

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(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 use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

JUN 19 2013

~~County~~

~~City~~ of Farmersville

Town

~~Village~~

Local Law No. 1 of the year 2013

MISCELLANEOUS
& STATE RECORDS

A local law to be known as the "RIGHT TO FARM LAW"
(Insert Title)

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

~~County~~

~~City~~ of Farmersville

Town

~~Village~~

as follows:

SEE ATTACHED SHEETS

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

(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. 1 of 2013 of the ~~XXXXXX(City)~~(Town)~~(Village)~~ of Farmersville was duly passed by the Town Board on May 20 2013, 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)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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)(repassed after disapproval) by the _____ on _____ 20____. 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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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)(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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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 ^{one (1)} _____, above.

SUSAN E. HOLMES,

Susan E. Holmes

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

(Seal)

Date: 5-31-13

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Cattaraugus

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

James I. McAuley
Signature James I. McAuley, Esq.
Town Attorney
Title

~~XXXXXX~~
~~XXXX~~ of Farmersville
Town
~~XXXXXX~~

Date: May 31, 2013

**TOWN OF FARMERSVILLE
LOCAL LAW 1-2013
THE RIGHT TO FARM LAW**

SECTION 1. LEGISLATIVE INTENT AND PURPOSES.

The Farmersville Town Board Finds, declares and determines that agriculture is vital to the Town of Farmersville, New York 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 (known as agricultural landscape); and agricultural land does not increase the demand for services provided by local government. In order to maintain a viable farming economy in the Town of Farmersville, 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 agricultural improvements.

It is the purpose of this law to reduce the loss to the Town of Farmersville 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.

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 and the on-farm production, processing, and marketing of agricultural products 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, limers and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use and applications 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 sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations; including the construction and maintenance of fences.
- b) "Agricultural products" shall mean those products as defined in Section 301 (2) of Article Twenty-five-AA (25-AA) of the Agricultural and Markets Law.
- c) "Farm" shall mean the land, buildings, farm residential 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, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, which includes the poultry, fur-bearing animals, or fish, and apiculture, and the harvesting of timber or the practicing of horticulture.

- 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 the practices listed in the above Section 2a, entitled "agricultural practices."
- f) Unless specifically defined, above words or phrases used in the local law shall be interpreted so as to give them meanings they have in common usage, and to give this Local Law its most reasonable application.

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 the Town of Farmersville at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the times, 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 to any person, and
- 6) 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 constructed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death. Nor does anything in this local law prevent the Town Highway Superintendent from requiring a bond from logging trucks and logging vehicles, or restrict his authority under the highway law to seasonally limit the use of Town Roads in accord with §205-a of the highway law, or restrict his ability to reasonably protect town roads under §140 of the Highway Law, provided, however, that no bond shall be required from vehicles used in agricultural operations.

SECTION 4. SEVERABILITY CLAUSE.

If any part of the Local Law is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law.

SECTION 5. RESOLUTION OF DISPUTES.

a.) **Resolution by Advisory Board at Public Hearing:** Any issue of controversy that arises due to agricultural practices that may or may not be accepted, which cannot be resolved directly between the parties involved; and is not addressed by other laws or regulation, may be promptly and inexpensively resolved by referral to the Town of Farmersville Agricultural Advisory Board for open hearing and recommendations. Board hearing shall be held in the Farmersville Town hall, with public notice provided by publication in the official Town paper ten (10) days before the public hearing.

b.) **Composition of Board:** The Advisory Board consists of five (5) members of the community, of which at least three (3) are to be involved, or have been involved in agricultural operations. The Board shall choose its own Chair and run its hearing as a meeting.

(i) Board Members shall be appointed by the Town of Farmersville Board.

(ii) The terms of the Advisory Board members are to be five (5) years; however, the initial board members shall be staggered with one member having one (1) year, one member having two (2) years, one member having three (3) years, one members having four (4) years, and one member having five (5) years. The purpose of such staggering is to prevent at the end of five (5) years, all the board members being replaced at once which would lead to a loss of continuity, leadership and experience on the Advisory Board.

(iii) If an Advisory Board member leaves his seat on the Board, for any reason, before his term expires, the Town shall appoint a new Board member as soon as practicable.

(iv) The Advisory Board shall choose its own Chair and Secretary from amongst its members.

(v) Concerning the composition of the Advisory Board, it is preferred that at least three of the Advisory Board member have an agricultural background and be involved in agribusiness or farming.

c.) **Conduct of Hearings:** The Chair of the Board will open their hearings with a review of their minutes from their last hearing. The Board will then go into the hearing proper. They will listen to the Petitioner (the individual or individuals or corporation that is claiming that a behavior/operation/practice/or procedure is accepted agricultural practice), any objectant (the individual who has alleged that a behavior/operation/practice/or procedure is not an acceptable agricultural practice), and members of the public. The Board has the right to limit the amount of time an individual has to hold the floor to speak (address the board). The Chair will then end the public hearing and the Chair will then seek a motion to approve or deny that the behavior/operation/practice/or procedure is an accepted agricultural practice under this law. The Board member will be publicly polled on their oral vote. A simple majority vote of the Board will approve or disapprove that the behavior/operation/or procedure is an accepted agricultural practice.

i.) **Written Decision:** The Board shall provide a written opinion, signed by the Chair at the end of the meeting, and a copy kept by the secretary.

ii.) Secretary: When coming to a decision, one member shall be designated as secretary, whose responsibility will include writing down the question presented, providing notice to the members of the Board and public, and providing the written opinion of the Board, which shall be signed by the Chairman of the Board.

d.) Appeals: Any appeals from the decisions of the Agricultural Advisory Board are to be sent to the Town Board, which shall serve as the Board of Appeals.

SECTION 6. FUNDING:

Funding for the Advisory Board shall be provided by the Town of Farmersville for items such as postage, publications costs, etc., but the Board members shall serve as unpaid volunteers.

SECTION 7. EFFECTIVE DATE.

This Local Law shall be effective immediately upon acceptance by the Town of Farmersville Board and filing with the New York Secretary of State.