Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(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 **of** VAN ETTEN
~~Village~~

COPY

Local Law No. 06-001 **of the year** ~~19~~ 2006

A local law "A RIGHT TO FARM"
(Insert Title)

Be it enacted by the TOWN BOARD **of the**
(Name of Legislative Body)

~~County~~
~~City~~
Town **of** VAN ETTEN **as follows:**
~~Village~~

(If additional space is needed, attach pages the same size as this sheet, and number each.)

DOS-239 (Rev. 7/90)

(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. 06-001 of XX 2006 of the (~~County~~)(~~City~~)(Town)(~~Village~~) of VAN ETTEN was duly passed by the TOWN BOARD on JUNE 8th XX2006 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 19___ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19___, and was (approved)(not disapproved)(repassed after
(Name of Legislative Body)
disapproval) by the _____ and was deemed duly adopted on _____ 19___,
(Elective Chief Executive Officer*)
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 19___ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19___, and was (approved)(not disapproved)(repassed after
(Name of Legislative Body)
disapproval) by the _____ on _____ 19___. Such local law was
(Elective Chief Executive Officer*)
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 _____ 19___, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referndum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19___ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19___, and was (approved)(not disapproved)(repassed after
(Name of Legislative Body)
disapproval) by the _____ on _____ 19___. Such local law was subject to
(Elective Chief Executive Officer*)
permissive referendum and no valid petition requesting such referendum was filed as of _____ 19___, 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 chairman 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.**

ARTICLE I
LEGISLATIVE INTENT AND PURPOSE

The Board recognizes that farming is an essential enterprise and an important industry that enhances the economic base, natural environment and quality of life in the Town of Van Etten. Therefore, the Town of Van Etten finds and declares that this Town encourages its agriculture and urges understanding of and cooperation with the necessary day-to-day operations involved in farming.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town of permit the continuation of agricultural practices to protect the existence and operation of farms to encourage the initiation and expansion of farms and agribusiness and to promote new ways to resolve disputes concerning agricultural practices and farming operations. In order to maintain a viable farming economy in Van Etten, it is necessary to limit the circumstances under which framing may be deemed to be a nuisance 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 of restriction.

ARTICLE II
DEFINITIONS

1. "Farmland" shall mean land used in agricultural production as defined in Subdivision four of Section 301 of Article 25AA of the State Agricultural and Markets Law.
2. "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, raising of crops, or the raising of livestock.
3. "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 of 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 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, farmed deer, farmed buffalo, fur bearing animals, milk, eggs, furs.
    f. Woodland products, including maple sap, logs, lumber posts, and firewood.
    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, and shall not include farm woodland.

4. "Farm woodland" includes land used for production and sale of woodland products, including, but not limited to logs, lumber, posts, and firewood.

5. "Agricultural practices" shall mean those practices necessary for the on farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, manure application and construction and use of farm structure and fences.

6. " Farm Operation" shall be defined in Section 301 (11) in the State Agricultural and Markets Law.

ARICTLE III
ARIGHT 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 with this Town 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 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 that is not negligent or reckless.
3. Conducted in conformity with generally accepted and sound 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 or any person, and
6. Conducted in a manner that does not unreasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to failure to follow sound agricultural practices, as outline in this section.

ARTICLE IV
NOTIFICATION OF REAL ESTATE BUYERS AND PROSPECTIVE NEIGHBORS

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/ or their agents and assigns to comply with Section 310 of Article 25AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants 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 it's natural and ecological value. This notice is to inform prospective residents that farming activities occur within the Town. Such farming activities may include, but not be limited to, activities that cause noise, dust, smoke, and odors."

A copy of this notice shall be included as an addendum to the purchase and sale contract at the time an offer to purchase is made.

In addition, this notice shall be include in building permits and on plats of subdivisions submitted for approval pursuant to Town Law Section 276 (Subdivision Review, Approval of plats development of filed plats).

There shall be no raising or harboring of traditional and non- traditional livestock to include fowl. In those planned developments already established within the Town of Van Etten or future developments.

ARTICLE V
RESOLUTION OF DISPUTES

1. Should any controversy arise regarding inconveniences occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commissioner of Agriculture and, markets about whether the practice in question is sound pursuant to Section 308 of Agriculture of Article 25 AA of the State Agriculture and Markets Law.
2. Any controversy between the parties shall be submitted to the committee within thirty (30) days of the last occurrence of the particular activity-giving rise to the controversy of the date the party became aware of the occurrence.
3. The committee which be composed of three (3) members selected from the county including one (1) representative from the County Agricultural and Farmland Protection Board, one person from the Town government selected by the Town Board, and one (1) person mutually agreed upon by both parties involved in the dispute.
4. The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts

concerning the controversy. The parties are also encouraged to consult with agricultural experts such as New York State Agriculture and Markets, Cornell University, Cornell Cooperative Extension, Natural Resources Conservation Service, and Soil and Water Conservation District.

5. The Controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Thereafter, the committee may investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting to consider merits of the matter and within five (5) 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. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless counsel also represents the opposing party. The time limits provided in this subsection for action by the committee may be extended upon written stipulation of all parties in the dispute.
6. Any reasonable costs associated with the functioning of the committee process shall be borne by participants. However, the prevailing participant shall be entitled to reasonable fees and other expenses incurred if the agricultural practice at issue constitutes a sound agricultural practice pursuant to an opinion issued by the Commissioner under Section 308 of the New York Agriculture Districts Law.

ARTICLE VI
SEVERABILITY

Should any section of portion of this Local law be declared invalid for any reason whatsoever, such decision shall not effect the remaining portions of this Local Law, which shall remain in full force and effect.

ARTICLE VII
EFFECTIVE DATE

This Local Law shall be effective immediately upon filing with the New York State Department of State pursuant to Section 27 of Municipal Home Rule Law and shall be filed with New York State Agriculture and markets, New York State Department of Environmental Conservation and New York State Department of Health.

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 19___ 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 _____ 19___, 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 19___ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19___, 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 of 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.

Marjorie Salmela
Clerk of the ~~City~~, Town ~~Village~~ Clerk
or officer designated by local legislative body

(Seal)

Date: JUNE 11, 2006

(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 CHEMUNG

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

Attorney for the Town
Title

~~City~~
~~County~~
Town of Van Etten
~~Village~~

Date: June 13, 2006