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PULASKI COUNTY  
RIGHT TO FARM ORDINANCE

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JANUARY 2016

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PULASKI COUNTY PLAN COMMISSION

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# PULASKI COUNTY UNIFIED DEVELOPMENT DOCUMENT

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## SECTION I: GENERAL INFORMATION

### 1.1 PURPOSE & INTENT

- A. The purpose of this Ordinance is to:
  1. Declare that agriculture is vital to Pulaski County, because:
    - a. It is a livelihood and provides employment for agri-service;
    - b. It provides locally produced, fresh commodities;
    - c. It provides agricultural diversity;
    - d. It promotes economic stability;
    - e. Agriculture maintains open space and promotes environmental quality; and
    - f. Agricultural land does not increase the demand for services provided by local governments.
- B. In order to maintain a viable farming economy in Pulaski County, farmers must be afforded protection allowing them the right to farm. When nonagricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operation or are discouraged from making investments in agricultural improvements.
- C. The intent of this ordinance is to reduce the loss to Pulaski County of its agricultural resources by limiting 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.

## SECTION II: DEFINITIONS

### 2.1 GENERAL

Unless specifically defined, the following words and phrases shall be interpreted so as to give them meanings they have in common usage and to give this Ordinance its most reasonable application.

#### AGRICULTURAL PRACTICES

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,

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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.

## FARM

The land, buildings and machinery used in the production, whether for profit or otherwise, of agricultural products.

## FARMER

Any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock, poultry, fur-bearing animals, or fish, the harvesting of timber or the practicing of horticulture or agriculture.

## GENERALLY ACCEPTED AGRICULTURAL PRACTICES

Those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in the definition of "agricultural practices."

## SECTION 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 Pulaski County at all such times and in all such locations as are reasonably necessary to conduct the business of agriculture. For any agriculture 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.
- B. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:
  - a. Reasonable and necessary to the particular farm or farm operation;
  - b. Conducted in a manner which is not negligent or reckless;
  - c. Conducted in conformity with generally accepted agricultural practices;
  - d. Conducted in conformity with all local, state and federal laws and regulations;
  - e. 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

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- f. Conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.
- C. Nothing in this Ordinance shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to failure to follow sound agricultural practices, as set forth in this section.

### SECTION IV: CONSIDERATION OF IMPACT ON CERTAIN APPLICATIONS

- A. The intent and purposes of this Ordinance shall be taken into consideration by the Planning Commission in processing any application requesting rezoning, subdivision approval, temporary conditional permit approval, site plan approval and/or special use permit approval when the property which is the subject of such application is located within one mile of an existing farm.
- B. The Commission shall, as part of its review of such application, determine whether appropriate and reasonable conditions may be prescribed or required which would further the purposes and intent of this Ordinance as part of an approval of the application.
- C. Such appropriate and reasonable conditions shall be determined on a case-by-case basis and may include, but not be limited to, requiring declaration, deed restrictions and/or covenants which run with the land, which would notify future purchasers and owner of the subject property that owning and occupying such property might expose them to certain discomforts or inconveniences resulting from the conditions associated with agricultural practices and operations in the County.

### SECTION V: INFORMAL RESOLUTION OF DISPUTES

- A. Should any controversy arise regarding any inconveniences or discomforts occasioned by agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties may submit the controversy to the Planning Commission as set forth below in an attempt to resolve the matter prior to the filing of any court action.
- B. Any controversy between the parties may be submitted to the Planning Commission whose decision shall be advisory only, within 30 days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.
- C. The effectiveness of the Planning Commission as a forum for resolution of grievances 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.

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- D. The controversy shall be presented to the Commission by written request of one of the parties within the time limits prescribed above. Thereafter, the Committee may investigate the facts of the controversy but must, within 30 days, hold a meeting to consider the merits of the matter and within 20 days of the meeting must render a written decision to the parties.
- E. At the time of the meeting, both parties shall have an opportunity to present what each party considers to be the pertinent facts.

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## EFFECTIVE DATE: RIGHT TO FARM ORDINANCE

The Right To Farm Ordinance shall be in full force and effect as of \_\_\_\_\_ after its passage, approval and publication according to law.

Passed and adopted by the County Commissioners of the County of Pulaski County, Indiana on \_\_\_\_\_.

County Commissioners Of The County Of Pulaski County, Indiana

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attest:

\_\_\_\_\_  
County Auditor