

## 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. 1 of the year 2018

A Local Law to Enact a Right to Farm Law for the Town of Hamilton

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

☐ County    ☐ City    ☒ Town    ☐ Village  
(Select one:)

of Hamilton as follows:

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

**“TOWN OF HAMILTON  
LOCAL LAW NO. 1 OF 2018  
A LOCAL LAW ENACTING A RIGHT TO FARM LAW  
FOR THE TOWN OF HAMILTON**

Be it enacted by the Town Board of the Town of Hamilton as follows:

**SECTION 1.            TITLE, LEGISLATIVE PURPOSE AND INTENT.**

- A. This Local Law may be cited as “The Right to Farm Law of the Town of Hamilton.”
- B. The Town Board recognizes farming as an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Hamilton. The Town Board further declares that it shall be the policy of this Town to support agriculture and foster understanding by all residents of the necessary day to day operations involved in farming so as to encourage cooperation with those practices.
- C. It is the general purpose and intent of this law to maintain and preserve the rural economic base and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to support the initiation of farms, farm enterprises and agri-business, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. To maintain a viable farming economy in the Town of Hamilton, 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.            AUTHORITY.**

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law § 10.

**SECTION 3.            DEFINITIONS.**

- A. “Farmland” shall mean land used in agricultural production, as defined in subdivision four of Section 301 of Article 25AA of the New York State Agriculture and Markets Law.
- B. “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.
- C. “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:
  - 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 specialties, including but not limited to nursery stock, ornamental shrubs, ornamental trees and flowers;
5. 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;
6. Maple sap and sugar products;
7. Christmas trees derived from a managed Christmas tree operation 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. Short rotation crops raised for bioenergy;
10. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood;
11. Apiary products, including but not limited to honey, royal jelly, pollen, beeswax, and propolis;
12. Compost products.

D. "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, limes, and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use, and application 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.

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



- F. “Agricultural District” shall mean any land mapped and included as a certified New York State Agricultural District formed pursuant to AML Article 25-AA.

**SECTION 4.            RIGHT TO FARM DECLARATION.**

- A. 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 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, research and improved technologies.
- B. 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 as guided by the New York State Department of Agriculture and Markets,
  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 a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.
- C. 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 practice, as outlined in this section.

**SECTION 5.            NOTIFICATION OF REAL ESTATE BUYERS.**

- A. 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 New York State Agriculture and Markets Law and provide notice to prospective purchasers and occupants of property located within the Town 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 disclosure notice is to inform prospective residents that the property they are about to acquire lies

within or in the vicinity of a New York State agricultural district and that farming activities occur within the town. Such farming activities may include, but not limited to, activities that cause noise, dust and odors.”

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.

- B. In addition, this disclosure notice shall be included on all subdivision plats or site plans submitted for Town approval. Upon subsequent subdivision or development, the disclosure notice shall also be incorporated on any approved subdivision or site plan or deed for as long as the parcels remain in a New York State agricultural district.

## **SECTION 6.                    RESOLUTION OF DISPUTES.**

- A. In order to maintain a viable farming economy in the Town of Hamilton, 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.
- B. This 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.
  - 1. 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 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 to Section 308 of Article 25AA of the State Agriculture and Markets Law.
  - 2. Any controversy between 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.
  - 3. The committee shall be composed of three (3) members from the Town selected by the Town Board, as the need arises, including one representative from the farm community, one person from Town government and one person mutually agreed upon by both parties involved in the dispute.
  - 4. 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 any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.



5. 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 at a mutually agreed upon place and time 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 committee may be extended upon the written stipulation of all parties in the dispute.
6. Parties bringing a complaint to the committee for settlement or resolution may not involve legal counsel in the meeting.
7. 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 statement, and any agreement reached in mediation shall not be used for evidentiary purposes in any other action or proceeding.
8. Any reasonable costs associated with the functioning of the dispute resolution committee process shall be borne by the participants.
9. Records of the dispute resolution committee shall be maintained by the Madison County Agricultural and Farmland Protection Board.

**SECTION 7.           PRECEDENCE.**

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

**SECTION 8.           SEVERABILITY.**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

**SECTION 9.           EFFECTIVE DATE.**

This Local Law shall be effective upon filing with the office of the Secretary of State.”

1. **(Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2018 of the **Town of Hamilton** was duly passed by the **Town Board** on **June 13, 2018**, in accordance with the applicable provisions of law.

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 **Town of Hamilton** was duly passed by the **Town Board** on       , 20   , and was (approved/not approved/ repassed after disapproval) by the **Town Board** and was deemed duly adopted 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 **Town of Hamilton** was duly passed by the **Town Board** on       , 20   , and was (approved/not approved/ repassed after disapproval) by the **Town Board** 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.~~

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 **Town of Hamilton** was duly passed by the **Town Board** on       , 20   , and was (approved/not approved/ repassed after disapproval) by the **Town Board** 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.~~

5. **(City local law concerning Charter revision proposed by petition.)**

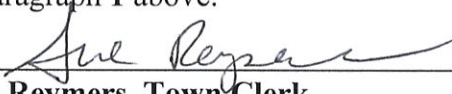
~~I hereby certify that the local law annexed hereto, designated as local law No.     of 20    of the City of        having been submitted to referendum pursuant to the provisions of section (36/37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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 1 above.

  
\_\_\_\_\_  
**Sue Reymers, Town Clerk**  
**Town of Hamilton**

(Seal)

Date: June 13, 2018