

# Local Law Filing

(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  Village

(Select one.)

of Duanesburg

Local Law No. 5 of the year 2017

A local law amending sections 3.5, 8.4, 11.4, and 12.4 of the Zoning Ordinance of the Town of  
(Insert Title)  
Duanesburg to permit Agritourism and the Operation of a Farm Brewery, Distillery, Winery  
and Cidery.

FILED  
STATE RECORDS

AUG 25 2017

Be it enacted by the Town Board of the  
(Name of Legislative Body) DEPARTMENT OF STATE

County  City  Town  Village

(Select one.)

of Duanesburg

as follows:

**TOWN OF DUANESBURG LOCAL LAW NO. 5 OF 2017**

**A LOCAL LAW AMENDING SECTIONS 3.5, 8.4, 11.4, and 12.4 OF THE ZONING ORDINANCE OF THE TOWN OF DUANESBURG TO PERMIT AGRITOURISM AND THE OPERATION OF A FARM BREWERY, DISTILLERY, WINERY AND CIDERY**

**BE IT ENACTED** by the Town Board of the Town of Duanesburg in the County of Schenectady as follows:

**Section 1. Title of the Local Law.**

This Local Law shall be entitled "A Local Law Amending Sections 3.5, 8.4, 11.4, and 12.4 of the Zoning Ordinance of the Town of Duanesburg to Permit Agritourism and the Operation of a Farm Brewery, Distillery, Winery and Cidery."

**Section 2. Authorization.**

This Local Law is enacted pursuant to the Municipal Home Rule Law and Article 16 of the Town Law of the State of New York.

**Section 3. Purpose.**

The purpose of this Local Law is to add "Agritourism" to the list of "Uses Permitted by Special Use Permit" in Section 8.4 for Agriculture & Residential District (R-2); in Section 11.4 for Commercial (C-1) and in Section 12.4 for Manufacturing and Light Industrial (C-2) as well as add definitions for "Agritourism," "Farm Brewery," "Farm Cidery," "Farm Distillery," and "Farm Winery," to Section 3.5. References to the New York State Alcoholic Beverage Control Law are to ensure enforcement by the Code Enforcement Officer is consistent with New York State law.

**Section 4. Amendments to Sections 3.5, 8.4, 11.4, and 12.4 of the Town of Duanesburg Zoning Ordinance.**

Section 3.5 is hereby amended to add the following definitions. These definitions shall be added to the current list, in alphabetical order, and the numbering of Section 3.5 shall be adjusted accordingly.

**Agritourism.** Activities on land used, or formerly used, for agriculture, which through promotion and advertising of facilities and activities seek to attract visitors, guests, and vacationers. Agritourism includes the operation of a farm brewery, farm distillery, farm winery, or farm cidery provided the facility is located on a lot exceeding 25 acres and on a state highway.

**Farm Brewery.** A facility licensed by the New York State Liquor Authority as a "Farm Brewery." A farm brewery is limited to a production of no more than seventy-five thousand finished barrels annually.

**Farm Cidery.** A facility licensed by the New York State Liquor Authority as a "Farm Cidery." A farm cidery is limited to a production of no more than two hundred and fifty thousand gallons of cider annually.

**Farm Distillery.** A facility licensed by the New York State Liquor Authority as a "Farm Distillery." A farm distillery is limited to a production of no more than seventy-five thousand gallons of liquor annually.

**Farm Winery.** A facility licensed by the New York State Liquor authority as a "Farm Winery." A farm winery shall is limited to a production of no more than two hundred fifty thousand finished gallons of wine annually.

Sections 8.4, 11.4 and 12.4 are hereby amended to add Agritourism as a use allowed upon obtaining a special use permit. This use shall be added to each sections' current list, in alphabetical order, and the numbering of Sections 8.4, 11.4 and 12.4 shall be adjusted accordingly.

**Section 5. Supersession.**

Pursuant to the powers granted by the Municipal Home Rule, this Local Law supersedes all provisions of the Town of Duanesburg Zoning Ordinance, in so far as such statues are inconsistent with this Local Law and any other laws or regulations of the Town of Duanesburg are superseded to the extent necessary to give this Local Law full force and effect. All other provisions shall remain the same.

