

# The Law Offices of Jessica Clarke, PC

200 Main St, Wareham, MA 02571 | PHONE: (978) 697-5572 | CHartwell@jessicaklarkelaw.com

Wareham Zoning Board of Appeals  
54 Marion Road  
Wareham, MA 02571

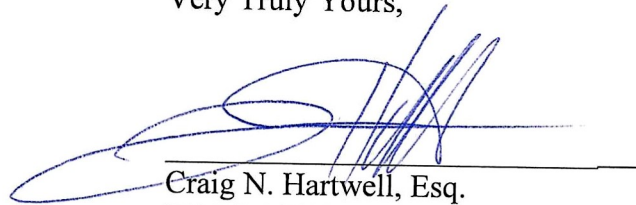
RE: 12 Great Neck Road – Notice of Appeal

March 28<sup>th</sup>, 2023

Attached please find our Appeal of the Building Commissioner's Notice of Violation from February 27<sup>th</sup>, 2023. Please email to confirm the filing fees due and we will remit ASAP. Please let me know if you need anything else from us in this matter.

Very Truly Yours,

Date: March 28th, 2023



Craig N. Hartwell, Esq.

BBO# 667998

THE LAW OFFICES OF JESSICA CLARKE, P.C.

PO Box 468

Wareham, Massachusetts 02571

Direct: 978-697-5572

CHartwell@jessicaklarkelaw.com

TOWN OF WAREHAM  
ZONING BOARD OF APPEALS

**APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT**

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- Complete this form.
- Complete information packets. (Directions attached)
- Submit application form and packet to Town Clerk for signature.
- Submit application form and packet to Town Collector for signature.
- Submit completed form, packets, and appropriate fees\*\* to the Zoning Board of Appeals secretary.

\*\*Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

\*\*A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$100.00.

\*\*The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.90 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 12 Great Neck Road LOT: 17 MAP: 1008

ZONING DISTRICT: R30

USE REQUESTED: Appeal of Building Commissioner's Notice of Violation

OWNER OF LAND & BUILDING: Lynelle L. Butterfield Revokable Trust TEL.# (978) 697-5572

ADDRESS OF OWNER: 12 Great Neck Road, East Wareham, Massachusetts 02538

PERSON(S) WHO WILL UTILIZE PERMIT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

DATE: 3/28/2023 SIGNATURE: 

This application was received on the date stamped here:

Town Clerk: \_\_\_\_\_ Date: \_\_\_\_\_

Tax Collector: \_\_\_\_\_ Date: \_\_\_\_\_

Planning/Zoning Dept.: \_\_\_\_\_ Date: \_\_\_\_\_

Application fee paid: \_\_\_\_\_ Check #: \_\_\_\_\_ Receipt: \_\_\_\_\_

Advertising fee paid: \_\_\_\_\_ Check # \_\_\_\_\_ Receipt: \_\_\_\_\_

Abutters fee paid: \_\_\_\_\_ Check # \_\_\_\_\_ Receipt: \_\_\_\_\_

**TOWN OF WAREHAM**

**APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET**

Check One: \_\_\_\_\_ Variance \_\_\_\_\_ Special Permit \_\_\_\_\_ Site Plan  Appeal

Date stamped in: \_\_\_\_\_ Date decision is due \_\_\_\_\_

Applicant's Name: Lynelle L. Butterfield Revokable Trust C/O Attorney Craig N Hartwell

Applicant's Address: The Law Offices of Jessica Clarke, P.C., 200 Main St, Wareham, MA 02571

Telephone Number: (978) 697-5572

Cell Phone Number: \_\_\_\_\_

Email Address: CHartwell@JessicaClarkeLaw.com

Address of Property/Project: 12 Great Neck Road, East Wareham, Massachusetts 02538

Landowner's Name: Lynelle L. Butterfield Revokable Trust

Owner's Address: 12 Great Neck Road, East Wareham, Massachusetts 02538

Telephone Number: \_\_\_\_\_

Contact Person: Attorney Craig N. Hartwell Telephone Number: (978) 697-5572

Map 17 Lot 1008 Zone R30

Date Approved \_\_\_\_\_ Date Denied \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TOWN OF WAREHAM  
 ABUTTERS LIST  
 12 GREAT NECK RD  
 MAP 17 LOT 1008  
 BUTTERFIELD LYNELLE

abutters_id_field	abutters_owner1	abutters_owner2	abutters_address	abutters_address2	abutters_town	abutters_state	abutters_zip	abutters_bookpage	abutters_location
41-1003/B	TRIBOU KATHLEEN A		9 GREAT NECK RD		E WAREHAM	MA	02538	18182/ 287	9 GREAT NECK RD
17-1010	COONEY ROBERT F JR	COONEY JOAN C	16 GREAT NECK RD		E WAREHAM	MA	02538	16223/ 67	16 GREAT NECK RD
17-1004	ROONEY RICHARD M	ROONEY JOLAN	9 CHASE RD		E SANDWICH	MA	02537	49419/ 340	8 GREAT NECK RD
17-1009	COONEY ROBERT F JR	COONEY JOAN C	16 GREAT NECK RD		E WAREHAM	MA	02538	16223/ 67	14 GREAT NECK RD
17-1007	WYNOT BRUCE	WYNOT SHERYL L	10 GREAT NECK RD		E WAREHAM	MA	02538	21557/ 285	10 GREAT NECK RD
17-1005, 1006	PEACE FOR ALL ANIMALS		12 GREAT NECK RD		E WAREHAM	MA	02538	56689/ 330	390 ONSET AVE
17-1013/C	JOHNSON OSHEA T A	JOHNSON VALERIE P	PO BOX 174		E WAREHAM	MA	02538	10037/ 120	386 ONSET AVE

