



## Considerations When Planning for Agritourism on Connecticut Farms

### DEFINITIONS:

#### Agriculture, farming and farm:

- ✓ Consider adopting state definition for agriculture and farming (CGS 1-1q):

CGS, Sec. 1-1 (q) Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

#### AGRITOURISM AS ACCESSORY TO THE PRIMARY USE OF LAND WHICH IS FARMING:

- ✓ Consider utilizing the state statutes for PA 490 Farmland classification:

**Sec. 12-107b. Definitions.** (1) The term "farm land" means any tract or tracts of land, including woodland and wasteland, constituting a farm unit;

**Sec. 12-107c. Classification of land as farm land.** (a) An owner of land may apply for its classification as farm land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether such land is farm land and, if such assessor determines that it is farm land, he or she shall classify and include it as such on the grand list. In determining whether such land is farm land, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous.

- ✓ Consider terminating agritourism when the agricultural operation ceases:

Should the principal farm use be abandoned and/or discontinued, the accessory uses provided shall be terminated and shall not become the principal use. (Killingworth, Stafford, Griswold, Deep River)

- ✓ Consider the 51% Rule, CT Farmers Tax Exemption Permit, IRS Schedule F:

Principally produced on the farm: More than 50% (by volume or weight) of the agricultural products stored, prepared or sold at the farm, are grown or produced on the farm.

CT Farmers Tax Exemption Permit requires minimum of \$2,500 in gross sales from agricultural production.

IRS Schedule F Farm Profit and Loss.

#### **AGRITOURISM AS ACCESSORY TO AN EXISTING FARMING OPERATION:**

- ✓ Consider the length of time the applicant has been farming. Is this an established successful farming operation or a new operation?

#### **OTHER CONSIDERATIONS:**

- ✓ Minimum acreage
- ✓ Setbacks
- ✓ Parking
- ✓ Noise
- ✓ New construction or repurposing of existing farm buildings
- ✓ Sanitation
- ✓ Site plan
- ✓ Permitting process
- ✓ Hours of operation
- ✓ Public safety
- ✓ Other:

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#### **RESOURCES:**

University of Vermont – VT Agritourism Collaborative: <https://www.uvm.edu/vtagritourism/>

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# THE CONNECTICUT RIGHT TO FARM LAW

What it means to the State's Agriculture



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## History:

The Right to Farm was signed into law by Governor O'Neill in May of 1981. As more people and business relocated to the rural areas of Connecticut, agricultural operations often became the subject of complaints.

Right to Farm legislation was necessary to limit the circumstances under which agricultural operations could be subject to lawsuits and town ordinances. When local planning and zoning regulations permit agriculture, or if an agricultural operation is grandfathered, then the Right to Farm Law is applicable under Section 19a-341 of the Connecticut General Statutes.

*It is important to remember that sometimes farmers, those who are not following good management practices, try to hide behind the Right to Farm Law. This type of behavior threatens the future effectiveness of this Law.*

*All agriculturalists must do their best to promote a positive image of Connecticut's farming enterprises.*

## THE PURPOSE:

The Right to Farm law limits the circumstances under which agricultural or farming operations may be deemed to constitute a nuisance.

## NEGLIGENCE:

The Right to Farm Law does not protect a farmer when a nuisance is due to negligence or willful or reckless misconduct.

## NUISANCES ARE:

**Odor:** From livestock, manure, fertilizer, or feed.

**Noise:** From livestock or farm equipment used in normal, generally accepted farming practices.

**Dust:** Created during plowing or cultivation operations.

**Chemical Use:** Provided that the application conforms to the practices approved by the Commissioner of the Department of Energy and Environmental Protection or where applicable, the Commissioner of the Department of Public Health.

**Water Use:** From Livestock or crop production activities conforming to acceptable management practices approved by the Commissioner of Energy and Environmental Protection.

## APPROVAL OF AGRICULTURAL PRACTICES:

The Commissioner of the Connecticut Department of Agriculture or his/her designee shall determine whether the operation is following generally accepted agricultural practices.

## CONDITIONS:

There are three conditions that qualify a farm for coverage under the Right to Farm Law. These include operations that: 1) have been in operation for one year or more, 2) have not been substantially changed, and 3) are following generally accepted agricultural practices.

