

Town of New Lebanon, NY
Zoning Re-Write Committee
June 1, 2020

Proposed Revisions to New Lebanon
Zoning (Ch. 205) and Farming (Ch. 102)

1. Proposed changes related to Short Term Rentals

Summary: Replace “Bed & Breakfast” definition and use with “Short Term Rental.” Short term rentals will be a permitted use (P) in specified zones (B&B’s are now granted via special permit/site plan review). The definition of short term rental will subsume current B&B special permit requirements that are not addressed elsewhere and add a requirement for a local contact.

Specific Changes:

205-9 Off Street Parking and loading

205-9 A. (12) – in Use column of Guide to Off Street Parking, substitute “short term rental” for “bed-and-breakfast”

205-13 Special Use Permits

205-13 E. (1) Bed-and-breakfast – delete

205-13 E. (2) Boardinghouse – in subdivision (b), delete first sentence: (“All prescribed standards for bed-and-breakfasts shall be met.”)

205-17 Signs and Posters (as amended)

205-17 B. (13) Business Signs (in commercial zones) – substitute “short term rental” for “bed-and-breakfast” as a business to which this section does not apply.

205-17 J. – in Use column of Sign Schedule, substitute “short term rental” for “bed-and-breakfast”

205-20 Definitions

AGRITOURISM (as amended) – substitute “short term rentals” for “bed-and-breakfasts”

BED-AND-BREAKFAST – delete

SHORT TERM RENTAL – add as follows:

The rental or lease of any dwelling space within a residential property to transient fee paying guests for a period of thirty consecutive days or less, but not including spaces that are rented for an aggregate

total of thirty days or less over a 365 day period. Such residential properties may or may not be owner- or operator-occupied, however, if not so occupied, the owner/operator shall provide the Building Department with the name and contact information of a contact person who must reside within 20 miles of the short term rental property. The short term rental arrangement may or may not include provision of one or more meals. The short term rental use only includes occupancy; other activities such as group gatherings (e.g. weddings) are a separate use. Short term rentals shall be established, maintained and operated so as to preserve and complement the character and integrity of the surrounding area. Any outdoor lighting shall use fully shielded fixtures and shall not cause light to glare onto neighboring properties.

205 Attachment 2 - Zoning Law Use Table / Business Use Section

Delete Bed-and-breakfast

Add Short Term Rental as "P" in RA -5, RA-3, RA-1, C, and C-R

2. Proposed changes related to farm-related definitions

Summary: Replace definitions contained in Chapter 102 (Farming) and Chapter 205 (Zoning) that relate to farming with selected definitions contained in the NYS Agriculture and Markets Law for clarity, consistency and to minimize the potential of town policies conflicting with state requirements.

Specific Changes:

Chapter 102 Farming

Retitle Article 1 as follows:

Article 1 Right to Farm – *Commercial and Non-Commercial*

102-2 Definitions

102-2 B – delete definitions for "Agricultural Farm Operations," "Agricultural Practices," "Farm," "Farmer" and "Farming." Add the following definitions:

102-2. B – As used in this article, the following terms shall have the meanings indicated for *commercial agriculture pursuant to NYS Agriculture and Markets Law Section 305 as follows:*

AGRICULTURAL DATA STATEMENT

An identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five-b of the 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 the following terms as defined in this chapter: "commercial horse boarding operation," "timber operation" and "commercial equine operation." 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.

CROPS, LIVESTOCK AND LIVESTOCK PRODUCTS

Crops, livestock and livestock products" shall include but not be limited to the following:

- a. Field crops, including corn, wheat, oats, 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, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.
- f. Maple sap.
- 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, and shall not include farm woodland.
- j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.
- k. Actively managed log-grown woodland mushrooms.
- l. Industrial hemp as defined in section five hundred five of this chapter.

COMMERCIAL EQUINE OPERATION

An agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production.

Under no circumstances shall this definition be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this definition, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

COMMERCIAL HORSE BOARDING OPERATION

An agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this definition, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

COMPOST, MULCH OR OTHER ORGANIC BIOMASS CROPS

The on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this definition, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

TIMBER OPERATION

The on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

102-3 Right to Farm – Revise as follows:

Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in ~~agricultural practices or an agricultural~~ farm operation within the Town of New Lebanon at any and all such times and at all such locations as are reasonably necessary to carry on an agricultural farm operation ~~or agricultural practice~~. In determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the agricultural industry as well as to advances resulting from increased knowledge or improved technologies.