CERTIFIED LIST OF ABUTTERS AS  
 THEY APPEAR ON OUR TAX ROLLS  
 AS OF 2-28-2023

*RE Manacini*  
 ASSESSORS OFFICE

Prepared by and when recorded return to:

Catherine Blackburn, Esq.  
Blackburn Law Firm, PLLC  
5230 Central Avenue  
St. Petersburg, Florida 33707



2021 00076558

Bk: 55262 Pg: 84 Page: 1 of 2

Recorded: 07/02/2021 02:35 PM

ATTEST: John R. Buckley, Jr. Register  
Plymouth County Registry of Deeds

(Space above this line reserved for recording office use only)

## QUITCLAIM DEED

LYNELLE BUTTERFIELD of WAREHAM, PLYMOUTH County, Massachusetts

For consideration paid, and in full consideration of <sup>one</sup> ~~NO~~/100 DOLLARS (\$1.00)

GRANT TO LYNELLE L. BUTTERFIELD, TRUSTEE of the LYNELLE L. BUTTERFIELD REVOCABLE TRUST such trust having been established under that certain revocable trust agreement dated the 10<sup>th</sup> day of June, 2021, by LYNELLE L. BUTTERFIELD, as grantor and as trustee, of 12 Great Neck Rd., Wareham, MA 02571, has hereby REMISED, RELEASED AND QUITCLAIMED to the Grantee, all of Grantor's right, title, interest, and claim in and to the following described real estate in the County of Plymouth and State of Massachusetts:

THE LAND IN WAREHAM, PLYMOUTH COUNTY, MASSACHUSETTS, TOGETHER WITH THE BUILDINGS THEREON, IN THAT PART CALLED EAST WAREHAM AND BEING SITUATED ON THE EASTERLY SIDE OF THE ROAD LEADING FROM EAST WAREHAM VILLAGE TO INDIAN NECK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A STAKE IN THE EASTERLY LINE OF GREAT NECK ROAD AT THE NORTHWESTERLY CORNER OF THE LOT TO BE CONVEYED AND THE SOUTHWESTERLY CORNER OF LANDFORMERLY OF BRADFORD S. THOMAS; THENCE RUNNING IN THE EASTERLY LINE OF SAID GREAT NECK ROAD, SOUTH 35° 20' WEST, FIFTY-FIVE AND NO/100 (55.0) FEET TO A POINT FOR A CORNER; THENCE TURNING AND RUNNING IN LINE OF REMAINING LAND OF FRANK H. CUTLER AND OLIVE H. CUTLER, SOUTH 61° 52' 30" EAST, 0.08 FEET TO A DRILL HOLE AT THE BASE OF THE STONE WALL ALONG GREAT NECK ROAD; THENCE CONTINUING IN THE SAME COURSE AND IN LINE OF REMAINING LAND OF FRANK H. CUTLER AND OLIVE H. CUTLER, SOUTH 61° 51' 30" EAST, THREE HUNDRED FORTY-THREE AND 96/100 (343.96) FEET TO A CONCRETE BOUND; THENCE TURNING AND RUNNING IN LINE OF LAND OF ALICE M. BRIDGES, NORTH 7° 19' 00" EAST, FIFTY-FIVE AND NO/100 (55.0) FEET TO A STONE BOUND; THENCE TURNING AND RUNNING IN LINE OF LAND FORMERLY OF BRADFORD S. THOMAS, NORTH 61° 18' 10" WEST, THREE HUNDRED SEVENTEEN AND 62/100 (317.62) FEET TO THE STAKE FIRST MENTIONED AND POINT OF BEGINNING.


Property: 12 Great Neck Rd., Wareham, Ma

CONTAINING 18,190 SQUARE FEET, MORE OR LESS.

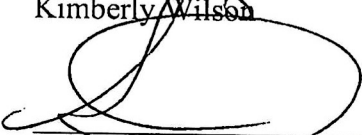
FOR OUR TITLE SEE DEED RECORDED WITH PLYMOUTH DEEDS IN BOOK 19417, PAGE 256.

IN WITNESS WHEREOF, the Grantor has executed this Quitclaim Deed on the day and year first above written.

