

**TOWN OF WAWAYANDA
LOCAL LAW 6 - 2023
RIGHT TO FARM**

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

Section 1. The Code of the Town of Wawayanda is amended by adding a new Chapter 136, titled “Right To Farm,” to read as follows:

§136.1. Legislative Intent. The purpose of this local law is to conserve, protect and promote the use of agricultural land for the production of food and other agricultural products. It is also the purpose of this local law to reduce the loss of agricultural resources within the Town by limiting the circumstances under which agricultural operations may be deemed to be a nuisance.

§136-2. Definitions. As used in this chapter, the following term(s) shall have the meaning(s) stated:

A. Agricultural activities - Land and activities involved in the production of crops, livestock and livestock products and farm woodland conducted by a farm operation, as defined in §301 of Article 25-AA of the state Agriculture and Markets Law, also as set forth below and as may be amended.

B. 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.

1. Industrial hemp as defined in §505 of the state Agriculture and Markets Law.

C. Farm woodland – Land used for the production of woodland products intended for sale, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.

D. 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 a commercial horse boarding operation, a timber operation, compost, mulch or other biomass crops and a commercial equine operation, each as defined in §301 of the state Agriculture and Markets Law. 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.

§136-3. Restrictions on private nuisance claims. Notwithstanding any other provision of this local law or any other law, rule or regulation, agricultural activities conducted on farmland within the Town of Wawayanda, if consistent with sound agricultural practices as may be determined by the New York State Commissioner of Agriculture and Markets and with Federal, State and local laws and regulations are deemed to be reasonable and shall not constitute a nuisance.

§136-4. Notice to neighbors and prospective neighbors/Notice of agricultural activities.

A. For the purpose of giving due notice of agricultural activities to proposed residential developments located within 500 feet of existing agricultural activities or land suitable for agricultural activities, the Planning Board shall include as a condition of approval of an application for such residential subdivision or site plan that every real estate contract, deed and lease conveying all or any portion of such property shall include a record notice to and waiver by grantors, grantees and lessees of such such property, which provision shall be the same or substantially similar to the following:

“The grantor, grantee and any lessee acknowledge notice that agricultural activities exist throughout the Town of Wawayanda and that there are presently or may be in the future agricultural activities within 500 feet of the subject premises. The grantor, grantee and any lessee acknowledge that farmers have the right to undertake sound agricultural activities as defined or accepted by the State of New York which may generate dust, odor, fumes, noise, vibrations and other effects associated with agricultural activities, and that these activities are permitted under the Town Right To Farm local law and Orange County’s Right to Farm Law, and, by acceptance of this conveyance, the grantor, grantee and any lessee waive objection to such agricultural activities. This covenant and waiver shall run with the land.”

B. In addition, a similar statement shall be included as a Map Note on the approved subdivision plat or site plan.

§136-5. Certain actions not affected. The provisions of this local law shall not defeat the right of any person, firm or corporation to recover damages for any injuries or damages sustained by them on account of any pollution of, or change in condition of, the waters of any stream or on account of any overflow of lands of any such person, firm or corporation.

Section 2. Severability. The provisions of this local law are severable and if any provision, clause, subsection, sentence, word or part thereof is held illegal or invalid, or inapplicable to a person or circumstance, such illegality, invalidity or inapplicability shall not affect or impair any of the remaining provisions, clauses, subsections, sentences, words or parts of this local law of their application to other person or circumstance. It is hereby declared that the legislative intent of the Town Board is that this local law would have been adopted if such illegal or invalid provision, clause, subsection, sentence, word or part had not been included therein and if such person or circumstance to which the local law or part thereof is held inapplicable had been exempted therefrom.

Section 3. Supersession. Pursuant to the state Municipal Home Rule Law, this local law is intended to and shall supersede any inconsistent provisions of the state Town Law and any other special law.

Section 4. This local law shall take effect immediately upon filing with the Secretary of State.