

Local Law Filing

New York State Department of State
41 State Street, Albany, NY 12231

(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 Shelby
Town
Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
SEP. 15 2003
MISCELLANEOUS
& STATE RECORDS

Local Law No. 3 of the year 2003.

A local law "THE RIGHT TO FARM LAW OF THE TOWN OF SHELBY"

(Insert Title)

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

County
City of Shelby, Orleans County, New York as

follows:

Town
Village

SECTION 1. Legislative Intent and Purpose

It is hereby found and declared by the Town Board of the Town of Shelby that agriculture lands are irreplaceable assets. To that end, the Town Board affirms that farming is an essential activity. Farming, as defined in this local law, reinforces that special quality of life enjoyed by citizens, provides the visual benefit of open space and generates economic benefits and social well-being within the community. Therefore, it is emphasized to residents that the Town of Shelby encourages agriculture and requests that residents be understanding of the necessary day-to-day operations associated with agricultural land use.

It is the general purpose and intent of this local law to maintain and preserve the rural tradition and character of the Town of Shelby to permit the continuation of agricultural practices and the businesses of farming, and to encourage the initiation and expansion of farms and agricultural business. In recognition of the fact that there are many practices and activities which are inherent to and necessary for the business 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 or restrictions.

The Town Board, in an effort to promote and foster a harmonious relationship between the residents of the Town of Shelby, and to conserve, protect and encourage the development and improvement of agriculture land for the production of food and other products, hereby declares that it shall be the policy of the Town of Shelby to provide reasonable notice to prospective landowners that farming activities may occur on neighboring lands.

SECTION 2. Definitions

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable and effective application.

As used in this local law, the following terms shall have the meanings indicated:

Agricultural Land: Any single parcel or multiple, contiguous or noncontiguous parcels which together represent all the real property within the boundaries of the Town of Shelby currently used for agriculture operations or upon which agriculture practices are being utilized or upon which agriculture farm operations or agriculture practices may in the future be established or utilized.

Agricultural Farm Operations: Any person, organization, entity, association, partnership or corporation engaged in the business of agriculture or farming or agriculture practices, whether for profit or otherwise.

Agricultural Practices: All activities conducted on a farm which are necessary to the operation of the farm, including but not limited to the cultivation of land; the raising of crops; the raising of livestock, beef, animals, dairy and poultry; stables and horse boarding facilities; horticulture; timber; fur-bearing animals; the production, whether for sale to others or home use or consumption, of plants and animals, fruits, vegetables and field crops; plantations, orchards, nurseries, greenhouses, or other similar agricultural practices used primarily for the raising, marketing or sales of on-premises produced agricultural or horticultural commodities. Agricultural practices shall also include any activity now permitted by law, engaged in, by or on behalf of a farmer in connection with and in furtherance of the business of agriculture or farming and shall include without limitation the collection, transportation, distribution and storage of animal and poultry waste; storage, transportation and use of equipment for tillage planting harvesting and marketing; transportation and use of legally permitted fertilizers, limes, insecticides, herbicides and fungicides, all in accordance with local, state and federal law and in accordance with the manufacturer's instructions and warnings; construction of farm structures and facilities as permitted by local law

and state building code regulations; construction and maintenance of fences and other enclosures; and the use and/or maintenance of related pastures, idle or fallow land, woodland, wetland, farm ponds, farm roads, and certain farm buildings and other structures related to the agriculture practices.

The following examples are intended to be illustrative of common agriculture practices covered within this definition, but are not inclusive:

1. Providing for the wholesale and retail marketing (including so-called "you pick" marketing) and sales of the agricultural output of the farm and related products that contribute to farm income, including the sale at the owner's farm stand of agricultural products so long as at least seventy-five percent (75%) of the annual gross sales of the farm stand have been grown on said farm.
2. Replenishing soil nutrients, including, but not limited to, the spreading of manure and applying approved chemical and organic fertilizers.
3. Using federally approved products, in accordance with label instructions, as recommended by the New York Agricultural Experiment Station, the United States Environmental Protection Agency and the New York State Department of Environmental Conservation for the control of pests, predators, varmints and diseases affecting plants and livestock and for the control of weed infestation.
4. Transporting large, slow-moving equipment over roads within the Town of Shelby, in accordance with local, state and federal law and regulations.
5. Clearing of woods using accepted techniques, installing and maintaining vegetative and terrain alterations, and physical facilities for water and soil conservation and surface water control.

The foregoing uses, activities, and rights when reasonable and necessary for agricultural or horticultural production and when conducted in accordance with generally accepted agricultural practices may occur on holidays, Sundays and weekends, day or night.

Farmer: Any person, organization, entity, association, partnership or corporation engaged in the agricultural farm operation or agricultural practices as defined herein.

Farming: The act of engaging in an agricultural farm operation and/or agricultural practices as defined herein.

