

**RIGHT TO FARM BY-LAW**  
Lincoln, Massachusetts  
Adopted by Town Meeting March 26, 2011

**Section 1 Legislative Purpose and Intent**

This “Right to Farm” By-law establishes a process by which the Town of Lincoln will provide information to all present and future residents regarding existing state law pertaining to agriculture. The mechanism for providing notice is to be determined by the town. This By-law provides no new benefits or protections beyond those already contained in the Massachusetts State laws.

The purpose and intent of this By-law is to embrace and explain the rights to farm accorded to all citizens of the Commonwealth under Article 97, of the Articles of Amendment 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 Lincoln 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 By-law shall apply to all jurisdictional areas within the Town.

**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, 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 the cultivation and tillage of the soil;
- Dairying;
- Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
- Farmers markets, CSA programs;
- 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;
- Keeping and raising of poultry, swine, cattle, sheep, rabbits, ratites, camelids and other domesticated animals for food and other agricultural purposes, including bees, fiber, fur-bearing animals, and any forestry and lumbering operations;
- Preparations for market, delivery to storage or to market or to carriers for transport to market.

Farming in Lincoln may 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 organism of plants and animals;
- Storage and application of manure, fertilizers and pesticides;
- 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 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 farm owner or manager, used expressly for the purpose or propagation, processing, management or sale of the agricultural products;
- On-farm relocation of earth and the clearing of ground for farming and or agricultural operations.

**Section 3 Applicability** The benefits and protections affirmed by this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices.

#### **Section 4 Right to Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Lincoln. The above-described agricultural and farm-related 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. Impacts that may be caused to others through the normal practice of agriculture may be more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections affirmed by this By-law are intended to apply exclusively to those agricultural operations and activities conducted in accordance with generally accepted agricultural practices. No benefits and protections are conferred to agricultural activities whenever adverse impact results from negligence or willful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility or any of its appurtenances. Nothing in this Right to Farm By-law 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.

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

Within 30 days after this By-law becomes effective, the Board of Selectmen shall post the following disclosure on the official bulletin board and website of the Town, at any other location at its discretion, and make such disclosure available for distribution upon request in the offices of the Board of Selectmen, Board of Assessors, and the Town Clerk.

“It is the policy of the Town of Lincoln to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers and occupants that the property they are about to acquire 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 may be impacted by commercial agricultural operations including the ability to access water services for agricultural use under certain circumstances.”

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

Any person having a complaint about a farm or farming activity or practice is encouraged to seek an amicable solution through resolution directly with the owner or operator of the farm at issue. Such person may also, notwithstanding the pursuit of other available remedies, file such a complaint with the Board of Selectmen. The Board of Selectmen may, at its sole discretion and to the extent the Board believes resolution of the matter may be facilitated by involvement of the Town, forward the complaint to the Agriculture Commission, or other appropriate board or officer, and request that recommendations for resolution be provided within an agreed upon timeframe. Notwithstanding any other provision of this section, however, the Board of Selectmen shall not be required to forward a complaint filed in accordance herewith or to take any other action.

#### **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 Lincoln hereby declares the provisions of this By-law to be severable.