

*A Right-to-Farm bylaw is an important tool that can bolster a community’s efforts to protect the viability of farming. The intent of such a General Bylaw (not Zoning) is to reiterate the importance of-- and support for-- farming within the town. There is a notification provision that works to ensure that people moving into the community are aware that agriculture, and the associated sights, sounds, and smells, is an accepted and central economic and cultural activity. This type of bylaw seeks to prevent conflicts between farm operations and neighbors. There is a dispute resolution process for communities that have adopted an Agricultural Commission. It is strongly recommended that Agricultural Commissions are adopted even before enacting a Right-to-Farm bylaw, as such a commission can help tailor the bylaw and educate the public about the need for such a provision. This model has been approved by the Commonwealth’s Attorney General.*

**MODEL RIGHT TO FARM BYLAW/ORDINANCE**

**Section 1 Legislative Purpose and Intent**

The purpose and intent of this Bylaw/Ordinance is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of [City-Town] restate and republish these rights pursuant to the Town’s authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, (“Home Rule Amendment”).

This General Bylaw/Ordinance encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town/City of [NAME] by allowing agricultural uses and related activities to function with minimal conflict with abutters and local agencies. This By-law/Ordinance shall apply to all jurisdictional areas within the Town/City.

**Section 2 Definitions**

*Annotation: The following definition is essentially the definition from M.G.L. Chapter 128 Section 1A. Localities should explore modifying the definition of farming to best reflect local circumstances and issues. Some communities may be interested in adopting the definition used in M.G.L. Chapter 61A including a five acre size threshold and a requirement that the farm generate at least \$500 per year in gross sales. Certain small scale specialty operations may not meet the five acre requirement. Some communities have decided to leave “commercial” undefined and allow the Agricultural Commission to arbitrate on a case-by-case basis.*

The word “farm” shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto. The words “farming” or “agriculture” or their derivatives shall include, but not be limited to the following:

- farming in all its branches and the cultivation and tillage of the soil;
- dairying;
- production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, swine, cattle, sheep, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

“Farming” shall encompass activities including, but not limited to, the following:

- operation and transportation of slow-moving farm equipment over roads within the Town;
- control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plants and animals;
- application of manure, fertilizers and pesticides;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto;
- maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3 Right-To-Farm Declaration**

The Right-to-Farm is hereby recognized to exist within the Town/City of [NAME]. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this Bylaw/Ordinance are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right-To-Farm Bylaw/Ordinance shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning law.

#### **Section 4 Disclosure Notification**

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase and sale agreement exists, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the Town/City of [NAME], the landowner shall present the buyer or occupant with a disclosure notification which states the following:

“It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a community where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town/City may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances.”

*Annotation: Communities may wish to alter this section so that it responds best to local circumstances.*

A copy of the disclosure notification shall be given on a form prepared by the Town/City and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Board of Selectmen/City Council or its designee prior to the sale, purchase, exchange or occupancy of such real property. In addition to the above, a copy of this disclosure notification shall be provided by the Town/City to landowners each fiscal year by mail.

A violation of Section 4 shall be subject to a fine of \$300 and shall be enforced by the Board of Selectmen/City Council or its designee. The Town/City is authorized to enforce Section 4 under the non-criminal disposition provision of G.L. c. 40, § 21D.

#### **Section 5 Resolution of Disputes**

[Applicable only in communities that have Agricultural Commissions.]

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Select Board/City Council, the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Zoning Enforcement Officer or Select Board may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town/City authority within an agreed upon time frame. The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

**Section 6 Severability Clause**

If any part of this Bylaw/Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Bylaw/Ordinance. The Town/City of [NAME] hereby declares the provisions of this Bylaw/Ordinance to be severable.