

**LOCAL LAW # 2-2015 OF THE TOWN OF GRANVILLE,  
WASHINGTON COUNTY, NEW YORK, ENTITLED  
“RIGHT TO FARM LAW OF THE TOWN OF GRANVILLE”**

Be it enacted by the Town Board of the Town of Granville as follows:

**Section 1. Declaration of Policy and Purpose.**

The Town Board of the Town of Granville hereby finds, determines and declares as follows:

- a) That commercial agriculture is an essential economic enterprise in the Town of Granville and an integral component of the Town’s economic base;
- b) That the lands currently utilized in the business of agriculture are irreplaceable assets;
- c) That individuals and entities engaged in commercial agriculture in the Town of Granville must be secure in their ability to earn a livelihood and utilize sound agricultural techniques and practices necessary for the business of farming;
- d) That in order to maintain and preserve commercial agriculture in the Town of Granville, it is necessary that the owners of agricultural businesses be permitted and encouraged to initiate and expand commercial agricultural operations and agribusinesses where compatible with existing land use regulations;
- e) That where non-agricultural land uses extend into agricultural areas or exist side-by-side with agricultural land uses, agricultural operations frequently become the subject of nuisance complaints due to lack of information about such operations. As a result, agricultural operations are forced to cease or curtail their operations and the owners of such operations are discouraged from investing in farm improvements to the detriment of the economic viability of the Town’s agricultural industry as a whole;
- f) That to the extent that customary farming techniques and practices utilized by commercial farmers in the Town of Granville may impose a burden upon the owners or occupants of neighboring non-agricultural land, this burden is offset by the benefits from commercial farming to the Town, county and state, as well as by the preservation of open space areas within the Town;
- g) That it is important that current and prospective future owners and occupants of non-agricultural land in the Town of Granville be informed and notified, through this local law, of the Town’s recognition and support for commercial agriculture practices in the Town, and the right of those individuals and entities who are engaged in commercial agriculture in the Town to conduct their agricultural operations free of unreasonable or unwarranted interference or restriction;
- h) That it is also important that there be an efficient and effective means to resolve disputes

concerning agricultural practices and activities in the Town;

- i) That while Article 25-AA of the New York State Agriculture and Markets Law provides an important foundation for achieving the right-to-farm protection the Town Board wishes to provide for commercial agricultural activities in the Town, in order to address the unique circumstances facing commercial agriculture in the Town of Granville, it is necessary to provide for more comprehensive local right-to-farm protection.

## **Section 2. Authority.**

This local law is enacted pursuant to the authority of Municipal Home Rule Law Section 10(1)(i), which authorizes a Town to adopt a local law not inconsistent with the provisions of the Constitution or inconsistent with any general law relating to its property, affairs or government.

## **Section 3. Title.**

This local law shall be known as the “Right To Farm Law of the Town of Granville” and may be cited as “TOG LL2-2015”.

## **Section 4. Definitions**

- a) “Farmland” shall mean land used in agricultural production, as defined in Section 301(4) of Article 25AA of the State Agriculture and Markets Law, by a Farmer who is engaged in the business of Commercial Agriculture.
- b) “Farmer” shall mean any person, organization, entity, association, partnership, limited liability company or corporation engaged in the business of Commercial Agriculture, including the cultivation of land, the raising of crops, or the raising of livestock.
- c) “Commercial Agriculture” shall mean a Farm Operation which (i) is conducted upon, and involves the active utilization of not less than \_\_\_ ( ) acres of Farmland in the Town of Granville; and (ii) generates not less than \$\_\_\_\_\_ of gross annual revenue from the sale of Agricultural Products.
- d) “Agricultural products” shall mean those products as defined in Section 301(2) of Article 25AA of the State Agriculture and Markets Law, including but not limited to:
  - (i) Field Crops, including corn, wheat, rye, barley, hay, potatoes and dry beans;
  - (ii) Fruits, including apples, peaches, grapes, pears, cherries, and berries;
  - (iii) Vegetables, including tomatoes, snap peas, cabbage, carrots, beets, onions, cucumbers, peppers, pumpkins, and melons;
  - (iv) Horticulture specialties, including nursery stock, ornamental shrubs, ornamental trees, flowers, herbs, and sod;
  - (v) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, alpacas, llamas, poultry, farmed deer, farmed buffalo, fur bearing animals (excluding exotic animals), milk, eggs, and furs;
  - (vi) Maple sap;

- (vii) Bee products;
  - (viii) Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump;
  - (ix) Aquaculture products, including fish, fish products, water plants and shellfish; and
  - (x) Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
- e) “Farm woodland” includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts and firewood
- f) “Agricultural practices” shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, and construction and use of farm structures and fences. Animal rendering and disposal is limited to on farm generation only.
- g) “Farm operation” shall be defined in Section 301(11) in the State Agriculture and Markets Law.
- h) “Town” shall mean the Town of Granville, Washington County, New York.
- i) “Board” or “Town Board” shall mean the Town Board of the Town of Granville.
- j) “DRC” shall mean the Dispute Resolution Committee appointed by the Town Board pursuant to the provisions of Section 8 d) of this Local Law.

## **Section 5. Right-to-Farm Declaration.**

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 such times and 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 advances resulting from increased knowledge and improved technologies.

