

LOCAL LAW NO. 1 OF THE YEAR, 2006

A LOCAL LAW ENTITLED "RIGHT TO FARM LAW"

PASSED BY TOWN OF CAMBRIA TOWN BOARD AUGUST 10, 2006

Be it enacted by the Town Board of the Town of Cambria as follows:

RIGHT- TO -FARM LEGISLATION

Section 1. Legislative Intent and Purpose:

The Town of Cambria Town Board finds, declares and determines that agriculture is vital to the Town of Cambria, New York because, as a livelihood, it provides employment and by its diverse nature, agriculture promotes economic stability. Further, agriculture allows for the conservation of open space and promotes environmental quality, without increasing the demand for services provided by local governments. The Town of Cambria Town Board recognizes that in order to maintain a viable farming economy within the Town of Cambria, 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 Cambria of its agricultural resources by limiting the circumstances under which farming may be deemed to be a nuisance and 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

- 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 waste; 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 and 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 defined in Section 301(2) of Article Twenty-five (25-AA) of the Agricultural and Markets Law.
- c) "Farm" shall mean the land, 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 2a entitled "Agricultural Practices".
- f) "Resolution Committee" shall be made up of the Conservation Board Chairman or designee, and a member of one other standing committee of the town designated by the Town Supervisor.

- g) 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 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 Cambria 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 4. Duty of Town Officers and Board to Consider Impact of Farm Operations on Certain Applications

The legislative intent and purpose of this law shall be taken into consideration by each town officer and/or board in processing any application requesting rezoning, subdivision approval, temporary conditional permit approval, site plan approval and/or special use permit approval when the property which is the subject of such application is located within one (1) mile of an existing farm. Such appropriate and reasonable conditions shall be determined on a case by case basis and may include, but shall not be limited to, requiring declaration, deed restrictions and/or covenants which run with the land which would notify future purchasers and owners of the subject property that owning and occupying such property might expose them to certain discomforts or inconveniences resulting from the conditions associated with agricultural practices and operations in the town.

Section 5. Informal Resolution of Disputes

- a. Should any controversy arise regarding any inconveniences or discomforts occasioned by agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties may submit the controversy to the resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.
- b. Any controversy between the parties may be submitted to the resolution committee whose decision shall be advisory only, within thirty (30) days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.
- c. The effectiveness of the resolution committee as a forum for resolution of grievances 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.

- d. The controversy shall be presented to the committee by written request of one of the parties within the time limits prescribed above. 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 twenty (20) days of the meeting must render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each party considers to be the pertinent facts.

Section 6. Severability Clause.

If any section, subdivision, paragraph, sentence or other portion of this chapter shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, it is the intention of the Town Board that such section, subdivision, paragraph, sentence or other portion so adjudged invalid, illegal or unenforceable, shall be deemed separate, distinct and independent, and the remainder of this chapter shall be and remain in full force and effect.

Section 7. Effective Date.

This local law shall be effective immediately upon acceptance by the Town of Cambria Town Board and filing within the New York Secretary of State.