

Chapter 121

FARMING

§ 121-1.	Legislative purpose and intent.	§ 121-4.	Disclosure notification.
§ 121-2.	Definitions.	§ 121-5.	Resolution of disputes.
§ 121-3.	Right to farm declaration.		

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Orange 5-2-2005 , Art. 46.
Amendments noted where applicable.]**

GENERAL REFERENCES

Zoning — See Ch. 205.

Subdivision of land — See Ch. 210.

§ 121-1. Legislative purpose and intent.

- A. 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 MGL c.40A, § 3, Paragraph 1; c.90, § 9, c. 111, § 125A; and c.128, § 1A. We the citizens of Orange 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").
- B. This general bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Orange by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas within the Town.

§ 121-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FARM — Includes any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.

FARMING or AGRICULTURE (or their derivatives) —

- A. Include, but are not limited to the following:
 - (1) Farming in all its branches and the cultivation and tillage of the soil;
 - (2) Dairying;
 - (3) Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;
 - (4) Growing and harvesting of forest products upon forestland, and any other forestry or lumbering operations;

- (5) Raising of livestock, including horses;
- (6) Keeping of horses as a commercial enterprise; and
- (7) 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.

B. Farming shall encompass activities including, but not limited to, the following:

- (1) Operation and transportation of slow-moving farm equipment over roads within the Town;
- (2) Control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- (3) Application of manure, fertilizers and pesticides;
- (4) 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;
- (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand, including signage thereto;
- (6) 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
- (7) On-farm relocation of earth and the clearing of ground for farming operations.

§ 121-3. Right to farm declaration.

The right to farm is hereby recognized to exist within the Town of Orange. The above-described agricultural activities may occur at any time, including 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.

§ 121-4. Disclosure notification.

- A. Within 30 days after this bylaw becomes effective, the Board of Selectmen shall prominently post in the Town Hall and make available for distribution the following disclosure:

"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."

B. In addition a copy of this disclosure notification shall be printed in the Town Report Yearly.

§ 121-5. 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 Town Administrator. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Town Administrator shall refer the aggrieved party to the appropriate Town Board or municipal official and shall facilitate the resolution of the grievance involving all concerned parties, and report its recommendations to the Board of Selectmen within an agreed-upon time frame.