Signed, Sealed and Delivered in presence of

  
\_\_\_\_\_  
Kimberly Wilson

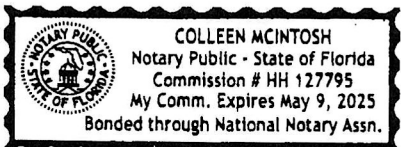
  
\_\_\_\_\_  
LYNELLE BUTTERFIELD

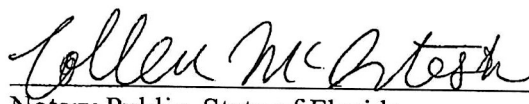
  
\_\_\_\_\_  
Sean Mullins-Rothrock

THE STATE OF FLORIDA                   §  
   §  
COUNTY OF PINELLAS                   §

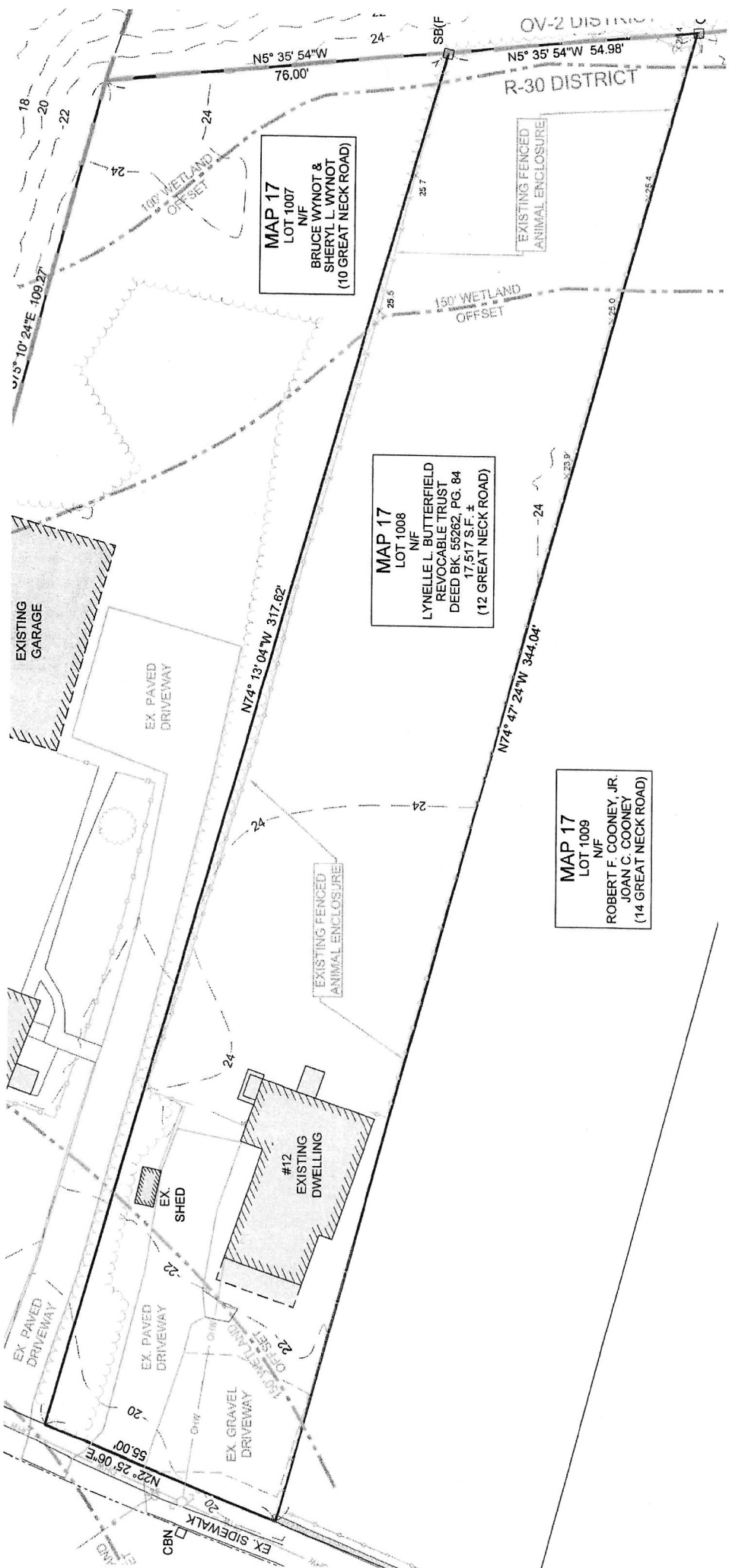
The foregoing instrument was acknowledged before me, the undersigned authority, by means of  physical presence or  online notarization, by LYNELLE BUTTERFIELD, Grantor, who is personally known to me to be the person whose name is subscribed to the foregoing instrument as Grantor, who identified this instrument as a Deed and signed such instrument willingly as Grantor for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on the 10<sup>th</sup> day of June, 2021.



  
\_\_\_\_\_  
Notary Public, State of Florida





**MAP 17**  
 LOT 1007  
 N/F  
 BRUCE WYNOT &  
 SHERYL L. WYNOT  
 (10 GREAT NECK ROAD)

**MAP 17**  
 LOT 1008  
 N/F  
 LYNELLE L. BUTTERFIELD  
 REVOCABLE TRUST  
 DEED BK 55262, PG. 84  
 17,517 S.F. ±  
 (12 GREAT NECK ROAD)

**MAP 17**  
 LOT 1009  
 N/F  
 ROBERT F. COONEY, JR.  
 JOAN C. COONEY  
 (14 GREAT NECK ROAD)

OV-2 DISTRICT  
 R-30 DISTRICT

Boundary bearings and distances:  
 Top boundary: N5° 35' 54" W 76.00'  
 Right boundary: N5° 35' 54" W 54.98'  
 Bottom boundary: N74° 47' 24" W 344.04'  
 West boundary: N74° 13' 04" W 317.62'  
 West boundary (lower): N72° 25' 06" E 55.00'  
 Wetland offsets: 100' WETLAND OFFSET, 150' WETLAND OFFSET

EXISTING GARAGE

EX. PAVED DRIVEWAY

EX. PAVED DRIVEWAY

EX. PAVED DRIVEWAY

EX. GRAVEL DRIVEWAY

EX. SHED

#12 EXISTING DWELLING

EXISTING FENCED ANIMAL ENCLOSURE

EXISTING FENCED ANIMAL ENCLOSURE

EX. SIDEWALK  
 CBN





**TOWN of WAREHAM**  
*Massachusetts*  
**BUILDING DEPARTMENT**

Paul Turner  
Director of Inspectional Services

---

**CERTIFIED MAIL**  
**REGULAR MAIL**  
**EMAIL: [chartwell@jessicacларkelaw.com](mailto:chartwell@jessicacларkelaw.com)**

February 27, 2023

Lynelle Butterfield and Tenant(s)  
C/o Craig N. Hartwell, Esq.  
The Law Office of Jessica Clarke, PC  
P.O. Box 468  
Wareham, MA 02571

**RE: 12 Great Neck Road**

**REVISED NOTICE OF VIOLATION DATED FEBRUARY 27, 2023**

Ms. Butterfield, it has come to the attention of the Building Department that your tenant, Peace for All Animals, Inc. of 12 Great Neck Road has not exercised the Special Permit 25-12 granted to you on December 26, 2012 by the Wareham Zoning Board of Appeals.

Your attorney, Craig N. Hartwell, stated in his application letter to appeal my Notice of Violation Letter dated November 21, 2022, to the Wareham Zoning Board of Appeals, dated December 20, 2022 that "a Veterinary Hospital is defined by the Wareham Zoning Bylaws in Section 340.2: Veterinary Hospital; A **building** providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care. *Wareham Zoning Bylaws, 340.2*".