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**CONNECTICUT GENERAL STATUTE SEC. 19A-341**

- (a) Notwithstanding any general statute or municipal ordinance or regulation pertaining to nuisances to the contrary, no agricultural or farming operation, place, establishment or facility, or any of its appurtenances, or the operation thereof, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable (1) odor from livestock, manure, fertilizer or feed, (2) noise from livestock or farm equipment used in normal, generally acceptable farming procedures, (3) dust created during plowing or cultivation operations, (4) use of chemicals, provided such chemicals and the method of their application conform to practices approved by the Commissioner of Environmental Protection or, where applicable, the Commissioner of Public Health, or (5) water pollution from livestock or crop production activities, except the pollution of public or private drinking water supplies, provided such activities conform to acceptable management practices for pollution control approved by the Commissioner of Environmental Protection; provided such agricultural or farming operation, place, establishment or facility has been in operation for one year or more and has not been substantially changed, and such operation follows generally accepted agricultural practices. Inspection and approval of the agricultural or farming operation, place, establishment or facility by the Commissioner of Agriculture or his designee shall be prima facie evidence that such operation follows generally accepted agricultural practices.
  
- (c) The provisions of this section shall not apply whenever a nuisance results from negligence or wilful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.



# Local Right to Farm Ordinances



## Background:

A local right to farm ordinance provides a policy statement that a municipality supports and encourages local agriculture.

## Key Points:

- A local right to farm ordinance helps inform new and prospective residents that they are moving into a farming community.
- A local right to farm ordinance helps provide guidance to municipal enforcement officials on how to respond to issues related to the nuisances covered in the state Right to Farm Law (**CGS Section 19a-341**).
- A local right to farm ordinance should mirror the state statute with a provision that the ordinance does not negate or diminish the authority of the various local regulatory agencies and commissions.
- A local right to farm ordinance is adopted through a vote of the municipal legislative authority.

## Statute:

**CGS Section 19a--341:** (a) Notwithstanding any general statute or municipal ordinance or regulation pertaining to nuisances to the contrary, no agricultural or farming operation, place, establishment or facility, or any of its appurtenances, or the operation thereof, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable (1) odor from livestock, manure, fertilizer or feed, (2) noise from livestock or farm equipment used in normal, generally acceptable farming procedures, (3) dust created during plowing or cultivation operations, (4) use of chemicals, provided such chemicals and the method of their application conform to practices approved by the Commissioner of Environmental Protection or, where applicable, the Commissioner of Public Health, or (5) water pollution from livestock or crop production activities, except the pollution of public or private drinking water supplies, provided such activities conform to acceptable management practices for pollution control approved by the Commissioner of Environmental Protection; provided such agricultural or farming operation, place, establishment or facility has been in operation for one year or more and has not been substantially changed, and such operation follows generally accepted agricultural practices. Inspection and approval of the agricultural or farming operation, place, establishment or facility by the Commissioner of Agriculture or his designee shall be prima facie evidence that such operation follows generally accepted agricultural practices.

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## 2 Local Right to Farm Ordinances (*continued*)

### FAQs:

**Q: Is a farm protected under Connecticut's Right to Farm Law if the municipality in which it is located does not adopt a local right to farm ordinance?**

**A:** Yes. The state Right to Farm Law (CGS 19a-341) is applicable in every municipality in Connecticut whether the municipality adopts a local right to farm ordinance or not.

**Q: Does a local right to farm ordinance protect a farm from complaints or infractions related to municipal zoning or wetlands regulations or state building or health codes?**

**A:** No. A right to farm ordinance strictly addresses complaints related to the five nuisances identified in the state statute, which should be reiterated in the local ordinance. Farms must still comply with all applicable municipal zoning and wetlands regulations as well as state building and health codes.

**Q: There are other state laws, but local ordinances are not created for every state law on the books. Why should a municipality adopt a local right to farm ordinance?**

**A:** Many state laws are further implemented through local municipal regulations. A local right to farm ordinance helps reaffirm the intent of the state Right to Farm Law and helps provide guidance especially to new and beginning farmers, the non-farming community and municipal enforcement agents.

**Q: How should a municipality respond to a complaint related to the five nuisances addressed in the ordinance and state statute?**

**A:** Based on the complaint, the municipal enforcement agent should meet with the farmer to determine the cause of the complaint. If it appears the complaint is related to an issue that is covered under the Right to Farm Law, the enforcement agent should contact the Connecticut Department of Agriculture for a determination of whether the farmer is following generally accepted agricultural practices. The enforcement agent may also consult with the local agricultural commission before contacting the Connecticut Department of Agriculture, if this is one of the charges of the commission.

### Notes: