

## County of Erie Local Laws of 1999

Local Law No.	Year	Title/Subject A local law . . .
1	1999	. . . in relation to the right to farm in the county of Erie

Section 1. **Title.** This local law shall be known as the "Erie county right to farm law".

Section 2. **Legislative policy.** The Erie county legislature hereby finds, declares, and determines that farming is important to Erie county because it is a major occupation within the county, providing a livelihood and employment for thousands of residents; farming remains the single-largest industry in New York state; farming provides locally produced fresh commodities; agricultural diversity promotes economic stability; agriculture promotes open space and promotes environmental quality; agricultural land does not increase the demand for services provided by county or local governments. In order to maintain a viable agricultural economy in Erie county, farmers must be accorded protection allowing them the right to farm. When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance lawsuits. As a result, agricultural operations are sometimes forced to cease operations or are discouraged from making investments in farm improvements.

It is the policy of the county to reduce the loss of agricultural resources by limiting the circumstances limiting the circumstances under which agricultural and residential purposes may conflict 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.

The county legislature finds, declares and determines that chapter 797 of the laws of 1992 provides an important foundation for achieving the right to farm protection sought in Erie county and that in order to address the unique circumstances facing agriculture in Erie county, it is necessary to provide for more comprehensive local right to farm protection.

Section 3. **Definitions.** As used in this local law, the following terms shall have the following meanings:

- 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 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 processing of animal wastes and agricultural products, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations; including construction and maintenance of fences and lanes;

- b. "Agricultural products" shall mean those products as defined in subdivision 2 of section 301 of the agriculture and markets law;
- c. "Farm" shall mean the land, buildings and machinery usable 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 raising of crops, or the raising of livestock or livestock products as defined in subdivision 2 of section 301 of the agriculture and markets law, or the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of poultry, fish, or fur-bearing animals, the harvesting of timber or the practice of horticulture, aquaculture, apiculture or viticulture;
- e. "Generally accepted agricultural practices" shall mean those practices which are lawful, customary, reasonable, safe and necessary to the industry as they pertain to the practices listed in subdivision a of section 3 of this local law.

**Section 4. Right to farm declaration.**

- a. Farmers, as well as those employed, retained or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within Erie county at all such 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 both to traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.
- b. Agricultural practices conducted on farmland shall not violate the

public policy of Erie county if such agricultural practices are: (i) reasonable and necessary to the particular farm or farm operation; (ii) conducted in a manner which is not negligent or reckless; (iii) conducted in conformity with generally accepted agricultural practices; (iv) conducted in conformity with all local, state and federal laws, ordinances and regulations; (v) conducted in a manner which does not constitute a threat to public health and safety or cause injury to health and safety of any person; and (vi) conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

- c. Nothing in this local law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to negligence or recklessness.

#### Section 5. **Real Property Sale Disclosure Notice.**

- a. When any purchase and sale contract is presented for the sale, purchase, or exchange of residential real property located within the county of Erie, the contract of sale shall include a disclosure notice, which states the following:

It is the policy of Erie county 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 Erie County. Such farming activities may include, but not be limited to, activities that cause noise, dust, fumes, odors, smoke, insects, operation of machinery during any hour of the day or evening, storage and disposal of plant and animal waste products, and the application of fertilizers, soil amendments, and pesticides by ground or aerial spraying or other method. Property owners and residents of Erie county should be aware that farmers have the right to undertake generally accepted practices and one should expect such conditions as a normal and necessary aspect of living in an agricultural area.

The failure to include such disclosure notice shall not affect the validity of such purchase and sale contract.

- Section 6. **Severability.** If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof directly involved in the proceeding or action in which such adjudication has been rendered.

Section 7. **Review committee.** No later than December 31, 2000, the chairman of the Erie county legislature shall appoint and convene a review committee to evaluate this local law. The review committee shall be comprised of a cross-section of the community that will include, but not be limited to representatives of the legislature and other appropriate representatives. The review committee shall provide the legislature with its findings and recommendations with respect to this local law no later than the first day of July 2001.

Section 8. This local law shall be effective the first day of January 2000.

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