

Right to Farm Bylaw

Section 1. Purpose and Intent The Town of Sunderland finds that farming is an essential and valued activity, which provides fresh food, clean-air, economic diversity, local employment, and open spaces to all the citizens of our town. This By-law is intended to encourage the pursuit of agriculture, promote agricultural-based economic and employment opportunities, and protect farmland within the Town of Sunderland. The purpose is to allow agricultural uses and related activities to function in harmony with the community, town agencies and others. This By-law shall apply to all jurisdictional areas within the Town.

This By-law restates with emphasis the Right to Farm accorded to all citizens of the Commonwealth of Massachusetts as stated under the Constitution and General Laws and Regulations including but not limited to Article 97 of the Constitution, Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1 (the "Zoning Act"); Chapter 90, Section 9; Chapter 111, Section 125A; and Chapter 128, Section 1A. We the citizens of Sunderland restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution (the "Home Rule Amendment").

Section 2. Definitions "Farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or uses accessory thereto. Commercial shall be defined by the minimum acreage requirement or the gross sales and program payment requirement specified in Massachusetts General Laws Chapter 61A, Section 3, as amended. "Farm" shall include youth related agricultural activities, such as but not limited to 4-H, irrespective of minimum acreage or gross sales and program payment requirements. "Farming" or "agriculture" shall include, but not be limited to the following:

- Farming in all its branches and the cultivation and tillage of soil;
- Dairying;
- Orchards;
- 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, sheep, goats, 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 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 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;
- On-farm relocation of earth and the clearing of ground for farming operations;
- Revitalizing drainage or irrigation ditches, picking stone, erecting, repairing or maintaining fences, and clearing, rejuvenation and maintaining pastures; and
- Herding of livestock from area to area, including along roads

Section 3. Right To Farm Declaration The Right to Farm is hereby recognized to exist within the Town of Sunderland. 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 exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring any interest in land. The protections contained in this By-law do not supersede any applicable zoning or legal restrictions associated with agricultural operations or other local, state or federal laws or regulations.

Section 4. Notification to Residents and Real Estate Buyers In order to promote harmony between farmers and their neighbors, residents shall be notified by the Town as set forth below and buyers and occupants shall be notified by landholders and/or their agents (and assigns) prior to the sale or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, through written notification, as follows:

“It is the policy of the Town of Sunderland 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 and buyers that the property they occupy or are about to acquire or occupy lies within a town where farming activities occur. Such farming activities (which may occur on holidays, weekdays, and weekends by night or day) may include, but are not limited to, activities that cause noise, dust and odors. Occupying land within Sunderland means that one should expect and accept such conditions as a normal and necessary aspect of living in such an area. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations.”

A copy of the above notification shall be posted in the Town Hall, and at any other location at the Board of Selectmen's sole discretion. The notification shall also be available for

distribution upon request in the offices of the Board of Selectmen, Board of Assessors, and the Town Clerk. A copy of the notification shall be included in the Town's Annual Report and may, at the Board of Selectmen's sole discretion, be mailed to all town residents from time to time.

Section 5. Resolution of Complaints Any person having a complaint about a farm or farming activity or practice is encouraged to seek an amicable resolution to the complaint, including talking directly with the involved farmer. Such person may, notwithstanding pursuing any other available remedy, request resolution assistance from the Board of Selectmen. Such a request does not suspend the time within which to pursue any other available remedies. The Board of Selectmen may, at its sole discretion and to the extent the Board believes resolution of the matter may be facilitated by involvement of the Town, appoint a panel of at least three individuals, to include representation from farmers, or refer such request to a Sunderland Agricultural Commission, should one exist, or other appropriate board or officer. Said panel, Agricultural Commission or board or officer shall review and facilitate the resolution of such a request and report its recommendations to the Board of Selectmen within the agreed upon time frame. Notwithstanding any other provision of this section, however, the Board of Selectmen shall not be required to forward a complaint filed in accordance herewith or to take any other action whatsoever with regard thereto.

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 Sunderland hereby declares the provisions of this By-law to be severable.