**Section 6. Severability:**

Each separate provision of this Local Law shall be deemed independent of all other provisions therein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

**Section 7. Effective Date.**

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.

(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 2017 of the (County)(City)(Town)(Village) of Duanesburg was duly passed by the Town Board on August 10, 2017, 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 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* 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 (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

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 (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local *(Elective Chief Executive Officer\*)*

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 \_\_\_\_\_ above.

(Seal)

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: August 10, 2017

#111-2017

**Town Board Resolution**

**Making a SEQRA Determination and Adopting Local Law no. 5 (formerly Local Law B) of 2017 allowing Agritourism and the Operation of a Farm Brewery, Distillery, Winery and Cidery in Zoning Districts R-2, C-1 and C-2 by Special Use Permit**

**Dated August 10, 2017**

**WHEREAS**, local law no. 5 (formerly Local Law B), entitled "A Local Law Amending Sections 3.5, 8.4, 11.4 and 12.4 of the Zoning Ordinance of the Town of Duanesburg to Permit Agritourism and the Operation of a Farm Brewery, Distillery, Winery and Cidery" would add "Agritourism" to the list of "Uses Permitted by Special Use Permit" in Section 8.4 for Agriculture & Residential District (R-2), in Section 11.4 for Commercial (C-1) and in Section 12.4 for Manufacturing and Light Industrial (C-2) as well as add definitions for "Agritourism," "Farm Brewery," "Farm Cidery," "Farm Distillery," and "Farm Winery," to Section 3.5. References to the New York State Alcoholic Beverage Control Law are to ensure enforcement by the Code Enforcement Officer is consistent with New York State law.

**WHEREAS**, the proposed local law was introduced at the meeting of June 8, 2017 of the Town Board and each member of the Town Board received the attached proposed local law amending the Town Zoning Ordinance;

**WHEREAS**, the adoption of the proposed local law is a Type 1 action, the Town Board is the only involved agency, the Town Board declared itself lead agency, and the Town Board has received and reviewed the attached SEQRA documents (EAF Parts 1, 2 and 3);

**WHEREAS**, the text of the local law was referred to Schenectady County Planning for its review pursuant to the NYS General Municipal Law;

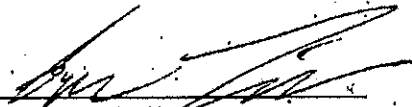
**WHEREAS**, the local law was referred to both the Town of Duanesburg Planning Board and to the Town of Duanesburg Zoning Board of Appeals for their comments, and all comments received were carefully reviewed by the Town Board;

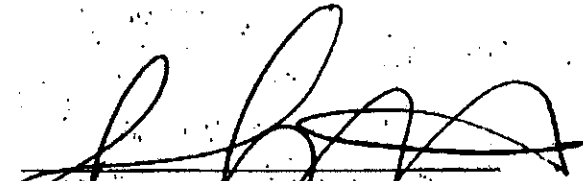
**WHEREAS**, a public hearing was duly noticed and held on the local law and one person spoke in favor of the local law;

**NOW THEREFORE BE IT RESOLVED** that the Town Board as SEQRA lead agency hereby adopts the EAF Parts 1, 2 and 3 (attached as exhibit A) and determines to issue a negative declaration finding that no environmental impact statement will be prepared for the adoption of this local law as the adoption of the local law does not have the potential to cause a significant adverse environmental impact;

**BE IT FURTHER RESOLVED** that the Town Board hereby adopts local law no. 5 of 2017 (attached as exhibit B) and directs that the local law be filed in the Town Clerk's office and with the NYS Secretary of State's Office.

Motion made by Council member Potter  
Motion seconded by Council member Leoni

  
Roger Tidball, Supervisor

  
Jennifer Howe, Town Clerk

Present: Council Members Leoni, Passonno and Potter, Supervisor Tidball  
Absent: Council Member Ganther

Council Members:

Roger Tidball	<input checked="" type="radio"/> Yea	Nay	Abstain
John Ganther	<input type="radio"/> Yea	Nay	Abstain
Rick Potter	<input checked="" type="radio"/> Yea	Nay	Abstain
Randy Passonno	<input checked="" type="radio"/> Yea	Nay	Abstain
Charles Leoni	<input checked="" type="radio"/> Yea	Nay	Abstain

