

County of Jefferson

A Local Law Recognizing the Right to Farm

Be it enacted by the County Legislature of the County of Jefferson as follows:

Section 1. Legislative Findings and Intent.

- 1.1 The Jefferson County Board of Legislators finds, declares, and determines that farming and the related agricultural businesses are an important industry in Jefferson County that provides a substantial contribution to the economy of the County, maintains open space, enhances the quality of life, promotes environmental quality, and has a minimal demand upon services provided by local governments. However, when non-agricultural land uses extend into agricultural areas, agricultural operations may become threatened due to high land values and nuisance law suits. As a result, agricultural operations may be forced to cease operations or at a minimum are discouraged from making investments to improve the farming operation.
- 1.2 It is the general purpose and intent of this law to maintain and enhance the agricultural industry of the County, to permit the continuation of acceptable agricultural practices, to protect the existence and continued operation of farms, to encourage the initiation and expansion of agricultural businesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations 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.

- 2.1 "Farmland" shall mean land used in agricultural production, as defined in subdivision four of section 301 of Article 25AA of the State Agriculture and Markets Law.
- 2.2 "Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of agricultural products.
- 2.3 "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:
 - a. Field crops, including corn, wheat, rye, barley, hay, potatoes, and dry beans.
 - b. Fruits, including apples, peaches, grapes, cherries, and berries.
 - c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, and onions.
 - d. Horticultural crops, including nursery stock, ornamental shrubs, ornamental trees, and flowers.
 - e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, fur bearing animals, milk, eggs, and furs.
 - f. Maple sap and maple syrup.
 - g. Christmas trees derived from a managed tree operation whether dug for transplanting or cut from the stump.
 - h. Aquaculture products, including fish, fish products, water plants and shellfish.

- i. Woody biomass, which means short rotation woody crops raised for bio-energy and shall not include farm woodland.
- 2.4 "Farm woodland" includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts, and firewood and shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.
- 2.5 "Agricultural practices" shall mean those practices necessary for the on-farm production, preparation, and marketing of agricultural products. Examples of such practices include, but are not limited to the operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, and construction and use of farm structures and fences.
- 2.6 "Farm operation" shall mean the land used in agricultural production and farming practices conducted on such land, farm buildings, equipment, and residential buildings.

Section 3. Alternative Resolution of Disputes: Voluntary Mediation Program

- 3.1 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 Jefferson County Agricultural and Farmland Protection Board as a request for mediation, to attempt a resolution of the matter prior to, or alternatively to the filing of any court action.
- 3.2 The Chairperson of the Agriculture and Farmland Protection Board shall, within five (5) working days of receipt of a dispute, appoint an Alternative Dispute Resolution Committee composed of two (2) members of the County Agriculture and Farmland Protection Board and one (1) non-agricultural person. The ADR Committee shall schedule a mediation at the earliest time convenient to the parties seeking mediation and the Committee, and in any event within sixty (60) days from the date of appointment of the Committee.
- 3.3 Upon appointment the Alternative Dispute Resolution Committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of information concerning the controversy. The time limits provided in this section for action by the committee may be extended upon the written stipulation of all parties in the dispute.
- 3.4 The effectiveness of the mediation program offered by the Dispute Resolution Committee 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 in the exchange of information concerning the controversy, and each party shall have an opportunity to present what each 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.
- 3.5 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.

Section 4. Determination of Acceptable Agricultural Practices

- 4.1 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, at all such locations as are consistent with local zoning or land use laws and §305 of the New York Agriculture & Markets Law; and 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 improved technologies.
- 4.2 Any person may submit, in writing, a request to the AFPB for an opinion determining whether a specific agricultural practice is acceptable. In rendering such opinions, the AFPB may consult (within the limitations of its budget, or such other grants or funding sources as may be available to it) with such outside experts and agencies as they deem appropriate in reaching a determination as to whether a particular agricultural practice is sound. Such outside experts and agencies may include, but are not limited to, the Jefferson County Soil and Water Conservation District, the New York State Department of Agriculture and Markets, the New York State Department of Environmental Conservation, Cornell Cooperative Extension, and the US Department of Agriculture's Natural Resources Conservation Service. All such practices shall be evaluated on a case-by-case basis.
- 4.3 The opinion of AFPB in the preceding paragraph shall be made by a majority vote of the Board, in a written opinion which shall specify the factual basis for its determination. Dissenting opinions shall likewise be reduced to writing, with reasons. The AFPB shall make its written opinion within sixty-two (62) days of receipt of the request, unless, within that time it has provided notice to the applicant that an extension is necessary, and given an estimated date for issuance of the opinion. Opinions of the AFPB shall be provided to the requesting party; to the New York State Commissioner of Agriculture & Markets; to the owner of the property on which the practice is conducted, if different; and to any adjoining property owners. In a manner consistent with Local Law No. 6 of 1997, the Board shall publish an abstract of the opinion in a newspaper of public record, and make a copy of the text available to any person requesting same. The opinion of the AFPB shall be final, unless within thirty (30) days after publication of the abstract a person affected thereby institutes a proceeding to review the opinion, in a manner provided by Article 78 of the Civil Practice Law and Rules.
- 4.4 Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if, upon examination and determination by the County Agricultural and Farmland Protection Board, such agricultural practices are:
- a. reasonable and necessary to the particular farm or farm operation.
 - b. conducted in 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 the health or safety of any person.
 - f. conducted in a manner which does not unreasonably obstruct the free passage or use of commercially navigable waters or public roadways.
- 4.5 Nothing in this local law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to a failure to follow generally accepted agricultural practices, as outlined in this section.

Section 5. Notification of Real Estate Buyers and Prospective Neighbors.

- 5.1 In order to promote harmony between farmers and their neighbors, the County requires land holders and/or their agents to comply with Section 333-c of the New York Real Property Law and Section 310 of Article 25-AA of the New York Agriculture and Markets Law, and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect, and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust, smoke, and odors."
- 5.2 A copy of this notice shall be included as an addendum to the purchase and sale contract at the time an offer to purchase is made.

Section 6. 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. The County hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses, or phrases may be declared unconstitutional or invalid.

Section 7. Precedence.

This Local Law and its provisions are in addition to all other applicable laws, rules, and regulations.

Section 8. Effective Date.

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

revised 8/27/98