

Section 508 Agriculture

508.1 Purpose

Until the early 20th Century, the Town of North Hampton was a rural community of farms, and the majority of its residents grew most of the food that they and their livestock consumed. Though times have changed, the residents of North Hampton continue to value the rural aspects of the town. They wish to encourage the establishment of new farms and agricultural activities, and to facilitate the continued operation and maintenance of its existing well-managed farms. The purpose of this Section 508 Agriculture of the North Hampton Zoning Ordinance is to promote agricultural activities in Town, while ensuring that these activities are suitable for the context in which they occur.

508.2 Authority

This Article is based on the provisions and authority of New Hampshire:

RSA 21:34-a I-VI Farm, Agriculture, Farming
RSA 432:33 Right to Farm; Immunity from Suit
RSA 672:1 (III-b) Declaration and Purpose
RSA 672:1 (III-d) Declaration and Purpose
RSA 674:21 Innovative Land use Controls
RSA 674:26 Districting Under Interim Zoning Ordinance
RSA 674:32-a through c, Agricultural Uses of Land

508.3 Definitions

- A. Agriculture or Agricultural Operation. "Agriculture" and "Agricultural Operation" mean any farming activity that involves the cultivation of plants or the raising of livestock - including animals or poultry as defined in RSA 21:34-a.
- B. Farm Stand. "Farm Stand" means a temporary or permanent structure located on a property and used to display and sell agricultural products.
- C. Plant Cultivation Operation. "Plant Cultivation Operation" means an agricultural operation consisting of the cultivation and tillage of soil for the purpose of producing crops.
- D. Animal Husbandry Operation. "Animal Husbandry Operation" means an agricultural operation concerned with the production and care of domestic animals.
- E. Farmers' Market. "Farmers' Market" means an event or series of events at which two (2) or more vendors of agricultural commodities gather for purposes of offering for sale such commodities to the public. Commodities offered for sale must include, but are not limited to products of agriculture.
- F. Accessory Structure. "Accessory Structure" means a building or structure, detached from but located on the same lot, which is incidental and subordinate to the principal building.
- G. Animal Density. "Animal Density" means the number of animals or poultry in an animal husbandry operation.
- H. Agricultural Product. "Agricultural Product" means any agricultural commodity or product derived from crops grown under cultivated conditions or livestock and poultry raised for human or livestock consumption.

508.4 Applicability

- A. Provided that the agricultural activity complies with all provisions of this ordinance, it is permitted in all districts in the Town of North Hampton (I-B/R, R-1 and R-2).
- B. Permitted Uses
The following operations are permitted under this Article:
 - 1. Plant Cultivation Operations consisting of:
 - a. The cultivation, conservation, and tillage of the soil;
 - b. The storage, use of, and spreading of fertilizer, lime, wood ash, sawdust, compost, animal manure, and, other lawful soil amendments;
 - c. The production, cultivation, growing, harvesting, and sale of any agricultural, floricultural, viticultural, forestry, or horticultural crops including, but not limited to forestry or lumbering operations; berries, herbs, honey, maple syrup, fruit, vegetables, tree fruit, grapes, flowers, seeds, grasses, nursery stock, sod, trees and tree products, Christmas trees grown as part of a commercial Christmas tree operation, trees grown for short rotation tree fiber, compost, or any other plant that can be legally grown and harvested extensively for profit or subsistence;
 - d. Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.
 - 2. Animal Husbandry Operations consisting of:
 - a. The raising and sale of livestock, which shall include but not be limited to dairy cows and the production of milk, beef animals, swine, sheep, goats, as well as domesticated strains of buffalo or bison, llamas, alpacas, emus, ostriches, yaks, elk (*Cervus elephus canadensis*), fallow deer (*Dama dama*), red deer (*Cervus elephus*), and reindeer (*Rangifer tarandus*);
 - b. The breeding, boarding, raising, training, riding instruction, and selling of equines;
 - c. The commercial raising, harvesting, and sale of fresh water fish or other aquaculture products;

- d. The raising, breeding, or sale of poultry, game birds and eggs;
- e. The raising of bees and the sale of honey;
- f. The raising, breeding, or sale of domesticated strains of fur-bearing animals.
- 3. The operation of roadside Farm Stands
- 4. The operation of Farmer's Markets
- 5. Any practice on the farm incident to, or in conjunction with such farming operations, including, but not restricted to:
 - a. Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm;
 - b. The transportation to the farm of supplies and materials;
 - c. The transportation of farm workers;
 - d. Forestry or lumbering operations;
 - e. The marketing or selling at wholesale or retail, on-site and off-site, any products from the farm;
 - f. The use of dogs for herding, working, or guarding livestock, as defined in RSA 21:34-a, II (a)(4);
 - g. The production and storage of compost and the materials necessary to produce compost, whether such materials originate, in whole or in part, from operations of the farm.

508.5 General Requirements

- A. Public health, safety, and welfare

Nothing in this ordinance shall apply to any aspect of an Agricultural Operation determined to be injurious to public health or safety under RSA 147. Nothing in this ordinance shall be deemed to modify or limit the duties and authority of the Department of Environmental Services under RSA 485 or RSA 485-A or the Commissioner of the Department of Agriculture, Markets, and Food under Title XL.
- B. Restrictions and Lot Size Regulations
 - 1. Plant Cultivation Operations. All Plant Cultivation operations may be conducted on lots of any size provided that these plant cultivation operations comply with provisions of this ordinance and the New Hampshire Department of Agriculture and Food & Markets: "Manual of Best Management Practices (BMPs) for Agriculture."
 - 2. Animal Husbandry Operations (Not Otherwise Prohibited under Section 405.3):
 - a. Lots of Four (4) Acres or More.

All Agricultural Operations, including Animal Husbandry, may be conducted on lots consisting of four (4) acres or more provided that these Agricultural Operations comply with the provisions of this ordinance and the New Hampshire Department of Agriculture and Food & Markets: "Manual of Best Management Practices (BMPs) for Agriculture."

 - b. Lots of Less Than Four (4) Acres.
 - (1) Roosters. Regardless of the number of animals or poultry on a lot of less than four (4) acres, husbandry of poultry that includes one (1) or more roosters shall require a Conditional Use Permit as provided under subparagraph (4) below.
 - (2) Animal Husbandry Operations involving no more than four animals, no more than 12 poultry per lot, and no roosters may be conducted on lots consisting of less than four (4) acres provided that these Operations comply with the provisions of this ordinance and the New Hampshire Department of Agriculture and Food & Markets: "Manual of Best Management Practices (BMPs) for Agriculture."
 - (3) Conditional Use Permit Required. Animal Husbandry Operations involving more than four animals per lot or more than 12 poultry per lot or one (1) or more roosters may be conducted on lots consisting of less than four (4) acres provided that these Operations comply with the provisions of this ordinance and the New Hampshire Department of Agriculture and Food & Markets: "Manual of Best Management Practices (BMPs) for Agriculture and the Planning Board approves a Conditional Use Permit for these Operations."
 - (4) Conditional Use Permit Review. The following process shall be used by the Planning Board in considering applications for Conditional Use Permits under this paragraph:
 - (a) Application. An application shall be submitted to the Planning Board. The application shall contain details of the type and extent of the Animal Husbandry Operations proposed for the property, including the quantity and type of animals and/or poultry, location of pens or shelters, location of manure storage and plan for manure disposal. A hand-drawn not-to-scale rendering of proposed operations shall be acceptable for the application.
 - (b) The Planning Board shall refer all applications for Conditional Use Permits under this Section to the Agriculture Commission for its advice and comments.
 - (c) The Planning Board shall conduct a public hearing for which proper notice has been given to abutters and the public. Notice standards shall be the same as those that apply to Site Plan Review Applications.
 - (d) The Planning Board shall have authority to impose reasonable conditions of approval that the Board deems appropriate under the specific circumstances presented in the application process and shall provide a written notice of decision to the applicant within five (5) business days of the date of the decision.
 - (e) Fees. In order to encourage agricultural activities and reduce the financial burden on applicants, application fees for a conditional use permit for Animal Husbandry Operations shall

be limited to the fee for certified, return-receipt-requested notifications to abutters in the Site Plan Review process.

- (f) Animal Density. Animal Density permitted on lots of less than four (4) acres shall be determined by best management practices for manure handling based on the New Hampshire Department of Agriculture manual entitled "Best Management Practices for Handling of Compost, Fertilizer and Manure," AND The University of New Hampshire Cooperative Extension publication entitled "Guidelines for Space and Housing of Farm Animals," by David C. Seavey and John C. Porter. In considering Animal Density the Planning Board shall give due weight to the area of contiguous upland in the parcel on which the Animal Husbandry Operation is proposed.
- (g) Burden of Proof. The burden of proof shall be on the applicant to demonstrate and specify the manner in which the operation shall be conducted in compliance with the New Hampshire Department of Agriculture and Food & Markets: "Manual of Best Management Practices (BMPs) for Agriculture" AND to demonstrate that the Animal Husbandry operation shall not cause pollution, soil degradation, unreasonable odor, unreasonable noise and disturbance of the peace.