

1 H.941

2 An act relating to municipal regulation of agriculture

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

4 Sec. 1. FINDINGS AND INTENT; MUNICIPAL REGULATION OF
5 AGRICULTURE

6 (a) For purposes of Sec. 2 of this act, the General Assembly finds that:

7 (1) Since at least the enactment of 2004 Acts and Resolves No. 115, it
8 has been both the intent of the General Assembly and the controlling law that a
9 municipality shall not regulate farming, including the construction of farm
10 structures.

11 (2) The Vermont Supreme Court's decision in *In re 8 Taft Street DRB &*
12 *NOV Appeals*, 2025 VT 27, reversed application of at least the past 20 years of
13 law to hold that municipalities may regulate farming by municipal bylaw.

14 (3) To avoid the unintended consequences of the decision in *In re 8 Taft*
15 *Street DRB & NOV Appeals*, 2025 VT 27, it is necessary for the General
16 Assembly to clarify and restate that municipalities under ordinance or bylaw
17 shall not regulate farming or the construction of farm structures as set forth in
18 24 V.S.A. § 4413(d).

19 (4) In addition, municipalities shall not regulate by bylaw the growing
20 of plants; shall have no bylaw that has the effect of prohibiting the raising,
21 feeding, and management of a poultry flock; and may reasonably regulate by
22 bylaw swine waste in designated downtowns or village centers.

1 (5) Farming livestock requires an adequate land base, and raising
2 livestock on small parcels in densely populated areas may create unique
3 concerns. As a result, municipalities may regulate livestock on farms that do
4 not have at least 1.0 contiguous acre of land. Other farming activities subject
5 to regulation by the Required Agricultural Practices Rule on farms with less
6 than 1.0 contiguous acre remain exempt from municipal zoning.

7 (b) For purposes of Sec. 2 of this act, it is the intent of the General
8 Assembly to overturn the holding in *In re 8 Taft Street DRB & NOV Appeals*,
9 2025 VT 27, and to clarify that municipalities lack authority to regulate
10 farming or the construction of farm structures as set forth in 24 V.S.A.
11 § 4413(d).

12 Sec. 2. 24 V.S.A. § 4413(d) is amended to read:

13 (d)(1) A bylaw under this chapter shall not regulate:

14 (A) ~~required agricultural practices, including the construction of farm~~
15 ~~structures, as those practices are defined by the Secretary of Agriculture, Food~~
16 ~~and Markets;~~ Farming that meets the minimum threshold criteria in the
17 Required Agricultural Practices Rule (RAPs Rule) and is therefore required to
18 comply with the RAPs Rule, except:

19 (i) that the raising, feeding, or managing of livestock on a farm
20 with less than 1.0 contiguous acre is subject to applicable municipal zoning

1 bylaws, including when a person is engaged in other farming activities that are
2 subject to the RAPs Rule;

3 (ii) that the raising, feeding, or managing of livestock on a farm
4 with at least 1.0 contiguous acre and less than 4.0 contiguous acres shall have a
5 sufficient land base for appropriate nutrient and waste management as
6 determined by the Secretary of Agriculture, Food and Markets to be exempt
7 from regulation by municipal zoning bylaws; and

8 (iii) for swine waste in downtowns or village centers as follows:

9 (I) Municipalities shall not prohibit swine or swine waste, or
10 regulate swine waste-related farm structures on a farm subject to the RAPs
11 Rule.

12 (II) Municipalities may set a performance standard related to
13 swine waste pursuant to section 4414 of this title to reasonably regulate swine
14 waste in downtowns or village centers if the waste is causing a significant
15 adverse impact to the community, and the municipality has determined that the
16 Secretary of Agriculture, Food and Markets is unable to provide redress
17 through application of the RAPs Rule. A performance standard shall not have
18 the effect of prohibiting swine or swine waste in a municipality.

19 (III) Municipalities shall provide at least 30 days' notice with
20 opportunity to cure to the Secretary and the farm prior to enforcing a
21 performance standard related to swine waste.

1 (IV) Notwithstanding any other provisions of law to the
2 contrary, for purposes of this section, swine waste includes animal manure and
3 absorbent bedding of the animal.

4 (B) The cultivation or other use of land for growing plants, including
5 for food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and
6 orchard crops. Cannabis and hemp are excluded from this exception.

7 (C) The construction of farm structures, including as defined in the
8 RAPs Rule.

