

LOCAL LAW NO. 8-03  
CHAUTAUQUA COUNTY

A LOCAL LAW ESTABLISHING A RIGHT TO FARM

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York, as follows:

***Section 1 Declaration and Intent***

The Chautauqua County Legislature recognizes farming as an essential enterprise and an important industry which enhances the economic base, natural environment, and quality of life in the County. The Legislature further declares that it shall be the policy of this County to encourage agriculture, to foster understanding by all residents of the necessary day-to-day operations involved in farming, and to encourage the proliferation of sound agricultural practices. It is the general purpose and intent of this Local Law to maintain and preserve the rural traditions and character of Chautauqua County; to permit the continuation of sound agricultural practices; to protect and preserve sound farming operations; to encourage the expansion of farms and agribusiness in the County; to encourage good neighbor policies between farmers and their non-farmer neighbors; and to promote new ways to resolve disputes between farm and non-farm interests concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the County, it is desirable to limit the circumstances under which farming may be deemed a nuisance, and to allow sound agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction. This Local Law is adopted pursuant to and in furtherance of the County's home rule powers set forth in Section 10 of the New York State Municipal Home Rule Law, including, but not limited to, the authority to adopt local laws for the protection and enhancement of the County's physical and visual environment, and the protection, safety, health and well-being of persons or property therein.

***Section 2 Definitions***

The following definitions shall apply to this Local Law:

1. "Farmland" shall mean land used to produce agricultural products for profit land used for a commercial horse boarding operation on a for-profit basis, or land held in the conservation reserve program through the USDA.
2. "Farmer" shall mean any person, organization, entity, association, partnership, limited liability company or corporation engaged in the business of producing, preparing, and marketing agricultural products as defined in subdivision three of this section including, but not limited to, the cultivation of land, the raising of crops, or the raising of livestock, or engaged in the business of commercial horse boarding operations.
3. "Agricultural products" shall include, but not be limited to... those products defined in §301 (2) of Article 25-AA of the New York State Agriculture and Markets Law (hereinafter "Article 25-AA"), and shall include, but not be limited to:
  - a. Field crops, including but not limited to corn, wheat, rye, barley, hay, potatoes and dry beans;
  - b. Fruits, including but not limited to apples, peaches, grapes, cherries and berries;

- c. Vegetables, including but not limited to tomatoes, snap beans, cabbage, carrots, beets, cauliflower, broccoli and onions;
  - d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers;
  - e. Livestock and livestock products, including but not limited to 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 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. Woodland products, including but not limited to logs, lumber, posts and firewood; and
  - k. Honey and beeswax.
4. "Agricultural practices" shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural products, or commercial horse boarding operations...including, but not limited to operation of farm equipment; proper use of agricultural chemicals; management of agricultural waste, refuse and debris; and construction and use of farm structures.
5. "Farm operation" shall mean the land and on-farm buildings, equipment and practices which contribute to the production, preparation and marketing of agricultural products....Or the conducting of commercial horse boarding operations.

### ***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 County at all times and at all locations as are reasonably necessary to conduct the business of agriculture. In determining the reasonableness of the time, place and methodology of such agricultural practices, due weight shall be given to both traditional customs and procedures in the farming industry, as well as advances resulting from increased knowledge, research 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 operation;
- 2. Conducted in a manner which is not negligent or reckless;
- 3. Conducted in conformity with current generally accepted and sound agricultural practices;
- 4. Conducted in conformity with all local, state and federal laws, rules, regulations, and comprehensive land use plans, except for local laws, rules, regulations or comprehensive land use plans that unreasonably restrict farm operations within an Agricultural District in accordance with  
NYS Agriculture and Markets Law Section 305-a;
- 5. Conducted in a manner which does not constitute a threat to public health or safety, or cause injury to the health or safety of 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 construed to prohibit an aggrieved party from recovering damages from bodily injury or wrongful death due to the failure to follow sound agricultural practices.

#### ***Section 4 Notification of Real Estate Buyers***

In order to promote harmony between farmers and their non-farming neighbors, the County requires land holders and their agents and assigns to provide notice to prospective purchasers and occupants of property within an agricultural district as defined in Article 25-AA or on property located within 500 feet of any farm operation and/or farmland within the County. Such notice shall state as follows: "This notice is to inform you that the property you are about to acquire or occupy lies either within an agricultural district or within 500 feet of a farm operation and/or farmland. Thus, you may be subject to inconveniences or discomforts arising from such farm operation. Such discomfort or inconveniences may include, but may not be limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) at any time of day or night, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil abatements, herbicides and pesticides. These inconveniences may occur as a result of agricultural practices which are in conformance with current laws, rules and regulations, and accepted customs and standards. You should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural community." A copy of this notice shall be provided to the prospective purchaser by the seller or the seller's agent at the time that an offer to purchase the property is made. The prospective purchaser shall also sign a document indicating receipt of this notice, and the date of such receipt to be included as an addendum to the purchase and sale contract.

#### ***Section 5 Resolution of Disputes***

1. In an attempt to resolve disputes between farmers and their non-farmer neighbors, a Right-to-Farm Resolution Committee for the County of Chautauqua shall be created on a case-by-case basis, and shall be composed of two (2) members of the County Farmland Protection Board and one (1) resident of the community where the dispute has arisen. Such Committee shall alternate membership to serve the best purpose of this Local Law.
2. Should any controversy arise regarding any inconveniences or discomfort occasioned by any farm operation or agricultural practice which has not been settled by direct negotiation between the parties involved, either party may submit the controversy to the County Planning Department to convene a Right-to-Farm Resolution Committee. Such committee shall attempt to resolve the matter prior to the filing of any court action and prior to a request for determination by the New York State Commissioner of Agriculture and Markets on whether the practice is sound pursuant to §308 of Article 25-AA.
3. The Right-to-Farm Resolution Committee shall, within ten (10) days of receipt of a request to consider the controversy, meet to investigate the facts and consider the merits of the matter at a location convenient to the parties. Both parties shall have the opportunity to present what each considers to be pertinent facts regarding the controversy, and shall be encouraged to participate in a free exchange of information in order to eliminate any misunderstandings and provide the Committee with a complete presentation of the facts and issues. Either party may be represented by counsel at such meeting, provided the other party and the Committee are given five (5) days notice of such representation.
4. The Committee shall, within seven (7) days of meeting, render a written advisory opinion to the involved parties unless, at the sole discretion of the

Committee, a later date has been agreed upon at the meeting.

5. The County may, from time to time, establish a fee or fees that shall be paid by the party submitting the controversy form consideration by the Committee to recover reasonable costs of the operation of the Committee.

6. The Right-to-Farm Resolution Committee shall have the power to prescribe and promulgate rules and regulations governing the internal organization and procedures consistent with this Right-to-Farm Law.

***Section 6 Severability Clause***

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

***Section 7 Effective Date; Repeal of Prior Local Law.***

This Local Law shall take effect upon filing with the Secretary of State. Upon the effective date of this Local Law, Local Law 17-95 of the County of Chautauqua is hereby repealed in its entirety.

LAID ON DESKS: 5/28/03

AMENDED: 6/25/03

ADOPTED: 7/23/03

PUBLIC HEARING: 8/11/03

FILED W/ STATE: 8/12/03

**ADOPTED AS LOCAL LAW 8-03**