



Town of Underhill

P.O Box 120, Underhill, VT 05489

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April 1, 2024

Russ & Tricia Vogel
611 Pleasant Valley Road
Underhill, VT 05489

Dear Russ & Tricia,

In October of 2023 Russ came to the town offices and met with me, at which time he presented me with a letter dated October 16, 2023 expressing your families concerns about a firewood processing operation being carried out by Gordon Williamson on land owned by Joseph & Anne Marie Tisbert, Parcel Code: 633 Pleasant Valley Road. Your residence is located approximately 300 feet southwest of where the processing operation was taking place. Your concerns primarily seem to be centered around the noise and hours of operation.

I reached out to Gordon Williamson and asked if he would cease operations so I could have time to look into the regulations. Gordon agreed, and after cleaning up and filling the orders that he needed to do, which I understand included wood for the Tisbert family and one or two other clients, by Thanksgiving the processing of wood stopped. Gordon has continued to stockpile logs on the site, throughout this past winter, but to the best of my knowledge the processor was removed from the site and no processing has taken place to date.

The crux of the issue at hand is whether this sort of firewood processing operation is an allowed use, which requires a permit, a use that is not allowed, or is a forestry practice, exempt from regulation by the town.

In reviewing our Land Use Regulations, adopted March 1, 2011 and last amended March 3, 2020; Forestry, which also references other terms, are defined as follows:

Forestry: The use and management of timber land for purposes of conservation and/or wood production and timber harvesting. This definition specifically excludes sawmills, lumber yards and other similar facilities used for the processing and/or manufacturing of wood and wood products, with the exception of portable sawmills and other equipment used on site in association with timber harvesting activities. See also **Accepted Management Practices. Light Industry.**

The subject property lies in the Mount Mansfield Scenic Preservation District. Forestry is a permitted use within this zoning district as it is within all of Underhill's other Zoning Districts.

Accepted Management Practices (AMPs): Accepted practices for silviculture (forestry) as currently defined by the Commissioner of the Vermont Department of Forests, Parks and Recreation (see exemptions under Section 10.2). See also **Forestry**.

Light Industry: A facility not exceeding 10,000 square feet in total gross floor area, used for the manufacture, processing, fabrication, testing and/or assembly of products. This may also include associated research and development, warehousing and shipping activities. A light industry shall meet all applicable requirements of these regulations, including performance standards. The processing of agricultural products produced on the premises where produced shall not be deemed to be manufacturing. See also Home Industry, **Sawmill**.

Sawmill: A wood processing facility, including structures and yard areas, where logs are stored and processed into lumber and other wood products. Portable chippers and sawmills used in conjunction with active logging operations are excluded from this definition. See also **Forestry**, **Light Industry**.

Sawmills are not an allowed use in the Mt. Mansfield Scenic Preservation Zoning District. However, Portable chippers and sawmills used in conjunction with active logging operations are excluded from this definition, see above

By all accounts the definition of forestry, according to our current regulations, appears to be relative to where the wood harvesting occurs. To the best of my knowledge the logs being processed are coming from outside forestry operations which, according to our definition would put this type of operation into a different category other than forestry.

The site where the processing of firewood is taking place is also within a Zone A Special Flood Hazard Area, according to the 2011 FEMA FIRM Maps. Per Section 6.4 (B)(3) Silvicultural (forestry) activities conducted in accordance with Vermont Department of Forest, Parks and Recreation Accepted Management Practices (AMPs) are exempt from our Flood Hazard Area Regulations.

When our Land Use Regulations were first adopted the definition of a forestry operation was defined by the Commissioner of the Vermont Department of Forests, Parks and Recreation and was relative to where the timber harvesting was occurring. Title 10 VSA Section 2602 (6): "Forestry operation" means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. "Forestry operation" includes the primary processing of forest products of commercial value on a parcel **where the timber harvest occurs**.

However, in 2018 the definition of a Forestry operation was expanded to sites that is not the harvest site.

Title 12 VSA Section 5766 (3):

“Forest product” means logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; **fuel wood**; maple sap; or bark.

Title 12 VSA Section 5766 (3):

“Forestry operation” means activities related to the management of forests, including timber harvests; removal, storage, or stockpiling of vegetation or timber; pruning; planting; lumber processing with portable sawmills; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operation” includes one or both of the following:

(A) the primary processing of forest products on a parcel where a timber harvest occurs; and

(B) the primary processing of forest products at a site that is not the harvest site, provided that:

(i) the person conducting the forestry operations owns or has permission to use the site for the forestry operation;

(ii) the forestry operation was established prior to surrounding activities that are not forestry operations;

(iii) the site is used by the forestry operation for 12 or fewer months in any two-year period or 24 or fewer months in any five-year period;

(iv) the forestry operation complies with all applicable law; and

(v) only portable, nonpermanent equipment is used to process the forest products at the site.

