

Town of Tully  
Local Law No. One (1) of the year 2018

A local law adopting a new Chapter 101 of the Town of Tully Code entitled “Keeping of Small Livestock and Domestic Fowl in Residential Settings”.

1. Statement of Authority.

The Town Board of the Town of Tully, pursuant to the authority granted it under Articles 3, 4 and 9 of the Town Law and under Sections 10 and 12 of the Municipal Home Rule law of the State of New York hereby enacts as follows:

2. Statement of Purpose.

The Town Board of the Town of Tully has determined that the keeping of certain Small Livestock and Domestic Fowl within the Town in residential settings is not presently regulated. The purpose of this law is to establish regulations to provide for the safety and well-being of Small Livestock and Domestic Fowl, their owners, and especially for the safety, well-being and consideration of adjacent and nearby residences, properties and neighbors and to regulate the owners and/or operators of such operations. **The intent of this local law is to establish requirements for the keeping of certain Small Livestock and Domestic Fowl on residential and commercial/ business premises, to protect nearby residential and commercial/ business premises and those occupying same and provided however to condition or restrict application of certain of the requirements as noted at Sections 4 and 5 following, if and to the extent such keeping is taking place on premises that are zoned agricultural, premises having legal non-conforming uses/structures, and/or premises that are both zoned for and within a certified agricultural district. Such conditioning or restricting however is to be limited, if and to the extent superseding state or federal laws including constitutional provisions, statutes, codes and regulations promulgated thereunder, any other superceding legal authority, or any Town zoning, planning or subdivision code provisions pertaining to agricultural zoned, certified Agricultural Districts and/or laws applicable to non-conforming structures or uses therein may permit otherwise, if at all. Any such keeping within business or commercial zoned districts, unless by an Owner Operator residing in a mixed use residential unit or other residential structure thereon, is strictly prohibited.**

3. Definitions:

Small Livestock shall mean and includes miniature goats, sheep, pigs, and other smaller in size breeds or species of Farm Animals.

Domestic Fowl shall mean and includes chickens, Guinea Fowl, ducks, geese, turkeys and any other birds usually defined as a species of Domestic Fowl .

4. Requirements.

**a. Owner/Operators shall mean the owner of any such premises within the Town whereon such keeping is conducted and/or the person(s) conducting the keeping if not the Owner.**

**Owner/Operators shall ensure that all Small Livestock and Domestic Fowl are kept on their own property except where express permission has been granted permitting such livestock or fowl to graze or roam at large onto public or private property not owned or controlled by the Owner Operator. The failure to prevent same from occurring after one such incident of trespass has previously occurred shall constitute a violation hereof. And in any event (including incidental to a first incident of trespass or where express permission has been given) the Owner Operator shall be strictly liable for any damage or injury, including death, to property or persons caused by or arising out of any such grazing or roaming onto public or private property.**

**Following any initial or subsequent violations of this Section 4(a), or following a written warning as to conduct in violation of Section 4(d), (e) or (f) and failure to comply within ten (10) days therefrom (the Town may require the Owner Operator to fence in a grazing or roaming area on their premises and in connection therewith to ensure that any fence installation is not within 15 ft. of the common property boundary lines with adjacent premises not owned or otherwise legally occupied by the Owner Operator or from the public street or sidewalk right of way.**

b. Adequate shelter must be provided for Small Livestock and Domestic Fowl, to protect them from predators and inclement weather.

c. The shelter shall be a secure, coop, pen or other type of enclosure, that permits access only by the specific types or species of Small Livestock and Fowl, and not be accessible by predators or other species of Small Livestock or Domestic Fowl maintained by the Owner Operator on the same property but not compatible for cohabitation.

d. The shelter must be regularly cleaned and serviced to keep it clean, dry and relatively odor free for both the health and well-being of the owners and animals and for the safety and well-being of nearby properties and persons residing or working there.

e. Any such odors produced by operations shall not extend past the boundaries of the owner/ operators property.

f. Feed must be kept in sealed containers so as not to attract or be accessed by rodents, insects or predators.

