

MEMORANDUM

TO: Richmond Selectboard

CC: Josh Arneson, Linda Parent, Chris Cole

FROM: Ravi Venkataraman, on behalf of the Planning Commission

DATE: September 17, 2020

SUBJECT: Proposed bylaw amendments to clarify permitting and notification requirements for uses and structures regulated under 24 V.S.A §4413.

During last night's duly warned public hearing, the Planning Commissioners voted to submit a Zoning Bylaw change proposal to the Selectboard for its consideration and action. The proposal would clarify the permitting and notification requirements for uses and structures regulated under 24 V.S.A §4413. Structures regulated under 24 V.S.A. §4413 include farm structures, structures related to forestry and silviculture activities, power-generating facilities, schools, places of worship, hospitals, and state- or community-owned and operated institutions and facilities (i.e. town offices, fire stations).

For your consideration, enclosed are the:

- Planning Commission Report prepared for the September 16, 2020 Planning Commission meeting
- The **redlined** version of the changes to the Richmond Zoning Regulations Sections 1.2, 2.4.5, 5.1, and 5.10.4
- The notice of hearing for the change to the Zoning Regulations
- The draft Notice of Intent to Build a Farm Structure and Notice of Intent to Build a Silviculture or Forestry Operations Structure forms

As authorized under 24 V.S.A. §4442, the Selectboard is now able to consider moving the proposals forward. Typically, the Selectboard would:

1. Receive the proposal through a motion; and then,
2. Agree by motion to conduct a public hearing on each proposal, with the date of the hearing be at least 15 days after the publication of a legal notice.

Under 24 V.S.A. §4442, the Selectboard may make changes to the proposal. However, substantive changes to the proposal would affect the hearing schedule.

When the Selectboard chooses to take action, having reviewed the enclosed documents and any amendments, and either adopts or rejects the proposal, changes shall be effective 21 days after adoption.

To facilitate action by the Selectboard, I have prepared the following draft motions:

I, _____, move to accept the proposal to amend the Richmond Zoning Regulations Sections 1.2, 2.4.5, 5.1, and 5.10.4.

I, _____, move to warn a public hearing for October 19, 2020 on the amendments to the Richmond Zoning Regulations Sections 1.2, 2.4.5, 5.1, and 5.10.4

**Planning Commission Reporting Form
for Municipal Bylaw Amendments
(Modifications to portions of the zoning regulations to align with 24 V.S.A. §4413)**

This report is in accordance with 24 V.S.A. §4441 (c) which states:

When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384 (c) of this title concerning plan amendments...The report shall provide:

(A) Brief explanation of the proposed amendment and...include a statement of purpose as required for notice under §4444 of this title:

This Planning Commission proposal would clarify the permitting and notification requirements for uses and structures regulated under 24 V.S.A §4413.

And shall include findings regarding how the proposal:

1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:

The Planning Commission concluded that the proposal conforms and furthers the goals contained in the municipal plan by advancing Smart Growth goals, promoting compliance with state statute, elucidating the regulatory process for renewable energy projects. Specifically, the Planning Commission cited the following objectives from the 2018 Town Plan:

- Continue the fair and equitable application and enforcement of town, state, and federal laws
- Update land use regulations to include permitting steps, development parameters and mitigation requirements specific to renewable energy projects

2. Is compatible with proposed future land uses and densities of the municipal plan:

The Planning Commission concluded that the current amendment proposal would be compatible with the proposed future land uses and densities enumerated in the municipal plan. The 2018 Richmond Town Plan calls for the encouragement of “Smart Growth”. By clarifying the permitting and notification requirements for uses and structures under 24 V.S.A. 4413—uses that include farming, forestry, silviculture, state- and community-owned and operated institutions and facilities, schools, places for religious worship, hospitals, and waste management facilities, as well as farm structures, forestry/silviculture structures, and renewable energy projects—the Planning Commission concluded that its proposal would strengthen agricultural and forest industries, balance growth with the availability of economic and efficient public utilities and services, and prevent the fragmentation of farmland and forestland.

3. Carries out, as applicable, any specific proposals for any planned community facilities:

The proposed amendments does not carry out any specific proposals for any planned community facilities. In addition, the proposed amendment does not conflict with any proposals for planned community facilities.

1.2 Application of Zoning Regulations

~~No “Land Development” (see definition, Section 7) shall commence without the issuance of a Zoning Permit, as provided in Section 5.1.~~

~~A Zoning Permit must be issued prior to the commencement of any land development, unless regulated by 24 VSA §4413 as described in section 5.1.2 of these regulations.~~

~~**2.4.5 Accepted Agricultural and Silvicultural Practices**—In accordance with 24 VSA §4413, required agricultural practices as defined in the “Required Agricultural Practices Rule” from the Secretary of Agriculture, Food and Markets, and accepted silvicultural practices, as regulated by the “Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont” from the Commissioner of Forests, Parks and Recreation, shall not be regulated by these Zoning regulations. However, a person shall notify the Administrative Officer in writing of the intent to build a Farm Structure and shall abide by all setback requirements approved by the Secretary of Agriculture.~~

~~**Uses regulated by 24 VSA §4413, including agriculture and silviculture; and 30 VSA §248, public utilities** –These uses shall be regulated as per section 5.1.2 of these regulations.~~

5.1 Applicability

~~No Land Development may be commenced in the Town of Richmond without a Zoning Permit issued by the Administrative Officer, except as regulated by 24 VSA §4413 and 30 VSA §248 as described below. No Zoning Permit may be issued by the Administrative Officer except in conformance with the Act (§§4448, 4449) and these Zoning Regulations. Also, no Zoning Permit shall be issued by the Administrative Officer for any use or structure that requires approval of the DRB or Selectboard until such approval has been obtained. A State of Vermont Wastewater System and Potable Water Supply Permit or demonstration of exemption must be presented by the Applicant before a Certificate of Occupancy will be issued. These Zoning Regulations shall not repeal, annul, or in any way impair any Zoning Permit which was previously issued and utilized for any completed project.~~

