

THE RIGHT TO FARM

Section 1 Legislative Purpose and Intent

The purpose and intent of this Bylaw is to restate with emphasis the Right to Farm already 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 11, Section 125A and Chapter 128 Section 1A. We the citizens of Conway 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 Conway by allowing agricultural uses and related activities to function with clear protocol for conflict resolution with abutters and local agencies. This Bylaw shall apply to all jurisdictional areas within the Town.

Section 2 Definitions Striving for Best-Farming-Practices

For the purposes of this Right-To-Farm Bylaw, 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 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 or as pets, for competition, recreation and pleasure, including rescues;
- keeping and raising of poultry, swine, cattle, sheep, goats, rabbits, 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.

For the purposes of this Right-To-Farm Bylaw, "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 organisms of plants and animals;
- application of manure and fertilizers;
- application of pesticides in accordance with state law;

- 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 or 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 propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farm operations subject to applicable town and state laws.

Section 3 Right-To-Farm Declaration

This Right-To-Farm Bylaw acknowledges that we are all stewards of the land. It is in this spirit that the Right-To-Farm is hereby recognized to exist within the Town of Conway. 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 as defined by the local Agricultural Extension Agency. The benefits and protections of this bylaw are intended to apply to those agricultural and farming operations and activities conducted in accordance with the aforementioned normally accepted agricultural practices. This Right-To-Farm Bylaw also encourages individual citizens to comment on farm policies or practices that fall within the scope of the Agricultural Commission. Finally, nothing in this Right-To-Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land regulation which is properly the subject of state statute, regulation, or local zoning law.

Section 4 Disclosure Notification

Prior to entering the purchase and sale contract, or prior to the sale or exchange of real property if no purchase and sale agreement exists, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property, located in the town of Conway, the landowner shall present the buyer or occupant with a disclosure notification which states the following:

"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, as well as 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 is within a community where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Purchasing and/or occupying land within Conway means that one should expect and accept such conditions as a normal and necessary aspect of living in Conway."

A copy of this disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification must be filed with the Select Board or its designee prior to the sale, purchase, exchange or occupancy of such real property.

Section 5 Resolution of Disputes *[Applicable only if Conway appoints an Agricultural Commission]*

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 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 Select Board shall forward a copy of any grievance under this section 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 sixty days.

The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of any grievance under this section 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 sixty days.

Section 6 Severability Clause

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