: Events under this section are exempt from site plan review. **Events with more than one hundred (100) attendees at any one time are required to get an Agritourism Event Permit from the Code Office for each event. The applicant will identify how the event will comply with standards outlined under this section.**

4. Applicants, vendors, and owners are required to obtain all required local, state, and federal permits for each agritourism activity.

5. The attendance at any such event shall be limited to two-hundred and fifty (250) **people attendees** at any one time. **Any event larger than two-hundred and fifty (250) at any one time shall be reviewed under the Large Outdoor Event Ordinance. The number of events with over one hundred (100) attendees at any one time shall be limited to 10 events in a calendar year with no more than 3 events occurring in a calendar month. Events that occur over multiple days shall constitute a separate event for each day the event occurs.**

6. The use of any structure ~~used~~ for agritourism activities is required to meet all local, state, and/or federal codes including but not limited to building and fire codes.

7. Adequate bathroom facilities, either portable or permanent, shall be provided to accommodate all attendees.

8. Any service, sale or consumption of alcoholic beverages shall be in compliance with State law.

9. Such events may include the provision of goods and services by third-party vendors, including but not limited to catered food preparation and serving and musical performances or other entertainment. Third-party vendors are required to obtain all required, local, state, and federal permits for the events they are participating in.

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10. Agritourism activities are required to meet the Town's noise standards under Chapter 2 Performance Standards, Section 2-1 Environmental, H. Noise Abatement.

11. Signage may be used as prescribed by Chapter 2, Section 2-3.

12. Hours of event operation are limited to:

a. Sunday through Thursday: 8:00 am to 8:00 pm.

b. Friday through Saturday: 8:00 am to 10:00 pm.

c. Setup and take down for an event is considered to be separate from the hours of operation of the event and shall not be considered part of the event itself. **Setup or take down shall not occur between the hours of 11:00 pm and 7:00 am.**

13. Events that do not conform to the standards above may be considered under the Contract Zoning Chapter 1 Section 1-1.

14. Vehicular access into the agritourism activity will provide for safe and convenient access.

15. None of the agritourism activity shall be located in any required side, rear, or front setbacks.

## PLANNING BOARD Draft Minutes from the January 3<sup>rd</sup>, 2022 Meeting

**ITEM 2 Public Hearing - Land Use and Development Code Amendment - Agritourism** - a proposed amendment to the Land Use and Development Code to allow for agricultural event centers and agricultural tourism.

Mr. Poirier explained this item has been forwarded from the Town Council to provide flexibility for farms to do agritourism to help supplement income from farming. The item was before the Board at the September meeting and was forwarded to the Board's Ordinance Committee which held workshops to discuss the item, receiving comments from interested parties. The Committee made some proposed changes to the language before the Board this evening, including Performance Standard 12. C., Setup and Take Down, that "Setup or take down shall not occur between the hours of 11:00 p.m. and 7:00 a.m." The Committee also proposed two new Performance Standards regarding vehicular access and prohibiting agritourism activity in any required side, rear or front setback.

Mr. Grassi said there are no additions to the proposed language.

**PUBLIC COMMENT PERIOD OPENED:** Charlie Pearson, 43 Mighty Street, said he and his wife are opposed to the current proposed amendment as it is too broadly written, with no limits on the number of events, no acreage requirements, no farm income requirements, and very broad definitions such as that for "farm." He also took issue with the word "incidental," as in Performance Standard #2, "Agritourism activity must be *incidental* to and directly supportive of the agricultural use of the property." Mr. Pearson commented on the items listed in the definition of agritourism that he believes have nothing to do with farming, such as weddings, corporate events/retreats and banquets. He also commented about the need for a limitation on the number of attendees at any event in light of parking issues.

Jennifer Grant, 147 Mighty Street, told the Board this amendment is very important for Gorham farmers. She said she understands Mr. Pearson's concerns with the number of events, but believes that 5 is too low. She said they have been clearing trails through the woods on their property in the hope that in the future either cross-country skiing or snowshoeing could be opened to the public to provide more income, and a limitation of 5 times would not be practical. She said that while theirs is a

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working farm, income production in the winter is limited, so they are looking for activities that go into the fall and the winter.

Christyn Walker, 236 Sebago Lake Road, said she believes that the restrictions suggested by Mr. Pearson are far too restrictive. She said economic viability is at the forefront of her mind as the owner of a farm, and unfortunately agriculture does not bring in the amount of income by itself, and there need to be alternatives for the farmer to be able to make ends meet. She is not talking about 250 people at an event every weekend, but rather educational classes of 20 people, recreational or foraging classes of 20 to 25 people. She said that 5 events are far too few.

Linda Pearson, 43 Mighty Street, suggested employing current use values that subsidize the taxes for farmers, looks at their income and land, based on the value to their ratio of animals or trees, and is a contract with the state.

