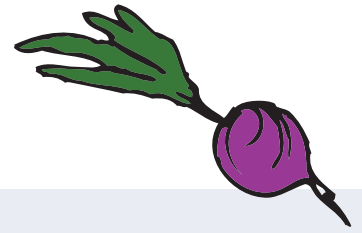


Understanding Land Use Regulations For Farm Businesses



Introduction

Is your farm thinking of expanding your business to include a new enterprise or enterprises? For “rural enterprises” that support your farm operation but aren’t considered agriculture, the regulations can be confusing and may vary from town to town. While municipalities may try to be supportive of your expansion plans, they also must manage potential impacts on the community like traffic, noise, parking, etc. This document provides general information on what steps you as a farm business owner should take in order to make sure you have the proper approvals in place from your municipality so that investments you make in your farm won’t be jeopardized. In addition, resources are embedded throughout the document so you can explore topics in greater depth.

Towns with zoning have authority to regulate land uses on a farm that are not otherwise regulated by the Agency of Agriculture. In the early stages of business development a farmer should investigate what permits or approvals may be necessary by the town.

WHAT LAND USES CAN BE REGULATED BY A MUNICIPALITY AND WOULD REQUIRE A ZONING PERMIT? *Land uses commonly found on a diversified farm that may be regulated by a municipality can include but are not limited to:*

- Value-added processing facility for products NOT “principally produced on the farm¹;”
- Lease of a production/processing facility to another farm operation or individual;
- Events on a farm property;
- On-farm restaurants or agricultural product tastings;
- Farm stay or lodging on the farm;
- Signage identifying your farm operation;
- Classes on the farm; and
- Other forms of agritourism where the public is invited on the property.

“Principally produced” means that more than 50% by weight or volume of the agricultural products, which result from “farming” activities defined in 10 V.S.A. 6001 (22)³, and which are stored, prepared or sold at the farm, are grown or produced on the farm.

For more information about what may be regulated by the town go to: <https://www.uvm.edu/vtagritourism/files/agritourism-guide/bestpractices-land-use-regulation.pdf>

Video: <http://www.uvm.edu/vtagritourism/?Page=land-use-video.html>

WHAT IS A RURAL ENTERPRISE?

Rural enterprises are businesses that are suited to a rural area because they are supportive of agriculture or forestry activities, provide employment opportunities, and many of these businesses can be found on farms.

SPECIFICALLY, RURAL ENTERPRISE ON THE FARM:

- Support a farm operation in terms of revenue and marketing, and provide community building and agricultural literacy opportunities, and
- Are not always covered under the “required agricultural practices²” regulated by the Vermont Agency of Agriculture, Food & Markets.

¹Farming and Local Zoning

http://agriculture.vermont.gov/sites/ag/files/pdf/land_use/Farming%20and%20Local%20Zoning%201_16_15.pdf

²Required/Accepted Agricultural Practice Regulations (R/AAPRs)

<http://agriculture.vermont.gov/sites/ag/files/ACCEPTED%20AGRICULTURAL%20PRACTICE%20REGULATIONS.pdf>

³10 V.S.A. 6001 (22)

<http://legislature.vermont.gov/statutes/section/10/151/06001>

A resource developed by NOFA-VT in collaboration with:



Shelburne Farms



WHAT ARE ZONING REGULATIONS?

Zoning regulations are used to evaluate how and where a land use, and associated infrastructure, fits into a community. Municipalities are typically divided into areas called zoning districts and each zoning district has its own set of standards for development. Particular land uses may have specific standards too. For example, the development standards

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that apply in an industrial or commercial district may be different from those in a rural residential district, even if the same land use is allowed in each of the districts. Standards typically regulate the placement of buildings on a lot, building height, parking, scale and intensity of development and other similar features of development.

When you begin to explore expanding your farm business to include an additional enterprise(s), use the following checklist to understand your local approval obligations before you make an investment.

- ✓ Contact the administrative officer (AO) to schedule a meeting.
- ✓ Determine with the AO if you need a zoning permit and if other prerequisite approval may be necessary.
- ✓ Get a copy of and review the regulations applicable to your project.
- ✓ Make sure you understand the information necessary to complete the application, including necessary plans and fees.
- ✓ Make sure you understand approval timeframes so you can plan appropriately.
- ✓ Consider getting support from an organization that provides business planning assistance. The [Vermont Farm Viability Program](#)⁴ and the [Vermont New Farmer Project](#)⁵ are good places to start.

