

Tool Kit for Local Regulations of Agriculture

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Theresa Walker, RPC Consultant & Durham Agriculture
Commission



Pop Quiz!

Don't worry, your scores will
not be graded.

1. How many millions of dollars of agricultural products did NH farmers sell in 2012?

- a. \$165 million
- b. \$179 million
- c. \$200 million

c. \$200 million
NH farmers sold nearly
\$200 million of agricultural
products in 2012.



2. What fruit brought in the most revenue in 2012?



- a. Apples
- b. Tomatoes
- c. Pumpkins





a. Apples

In 2012, apples brought in
the most revenue.

3. Match the millions of dollars of sales in 2012 to the product:

Maple Syrup	\$6 million
Milk	\$13.5 million
Poultry & Eggs	\$3.6 million
Apples	\$55 million

Maple Syrup	\$3.6 mil. (82,574 gal.)
Apples	\$6 million (24.5 mil. lbs.)
Poultry & Eggs	\$13.5 mil. (320,000 birds)
Milk	\$55 mil. (3 mil. gal.)

4. Between 2007 and 2012, by what percentage did farmland acreage in NH increase?

a. 4%

b. 6.5%

c. 11%

a. 4%

Between 2007 and 2012, farmland acreage in NH increased by 4%.



5. Rank these states in terms of highest to lowest percentage of farms selling directly to consumers :

- a. Vermont
- b. California
- c. New Hampshire
- d. Massachusetts

At 10.6% of farms selling directly to consumers, **NH** leads the nation!



(Who cares where VT, CA,
and MA rank?)

6. In 2012, what percentage of revenue came from direct sales?

a. 30%

b. 40%

c. 50%

a. 30%

Direct sales account for 30%
of revenue from sales of
NH agricultural products.

7. Where did NH rank in 2012 for percentage of agricultural products sold to wholesale retailers?

a. 3rd

b. 5th

c. 7th

b. 5th

Nationwide, NH sold the 5th highest percentage (13.7%) of its agricultural products to wholesale retailers.

8. Nationwide, the number of farms decreased by 4% between 2007 and 2012.

NH bucked that trend by increasing its number of farms by what percentage over that same time?

a. 3%

b. 4%

c. 5%

c. 5%

Between 2007 and 2012, the number of farms in NH increased by 5%, almost 10% more than the national average.

Also:

- Between 1985 and 2012 over 43,500 acres of farmland in NH was converted to developed land.
- Rockingham County lost 1/3 of its prime farmland between 1997-2002.
- NH ranks #1 in the US for farms with women as the principal operators.
- NH ranks #1 in the US for organic sales as percentage of all farm sales.

*What does all this mean at
the local level?*

- More farms embedded in our towns
- More diversification of farms
- More pushing the bounds of what farming means
- More public coming to farms
- More conflict

Why plan for agriculture and food systems?

- Agricultural viability (if you eat, you're in)
- Food security
- Sustaining the working landscape valued for rural character
- Resiliency
- NH farmers are stewards of half million acres, a major contributor to our character and quality of life

LOCAL REGULATION
OF AGRICULTURE
TOOLKIT



Presented by The NH Coalition for Sustaining Agriculture

Toolkit for Local Regulation of Agriculture

NH Coalition for
Sustaining Agriculture

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Toolkit was provided by
Farm Credit East AgEnhancement*

Toolkit Contents:

- Is Your Town Farm Friendly? - A checklist for municipal planning for agriculture
- Local Regulation of Agriculture Flowchart – Infographic with detailed information regarding state and local land use laws impacting agriculture
- Flowchart companion – Provides additional information on RSA 674:32
- Glossary of Terms
- Resources

IS YOUR TOWN FARM FRIENDLY?

2nd Edition

A checklist for municipal planning for agriculture

Farms are thriving and expanding across New Hampshire in new and exciting ways as farmers capitalize on consumer interest in fresh, locally grown, and locally produced food. Farm stands, community gardens, community farms, and summer and winter farmers' markets provide access to New Hampshire grown agricultural products year round, creating opportunities for farmers to build their businesses.

To support this economic development, municipalities can do more to ensure farms are successful. Agricultural land use is often overlooked in local plans and regulations, with emphasis given to residential and commercial activity, transportation networks, and recreation. As a result, farmers can be hindered by uncertainty regarding how state and local regulations are applied to their operations. Municipal plans, regulations and policies that are flexible and clearly promote and support farming can help ensure New Hampshire's traditional working landscape of farms and forests can continue to work in the future.

