

## **Attachment “B” Exempt Use Summary**

Massachusetts General Laws Chapter 40A, Section 3, first paragraph states in part:

No zoning ordinance or by-law shall...unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture...including those facilities for the sale of produce, wine and dairy products...provided that 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.... [A]ll such activities may be limited to parcels of 5 acres or more....

In this case the proposed farm, which is well over 5 acres, will generate revenue via fees for camps and educational programs as well as from the sale of horticultural products grown on the farm. The land will not be used for any other purpose but for commercial agriculture. The proposed farm will include a single-family home, so that the farmer can live on location to protect the farm and the livestock. Presently there are no plans to sell any other products from any other Massachusetts farms at this location.

“The raising or propagation of plant or animal life [is] a central and primary component deemed to come within [the exemption],” *Bldg. Inspector of Peabody v. Ne. Nursery, Inc.*, 418 Mass. 401, 405 (1994). The agricultural exemption should be “interpreted broadly,” *Town of Tisbury v. Martha’s Vineyard Comm’n*, 27 Mass. App. Ct. 1204, 1205 (1989) (citing *Lincoln v. Murphy*, 314 Mass. 16, 18-20 (1943)).

The Massachusetts Appeals Court has stated that:

The obvious purpose of the Act...is to promote agricultural use within all zoning districts in a municipality. Such use may not be prohibited or unduly restricted even in an area not specifically zoned for the purpose as long as the parcel being used is one of more than five acres.

The proposed farm meets all of the statutory and case law requirements for an exempt agricultural use.