

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 Hamilton

Local Law No. 2 of the year 2012

A local law A LOCAL LAW OF THE COUNTY OF HAMILTON, NEW YORK ENACTING

(Insert Title)

A RIGHT-TO-FARM LAW

Be it enacted by the Board of Supervisors of the
(Name of Legislative Body)

County City Town Village

(Select one:)

of Hamilton

as follows:

Section 1: Title. This Local Law shall be titled "A Right-To-Farm".

Section 2: Purpose and Intent. The Hamilton County Board of Supervisors hereby recognizes that farms are an integral component of the County's economic base; productive agricultural soil is an irreplaceable asset; and agriculture contributes to the economic diversity, environmental quality and overall quality of life in Hamilton County. Through this local law, this Board also declares that it is the policy of Hamilton County to promote effective communication between farm and non-farm neighbors resulting in a shared understanding of the value of the agricultural enterprises to Hamilton County and the necessary day-to-day operations involved in agriculture.

It is the general purpose and intent of this Local Law to maintain and preserve the agricultural traditions of Hamilton County; to permit the continuation of sound agricultural practices necessary for the operation of farms; to encourage the initiation and expansion of farms and agribusinesses where it is compatible with existing land use regulations; and to promote effective and efficient means to resolve disputes which may arise concerning agricultural practices and farm operations.

Section 3: Definitions.

(a) Farmland – Any single or multiple, contiguous, or non-contiguous parcel or parcels that are being used for agricultural operations or upon which agricultural practices are being utilized or upon which agricultural farm operations or agricultural practices may be established or utilized in the future.

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

(b) Agricultural Products – Those products including but not limited to:

1. Field crops, including but not limited to corn, wheat, rye barley, hay, potatoes and dry beans.
2. Fruits, including but not limited to apples, peaches, grapes, cherries and berries.
3. Vegetables, including but not limited to tomatoes, snap beans, cabbage, carrots, beets and onions.
4. Horticultural crops, including but not limited to nursery stock, ornamental shrubs, ornamental trees, flowers and sod.
5. Livestock and livestock products, including but not limited to cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, fur bearing animals, milk, eggs and furs.
6. Maple sap and maple syrup.
7. Christmas trees derived from a managed tree operative whether dug for transplanting or cut from the stump.
8. Aquaculture products, including but not limited to fish, fish products, water plants and shellfish.
9. Woody biomass, which means short rotation woody crops raised for bio-energy and shall not include farm woodland.
10. Apiary products, including but not limited to honey, royal jelly, pollen, beeswax and propolis.
11. Compost products.

(c) Farmer – 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 crops or the raising of livestock.

(d) Farm operation – The land and on-farm buildings, equipment, manure processing and handling facilities and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products including a “commercial horse boarding operation” as a commercial enterprise.

(e) Agricultural Practices – Those practices necessary for the on-farm production, preparation, and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, nutrient management, proper use of agricultural chemicals, and other crop protection methods, and construction and use of farm structures and fences.

Section 4: Right to Farm Declaration. Farmers, and those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within Hamilton County at all times and at all such locations as are reasonable and 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 and whether the practice is reasonable and necessary, conducted in accordance with the generally accepted agricultural practices and not a threat to public health.

Section 5: Nuisance. 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 and sound 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 of any person.
6. Conducted in a manner which does not obstruct the free passage or use of navigable waters or public roadways.

Section 6: Notification to Real Estate Buyers. When any purchase and sales contract is presented for the sale, purchase, or exchange of real property located in Hamilton County the prospective grantor shall present to the prospective grantee a disclosure notice which states the following: "It is the policy of Hamilton County 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 disclosure notice is to inform prospective buyers that farming activities occur within the area of the property they are about to acquire. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective buyers are also informed that the location of property may impact the ability to access water and/or sewer services for such property under certain circumstances."

A copy of this notice shall be included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made. Receipt of such disclosure notice shall be recorded on a property transfer report prescribed by the state board of real property services as provided for in section three hundred thirty three of the real property law.

Section 7: Resolution of Disputes. In order to maintain a viable farming economy in Hamilton County it is necessary to limit 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.

The process is intended to resolve disputes between farmers and non-farming neighbors through a mutual understanding of each other's needs, concerns and desires so that both parties are afforded due property rights, accordingly:

(a) Should any dispute arise regarding an agricultural operation or agricultural practice which cannot be settled by direct negotiation between parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter preliminary to the filing of any court action and prior to a request for a determination by the Commissioner of Agriculture and Markets about whether the practices in question is sound pursuant to Section 308 of Article 25AA of the State Agriculture and Markets Law.

(b) Any controversy between parties shall be submitted to the said dispute resolution committee within thirty (30) days of the last date of occurrence of the particular activity giving

rise to the controversy or the date the party became aware of the occurrence.

(c) The dispute resolution committee shall be composed of three (3) members, namely, the Hamilton County Cornell Cooperative Extension Agent, the Supervisor from the town in which the dispute arose or a designee (who shall be the Chairman of the dispute resolution committee), and the Chairman of the Hamilton County Economic Development Committee of the Board of Supervisors. In case the Chairman of the Hamilton County Economic Development Committee is also the Supervisor from the town in which the dispute arose, or in case a member of the dispute resolution committee must recuse himself due to a conflict of interest, an alternate(s) shall be appointed by the Chairman of the Board of Supervisors (or by the Vice Chairman, if the conflict pertains to the Chairman).

(d) The effectiveness of the 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 pertinent information concerning the controversy.

(e) The controversy shall be presented to the dispute resolution committee by written request of one of the parties within the time limit hereinbefore specified. Thereafter, the dispute resolution committee may investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting at a place and time set by the dispute resolution committee chairman to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. The time limits provided in this subsection for action by the dispute resolution committee may be extended upon the written stipulation of all parties to the dispute.

(f) Parties to the foregoing dispute resolution process shall stipulate, in writing, that the statements made in such process shall be deemed to be in the nature of settlement discussions, and that such statement(s), and any agreement reached in the process shall not be used for evidentiary purposes in any other action or proceeding.

(g) Records of the dispute resolution committee shall be filed by dispute resolution committee chairman with the Clerk of the Hamilton County Board of Supervisors.

Section 8: Severability. If any article, section, subsection, paragraph, phrase or sentence of this local law is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions, hereto.

Section 9: Precedence. This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

Section 10: Effective Date. This Local Law shall take effect immediately.

(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. 2 of 2012 of the (County)(City)(Town)(Village) of Hamilton was duly passed by the Board of Supervisors on November 1 2012, 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 *(Elective Chief Executive Officer*)* 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.)

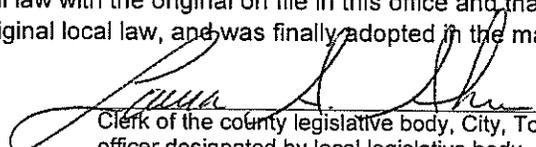
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 _____ above.



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

Date: 11/19/12

(Seal)