

ARTICLE LIV

RIGHT TO FARM BY-LAW

Article 97 of the Massachusetts Constitution ensures "the protection of the people in their right to the conservation, development and utilization of the agricultural... and other natural resources." Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1 furthers this goal by stating that no local zoning bylaw may prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of agriculture. Other state laws such as Chapter 111, Section 125A provide additional protection and incentives for agriculture. This By-Law does not seek to change these State laws, but to bring them together into one local By-Law to enhance local understanding of "the right to farm."

This General By-Law section encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Westport by allowing agricultural uses to function with minimal conflict with abutters and Town agencies. This section shall apply in all areas in the Town.

The word "farm" shall include any parcel or contiguous parcels of land used for the primary purpose of agriculture as defined by the Commonwealth. The Commonwealth definition is at present that of Chapter 61A: a farm must contain at least five acres and have annual revenues of at least \$500.

The words "farming" or "agriculture" or their derivatives shall include:

- Farming in all its branches and the cultivation and tillage of the soil;
- Dairying;
- The production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- The growing and harvesting of forest products upon forest land;
- The raising of livestock including horses;
- The keeping of horses as a commercial enterprise;
- The keeping and raising of poultry, swine, cattle, ratites (e.g. emu) and camelids (e.g. llama) and other domesticated animals for food and other agricultural purposes, bees, fur-bearing animals; and
- Any other forestry or lumbering operations.

Farming shall encompass activities including, but not limited to:

- The operation and transportation of large, slow-moving equipment over roads within the Town;
- The control of pests, including, but not limited to; insects and weeds, predators and diseases of plants and animals;
- The application of manure, fertilizers and pesticides;
- Conducting agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural output or services of the farm;
- The processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand;
- The on-farm relocation of earth and the clearing of ground for farming operations, provided that the movement of soils that are rated as "prime" by the Natural Resources Conservation Service shall not

adversely affect agriculture in the Commonwealth.

The right to farm is hereby recognized to exist within the Town of Westport. The foregoing 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 these 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 foregoing agricultural activities must be in conformance with applicable Federal, State laws, and local rules and regulations, to which reference is made as to more specific rights and obligations of the agricultural community and the Town.

The provisions of this By-Law 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.

The following procedure is hereby encouraged to enhance early and effective resolution of farm-related issues:

Any person who seeks to complain about the operation of a farm is encouraged to, prior to filing a formal complaint, file an informal complaint (grievance) with the Select Board, Zoning Enforcement Officer (ZEO), Board of Health, or Conservation Commission, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other remedies that the aggrieved may have.

The ZEO or Select Board shall forward a copy of the grievance to the Agricultural Commission or its agent, which/who shall review and mediate the grievance and report its findings and recommendations to the appropriate Town authority for further action. The Board of Health, except in cases of imminent danger or public health risk, and the Conservation Commission shall forward a copy of the grievance to the Agricultural Commission or its agent, which/who shall review and within an agreed upon timeframe and report its findings and recommendations to the Board.