

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.

Town of FORT ANN

Local Law No. 1 of the year 20 07

A local law known as the Right to Farm Law

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
City

of TOWN OF FORT ANN as follows:

Town
Village

PLEASE SEE COPY OF LOCAL LAW ATTACHED IN ITS ENTIRETY

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

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

(Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 07 of ~~(County) (City) (Town) (Village)~~ of FORT ANN was duly passed by the TOWN BOARD OF THE TOWN OF FORT ANN on June 11, 2007 in accordance with the applicable ~~(name of Legislative body)~~ provisions of law.

~~(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 20 of ~~(County) (City) (Town) (Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) ~~(name of Legislative body)~~ passed after disapproval) by the _____ and was deemed duly adopted ~~(Elective Chief Executive Officer*)~~ _____ 20____, in accordance with the applicable provision of law.

(Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 of ~~(County) (City) (Town) (Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) ~~(name of Legislative body)~~ passed after disapproval) by the _____ on _____ 20____ ~~(Elective Chief Executive Officer*)~~

~~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 _____ 20____, in accordance with the applicable provisions of law.~~

~~(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 ~~(County) (City) (Town) (Village)~~ of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) ~~(name of Legislative body)~~ passed after disapproval) by the _____ on _____ 20____. Such local ~~(Elective Chief Executive Officer*)~~

~~law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 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.

~~(City local law concerning Charter revision proposed by petition.)~~

whereby 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 26(37)
Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of
an city voting thereon at the (special) (general) election held on _____, 20 ____, became operative.

~~(County local law concerning adoption of Charter.)~~

whereby 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 32 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 town 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.)~~

further certify that I have compared the preceding local law with the original on file in this office and that the same is
correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner
indicated in paragraph 1 _____, above.

Mary Jane Godfrey

Mary Jane Godfrey, Town Clerk

Clerk of the county legislative body, City, town or Village Clerk or officer designated by
local legislative body

Date: 6/11/07

Seal)

certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or
authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF WASHINGTON

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.

FitzGerald Morris Baker Firth, P.C.,

By

John D. Aspland

John D. Aspland, Esq.
Counsel to the Town

County

City

of FORT ANN

Town

Village

Date: 6/11/07

**TOWN BOARD OF THE TOWN OF FORT ANN
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Resolution Number 42 of 2007
Adopted June 11, 2007

Introduced by Inez A. Mattison
who moved its adoption.

Seconded by Duane A. Burch

**RESOLUTION ADOPTING PROPOSED LOCAL LAW KNOWN AS THE
RIGHT TO FARM LAW IN THE TOWN OF FORT ANN**

WHEREAS, the Town scheduled a public hearing to be held before the Town Board on June 11, 2007 at 7:05 p.m. at the Offices of the Town of Fort Ann, 80 George Street, Fort Ann, New York, to hear all interested parties regarding the adoption of a proposed local law establishing Right to Farm legislation in the Town; and

WHEREAS, notice of said public hearing was duly posted and then published in *The Post Star*, the official newspaper of the Town, on May 18, 2007; and

WHEREAS, said public hearing was duly held and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to the proposed local law.

NOW, THEREFORE BE IT RESOLVED by the Town Board of the Town as follows:

- Section 1. The Town Board, upon due deliberation of proposed local law finds that the adoption of the proposed local law is in the best interests of the Town.
- Section 2. The proposed local law entitled "Right to Farm Law in the Town of Fort Ann" and to also be referred to Local Law No. 1 of 2007 is hereby adopted, a copy of which is attached hereto and made a part hereof.
- Section 3. Pursuant to and in accordance with the Municipal Home Rule Law, the Town Clerk is hereby directed to enter this Local Law into the minutes of this meeting and file the same with the Office of the Secretary of State of the State of New York.

Section 4. This resolution shall take effect immediately.

PRESENT:

Gayle A. Hall, Supervisor
Duane Burch, Councilman
~~Harold Fuller, Councilman~~
Inez Mattison, Councilwoman
Bruce K. Whitney, Councilman

AYES:

4

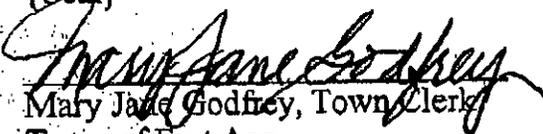
NAYS:

0

ABSENT:

1 Harold R. Fuller, Councilman

{Seal}


Mary Jane Godfrey, Town Clerk
Town of Fort Ann

**TOWN BOARD OF THE TOWN OF FORT ANN
COUNTY OF WASHINGTON, STATE OF NEW YORK**

**A LOCAL LAW ESTABLISHING RIGHT TO FARM LEGISLATION IN THE
TOWN OF FORT ANN
LOCAL LAW 1 OF 2007**

Section 1. Legislative Intent and Purpose.

The Board recognizes that farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Fort Ann. Therefore, the Town Board of Fort Ann finds and declares that this Town encourages its agriculture and urges understanding of and cooperation with the necessary day to day operations involved in farming.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusinesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in Fort Ann, 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.

1. "Farmland" shall mean land used in agricultural production, as defined in subdivision four of section 301 of Article 25AA of the New York State Agriculture and Markets Law.

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 crops, or the raising of livestock.

3. "Agricultural products" shall mean those products as defined in section 301(2) of Article 25AA of the Agriculture and Markets Law, including but not limited to:

- a. Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries and berries.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, 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 products, including fish, fish products, water plants and shellfish.
- i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.

4. Farm woodland includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.

5. "Agricultural practices" shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, and construction and use of farm structures and fences.

6. "Farm operation" shall be defined in section 301(11) in the State Agriculture and Markets Law.

Section 3. Right-to-Farm Declaration.

