

September 28, 2022 Minutes
Egremont Bylaw Review Committee via Zoom

In Attendance:

Mary McGurn (MM), Chairwoman

Steve Goodman (SG), Secretary/Treasurer (beginning at 4:35 pm)

Robert Sandor (RS)

Eileen Vining (EV)

Richard Allen (RA)

Chairwoman MM convened the meeting at 4:33 pm.

The minutes of the meeting of the Committee from 9/13/22 were unanimously adopted by those present.

SG joined the meeting thereafter at 4:35.

Discussion of Bylaw 13 resumed. It was determined that the group would work from RA's clean draft of 9/14/22. It was also determined that the Committee would proceed to adopt each section of the Bylaw separately after discussion.

After discussion, upon motion duly made and seconded, it was unanimously

RESOLVED, that the title to Bylaw 13 should be changed from "Agriculture" to "Right to Farm" and it was

FURTHER RESOLVED, that, subject to renumbering upon final adoption of the entire bylaw, the following language is hereby adopted and approved as the first section of Bylaw 13:

13.1 Purpose and Intent. The Town finds that farming is an essential and valued activity, which provides fresh food, clean air, economic diversity, local employment and open spaces to all the citizens of our town. This Bylaw 13 is intended to encourage the pursuit of agriculture, promote agricultural-based economic and employment opportunities and protect farmland within the Town. The purpose is to allow agricultural uses and related activities to function in harmony with the community, town agencies and others. This Bylaw 13 shall apply to all jurisdictional areas within the Town.

After further discussion, upon motion duly made and seconded, it was unanimously

RESOLVED, that, subject to renumbering upon final adoption of the entire bylaw, the following language is hereby adopted and approved as the second section of Bylaw 13:

13.2 Emphasis. This Bylaw 13 restates with emphasis the right to farm accorded to all citizens of the Commonwealth of Massachusetts as stated under the Constitution and General Laws and Regulations, including but not limited to Article 97 of the Constitution, Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1 (The Zoning Act), Chapter 90 Section 9, Chapter 111 Section 125A and Chapter 128 Section 1A.

After further discussion, upon motion duly made and seconded, it was unanimously

RESOLVED, that, subject to renumbering upon final adoption of the entire bylaw, the following language is hereby adopted and approved as the third section of Bylaw 13:

13.3 Use of Terms. For purposes of this Bylaw 13:

13.3.1 The term "farm" includes any parcel or contiguous parcels of land, or water bodies, used for the primary purpose of commercial farming or agriculture or accessory thereto. The term "farm" shall include youth-related agricultural activities, such as but not limited to 4-H.

13.3.2 The term "farming" or "agriculture" includes but is not limited to the following: (1) farming in all its branches and the cultivation and tillage of the soil, (2) dairying, (3) orchards, (4) production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticultural or horticultural commodities, (5) growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations, (6) raising of livestock including horses, (7) keeping of horses as a commercial enterprise and (8) keeping and raising of poultry, sheep, goats, swine, cattle, ratites (such as emus, ostrich and rheas), camelids (such as llamas and camels) and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

13.3.3 The term "farming" encompasses 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 organisms of plants and animals, (3) application of manure, fertilizers and pesticides, (4) conducting agriculture-related educational and farm-based recreational activities, including agritourism, 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 equipment or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management or sale of agricultural products, (7) on-farm relocation of earth and the clearing of ground for farming operations, (8) revitalizing drainage or irrigation ditches, picking stone, erecting, repairing or maintaining fences and clearing, rejuvenating and maintaining pastures and (9) herding of livestock from area to area, including along roads.

After further discussion, upon motion duly made and seconded, it was unanimously

RESOLVED, that, subject to renumbering upon final adoption of the entire bylaw, the following language is hereby adopted and approved as the fourth section of Bylaw 13:

13.4 Right To Farm Declaration.

13.4.1 The Right to Farm is hereby recognized to exist within the Town. The above-described farming or 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 farming is more than offset by the benefits of farming to the neighborhood, community and society in general. The benefits and protections of this Bylaw 13 are intended to apply exclusively to those agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, consideration shall be given to both traditional customs and procedures, as well as to new practices and innovations.

13.4.2 Nothing in this Bylaw 13 shall be deemed as acquiring any interest in land. The protections contained in this Bylaw 13 do not replace any applicable zoning or legal restrictions associated with agricultural operations.

After further discussion, on motion duly made and seconded, by a vote of four in favor and one against, it was

RESOLVED, that, subject to renumbering upon final adoption of the entire bylaw, the following language is hereby adopted and approved as the fifth section of Bylaw 13:

13.5 Notification to Real Estate Buyers

13.5.1 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 requests selling landholders and/or their agents to provide written notification to prospective purchasers substantially as follows:

“It is the policy of the Town of Egremont 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 Egremont means that one should expect and accept such conditions as a normal and necessary aspect of living in Egremont.”

13.5.2 Written notification may be by way of a disclosure form or addendum to a Purchase and Sale Agreement, and should include an acknowledgment by the buyer that they have received notification.

13.5.3 The Selectboard shall make available for use by selling landowners or their agents copies of written notifications substantially in the form set forth in Section 13.5.1.

13.5.4 The Selectboard shall prominently place in the Town Hall a written notification substantially in the form set forth in Section 13.5.1.

13.5.5 The Tax Collector shall include a copy of the above written notification with responses to requests for municipal lien certificates.

After further discussion, upon motion duly made and seconded, it was unanimously

RESOLVED, that, subject to renumbering upon final adoption of the entire bylaw, the following language is hereby adopted and approved as the sixth section of Bylaw 13:

13.6 Resolution of Complaints

13.6.1 Any person having a complaint about a farm activity or practice is encouraged to seek an amicable resolution to the complaint, including talking directly with the involved farmer.

13.6.2 Such person may, notwithstanding pursuing any other available remedy, request resolution assistance from the Selectboard. Such a request does not suspend the time within which to pursue any other available remedies.

13.6.3 The Selectboard may appoint a panel of at least three individuals, which shall include representation from farmers, to review such request, or may refer it to the Egremont Agricultural Commission.

13.6.4 Said panel or the Agricultural Commission shall review and facilitate the resolution of such request, and report its recommendations to the Selectboard within the time frame agreed upon, if any.

The Committee then agreed to hold its next meeting on October 6 at 3:30 pm.

Upon motion duly made and seconded, the meeting was adjourned at 5:51 pm.