

## SHUTESBURY RIGHT TO FARM BYLAW

### Section 1. Legislative Purpose and Intent

The purpose and intent of this Bylaw is to state 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 Shutesbury 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 General Bylaw encourages the pursuit of farming and forestry, promotes farming and forestry-based economic opportunities, and protects farmlands within the Town of Shutesbury by allowing agricultural uses and related activities to function with minimal conflict with abutters and local agencies. This By-law shall apply to all jurisdictional areas within the Town of Shutesbury.

### Section 2. Definitions

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of farming and forestry, or accessory thereto. The words "farming" or "farming and forestry" 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, aquaculture, floricultural, viticulture, or horticultural commodities;
- 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 or recreational enterprise; and
- Keeping and raising of poultry, swine, cattle, sheep, 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 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, fertilizers;
- Conducting farming and forestry-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 of propagation, processing, management, or sale of the agricultural products;
- The right to construct and maintain fences and
- On-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3. Right-To-Farm Declaration**

The Right-to-Farm is hereby recognized to exist within the Town of Shutesbury. The above-described agricultural activities are likely to 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 farming and forestry 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 to 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.

### **Section 4. Disclosure Notification**

“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 citizens we are a right to farm community where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors.

A copy of the disclosure notification shall be given to the Real Estate Agencies to inform buyers, posted at town hall, and in the quarterly newsletter.

### **Section 5 Resolution of Disputes**

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 Board, 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 Board or Select Board 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 Select board within an agreed upon time frame.

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.