

LOCAL LAW # _____ OF 2014
ENTITLED “THE TOWN OF PARMA RIGHT TO FARM LAW”

Section 1. Title.

This chapter shall be known as the “Right to Farm Law of the Town of Parma.”

Section 2. Applicability.

The provisions of this chapter shall apply to Farms as defined in Chapter 165 of the Code of the Town of Parma, and Agricultural Operations as defined by the New York State Department of Agriculture and Markets. Applicability shall not be limited to those Farms and Agricultural Operations which exist within Agricultural Districts formed pursuant to Article 25AA of the New York State Agriculture and Markets Law.

Section 3. Declaration of policy and purpose.

- A.** The Town Board of the Town of Parma hereby finds, declares and determines that farming is an essential activity in the Town, an integral component of the Town’s economic base, and that its agricultural lands are irreplaceable assets. Farming reinforces the special quality of life enjoyed by residents of the Town, provides the visual benefit of open space and generates economic benefits and social well-being within the community.
- B.** The Town Board finds and determines that farmers must be secure in their ability to earn a livelihood and utilize customary farming procedures and techniques.
- C.** The Town Board further finds that whatever burden may be caused to neighboring property owners is offset by the benefits from farming to the Town, county and state, as well as by the preservation of open space areas within the Town.
- D.** It is the general purpose and intent of this chapter to maintain and preserve the agricultural tradition and character of the Town of Parma, to permit the continuation of sound agricultural practices necessary for the business of farming, to protect the existence and operation of farms and to encourage the initiation and expansion of farms and agribusiness where compatible with existing land use regulations, to promote effective and efficient means to resolve disputes which may arise concerning agricultural practices and operations, to encourage the use of new technology; and, in recognition of the fact that there are many practices and activities which are inherent to and necessary for farming, it is the specific purpose and intent of this chapter to attain the aforementioned goals and objectives by providing that such practices and activities may proceed and be undertaken free of unreasonable and unwarranted interference or restrictions.
- E.** The Town Board finds, declares and determines that Article 25-AA of the New York State Agriculture and Markets Laws provides an important foundation for achieving the right to farm protection sought in the Town and that, in order to address the unique

circumstances facing agriculture in the Town, it is necessary and desirable to provide for more comprehensive local right to farm protection.

Section 4. Right to farm.

- A.** Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within the Town of Parma at any and all such times and at all such locations as are reasonably necessary to carry on an agricultural farm operation or agricultural practices. In determining the reasonableness of the time, place and methodology of such agricultural operation or practice, due weight and consideration shall be given to past, present and future management, marketing and production procedures in the agricultural industry as well as to advances resulting from increased knowledge or improved technologies.
- B.** Agricultural management, marketing and production practices in Parma shall be considered consistent with public policy of the Town of Parma if such 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 state and federal laws; (v) conducted in such a manner which does not constitute a threat to public health and safety or cause negligent injury to any person; and (vi) conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways. Nothing in this local law shall be construed as to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to negligence or recklessness.
- C.** No nuisance action shall be brought against an agricultural operation which has been engaged in permitted agricultural operations—for one year or more prior to the date of bringing such action, where the conditions of circumstances complained of as constituting the basis for the nuisance action have existed substantially unchanged since the established date of practices and are sound agricultural practices; or, if the physical facilities of such agricultural operations are substantially expanded or substantially altered and the expanded or altered facility has either: (1) been in operation for one year or more prior to the date of bringing such action, or (2) been addressed in a nutrient management plan approved prior to the commencement of such expanded or altered operation pursuant to (applicable) Nutrient Management Act (regulations), and is otherwise in compliance therewith: Provided, however, that nothing herein shall in any way restrict or impede the authority of this State from protecting the public health, safety, and welfare or the authority of a municipality to enforce State law. Furthermore, a farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the farm land, and if before that change in land use or occupancy of land, the farm or farm operation would not have been a nuisance.
- D.** A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural

best-management practices according to policy as determined by the NYS Department of Agriculture and Markets.

Section 5. 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 deliberately interfere with, prevent or in any way deter the practice of farming within the Town of Parma.

Section 6. Notice to prospective neighbors.

A. The following notice shall appear on either the final subdivision plat or the final site plan:

“Future homeowners in this subdivision are advised that the Town of Parma is a rural agricultural community, and that active farms and agricultural operations are supported and protected by state and local Right-to-Farm Laws ”

Section 7. Resolution of disputes.

- B.** Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations, including but not limited to noises, odors, fumes, dust, the operation of machinery of any kind during any hour of the day or night, 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 town’s Agricultural Advisory Committee in an attempt to resolve the matter prior to the filing of any court action.
- C.** Any controversy submitted to the Agricultural Advisory Committee, shall be submitted within 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.
- D.** The controversy shall be presented to the Agricultural Advisory Committee by written request of one of the parties within the time specified.
- E.** The effectiveness of the Agricultural Advisory Committee as a forum for the resolution of disputes 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.
- F.** The decision of the Agricultural Advisory Committee shall be advisory only and non-binding on either party.
- G.** Every effort shall be made to resolve disputes through the Agricultural Advisory Committee; however, disputes related to properties within Agricultural Districts formed

pursuant to Article 25AA of the New York State Agriculture and Markets Law may be referred to the Monroe County Agricultural Protection Board.

- H.** In accordance with NYS Agriculture and Markets Law section §308-a, in any nuisance action brought in which a farm or farm operations is alleged to be a nuisance, if the defendant farm or farm operation prevails, the Court shall award from the plaintiff to the farm or farm operation the actual amount of costs and expenses determined by the court to have been reasonably incurred by the farm or farm operation in connection with the defense of the action, together with reasonable and actual attorney fees.

Section 8. Severability.

If any part of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this chapter.

Section 9. Effective date.

This chapter shall take effect immediately upon filing with the Secretary of State.