



To: House Committee on Agriculture and Forest Products

From: Kate McCarthy, Sustainable Communities Program Director, Vermont Natural Resources Council

Gwynn Zakov, Municipal Policy Advocate, Vermont League of Cities and Towns

Cc: Katherine Levasseur, Chief-of-Staff, Speaker's Office

Re: H.663, An act relating to municipal land use regulation of accessory on-farm businesses

Chair Partridge and Members of the House Committee on Agriculture and Forestry,

The Vermont League of Cities and Towns (VLCT) has worked for 50 years to serve and strengthen Vermont's local governments, and the Vermont Natural Resources Council (VNRC) has spent nearly 55 years working to protect and enhance Vermont's natural environments, vibrant communities, productive working landscapes, rural character, and unique sense of place. Today, we are submitting this joint letter to express our shared and serious concern that H.663, as currently drafted, threatens to undermine both municipal authority and land use in Vermont's communities.

Both VLCT and VNRC have participated, at various times over the past 2+ years, in conversations and working groups about how to clarify the permitting of on-farm businesses. The general goals of these working groups – also presented to the Committee by witnesses this year – are ones that we share. They are:

- To have viable working farms and forests
- To promote regulatory jurisdiction clarity
- To establish a permitting path for diversified operations
- To support agriculture on the site of the farm and/or ag industry regionally and
- To maintain rural character of Vermont's countryside, both visually and functionally.

To meet these goals, H.663 defines “accessory on-farm business,” and then limits the local review and permitting requirements for these businesses. In practice, this limits some of the municipal authority to regulate these businesses. “Accessory on-farm businesses” are defined as (paraphrased from the bill):

- the storage, preparation, processing, and sale of products so long as more than 50% of the total annual sales are from products principally produced on the farm where the business is located
- educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products.
- private events, such as conferences and weddings, in which the farm is leasing space to others who control and present the event.

In order to achieve the policy goal of advancing diversified farming, creating a use category that promotes uses connected to the farm operation may be appropriate, as may permitting these uses differently. However, we strongly disagree that the modified permitting process put forth to promote agriculture should apply to private events, for several reasons.

First, private events as defined in H.663 are not connected to the farm operation - they are simply taking place on the farm. This means the activity is no different than when any other landowner wishes to charge a fee in exchange for the use of property for private events.

Second, private events are often an intense use in terms of the volume of visitors, vehicle traffic, noise, light, and other impacts. In practice, they are more like a commercial use than an agricultural one.

Finally, municipalities should be able to decide, through their local planning processes, where events should take place. While the bill does allow municipalities to regulate the *impacts* of events – noise, parking, lighting, etc. – it removes municipal authority to determine what *locations* are appropriate for these events. In other words, as long as a property meets the definition of “farm” in the bill, a municipality *must* allow events to happen there, regardless of the location, the condition of the road leading to the farm, or the surrounding uses.

Because of this, it is our recommendation that “private events” be removed from the definition of “accessory on-farm business.”

We believe that even without “private events” as part of the definition of “agricultural on-farm businesses,” this bill will still help promote a range of diversified agricultural activities on Vermont’s farms, and meet the goals articulated above. Indeed, it seems likely that the remaining pieces of the “accessory on-farm business” definition lend themselves to accommodating the changing nature of agriculture far better than a single use, “private events,” does.

We agree that the bill represents an improvement over previous proposals, and we do appreciate the effort that has gone into finding a way to support Vermont’s farmers, its changing agricultural economy, and the land base on which both depend.

However, the shift to treat farms differently than other property owners/users are treated for similar private events is not something we can support. When it comes to uses unrelated to the farm’s operation, farms should not be put in a special category of regulation with uses that are

identical to other landowners. With “private events” removed from the definition of “accessory on-farm business,” we feel that H.663 would provide a fair and equitable approach that treats all properties seeking to host such events the same. With this change made we would not oppose this legislation.

Thank you for your consideration, and please do not hesitate to contact us with any further questions.

Sincerely,



Kate McCarthy
VNRC

1/25/18



Gwynn Zakov
VLCT