



## Opening Remarks to reinstate the Municipal Exemption for Farming & to codify the Right to Grow Food

January 14, 2026

Dear House Committee on Agriculture, Food Resiliency, and Forestry,

Thank you for inviting me to speak to you today and for your effort to address the Vermont Supreme Court Ruling on the Municipal Exemption of farming right away. Shortly after the ruling on May 30th, Rural Vermont began outreach to other agricultural organizations and worked with the Farm Bureau and the Vermont Agency of Agriculture, Food, and Markets to address this issue and reinstate the reading of the law as it had been commonly understood since 1987. Over the past six months this group has grown to include a large and diverse group of the most significant agriculture and food systems stakeholders in VT including: Rural VT, the Vermont Farm Bureau, Agri Mark, Cabot, the Vermont Dairy Producers Alliance, NOFA-VT, the Vermont Association of Conservation Districts, the Connecticut River Watershed Farmers Alliance, Farm to Plate, and the Land Access and Opportunity Board. Over this time, we have come to alignment on a legislative proposal we would like to present and discuss with you as a coalition. Today, we are only here as Rural VT and will share some of our perspectives on this, but we ask that you invite representatives from all of our coalition members soon to hear their perspectives as well.

We come to you with the united strong message that we need to clearly and plainly reinstate the municipal exemption as it was understood since 1987 by clarifying only the language in Title 24, leave the RAP rule in place as is, and that we also need to codify a Right to Grow Food to prevent municipalities from interpreting the housing development agenda of Act 181 as a mandate to push farming and food production out of the hearts and “planned growth areas” of our communities, significantly altering the character of Vermont, which prides itself as a working lands community. The historic settlement pattern of Vermont has occurred in the places that farmers found most suitable for food production. They surely made their choice

based on soil and water quality, so there's a direct conflict between the public interests in planning for housing development and food security.

As you know, I am a German-American dual citizen. Through my Bachelor's degree in Environmental Law from Germany, I've learned about the Central Places Principle. This principle was developed by Walter Christaller, a German geographer, in 1933. The Central Places Principle was enshrined in the German Building Code in 1965 as a mandatory statute that doesn't allow residential development outside of town centers. This principle was now adopted into Vermont statute with the passage of Act 181 (2024) as a goal for Vermont's development "to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside" (see p. 58 of Act 181 [here](#)). In Germany, this is a mandate, and only explicit statutory land uses of rural lands are allowed for development in the landscape surrounding towns and urban centers. Thereby, farmers have been privileged as the only people legitimately allowed to develop Germany's countryside with infrastructure aside from permissible enumerated utility infrastructure development projects for electricity, gas, telecommunications, heat, water, septic, or for research projects. In consequence, Germany prides itself on how its mandatory law effectively maintains the landscape, as about 86% of the country is not developed, and about 51% of the territory is still used agriculturally today ([2018 Cleanenergywire](#)).

In the U.S., the ship of development has left the harbor since the onset of colonization and hasn't been effectively regulated since. I recommend you invite Jamie Pottern, the Senior New England Program Manager at the American Farmland Trust in for testimony as AFT has developed presentations on their research on farmland development that most recently found that 83% of development and farmland loss in Vermont occurs due to low density residential sprawl outside of village centers (see slide 15 from AFT's 2025 Farm to Plate Conference presentation [here](#)). When I say that development hasn't been regulated effectively to date, what I mean is that neither Act 250, nor the Current Use program, nor Conservation Easements effectively prevent farmland loss, because the programs are either voluntary or don't capture residential development. AFT has significant data and projections on farmland loss to share with you. For example, we're well underway to lose an additional 61,800 acres of farmland by 2040 (New England Feeding New England's [Vermont State Brief](#)). Simultaneously, New England Feeding New England is projecting that the North East region will need to bring 401,000 underutilized acres of farmland and additional 588,000 acres of cleared land into agricultural production just to supply 30% of its population's food consumption ([NEFNE, A Regional Approach to Food Systems Resilience, 2023](#)), with Vermont and Maine being projected to carry the lion share of that supply based on their advanced food systems. Act 181 did nothing to change this trajectory, and its legislative process was not concerned with agricultural land loss, as the bill never passed an agricultural committee. Instead, its clear focus is the continued development of the State for housing and not to keep the working lands open. The Vermont League of Cities and Towns represents municipalities that are well

underway to implement Act 181 at this time, and we urge the legislature to ask what signals it's sending to municipalities that work to implement its present land use agenda.

