

ARTICLE XVIII * 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 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 III, Section 125-A and Chapter 128, Section 1A. We the citizens of the Town of Plainfield restate and republish these rights pursuant to the town's authority conferred by Article 89 of the Articles of Amendments of the Massachusetts Constitution (Home Rule Amendment).

This General By-law is intended to encourage the pursuit of agriculture, promote agriculture-based economic opportunities, and protect farmlands within the Town of Plainfield. By formally stating our support of agriculture, and by informing all incoming residents of our community of our commitment to maintaining our agricultural community, the Town of Plainfield hopes to minimize conflict between farmers and their abutters and other Town agencies, thereby helping to sustain agriculture as a vital part of our rural community. This By-law shall apply to all jurisdictional areas within the Town. This By-law shall be enacted within the limits of all state and federal laws. The Agricultural Commission shall be included in the decision making process in all matters relating to agriculture that may come before any other Town officials, committees, commissions or boards.

Section 2. **Definitions**

The word "farm" shall include any parcel or contiguous parcels of land or water used for the primary purpose of agriculture (commercial or non-commercial), or accessory thereto.

The term "commercial agriculture" shall describe any farming activities carried out with the intention of making a profit.

The term "non-commercial agriculture" shall include, but not be limited to, any not-for-profit agricultural pursuit, including subsistence farming, hobby farming, homesteading, livestock keeping, gardening and any other farming activity carried out for personal use.

This By-law is intended to uphold and protect the rights of both commercial and non-commercial farmers.

The words "farming" or "agriculture" and 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, arboricultural, floricultural, viticultural, or horticultural commodities
- . growing and harvesting of forestry products on forest land, and any other forestry or lumbering operations;
- . keeping and/or raising of livestock including, but not limited to, horses, poultry, swine, cattle, sheep, goats, ratites (such as emus, rheas, and ostriches), and camelids (such as llamas and camels), fish and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

Farming and agricultural “activities” 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, fertilizer, and pesticides;
- . conducting of agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to the marketing of the agricultural output 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 farmer, used expressly for the purpose of propagation, processing, management, or sale of the agricultural products;
- . on-farm relocation of earth and the cleaning of ground for farming operations.

Section 3. **Right-to-Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Plainfield. 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 responsible agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal responsible 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 to those agricultural and farming activities conducted in accordance with generally accepted responsible agricultural practices. Moreover, nothing in this Right to Farm By-law shall be deemed as acquiring an interest in land or as imposing any land-use regulation, which is properly the subject of state statute, regulation or zoning law.

The intention of the By-law is to ensure that new residents in the Town of

Plainfield shall be prepared to co- exist with existing farm activities. Additionally, it is the intent of this By-law to support the rights of new and/or changing farming operations being established in existing neighborhoods.

It is not the intention of this By-law to defend or uphold agricultural practices outside the realm of accepted good and responsible farming practices, such as cases of profound neglect, chemical pollution or chemical drift, or non-compliance with state and federal conservation and wetlands preservation laws. In keeping with the Town of Plainfield's May 2003 Warrant Article 20, this Right to Farm By-law upholds the concerns expressed about the use of genetically modified crops and seeds, and the concerns regarding the possible contamination caused by pollen drift of genetically modified crops and seeds.

Section 4. **Disclosure Notification**

Upon entering into a purchase and sale contract, or prior to the 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 Plainfield, the landowner shall present the buyer or occupant with a copy of this By-law.

In addition to the above, copies of this By-law shall be available at the Town Office.

(Amended May 3, 2008)

The Town is also authorized to post signs at entry points into the Town of Plainfield, stating that Plainfield is a Right to Farm Community.

Section 5. **Resolution of Disputes**

(Applicable once there is an established 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, the Zoning Enforcement Officer, or the Board of Health, depending on 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 Enforcement Officer or Select Board shall forward a copy of the grievance 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 an agreed upon time frame.

(Amended May 2, 2009)

The Board of Health, except in cases of imminent danger of public health risk, shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and

report its recommendation to the Board of Health within an agreed upon time frame.

(Amended May 2, 2009)

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 the By-law. The Town of Plainfield hereby declares the provisions of this By-law to be severable; or take any action relative thereto.

(Approved May 6, 2016)