

Town of Newport Local Law No. 1 of 2025

Town of Newport Right to Farm Law

BE IT ENACTED by the Town Board of the Town of Newport, County of Herkimer, State of New York, as follows:

Section 1. Legislative intent and purpose.

- A. The Town Board finds, declares, and determines that agriculture is an essential enterprise and vital industry that enhances the economic base, natural environment, and quality of life in the Town of Newport. The Town Board further finds that in order to maintain a viable farming economy in the Town, farmers must be afforded protection allowing them the right to farm.
- B. It is the general purpose and intent of this local law to maintain and preserve the rural traditions and character of the Town, to protect the existence and operation of farms, to encourage the initiation, continuation, and expansion of farms and agriculture, to promote the resolution of disputes concerning agricultural practices and farm operations, and to notify potential buyers of property located in an agricultural district within the Town that agricultural practices may occur that cause impacts to nonagricultural land uses.

Section 2. Definitions.

- A. Unless specifically defined, words or phrases used in this local law shall be interpreted so as to give them meanings they have in common usage, and to give this local law its most reasonable application.
- B. As used in this local law, the following terms shall have the meanings indicated:

AGRICULTURAL PRACTICES

Any activities conducted by a farmer as part of a farm operation which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including but not limited to construction and use of farm structures, fences, and other facilities for the housing and control of animals, storage of crops, animal wastes, farm equipment, pesticides, fertilizers, agricultural products; the operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; and the production, management, and harvesting of “farm woodland,” as defined in Article 25-AA, § 301.3. of the New York State Agriculture and Markets Law.

AGRICULTURAL PRODUCTS

Those products as set forth in Article 25-AA, § 301.2. of the New York State Agriculture and Markets Law.

FARM OPERATION

The land, buildings (including residential buildings), equipment, manure processing and handling facilities, and agricultural practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, all as set forth in Article 25-AA, § 301.11. of the New York State Agriculture and Markets Law.

FARMER

A person or persons, organization, entity, association, partnership, or corporation engaged in the agricultural practices, 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 apiculture.

TOWN

The Town of Newport, New York.

Section 3. 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 the Town at all such times and all such locations as are reasonably necessary to conduct the business of agriculture. 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 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:
 - 1. Reasonable and necessary to the particular farm or farm operation;
 - 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;
 - 5. 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
 - 6. Conducted in a manner which does not unreasonably obstruct the free passage or use of navigable waters or public roadways.
- C. Nothing in this article shall be construed to prohibit an aggrieved party from recovering damages for bodily injury or wrongful death due to a failure to follow sound agricultural practices, as outlined in this section.

- D. No person, group, entity, association, partnership, or corporation will 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. Such actions may constitute an offense, punishable by law with a fine of not less than \$25.00 nor more than \$150.00 for each day's violation or continuance of violation.
- E. In addition, an action to restrain or enjoin any violation of this local law may be brought in a court of competent jurisdiction by any person and/or the Town aggrieved by such violation.

Section 4. Consideration of impacts on farm operations by Town officers and boards.

- A. The intent and purposes of this local law shall be taken into consideration by each Town officer and/or board in processing any application requesting rezoning, site plan approval and/or special use permit approval when the property which is the subject of such application is located within 1,000 feet of the boundary of an existing farm operation as defined herein. Such Town officer and/or board shall, as part of its review of such application, determine whether appropriate and reasonable conditions which would further the purposes and intent of this local law may be prescribed or required as part of an approval of the application.
- B. Such appropriate and reasonable conditions may include, but not be limited to, requiring declarations, deed restrictions, and/or covenants which run with the land which would notify future purchasers and owners 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 Town.

Section 5. Notification of real estate buyers and prospective neighbors.

- A. In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with § 310 of Article 25-AA of the State of Agricultural and Markets Law and provide notice to prospective purchasers and occupants as follows:

“It is the policy of this state and the Town of Newport 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 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. A copy of this notice shall be included as an addendum to the purchase and sale contract at the time an offer to purchase is made.
- C. Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase, or exchange of such real property.
- D. Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the State Board of Real Property Tax Services as provided for in § 333 of the Real Property Law.
- E. In addition, this notice shall be included in building permits, on plats of subdivision submitted for approval pursuant to Town Law § 276, and on mobile home park and site plan projects.

Section 6. Resolution of disputes.

- A. Should any controversy arise regarding any farm operation, the aggrieved parties may submit the controversy to the Dispute Resolution Center ("Dispute Resolution Center") for mediation under the New York State Agricultural Mediation Program.

Section 7. Severability.

- A. If any provision hereof, or the application thereof to any person or circumstance, is adjudged invalid by a court or tribunal of competent jurisdiction, such provision shall be deemed severed and any such judgment shall not affect or impair the validity of the other provisions of this local law (which shall remain in force and effect) or the application hereof to other persons and circumstances.

Section 8. When effective.

- A. This local law shall take effect immediately upon its filing with the Secretary of State of New York.