

*Local Law Filing*

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET ALBANY, NY 12231

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**(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.

**Town of New Scotland**

**Local Law No. 5 of the year 2006**

A local law Right-to-Farm Law of the Town of New Scotland  
(Insert Title)

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**Be it enacted by the Town Board of the Town of New Scotland as follows:**

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# RIGHT-TO-FARM LAW OF THE TOWN OF NEW SCOTLAND

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**Section 1: Title**

This Local Law shall be known as the "Right to Farm Law of the Town of New Scotland."

**Section 2: Declaration of Policy and Purpose**

It is hereby found by the Town Board of the Town of New Scotland 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 quality of life enjoyed by residents, provides locally produced, fresh commodities, provides the visual benefits of open space, preserves the rural character and generates economic benefits to our community. Agricultural land also does not increase the demand for services provided by local government.

When non-agricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance lawsuits. As a result, agricultural operations are often forced to cease normal farming operations or are discouraged from making investments in farm improvements. It is the purpose of this law to reduce the loss to the Town of New Scotland of its agricultural resources by limiting the circumstances under which farming may be deemed a nuisance. 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 purposes and activities may proceed and be undertaken free of unreasonable and unwarranted interference or restrictions.

The Town Board, in an effort to promote and foster a harmonious relationship between the residents of New Scotland, and to conserve, protect and encourage the development and improvements of agricultural land for the production of food and other products, hereby also declares that it shall be the policy of the Town of New Scotland to provide reasonable notice to prospective landowners that farming activities may occur and are encouraged 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 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.

**Agriculture and Agricultural Use** – Shall mean the employment of land, whether for profit or otherwise, by raising , harvesting, and selling crops, including, but not limited to feeding, grazing, breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honey bees, or by dairying and the sale of dairy products, or by any other horticultural or viticulture use, aquaculture, hydroponics, silvaculture, by animal husbandry, or by any combination thereof. It also includes the employment of land, whether for profit or otherwise, by stabling or training equines, and by including but not limited to providing riding lessons, training clinics, and schooling shows, and other on-farm niche marketing promotions.

**Agriculture and Farmland Protection Board** – Shall mean a board formally appointed by the Albany County Legislature according to Article 25AA Section 302 of the New York State Agriculture and Markets Law.

**Farmland**-Shall mean land used in agricultural production as defined in Section 301 of Article 25AA of the State Agriculture and Markets Law.

**Farmer**-Shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of agricultural products or apiary operations, including crop pollination, honey production, Queen raising , the rearing of honeybees and apiary products.

**Agricultural Products**-Shall mean those products, as defined in Section 301(2) of Article 25AA of the State Agriculture 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 onion.
- D. Horticulture crops, including nursery stock, ornamental trees, and flowers.

- E. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, farmed deer, camelids, farmed buffalo, fur bearing animals, milk, eggs, and furs.
- F. Maple sap and syrup.
- G. Christmas trees derived from managed tree operations 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 and shall not include farm woodland.
- J. Apiary products, including but not limited to honey, royal jelly, pollen, beeswax and propolis.
- K. Compost products.

**Agricultural Practices**-Shall mean those practices necessary for the farm operation production, preparation, and marketing of agricultural products. Examples of such practices include, but are not limited to, the operation of farm equipment on the farmland and roadways, proper use of agricultural chemicals and other crop protection methods, nutrient (manure) management, and construction and use of farm structures and fences.

**Farm Operation**-Shall mean the land used in agricultural production and farming practices conducted on such land, farm buildings, equipment, and residential buildings. 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 agriculture producer so as to include the enterprise as an agricultural practice.

#### **Section 4: Right to Farm**

Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in sound agricultural practices on any agricultural farm operation within the Town of New Scotland 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 both traditional customs and procedures in the agricultural industry as well as to advances resulting from increased knowledge or improved technologies.

**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, 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 or farming within the Town of New Scotland. No persons shall maintain a frivolous lawsuit for the within purposes.

**Section 7: Remedy**

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 the Town of New Scotland.

**Section 8: Resolution of Disputes**

Should any controversy arise regarding any inconveniences or discomfort occasioned by any Agriculture, Agricultural Use or Agricultural Practices, as defined in **Section 3** of this Local Law, the parties will submit the controversy to the Town's Agricultural Advisory Committee or, in absence of a local committee, to a grievance board appointed by Albany County pursuant to Albany County's Right-to-Farm Law, 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 Section 308 of the Agriculture and Markets Law.

The decisions of such boards shall not be binding.

**Section 9: Notice of Farm Use on Subdivision Maps**

For the purpose of giving due notice of nearby farming uses to proposed new residential subdivisions, the Planning Board or Building Inspector, as applicable, shall require that any applicant for a major or minor subdivision, as a condition of approval of such application, shall include as a provision in each and every filed subdivision map, the following notice:

“Agricultural operations exist throughout the Town of New Scotland and there are presently or may in the future be farm uses adjacent to or in close proximity to the subdivided premises. Such uses are protected by New Scotland’s Right-to-Farm Law.”

**Section 10: Conflict Case**

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 New York Secretary of State.

(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. 5 of 2006 of the Town of New Scotland was duly passed by the New Scotland Town Board on August 9 2006, 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 Town of New Scotland was duly passed by the New Scotland Town Board \_\_\_\_\_ 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.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the Town of New Scotland was duly passed by the New Scotland Town Board \_\_\_\_\_ 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.

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 Town of New Scotland 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.

\* **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.

  
New Scotland Town Clerk

(Seal)

Date:   8/9/06  

**(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 ALBANY

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 *L. Michael Mackey*  
New Scotland Town Attorney

Date: *August 9, 2006*

STATE OF NEW YORK  
COUNTY OF ALBANY } }

TOWN OF NEW SCOTLAND  
NOTICE OF PUBLIC HEARING

Please take notice that a public hearing will be held by the Town Board of the Town of New Scotland on July 12, 2006 at 6:30 p.m. at New Scotland Town Hall, 2029 New Scotland Road, Slingerlands, New York regarding the adoption of Local Law #5 for the year 2006, which would enact a right to farm law in the Town of New Scotland.

Copies of the proposed Local Law are available for review at New Scotland Town Hall.

By order of the Town Board of the Town of New Scotland on June 14, 2006.

DIANE DESCHENES  
New Scotland Town Clerk  
The Town of New Scotland is an equal opportunity provider and employer.  
(1-49-50)

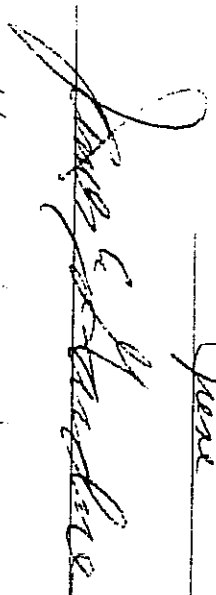
Sworn to before me this 6<sup>th</sup> day  
of July, 20 06 }

RECEIVED  
JUL 12 2006  
TOWN OF NEW SCOTLAND

JAMES E. GARDNER of the Town of Guilderland, being duly sworn, says that he is the publisher of THE ALTAMONT ENTERPRISE AND ALBANY COUNTY POST, a weekly newspaper printed and published in the Village of Altamont, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said ALTAMONT ENTERPRISE AND ALBANY COUNTY POST

Over each week for two week

consecutively commencing on the 29<sup>th</sup> day of June 20 06

  
\_\_\_\_\_  
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MELISSA HALE-SPENCER  
Notary Public, State of New York  
Qualified in Albany Co.  
#01HA5082613  
Commission Expires

**AFFIDAVIT OF PUBLICATION**

State of New York

County of Albany

**CHRISTINE MC NAMARA**

being duly sworn, deposes and says that she is the Receptionist for the Spotlight Newspapers, publisher of weekly newspapers in the County of Albany, State of New York, and that the notices of which the annexed is a true copy was published in the following newspaper/s:

- X The Spotlight
- \_\_\_\_\_ Colonic Spotlight
- \_\_\_\_\_ Guilderland Spotlight

**LEGAL NOTICE**

TOWN OF NEW SCOTLAND  
NOTICE OF PUBLIC HEARING

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Diane Deschenes  
New Scotland Town Clerk  
The Town of New Scotland  
is an equal opportunity provider and employer.  
LD-13620  
(July 5, 2006)

On the following date/s:

\_\_\_\_\_  
7/5  
\_\_\_\_\_  
\_\_\_\_\_

SEARCHED  
SERIALIZED  
INDEXED  
JUL 11 2006  
TOWN CLERK

The Spotlight Newspapers  
The Capital District's Quality Weeklies  
125 Adams Street  
Delmar, NY 12054

Christine Mc Namara

SWORN TO BEFORE ME THIS 5 DAY OF July, 2006

Sharon Doldo, NOTARY PUBLIC

SHARON A. DOLDO  
No. 01DO5038536  
Notary Public, State of New York  
Qualified in Onondaga County  
Commission Expires Jan. 30, 2007