



Municipal Zoning and Farming

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In re 8 Taft Street DRB & NOV Appeals - Vermont Supreme Court Case

Aka Ducks and cannabis case

The case concerned a duck and cannabis farm in the City of Essex Junction.

- ▶ The City's zoning prohibited agricultural activity in residential areas.
- ▶ The farm was located in a residential area, so the town issued several notices of violation of the city's ordinances.
- ▶ The farmer appealed, and the Environmental Division ruled in his favor. That court determined that the duck-raising and cannabis operations were subject to the Required Agricultural Practices Rule, so the City could not regulate that activity.
- ▶ The farmer appealed to the Vermont Supreme Court.

24 V.S.A. § 4413

§ 4413. Limitations on municipal bylaws

(d)(1) A bylaw under this chapter [municipal and regional planning and development] shall not regulate:

(A) **required agricultural practices**, including the construction of **farm structures**, as those practices are defined by the Secretary of Agriculture, Food and Markets;

(B) accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices that are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or

(C) forestry operations.

Municipal Regulation of Agriculture Prior to Taft Street

- ▶ ▪ In re 8 Taft Street DRB & NOV Appeals is a Vermont Supreme Court case that expanded the scope of what agricultural activity municipalities can regulate.
- ▶ ▪ Prior to Taft Street, it was generally accepted that municipalities could not regulate agricultural activity that was subject to the Required Agricultural Practices Rule (RAPs Rule).
- ▶ ▪ The RAPs Rule Section 3.1 defines what kind of farming activity makes a farmer subject to the RAPs Rule. If agricultural activity met that criteria, it was generally understood that municipalities could not regulate the activity.

Taft Street - Vt. Supreme Court's Analysis

- ▶ The Court read the statute narrowly, relying on the statute's plain language.
- ▶ Instead of deciding municipalities cannot regulate agricultural activity subject to the RAPs Rule, the Court held that municipalities are only restricted from regulating what required agricultural practices are.
- ▶ “There is a difference between ‘agricultural practices’ subject to the RAPs Rule and ‘agricultural practices’ required by the Rule. Had the Legislature intended to prohibit all municipal regulation of farming subject to the RAPs it could have done so; ‘[h]owever, it did not do so, and we presume it chose its words advisedly.’”

In re 8 Taft St. DRB, 2025 VT 27, ¶ 16 (internal citations omitted).

Taft Street Holding

“Accordingly, § 4413(d)(1)(A) does not prohibit all municipal regulation of farming if that farming is subject to the RAPs Rule, and landowner's duck-raising operation is not exempt from municipal zoning solely because his activities are subject to the RAPs Rule. Rather, § 4413(d)(1)(A) prohibits municipal regulation of ‘required agricultural practices,’ or the agricultural land-management standards intended to protect Vermont's waters established by the RAPs Rule and imposed on certain ‘agricultural practices.’”

In re 8 Taft St. DRB, 2025 VT 27, ¶ 23

Potential Impacts

- ▶ Municipalities can now regulate agricultural activity within their jurisdictions and subject agricultural activity to municipal ordinances and zoning.
- ▶ Agricultural activity could be subject to noise, traffic, road, set-back requirements, smell, hours of operation, parking, and land use municipal regulation. This is broad authority.
- ▶ Municipalities are restricted from regulating the specific practices required by the RAPs Rule. RAPs Rule largely concerns water, drainage, manure, buffer zones, and animal mortality management requirements.
- ▶ Other exemptions required by statute are still in place.