

COUNTY OF KANE

**DEVELOPMENT & COMMUNITY
SERVICES DEPARTMENT**

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MEMO

Dates: August 16 and 18, 2022

To: County Development Committee and Agriculture Committee

From: Mark VanKerkhoff, AIA, Director, Zoning Enforcing Officer

Re: Draft Text Amendments to the Kane County Zoning Ordinance for Farms and Local Food Businesses

The Kane County Development & Community Services Department is working to advance the Kane County Board's "**Growing for Kane Program**" by proposing text amendments to the Kane County Zoning Ordinance. The proposed amendments are intended to be responsive to the changing needs of farmers and local food businesses in Kane County and to streamline administrative approvals for permits. The proposed amendments will also provide several new definitions that address the County's growing agritourism industry. The goals of the amendments are to make it easier for local growers to sell their products directly to consumers as well as for consumers to access healthy food products and share in the farm experience through direct sales, activities, entertainment and events.

Kane County has seen an increase in proposed agricultural venues integrated with working farms. The Kane County Zoning Ordinance does not currently define and include these emerging uses. By creating new definitions and listing them in the appropriate zoning districts, the amendments will provide farmers and policy makers with clear paths for evaluating and potentially approving these uses where appropriate in the agricultural and other areas. The draft amendments will also explicitly allow certain less intensive agritourism uses as permitted uses, thereby only requiring a permit to safely establish the use rather than going through a rezoning process.

The Development Department has also worked with multiple farmers looking to build farmstands to sell their goods directly to the public, only to find that their reasonable requests were not in compliance with the current zoning language. While one local grower was recently approved for a variance by the Kane County Zoning Board of Appeals, there would not need to be a variance under the draft amendments. The proposed amendments will reduce the minimum lot size for

farmstands, expand the number districts where farmstands are allowed, eliminate recurring permits, expand the potential activities for farmstands that require a special use, and make farmstands possible for farmers that specialize in one or two crops. These changes, along with a new definition for agriculture-related home occupations, are intended to lower the barrier to entry for new farmers and add another type of home occupation for residents preparing cottage foods.

Together, these proposed amendments are intended to help the Kane County Board achieve the policy goals proposed in its Growing for Kane initiative by supporting small food farms and local farm to table sales. As outlined in the Growing for Kane Health Impact Assessment, encouraging more local food production and consumption can result in better health outcomes for Kane County residents as well as grow the local economy.

Proposed Schedule

July 7, 2022	Staff met with Kane County Farm Bureau Board for Input
July 19, 2022	Development Committee – Introduce Schedule and Direction to Proceed
July 21, 2022	Agriculture Committee – Introduce Schedule and Direction to Proceed
August 16, 2022	Development Committee – Initial Review of Draft Text Amendments
August 18, 2022	Agriculture Committee – Review Draft Text Amendments
September, 2022	Zoning Board of Appeals Public Hearing (TBD)
October 18, 2022	Development Committee – Review Draft Text Amendments and Comments
October 20, 2022	Agriculture Committee – Review Draft Text Amendments and Comments
November or December, 2022	County Board Adoption

The following pages have draft text amendments related to

- 1) Agritourism
- 2) Farmstands and agricultural home businesses

Agritourism

ARTICLE III: RULES AND DEFINITIONS

Agritourism, Intensive: Activities located on an operational farm that bring customers onsite for the purpose of education or aesthetic appreciation of agricultural products, practices or culture. Intensive Agritourism activities may include the following activities and similar uses as determined by the Zoning Enforcement Officer: Agriculture Culture Center, Agritourism Event Venue, Farmers Market, Farm Market, Participatory Farm, Rural Retreat, Tasting Room, Transient Agritourism Lodging, and Restaurant, Farm-Based.

Agritourism, Limited: Activities located on an operational farm that bring customers onsite for the purpose of education or aesthetic appreciation of agricultural products, practices or culture. Limited Agritourism activities may include the following activities and similar uses as determined by the Zoning Enforcement Officer: Hay rides, corn mazes, farm tours, agriculture training, and petting zoos (farm-animals only).

Agricultural Culture Center: A facility used to educate the public about the practices or heritage of agriculture.

