



Right to Farm Disclosure

Several communities in Berkshire County have passed some form of Agricultural Farming bylaws, many of which include a 'right to farm provision'.

In state model bylaws, there is an obligation that the seller of any property in such a jurisdiction must present a 'Right to Farm' **disclosure form to buyers, no more than 21 days after the purchase and sale** contract is entered into, or prior to the sale or exchange of real property. This form must be signed by the buyer and on file with the city or town before transfer or else a fine in the amount of \$300 can be assessed.

Community Rule:

The tricky part, we've just discovered, is that not one of our towns has adopted the exact same language provided in the model bylaws. You should call the local town hall in order to obtain information on their specific policy, and determine if there is a disclosure requirement. If so, the town must provide you with a disclosure form or can approve the sample form.

MGL, Part 1, Title XVI. Public Health, Chapter 111.

Review of order adjudging the operation of a farm to be a nuisance

Section 125A. If, in the opinion of the board of health, a farm or the operation thereof constitutes a nuisance, any action taken by said board to abate or cause to be abated said nuisance under sections one hundred and twenty-two, one hundred and twenty-three and one hundred and twenty-five shall, notwithstanding any provisions thereof to the contrary, be subject to the provisions of this section; provided, however, that the odor from the normal maintenance of livestock or the spreading of manure upon agricultural and horticultural or farming lands, or noise from livestock or farm equipment used in normal, generally acceptable farming procedures or from plowing or cultivation operations upon agricultural and horticultural or farming lands shall not be deemed to constitute a nuisance.

In the case of any such nuisance a written notice of an order to abate the same within ten days after receipt of such notice shall first be given as provided in section one hundred and twenty-four. If no petition for review is filed as herein provided, or upon final order of the court, said board may then proceed as provided in said sections one hundred and twenty-two, one hundred and twenty-three and one hundred and twenty-five, or in the order of the court. If the owner or operator of said farm within said ten days shall file a petition for a review of such order in the district court for the district in which the farm lies, the operation of said order shall be suspended, pending the order of the court. Upon the filing of such petition the court shall give notice thereof to said board, shall hear all pertinent evidence and determine the facts, and upon the facts as so determined review said order and affirm, annul, alter or modify the same as justice may require. The parties shall have the same rights of appeal on questions of law as in other civil cases in the district courts.

Sample Disclosure Form: Attached for Review

Note: Some towns may not accept this generic form - you must contact the city / town to inquire about the proper form for disclosure notification, if required at all. This form is simply to assist you for the towns that don't have a form and allow you to draft your own.

To see [What Communities Have a Right to Farm Bylaw](#), Please Visit our Online List

**STANDARD BERKSHIRE COUNTY MULTIPLE LISTING SERVICE
RIGHT TO FARM DISCLOSURE NOTIFICATION**

▶ **1. PARTIES.** Seller(s) Name(s) _____ (“SELLER”)
Buyer(s) Name(s) _____ (“BUYER”)
Broker / Corporation _____ (“BROKER”)
Property Address _____ (“Property”)

2. DISCLOSURE REQUIREMENTS:

Not later than 21 days after the purchase and sale contract is entered into, or prior to the sale or exchange of real property if no purchase and sale agreement exists, for the purchase or exchange of real property, or prior to the acquisition of a leasehold interest or other possessory interest in real property the landowner shall present the buyer or occupant with the following disclosure notification.

3. NOTICE OF RIGHT TO FARM:

The City/Town of _____ has adopted Right to Farm Bylaws:

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. Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances.

▶ **4. BUYER ACKNOWLEDGMENT**

I acknowledge receipt of this Right to Farm Disclosure Notification. A copy of this disclosure notification will be filed with the Board of Selectmen or its designee prior to the sale, purchase, exchange or occupancy of such real property.

Signature of Buyer

Printed Name

Today's Date

Signature of Buyer

Printed Name

Today's Date