

TOWN OF CHARLTON, SARATOGA COUNTY

A LOCAL LAW ESTABLISHING RIGHT-TO-FARM LEGISLATION

Be it enacted by the BOARD of the TOWN of CHARLTON as follows:

Section 1. Legislative Intent and Purpose

The Board recognizes that farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in Charlton. Therefore, the Town Board of Charlton finds and declares that this Town encourages its agriculture and urges understanding of and cooperation with the necessary day to day operations involved in farming.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusiness's, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in Charlton, 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.

Section 2. Definitions

1. "Farmland" shall mean land used in agricultural production, as defined is subdivision four of section 301 of Article 25AA of the State Agriculture and Markets Law.
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 crops, or the raising of livestock.
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 specialties, 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. Woodland products, including maple sap, logs, lumber, posts, and firewood.

- g. Christmas trees derived from a managed Christmas 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 bioenergy, and shall not include farm woodland.

. "Farm woodland" includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.

. "Agricultural practices" shall mean 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, proper use of agricultural chemicals and other crop protection methods, manure application and construction and use of farm structures and fences.

. "Farm operation" shall be defined in section 301(11) in the State Agriculture and Markets Law.

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 this Town 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 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, and
6. conducted in 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 from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practices, as outlined in this section.

Section 4. Notification of Real Estate Buyers and Prospective Neighbors

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25 AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and 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 farming activities occur within the Town. Such farming activities may include, but not be limited to, activities that cause noise, dust, smoke and odors."

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.

In addition, this notice shall be included in building permits and on plats of subdivisions submitted for approval pursuant to Town Law section 276.

Section 5. Resolution of Disputes

a. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior 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 practice in question is sound pursuant the Section 308 of Article 25 AA of the State Agriculture and Markets Law.

b. Any controversy between the parties shall be submitted to the 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 committee which be composed of three (3) members selected from the county including one representative from the County Agricultural and Farmland Protection Board, one person from the town government selected by the Town Board, and one person mutually agreed upon by both parties involved in the dispute.

d. The effectiveness of the 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 and misunderstandings. The parties are encourage to cooperate in the exchange of pertinent information concerning the controversy. The parties are also encourage to consult with agricultural experts such as New York State Agriculture and Markets, Cornell University, Cornell Cooperative Extension, Natural Resources Conservation Service, and Soil and Water Conservation district.

e. The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Thereafter, the committee may

investigate the facts of the controversy but must, within twenty five(25) days, hold a meeting 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. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.

f. Any reasonable costs associated with the functioning of the committee process shall be borne by the participants. However, the prevailing participant shall be entitled to reasonable fees and other expenses incurred if the agricultural practice at issue constitutes a sound agricultural practice pursuant to an opinion issued by the Commissioner under section 308 of the New York Agriculture Districts Law.

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 the local law. The Town hereby declares that it would have passed this local and each section and subsection hereof, 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 be effective immediately upon filing with the Town of Charlton and the Secretary of State pursuant to section 27 of Municipal Home Rule Law and shall be filed with New York State Agriculture and Markets, New York State Department of Environmental Conservation and New York State Department of Health.

Effective December 24, 1996