

# RIGHT TO FARM LAW

## CHAPTER 39

### TOWN OF GORHAM

39.001	Legislative Intent and Purpose
39.002	Definitions
39.003	Right to Undertake Agricultural Practices
39.004	Notice to Prospective Neighbors
39.005	Resolution of Disputes
39.006	Severability
39.007	Effective Date

[History: Adopted by the Town Board of the Town of Gorham, LL#4/99)

#### 39.001 LEGISLATIVE INTENT AND PURPOSE

Farming is important to the Town of Gorham as it reinforces the quality of life enjoyed by its citizens, provides employment for agriservices, provides locally produced fresh commodities, promotes economic stability, maintains open space, promotes environmental quality, and does not increase the demand for services provided by local government.

In order to maintain a viable farming economy in the Town of Gorham, farmers must be afforded protection allowing them the right to farm. Therefore, the Town of Gorham emphasizes to newcomers that this town encourages its agriculture and requests newcomers to be understanding of the necessary day-to-day operations involving agribusinesses.

In order to address the unique circumstances facing agriculture in the Town of Gorham, it is necessary to provide for more comprehensive local right to farm protection as provided in this local law.

It is the general purpose and intent of this Local Law to maintain and preserve the rural tradition and character of the Town of Gorham, to permit the continuation of agricultural practices, to protect the existence and operation of farms, and to encourage the initiation and expansion of farms and agricultural businesses.

For the purpose of reducing future conflicts between farmers and non-farmers, it is necessary for notice to be given to its neighbors about the nature of agricultural practices.

39.002            DEFINITIONS

“Farm” – includes, but is not limited to, livestock, dairy, poultry, furbearing animals, aquaculture, fruit, vegetable and field crop farms, plantations, orchards, nurseries, greenhouses, or other similar operations used primarily for raising of agricultural or horticultural commodities.

“Agricultural Practices” – includes all farming activities conducted, necessary to the operation of the agricultural operation.

39.003            RIGHT TO UNDERTAKE AGRICULTURE PRACTICES

1.        On any land which may be lawfully used for agricultural purposes in the Town of Gorham, whether or not it is located in an agricultural district, an agricultural practice shall not constitute a public or private nuisance, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the New York State Agriculture and markets Law.

2.        Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Gorham at any and all such times and all such locations as are reasonably necessary to conduct the business of farming. For any activity or operation, in determining the reasonableness of the time, place and methodology of such operation, 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 and improved technologies.

3.        Nothing in this local law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death.

39.004            RESOLUTION OF DISPUTES

1.        Should a controversy arise regarding an inconvenience or discomfort occasioned by agricultural operations, including but not limited to noises, odors, fumes, dust, the operation of machinery of any kind during any hour of the day or night, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties will submit the controversy to the Town of Gorham Code Enforcement Officer as set forth below in an attempt to resolve the matter prior to filing if any court action.

2.        Controversy between the parties may be submitted to the Code Enforcement Officer whose decision shall be advisory only, within fifteen (15) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.

3. The controversy shall be presented to the Code Enforcement Officer by written consent of one of the parties within the time specified herein. Thereafter, the Code Enforcement Officer will investigate the facts of the controversy, but must, within fifteen (15) days, hold a meeting with both parties to consider the merits of the matter, and within ten (10) days after meeting with both parties, the Code Enforcement Officer will render a written decision to the parties. At the time of the initial meeting, both parties shall have an opportunity to present what each considers to be pertinent facts.

4. The decision of the Code Enforcement Officer shall not be binding. If one of the parties is not satisfied with the Code Enforcement Officer's decision, the matter shall be submitted to the Town Board according to the procedures set forth as follows:

(a) The controversy between the parties shall be submitted to the Town Board upon consent of one of the parties.

(b) The Town Board shall review the controversy with a report from the Code Enforcement Officer. Within thirty (30) days of the written request, the Town Board shall render a written decision to the parties.

39.006 SEVERABILITY

If any provision of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such adjudication shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the particular provision directly involved in the controversy in which such judgment shall have been rendered.

39.007 EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State (9/3/99)