9 ~~(B)(D)~~ Accepted silvicultural practices, as defined by the
10 Commissioner of Forests, Parks and Recreation, including practices that are in
11 compliance with the Acceptable Management Practices for Maintaining Water
12 Quality on Logging Jobs in Vermont, as adopted by the Commissioner of
13 Forests, Parks and Recreation; ~~or~~.

14 ~~(C)(E)~~ Forestry operations.

15 (2) As used in this section:

16 (A) “Downtown” means an area designated pursuant to chapter 76A
17 or chapter 139 of this title.

18 (B) “Farm structure” means a building, enclosure, or fence for
19 housing livestock, raising horticultural or agronomic plants, or carrying out
20 other practices associated with ~~accepted~~ agricultural or farming practices,

1 including a silo, as ~~“farming” is defined in 10 V.S.A. § 6001(22)~~, but excludes
2 a dwelling for human habitation.

3 (C) “Farming” has the same meaning as in 10 V.S.A. § 6001(22) or
4 the Required Agricultural Practices Rule.

5 ~~(B)(D)~~ “Forestry operations” has the same meaning as in 10 V.S.A.
6 § 2602.

7 (E) “Village center” means an area designated pursuant to chapter
8 76A or chapter 139 of this title.

9 * * *

10 Sec. 3. 24 V.S.A. § 4412 is amended to read:

11 § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

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

14 * * *

15 (15) No bylaw shall have the effect of prohibiting or assessing a fee for
16 the raising, feeding, or management of a poultry flock, excluding roosters and
17 ratites, for personal use, donation, or sale. At minimum, no bylaw shall have
18 the effect of prohibiting the keeping of fewer than 12 chickens or a number
19 determined by a municipality, whichever number is higher. Municipalities
20 may consider parcel size to establish other limitations on the number of poultry
21 birds. A bylaw may establish a numerical limit of any poultry to be fewer than

1 the minimum number as enumerated in Section 3 of the Required Agricultural
2 Practices Rule, regardless of parcel size. As used in this section, “poultry” has
3 the same meaning as in 6 V.S.A. § 1459(4).

4 Sec. 4. Section 3 of the Agency of Agriculture, Food and Markets, Vermont
5 Required Agricultural Practices Rule for the Agricultural Nonpoint Source
6 Pollution Control Program is amended to read:

7 Section 3. Required Agricultural Practices Activities and Applicability

8 3.1

9 (a) Persons engaged in farming and the agricultural practices as defined in
10 Section 3.2 of this rule and who meet the minimum threshold criteria for
11 applicability of this rule as found in Section 3.1(a)–(g)(c)(1)–(8) must meet all
12 applicable Required Agricultural Practices conditions, restrictions, and
13 operating standards.

14 (b) Persons engaged in farming and agricultural practices subject to this
15 rule are not subject to municipal zoning bylaws except that the raising, feeding,
16 or managing livestock on a farm with:

17 (1) at least 1.0 acre and less than 4.0 contiguous acres shall meet the
18 requirements of subdivision (c)(5) of this section to be exempt from regulation
19 by municipal zoning bylaws; or

1 (2) less than 1.0 contiguous acre is subject to applicable municipal
2 zoning bylaws even when a person is engaged in other farming activities that
3 are subject to this rule.

4 (c) Persons engaged in farming who are in compliance with these
5 conditions, restrictions, and operating standards, as applicable, shall be
6 presumed to not have a discharge of agricultural wastes to waters of the State.

7 ~~Compliance~~ Unless otherwise stated, compliance with the Required
8 Agricultural Practices Rule is required if a person meets one of the following
9 requirements:

10 ~~(a)(1)~~ is Is required to be permitted or certified by the Secretary, consistent
11 with the requirements of 6 V.S.A. Chapter 215 and this rule; ~~or.~~

12 ~~(b)(2)~~ has Has produced an annual gross income from the sale of
13 agricultural products of \$2,000.00 or more in an average year; ~~or.~~

14 ~~(e)(3)~~ is Is preparing, tilling, fertilizing, planting, protecting, irrigating, and
15 harvesting crops for sale or for charitable contributions of farm crops that are
16 allowable under 26 U.S.C. § 170(c) and that are made to an organization that is
17 unrelated to the owner of the land on a farm that is no less than 4.0 contiguous
18 acres in size; ~~or.~~

19 ~~(d)(4)~~ is Is raising, feeding, or managing at least the following number of
20 adult livestock on a farm that is no less than 4.0 contiguous acres in size:

