

Brookfield Right to Farm (RTF) Bylaw  
Background/Recommendations

Please attend a Public Forum, Wednesday February 15, 2012  
at 6:30pm in the Brookfield Town Hall, 6 Central St.

**Objectives**

The Brookfield Agricultural Commission is recommending the passage of a RTF Bylaw to demonstrate the Town's continued commitment to local farmers and encourage expansion of legal agricultural pursuits within the Town.

In exploring the idea of RTF Bylaw the Commission determined numbers of issues and interrelationships which need to be addressed to achieve the Commission's goal to promote local agricultural products and services.

**Why do we need a Right to Farm Bylaw?**

Adoption of a local Right to Farm bylaw creates public awareness relative to the needs of local farms and farmers. Over the past 30 years, as productive farmland has been converted to residential development, persons not involved in farming have moved into traditional agricultural areas and lack an understanding of farming operations. Many states, including Massachusetts, adopted Right to Farm language in the state statutes to protect active farmers explaining odor, dust, noise from field work, spraying, and slow moving farm machinery are necessary byproducts of farming operations to be looked upon by their neighbors as part of the heritage and fabric of their towns. In accepting the minor inconveniences, greater good comes in maintaining open space, local produce and viable agricultural businesses.

**How does a Right to Farm bylaw work?**

A right\_to\_farm bylaw is a general bylaw that encourages the pursuit of agriculture, promotes agriculture\_based economic opportunities, and protects farmlands within the community by allowing agricultural uses and related activities to function with minimal conflict with abutters and town agencies. Language is based on the all-state statutes and regulations protecting agricultural activities, such as MGL Chapter 40A, Section 3; Chapter 90, Section 9; Chapter 111, Section 125A and Chapter 128 Section 1A. Such a bylaw restates and republishes these rights pursuant to a town's authority conferred by Article 89, or the "Home Rule Amendment" of the Massachusetts Constitution.

**Basis of RTF Bylaw**

The basis for passage of the RTF Bylaw can be found in the Town’s current Master Plan where there are at least 5 references and recommendations:

1. Chapter 1 - Economic Development – Action item #9 – Implement RTF Bylaw
2. Chapter 3 - Zoning – Action Item #17 – Adopt a RTF Bylaw
3. Chapter 5 - Open Space and Recreation Actions
  - a) Item 1F1 - Establish an agriculture commission and approve a RTF Bylaw
  - b) Item 3A1 - Approve a RTF Bylaw
  - c) References to the town’s agricultural history & heritage

Current Zoning Regulations

**D. Use Regulation Table**

Activity or Use	RR	V	BA	BB	FP
1. Extensive Uses and Related Structures					
a. Agriculture, including farming, raising livestock, managing woodlots, and growing crops					
1. under 5 acres	Y	SP	SP	SP	SP
2. 5 acres or more	Y	Y	Y	Y	Y
b. Floriculture or Horticulture	Y	Y	Y	Y	Y
c. Seasonal roadside stand	Y	Y	Y	Y	Y
d. Commercial greenhouse	Y	SP	Y	Y	SP
e. Commercial harvesting of forest products	SP	SP	SP	SP	SP
f. Commercial raising of animals for pets or raising of fur-bearing animals for pelts	SP	SP	SP	SP	SP
g. Wildlife preserve or other conservation use	Y	Y	Y	Y	Y

Issues:

1. Definition of Agricultural activities; not consistent with MA Chapter 128
2. Agricultural pursuits allowable today in Rural Residential
3. Definition of Special Permit to allow farming in the Village or other areas
4. Woodlot/Harvesting not consistent with State mandated regulations

## Brookfield Right to Farm Bylaw 2012 - Background

Additional Precedence:

Conservation bylaw adopted based on Home Rule Recommendation:

### **“CHAPTER XVII Non-Wetlands Protection By-Law**

#### **I. Purpose**

The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Brookfield....

...This bylaw is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act”

Recommendations:

1. Definition of Agricultural activities; not consistent with MA Chapter 128

Proposed Brookfield RTF Warrant article framed from Attorney General and Department of Agriculture recommendation:

To see if the Town will adopt a Right to Farm bylaw to read,

#### Section 1. Legislative Purpose and Intent

The purpose and intent of this By law 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 Brookfield 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 By law encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Brookfield 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.

#### 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;

## Brookfield Right to Farm Bylaw 2012 - Background

- 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 or lumbering operations;
- Raising of livestock including horses;
- Keeping of horses; and
- Keeping and raising of poultry, swine, cattle, sheep, goats, 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 and protectants;
- Conducting agriculture-related educational and farm-based recreational activities, including agri-tourism, provided that the activities are related to the agricultural output or services of the farm;
- Processing, slaughtering and packaging of the agricultural output of the farm and the operation of a farmers’ 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.