This checklist, originally developed by the New Hampshire Coalition for Sustaining Agriculture in 2011, has been updated to reflect municipal interest in creating economically and environmentally sustainable and resilient communities that recognize the importance of a local and regional food supply, as well as the recognition by local officials that agricultural land in all our communities provides more than food and forest products and rural character that supports tourism, but also jobs, greater food security, water supply protection, flood storage, and wildlife habitat.

Practical Land Use Ordinances and Regulations

Does your town:

Have an detailed section on agriculture in the Town Master Plan?

The Master Plan is the vision of what land uses are encouraged, protected, or excluded within a town. To support farms and farming, the Master Plan should include a section dedicated to agricultural resources, including an inventory of current agricultural activity, an analysis of the impacts of existing regulations on farming, and goals and recommendations to support agriculture.

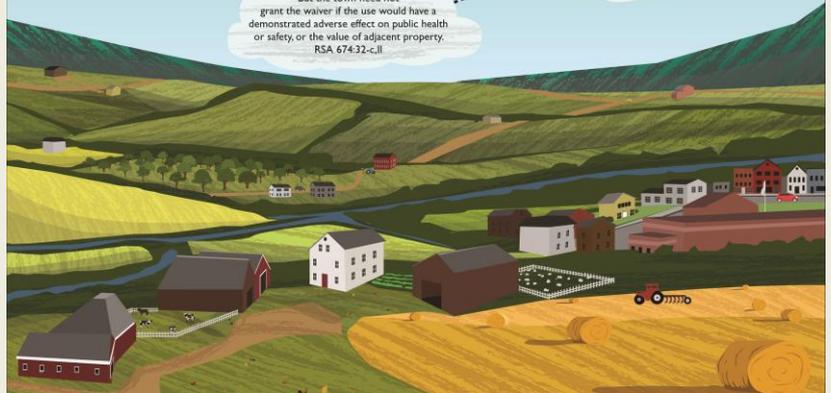
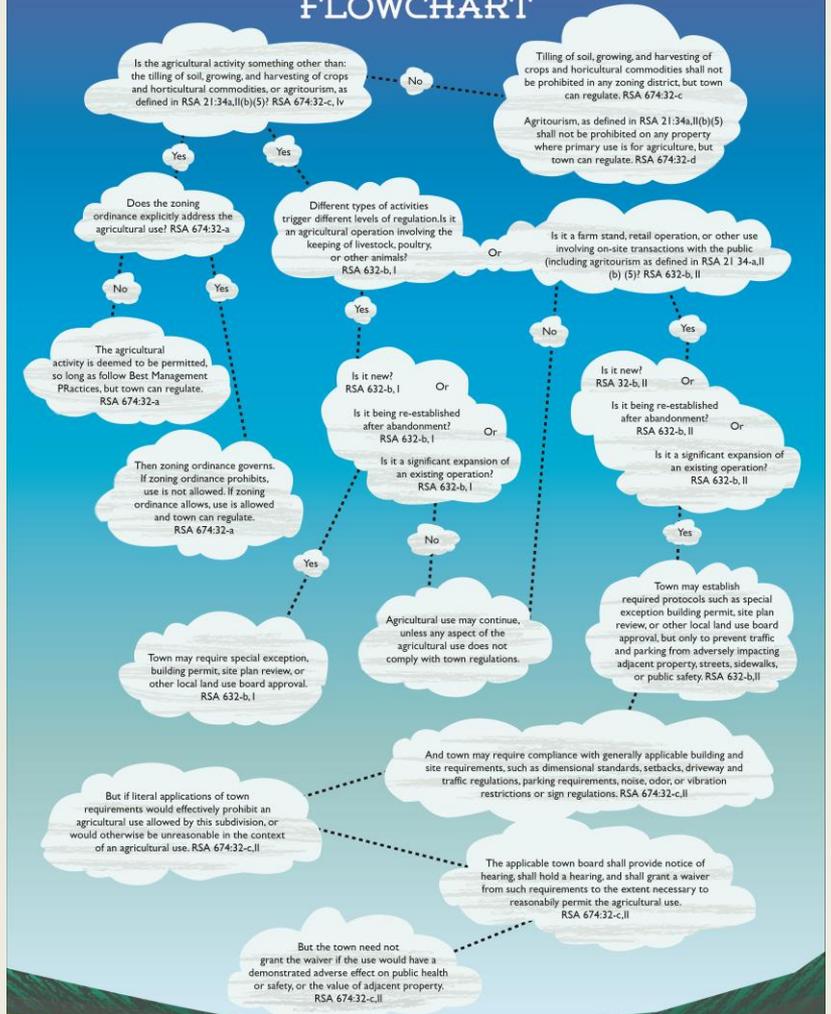
Allow agricultural uses in most zones?

