

Chapter 85

FARMING

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[HISTORY: Adopted 5-16-2005 Annual Town Meeting, Art. 12. Amendments noted where applicable.]

GENERAL REFERENCES

Animal control — See Ch. 81.

Zoning — See Ch. 171.

§ 85-1. Purpose and intent.

- A. The Town of Great Barrington 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 our Town. This bylaw is intended to encourage the pursuit of agriculture, promote agricultural-based economic and employment opportunities, and protect farmland within the Town of Great Barrington. 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 the Town.
- B. This bylaw restates with emphasis the right to farm accorded to all citizens of the Commonwealth of Massachusetts as stated under the Constitution and General Laws and Regulations, including but not limited to Article 97 of the Constitution, MGL c. 40A, § 3, Paragraph 1 (the Zoning Act); MGL c. 90, § 9; MGL c. 111, § 125A; MGL c. 128, § 1A.

§ 85-2. Definitions.

FARM — Shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto. Commercial shall be defined by the minimum acreage requirement or the gross sales and program payment requirement specified in MGL c. 61A, § 3, as amended. "Farm" shall include youth-related agricultural activities, such as but not limited to 4-H, irrespective of minimum acreage or gross sales and program payment requirements.

FARMING or AGRICULTURE —

- A. Shall include, but not be limited to the following:

- (1) Farming in all its branches and the cultivation and tillage of the soil;
 - (2) Dairying;
 - (3) Orchards;
 - (4) Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
 - (5) Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
 - (6) Raising of livestock including horses;
 - (7) Keeping of horses as a commercial enterprise; and
 - (8) Keeping and raising of poultry, sheep, goats, 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.
- B. "Farming" shall encompass activities including, but not limited to, the following:
- (1) Operation and transportation of slow-moving farm equipment over roads within the Town;
 - (2) Control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
 - (3) Application of manure, fertilizers and pesticides;
 - (4) 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;
 - (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand, including signage thereto;
 - (6) 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;
 - (7) On-farm relocation of earth and the clearing of ground for farming operations;
 - (8) Revitalizing drainage or irrigation ditches, picking stone, erecting, repairing or maintaining fences, and clearing, rejuvenation and maintaining pastures; and
 - (9) Herding of livestock from area to area, including along roads.

§ 85-3. Declaration.

The right to farm is hereby recognized to exist within the Town of Great Barrington. 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. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, consideration shall be given to both traditional customs and procedures as well as to new practices and innovations. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land. The protections contained in this bylaw do not replace any applicable zoning or legal restrictions associated with agricultural operations.

§ 85-4. Notification to real estate buyers.

- A. In order to allow prospective purchasers to make informed decisions prior to a real estate transaction and to promote harmony between farmers and their new neighbors after a transaction, the Town of Great Barrington requests selling landholders and/or their agents (and assigns) provide written notice to prospective purchasers substantially as follows:

"It is the policy of the Town of Great Barrington 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 that the property they are about to acquire 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. Purchasing, and henceforth occupying land within Great Barrington means that one should expect and accept such conditions as a norm and necessary aspect of living in Great Barrington."

- B. Written notification may occur in one of several ways, including but not limited to a disclosure form, addendum to a purchase and sale agreement, and should include an acknowledgement by the buyer that they have received notification.
- C. Within 30 days after this bylaw becomes effective, the Board of Selectmen shall make available for use by selling landowners or their agents (and assigns) copies of example written notifications.
- D. Within 30 days after this bylaw becomes effective the Board of Selectmen shall prominently place in the Town Hall the above disclosure.
- E. Within 30 days after this bylaw becomes effective the Tax Collector shall include a copy of the above disclosure with responses to requests for municipal lien certificates.

§ 85-5. Resolution of complaints.

Any person having a complaint about a farm activity or practice is encouraged to seek an amicable resolution to the complaint, including talking directly with the involved farmer. Such person may, notwithstanding pursuing any other available remedy, request resolution assistance from the Board of Selectmen. Such a request does not suspend the time within which to pursue any other available remedies.

§ 85-6. Agricultural Commission. [Added 5-15-2006 ATM, Art. 20]

There shall be an Agricultural Commission to represent the Great Barrington farming community. Said Commission shall serve as facilitators for encouraging the pursuit of agriculture in Great Barrington, and shall promote agricultural-based economic opportunities in Town. The Commission shall consist of three members from the active farming community of Great Barrington appointed by the Board of Selectmen. A minimum of two members shall be primarily engaged in farming. The Board of Selectmen shall first appoint one member for a term of three years, one member for a term of two years, and one member for a term of one year. All subsequent appointments shall be for terms of three years. Up to five alternate members may also be appointed by the Board of Selectmen, each for one-year terms.

§ 85-7. 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 Great Barrington hereby declares the provisions of this bylaw to be severable.