

**RESOLUTION OF THE TOWN BOARD
OF THE TOWN OF RUSH ADOPTING
LOCAL LAW NO. 2 OF 2013**

WHEREAS, the Town Board for the Town of Rush has determined that it is in the interests of the Town of Rush that there be a new ordinance permitting the continuation of agricultural practices, protecting the existence and operation of farms, and encouraging the initiation and expansion of farms and agricultural businesses; and

WHEREAS, a public hearing on the proposed local law was conducted by the Town Board of the Town of Rush on May 8, 2013, wherein the public was provided an opportunity to submit comments on the proposed legislation; and

WHEREAS, a Short Environment Assessment Form has been prepared by the Town in compliance with Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"); and

WHEREAS, on April 24, 2013, the Board referred the proposed local law to the Monroe County Department of Planning and Development pursuant to section 239-m of the New York General Municipal Law; and

WHEREAS, on May 29, 2013, the Monroe County Department of Planning and Development responded with comments on the proposed local law; and

NOW, THEREFORE BE IT RESOLVED that this Board declare itself Lead Agency for purposes of conducting an uncoordinated review of the proposed local law and making any necessary determinations of environmental significance under SEQRA; and

BE IT FURTHER RESOLVED that this Board classifies the action as an "unlisted action" subject to an uncoordinated review under 6 N.Y.C.R.R. § 617.6; and

BE IT FURTHER RESOLVED that the Town Board finds that the action will not include a significant potential environmental impact, and thus issues a negative declaration under SEQRA; and

BE IT FURTHER RESOLVED that Local Law No. 2 of the year 2013, a copy of which is attached and incorporated hereto, shall enact new Chapter ___ of the Code of the Town of Rush;

BE IT FURTHER RESOLVED that said resolution and local law shall take effect immediately upon its filing in the Office of the Secretary of State in accordance with Section 27 of the New York Municipal Home Rule Law; and

BE IT FURTHER RESOLVED that notice of this Resolution shall be filed and circulated to the extent required by any applicable provision of the Code of the Town of Rush and/or any relevant statute or regulation.

The adoption of the foregoing Resolution was moved by Councilman William Riepe, seconded by Councilwoman Cathleen Frank, and duly put to vote, which resulted as follows:

	Yea	Nay	Abstain	Absent
Supervisor Richard Anderson	[x]	[]	[]	[]
Councilman William Riepe	[x]	[]	[]	[]
Councilwoman Kathryn Steiner	[x]	[]	[]	[]
Councilman Daniel Woolaver	[]	[x]	[]	[]
Councilwoman Cathleen Frank	[x]	[]	[]	[]

The Resolutions were thereupon duly adopted.

RIGHT TO FARM LAW

CHAPTER ____

TOWN OF RUSH

§ ____-1. LEGISLATIVE INTENT AND PURPOSE

Farming is important to the Town of Rush as it reinforces the quality of life enjoyed by its citizens, 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 government.

In order to maintain a viable farming economy in the Town of Rush, farmers must be afforded protection allowing them the right to farm. Therefore, the Town of Rush emphasizes to newcomers that this town encourages its agriculture and requests newcomers to be understanding of the necessary day-to-day operations involving agribusinesses.

In order to address the unique circumstances facing agriculture in the Town of Rush, it is necessary to provide for more comprehensive local right to farm protection as provided in this local law.

It is the general purpose and intent of this Local Law to maintain and preserve the rural tradition and character of the Town of Rush, to permit the continuation of agricultural practices, to protect the existence and operation of farms, and to encourage the initiation and expansion of farms and agricultural businesses.

For the purpose of reducing future conflicts between farmers and non-farmers, it is necessary for notice to be given to its neighbors about the nature of agricultural practices.

§ ____-2. DEFINITIONS

"Farm" — includes, but is not limited to, livestock, dairy, poultry, furbearing animals, aquaculture, fruit, vegetable and field crop farms, plantations, orchards, nurseries, greenhouses, or other similar operations used primarily for raising of agricultural or horticultural commodities.

"Agricultural Practices" — includes all farming activities conducted, necessary to the operation of the agricultural operation.

§ ____-3. RIGHT TO UNDERTAKE AGRICULTURE PRACTICES

- A. On any land which may be lawfully used for agricultural purposes in the Town of Rush, 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 Agriculture and Markets Law.

- B. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Rush at any and all such times and all such locations as are reasonably necessary to conduct the business of farming. For any activity or operation, 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 farming industry as well as to advances resulting from increased knowledge and improved technologies.
- C. Nothing in this local law shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death.

§ ____-4. RESOLUTION OF DISPUTES

- A. Should a controversy arise regarding an inconvenience or discomfort occasioned by agricultural practices, 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, which cannot be settled by direct negotiation between the parties involved, the parties will submit the controversy to the Town of Rush Code Enforcement Officer 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 Article 25AA of the State Agriculture and Markets Law.
- B. Controversy between the parties may be submitted to the Code Enforcement Officer whose decision shall be advisory only, within fifteen (15) days of the last date of the occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.
- C. The effectiveness of the Code Enforcement Officer 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.
- D. The controversy shall be presented to the Code Enforcement Officer by written consent of one of the parties within the time specified herein. Thereafter, the Code Enforcement Officer will investigate the facts of the controversy, but must, within thirty (30) days, hold a meeting with both parties to consider the merits of the matter, and within ten (10) days after meeting with both parties, the Code Enforcement Officer will render a written decision

to the parties. At the time of the initial meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. The time limits provided in this subsection for action by the Code Enforcement Officer may be extended upon the written stipulation of all parties in the dispute.

- E. Any reasonable costs associated with the functioning of the Code Enforcement Officer process shall be borne by the participants.
- F. The decision of the Code Enforcement Officer shall not be binding. If one of the parties is not satisfied with the Code Enforcement Officer's decision, the matter shall be submitted to the Town Board according to the procedures set forth in subsection "G" below.

G. Town Board Procedures.

- a. The controversy between the parties shall be submitted to the Town Board upon consent of one of the parties.
- b. The Town Board shall review the controversy with a report submitted from the proceedings of the Code Enforcement Officer. Within thirty (30) days of the written request, the Town Board shall render a written decision to the parties.

§ ____-5. 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.

§ ____-6. EFFECT ON OTHER LAWS

To the extent that any law, ordinance, rule or regulation, or parts thereof, are in conflict with the provisions of this Local Law (including all provisions of the Code concerning subdivision or site plan applications, and applications to the Zoning Board of Appeals), this Local Law shall control.

§ ____-7. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State in accordance with the New York Municipal Home Rule Law.