After careful consideration, research, and further consideration given to all the parties involved I find the following:

- (i) I find that Gordon Williamson had verbal permission from the owners of the property, Joseph & Anne Marie Tisbert, when he was conducting his operation and on January 16, 2024, I was presented a signed Lease & Land Management Agreement executed by Joseph & Anne Marie Tisbert and Gordon Williamson to use

the field owned by the Tisberts for Forestry operations limited to no more than 12 months within a 24-month period or 24 months within a 5-year period.

- (ii) I find that the current working farm, which is conserved by the American Farmland Trust, which is enrolled in the Vermont Current Use Program, where the forestry operation was operating, and has been in existence for many years, probably well over a hundred years and probably more. It is difficult to be certain what the law means by “surrounding activities that are not forestry operations” but after careful consideration and consultation with various experts in the field of forestry I conclude “surrounding activities that are not forestry operations” to mean something different from residential dwellings, perhaps a restaurant, or a school, or some type of business. If the legislature meant to include residential dwellings, I believe they would have stated so. It is also my opinion that consideration needs to be given in favor of the working farm, the current owners and their predecessors, and this farm has been in existence most likely prior to any of its surroundings.
- (iii) *the site is used by the forestry operation for 12 or fewer months in any two-year period or 24 or fewer months in any five-year period.* Refer to Lease & Land Management Agreement, as stated above.
- (iv) *the forestry operation complies with all applicable law:* The forestry operation must comply and adhere to all applicable laws and rules controlling forestry operations by the State of Vermont.
- (v) *only portable, nonpermanent equipment is used to process the forest products at the site.* I find that that equipment appears to all be portable and nonpermanent in nature.

Section 3.14(B) Agriculture and Forestry are exempt for Underhill’s Performance Standards.

Section 3.18(B)(10) Forestry operations shall at minimum observe Accepted Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation.

Title 12 VSA Section 5757 Forestry operations; protection from nuisance lawsuits

(a) Except as provided for under subsections (b) and (c) of this section, a person conducting a conventional forestry practice shall be entitled to a rebuttable presumption that the conventional forestry practice does not constitute a public or private nuisance if the person conducts the conventional forestry practice in compliance with the following:

(1) the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner under 10 V.S.A. § 2622; and

(2) other applicable law.

(b) The presumption under subsection (a) of this section that a person conducting a conventional forestry practice does not constitute a nuisance may be rebutted by showing:

(1) a nuisance resulted from the negligent operation of the conventional forestry practice;

(2) a nuisance resulted from a violation of State, federal, or other applicable law during the conduct of the conventional forestry practice; or

(3) clear and convincing evidence that the conventional forestry practice has a substantial adverse effect on the health, safety, or welfare of the complaining party.

(c) Nothing in this section shall be construed to limit the authority of State or local boards of health to abate nuisances affecting the public health. (Added 2017, No. 198 (Adj. Sess.), § 1, eff. May 30, 2018.)

However, according to the Vermont Department of Forest, Parks, and Recreation; nuisance lawsuit protection does not apply to logging that is not part of the management of forests. For example, if logging is a component of converting the land to a non-forest use, it is not a forestry operation and not entitled to this protection.

In conclusion and based upon the foregoing, and in addition to the fact that our regulations state that Forestry operations shall at minimum observe Accepted Management Practices (AMPs) as defined and administered by the Vermont Department of Forests, Parks and Recreation. I find that the forestry operation being conducted by Gordon Williamson on property owned by Joseph & Anne Marie Tisbert, Parcel Code: 633 Pleasant Valley Road, is an exempt forestry operation and is not subject to Underhill's Land Use Regulations. This is my opinion based upon my professional judgement and should not be misconstrued as a legal opinion.

As a suggestion, I strongly encourage all the parties involved to work with one another to possibly come up with reasonable hours of operations so the surrounding residents know what to expect.

Kind Regards,



Brad Holden
Interim Zoning Administrator
802-899-4434 Ext 5
bholden@underhillvt.gov

cc: Joseph & Anne Tisbert, 5901 Pleasant Valley Road, Cambridge VT 05444; Gordon Williamson, 623 Pleasant Valley Road, Underhill, VT 05489; Nicholas Borrell & Heather Sikorsky, 612 Pleasant Valley Road, Underhill, VT 05489

Section 10.5 Appeals

A. Zoning Administrator Decisions. An applicant or other "interested person" as defined under the Act [§4465] and Section 11.2 may appeal a decision or act of the Zoning Administrator within 15 days of the date of the decision or act by filing a notice of appeal with the Clerk of the Development Review Board, and by filing a copy of the notice with the Zoning Administrator.

