

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(select one:)

of New Lebanon

Introductory Local Law No. 2 of the year 2020

**A LOCAL LAW TO UPDATE AND AMEND CHAPTER 102, CHAPTER 179 AND
CHAPTER 205 OF THE CODE OF THE TOWN OF NEW LEBANON.**

Be it enacted by the Town Board of the Town of New Lebanon as follows:

See attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF NEW LEBANON

INTRODUCTORY LOCAL LAW NO. 2 OF THE YEAR 2020

A LOCAL LAW TO UPDATE AND AMEND CHAPTER 102, CHAPTER 179 AND CHAPTER 205 OF THE CODE OF THE TOWN OF NEW LEBANON.

SECTION 1

This local law shall be referred to as “A Local Law to Update and Amend Chapter 102, Chapter 179 and Chapter 205 of the Code of the Town of New Lebanon”.

SECTION 2

Chapter 102 of the Code of the Town of New Lebanon, entitled “Farming”, is hereby amended as follows:

- A. Article I of Chapter 102, entitled “Right to Farm”, is hereby amended to read in its entirety as follows:

Article I Right to Farm – Commercial and Non-Commercial

§ 102-1 Legislative intent; purpose.

- A. It is hereby found and declared by the Town Board of the Town of New Lebanon that agriculture lands are irreplaceable assets. To that end, the Town Board affirms that farming is an essential activity. Farming, as defined in this article, reinforces the special quality of life enjoyed by citizens, provides the visual benefit of open space and generates economic benefits and social well-being within the community. Therefore, it is emphasized to residents that this municipality encourages its agriculture and requests its residents to be understanding of the necessary day-to-day operations associated with agricultural land use.
- B. It is the general purpose and intent of this article to maintain and preserve the rural tradition and character of the Town of New

Lebanon, to permit the continuation of agriculture practices and the business of farming and to encourage the initiation and expansion of farms and agricultural businesses. In recognition of the fact that there are many practices and activities which are inherent to and necessary for the business of farming, it is the specific purpose and intent of this article to attain the aforementioned goals and objectives by providing that such practices and activities may proceed and be undertaken free of unreasonable and unwarranted interference or restrictions.

- C. The Town Board, in an effort to promote and foster a harmonious relationship between the residents of the Town of New Lebanon, and to conserve, protect and encourage the development and improvement of agriculture land for the production of food and other products, hereby declares that it shall be the policy of the Town of New Lebanon to provide reasonable notice to prospective landowners that farming activities may occur on neighboring lands.

§ 102-2 Definitions.

- A. Except as provided in Paragraph B, below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable and effective application.
- B. Terms used in this article shall have the meanings set forth in Section 301 of the New York State Agriculture & Markets Law, except as may be specifically defined below:

AGRICULTURAL LAND – Any single or multiple, contiguous or noncontiguous parcel or parcels that together represent all that real property within the boundaries of the Town of New Lebanon currently used for agriculture farm operations or upon which agriculture practices are being utilized or upon which agriculture farm operations or agriculture practices may in the future be established or utilized.

§ 102-3 Right to farm.

Farmers, as well as those employed or otherwise authorized to act on behalf of farmers, may lawfully engage in farm operations within the Town of New

Lebanon at any and all such times and at all such locations as are reasonably necessary to carry on a farm operation. 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.

§ 102-4 Accepted customs and standards neither public nor private nuisance.

No agricultural practice or appurtenances thereto, conducted or maintained in a manner consistent with management practices such as those recommended by state and federal agencies within the educational aspects of farmers and agricultural practices, herein and hereafter referred to as "accepted customs and standards," shall be or become either a public or private nuisance.

§ 102-5 Interference prohibited.

No person, group, entity, association, partnership or corporation shall engage in any conduct or act in any manner so as to unreasonably, intentionally, knowingly and/or deliberately interfere with, prevent, or in any way deter the practice of farming within the Town of New Lebanon.

§ 102-6 Penalties for offenses.

- A. Noncompliance with any provision of this article shall not affect title to real property nor prevent the recording of any document. Violation of any provision of this article may constitute an offense punishable by law with a fine of not less than \$50 nor more than \$250 for each day's violation or continuation of the violation.
- B. In addition, an action to restrain or enjoin any violation of this article may be brought in a court of competent jurisdiction by an aggrieved entity and/or the Town of New Lebanon.

§ 102-7 Required notice.

A. Agricultural data statement. As prescribed in New York State Agriculture and Markets Law Article 25-AA, § 305-b, the following requirements for agricultural data statements shall apply:

- (1) Submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval that 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 board reviewing such application 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.
- (2) 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 law. The cost of mailing the notice shall be borne by the applicant.
- (3) 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.
- (4) Related requirements. In addition to the foregoing, the requirements for any such applications set forth in Chapter 179 and Chapter 205 shall also apply.

§ 102-8 Non-Commercial Farm Activity.

All non-commercial farm activity should conform to sound agricultural practices as defined by the New York State Agriculture & Markets Law and applicable guidance from the Commissioner of Agriculture and Markets.

SECTION 3

Chapter 179 of the Code of the Town of New Lebanon, entitled “Subdivision of Land”, is hereby amended as follows:

- A. Attachment 2, entitled, “Appendix B, Specifications for Road Construction”, of Chapter 179, is hereby amended to read in its entirety as set forth on the annexed Attachment 2, “Appendix B, Specifications for Road Construction”.

SECTION 4

Chapter 205 of the Code of the Town of New Lebanon, entitled “Zoning”, is hereby amended as follows:

- A. Subparagraph 3 of Paragraph D of Section 205-8, entitled “Supplementary Regulations”, is hereby amended to read in its entirety as follows:
 - 3. The minimum driveway width shall be 12 feet and of suitable alignment to allow for access by emergency vehicles. Driveways shall be constructed with a minimum of six inches of run-of-bank gravel and crowned in the middle.

- B. Section 205-8, entitled “Supplementary Regulations”, is hereby amended to add a new Paragraph G to read in its entirety as follows:
 - G. Short term rentals. If a short term rental is not occupied by the owner/operator, the owner/operator shall provide the Zoning Enforcement Officer with the name, telephone number, and email address of a contact person who must reside within twenty miles of the property and who must be authorized to act and receive notices and process on behalf of the owner/operator with respect to the property. Updated contact information shall be provided to the Zoning

Enforcement Officer whenever the name, telephone number, or email address of such contact person changes, and not less than annually.

C. Subparagraph 12 of Paragraph A of Section 205-9, entitled “Off street parking and loading”, is hereby amended to read in its entirety as follows:

(12) Guide to off-street parking.

Guide to Off-Street Parking

Use	Spaces
Dwellings	1 space for each dwelling unit
Boardinghouse, tourist home, motel, hotel, short term rental	1 space for each guest room
Administrative, professional nonprofit, governmental	1 space for each 200 square feet of floor space
Funeral home	10 spaces, plus space for all employee and resident personal cars
Church or temple	1 space for each 5 seating spaces in the main assembly room
School: elementary, junior high	1 space for each teacher or employee
School: senior high	1 space for each classroom or office and 1 space for each 10 students
Theater or other place of assembly	1 space for each 5 seating spaces
Nursing or convalescent home	1 space for each 4 beds
Retail store or bank	1 space for each 50 square feet of floor space devoted to customer use
Clubs and restaurants	1 space for each 4 seating spaces
Bowling alley	5 spaces for each alley
Industrial or manufacturing	1 space for each 2 employees on the maximum working shift
Skating rink or dance hall	1 space for each 100 square feet of floor space
Automobile racing facility	1 space for each 3 seating spaces
Barbershop or beauty parlor	1 space per chair
Cleaner or tailor	2 spaces for establishment plus space for all employees
Professional offices	Adequate spaces for customers/personnel
All other uses	Same as for professional office

D. Subparagraph 4 of Paragraph A of Section 205-13, entitled “Special use permits”, is hereby amended to read in its entirety as follows:

- (4) For uses requiring a special use permit, no building permit or certificate of occupancy shall be issued by the Building Inspector until such use has been approved by the Board as provided herein. No premises shall be occupied or used and no certificate of occupancy shall be issued until all of the requirements of this section, and all conditions of the special use permit have been complied with. To the greatest extent practicable, the Planning Board shall conduct special permit review and site plan review concurrently where pursuant to the Use Table, both a special use permit and site plan review pursuant to Section 205-14 are required.

E. Subparagraph 1 of Paragraph E of Section 205-13, entitled “Special use permits”, is hereby amended to read in its entirety as follows:

- (1) Short term rental.
 - (a) Short term rentals shall be established, maintained and operated so as to preserve and complement the character and integrity of the surrounding area.
 - (b) If the short term rental is not occupied by the owner/operator, the owner/operator shall provide the Zoning Enforcement Officer with the name, telephone number, and email address of a contact person who must reside within twenty miles of the property and who must be authorized to act and receive notices and process on behalf of the owner/operator with respect to the property. Updated contact information shall be provided to the Zoning Enforcement Officer whenever the name, telephone number, or email address of such contact person changes, and not less than annually.

F. Subdivision (b) of Subparagraph 2 of Paragraph E of Section 205-13, entitled “Special use permits”, is hereby deleted in its entirety.

