

ARTICLE III
Right to Farm

§ 11-74. Purpose and intent. [Ord. of 1-14-13, § I]

Agriculture plays a significant role in Durham's heritage and future. The Town officially recognizes the importance of farming to its rural quality of life, heritage, public health, scenic vistas, tax base, wetlands, wildlife, and local economy. This article encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmland within Durham by allowing agricultural uses and related activities to function with minimal conflict with neighbors and Town agencies.

It is therefore the declared policy of the Town of Durham and the Durham Agricultural Commission to conserve and protect agricultural land, to encourage agricultural operations and the sale of local farm products within the Town of Durham. It is the purpose and intent of this article to promote and advance the Town's policy and reduce the loss of local agricultural resources by limiting circumstances under which any such operation may be considered a nuisance. Methods of farming that comport with generally accepted farming practices are also deemed consistent with community standards. This article is not to be construed as modifying or abridging state law relative to the abatement of nuisances, but is to be used in the interpretation and characterization of activities and in the considering and implementing enforcement of the provisions of the Code of Ordinances of the Town of Durham and other applicable State of Connecticut and Town regulations, consistent with the provisions of G.S. § 19a-341. Additionally, the terms of this article may be used in determining whether the methods and practices that may come under review conform to community standards.

§ 11-75. Declaration. [Ord. of 1-14-13, § II]

The right to farm is hereby recognized to exist within the Town of Durham. No present or future agricultural operation conducted or maintained in a manner consistent with generally accepted agricultural practices which is engaged in the act of farming as described in this article shall become or considered a nuisance solely because such activity resulted or results in any changed condition of the use of adjacent land. Agricultural operations may occur provided such activities do not violate applicable health, safety, environmental or building codes and regulations and shall include, without limitation:

- (1) Odor from livestock, manure fertilizer or feed,
- (2) Noise from livestock, or farm equipment used in normal, generally accepted farming procedures,
- (3) Dust created during plowing or cultivation practices,
- (4) Use of chemicals, provided such chemicals and the method of application conform to practices approved by the commissioner of energy and environmental protection, or where applicable the commissioner of public health.
- (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 approved by the commissioner of energy and environmental protection.

The provisions of this article 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.

§ 11-76. Definitions. [Ord. of 1-14-13, § III]

The terms "agriculture" and "farming" shall have all those meanings set forth in G.S. § 1-1(q), as amended.

§ 11-77. Dispute resolution. [Ord. of 1-14-13, § IV]

Residents of Durham may seek assistance from the agricultural commission with any complaints or concerns they have with respect to any agricultural operation, place establishment or facility located in Durham. Residents of Durham may seek assistance from any other Durham official, board or commission with respect to any agricultural operation, place establishment or facility located in Durham. The agricultural commission may provide assistance with any complaint or concern brought to it or any other official, board or commission. Nothing herein prohibits residents from making complaints to the Connecticut Department of Agriculture and seeking a remedy from said department and any decision of the department of agriculture shall be considered determinative of the issues presented to said department of agriculture.

Nothing contained in this article shall restrict the powers of Durham's inland wetlands commission, Planning and Zoning Commission, building or Health Departments under Connecticut General Statutes.

In addition, these boards and departments are encouraged to adopt regulations consistent with this article and to make the permanent preservation of farmland within the Town, a criterion in its planning policy decisions.