Notice of Appeal. A notice of appeal filed with the Development Review Board under this section shall be in writing and include the following information:

- a. the name and address of the appellant;
- b. a brief description of the property with respect to which the appeal is taken;
- c. a reference to applicable provisions of these regulations;
- d. the relief requested by the appellant, including any request for a variance from one or more provisions of these regulations; and
- e. the alleged grounds why such relief is believed proper under the circumstances.

Appeal by April 16, 2024

Russ & Tricia Vogel
611 Pleasant Valley Rd
Underhill, VT 05489
10/16/23

Brad Holden
Town Administrator
Town Of Underhill Vermont
12 Pleasant Valley Rd
Underhill, VT 05489

Dear Brad Holden:

I live at 611 Pleasant Valley rd and am emailing you today to submit a complaint over noise being created just North of 612 Pleasant Valley rd that started around July 22nd 2022 and has continued through this date. This location of the origination of noise is in the town of Underhill in Chittenden County immediately across the street from The Johnsons (621 Pleasant Valley rd) , Diagonally across the street from my house, and at the North property line of 612 Pleasant Valley rd.

On July 22nd 2022 I observed a stack of logs in the south end of the field located just North of the property of Nick Borrell and Heather Sikorsky who live at 612 Pleasant Valley Rd, across the street from the Johnsons at 613 Pleasant valley rd, and diagonally across the street from my house. Within days I then noticed machinery and dump trucks with the log pile. I was under the assumption that the farm owned by Joe & Anne Tisbert was in the process of some logging up the hill from the site for they own this field which is both in Lamoille County and Chittenden County on the southern end. By July 24th I had found that the site was being used to process firewood by Gordon Williamson who resides at 623 Pleasant Valley rd and is the owner of 50-60 acres behind us.

Neither my wife nor I were ever approached by Joe, Anne, or Gordon about this being placed there and our input. Joe and Anne apparently have given Gordon permission to use that section of land for his operation.

Trying to be neighborly on our part we decided to see how this situation unfolds and determine if we can deal with it even though we were never approached about it.

This year (2023) I noticed Gordons operation appeared to expand with the observation of a very large piles of logs to split which he has been working on this year.

Gordon started processing firewood using a large circular saw processor with a belt to load the split wood into his truck. The noise from the cutting, dropping of wood into his truck, as well as the extremely loud exhaust on his white truck leaving loaded has been frustrating and causing interruptions of our peace and enjoyment of our property. While trying to let it be, it has slowly been causing us more and more frustration. Our children have been woken numerous times in the morning to his machinery/sawing and the noise has become intrusive and can be heard throughout our house especially if we have our windows open. We homeschool and the noise is causing interruptions in schooling. Recently I have measured the decibels using an app on my iPhone 14 and have recorded over 60db inside the house at an open front window. I have also measured 75db at the front of my garage. These repetitive peaks are when the saw cuts the logs. I have audio recordings also. According to the Nuisance Ordinance the maximum decibel reading allowed at the boundary of a property is 72db at 75hz or below. The higher the hertz the lower decibel allowed. As mentioned above I am getting over 60db inside my home and 75db at the front of the garage well away from property boundary.

I stopped into the town office this summer possibly in August and unofficially asked a few people who were present (Jennifer Silpe-Katz, and Brad Holden) if they had noticed the firewood processing happening just North of 612 Pleasant Valley rd. Brad stated he did not know and Jennifer stated yes and it was Gordon Vincent who was doing it. I asked what do I need to do if it was bothering us and was informed by Brad that "the town doesn't go looking into problems/issues unless requested" and to email natherton@underhillvt.gov if I want to file a formal complaint.

This actually surprised me for the fact it is on the main road and in plain view. I expected that the subject of it would be brought up on its own with anyone from the town driving by and easily noticing however I am aware that Gordon is hired by the town and possibly has a relative working there. I chose at the time to hold off on filing a complaint and decided to gather some information.

On September 25th I drove up to Joe and Anne Tisbert's farm and was able to voice my concerns to Anne about the operation. I asked why the site was chosen next to 3 houses without any concern to the homeowners. Anne gave a number of excuses but never answered the question.

On September 30th I received a text message from Gordon stating he has been aware for some time that there was a "stir in the neighborhood" about his firewood operation and was looking to have a discussion with both myself and Nick Borrell (612 PV rd) to "find some common ground" and "work it out without creating a larger dispute". He stated he was available after Oct 8th (yesterday).

I was informed by Nick Borrell that while he was in my house tending to my pets while our family was away (Sept 30-Oct 4th), Anne Tisbert knocked on my door obviously looking for me or my wife. Nick explained to her why he was there and she urged him to work it out with Gordon. Since she knocked on my door she was apparently wanting us to do the same. With the responsibility lying in the hands of the landowners, both Joe and Anne being aware of the unhappy neighbors, it is not our responsibility to need to work it out with anyone but the land owners.

On October 9th Gordon texted both Nick and I stating he would be around most of the week and would like to meet with both Nick and I to "get this resolved this week". I responded the same day that I may be available tomorrow Oct 10th.

At this date, due to already speaking with the land owner, I have not felt there is any reason to speak with the person given permission to perform this operation on their land. Both Joe and Anne are aware of both me and my neighbor's displeasure and have not called or acted with any resolution.

Reviewing the Town of Underhill Unified Land Use and Regulations dated March 1, 2011 amended March 3, 2020 there is a chart on page 8 which states that a sawmill is not allowed in the district I live in (Scenic) and is actually not allowed in any district except for a conditional use on RT15.

On page 45 it states:

SECTION 3.14 Performance Standards

No land or structure in any zoning district shall be used or occupied in any manner that creates dangerous, injurious, noxious, or otherwise objectionable conditions that adversely affect or interfere with the reasonable use of adjoining or nearby properties.

The following performance standards, as measured at the property line, must be met and maintained for uses in all districts, except for agriculture and forestry. In determining ongoing compliance, the burden of proof shall fall on the applicant or property owner. No use, under normal conditions, shall cause, create or result in:

Noise in excess of 60 decibels (dBA) that is not the result of occasional, customary activities associated with an allowed use (e.g., lawn mowing), or as otherwise specified for a particular use; or noise that represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area.

Brad Holden

10/16/23

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The Town of Underhill Vermont Nuisance ordinance states:

Article III #1, Excessive noise

Article IV Violations covers excessive noise measured at the boundaries of properties and represents a significant increase in the noise levels in the vicinity of the neighboring properties so as to be incompatible with the reasonable use of the area shall not be permitted. The maximum sound pressure level radiated by a use or activity measure at any point on the boundaries on the property of which the sound is generated shall not exceed the following:

The above statement is followed by a decibel/hertz limit chart showing maximum decibel (below 75hz) being 72db. Any higher Hertz has a lower decibel limit.

As stated above I am reading above 60db IN my house and I have recorded over 70db outside against my house.

While this has been happening the half of last year and this year, I have been wondering why this site was chosen and rather than farther up the field where it would not impact any of us and the only reason why that I can seem to determine is it's in Chittenden County. Possibly there is a benefit for someone the location.

Neither my wife, myself or our family is accepting to this operation any longer. While I wish Gordon the best, the operation needs to be moved elsewhere.

Joe and Anne also own the land directly to the West of my house across the Seymour river (where Gordon's driveway passes through) and if there is a thought to move it there it would impact us possibly the same.

Sincerely,

Russ & Tricia Vogel

8 November 2023

To Whom It May Concern,

I am writing this letter per the request of the Underhill Town Administrator, Brad Holden, in response to the written complaint of Russell Vogel regarding the noise of my firewood operation located on Joe & Anne Tisbert's property at 620 Pleasant Valley Road. The intent of this letter is to provide an accurate definition of the operation and activities being performed on the property mentioned above.

As I met with Mr. Holden this morning, 8 November 2023, he informed me that he had spoken with the Town's legal representative regarding the definition of my operation. They stated that due to the fact that log length firewood was hauled in to the site from another location and not harvested on site it was considered a sawmill operation and is not permitted in any zoning district in Underhill.

To set the record straight, I would like to start from the beginning and explain why I chose the location I did and what my equipment actually is. I originally had a small triangular spot on the West side of Pleasant Valley Road, West of the Seymour River, directly off the North side of our driveway located at 623 Pleasant Valley Road. The spot worked efficiently for the first year of my operation as I only processed 30 cords of wood and could use a tri axle truck for log deliveries. In the second year of my operation, my sales boosted from 30 cords to 167 cords and I quickly realized that the spot I was in would not be sufficient for the growth of my business in the coming years. I spoke with Joe and Anne requesting the location in the field located at 620 Pleasant Valley Road for a number of reasons listed below;

1. Bridge Weight Limits: the right of way that is provided for the residents at 623 & 625 Pleasant Valley Road has a "somewhat official" rating of around 65,000 lbs. Due to the increase in sales I was no longer able to use my previous log supplier and had to use a driver that had a truck and trailer that hauled 10 cords per load weighing in excess of 100,000 lbs.
2. The triangular lot I was operating out of did not have the room for storing more than 80 cords of logs at a time so I wasn't able to plan ahead for the following year without first emptying my lot of the previous year's wood.
3. The increased vehicle traffic on the right of way was slowly degrading the road and required additional maintenance and material to keep it passable for other patrons and residents. It was easier for me to maintain an entryway into the field where I'm at now rather than grade our driveway constantly to keep in in a respectable condition.
4. The field provided somewhat unlimited log storage and ease of access for any vehicle delivering or picking up firewood, transporting saw logs to send to the mill, firewood delivery, and created a very profitable roadside frontage increasing my firewood sales to over 300 cords by the third year.

