

**Article 25**  
**ACCESSORY RURAL ENTERPRISE REGULATION**

Section

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25.1 Purpose

Consistent with the Town’s General Bylaw, Chapter XXXI-Right To Farm and General Law Chapter 40A, § 3 of the Zoning Act, the purpose of this by-law is to provide opportunities for the agricultural community to supplement their farm operation income by diversifying their operations to include accessory businesses related activities that may combine agriculture, tourism, outdoor recreation, and other farm related activities. This bylaw is enacted to provide economic incentives to keep agricultural land and uses active in the Town of Hubbardston. Nothing herein is intended to limit any use protected by G.L. c. 40A, § 3 as an agricultural or agritourism use.

25.2 Applicability & Authority

Authority: This regulation is adopted as allowed under M.G.L. Chapter 43B, Massachusetts Home Rule Amendment. Applicability: This Bylaw shall apply to any property meeting the definition of a “Farm” as defined in M.G.L. c.40A § 3. It is intended that the uses provided for herein are accessory to the principal use of a “Farm” as hereinafter defined.

25.3 Definitions

- a. Agriculture and Agricultural - shall include farming in all of its branches:
  - (1) Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities;
  - (2) Growing and harvesting of forest products;
  - (3) Keeping of livestock including horses, poultry, swine, cattle, sheep, goats and

other domesticated animals. Keeping bees, and ratites (emus, ostriches, rheas) and camelids (llamas and alpacas). Uses shall include food production or other agricultural production;

- (4) Keeping of horses as a commercial enterprise; These farming operations may include the following as primary or incidental uses :
  - (5) preparations for market,
  - (6) agricultural support or processes related to any of the above uses,
  - (7) storage and delivery of raw or manufactured products.
- b. Agritourism – A range of uses accessory to an agricultural use to promote agriculturally related educational, entertainment, historical, cultural, or recreational activities conducted on a farm that may include the public. Such uses include
- (1) “you-pick” operations,
  - (2) Seminars or classes
  - (3) Farmers markets,
  - (4) Retail stores with agricultural, food, craft, art or similar products principally or wholly manufactured or grown on the site.
- c. Living History Farm Use: recreates historical settings to simulate a specific past time period. Visitors experience history firsthand through immersive, experiential encounters.
- d. Farm - means a farming operation engaged in agriculture or agricultural activities, whether or not those activities are entitled to protection under G.L. c. 40A§ 3 or meeting the following criteria:
- a. .The farm must generate no more than 25% of the gross farm income. Of the remaining income at least 65% must come from the sale of product grown on the farm or another qualifying Massachusetts farm, a minimum of 35% of which must be produced at the farm at which the farming takes place.
  - b. A non farming property owner shall be considered a farm for the purposes of this bylaw provided that at least 75% of the acreage of the property is dedicated to traditional agricultural activities and at least 50% of the agricultural product produced on the property, by either gross sales or volume are purchased by the property and utilized in farming operations.

- c. The burden of proof as to the status of a “Farm” shall be the applicant’s responsibility.
- e. Farmers’ Market - a public market for the primary purpose of connecting and mutually benefiting Massachusetts farmers, communities, and consumers while promoting and selling products grown and raised by participating farmers. Farmers’ markets must adhere to the minimum qualifications for Massachusetts Farmers’ Markets as set forth by the Massachusetts Department of Agriculture.
- f. Non-Exempt Use --a land use that is not entitled to protection under G.L. c. 40A, § 3.
- g. Open-space --undeveloped land or working lands that contain natural, scenic, ecological, cultural, hydrological, or geological values that preserve or enhance the rural patterns of land use and development of the Town.
- h. Seasonal Butchering: The provision of butchering for distinct periods of time to accompany the harvest of animals such as deer in the fall, fall slaughter of meat animals, or where the provision of this service does not exceed 3 consecutive months.

#### 25.4 Permit Procedures, Authority

1. The Planning Board shall act as the administering authority for Site Plan Review and Special Permit application review, if required under this Bylaw. Otherwise, for uses allowed by right and not requiring a special permit, the applicant shall request review of said use and advice from the Building Inspector by applying to the Building Inspector for the proposed use at least thirty (30) days prior to commencing said use. Such application shall be on an application form developed by for this purpose and all application fees shall be paid for. The Building Inspector shall determine if a proposed use is by-right and shall provide the applicant with a written opinion stating so or indicating that additional permitting shall be required. If additional permitting is required, the requirements noted herein shall be followed to make an application to the Planning Board. Such an opinion shall be provided within the 30 day period. Failure of the Building Inspector to act within the 30 period, shall act as the issuance of a favorable opinion, allowing the use.
2. Uses requiring a Special Permit/Site Plan Review shall apply to the Planning Board on the form provided, the requirements for application shall be as per Articles 7 (Special Permit) & 9 (Site Plan) of the Zoning Bylaw.
3. Appeals to the determination of the Building Inspector shall be made in accordance with Section 25.6 of the Bylaw.

4. The dimensional requirements of the underlying RA zoning district contained in Article 5 Section 5.1 shall apply to each use allowed by this Bylaw.

5. The Applicant shall be responsible for obtaining any and all other necessary and applicable federal, state, and local permits and/or licenses as may be required prior to issuance of a building permit.

