

**Cumberland County Planning Department*****Agricultural Series*****ACCESSORY AGRICULTURALLY RELATED ENTERPRISES  
MODEL GUIDELINES**

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**INTRODUCTION & HOW TO USE MODEL**

Agriculture is an important land use in Cumberland County with 156,000 acres (44%)<sup>1</sup> of the County in farmland. Many challenges face farmers today including development pressure, cost of land, rising production costs, and volatility of commodity markets. Many farmers need to supplement their farm income through other business ventures on the farm. Recent trends in agriculture including increased awareness of buying local food and agritourism also provide opportunities for farmers to increase the value and profitability of their agricultural products and take advantage of tourists seeking farm experiences. Municipalities are faced with the challenge of how to regulate these types of activities. A goal of this ordinance is to provide municipalities with guidance regarding how to allow certain businesses and activities incidental to the farm to occur in the agricultural areas. As a result, the viability of the farmer and the farmland continues and the agricultural character of the County is maintained.

The Right to Farm Act (RTF) requires municipalities within Pennsylvania to encourage the “continuity, development, and viability” of agricultural operations within its municipal boundaries. If the municipality has a nuisance ordinance, it must exclude normal agricultural operations from its definition of public nuisance. However, the operator remains subject to the legitimate requirements of other municipal ordinances.<sup>2</sup>

This model ordinance was developed by the Cumberland County Planning Department using a variety of ordinances from municipalities in the county and around the state and from ordinances in surrounding states. The model is intended to provide an overview of how agriculturally related enterprises could be regulated as accessory uses. Municipalities are not recommended to implement this entire ordinance without modification. Rather, municipalities should review this ordinance, examine their local situation, and adopt the regulations that make the most sense for their municipality. It is important that each municipality seek advice from their individual solicitor regarding the legality of the specific provisions before it implements an accessory agriculturally related enterprise ordinance. Municipalities with designated Agricultural Security Areas (ASAs) should consider offering flexibility in these areas since a purpose of the ASA is to “encourage continuity, development, and viability of agriculture by not enacting local laws or ordinances that would unreasonably restrict farm structures or farm practices within the area unless such restrictions bear a direct relationship to the public health and safety”.<sup>3</sup>

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<sup>1</sup> PA Agricultural Statistics 2010-2011

<sup>2</sup> RTF (3 PA. STAT. §§ 951-957) is entitled Protection of Agriculture Operations from Nuisance Suits and Ordinances, but it is commonly known as RTF. More information regarding RTF and other agricultural laws can be found at the Pennsylvania Department of Agriculture Legal Library ( [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us)).

<sup>3</sup> Agricultural Area Security Law (AASL) (3 PA. STAT. §§911)

Any text in the following model ordinance in italics is a more restrictive option that a municipality may or may not choose to implement. Municipalities should choose if they want to adopt these regulations in their jurisdiction.

Ordinance language not in italics is recommended to be included in municipal ordinances, although some modification may be necessary. In some cases, there could be multiple ways to regulate a certain aspect of an agriculturally related enterprise. In these cases the word "OR" has been placed in the text of the ordinance. Municipalities should choose the option that works best with their existing ordinances and regulatory framework. In some instances, a range of options may be provided. In these cases, the sample range is provided in brackets with the regulations commonly found in other ordinances and an "XX" (15',20', XX) to indicate that municipalities may want to adopt a different standard.

**The uses identified in this ordinance are intended to be regulated as accessory uses, which are incidental to the principal agricultural use of the property.**

### **SECTION 1: PURPOSE AND INTENT**

- Allow flexible uses to supplement farm income and accommodate local food and agritourism while maintaining the rural agricultural character and promoting agriculture.
- Allow for a broad range of rural economy uses, including agriculture, agriculture support and services associated with on-going agricultural activities, and other uses that can be developed in ways consistent with the rural character of the Agricultural/Rural Districts through mitigation or other standards.
- Recognize Cumberland County's and (municipality's) tourism industry is interconnected with the rural economy and rural economy uses by allowing for tourism uses related to agricultural uses, outdoor recreation/natural resource uses, agriculture education/training, and rural activity and special event uses.
- Recognize the importance of local food for the consumer and a farm's ability for direct marketing to increase the value and profitability of the farm's agricultural products and provide additional and supplemental income to the farm operation.