At this time I would like to clarify the equipment used in my firewood operation. The primary piece used is a 2016 CRD Rapido Loco 20 firewood processor. It's powered by a 74 HP Duetz diesel engine with a 48" circular slasher blade capable of cutting 22" logs. It has an attached conveyor and live deck for logs, is completely portable, and can be packed up and removed from

the site in less than 15 minutes. The second vehicle is a 1997 Western Star log truck with a 24' log body and a Barko 80 loader and grapple. It is powered by a Caterpillar 3406E engine. My third vehicle is a 2008 Ford F-550 delivery truck powered by a diesel 6.4 liter powerstroke engine. The last vehicle is a 1997 Ford 4630 diesel tractor that I use for debris and sawdust cleanup and to smooth out the ground and ruts after rain storms. I would like to emphasize for a second time that all of these vehicles are 100% portable and can be removed from the property in less than 20 minutes if needed.

At this time I would like to classify, in the most unbiased expert opinion possible, what category my firewood processing operation actually falls under in reference to State and Town definitions. To begin with State; the following excerpt is from 10 VSA Subsection 2602:

(6) "Forestry operation" means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. "Forestry operation" includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.

Number 6 in the definitions first defines a forestry operation as:

"any activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization."

It then goes on to state that a:

"Forestry operation includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs."

There are two sentences in the number 6 bullet that describe what a forestry operation actually is. The first sentence is stating a broad spectrum of terms that include activities related to forest management, timber harvesting, etc., and then a second sentence that goes on to state that the term "Forestry operation" includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs. Neither of these sentences state that in order to be classified as a forestry operation the actual operation must be performed on the site of the timber harvest. They only state the description of the activities related to a forestry operation and include primary processing of forest products on a timber harvesting location.

Continuing with the Town of Underhill, I would like to highlight the Town definition of forestry on page 203, Town Definitions, Section XI, lines 4-9:

4 Forestry: The use and management of timber land for purposes of conservation and/or wood
5 production and timber harvesting. This definition specifically excludes sawmills, lumber yards
6 and other similar facilities used for the processing and/or manufacturing of wood and wood
7 products, with the exception of portable sawmills and other equipment used on site in
8 association with timber harvesting activities. See also Accepted Management Practices. Light
9 Industry.

As I described in the above paragraph explaining the details of my equipment, all of my machinery is completely portable and can be removed from the site within a 20 minute time period. The Town states that forestry is the use and management of timber land for purposes of conservation and/or wood production and timber harvesting. Reverting back to the state definitions page in title 10, chapter 83, bullet 8:

(8) "Timber harvest" means a forestry operation involving the harvest of timber. (Added 1977, No. 253 (Adj. Sess.), § 1; amended 1987, No. 76, § 18; 2015, No. 171 (Adj. Sess.), § 3.)

No part of the definition of timber harvest states that it must be done on site. It only states that it is a forestry operation involving the harvest of timber. Diving back into the Town's definition of forestry, it suggests that the reader see Accepted Management Practices. If you scroll to page 194, Article XI Definitions, lines 4-6 it states:

4 Accepted Management Practices (AMPs): Accepted practices for silviculture (forestry) as
5 currently defined by the Commissioner of the Vermont Department of Forests, Parks and
6 Recreation (see exemptions under Section 10.2). See also Forestry.

When you read the definition for Accepted Management Practices it states that the town has accepted silvaculture (forestry) as it is currently defined by the commissioner of Vermont Department of Forests, Parks, and Recreation. It also suggests that the reader explore exemptions under section 10.2. If you scroll to page 179, section 10.2 paragraph B, Lines 1-3 it begins to explain practices exempt from zoning permits:

1 B. The following uses are specifically exempt from local land use and development
2 regulations in accordance with the Act [§§4412, 4413]. No zoning permit or approval shall be
3 required for:

And on lines 13-14 it states that Accepted Management Practices for silvaculture (forestry) are exempt and no permit or approval is needed.

13 2. Accepted management practices (AMPs) for silviculture (forestry) as defined by the
14 Commissioner of Forests, Parks, and Recreation.

I would continue further investigation, for the sake of argument, in providing the Town's specific definition of a sawmill on page 208, Section XI, lines 33-36:

33 Sawmill: A wood processing facility, including structures and yard areas, where log are stored
34 and processed into lumber and other wood products. Portable chippers and sawmills used in
35 conjunction with active logging operations are excluded from this definition. See also
36 Forestry, Light Industry

The Town definition of a sawmill clearly states that portable equipment is excluded from this and I would like to add a reminder that every piece of my equipment used in conjunction with my firewood operation is completely portable and can be removed from the property in less than 20 minutes.