Agritourism Event Venue: An actively farmed parcel also used to hold public or private events that are intended to impart event attendees with an educational or aesthetic appreciation of agriculture or farming culture. Event examples include, but are not limited to, weddings, rodeos, horse shows, and agriculture festivals.

Farmers Market: A collection of vendors at a single location primarily selling agricultural products or value-added agricultural products to the general public.

Farm Market: Facility accessory to a working farm that sells products related to the subject farm.

Participatory Farm: Working farm where customers pay to participate in the operation of the farm.

Restaurant, Farm-Based: Restaurant accessory to a working farm in which the meals served primarily showcase products grown on-site or on parcels that are part of the subject farm.

Rural Retreat: An establishment that is part of a working farm that provides temporary overnight accommodations for individuals or groups engaged in supervised training or personal improvement activities. Examples include corporate retreat facilities, educational retreat facilities and working farm learning centers. Cafeterias not meeting the definition of Restaurant, Farm-Based and open only to retreat attendees are an allowed accessory use.

Tasting Room: A facility in which alcoholic or non-alcoholic beverages produced from products grown on-site, or on parcels that are part of the subject farm, may be tasted and sold.

Transient Agritourism Lodging: An establishment, accessory to a working farm, offering rooms for rent to customers participating in agritourism activities on said farm.

ARTICLE VIII. FARMING DISTRICT

Sec. 8.1. F District–Farming.

8.1-1 Permitted Uses.

v. Agritourism, Limited, as defined herein, on lots not less than two (2) acres, provided that adequate parking space be provided for the motor vehicles of customers off the highway right of way.

Sec. 8.3. F2 District-Agricultural related sales, service, processing, research, warehouse and marketing:

8.3-2 Special Uses.

m. Agritourism, Intensive, as defined herein.

Farmstands and agricultural home businesses

ARTICLE III: RULES AND DEFINITIONS

Agriculture Product: A product derived from a plant or animal, including, but not limited to, produce, meat, eggs, honey, flowers, and fibers.

Agriculture Product, Value-Added: Agriculture Products that have been changed from their raw state into a new product through packaging, processing, freezing, drying, extracting, fermenting, or any other type of process that differentiates the product from the raw commodity.

Home Occupation: A gainful occupation, profession, business or commercial activity engaged in by the occupant of a dwelling as an accessory use, incidental and secondary to the principal use of the dwelling and shall meet the following requirements: shall be operated entirely within the dwelling and only by the occupant of the dwelling; shall not permit the conduct of retail business, other than by mail, manufacturing business or repair shop of any kind; shall not be operated in any accessory building; shall not include any outside employees; shall not include the arrival and/or departure of outside employees from the residence and/or property; shall not permit any commercial vehicles in excess of 3/4 ton inside or outside of any buildings on the property; shall not permit more than one (1) commercial vehicle under 3/4 ton; shall not permit the parking of more than three (3) cars simultaneously on the property, outside of the road right-of-way, for customers or clients; shall not permit delivery by other than private passenger vehicles, parcel service, or letter carrier; shall not permit teaching, with musical, dancing and/or other instruction and counseling of more than one (1) person at a time; shall not permit any exterior display, storage or evidence of the home occupation, except for one (1) sign, not over two (2) square feet in area; shall not allow the operation of a barber shop or beauty parlor with more than one (1) chair. Any home occupation that creates objectionable noise, fumes, odor, dust, vibrations, or electrical interference outside the structure, or more than normal residential traffic, or a nuisance to neighboring property, shall be prohibited.

Home Occupation, Food and Agriculture: A gainful occupation, profession, business or commercial activity engaged in by the occupant of a dwelling as an accessory use, incidental and secondary to the principal use of the dwelling, that engages in the production of food or agriculture products grown or produced on the premises, and which shall meet the following requirements: shall be operated entirely on the parcel containing the residence or on adjacent parcels; shall be operated only by the occupant of the dwelling; shall be permitted one (1) Farmstand for the sale of products produced on the premises; shall be established with the County and may only operate once any required permits have been issued; shall not include any outside employees; shall not include the arrival and/or departure of outside employees from the residence and/or property; shall not permit any commercial vehicles in excess of 3/4 ton inside or outside of any buildings on the property; shall not permit more than one (1) commercial vehicle under 3/4 ton; shall not permit the parking of more than three (3) cars simultaneously on the property, outside of the road right-of-way, for customers or clients; shall not permit delivery by other than private passenger vehicles, parcel service, or letter carrier; shall not permit any advertisement or branding, except for one (1) sign, not over twenty five (25) square feet in area; Any home occupation that creates objectionable noise, fumes, odor, dust, vibrations, or electrical interference outside the structure, or more than normal residential traffic, or a nuisance to neighboring property, shall be prohibited.