### **SECTION 2: DEFINITIONS**

**Agricultural Operation** – An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock, and livestock products and in the production, harvesting, and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

**Agricultural Marketing Enterprise** – An accessory use to an agricultural operation for the purpose of directly marketing agricultural products produced by the agricultural operation in their natural or manufactured state. The term shall include any on-farm processing, packaging or other activity performed in the course of direct marketing of the farmer's agricultural products.

Examples include but are not limited to farm stands, creameries, pick-your-own operations, community supported agriculture (CSA), Christmas tree farm, etc.



Farm stand



Direct milk sales at farm



CSA pick up at farm

**Agritourism Enterprise** – An accessory use to an agricultural operation at which activities are offered to the public or to invited groups for the purpose of recreation, entertainment, education or active involvement in the agricultural operation. These activities must be related to agriculture or natural resources and incidental to the primary operation on the site. These activities may include a fee for participants.

Examples include but are not limited to hay rides, corn mazes, farm tours, rodeo, educational exhibits, agriculturally related events, recreation related tours and activities, etc.



Structure with educational exhibits



Corn maze



Hay ride

**Farm Occupation** – An accessory use to an agricultural operation at which goods and services are rendered in support of local agricultural operations or to supplement on-farm income. Examples include but are not limited to tractor repair services, custom cabinetry, welding shop, internet based business, auctions, repair services, catering, home occupations, traditional trade businesses, etc.



Tractor repair and sales shop

### SECTION 3: PERMITTED USES

1. Agricultural Marketing Enterprises, Agritourism Enterprises, and Farm Occupations are permitted by right in every district as long as they are incidental to a principal agricultural operation.<sup>4</sup>

OR

2. *Farm Occupations or Agritourism Enterprises shall be permitted by Special Exception/Conditional Use in the Agricultural/Rural Districts.*<sup>5</sup>
3. A farm is permitted to have a combination of more than one Agricultural Marketing Enterprise, Farm Occupation and/or Agritourism Enterprise if requirements of the underlying zoning district and specific use criteria are met. Each enterprise or business must obtain appropriate zoning permit or land development approvals as required by this ordinance.

### SECTION 4: SPECIFIC CRITERIA FOR ACCESSORY USES

#### **Specific Criteria for Agricultural Marketing Enterprise or Farm Occupation**

Agricultural Marketing Enterprises or Farm Occupations are subject to the following regulations:

1. **Lot size and width**

Agricultural Marketing Enterprises or Farm Occupation shall comply with the minimum lot size and width in the district in which it is located.

2. **Setbacks**

- a. Activities or structures included in an Agricultural Marketing Enterprise or Farm Occupation must comply with the setbacks for accessory structures in the district in which it is located unless utilizing an existing structure.

OR

- b. Activities or structures included in an Agricultural Marketing Enterprise or Farm Occupation must comply with the setbacks for principal structures in the district in which it is located unless utilizing an existing structure.
- c. Roadside stands do not have minimum setback, but are not permitted within the street right-of-way.

OR

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<sup>4</sup> RTF applies to farms at least 10 acres in size or having an anticipated income of at least \$10,000. The law states that a municipality may not prohibit direct commercial sales of agricultural commodities through its zoning ordinances. However, two conditions must be present for an agricultural operator to enjoy this privilege: 1) The farmer must own and operate the agricultural operation; and 2) A minimum of 50 percent of the commodities must be produced by the farmer.