To finalize this letter and begin to bring it to a close, I would like to provide a more visible picture of everything that goes on at the location of my firewood operation. It's not all just noise and industrial chatter; it's quite a bit more than that actually. On the very bottom line, I provide between 250-400 cords of wood to customers throughout Underhill, Jericho, Richmond, Jeffersonville, Cambridge, Johnson, Essex, Colchester, Burlington, South Burlington, Williston, and Morrisville. This wood is purchased from local loggers residing in Jericho, Underhill, and Bakersfield that log properties throughout those towns providing landowners with a financial return on their wooded acreage. The logs that I am unable to send through my wood processor is sorted into a landowner pile on the side of my landing and then sold to other local firewood producers in the local vicinity or to the Lamoille County United Way located on Bridge St in Morrisville. They purchase 85 cords of log length from me every year to help less than fortunate family's heat their homes over the winter months. My lease agreement with Joe & Anne Tisbert is the use of the land in exchange for 5 cords of wood cut, split and delivered every year to their family. This is actually quite an honor for me to complete for a family that works from dawn to dusk on a farm that requires their undivided attention 365 days out of the year in order to put food on the table. They are a wonderful, loving and caring family and to take this ability away from me would just be putting another burden on their already overloaded shoulders. Lastly, I will follow with my cutting schedule by month to show the actual days that I've been in operation throughout the 2023 calendar year. It is as follows:

January: 2	April: 6	July: 5	October: 10
February: 3	May: 8	August: 16	November: 6
March: 3	June: 8	September: 12	December: 0

Throughout the calendar year of 2023 I will have cut for 79 out of 365 days which comes out to 21.64% of the year or an average of 6.5 days a month. This is minimal for the amount of firewood produced and completely acceptable in the eyes of another tax paying resident of Underhill. Thank you for taking the time to consider my side of the argument and if there are any other questions or concerns regarding any part of my operation I urge you to reach out at the information provided below.

Very Respectfully,

Gordon Williamson
802-734-2824
623 Pleasant Valley Rd
Underhill, VT 05489

Lease & Land Management Agreement

This unofficial and non-legally binding document is a lease and land management agreement set forth between the two following parties; Joe & Anne Tisbert and Gordon & Michelle Williamson; in the month of December 2023 until terminated by either side providing all wood obligations and land management projects are cleaned up and closed out in approval of the first above mentioned landowner.

Joe & Anne Tisbert agree to provide a space at the approximate location of 620 Pleasant Valley Rd in the South end of their field for the ongoing forestry operation of on site timber harvesting. In exchange, Gordon & Michelle Williamson agree to provide 5 cords of wood bucked, split, and delivered to a location of their preference at no charge. This agreement also includes an active forestry operation involving tree removal, tree trimming, bush hogging and mowing saplings, shrubs, and invasive plants, wildlife habitat management, pruning fruit trees, and tapping maple trees for sap harvesting. The forestry operation shall not be more than 12 months in a 24 month period or 24 months in a 5 year period.

The space provided for timber harvesting should be kept in a respectable and appealing condition at all times. Any damage to the log landing will be cleaned up, raked out, and returned to its previous state once the weather and ground conditions permit.

This document is not legally binding and can be discontinued at any time provided both parties are satisfied to the agreements mentioned above in each current calendar year. This is an agreement explaining the guidelines and expectations between two neighbors in fulfilling obligations in exchange for land management, forest improvement, sugarbush investment, and timber harvesting at the Valley Dream Farm.

Joe & Anne Tisbert



Gordon & Michelle Williamson



INTDUM ZONING
ADMINISTRATOR

The Vermont Statutes Online

The Vermont Statutes Online have been updated to include the actions of the 2023 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 10 : Conservation and Development

Chapter 083 : Department of Forests, Parks and Recreation

Subchapter 001 : General Provisions

(Cite as: 10 V.S.A. § 2602)

§ 2602. Definitions

As used in this chapter:

- (1) “Agency” means the Agency of Natural Resources as created by 3 V.S.A. chapter 51.
- (2) “Department” means the Department of Forests, Parks and Recreation within the Agency of Natural Resources.
- (3) “Commissioner” means the Commissioner of Forests, Parks and Recreation.
- (4) “Secretary” means the Secretary of Natural Resources.
- (5) “Forest product” mean logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.
- (6) “Forestry operation” means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operation” includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.
- (7) “Timber” means trees, saplings, seedlings, bushes, shrubs, and sprouts from which trees may grow, of every size, nature, kind, and description.
- (8) “Timber harvest” means a forestry operation involving the harvest of timber.
(Added 1977, No. 253 (Adj. Sess.), § 1; amended 1987, No. 76, § 18; 2015, No. 171 (Adj. Sess.), § 3.)

