

LOCAL LAW NO. 1 OF THE YEAR 1994

Town of Hebron
RIGHT TO FARM LAW

Section 1. Findings and Policy.

(a) It is the declared policy of this Town to enhance and encourage agricultural operations within the Town. It is the further intent of this Town to provide to the residents of this Town proper notification of the Town's recognition and support through this law of those persons' and/or entities' right to farm.

(b) Where non-agricultural land uses extend into agricultural areas or exist side by side, agricultural operations frequently become the subjects of nuisance complaints due to lack of information about such operations. As a result agricultural operators are forced to cease or curtail their operations. Such actions discourage investments in farm improvements to the detriment of adjacent agricultural uses and the economic viability of the Town's agricultural industry as a whole. It is the purpose and intent of this section to reduce the loss to the Town of its agricultural industry as a whole. It is the purpose and intent of this section to reduce the loss to the Town of its agricultural resources by clarifying the circumstances under which agricultural operations may be considered a nuisance. This law is not to be construed as in any way modifying or abridging any New York State Law or any other applicable provisions of State law relative to nuisances, rather it is only to be utilized in the interpretation and enforcement of the provisions of this Town Law.

(c) An additional purpose of this law is to promote a "good neighbor" policy by advising purchasers and users of property adjacent to or near agricultural operations of the inherent potential problems associated with such purchase or residence. Such concerns may include, but are not limited to, the noises, odors, dust, chemicals, smoke, and hours of operation that may accompany agricultural operations. It is intended that, through mandatory disclosures, purchasers and users will better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.

Section 2. Authority.

Under Section 10 of the Municipal Home Rule Law the Town of Hebron adopts the Right to Farm Law.

Section 3. Definitions.

As used in this Law No. 1 of 1994:

(a) "Agricultural Land" shall mean all the real property within the boundaries of the Town of Hebron currently used for agricultural operations or upon which agricultural operations may in the future be established.

(b) "Agricultural Farm Operation" shall mean any person, organization, entity, association, partnership or corporation engaged in the business of agriculture, whether for profit or otherwise.

(c) "Agricultural Practices" shall mean any activity including the cultivation of land, the raising of crops, the raising of livestock, poultry, horticulture, timber, agriculture and fur bearing animals, or maple sugar processing. Further, agricultural practices shall mean any activity now permitted by law, engaged in by a farmer as defined herein, in connection with and in furtherance of the business of farming and shall include, without limitation, the collection, transportation, distribution, and storage of animal and poultry wastes; storage, transportation, and use of equipment for tillage, planting, harvesting and marketing; transportation, storage and use of legally permitted fertilizers and limes, insecticides, herbicides, and pesticides all in accordance with local, state, and federal law and regulation and in accordance with the manufacturer's instructions and warnings; construction of farm structures and facilities as permitted by local and state building code regulation; construction and maintenance of fences.

(d) "Town" shall mean the Town of Hebron, Washington County, New York and its Town Board.

Section 4. Right To Farm.

Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town at any and all such times and at all locations to conduct the business of farming. For any activity or operation, 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 farming industry as well as to advances resulting from increased knowledge and improved technologies.

Section 5. Nuisance.

No agricultural activity, operation, or facility or appurtenances thereof, 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, herein and after referred to as accepted customs and standards, shall be or become a nuisance, private or public.

Section 6. Disclosure

The Town shall publish an abbreviated copy of the Law, including Section 1 and the disclosure statement in the local newspaper to draw attention to the existence of the Law.

(a) The disclosure statement required by this chapter shall be used under the following circumstances and in the following manners:

Upon any transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements of residential stock cooperative improvement with dwelling units the transferor shall require that a statement containing the language set forth in subpart (b) shall be signed by the purchaser or lessee and recorded with the County recorder in conjunction with the deed or lease conveying the interest in real property.

(b) The disclosure required by Section 6(a) is set forth herein, and shall be made on a copy of the following disclosure form.

