

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred House Bill No. 941
3 entitled “An act relating to municipal regulation of agriculture” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS AND INTENT; MUNICIPAL REGULATION OF
8 AGRICULTURE

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

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

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

17 (3) To avoid the unintended consequences of the decision in In re 8 Taft
18 Street DRB & NOV Appeals, 2025 VT 27, it is necessary for the General
19 Assembly to clarify and restate that municipalities under ordinance or bylaw
20 shall not regulate farming or the construction of farm structures as set forth in
21 24 V.S.A. § 4413(d).

1 (4) In addition, the General Assembly finds that municipalities shall not
2 regulate by bylaw the growing of plants and the raising of a small backyard
3 poultry flock, excluding roosters, and may reasonably regulate swine waste in
4 designated downtowns or village centers.

5 (5) The General Assembly further finds that farming livestock requires
6 an adequate land base and that raising livestock on small parcels in densely
7 populated areas may create unique concerns. As a result, municipalities may
8 regulate livestock on farms that do not have at least one contiguous acre of
9 land. Other farming activities subject to regulation by the Required
10 Agricultural Practices Rule on farms with less than one contiguous acre remain
11 exempt from municipal zoning.

12 (b) For purposes of Sec. 2 of this act, it is the intent of the General
13 Assembly to overturn the holding in In re 8 Taft Street DRB & NOV Appeals,
14 2025 VT 27 and to clarify that municipalities lack authority to regulate farming
15 or the construction of farm structures as set forth in 24 V.S.A. § 4413(d).

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

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

18 (A) ~~required agricultural practices, including the construction of farm~~
19 ~~structures, as those practices are defined by the Secretary of Agriculture, Food~~
20 ~~and Markets~~ Farming that meets the minimum threshold criteria in the

1 Required Agricultural Practices Rule (RAPs Rule) and is therefore required to
2 comply with the RAPs Rule, except:

3 (i) that the raising, feeding, or managing livestock on a farm with
4 less than 1.0 contiguous acre is subject to applicable municipal zoning bylaws,
5 including when a person is engaged in other farming activities that are subject
6 to the RAPs Rule; and

7 (ii) for swine waste in downtowns or village centers as follows:

8 (I) municipalities may not prohibit swine or regulate swine
9 waste-related farm structures on a farm subject to the RAPs Rule;

10 (II) municipalities may set a performance standard related to
11 swine waste pursuant to section 4414 of this title to regulate swine waste in
12 downtowns or village centers if the waste is causing a significant adverse
13 impact to the community, and the municipality has determined that the
14 Secretary of Agriculture, Food and Markets is unable to provide redress
15 through application of RAPs Rule; and

16 (III) municipalities shall provide at least 30 days' notice to the
17 Secretary and the farm prior to enforcing a performance standard related to
18 swine waste, and any related bylaw shall be limited to requiring the reasonable
19 management of swine waste to limit adverse community impacts.

1 (IV) Notwithstanding other provisions of law to the contrary,
2 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, but excluding cannabis;

7 (C) The raising, feeding, or management of a small backyard poultry
8 flock, excluding roosters.

9 (D) The construction of farm structures, including as defined in the
10 RAPs Rule.

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

16 ~~(C)(F)~~ forestry Forestry operations.

17 (2) As used in this section:

18 (A) “Downtown” means those designated pursuant to chapter 76A or
19 chapter 139 of this title.

20 (B) “Farm structure” means a building, enclosure, or fence for
21 housing livestock, raising horticultural or agronomic plants, or carrying out

1 other practices associated with **accepted** agricultural or farming practices,
2 including a silo, as “farming” is defined in ~~10 V.S.A. § 6001(22)~~, but excludes
3 a dwelling for human habitation.

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

6 ~~(B)(D)~~ “Forestry operations” has the same meaning as in 10 V.S.A.
7 § 2602.

8 (E) “Poultry” has the same meaning as in 6 V.S.A. § 1459(4).

9 (F) “Village center” means those designated pursuant to chapter 76A
10 or chapter 139 of this title.

