November 15, 2001

BRENDA K. MORI
STEUBEN COUNTY LEGISLATURE
3 EAST PULTENNEY SQUARE
BATH, NY 14810


A local law Establishing the Right-to-Farm Law of Steuben County.

Be it enacted by the LEGISLATURE of the County of STEUBEN as follows:

RIGHT-TO-FARM LAW OF STEUBEN COUNTY

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Section 1: Title

This Local Law shall be known as the “Right to Farm Law of Steuben County.”

Section 2: Declaration of Policy and Purpose

It is hereby found and declared by the Legislature of the County of Steuben that agricultural lands are irreplaceable assets and that farming is an essential activity. Farming, as defined in this Right to Farm Law and by the New York State Department of Agriculture and Markets, reinforces the special quality of life enjoyed by citizens, provides the visual benefits of open space and generates economic benefits and social well being within the community. Therefore, Steuben County encourages sound agricultural practices and adopts this Law with the goal of promoting understanding and acceptance of the necessary day-to-day activities connected with agriculture.

It is the general purpose and intent of this local law to maintain and preserve the rural tradition and character of Steuben County, to permit the continuation of agricultural practices and the business of farming and initiation, and expansion of farms, and agricultural businesses. In recognition of the fact that there are many practices and activities which are inherent to and necessary for the business 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.

The Legislature, in an effort to promote and foster a harmonious relationship between the residents of Steuben County, and to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products, hereby also declares that it shall be the policy of Steuben County to provide reasonable notice to prospective landowners that farming activities may occur on neighboring lands.

Section 3: Definitions

Unless specifically defined below, words or phrases used in this Local Law shall be interpreted so as to give them the meaning they have in common usage and to give this Local Law its most reasonable and effective application.

As used in this Local Law, the following terms shall have the meaning indicated.

Agricultural and Farmland Protection Board - Shall mean a board formally appointed by the County Legislature according to Article 25AA §302 of New York State Agriculture and Markets Law

Agricultural Advisory Committee – Shall mean a committee, formally appointed by the Town Board of any town in Steuben County, for the purpose of resolving right to farm disputes as provided hereunder. Such a committee shall be appointed on either an annual or ad hoc basis (or an existing committee can be designated to serve in that capacity) with such number of members as the Town Board shall determine, provided there are no less than three with at least one representative each from the farm and non-farm communities. All members, however, shall be knowledgeable regarding agricultural practices common to the Town. The decision to form such a committee shall be at the sole discretion of the Town Board.

Agricultural Land - Shall mean any single or multiple, contiguous or non-contiguous parcel or parcels that, together, represent all that real property within the boundaries of Steuben County currently used for agricultural farm operations or upon which agricultural practices are being utilized or upon which agricultural farm operations or agricultural practices may in the future be established or utilized.

Agricultural Farm Operations - Shall mean any person, organization, entity, association, partnership or corporation engaged in the business of agriculture or farming or agricultural practices, whether for profit or otherwise.

Agricultural Practices - Shall mean any activity connected with the raising of crops, livestock or livestock products as defined in Agriculture and Markets Law §301, subdivision 2, including but not limited to the following:
a. Field crops, including corn, wheat, oats, 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, raptors, such as ostriches, emus, rheas and kiwis, 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 bio-energy.

Should there be a conflict between the definitions employed by New York State and those contained herein, such conflict shall be resolved in favor of the agricultural producer so as to include the enterprise as an agricultural practice.

Further, agricultural practices shall include any activity now permitted by law, engaged in by or on behalf of a farmer in connection with and furtherance of the business of agriculture or farming and shall include without limitation, the collection, transportation, distribution, composting and storage of animal and poultry waste; storage, transportation and use of equipment for tillage, planting, harvesting and marketing; transportation, storage and use of legally permitted fertilizers and lime, and insecticides, herbicides, and fungicides, all in accordance with local, State and Federal law and in accordance with the manufacturer's instructions and warnings; construction of farm structures and facilities, including farm wineries and other on-farm food processing, as permitted by local and State building code regulation; construction and maintenance of fences and other enclosure; and the use and/or maintenance of related pastures, idle or fallow land, woodland, wetland, farm ponds, farm roads and certain farm buildings and other structures related to the agricultural practices.

The following examples are intended to be illustrative of common agricultural practices covered within this definition, but are not inclusive:

1. Providing for the processing, wholesale and retail marketing, including U-pick marketing, and sales of the agricultural output of the farm and related products that contribute to farm income, including the sale at the owner’s farm stand/market of agricultural products so long as at least fifty-percent (50%) of the annual gross sales of the farm stand/market have been grown on said farm.

2. Replenishing soil nutrients, including but not limited to the spreading of manure, compost, and applying approved chemical and organic fertilizers.

3. Using Federally approved products, in accordance with label instructions, as recommended by the New York Agricultural Experiment Station and the United States and New York Environmental Protection Agencies for the control of pests, predators, varmints, diseases affecting plants and livestock, and for the control of weed infestation.

4. Transporting large, slow-moving equipment over roads within the County, in accordance with local, State and Federal law and regulations.

5. Clearing of woods using accepted techniques, installing and maintaining vegetative and terrain alterations, and other physical facilities for water and soil conservation and surface water control.

The foregoing uses, activities and rights when reasonable and necessary for agricultural or horticultural production and when conducted in accordance with generally accepted agricultural practices, may occur on holidays, Sundays and weekends, by day or night.
Farmer - Shall mean any person, organization, entity, association, partnership or corporation engaged in the agricultural farm operation or agricultural practices as defined herein.

Farming - Shall mean the act of engaging in an agricultural farm operation and/or agricultural practices as defined herein.

Section 4: Right to Farm

Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices on any agricultural farm operation within Steuben County at any and all such times and at all such locations as are reasonably necessary to carry on an agricultural farm operation or agricultural practice. In determining the reasonableness of the time, place, and methodology of such operation, due weight and consideration shall be given to traditional customs and procedures in the agricultural industry, advances resulting from increased knowledge or improved technologies, and whether or not the practice is legal and not causing off-site property damage or bodily harm.

Section 5: Nuisance

No agricultural practice or associated activity, conducted or maintained on a sound basis, in a manner consistent with management practices, such as those recommended by State and Federal agencies in conjunction with educational programs for farmers, or other agricultural practice, herein and hereafter referred to as the accepted custom and standard in the agricultural industry, shall be considered a public or private nuisance.

Section 6: Interference Prohibited

No person, group, entity, association, partnership, or corporation shall 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 Steuben County. No persons shall maintain a frivolous lawsuit for the within purposes.

Section 7: Penalties

An action to restrain or enjoin any violation of this Local Law may be brought in a court of competent jurisdiction by any aggrieved entity and/or Steuben County.

Section 8: Local Government Advice and Dispute Resolution

In offering local government advice and dispute resolution, the Steuben County Agricultural and Farmland Protection Board is available to provide support for or work with local Agricultural Advisory Committees in such way, as the local committee shall deem appropriate. In the event a municipality does not have an Agricultural Advisory Committee, that municipality may call on the Steuben County Agricultural and Farmland Protection Board for agriculturally related advice and/or assistance in the resolution of disputes.

In this capacity, the Steuben County Agricultural and Farmland Protection Board may temporarily expand its composition to acquire the expertise necessary to address the issues or concerns presented.

Section 8-a: Resolution of Disputes

Should any controversy arise regarding any inconveniences or discomfort occasioned by any agricultural operations or agricultural practices, as defined in Section 3 of this Local Law, the parties may submit the controversy to the Town’s Agricultural Advisory Committee or, in the absence of a local committee, the Steuben County Agricultural and Farmland Protection Board, as set forth below in an attempt to resolve the matter prior to the filing of any court action or submission to the New York State Department of Agriculture and Markets pursuant to §308 of the Agriculture and Markets Law.
Any controversy between the parties may be submitted to the Town Agricultural Advisory Committee, or in the absence of a local committee, the Steuben County Agricultural and Farmland Board, whose decision shall be advisory only, within sixty (60) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party writes to formally request a review.

