

Town of Medway General By-Laws

ARTICLE XXXI – Right to Farm

Section 1 Legislative Purpose and Intent

The purpose and intent of this Bylaw is to state with emphasis 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 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A, subject to strict compliance with all state and local laws, rules and regulations, including but not limited to the Medway Zoning and General Bylaws, Medway Board of Health regulations, and subdivision rules and regulations of the Medway Planning and Economic Development Board, and any Rules and Regulations of any Medway board, committee, department or agency. We the citizens of Medway 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 Medway by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies.

Section 2 Definitions

The word "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 words "farming" or "agriculture" or their derivatives shall include, but not be limited to, the following, but in no circumstances shall they be used in any manner to change, alter or create a deviation from any other parts of the Medway General Bylaws, Zoning Bylaws, or Rules and Regulations of any Medway board, committee, department or agency:

- 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;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and
- keeping and raising of poultry, 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.

"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.

Section 3 Right To Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Medway. 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 exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices and in full compliance with the Medway General Bylaws, Zoning Bylaws, and all rules and regulations of any Medway board, committee, department or agency. Moreover, nothing in this Right To Farm 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.

Section 4 Resolution of Disputes

The provision of this Bylaw shall not apply whenever an impact results from willful negligence or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Zoning Board of Appeals, Conservation Commission, 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 Board of Appeals, Conservation Commission or Board of Health may forward a copy of the grievance to the Agricultural Commission or its agent which shall review the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame. The voted resolution of the grievance by the Zoning Board of Appeals, Conservation Commission or Board of Health, which may include an order to cease a particular activity or activities, shall be final.

Section 5 Severability Clause

If any part of this Bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Bylaw. The Town of Medway hereby declares the provisions of this Bylaw to be severable.