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

15 Section 3. Required Agricultural Practices Activities and Applicability

16 3.1

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

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

4 (1) at least 1.0 acre and less than 4.0 contiguous acres must meet the
5 requirements of subdivision (c)(5) to be exempt from regulation by municipal
6 zoning bylaws; or

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

10 (c) Persons engaged in farming who are in compliance with these
11 conditions, restrictions, and operating standards, as applicable, shall be
12 presumed to not have a discharge of agricultural wastes to waters of the State.
13 Compliance with the Required Agricultural Practices Rule is required if a
14 person:

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

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

19 ~~(c)~~(3) is preparing, tilling, fertilizing, planting, protecting, irrigating, and
20 harvesting crops for sale or for charitable contributions of farm crops that are
21 allowable under 26 U.S.C. § 170(c) and that are made to an organization that is

1 unrelated to the owner of the land on a farm that is no less than 4.0 contiguous
2 acres in size; or

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

5 ~~(1)~~(A) four equines;

6 ~~(2)~~(B) five cattle, cows, or American bison;

7 ~~(3)~~(C) 15 swine;

8 ~~(4)~~(D) 15 goats;

9 ~~(5)~~(E) 15 sheep;

10 ~~(6)~~(F) 15 cervids;

11 ~~(7)~~(G) 50 turkeys;

12 ~~(8)~~(H) 50 geese;

13 ~~(9)~~(I) 100 laying hens;

14 ~~(10)~~(J) 250 broilers, pheasant, Chukar partridge, or Coturnix quail;

15 ~~(11)~~(K) three camelids;

16 ~~(12)~~(L) four ratites;

17 ~~(13)~~(M) 30 rabbits;

18 ~~(14)~~(N) 100 ducks;

19 ~~(15)~~(O) 1,000 pounds of cultured trout; or

1 ~~(16)~~(P) other livestock types, combinations, or numbers as designated
2 by the Secretary based upon or resulting from the impacts upon water quality
3 consistent with this rule; or

4 ~~(e)~~(5) is raising, feeding, or managing ~~other livestock types, combinations,~~
5 ~~and numbers, or managing crops or engaging in other agricultural practices on~~
6 a farm that is at least 1.0 and less than 4.0 contiguous acres in size that the
7 ~~Secretary has determined, after the opportunity for a hearing, to be causing~~
8 ~~adverse water quality impacts and in a municipality where no ordinances are in~~
9 ~~place to manage the activities causing the water quality impacts and has~~
10 sufficient land base for appropriate nutrient and waste management. The
11 Secretary has the discretion to determine, after consultation with the
12 appropriate municipal authority, if the land base is adequate to properly
13 manage the number and type of livestock while evaluating whether compliance
14 with the Required Agricultural Practices is reasonable or impractical; or

15 ~~(f)~~(6) is raising, feeding, or managing livestock on less than 1.0 contiguous
16 acre or on between 1.0 and 4.0 contiguous acres in a municipality that lacks
17 ordinances or bylaws to regulate livestock, and the Secretary determines, after
18 an opportunity for a hearing, that the livestock are causing significant adverse
19 water quality impacts and the Required Agricultural Practices should apply to
20 protect water quality; or

1 ~~(g)(7)~~ is managed by a farmer filing with the Internal Revenue Service a
2 1040(F) income tax statement in at least one of the past two years; or
3 ~~(g)(8)~~ has a prospective business or farm management plan, approved by
4 the Secretary, describing how the farm will meet the threshold requirements of
5 this section.

6 3.2 The agricultural practices on farms ~~meeting~~ that meet the minimum
7 threshold criteria set forth in Section 3.1 that are governed by this rule and are
8 not subject to municipal zoning bylaws include:

- 9 (a) the confinement, feeding, fencing, and watering of livestock;
- 10 (b) the storage and handling of agricultural wastes principally produced on
11 the farm;
- 12 (c) the collection of maple sap principally produced from trees on the farm
13 and/or production of maple syrup from sap principally produced on the farm;
- 14 (d) the preparation, tilling, fertilization, planting, protection, irrigation, and
15 harvesting of crops;
- 16 (e) the ditching and subsurface drainage of farm fields and the construction
17 of farm ponds;
- 18 (f) the stabilization of farm fields adjacent to banks of surface water, and
19 the establishment and maintenance of vegetated buffer zones and riparian
20 buffer zones;

1 (g) the construction and maintenance of farm structures, farm roads, and
2 associated infrastructure;

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

5 (i) the on-site storage, preparation, and sale of agricultural products
6 principally produced on the farm from raw agricultural commodities
7 principally produced on the farm;

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

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

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19 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE