

***A landowner in town wants to build a horse barn for the purpose of operating a riding stable. Can the town require the landowner to obtain zoning permits for the barn and commercial activity?***

The answer to this question depends upon several factors. As a general rule, “farm structures” and other activities associated with agricultural or “farming practices” are exempt from zoning. 24 V.S.A. §4495. Thus, the first thing the zoning administrator needs to determine is whether or not the proposed building and equine activity constitute a “farm structure” or “farming” within the meaning of the Vermont Department of Agriculture, Food & Markets’ (the “Department”) accepted Agricultural Practice Rules (AAPs). Section 2.07 of the AAPs provides guidance through established thresholds for “farm structures.” As defined, a building is a farm structure if it is used by a person for agricultural production that meets one or more of the following criteria:

- is used in connection with the raising, feeding or management of four or more adult horses;
- is used in connection with the sale of \$1,000 or more of agricultural products in a normal year;
- is used by a farmer filing an IRS 1040(f) income statement; or,
- is on a farm operating under a business and farm management plan approved by the commissioner.

According to the Department, horse barns are considered to be farm structures within the meaning of 24 V.S.A. §4495 provided that the four or more horses are *permanently* stabled or boarded *full time* in the barn. In essence, the barn functions as a “home” for horses. In making this determination, ownership of the horses is immaterial, so it does not matter whether the animals are owned by the landowner or by other persons who are stabling their horses at the facility. As well, giving riding lessons using the horses that are permanently stabled full time at the facility is illustrative of a commercial activity that is exempt from zoning because it qualifies as ‘farming’ under the Department’s rules. However, according to the Department, activities such as hosting horse shows and exhibitions do not qualify as “farming” and the buildings associated with those activities would not qualify as “farm structures.”

In accordance with 24 V.S.A. §4495, any housing associated with the equine activity or facility, such as grooms’ quarters or housing for farm managers, is not considered to be a “farm structure” and would be subject to municipal regulation. Likewise, a sign is not an agricultural structure. Consequently it also would not be exempted from municipal jurisdiction under §4495.

***VLCT News, January 2003***