



OPEN FOR AGRIBUSINESS

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While farms often conjure up images of bucolic beauty, they are also businesses that support the local economy and provide jobs. In fact, the agricultural industry is a significant economic engine in New York State that is producing new entrepreneurs and innovative startup agribusinesses throughout the state. Many of these new agribusinesses are wineries, breweries, distilleries and countless other spin-off agricultural businesses. It is a critical time for local economies and agricultural communities to embrace these agribusiness opportunities by focusing on creating a supportive business environment for farmers. Communities need to assess their agricultural infrastructure and determine how best to accommodate this growing new agricultural industry to encourage agribusiness as part of their local economic development plans. Emphasizing farming and agriculture without the agribusiness land uses often reduces the likelihood of a community's success in sustaining its existing agriculture infrastructure in today's economy.

WHAT IS AGRIBUSINESS?

The term "agribusiness" has taken on a very broad definition and is perhaps not easily agreed upon. Generally, the term includes the businesses collectively associated with the production, processing and distribution of agricultural products. Similar definitions have been offered by others to include all business and management activities performed by firms that provide inputs to the farm sector, produce farm products and/or process, transport, finance, handle or market farm products.

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The term agribusiness has also been expanded to include agricultural tourism, which is being embraced by farm operators as a way to increase diversity and profitability while also helping to preserve agricultural land and open space. It may also serve the purpose of educating the public about the importance of agriculture and its contribution to the local economy, quality of life and nutrition, and may reduce the friction, which sometimes exists between farmers and their off-farm neighbors.

According to the New York Department of Agricultural and Markets, agricultural tourism means “activities including the production of maple sap and pure maple products made there from, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public’s understanding and awareness of farming and farm life.”

Together, these uses open the door for potentially significant economic development opportunities and should be given consideration as part of a community’s future vision.

SUPPORTING BUSINESS OPPORTUNITIES COMPATIBLE WITH AGRICULTURE

The big question with agribusiness in a community is where does it fit? Land may be zoned for agriculture but was never fully envisioned for a more intense commercial operation that can accompany an agribusiness. Agricultural tourism uses often have special events and large amounts of people that visit a site changing the character of a traditional farm.

Many communities often wonder when an agribusiness is protected under a right-to-farm law versus an agribusiness that should be treated as a commercial or industrial operation. Some questions that a town might ask when trying to determine the appropriate standards to apply to an agribusiness or agritourism facility include:

- Are the sales and other activities proposed at the site related to a broader agricultural operation?
- Is at least 25 percent of the products sold at the facility produced by the owner/operator?
- Is the facility open year-round?
- Does the facility offer extended hours of operation?

- Will the use be of a nature, intensity, scope, size, appearance, type and quantity conforming to the existing personal or agricultural structures?
- Will new commercial buildings will be located in a way that minimizes impact on future operations and expansion of agricultural uses and does not interfere with current agricultural operations or displace farm or forestry storage, use or functions?
- Will the use be related to agriculture, forestry or open spaces?
- Will the business will be conducted primarily by people who reside on the farm or members of the farm family or farm employees?
- Will the use be subordinate to a farm operation? Subordination is based on the proportion of land and structures employed by the rural enterprise to those employed directly in the agricultural or forestry enterprise as well as the amount of time and resources the farmer diverts from the agricultural or forestry operation to the rural enterprise.

CREATING A SUPPORTIVE AGRIBUSINESS ENVIRONMENT: MUNICIPAL TOOLS

If your community has determined that agribusiness and agritourism uses should be encouraged the first step is to audit your town’s current regulatory tools to ensure these uses can be legally developed. The following are a few municipal tools available to assist in advancing your community’s agricultural economic development needs.

New York State Agricultural Districts

New York’s agricultural districts were developed by the state to help provide a supportive business environment for farming. Farmers operating in locally created agricultural districts receive important state protections from private nuisance lawsuits, new public projects that may impact farms and unreasonably restrictive local ordinances. When reviewing whether regulations are unreasonably restrictive, the following will be considered:

- If the requirements adversely affect the farm operator’s ability to manage the farm operation effectively and efficiently;

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- Whether the requirement could impact production options and affect farm viability;
- If the requirement will cause a lengthy delay in the construction of new farm building or implementation of a practice;
- Compliance costs for a farm operation;
- The availability of less onerous means to achieve the locality's objective; and
- If the local law addresses a threat to public health or safety.

The key issue in this determination process: what is reasonable? Towns clearly have the authority to institute reasonable requirements on farm operations in agricultural districts if they are acting to protect public health or safety.

