

RIGHT TO FARM BY-LAW

Harvard, Massachusetts

Section 1 Legislative Purpose and Intent

The purpose and intent of this By-law 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 my 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 Harvard 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 By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Harvard by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-law shall apply to all jurisdictional areas within the Town.

Section 2 Definitions

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 word "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 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, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposed, 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 of Harvard. 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 By-law are intended to apply to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land, or as imposing any land used 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 or 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 within the Town of Harvard, 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 town 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 may be impacted by commercial and other agricultural operations.”

A copy of the disclosure notification shall be given on a form prepared by the Town 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 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 to landowners each fiscal year by mail.

Section 5 Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the appropriate Town Authority (such as the Board of Selectmen, the Zoning Enforcement Officer, the Board of health, Zoning Board of Appeals, Conservation Commission, or others) 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 Town Authority so notified of such grievance may forward a copy to the Agricultural Advisory Commission, or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town Authority within an agreed upon time frame.

The Board of Health shall not be obligated to consider forwarding a copy of any grievance to the Agricultural Advisory Commission in cases of imminent danger or public health risk.

Section 6 Severability Clause

If any part of this By-law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this By-law. The Town of Harvard hereby declares the provision of this By-law to be severable.