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

[TO BE ANNEXED TO AND MADE A PART OF THE DEED AND/OR LEASE]

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE TOWN OF Hebron STATE OF NEW YORK. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED REAL PROPERTY AND MAY APPLY TO THIS LOCAL LAW NO. 1 OF 1994 OF THE TOWN OF Hebron AS OF APRIL 11, 1994. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN. THIS DISCLOSURE IS IN ADDITION TO ALL OTHER APPLICABLE LAWS, RULES AND REGULATIONS.

SELLERS INFORMATION

In order to promote harmony between farmers and their new neighbors, the Town of Hebron requires land holders and/or their agents and assigns to provide notice to prospective purchasers and occupants as follows:

"This property is within the Town of Hebron It is the policy of the Town to conserve, protect and encourage the development and improvement of farm operations within our borders for the production of food and other products, as well as the aesthetic qualities inherent in agricultural operations and open land in general. If the property you are purchasing is located near agricultural lands or included in an agricultural district, you should be aware of the inherent potential conditions associated with such purchases or farm operations. Such conditions may include but are not limited to noise, odors, fumes, dust, smoke, insects, operation of machinery during any hour, day or night, storage and disposal of plant and animal waste products, and the application of chemical fertilizers, soil amendments, and crop protectants by ground spraying or other methods. Occupying land within the Town of Hebron means that one should expect and accept such conditions as a normal and necessary aspect of living in such an area.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Buyer _____ Date _____

Buyer _____ Date _____

Agent (Broker obtaining the Seller)

_____ By _____ Date _____

Agent (Broker obtaining the offer)

_____ By _____ Date _____

Section 7. Refusal to Sign Disclosure Statement.

If a Buyer refuses to sign the Disclosure Statement set forth in Section 6(b) the transferor may comply with the requirements of this chapter by delivering the statement to the Buyer as provided in Section 6(b) and affixing and signing the following declaration to the statement for recording with the County recorder in conjunction with the deed or lease as provided in Section 6(a).

I, _____, have delivered a copy of the foregoing disclosure statement as required by law to _____ who has refused to sign.

I declare the foregoing to be true.

Date _____ Sign _____
Print Name:

Section 8. Penalty for Violation.

Noncompliance with any provision of this chapter shall not affect title to real property, nor prevent the recording of any document. Any person who violates any provision of this chapter is guilty of an infraction punishable by a fine not less than twenty five dollars (\$25).

Section 9. Separability.

If any section, subsection, sentence, clause or phrase of this law is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of the law.

Section 10. Precedence.

This local law and the proscriptions set forth herein are in addition to all other applicable laws, rules and regulations.

Section 11. Resolution of Disputes.

(a) Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations, including, but not limited to noises, odors, fumes, dust, the operation of machinery of any kind during any hour of the day or night, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, the parties will submit the controversy to a grievance committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.

(b) Any controversy between the parties may be submitted to a grievance committee whose decision shall be advisory only, within thirty (30) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.

(c) The committee shall be composed of five (5) members selected from the community by the Town Board of which two (2) shall be active farmers, one (1) agribusinessman, one (1) Town Board member and one (1) member-at-large.

(d) The effectiveness of the grievance committee as a forum for 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 pertinent information concerning the controversy.

(e) The controversy shall be presented to the committee by written consent of one of the parties within the time specified. Thereafter the committee may investigate the facts of the controversy, but must, within thirty (30) days, hold a meeting to consider the merits of the matter and within twenty (20) days of the meeting render a written decision to the parties. At the time of the meeting both parties shall have an opportunity to present what each considers to be pertinent facts.

(f) The decision of the committee shall not be binding. If one of the parties is not satisfied with the committee's decision, upon agreement of both parties, the matter may be submitted to the Town Board according to the procedures set forth in subsection (g) below.

(g) Town Board Procedures:

(1) The controversy between the parties shall be submitted to the Town Board upon written agreement of both parties.

(2) The Town Board shall review the controversy with a report from the proceedings of the grievance committee. Within thirty (30) days of the written request the Town Board shall render a written decision to the parties.

Section 12. Filing.

This local law shall become effective upon filing with the Secretary of State.