

# ACT 250 CRITERION 9(B)

Protection of Primary Agricultural Soils

# Objectives

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- Understand Primary Agricultural Soils and Criteria 9(B) as defined in the VT statutes;
- Understand the review and analysis completed by the Vermont Agency of Agriculture, Food and Markets (VAAFMM);
- Understand the role of the District Commission;
- Understand Municipal & Regional role.

# Primary Agricultural Soils 10 VSA § 6001 (15)

(A) An important farmland soils map unit that the Natural Resources Conservation Service of the U.S. Department of Agriculture (NRCS) has identified and determined to have a rating of prime, statewide, or local importance, unless the District Commission determines that the soils within the unit have lost their agricultural potential. ...



# Primary Agricultural Soils 10 VSA § 6001 (15)

... In determining that soils within an important farmland soils map unit have lost their agricultural potential, the Commission shall consider:

- ❑ (i) impacts to the soils relevant to the agricultural potential of the soil from previously constructed improvements;
- ❑ (ii) the presence on the soils of a Class I or Class II wetland under chapter 37 of this title;
- ❑ (iii) the existence of topographic or physical barriers that reduce the accessibility of the rated soils so as to cause their isolation and that cannot reasonably be overcome; and
- ❑ (iv) other factors relevant to the agricultural potential of the soils, on a site-specific basis, as found by the Commission after considering the recommendation, if any, of the Secretary of Agriculture, Food and Markets.

# Primary Agricultural Soils 10 VSA § 6001 (15)

- (B) Soils on the project tract that the District Commission finds to be of agricultural importance, due to their present or recent use for agricultural activities and that have not been identified by the NRCS as important farmland soil map units.

# Primary Agricultural Soils 10 VSA § 6086 9(B)

A permit will be granted for the development or subdivision of primary agricultural soils only when it is demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not result in any reduction in the agricultural potential of the primary agricultural soils;

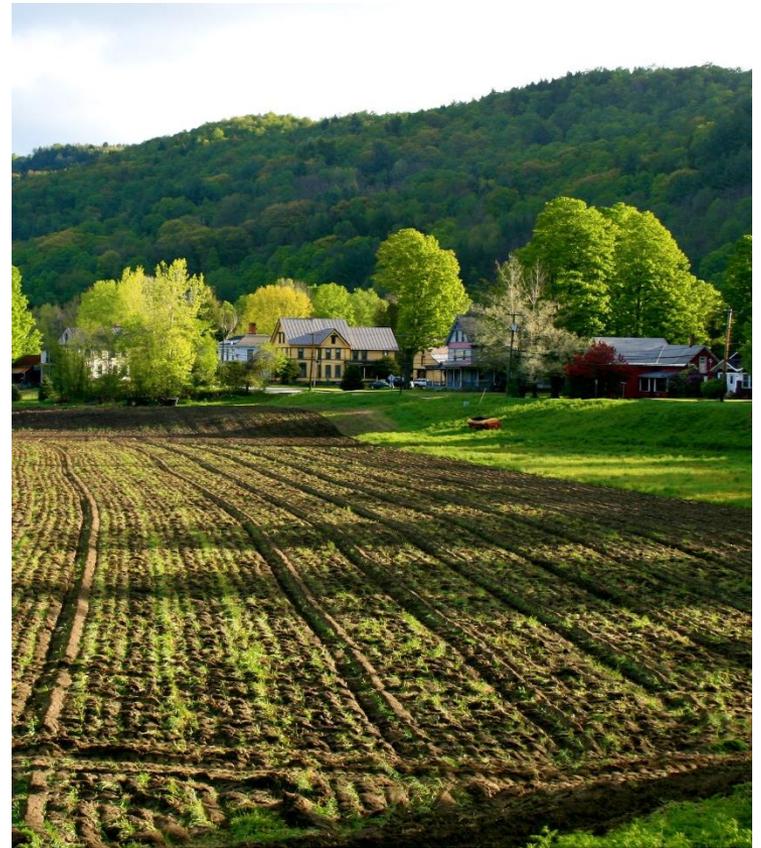


# Primary Agricultural Soils 10 VSA § 6086 9(B)

- ❑ (i) the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; and
- ❑ (ii) except in the case of an application for a project located in a designated growth center, there are no lands other than primary agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; and
- ❑ (iii) except in the case of an application for a project located in a designated growth center, the subdivision or development has been planned to minimize the reduction of agricultural potential of the primary agricultural soils through innovative land use design resulting in compact development patterns, so that the remaining primary agricultural soils on the project tract are capable of supporting or contributing to an economic or commercial agricultural operation; and
- ❑ (iv) suitable mitigation will be provided for any reduction in the agricultural potential of the primary agricultural soils caused by the development or subdivision, in accordance with section 6093 of this title and rules adopted by the Natural Resources Board.