Attorney Hartwell also wrote, "Contrary to the Notice, **there is no evidence of a *building* on the property that is being used for the diagnosis and treatment of ailments of animals with more than three animals therein. There is no other violation alleged as to the keeping of animals on the property.**"

Attorney Hartwell also stated at the Zoning Board of Appeals public meeting on February 8, 2023, "are not diagnosing or treating animals and **no building** is currently being used as a veterinary hospital"

Therefore, it is my opinion that the Special Permit 25-12 granted to you from the Zoning Board of Appeals, December 26, 2012 has not been exercised and has now expired as per Chapter 40A, Zoning, Section 9, Paragraph 16:

*Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than 3 years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.*

As a result of this information, I am rescinding the three Notice of Violation Letters issued to you on the following dates; August 24, 2022, September 22, 2022 and November 21, 2022. They are being rescinded due to the fact that the violation notice letters referred to Special Permit 25-12 that had expired due to a lack of substantial use. After extensive research over the past week, the operation at 12 Great Neck Road in my opinion has never been operated as a Veterinary Hospital but as an unregistered Animal Rescue/Adoption service. The Massachusetts Department of Agricultural Resources requires that shelter/rescue organizations register with them as per MGL Chapter 129 Section 39A. Peace for All Animals Inc. and/or Peace for Ponies is not listed on the Approved Animal Shelter/Rescue Website as of February 26, 2023.

The Use, **Animal Rescue/Adoption service is not allowed** under Article 3: Use Regulations, section 320 Table of Principal Use Regulations, Animal Related Uses, R-30.

The Use, Animal Rescue/Adoption service was determined from viewing numerous Facebook postings by Peace for Ponies and from information found on their website. To verify the physical site, I contacted Attorney Hartwell to obtain permission to observe the location. Permission was granted by Attorney Hartwell via telephone conversation on February 23, 2023 to visit the location at 12 Great Neck Road at 12:00pm that same day. Mr. Hartwell instructed me not to engage in communication with Ms. Bond and to direct any questions or communications to him; with which I complied.

I arrived on site with the administrative assistance of the Building Department, Jenna Deane, whom I instructed to take notes and photograph the site. We were met at the rear gate by Kendra Bond, who invited us to enter the rear of the property. We were given a tour of the property by Ms. Bond and viewed the area and made several observations. The site contained eight accessory buildings, numerous pens and animals. I observed and counted four donkeys, one pig, one rabbit and six chickens. Ms. Bond stated that there were three dogs in the house. The site has only one building permit on record for a 10' by 16' shed. All the sheds appeared to be encroaching on the side property lines.


**Remedy:** Remove all animals from the site except up to three dogs within 30 days receipt of this letter. Submit seven individual Zoning Approval applications for the buildings that are less than 200 sq. ft., with proper documentation for issuance. The complete application must be submitted within 15 days of receipt of this letter, or the buildings must be removed. Most importantly, submit an accurate site plan showing the precise location of each building on the lot in reference to the side and rear property lines due to the limited size of the lot.

For informational purposes the following definitions are being provided as per the Town of Wareham's Zoning By-Laws definitions:

**Accessory Building;** A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**Building;** A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or firewalls; built to form a structure for the shelter of persons, animal or property. For the purpose of this definition, "roof" shall include any awning or similar covering, whether or not permanent in nature.

Respectfully,

  
Paul E Turner  
Building Commissioner  
Zoning Enforcement Officer

**ARTICLE 14: Administration of the Town of Wareham Zoning Bylaws, PROSECUTION OF VIOLATION 1442.1; any person, firm, or corporation violating any of the provisions of the By-law shall be liable for a fine of not more than three hundred dollars (\$300.00) for each violation. Each day the violation exists shall constitute a separate offense.**

**It is the owners' responsibility to check with other departments to ensure full compliance.**

**In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.**

# The Law Offices of Jessica Clarke, PC

---

200 Main St, Wareham, MA 02571 | PHONE: (978)697-5572 | CHartwell@jessicaclarkelaw.com

March 28th, 2023

via FedEx and Email

Wareham Zoning Board of Appeals  
54 Marion Road  
Wareham, MA 02571

Re: MGL Chapter 40A §15 Appeal of Building Commissioner's Notice of Violation

Dear Wareham Zoning Board of Appeals:

This office represents the Lynelle L. Butterfield Revokable Trust, Peace for Ponies, and its successor Peace for All Animals, of 12 Great Neck Road, Wareham, MA 02538 (the "Property"). On February 27<sup>th</sup>, 2023, the Building Commissioner sent a Notice of Violation for the Property that stated "The Use, Animal Rescue/Adoption service is not allowed under Article 3: Use Regulations, section 320 Table of Principal Use Regulations, Animal Related Uses, R-30," and ordered:

"Remove all animals from the site except up to three dogs within 30 days receipt of this letter. Submit seven individual Zoning Approval applications for the buildings that are less than 200 sq. ft., with the proper documentation for issuance. The complete application must be submitted within 15 days of receipt of this letter, or the buildings must be removed. Most importantly, submit an accurate site plan showing the precise location of each building on the lot in reference to the side and rear property lines due to the limited size of the lot." *Notice of Violation, Exhibit 1.*

No other violations were noticed. In accordance with MGL Chapter 40A §15, we appeal the Notice of Violation.