Farms, food production, and agricultural land are under threat from a number of areas. In parallel with this new VT Supreme Court Ruling, we are concerned that agriculture will inevitably be pushed out of town centers. We have heard from a service provider's on-the-ground experience that some Land Trusts may not invest and conserve parcels of land that are marked for development in Regional Plans. Likewise, many farmers do not accumulate adequate savings and are in the position of selling their farms and farmland, or parts of them, into development, to affect their ability to age and move on from farming. We are concerned that there is no legal mechanism that stops developers from taking Vermont's most valuable assets, its agricultural soils, as these are often also the most appropriate and easy soils for development. This could result in a Pac-Man approach towards ever-expanding and eventually merging towns, and ever-diminishing agricultural land. Our coalition does not believe that this was the legislature's intention behind Act 181 at all, as this body just passed the Right to Farm law in 2025 that underscored in its findings that *"agricultural production is a major contributor to the State's economy; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of existing and the initiation of new agricultural activities preserve the landscape and environmental resources of the State, contribute to the increase of tourism, and further the economic welfare and self-sufficiency of the people of the State; and that the encouragement, development, improvement, and preservation of agriculture will result in a general benefit to the health and welfare of the people of the State."*" I will add that also the Right to Farm (Act 61) is not a policy that functions to keep working lands open, prevent farmland loss, or to make farming more affordable, as it solely protects farmers from nuisance lawsuits when they are in good standing with the RAP rule. In consequence, our ask to reinstate the municipal exemption for farming and to codify a Right to Grow Food that can't be prohibited by municipal exemption, and I will add, by private Homeowner Associations, will be critical to ensure the food sovereignty and food security of our state. Food sovereignty is both an individual right to use subsistence and food cultivating practices as well as the ability of communities to define their own food systems. Obviously Vermont needs more housing, especially since the State is known nationwide as having four of the most safe counties, Lamoille, Orange, Franklin and Essex, to live in the country in 30 years from now given the projections of climate change risks related to extreme heat, wildfire, and sea-level rise, as [ProPublica reported in 2020](#), projecting the increased migration into the State for those reasons. A goal of all of us in Vermont should be to develop this place in a sustainable, resilient, and food secure way, so that the public interests in housing development and agricultural land (and farm-) loss need to be weighed and balanced in a much more careful and accountable way moving forward. Over 70% of Vermonters cultivate some of their own food today (according to [NEFNE, Vermont State Brief](#)), and I assure you that many people of my generation come here to engage in farming and the food system as well.

The VT Supreme Court Ruling now establishes the legal basis for town-by-town farm regulation variances, possibly creating a confusing and complex patchwork of regulatory frameworks across the state, which will be difficult to navigate, and that existing and beginning farmers will have to face. Depending on where a farm is located, it could be subject to different levels of local regulations and oversight that others are not exposed to, creating unfair market conditions while we keep losing farms and farmland. We believe the VT Supreme Court's Guidance points to the need for a clear and consistent regulatory framework across farming scales and municipalities. Legislative Council shared that the ruling would now result in the applicability of the RAPs across scales and regardless of farming determination, and that the court called the existing criteria that distinguish what is farming based on factors, such as if someone is keeping 14 or 15 goats, as leading to "anomalous results" (see p. 10 of the ruling [here](#)). Our coalition agrees that we want to avoid a patchwork regulatory environment for farming in Vermont that is confusing for anyone growing food, is desiring to become a farmer, is beginning to farm as well as for existing farmers. Allowing municipalities to regulate farming would also be a continued source of contention and acrimony in our communities.

