

Chapter 46

FARMING

**ARTICLE I
Right to Farm**

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[HISTORY: Adopted by the Town Board of the Town of New Baltimore 4-9-2007 by L.L. No. 5-2007]

§ 46-1. Purpose and intent.

- A. The Town Board of the Town of New Baltimore hereby recognizes that farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the town. The Town Board hereby also declares that its policy is to promote effective communication between farm and non-farm neighbors, greater consideration by each of the other's needs and a shared understanding of the value of agricultural enterprises to the town of New Baltimore.
- B. It is the general purpose and intent of this article 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 encourage the initiation and expansion of farms and agribusinesses, 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 New Baltimore, 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.

§ 46-2. Definitions.

For purposes of this article, the following terms used herein shall have the following meanings:

AGRICULTURAL PRACTICES - Those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, and construction and use of farm structures. This term also includes those practices necessary for commercial horse boarding and breeding operations.

AGRICULTURAL PRODUCTS - Those products as defined in § 301(2) of Article 25-AA of the State Agriculture and Markets Law, including but not limited to:

- A. Field crops, including corn, wheat, rye, barley, hay, potatoes, and dry beans.
- B. Fruits, including apples, peaches, grapes, cherries and berries.
- C. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- D. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- E. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk and milk products, eggs and furs.
- F. Maple sap and products.
- G. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.

- H. Aquaculture products, including fish, fish products, water plants and shellfish.
- I. Woody biomass, which means short rotation woody crops raised for bioenergy.
- J. Farm woodland includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.
- K. Racehorses and horses kept at commercial horse boarding operations.

FARMER - 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.

FARMLAND - Land used in agricultural production, as defined in subdivision (4) of § 301 of Article 25-AA of the State Agriculture and Markets Law.

FARM OPERATION - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision (13) of § 301 of Article 25-AA of the State Agriculture and Markets Law, and "timber processing" as defined in subdivision (14) of § 301 of Article 25-AA of the State Agriculture and Markets Law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

§ 46-3. 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 such 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 and improved technologies. 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;
- (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 that does not reasonably obstruct the free passage or use of navigable waters or public roadways.

B. Nothing in this article 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 practices, as outlined in this section.

§ 46-4. Notification of real estate buyers of property within or near an agricultural district.

In order to promote harmony between farmers and their neighbors, the town requires land holders and/or their agents and assigns to comply with § 301 of Article 25-AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of New York State and The Town of New Baltimore 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 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 be limited to, activities that cause noise, dust, and odors." This notice shall be provided to prospective purchasers of property within an agricultural district or of property with boundaries within 500 feet of a farm operation located in an agricultural district. A copy of this notice shall be

included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

§ 46-5. 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 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 determination by the Commissioner of Agriculture and Markets about whether the practice in question is sound pursuant to § 308 of Article 25-AA of the State Agriculture and Markets Law.
- B. Any controversy between the parties shall be submitted to the Town Supervisor within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.
- C. The Town Supervisor shall form a Dispute Resolution Committee within thirty (30) days which shall be composed of three (3) members, including two representatives from the Town Board, and one person from a community dispute resolution center, such as Common Ground or FarmNet.
- D. The effectiveness of the Dispute Resolution 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. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.
- E. Once formed, the Dispute Resolution Committee may investigate the facts of the controversy but must, within 25 days, hold a meeting at a mutually agreed upon place and time to consider the merits of the matter and within five days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the Dispute Resolution Committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the Dispute Resolution

Committee may be extended upon the written stipulation of all parties in the dispute.

F. Records of the Dispute Resolution Committee shall be maintained by the Town Clerk of the Town of Baltimore.

G. Any reasonable costs associated with the functioning of the dispute resolution process shall be borne by the participants.

§ 46-6. Severability clause.

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

§ 46-7. Precedence.

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