## CURRENT USE OF THE PROPERTY

While the smaller front portion of the Property contains a single-family home, the larger back portion of the Property is used primarily as a farm and as a farm animal shelter/rescue that is registered in the Commonwealth of Massachusetts and is a federally recognized 501(c)(3) charity. In the Notice of Violation, the Building Commissioner had determined that the Property is used as a rescue, but issued a violation because he did not believe that they were registered with the state due to it not listing in the online directory. We have attached, as **Exhibit 2**, a recent email from the Massachusetts Department of Agricultural Resources confirming that Peace for Ponies is currently registered to operate as a rescue in Massachusetts. In addition, Peace For All Animals has filed its application for a license to operate as a Rescue Organization. It is our intention that once Peace For All Animals is licensed, we will transfer all animals and

operations currently under Peace For Ponies to them moving forward. Attached you will find a copy of the IRS Determination of Charity Status for Peace For All Animals as **Exhibit 3**, the Massachusetts Attorney General Certificate of Solicitation for Peace For All Animals as **Exhibit 4**, and a recent Massachusetts Department of Agricultural Resources, Division of Animal Health Inspection Certificate for Peace For Ponies as **Exhibit 5**.

## AGRICULTURAL USES DEFINED

Agricultural Uses are defined by the Wareham Zoning Bylaws, § 340.1:

### Agricultural Uses

Includes the use of land for agriculture, horticulture, floriculture, or viticulture; and, the use, expansion, or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture, floriculture, or viticulture. *Wareham Zoning Bylaws, § 340.1*

Massachusetts General Laws Chapter 61A, which deals with the assessment for real estate taxes of agricultural and horticultural land, defines such land in Section 1:

Section 1. Land shall be deemed to be in agricultural use when primarily and directly used in raising animals, including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, for the purpose of selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for market. *MGL c 61A, § 1.*

Agriculture is also referenced in the Massachusetts Zoning Act (MGL c. 40A, § 3) and defined by Massachusetts General Laws Chapter 128, § 1A:

Section 1A: "Farming" or "agriculture" shall include 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 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 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. *MGL c 128, § 1A*

## DISCUSSION

The Building Commissioner's determination that "the use, Animal Rescue/Adoption service is not allowed under Article 3: Use Regulations, section 320 Table of Principal Use Regulations, Animal Related Uses, R-30" is erroneous as a matter of law and his violation notice should never have been issued.

In the current Wareham Zoning By-Laws, there is no term “Animal Rescue/Adoption service” defined or listed anywhere. The Table of Use Regulations describes only four (4) “Animal Related Uses” that are defined, specifically Animal Kennels, Riding Stables, Piggeries, and Veterinary Hospitals. While not falling specifically under any of the four Animal Related Uses, the current uses of the Property as a farm and as a registered shelter/rescue do meet the definition of Agricultural Uses which are *allowed by right* in the R30 Zoning District of the Town of Wareham, and are also protected Agricultural Uses under Massachusetts General Laws Chapter 40A, Section 3, commonly referred to as the Dover Amendment. “It should be noted that an ordinance or by-law may be more generous to agriculture than what is stated in Section 3 by creating exemptions for parcels of less than 5 acres of non-revenue-producing land.” See Massachusetts Department of Agriculture, Agricultural Law Memo 10-04, **Exhibit 6**.

In this case, the Town of Wareham voted again just last year to approve Zoning Bylaws that allow for Agricultural Uses **by right** in the R30 Zoning District for properties under 5 acres, and the current uses of the Property as a farm and a registered farm animal rescue are Agricultural Uses.

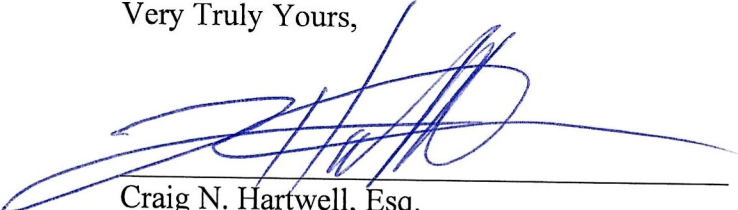
#### REQUESTED RELIEF

We request that this Board grant the following relief:

1. To eliminate confusion moving forward, please make a finding that the use of the Property as a farm and/or as a registered shelter/rescue is an Agricultural Use, which is currently allowed by right specifically at 12 Great Neck Road and, more generally, in the Town of Wareham R30 Zoning District; and
2. Grant our Appeal of the Building Commissioner’s Notice of Violation, dated February 27, 2023, including all previous and related Notices; and
3. Any further relief available at the discretion of the Board.

Very Truly Yours,

DATED: March 28<sup>th</sup>, 2023



---

Craig N. Hartwell, Esq.

The Law Offices of Jessica Clarke, PC

PO Box 468

Wareham, MA 02571

Phone: 978-697-5572

Email: [CHartwell@jessicaclarkelaw.com](mailto:CHartwell@jessicaclarkelaw.com)

# EXHIBIT 1



TOWN of WAREHAM  
Massachusetts  
BUILDING DEPARTMENT

Paul Turner  
Director of Inspectional Services

---

CERTIFIED MAIL  
REGULAR MAIL  
EMAIL: [chartwell@jessicaclarkelaw.com](mailto:chartwell@jessicaclarkelaw.com)

February 27, 2023

Lynelle Butterfield and Tenant(s)  
C/o Craig N. Hartwell, Esq.  
The Law Office of Jessica Clarke, PC  
P.O. Box 468  
Wareham, MA 02571

**RE: 12 Great Neck Road**

**REVISED NOTICE OF VIOLATION DATED FEBRUARY 27, 2023**

Ms. Butterfield, it has come to the attention of the Building Department that your tenant, Peace for All Animals, Inc. of 12 Great Neck Road has not exercised the Special Permit 25-12 granted to you on December 26, 2012 by the Wareham Zoning Board of Appeals.

Your attorney, Craig N. Hartwell, stated in his application letter to appeal my Notice of Violation Letter dated November 21, 2022, to the Wareham Zoning Board of Appeals, dated December 20, 2022 that "a Veterinary Hospital is defined by the Wareham Zoning Bylaws in Section 340.2: Veterinary Hospital; A **building** providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care. *Wareham Zoning Bylaws, 340.2*".