~~Please note in Section 5.1.1, a review of the proposed development is required even if no zoning permit is needed. In Section 5.1.2, the issuance of a zoning permit shall be in conformance to 24 VSA §4448 and §4449.~~

~~5.1.1 Land development regulated by 24 VSA §4413 for which a zoning permit is NOT required:~~

- ~~a) **Agricultural uses**, including the development of farm structures -- In addition to State Statute 24 VSA §4413, the Vermont Agency of Agriculture, Food and Markets (VAAFMM) regulates these uses and should be consulted. Pursuant to the Act (§4413), applicants proposing to develop a farm structure shall:
 - ~~i) confirm that they qualify as a farm and are operating under Required Agricultural Practices (RAPs).~~
 - ~~ii) ensure that the proposed structure is at least 50 feet from adjoining surface waters. Additional setbacks may be required for waste storage facilities.(see VAAFMM regulations)~~
 - ~~iii) ensure that the proposed structure complies with municipal setbacks or a waiver has been granted by VAAFMM.~~
 - ~~iv) If the proposed farm structure will be constructed in a Flood Hazard Area and/or River corridor, or will disturb one or more acres of land, applicants must obtain a permit from the Agency of Natural Resources prior to construction.~~
 - ~~v) Submit the “Notice of Intent to Build a Farm Structure” form to the Administrative Officer prior to any land development; and~~~~

- vi) With this form, enclose a sketch of the structure, and setback measurements from the adjoining road rights-of-way, property lines and surface water.
- b) **Forestry uses**, including silviculture and forestry operations – In addition to 24 VSA §4413, these uses are regulated by The Agency of Natural Resources and the Vermont Department of Forests, Parks and Recreation.
 - i) Any forestry use that involves logging, shall adhere to the “Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont” published by the Department of Forests, Parks and Recreation.
 - ii) For a structure to qualify as a structure associated with silviculture and forestry operations, all timber from said use must be harvested from the property on which the intended structure would be located.
 - iii) If the Administrative Officer determines that the structure qualifies as a structure associated with silviculture and forestry operations, the structure is not required to meet the respective setback requirements.
 - iv) Applicants proposing to develop structures associated with silviculture and other forestry operations shall submit the following prior to any land development:
 - (1) The “Notice of Intent to Build a Silviculture or Forestry Operations Structure” to the Administrative Officer prior to any land development. Notification shall include:
 - (a) A sketch of the structure, and setback measurements from adjoining road rights-of-way, property lines and surface water; and
 - (b) Confirmation in writing that all timber in relation to the silviculture or forestry operation is harvested on the subject property on which the structure will be located
- c) **Public Utility** power- generating plants and transmission facilities – In addition to 24 VSA §4413, these uses are regulated by 30 VSA §248.

5.1.2 Land development regulated by 24 VSA §4413 for which a zoning permit IS required. For the following uses, site plan approval (for uses allowed in a district) or conditional use approval (for uses allowed conditionally in a district) shall be required before a zoning permit can be issued as per Sections 5.5 and 5.6 of these regulations. However, these uses may be regulated only with respect to their location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-road or highway parking, loading facilities, traffic, noise, lighting, landscaping and screening, and only to the extent that such regulations do not have the effect of interfering with the intended functional use.

If any of the following uses, with the exception of (a), is proposed to be located within the Flood Hazard Overlay District of these regulations, the land development shall be regulated by Section 6.8 of these regulations, as long as the regulations do not interfere with the proposed functional use.

- a) State- or community-owned and operated institutions and facilities
- b) Public and private schools and other educational institutions certified by the Agency of Education
- c) Churches and other places of worship, convents and parish houses
- d) Public and private hospitals
- e) Regional solid waste management facilities certified under 10 VSA §159
- f) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 VSA §6606a

Remove Section 5.10.4

NOTICE OF PUBLIC HEARING

PURSUANT TO 24 V.S.A. §§4441 (d) AND §4444, THE TOWN OF RICHMOND PLANNING COMMISSION WILL BE HOLDING A PUBLIC HEARING ON WEDNESDAY, SEPTEMBER 16TH, 2020, AT 7:00 PM, **VIA ZOOM, PURSUANT TO ACT 92**, TO RECEIVE COMMENT REGARDING THE PROPOSED ZONING AMENDMENT:

PURPOSE: To clarify the permitting and notification requirements for uses and structures regulated under 24 V.S.A §4413.

GEOGRAPHIC AREA AFFECTED: Town-wide

SECTION HEADINGS: Section 1.2 (Application of Zoning Regulations), Section 2.4.5 (Accepted Agricultural and Silvicultural Practices), Section 5.1 (Applicability), Section 5.10.4 (Public Facilities and Utilities)

MEETING INFORMATION: Join via Zoom: <https://us02web.zoom.us/j/88441737143>. Meeting ID: 884 4173 7143.

THE FULL TEXT AND MAPS OF THE PROPOSED ZONING AMENDMENT ARE AVAILABLE FOR INSPECTION AT THE RICHMOND TOWN CENTER OFFICES PURSUANT TO 24 VSA §4441 AND THE TOWN WEBSITE. FOR MORE INFORMATION, PLEASE CONTACT THE RICHMOND PLANNING/ZONING OFFICE AT 802-434-2430 or rvenkataraman@richmondvt.gov.

POSTED: 08/21/2020

