

## Municipalities and Farming:

What does the [Required Agricultural Practices Rule](#) mean for Municipalities?

The Required Agricultural Practice Rule (RAPs), adopted by the Vermont Agency of Agriculture, Food & Markets (VAAFAM) in December 2016, made changes to VAAFAM's regulatory authority over small-scale backyard farming operations. Municipalities now have the opportunity to regulate non-point source discharges and the construction of buildings to house livestock, plant materials, and agricultural equipment from these type of operations.

When contemplating enacting or amending zoning regulations to regulate small-scale backyard farming operations, a municipality should review the goals of its municipal plan. A municipality should make sure any regulation that it proposes is consistent with its plan's goals. It should also determine if it has adequate resources to administer and enforce the proposed regulation.

Vermont's Right to Farm law, 12 V.S.A. §§ 5751-5754, provides that "agricultural activities" shall be entitled to a rebuttable presumption that they are not a nuisance if the agricultural activity meets federal, state, and local laws, among other criteria. VAAFAM does not make determinations as to whether an activity is entitled to the rebuttable presumption that this law provides. A court would make this determination in a civil suit. VAAFAM also does not provide guidance to property owners or municipalities when this law is at issue.

If there is a concern about impacts to water quality from farming, please contact VAAFAM at [AGR.WaterQuality@vermont.gov](mailto:AGR.WaterQuality@vermont.gov) or 802-828-2431. For direct discharges to waters of the state, please also contact the Agency of Natural Resources (ANR) [anr.wsmd@vermont.gov](mailto:anr.wsmd@vermont.gov) or 802-828-1535.

## Frequently Asked Questions

1. When can a municipality apply its zoning regulations to a farming operation?

A municipality may apply its zoning regulations to a farming operation when the RAPs do not apply. A municipality may closely consider Section 3 of the RAPs in deciding whether it can apply its zoning regulations, or contact the [Agency for a determination](#).

## Farming is Defined in the Required Agricultural Practices Rule as:

(a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or (b) the raising, feeding, or management of livestock, poultry, fish, or bees; or (c) the operation of greenhouses; or (d) the production of maple syrup; or (e) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or (f) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or (g) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines.

Generally, the RAPs do not apply when the farming operation:

- Operates on less than 4 contiguous acres used to raise livestock AND has too few animals to qualify as an operation regulated under the RAPs; or
- Operates on less than 4 contiguous acres to cultivate and harvest crops; or
- Does not have an annual gross income from the sale of agricultural products of at least \$2,000 gross or more in an average year; or
- Is not managed by a farmer filing a 1040 (F) income tax statement; or
- Does not have a prospective business or farm management plan approved by the Secretary of VAAF.

A municipality is not required to regulate small-scale backyard farming operations. However, many municipalities may already have regulations in place that will now apply to these operations, including the construction of associated buildings. These include regulations governing building setbacks, protection or maintenance of buffers or riparian areas adjacent to wetlands, streams or other bodies of water, and flood hazard area regulations.

A municipality may be able to regulate by:

- establishing Overlay Districts to protect natural resources or for transitions between districts,
- designating certain farming uses as conditional uses in denser areas of the municipality, or
- designating residential uses as conditional uses in rural areas of a municipality in order to manage conflicting land uses.

A municipality, under 24 V.S.A. Chapter 61, may be able to address nuisance related issues<sup>1</sup> associated with keeping livestock in small-scale backyard farming operations including:

- maintenance of sanitary conditions,
- manure storage and removal,
- # of animals or prohibition keeping certain animals,
- control of operation to discourage pests,
- mortality disposal,
- running at large,
- licensing of animals, and
- enforcement measures for any adopted regulations.

Examples of municipalities with ordinances addressing animal control and welfare, nuisances, and public health include Montpelier, Burlington, South Burlington, and Barre City.

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2. How does a municipality know if a farm operation is regulated by VAAFMM under the RAPs?

In many instances, it is easy to know when a farm operation is covered by the RAPs by reviewing the RAPs, in particular Section 3. However, when it is not easy, a municipality can contact VAAFMM. Prior to contacting VAAFMM, the municipality should apply its regulations and request that a property owner complete a zoning permit for the construction of a building or to engage in a particular land use just as it normally would. If the farm operator believes the RAPs apply to its operation, he or she may contact the VAAFMM. VAAFMM will work with the town and the farm operator to obtain necessary information to decide whether the RAPs apply.

3. Can a municipality enforce the RAPs?

A municipality cannot enforce the RAPs. A municipality is only allowed to enforce its own decisions and regulations. If a municipality has a regulation that addresses water quality protection, then it can likely apply that regulation to land uses that are not regulated by the RAPs. If a municipality has a water quality concern about a farming operation regulated by the RAPs or has a concern and does not have water quality protection regulation, the municipality should contact VAAFMM by email at [AGR.WaterQuality@vermont.gov](mailto:AGR.WaterQuality@vermont.gov) or by calling 802-828-2431.

4. Do the new RAPs require a municipality to amend its zoning regulations?

No, the RAPs do not require a municipality to amend its zoning regulations. A municipality may apply existing regulations to land uses and the construction of associated structures that are not subject to the RAPs. However, a municipality may choose to amend its zoning regulations to increase water quality protections or enact ordinances to address nuisance-related issues.