Right-to-Farm Laws

County and town right-to-farm laws are also aimed at maintaining a supportive operating environment for agriculture by limiting conflicts between farmers and non-farm neighbors. These local laws can supplement the New York State Agricultural Districts Law. Typically, local right-to-farm laws document the importance of farming to a town and notify non-farm rural residents that generally accepted agricultural practices are to be expected in farming areas. In doing so, these laws can provide a sense of security that farming is a valued and accepted activity within the town.

Comprehensive Plan

A community's comprehensive plan provides the foundation for local planning and typically represents a community's vision for its future. Agriculture is often treated favorably in comprehensive plans, which will typically describe the role of farms in defining a community's landscape. In updating your community's comprehensive plan, it will be important to connect the value of farm buildings and pastoral landscapes to a town's economy, jobs and businesses. Unfortunately, few comprehensive plans

capture the full range of benefits that agribusiness and agritourism bring to a community or the unique nature of these land uses. By failing to capture these important benefits, a community may face legal challenges if an agribusiness is opposed.

Zoning

Zoning regulations specify the details as to where and how agribusiness and agritourism uses can locate and operate in a community. Many communities have zoning regulations that define "agricultural" or "rural" zones where agricultural uses are permitted, along with many other residential, commercial and/or industrial uses. However, many of these regulations are descriptive of current (or past) conditions and

are not necessarily prescriptive of desired future circumstances. Unless these regulations are reviewed and carefully updated to allow agribusiness and agritourism operations, there is a potential for conflicts between these agricultural uses and nearby non-farm neighbors.

In order to be successful, agribusiness uses need a supportive operating environment just as other businesses do.

Towns should understand the needs that farms share with other businesses as well as the needs that are unique to existing agricultural businesses and those that are likely to evolve over time. Both farm support businesses, such as veterinary, repair shops or farm machinery dealers, should be considered. The following are strategies that towns can adopt to help create a supportive business environment for farming:

- Define Agribusiness and Agritourism: New York has a tremendously diverse agricultural industry. The state is a national leader in the production of milk, apples, grapes, vegetables, horticultural products and other farm commodities. In addition, agribusinesses



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are frequently changing to keep up as farmers adapt to new markets, new operating conditions and new production practices. One example of this change is the increasing use of greenhouses or other temporary structures for the production of vegetables, fruits, horticultural products or livestock housing. While these structures may not conform to some traditional views of a farm, they are valuable to producers as they are a cost-effective means for increasing control of growing conditions, which is of great importance in New York, given this state's varied and often challenging weather conditions. By allowing a broad approach to agribusiness, a community can give existing farmers or new farmers the flexibility to adapt to new conditions.

- **Define the Purpose of Zoning Districts:** The "purpose" of a specific zoning district describes the rationale behind the district's designation. This rationale is what will be used to determine a town's intent for protecting the health and safety of the properties and residents in that district. A zoning district intended to support agribusiness and agritourism should clearly state this emphasis within its purposes to provide flexibility for these uses. At the same time, the purpose can describe the magnitude (size and scale) of such agribusinesses and agritourism uses to help a community, and if necessary the courts, understand the desired look and feel of a district and its allowed uses.

- **Identify Permitted Uses:** Agribusinesses and agritourism uses, while potentially broadly defined, should be allowed in a district as either a permitted or a specially permitted use. Because of the nature of these unique uses, towns may find it best to evaluate each use through the special use permit process. This allows the town to have more control, take a hard look at the individual circumstances associated with a proposed use, and carefully evaluate its needs in relationship to the character of the surrounding properties and district.

- **Agricultural Infrastructure:** Like other industries, farms and agribusinesses require access to well-functioning and affordable infrastructure. Typically, communities discourage infrastructure (water,

sewer, electric, roads and rail) to expand in sensitive agricultural areas to prevent future development of agricultural resources for residential and commercial development (sprawl). But there may be appropriate areas to provide such infrastructure to encourage food processing, renewable energy or agribusiness development that will help support and retain farms by providing markets for local farm products. Municipalities should examine their current infrastructure to determine where it could be appropriately located to properly support agribusinesses.

ARE YOU GROWING AGRIBUSINESS?

Agriculture is a vital industry in New York State, and it has been embraced through legislation as essential to the economic, social and environmental well-being of all New Yorkers. Through New York's Agricultural and Markets Law, there are policies and programs to promote a strong agricultural economy through the diversification of farm businesses and products in order to generate farm income and keep farms economically viable. Agribusinesses support our farms and help keep our farms viable. It is time for communities to audit their municipal tools, examine their community vision and help facilitate a stronger, more successful agricultural industry for our future generations. □

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