

Town of



AMHERST

Massachusetts

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**ARTICLE 46**  
**Form 2 – Submission 3**  
**FINAL VERSION OF BYLAW**

To be included under:

**ARTICLE IV REGULATIONS RELATING TO REAL ESTATE AND REAL ESTATE USERS**

**AMHERST 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 Articles of Amendment of the Massachusetts 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 Amherst 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 agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Amherst by allowing agricultural uses and related activities and promoting efficient conflict resolution with abutters and Town agencies.

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. 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;
- 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 as a commercial enterprise;



- keeping and raising of poultry, swine, cattle, sheep, caviae (such as rabbits) and rodents (such as emus, ostriches, and rheas) and camelids (such as llamas, alpacas, and camels), and other domesticated animals for food and other purposes, including bees and fur-bearing animals; production and processing of crops for biofuels for the purpose of generating alternative energy;
- operation and transportation of all farm equipment over roads within the town;
- harvest of crops according to generally accepted agricultural practices
- control of pests including, but not limited to, insects, weeds, predators, and disease organisms of plants and animals;
- tillage, cultivation, and application of manure, fertilizers, and pesticides;
- conducting agriculture-related educational activities;
- conducting farm-based recreational activities, 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, land management activities, or sale of the agricultural products;
- on-farm relocation of earth, and the clearing of ground for farming operation including burning brush in accordance with Massachusetts agricultural fire permit regulations (310 CMR 7.07); and
- construction and use of farm structures and facilities for the purpose of: storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products; housing of livestock; processing of animal wastes and agricultural products; season extension or hydroponic production of agricultural products; sale of agricultural products; or use by farm labor; construction and maintenance of fences; all as permitted by local and state building codes and regulations.

### Section 3. Right to Farm Declaration

The Right to Farm is hereby recognized to exist with the Town of Amherst, in recognition of the benefits of farming to the neighborhood, community and society in general. 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. 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. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land, or imposing any land use regulation, which is properly the subject of state statute, regulation, or local zoning bylaw. This Bylaw does not supersede local, state or federal laws or regulations or private covenants.

#### Section 4. Effective Date

This Bylaw shall be effective upon approval by the Massachusetts Attorney General and the publication and posting as required by law.

#### Section 5. Disclosure Notification to Real Estate Buyers

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 Amherst 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 Amherst 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 Amherst means that one should expect and accept such conditions as a normal and necessary aspect of living in Amherst.”

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.

Within 30 days after this Bylaw becomes effective the Select Board shall make available for use by selling landowners or their agents (and assigns) copies of example written notifications.

Within 30 days after this Bylaw becomes effective the Select Board shall prominently place in the town hall the above disclosure.

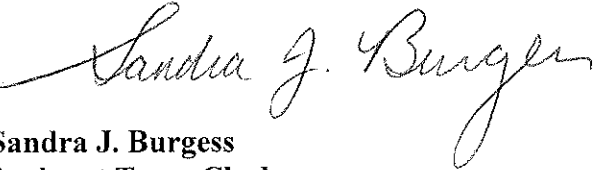
#### Section 6. Resolution of Disputes

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 complaint with the Town Manager. The Town Manager will forward the complaint to the Agricultural Commission, and other boards or officers deemed appropriate. The Agricultural Commission will seek an amicable resolution through facilitating discussion between the parties, and will report back to the Town Manager on the outcome within a reasonable time frame.

Section 7. 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 Amherst hereby declares the provisions of this Bylaw to be severable.

**A true copy, Attest:**

A handwritten signature in cursive script that reads "Sandra J. Burgess". The signature is written in black ink and is positioned above the printed name and title.

**Sandra J. Burgess  
Amherst Town Clerk**