G. Paragraph B of Section 205-14, entitled “Site plan review”, is hereby amended to read in its entirety as follows:

- B. Authorization of Planning Board to review site plans. The Planning Board is hereby authorized to review and approve or disapprove, and, where it deems appropriate pursuant to Section 205-14(E)(2), waive the review, of site plans for land uses within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this chapter.

H. Paragraph D of Section 205-14, entitled “Site plan review”, is hereby amended to read in its entirety as follows:

D. Applicability of review requirements. The Use Table sets forth those land use activities that require site plan review and approval before being undertaken. Any person uncertain of the applicability of this chapter to a given land use activity may apply to the Zoning Enforcement Officer for such determination. Applicants who disagree with the determination of the Zoning Enforcement Officer may apply for review by the Planning Board for a jurisdictional determination. The Zoning Enforcement Officer is authorized to grant a waiver for the sketch plan information requirements set forth herein where he or she determines that such information is not relevant to, or is not otherwise likely to be required by the Planning Board to conduct its sketch plan review.

I. Subparagraph (1) of Paragraph E of Section 205-14, entitled “Site plan review”, is hereby amended to read in its entirety as follows:

(1) Sketch plan. A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of the application. The intent of such a conference is to enable the applicant to inform the Planning Board of the applicant’s proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and generally determine the information to be required on the site plan application. In order to accomplish these objectives, the applicant shall provide the following for a sketch plan, except to the extent that, pursuant to paragraph D of this Section, the Zoning Enforcement Officer determines that such information is not relevant or is otherwise not likely to be required for the Planning Board’s sketch plan review:

- (a) A statement describing the project, giving evidence of compatibility with the Town of New Lebanon Comprehensive Plan and a time period for completion of the project;
- (b) A rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural

features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations;

(c) An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, rights-of-way, easements, agricultural operations, and other pertinent features within 200 feet of the boundaries of the parcel; and

(d) A topographical or contour map of adequate scale and detail to show site topography with contour intervals of 20 feet or less. Topographical maps that meet this requirement are available in the Building/Planning/Zoning Department office located in Town Hall.

J. Current Subparagraph (2) of Paragraph E of Section 205-14, entitled “Site plan review”, providing the application requirements for site plan approval following sketch plan conference, is hereby renumbered to be new Subparagraph (3) of Paragraph E of Section 205-14.

K. Current Subparagraph (3) of Paragraph E of Section 205-14, entitled “Site plan review”, providing for payment of the required fee in connection with an application, is hereby renumbered to be new Subparagraph (5) of Paragraph E of Section 205-14.

L. A new Subparagraph (2) is hereby added to Paragraph E of Section 205-14, entitled “Site plan review”, to read as follows:

(2) Waiver of full site plan review. Notwithstanding the following requirements for site plan review, at or subsequent to the sketch plan conference, the Planning Board may waive the requirement of review and approval where it finds, in writing, served to the Zoning Enforcement Officer and applicant, that such review and approval is unnecessary and would not serve the purposes of this chapter. In granting that waiver the Board shall determine that the proposed change in use or site plan change would not result in significant additional traffic generation, wastewater flows, or water consumption and would not otherwise adversely affect pedestrian and traffic circulation, eliminate parking, or alter the height of the exterior façade.

M. A new Subparagraph (4) is hereby added to Paragraph E of Section 205-14, entitled “Site plan review”, to read as follows:

(4) Abbreviated site plan (inventory). For existing land uses that have not received site plan approval, that were lawfully established prior to the

requirement that site plan approval be obtained, and that if established currently would be subject to site plan review pursuant to this chapter, the Zoning Enforcement Officer is authorized, upon the property owner's consent, to compile, or to cause to be compiled, an abbreviated site plan (inventory). Such abbreviated site plan (inventory) shall consist of a drawing that depicts the structures located on the property, parking and lighting and other relevant features. The Zoning Enforcement Officer shall maintain such abbreviated site plans (inventories) for use by the Planning Board in any future site plan review(s) that may be applicable to the property. The Zoning Enforcement Officer shall notify, and if requested, provide a copy of a submitted abbreviated site plan (inventory) to the Planning Board immediately upon its completion.

N. Subparagraph 13 of Paragraph B of Section 205-17, entitled "Signs and posters", shall be amended to read in its entirety as follows:

(13) Business Signs in a General Commercial, Commercial-Residential, Commercial-Recreational, or Commercial-Industrial Districts. In the General Commercial, Commercial-Residential, Commercial-Recreational, or Commercial-Industrial zoning districts, any legally established business use not constituting a home occupation, a home-based business, a short term rental, a boardinghouse, or a business located within a multi-business complex, shopping center, or mall, shall be permitted to have the following signs, in addition to those permitted by Section 205-17 (B) (11):

(a) One freestanding sign not exceeding twenty-four (24) square feet.

