

LAID ON DESKS 6/10/19

GOVERNMENT SERVICES & ADMINISTRATION

RESOLUTION NO. 2019178

RE: LOCAL LAW NO. 3 OF 2019, A LOCAL LAW ESTABLISHING A
RIGHT-TO-FARM LAW

Legislators PULVER, MICCIO, SAGLIANO, BOLNER, HORTON, HOUSTON,
INCORONATO, TRUITT, SURMAN, and GARITO offer the following and move its adoption:

RESOLVED, that the Legislature of the County of Dutchess adopts Local Law No. 3
of 2019, which has been submitted this date for consideration by said Legislature.

APPROVED

MARCUS J. MOLINARO
COUNTY EXECUTIVE
Date Aug. 1, 2019

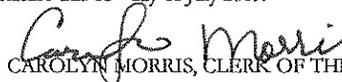
STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 15th day of July 2019, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 15th day of July 2019.


CAROLYN MORRIS, CLERK OF THE LEGISLATURE

RE: LOCAL LAW NO. 3 OF 2019, A LOCAL LAW ESTABLISHING A
RIGHT-TO-FARM LAW

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF
DUTCHESS, STATE OF NEW YORK AS FOLLOWS:

Section 1. Legislative Intent and Purpose.

The Dutchess County Legislature recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment, and quality of life in Dutchess County.

The Legislature declares that it shall be the policy of this County to encourage agriculture and foster understanding by all residents of the necessary day-to-day operations involved in farming, so as to encourage cooperation with those practices.

It is the general purpose and intent of this law to maintain and preserve the agricultural character of the County, to protect the existence and operation of farms, to permit the continuation of Agricultural Practices, to encourage the initiation and expansion of farms and agribusiness, and to promote new ways to resolve disputes concerning Agricultural Practices and Farm Operations.

The County encourages and supports local adoption of the agricultural data statement requirements as prescribed in New York State Department of Agriculture and Markets Law Article 25-AA, Section 305-b.

In order to maintain a vibrant farming economy in the County of Dutchess, it is necessary to limit 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.

- (a) "Agribusiness" shall mean a business involved in the producing operations of a farm - the manufacture or distribution of farm equipment, farm supplies, the processing, storage, or distribution of farm commodities.
- (b) "Agricultural Practices" shall mean those practices necessary for the production, preparation, and marketing of Agricultural Products. Practices include but are not limited to: operation of farm equipment, crop production methods, the proper use of pest and disease management practices, and the construction and use of farm structures.
- (c) "Agricultural Products" shall mean those products as defined in Article 25-AA, Section 301(2) of the New York State Department of Agriculture and Markets Law.
- (d) "Farming" shall mean the act of engaging in a Farm Operation and/or Agricultural Practices.
- (e) "Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of farming, including but not limited to: the cultivation of land, the raising of crops, or the raising of livestock.
- (f) "Farm Operation" shall be defined in accordance with Article 25-AA, Section 301(11) of the New York State Department of Agriculture and Markets Law.

- (g) "Right-to-Farm Dispute Resolution Committee" (or Committee) shall mean the Chair of the Dutchess County Agricultural and Farmland Protection Board (or their representative from the Agricultural and Farmland Protection Board), the Dutchess County Department of Planning and Development Commissioner (or their representative) and one (1) representative from the New York State Agricultural Mediation Program.

Section 3. Right-to-Farm Declaration.

- (a) Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may always lawfully engage in Agricultural Practices on property enrolled in a State-certified agricultural district within the County at all times.
- (b) Agricultural Practices shall not be found to be a public or private nuisance if such Agricultural Practices are:
 - (1) Conducted on property enrolled in a State-certified agricultural district;
 - (2) Conducted in conformity with generally accepted and sound Agricultural Practices;
 - (3) Conducted in a manner which is reasonable and necessary to the particular Farm Operation,
 - i. The time, place, methodology, and traditional customs and procedures in the Farming industry and advances resulting from increased knowledge, research, and improved technologies shall be considered when determining the reasonability and necessity;
 - (4) Conducted in a manner which is not negligent or reckless;
 - (5) Conducted in conformity with all local, state, and federal laws and regulations;
 - (6) Conducted in a manner which does not constitute a threat to public health and safety or cause injury to the health or safety of any person;
 - (7) Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.
- (c) Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound Agricultural Practices, as outlined in this section.

Section 4. Resolution of Disputes.

- (a) A Farming activity related complaint, which cannot be settled by direct negotiation between the parties involved, may be submitted to the Right-to-Farm Dispute Resolution Committee in an attempt to resolve the matter prior to or, if desired, alternatively to the filing of any court action or request for a determination by the Commissioner of the New York State Department of Agriculture and Markets about whether the Agricultural Practice in question is sound pursuant to Article 25-AA, Section 308 of the New York State Department of Agriculture and Markets Law.
- (b) Any dispute shall be submitted in writing to the Committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the dispute or the date the party became aware of the occurrence.
- (c) The Committee may investigate the facts of the dispute and shall within twenty-five (25) days of receipt of a complaint, hold a meeting at a mutually agreed place and time to consider the merits of the matter.

