

## 1.15 HOUSING AUTHORITY

### 1.15.1 Purpose

For the creation, development and management of housing and housing programs in the Town of Bolton.

### 1.15.2 Membership

There will be 5 members, 4 of whom are elected by the town. The fifth is appointed by the Executive Office of Communities and Development (EOCD). At creation of authority, members will be appointed by the Board of Selectmen, these individuals will serve until members are elected at the next town election. Terms are as follows:

Individual receiving highest # of votes:	5 year term
Individual receiving 2nd highest # of votes:	4 year term
Individual receiving 3rd highest # of votes:	2 year term
Individual receiving 4th highest # of votes:	1 year term

The individual appointed by EOCD will serve an initial term of 3 years.

As terms expire, successor will be appointed or elected in same way, but for a term of five years. Membership is restricted to residents of the town. Vacancies, aside from the expiration of terms will be filled/appointed by the Board of Selectmen until new members can be elected at the next town election.

## 1.16 LICENSES AND PERMITS OF DELINQUENT TAXPAYERS

1.16.1 The Tax collector, or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission, or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

1.16.2 The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector, provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any

findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

1.16.3 Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

1.16.4 The Board of Selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty eight in the business or activity conducted in or on said property.

1.16.5 This section shall not apply to the following licenses and permits: open burning, S 13 of C 48; bicycle permits, S 11A of C 85; sales of articles for charitable purposes, S 33 of C 101; children work permits, S 69 of C 149; clubs, associations dispensing food or beverage licenses, S 21E of C 140; dog licenses, S 137 C 140; fishing hunting, trapping licenses, S 12 of Ch 131; marriage licenses, S 28 of C 207; theatrical events, public exhibition permits S 181 C 140.

## 1.17 DEMOLITION DELAY BYLAW

### 1.17.1 Intent and Purposes

The purpose of this bylaw is to establish a procedure for reviewing requests to demolish significant buildings in order to preserve, when possible, the historical, cultural and architectural heritage of Bolton.

### 1.17.2 Definitions

1.17.2.1 Building- a structure capable of being used to shelter persons, animals, materials or equipment.

1.17.2.2 Commission- the Bolton Historical Commission

- 1.17.2.3 Demolition- any voluntary act of pulling down, destroying, burning, removing, or razing of a building in whole or in part; commencing the work of destruction; or allowing the same to be done by others.
- 1.17.2.4 Applicant- person or persons filing an application for review under this bylaw. If the person submitting the application is not the owner, the owner will be required to indicate his/her assent to the filing of the notice or application.
- 1.17.2.5 Significant building- any building which is historical by reason of its age (in whole or in part seventy-five (75) or more years) *and* is determined by the Commission to be either (1) associated with a person or event contributing to the cultural, political, economic, social or architectural history of the town, commonwealth or the United States of America; or (2) historically or architecturally important (in terms of period, style, construction, or association with an architect or builder), either by itself or in the context of a group of buildings.
- 1.17.2.6 Preferably preserved significant building- any significant building for which it is determined after hearing to be in the public's interest to preserve or rehabilitate rather than demolish under this bylaw.
- 1.17.2.7 Demolition permit- any permit (demolition, alteration, building) issued by the Building Inspector, as required by the State Building Code, which authorizes the demolition of a building (excluding interior demolition).
- 1.17.2.8 Building Inspector- Bolton Inspector of Buildings or person(s) otherwise authorized to issue demolition permits.
- 1.17.2.9 Day- any calendar day, including Saturdays, Sundays and holidays.
- 1.17.3 Procedure
  - 1.17.3.1 No demolition permit shall be issued for a significant building without first fully complying with the provisions of this bylaw.
  - 1.17.3.2 A written demolition permit application shall be filed with the Building Inspector.
  - 1.17.3.3 If the demolition permit application is for a building which is seventy-five (75) or more years old, the building's historical significance will be determined by the Commission within fourteen (14) days of the Commission's receipt of the application. The Commission will notify the Building Inspector and applicant in writing of this initial determination. If the building is not determined to be significant, the Building Inspector may issue a permit to demolish in accordance with all applicable procedures.
  - 1.17.3.4 If the building is determined to be significant, the Commission shall hold a public hearing within thirty (30) days of this initial determination to further

determine whether the demolition of the building will be detrimental to the historical, cultural or architectural heritage of the town. Notice of the time, place and purpose of the hearing shall be given twice in a local newspaper, the first notice at least fourteen (14) days before and the second notice at least seven (7) days before such hearing and by posting a notice in the Town Hall for a period of at least fourteen (14) days before such hearing and by mailing a notice of hearing to the applicant.

