

Local Law Filing

*New York State Department of State
162 Washington Avenue, 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 of Lewis

Local Law No. 4 of the Year 1999

A Local Law Recognizing the Right to Farm.
(Insert Title)

Be it enacted by the Board of Leigslators of the County of Lewis, as follows:

See Attached Sheets.

LOCAL LAW

Section 1. Legislative Findings and Intent.

- 1.1 The Lewis County Board of Legislators finds, declares, and determines that farming and the related agricultural businesses are an important industry in Lewis County that provides a substantial contribution to the economy of the County, maintains open space, enhances the quality of life, promotes environmental quality, and has a minimal demand upon services provided by local governments. However, when non-agricultural land uses extend into agricultural areas, agricultural operations may become threatened due to high land values and nuisance law suits. As a result, agricultural operations may be forced to cease operations or at a minimum are discouraged from making investments to improve the farming operation.
- 1.2 It is the general purpose and intent of this law to maintain and enhance the agricultural industry of the County, to permit the continuation of acceptable agricultural practices, to protect the existence and continued operation of farms, to encourage the initiation and expansion of agricultural businesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations by limiting 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. Definitions.

- 2.1 "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.
- 2.2 "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 agricultural products, or apiary operations, including but not limited to crop pollination, honey production, Queen rearing, and the raising of honeybees.
- 2.3 "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 but not limited to corn, wheat, rye, barley, hay, potatoes, and dry beans.

- b. Fruits, including but not limited to apples, peaches, grapes, cherries, and strawberries and other berries.
 - c. Vegetables, including but not limited to tomatoes, snap beans, cabbage, pumpkins and other squashes, carrots, beets, and onions.
 - d. Horticultural crops, including but not limited to nursery stock, ornamental shrubs, ornamental trees, and flowers.
 - e. Livestock and livestock products, including but not limited to cattle, sheep, hogs, goats, horses, poultry, farmed deer, farmed buffalo, fur bearing animals, milk, eggs, and furs.
 - f. Maple sap and maple syrup.
 - g. Christmas trees derived from a managed tree operation whether dug for transplanting or cut from the stump.
 - h. Aquaculture products, including but not limited to fish, fish products, water plants and shellfish.
 - i. Woody biomass, which means short rotation woody crops raised for bio-energy and shall not include farm woodland.
 - j. Apiary products, including but not limited to honey, royal jelly, pollen, beeswax and propolls.
- 2.4 "Farm woodland" includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts, and firewood and shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.
- 2.5 "Agricultural practices" shall mean those practices necessary for the on-farm production, preparation, and marketing of agricultural products. Examples of such practices include, but are not limited to the operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, and construction and use of farm structures and fences.
- 2.6 "Farm operation" shall mean the land used in agricultural production and farming practices conducted on such land, farm buildings, equipment, and residential buildings.

tion 3. Alternative Resolution of Disputes: Voluntary
iation Program

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 Lewis 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.

The Chairperson of the Agriculture and Farmland Protection Board shall, within five (5) working days of receipt of a dispute, appoint an Alternative Dispute Resolution Committee composed of two (2) members of the County Agriculture and Farmland Protection Board and one (1) non-agricultural person. The ADR Committee shall schedule a mediation at the earliest time convenient to the parties seeking mediation and the Committee, and in any event within sixty (60) days from the date of appointment of the Committee.

3 Upon appointment the Alternative Dispute Resolution 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 information concerning the controversy. The time limits provided in this section for action by the Committee may be extended upon the written stipulation of all parties in the dispute.

4 The effectiveness of the mediation program offered by the Dispute Resolution Committee is dependent upon direct, full, frank conversations and presentation of all pertinent facts concerning the dispute under the guidance of the mediators. The parties are encouraged in the exchange of information concerning the controversy, and each party shall have an opportunity to present what each considers to be the pertinent facts. 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 Committee 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.

- 3.5 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.

