
TO: Chair Ingalls and Chair Durfee

FROM: Steven Collier, AAFM GC

RE: Revised Draft of S.323 Zoning Exemption for Farming

DATE: April 20, 2026

Revised Draft of S.323 as Passed by Senate

An act relating to miscellaneous agricultural subjects

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

* * * Municipal Agriculture Regulation * * *

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

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

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

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

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

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

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

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

(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 the cultivation or other use of land for growing plants, including for food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and orchard crops;~~

~~(B) the raising, feeding, or management of a small backyard poultry flock, excluding roosters;~~

~~(C) farming that meets the minimum threshold criteria in the Required Agricultural Practices Rule and is therefore required to comply with the Required Agricultural Practices Rule, except for swine waste in designated downtowns or village centers. Municipalities may not prohibit swine or regulate swine waste-related farm structures on a farm subject to the Required Agricultural Practices Rule, but may reasonably regulate swine waste in downtowns or village centers if the waste is causing a significant adverse impact to the~~

community, and the Secretary of Agriculture, Food and Markets is unable to provide redress through application of the Required Agricultural Practices Rule. Municipalities shall provide at least 30 days' notice to the Secretary and the farm prior to enforcing a swine waste bylaw, and any related bylaw shall be limited to requiring the reasonable management of swine waste to limit adverse community impacts;

(D) the construction of farm structures, including as defined in the Required Agricultural Practices Rule;

(BE) 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

(CF) forestry operations.

(2) As used in this section:

(A) "Farming" has the same meaning as in 10 V.S.A. § 6001(22) or in the Required Agricultural Practices Rule;

(B) "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.

(C) "Downtown" means the traditional central business district of a community that has served as the focus of socio-economic interaction in the

community, characterized by a cohesive core of commercial and mixed use buildings, some of which may contain mixed use spaces, often interspersed with civic, religious, residential, and industrial buildings and public spaces, typically arranged along a main street and intersecting side streets that are within walking distance for residents who live within and surrounding the core and that are served by public infrastructure such as sidewalks and public transit. Downtowns are typically larger in scale than village centers and are characterized by a development pattern that is consistent with smart growth principles. Downtowns include those designated pursuant to sections 2793 or 4348a(a)(12)(A) of this Title.

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

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

(F) “Village center” means the core of a traditional settlement, typically comprised of a cohesive mix of residential, civic, religious, commercial, and mixed use buildings arranged along a main street and intersecting streets that are within walking distance for residents who live within and surrounding the core. Industrial uses may be found within or immediately adjacent to these centers. Village centers are typically smaller in scale than downtowns and are characterized by a development pattern that is consistent with smart growth principles. Village centers include those designated pursuant to sections 2793a or 4348a(a)(12)(A) of this Title.

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

Section 3. Required Agricultural Practices Activities and Applicability

3.1 Persons engaged in farming and the agricultural practices as defined in Section 3.2 of this rule and who meet the minimum threshold criteria for applicability of this rule as found in Section 3.1(a)--(g) must meet all applicable Required Agricultural Practices conditions, restrictions, and operating standards, and are not subject to municipal zoning bylaws.

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

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

(b) has produced an annual gross income from the sale of agricultural products of ~~\$5,000.00~~ **\$2,000** or more in an average year; or

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

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

- (1) four equines;
 - (2) five cattle, cows, or American bison;
 - (3) 15 swine;
 - (4) 15 goats;
 - (5) 15 sheep;
 - (6) 15 cervids;
 - (7) 50 turkeys;
 - (8) 50 geese;
 - (9) 100 laying hens;
 - (10) 250 broilers, pheasant, Chukar partridge, or Coturnix quail;
 - (11) three camelids;
 - (12) four ratites;
 - (13) 30 rabbits;
 - (14) 100 ducks;
 - (15) 1,000 pounds of cultured trout; or
 - (16) other livestock types, combinations, or numbers as designated by the Secretary based upon or resulting from the impacts upon water quality consistent with this rule; or
- (e) is raising, feeding, or managing ~~other livestock types, combinations, and numbers, or managing crops or engaging in other agricultural practices on~~ a farm that is at least 1.0 and less than 4.0 contiguous acres in size that the Secretary has determined after the opportunity for a hearing, to be causing adverse water quality impacts and in a municipality where no ordinances are in place to manage the activities causing the water

quality impacts and has sufficient land base for appropriate nutrient and waste management. The Secretary has the discretion to determine, after consultation with the appropriate municipal authority, if the land base is adequate to properly manage the number and type of livestock while evaluating whether compliance with the Required Agricultural Practices is reasonable or impractical. Livestock on a farm with less than 4.0 contiguous acres must meet the requirements of this subsection to be subject to this rule and exempt from municipal zoning. Livestock on a farm with less than 1.0 contiguous acre are subject to applicable municipal zoning bylaws even when a person is engaged in other farming activities that are subject to this rule. Livestock on less than 4.0 contiguous acres may also be subject to this rule to protect water quality pursuant to subsection (g) of this section.; or

(f) is managed by a farmer filing with the Internal Revenue Service a 1040(F) income tax statement in at least one of the past two years;

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

(gh) has a prospective business or farm management plan, approved by the Secretary, describing how the farm will meet the threshold requirements of this section.

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

- (a) the confinement, feeding, fencing, and watering of livestock;
- (b) the storage and handling of agricultural wastes principally produced on the farm;
- (c) the collection of maple sap principally produced from trees on the farm and/or production of maple syrup from sap principally produced on the farm;
- (d) the preparation, tilling, fertilization, planting, protection, irrigation, and harvesting of crops;
- (e) the ditching and subsurface drainage of farm fields and the construction of farm ponds;
- (f) the stabilization of farm fields adjacent to banks of surface water, and the establishment and maintenance of vegetated buffer zones and riparian buffer zones;
- (g) the construction and maintenance of farm structures, farm roads, and associated infrastructure;
- (h) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm;
- (i) the on-site storage, preparation, and sale of agricultural products principally produced on the farm from raw agricultural commodities principally produced on the farm;
- (j) the on-site storage of agricultural inputs for use on the farm including, but not limited to, lime, fertilizer, pesticides, compost and other soil amendments, and the equipment necessary for operation of the farm; and
- (k) the management of livestock mortalities produced on the farm.