

**Town of New Lebanon, NY**  
**Summary of Introductory Local Law #2-2020**  
**Farming (Ch. 102), Zoning (Ch. 205) and Subdivisions (Ch. 179)**

*Italicized = new content*

~~Strikethrough~~ = deleted content

**1. Proposed changes related to farm-related definitions and other farming provisions**

**Summary:** Replace definitions contained in Chapter 102 (Farming) and Chapter 205 (Zoning) that relate to farming with definitions contained in the NYS Agriculture and Markets Law for clarity, consistency and to minimize the potential of town policies conflicting with state requirements. Delete a redundant notice to neighbors provision and add a new provision related to non-commercial farms.

**Chapter 102 Farming**

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

**102-2 Definitions**

A. ~~Unless specifically defined below~~ *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. ~~As used in this article, the following terms shall have the meanings indicated.~~ *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 . . .

~~Deleted definitions for Agricultural Farm Operations, Agricultural Practices, Farm, Farmer, Farming~~

**102-3 Right to farm**

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 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 ~~an agricultural a~~ 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 – Notice to prospective neighbors; notice of farm use**

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.*

#### **B. Agriculture disclosure for new residential development**

(1) 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."*

~~(2) The following notice shall be included in certificates of occupancy and on plats of subdivisions submitted for approval pursuant to Town Law Section 276:~~

~~“This property may border on a farm . . . .”~~

~~(3) The risk of any impact of these agricultural uses on the purchase of property is specifically to be borne by the purchaser of that property.~~

### **102-8 Non-Commercial Farm Activity**

*All non-commercial farm activity should conform to sound agricultural practices as defined by NYS Agriculture and Markets Law.*

## **Chapter 205 – Zoning**

### **205-20 Definitions**

*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.*

*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.*

## **2. Proposed changes related to Short Term Rentals**

**Summary:** Create a new use for “Short Term Rental” to replace “Bed-and-Breakfast.” Change the level of oversight and delete redundant requirements that appear elsewhere in the code.

### **205-20 Definitions**

~~BED-AND-BREAKFAST~~

*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.

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

~~Bed and breakfast~~

*Short Term Rental* as “SP” in RA -5, RA-3, RA-1, and C-R; and “P” in Commercial

### **Technical changes – various sections**

Substitute the term “short term rental” for “~~bed-and-breakfast~~”

### **205-8 Supplementary Regulations**

*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.*

### **205-13 Special Use Permits**

E. Prescribed standards for certain special permit uses. In addition to all other applicable requirements, uses for which a special permit is required shall meet the requirements set forth below:

(1) ~~Bed and breakfast~~ *Short term rental.*

(a) ~~Bed and breakfasts~~ *Short term rentals* shall be established, maintained and operated so as to preserve and complement the character and integrity of the surrounding area.

~~(b) Of-street parking shall not be located in a front yard and shall be screened from roads and adjacent properties so as not to detract from the residential character of the site. Off-street parking spaces for members of the owner’s family residing in the dwelling unit as well as one parking space per room shall be provided. Any outdoor lighting shall use fully shielded fixtures and shall not cause light to glare onto neighboring properties.~~

~~(b) 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) A single exterior sign or display may be established on the site of the bed and breakfast.~~

### 3. Proposed Changes related to Site Plan Review

#### 205-13 Special Use Permits

A. (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. ~~All uses allowed by special use permit are subject to site plan review pursuant to § 205-14.~~ 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.*

#### 205-14 Site Plan Review

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, 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.*

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 sketch plan information requirements set forth herein where he or she determines that such information is not relevant to, or is not otherwise required by the Planning Board to conduct its sketch plan review.*

E. Procedures, generally. Prior to receiving a building permit and undertaking any new land use activity requiring site plan review, applicants shall prepare a sketch plan and attend the sketch plan conference as hereinafter set forth. The sketch plan shall be filed no fewer than five working days prior to the next regularly scheduled Planning Board meeting.

(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 ~~his~~ *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 the information item not relevant to or otherwise not likely to be required for the Planning Board's sketch plan review:*

(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/Code 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.*

*(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.*

Note: Relabel existing E. (2 to (3) and existing (3) to (5)

#### **4. 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**

##### **205-8 Supplementary Regulations**

###### **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. . . .