

# Montague Planning & Conservation Department

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## Right to Farm Bylaw

**ARTICLE 27:** To see if the Town will vote to add a new section at the end of the By-Laws of the Town of Montague by placing a Right to Farm Bylaw into the Town by-laws as follows:

### **Section 1: Purpose and Intent**

The Town of Montague understands that farming is an essential and valued activity which provides fresh food, economic diversity and local employment, open space, and scenic vistas to all the citizens of our town, and is a draw for tourism. Therefore, this bylaw is intended to encourage the pursuit of agriculture and agricultural-based economic activities and employment, and protect farmland. The purpose is to allow agricultural practices to function in harmony with the community, town agencies, and others.

This By-law restates 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. We, the citizens of Montague, restate and republish these rights Annual Town Meeting Warrant May 5, 2012

Pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

### **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, as allowed by zoning regulations. 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;
- Production of crops for biofuels;
- growing and harvesting of forest products on forest land, and any other forestry or lumbering operations;
- raising and keeping of livestock, including horses;
- keeping of horses as a commercial enterprise;
- keeping and raising of poultry, rabbits, sheep, swine, cattle, horses, 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 any 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 in accordance with state and federal regulations;
- conducting agriculture-related educational and farm-based recreational activities, including agri-tourism;
- processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including related signage;
- maintenance, repair, or storage of equipment or apparatus owned or leased by the farm owner or manager, that is used expressly for the purpose of agricultural activities;
- on-farm relocation of earth and the clearing of ground for farming operations, including burning brush in accordance with Massachusetts agricultural fire permit regulations;
- operation of composting facilities;
- irrigation of crops;
- construction and use of farm structures and facilities for the purpose of: storing animal wastes, farm equipment, pesticides, fertilizers, or agricultural products; housing of livestock; processing of animal wastes and agricultural

products; season extension; hydroponic production of agricultural products; sale of agricultural products; and use by farm labor; all as permitted by local and state building codes and regulations;

- rejuvenating drainage or irrigation ditches; picking stone; construction, repair, and maintenance of fences; rejuvenating and maintaining pastures;
- herding or moving of livestock including horses from area to area, including along roads.

### **Section 3: Right To Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Montague, in recognition of the benefits of farming to the neighborhood, community, and society in general. The above-described agricultural activities could occur on weekdays, weekends, and holidays, by night or day, and include the attendant incidental noise, odors, dust, and fumes associated with accepted agricultural practices. The benefits and protections of this By-Law are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such Annual Town Meeting Warrant May 5, 2012

practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. The Town endorses the use of best management practices to limit use of pesticides, protect animal health, and minimize negative environmental impacts.

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. Moreover, this By-Law does not supersede any state or federal laws or regulations or private covenants.

### **Section 4: Effective Date**

This Bylaw shall be effective upon approval by the Massachusetts Attorney General and the publication and posting as required by law.

### **Section 5: Disclosure Notification**

In order to allow prospective purchasers or tenants to make informed decisions prior to a real estate transaction or rental agreement, and to promote harmony between farmers and their neighbors after such transactions, the Town of Montague requests that sellers and landlords and/or their agents (and assigns) provide written notification to prospective buyers and renters substantially as follows:

“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 could include, but are not limited to, activities that cause noise, dust, and odors, and could occur by day or night on weekdays, weekends, and holidays. Occupying land within the Town of Montague means that one could expect and accept such conditions as a normal and necessary aspect of living in such an area”.

Written notification to buyers or renters may occur in one of several ways, including but not limited to disclosure forms, or as an addendum to a Purchase and Sale Agreement or rental agreement.

Within 30 days after this Bylaw becomes effective, a copy of the above notification will be displayed at the Town Hall and posted on the Town’s website. A copy of the notification shall be included in the Town’s annual report. The notification shall also be available for distribution upon request in the offices of the Select Board, Board of Assessors, and Town Clerk.

### **Section 6: Resolution of Disputes**

Any person having a complaint about a farm or farming activity is encouraged to seek an amicable solution directly with the owner or operator of the farm at issue. Such person may, notwithstanding the pursuit of any other available remedies, request resolution assistance directly from the Agricultural Commission, or file a complaint with the Town Administrator, Select Board, Board of Health, or Zoning Enforcement Officer. The filing of a grievance does not suspend the time within which to pursue any other available remedies. The Town officials may forward the complaint to the Agricultural Commission if deemed appropriate and the Commission can help to seek an amicable resolution through facilitating discussion between the parties. The Agricultural Commission will report back to the Town officials on the outcome within

a reasonable time frame. Any complaints brought directly to the Agricultural Commission will also be forwarded to Town officials, so that they may help determine whether any public health or other laws and regulations are being violated.

**Section 7: 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 Montague hereby declares the provisions of this By-law to be severable.