<sup>5</sup>Special Exceptions/Conditional Uses require additional time and fees incurred by the farmer and may discourage applicants from engaging in these Farm Occupations or Agritourism Enterprises. The goal of this ordinance is to encourage Agriculturally Related Enterprises and allow flexibility for farmers to supplement their income in order to maintain their farm.

- d. *Roadside stands must be located at least (5,10,20,XX) feet from the street right-of-way*
- e. *No part of any Agricultural Marketing Enterprise or Farm Occupation shall be located within (100,150,XX) feet from a residential district (list districts).<sup>6</sup> Such distances shall be measured as a straight line between the closest points of any physical improvement associated with the Agricultural Marketing Enterprise or Farm Occupation and the district line.<sup>7</sup>*

### 3. **Coverage**

- a. An Agricultural Marketing Enterprise or Farm Occupation must comply with the building and/or impervious coverage requirements of the lot in the district in which it is located unless utilizing an existing structure.

### 4. **Buffering and Screening**

- a. *Structures, outdoor storage areas, and off-street parking and/or loading areas shall be screened from adjoining residential districts according to buffering and screening provisions in Section XXXX of this ordinance.<sup>8</sup>*

### 5. **Access**

- a. An Agricultural Marketing Enterprise or Farm Occupation must comply with the access and driveway provisions in Section XXXX of this ordinance.<sup>9</sup>
- b. *A shared use driveway with existing driveway is encouraged.*
- c. *The ingress/egress shall be improved with a dustless surface.*

### 6. **Parking**

- a. The applicant must provide for sufficient off-street parking spaces and off-street loading spaces for all of those uses proposed.

OR

- b. *The applicant must provide for sufficient off-street parking spaces and off-street loading spaces according to the off-street parking and loading provisions in Section XXXX of this Ordinance.<sup>10</sup>*

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<sup>6</sup> Municipality should consider consistency with current zoning setbacks between commercial uses and residential districts.

<sup>7</sup> Municipality should calculate setback distances using methods that are consistent with their zoning ordinance.

<sup>8</sup> Municipality should review their screening and buffering provisions to determine if standards exist to address Agricultural Marketing Enterprise or Farm Occupation. The amount of screening and buffer should correspond to the intensity of the use. Municipalities should be careful when establishing buffering and screening in ASAs. Requirements in the Agricultural Area Security Law (AASL) protect the landowner from ordinances which would unreasonably restrict farm structures or farm practices unless such restrictions bear a direct relationship to public health or safety.

<sup>9</sup> Municipality should review their access and driveway requirements to determine if standards already exist to address an Agricultural Marketing Enterprise or Farm Occupation.

7. **Structures**

- a. Agricultural Marketing Enterprises or Farm Occupations are encouraged to use existing structures whenever possible.

OR

- b. *New structures required for Agricultural Marketing Enterprises or Farm Occupations are limited to (4000, XXXX) square feet of gross floor area in the aggregate.<sup>11</sup>*
- c. *Structures for Agricultural Marketing Enterprises or Farm Occupations shall not exceed the square footage of the structures engaged in the principal use.*

OR

- d. *Structures for Agricultural Marketing Enterprises or Farm Occupations shall not exceed more than 50% of the aggregate of the square footage of the structures engaged in the principal use.*

8. **Signs**

- a. Signage for an Agricultural Marketing Enterprise or Farm Occupation shall be in accordance with Section XXXX of this ordinance.<sup>12</sup>

OR

- b. *An Agricultural Marketing Enterprise or Farm Occupation may include 1 sign per road frontage, no larger than (20,30, XXX) square feet.*

9. **Operations**

- a. The hours of operation shall be consistent with other businesses in the district and protect neighbors from light, noise, disturbance or interruption.
- b. *Agricultural Marketing Enterprises or Farm Occupation shall be owned or operated by the landowner, landowner's immediate family member<sup>13</sup>, operator of the farm, or persons in residence of the farm.*

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<sup>10</sup> Municipality should review their parking requirements for small uses requiring only a few spaces. An example is one parking space per 200 square feet of gross retail floor area or one parking space per 400 square feet of gross floor area devoted to repair and service facilities and one parking space per employee on a shift.