~~Applicants are advised that the Hubbardston Board of Health has jurisdiction (not a fully inclusive list) on:~~

- ~~a. Commercial kitchens and the safety/selling of foods for human consumption~~
- ~~b. Provision of sanitary facilities~~
- ~~c. Provision of water supplies~~
- ~~d. Nuisances created by activities or people~~
- ~~e. Currently limits the sale of animals for pets~~

~~Applicants are advised that the Hubbardston Selectboard jurisdiction (not a fully inclusive list) on:~~

- ~~a. The sale of alcoholic beverages~~
- ~~b. Uses impacting public properties including roadways~~
- ~~c. Sales of items such as in a carnival or fair.~~

## 25.5 Use Provisions

### a. Uses Allowable By-right ~~Allowable Uses~~

Allowable non-exempt agritourism uses shall include but are not limited to the following:

- (1) U-pick operations except for Christmas trees;
- (2) Educational and demonstrative tours;
- (3) Agricultural museums;
- (4) Living history farms;
- (5) Processing demonstrations;
- (6) On-farm farmers' markets and roadside stands; which must include in part, the processing and packaging of the agricultural output of the farm including the operation of a farmer's market or a farm stand (including related signage);
- (7) Making of wine, mead, cider or beer (fermented alcoholic beverages) or distillery operations including tours and tasting rooms where products are either grown or prepared on site;
- (8) Ice cream and bakery facilities where products sold are either grown or prepared on-site;
- (9) Outdoor recreation (e.g. fishing, hunting, bird watching, horseback riding, game preserves, natural features);
- (10) Art galleries or sculpture parks; related to agricultural activities;
- (11) Aquaculture and product sales;
- (12) Beekeeping and honey sales;
- (13) Agricultural stores; as defined by 25.3 , 5. to 7;
- (14) Services directly supportive of agriculture (e.g. agricultural consulting, farrier, saddlery, tack and equipment service or repair);
- (15) Sale of agriculturally produced products the majority of which are produced on the site.
- (16) Greenhouses or nurseries for the raising of flowers and horticultural products including the sale of products grown on site;
- (17) Consuming agricultural or food products; and
- (18) Garden tours.

- b. Allowable Uses by-right requiring 5 or more acres of land and subject to the following:
1. Agritourism activities requiring larger lots shall be a permitted use, provided that the owner has no fewer than 5 acres on one or more contiguous parcels.
  2. Open areas suitable for temporary parking of no less than 100 vehicles, which shall not include any land within a right of way and shall include maintenance and emergency vehicle access.
  3. No use allowed under this section ~~allowable use~~ shall have more than 350 visitors, customers or users at the site at any one time, per day.

Allowable non-exempt agritourism uses requiring larger lots include but are not limited to the following:

- (1) Corn mazes, crop art or related activities;
  - (2) Tours and trail systems for walking, riding, skiing, bicycling, and other non-motorized trail uses. Exceptions include:
    - i) motorized wheelchairs or similar equipment reasonably necessary for ADA compliance, or
    - ii) pedal-assist electric bicycles capable of a maximum speed of not more than 20 miles per hour,
    - iii) vehicles necessary for the maintenance and operation of the use or
    - iv) official vehicles for public safety patrols and rescue.
  - (3) Petting and feeding of farm animals;
  - (4) Hay rides;
  - (5) Cut your own Christmas tree farms;
  - (6) Special events, weddings, receptions, or private parties for a commercial purpose where events are held less than four times per year or are expected to have a maximum capacity of less than 350 attendees;
  - (7) Concerts, festivals, or time-specific special events where events are held less than four times per year or are expected to have a maximum capacity of less than 350 attendees.
- c. Allowable Uses by Special Permit
- The following non-exempt uses require a site plan submission and special permit application to the Planning Board:
- (1) Any event, function, operation or business that will exceed 350 attendees.

- (2) On farm restaurant
- (3) Special events, weddings, receptions, or private parties for a commercial purpose where events are held more than four times per year or are expected to have a maximum capacity of more than 350 attendees;
- (4) Concerts, festivals, or time-specific special events where events are held more than four times per year or are expected to have a maximum capacity of more than 350 attendees.
- (5) Rural campgrounds;
- (6) Lodging, other than bed and breakfast; and
- (7) Nonmotorized active recreational uses including but not limited to: disc golf; zip lines; and mini-golf.
- (8) Seasonal Butchering services of animals not raised on premises

Uses allowed by special permit under this article shall submit site plans and special permit applications to the Planning Board in conformance with Article 7 and Article 9, respectively, of the Hubbardston Zoning Bylaws, with the exception of item 9.2 f. An Environmental and Community Impact Analysis shall not be required for proposed uses allowable under the Accessory Rural Enterprise Bylaw.

- b. Prohibited Accessory Uses: The following uses are strictly prohibited as they have been found to have unsuitable environmental impacts and are not consistent with the purpose of this bylaw:
  - (1) Slaughterhouse the commercial slaughter of animals for food or other purposes, where such animals are not grown, raised or produced on the property and where such operation is non seasonal.
  - (2) Fur Bearing Animal Farms, farms for the raising and production of fear bearing species such as mink, ermine, rabbits or other species dedicated to fur production only purposes.
  - (3) Commercial composting or waste disposal using imported material, except for on-site manure management programs, which are permitted.

## 25.6 Appeals

Appeals to any determination, permit or permit condition issued under the provisions of this bylaw shall be made to the Hubbardston Zoning Board of Appeals, who shall act on such appeals as proscribed in the Hubbardston Zoning Bylaws.

## 25.7 Enforcement:

Enforcement of this Bylaw and its conditions shall be made as described in the Hubbardston Zoning Bylaws, Section 4.14.

## 25.8 Severability

If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of the Bylaw shall not be affected thereby. The invalidity of any Section or Sections or parts of any Section or Sections of this Bylaw shall not affect the validity of the remainder of the Town of Hubbardston Zoning Bylaw.