1.17.3.5 A determination shall be made by the Commission within seven (7) days of the close of the public hearing. The applicant, Building Inspector and the Town Clerk shall be provided with a copy of the determination.

1.17.3.6 If the Commission determines the demolition of the building in question is not detrimental to the historical, cultural or architectural heritage of the town, the applicant may apply for the necessary permits to begin work.

1.17.3.7 If the Commission determines the demolition of the building in question is detrimental to the historical, cultural or architectural heritage of the town, the building shall be deemed a preferably preserved significant building and no further demolition permits may be applied for or issued for a period of six (6) months from the date of such determination.

1.17.3.8 During the six (6) month period, the Commission will invite the applicant (and owner of record, if different from applicant) to participate in an investigation of alternatives to demolition. If acceptable alternatives are agreed upon by the Commission and the applicant, the Commission will file a copy of said agreement with the Building Inspector and Town Clerk and the applicant may apply for necessary permits to begin work. Work shall only be done in accordance with the terms of the agreement unless and until new permit applications are filed and processed hereunder.

1.17.3.9. If the Commission is satisfied that there is no feasible alternative to demolition, the Commission may so advise the applicant, Building Inspector and Town Clerk in writing, at any time during this six (6) month period, and the Building Inspector may issue a permit to demolish in accordance with all applicable procedures.

#### 1.17.4 Emergency Demolitions

1.17.4.1 Nothing in this bylaw restricts the demolition of a significant building determined by the Building Inspector to present a danger to public safety which only demolition can prevent. Such a determination shall be made in accordance with the applicable provisions of the State Building Code and after consultation with the Commission Chairperson or designee. Whenever an emergency demolition permit is issued under the provisions of this section, a written report must be filed with the Commission describing the condition of the building and the basis for the determination.

#### 1.17.5 Enforcement and Remedies

1.17.5.1 The Commission and the Building Inspector are each authorized to enforce the provisions of this bylaw.

1.17.5.2 The Building Inspector shall not issue a permit pertaining to any property on which a significant building has been demolished voluntarily in whole or in part without first fully complying with the provisions of this bylaw for a period of two (2) years from the date of demolition.

1.17.5.3 The provisions of this bylaw may be enforced by a non-criminal disposition pursuant to Section 1.1.5 of the Administrative Bylaws of the Town of Bolton.

#### 1.17.6 Administration

1.17.6.1 The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.

1.17.6.2 The Commission is authorized to adopt a schedule of fees to cover the costs associated with the administration and review of any application which is filed under this bylaw.

#### 1.17.7 Severability

1.17.7.1 If any provision of this bylaw is determined to be invalid or unconstitutional by any court, every other section shall continue in full force and effect.”

### 1.18 WETLANDS BYLAW

#### 1.18.1 Purpose

The purpose of this Bylaw is to conserve and protect the resource areas, the resource interests, and natural resource services, in the Town of Bolton by regulating activities deemed by the Conservation Commission (“Commission”) likely to have a significant or cumulative adverse effect upon resource interests. Protected resource interests include, but are not limited to: flood control, storm damage prevention, public and private water supplies, ground water, water quality, prevention of pollution and sedimentation, fisheries, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, adjoining land areas and recreation deemed important to the community. Natural resource services may be classified as either ecological service --the physical, chemical, or biological functions that one resource provides for another; or public service --the public uses of natural resources or functions of natural resources that benefit the public. This Bylaw is intended to utilize the Home Rule authority of the Town of Bolton to conserve and protect additional resource areas, with additional standards and procedures stricter than those of the Wetlands Protection Act, (M.G.L. Ch. 131, Section 40) and Regulations thereunder, (310 CMR 10.00).

### 1.18.2 Jurisdiction

Unless excepted in Section 1.18.3 or pursuant to a Wetlands Bylaw Permit, no person shall commence to remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter the following resource areas: any freshwater wetlands; marshes; wet meadows; bogs; swamps; vernal pool habitat, including but not limited to state certified vernal pools; banks; fresh water seeps; reservoirs; lakes; rivers; streams and creeks, whether perennial or intermittent; riverfront areas which are (a) lands within two hundred feet (200') of perennial rivers or streams; beaches; lands under water bodies; lands subject to flooding or inundation by ground water or surface water; and land within twenty-five feet (25') of the above resources areas, except for riverfront areas (collectively the "wetland resource areas" protected under this bylaw) and adjacent upland resource areas (collectively the "adjacent upland resource areas" protected under this bylaw). This 25-foot prohibition, however, shall not apply to crossings essential to access upland areas. Said resource areas shall be protected whether or not they border surface waters.

Adjacent upland resource areas shall include all lands within seventy-five feet (75') of wetland resource areas enumerated above, except for perennial streams and rivers for which the adjacent upland resource area extends for two hundred feet (200') from the top of the bank.

Except as expressly permitted by the Commission or as provided in this Bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, pollute, discharge into, or otherwise alter a wetland resource area, or an adjacent upland area, as described above.

Where a proposed activity involves work within a resource area, the Commission shall presume that the area is significant to protect the resource interests, enumerated in Section 1.18.1.

Where the proposed activity involves work within the riverfront area, the Commission shall presume the area is significant to protect the riverfront area and its resource interests. This 200-foot presumption does not apply to the redevelopment of those portions of riverfront areas regarded as "previously developed" or "degraded" or to "paths". Orders of Conditions for redevelopment and paths are granted at the discretion of the Commission.

These presumptions are rebuttable and may be overcome by a preponderance of the evidence showing that the resource area does not play a role in the protection of one or more of these interests. In the event that the presumption is deemed to have been overcome as to the protection of all the resource interests, the Commission shall make a written determination to this effect, setting forth its grounds.

Where the applicant provides information that the resource area at the site of activity does not play a role in the protection of an interest, the Commission may determine that the presumption for that interest has been rebutted. Where

the applicant provides information that site of the activity plays a partial role in the protection of an interest, the Commission may determine that the presumption for that interest has been partially rebutted and the presumption of significance is partially overcome.

#### 1.18.3 Applicability, Limitations, and Exceptions

Where the presumption set forth in Section 1.18.2 is not overcome, the applicant shall prove by a preponderance of the evidence that there are no practicable and substantially equivalent economic alternatives to the proposed project with less adverse effects on the interests identified in Section 1.18.1. Further, the applicant shall prove that the work including proposed mitigation will have no significant adverse or cumulative adverse effect on the resource areas or resource interests. In the event that the Commission finds that the applicant has failed to make either of said proofs, it shall make a written determination setting forth its grounds in an Order of Conditions that shall impose conditions that will protect the interests which make the resource area significant or shall in a written determination deny the activity as it cannot be conditioned to protect the interests of the Bylaw and/or its regulations.

To prevent the loss of resource areas, applicants shall be required to avoid, where feasible, altering a resource area; minimize alteration of a resource area; and, where alteration is unavoidable, complete full mitigation. Replication of resource areas may be required as a form of mitigation.