<sup>11</sup> Structures may already be limited in size by setback and coverage provisions of the district that protect the character of the district.

<sup>12</sup> Municipality should review their signage requirements to determine if standards already exist to address Agricultural Marketing Enterprise or Farm Occupation.

<sup>13</sup> The Cumberland County Agricultural Conservation Easement Program defines an immediate family member as a brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the landowner.

## 10. **Performance Standards**

- a. An Agricultural Marketing Enterprise or Farm Occupation shall be conducted in such a way that no traffic congestion, noise, glare, air pollution, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.

OR

- b. An Agricultural Marketing Enterprise or Farm Occupation shall comply with the Performance Standards in Section XXXX.

### **Specific Criteria for Agritourism Enterprises**

Agritourism Enterprises are subject to the following regulations<sup>14</sup>:

#### 1. **Lot size and width**

- a. An Agritourism Enterprise must comply with the minimum lot size and width in the district in which it is located.

OR

- b. *The retail and parking area of an Agritourism Enterprise shall not occupy more than (50%, XX%) of the lot.*

#### 2. **Setbacks**

- a. Activities or structures included in an Agritourism Enterprise must comply with the setbacks for accessory structures in the district in which it is located unless utilizing an existing structure.

OR

- b. Activities or structures included in an Agritourism Enterprise must comply with the setbacks for principal structures in the district in which is located unless utilizing an existing structure.

OR

- c. *No part of any Agritourism Enterprise shall be located within (100,150, XXX) feet from a residential district (list districts).<sup>15</sup> Such distances shall be measured as a straight line between the closest points of any physical improvement associated with the Agritourism Enterprise and the district line.*

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<sup>14</sup> Ag-tourism Enterprises are permitted by the Cumberland County Agricultural Conservation Easement Program subject to approval by the Cumberland County Agricultural Land Preservation Board.

<sup>15</sup> Municipality should consider consistency with current zoning setbacks between commercial uses and residential districts.

### 3. **Coverage**

- a. An Agritourism Enterprise must comply with the building and/or impervious coverage requirements for the lot in the district in which it is located unless utilizing an existing structure.

OR

- b. *No more than 50% of the land devoted to an Agritourism Enterprise shall be covered by new impervious surfaces.*

### 4. **Buffering and Screening**

- a. *Structures, outdoor storage areas, and off-street parking and/or unloading areas shall be screened from adjoining residential districts according to buffering and screening provisions in Section XXXX of this ordinance.*<sup>16</sup>

### 5. **Access**

- a. An Agritourism Enterprise must comply with the access and driveway provisions in Section XXXX of this ordinance.

OR

- b. The length of any onsite access drive(s) shall be sufficient to allow the stacking of delivery and/or customer vehicles.
- c. Any use that potentially involves the movement of vehicles through mud and/or manure shall provide a paved apron of at least 50 feet from the street right-of-way. In addition, another fifty-foot gravel section shall be located just beyond the paved apron.
- d. A shared use driveway with existing driveway is encouraged.
- e. *The ingress/egress shall be improved with a dustless surface.*

### 6. **Parking**

- a. The applicant must provide for sufficient off-street parking spaces and off street loading spaces for all of those uses proposed according to the off street parking and loading provisions of this Ordinance.<sup>17</sup>
- b. *If, at any time after the opening of the facility, the municipality determines that parking, loading or traffic back-ups are occurring on adjoining roads, and such are directly related to the lack of on-site facilities on the subject property, the Governing*

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<sup>16</sup> Municipality should review their screening and buffering provisions to determine if standards exist to address Agritourism Enterprises. The amount of screening and buffer should correspond to the intensity of the use. Municipalities should be careful when establishing buffering and screening in ASAs. Requirements in the Agricultural Area Security Law (AASL) protect the landowner from ordinances which would unreasonably restrict farm structures or farm practices unless such restrictions bear a direct relationship to public health or safety.