## **Section 6. Nuisance.**

Agricultural management, marketing and production practices conducted on farmland shall be considered consistent with public policy of the Town of Granville, and shall not be found to be a public or private nuisance, if such agricultural practices are:

- a) Reasonable and necessary to the particular farm or farm operation;
- b) Conducted a manner which is not negligent or reckless;
- c) Conducted in conformity with generally accepted and sound agricultural practices;

- d) Conducted in conformity with all local, state, and federal laws and regulations;
- e) Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health and safety of any person; and
- f) Conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this local law shall be construed to prohibit and aggrieves parted from recovering damages for bodily injury or wrongful death due to a failure to follow sound agricultural practices, as outlines in this section.

**Section 7. Notification of Real Estate Buyers and Prospective Neighbors.**

- 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 Section 310 of Article 25AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district.
- b) A copy of this notice shall be included:
  - (i) As an addendum to the purchase and sale contract at the time an offer to purchase is made;
  - (ii) In building permits; and
  - (iii) On plats of subdivision submitted for approval pursuant to Town Subdivision regulation Article VI Section 6.1(10).
- c) Right To Farm signs shall be posted and maintained throughout the Town.

**Section 8. Alternative Resolution of Disputes; Voluntary Mediation Program.**

- a) Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiated between the parties involved, either party may submit the controversy to the DRC 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 Section 308 of Article 25AA of the State Agriculture and Markets Law.
- b) Any controversy between the parties shall be submitted to the DRC within thirty (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 DRC shall be composed of five (5) members and two (2) alternates, to be appointed annually by the Town Board at its Organizational Meeting. The members of the DRC shall include:

- One (1) Town Planning Board member,
- Two (2) active farmers, and
- Two (2) non-farming residents, one (1) from the Village and one (1) from the Town.

The alternate members of the DRC shall include:

- One (1) active farmer; and
- One (1) non-farming resident of the Town or the Village.

d) The Town Board shall annually designate, among the foregoing appointees, a Chairperson of the DRC and a Vice-Chairperson, who shall act in the event of the Chairperson's absence or inability to serve. The DRC shall designate its own Secretary.

e) Should any dispute arise regarding any agricultural operation, which cannot be settled by direct negotiation between the parties involved, the parties may by mutual agreement submit the matter to the DRC as a request for mediation, to attempt a resolution of the matter prior to, or alternatively to, the filing of any court action or submission of the dispute to the Commissioner of Agriculture and Markets. In the event that a controversy arises, one of the direct participants involved in the matter shall notify the Town Clerk in writing that a controversy exists that requires action by the DRC. The Town Clerk shall notify the members of the DRC, as well as the Town Board, that a dispute has been filed, and a meeting of the DRC shall be convened as prescribed by the time limits set forth.

f) The DRC shall schedule mediation at the earliest time convenient to the parties seeking mediation and the DRC, and in any event within thirty (30) days from the receipt of a request for mediation. Upon the conclusion of such mediation, the DRC shall reduce the results of same to writing and provide copies of same to the parties to mediation within fourteen (14) days of such conclusion.

g) The time limits provided in this section for action by the DRC may be extended upon the written stipulation of all parties in the dispute.

h) The effectiveness of the mediation program offered by the DRC is dependent upon direct, full, frank conversations and presentation of all pertinent facts concerning the dispute under the guidance of the mediators. The parties are encouraged to present and exchange all information relevant and material to the agricultural practice or technique in controversy, and each party shall be afforded a fair opportunity to present what he, she or it considers to be the pertinent facts. Inasmuch as mediation dispenses with formal rules of procedure and rules of evidence, direct participation by the disputants, without the intervention of counsel is strongly encouraged; but the right of any party to representation, at his or her option and expense, shall not be impaired. Any party electing to have counsel at the mediation shall notify the Committee and the other party at least seven (7) days prior to the mediation. Participation in mediation is a matter in the

discretion of each party, and no party shall be compelled to participate in mediation when he or she has elected not to have counsel and the opposite party is represented by counsel.

- i) To encourage the use of voluntary, local mediation, the parties requesting mediation shall stipulate, in writing, that the statements made in mediation shall be deemed to be in the nature of settlement discussions, and that such statements, and any agreement reached in mediation, shall not be used for evidentiary purposes in any other action or proceeding.
- j) Unless the parties mutually agree otherwise, the party who causes a dispute to be filed with the DRC shall be responsible for the payment of any established filing fee determined and promulgated by the Town Board. Each party is responsible for its own attorney's fees, should attorneys be retained.

**Section 9. Repeal of Local Law 3 of 1997.**

This local law shall repeal and supersede in its entirety the Right To Farm Law of the Town of Granville enacted as Local Law 3 of 1997.

**Section 10. Conflict With Other Laws.**

Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, local laws or ordinances, those conferring the greatest protection to the rights of farmers to engage in commercial agricultural activities in the Town shall govern.

**Section 11. Severability Clause.**

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not effect the remainder of this local law.

**Section 12. Penalties.**

- a) Violation of any provision of this local law shall constitute an offense punishable by the maximum fine and/or imprisonment permitted by Town Law Section 268 (1) and, in addition, violators may be ordered to pay all costs and expenses involved in the case.
- b) In addition, an action or proceeding to enjoin or restrain any violation of this local law may be brought in a court of competent jurisdiction by the Town of Granville, or any other aggrieved person or entity.

**Section 13. Effective Date.**

The Local Law shall be effective immediately upon adoption and filing with the Secretary of State pursuant to Section 27 of Municipal Home Rule Law.

BE IT ENACTED, this \_\_\_\_ day of \_\_\_\_\_, 2015 by the Town Board of the  
Town of Granville, of Washington County, New York.

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MATTHEW HICKS, Supervisor

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MATTEHW RATHBUN, Councilman

\_\_\_\_\_  
MARY EMERY, Councilwoman

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THOMAS COSEY, Councilman

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KENNETH QUICK, Councilman