Attorney Hartwell also wrote, "Contrary to the Notice, **there is no evidence of a building on the property that is being used for the diagnosis and treatment of ailments of animals with more than three animals therein. There is no other violation alleged as to the keeping of animals on the property.**"

Attorney Hartwell also stated at the Zoning Board of Appeals public meeting on February 8, 2023, "are not diagnosing or treating animals and **no building** is currently being used as a veterinary hospital"

Therefore, it is my opinion that the Special Permit 25-12 granted to you from the Zoning Board of Appeals, December 26, 2012 has not been exercised and has now expired as per Chapter 40A, Zoning, Section 9, Paragraph 16:



*Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than 3 years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.*

As a result of this information, I am rescinding the three Notice of Violation Letters issued to you on the following dates; August 24, 2022, September 22, 2022 and November 21, 2022. They are being rescinded due to the fact that the violation notice letters referred to Special Permit 25-12 that had expired due to a lack of substantial use. After extensive research over the past week, the operation at 12 Great Neck Road in my opinion has never been operated as a Veterinary Hospital but as an unregistered Animal Rescue/Adoption service. The Massachusetts Department of Agricultural Resources requires that shelter/rescue organizations register with them as per MGL Chapter 129 Section 39A. Peace for All Animals Inc. and/or Peace for Ponies is not listed on the Approved Animal Shelter/Rescue Website as of February 26, 2023.

The Use, **Animal Rescue/Adoption service is not allowed** under Article 3: Use Regulations, section 320 Table of Principal Use Regulations, Animal Related Uses, R-30.

The Use, Animal Rescue/Adoption service was determined from viewing numerous Facebook postings by Peace for Ponies and from information found on their website. To verify the physical site, I contacted Attorney Hartwell to obtain permission to observe the location. Permission was granted by Attorney Hartwell via telephone conversation on February 23, 2023 to visit the location at 12 Great Neck Road at 12:00pm that same day. Mr. Hartwell instructed me not to engage in communication with Ms. Bond and to direct any questions or communications to him; with which I complied.

I arrived on site with the administrative assistance of the Building Department, Jenna Deane, whom I instructed to take notes and photograph the site. We were met at the rear gate by Kendra Bond, who invited us to enter the rear of the property. We were given a tour of the property by Ms. Bond and viewed the area and made several observations. The site contained eight accessory buildings, numerous pens and animals. I observed and counted four donkeys, one pig, one rabbit and six chickens. Ms. Bond stated that there were three dogs in the house. The site has only one building permit on record for a 10' by 16' shed. All the sheds appeared to be encroaching on the side property lines.


**Remedy:** Remove all animals from the site except up to three dogs within 30 days receipt of this letter. Submit seven individual Zoning Approval applications for the buildings that are less than 200 sq. ft., with proper documentation for issuance. The complete application must be submitted within 15 days of receipt of this letter, or the buildings must be removed. Most importantly, submit an accurate site plan showing the precise location of each building on the lot in reference to the side and rear property lines due to the limited size of the lot.

For informational purposes the following definitions are being provided as per the Town of Wareham's Zoning By-Laws definitions:

**Accessory Building;** A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

**Building;** A combination of any materials, whether portable or fixed, having a roof, and enclosed within exterior walls or firewalls; built to form a structure for the shelter of persons, animal or property. For the purpose of this definition, "roof" shall include any awning or similar covering, whether or not permanent in nature.

Respectfully,

  
Paul E Turner  
Building Commissioner  
Zoning Enforcement Officer

**ARTICLE 14: Administration of the Town of Wareham Zoning Bylaws, PROSECUTION OF VIOLATION 1442.1; any person, firm, or corporation violating any of the provisions of the By-law shall be liable for a fine of not more than three hundred dollars (\$300.00) for each violation. Each day the violation exists shall constitute a separate offense.**

**It is the owners' responsibility to check with other departments to ensure full compliance.**

**In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.**

# EXHIBIT 2

## Craig Hartwell, Esq.

---

**From:** Cabral, Patricia (AGR) <patricia.cabral@state.ma.us>  
**Sent:** Monday, March 6, 2023 6:09 PM  
**To:** Craig Hartwell, Esq.  
**Cc:** Kendra Bond /Director  
**Subject:** Peace for All Animals

Dear Mr. Hartwell,

As per our telephone conversation, Earth Lodge d/b/a Peace for Ponies, 12 Great Neck Road, Wareham, MA, is currently approved to operate as a shelter/rescue in Massachusetts. From 2005 until March 2020 the Massachusetts Shelter and Rescue Program operated under Emergency Order 1-AHO-05. The Order required shelters and rescues to register with the Department. In March 2020 the Shelter and Rescue Regulations 330 CMR 30 replaced the Order. Because of issues created by the pandemic the licensing requirements under 330 CMR 30.03 and 30.04 were postponed. Registered rescues were allowed to continue to operate in accordance with the remainder of the regulations. The Shelter and Rescue Program is currently transitioning from registration to licensing. Kendra Bond has a license application pending for Peace for All Animals, 12 Great Neck Road, Wareham. Peace For All Animals was not approved as a registered rescue under the Emergency Order and is not currently approved to operate. Earth Lodge d/b/a Peace for Ponies has not submitted a shelter/rescue license application to operate under the regulations but will be required to do so if it continues operating as a shelter/rescue.

Please let me know if you have any questions.

