

Town of Holden Bylaws
Article V Part 14
Right to Farm Bylaw
Adopted May 18, 2009

Section 1. Right to Farm Bylaw - Legislative Purpose and Intent

The purpose and intent of this By-law is to state with emphasis that the Right to Farm is accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and under 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 Holden 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.

This By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the town of Holden 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 or non-contiguous parcels of land, or bodies of water used for the primary purpose of agriculture, or accessory thereto. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- 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;
- keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas), camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals;
- farming in all its branches.

“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;
- slaughtering, 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 the propagation, processing, management, or sale of agricultural products;
- on-farm relocation of earth and the clearing of ground for farming operations;
- any other accepted agricultural activity.

Section 3. Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the town of Holden. 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 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 use regulation, which is properly the subject of state statute, regulation, or local zoning law.

Section 4. Precedence In the event of conflict between this By-law and all other town regulations, this By-law shall take precedence. In the event of conflict between this By-law and federal or state law, federal or state law shall respectfully take precedence.

Section 5. Resolution of Disputes

Any person who seeks to complain about the operation of a farm may, notwithstanding, pursue any other available remedy, file a grievance with the Select Board, 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 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 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 Holden hereby declares the provisions of this By-law to be severable.