

## Accepted Agricultural Practices: A Regulatory Primer

There are many laws and regulations to mitigate nuisance and to safeguard the public and a property owner from undue adverse consequences arising from agricultural practices. These exist in various sections of Vermont law. However, municipal land use laws, enabled under Chapter 117 of Title 24 – a common source of regulation for the protection of property rights at the local level – are limited in their application to accepted agricultural practices.

The limitation provides that “accepted agricultural ... practices, including the construction of farm structures ...” are not regulated at the municipal level. 24 V.S.A. §4413(d). Rather, they are regulated by the Agency of Agriculture, Food & Markets (agency) through standards in the [Accepted Agricultural Practice Regulations](#) (AAP). The purposes of these standards, which apply to all individuals who farm in Vermont, are to reduce the potential for polluting surface and groundwater and require farmers to properly manage manure, agricultural product processing waste, pesticide, fertilizer, and handling animal mortalities.

The statutory limitation on applying local land use regulations to accepted agricultural practices leads to confusion about whether a municipality can regulate any activity that occurs on a farm. Currently, activities that are not an “accepted agricultural practice” as defined in the regulations (AAP section 3.2) are subject to regulation by the municipality under Chapter 117. Examples of uses that may be regulated by a municipality through zoning are on-farm restaurants and events, and sales or processing of products that are *not* “principally produced on the farm.” In other words, the agency doesn’t regulate land use activities on a farm that aren’t considered accepted agricultural practices by the agency. A municipality *may* regulate the activity, depending on the local regulations in place.

Another point of confusion concerns the construction of “farm structures” (defined in AAP Section 2.06). Construction of buildings on a farm property that are accessory to a residential use – such as a garage, apartment, or buildings that contain a mixture of uses – would not meet the definition of a “farm structure” and may be regulated by the municipality. If the proposed building does meet the definition, a municipality would not have jurisdiction. The secretary of the agency applies the locally adopted setbacks unless he or she approves an alternate setback in accordance with the AAPs. The construction of farm structures, moreover, still requires that the farmer notify the town of his or her intent to construct a farm structure (AAP Section 4.07 and 24 V.S.A. § 4413(d) (2)). It is important to note, however, that the agency does not have the authority to approve construction of a farm structure within a state or municipal highway right of way.

If you need help in understanding if an individual is using accepted agricultural practices or constructing a farm structure, as defined in the AAPs, or for a determination, contact the author at [stephanie.smith@state.vt.us](mailto:stephanie.smith@state.vt.us) or 802-828-1732. The information required by the agency for a determination is outlined in “[Farming and Local Zoning](#).” Although the agency’s position on whether someone is “farming” and a building is a “farm structure” may carry some weight,

ultimately the application and enforcement of municipal zoning law and the limitation in 24 V.S.A. §4413(d) rests with each town.

To learn more about accepted agricultural practices, and planning for agricultural economic development, please visit the Agency of Agriculture, Food and Markets' Markets' [Agricultural Enterprise webpage](#).

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