

Town Of East Haddam

Right to Farm Ordinance

BE IT RESOLVED: That the “**RIGHT TO FARM ORDINANCE**” be added to the East Haddam Code of Ordinances.

Whereas agriculture plays a significant role in East Haddam’s heritage and future; and

Whereas East Haddam recognizes the importance of farming to its rural quality of life, public health, scenic vistas, tax base, wetlands, wildlife and local economy; and

Whereas East Haddam seeks to encourage the pursuit of agriculture and the harmonious integration of agriculture into East Haddam’s daily pattern of life with a minimum of conflict between farmers and abutting landowners and between farmers and public agencies of East Haddam; and

Whereas East Haddam has established an Agricultural Commission to assist farmers in pursuing agriculture, in promoting agriculture based opportunities, in protecting farmland, wetlands and scenic vistas and in retaining East Haddam’s rural character and quality of life; and

Whereas the Agricultural Commission is able to assist farmers and other land owners and East Haddam officials in understanding generally accepted farming practices, state and local laws pertaining to agriculture and in resolving disputes between farmers and abutting landowners or with public agencies of East Haddam;

NOW THEREFORE PURSUANT TO THE POWERS CONFERRED IN CONNECTICUT GENERAL STATUTES SECTION 7-148 AS AMENDED BE IT RESOLVED:

That for purposes of this ordinance the terms “agriculture” and “farming” shall have the same definition and meaning as set forth in Connecticut General Statutes Section 1-1(a)(q) as may be amended from time to time, as set forth below:

(q) Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming

purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoopouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

That the purpose of this ordinance is: to protect and promote agriculture including the growth of existing agricultural operations and the production and sale of locally grown food products; to reduce the loss of local agricultural resources; to mitigate the circumstances under which disputes arise between farmers and their neighbors and/or public agencies; and to reduce the potential for any agricultural use to be considered or determined a nuisance.

That the methods of farming that comport with generally accepted farming practices are deemed consistent with community standards. That as long as farmers are in compliance with generally accepted farming practices their agricultural uses will be deemed to be consistent with community standards and within the protections granted to agricultural uses under Connecticut General Statutes, §19a-341 as set forth below:

(a) Notwithstanding any general statute or municipal ordinance or regulation pertaining to nuisances to the contrary, no agricultural or farming operation, place, establishment or facility, or any of its appurtenances, or the operation thereof, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable (1) odor from livestock, manure, fertilizer or feed, (2) noise from livestock or farm equipment used in normal, generally acceptable farming procedures, (3) dust created during plowing or cultivation operations, (4) use of chemicals, provided such chemicals and the method of their application conform to practices approved by the Commissioner of Environmental Protection or, where applicable, the Commissioner of Public Health, or (5) water pollution from livestock or crop production activities, except the pollution of public or private drinking water supplies, provided such activities conform to acceptable management practices for pollution control approved by the Commissioner of Environmental Protection; provided such agricultural or farming operation, place, establishment or facility has been in operation for one year or more and has not been substantially changed, and such operation follows generally accepted agricultural practices. Inspection and approval of the agricultural or farming operation, place, establishment or facility by the Commissioner of Agriculture or his designee shall be prima facie evidence that such operation follows generally accepted agricultural practices.

(b) Notwithstanding any general statute or municipal ordinance or regulation pertaining to nuisances, no operation to collect spring water or well water, as defined in section 21a-150, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable noise from equipment used in such operation provided the operation (1) conforms to generally accepted practices for the collection of spring water or well water, (2) has received all approvals or permits required by law, and (3) complies with the local zoning authority's time, place and manner restrictions on operations to collect spring water or well water.

(c) The provisions of this section shall not apply whenever a nuisance results from negligence or willful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances.

That the Right to Farm is hereby recognized to exist in East Haddam and all agricultural operations conducted in East Haddam, now and in the future, in a manner consistent with accepted agricultural practices (and not in violation of statutes, ordinances, codes, regulations and rules as promulgated by the legislative bodies of the state and town, their or its boards and commissions, offices and agencies with respect to land use, public health and safety) shall not be considered either a public or private nuisance.

That residents and property owners may seek answers and assistance from the Agricultural Commission regarding questions they have with respect to any agricultural operation, establishment or facility located in East Haddam.

That residents and property owners may seek assistance from other East Haddam officials, boards or commissions with respect to any agricultural operation, establishment or facility located in East Haddam.

Nothing herein prohibits residents from taking their questions or complaints to the Connecticut Department of Agriculture and seeking a remedy from said Department and any final administrative decision of the Department of Agriculture shall be considered determinative of the issues presented to said Department of Agriculture.

That the Board of Selectmen authorizes the Agricultural Commission to promote and advance the Right to Farm as part of a town policy by:

1. Disseminating information to town agencies and officials and to the general public concerning state and local laws concerning agricultural uses and practices including but not limited to Conn. Gen. Stat. Sec. 19a-341 Agricultural or Farming Operation Not Deemed a Nuisance.
2. Disseminating information to town agencies and officials and to the general public concerning generally accepted agricultural practices.
3. Assisting town agencies and officials with resolution of complaints lodged against an agricultural or farming operation or use.

4. Assisting landowners with resolution of complaints when one or more of the landowners is a farmer or engaged in an agricultural operation or use.

Nothing contained in this ordinance shall be construed or interpreted to conflict with existing statutes, ordinances, codes, regulations and rules as promulgated by the legislative bodies of the state and town, their or its boards and commissions, offices, officers and agencies with respect to land use, public health and public safety or conflict with any state law, regulation or judicial or administrative ruling with respect to abatement of nuisances as described in said §19a-341. Nothing contained in this ordinance is intended to restrict or interfere with the powers, regulatory authority, responsibilities and duties of the Inland Wetlands and Watercourses Commission, Planning and Zoning Commission, Zoning Enforcement Officer, Building Department, Fire Commissioners or the Chatham Health District. All offices, agencies, boards and commissions are encouraged to review, and on an as needed basis, to adopt such regulations and rules consistent with this ordinance to make preservation of farmland and promoting agricultural operations within the Town of East Haddam a criterion in their planning policy decisions.

If any part of this ordinance is for any reason determined to be unconstitutional or invalid, such determination shall not affect the remainder of this ordinance. The Town of East Haddam hereby declares the provisions of this ordinance to be severable.

This ordinance shall take effect fifteen (15) days after publication in accordance with the Connecticut General Statutes. Adopted at Town Meeting, _____, 2013.
Published Hartford Courant _____, 2013. Effective date _____, 2013.

Dated at East Haddam, Connecticut this _____ day of _____, 2013.

Mark B. Walter, First Selectman