

1.21 AGRICULTURAL PRESERVATION BYLAW

1.21.1 Legislative Purpose and Intent

The purpose and intent of this Bylaw is to state with emphasis the Right to Farm granted 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 Bolton 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 encourages the pursuit of agriculture, promotes agriculture- based economic opportunities, and protects farmlands within the Town of Bolton by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This Bylaw shall apply to all jurisdictional areas within the Town.

1.21.2 Definitions

The word "FARM" shall include any parcel or contiguous parcels of land, or water bodies used for the purpose of agriculture, or accessory thereto.

The words "AGRICULTURE" or "FARMING" 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;
- 4-H or The National FFA Organization projects; and
- keeping and / or raising of livestock which includes but not limited to horses, poultry, swine, cattle, sheep, goats, ratites (such as emus, ostriches and rheas), camelids (such as llamas and alpacas), and other domesticated animals, 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 organism 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.

1.21.3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Bolton. 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 are intended to apply to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Agricultural Preservation Bylaw 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.

1.21.4 Agricultural Commission

For the furtherance of the goals of this Bylaw, there is hereby established an Agricultural Commission, to consist of five (5) members, appointed by the Board of Selectmen, at least three of whom shall be representative of the Bolton farming community and one (1) from the non-farming, residential community. The term of appointment shall be for three (3) years, timed to coincide with the Town's fiscal year. At the time said Commission is first appointed, one member shall be appointed for one (1) year, two members for a term of two (2) years, and two members for a term of three (3) years; all subsequent appointments shall be made for terms of three (3) years. The appointing authority shall fill any occurring vacancy based on the unexpired term being vacated.

The Agricultural Commission shall be authorized:

- To act as a spokesperson for the Bolton farming community;
- To present written or oral testimony in the context of public hearings before any Town Board or Committee;
- On its own initiative, to advise any Town Board or Committee on matters pertinent to the particular area of jurisdiction of that Board or Committee, insofar as the issue relates to the interests of agriculture;
- To advise the Board of Selectmen and/or any other Town Board on any Town-wide issues relating to agriculture which, in the opinion of the Agricultural Commission, require a concerted Town action or response;

- To respond to any request for information or advice from any Town Board or Committee;
- To provide public information or public education services regarding agriculture and the practice of agriculture in Bolton, or in general;
- To provide education and information for farmers in residential, areas on how to minimize their impact on their neighbors;
- To serve, at the written request of any Town Officer, Board, or Committee, as an arbitrator or negotiator in the resolution of disputes relating to agricultural issues, provided that no order or decision on the particular matter in question has already been issued by any Town entity legally authorized to do so; and that any resulting decision or recommendation shall be strictly advisory, and shall have no legal standing or definitive nature beyond the voluntary agreement of the parties to abide by it;
- To promote farming business and agriculture in Town, to create awareness through education, and the promotion of agriculture and it's benefits to Bolton.

The Agricultural Commission, *per se*, is specifically not authorized:

- To acquire or hold property, real or personal;
- To act as an agent or representative of any individual or entity in any matter pending before any Town or State agency;
- To interfere with, litigate, or serve in any way as a conduit, agent, or forum for appeals relating to any decision made by a legally authorized Town Officer or agency.

1.21.5 Disclosure Notification

Right to Farm Notification

"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 residents that Bolton is a Right to Farm community where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Residents and property owners are also informed that the location of their property within the Town may be impacted by agricultural operations including the ability to access water services for such property under certain circumstances."

A copy of this disclosure notification shall be posted by the Town to residents and property owners each fiscal year by mail in the Town census and in one or more of the following forms: annual report, official Town website, transfer station, or library.

1.21.6 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 Board of Selectmen, 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 Board of Selectmen 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 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.

1.21.7 Severability

In the event that any part of this Bylaw is, for any reason, held to be unconstitutional, invalid, or void by any court or agency of competent jurisdiction, it shall not be construed to affect the validity or the continuation and implementation of all other elements of this Bylaw.