- 1 ~~(1)~~(A) four equines;
- 2 ~~(2)~~(B) five cattle, cows, or American bison;
- 3 ~~(3)~~(C) 15 swine;
- 4 ~~(4)~~(D) 15 goats;
- 5 ~~(5)~~(E) 15 sheep;
- 6 ~~(6)~~(F) 15 cervids;
- 7 ~~(7)~~(G) 50 turkeys;
- 8 ~~(8)~~(H) 50 geese;
- 9 ~~(9)~~(I) 100 laying hens;
- 10 ~~(10)~~(J) 250 broilers, pheasant, Chukar partridge, or Coturnix quail;
- 11 ~~(11)~~(K) three camelids;
- 12 ~~(12)~~(L) four ratites;
- 13 ~~(13)~~(M) 30 rabbits;
- 14 ~~(14)~~(N) 100 ducks;
- 15 ~~(15)~~(O) 1,000 pounds of cultured trout; or
- 16 ~~(16)~~(P) other livestock types, combinations, or numbers as designated
- 17 by the Secretary based upon or resulting from the impacts upon water quality
- 18 consistent with this rule; ~~or,~~
- 19 ~~(e)~~(5) ~~is~~ is raising, feeding, or managing ~~other livestock types,~~
- 20 ~~combinations, and numbers, or managing crops or engaging in other~~
- 21 ~~agricultural practices~~ on a farm that is at least 1.0 contiguous acre and less than

1 4.0 contiguous acres ~~in size that the Secretary has determined, after the~~
2 ~~opportunity for a hearing, to be causing adverse water quality impacts and in a~~
3 ~~municipality where no ordinances are in place to manage the activities causing~~
4 ~~the water quality impacts; or~~ and has sufficient land base for appropriate
5 nutrient and waste management. The Secretary has the discretion to determine,
6 after consultation with the appropriate municipal authority, if the land base is
7 adequate to properly manage the number and type of livestock while
8 evaluating whether compliance with the Required Agricultural Practices is
9 reasonable or impractical.

10 ~~(f)(6)~~ Is raising, feeding, or managing livestock on less than 1.0 contiguous
11 acre or on between 1.0 and 4.0 contiguous acres in a municipality that lacks
12 ordinances or bylaws to regulate livestock, and the Secretary determines, after
13 an opportunity for a hearing, that the livestock are causing significant adverse
14 water quality impacts and the Required Agricultural Practices should apply to
15 protect water quality.

16 ~~(7)~~ is ~~Is~~ managed by a farmer filing with the Internal Revenue Service a
17 1040(F) income tax statement in at least one of the past two years; ~~or,~~

18 ~~(g)(8)~~ has ~~Has~~ a prospective business or farm management plan, approved
19 by the Secretary, describing how the farm will meet the threshold requirements
20 of this section.

1 3.2 The agricultural practices on farms ~~meeting~~ that meet the minimum
2 threshold criteria set forth in Section 3.1 that are governed by this rule and are
3 not subject to municipal zoning bylaws include:

4 (a) the confinement, feeding, fencing, and watering of livestock;

5 (b) the storage and handling of agricultural wastes principally produced on
6 the farm;

7 (c) the collection of maple sap principally produced from trees on the farm
8 and/or production of maple syrup from sap principally produced on the farm;

9 (d) the preparation, tilling, fertilization, planting, protection, irrigation, and
10 harvesting of crops;

11 (e) the ditching and subsurface drainage of farm fields and the construction
12 of farm ponds;

13 (f) the stabilization of farm fields adjacent to banks of surface water, and
14 the establishment and maintenance of vegetated buffer zones and riparian
15 buffer zones;

16 (g) the construction and maintenance of farm structures, farm roads, and
17 associated infrastructure;

18 (h) the on-site storage, preparation, production, and sale of fuel or power
19 from agricultural products or wastes principally produced on the farm;

1 (i) the on-site storage, preparation, and sale of agricultural products
2 principally produced on the farm from raw agricultural commodities
3 principally produced on the farm;

4 (j) the on-site storage of agricultural inputs for use on the farm including,
5 but not limited to, lime, fertilizer, pesticides, compost and other soil
6 amendments, and the equipment necessary for operation of the farm; and

7 (k) the management of livestock mortalities produced on the farm.

8 Sec. 5. EFFECTIVE DATE

9 This act shall take effect on July 1, 2026.