

Chapter 161

RIGHT TO FARM

[HISTORY: Adopted by the Annual Town Meeting of the Town of Lee 5-8-2008 by Art. 45. Amendments noted where applicable.]

GENERAL REFERENCES

Noise — See Ch. 140.

§ 161-1. Purpose.

- A. The Town of Lee finds that farming is an essential and valued activity, which provides fresh food, clean air, economic diversity, local employment, and open spaces to all the citizens of Lee. This bylaw is intended to encourage the pursuit of agriculture, promote agricultural-based economic and employment opportunities and protect farmland within the Town of Lee. The purpose is to allow agricultural uses and related activities to function in harmony with the community, Town agencies and others. This bylaw shall apply to all jurisdictional areas within Lee.
- B. The purpose and intent of this bylaw is to state with emphasis the right to farm accorded to all citizens of the Commonwealth of Massachusetts as stated under Article 97 of the Constitution and all state statutes and regulations thereunder, including but not limited to MGL c. 40A, § 3, Paragraph 1; MGL c. 90, § 9; MGL c. 111, § 125A; and MGL c. 128, § 1A. We the citizens of Lee 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").

§ 161-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

FARM — Includes any parcel or contiguous parcels of land or water bodies used for the primary purpose of commercial agriculture, or accessory thereto. Nothing in the Right to Farm Bylaw shall be construed to alter the Town of Lee's Zoning Bylaw and/or MGL c. 40A, § 3, which shall remain in full effect. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to, the following:

- A. Farming in all its branches and the cultivation and tillage of the soil;
- B. Dairying;
- C. Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- D. Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;

- E. Raising of livestock, including horses;
- F. Keeping of horses as a commercial enterprise; and
- G. 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 — Encompasses activities including, but not limited to, the following:

- A. Operation and transportation of slow-moving farm equipment over roads within the Town;
- B. Control of pests, including, but not limited to, insects, weeds, predators, and disease organisms of plants and animals;
- C. Application of manure, fertilizers, and pesticides;
- D. 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;
- E. Processing and packaging of the agricultural output of the farm and the operation of a farmers' market or farm stand, including signage thereto;
- F. 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;
- G. On-farm relocation of earth and the clearing of ground for farming operations;
- H. Revitalizing draining or irrigation ditches, picking stones, erecting, repairing, or maintaining fences, and clearing, rejuvenation and maintaining pastures;
- I. Herding livestock from area to area, including roads; and
- J. Construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products and livestock, for the processing of animal wastes and agricultural products, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations; including construction and maintenance of fences.

§ 161-3. Right to farm declaration.

The right to farm is hereby recognized to exist within the Town of Lee. 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 bylaw are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, 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.

§ 161-4. Effective date.

This bylaw becomes effective upon filing with the Massachusetts Attorney General.

§ 161-5. Disclosure notification.

The following notice shall be prominently posted on the Town Hall notice board and be made available for inspection and copying at the office of the Town Clerk:

"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 buy 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 of Lee may be affected by commercial agricultural operations."

§ 161-6. Resolution of disputes.

- A. 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 Zoning Enforcement Officer, 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 Zoning Enforcement Officer or Board of Selectmen may 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.
- B. The Board of Health, except in cases of imminent danger or public health risk, may 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 Board of Health within an agreed upon time frame.

§ 161-7. Severability.

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