102-7 – revise as follows:

Re-title the section as follows: ~~Notice to prospective neighbors; notice of farm use~~ Required notices

102-7 A. Agriculture data statement – revise as follows:

A. Agriculture data statement. ~~The Town of New Lebanon will encourage and support the requirement for agriculture data statements~~ As prescribed in NYS Agriculture and Markets Law Article 25-AA, Section 305-ab, *the following requirements for agriculture data statements shall apply:*

(a) Submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by the appropriate board would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The appropriate board shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law.

(b) Notice provision. Upon the receipt of such application by the appropriate board, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. The notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by local law. The cost of mailing the notice shall be borne by the applicant.

(c) Content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

(d) Related requirements. See also related requirements in Chapter 179, subdivision of Land and Chapter 205, Zoning.

102-7 B. re-title subdivision as follows:

~~102-7 B. Agriculture disclosure for new residential development~~ *Notice to prospective neighbors; notice of farm use*

Replace existing content as follows:

~~For the purpose of giving due notice of nearby farming uses to proposed new residential areas adjacent to the unimproved land then being farmed or suitable therefor, the Planning Board shall require any applicant for an adjacent major or minor subdivision, as a condition of approval of such application, to~~

include a provision in each and every deed conveying all or any portion of the lands thereby subdivided, as well as on filed final subdivision maps, the following record notice to and waiver by grantees of such present or future proximate farming uses, which provision shall be made to run with the land:

"The grantee hereby acknowledges notice that agricultural operations exist throughout the Town of New Lebanon and that there are presently or may in the future be farm uses adjacent or in close proximity to the described premises. The grantee acknowledges that farmers have the right to undertake farm practices which may generate dust, odor, fumes, noise and vibrations associated with agricultural practices, and that these practices are permitted under the Town of New Lebanon Right to Farm Law, and by acceptance of this conveyance, the grantee does hereby waive objection to such activities."

(1) (a) When any purchase and sale contract is presented for the sale, purchase, or exchange of real property located partially or wholly within an agricultural district established pursuant to the provisions of Article 25-AA of NYS Agriculture and Markets Law, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:

"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 be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law."

(b) Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase or exchange of such real property.

(2) Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the commissioner of taxation and finance as provided for in Section 333 of the NYS Real Property Law.

Add a new section 102-8 Non-Commercial Farm Activity to read as follows:

All non-commercial farm activity should conform to sound agricultural practices as defined by NYS Agriculture and Markets Law. For additional reference, see Cornell University Cooperative Extension for Orange County – Backyard Poultry and Livestock Rearing.

Chapter 205 – Zoning

205-20 Definitions – For each of the following definitions, replace current content with the following:

AGRICULTURAL DATA STATEMENT

See definition for “agricultural data statement” in Town of New Lebanon Code Chapter 102 – Farming

AGRICULTURAL OPERATION

See definition for “farm operation” in Town of New Lebanon Code Chapter 102 – Farming

FARM

See definitions for “farm operation,” “crops, livestock and livestock products” and “compost, mulch and other organic biomass crops” in Town of New Lebanon Code Chapter 102 – Farming

HORSE BOARDING OPERATION

See definition for “commercial horse boarding operation” in Town of New Lebanon Code Chapter 102 – Farming

HORSE FARM

See definition for “commercial equine operation” in Town of New Lebanon Code Chapter 102 – Farming

LIVESTOCK

See definition for “crops, livestock and livestock products” in Town of New Lebanon Code Chapter 102 – Farming

For the following definition, revise as follows:

AGRITOURISM (as amended) also see Short Term Rental change

Replace “may be secondary to the primary farm use” with “shall be secondary to the primary farm use.”

3. Proposed changes related to driveway width

Summary: Increase the required minimum driveway width from 10’ to 12’ to conform to NYS code.

Chapter 179 – Subdivision of Land

Amend Appendix B – Specifications for Road Construction, Section 13 C. as follows:

The minimum driveway width shall be ~~10~~ 12 feet and of suitable alignment to allow for access by emergency vehicles. . . .

Chapter 205 – Zoning

Amend 205-8 Supplementary Regulations as follows

205-8 D. Driveways

205-8 D (3) The minimum driveway width ~~is~~ *shall be* ~~10~~ 12 feet and of suitable alignment to allow for access by emergency vehicles. ...