The Vermont Statutes Online

The Vermont Statutes Online have been updated to include the actions of the 2023 session of the General Assembly.

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Title 12: Court Procedure

Chapter 196: Vermont Right to Conduct Forestry Operations

§ 5755. Findings

The General Assembly finds that:

(1) Private and public forestlands:

(A) constitute unique and irreplaceable resources, benefits, and values of statewide importance;

(B) contribute to the protection and conservation of wildlife, wildlife habitat, air, water, and soil resources of the State;

(C) provide a resource for the State constitutional right to hunt, fish, and trap;

(D) mitigate the effects of climate change; and

(E) result in general benefit to the health and welfare of the people of the State.

(2) The forest products industry, including maple sap collection:

(A) is a major contributor to and is valuable to the State's economy by providing jobs to its citizens;

(B) is essential to the manufacture of forest products that are used and enjoyed by the people of the State; and

(C) benefits the general welfare of the people of the State.

(3) Private and public forestlands are critical for and contribute significantly to the State's outdoor recreation and tourism economies.

(4) The economic management of public and private forestlands contributes to sustaining long-term forest health, integrity, and productivity.

(5) Forestry operations are adversely impacted by the encroachment of urban, commercial, and residential land uses throughout the State that result in forest fragmentation and conversion and erode the health and sustainability of remaining forests.

(6) As a result of encroachment on forests, conflicts have arisen between traditional forestry land uses and urban, commercial, and residential land uses that threaten to permanently convert forestland to other uses, resulting in an adverse impact to the economy and natural environment of the State.

(7) The encouragement, development, improvement, and continuation of forestry operations will result in a general benefit to the health and welfare of the people of the State and the State's economy.

(8) The forest products industry, in order to survive, likely will need to change, adopt new technologies, and diversify into new products.

(9) Conventional forestry practices, including logging, transportation, and processing of forest products may be subject to unnecessary or adversarial lawsuits based on the theory of nuisance. Nuisance suits could encourage and result in the conversion of forestland and loss of the forest products industry.

(10) It is in the public interest of the people of the State to ensure that lawfully conducted conventional forestry practices are protected and encouraged and are not subject to public and private nuisance actions arising out of conflicts between forestry operations and urban, commercial, and residential uses. (Added 2017, No. 198 (Adj. Sess.), § 1, eff. May 30, 2018.)

§ 5756. Definitions

As used in this chapter:

(1) "Commissioner" means the Commissioner of Forests, Parks and Recreation.

(2) "Conventional forestry practices" means:

(A) forestry operations;

(B) a change in ownership or size of a parcel on which a forestry operation is being conducted;

(C) cessation or interruption of a forestry operation or a change in a forestry operation, including a change in the type of a forestry operation;

(D) enrollment in governmental forestry or conservation programs;

(E) adoption of new forestry technology;

(F) construction, maintenance, and repair of log landings, logging roads, and skid trails;

(G) visual changes due to the removal, storage, or stockpiling of vegetation or forest products;

(H) noise from forestry equipment used as part of a forestry operation; or

(I) the transport or trucking of forest products or of equipment on, to, or from the site of a forestry operation.

(3) “Forest product” means logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.

(4) “Forestry operation” means activities related to the management of forests, including timber harvests; removal, storage, or stockpiling of vegetation or timber; pruning; planting; lumber processing with portable sawmills; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operation” includes one or both of the following:

(A) the primary processing of forest products on a parcel where a timber harvest occurs; and

(B) the primary processing of forest products at a site that is not the harvest site, provided that:

(i) the person conducting the forestry operations owns or has permission to use the site for the forestry operation;

(ii) the forestry operation was established prior to surrounding activities that are not forestry operations;

(iii) the site is used by the forestry operation for 12 or fewer months in any two-year period or 24 or fewer months in any five-year period;

(iv) the forestry operation complies with all applicable law; and

(v) only portable, nonpermanent equipment is used to process the forest products at the site.

(5) “Timber” means trees, saplings, seedlings, and sprouts from which trees of every size, nature, kind, and description may grow.

(6) “Timber harvest” means a forestry operation involving the harvesting of timber. (Added 2017, No. 198 (Adj. Sess.), § 1, eff. May 30, 2018.)

§ 5757. Forestry operations; protection from nuisance lawsuits

(a) Except as provided for under subsections (b) and (c) of this section, a person conducting a conventional forestry practice shall be entitled to a rebuttable presumption that the conventional forestry practice does not constitute a public or private nuisance if the person conducts the conventional forestry practice in compliance with the following:

(1) the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner under 10 V.S.A. § 2622; and

(2) other applicable law.