Dustin Spiller, 86 Spiller Road, said he is currently helping to manage the startup of their family farm on Spiller Road. He said this proposed amendment is very helpful to what they are planning for their family farm, but putting extra restrictions on that would make it much more difficult to accomplish.

Erica \_\_\_\_\_, 236 Sebago Lake Road, new owner of Orchard Ridge Farm with her sister, agrees with her sister in their wish to keep the farm open to the public with different classes, and other events such as cider pressing. They are concerned about limiting the number of people who can come in and enjoy the farm to just 5 events and believes that it is easier to add restrictions if necessary rather than take them away.

**PUBLIC COMMENT PERIOD ENDED**

In reply to Ms. Butler-Bailey's questions about the definitions for Agritourism and Farming, Mr. Poirier replied that in drafting the language, the Town Council wanted the activities to be supportive of the agricultural activity ongoing at the site and do not become the main use instead of incidental. The proposed zoning before this one, for agricultural event centers, was deemed to be too restrictive, too many standards, too many different criteria, too much review and too complicated to administered. He said performance standards were added to protect abutting properties, and that there are other standards in the Code regarding noise that will come into effect with the uses.

Mr. Fox asked if any research was done for towns around Gorham regarding what their standards are for agritourism. Mr. Poirier replied that he does not know what standards other municipalities use to handle their incidental agritourism.

Mr. Anderson said that he sees two very distinct items in the proposed language and believes a great deal of the proposed language is geared to larger events that can cause concern with 250 showing up. However, he believes another issue is that brought up by Jen Grant, that if she wants to allow the public to use cross country skiing trails, is she limited to only 5 events. Mr. Poirier said there is no number currently in the proposed language, that the 5 event limitation was Mr. Pearson's recommendation.

Ms. Durst asked if an event needs to be related to what currently is done for farming. Mr. Poirier replied that it needs to be supportive of. Ms. Durst said she did not believe a wedding would be supportive, Ms. Butler-Bailey agreed. Ms. Butler-Bailey quoted from the proposed language that "Agritourism activity must be incidental to and directly supportive of the agricultural use of the

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property." Ms. Durst commented on some farms having year-round farm standards; Mr. Poirier replied that a farm stand is incidental to the farm use.

Ms. Butler-Bailey said she is concerned that the number of items in the agritourism definition would perhaps be limited by us saying that they must be directly supportive of the agricultural use, and that weddings and festivals would not be directly supportive of the agricultural use of the property, except financially. And if financial is directly supportive of the agricultural use of the property, then any use at all would be directly supportive. Mr. Fox said that is where the definition of agritourism comes into play because it lists those items which are directly supportive, but as opposed to the previous version of the ordinance, this one has looser standards which allow a farm to have more business opportunities. Mr. Hughes agreed with Mr. Fox.

Mr. Firmin asked how someone who has a complaint or concern gets that addressed. In addition, Mr. Firmin suggested that the definition of agritourism include everything up to "weddings, corporate events/retreats and banquets" and add language that "Additionally, weddings, corporate events/retreats and banquets could take place with the following (permit) (limitation in number)" This way the other items included such as Christmas tree farm, Maine Maple events and horseback riding are more in line with the overall definition of agritourism.

Mr. Poirier suggested that the Board can make some changes to the proposed language, or forward it to the Council with a recommendation that certain items be re-considered. Ms. Butler-Bailey said she would prefer that the Board's Ordinance Committee review the proposed language again before it is forwarded to the Town Council. Mr. Anderson concurred that the language should be reviewed to separate out the smaller events from the larger ones, which is more appropriate for the Ordinance Committee. Ms. Butler-Bailey suggested that there might be a better word than "incidental." Ms. Durst concurred that it should go back to the Committee.

Mr. Poirier said it would be helpful for the Committee if the Board can decide on an appropriate number of events. Ms. Butler-Bailey said if the uses are separated out, excluding weddings, corporate events/retreats and banquets, she would allow unlimited events, but would limit weddings, corporate events/retreats and banquets, to 250 people and limit the number of events to 8 to 10. Mr. Fox said that for the large events which could pose a problem to abutters, he would like to see the number of people involved, such as in a "small" wedding, with over 100 people for a "large" wedding and under 100 a "small" wedding. Mr. Fox recommended one a month. Mr. Firmin said he would rather rely on an adequate process of permitting and review, rather than a restriction on the number of events. Mr. Anderson said he agrees with the number of 100 and if the permitting process is stringent enough, such items as parking can be dealt with. Mr. Poirier said that permitting requirements would have to be added by the Board but the intent of this ordinance was to get away from imposing too many restrictions.

Mr. Grassi said he agrees with a review of the larger items, and to see if the Council likes the number of 250 people. Ms. Durst said she agrees with Mr. Firmin that the larger events should require permits and over 100 people would be her limit.

**James Anderson MOVED and Susan Durst SECONDED a motion to refer the item to the Board's Ordinance Committee for review and recommendations. Motion CARRIED, 7 ayes**