Farms are interwoven throughout our communities, operating in areas zoned for residential, commercial, and industrial activity. Farms are often hybrids of all these different kinds of land uses, and ordinances and regulations should provide flexibility for the dynamic nature of farming.

Use the State's definition of agriculture, detailed in NH RSA 21:34-a?

The State of New Hampshire has an official definition of a farm, agriculture, and farming – it's all included in NH RSA 21:34-a. Local adoption of this definition provides consistency with the State's definition and the many references to agriculture in State laws and programs.

LOCAL REGULATIONS OF AGRICULTURE FLOWCHART



FLOWCHART COMPANION

◀ Purpose of RSA 674:32-a through c: ▶

These sections of RSA 674:32 became law in 2001 as a result of House Bill 97 from 1999. Their purpose is to clarify “that farming and agriculture, as defined in RSA 21:34-a, shall not be unreasonably limited by the use of municipal planning and zoning powers.” This purpose should guide interpretation and use of these laws.

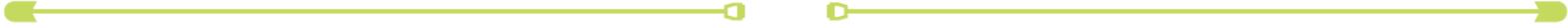
As a backdrop to the laws discussed here, note that RSA 672:1, III-b declares that: “Agriculture makes vital and significant contributions to the food supply, the economy, the environment and the aesthetic features of the state of New Hampshire, and the tradition of using the land resource for agricultural production is an essential factor in providing for the favorable quality of life in the state. Natural features, terrain and the pattern of geography of the state frequently place agricultural land in close proximity to other forms of development and commonly in small parcels. Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape. Agritourism, as defined in RSA 21:34-a, is undertaken by farmers to contribute to both the economic viability and the long-term sustainability of the primary agricultural activities of New Hampshire farms. Agricultural activities and agritourism shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers.”

Also note that RSA 674:17, I(i) includes as one of the purposes of zoning ordinances “to encourage the preservation of agricultural lands and buildings and the agricultural operations described in RSA 21:34-a supporting the agricultural lands and buildings.”

Permissive or Mandatory: It is very important to note that the laws use both the words “shall” and “may.” For example, in certain circumstances, municipalities “may require special exception” or other approval processes. RSA 674:32-b, I-II. This means the municipality has discretion; it may decide to impose such requirements or it may decide to not impose them. So, when certain triggering activities occur, such as “significant expansion” of certain agricultural operations (RSA 674:32-b, I-II), the municipality has discretion to opt to regulate the farm or opt to not regulate the farm. In other sections of the law, the word “shall” is used. For example, the applicable town board “shall grant a waiver” from certain municipal requirements in certain circumstances. When these circumstances are present, the municipality has no discretion; it has to grant the waiver because the law says it “shall.” In light of the mandatory requirement to grant waivers in certain circumstances, when deciding whether to opt to impose requirements or opt to not impose requirements, it is prudent for municipalities to consider whether opting to impose requirements is likely to trigger the requirement to waive certain or all of those requirements.

Animal Cruelty: Municipalities can receive complaints and inquiries from the general public about animals at farms, sometimes with concerns that animals are being abused or neglected. Municipalities should refer these concerns to the police because animal cruelty is part of the Criminal Code. In particular, RSA 644:8 defines animal cruelty and sets forth the penalties for it. The police work with the state veterinarian to investigate such concerns pursuant to RSA 436:8. The laws governing the municipal regulation of agriculture, RSA 674:32, are not designed to address concerns of animal cruelty or neglect. The local police can then decide whether to involve the Division of Animal Industry, which is part of the N.H. Department of Agriculture, Markets & Food.

GLOSSARY OF TERMS*



Abandon or Abandonment

There is no statutory definition of abandonment for purposes of laws concerning agricultural use. Absent a state definition, the definition provided in the applicable municipal ordinance will govern. Generally these ordinances will define that abandonment as an event that occurs when there is a stated intention or otherwise apparent action to discontinue an agricultural operation, such as by the removal of characteristic equipment or furnishing used in the performance of the operation, without its replacement by similar equipment or furnishings, or the replacement of the operation with a different non-agricultural operation. Cf. Town of Auburn, New Hampshire, Zoning Ordinance, § 2.02 (Mar. 2014) (discussing definition of abandonment in the analogous context of non-conforming uses).

Absent a municipal definition, the meaning is less clear. New Hampshire state law provides that an undefined word shall be given its “common and approved usage.”* Beyond this, the case law suggests that abandonment occurs “upon the concurrence of two factors: (1) an intention to abandon or relinquish

LOCAL REGULATION OF AGRICULTURE TOOLKIT



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Q: What's next?

A: Model site plan
review regulations

Theresa Walker, Durham
Agricultural Commission
theresawalker@comcast.net