



AGRITOURISM BEST PRACTICES IN

Land Use and Zoning for Agritourism

Agriculture is an important industry in many Vermont towns, and agritourism is increasingly becoming a larger part of that industry. Agritourism enterprises may be affected by a variety of land use regulations, such as zoning bylaws. Typically, the scope of these regulations depends on the type of attractions offered, enterprise location, and number of employees. Land use regulations are administered at the municipal level, while most regulations pertaining to wastewater disposal and production are administered by the State of Vermont.

It is important to investigate and comply with all zoning regulations and bylaws applicable to your agritourism enterprise in order to avoid penalties, fines, or interruptions to your business. This chapter provides an overview of Vermont zoning regulations and land use laws that may affect agritourism operations.

Key Land Use Questions for Farmers Considering Agritourism

- Is the use of your land for agritourism activities permissible? Have you talked to your local planning board or commission?
- What renovations will be needed on the property, if any?
- Have you talked to your neighbors about your plans? Are they receptive and supportive, or irritated? Do you have a plan to overcome negative feedback?
- Is there adequate parking for large groups? Do you have turn-around areas for school buses?
- Are there land, water, or wildlife issues that might affect your plans?

What's Inside?

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Agritourism Defined

The State of Vermont does not have a commonly accepted definition for agritourism, but many groups use this:

Agritourism is the business of establishing farms as destinations for education, recreation, and the purchase of farm products. A farm visitor could be from a city far away, or a neighboring town. Examples of agritourism include farm tours, tastings, dinners-in-the-field, farm stays, workshops, festivals, and the direct sale of products through "pick-your-own," community-supported agriculture, and many other avenues. Agritourism activities connect visitors to Vermont's iconic working landscape.

State Planning Goals

24 V.S.A. § 4302 (9) “To encourage and strengthen agricultural and forest industries.

- (A) Strategies to protect long-term viability of agricultural and forest lands should be encouraged and should include maintaining low overall density.
- (B) The manufacture and marketing of value-added agricultural and forest products should be encouraged.
- (C) The use of locally-grown produce should be encouraged.”

Other statewide goals with agriculture links in 24 V.S.A. § 4302:

- “(1) To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.
- (2) To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.
- (3) To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters.”

More specifically, towns engaged in comprehensive planning must address in their town plans:

- land uses, which should include agricultural land uses
- natural resources, which should include agricultural soils
- economic development, which should include agriculture as an industry

Vermont statute allows municipalities to zone districts specifically for agriculture:

- 24 V.S.A. § 4414 (1) (B): “Agricultural, rural residential, forest, and recreational districts.”
- (i) Agricultural and rural residential districts, permitting all types of agricultural uses and prohibiting all other land development except low density residential development.”

Vermont law protects accepted agricultural practices, including the construction of farm structures, as defined by 24 V.S.A. § 4413.

Land Use Regulations and Bylaws

The most common form of local land use regulation is zoning. Zoning regulations (also known as zoning bylaws) divide a community into districts and control what can and cannot take place or be built on parcels of land within those districts.

With the exception of regulated setbacks, traditional farm operations under state law are preempted (exempt) from zoning if accepted agricultural practices (AAPs) are met.

AAPs are broadly worded rules to protect water quality. They are “a group of farmland management activities that will conserve and protect natural resources” and “include these practices among others: erosion and sediment control, animal waste management, fertilizer management, and pesticide management.” (VSA 6 Chapter 215, Subchapter 2 §4810). AAPs apply to activities ranging from confining livestock, making maple syrup, harvesting crops, ditching, and generating power, to on-site storage, preparation and sale of agricultural products principally produced on the farm.

While agritourism enterprises often retain many characteristics of farming, they may go beyond what are thought to be traditional agricultural activities. Although there are no specific Vermont laws that address agritourism, the state planning statute — Municipal and Regional Planning and Development (24 V.S.A. Chapter 117) — allows Vermont municipalities to adopt regulations that require farmers to obtain local permits to engage in a land use associated with agritourism.



Navigating Local Land Use Regulations

Land use and zoning bylaws are handled by municipal government, typically administrative officers and local zoning commissions or development review boards. You can contact these individuals and entities to determine which ordinances may be in place in your area. The nature of zoning ordinances and the ability to obtain zoning variances or waivers will vary greatly with each locality. A use can be “permitted” or “conditional” and requires a quasi-judicial review board or planning commission review. All local regulatory decisions may be appealed, although this can be a time-consuming process and may require hiring consultants, engineers, or lawyers.

Examples of agritourism enterprises that often have associated land use regulations include:

- Bed-and-breakfasts
- Tasting rooms
- Eating and drinking establishments (even if temporary)
- Events held on farm land
- Classes on topics such as food preparation, fiber arts, general cooking, and cheese making

Some zoning requirements that are considered hurdles for beginning agritourism businesses:

- Limiting or prohibiting specific commercial recreational activities in an area
- Requiring flush toilets and other facilities for sanitation
- Prohibiting attractions, restaurants, or bed-and-breakfasts in certain areas
- Regulating location and size of structures

Because a site plan review also may be required for even permitted commercial uses, the town planning commission or zoning administrator also might need to review parking, lighting, traffic, vehicle access, and signs associated with the proposed use and other impacts on the town and the public.

In some cases, wastewater permits (10 V.S.A. § 1973) and building permits (24 V.S.A. § 4413) are needed. Permits are required for constructing or modifying the potable water supply or wastewater system for new or existing buildings or structures or for changing the use of existing buildings or structures. Licenses and registrations also are required for some products and some equipment used in retail sales (refrigerators, freezers, and scales) and label and package information, milk and dairy registration/licensing, meat and poultry inspection, etc. For more information, refer to the Vermont Agency of Agriculture, Food and Markets’ [Food Safety and Consumer Protection information](#) online. The [State of Vermont Permit Handbook](#) is another helpful source of information.

Green Eggs & Ham Farm

Green Eggs and Ham Farm is a fictional place in a rural part of Any Town, Vermont. It’s a successful and diversified business that sells milk, meat, vegetables, and bakery products. Some of the items produced on the farm are sold wholesale and can be found in local stores.

Now the owners of the Green Eggs and Ham Farm are expanding their business to include a variety of activities, including social, entertainment, and educational events. In recent years, the farm has sponsored live performances, weekly food fairs in the warmer months, and summer camps for children.

Although the farm has always been considered a valuable community asset, its growth is raising concerns about increased traffic and parking, its use of temporary signs, and whether it still conforms to local and state regulations.

In order to head off any future conflicts and to improve their standing with local lenders, the owners worked with the town’s planning commission to amend rural area zoning bylaws to include more options for farmers interested in pursuing agritourism.

With new town regulations in hand, the owners of Green Eggs and Ham now have peace of mind that the activities they want to offer on their farm to enhance their profitability are allowed.

SOURCE: Dean Pierce, Director of Planning and Zoning, Shelburne, VT.

Other Regulations

In addition to land use and zoning regulations, there are a number of business regulations that you will need to comply with, including the the Americans with Disabilities Act (ADA). The Small Business Administration (SBA) can help you understand how to comply with the ADA. They have offices throughout Vermont: (802) 828-4422. For more on business regulations, see “Best Practices in Business and Financial Planning” chapter in this series.

The 51% Rule

Act 250, a state land use law that requires larger developments to obtain a permit before developing or subdividing land in Vermont, exempts most farming activities. A legal review of Act 250 agriculture-related projects concluded that the Vermont Natural Resources Board “has been generous in extending the exemption to construction projects to support on-farm processing and on-farm sales of products ‘*principally produced on the farm.*’”

For the purposes of Act 250 review, “*principally produced on the farm*” is determined by the “51% Rule”:

“For purposes of 10 V.S.A. §6001(22)(E), ‘*principally produced*’ means that more than 50% (by volume or weight) of the agricultural products, which result from the activities stated in 10 V.S.A. §6001(22)(A) - (D) and which are stored, prepared or sold at the farm, are grown or produced on the farm.” (Natural Resources Board Rules 2(C)(19))

[More Act 250 information is online.](#)

Whether a farmer is over the 51% Rule or is selling products that are not produced on their farms, there are an increasing number of commercial concerns about agritourism. This may mean more rigorous review and scrutiny of projects in the future and more Act 250 permits or other state and local land use regulations.

SOURCE: A. Higby and S. Levine. “Agriculture and Land Use Regulation,” in *A Legal Guide to the Business of Farming in Vermont*, University of Vermont, 2006.

Some municipalities do not have zoning. For these communities, town plans can contain clear community standards about the desire to protect farmlands from encroaching development or to protect contiguous forest lands and thereby reinforce the consideration of these factors in Act 250 decisions on proposed large development projects.

Agritourism-Friendly Local Land Use Regulations

Some towns in Vermont are amending agricultural zoning ordinances to allow some value-added agricultural activities, including agritourism. The ordinances may specify requirements for access from various road types, parking area surfaces, or bus parking. Special- or temporary-use permits are used in

some areas to authorize agritourism activities. For instance, Vermont statute allows municipalities to zone districts specifically for agriculture. Tinmouth’s Agricultural Overlay District, adopted in 2002, protects land with the greatest agricultural resource value by placing it into a special “Agricultural Overlay” district in the town’s zoning regulations. In 2013, Hinesburg revised its rural area zoning regulations to expand allowed uses

for agriculture, direct sales, farm cafes, and other “innovative land uses” to help “perpetuate” the working landscape. Also in 2013, the Town of Shelburne amended its zoning bylaws to include “Secondary Integrated Agricultural

“Yes, regulations can be complicated. But understanding them and getting appropriate permits – since not all activities on the farm might be exempt – is like having an insurance policy; it will protect you down the road.”

– Dean Pierce, Director of Planning and Zoning
Shelburne, VT



(QT Luong / terragalleria.com, 2008)



Billings Farm and Museum, Woodstock, VT.

Activities” such as “Sales of non-farm products related to those grown on the farm and/or hosting of educational and cultural events incidental to farming or the farm’s activities.”

You should consult the appropriate zoning authority for your town before investing in an agritourism operation or adding additional activities to an existing enterprise. If your plans are not consistent with current rules, you may need to seek an amendment to your municipality’s zoning bylaws.

Many of the land use regulations covered in this chapter are complex, and it is impossible to cover every one that might affect an agritourism operation. It is very important to investigate applicable regulations in order to avoid penalties, fines, or obstacles that could affect your business. This chapter is not meant to be a complete listing of all such regulations and is not intended as legal advice. You need to take time to learn how local bylaws, ordinances, and regulations will affect your enterprise. It may be overwhelming at first, but it’s a crucial part of your business planning process.

Your farm, family, and market are always changing, so make a plan for evaluating your agritourism activities regularly and adjust as needed. This flexibility will bring resilience to your business and is critical for helping your farm reach its overall goals.

How to Amend Local Zoning

It is possible to amend your town’s zoning bylaws or ordinances by following these steps:

- Meet with your planning commission or development review board with your ideas for change.
- Look for supportive language in your town plan; if it’s not there, help amend the plan.
- Be prepared to get petition signatures if your town requires them.

REFERENCES: "Navigating Local Land Use Regulations" from Agricultural Marketing Resources Center, 1111 NSRIC, Iowa State University.

This chapter was written by Barbara Noyes Pulling, Rutland Regional Planning Commission, with support from Stephanie Smith, Vermont Agency of Agriculture.

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- Host Weddings on Your Farm
- Develop a Farm Stand
- Develop a Farm Stay
- Develop a Pick-Your-Own Business
- Develop a Tour on Your Farm

Download at www.uvm.edu/vtagritourism

Resources

For more specific information on fees and the most current regulations, contact the appropriate government agency. Useful agencies and organizations include these:

- Your town's local planning commission or development review board
- [University of Vermont Extension](#)
- [Vermont Agritourism Collaborative website](#)
- [University of Vermont New Farmer Project](#)
- [Vermont Law School Land Use Clinic](#)
- [Kerr Center for Sustainable Agriculture](#)
- [Farm Commons](#)
- [Vermont Agency of Agriculture, Food and Markets](#)
- [U.S. Department of Agriculture](#)
- [Vermont Farm Bureau Federation](#)
- [Farm-Based Education Network](#)
- [North American Farmers' Direct Marketing Association](#) (NAFDMA)
- [Vermont Farm To Plate Network](#)
- [Vermont Fresh Network](#)
- [Vermont Farms!](#)

Additional Resource:

A. Higby and S. Levine. "Agriculture and Land Use Regulation," *A Legal Guide to the Business of Farming in Vermont*, University of Vermont, 2006.



Aimee Farm, Pittsfield, VT. (LoveBuzz Photography)