

TOWN OF HUME

Local Law Number ³ of 2019

A Local Law to Proclaim, Announce and Promote the Town of Hume as a Right to Farm Community

Section 1. Legislative Intent and Purpose

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 Hume. 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.

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 support the initiation of farms, farm enterprises and agri-business, and to promote new ways to resolve disputes concerning agricultural practices and farm operations.

In order to maintain a viable farming economy in the Town of Hume, it is necessary to limit the circumstances under which farming may be deemed to be 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 in subdivision four of section 301 of Article 25AA of the State Agriculture and Markets Law as may be amended from time to time.
2. "Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in 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, 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 Christmas tree 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. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.
- k. Apiary products, including but not limited to honey, royal jelly, pollen, beeswax, and propolis.
- l. Compost products.

4. "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.

5. "Farm operation" shall be defined in section 301(11) in the State of 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 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.

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 a manner which does not reasonably 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 practice, as outlined in this section.

Section 4. Notification of Real Estate Buyers

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 of Agricultural 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 limited to, activities that cause noise, dust and odors." This notice shall be provided to prospective purchasers of property within an agricultural district or on property with boundaries within 500 feet of a farm operation located in an agricultural district.

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.

In addition, this notice shall be included in building permits and on plats of subdivisions submitted for Town approval. Finally, the Town Board, in consultation with the Town Highway Superintendent, shall install signage announcing that the Town is a Right to Farm Community along roadways in locations as determined by the Town Board.

Section 5. Resolution of Disputes

5.1 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 Allegany 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.

5.2 The Chairperson of the Agriculture and Farmland Protection Board shall, within five (5) working days of receipt of a dispute, notify the Agriculture and Farmland Protection Board of the nature of the dispute. The Agriculture and Farmland Protection Board shall provide adequate time for the exchange of pertinent facts leading to resolution of the dispute, at the next scheduled Agriculture and Farmland Protection Board meeting or special meeting held at the earliest time convenient to the Board and to the parties seeking a resolution of their dispute.

5.3 The effectiveness of the mediation program offered by the Agriculture and Farmland Protection Board is dependent upon direct, full, frank conversations and presentation of all pertinent facts concerning the dispute. The parties are encouraged in the exchange of information concerning the controversy, and each party shall have an opportunity to present what each considers the pertinent facts. 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.

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 Board 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.

5.4 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.

5.5 In the event that the Agriculture and Farmland Protection Board is unable to satisfactorily assist all parties in a reasonable period of time, the Agriculture and Farmland Protection Board may meet in a regular or special meeting within twenty (20) days to provide an advisory opinion regarding the dispute under discussion.

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 affect the remainder of this Town of Hume Law. The Town of Hume hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that anyone or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 7. Precedence

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

Section 8. Effective Date

This Law shall be effective immediately upon filing with the New York Secretary of State as required by law.