

## TOWN OF BRIMFIELD

### PROPOSED WARRANT ARTICLE AND RIGHT TO FARM BYLAW

To see if the Town will vote to amend the General Bylaws by adopting a Right to Farm Bylaw and inserting in the list of bylaws enforceable by non-criminal disposition Section 4 of the Right to Farm Bylaw, all as set forth below:

#### RIGHT TO FARM BYLAW

##### \_\_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 voters of the Town of Brimfield restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, known as the Home Rule Amendment. This Bylaw encourages the pursuit of agriculture, promotes agriculture based economic opportunities, and protects farmlands within the Town of Brimfield by allowing agricultural uses and related activities to function with minimal conflict with abutters and the Town. This Bylaw shall apply to all jurisdictional areas within the Town.

##### \_\_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, horticultural, or nursery products or commodities;
- growing and harvesting of forest products upon forest land, and any other forestry, lumbering or tree growing operations;
- raising of livestock including horses;
- keeping of horses; and
- 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" 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 organism of plants and animals;
- 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 of propagation, processing, management, or sale of the agricultural products; and
- on-farm relocation of earth and the clearing of ground for farming operations
- construction and use of farm structures and facilities for
  - the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products
  - the sale of agricultural products
  - the use of farm labor, as permitted by local and state building codes and regulations; and
  - including construction and maintenance of fences.

### **\_\_\_3 Right To Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Brimfield. 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 commercial 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. This Bylaw shall not supersede local, state, or federal laws or regulations.

### **\_\_\_4 Disclosure Notification**

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or 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 Brimfield, the landowner shall present the buyer or occupant with a disclosure notification on a form prepared by the Town which states the following: "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 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 such property under certain circumstances."

**\_\_\_.5 Severability Clause**

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 Brimfield hereby declares the provisions of this Bylaw to be severable.

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