Roadside Stand Farmstand: A structure for the display and sale of food and agricultural products which are produced on the premises, with no space for customers within the structure itself. Farmstands shall not count toward the number of accessory structures permitted on a property.

ARTICLE VIII: FARMING DISTRICT

Sec. 8.1. F District-Farming.

8.1-1 Permitted Uses.

g. ~~Produce~~Farmstand stand (one portable) primarily for the display and sale of ~~only~~ food and agriculture products which are produced on the premises, provided: that the use be established with the County, that the structure meet setback requirements, and that any required permits be issued.

~~(1) That such stand shall comply with the setback requirements.~~

~~(2) That adequate parking space be provided for the motor vehicles of customers off the highway right of way. (See Article XIV of this Appendix, Off Street Parking.)~~

~~(3) That the lot from which the sale of products are produced and sold shall contain not less than five (5) acres of land area.~~

8.1-2 Special Uses.

gg. ~~Produce~~Farmstand stand (one) for the display and sale of a minimum of ~~five (5) products which are one (1) product which is~~ produced on the premises, plus, a maximum of ten (10) farm ~~produce~~ food and agriculture products, not grown on the site ~~and not including any processed items of any kind~~, subject to the following restrictions:

~~(1) A temporary use permit upon proper application by such owner or operator is issued by the Zoning Enforcing Officer.~~

~~(2) Such permit shall not be valid for more than six (6) months (May 1 to November 1) out of each calendar year and a new permit shall be obtained each year during which the granted special use is in effect.~~

~~(3) Such permit shall require compliance with Article VIII, Section 8.1-1(g), subsection (1) and (2) of this Ordinance.~~

~~(4) Such permit shall not allow the serving or consumption of food on said premises.~~

~~(5) At the time the temporary establishment of use permit is applied for, the applicant shall submit a plot plan and sketch portraying an open-air structure, in detail, showing the construction of said structure for approval for the display and retail sale of the farm products.~~

~~(6) The application for such permit shall list the types of produce and value-added products to be sold, or offered for sale, which are grown or are to be grown on said parcel and shall also list the types of produce proposed to be imported for sale.~~

~~(7) Such special use, when granted, shall apply only to the original applicant.~~

~~(8) Tasting or sampling shall be allowed with permission from the Kane County Health Department.~~

~~(9) Where all produce sold or offered for sale is produced on the immediate premises, see subsection~~

Sec. 8.2. F1 District–Rural residential.

8.2-2 Permitted Uses.

e. Farmstand (one portable) primarily for the display and sale of agriculture or food products which are produced on the premises, provided that the use be established with the County, that the structure meet setback requirements, and that any required permits be issued.

ARTICLE IX. RESIDENTIAL DISTRICTS

Sec. 9.1. EI District–Estate.

9.1-1 Permitted Uses.

g. Agriculture, which in this district shall mean the cultivation of the soil principally for the production of food products, but shall not include the following:

(1) The feeding or other disposal of community or collected garbage.

(2) The raising or dealing in poultry, or any animals for business or commercial purposes, except as incidental to a bona fide general farming operation. Said animals or poultry shall not be housed, stabled, kenneled or yarded closer than one hundred (100) feet from any residence other than that of the owner or user of the property. Roosters, pea-fowl and Guinea Fowl may not be kept on property less than five (5) acres in size.

~~(3) Buildings or structures, and the sale of agricultural products produced solely on the premises, are considered agricultural if located on a lot containing not less than five (5) acres of land area.~~

o. Farmstand (one portable) primarily for the display and sale of agriculture or food products which are produced on the premises, provided that the use be established with the County, that the structure meet setback requirements, and that any required permits be issued.

ARTICLE X. BUSINESS DISTRICTS

Sec. 10.2. B1 District-Business

10.2-1 Permitted Uses

y. Farmers Markets