- (d) During the meeting the Committee shall endeavor to have a full discussion of the dispute after a complete presentation of all pertinent facts concerning the dispute, in order to eliminate any misunderstandings and to enhance the effectiveness of the Committee as a forum for the resolution of disputes. The parties are encouraged to cooperate in the exchange of pertinent information concerning the dispute.
 - (1) Both parties shall have an opportunity to present what each consider to be pertinent facts.
- (e) 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.
- (f) Within ten (10) business days of the meeting, the Committee shall render a written decision to the parties.
- (g) The time limits provided in this Section for action by the Committee may be extended upon a written agreement of all parties involved in the dispute.
- (h) Any reasonable costs associated with the function of the Committee process shall be borne by the participants.
- (i) To encourage the use of this mechanism to resolve disputes, the parties requesting to utilize this dispute resolution process shall stipulate, in writing, that the statements made during the process shall be deemed to be in the nature of settlement discussions and that such statements and any agreement reached as part of the dispute resolution process shall not be used for evidentiary purposes in any other action or proceeding.
- (j) The decision of the Committee shall not be binding.

Section 5. Notification to Real Property Buyers.

- (a) The prospective grantor shall comply with Article 25-AA, Section 310 of the New York State Department of Agriculture and Markets Law, which requires that a disclosure notice be provided to the prospective grantee of real property located partially or wholly within an agricultural district.
- (b) When any purchase and sale contract is presented for the sale, purchase, or exchange of real property located within five hundred (500) feet of the boundary lines of real property enrolled in an agricultural district, the prospective grantor shall present to the prospective grantee a disclosure notice.
 - (1) Said disclosure notice shall be found in Article 25-AA, Section 310 paragraph 1 of the New York State Department of Agriculture and Markets Law: "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 disclosure 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 and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law."

- (c) Receipt of such notice shall be recorded on a Property Transfer Report form prescribed by the Commissioner of Taxation and Finance as provided for in Section 333-c of the Real Property Law.

SECTION 6. SEQRA Determination.

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 NYECL Section 0101 et seq., and its implementing regulations, Part 617 of 6 NYCRR, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c) (20) and (27) of 6 NYCRR, and, accordingly, is of a class of actions which do not have a significant impact on the environment and no further review is required." [6NYCRR Section 617.5(c) (20) and (27) apply to: "(20) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment" and "(27) adoption of regulations, policies, procedures, and local legislative decisions in connection with any action on this list"]

Section 7. Severability Clause.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 8. Precedence.

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

Section 9. Effective Date.

This Local Law shall be effective immediately upon filing with the New York State Secretary of State.

FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost \$ _____

Total Current Year Revenue \$ _____
and Source

Source of County Funds *(check one)*: Existing Appropriations, Contingency,
 Transfer of Existing Appropriations, Additional Appropriations, Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount \$ _____

Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____
Over Five Years: _____

Additional Comments/Explanation:

Prepared by: Nicholas Joseph, Assistant to the Chairman

Prepared On: 6/7/2019

Wager, Leigh

From: Joseph, Nick
Sent: Thursday, June 20, 2019 4:43 PM
To: Black, Hannah; Morris, Carolyn
Cc: Kristofer Munn; Pulver, Gregg; Wager, Leigh
Subject: RE: Local Law Laid on Desks on June 10th

Hi Hannah-

I don't have links to them but here is the list of Counties who have Right-to-Farm.

County	Local Law
Albany	Yes
Allegany	No
Bronx	No
Broome	No
Cattaraugus	Yes
Cayuga	No
Chautauqua	Yes
Chemung	No
Chenango	No
Clinton	Yes
Columbia	Yes
Cortland	No
Delaware	Yes
Dutchess	No
Erie	Yes
Essex	No
Franklin	No
Fulton	No
Genesee	No
Greene	Yes
Hamilton	Yes
Herkimer	No
Jefferson	Yes
Kings	No
Lewis	No
Livingston	No
Madison	No
Monroe	No
Montgomery	No
Nassau	No
New York	No
Niagara	Yes

Oneida	No
Onondaga	No
Ontario	No
Orange	Yes
Orleans	No
Oswego	No
Otsego	No
Putnam	No
Queens	No
Rensselaer	No
Richmond	No
Rockland	No
Saratoga	No
Schenectady	No
Schoharie	No
Schuyler	Yes
Seneca	No
St Lawrence	Yes
Steuben	Yes
Suffolk	No
Sullivan	No
Tioga	No
Tompkins	No
Ulster	No
Warren	No
Washington	No
Wayne	No
Westchester	No
Wyoming	Yes
Yates	No

From: Hannah Black <hblackdc4@gmail.com>
Sent: Thursday, June 20, 2019 1:44 PM
To: Morris, Carolyn <cmorris@dutchessny.gov>
Cc: Joseph, Nick <njoseph@dutchessny.gov>; Kristofer Munn <kmunn@munn.com>; Pulver, Gregg <gpulver@dutchessny.gov>; Wager, Leigh <lwager@dutchessny.gov>
Subject: Re: Local Law Laid on Desks on June 10th

Hi Carolyn,

Thank you for sending this to me. The article by the Mid-Hudson News references that other counties in NY have Right to Farm laws. Unfortunately, other Counties weren't listed specifically. Could you please kindly have someone, perhaps Nick Joseph, Karen Hagstrom, or one of the sponsors of this local law send me links and/or digital copies to the other counties in NY that have Right to Farm local laws? Thank you so much!

Best,

The foregoing Resolution No. 2019178, LOCAL LAW NO. __ of 2019, A LOCAL LAW ESTABLISHING A RIGHT-TO-FARM LAW, was laid on desks on June 10, 2019, and considered on ____, 2019.

Roll call vote at that time resulted as follows:

AYES:

NAYS:

ABSENT:

The County Executive held a public hearing on the foregoing Local Law on ____, 2019 and signed it into Law on the same day. The effective date of the Local Law was ____, 2019.

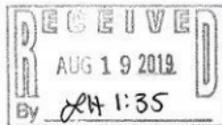
STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
WWW.DOS.NY.GOV

ANDREW M. CUOMO
GOVERNOR

ROSSANA ROSADO
SECRETARY OF STATE

August 15, 2019

Dutchess County Legislature
22 Market Street
Poughkeepsie, NY 12601



RE: County of Dutchess, Local Law 3 2019, filed on 8/8/2019

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.state.ny.us.

Sincerely,
State Records and Law Bureau
(518) 474-2755



Department
of State

Government Services and Administration Roll Call

<i>District</i>	<i>Name</i>	<i>Yes</i>	<i>No</i>
District 19 - Towns of North East, Stanford, Pine Plains, Milan	Pulver*		
District 2 - Towns of Pleasant Valley and Poughkeepsie	Sagliano*	<i>absent</i>	
District 13 - Towns of LaGrange, East Fishkill, and Wappinger	Bolner*		
District 4 - Town of Hyde Park	Black*		
District 20 - Town of Red Hook/Tivoli	Munn*		
District 1 - Town of Poughkeepsie	Llaverias	<i>absent</i>	
District 3 - Town of LaGrange	Borchert		
District 7 - Towns of Hyde Park and Poughkeepsie	Truitt (C)		
District 11 - Towns of Rhinebeck and Clinton	Kearney		
District 14 - Town of Wappinger	Amparo		
District 22 - Towns of Beekman and Union Vale	Garito		
District 25 - Towns of Amenia, Washington, Pleasant Valley	Houston (VC)		
Present:	<u>10</u>	Resolution:	<input checked="" type="checkbox"/>
Absent:	<u>2</u>	Motion:	<input type="checkbox"/>
Vacant:	<u>0</u>	Total :	<u>10</u> <u>0</u>
			Yes No
		Abstentions:	<u>2</u>

019178 A LOCAL LAW ESTABLISHING A RIGHT-TO-FARM LAW

July 11, 2019

Roll Call Sheets

District	Last Name	Yes	No
District 19 - Towns of North East, Stanford, Pine Plains, Milan	Pulver	✓	
District 2 - Towns of Pleasant Valley and Poughkeepsie	Sagliano		
District 13 - Towns of LaGrange, East Fishkill, and Wappinger	Bolner		
District 4 - Town of Hyde Park	Black		
District 20 - Town of Red Hook/Tivoli	Munn		
District 1 - Town of Poughkeepsie	Llaverias		
District 3 - Town of LaGrange	Borchert		
District 5 - Town of Poughkeepsie	Keith		
District 6 - Town of Poughkeepsie	Edwards		
District 7 - Towns of Hyde Park and Poughkeepsie	Truitt		
District 8 - City and Town of Poughkeepsie	Brendli	<i>absent</i>	
District 9 - City of Poughkeepsie	Johnson		
District 10 - City of Poughkeepsie	Jeter-Jackson		
District 11 - Towns of Rhinebeck and Clinton	Kearney		
District 12 - Town of East Fishkill	Metzger		
District 14 - Town of Wappinger	Amparo		
District 15 - Town of Wappinger	Incoronato		
District 16 - Town of Fishkill and City of Beacon	Zernike		
District 17 - Town and Village of Fishkill	Miccio	<i>absent</i>	
District 18 - City of Beacon and Town of Fishkill	Page	<i>absent</i>	
District 21 - Town of East Fishkill	Horton		
District 22 - Towns of Beekman and Union Vale	Garito		
District 23 - Towns of Pawling, Beekman and East Fishkill	Thomes		
District 24 - Towns of Dover and Union Vale	Surman		
District 25 - Towns of Amenia, Washington, Pleasant Valley	Houston		

Present: 22
 Absent: 3
 Vacant: 0

Resolution: ✓
 Motion:

Total: 22 0
 Yes No
 Abstentions: 0

19178 A LOCAL LAW ESTABLISHING A RIGHT-TO-FARM LAW

July 15, 2019