

# RIGHT TO FARM BY-LAW

Ashfield, Massachusetts

## Section 1 Legislative Purpose and Intent

The purpose and intent of this By-law is to reaffirm 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 but not limited to Massachusetts General Laws, Chapter 40A, Section 3, Paragraph I; Chapter 90, Section 9, Chapter 111, Section 125A; and Chapter 128, Section 1A. We, the citizens of Ashfield, 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 and conserves farmlands within the Town of Ashfield by allowing agricultural uses and related activities to function with minimal conflict with abutters and local agencies. This By-law shall apply to all jurisdictional areas within the Town of Ashfield.

## Section 2 Definitions

A **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 operator of a commercial farm must be able to demonstrate commercial intent, such as with a farm business plan, Schedule F IRS form, sales tax I.D. number, or other means. **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 the soil;
- Dairying;
- Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- Growing and harvesting of Christmas trees;
- Cultivation of sugar maple trees for the production of maple products;
- Growing and harvesting of forest products 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, sheep, rabbits, ratites, camelids and other domesticated animals for food and other agricultural purposes, including fiber and fur-bearing animals;
- Keeping of honey bees.

Farming shall encompass activities including, but not limited to, the following:

- On-farm relocation of earth and the clearing of ground for farming operations;
- Construction and use of farm structures and fences;

- 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;
- Conduction agriculture-related educational and farm-based recreation activities, including agri-tourism, provided that the activities are related to marketing the agricultural output or services of the farm;
- Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager, used for the purpose or propagation, processing, management or sale of agricultural products;
- Processing and packaging the agricultural output of the farm;
- Operation of a farmer's market or farm stand, including signage thereto.

### **Section 3 Right to Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Ashfield, which is zoned rural residential and agricultural in its entirety. Agricultural activities may occur on holidays, weekdays and weekends by day or night, at anytime when necessary, and shall include the attendant incidental noise, odors, dust and fumes associated with normal generally acceptable agricultural practices. 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 normal generally accepted agricultural practices. 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 Disclosure Notification**

In order to ensure that prospective owners and prospective tenants are aware of the policy of the Town of Ashfield expressed in this By-law regarding agricultural uses, the following notification of this policy shall be posted in the Ashfield Town Hall within 30 days of this By-law becoming effective. In addition, the notification language required by this section shall appear each year in the Town's Annual Report. Copies of this By-law will be made available for distribution.

The Town of Ashfield is zoned rural residential and agricultural in its entirety. Therefore 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 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 community where farming activities occur and are encouraged. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are informed that any property located within the Town of Ashfield may be impacted by commercial agricultural and farming activities.

Property owners should make efforts to inform prospective tenants or buyers that Ashfield is a Right to Farm community. Notice shall be provided by the Town to landowners by

mail once each fiscal year with the tax bill and on responses to requests for municipal lien certificates that Ashfield is a Right to Farm community and that there is a Right to Farm By-law in effect.

**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 Select Board or with the Board of Health under M.G.L. Chapter 111. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Select Board shall forward a copy of the grievance to the Ashfield Agricultural Commission or its agent, which shall review the grievance and report its recommendations to the Select Board within 60 days. The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Ashfield Agricultural Commission or its agent, which shall review the grievance and report its recommendations to the Board of Health within 60 days.

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