

ARTICLE I, Right to Farm [Adopted 3-14-2001 by L.L. No. 2-2001]

§ 106-1. Legislative intent and purposes.

A. The Eden Town Board finds, declares, and determines that agriculture is vital to the Town of Eden, New York, because it is a livelihood and provides employment for agriservice; provides locally produced, fresh commodities; agricultural diversity promotes economic stability; agriculture maintains open space and promotes environmental quality, and agricultural land does not increase the demand for services provided by local governments. In order to maintain a viable farming economy in the Town of Eden, farmers must be afforded protection allowing them the right to farm. When nonagricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operation or are discouraged from making investments in agricultural improvements.

B. It is the purpose of this article to reduce the loss to the Town of Eden of its agricultural resources by limiting the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

§ 106-2. Definitions.

A. As used in this article, the following terms shall have the meanings indicated:

AGRICULTURAL PRACTICES -- All activities conducted by a farmer on a farm to produce agricultural products and which are inherent and necessary to the operation of a farm and the on-farm production, processing, and marketing of agricultural products, including, but not limited to, the collection, transportation, distribution, storage, and land application of animal wastes; storage, transportation, and use of equipment for tillage, planting, harvesting, irrigation, fertilization, and pesticide application; storage and use of legally permitted fertilizers, limes, and pesticides all in accordance with local, state and federal law and regulations and in accordance with manufacturers' instructions and warnings; storage, use, and application of animal feed and foodstuffs, construction and use of farm structures and facilities for the storage of animal wastes, farm equipment, pesticides, fertilizers, agricultural products, and livestock, for the sale of agricultural products, and for the use of farm labor, as permitted by local and state building codes and regulations, including the construction and maintenance of fences.

AGRICULTURAL PRODUCTS -- Those products as defined in § 301(2) of Article 25-AA of the Agricultural and Markets Law.

FARM -- The land, buildings, farm residential buildings, and machinery used in the production, whether for profit or otherwise, of agricultural products.

FARMER -- Any person, organization, entity, association, partnership, or corporation engaged in the business of agriculture, for profit or otherwise, 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.

GENERALLY ACCEPTED AGRICULTURAL PRACTICES -- Those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe, and typical to the industry or unique to the commodity as they pertain to the practices listed in the definition of "agricultural practices."

RESOLUTION COMMITTEE -- Shall be made up of the Chairman of the Conservation Board or designee, Chairman of the Agricultural Committee or designee, and a member of one other standing committee of the Town designated by the Town Supervisor.

B. Unless specifically defined, above words or phrases used in the article shall be interpreted so as to give them meanings they have in common usage, and to give this article its most reasonable application.

§ 106-3. Authority to engage in agricultural practices.

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 of Eden at all such times and in 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 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.

§ 106-4. Duty of Town officers and boards to consider impact of farm operations on certain applications.

The legislative intent and purposes of this article 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 one mile of an existing farm. Such Town officer and/or board shall, as part of its review of such application, determine whether appropriate and reasonable conditions may be prescribed or required, which would further the purposes and intent of this article as part of an approval of the application. Such appropriate and reasonable conditions shall be determined on a case-by-case basis and 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.

§ 106-5. Informal resolution of disputes.

A. Should any controversy arise regarding any inconveniences or discomforts occasioned by agricultural operation, including, but not limited to, noise, odors, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and/or pesticides, the parties may submit the controversy to the resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action.

B. Any controversy between the parties may be submitted to the resolution committee, whose decision shall be advisory only, within 30 days of the date of the occurrence of the particular activity giving rise to the controversy or of the date a party became aware of the occurrence.

C. The effectiveness of the resolution committee as a forum for resolution of grievances is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

D. The controversy shall be presented to the committee by written request of one of the parties within the time limits prescribed above. Thereafter, the committee may investigate the facts of the controversy but must, within 30 days, hold a meeting to consider the merits of the matter and within 20 days of the meeting must render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each party considers to be the pertinent facts.