

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.

County City Town Village
(Select one.)

of Clinton

Local Law No. 2 of the year 20 14

A local law Establishing a Right to Farm Law of Clinton County
(Insert Title)

Be it enacted by the Clinton County Legislature of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Clinton as follows:

SECTION 1: FINDINGS AND INTENT

1. The Clinton County Legislature finds that the agricultural industry in Clinton County is a major part of the economy of the County, provides benefits to the natural environment and is a contributor to a high quality of life for the residents of and visitors to Clinton County.
2. The Clinton County Legislature recognizes the positive benefits provided by the agricultural industry in Clinton County and finds that the County should encourage agriculture and policies that foster an understanding by all residents of the day-to-day operations involved in farming so as to gain a greater appreciation and understanding of farming practices and also to encourage cooperation with those practices.
3. The Clinton County Legislature finds that efforts should be promoted to permit the continuation of sound agricultural practices, protect the existence and operation of farms, encourage the initiation and expansion of farms and agri-businesses, and promote new ways to resolve disputes concerning agricultural practices and farm operations.
4. It is the general purpose and intent of this law to maintain and enhance the agricultural industry of the County, to permit the continuation of acceptable practices, to protect the existence and continued operation of farms, to encourage the initiation and expansion of agricultural businesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations by limiting the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices necessary for the business of farming to proceed and be undertaken free from unreasonable and unwarranted interference or restriction.

SECTION 2: DEFINITIONS

1. Agricultural and Farmland Protection Board – Shall mean a Board formally appointed by the Clinton County Legislature in accordance with Article 25AA, Section 301 of the New York State Department of Agriculture and Markets Law.
2. Agricultural Practices – Shall mean those practices necessary for the on-farm production, preparation, processing and marketing of agricultural products. Examples of those practices include, but are not limited to the operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, and construction and use of farm structures and fences.
3. Agricultural Products – Shall mean those products as defined in Article 25AA, Section 301(2) of the New York State Department of Agriculture and Markets Law.
4. Farm Operation (or agricultural operation) – Shall mean the land, buildings and equipment used in agricultural production and agricultural practices conducted on such land.
5. Farmer – Shall mean any person, organization, entity, association, partnership, limited liability company or corporation engaged in the business of agriculture, including the cultivation of land, the raising of crops or the raising of livestock.
6. Farming – Shall mean the act of engaging in an agricultural farm operation and/or agricultural practices as defined herein.
7. Farmland (or agricultural land) – Shall mean land used in agricultural production as defined in Article 25AA, Section 301(4) of the New York State Department of 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 Clinton County at all 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, research 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; and
2. Conducted in a manner which is not negligent or reckless; and
3. Conducted in uniformity with generally accepted and sound agricultural practices; and
4. Conducted in uniformity with all Local, State and Federal laws and regulations; and
5. Conducted in a manner which does not constitute a threat to public health and safety; and
6. Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

SECTION 4: RESOLUTION OF DISPUTES

1. Should any controversy or dispute arise regarding any agricultural operation which cannot be settled by direct negotiation between the parties involved, the parties may by mutual agreement, submit the matter to the Clinton 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 prior to a request for a determination by the Commissioner of the New York State Department of Agriculture and Markets about whether the agricultural practice in question is sound pursuant to Article 25AA, Section 308 of the State of New York Agricultural and Markets Law.
2. Upon the receipt of a dispute resolution request, the Clinton County Agricultural and Farmland Protection Board shall convene a meeting of the Board within thirty (30) calendar days to review the dispute and receive any comments from either of the parties involved in the dispute. The Board shall endeavor to have a full discussion of the dispute after receipt of a complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties involved in the dispute are encouraged to cooperate in the exchange of pertinent information concerning the controversy, and will be allowed to present, in writing or in person, what each considers the pertinent facts.
3. Within fourteen (14) calendar days of the meeting of the Clinton County Agricultural and Farmland Protection Board to discuss the dispute, the Board shall render a written decision to the parties.

4. The time limits provided in this subsection for action by the Board may be extended upon the written agreement of all parties involved in the dispute.
5. To encourage the use of this mechanism to resolve disputes, the parties requesting to utilize this dispute resolution process shall stipulate, in writing, that the statements made during the process shall be deemed to be in the nature of settlement discussions and that such statements and any agreement reached as part of the dispute resolution process shall not be used for evidentiary purposes in any other action or proceeding.
6. The decision of the Clinton County Agricultural and Farmland Protection Board shall not be binding.

SECTION 5: NOTIFICATION OF REAL ESTATE BUYERS

1. In order to promote harmony between farmers and their neighbors, Clinton County requires landowners or their agents to comply with Article 25AA, Section 310 of the New York State Agriculture and Markets Law which requires that notice be provided to prospective purchasers of real property located partially or wholly within an agricultural district 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 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, smoke and odors."*
2. 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.
3. Receipt of such disclosure notice shall be recorded on a Property Transfer Report prescribed by the State Board of Real Property Services as provided for in Section 333 of the Real Property Tax Law.

SECTION 6: SEVERABILITY

If any provision, clause, sentence or paragraph of this Local Law or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Local Law which can be given without the valid provision or application, and to this end, the provisions of this Local Law are declared to be severable.

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 take effect immediately upon filing with the Office of the New York State Secretary of State in accordance with 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. 2 of 20 14 of the (County)(City)(Town)(Village) of Clinton was duly passed by the Clinton County Legislature on December 10 20 14, 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. _____ of 20 ____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* 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 _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

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 _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (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.

* 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.

(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. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, 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. _____ 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 _____ and was deemed duly adopted on _____ 20 , 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____.

(Name of Legislative Body)

(Elective Chief Executive Officer)*

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 _____ 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 1 above.

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

Date: _____

(Seal)