Patricia Cabral  
Shelter and Rescue Program Coordinator  
Massachusetts Department of Agricultural Resources  
251 Causeway Street, Suite 500  
Boston, MA 02114  
617-626-1786  
<https://www.mass.gov/animal-shelter-and-rescue-program>

# EXHIBIT 3

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

**MAY 28 2020**

PEACE FOR ALL ANIMALS INC  
C/O KENDRA BOND  
12 GREAT NECK ROAD  
EAST WAREHAM, MA 02538-0000

Employer Identification Number:  
84-2434678

DLN:  
26053529001160

Contact Person:  
CUSTOMER SERVICE ID# 31954

Contact Telephone Number:  
(877) 829-5500

Accounting Period Ending:  
December 31

Public Charity Status:  
509(a)(2)

Form 990/990-EZ/990-N Required:  
Yes

Effective Date of Exemption:  
October 09, 2019

Contribution Deductibility:  
Yes

Addendum Applies:  
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to [www.irs.gov/charities](http://www.irs.gov/charities). Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Letter 947

PEACE FOR ALL ANIMALS INC

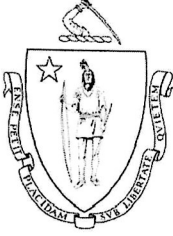
Sincerely,

*Stephen A. Scalet*

Director, Exempt Organizations  
Rulings and Agreements

# EXHIBIT 4





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

(617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

PEACE FOR ALL ANIMALS, INC.  
12 Great Neck Road  
East Wareham, MA 02538

**Certificate for Solicitation**

This certificate has been issued to the organization listed below because it is current in its filings with the Attorney General's Division of Non-Profit Organizations/Public Charities. This registration in no manner constitutes endorsement or approval by the Commonwealth of Massachusetts of the named organization.

Name of organization: PEACE FOR ALL ANIMALS, INC.  
Certificate End Date: 05/15/2023  
Attorney General's Account Number: 067302

Issued By  
The Division of Non-Profit Organizations/Public Charities

# EXHIBIT 5



# The Commonwealth of Massachusetts

DEPARTMENT OF AGRICULTURAL RESOURCES

DIVISION OF ANIMAL HEALTH

OWNER'S COPY

Kendea Barn Place for Ponies  
(Owner's Name) (Farm Name)

12 Great Neck Rd  
(Address where animals are kept - street number and name)

Wareham 02571 508 287 1263  
(Town) (Zip code) (Phone number)

Dealer: Yes  No

	Adult	Young
1. Cattle (Adult = 2 years & over)		
Dairy	_____	_____
Beef	_____	_____
Steers / Oxen	_____	_____
2. Goats (Adult = 1 year & over)	_____	_____
3. Sheep (Adult = 1 year & over)	_____	_____
4. Swine: Breeders	_____	_____
Feeders	<u>1</u>	_____
5. Llamas / Alpacas	_____	_____
6. Equines: Horses / Ponies	_____	_____
Donkeys / Mules	<u>2</u>	<u>2</u>

Stable use: Private  Boarding  Training  Rental  Lessons

7. Poultry: Chickens 6 Turkeys \_\_\_\_\_

Ratites (Ostrich, Emu) \_\_\_\_\_ Waterfowl \_\_\_\_\_ Gamebirds \_\_\_\_\_

8. Rabbits 2

9. Other \_\_\_\_\_

10. Do animals listed appear to be free from contagious disease? yes

11. Are accommodations adequate with reference to situation, cleanliness, light, ventilation and water supply? (explain briefly)  
all accommodations exceed expectations!

I hereby certify that I have this day inspected these animals and the conditions under which they are kept.

12/26/22  
Date

[Signature]  
Inspector of Animals (signature)

# EXHIBIT 6



## Agricultural Law Memo

**ALM 10-04**

Revised November 19, 2010

**TOPIC:** Small Plot Farming: Amendments to Chapter 40A, Section 3

**ISSUE:** General Laws Chapter 40A, Section 3 ("Section 3") contains a conditional exemption for agriculture from zoning by-laws or ordinances, at the same time giving cities and towns the conditional power, by express provision in their ordinances and by-laws, to limit this exemption to parcels of stated minimum size. The purpose of this ALM is to explain the parcel size limits that zoning by-laws and ordinances may impose.

Chapter 40A, Section 3, provides a conditional exemption from zoning on parcels of land whose primary purpose is commercial agriculture, whether relating to the use of land or the construction and use of agricultural structures. Section 3 provides that no zoning ordinance or by-law may prohibit, unreasonably regulate, or require a special permit for agricultural uses that satisfy the conditions established or authorized by that section. Those conditions are: (1) whether the primary use of the parcel is "commercial agriculture" within the very broad definition of agriculture laid down in G.L. c. 128, Section 1A; (2) whether the parcel is zoned for agriculture; (3) whether the parcel meets or exceeds the applicable minimum size limit imposed by the ordinance, by-law, or state law; and (4) whether the parcel generates annual revenues at or above \$1,000 per acre.

Prior to a recent amendment of Section 3<sup>1</sup>, the conditional exemption might have been re-stated as follows: *For parcels zoned for agriculture, the exemption shall apply regardless of parcel size. For parcels of any size not zoned for agriculture, the exemption shall still apply, but the city or town by express provision in its ordinance or by-law may limit the availability of the exemption to parcels of five or more acres.*

Blanket prohibitions often found in ordinances and by-laws that prohibit all uses except those expressly allowed do not satisfy the statutory requirement that area limitations on the agricultural exemption be explicit and specific, and thus do not serve to limit the area of parcels in agricultural use. Such blanket provisions, being unlimited as to area, can only be seen as tantamount to an outright prohibition, and thus inconsistent with Section 3. If the town seeks to limit the exemption based upon parcel size, it must expressly adopt such limit. That is, the ordinance or by-law must expressly state that, in areas not zoned for agriculture, agricultural uses shall be subject to the express limits imposed by the ordinance or by-law.

---

<sup>1</sup> The amendment to Section 3 creating "small plot farming" was adopted under an outside section of the budget bill and became effective immediately upon the Governor's signing on August 5, 2010. It should also be noted that the amendment to Section 3 does not alter the acreage requirements of other laws, such as use taxation under Chapters 61, 61A and 61B.

