

Town of Danby Local Law No. 2 of 2009
“A LOCAL LAW RELATED TO THE RIGHT TO ENGAGE IN
AGRICULTURAL ACTIVITY IN THE TOWN OF DANBY”

SECTION 1. Legislative Intent and Purpose

- a. The Town Board of the Town of Danby finds that agricultural uses are an essential activity in the Town of Danby, as expressed in the Town’s Comprehensive Plan.
- b. Agricultural uses conducted according to sound agricultural practices, as defined herein, reinforce the special quality of life enjoyed by residents of the Town, provide the visual benefit of open space and generate economic benefits and social well-being within the community. Therefore, the Town of Danby emphasizes to the community that this Town encourages agriculture and requests that the community be understanding of the nature of day to day agricultural operations.
- c. It is the general purpose and intent of this Local Law to help maintain and preserve the rural tradition and character of the Town of Danby, to protect the existence and operation of farms, and to encourage the initiation and expansion of farms and agricultural uses, where such farms and agricultural uses employ sound agricultural practices.
- d. For the purpose of reducing future conflicts between agricultural and nonagricultural uses, notice shall be given about the nature of sound agricultural practices.
- e. Although the Town of Danby welcomes new agricultural enterprises, Concentrated Animal Feeding Operations (CAFOs) as by the U.S. Environmental Protection Agency are not appropriate for Danby.

SECTION 2. Definitions

- a. “Agricultural Use” - includes the management of land for agriculture, raising of cows, horses, pigs, poultry, and other livestock, horticulture, aquaculture, silviculture, or orchards, including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems, and farm ponds.

For purposes of this local law, “Agricultural Use” also includes the raising of horses, and equestrian facilities, which provide one or more of the following services with or without compensation: horse-riding lessons, horse training, leasing of horses, boarding of horses, and the sale of horses.

b. “Sound agricultural practices” - in determining whether a specific agricultural practice is a sound agricultural practice, due consideration shall be given to existing information and recommendations from the New York State Department of Agriculture and Markets.

c. “Concentrated Animal Feeding Operations (CAFOs)” are as defined by the U.S. Environmental Protection Agency in Title 40, Code of Federal Regulations.

SECTION 3. The Right to Undertake Sound Agricultural Practices

a. Any person or persons may lawfully engage in sound agricultural practices within the Town of Danby at any and all such times and all such locations as are reasonable.

b. 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 agriculture as well as to advances resulting from increased knowledge and improved technologies

c. Agricultural uses shall not be found to be a public or private nuisance as long as these uses are:

1. reasonable for the particular agricultural use;
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;
and
5. sustainable, in that if they are engaged in indefinitely in their appropriate and careful usage, would not result in the net loss of soil or cause other serious environmental damage.

d. 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 practices, as outlined in this section.

e. Any restrictions within this local law deemed by the New York State Division of Agriculture and Markets to be more restrictive than State law would not apply in the Agricultural District.

SECTION 4. Disclosure Notice.

The following disclosure notice shall accompany the issuance of building permits, special permits, the approval of site plans, and similar permits or approvals made pursuant to the Zoning Ordinance of the Town of Danby; and on plats of subdivisions and other land divisions submitted for approval pursuant to Town Law Section 276 and the Subdivision and Land Division Regulations of the Town of Danby:

“This property may border an agricultural use, as defined in Town of Danby Local Law No. 2 of 2009, “ A Local Law Related to the Right to Engage in Agricultural Activity in the Town of Danby”. Residents should be aware that anyone has the right to undertake sound agricultural practices which may generate dust, odor, smoke, noise, and vibration.”

SECTION 5. Severability.

If any provision of this local law is found to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other provisions of this local law.

SECTION 6 Effective Date

This local law shall take effect 10 days after its publication in the official newspaper of the Town or on the date it is filed in the Office of the Secretary of State of the State of New York, whichever is later.

Adopted by Danby Town Board on June 8, 2009.

**NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)
DEFINITIONS RELATED TO ANIMAL FEEDING OPERATIONS.**

REFERENCING TITLE 40, CODE OF FEDERAL REGULATIONS, Section 122.23

Animal Feeding Operation (AFO)

Lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
- Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Concentrated Animal Feeding Operation (CAFO)

An AFO that is defined as a Large CAFO or as a Medium CAFO. . . , or that is designated as a CAFO. . . Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

Large Concentrated Animal Feeding Operation (Large CAFO)

An AFO is defined as a Large CAFO if it stables or confines as many or more than the numbers of animals specified in any of the following categories:

- 700 mature dairy cows, whether milked or dry;
- 1,000 veal calves;
- 1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
- 2,500 swine, each weighing 55 pounds or more;
- 10,000 swine, each weighing less than 55 pounds;
- 500 horses;
- 10,000 sheep or lambs;
- 55,000 turkeys;
- 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
- 30,000 ducks (if the AFO uses other than a liquid manure handling system); or
- 5,000 ducks (if the AFO uses a liquid manure handling system)

Medium Concentrated Animal Feeding Operation (Medium CAFO)

The term Medium CAFO includes any AFO with the type and number of animals that fall within any of the ranges listed below and which has been defined or designated as a CAFO. An AFO is defined as a Medium CAFO if:

1. The type and number of animals that it stables or confines falls within any of the following ranges:

- 200 to 699 mature dairy cows, whether milked or dry;
- 300 to 999 veal calves;
- 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is

- not limited to heifers, steers, bulls and cow/calf pairs;
 - 750 to 2,499 swine each weighing 55 pounds or more;
 - 3,000 to 9,999 swine each weighing less than 55 pounds;
 - 150 to 499 horses;
 - 3,000 to 9,999 sheep or lambs;
 - 16,500 to 54,999 turkeys;
 - 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
 - 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
 - 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;
 - 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or
 - 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system); and
2. Either one of the following conditions are met:
- Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or
 - Pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Small Concentrated Animal Feeding Operation (Small CAFO)

An AFO that is designated as a CAFO and is not a Medium CAFO.