

*Draft* Town of Ancram Local Law No. \_\_\_\_ of 2016 *Draft*  
A Local Law enacting a Right to Farm Law for the Town of Ancram

**Article I. Title, Legislative Intent and Purpose**

- A. This Local Law may be cited as “the Right to Farm Law of the Town of Ancram.”
- B. The Town Board recognizes farming as an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Ancram. The Town Board further declares that it shall be the policy of this Town to support agriculture and foster understanding by all residents of the necessary day to day operations involved in farming so as to encourage cooperation with those practices.
- C. It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to support the initiation of farms, farm enterprises and agri-business, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Ancram, it is necessary to limit the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

**Article II. Definitions**

- A. “Farmland” shall mean land used in agricultural production, as defined in subdivision four of section 301 of Article 25AA of the New York State Agriculture and Markets Law.
- B. “Farmer” shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.
- C. “Agricultural products” shall mean those products as defined in section 301(2) of Article 25AA of the State Agriculture and Markets Law, including but not limited to:
1. Field crops, including but not limited to corn, wheat, rye, barley, hay potatoes and dry beans;
  2. Fruits, including but not limited to apples, peaches, grapes, cherries and berries;
  3. Vegetables, including but not limited to tomatoes, snap beans, cabbage carrots, beets and onions;
  4. Horticultural specialties, including but not limited to nursery stock, ornamental shrubs, ornamental trees and flowers;
  5. Livestock and livestock products, including but not limited to cattle, sheep, hogs, goats, horses, poultry, llamas, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk and milk products, eggs, furs, and poultry products;
  6. Maple sap and sugar products;
  7. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump;

8. Aquaculture products, including but not limited to fish, fish products, water plants and shellfish;

9. Short rotation woody crops raised for bioenergy;

10. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood;

11. Apiary products, including but not limited to honey, royal jelly, pollen, beeswax, and propolis;

12. Compost products.

D. "Agricultural practices" shall mean all activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and the on-farm production, processing, and marketing of agricultural products, including, but not limited to, the collection, transportation, distribution, storage, and land application of animal wastes; storage, transportation, and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and pesticide application; storage and use of legally permitted fertilizers, limes, and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use, and application of animal feed and foodstuffs; construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations, including the construction and maintenance of fences.

E. "Farm operation" shall be defined in section 301(11) in the State of Agriculture and Markets Law.

### **Article III. Right-to-Farm Declaration**

A. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, 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, research and improved technologies.

B. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1. Reasonable and necessary to the particular farm or farm operation,

2. Conducted in a manner which is not negligent or reckless,

3. Conducted in conformity with generally accepted and sound agricultural practices, including—but not limited to—those cited in Appendix A, attached (NYS Ag & Mkts Best Management Practices for Water, adopted as part of Town of Ancram Agriculture & Farmland Protection Plan, May 2011).

4. Conducted in conformity with all local state, and federal laws and regulations,

5. Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and

6. Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

C. Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

#### Article IV. Notification of Real Estate Buyers

A. In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25-AA of the New York State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows:

“It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not limited to, activities that cause noise, dust and odors.”

B. This notice shall be provided to prospective purchasers of property within an agricultural district or ~~an~~ property with boundaries within 500 feet of a farm operation located in or outside an agricultural district.

C. A copy of this notice shall be included by the seller or seller’s agent as an addendum to the purchase and sale contract of properties subject to this notice at the time an offer to purchase is made.

D. In addition, this disclosure notice shall be included on a subdivision plat or site plan of properties subject to this notice submitted for Town approval.

#### Article V. Resolution of Disputes

A. Should any controversy arise regarding any inconveniences or discomfort occasioned by -agricultural operations which cannot be settled by direct negotiation between the parties -involved, either party may submit the controversy to the NYS Department of Agriculture Mediation Program (www.nysamp.com), a dispute resolution committee 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.

~~1. Within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy, or within thirty (30) days of the date the party became aware of the occurrence, the party shall notify the Ancram Town Supervisor in writing about the nature of the dispute and that the party desires to submit the controversy to a dispute resolution committee.~~

~~2. Within fifteen (15) days of the above notification, the Town Supervisor shall convene the Town Board to appoint a dispute resolution committee. The committee shall be composed of three (3) members from the Town selected by the Town Board, as the need arises, including one representative from the farm community, one person from Town government and one person mutually agreed upon by both parties involved in the dispute.~~

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~~8. Thereafter, the committee may investigate the facts of the controversy but must, within twenty five (25) days after the committee's appointment, hold a meeting at a mutually agreed place and time to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties.~~

~~1. The effectiveness of the 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.~~

~~2. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts.~~

~~3. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel.~~

~~4. The time limit for action by the committee may be extended upon the written stipulation of all parties in the dispute.~~

~~5. Any reasonable costs associated with the function of the committee process shall be borne equally by the disputing parties.~~

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#### **Article VI. Severability**

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law. The Town hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these articles, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

#### **Article VII. Precedence**

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

#### **Article VIII. Effective Date**

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

## APPENDIX A to Ancram Right to Farm Law

Reproduced from Ancram Agriculture & Farmland Protection Plan, adopted May 2011

### NY AG & MKTS- BEST MANAGEMENT PRACTICES FOR WATER QUALITY PROTECTION

Source: Agricultural Management Practices Catalogue for Nonpoint Source Pollution Prevention and Water Quality Protection in New York State, NYS Department of Agriculture & Markets, 2007.

Access Road Improvement	Jul 1991
Alternative Water Supply	Jul 1995
Barnyard Runoff Management System	Jul 1991
Conservation Tillage	Jul 1991
Constructed Wetlands	Jul 1991
Contour Farming	Jul 1991
Cover and Green Manure Crop	Jul 1991
Critical Area Protection	
- Vegetative Crop	Jul 1991
- Streambank and Shoreline Protection	Jul 1991
Crop Rotation	Jul 1991
Diversions	Jul 1991
Fencing	Jul 1991
Filter Strip	Jul 1991
Integrated Pest Management (IPM):Overview	Jul 1995
- Biological Controls	May 1994
- Cultural Practices	May 1994
- Resistant Crop Varieties	May 1994
- Scouting	July 1995
- Trap Crops	Jul 1995
Irrigation Water Management	Feb 2007
Milking Center Wastewater Treatment	Feb 2007
Mulching – Vineyards/Cropland	Feb 2007
Nutrient Management: Planning	Feb 2007
- Anaerobic Digestion	Jul 1995
- Composting	Apr 1998
- Feed Ration Evaluation and Balancing	Apr 1998
- Manure Storage Systems	Apr 1996
- Sequence Batch Reactor	Apr 1998
Nutrient/Sediment Control System	Jul 1991
Pathogen Management	Apr 1996
Pasture Management: Prescribed Grazing System	Jul 1995
Pesticide Management: Overview	Feb 2007
- Agrichemical Mixing Facility	Feb 1991
- Calibration and Application	Feb 2007
- Evaluation of Site-Specific Leaching and Surface Loss Potential	Sep 1991
- Pesticide Applicator Education and Training	May 1994
- Read and Follow the Label Directions	Sep 1991
Petroleum Product Storage Spill Prevention and Containment	Apr 1996
Riparian Buffer	Jul 1991
Silage Leachate Control	Jul 1995
Stripcropping	Jul 1991
Terraces	Jul 1991
Waterway	Jul 1991

<http://www.agmkt.state.ny.us/SoilWater/aem/forms/Agricultural%20BMP%20Catalogue%20June%202007.pdf>