

Subject: Conservation and development; natural resources; municipal planning and development; agriculture; municipal land use **bylaws**

Comment [O1]: Who is the targeted audience for this bill? Who asked for it?

Statement of purpose of bill as introduced: This bill proposes to direct that no municipal land use bylaw may have the effect of prohibiting an accessory on-farm business at the same location as a farm **regulated under the rules for required agricultural practices** adopted by the Secretary of Agriculture, Food and Markets. The bill also proposes to define and set forth requirements for what constitutes an accessory on-farm business.

Comment [O2]: Presumably that will be all farms in VT?

An act relating to municipal land use regulation of accessory on-farm businesses

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

* * *

(10) Accessory on-farm businesses. No bylaw shall have the effect of prohibiting an accessory on-farm business at the same location as a farm.

(A) Definitions. As used in this subdivision:

(i) "Accessory on-farm business" means one of the following:

(I) The storage, preparation, and sale of

(aa) raw agricultural commodities, as long as one or more of the commodities is grown on the **farm**; or

(bb) agricultural products produced on the farm, as long as each product contains a raw agricultural commodity grown on the **farm**.

(II) Educational events that feature agricultural practices and raw agricultural commodities or agricultural products, or both, a portion of which are produced on the farm. Such events may include tours of the farm, classes in the preparation and processing of raw agricultural commodities, and tastings of agricultural products.

(III) Private events, such as conferences or weddings, not to exceed **12 days** in a given year or **150** guests per event. Such events must occur at the same location as the farm operation. An event shall not be considered private if payment is required in order to attend.

(ii) "Agricultural product" means a product produced principally from one or more raw agricultural commodities.

Comment [O3]: Such as a vegetable farmstand? (isn't this currently allowed?) What else?

Comment [O4]: Such as blueberry muffins? Pizza? Hamburgs? Is there a threshold here?

Comment [O5]: What does this mean?

Comment [O6]: So the event has to be educational and involve a product or commodity?

Comment [O7]: TBD'd by whom? Or does it really matter, so long as something farm-produced is included?

Comment [O8]: Is this currently prohibited?

Comment [O9]: Like raw milk cheese? Picking or carding wool? Could this structure be used for non-ag purposes (i.e. anything not allowed in this section)? . . . up to 49% of the time? Who enforces?

Comment [O10]: Like raw milk?

Comment [O11]: Or, "12 separate events"

Comment [O12]: This language is odd: What farm operation? Does a back pasture not used as a part of a vegetable operation qualify? Does it matter if the location is non-contiguous to the farm homestead?

Comment [O13]: This is a little confusing: as a host farm, can I charge someone to have their wedding at my place, or does this refer to guests of the party host only?

Comment [O14]: Where does water fit in here? (i.e., where do fermented beverages fit it?)

(iii) "Farm" means a parcel or parcels owned, leased, or managed by a person, devoted primarily to farming, and subject to the rules on required agricultural practices adopted pursuant to 6 V.S.A. chapter 215, subchapter 2.

For leased lands to be part of a farm, the lessee must exercise control over the lands to the extent they would be considered as part of the lessee's own farm. Indicators of such control include whether the lessee makes day-to-day decisions concerning the cultivation or other farming-related use of the leased lands and whether the lessee manages the land for farming during the lease period.

(iv) "Farming" has the same meaning as in 10 V.S.A. § 6001.

(v) "Raw agricultural commodity" has the same meaning as in 6 V.S.A. § 21.

(B) Eligibility. For an accessory on-farm business to qualify for the benefit of this subdivision, the business shall comply with each of the following:

(i) The business is operated by the farm owner, **one or more persons residing on the farm parcel**, or by the lessee of a portion of the farm.

Comment [O15]: This could be anyone living on the farm, even if they don't work on the farm (i.e. a common renter)?

(ii) The business is located on a parcel of at least five contiguous acres, or the minimum lot size under the bylaw applicable to the district in which the parcel is located, whichever is greater, and at least four acres of the parcel are dedicated to **farming**.

Comment [O16]: So a greenhouse operation is out of luck, unless it is located on >5 acres?

(iii) The total square footage devoted to the business does not exceed 49 percent of the total footprint square footage of buildings on the farm that are dedicated to farming. The determination of total square footage shall include any interior space or land area used for the business, including parking and circulation, deliveries, waste storage, event areas, portions of structures, and display areas. The municipality shall make this determination through its administrative officer or other assigned personnel.

(C) Use of existing structures or land. An accessory on-farm business may take place inside any existing structures or on the land, provided that all applicable municipal bylaws and ordinances are met and the total square footage of the business does not exceed the limit set forth in subdivision (10)(B)(iii) of this section.

(D) Applicability of other standards. A municipality may require an accessory on-farm business to meet the same standards it applies to similar commercial uses for setbacks, frontage, parking, traffic, height, noise, lighting, landscaping, or screening.

(E) Review; permit. The bylaw shall confer authority on the administrative officer to issue a municipal land use permit for an accessory on-farm business that meets the requirements of this section either as a permitted use or through administrative review pursuant to subsection 4464(c) of this title.

(F) Notification; training. The Secretary of Agriculture, Food and Markets shall provide periodic written notification and training sessions to farms subject to the rules on required agricultural practices adopted

pursuant to 6 V.S.A. chapter 215, subchapter 2 on the existence and requirements of this subdivision and the potential need for other permits for an accessory on-farm business, including a potable water and wastewater system permit under 10 V.S.A. chapter 64.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

This may be a long way off, but would a smoke shop or dispensary be included in this, if pot production is ever legalized? (only if located on >5 acres, I suppose)

I'm curious as to what problem this bill is attempting to solve: farms that already host events that find themselves constrained because they actually play by the rules? Agripreneurs who are trying to carve out opportunity through expanded ag exemptions? Start-ups who are looking to take advantage of ag-friendly regulations? Who is looking to be protected by this effort, and why are the municipalities the villains?

Or, is it an attempt to begin carving out economic opportunities by using the ag sector as an economic driver, while building on our agricultural heritage and image?

It feels like the Bill nibbles at the edges of what Chuck Ross once referred to as "rural enterprises." Don't know what happened to that effort, but that to me is the real prize, and includes agri-tourism (farm home-stays), value added, etc. Perhaps you should explore the idea of some new, alternative regulatory model that can replace the "Commercial or Ag" jurisdictional dichotomy of Act 250.

One question that brings up is, How important is the 50% percent rule, when weighed against a strategic and well-regulated agritourism sector that could nicely complement (or incentivize) rural economies, which are not able to use "Agriculture" (writ large) as their economic savior or driver any more?

Another issue involves the forestry sector – it seems reasonable that a logger should have the same ability to construct a saw mill or woodworking shop/sales area as a farmer selling jam, cheese, or wool, but this bill doesn't take that on at all. Why not (besides the fact that the operations are not equal in many ways)? Both sectors can use help leveraging our brand in value-added ways.

I would love to see this Bill be part of a larger rural economic development effort that House Ag could initiate – Go big, or go home!