

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 of German
- Town
- Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

Jun 25 2009

Local Law No. 2 of the year 20 09

MISCELLANEOUS
& STATE RECORDS

A local law TOWN OF GERMAN RIGHT TO FARM LAW
(Insert Title)

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

- County
- City of German as follows:
- Town
- Village

Section 1. Title. This local law shall be known as the Town of German Right to Farm Law.

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



SECTION 2. Legislative Intent and Purpose. It is the general purpose and intent of this Local Law to maintain and preserve the rural tradition and character of the Town of German, to permit the continuation of the practice of farming within the Town, to protect the existence and operation of established farms, and to encourage the initiation and expansion of farming practices. In recognition of the fact that there are many practices and activities which are inherent to and necessary for the practice of farming, it is the specific purpose and intent of this Local Law to attain the aforementioned goals and objectives by providing that such practices and activities may proceed and be undertaken free of unreasonable and unwarranted interference of restrictions. It is also recognized it is desirable for farmers to be good neighbors.

SECTION 3. Definitions.

(a.) Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them meanings they have in common usage and to give this Local Law its most reasonable application.

(b.) "Farmer" shall mean any person, organization, entity, association, partnership, or corporation engaged in the practice of agriculture, whether for profit or otherwise, including the cultivation of land, raising of crops, raising of livestock, and grazing of pasture.

(c.) "Farmland" shall mean land used primarily for bona fide agricultural production of those item and products as set forth in section 301(4) of Article 25AA of the State Agriculture and Markets Law.

(d.) "Agricultural Products" shall mean those products as defined in section 301(2) of Article 25AA of the State Agriculture and Markets Law.

(e.) "Agricultural Practices" shall mean those practices necessary for on farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but not limited to, operation of farm equipment, proper use of agricultural chemicals, and other crop protection methods, and construction and use of farm structures.

(f.) "Farm Operation" shall be defined in section 301(11) of Article 25AA of the State Agriculture and Markets Law.

SECTION 4. Right of Farm. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of German at any and all such times and all such locations as are reasonable and necessary to conduct the practice of farming. For any agricultural practice in determining the reasonableness of 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 on farmland shall not be found to be a public or private nuisance if 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 health or safety of any person, and
- (f.) conducted in manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

SECTION 5 Interference Prohibited.



(a.) No person, group, entity, association, partnership, or corporation will engage in any conduct or act in any manner so as to unreasonably, intentionally, knowingly, and deliberately interfere with, prevent, or in any way deter the reasonable practice of farming within the Town of German.

(b.) Notwithstanding any other provision of this Act, agricultural activities conducted on farmland, if consistent with recognized (sound-best management) agricultural practices and established prior to surrounding nonagricultural activities, are presumed to be reasonable and do not constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety. No commercial agricultural or farming operation, place, establishment or facility shall be or shall become a nuisance, as a result of changed conditions on or around the locality of such agricultural or farming operation, place, establishment or facility, if it has been in operation for one year or more and if it was not a nuisance at the time it began operation. This section, however, shall not apply whenever a nuisance injurious to health, results from the operation of any such agricultural or farming operation, place, establishment, or facility or any of its appurtenances.

SECTION 6. Protection of Rights.

The provisions of Section 5 shall not affect or defeat the right of any person, firm, or corporation to recover damages for any injuries or damages sustained by them due to any pollution of, or change in condition of, the waters of any stream or due to any overflow onto the lands of any such person, firm, or corporation.

SECTION 7. 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 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 as to whether the practice in question is sound pursuant to Section 308 of Article 25AA of the State Agricultural 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 shall be composed of three (3) members selected from county residents, including one representative from the County Agricultural and Farmland Protection Board, one person from the Town of German 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.

(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 at a mutually agreed 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. 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 cost associated with the functions of the committee process shall be borne by the participants.



SECTION 8. Conflict with Other Laws.

This Local Law and the provisions set forth herein are in addition to and not in lieu of all other applicable laws, rules and regulations which shall continue in full force and effect, unaffected by this Local Law. Conversely, this Local Law is not intended to contradict or contravene any law, rule, regulation, restriction, or proscription of the United States, State of New York, County of Chenango, or Town of German, which may now or hereafter obtain.

SECTION 9. Severability Clause.

If any part of this of this Local Law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law. The German Town Board 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 10. Effective Date

This Local Law shall be effective immediately upon filing, pursuant to Section 27 of the Municipal Home Rule Law.



(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 20 09 of the (County)(City)(Town)(Village) of GERMAN was duly passed by the Town Board on MAY 12 20 09, 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ 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 (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ 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.

* 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.)~~

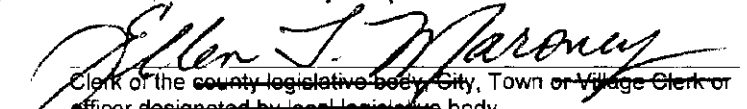
~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified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

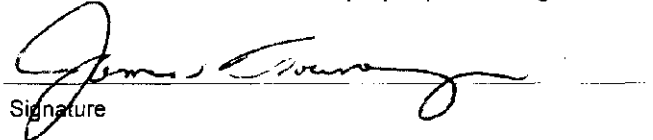

Clerk of the county legislative body, City, Town or Village Clerk or
officer designated by local legislative body
Date: 6/17/2009

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF CHENANGO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature
Title ATTORNEY FOR TOWN OF GERMAN

County _____
City of GERMAN
Town _____
Village _____

Date: 6/22/09

