

**LOCAL LAW NO. 1
OF 2008
OF THE TOWN OF SHELDON**

**A LOCAL LAW OF THE TOWN OF SHELDON
ESTABLISHING THE RIGHT TO FARM LEGISLATION**

SECTION 1 - TITLE

This Local Law shall be known and cited as, "*A Local Law of the Town of Sheldon Establishing the Right to Farm Legislation.*"

SECTION 2 - LEGISLATIVE INTENT AND PURPOSES

The Sheldon Town Board finds, declares and determines that agriculture is vital to the Town of Sheldon, New York, because it is a livelihood and provides employment for agri-service; provides locally produced fresh commodities; agricultural diversity promotes economic stability; agriculture maintains open space and promotes environmental quality; and agricultural land does not increase the demand for services provided by local governments. In order to maintain a viable farming economy in the Town of Sheldon, farmers must be afforded protection allowing them the right to farm. When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operation or are discouraged from making investments in agricultural improvements.

It is the purpose of this law to reduce the loss to the Town of Sheldon of its agricultural resources 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 3 - DEFINITIONS

- a. "Agricultural Practices" shall mean all activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm, and the on-farm production, processing and marketing of agricultural products including, but not limited to, the collection, transportation, distribution, storage and land application of animal wastes; storage, transportation and use of equipment for tillage, planting, harvesting, irrigation, fertilization and pesticide application; storage and use of legally permitted fertilizers, limes and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use, and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides fertilizers, agricultural products, and livestock for the sale of agricultural products and for the use of farm labor as permitted by local and state building codes and regulations; including the construction and maintenance of fences.
- b. "Agricultural Products" shall mean those products as defined in Section 301(2) of Article Twenty-five-AA (25-AA) of the Agriculture and Markets Law.
- c. "Farm" shall mean the land, buildings, farm residential buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.

- d. "Farmer" shall mean any person, organization, entity, association, partnership or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur bearing animals, or fish, the harvesting of timber or the practicing of horticulture or apiculture.
- e. "Generally Accepted Agricultural Practices" shall mean those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in Section 2(a) entitled "agricultural practices".
- f. Unless specifically defined, the above words or phrases used in this Local Law shall be interpreted so as to give them meanings they have in common usage, and to give this Local Law its most reasonable application.

SECTION 4 - 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 Sheldon at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture. For any agriculture 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 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 a manner that does not unreasonably obstruct the free passage or use of navigable waters or public roadway

Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to failure to follow sound agricultural practices, as set forth in this section.

SECTION 5 - SEVERABILITY CLAUSE

If for any part of the Local Law is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law.

SECTION 6 - NOTIFICATION OF REAL ESTATE BUYERS

In order to promote harmony between farmers and their new neighbors, the Town of Sheldon requires landholders and/or their agents and assigns to provide notice to prospective purchasers and occupants as follows: "This property is within the Town of Sheldon. It is the policy of the Town to conserve, protect, and encourage the development of farm operations within our borders for the production of food and other products and one should be aware of the inherent

potential conditions associated with such purchases or residence. 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 applications of chemical fertilizers, soil amendments, herbicides, and pesticides by ground or aerial spraying or other methods. Occupying land within the Town of Sheldon means that one should expect and accept such conditions as a normal and necessary aspect of living in such an area."

SECTION 7 - RESOLUTION OF DISPUTES

Any issue of controversy that arises which cannot be resolved directly between the parties involved, and is not addressed by other laws or regulations, may be promptly and inexpensively resolved by referral to the Right to Farm Committee for open hearing and recommendations. The Right to Farm Committee will consist of the members of the Planning Board and two appointed individuals; one from the Town Board and one from the Zoning Board of Appeals; each having a different representation of Residential vs. Agricultural. The right to Farm Committee will act as a grievance committee as a whole. Any controversy between the parties shall be submitted to the Right to Farm Committee within thirty (30) days of the occurrence and placed on their agenda for the next regularly scheduled Committee Meeting, and in the absence of the same, schedule within thirty (30) days of the receipt of the submission of the controversy to the Committee.

SECTION 8 - EFFECTIVE DATE

This Local Law shall be effective immediately upon acceptance by the Sheldon Town Board and filing with the New York State Secretary of State.