<sup>17</sup> Municipality should review their parking requirements to determine if standards already exist to address Agritourism Enterprises.

*Body can require the applicant to revise and/or provide additional on-site parking and/or loading space to meet the off street parking and loading provisions of this Ordinance within (30,60,XX days).<sup>18</sup>*

- c. The municipality may require an unimproved grassed overflow parking area to be provided for peak use periods. Such overflow parking areas shall be accessible only from the interior driveways of the permanent parking lot.*
- d. All parking areas shall contain fencing or other appropriate devices to prevent vehicles from crossing adjoining properties or directly accessing adjoining roads.*

## **7. Structures**

- a. Agritourism Enterprises are encouraged to use existing structures whenever possible.*
- b. Structures for Agritourism Enterprises shall not exceed the square footage of the structures engaged in the principal use.*

OR

- c. Structures for Agritourism Enterprises shall not exceed more than 50% of the aggregate of the square footage of the structures engaged in the principal use.*

## **8. Signs**

- a. Signage for Agritourism Enterprises shall be in accordance with XXXX of this ordinance.*

OR

- b. Agritourism Enterprises may include 1 sign per road frontage, no larger than (20,30, XXX) square feet.*

## **9. Operations**

- a. The hours of operation shall be consistent with other entertainment businesses in the district and protect neighbors from noise, disturbance or interruption.*
- b. Agritourism Enterprises shall be owned or operated by the landowner, landowner's immediate family member, operator of the farm, or persons in residence of the farm.<sup>19</sup>*

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<sup>18</sup> It may be difficult for an applicant to estimate the amount of off street parking and loading required before Agritourism Enterprise opens for business. The Municipality should require the minimum amount of off street parking and loading and require the applicant to have land available for additional off-street parking and loading, but not necessarily require it until deemed necessary by the Governing Body.

<sup>19</sup> The Clean and Green Act ((72 P. STAT. § § 5490.1—5490.13) allows commercial activity on a farm enrolled in Clean & Green if land is owned and operated by the landowner or landowners who are Class A beneficiaries of the landowner for inheritance tax purposes or by a legal entity owner or controlled by the landowner or persons who are Class A beneficiaries of the landowner for inheritance tax purposes.

## 10. **Performance Standards**

- a. Agritourism Enterprises shall be conducted in such a way that no traffic congestion, noise, glare, air pollution, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.

OR

- b. Agritourism Enterprises shall comply with the Performance Standards in Section XXXX.

## **SECTION 5: PERMITTING PROCESS FOR AGRICULTURAL MARKETING ENTERPRISES, FARM OCCUPATIONS AND AGRITOURISM ENTERPRISES<sup>20</sup>**

Applicants proposing an Agricultural Marketing Enterprise, Farm Occupation or Agritourism Enterprise must submit a zoning permit application or land development plan (if required) identifying the following:

- a. Location map,
- b. Description of the existing agricultural operation, proposed activities, and how the proposed use is accessory in nature.
- c. All existing and proposed farm structures and dwellings,
- d. Driveways, access drives, parking areas, vehicle turn around areas, loading areas and proposed vehicle circulation patterns, and
- e. Location and adequacy of sewage facilities (if required)
- f. Stormwater plan (if required)
- g. Proposed operating dates/times,
- h. Estimated number of attendees and
- i. Buffering and landscaping requirements in accordance with Section XXXX.
- j. Certify compliance with all applicable local, state, and federal regulations and permits.
- k. When there is change in the use of the farm with an Agricultural Marketing Enterprise, Farm Occupation, or Agritourism Enterprise, or when there is a change in the management of the enterprise, the continuation of the enterprise or business shall be subject to review and re-approval in accordance with current regulations in place at that time.

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<sup>20</sup> The municipality should review the zoning permit requirements and incorporate these requirements as applicable.