

TOWN OF COVENTRY

Local Law No. 1 of the year 2009

Town of Coventry Right To Farm Law

SECTION 1. Title.

This local law shall be known as the Town of Coventry Right to Farm Law.

SECTION 2. Legislative Intent and Purpose.

The Town Board recognizes that farming is an essential enterprise and an important industry that enhances the economic base, natural environment and quality of life in the town of Coventry. The town board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day to day operations involved in farming in order to encourage cooperation with those practices.

It is the general purpose and intent of this Local Law to maintain and preserve the rural traditions and character of the Town of Coventry, 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 that 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 or restrictions. It is also recognized that it is desirable for farmers to be good neighbors.

SECTION 3. Definitions.

1. "Farmland" shall mean land used primarily for bona fide agricultural production of those items and products as defined in Article 25AA, section 301(4) of the State Agriculture and Markets Law
2. "Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or cooperation 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 Article 25AA, section 301(2) of the State Agricultural 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, llamas, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk and milk products, eggs, furs, and poultry.
 - f. Maple sap and sugar products.
 - 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. Short rotation woody crops raised bio-energy.
 - j. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.
4. **“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 production methods, and construction and use of farm structures and fences.
 5. **“Farm Operation”** shall be as defined in Article 25AA, section 301(11) of the State Agricultural and Markets Law.
 6. **“Mediation”** shall mean a voluntary and consensual process in which farmers and others involved in a dispute concerning agricultural practices or farm operations, at their discretion and with the assistance of an impartial mediator, jointly seek to resolve differences and reach agreements.
 7. **“Mediator”** shall mean a person who has been certified as a mediator under the guidelines of the New York State Unified Court System dispute resolution centers program, and is familiar with disputes involving agricultural practices or farm operations, or a person who has equivalent qualifications or certification.

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 farming practices within this Town at any and all such times and all such locations as are reasonable and necessary to conduct the practice of farming. For any agricultural practice, in determining the reasonableness of time, place, and methodology of such practice, due weight 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 on farmland shall not be found to be 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 that 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 that does not constitute a threat to public health and safety or cause injury to the health or safety of any person.
6. Conducted in a manner that does not reasonably obstruct the free passage, or use of navigable waters, or public roadways.

SECTION 5. Interference Prohibited.

1. No person, group or entity, association, partnership, or corporation will engage in any conduct or act in any manner as to unreasonably, intentionally, knowingly, and deliberately interfere with, prevent, or in any way deter the reasonable practice of farming within the Town of Coventry.
2. 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 and safety. No commercial 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 that 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 for farming operation, place, establishment, or facility or any of its appurtenances.

SECTION 6. Protection of Rights.

1. The provisions of Section 5 shall not affect or defeat the right of any person, firm, or corporation to recover damages for any injuries or damages sustained by them on account of any pollution of, change in condition of the waters of any stream or on account of any overflow on lands on lands of such person, firm or corporation.

SECTION 7. Notification of Real Estate Buyers

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 d the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows:

“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 farming activities occur within the Town. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors.”

A copy of this notice shall be included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

SECTION 7. Resolution of Disputes.

Should any dispute arise regarding any inconveniences or discomfort occasioned by agricultural operations that cannot be settled by direct negotiation between the parties involved, the parties shall be referred to the New York State Agricultural Mediation Program or to the local community dispute resolution center for mediation services. Parties shall be encouraged to use mediation and/or non-binding arbitration to resolve their dispute prior to the filing of any court action and prior to a request for a determination by the Commission or Agriculture and Markets about whether the practice in question is sound pursuant to Section 308 of Article 25AA of the State Agriculture and Markets Law. If the dispute is not appropriate for mediation, or if the parties are unable to reach an agreement, then the parties should submit the controversy for non-binding arbitration by a committee as set forth below.

1. Any dispute 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 dispute or the date the party became aware of the occurrence.
2. The committee shall be composed of three (3) members from the County selected, as the need arises, including one from the Chenango County Farm Bureau, one person from the Cornell Cooperative Extension and one person to be mutually agree upon by the parties involved.
3. 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 dispute.
4. The controversy shall be presented to the committee by written request of one of the parties within the specified time limits. Thereafter, the committee may investigate the facts of the controversy, but must, within twenty five (25) days, hold a meeting at a mutually agreed upon place and time to consider the merits of the matter and within five (5) day 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 the pertinent facts. 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. 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.
5. Any reasonable cost associated with the function of the committee process shall be borne by the involved parties.

SECTION 8. Severability Clause.

If any part of this local law is for used for held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local law. The Town 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 or invalid.

SECTION 9. Precedence.

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

SECTION 10. Effective Date.

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

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

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2009 of the ~~(County)~~(City)~~(Town)~~(Village) of Coventry was duly passed by the Coventry Town Board on Sept. 9 2009, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (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. 1 of 2009 of the ~~(County)~~(City)~~(Town)~~(Village) of Coventry was duly passed by the Board of Trustees on Sept. 9 2009, and was (approved)(not approved)(repassed after disapproval) by the Coventry Town Board and was deemed duly adopted on Sept. 9 2009, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such 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 on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (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 the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* 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 chairperson 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.

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

I hereby 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 (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

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

I hereby 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 33 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 towns 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.)

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

Theresa A. Schulteis

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

Theresa A. Schulteis

(Seal)

Date: Sept 9, 2009

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

STATE OF NEW YORK
COUNTY OF Chenango

I, 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.

Signature Robert M. Larkin

Town Attorney

Title

~~CITY~~
~~CNY~~
Town
~~VILLAGE~~

of CovenTry

Date: Sept 9, 2009