

# 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.

FILED  
STATE RECORDS

MAY 12 2017

- County
- City
- Town of
- Village

SOUTHOLD

DEPARTMENT OF STATE

Local Law No. 5 of the year 2017.

A Local Law entitled, A Local Law in relation to Amendments to Chapter 280-4, Agriculture

Be it enacted the Town Board of the:

- County
- City
- Town of
- Village

SOUTHOLD

## §280-4. Definitions.

**AGRICULTURE** - The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats or any mutation of hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; fruits of all kinds, including grapes, nuts and berries, vegetables; floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

**AGRICULTURAL PRODUCTION** - For the purposes of this Chapter, Agricultural Production shall include, but not be limited to, the following:

1. A Farm Operation engaged in the production for sale of crops, livestock or livestock products, by a bona fide farm operation, or bona fide aquaculture/mariculture farm operation, both as defined herein, which shall include but not be limited to:
  - a. Field crops, for example corn, wheat, oats, rye, barley, hay, potatoes and dry beans;
  - b. Fruits, for example apples, peaches, grapes, cherries, tomatoes and berries;
  - c. Vegetables, for example snap beans, cabbage, carrots, beets and onions;
  - d. Horticultural specialties, for example nursery stock, ornamental shrubs, ornamental trees and flowers;

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

- e. Livestock and livestock products, for example cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur-bearing animals, milk, eggs and furs;
- f. Maple sap;
- g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump;
- h. aquaculture and mariculture as defined herein;
- i. Biomass, which means crops raised for bioenergy, and shall include, but is not limited to, farm woodland, switch grass, giant reed, and miscanthus.
- j. Apiary, including the cultivation of bee colonies, bee honey, beeswax, and related products;

**AGRICULTURAL PRODUCTION BUILDING** - An on farm operation building, or part of a building, primarily useful or necessary for crops in their harvested state in the conduct of Agricultural production, including but not limited to barns, silos, storage of mechanical equipment, storage of harvested crops, spaces, accessory alternative energy structures, animal pens, and other shelters.

**AGRICULTURAL PROCESSING** - The on-farm processing of agricultural products at and from a single farm operation located within the Town of Southold, which has been converted from its original (raw) state into a processed or prepared product through applications of cooking, distilling, fermenting, crushing, or straining, etc. Such processed agriculture products include, but are not limited to, jams, jellies, cheeses, potato chips, jerkies, meats, fowl, fish, breads, and baked goods, beer, wine and distilled alcoholic and non-alcoholic beverages.

**AGRICULTURAL PROCESSING BUILDING** - An on farm operation building, or part of a building, used for processing and storage of agricultural products of a single farm operation into processed agricultural products as defined herein.

**PROCESSED AGRICULTURAL PRODUCT** - Agricultural product which has been converted from its original state into a distinct product by techniques such as cooking, distillation, fermentation, crushing and straining. Examples of processed agricultural product include, without limitation, jams, jellies, cheeses, potato chips, meats, fowl, fish, wine and other alcoholic beverages. Simple washing, cleaning, arranging or packaging of agricultural products shall not cause the product to be considered "processed" under this definition.

**ON FARM OPERATION DIRECT MARKETING** - The sale of raw or processed agricultural products that are produced by a bona fide farm operation or a bona fide aquaculture/mariculture farm operation directly to consumers.

**ON FARM DIRECT MARKETING BUILDING** - An on farm building, or part of a building, used for the direct farm marketing of agricultural products and agricultural processed products from a single farm operation.

**FARM OPERATION** - Means the land, including underwater lands used in aquaculture and mariculture, buildings used in agricultural production, on-farm agricultural processing buildings, on farm direct marketing buildings, equipment, manure processing and handling facilities, and practices which contribute to the cultivation, production, preparation, processing and marketing of crops, livestock and livestock products, freshwater or marine water products, including fish, fish products, and/or water plants and shellfish, as a commercial enterprise. The farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**BONA FIDE FARM OPERATION** - Indicators of a bona fide farm operation include, a farm

operation, as defined herein, that:

1. Is located on land with not less than seven acres of land used as a farm operation in the preceding two years for the production or sale of crops, livestock or livestock products, of an average gross sales value of \$10,000 or more, or
2. Is located on land of seven acres or less used as a farm operation in the preceding two years for the production or sale of crops, livestock or livestock products of an average gross sales value of \$50,000 or more, or
3. Has been issued a farm stand operator permit.

**FARMHOUSE** - A principal dwelling on a Farm Operation used exclusively by a farmer/owner/operator who is in full time residence and actively engaged in farming the lands of the farm operation, or as housing for the Farm Operation's workers, or occupied by key employee(s) of the Farm Operation.

**AQUACULTURE** - The breeding, cultivation, planting, containment, and harvesting of organisms that are naturally occurring in freshwater, including finfish; mollusks such as snails and clams; crustaceans such as shrimp and crayfish; and aquatic plants. The term "aquaculture" is also commonly used to include marine water, or maricultured, species such as oysters, bay scallops, lobsters, and sugar kelp.

**LAND-BASED AQUACULTURE** - The cultivation of marine and freshwaters organisms in a man-made structure, such as an on-land building or pond.