### Section 3. Right to Farm Declaration

The Right to Farm is hereby recognized to exist within the Town of Brookfield. 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 By-law 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 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 4. Precedence

In the event of conflict between this By-law and all other town regulations, this By-law shall take precedence. In the event of conflict between this By-law and federal or state law, federal or state law shall take precedence respectfully.

### Section 5. Resolution of Disputes

## Brookfield Right to Farm Bylaw 2012 - Background

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of a grievance does not suspend the time within which to pursue any other available remedies that the aggrieved person may have. The Zoning Enforcement Officer shall 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.

### Section 6. 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 Brookfield hereby declares the provisions of this By-law to be severable.

End of Proposed Bylaw

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### 2. Agricultural pursuits allowable today in Rural Residential

Issues arise in current Zoning items “e. Commercial harvesting of forest products” and “f. Commercial raising of animals for pets or raising of fur-bearing animals for pelts”.

Recommendations:

1. Item “e” be deleted, based State Mandated Forestry Stewardship regulations where the Conservation Commission has responsibility to integrate Town requirements
  2. Item f, delete “or raising of fur-bearing animals for pelts” where it is defined under agriculture.
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### 3. Definition of Special Permit to allow farming in the Village or other areas

Suggestions received:

For owners with less than 5 acres of land, the keeping of livestock will be allowed as provided for in the next paragraph. Owners of land of five acres or more shall be allowed to keep livestock animals of any type in any amount provided the owner complies with all existing regulations in the Commonwealth of Massachusetts.

The keeping and raising of livestock, property owners with less than five acres shall be allowed to keep any number of animals of any type, if granted a special permit from the Board of Health.

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Large animals will be allowed according to the following lot size.

Less than one acre – not allowed.

One to two acres – no more than two large animals or any combination thereof.

Two to five acres – up to two large animals per acre in any combination.

Over five acres – no restriction.

### Definitions

Small animals are defined as any type of fowl (chicken, duck, turkey) or goat. Large animals are defined as equestrian (horses, donkeys, asses, zebra, ponies), porcine (pigs), bovine (cow, oxen, cattle, buffalo, kudus), sheep, lamas, and camels.

### Permitting process

The Board of Health shall have the authority to grant or deny any request for a special livestock permit. In making a decision to grant keeping of an animal, the board shall consider the character of the neighborhood, and the impact on the environment in granting the request. In granting any permit, The Board of Health shall have the authority to impose conditions on keepage and manure management to prevent an unsanitary environment.

The Board of Health shall charge a \$10 fee to issue any special livestock permit allowing a property owner to keep a large animal or small animals in excess of the quota established in the bylaws.

Note: At the time of adoption of this by-law, all residents having animals in excess of the small animal quota or who have large animals shall be allowed to keep their livestock until such time as the property is transferred to another person.

### Penalties

Any person whom the Board of Health finds in violation of these regulations or who fails to comply with any order by the Board of Health to remedy such violation shall be subject to a fine of \$100 for each day such violation exists.

### The Proper Keeping of Livestock

## Brookfield Right to Farm Bylaw 2012 - Background

All owners of livestock must keep their animals on their property and properly penned. Livestock that goes into the public way or goes onto an abutter's property shall be subject to fines as stated below.

### Enforcement

The Animal Control Officer appointed by the Board of Health shall have the authority to enforce this section of the Bylaw and issues fines as described below. A property owner can appeal a decision of the control officer to the Board of Health, who shall have the authority to uphold or overturn the Animal Control Officer's decision.

### Penalties

During each calendar year, if a livestock owner has an animal stray onto the public way or into the property of an abutter, he or she shall be subject to the following:

First Offense: A warning

Second Offense: \$10 fine

Third Offense: \$25 fine

Fourth and subsequent offenses: \$100 fine.

### Additional Recommendations:

#### 1. Communication

No less than once per year the Agriculture Commission shall notify the Town of the RTF bylaw through the Citizen or other public forums.

#### 2. Relationships with other boards and committees

The Commission will actively pursue other boards and committees as it conducts its work and at the same time asks other groups to look upon the Commission as a resource in resolving disputes or gaining a better understanding of agricultural activities.

Relationship with Planning, any new agricultural activity will likely require permits to modify or construct buildings. In doing so the Commission encourages the Board to consult the Commission for the best outcome in integrating this activity within the Town.