

**Town of Smithville**

Local Law No. \_\_\_\_\_ of the year 2019

**Town of Smithville Right to Farm Law**

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

SECTION 2. Legislative Authority. This local law is enacted pursuant to the provisions of the Agricultural and Markets Law of the State of New York and the Municipal Home Rule Law of the State of New York.

SECTION 3. Legislative Intent and Purpose. It is the general purpose and intent of this Local Law to maintain and preserve the rural traditions and character of the Town of Smithville, 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 and restrictions. It is also recognized as desirable for farmers to be good neighbors.

SECTION 4. Definitions.

a) Unless specifically defined below, the words, phrases terminology used in this Local Law shall have the same definitions as contained in Section 301 of the State Agricultural and Markets Law as existing or hereinafter amended and in those instances where interpretation is still required such terminology, words and phrases shall be interpreted so as to give them the meanings they have in common usage and to give this local law its most reasonable application.

b) "Operator" shall mean a farmer and any person, organization, entity, association, partnership, limited liability company, or corporation engaged in "agricultural practices" as below herein defined, whether for profit or otherwise, for the production of "agricultural products" as below herein defined, including but not necessary limited to the cultivation of land, raising of crops, raising of livestock, and grazing of pasture.

c) "Farmland" shall mean land located within the Town of Smithville, Chenango County, New York, used primarily for bona fide "agricultural practices" as defined herein for the production of "agricultural products" as defined below herein and in section 301 (2) of the Agricultural and Markets Law as existing and as hereinafter amended. Farmland may consist of one or more parcels of owned or rented land, which parcels may be contiguous of noncontiguous to each other.

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 engaged by an "operator" as above defined herein, necessary for on-farm production, preparation, marketing, keeping or raising of "agricultural products" as above defined herein. Examples of such practices shall include, but not limited to, operation of farm equipment both on and off public highways, proper use of agricultural chemicals and other crop protection and fertilizer methods, including the spreading and ponding of manure in solids, semisolids or liquid forms, and the construction and use of farm or agricultural structures.

f) "Farm Operation" shall mean the land and on-farm buildings, equipment, manure processing and handling facilities, practices which contribute to the production, preparation, and marketing of "agricultural products" as above defined herein, whether for profit or otherwise and including a horse boarding or horse breeding operations, whether for profit or otherwise. Such farm operations may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

SECTION 5. Right of Farm. Operators and farmers as above defined herein, as well as those employed, retained, or otherwise authorized to act on behalf of an operator or farmer, may lawfully engage in "agricultural practices" and engage in "farm operations" as above defined herein upon "farmland" as above herein, located within the Town of Smithville, Chenango County, New York, at any and all such times and all such locations as are reasonable and necessary to conduct and engage in "agricultural practices" and "farm operations", as above defined herein. 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 and farm operations on farmland shall not be found to be a public or private nuisance if such agricultural practices and farm operations 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 unreasonably obstruct the free passage or use of navigable waters or public roadways.

SECTION 6 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 Smithville.

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 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 which 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 7. Protection of Rights.

The provisions of Section 6 shall not affect or defeat the right of any person, firm, or corporation or other entity to recover damages for any personal injuries or property damages suffered or incurred by them on account of any pollution of, or change in condition of, the waters of any stream or on the account of any overflow of lands of any such person, firm, or corporation.

#### SECTION 8. Resolution of Disputes.

Should any controversy arise regarding any inconveniences of discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between parties involved, either party may submit the controversy to the Town of Smithville Town Board. The Town of Smithville Town Board shall be responsible for contacting the New York State Agricultural Mediation Program (NYSAMP) officials whose jurisdiction includes the Town of Smithville.

#### SECTION 9. Construction 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 are therefore continued in full force and effect and 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 Smithville, which may now or hereafter obtain.

#### SECTION 10. 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 Local Law. The Town of Smithville 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 if invalid.

SECTION 10. Effective Date

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