(b) The presumption under subsection (a) of this section that a person conducting a conventional forestry practice does not constitute a nuisance may be rebutted by showing:

(1) a nuisance resulted from the negligent operation of the conventional forestry practice;

(2) a nuisance resulted from a violation of State, federal, or other applicable law during the conduct of the conventional forestry practice; or

(3) clear and convincing evidence that the conventional forestry practice has a substantial adverse effect on the health, safety, or welfare of the complaining party.

(c) Nothing in this section shall be construed to limit the authority of State or local boards of health to abate nuisances affecting the public health. (Added 2017, No. 198 (Adj. Sess.), § 1, eff. May 30, 2018.)

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Title 24 : Municipal and County Government

Chapter 117 : Municipal and Regional Planning and Development

Subchapter 007 : Bylaws

(Cite as: **24 V.S.A. § 4413**)

§ 4413. Limitations on municipal bylaws

(a)(1) The following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended 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 V.S.A. chapter 159;

(F) hazardous waste management facilities for which a notice of intent to construct has been received under 10 V.S.A. § 6606a; and

(G) emergency shelters.

(2) Except for State-owned and -operated institutions and facilities, a municipality may regulate each of the land uses listed in subdivision (1) of this subsection for compliance with the National Flood Insurance Program and for compliance with a municipal ordinance or bylaw regulating development in a flood hazard area or river corridor, consistent with the requirements of subdivision 2291(25) and section 4424 of this title. These regulations shall not have the effect of interfering with the intended functional use.

(3) For purposes of this subsection, regulating the daily or seasonal hours of operation of an emergency shelter shall constitute interfering with the intended functional use.

(b) A bylaw under this chapter shall not regulate electric generation facilities, energy storage facilities, and transmission facilities regulated under 30 V.S.A. § 248 or subject to regulation under 30 V.S.A. § 8011.

(c) Except as otherwise provided by this section and by 10 V.S.A. § 1976, if any bylaw is enacted with respect to any land development that is subject to regulation under State statutes, the more stringent or restrictive regulation applicable shall apply.

(d)(1) A bylaw under this chapter 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.

(2) As used in this section:

(A) "Farm structure" means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

(B) "Forestry operations" has the same meaning as in 10 V.S.A. § 2602.

(3) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

(4) This subsection does not prevent an appropriate municipal panel, when issuing a decision on an application for land development over which the panel otherwise has jurisdiction under this chapter, from imposing reasonable conditions under subsection 4464(b) of this title to protect wildlife habitat; threatened or endangered species; or other natural, historic, or scenic resources and does not prevent the municipality from enforcing such conditions, provided that the reasonable conditions do not restrict or regulate forestry operations unrelated to land development.

(e) A bylaw enacted under this chapter shall be subject to the restrictions created under section 2295 of this title, with respect to the limits on municipal power to regulate hunting, fishing, trapping, and other activities specified under that section.

(f) This section shall apply in every municipality, notwithstanding any existing bylaw to the contrary.

(g) Notwithstanding any provision of law to the contrary, a bylaw adopted under this chapter shall not:

(1) Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, “flat roof” means a roof having a slope less than or equal to five degrees.

(2) Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (1) of this subsection, clotheslines, or other energy devices based on renewable resources.

(h)(1) Except as necessary to ensure compliance with the National Flood Insurance Program, a bylaw under this chapter shall not regulate any of the following:

(A) an ancillary improvement that does not exceed a footprint of 300 square feet and a height of 10 feet;

(B) the following improvements associated with the construction or installation of a communications line:

(i) the attachment of a new or replacement cable or wire to an existing electrical distribution or communications distribution pole;

(ii) the replacement of an existing electrical distribution or communications distribution pole with a new pole, so long as the new pole is not more than 10 feet taller than the pole it replaces.

(2) For purposes of this subsection:

(A) “Ancillary improvement” shall have the same definition as is established in 30 V.S.A. § 248a(b).

(B) “Communications line” means a wireline or fiber-optic cable communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes. (Added 2003, No. 115 (Adj. Sess.), § 95; amended 2009, No. 45, § 15c, eff. May 27, 2009; 2011, No. 53, § 14, eff. May 27, 2011; 2011, No. 170 (Adj. Sess.), § 16f, eff. May 18, 2012; 2013, No. 92 (Adj. Sess.), § 272, eff. Feb. 14, 2014; 2013, No. 107 (Adj. Sess.), § 2, eff. April 18, 2014; 2015, No. 64, § 52; 2015, No. 171 (Adj. Sess.), § 19; 2021, No. 54, § 4; 2023, No. 47, § 3, eff. September 1, 2023.)