

ARTICLE 33. TOWN OF SUTTON RIGHT TO FARM BY-LAW

Section 1 Legislative Purpose and Intent

The purpose and intent of this By-law is to state with emphasis the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Articles of Amendment of the Massachusetts Constitution, and all state statutes and regulations there under, 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 Sutton 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 farmlands within the Town of Sutton 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 parcels of land, or water bodies 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:

- 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;
- raising of livestock including horses;
- keeping of horses as a commercial enterprise; and keeping and raising of poultry, 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; 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 Sutton. 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. Nothing in this Right To Farm By-law shall be deemed as acquiring or authorizing the acquisition of any interest in land, or as imposing any land use regulation which is properly the subject of state statute, regulation, or local zoning law, or as superseding any otherwise applicable statute, regulation, bylaw, or other law.

Section 4 Disclosure 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 buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial 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 in one or more of the following forms: annual report, official Town website, transfer station, or library.

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 Board of Selectmen, the Building Commissioner, or the Board of Health, depending upon the nature of the grievance, which shall review and facilitate the resolution of the grievance within thirty (30) days of receipt. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have.

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

Adopted: October 15, 2007