

# Fact Sheet #10 Farming & the Community



Massachusetts has a system of “home rule” whereby cities and towns can enact charters and adopt certain local ordinances (often called bylaws) beyond state or federal law. Thus, laws can vary by municipality and may impact your farm business in different ways. The following are some general guidelines to consider for farming.



## Municipal Zoning Laws

If you plan to build a new farm facility, establish a retail farm outlet, add worker housing, add horse boarding/riding facilities, etc., check with your local municipality to find out which laws apply. Some common restrictions/requirements might include: road setbacks, lot size, dimensions, signage size and placement, site plan requirements, screening, etc. If the site is already zoned for agriculture, then permits or variances for farming and marketing may be unnecessary or easy to obtain. If the site is zoned for mixed use, including residential housing, then permits may be more difficult to obtain and will have to be accompanied by a detailed plan. Also, objections to farm activities (noise, smell) by neighbors may occur. The zoning laws vary from town to town so check at the town or city hall for accurate information. For example, the city of Lowell has its zoning ordinance [online](#).

All towns have a web address and a simple internet search can locate any of them. Many of the websites have links to the city planning departments and zoning ordinances.

## Agricultural Zoning Districts

Farms located in certified agricultural districts are generally exempt from many local and some state regulations. Contact your county planning or assessment departments to see if the property you own is in an agricultural district. If you are not located in a certified agricultural district then you must comply with local regulations.

## Right to Farm Laws

The Commonwealth of Massachusetts has a law that protects farmers against nuisance lawsuits and protects their right to farm, provided that sound agricultural practices are followed. Many municipalities also have right-to-farm bylaws with additional provisions meant to protect farmers. Check with your town officials to see if such a law exists in your

municipality. If it does not, the Massachusetts Department of Agricultural Resources (MDAR) provides a [model bylaw](#) for localities to adopt. Many towns have [Agricultural Commissions](#) that can help advocate for such an ordinance and MDAR provides some guidance on establishing more of these commissions.

## Farm Neighbor Relations

A good strategy to avoid problems that may arise from farm nuisance lawsuits is to let your neighbors know what you are doing on your farm and what to expect. If you have to operate on a tractor or with heavy equipment for long hours during planting and harvest season or will be spreading manure, let your neighbors know. Communication goes a long way towards avoiding complaints about noise, dust, odor, livestock hazards, or farming practices. Increasingly, your new neighbors will have limited or no exposure to living in the country and you can help educate them about agriculture and where food comes from by letting them know what you do and why it is important. The [Farm Friendly Neighbor website](#) has great resources for farmers, neighbors, and agricultural commissions on avoiding and working through conflicts.

## Fencing for Livestock

Fences intended to contain livestock must be constructed of materials that will restrain them. If you have animals, let your neighbors know and provide them with contact information in case the animals get out or if they see something amiss. Post warning signs if you use electric fences to keep your livestock contained.



## Riparian Rights

The riparian area is land that buffers water, providing ecological benefits such as water filtration. It is especially important to maximize native vegetation and minimize animal use of these areas. If your property includes a waterway, you have the right to use a reasonable

amount of water, but you are also liable for water pollution. You may not impede the flow of a stream or divert it from its original channel where it flows into the next owner's property. If a body of water is navigable, the public has the right to use water regardless of the owner. If a body of water is not navigable, the riparian owner may exclude public use. In Massachusetts, if you plan to withdraw 100,000



gallons of water per day from any water source, you must apply for a permit. If you think this may apply to you, contact the [Department of Environmental Protection](#) at (617) 292-5500.

## Landowner Liability

This is a very complicated issue and the best protection is risk management, insurance, and posting. For example, while trespassing is illegal, it is also illegal for the property owner to harm the trespasser. If a trespasser drowns, the landowner is NOT liable, however, if the person was given permission to swim in a pond, the landowner may be held liable. If you give permission to someone to use your land for any purpose (including for a pick-your-own operation), it is advisable to warn them of hazards on the property. See Fact Sheet #7 on Liability Insurance for details on this and other types of protection.