Exceptions to the Bylaw shall be limited to: maintaining, repairing or replacing, adding to, but not substantially changing or enlarging, an existing single-family residential structure, septic system or appurtenance; maintaining landscaping and gardens accessory to an existing single-family residential structure; lands lawfully in agriculture (commercial and non-commercial) at the time the work takes place; forest cutting (as defined in 310 CMR 10.04, 'Agriculture'(b) 14); maintaining or repairing, but not substantially changing or enlarging, an existing structure in a resource area, such as drainage structures, culverts, bridges, driveways or roadways; maintaining or repairing, but not substantially changing or enlarging, fire protection water holes, artificial ponds; clearing of water courses, conservation and outdoor recreation; existing orders and filings before the Commission prior to the effective date of this Bylaw; public utilities (as defined in 310 CMR part 10.53 section (3)(d)); projects carried out under the direction of the U.S. Natural Resource Conservation Service; and emergency projects necessary for the protection of the health and safety of the public and subject to the provisions and conditions of 310 CMR part 10.06.

No activities other than the excepted activities shall commence without receiving and complying with a permit issued pursuant to this Bylaw. No work proposed in any Wetlands Bylaw Permit application shall be undertaken until the Wetlands Bylaw Permit issued has been recorded in the registry of deeds, or if the land is registered land, filed in the appropriate land court, and until the holder of the Wetlands Bylaw Permit certifies in writing that the Wetlands

Bylaw Permit has been recorded. Such certification shall include the book and page or instrument number and date.

- 1.18.4 Applications for Wetlands Bylaw Permit and Requests for Determination  
Any person desiring to know whether a proposed activity is excepted or an area is subject to this Bylaw may request a determination from the Commission by filing a Request for Determination of Applicability (RFD). Such a Request for Determination of Applicability shall include information and plans as required by the Commission.

Written application shall be filed with the Commission to perform activities within the resource areas protected by this Bylaw. The Wetlands Bylaw Permit application shall include such information and plans as deemed necessary by the Commission to describe proposed activities and their effects on the resources areas. Where appropriate, the Commission may accept the Notice of Intent and plans filed under the Wetlands Protection Act and the Regulations as the Wetlands Bylaw Permit application and plans under this Bylaw.

At the time of a request for determination or a Wetlands Bylaw Permit application, the applicant shall pay a filing fee specified in the Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (G.L. Ch 131 Section 40) and Regulations (310 CMR 10.00). The fee shall be deposited in a dedicated account, for use only for wetland protection activities. Town, county, state and federal projects are exempt from the filing fee.

The Commission is authorized to require the applicant to pay for the reasonable costs and expenses borne by the Commission for specific expert engineering or for other outside consultant services in order to reach a final decision on the application.

The Commission may require that the applicant's performance and observance of the Order of Conditions, including mitigation, be secured wholly or in part by one or more of the methods set forth in the regulations. This security shall be in addition to any security required by any other town or state board, agency or official.

- 1.18.5 Notice and Hearings  
Wetlands Bylaw Permit applications shall be filed with the Commission subject to the provisions and conditions of 310 CMR part 10.00 and the Commission may, in an appropriate case continue a public hearing for good cause and may combine its hearing under this Bylaw with the hearing conducted pursuant to the Wetlands Protection Act, M.G.L. Ch 131, Section 40 and Regulations, 310 CMR 10.00.



#### 1.18.6 Wetlands Bylaw Permits, and Certificates of Compliance

Within 21 days of the close of the hearing the Commission shall issue or deny a Wetlands Bylaw Permit for the activities requested. If a Wetlands Bylaw Permit is issued, the Commission shall impose conditions, which the Commission deems necessary or desirable to protect resource areas, resource interests and natural resource services, and all activities shall be done in accordance with those conditions.

Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

Wetlands Bylaw Permits issued hereunder shall expire three years from the date of issuance and may be renewed by the applicant for additional one year periods only where a written request for renewal is received by the Commission not less than 30 days prior to the expiration of the Wetlands Bylaw Permit and that good cause has been shown for said extension and that there is no likely significant or cumulative adverse effect upon any of the resource area or resource interests.

Notwithstanding the above, a Wetlands Bylaw Permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

If the activity has been completed in accordance with said Wetlands Bylaw Permit, the Commission shall, within 21 days after a request, issue a Certificate of Compliance evidencing such determination, which may be combined with the Certificate of Compliance under the Wetlands Protection Act. A Certificate of Compliance may specify conditions, which will continue to apply for a fixed number of years or permanently and shall apply to all owners of the land. The Certificate of Compliance shall be recorded in the Registry of Deeds, or if the land is registered land, in the appropriate land court, and the Commission notified in writing by the holder of the Wetlands Bylaw Permit that the Certificate of Compliance has been recorded. Such notification shall include the book and page or instrument number and date.

Violations of this Bylaw, submission of false information or new information that substantially alters the likely impact of the project on the resource areas may cause the Commission to revoke or modify a Wetlands Bylaw Permit or determination issued under this Bylaw after notice to the holder of the Wetlands Bylaw Permit or determination, notice to the public, abutters and town boards, pursuant to Section 1.18.5 and a public hearing.

Appeal from this Bylaw shall be to the Superior Court.

1.18.7 Regulations

After public notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purpose of this Bylaw effective when voted and filed with the Town Clerk. Failure to promulgate such rules and regulations or a legal declaration of their invalidity by court of law shall not act to suspend or invalidate the effect of this Bylaw.

1.18.8 Definitions

Except as otherwise provided in this Bylaw or in regulations of the Commission, the definitions of terms in this Bylaw shall be as set forth in the Wetlands Protection Act, M.G.L. Ch 131 Section 40, and Regulations 310 CMR 10.00.

1.18.9 Enforcement

The Commission shall have the authority to enforce this Bylaw, its regulations, and Wetlands Bylaw Permit issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Any person who violates provisions of this Bylaw, its regulations and/or Wetlands Bylaw Permits may be ordered to restore the property to its original condition, pay damages and take other action deemed necessary to remedy such violations, or may be fined, or both.

Any person, who violates any provisions of this Bylaw or regulations, Wetlands Bylaw Permits or administrative orders issued thereunder, may be served with a Notice of Violation enumerating the alleged violations. As an alternative to criminal prosecution, the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch 40, Section 21D.

The violator shall pay any and all costs including reasonable attorney fees incurred by the Town. The fine for a violation of this Bylaw shall be Three Hundred Dollars (\$300.00) for each offense; each day of the violation shall be a separate offense. Enforcement will be done in accordance with Step Enforcement Policy Against Alleged Violations of the Wetlands Protection Act and other-Local By-laws under the jurisdiction of the Bolton Conservation Commission, dated May 2, 2005.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

1.18.10 Severability

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any Wetlands Bylaw Permit or determination, which previously has been issued.

1.19 DISCHARGE OF SNOW OR ICE ONTO PUBLIC WAYS

No person other than an employee in the service of the Town of Bolton, or an employee in the service of an independent contractor acting for the Town of Bolton, shall pile, push, or blow snow or ice onto a public way that is plowed and sanded by the Town.

Whoever violates this provision shall be punished by a fine of one hundred dollars (\$100). This provision is to be enforced by the Police Department.

1.20 TOWN ADMINISTRATOR

- 1.20.1 The Board of Selectmen may appoint a Town Administrator for a three-year term in accordance with Mass. Gen. Laws Chapter 41, Section 23A. The Town Administrator shall be appointed on the basis of executive and administrative qualifications and shall be especially fitted by education, training and previous experience in public administration to perform the duties of the office. The Town Administrator, under the direction and supervision of the Board of Selectmen, shall be responsible for handling the day-to-day administrative affairs of the Town and for implementing the policies set forth by the Board of Selectmen. The Town Administrator shall act for the Board of Selectmen in any matter that it may assign to the Town Administrator. With the approval of the Board of Selectmen, the Town Administrator may perform other duties as may be requested by any other Town Officer, Board, Committee or Commission. The administrator shall be responsible for coordinating and implementing general office operating policies that shall apply to all elected and non-elected employees as may be agreed upon by the Board of Selectmen and other boards. The Town Administrator shall receive such compensation for all services performed as the Board of Selectmen shall determine; said compensation shall not exceed the amount appropriated therefore by the Town. The Board of Selectmen may remove the Town Administrator at its discretion.

## 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 is 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 (3) 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 its 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 timeframe.

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 timeframe.

#### 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.