

**ARTICLE ZA (2012ATM) # AMEND ZONING BYLAW - DEFINITION OF AGRICULTURE**  
(Two-thirds vote)

To see if the Town will vote to amend the Zoning Bylaw by deleting section 3.2.1 and replacing it with a new section 3.2.1 as follows:

3.2.1 Agriculture – Commercial agriculture or farming as defined in M.G.L Ch. 128, s. 1A; the boarding, keeping or raising of livestock, including horses, as a commercial enterprise; aquaculture; silviculture; horticulture; floriculture; or viticulture; the use of BUILDINGS and STRUCTURES for the primary purpose of these activities; and the sale of farm products. The aforesaid uses and activities shall be limited to parcels of 2 acres or more, whereby land divided by a public or private way or a waterway shall be construed as one parcel, and they shall be subject to and in conformance with the definitions, criteria, thresholds, and requirements as they pertain to these activities conducted on not less than 2 acres or not less than 5 acres, respectively, all as set forth in MGL Ch. 40A, s. 3.

*[Note – Section 3.2.1 currently reads:*

*3.2.1 Agriculture - On a parcel of more than five acres: Agriculture, including the boarding, keeping or raising of livestock; horticulture (including without limitation the growing and keeping of nursery stock and the sale thereof, whether such nursery stock is grown in the ground or in burlap, containers, or other suitable manner, provided it is nourished, maintained and managed while on the premises); floriculture; or viticulture; the use of buildings and structures for the primary purpose of these activities, including the sale of farm products. All of the aforesaid shall be subject to and in conformance with the definitions and requirements for these activities under MGL Ch. 40A, s. 3. On a parcel of two acres or more: Cultivating, harvesting and storing of field crops, produce or fruit, and storage of farm equipment that is necessary for these activities; the boarding, keeping and raising of not more than one horse, goat or sheep, plus its offspring up to one year of age.]*

, or take any other action relative thereto.

### **SUMMARY**

The State Zoning Act definition and exemptions for agriculture (M.G.L. Ch. 40A, s. 3) have changed and expanded several times in recent years. This article aligns Acton's zoning bylaw in line with these amendments up to Chapter 240, Sec. 79 of the Acts of 2010.

The referenced M.G.L Ch. 128, s. 1A defines farming or agriculture as “farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market”.

The referenced M.G.L. Ch. 40A, s. 3 states that “No zoning ordinance or by-law shall (...) prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and

September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities may be limited to parcels of 5 acres or more or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For such purposes, land divided by a public or private way or a waterway shall be construed as 1 parcel. No zoning ordinance or by-law shall exempt land or structures from flood plain or wetlands regulations established pursuant to the General Laws. For the purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof. Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained and managed while on the premises".

The Acton zoning bylaw allows agriculture or farming in all zoning districts. This zoning change is perfunctory. The State law prevails over local law in any case.

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Selectman assigned:

**Board of Selectmen:**  
**Finance Committee:**  
**Planning Board:**