



# Legal Aspects of Rural Living

## Guide to Farming in New York State

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Laws are constantly changing and vary by municipality. The following are some general guidelines to know when living in the country:

**Boundary Fences and Trees:** In NYS it is the duty of both adjoining landowners to maintain a fence line and one party may not remove a fence without the permission of the other. The same applies to trees; however, a property owner may trim the branches of a tree hanging on his side of the property so long as the trimming does not result in damage to the tree.

**Fencing for Livestock:** Fences intended to contain livestock must be constructed of materials that will restrain them. If you have animals, let your neighbors know and provide them with contact info in case the animals get out or if they see something amiss.

**Riparian Rights:** If your property includes a waterway, you have the right to use a reasonable amount of water but you are liable for water pollution. You may not impede the flow of a stream or divert it from its original channel where it flows into the next owner's property. If a body of water is navigable, the public has the right to use water regardless of the owner. If a body of water is not navigable, the riparian owner may exclude public use. If a stream is classified as a trout stream, it may not be altered under NYS DEC law without a permit, and according to fish and game law the land may not be posted.

**Posting and Trespass Law:** Owners or others with exclusive rights to property may post the boundaries warning that if a person enters the property they are trespassing. Trespassers must leave the property if the owner so orders and they may be charged with a criminal violation. If not posted, the trespasser can argue that they thought the land was public. If a trespasser refuses to leave, a sheriff should be called to make an arrest.

*Posting requirements include:* at minimum 11 inch square sign with lettering to occupy 80 square inches exclusive of the name and address; the word POSTED in caps and the name and address of the owner. Signs must be located at property boundaries and corners and be conspicuously placed not more than 50-100 feet apart. Old signs should be replaced annually.

**Landowner Liability:** This is a very complicated issues and the best protection is risk management, insurance and posting. While trespassing is illegal, it is also illegal for the property owner to harm the trespasser. If a trespasser drowns, the landowner is NOT liable, however, if the person was given permission to swim in a pond, the landowner may be held liable. If you give permission to someone to use your land for any purpose, it is advisable to warn them of hazards on the property.

**Right to Farm Laws:** The NYS Agricultural District Law has a provision that protects farmers against nuisance lawsuits and protects the right to farm, provided that sound agricultural practices are followed. Many municipalities also have right-to-farm laws with additional provisions meant to protect farmers. Check with your town officials to see if such a law exists in your municipality.

**Farm Neighbor Relations:** A way to avoid problems that may arise from the above situations is to let your neighbors know what you are doing on your farm and what to expect. If you have to operate for long hours during planting and harvest season or will be spreading manure, let your neighbors know. Communication goes a long way towards avoiding complaints about noise, dust, odor, livestock hazards, or farming practices. Increasingly your farming neighbors will have had no exposure to living in the country and you can help educate them about agriculture and where food comes from by letting them know what you do.



Cornell University  
Cooperative Extension