

Chapter 153: Right to Farm

[HISTORY: Adopted by the Town Board of the Town of Greenwich 6-12-2007 by L.L. No. 2-2007. Amendments noted where applicable.]

§ 153-1 Purpose and intent.

- A. The Town Board recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Greenwich. The Town Board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day-to-day operations involved in farming so as to encourage cooperation with those practices.
- B. It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusinesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Greenwich, it is necessary to limit the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

§ 153-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL PRACTICES

Those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, the operation of farm equipment, proper use of agricultural chemicals and other crop production methods, and construction and use of farm structures.

AGRICULTURAL PRODUCTS

Those products as defined in §301, Subdivision 2 of Article 25-AA of the State Agriculture and Markets Law, including but not limited to:

- A. Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.
- B. Fruits, including apples, peaches, grapes, cherries and berries.
- C. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- D. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- E. Livestock and livestock products, including cattle; sheep; hogs; goats; horses; poultry; llamas; ratites; such as ostriches, emus, rheas and kiwis; farmed deer; farmed buffalo; fur-bearing animals; milk and milk products, eggs, furs, and poultry products.
- F. Maple sap and sugar products.
- G. Christmas trees derived from a managed Christmas tree operation, whether dug for transplanting or cut from the stump.
- H. Aquaculture products, including fish, fish products, water plants and shellfish.
- I. Short-rotation woody crops raised for bioenergy.
- J. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.

FARMER

Any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.

FARMLAND

Land used in agricultural production, as defined in Subdivision 4 of § 301 of Article 25-AA of the State Agriculture and Markets Law.

FARM OPERATION

Shall be defined in § 301, Subdivision 11, in the State Agriculture and Markets Law.

§ 153-3 Right-to-farm declaration.

- A. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies.
- B. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:
 - (1) Reasonable and necessary to the particular farm or farm operation;
 - (2) Conducted in a manner which is not negligent or reckless;
 - (3) Conducted in conformity with generally accepted and sound agricultural practices;
 - (4) Conducted in conformity with all local, state, and federal laws and regulations;
 - (5) Conducted in a manner which does not constitute a threat to public health and safety or cause injury to the health or safety of any person; and
 - (6) Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.
- C. Nothing in this chapter shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

§ 153-4 Notification of real estate buyers.

- A. In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with § 310 of Article 25-AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows:

“It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors.”
- B. This notice shall be provided to prospective purchasers of property within an agricultural district or to prospective purchasers of property any of whose boundaries are within 500 feet of a farm operation located anywhere in the Town.
- C. A copy of this notice shall be included by the seller or seller’s agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

§ 153-5 Resolution of disputes.

- A. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commissioner of Agriculture and Markets about whether the practice in question is sound pursuant to §308 of Article 25-AA of the State Agriculture and Markets Law.
- B. Any controversy between the parties shall be submitted to the committee within 30 days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.
- C. The committee shall be the five members of the Town Board.
- D. The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.
- E. The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Therefore after, the committee may investigate the facts of the controversy but must, within 25 days, hold a meeting at a mutually agreed place and time to consider the merits of the matter and within five days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each consider to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.
- F. Any reasonable costs associated with the function of the committee process shall be borne by the participants in the manner determined by the committee.

§ 153-6 Severability.

If any part of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not effect the remainder of this chapter. The Town hereby declares that it would have passed this chapter and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

§ 153-7 Precedence.

This chapter and its provisions are in addition to all other applicable laws, rules and regulations.

§ 153-8 When effective.

This chapter shall be effective immediately upon filing with the New York Secretary of State.