(b) One wall sign not exceeding the greater of (i) twenty-four (24) square feet, or (2) $\frac{1}{2}$ square foot per linear foot of building frontage, but in no event larger than one hundred (100) square feet.

(c) One sandwich board sign not exceeding eight (8) square feet of surface area on each side, provided that such sandwich board sign is removed daily.

O. Paragraph J of Section 205-17, entitled "Signs and posters", shall be amended to read in its entirety as follows:

J. Sign Schedule. The following sign Schedule shall be read in conjunction with the rules and regulations set forth in this chapter:

Use	Zoning District	Maximum Size	Number Permitted	Comments
Residential, Home Occupation	Residential	2 square feet	1	---
Short term rental and boardinghouse	All zones, or where ZBA allows	2 square feet	1	
Farm	Residential	16 square feet	1	
Banners or flags	All zones	15 square feet each	3	
Bulletin Board associated with a church, school or similar institutional structure	All zones	24 square feet	1	
Business uses, except home occupation, home-based business, bed-and-breakfast, boardinghouse, and businesses located in multi-business complex	C, C-Rec, C-I, and C-R	Freestanding: 24 square feet;	1	Height of individual freestanding signs shall not exceed 30 feet.
		Attached to building: greater of 24 square feet or ½ foot per linear foot of building frontage up to 100 square feet;	1	
Business, window/door	All zones	Not to exceed 25% of each window/door surface		

Use	Zoning District	Maximum Size	Number Permitted	Comments
Multi-Business complexes, shopping centers, malls, etc.	Applicable zones	Freestanding: 24 square feet, plus 10 square feet for each individual business space therein, provided that total surface area of sign shall not exceed 75 square feet	1	Height of individual freestanding signs shall not exceed 30 feet.
		Attached to each business in shopping center: 24 square feet	1	
Real Estate Signs	All	6 square feet	1	Must be located on the property offered for sale or lease; must be located not closer than 6 feet from edge of any roadway.

P. Paragraph C of Section 205-20, entitled “Definitions”, is hereby amended to amend the following definitions of terms to read in their entirety as follows:

AGRICULTURAL DATA STATEMENT – See definition for “agricultural data statement” in New York Agriculture & Markets Law § 301.

AGRICULTURAL OPERATION – A farm operation, as defined in New York State Agriculture & Markets Law § 301.

AGRITOURISM – Activities conducted on a farm and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agritourism activity shall be secondary to the primary farm use. Agritourism activities may be conducted in an accessory building or structure and include, but are not limited to, on-farm short term rentals, farm stay programs, u-pick operations, pumpkin patches and on-farm wineries, breweries, cideries, and distilleries.

FARM – A farm operation, as defined in New York State Agriculture & Markets Law § 301.

HORSE BOARDING OPERATION – A commercial horse boarding operation, as defined in New York State Agriculture & Markets Law § 301.

HORSE FARM – A commercial equine operation, as defined in New York State Agriculture & Markets Law § 301.

LIVESTOCK – Animals considered livestock under the New York State Agriculture & Markets Law, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, and wool bearing animals, such as alpacas and llamas.

- Q. Subparagraph C of Section 205-20, entitled “Definitions”, shall be amended to add the following definition of term, to be inserted in proper alphabetical order by term:

SHORT TERM RENTAL – 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 or a single dwelling space (bedroom) within an owner occupied residence. Such residential properties may or may not be owner- or operator-occupied. 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.

- R. Subparagraph C of Section 205-20, entitled “Definitions”, shall be amended to delete the following definition of term:

BED-AND-BREAKFAST – An owner- or operator-occupied dwelling used for renting accommodations to transient fee-paying guests and providing not more than two meals to guests only.

- S. Attachment 2, entitled “Zoning Law Use Table” of Chapter 205, is hereby amended to read in its entirety as set forth on the annexed Attachment 2, “Zoning Law Use Table”.

SECTION 5

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

SECTION 6

This Law shall become effective upon filing with the New York Secretary of State.

SECTION 7

This Local Law is enacted pursuant to the New York Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. ___ of 2020 of the (County)(City)(Town)(Village) of New Lebanon was duly passed by the Town Board of the Town of New Lebanon on _____, 2020 in accordance with the applicable provisions of law.

2. ~~(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____ in accordance with the applicable provisions of law.

(Name of Legislative body)
(Elective Chief Executive Officer*)

3. ~~(Final adoption by referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

(Name of Legislative body)
(Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. ~~(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

(Name of Legislative body)
(Elective Chief Executive Officer*)

Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. ____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Marcie Robertson, Town of New Lebanon Town Clerk
Clerk of the county legislative body, City, Town or Village
Clerk or officer designated by local legislative body

(Seal)

Date: _____