

**Topic:** Farmland Protection & Preservation  
**Resource Type:** Regulations  
**State:** New York  
**Jurisdiction Type:** Municipal  
**Municipality:** Town of Brookhaven  
**Year** (*adopted, written, etc.*): Unknown  
**Community Type – applicable to:** Suburban; Rural  
**Title:** Town of Brookhaven Farmland Bill of Rights  
**Document Last Updated in Database:** February 10, 2016

### ***Abstract***

Under the Town of Brookhaven’s Farmland Bill of Rights, Town bodies or officials that have land use or development responsibilities must notify applicants of proposed development projects of the existence of a protected farming operation within 1,000 feet of the development’s boundaries. The ordinance establishes that the benefits of bona fide agricultural production, both to the residents of the community as well as to the local government, outweigh the nuisances associated with farming operations. The ordinance defines the agricultural production activities and farm practices that fall under the protection of the Town.

### ***Resource***

Town of Brookhaven NY Farmland Bill of Rights

Code of the Town of Brookhaven NY  
Chapter 85: Zoning  
Article XXXV Supplementary Provisions

§ 85-405. Farmland Bill of Rights.

A. Legislative intent.

(1) The Town Board of the Town of Brookhaven hereby finds that the conservation of prime agricultural lands within the Town, used for bona fide agricultural production, is of vital importance to the Town's character, environment and economy, as preserving an historically important industry which provides fresh food and horticultural products to local and regional markets; by enhancement of the quality of life of the Town's residents; and, by providing a measure of protection from intensification of development. We further find that lands subject to such agricultural use(s) are generally less burdensome upon governmental services than lands subject to other active uses. Accordingly, it is this Board's

intent, in enacting the within ordinance, that farmers shall have the right to farm in Brookhaven without undue interference from nearby and neighboring land owners or occupants.

(2) It is this Board's further intent and purpose to reduce future conflicts between those engaged in such agricultural production activities and their neighbors, be they residential or commercial; in furtherance of this goal we hereby determine that it is prudent to require notice of the existence of farming operations which incorporate agricultural production activities, to future neighbors, upon an application(s) for proposed development and/or a proposed change of zone.

(3) Notwithstanding that conventional farming activities may be reasonably anticipated to generate dust, smoke, noise, vibration and odor, such activities are presumptively considered to be necessary and essential to bona fide farming, far outweighing any annoyance or nuisance to neighboring properties' occupants, unless such activities are demonstrably adverse to the public health, safety and welfare of the community.

(4) This Board further finds and determines that such agricultural production activities, when undertaken in compliance with applicable federal, state and local laws and regulations, are presumptively compatible with the public health, safety and welfare; and, that to whatever extent such activities and use, conducted in such manner as aforesaid, may engender some annoyance or nuisance to its neighbors, such consequences are hereby deemed to be fully offset by the substantial benefits to the community at large derived from the preservation of such farmlands and use(s).

(5) Therefore, we hereby declare that farming practices involved in agricultural production as set forth hereinbelow shall constitute "protected farm practices."

B. Agricultural production. Agricultural production activities include:

(1) The cultivation of the soil for food products and other useful or valuable growths of the field, including:

- (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, farmed deer, farmed buffalo, fur-bearing animals, milk, eggs and furs;
- (f) Maple sap;
- (g) Honey;
- (h) Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump;
- (i) Aquaculture products, including fish, fish products, water plants and shellfish;

(2) The establishment and maintenance of farm woodland, including land used for the production of woodland products, including but not limited to logs, lumber, posts and firewood, excluding the processing or retail merchandising of woodland products;

(3) The establishment and maintenance of commercial horse boarding operations, to wit: enterprises consisting of at least 10 acres and boarding at least 10 horses, regardless of ownership, excluding operations whose primary function is horse racing;

(4) Establishment and maintenance of farm operations, including the land used in agricultural production, as defined herein, farming activities/practices conducted on such land, and farm building and farm equipment involved in the processing of the aforementioned agricultural products.

C. The right to undertake protected farm practices. Protected farm practices are permitted at all times without exception. Protected farm practices undertaken in the active pursuit of agricultural production, shall include the following activities:

- (1) Clearing;
- (2) Grading;
- (3) Plowing;
- (4) Aerial and ground spraying, the use of legal agricultural chemicals (including herbicides, pesticides and fertilizers);
- (5) Raising horses, poultry, small livestock and cattle;
- (6) Processing and marketing produce;
- (7) Installing water and soil conservation facilities;
- (8) Utilizing farm crop protection devices;
- (9) Designing, constructing and using farm structures, including but not limited to barns, stables, paddocks, fences, greenhouses and pump houses;
- (10) Using and pumping water;
- (11) Spraying, pruning and harvesting crops;
- (12) Disposing of organic wastes on the farm;
- (13) Employment of farm laborers;
- (14) Training others in the use and care of farm equipment and animals;
- (15) Travelling local roads in properly marked vehicles; and
- (16) Providing local farm produce market outlets near farming areas.

D. Right to notice of protected farm practices.

(1) The Zoning Board of Appeals, Planning Board and any other Town official or body having final review and approval jurisdiction over land use and/or development proposals shall give notice to any applicant of a proposed development project which:

- (a) Is located within 1,000 feet of any currently active farm of at least five acres in size and employs protected farm practices; or
- (b) Is encumbered by an agricultural easement; or
- (c) Is located within a designated agricultural district pursuant to state or local law.

(2) Said notice shall include the following information:

- (a) Location;
- (b) Size of the farm;
- (c) Type(s) of farming operation;
- (d) The kinds of protected farming practices/activities conducted thereon; and
- (e) Any other information the board, body or public official deems necessary and/or appropriate.

(3) The applicant shall include a notation on the final instrument (subdivision map, land condominium map, division map or site plan) depicting such development approval to the effect that an established farming operation employing protected farm practices is located within 1,000 feet of the boundary(ies) of the approved development map, site plan or other development approval, which notation shall constitute a mandatory condition of any such final grant of approval.

(4) All certificates of occupancy issued upon completion and/or build out of an approved development project as aforesaid shall include a notation to the effect that "An agricultural production operation subject of Protected Farm Practices is located within 1,000 feet of the boundary of the within map or site plan."