

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ County ☐ City ☒ Town ☐ Village
(Select one.)

of MACHIAS in the COUNTY OF CATTARAUGUS

Local Law No. 3 of the year 2018

A local law ESTABLISHING THE RIGHT TO FARM
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

☐ County ☐ City ☒ Town ☐ Village
(Select one.)

of MACHIAS as follows:

SECTION 1. Legislative Intent.

The Town Board of the Town of Machias finds, declares and determines that farming is important to the Town of Machias because it is a livelihood and provides employment for agriservices; provides locally produced, fresh commodities; agricultural diversity promotes economic stability; agriculture maintains open space and promotes environmental quality; an agricultural landscape constitutes agricultural beauty; and agricultural land does not increase the demand for services provided by local governments. In order to maintain a viable farming economy in the Town of Machias, farmers must be afforded protection allowing them the right to farm. When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operations or are discouraged from making investments in farm improvements.

It is the purpose of this law to reduce the loss to the Town of Machias of its agricultural resources by limiting 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.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

SECTION 2. Definitions.

- A. "Agricultural practices" shall mean all activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm including, but not limited to, the collection, transportation, distribution, storage, and land application of animal wastes; storage, transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and pesticide application; storage and use of legally permitted fertilizers, limes, and pesticides all in accordance with local, state, and federal law and regulations and in accordance with manufacturer's instructions and warnings; storage, use and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock, for the processing of animal wastes and agricultural products, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations; including construction and maintenance of fences.
- B. "Agricultural products" shall mean those products as defined in Section 301(2) of the Agriculture and Markets Law.
- C. "Farm" shall mean the land, buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.
- D. "Farmer" shall mean any person, organization, entity, association, partnership 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.
- E. "Generally accepted agricultural practices" shall mean those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe, and typical to the industry or unique to the commodity as they pertain to agricultural practices.\

SECTION 3. 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 Cattaraugus County at all such 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 and improved technologies.

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 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 health or safety or any person, and

- 6) conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

The Right to Farm Committee will determine if agricultural practices are acceptable. The Right to Farm Committee shall be appointed by the Town Supervisor with the consent of the Town Board.

The determination by the Right to Farm Committee referred to in the preceding paragraph shall be made by majority vote of the Committee in a written opinion of such board.

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

SECTION 4. 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.

SECTION 5. Effective Date.

This Local Law shall take effect immediately upon its filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 2018 of the (County)(City)(Town)(Village) of MACHIAS was duly passed by the TOWN BOARD on JULY 16 2018, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

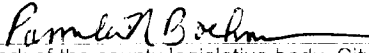
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.


Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body

(Seal)

Date: 08/14/18