**MARICULTURE** - The cultivation of marine organisms in saltwater, for example finfish; mollusks such as snails, oysters, and clams; crustaceans such as shrimp, crabs, and lobsters; and marine plants such as sugar kelp.

**BONA FIDE AQUACULTURE/MARICULTURE FARM OPERATION** - Indicators of a bona fide aquaculture/mariculture farm operation include, a farm operation, as defined herein, engaged in aquaculture and/or mariculture that:

1. Has obtained all commercial cultivation and harvest permits required by the New York State Department of Environmental Conservation Law and a permit from either the New York State Department of Agriculture and Markets or the Suffolk County Department of Health Services when the farm stand offers on-premises consumption, and
2. Has access to underwater land, including, but not limited to, a lease, riparian rights, a grant, fee title to underwater land, or a franchise within the Peconic Bay Estuary or Town waters, or has land-based cultivation infrastructure.

**ROADSIDE STAND**- A display area less than 100 square feet in area located on a parcel on from which fruits, vegetables or plants are home grown and sold to the general public.

### III. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

### IV. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by 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. 5 of 20 17, of the ~~(County)(City)(Town)~~ ~~(Village)~~ of SOUTHOLD was duly passed by the TOWN BOARD on April 25, 20 17, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or re-passage 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)(re-passed 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 there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(Seal)

Elizabeth A. Neville  
Clerk of the County legislative body. City. Town or Village Clerk or officer designated by local legislative body  
**Elizabeth A. Neville, Town Clerk**  
Date: April 28, 2017

**(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 SUFFOLK

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.

William Duffy  
Signature  
**William Duffy, Town Attorney**  
**Damon Hagan, Assistant Town Attorney**

Title  
~~County~~  
~~City~~  
Town of SOUTHOLD  
~~Village~~  
Date: April 28, 2017



**RESOLUTION 2017-357**

Item # 5.3

**ADOPTED**

DOC ID: 12951

**THIS IS TO CERTIFY THAT THE FOLLOWING RESOLUTION NO. 2017-357 WAS ADOPTED AT THE REGULAR MEETING OF THE SOUTHOLD TOWN BOARD ON APRIL 25, 2017:**

**WHEREAS** there has been presented to the Town Board of the Town of Southold, Suffolk County, New York, on the 28<sup>th</sup> day of February, 2017, a Local Law entitled **“A Local Law in relation to Amendments to Chapter 280-4, Agriculture.”** and

**WHEREAS** the Town Board of the Town of Southold held a public hearing on the aforesaid Local Law at which time all interested persons were given an opportunity to be heard, Now therefore be it

**RESOLVED** that the Town Board of the Town of Southold hereby **ENACTS** the proposed Local Law entitled, **“A Local Law in relation to Amendments to Chapter 280-4, Agriculture”** reads as follows:

**LOCAL LAW NO. 5 2017**

A Local Law entitled, **“A Local Law in relation to Amendments to Chapter 280-4, Agriculture”**.

**BE IT ENACTED** by the Town Board of the Town of Southold as follows:

**§280-4. Definitions.**

**AGRICULTURE** - The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats or any mutation of hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; fruits of all kinds, including grapes, nuts and berries, vegetables; floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

**AGRICULTURAL PRODUCTION** - For the purposes of this Chapter, Agricultural Production shall include, but not be limited to, the following:

1. A Farm Operation engaged in the production for sale of crops, livestock or livestock products, by a bona fide farm operation, or bona fide aquaculture/mariculture farm operation, both as defined herein, which shall include but not be limited to:

- a. Field crops, for example corn, wheat, oats, rye, barley, hay, potatoes and dry beans;
- b. Fruits, for example apples, peaches, grapes, cherries, tomatoes and berries;
- c. Vegetables, for example snap beans, cabbage, carrots, beets and onions;
- d. Horticultural specialties, for example nursery stock, ornamental shrubs, ornamental trees and flowers;
- e. Livestock and livestock products, for example cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur-bearing animals, milk, eggs and furs;
- f. Maple sap;
- g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump;
- h. aquaculture and mariculture as defined herein;
- i. Biomass, which means crops raised for bioenergy, and shall include, but is not limited to, farm woodland, switch grass, giant reed, and miscanthus..
- j. Apiary, including the cultivation of bee colonies, bee honey, beeswax, and related products;

**AGRICULTURAL PRODUCTION BUILDING** - An on farm operation building, or part of a building, primarily useful or necessary for crops in their harvested state in the conduct of agricultural production, including but not limited to barns, silos, storage of mechanical equipment, storage of harvested crops, spaces, accessory alternative energy structures, animal pens, and other shelters.

**AGRICULTURAL PROCESSING** - The on-farm processing of agricultural products at and from a single farm operation located within the Town of Southold, which has been converted from its original (raw) state into a processed or prepared product through applications of cooking, distilling, fermenting, crushing, or straining, etc. Such processed agriculture products include, but are not limited to, jams, jellies, cheeses, potato chips, jerkies, meats, fowl, fish, breads, and baked goods, beer, wine and distilled alcoholic and non-alcoholic beverages.