The effectiveness of the Town Agricultural Advisory Committee and the Steuben County Agricultural and Farmland Protection Board 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.

The controversy shall be presented to the Town Agricultural Advisory Committee or, in the absence of a local committee, the Steuben County Agricultural and Farmland Protection Board, by written consent of one of the parties within the time specified herein. Thereafter, the Committee or Board may investigate the facts of the controversy, but must, within thirty (30) days, hold a public meeting pursuant to public notice 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 being pertinent facts.

The decision of the Town Agricultural Advisory Committee or the Steuben County Agricultural and Farmland Protection Board shall not be binding.

**Section 8-b:** Local Government Advisory Support

In the absence of a Town Agricultural Advisory committee, the Steuben County Agricultural and Farmland Protection Board is available to review local laws and advise town or village governments regarding potential negative impacts on the agricultural industry. Comments from the Steuben County Agricultural and Farmland Protection Board could be used by local governments to prevent ordinances from conflicting with normal farming practices as prescribed by Agriculture and Markets Law Article 25AA §305-a.

**Section 9:** Notice to Prospective Neighbors/Notice of Farm Use

**Agricultural Data Statement:** Steuben County will encourage and support local adoption of the agricultural data statement requirements as prescribed in NYS Agriculture and Markets Law Article §305-a subdivisions 2-4.

**Agricultural Disclosure New Residential Development:** For the purpose of giving due notice of nearby farming uses to proposed new residential areas adjacent to unimproved land being farmed or suitable therefor, Steuben County will encourage and support a local Planning Board requirement that any applicant for an adjacent major or minor subdivision, as a condition of approval of such application, to include a provision in each and every deed conveying all or any portion of the lands thereby subdivided, as well as on filed final subdivision maps, the following record notice to and waiver by grantees of such present or future proximate farming uses, which provision shall be made to run with the land.

"The grantee hereby acknowledges notice that agricultural operations exist throughout the town and that there are presently or may in the future be farm uses adjacent or in close proximity to the within described premises. The grantee acknowledges that farmers have the right to undertake farm practices which may generate dust, odor, fumes, noise, and vibrations associated with agricultural practices, and that these practices are permitted under the town or in the absence of a local right to farm law, Steuben County’s Right to Farm Law, and, by acceptance of this conveyance, the grantee does hereby waive objection to such activities.

The risk of any impact of these agricultural uses on the purchase of property is specifically to be borne by the purchaser of that property.

**Agricultural Disclosure at Time of Property Transfer:** Steuben County will implement and encourage local implementation of the agriculture disclosure requirement as prescribed in NYS Agriculture and Markets Law Article 25AA §310.
Section 10: Conflict Clause

Insofar as the provisions of this Local Law are inconsistent with the provisions of any other local law, rule or ordinance, the provisions of this Local Law shall supersede those found inconsistent and prevail.

Section 11: Severability

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

Section 12: Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.
1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. THREE of 2001 of the County of Steuben was duly passed by the Legislature on 10/29/2001, in accordance with the applicable provisions of law.

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. of 20... of the (County)(City)(Town)(Village) of was duly passed by the Legislature on 20..., and was (approved)(not approved)(repassed after disapproval) by the Elective Chief Executive Officer* and was deemed duly adopted on 20..., in accordance with the applicable provisions of law.

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 Legislature on 20..., and was (approved)(not approved)(repassed after disapproval) by the Elective Chief Executive Officer* 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.

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 Legislature on 20..., and was (approved)(not approved)(repassed after disapproval) by the Elective Chief Executive Officer* 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.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide 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.

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

(Date: November 5, 2001)

(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 STEUBEN

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

COUNTY ATTORNEY
Title

County
City of STEUBEN

Date: November 5, 2001