



STATE OF NEW YORK
DEPARTMENT OF STATE
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL
SECRETARY OF STATE

July 30, 1997

RECEIVED
AUG 4 1997
WAYNE COUNTY
BOARD OF SUPERVISORS

HELEN R. MADDOCK
WAYNE CO. BD. OF SUPERVISORS
COURTHOUSE AT 26 CHURCH ST.
LYONS, NY 14489

RE: County of Wayne, Local Law 5, 1997, filed 07/21/97

The above referenced material was received and filed by this office as indicated. Additional local law filing forms will be forwarded upon request.

Sincerely,

Janice G Durfee

Janice G. Durfee
Principal File Clerk
Bureau of State Records
(518) 474-2755

JGD:ml

BOARD OF SUPERVISORS
WAYNE COUNTY

RESOLUTION NO. 392-97: ADOPTING LOCAL LAW ESTABLISHING RIGHT-TO-FARM
LEGISLATION

Mr. Herrmann presented the following:

WHEREAS, a proposed local law in relation to establishing right-to farm legislation was presented to the Board of Supervisors on June 17, 1997; and

WHEREAS, a public hearing on the proposed local law was held by the Board of Supervisors on July 15, 1997, in accordance with the notice of hearing duly posted and published in the manner prescribed by law; now, therefore, be it

RESOLVED, that said local law is hereby adopted to read as follows:

COUNTY OF WAYNE - STATE OF NEW YORK

A Local Law establishing right-to-farm legislation.

BE IT ENACTED BY THE COUNTY OF WAYNE, AS FOLLOWS:

SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The Wayne County Board of Supervisors finds, declares, and determines that farming is important to Wayne County because it provides employment for agriservices, provides locally produced fresh commodities, promotes economic stability, maintains open space, promotes environmental quality, and does not increase the demand for services provided by local governments. In order to maintain a viable farming economy in Wayne County, 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 operations or are discouraged from making investments in farm improvements. Chapter 797 of the Laws of 1992 of the State of New York provides an important foundation for achieving the right to farm protection sought by the Wayne County Board of Supervisors. In order to address the unique circumstances facing agriculture in Wayne County, it is necessary to provide for more comprehensive local right to farm protection as provided in this Local Law.

SECTION 2. RIGHT TO FARM. On any land which may be lawfully used for agricultural purposes in the County of Wayne, whether or not it is located in an agricultural district, an agricultural practice shall not constitute a public or private nuisance, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the New York State Commissioner of Agriculture and Markets under Section 308 of the New York State Agriculture and Markets Law. Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death.

SECTION 3. In accordance with New York State Agriculture and Markets Law Section 310, prior to the sale, purchase, or exchange of real property located partially or wholly within an agriculture district, the prospective grantor shall deliver to the prospective grantee a notice which states the following:

"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 and odors."

SECTION 4. SEVERABILITY. If any provision of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such adjudication shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the particular provision directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5. EFFECTIVE DATE. This Local Law shall take effect immediately upon filing with the Secretary of State.
and be it further

RESOLVED, that the Clerk of the Board of Supervisors is hereby directed to number the local law in conformance with the filing requirements of the Secretary

of State and to file the local law with the Secretary of State in accordance with the provisions of the Municipal Home Rule Law of the State of New York.

Mr. Guerin moved the adoption of the resolution. Seconded by Mr. DeLisio. Upon roll call, all Supervisors voted Aye. Absent - Supervisor Deyo. The Chairman declared the resolution adopted.

Clerk of Board of Supervisors,
County of Wayne

I, hereby certify that I have compared the foregoing copy of a resolution with the original duly adopted by the above mentioned Board at a session held on the 15th day of July, 1997 and that the same is a true copy of said original and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of the said Board, this 16th day of July, 1997.

Clerk

(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

of WAYNE

Town

Village

Local Law No. 5 of the year 1997

A local law establishing right-to-farm legislation.

(Insert Title)

Be it enacted by the Board of Supervisors of the

(Name of Legislative Body)

County

City

of Wayne

Town

Village

as follows:

SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The Wayne County Board of Supervisors finds, declares, and determines that farming is important to Wayne County because it provides employment for agriservices, provides locally produced fresh commodities, promotes economic stability, maintains open space, promotes environmental quality, and does not increase the demand for services provided by local governments. In order to maintain a viable farming economy in Wayne County, 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 operations or are discouraged from making investments in farm improvements. Chapter 797 of the Laws of 1992 of the State of New York provides an important foundation for achieving the right to farm protection sought by the Wayne County Board of Supervisors. In order to address the unique circumstances facing agriculture in Wayne County, it is necessary to provide for more comprehensive local right to farm protection as provided in this Local Law.

SECTION 2. RIGHT TO FARM. On any land which may be lawfully used for agricultural purposes in the County of Wayne, whether or not it is located in an agricultural district, an agricultural practice shall not constitute a public or private nuisance, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the New York State Commissioner of Agriculture and Markets under Section 308 of the New York State Agriculture and Markets Law. Nothing in this Local Law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death.

SECTION 3. In accordance with New York State Agriculture and Markets Law Section 310, prior to the sale, purchase, or exchange of real property located partially or wholly within an agriculture district, the prospective grantor shall deliver to the prospective grantee a notice which states the following:

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

"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 and odors."

SECTION 4. SEVERABILITY. If any provision of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such adjudication shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the particular provision directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5. EFFECTIVE DATE. This Local Law shall take effect immediately upon filing with the 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 1997 of the (County)(~~City~~)(~~Town~~)(~~Village~~) of Wayne was duly passed by the ~~Board of Supervisors~~ on July 15, 1997, 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 approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, 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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. 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 _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, 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 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 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 _____, above.

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

Helen R. Maddock, Clerk of the Board

(Seal)

Date: July 16, 1997

(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 WAYNE

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

Mark H. Alquist, County Attorney

Title

County
~~City~~ of Wayne
~~Town~~
Village

Date: July 16, 1997