RESOURCES

Roles and Responsibilities of Zoning Administrator

<http://www.vlct.org/assets/Resource/Handbooks/VLCT%20July%202014%20Town%20Officers%20Handbook%20Zoning%20Administrative%20Officer.pdf>

Municipal Zoning Administrators, Contact Information

<http://www.vlct.org/vermont-local-government/municipal-directory/>

Vermont Institute for Government's "Do It Yourself: Zoning"

https://www.sec.state.vt.us/media/258653/Do_It_Yourself_Zoning.pdf



⁴[Vermont Farm Viability Program](http://www.vhcb.org/Farm-Forest-Viability/)
<http://www.vhcb.org/Farm-Forest-Viability/>

⁵[Vermont New Farmer Project](http://www.uvm.edu/newfarmer/)
<http://www.uvm.edu/newfarmer/>

OTHER LAND USE RESTRICTIONS

There are a variety of land use restrictions that govern how someone uses their land. These include covenants, easements, rights of way, and state and local regulations. As a landowner, it is important to understand what documents or laws may govern how you can use your land, and who are the decision makers. There may be more than one group of decision makers if, for instance, your property is in a town with zoning regulations and it is controlled by a homeowner's association or a farmland conservation easement.

Purchasing land from, or selling development rights to, a land trust or receiving a grant are huge steps toward advancing your business plan, but remember: Even if your business plan has been approved in these processes, you may still need to get other approvals to start your business. For example, you will need to confirm that the business you want to run is an allowable land use in that location, and that you have all required permits. Contact the administrative officer and state permit specialists early in the business development process to find out about zoning and other requirements. This will help you know what to expect and to avoid costly surprises later.



WHAT IS A ZONING PERMIT?

A zoning permit is a local assurance that you can carry out a particular land use on your property. It may give permission to construct a new building, an addition to an existing building, or reuse an existing structure for another use.

HOW DO I DETERMINE IF I NEED A ZONING PERMIT?

When a municipality has zoning regulations, which about 80% of Vermont municipalities do, it may be necessary to get a zoning permit before you begin land development. Land development includes physical construction, as well as changing the use on a parcel and subdivision of land. Speak with the AO, the town official who is responsible for managing the permitting process. The AO also provides permit forms and other information pertinent to landowners, such as the zoning district designation for your property and the allowed uses in that district.

Land development includes physical construction, as well as, changing the use on a parcel, and subdivision of land.

Some uses may not be allowed in certain zoning districts (see *'Supporting and Managing Rural Enterprises in Your Community'* for more information on enabling rural enterprises on farms), though in some instances,

a use may be exempt from regulation. If this is the case, make sure to get something in writing from the AO stating that no permit is necessary, the proposed use or development is exempt from municipal regulation, and include the reasoning behind the decision. However, remember that just because a land use takes place on a farm, it does not mean that it is considered "farming" and therefore not regulated by the town. Be sure you have the proper approvals in place before engaging in that land use activity.

RESOURCES

Community Planning Toolbox:
Adaptive Re-use

<http://vnrc.org/resources/community-planning-toolbox/tools/adaptive-re-use/>

Community Planning Toolbox:
Adaptive Re-use Case Study: Waitsfield

<http://vnrc.org/resources/community-planning-toolbox/case-studies/adaptive-re-use-waitsfield/>



WHAT TYPE OF INFORMATION IS NEEDED TO GET A ZONING PERMIT?

In the planning stages of your project, it is a good idea to schedule a meeting with the AO to gain an understanding of the information required to apply for a permit. The AO can also explain the process and determine if prerequisite reviews are necessary. *However most local land use processes begin with a permit application and gathering information about your proposal including:*

- Developing a plan showing existing site conditions;
- Showing proposed conditions on a plan including dimensions of new buildings or additions, the location of new parking areas, dumpsters, driveway access points, exterior lighting, or signs; and
- Assembling a narrative about the details of the proposed land use (type of operation, # of employees, hours of operation).

HOW LONG DOES THIS PROCESS TAKE?