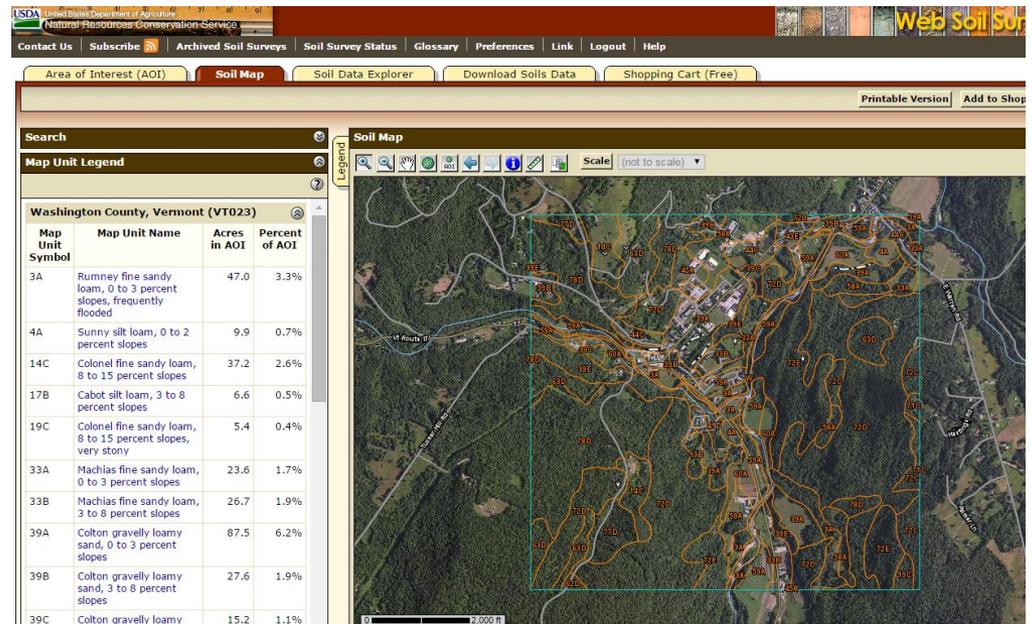
# Primary Agricultural Soils

- Defining soils as “primary agricultural soil” does not mean the land should be farmed but that the soil under consideration is considered a **valuable natural resource** for the state of Vermont.



# NRCS Web Soil Survey

- Produced by the National Cooperative Soil Survey;
- Provides access to the largest natural resource information system in the world;
- More than 95 percent of the nation's counties mapped;
- Updated and maintained online as the single authoritative source of soil survey information.



# Role of VAAFMM

- Provide analysis to the District Commission regarding the following:
  - Whether there are primary agricultural soils on the project site;
  - Whether any “reduction in the agricultural potential” of the primary agricultural soils will occur as a result of the construction of the project;
  - Whether any proposed mitigation is adequate, pursuant to 10 VSA §6093(a).