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Fort Ann at all such times and all such locations 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 increased knowledge and improved technologies.

Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

- 1. reasonable and necessary to the particular farm or farm operation,
- 2. conducted in a manner which is not negligent or reckless,
- 3. conducted in conformity with generally accepted and sound agricultural practices,
- 4. conducted in conformity with all local state, and federal laws and regulations,
- 5. 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
- 6. conducted in manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

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.

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/or deliberately interfere with, prevent, or in any way deter the practice of farming within the Town of Fort Ann. Such actions may constitute an offence, punishable by law with a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred fifty dollars (\$150.00) for each day's violation or continuance of violation.

In addition, an action to restrain or enjoin any violation of this Local Law may be brought in a court of competent jurisdiction by any person and/or the Town of Fort Ann aggrieved by such violation.

Section 4. Notification of Real Estate Buyers and Prospective Neighbors.

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25-AA of the Agriculture and Markets Law, therefore, when any purchase and sale contract is presented for the sale, purchase, or exchange of real property located partially or wholly within an agricultural district the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:

"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."

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.

Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase or exchange of such real property.

Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the state board of real property services as provided for in section 333 of the Real Property Law.

In addition, this notice shall be included in building permits, on plats of subdivision submitted for approval pursuant to Town Law section 276, and on mobile home park and site plan projects.

Section 5. Resolution of Disputes.

a. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commissioner of Agriculture and Markets about whether the practice in question is sound pursuant to Section 308 of Article 25 AA of the State Agriculture and Markets Law.

b. Any controversy between the parties shall be submitted to the committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.

c. The Committee shall be appointed by the Town Board and will consist of five (5) members. At least three (3) of these members shall be residents of the Town of Fort Ann, two of the three will be from an agricultural related business and the other from a nonagricultural related background. Selection of the two members may be at-large from within Washington County, such as a county extension agent or other county official. The original appointments shall have terms of two for one year, two for two years and one for three years. Thereafter members will be appointed annually for a three year term.

d. The effectiveness of the 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 pertinent information concerning the controversy.

e. The controversy shall be presented to the committee by written request of one of the parties within the time limits 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 ten (10) 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. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.

f. Any reasonable costs associated with the functioning of the committee process shall be borne by the participants.

g. 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 below.

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 submitted from the proceedings of the grievance committee. Within twenty (20) days of the written request the Town Board shall render a written decision to the parties.

Section 6. 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 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 be effective immediately upon filing with the Town of Fort Ann and the Secretary of State pursuant to Section 27 of Municipal Home Rule Law.

**NOTICE OF ADOPTION
OF TOWN OF
FORT ANN
RIGHT TO FARM LAW**

**PLEASE TAKE
NOTICE** that the Town
Board of the Town of
Fort Ann, at the Public
Hearing June 11, 2007,
adopted a local law
entitled "A LOCAL LAW
ESTABLISHING RIGHT
TO FARM LEGISLATION
IN THE TOWN OF
FORT ANN." Anyone
may view said Local
Law at the Town Hall,
80 George Street, Fort
Ann, New York Monday
through Friday during
regular business hours.

Mary Jane Godfrey,
Fort Ann Town Clerk
Pub: Aug. 1, 2007

Post Star

FITZGERALD MORRIS BAKER FIRTH P.C.
Attorneys and Counselors

ROBERT C. MORRIS
CARL T. BAKER
J. MARK NOORDSY
LAURA V. NIBLD
JOHN D. ASPLAND, JR.
MATTHEW F. FULLER
LAWRENCE ELMEN
NIKKI J. MORESCHI
MARTIN A. COHEN
KARA I. LAIS
WILLIAM A. SCOTT
MICHAEL D. DEZIK
JEFFREY R. MEYER
JULIE M. FRANCES

One Broad Street Plaza, P.O. Box 2017
Glens Falls, New York 12801
Telephone (518) 745-1400

Facsimile (518) 745-1576
Service By Fax Not Accepted

E-mail: kil@fmbf-law.com
www.fmbf-law.com

June 18, 2007

Of Counsel

PETER A. FIRTH
PETER D. FITZGERALD
G. THOMAS MOYNIHAN, JR.
Supreme Court Justice, NY, Retired

Washington County Office
3019 State Route 4
Hudson Falls, New York 12839
(518) 746-0840

New York State Department of State
State Records and Law Bureau
41 State Street
Albany, New York 12231

RE: Town of Fort Ann, New York
Adoption of Local Law #1 of 2007

Sirs/Madams:

Please find enclosed a Local Law Filing Form submitted in connection with the adoption of Local Law Number #1 of 2007 for the Town of Fort Ann (the "Town") known as the Right to Farm Law. This Local Law was adopted by the Town Board of the Town on June 11, 2007.

Please forward your acknowledgment for receipt of this Local Law Filing Form to my attention at your earliest convenience. Thank you for your assistance.

Very truly yours,

Kara I. Lais

KIL/dld
enclosure

cc: Hon. Gayle A. Hall, Supervisor (w/o enc.)
Mary Jane Godfrey, Town Clerk (w/ enc.)

COPY FOR YOUR RECORDS

RECEIVED 04-14-'16 11:23 FROM- 5186423994 TO- Washington CO. LDC P0012/0013



STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

ELIOT SPITZER
GOVERNOR

July 10, 2007

LORRAINE A. CORTÉS-VÁZQUEZ
SECRETARY OF STATE

Kara I Lais
Fitzgerald Morris Baker Firth PC
One Broad Street Plaza, PO Box 2017
Glens Falls NY 12801

RE: Town of Fort Ann, Local Law No. 1, 2007, filed on June 19, 2007

Dear Sir/Madam:

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

Sincerely,
Linda Lasch
Principal Clerk
State Records and Law Bureau
(518) 474-2755