Section 4. Determination of Acceptable Agricultural Practices

- 4.1 Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers may lawfully engage in agricultural practices within the County at all times, at all such locations as are consistent with local zoning or land use laws and §305 of the New York Agriculture & Markets Law; and 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 improved technologies.
- 4.2 Any person may submit, in writing, a request to the AFPB for an opinion determining whether a specific agricultural practice is acceptable. In rendering such opinions, the AFPB may consult (within the limitations of its budget, or such other grants or funding sources as may be available to it) with such outside experts and agencies as they deem appropriate in reaching a determination as to whether a particular agricultural practice is sound. Such outside experts and agencies may include, but are not limited to, the Lewis County Soil and water Conservation District, the New York State Department of Agriculture and Markets, the New York State Department of Environmental Conservation, Cornell Cooperative Extension, and the US Department of Agriculture's Natural Resources Conservation Service. All such practices shall be evaluated on a case-by-case basis.
- 4.3 The opinion of AFPB in the preceding paragraph shall be made by a majority vote of the Board, in a written opinion which shall specify the factual basis for its determination. Dissenting opinions shall likewise be reduced to writing, with reasons. The AFPB shall make its written opinion within sixty-two (62) days of receipt of the request, unless, within that time it has provided notice to the applicant that an extension is necessary, and given an estimated date for issuance of the opinion. Opinions of the AFPB shall be provided to the requesting party; to the New York State Commissioner of Agriculture & Markets; to the owner of the property on which the practice is conducted, if different; and to any adjoining property owners. The Board shall publish an abstract of the opinion in a newspaper of public record, and make a copy of the text available to any person requesting

same. The opinion of the AFPB shall be final, unless within thirty (30) days after publication of the abstract a person affected thereby institutes a proceeding to review the opinion, in a manner provided by Article 78 of the Civil Practice Law and Rules.

- 4.4 An opinion of the AFPB that an agricultural practice is acceptable may be presented as evidence by any party in any proceeding for which the nature and character of the practice is relevant or material. An opinion that an agricultural practice is acceptable may be issued by the County Agricultural and Farmland Protection Board if, upon examination and review, such practice is found to be:
- 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 of cause injury to the health or safety of any person.
 - f. conducted in a manner which does not unreasonably obstruct the free passage or use of commercially navigable waters or public roadways.
- 4.5 Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to a failure to follow generally accepted agricultural practices, as outlined in this section or to maintain any action or proceeding and upon any theory of legal liability which such party is authorized to maintain pursuant to statute or at common law.

Section 5. Notification of Real Estate Buyers and Prospective Neighbors.

- 5.1 In order to promote harmony between farmers and their neighbors, the County requires land holders and /or their agents to comply with Section 333-c of the New York Real Property Law and Section 310 of Article 25-AA of the New York Agriculture 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 be limited to, activities that cause noise, dust, smoke, and odors."

- 5.2 A copy of this notice shall be included as an addendum to the purchase and sale contract at the time an offer to purchase is made.

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 effect the remainder of this local law. The County 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 7. Precedence.

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

Section 8. Effective Date.

This Local Law shall take effect immediately upon filing with the Secretary of State.

(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. 4 of 1999, of the County of Lewis was duly passed by the Lewis County Board of Legislators on October 5, 1999, 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 19__, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, 19__, and was approved, not disapproved, repassed after disapproval, by the _____, and was deemed duly adopted on _____, 19__, 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 19__, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, 19__, and was approved, not disapproved, repassed after disapproval, by the _____ on _____, 19__. 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 _____, 19__, in accordance with the applicable provisions of law.

4. (Subject to a 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 19__, of the County, City, Town, Village of _____ was duly passed by the _____ on _____, 19__, and was approved/not disapproved/repassed after disapproval by the _____ on _____, 19__. Such Local Law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 19__, 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.)

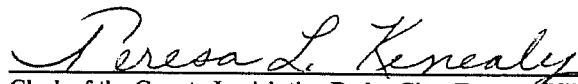
I hereby certify that the Local Law annexed hereto, designated as Local Law No. _____ of 19__, of the City of _____ having been submitted to referendum pursuant to the provisions of Section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special/general election held on _____, 19__, 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 19__, of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 19__, pursuant to the 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.


Clerk of the County Legislative Body, City, Town or Village
Clerk or officer designated by local legislative body
TERESA L. KENEALY, CLERK

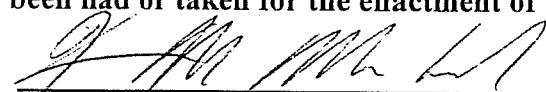
Date: Oct. 6, 1999

(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 LEWIS

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


Signature - KEVIN M. McARDLE, ESQ.
LEWIS COUNTY ATTORNEY

(Title)
County of Lewis
Date: October 6, 1999