**AGRICULTURAL PROCESSING BUILDING** - An on farm operation building, or part of a building, used for processing and storage of agricultural products of a single farm operation into processed agricultural products as defined herein.

**PROCESSED AGRICULTURAL PRODUCT** - Agricultural product which has been converted from its original state into a distinct product by techniques such as cooking, distillation, fermentation, crushing and straining. Examples of processed agricultural product include, without limitation, jams, jellies, cheeses, potato chips, meats, fowl, fish, wine and other alcoholic beverages. Simple washing, cleaning, arranging or packaging of agricultural products shall not cause the product to be considered "processed" under this definition.

**ON FARM OPERATION DIRECT MARKETING** - The sale of raw or processed agricultural products that are produced by a bona fide farm operation or a bona fide aquaculture/mariculture farm operation directly to consumers.

**ON FARM DIRECT MARKETING BUILDING** - An on farm building, or part of a building, used for the direct farm marketing of agricultural products and agricultural processed products from a single farm operation.

**FARM** ~~A site or series of adjoining parcels under single ownership or management devoted to agricultural use.~~

**FARM BUILDINGS** ~~All structures useful or necessary for the conduct of agricultural activities, including but not limited to barns, silos, mechanical equipment storage sheds, animal pens or other shelters.~~

**FARM STAND** ~~Any structure open to the weather on at least one side, used for the sole purpose of retail sale of produce grown by the owner of the stand on farm acreage within the Town of Southold. Such structure may be one story or less, roofed or have partial walls and flooring but may not be completely enclosed except when the business is closed. A farm stand may not be insulated or mechanically heated or cooled by permanent equipment. A truck bed or trailer on wheels, with areas in excess of 20 square feet displaying produce, shall be considered a farm stand. [Added 5-13-1997 by L.L. No. 8-1997]~~

**FARM OPERATION** - Means the land, including underwater lands used in aquaculture and mariculture, buildings used in agricultural production, on-farm agricultural processing buildings, on farm direct marketing buildings, equipment, manure processing and handling facilities, and practices which contribute to the cultivation, production, preparation, processing and marketing of crops, livestock and livestock products, freshwater or marine water products, including fish, fish products, and/or water plants and shellfish, as a commercial enterprise. The farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**BONA FIDE FARM OPERATION** - Indicators of a bona fide farm operation include, a farm operation, as defined herein, that:

1. Is located on land with not less than seven acres of land used as a farm operation in the preceding two years for the production or sale of crops, livestock or livestock products, of an average gross sales value of \$10,000 or more, or
2. Is located on land of seven acres or less used as a farm operation in the preceding two years for the production or sale of crops, livestock or livestock products of an average gross sales value of \$50,000 or more, or
3. Has been issued a farm stand operator permit.

**FARMHOUSE** - A principal dwelling on a Farm Operation used exclusively by a farmer/owner/operator who is in full time residence and actively engaged in farming the lands of the farm operation, or as housing for the Farm Operation's workers, or occupied by key employee(s) of the Farm Operation.

**AQUACULTURE** - The breeding, cultivation, planting, containment, or and harvesting of products organisms that are naturally produced occurring in freshwater or marine environments, for example



including finfish; ~~shellfish~~ mollusks such as snails and clams; crustaceans such as shrimp and crayfish; and seaweed aquatic plants. The term "aquaculture" is also commonly used to include marine water, or maricultured, species such as oysters, bay scallops, lobsters, and sugar kelp.

**LAND-BASED AQUACULTURE** - The cultivation of marine and freshwaters organisms in a man-made structure, such as an on-land building or pond. Any form of aquaculture that does not take place in a natural body of water or marine environment.

**MARICULTURE** - The cultivation of marine organisms in saltwater, for example finfish; mollusks such as snails, oysters, and clams; crustaceans such as shrimp, crabs, and lobsters; and marine plants such as sugar kelp.

**BONA FIDE AQUACULTURE/MARICULTURE FARM OPERATION** - Indicators of a bona fide aquaculture/mariculture farm operation include, a farm operation, as defined herein, engaged in aquaculture and/or mariculture that:

1. Has obtained all commercial cultivation and harvest permits required by the New York State Department of Environmental Conservation Law and a permit from either the New York State Department of Agriculture and Markets or the Suffolk County Department of Health Services when the farm stand offers on-premises consumption, and
2. Has access to underwater land, including, but not limited to, a lease, riparian rights, a grant, fee title to underwater land, or a franchise within the Peconic Bay Estuary or Town waters, or has land-based cultivation infrastructure.

**ROADSIDE FARM STAND or AGRICULTURAL STAND** - A booth, stall or display area exceeding 50 less than 100 50 square feet in area located on a farm parcel on from which agricultural products home grown fruits, vegetables or plants are home grown and sold to the general public.

### III. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

### IV. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.



Elizabeth A. Neville  
Southold Town Clerk

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** James Dinizio Jr, Councilman  
**SECONDER:** William P. Ruland, Councilman  
**AYES:** Dinizio Jr, Ruland, Doherty, Evans, Russell  
**ABSENT:** Robert Ghosio