Farm: Shall include livestock, beef, dairy, poultry, fur bearing animal, agricultural, fruit, vegetable, and field crop farms, plantations, orchards, nurseries,

greenhouses, or other similar operations used primarily for the raising of agricultural or horticultural commodities.

SECTION 3. Right-To-Farm

Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices or an agricultural farm operation within the Town of Shelby at any and all such times and at all such locations as are reasonably necessary to carry on an agricultural farm operation or agricultural practice. In determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the agricultural industry as well as to advances resulting from increased knowledge or improved technologies.

SECTION 4. Nuisance

No agricultural practices or appurtenances thereto, conducted or maintained in a manner consistent with management practices such as those recommended by state and federal agencies within the educational aspects of farmers and agricultural practices, or those approved by the County of Orleans Agricultural and Farmland Protection Board, herein and hereafter referred to as accepted customs and standards, shall be or become either a public or private nuisance.

SECTION 5. Interference Prohibited

No person, group, entity, association, partnership, or corporation shall engage in any conduct or act in any manner so as to unreasonably, intentionally, knowingly, and/or deliberately interfere with prevent, or in any way deter the practice of farming within the Town of Shelby.

SECTION 6. Penalties

Non-compliance with any provisions of this local law shall not affect title to real property, nor prevent the recording of any document. Violation of any provision of this local law may constitute an offense punishable by a fine not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Fifty Dollars (\$150.00) for each day's violation or continuation of the violation.

In addition, an action to restrain or enjoin any violation of this local law may be brought in a Court of competent jurisdiction by an aggrieved entity and/or the Town of Shelby.

SECTION 7. Resolution of Disputes

Should any controversy arise regarding any inconvenience or discomfort arising out of or occasioned by any agricultural practices or agricultural operations, the matter shall be referred to the Town of Shelby Agricultural Advisory Committee (AAC) in an attempt to resolve the matter informally prior to resorting to litigation. The AAC shall be comprised of five members including the Town of Shelby Code Enforcement Officer, one Town Board member, one Planning Board member, one Zoning Board member and one individual who is engaged on a full-time basis in agricultural farm operations as herein defined.

Any complaint with respect to agricultural practices or agricultural operations shall be submitted to the AAC in writing, within twenty (20) days of the occurrence of the activity or activities giving rise to the complaint. Within thirty (30) days of its receipt of a written complaint, the AAC shall hold a public hearing to consider the matter. Notice of the public hearing shall be published in the Town's official newspaper at least five (5) days in advance of the hearing, and a copy of the notice shall be mailed to each of the parties to the controversy.

At the public hearing, the AAC shall hear testimony from the parties to the controversy and from any other interested persons. The effectiveness of the AAC as a forum for the resolution of disputes is dependant upon full disclosure and discussion of all pertinent facts pertaining to dispute. To that end, the parties are encouraged to cooperate in the exchange of all pertinent information with respect to the controversy. The AAC shall also be authorized to conduct such independent investigations into the matter as the AAC deems appropriate. Within twenty (20) days after the public hearing, the AAC shall render a written report and recommendation and mail copies to both parties and to the Town Board. If either party to the controversy disagrees with the AAC's report and recommendation, that party may pursue other legal remedies.

SECTION 8. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State pursuant to 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. 3 of 2003, of the ~~(County)~~ (City) (Town) (~~Village~~) of Shelby, New York was duly passed by the Board of Trustees on September 10, 2003, 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~~) _____ was duly passed by the _____ on _____ 20____, and was (approved) (not disapproved) (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 2003, 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 2003 of the ~~(County)~~ (City) (Town) (~~Village~~) of _____ was duly passed by the _____ on _____ 2003, and was (approved) (not disapproved) (repassed after disapproval) by the _____ on _____ 2003. Such local law was submitted to (Elective Chief Executive Officer) 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 200 of the ~~(County)~~ (City) (Town) (~~Village~~) of _____ was duly passed by the _____ on _____, and was (approved) (~~not disapproved~~) (~~repassed after disapproval~~) by the _____ on _____, 2003. Such local law was subject to permissive referendum and (Elective Chief Executive Officer*) no valid petition requesting such referendum was filed as of _____, 2003, 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 chairman 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.

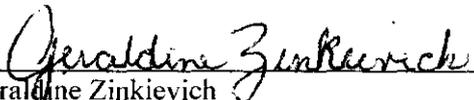
6. (County local law concerning adoption of Charter.)

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 of 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.

(SEAL)

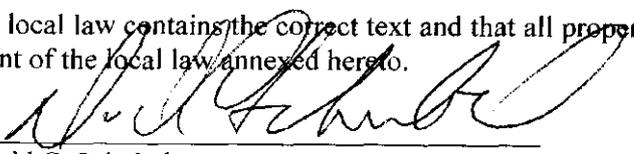

Geraldine Zinkievich
Town Clerk, Town of Shelby

Date: 9-11-03

(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 ORLEANS

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.


David C. Schubel
Town Attorney

County _____
City of Shelby
Town _____
Village _____

Date: 9/11/03