I also want to talk about the Schedule F and income threshold criteria for qualifying for RAP regulation from my personal experience as a beginning farmer. I started my sheep farm, Fools Farm L.C., in 2022 with the purchase of 20 weaned lambs. Twenty sheep are obviously more than 15, but lambs are not mature ewes. Raising a flock of sheep for meat production means that I had to raise those lambs for two years before they could be bred the first time. This is because, if I would have bred the lambs the year they were born, the pregnancy could have stunted their growth and result in mal presentations or even birth defects during lambing the following year, ruining the outlook of a healthy and full-grown breeding flock that will produce high-quality market lambs. So during 2022, 2023, and 2024, I was investing 15-20k dollars a year to launch my small farming operation out of pocket, not harvesting income from lambs until the first slaughter in the fall of 2024. In addition, while sheep tend to birth twins, ewes that lamb for the first time tend to birth more commonly single lambs, further reducing the outlook of income from sheep farming. Through filing Schedule F with the IRS, I could at least write off my investments during those years. Furthermore, as I started farming in our particular location, we noticed during those first years that we had excess ground water right at the entry to our barn in our barn yard, right where we needed to store and pile the manure. Obviously, we knew that this was totally against the RAP water quality rule. In order for the young business to not lose its good standing right from the start, we needed to be eligible for Best MaPractices funding with VAAFM. Because we were able to receive our farm determination by VAAFM early, we were able to receive a BMP grant in 2024, one year after our initial application, to redo our barnyard and to install a new manure pad, so that we're now in compliance. You see, the changes VAAFM is proposing could possibly limit their jurisdiction and lead to further anomalous results, considering the goal of supporting beginning farmers like myself with being in good standing with the rules. Through my own work of excavating the soil from the barn yard to about 80% myself (with a borrowed tractor), while also working three jobs, I was able to reduce the contractors final invoice from \$110K to about \$36K in order to fit into the \$50k BMP

reimbursement grant that I had to pre finance with a loan from the Vermont Community Loan Foundation. Maybe it's beyond the point, but I will also add, that obviously I would be financially much better positioned to start a farm if I would not work in the non profit sector to improve our farm and food laws as I could make double or twice the income as an agency staff, attorney or judge who all apply the laws that all too often fail to support farms as needed. Despite my ability to start to farm, we yet have to make net income and further rely on diversification with further projecting investments in the hundreds of thousands of dollars before my wife and I can bring our business plan into full operation while working full time off farm. In summary, we don't see any reason based on the Vermont Supreme Court's decision to open up the RAPs statutorily, as anyone who claims they are farming as a sole proprietor with the IRS consequently should be subject to the rules that apply for farmers - that is a matter of policy coherence and accountability and not a matter of agency capacity and the budget. Most importantly, it is a matter of setting a little incentive for people to start farming businesses and to access the competitive resources available for farming practices.

Furthermore, the agency to date has not implemented other statutory changes to the RAPs since 2021, when Act 41 redefined the definition of farming last. Just this winter, agency staff promised to reopen the RAPs following this legislative session to implement that mandate and update the RAPs, so that anyone interested in composting food scraps can finally start writing their business plans around that. Long story short, there's no reason for the agency not to propose rule changes more equitably with a proper rule-making process after this session. I recommend that the legislature should bar their proposed changes in this matter through legislation after this discourse is settled with this bill, so that we don't have to rehash this then upon their sole discretion.

For today, I want to close my opening remarks on the issue from Rural VT. Lastly, I want to note that we've been meeting with the Agency of Agriculture, Food and Markets several times over the past six months and while we've found much alignment in our talking points, we've left disappointed in our inability to come forward with a shared legislative proposal. Out of respect for the agency's effort to mitigate differences between the stakeholders, we suggest you take a look at their proposal first so that you are able to see our proposal in that context. Please know, that our coalition is well prepared to share with you our legislative language and that we are looking forward to sharing it after you have had a chance to see the language VAAFM will be sharing tomorrow. It is our dear hope, that all things considered, you will agree with us, that we're actually not pushing for more, but that we're making a clear and cohesive proposal that restores the legal status of farming, is in line with the issues the Supreme Court identified about that, and that follows the objective to not further loose farms in numbers, but to invite more food growing practitioners into this beautiful State.

Again, our coalition includes the Farm Bureau, Agri Mark, Cabot, the Vermont Dairy Producers Alliance, NOFA-VT, the Vermont Association of Conservation Districts, the Connecticut River Watershed Farmers Alliance, Farm to Plate, and the Land Access and Opportunity Board. All of these stakeholders are looking forward to discussing this issue with you in detail. We also have been doing, and will continue to do, outreach and education in our communities about this issue, and will support them coming before the legislature to share their experiences, ideas, and needs in a public hearing soon.

Respectfully,

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