

## 12.0. TRANSITIONAL PROVISIONS

12.1. Property owners shall comply with this By-law on a schedule set forth in the Commission order, but such property owners shall in no case have more than six months from the effective date of the By-law to comply with its provisions, unless good cause is shown for the failure to comply with the By-law during that period.

<b><i>ARTICLE XLIV not used</i></b>
-------------------------------------

<b><i>ARTICLE XLV AGRICULTURAL COMMISSION</i></b>
---

A Tyngsborough Agricultural Commission is hereby established. The Commission shall encourage the pursuit of agriculture in the Town of Tyngsborough, promote agriculture-based economic opportunities, facilitate the preservation of agricultural land, and act as facilitators, advocates, educators, and negotiators on agriculture-related issues. The Commission will consist of five members appointed by the Board of Selectmen for three year terms, with two initial appointments to be for three years, two initial appointments to be for two years, and one initial appointment to be for one year in order to have staggered terms. The Board of Selectmen may also appoint up to five alternate members, and shall appoint persons to fill vacancies.

<b><i>ARTICLE XLVI RIGHT TO FARM BYLAW</i></b>
--

### **Section 1: Legislative Purpose and Intent**

1. The purpose and intent of this By-law is to state 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. The Town of Tyngsborough restates and republishes 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.

2. This General By-law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Tyngsborough by allowing reasonable and beneficial agricultural uses and related activities to function with minimal conflict with abutters and Town agencies.

### **Section 2: Definitions**

1. The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

2. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- a. dairying;
- b. farming in all its branches and the cultivation and tillage of the soil beneficial to the Town;
- c. production, cultivation, growing, and harvesting of any agricultural, apicultural, 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, 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 but excluding swine.
3. “Farming” shall encompass 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;
  - c. application of manure except for swine manure, fertilizers except those containing swine waste, and pesticides non-damaging to the environment;
  - 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 excluding abattoirs (slaughter houses) and animal rendering plants, the operation of a farmer's market or farm stand including signage thereto, but;
  - 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; and on-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3: Right To Farm Declaration**

1. The Right to Farm is hereby recognized to exist within the Town of Tyngsborough. 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 best agricultural best practices. Whatever impact may be caused to others through these practices is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of this By-law are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with best agricultural practices. Moreover, 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 bylaw.

### **Section 4: Disclosure Notification**

1. 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 Tyngsborough, the landowner shall present the buyer or occupant with a disclosure notification which states the following:

“The policy of the Town of Tyngsborough is 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, fumes, 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.”

2. A copy of the disclosure notification shall be given on a form prepared by the Town and shall be signed by the landowner prior to the sale, purchase, exchange or occupancy of such real property. A copy of the disclosure notification shall be filed with the Board of Selectmen or its designee prior to the sale, purchase, exchange or occupancy of such real property. A copy of this disclosure notification shall be provided by the Town to landowners each fiscal year.

3. A violation of Section 4 shall be subject to a fine of \$300 and shall be enforced by the Board of Selectmen or its designee. The Town is authorized to enforce Section 4 under the non-criminal disposition provision of G.L. c. 40, § 21D.

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

1. 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.

2. 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.

#### **Section 6: Severability Clause**

1. 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 Tyngsborough hereby declares the provisions of this By-law to be severable.