If only a zoning permit is necessary for your project, it can take up to a month to receive approval from the AO. But there are other timelines to consider.

- Once a zoning permit is issued, it doesn't become effective until the appeal period expires, which is 15 days. An appeal period is a standard part of applying for a zoning permit and provides an opportunity for certain individuals to disagree with an action taken by the AO. An appeal of the AO's decision is made to the local review panel first. An appeal of a decision by the local review panel is made to the Environmental Division of the Superior Court.
- In some instances, prerequisite reviews by a municipality's review board may be necessary prior to issuance of a zoning permit.



WHAT ARE “PREREQUISITE REVIEWS”?

Prerequisite reviews are a regulatory step in the permitting process when a municipality can, due to the nature and location of development, apply additional regulatory standards. There are many different kinds of possible prerequisite reviews and approvals that could be required: variance, conditional use review, design review, floodplain review and site plan review. Not all but many of these reviews are considered “quasi-judicial proceedings” and may lengthen the process and require submission of additional information beyond what is required for a zoning permit.

- **Conditional use review**⁵ provides a municipality flexibility to allow a land use that otherwise might not be appropriate throughout a zoning district to occur in a specific location if certain general and, in some instances, specific standards are met.
- **Site plan review** evaluates the proposed site conditions and whether that proposal meets objective standards in the zoning regulations. Typically, there are standards that address parking, lighting, access, and vehicle and pedestrian circulation.
- A **variance approval** is necessary when a project proposal cannot meet specific dimensional requirements specified in the bylaw.

WHAT CAN I EXPECT DURING A QUASI-JUDICIAL PROCEEDING?

There are specific etiquette and legal requirements that surround quasi-judicial proceedings. Notice of the proceeding is provided to you and adjoining property owners. You, and those with an interest in your development, will have an opportunity to present evidence at the hearing. This evidence is considered by the review panel and may be incorporated into its decision on whether your project meets the standards in the zoning bylaw. Review panels adopt rules of procedures and rules addressing conflicts of interest to help them navigate these proceedings, and you should ask for a copy of these rules so you understand these in advance.

“Quasi-judicial proceedings” is a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, the result of which is appealable by a party to a higher authority. 1 V.S.A. § 310 (5) (B)

⁵VNRC Conditional Use Review

<http://vnrc.org/resources/community-planning-toolbox/tools/conditional-use-review/>

RESOURCES

Isn't This My Land, Vermont Institute For Government

https://www.sec.state.vt.us/media/262018/my_land.pdf



OTHER THINGS TO CONSIDER

Talk with your neighbors about your proposed business venture. These conversations can be instrumental in managing potential adverse reactions to a new business. They provide opportunities for engaging with individuals that may be most directly impacted by a proposal early on in the development phase of the project, and allow you to consider neighbor feedback into your development proposal. Ultimately, a proposed project needs to comply with the land use regulations in place. But including neighbors in your proposal development can avert opposition to your proposal and foster support.

After you receive all the necessary approvals, some municipalities require a final compliance check before you occupy a building and begin operation to ensure that you executed your project as proposed. The AO should be able to tell you if this is a required step in the municipality in which you are located.

Although planning your business and receiving all necessary permits in advance of beginning a new venture on a farm is the way to go, you may find yourself with a new venture and no permits in place. You may be in this position because of a complaint, a “notice of violation,” or by virtue of reading this guidance. The only way to address not having appropriate local permits is to speak with the AO about what you need to do to correct the situation. In

some instances, it can be as simple as applying for a zoning permit or you will be required to go through a requisite approval process before a permit can be issued. Yet in other instances, you may find that you are unable to carry out the land use, and you may need to cease operation. This is why it is very important to obtain all the necessary approvals in advance before making business or financial investments.

If you find that your proposed land use is not allowed in your zoning district, there are ways to work with the local planning commission to amend the zoning regulations. This process is lengthy, but it is possible. Your regional planning commission can be another resource about this process.

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RESOURCES

Vermont Agency of Agriculture, Food & Markets

<http://agriculture.vermont.gov/>

Municipal Status Information

http://accd.vermont.gov/strong_communities/opportunities/planning/publications

Municipal Plans & Bylaws

<https://outside.vermont.gov/agency/ACCD/bylaws/default.aspx>



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