Under the “small plot farming” amendment to Section 3, the power of cities and towns to set the minimum area of parcels whose primary use is commercial agriculture has been narrowed with respect to agricultural parcels of two acres or more if the sale of products from the agricultural use generates \$1,000 or more per acre of gross annual sales. For convenience, we shall call a parcel that generates at least \$1,000 or more per acre in gross annual revenue a “revenue-producing” parcel. This amendment requires that we revise our re-statement of the conditional exemption to the following: *For parcels zoned for agriculture, the exemption shall apply to parcels of any size. For parcels of any size not zoned for agriculture, the exemption shall still apply, but the city or town by express provision in its ordinance or by-law may limit the availability of the exemption to parcels of stated minimum size. That minimum may not exceed 5 acres generally; but such minimum shall not apply to parcels of 2 or more acres that are revenue producing.*

While under the small plot farming amendment of Section 3 area limits imposed in the ordinance or by-law may continue to apply to any parcel in agricultural use generally, by operation of state law they shall no longer apply to any parcel that is both revenue-producing and 2 or more acres in area.

It should be noted that an ordinance or by-law may be more generous to agriculture than what is stated in Section 3 by creating exemptions for parcels of less than 5 acres of non-revenue-producing land or parcels of less than 2 acres of revenue-producing land. A by-law might also establish lower revenue thresholds, such as a minimum parcel size of 2 acres or more that generates more than \$500 per acre; but for convenience, our analysis below will make reference to 5 acres and 2 acres and gross annual revenue of \$1,000 or more per acre.

Now let’s apply the re-stated general exemption with attention to the four factors identified in the first paragraph:

Let “A” mean “allowed,” let “P” mean “prohibited,” and let “SP” mean “special permit.” The 6 rows are hypothetical parcel sizes. The 4 columns illustrate how parcels of each of the 6 sizes may or may not qualify for the statutory exemption after the small plot farming amendment. It should be remembered that where no express area limitation is imposed in the zoning ordinance or by-law, commercial agriculture benefits from the exemption regardless of parcel size.

Parcel Size (acres)	[A] Zoned for Agriculture	[B] By-Law prohibits all uses other than those expressly permitted	[C] Revenue-Producing	[D] Non-Revenue Producing
5+	A	A	A	A
5	A	A	A	A
4	A	A	A	P / SP
3	A	A	A	P / SP
2	A	A	A	P / SP
1	A	A	P / SP	P / SP

The following are hypothetical illustrations of how the conditional exemption might apply.

Situation 1: The parcel is 1 acre of revenue-producing land but is located in an area in which agriculture is expressly allowed. The exemption applies because the parcel is “zoned for agriculture.” [Column A]

Situation 2: Consider two non-revenue-producing parcels, one 5 acres and the other 3 acres, and both are in areas not zoned for agriculture. Assume that the zoning by-law limits the area of parcels not zoned for agriculture to 5 acres or more. The five-acre parcel enjoys the exemption of Section 3 regardless of the level of revenue it produces. The three-acre parcel does not enjoy the exemption, and a by-law may prohibit or may require a special permit for agricultural uses. [Columns C and D]

Situation 3: Now take the three-acre parcel of land, and assume that it generates \$10,000 in annual revenues and is located in an area not zoned for agriculture. Again, assume the by-law limit the exemption of Section 3 to parcels of 5 acres or more in areas not zoned for agriculture (this may be the case with zoning by-laws adopted prior to the small plot farming amendment). In this case, while the parcel size is less than 5 acres, it is greater than 2 acres and, since its revenue amounts to \$3,333 per acre, it also meets the \$1,000 revenue-production requirement. Since, as explained above, Section 3 allows an exemption for parcels 2 acres or more that are revenue-producing, a five-acre zoning by-law limit would unlawfully restrict a revenue-producing parcel of 2 or more acres. The five-acre limit will not apply to this parcel. [Column C]

Situation 4: Next, consider a three-acre parcel of land that generates \$10,000 in annual revenues and is located in an area not zoned for agriculture. The by-law, however, provides the Section 3 exemptions for parcels of 2 acres or more that generate more than \$1,000 per acre. In this case, since the parcel is 2 acres or more and generates \$3,333 per acre, the parcel would receive the exemption. If only \$2,000 were generated, then the exemption of Section 3 would not apply since the per-acre revenue is \$667 which is less than \$1,000. [Columns C and D]

Situation 5: Now consider a parcel of 1 acre that produces no revenue and is not in an area zoned for agriculture. As in situation 4 above, however, the by-law provides the Section 3 exemptions to parcels for 2 acres or more that generate \$1,000 or more of revenue. The one-acre parcel meets neither the parcel size requirement nor the revenue requirement and would therefore be ineligible for the exemptions. Even if the parcel generated \$10,000 of revenue, it would not meet the parcel size requirement and again would be ineligible for the exemptions. [Column C]

Situation 6: Finally, the parcel size requirements and the revenue requirements could be lower than those identified in the statute. For example, the five-acre minimum parcel size in situation 2 could be set at 3 acres with no revenue requirement. Such a by-law limit would extend the exemption of Section 3 to the three-acre parcel. Similarly, the by-law limits in Situation 4 could establish a one-acre minimum parcel size and \$500 per acre revenue requirement. This would extend the exemptions to the one-acre parcel that generates \$10,000 in revenue.

## Chapter 240 of the Acts of 2010

**SECTION 79.** Section 3 of chapter 40A of the General Laws is hereby amended by inserting after the word “more”, in line 25, as so appearing, the following words: 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.

### **Amended Section 3 of Chapter 40A (inserting text in bold):**

No zoning ordinance or by-law shall regulate or restrict the use of materials, or methods of construction of structures regulated by the state building code, nor shall any such ordinance or by-law 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. (Emphasis added.)