5. Effectiveness.

**This Chapter shall be effective and enforceable as against the those Owners /Operators of, and those residential premises, occupancies and uses in all zoning districts of the Town (including within or upon business or commercial zoned districts or uses, in order to protect adjacent and other nearby residential and business premises and those occupying same, provided however application of certain of the foregoing requirements specifically those described at Sections 4(b) and (c) shall be subject to, and restricted if and to the extent such keeping is taking place upon premises that are utilized in whole or in part for residential occupancy, and are located within a district zoned agricultural, or consist of legal non-conforming structures, or take place upon premises located within a certified agricultural district; and further provided such exception shall be limited to the extent any superseding state statute, code or regulations promulgated thereunder and/or Town zoning or planning code provisions may permit conduct otherwise prohibited under Sections 4 (a), (d), (e) and (f) hereunder. Any such keeping within business or commercial zoned districts, unless by an Owner Operator residing in a mixed use residential unit or other residential structure located thereon, is strictly prohibited. Small Livestock and Domestic Fowl Owner Operators who have kept Domestic Fowl or Small Livestock prior to or as of the effective date of this Chapter in the Town of Tully are except as provided in this Section 5 subject to this law. Any such Owner/Operators as of the effective date of filing shall come into compliance with this law within one hundred twenty (120) days of the effective date. The provisions hereof are adopted as and pursuant to the Towns police powers to protect the health safety and welfare of Town residents, are not enacted as a zoning requirement and therefore shall not be subject to the variance or interpretation authority of the Town Zoning Board of Appeals except and to any extent same may be required to establish the zoning classification of premises or whether the legal non-conforming character of pre-existing improvements as described at Sections 4(b) and (c) hereof exempts same from compliance with the requirements of 4 (b) and (c). The keeping of Domestic Fowl or Small Livestock per se shall not be deemed a non-conforming use (as opposed to the improvements described at Sections 4 (b) and (c) which may under certain circumstances be deemed legal non-conforming structures). This local law shall also not be interpreted, construed or enforced so as to restrict the exercise of any more beneficial rights as, or to impose greater duties than those granted or imposed under Articles 16 and 18 of the Town Law of the State of New York respecting the protection of nearby or adjacent properties, their owners, occupants, including residents thereon or the community in general.**

6. Enforcement.

Town of Tully Code Enforcement, Animal Control, Zoning Enforcement and/or any Police Agency personnel shall have the authority to inspect any property housing any Small Livestock and/or Domestic Fowl, to determine compliance and issue such violations or where authorized by law or otherwise by the Town Board, to take such actions as provided under Section 8 following.

7. Penalties.

Any person not conforming to the provisions of this local law (and subject to any required notice as described herein) shall be guilty of a violation.

a. First Violation. A Written or verbal warning by any one of the above named officers or personnel, notifying the owner of the offense and that they must come into compliance within ten (10) days.

Inspection will be performed following the tenth day by Town of Tully personnel. If the owner or other responsible person is not in compliance, they will be guilty of a second violation.

b. Second Violation: Subsequent or Multiple Violations. The Town may seek to prosecute such individual on such violation and in doing so, on a finding of guilt, may seek a fine of up to \$250.00 per violation provided, however, there shall be a minimum fine of \$50.00. Each week that an offense continues will be considered a separate offense. The Town may also seek civil remedies including for injunctive relief in a Court of competent jurisdiction.

8. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application therefore to any person, individual, corporation, firm, partnership, entity or circumstances is adjudged invalid, illegal or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances. Further, in adjudging such invalid provision, the court or other person(s) or body having jurisdiction over the parties or subject matter shall attempt to modify same to a provision which is not invalid, illegal or unconstitutional and which best achieves the intent of the invalid provision.

9. Effective Date.

This local law shall take effect upon the date of its filing in the office of the Secretary of State.

I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2018 of the Town of Tully was duly passed by the Town Board of the Town of Tully on January --, 2018 in accordance with the applicable provisions of law.

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Susan Vaccaro, Town Clerk

Date: \_\_\_\_\_ 2018

STATE OF NEW YORK  
COUNTY OF ONONDAGA

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.

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Steven J. Primo

Attorney for the Town  
Town of Tully

Date: \_\_\_\_\_, 2018