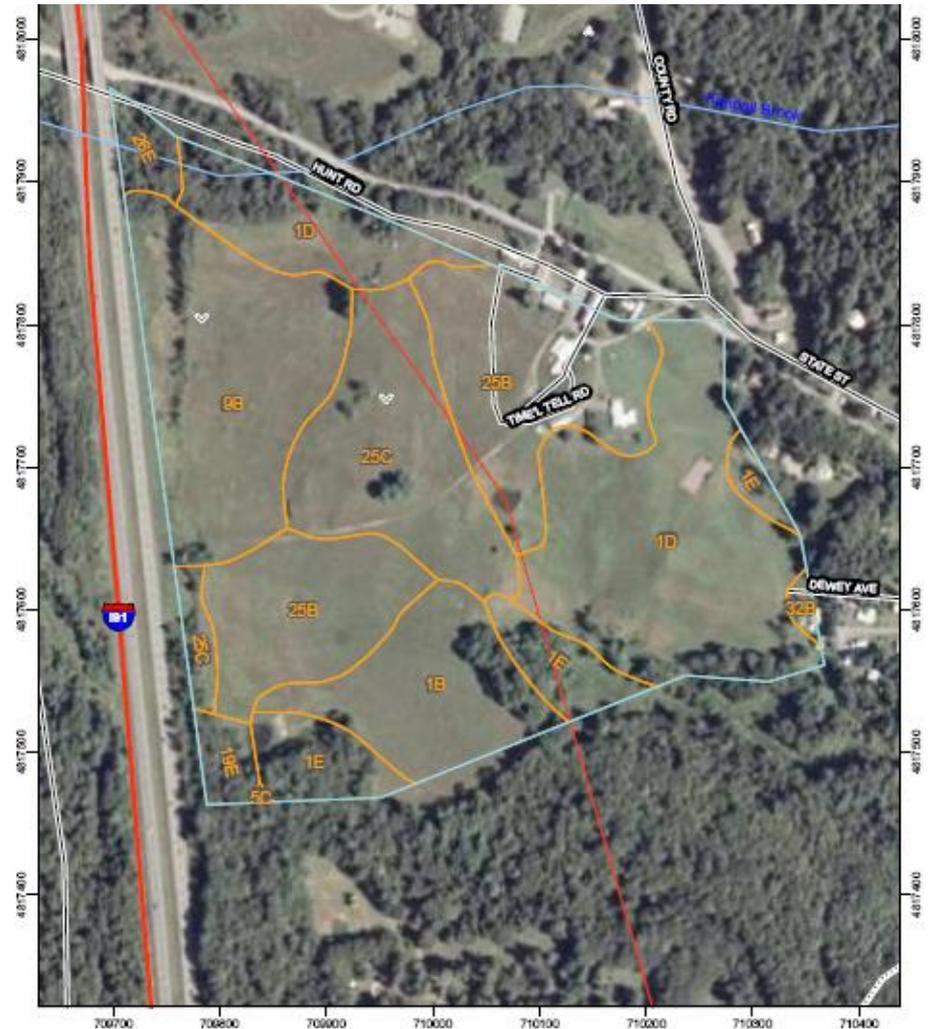
# Materials for Review

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- Soils Map and Matrix
- Proposed development or subdivision plan
- Completed portion of Act 250 Schedule B
- Previous permit findings
- Fillable Worksheet (new)

# Review: What we look for

- Is soil mapped by NRCS?
- Physical characteristics of the site
- Existing development
- Presence of other natural resources (wetlands, rare habitat, etc.)
- Any physical barriers (topography, waterbodies, etc)
- Is the parcel in agricultural use?
- What are the proposed direct and indirect impacts including fragmentation



# Suitable Mitigation

- Based on the number of acres of primary agricultural soils impacted by the project;
- Using the soil value assigned by the NRCS, the Agency will calculate the total mitigation required;
- Protection of soils on-site is the default for locations outside certain designated areas;
- Agency of Agriculture makes a suggestion for permit conditions; District Commission sets the permit conditions;
- District Commissions has the flexibility to approve alternate mitigation proposals.

Windsor County, Vermont (VT027)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1B	Hitchcock silt loam, 3 to 8 percent slopes	6.5	9.4%
1D	Hitchcock silt loam, 15 to 25 percent slopes	18.7	27.3%
1E	Hitchcock silt loam, 25 to 50 percent slopes, eroded	4.8	7.0%
5C	Windsor loamy fine sand, 8 to 15 percent slopes	0.1	0.1%
9B	Ninigret fine sandy loam, 0 to 8 percent slopes	11.6	17.0%
19E	Vershire-Dummerston complex, 25 to 60 percent slopes, rocky	1.0	1.5%
25B	Buckland loam, 3 to 8 percent slopes	14.9	21.7%
25C	Buckland loam, 8 to 15 percent slopes	9.6	14.0%
26E	Buckland loam, 35 to 60 percent slopes, very stony	1.1	1.6%
32B	Urban land-Windsor-Agawam complex, 0 to 8 percent slopes	0.3	0.4%
Totals for Area of Interest (AOI)		68.6	100.0%



# Off-Site Mitigation

- Off-site mitigation is a fee paid to the Vermont Housing and Conservation Board for the purchase of lands;
- Default for projects within: a downtown development district, a growth center, a new town center designated on or before January 1, 2014, and a neighborhood development area associated with a designated downtown development district (24 V.S.A. chapter 76A);
- Project must meet “appropriate circumstances” if located outside these certain areas.

# Municipal & Regional Role in Flexible Mitigation

- District Commissions may approve off-site mitigation or some combination of onsite and off-site mitigation **if that action is deemed consistent with the agricultural elements of local and regional plans** and the goals of 24 V.S.A. § 4302

# More information

- [http://agriculture.vermont.gov/protecting\\_lands\\_waters/land\\_use/act\\_250](http://agriculture.vermont.gov/protecting_lands_waters/land_use/act_250)
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