

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, municipalities shall not regulate by bylaw the growing
2 of plants and the raising of a small backyard poultry flock, excluding roosters,
3 and may reasonably regulate swine waste in designated downtowns or village
4 centers.

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

11 (b) For purposes of Sec. 2 of this act, it is the intent of the General
12 Assembly to overturn the holding in *In re 8 Taft Street DRB & NOV Appeals,*
13 2025 VT 27, and to clarify that municipalities lack authority to regulate
14 farming or the construction of farm structures as set forth in 24 V.S.A.
15 § 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) notwithstanding subdivision (C) of this subdivision (1), that the
4 raising, feeding, or managing of livestock on a farm with less than 1.0
5 contiguous acre is subject to applicable municipal zoning bylaws, including
6 when a person is engaged in other farming activities that are subject to the
7 RAPs Rule;

8 (ii) notwithstanding subdivision (C) of this subdivision (1), that
9 the raising, feeding, or managing of livestock on a farm with at least 1.0
10 contiguous acre and less than 4.0 contiguous acres shall have a sufficient land
11 base for appropriate nutrient and waste management as determined by the
12 Secretary of Agriculture, Food, and Markets to be exempt from regulation by
13 municipal zoning bylaws; and

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

15 (I) Municipalities shall not prohibit swine or swine waste, or
16 regulate swine waste–related farm structures on a farm subject to the RAPs
17 Rule.

18 (II) Municipalities may set a performance standard related to
19 swine waste pursuant to section 4414 of this title to reasonably regulate swine
20 waste in downtowns or village centers if the waste is causing a significant
21 adverse impact to the community, and the municipality has determined that the

1 Secretary of Agriculture, Food and Markets is unable to provide redress
2 through application of the RAPs Rule. A performance standard shall not have
3 the effect of prohibiting swine or swine waste in a municipality.

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

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

10 (B) The cultivation or other use of land for growing plants, including
11 for food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and
12 orchard crops. Cannabis is separately regulated and is excluded from this
13 exception.

14 (C) The raising, feeding, or managing of a small backyard poultry
15 flock, excluding roosters.

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

18 ~~(B)~~(E) accepted Accepted silvicultural practices, as defined by the
19 Commissioner of Forests, Parks and Recreation, including practices that are in
20 compliance with the Acceptable Management Practices for Maintaining Water

1 Quality on Logging Jobs in Vermont, as adopted by the Commissioner of
2 Forests, Parks and Recreation; ~~or~~

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

4 (2) As used in this section:

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

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

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

14 ~~(B)~~(D) “Forestry operations” has the same meaning as in 10 V.S.A.
15 § 2602.

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

17 (F) “Village center” means an area designated pursuant to chapter
18 76A or chapter 139 of this title.

19 * * *

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

4 Section 3. Required Agricultural Practices Activities and Applicability

5 3.1

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

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

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

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

20 (c) Persons engaged in farming who are in compliance with these
21 conditions, restrictions, and operating standards, as applicable, shall be

1 presumed to not have a discharge of agricultural wastes to waters of the State.

2 ~~Compliance~~ Unless otherwise stated, compliance with the Required

3 Agricultural Practices Rule is required if a person meets one of the following

4 requirements:

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

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

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

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

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

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

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

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

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

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

- 1 ~~(7)~~(G) 50 turkeys;
- 2 ~~(8)~~(H) 50 geese;
- 3 ~~(9)~~(I) 100 laying hens;
- 4 ~~(10)~~(J) 250 broilers, pheasant, Chukar partridge, or Coturnix quail;
- 5 ~~(11)~~(K) three camelids;
- 6 ~~(12)~~(L) four ratites;
- 7 ~~(13)~~(M) 30 rabbits;
- 8 ~~(14)~~(N) 100 ducks;
- 9 ~~(15)~~(O) 1,000 pounds of cultured trout; or
- 10 ~~(16)~~(P) other livestock types, combinations, or numbers as designated
- 11 by the Secretary based upon or resulting from the impacts upon water quality
- 12 consistent with this rule; ~~or.~~

13 ~~(e)~~(5) ~~is~~ is raising, feeding, or managing ~~other livestock types,~~

14 ~~combinations, and numbers, or managing crops or engaging in other~~

15 ~~agricultural practices on a farm that is at least 1.0 contiguous acre and less than~~

16 ~~4.0 contiguous acres in size that the Secretary has determined, after the~~

17 ~~opportunity for a hearing, to be causing adverse water quality impacts and in a~~

18 ~~municipality where no ordinances are in place to manage the activities causing~~

19 ~~the water quality impacts; or~~ and has sufficient land base for appropriate

20 nutrient and waste management. The Secretary has the discretion to determine,

21 after consultation with the appropriate municipal authority, if the land base is

1 adequate to properly manage the number and type of livestock while
2 evaluating whether compliance with the Required Agricultural Practices is
3 reasonable or impractical.

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

10 ~~(g)~~(7) ~~is~~ Is managed by a farmer filing with the Internal Revenue Service a
11 1040(F) income tax statement in at least one of the past two years;~~or.~~

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

15 3.2 The agricultural practices on farms ~~meeting~~ that meet the minimum
16 threshold criteria set forth in Section 3.1 that are governed by this rule and are
17 not subject to municipal zoning bylaws include:

- 18 (a) the confinement, feeding, fencing, and watering of livestock;
- 19 (b) the storage and handling of agricultural wastes principally produced on
20 the farm;

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

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

5 (e) the ditching and subsurface drainage of farm fields and the construction
6 of farm ponds;

7 (f) the stabilization of farm fields adjacent to banks of surface water, and
8 the establishment and maintenance of vegetated buffer zones and riparian
9 buffer zones;

10 (g) the construction and maintenance of farm structures, farm roads, and
11 associated infrastructure;

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

14 (i) the on-site storage, preparation, and sale of agricultural products
15 principally produced on the farm from raw agricultural commodities
16 principally produced on the farm;

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

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

21 Sec. 4. EFFECTIVE DATE

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

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4 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE