

PLANNING COMMISSION REPORT
Regular Agenda -- Public Hearing Item

PC Staff Report
1/27/14

ITEM NO. 6 TEXT AMENDMENT TO THE ZONING REGULATIONS; AGRITOURISM (MKM)

TA-13-00451: Consider a Text Amendment to Section 12-319-7 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas to establish criteria and review process for Agritourism uses which may have significant off-site impacts. *(Amendment was initiated by the Board of County Commissioners at their October 16, 2013 meeting.)*

RECOMMENDATION:

Staff recommends approval of the amendment to Section 12-319-7 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas to revise the supplemental use regulations for Agritourism uses.

Reason for Request: To establish additional parameters and standards to address off-site impacts associated with Agritourism uses.

RELEVANT FACTOR:

- Conformance with the Comprehensive Plan.

PUBLIC COMMENT

- A stakeholder meeting was held on November 21, 2013 to discuss the proposed amendment. Attendees included Zoning and Codes Director, planning staff, a member of the Food Policy Group, the former chair of the Planning Commission Agritourism Committee, zoning administrator for Baldwin City, and a neighboring property owner to the site with the proposed KC Pumpkin Patch. The neighbor of the proposed pumpkin patch site requested an evening meeting so more of the property owners/residents in the area could attend to discuss the proposed amendment and explain their concerns with the existing language.
- Staff met with residents who lived near the proposed KC Pumpkin Patch on January 8, 2014. The neighbors explained their concerns with the proposed Agritourism use and suggested measures they felt would protect their properties from off-site impacts of agritourism uses.

ATTACHMENTS

Attachment A: Draft language showing changes.

Attachment B: Draft language with changes incorporated.

BACKGROUND

MORATORIUM:

At their October 16, 2013 meeting the Board of County Commissioners approved a temporary moratorium on the registration of Agritourism uses and initiated a text amendment to revise the Agritourism standards in the *Zoning Regulations for the Unincorporated Territory of Douglas County*. These actions were in response to concerns regarding off-site impacts that could occur with intense Agritourism activities.

STUDY SESSION:

The County Commission held a study session on November 6, 2013 to discuss the concerns and provided staff with the following direction on the type of revisions needed:

- 1) Establish clear parameters to differentiate between the differing intensities of Agritourism activities beyond the current parameter of attendance (over 100 attendees). Possible parameters include:
 - a. The general nature of the Agritourism activity.
 - b. Distance of the Agritourism activity from residences.
 - c. Size and use of the property where the Agritourism activity is proposed.
 - d. Size of facilities (such as structures and parking areas) being proposed for the Agritourism activity.
 - e. Whether the Agritourism operator lives on the site.
 - f. Whether the Agritourism activity is compatible with the rural character of the area.
- 2) Develop standards for Agritourism activities such as parking, screening, and buffering requirements. Provisions related to transportation should also be made for the more intense Agritourism activities such as traffic studies and possible improvements to the roads, if necessary to accommodate the use.

STAKEHOLDER MEETING:

The following suggestions were provided at the stakeholder meeting:

- 1) Develop a clearer limitation on scale of activity than attendance, due to enforcement difficulties. Possibly limit the size of buildings or the number of parking spaces permitted rather than attendees.
- 2) Night-time activity was seen as a factor for off-site impacts.
- 3) Buffering and screening should be required.
- 4) If no residence is on the site, the use may be more intense than if the operator lived on the site.
- 5) Institute a complaint based review of approved uses.

NEIGHBORHOOD MEETING

At the January 8th meeting, the property owners provided the following suggestions:

- 1) Require notification of neighbors for all Agritourism registrations.
- 2) If operator doesn't live on the site or the activity is too close to a residence, the registration should go to the County Commission.
- 3) Attendance is too difficult to measure/enforce. Attendance should be enforced with limitations on parking.
- 4) Neighbors should be notified when a large assembly use is to occur.
- 5) Some of the neighbors suggested that the Conditional Use Permit process should be re-established for all Agritourism uses. (As this exceeded the direction provided by the County Commission, this suggestion was not followed up on.)

OVERVIEW OF PROPOSED AMENDMENT

The proposed draft language was developed based on the County Commission's direction with the suggestions from the stakeholder and neighborhood meetings being taken into consideration. The intent of the amendment is to provide additional safeguards to the nearby properties, insuring the protection of the public health, safety, and welfare while maintaining the intent of the original Agritourism amendment, to facilitate and encourage Agritourism through an abbreviated, streamlined review process.

The following changes are being proposed to the Zoning Regulations:

Housekeeping. A minor housekeeping change is proposed to section 12-319-7.02(a) to correct the section and title for the Special Event Permit reference.

Tiers. The existing language has a two-tiered approach, with all Agritourism uses being reviewed administratively except for assembly uses with more than 100 attendees. The proposed language creates parameters and definitions for these 2 tiers and requires those which may include more intense activities that have more potential for negative off-site impacts to require County Commission approval. The CUP process is re-instated for those Agritourism uses that are of higher intensity than those defined as Tier 2 uses.

Notification. The notification requirement has been expanded to apply to all Agritourism use registrations.

Standards. Standards have been developed for both tiers to assist in the development of uses which do not negatively impact nearby properties. The registration process has been expanded to note the type of plan/information that is needed with the registration materials.

Review criteria. The revised language also provides review criteria. This not only provides guidance for the staff reviewing the registration but also serves as a useful tool for the the potential operator when planning and designing their proposed use.

County Commission Action. The current language notes that the County Commission may place conditions or restrictions on the proposed use. The proposed language improves this by noting the various actions the Commission may take on the registration and providing examples of conditions which could be applied.

Changes to use. The revised language clarifies that any change to the Agritourism use, such as expanding the area of the use, or increasing the amount of parking would require re-registration. The language also clarifies that, in addition to conducting a use that is not listed on the registration, operating out of compliance with the registration site plan or with the conditions/restrictions that were placed on the registration would be considered a violation subject to the enforcement provisions of Section 12-329.

The proposed language will provide the following benefits:

- The proposed revisions will benefit the potential Agritourism Operators by establishing clear parameters and standards as well as review criteria so they can anticipate the type of review the registration will require and can plan the Agritourism use to comply with the established standards. A streamlined and abbreviated review process is still possible for low and medium intensity Agritourism uses.
- The proposed revisions will benefit nearby property owners by including notification so neighbors can be informed of, and have input into, all Agritourism registrations. The standards and review criteria will assist in the development of Agritourism uses that do not negatively impact nearby properties. High intensity Agritourism uses, those which do not meet the definition or parameters of a Tier 1 or Tier 2 use (such as a use which would have more than 100 parking spaces or a use that would utilize motorized vehicles) would require approval through the CUP process or rezoning, or with a Special Event Permit for temporary uses.
- The proposed revisions will benefit staff by providing clear standards and criteria for review and enforcement.

CRITERIA FOR REVIEW AND DECISION-MAKING

The Zoning Regulations outline the process for text amendments in Section 12-314 but does not provide specific criteria for the review of these amendments. The proposed text amendment was reviewed with the following guidance provided in Section 20-1302(f) of the City Development Code:

1) Whether the proposed text amendment corrects an error or inconsistency in the Zoning Regulations or meets the challenge of a changing condition; and

The proposed amendment corrects an error in the Zoning Regulations in that the earlier adopted Agritourism Regulations were found to be deficient in protection standards for nearby property owners. The proposed language includes standards to reduce the potential for negative impacts from Agritourism uses while still providing an abbreviated and streamlined review process for low and medium intensity Agritourism uses.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of the Zoning Regulations. Portions of the referenced documents are below with staff comments following in red:

General goal of the Comprehensive Plan: *"The overall community goal for planning is to provide, within the range of democratic and constitutional processes, for the optimum in public health, safety, convenience, general social and physical environment and individual opportunities for all the residents of the community, regardless of racial, ethnic, social or economic origin. It is the goal of the planning process to achieve a maximum of individual freedom, but public welfare must prevail. It is the intent to meet and safeguard individual rights and vested interests in a manner which will create the minimum disruption in individual freedoms and life values."* (Horizon 2020, Introduction)

The proposed text amendment is consistent with the Comprehensive plan as it provides additional safeguards to protect the public health, safety, convenience while retaining the provisions for a streamlined review process which facilitate and encourage low and medium intensity Agritourism uses.

Stated purpose of the Zoning Regulations: *"The zoning regulations and districts as herein established have been made in accordance with a land use study plan, to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of Douglas County, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for good civic design and arrangement, and for adequate public utilities and facilities by regulating the location and use of buildings, structures, and land for trade, industry, and residence, by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and the density of use. They have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the unincorporated territory of Douglas County, Kansas.* (Section 12-302)

The proposed text amendment is consistent with the stated purpose of the Zoning Regulations as it provides additional safeguards to protect the public health, safety, convenience and general welfare.

Staff Recommendation

Staff recommends approval of proposed revisions to Articles 12-319-7 of the Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas to revise the supplemental use regulations for Agritourism uses.

SECTION 12-319 SUPPLEMENTAL USE REGULATIONS-CONDITIONAL USES-TEMPORARY USES

12-319-7 AGRITOURISM SUPPLEMENTAL USE REGULATIONS

Agritourism is recognized as a vital tool for sustaining the family farm and represents significant economic potential for the community in general. These regulations are intended to foster and promote agritourism in keeping with the State of Kansas policy of encouraging agritourism, while ensuring that the public health, safety, and welfare are protected.

12-319-7.01 AGRITOURISM

- a. Agritourism is the intersection of agriculture and tourism, when the public visits rural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Agritourism uses the rural experience as a tool for economic development.
- b. Typical agritourism uses include, but are not limited to, the following:
 - 1) Farm markets/roadside stands,
 - 2) U-pick operations,
 - 3) Farm winery tours and tastings,
 - 4) Corn mazes,
 - 5) Farm-related interpretive facilities, exhibits, and tours,
 - 6) Historical, cultural, or agriculturally related educational and learning experiences, including volunteer workers,
 - 7) Farm stays,
 - 8) Bed and Breakfast establishments,
 - 9) Recreation related operations (fishing, hunting, bird watching, hiking, etc),
 - 10) Horseback riding,
 - 11) Garden, nursery tours and exhibits,
 - 12) Pumpkin patch visits and activities,
 - 13) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related; weddings, receptions; etc,
 - 14) Ancillary retail sales,
 - 15) Other uses that may be determined on a case by case basis if it meets the purpose and intent of the regulations.
- c. These Agritourism provisions do not apply to camping.

12-319-7.02 REGISTRATION AND APPROVAL PROCESS OF AGRITOURISM USES

- a. After the use has been registered with the State, a copy of the Agritourism Promotion Act Registration Form shall be provided to the Douglas County Zoning and Codes Office to register the Agritourism use with the County. Agritourism uses which meet the definition set forth in these Regulations and are registered with the State and with the County may occur as permitted in Section 12-319-7 without any additional review under Section 12-319, Conditional Use Permits;

Section 12-319A, Site Plan Regulations; or Section 319.8 5, Special **Event Use** Permits, although other State and local regulations shall apply.

b. Sections 12-319-7.03 and 12-319-7.06 establish the parameters for Tier 1 (low intensity), and Tier 2 (medium intensity) Agritourism uses.

- 1) Tier 1 (low intensity) Agritourism uses may be registered administratively by the Zoning and Codes Director.**
- 2) Registration of Tier 2 (medium intensity) Agritourism uses requires approval by the Board of County Commissioners.**
- 3) Agritourism uses which do not meet the definition or parameters of a Tier 1 or Tier 2 use require approval through a Conditional Use Permit, Special Event Permit, or rezoning.**

~~Assembly type uses with an attendance of more than 100 persons shall require approval by the Board of Commissioners prior to registration per process in Section 12-319-7.02(c).~~

c. Registration forms shall be jointly reviewed by the Director of Zoning and Codes Office and the Planning Director to determine if the proposed use(s) meet the definition of Agritourism set forth in these Regulations within 7 working days of submittal.

- 1) Additional descriptive information may be necessary for the determination. This information will be provided by the Agritourism operator and kept as a part of the registration.**
- 2) If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.**
- 3) The applicant for the Agritourism registration may file an appeal from the Director's determination. Appeals from the determination shall be made to the Board of County Commissioners. An appeal must be filed within 30 days of notification of the determination to the applicant. The appeal will be considered at the next available Commission meeting.**

12-309-7.03 TIER 1 (LOW INTENSITY) AGRITOURISM USES DEFINED

a. Tier 1, or low intensity Agritourism uses are not expected to generate noise, or other impacts, to the level that they would have negative impacts on surrounding properties. Examples of Tier 1 Agritourism uses include, but are not limited to:

- 1) Farm Stands;**
- 2) Farmers Markets with 4 or fewer vendors;**
- 3) U-Pick Operations;**

- 4) Farm Winery Tours and Tastings;
 - 5) Corn Mazes and Pumpkin Patches visits and activities;
 - 6) Farm Related Interpretative Facilities, Exhibits, and Tours;
 - 7) Historical, Cultural, or Agriculturally Related Educational and Learning Experiences, including volunteer workers;
 - 8) Farm Stays and Bed and Breakfasts with no more than 3 guestrooms; and
 - 9) Recreation Related Operations (Fishing, Hunting, Bird Watching, Hiking, etc.)
 - 10) Equestrian Facilities;
 - 11) Garden, Nursery Tours and Exhibits;
 - 12) Assembly type uses such as weddings, receptions; etc,
 - 13) Christmas Tree Sales;
 - 14) Farm Tours and Demonstrations;
 - 15) Small scale entertainment such as the integration of music, theatre, or arts to enhance the rural experience.
 - 16) Other uses that may be determined on a case by case basis to meet the intent of the Tier 1 definition.
- b. In addition to meeting the definition above, a proposed use must meet all the following parameters to be considered a Tier 1 Agritourism use:
- 1) The Agritourism use is accessory to and located on a parcel, or one of a number of contiguous parcels under the same ownership, as agricultural land uses or a working farm or ranch;
 - 2) The Agritourism operator resides on the parcel, or one of a number of contiguous parcels, containing the Agritourism use;
 - 3) Parking for the Agritourism use is limited to 25 parking spaces;
 - 4) No motors or motorized vehicles, with the exception of agricultural machinery and vehicles, will be utilized for the Agritourism Use;
 - 5) No amplification of noise is proposed: such as auctioneering speakers or amplified music (with the exception of a stereo or radio); and
 - 6) All Agritourism activities will occur in the daylight hours.

12-319-7.04 TIER 1 AGRITOURISM USES STANDARDS:

The following standards apply to all Tier 1 Agritourism uses:

- a. The operators of the Agritourism use shall be limited to the property owner or operator, his/her immediate family and employees.

- b. Adequate parking shall be provided on-site for the use, including ADA parking. No parking may occur on adjacent roads. (Parking is calculated at a rate of 1 parking space per 2 attendees.)
- c. Landscaping or fencing shall be provided along the perimeter of parking areas that are within view of residences or the road right of way. Landscaping shall consist of one of the following: a continuous hedge of shrubs or other vegetation at least 3 ft in height, berms that are a minimum of 3 ft in height with a slope of 3:1, or opaque fencing. Fencing to screen a parking area from adjacent residences may be between 4 and 6 ft in height. Fencing or walls between the parking lot and the street right-of-way may be between 3 to 6 ft in height. (In these instances, the location of fencing within the required setback will not require a variance from the Board of Zoning Appeals.)
- d. No exterior lighting shall be provided for the Agritourism use.
- e. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements.

12-319-7.05 TIER 1 AGRITOURISM REGISTRATION PROCESS

- a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:
 - 1) Approved State Agritourism Registration.
 - 2) Completed Douglas County Agritourism Registration form.
 - 3) Site plan
 - The agritourism site plan does not need to meet all the requirements in Section 12-319A, but must be adequate to illustrate the use and its conformance with the Zoning Regulations as well as the relationship of the use to the surrounding properties or right-of-way. At a minimum, the following items must be included:
 - i. All structures to be utilized for the agritourism use with dimensions, including the distance to the nearest property line.
 - ii. Areas where the agritourism use will occur and any areas where visitors would be allowed.
 - iii. Access and parking areas shown and dimensioned, noting the number of spaces provided.

- iv. **Water and sanitation facilities provided per the County Health Department approval.**
 - v. **Hours of operation noted.**
 - vi. **Anticipated attendance noted (parking is required at 1 parking space per 2 attendees).**
- b. **A minimum 20 day notification period is required. The Douglas County Zoning and Codes Office will provide notice to property owners within 1,000 ft of the proposed Agritourism site.**
- c. **The registration materials shall be reviewed by the Director of Zoning and Codes with the following approval criteria:**
 - 1) **The proposed use and layout meets the intent and purpose of the Tier 1 definition;**
 - 2) **The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;**
 - 3) **Adequate screening is provided between the parking area and adjacent residences or road right-of-ways.**
 - 4) **The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic;**
 - 5) **The nature of the use is compatible with adjacent land uses and enhances or the rural character of the unincorporated portion of the county.**
- d. **The Zoning and Codes Director may apply conditions to the registration, such as limitation on the hours, location, or the activity itself, if in the Director's opinion the conditions are necessary to mitigate off-site impacts.**
- e. **Re-registration is required as noted in Section 12-309-7.08.**

~~d. Assembly type uses such as weddings, receptions, fairs, or festivals, that may have an attendance of more than 100 persons require Board of County Commission approval prior to registration as an Agritourism use through the following process:~~

- ~~1) Information regarding the assembly type use shall be included with the registration form. The registration shall include, at a minimum the following information:~~
 - ~~a) The expected attendance,~~
 - ~~b) Activities associated with the assembly use,~~

- ~~e) The number of assembly type events anticipated per year;~~
- ~~d) Where parking will be provided on site;~~
- ~~e) Lighting location and type if assembly is to occur after dark;~~
- ~~f) Means to address health and sanitation at the site;~~
- ~~g) Information from the applicable fire department regarding access to the site/assembly use.~~

12-309-7.06 TIER 2 (MEDIUM INTENSITY) AGRITOURISM USES- DEFINED

- a. Tier 2 uses include higher intensity activities or have higher attendance than Tier 1 uses. Examples of Tier 2 Agritourism uses include, but are not limited to:
 - 1) Uses that would be considered a Tier 1 use that do not meet the Tier 1 parameters;
 - 2) Farmers Markets with more than 4 vendors;
 - 3) Bed and Breakfasts or Farm Stays with more than 3 guest rooms;
 - 4) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related.
- b. In addition to meeting the definition above, a proposed use must meet all the following parameters to be considered a Tier 2 Agritourism use:
 - 1) Parking for the Agritourism use is limited to 100 parking spaces.
 - 2) No motors or motorized vehicles, with the exception of agricultural machinery and vehicles, will be utilized for the Agritourism Use.
- c. Agritourism uses which do not meet the definition of Tier 1 or Tier 2 Agritourism uses may be considered by the County Commission through the Special Event Permit, Conditional Use Permit, or rezoning process established in these Regulations.

12-309-7.07 TIER 2 AGRITOURISM USE STANDARDS

The following use standards apply to all Tier 2 Agritourism uses:

- a. Operators of the Agritourism activity shall be limited to the property owner or operator, his/her immediate family and employees.
- b. Adequate parking, including ADA parking, must be provided on-site. No parking may occur on adjacent roads. (Parking is calculated at a rate of 1 parking space per 2 attendees.)

- c. Landscaping or fencing shall be provided along perimeter of parking areas that are within view of residences or the road right of way. Landscaping shall consist of one of the following: a continuous hedge of shrubs or other vegetation that is at least 3 ft in height, berms that are a minimum of 3 ft in height with a slope of 3:1, or opaque fencing. Fencing to screen a parking area from adjacent residences may be from 4 to 6 ft in height. Fencing or walls between the parking lot and the street right-of-way may be from 3 to 6 ft in height. (In these instances, fencing may be located within the setback without obtaining a variance from the Board of Zoning Appeals.)
- d. If Agritourism activities are to occur outside of daylight hours, a plan shall be provided which shows the location of lighting for the Agritourism activity and the type of lighting fixtures being used as well as means taken to shield the lighting to insure no trespass or glare to adjacent properties.
- e. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements.
- f. With the exception of agricultural activities, no activities associated with the Agritourism use may occur within 200 ft of a property line.

12-309-7.08 TIER 2 AGRITOURISM USES REGISTRATION PROCESS

- a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:
 - 1) Approved State Agritourism Registration.
 - 2) Completed Douglas County Agritourism Registration form.
 - 3) Site plan meeting the requirements outlined in Section 12-319-7.05(a)(3).
 - 4) Information from the applicable fire department regarding access to the proposed Agritourism Activity area.
- b. The County Zoning and Codes Office shall mail notice to all property owners within 1000 ft of the proposed use and the date and time the use will be considered by the Board of County Commissioners. For **Agritourism assembly type** uses that will be located on an unpaved road, the Zoning and Codes Office shall mail notice to all property owners of residentially developed property on an unpaved road which would be considered the most direct route to the nearest hard-surfaced road. A **minimum** 20 day notification period is required. The Commission will hold a public hearing on the proposed use at the time and place listed in the public notice.

- c. **The Director of Zoning and Codes shall review the registration application with the criteria noted in this section and provide a report with recommendation to the Commission.**
 - 1) **The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;**
 - 2) **Adequate screening is provided between the parking area and adjacent residences or road right-of-ways.**
 - 3) **The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic including emergency vehicles;**
 - 4) **The nature of the use is compatible with adjacent land uses and enhances the rural character of the unincorporated portion of the county.**
- ~~d. The Board of County Commissioners may impose conditions and restrictions in conjunction with approval of the assembly type use.~~
- d. **The Board of County Commissioners may take one of the following actions on the registration:**
 - 1) **Approve the registration;**
 - 2) **Approve the registration with conditions/restrictions such as limitation on the size of buildings and parking areas, establishment of operating hours; establishment of buffering, limitation on activities; road improvements; etc;**
 - 3) **Return the registration to staff with request for more information; or**
 - 4) **Deny the registration.**
- ~~e. With County Commission approval the assembly type use, up to the attendance noted on the registration form, may continue to occur as long as registered as an agritourism use with the State and the County.~~

12-309-7.09 Duration/Review

The Douglas County Agritourism Use registration coincides with the State Registration. Re-registration with the County is required when the State registration is renewed, every 5 years.

- a. **The Agritourism Use may continue as long as the use complies with the conditions and standards that were applied with the registration.**

- b. Only those activities specifically listed in the registration form and approved by the Directors are allowed to occur as Agritourism. Any change in proposed uses **such as a new activity, increased parking, expanded area of activity** would require:
- 1) The modification of the registration with the State, **if necessary**.
 - 2) Resubmittal of the revised registration form **and revised site plan** to the Zoning and Codes Office for a determination of compliance with the definition of Agritourism provided in this Section by the Director of the Zoning and Codes Office and the Planning Director **and re-registration through the processes established above**.
- ~~13 — The KS Agritourism Act requires Agritourism uses to register with the State every 5 years. Agritourism uses must register with the County each time an agritourism use is registered with the State, every 5 years, or any time a registration form is amended.~~
- c. Engaging in any activity not listed on the registration **or operating out of compliance with the plans and conditions approved with the registration** would be considered a violation subject to the enforcement provisions of Section 12-329.

12-319-7.10 STRUCTURES AND CONSTRUCTION CODES

Structures for Agritourism uses are required to comply with Douglas County Construction Codes, adopted by HR-12-11-5, and amendments thereto.

SECTION 12-319 SUPPLEMENTAL USE REGULATIONS-CONDITIONAL USES-TEMPORARY USES

12-319-7 AGRITOURISM SUPPLEMENTAL USE REGULATIONS

Agritourism is recognized as a vital tool for sustaining the family farm and represents significant economic potential for the community in general. These regulations are intended to foster and promote agritourism in keeping with the State of Kansas policy of encouraging agritourism, while ensuring that the public health, safety, and welfare are protected.

12-319-7.01 AGRITOURISM

- a. Agritourism is the intersection of agriculture and tourism, when the public visits rural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Agritourism uses the rural experience as a tool for economic development.
- b. Typical agritourism uses include, but are not limited to, the following:
 - 1) Farm markets/roadside stands,
 - 2) U-pick operations,
 - 3) Farm winery tours and tastings,
 - 4) Corn mazes,
 - 5) Farm-related interpretive facilities, exhibits, and tours,
 - 6) Historical, cultural, or agriculturally related educational and learning experiences, including volunteer workers,
 - 7) Farm stays,
 - 8) Bed and Breakfast establishments,
 - 9) Recreation related operations (fishing, hunting, bird watching, hiking, etc),
 - 10) Horseback riding,
 - 11) Garden, nursery tours and exhibits,
 - 12) Pumpkin patch visits and activities,
 - 13) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related; weddings, receptions; etc,
 - 14) Ancillary retail sales,
 - 15) Other uses that may be determined on a case by case basis if it meets the purpose and intent of the regulations.
- c. These Agritourism provisions do not apply to camping.

12-319-7.02 REGISTRATION AND APPROVAL PROCESS OF AGRITOURISM USES

- a. After the use has been registered with the State, a copy of the Agritourism Promotion Act Registration Form shall be provided to the Douglas County Zoning and Codes Office to register the Agritourism use with the County. Agritourism uses which meet the definition set forth in these Regulations and are registered with the State and with the County may occur as permitted in Section 12-319-7 without any additional review under Section 12-319, Conditional Use Permits; Section 12-319A, Site Plan Regulations; or Section 319.8, Special Event Permits, although other State and local regulations shall apply.

- b. Sections 12-319-7.03 and 12-319-7.06 establish the parameters for Tier 1 (low intensity), and Tier 2 (medium intensity) Agritourism uses.
 - 1) Tier 1 (low intensity) Agritourism uses may be registered administratively by the Zoning and Codes Director.
 - 2) Registration of Tier 2 (medium intensity) Agritourism uses requires approval by the Board of County Commissioners.
 - 3) Agritourism uses which do not meet the definition or parameters of a Tier 1 or Tier 2 use require approval through a Conditional Use Permit, Special Event Permit, or rezoning.
- c. Registration forms shall be jointly reviewed by the Director of Zoning and Codes Office and the Planning Director to determine if the proposed use(s) meet the definition of Agritourism set forth in these Regulations within 7 working days of submittal.
 - 1) Additional descriptive information may be necessary for the determination. This information will be provided by the Agritourism operator and kept as a part of the registration.
 - 2) If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.
 - 3) The applicant for the Agritourism registration may file an appeal from the Director's determination. Appeals from the determination shall be made to the Board of County Commissioners. An appeal must be filed within 30 days of notification of the determination to the applicant. The appeal will be considered at the next available Commission meeting.

12-309-7.03 TIER 1 (LOW INTENSITY) AGRITOURISM USES DEFINED

- a. Tier 1, or low intensity Agritourism uses are not expected to generate noise, or other impacts, to the level that they would have negative impacts on surrounding properties. Examples of Tier 1 Agritourism uses include, but are not limited to:
 - 1) Farm Stands;
 - 2) Farmers Markets with 4 or fewer vendors;
 - 3) U-Pick Operations;
 - 4) Farm Winery Tours and Tastings;
 - 5) Corn Mazes and Pumpkin Patches visits and activities;
 - 6) Farm Related Interpretative Facilities, Exhibits, and Tours;
 - 7) Historical, Cultural, or Agriculturally Related Educational and Learning Experiences, including volunteer workers;

- 8) Farm Stays and Bed and Breakfasts with no more than 3 guestrooms; and
 - 9) Recreation Related Operations (Fishing, Hunting, Bird Watching, Hiking, etc.)
 - 10) Equestrian Facilities;
 - 11) Garden, Nursery Tours and Exhibits;
 - 12) Assembly type uses such as weddings, receptions; etc,
 - 13) Christmas Tree Sales;
 - 14) Farm Tours and Demonstrations;
 - 15) Small scale entertainment such as the integration of music, theatre, or arts to enhance the rural experience.
 - 16) Other uses that may be determined on a case by case basis to meet the intent of the Tier 1 definition.
- b.** In addition to meeting the definition above, a proposed use must meet all the following parameters to be considered a Tier 1 Agritourism use:
- 1) The Agritourism use is accessory to and located on a parcel, or one of a number of contiguous parcels under the same ownership, as agricultural land uses or a working farm or ranch;
 - 2) The Agritourism operator resides on the parcel, or one of a number of contiguous parcels, containing the Agritourism use;
 - 3) Parking for the Agritourism use is limited to 25 parking spaces;
 - 4) No motors or motorized vehicles, with the exception of agricultural machinery and vehicles, will be utilized for the Agritourism Use;
 - 5) No amplification of noise is proposed: such as auctioneering speakers or amplified music (with the exception of a stereo or radio); and
 - 6) All Agritourism activities will occur in the daylight hours.

12-319-7.04 TIER 1 AGRITOURISM USES STANDARDS:

The following standards apply to all Tier 1 Agritourism uses:

- a.** The operators of the Agritourism use shall be limited to the property owner or operator, his/her immediate family and employees.
- b.** Adequate parking shall be provided on-site for the use, including ADA parking. No parking may occur on adjacent roads. (Parking is calculated at a rate of 1 parking space per 2 attendees.)
- c.** Landscaping or fencing shall be provided along the perimeter of parking areas that are within view of residences or the road right of way. Landscaping shall

consist of one of the following: a continuous hedge of shrubs or other vegetation at least 3 ft in height, berms that are a minimum of 3 ft in height with a slope of 3:1, or opaque fencing. Fencing to screen a parking area from adjacent residences may be between 4 and 6 ft in height. Fencing or walls between the parking lot and the street right-of-way may be between 3 to 6 ft in height. (In these instances, the location of fencing within the required setback will not require a variance from the Board of Zoning Appeals.)

- d. No exterior lighting shall be provided for the Agritourism use.
- e. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements.

12-319-7.05 TIER 1 AGRITOURISM REGISTRATION PROCESS

- a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:
 - 1) Approved State Agritourism Registration.
 - 2) Completed Douglas County Agritourism Registration form.
 - 3) Site plan
The agritourism site plan does not need to meet all the requirements in Section 12-319A, but must be adequate to illustrate the use and its conformance with the Zoning Regulations as well as the relationship of the use to the surrounding properties or right-of-way. At a minimum, the following items must be included:
 - i. All structures to be utilized for the agritourism use with dimensions, including the distance to the nearest property line.
 - ii. Areas where the agritourism use will occur and any areas where visitors would be allowed.
 - iii. Access and parking areas shown and dimensioned, noting the number of spaces provided.
 - iv. Water and sanitation facilities provided per the County Health Department approval.
 - v. Hours of operation noted.
 - vi. Anticipated attendance noted (parking is required at 1 parking space per 2 attendees).

- b.** A minimum 20 day notification period is required. The Douglas County Zoning and Codes Office will provide notice to property owners within 1,000 ft of the proposed Agritourism site.
- c.** The registration materials shall be reviewed by the Director of Zoning and Codes with the following approval criteria:

 - 1) The proposed use and layout meets the intent and purpose of the Tier 1 definition;
 - 2) The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;
 - 3) Adequate screening is provided between the parking area and adjacent residences or road right-of-ways.
 - 4) The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic;
 - 5) The nature of the use is compatible with adjacent land uses and enhances or the rural character of the unincorporated portion of the county.
- d.** The Zoning and Codes Director may apply conditions to the registration, such as limitation on the hours, location, or the activity itself, if in the Director's opinion the conditions are necessary to mitigate off-site impacts.
- e.** Re-registration is required as noted in Section 12-309-7.08.

12-309-7.06 TIER 2 (MEDIUM INTENSITY) AGRITOURISM USES- DEFINED

- a.** Tier 2 uses include higher intensity activities or have higher attendance than Tier 1 uses. Examples of Tier 2 Agritourism uses include, but are not limited to:

 - 1) Uses that would be considered a Tier 1 use that do not meet the Tier 1 parameters;
 - 2) Farmers Markets with more than 4 vendors;
 - 3) Bed and Breakfasts or Farm Stays with more than 3 guest rooms;
 - 4) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related.
- b.** In addition to meeting the definition above, a proposed use must meet all the following parameters to be considered a Tier 2 Agritourism use:

 - 1) Parking for the Agritourism use is limited to 100 parking spaces.

- 2) No motors or motorized vehicles, with the exception of agricultural machinery and vehicles, will be utilized for the Agritourism Use.
- c. Agritourism uses which do not meet the definition of Tier 1 or Tier 2 Agritourism uses may be considered by the County Commission through the Special Event Permit, Conditional Use Permit, or rezoning process established in these Regulations.

12-309-7.07 TIER 2 AGRITOURISM USE STANDARDS

The following use standards apply to all Tier 2 Agritourism uses:

- a. Operators of the Agritourism activity shall be limited to the property owner or operator, his/her immediate family and employees.
- b. Adequate parking, including ADA parking, must be provided on-site. No parking may occur on adjacent roads. (Parking is calculated at a rate of 1 parking space per 2 attendees.)
- c. Landscaping or fencing shall be provided along perimeter of parking areas that are within view of residences or the road right of way. Landscaping shall consist of one of the following: a continuous hedge of shrubs or other vegetation that is at least 3 ft in height, berms that are a minimum of 3 ft in height with a slope of 3:1, or opaque fencing. Fencing to screen a parking area from adjacent residences may be from 4 to 6 ft in height. Fencing or walls between the parking lot and the street right-of-way may be from 3 to 6 ft in height. (In these instances, fencing may be located within the setback without obtaining a variance from the Board of Zoning Appeals.)
- d. If Agritourism activities are to occur outside of daylight hours, a plan shall be provided which shows the location of lighting for the Agritourism activity and the type of lighting fixtures being used as well as means taken to shield the lighting to insure no trespass or glare to adjacent properties.
- e. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements.
- f. With the exception of agricultural activities, no activities associated with the Agritourism use may occur within 200 ft of a property line.

12-309-7.08 TIER 2 AGRITOURISM USES REGISTRATION PROCESS

- a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:
 - 1) Approved State Agritourism Registration.
 - 2) Completed Douglas County Agritourism Registration form.

- 3) Site plan meeting the requirements outlined in Section 12-319-7.05(a)(3).
 - 4) Information from the applicable fire department regarding access to the proposed Agritourism Activity area.
- b.** The County Zoning and Codes Office shall mail notice to all property owners within 1000 ft of the proposed use and the date and time the use will be considered by the Board of County Commissioners. For Agritourism uses that will be located on an unpaved road, the Zoning and Codes Office shall mail notice to all property owners of residentially developed property on an unpaved road which would be considered the most direct route to the nearest hard-surfaced road. A minimum 20 day notification period is required. The Commission will hold a public hearing on the proposed use at the time and place listed in the public notice.
- c.** The Director of Zoning and Codes shall review the registration application with the criteria noted in this section and provide a report with recommendation to the Commission.
- 1) The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;
 - 2) Adequate screening is provided between the parking area and adjacent residences or road right-of-ways.
 - 3) The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic including emergency vehicles;
 - 4) The nature of the use is compatible with adjacent land uses and enhances the rural character of the unincorporated portion of the county.
- d.** The Board of County Commissioners may take one of the following actions on the registration:
- 1) Approve the registration;
 - 2) Approve the registration with conditions/restrictions such as limitation on the size of buildings and parking areas, establishment of operating hours; establishment of buffering, limitation on activities; road improvements; etc;
 - 3) Return the registration to staff with request for more information; or
 - 4) Deny the registration.

12-309-7.09 Duration/Review

The Douglas County Agritourism Use registration coincides with the State Registration. Re-registration with the County is required when the State registration is renewed, every 5 years.

- a. The Agritourism Use may continue as long as the use complies with the conditions and standards that were applied with the registration.
- b. Only those activities specifically listed in the registration form and approved by the Directors are allowed to occur as Agritourism. Any change in proposed uses such as a new activity, increased parking, expanded area of activity would require:
 - 1) The modification of the registration with the State, if necessary.
 - 2) Resubmittal of the revised registration form and revised site plan to the Zoning and Codes Office for a determination of compliance with the definition of Agritourism provided in this Section by the Director of the Zoning and Codes Office and the Planning Director and re-registration through the processes established above.
- c. Engaging in any activity not listed on the registration or operating out of compliance with the plans and conditions approved with the registration would be considered a violation subject to the enforcement provisions of Section 12-329.

12-319-7.10 STRUCTURES AND CONSTRUCTION CODES

Structures for Agritourism uses are required to comply with Douglas County Construction Codes, adopted by HR-12-11-5, and amendments thereto.

DRAFT

COMPREHENSIVE REVIEW OF PROPOSED REVISED AGRITOURISM REGULATIONS

OUTLINE

- Summary
- Complications to the review process
- Adverse effects of the regulatory revision process
- Point-by-point analysis of proposed changes
- Proposed alternative regulatory scenario

SUMMARY AND DISCLAIMER

These comments have been prepared in a very short period of time with inadequate opportunities to discuss intentions with Planning staff or County officials. There has also not been adequate time for final editing and proofreading. The haste required to even draft a complicated review in one weekend may have resulted in inconsistencies, redundancies, and overall poor editorial work for this review. Please accept in advance my apologies for not being able to complete a properly finished product, and please overlook any typographical errors, grammatical mistakes, stylistic inconsistencies, or small errors of fact.

The proposed regulations, while very problematic, have some good points, especially the idea of monitoring parking spaces rather than attendance. However, the proposed regulations are generally irregular in the degree of detail (i.e., type parking surface is never mentioned, but very specific details for parking screening is included). Many vague and undefined terms are used. In some cases, interpretation of the regulations as written may hinge on regulatory interpretations that are already being debated by the County with the possibility that past County determinations may need to be overturned (definition of “employees” and how it applies to volunteers). In other cases, overly broad terms interpreted literally could be overwhelmingly restrictive (i.e. the ban on “motors” for Tier 1).

The proposed regulations do not seem to fully allow for integration of agritourism activities into a farming operation. This is likely to create significant difficulties for enforcement of these regulations where distinctions are made between “agricultural” and “agritourism” activities.

Taken as a whole, the proposed regulations could end up forcing many very small-scale, agriculturally-focused agritourism operations into a Conditional Use Permit scenario. This is the opposite of the desired outcome of the agritourism regulations, which is to promote agritourism as a “tool for sustaining the family farm.” Requiring Conditional

Use Permits for low-impact, thoroughly integrated agritourism activities will in many cases result in fewer, yet higher-impact, agritourism opportunities in Douglas County because the expense and difficulty of the Conditional Use Permit process will discourage its use for minor agritourism operations. This could reduce the number of affordable opportunities for Douglas County citizens to enjoy Douglas County farms.

A proposed alternative regulatory scenario is presented at the end of this analysis, in hopes of suggesting a positive approach to achieving the desired ends of these regulations.

COMPLICATIONS TO THE REVIEW PROCESS

On the afternoon of Thursday, January 22, 2014, I was sent the draft language for the proposed new Agritourism regulations. Due to a busy farm and work schedule this week, I couldn't actually open it until late that evening. This is the first I knew that this issue would be on the Planning Commission agenda for Monday, January 27 for a public hearing. The deadline for written comments is 10 a.m. Monday morning.

This is totally inadequate lead time for someone who has invested a great deal of time, energy and money in the agritourism regulation and registration process—both regulatory development and farm registration—to do a thorough review and comment on a 7 page document that extensively revamps the mere 2 pages of regulations under which my farm is registered. Furthermore, it seems inadequate time for the Planning Commission to do a thorough review. I ask that the Planning Commission delay the Public Hearing on this matter until such time as the Planning Commission and stakeholders such as myself can have adequate time to carefully review the proposed changes, research their ramifications for existing operations, and prepare comments.

The review process is further complicated because the material that was sent out was inaccurate. One version was marked "Changes Shown," but the strike-out portions had altered numbering systems and omitted or added words that made it difficult to compare the documents. This exacerbates the difficulty in reviewing the proposed changes on such short notice by necessitating a word-for-word comparison to determine actual effects on existing agritourism operators.

ADVERSE EFFECT OF REGULATORY REVISION PROCESS

As one of the first registered Agritourism operators in Douglas County, I cannot begin to adequately express my dismay at the prospect of spending the next year or more once again focusing on regulatory development and registration processes, when I have barely had time to begin activities under my existing registrations. Because my state registration was completed several years prior to my County registration, my County registration will need renewed, and thus will be subject to, the new regulations within a couple years.

Meanwhile, I will have to spend my time following the regulatory development process instead of operating my farm or planning and carrying out actual agritourism activities

under my current registration. Unlike those in the local government who are making these changes, I don't receive a salary for this specialized and arduous work. Thus, this process of entirely revamping the agritourism regulations barely a year after they were originally promulgated has a significant negative economic impact on my farm business. This is the opposite of what the regulations are intended to do.

Furthermore, as a business operator, it is hard to make future plans with confidence when it appears impossible to predict a stable regulatory foundation on which to build. Quality agritourism activities take years to plan, build, and grow. If the regulations are subject to this degree of change after initial permits have been granted, thoughtful operators are not likely to invest their future in an enterprise where years of hard work might be for nothing if the regulations are rewritten again.

The proposed regulations are complicated. One result is that many farmers simply will not register their activities and hope to not get caught. Another result may be that mainly non-farmers or "get-rich-quick" operators will try to go through the registration process, potentially resulting in overall lower quality agritourism activities that don't adequately reflect the rich history and diversity of Douglas County land and farms.

OVERALL CONTEXT OF PROPOSED REGULATIONS

As one studies the overall zoning codes, it becomes apparent that there are many inconsistencies and gaps in the existing regulatory context. Because of such gaps and limitations in the code surrounding the Agritourism regulations, a situation is created where agritourism is actually regulated much more strictly than uses with much greater adverse effect on neighbors and motorists.

Furthermore, the enforcement context of both existing general zoning and land use regulations, enforcement of regulations is piecemeal and structured in a way that allows it to be used in a harassing or discriminatory manner.

There are several distinct aspects to any land use: activities to be carried out; buildings and other infrastructure to support the activities; and services (including roads, transportation, emergency services, sanitation, water, electricity, etc.) needed to support the activities. These must each be addressed in a manner that is consistent and appropriate across all land uses to assure the long-term orderly development of Douglas County as a desirable place to live and work.

POINT-BY-POINT ANALYSIS OF PROPOSED CHANGES

This section gives point-by-point comments on the proposed regulations, generally in the order of the written proposed regulations. As much as possible, I've tried to include specific examples of possible unintended consequences, especially from the perspective of how these proposed regulations could materially affect my farm's agritourism registration. Citations are from the "Draft Language (Changes Shown)" version that was emailed on 1-22/2014. I have tried to title each separate issue for ease of reference.

TYPOGRAPHICAL ERRORS AFFECTING REVIEW PROCESS

Starting on page 6, all sections are incorrectly designated, making computerized searches ineffective for navigating through the document. “12-309-7.____” should be “12-319-7.____”. The existing code at 2-309-7 contains a reference to “Supplementary height and area regulations.”

For purposes of this review, all references to the Agritourism codes will be referenced as “12-319-7.____.”

REQUIRED CONDITIONAL USE PERMIT

12-319-7.02(b)(3) requires a Conditional Use Permit for agritourism uses that don’t fit the Tier 1 or Tier 2 parameters, yet there are many reasons a very low-impact agritourism use might not fit either Tier 1 or Tier 2 parameters. For instance, the incidental or ancillary use of non-farm motorized vehicles (i.e. a personal vehicle or a motorized electric mobility device kept by the agritourism operation to provide ADA accessibility)) to provide accessibility to persons with disabilities would conflict with 12-319.7.06(b)(2). The overly broad ban on all motors in this same subsection would also throw many agritourism operations into the Conditional Use Permit process. Likewise, property line setbacks, hours of operation, etc. can all disqualify an operation from Tier 1 and Tier 2.

Requiring agritourism operators to go through the expensive, time-consuming and potentially contentious Conditional Use Permit process is counter-productive to the Agritourism regulations’ stated goal of fostering and promoting agritourism as a means of economic development and sustaining the family farm.

My understanding was that the Agritourism registration process for Douglas County was intended to provide relief to farmers from going through the confusing, expensive and time-consuming Conditional Use Permit process for agritourism activities. In fact, I removed “Events” and “Farmer’s Market” from my attempted Conditional Use Permit precisely because these activities would no longer require a Conditional Use Permit under the then-new Agritourism regulations. Now I find I should have continued to pursue them through a CUP...in which case I might be several years ahead of where I am now in the implementation process. A new CUP (with new fees) will have to be done. However, I’m not allowed to submit a CUP for a year because my previous one (which started out including Events and a Farmer’s Market) was denied. The previous CUP process took over 4 years and was determined to not require a CUP after all.

LIST OF TIER 1 USES

12-319-7.03(a) includes a list of examples that is nearly synonymous with the full list of agritourism uses. However, some of the listed uses seem very likely to generate traffic greater than 25 cars:

(5) Corn mazes and Pumpkin Patches visits and activities

...

(12) Assembly type uses such as weddings, receptions; etc.

...

(14) Farm tours and demonstrations.

The regulation could be shortened and simplified by omitting this list, since it is not comprehensive anyhow (“but are not limited to” in 7.03(a); “7.03(a)(16) Other uses that may be determined on a case by case basis to meet the intent of the Tier 1 definition”). The focus should simply be on the low-impact nature of the proposed activities.

It is puzzling that while these potentially very high volume uses are included as Tier 1 uses, Farmer’s Markets are limited to only 4 vendors. Enumerating Farmer’s Market vendors can be problematic. Various markets and similar venues count them differently. Some go by the individual, regardless of relationship to other vendors or whether they are sharing a space or have a joint business. Some count individual business entities, even if they share a booth space. Some simply allocate square footage of space without concern for how many people or businesses use the space. If a limit on the size of Farmer’s Market is really appropriate, then it must be clearly defined.

However, it seems inappropriate to limit the number of vendors at a Farmer’s Market, when a pumpkin patch with a single “vendor” could have much higher traffic and sales, and be open all day, seven days a week, compared to a Farmer’s Market with many vendors that is open only a short time part of the week.

Perhaps it would make more sense, and be easier to enforce, to limit the number of days and/or number of hours per day that an activity can occur, rather than placing limits on, and trying to define, highly variable business relationships.

“NOT EXPECTED TO GENERATE...NEGATIVE IMPACTS...”

Estimating the impact of activities that haven’t yet occurred is a risky business. It is too easy for people who have not properly educated themselves on the details of a planned activity to fantasize imaginary worst case scenarios and make decisions based on what could happen, rather than what is actually planned or likely to happen. Neighbors alleging negative impacts without taking

Who gets to define “negative impacts”? The slightest thing could be perceived as a “negative impact” by a sensitive or oppositional neighbor...in one documented case, a landowner’s failure to rake fall leaves from a natural wooded area.

Distinguishing between agricultural activities (which are protected by state law from being considered “nuisances”) and agritourism activities can be very difficult and subjective, especially in areas of the county where mixed (residential, industrial, business, and agricultural) zoning and uses already exist.

“ACCESSORY TO ...A PARCEL”

12-319.7.03(b)(1) The idea that agritourism should be an accessory use to a farm is a sound principle, given the agritourism regulations’ stated goal of supporting farms. However, there are already outstanding regulatory interpretation and enforcement issues where Douglas County is not clear what it means for an activity to be a use “accessory to a farm” (in interpreting the Agricultural Zoning regulations at 12-306-2.17, “Ag Worker Mobile Home Exemption”). As of this writing, to my knowledge, Douglas County Zoning and Codes staff and Douglas County legal counsel continue to insist that “accessory use to a farm” is synonymous with “accessory use to a residence”, thereby preventing use of this mandatory permitted right in some cases. In the case of Agritourism, this sort of misinterpretation might prevent beneficial agritourism activities on parcels without residences.

I can only imagine that “accessory use to a parcel” will be just as problematic, and this wording could be used to prevent agritourism activities on farms comprising multiple parcels.

“CONTIGUOUS PARCELS”

Furthermore, it is not fair to penalize farm operators who have not been so fortunate as to find contiguous parcels, or who have bona fide agricultural reasons for creating a working farm that consists of scattered plots. One organic grower that I know relies on plots spaces several miles apart to rotate crops with enough separation to prevent spread of pests from one area to another. The requirement of contiguous parcels would force him to get Tier 2 approval from the County Commission in order to do U-Pick activities on scattered plots, or to do farm tours visiting more than one plot.

If the goal is to use Tier 1 (low impact) agritourism as a means of supporting farms operated by Douglas County residents, then this could simply be stated.

Noncontiguous parcels may still be very close together, and could easily be part of one agritourism operation, especially for very low impact activities such as those listed at 12-319-7.01(b)(9) or (10). The County may also need to address the reality that many farmers may operate farm businesses on land located in more than one county. I know of several cases where farm families actually changed their residence from one county to another according to the seasons of the year, summering with their livestock on Flint Hills pastures in the summer while moving themselves and their livestock to their Douglas County farmsteads during the winter.

“UNDER THE SAME OWNERSHIP”

Many farms are operated all or in part on rented ground, and some farmers may reside in rented residences. Land ownership can be further complicated by land held by trusts, etc. This restriction could exclude many bona fide farmers from accessing the liability protection of state Agritourism registration for very low impact activities. A requirement

of land ownership for low-impact agritourism creates an undue hardship for already disadvantaged farmers (young, women, minority, persons with disabilities, etc., who may have less access to land ownership).

12-319-6.03 addresses various forms of ownership in relation to Rural Home Businesses by stating “*If a business owner does not currently own the real estate on which the Rural Home Business Occupation is conducted, an affidavit of equitable interest or a copy of a lease evidencing a leasehold interest can be submitted as a substitute for fee simple ownership of the real estate.*” A similar approach could be used for the Agritourism regulations.

“AGRICULTURAL LAND USES”

This phrase needs to be defined, or else it could be construed as any use permitted under 12-306 “A” AGRICULTURAL DISTRICT REGULATIONS. This would include churches, colleges, country clubs, golf courses, etc.

“AGRITOURISM OPERATOR”

This phrase used at 12-319-7.03(b)(2), 12-319-7.05(a), 12-319-7.07(a), etc., needs to be clarified. As written, it may prevent multi-generational farm operations where adjacent homes are not available from allowing a subsequent generation of the family to start an agritourism operation on the family farm as part of a farm’s succession plan. However, in protecting the right of families by blood or marriage to use agritourism as a part of a generational succession plan, it is important to avoid discrimination against farmers whose successors are not related by blood or marriage.

“MOTORS OR MOTORIZED VEHICLES”

12-319.7.03(b)(2) references “motors or motorized vehicles” in a very broad sense. This would technically include all electrical, gas or diesel motors, including the cooling fan in a computer, a diesel generator to supply power for non-agricultural purposes (such as a food vendor providing concessions), refrigeration and HVAC motors, etc.

In many cases, it will be hard to determine whether a motor is used for an agricultural purpose or not, especially when motors are used for a variety of purposes.

What is the purpose of this restriction? Risk management? It is any business operator’s obligation to provide adequate and appropriate insurance for all activities, whether involving motors or not. Noise control? Then this section needs to focus clearly on limiting noise, rather than motors. Non-agricultural-use vehicles that have electric motors may be virtually silent, and should be allowed.

“DAYLIGHT HOURS”

12-319-7.03(b)(6) mandates that very low impact agritourism activities that must be conducted at night for agricultural or natural reasons (owl calling, lambing participation, sunrise religious service) must go through at least the Tier 2 process of review by the County Commission. Many would likely fall into the Conditional Use Permit category.

“LIMITED TO PROPERTY OWNER” [12-319-7.04(a) and 12-319-7.07(a)]

“Property...operator” is undefined, and is unfamiliar usage. Does this refer to a farm operator who leases instead of owns land?

Could an agritourism operator be a volunteer associated with an agricultural operation? Is this included in the concept of “employees”...i.e., how is “employees” defined for the purpose of this regulation? Since the county is still in the process of considering whether someone “employed on” a farm is the same as someone “employed by” or “an employee of” a farm, similar confusion could result from this requirement.

There are valuable agricultural lands that are not suited to residential use for many reasons—terrain (too steep, flood prone, ravines or creeks, too rocky, no water, no space for wastewater disposal, etc.), lot size, lack of frontage, etc. These sites may still be suitable for certain agritourism uses, yet the impossibility of having a home sited on them would seem to require that they go through the Conditional Use Permit process for any agritourism activity. This seems excessive for relatively solitary activities such as hunting, fishing, hiking, etc., that are required to register as Agritourism uses because they are not permitted by right agricultural activities, yet are unlikely to be significant income-producing enterprises for a farm.

“Immediate family” should be defined. Does this include cousins or aunts/uncles? Grandparents/grandchildren? Stepchildren? Ex spouses? What about same sex couples? What about farms that are organized as partnerships, cooperatives, LLCs, or corporations? How can this restriction be stated in a way that does not penalize people who don’t have conventional “immediate family” but who may have friends or business partners in lieu of family?

“NO PARKING MAY OCCUR ON ADJACENT ROADS” [12-319-7.04(b) and 12-319-7.07(b)]

No one can control where people park their cars, and I’m not sure that it’s even legally defensible to tell people that they can’t park in an area that isn’t designated “No Parking”. This should not be expected of Agritourism operators. The regulations should simply state that cars parked on public rights of way for purpose of attending an agritourism activity may be ticketed or towed as deemed necessary by the Douglas County Sheriff, and require the agritourism operator to inform participants that off-site parking is not allowed (via sign onsite or verbiage in advertising media). It isn’t fair to penalize the

agritourism operator for their guests' bad parking choices. In extreme cases, someone could deliberately park on the road in order to get the agritourism operator in trouble.

For agritourism operations where onsite parking is only occasionally scarce, temporary "no parking" signs could be used (hopefully with a streamlined system compared to the onerous City of Lawrence system requiring 4 different visits to two different, non-adjacent city offices.) For agritourism operations that frequently have a high parking demand, the operators could request that the county post permanent "No parking" signs along the road.

In a county where football and basketball games regularly lead to extreme parking shortages and very congested traffic, resulting in thousands of illegal parking situations that are routinely ignored but significantly inconvenience people living in those neighborhoods, it seems disingenuous to forbid parking on county roads that would be legal parking if the car were not being used as transportation to an agritourism event. All over town, students, store customers, and employees park on city streets because of inadequate parking lots provided for businesses and institutions.

On-site parking should be strongly encouraged because it is more convenient and safer for attendees, and agritourism operators should attempt to realistically correlate the size of events with the onsite parking available, as well as make plans for overflow parking that will not block traffic. I see no reason why this shouldn't include parking on one side of a road where it is legal to do so and traffic safety is not unduly compromised.

"PARKING IS CALCULATED...1...SPACE PER 2 ATTENDEES"

This requirement appears relative to Tier 1 registrations at 12-319-7.04(b) and 12-319-7.05(a)(3)(vi) and the corresponding Tier 2 sections.

Many agritourism activities are designed to appeal to families, resulting in an average of more than 2 people per vehicle...in some cases, as many as 7 or even more per family van for activities at my farm. A single school bus making a single field trip could carry enough students to mandate 15 parking places, yet there not be any parking place adequate to park the one vehicle! Agritourism operators can't control what vehicles people use.

Although many agritourism sites will be primarily accessed by motor vehicles, there are several existing agritourism sites that are regularly accessed by people on bicycle, public transportation, or even on foot. This will significantly affect parking space requirements for some sites.

Each site and type of activity will be unique, and will have unique parking considerations. While it is reasonable that adequate parking be provided by the agritourism operation, setting one standard for correlating attendance with parking is not appropriate. Application for registration should include adequate information to determine a reasonable estimate for parking needs.

Allocating more parking space than necessary could create an eyesore, especially given the overly-specific yet inadequate screening requirements.

SCREENING OF PARKING AREAS [12-319-7.04(c) and 12-319-7.07(c)]

Screening of parking for agritourism activities can be problematic in many ways.

In many cases, it is simply not possible to screen a site from the road right of way because of driveway entrances, need for sun to grow crops or provide proper light for livestock, etc. Screening can obstruct vision and present traffic safety hazards. Law enforcement recommends trimming bushes and shrubs to prevent hiding places. The required types of screening may obstruct a neighbor's view of a treasured landscape year around for the purposes of concealing cars parked there just a few times a year. The required types of screening may all be out of character with the existing landscape, or not well suited to a particular site.

The degree of screening and landscaping proposed for Agritourism uses far exceeds that required for industrial uses on industrial zoned land. Agritourism operations located in areas near non-residential zoning and uses should not be subject to more stringent landscaping and screening requirements than more intensive uses.

Screening as specified may also be impossible to maintain in areas that are used for parking part of the year and for livestock or crops the rest of the year. Permanent screening for seasonal agritourism activities could require an operator to forego agricultural use of part of the farm, making the agritourism less of an "accessory use."

As an aside, the County should revisit screening requirements and their enforcement for Business and Industrial zoning districts. Many of these are written to require screening only from the street, not from residences or from side or rear lot lines. Such business therefore can have a significant depreciating effect on otherwise high quality agricultural environments.

"LANDSCAPING SHALL CONSIST..."

The specificity of this subsection is daunting and out of character with the rest of the agritourism regulations, especially in the context of other similar regulations such as the Rural Home Business regulations.

Rural Home Business regulations (Type II), at 12-319-6.02, require the following: *All parking spaces shall be located a minimum of 50 feet from property lines and public rights-of-way, and shall be screened by landscaping, a fence, or buildings so it is not visible from the public rights-of-way or from adjacent residences.* There is no need for agritourism regulations to spell out required screening in more detail than that...especially when the screening specified for agritourism would not even meet the performance criteria for a rural home occupation.

Since the Rural Home Business regulations already are not enforced, to the detriment of residential and agricultural neighbors, it seems unfair to put these restrictions on agritourism operators, who may have far less intensive uses.

Depending on the location of a farm, and on weather conditions and water availability, establishment of natural vegetative screening may be difficult, expensive or impossible. At best, it may take years for vegetation to reach the required screening specifications. Berms may cause or exacerbate drainage issues. Fencing and walls may not be harmonious with the rural landscape or with the agritourism activity, may be extremely expensive for a large site in proportion to the level of agritourism use, and may be vulnerable to wind damage in exposed locations.

Berms, walls, fences, and vegetative screening can all either improve or exacerbate snow drift conditions, potentially creating serious hazards to the public health and safety especially in remote rural areas.

A height of three feet seems insufficient to significantly screen a parking area in terms of “hiding” it within a rural landscape, especially in hilly terrain. Requiring such inadequate screening may have little effect other than increasing costs to the agritourism operator and creating an eyesore and hazards.

12-319-7.04(d) “NO EXTERIOR LIGHTING”

This ban is much too broad. As stated, it would preclude the use of small solar walk lights to demarcate paths or illuminate tripping hazards. Also, for enforcement purposes it could be very difficult to distinguish between lights installed for agritourism uses and lights installed for residential or agricultural uses.

The worst case scenario is that an operator trying to avoid the onerous registration process of appearing before the County Commission for a Tier 2 registration might choose to not install lights in a situation where safety and common sense would dictate the use of lights.

12-319-7.07(d) requires that light for agritourism activities be shielded. However, exterior lighting for residential use and Rural Home Business use is not restricted from encroaching on other residences, agricultural operations, or agritourism sites. Likewise, any business and industrial zoning uses don’t require shielding from properties to the side or rear, but only from the street. In all cases, whatever regulations exist are not enforced. It is unfair to expect a higher standard from agritourism operations.

If 12-319-7.03(b)(6) is retained, specifying that all Tier 1 agritourism activities occur during daylight hours, there is no need to address lighting at all for Tier 1 agritourism registration, because any lights would not be associated with the agritourism.

“200 FOOT SETBACK”

12-319-7.07(f) prohibits agritourism-related activities that are not agricultural from occurring within 200 feet of a property line for Tier 2 registrations. Since many very low impact agritourism uses will fall into Tier 2 due to relatively minor shortcomings such as activities after dark, it is unfair to apply a 200 foot setback to all agritourism related uses. Consideration must be given to the site characteristics, surrounding land uses, and nature of agritourism activities. A 200' setback is unnecessary for a small intimate poetry reading around a campfire in a secluded valley far from any residences...especially if the adjoining property is a gravel quarry used only by day.

This requirement also in many cases would prevent an agritourism operator from scaling up a Tier 1 agritourism operation to Tier 2. For example, a Tier 1 Farmer's Market (4 vendors, not after dark) that expanded to a Tier 2 Farmer's Market (5 vendors, open until 6 p.m. in December) might need to be significantly relocated to meet the 200' setback. Small agricultural parcels, especially those that don't have residences, might not even have any space that would meet the 200' setback from all sides.

It is also important to keep in mind that "agricultural uses" can be construed to include all uses permitted in the "A" Agricultural District. In this, many high-impact uses would be allowed while low-impact agritourism uses would not be.

Since this restriction would bump many smaller sites into the Conditional Use Permit category, it would disproportionately affect disadvantaged farmers who may be more likely to have small properties.

Some non-agricultural activities may be carried out in pre-existing buildings such as homes or barns that may be located less than 200' from a property line. Ponds, woods, etc. may also naturally exist closer than 200' to a property line. It would be unfair to preclude the use (and often, therefore, preservation) of historic buildings, or to prevent birdwatchers from hiking within 200' of the property line.

Also, this is worded so that the 200' setback would be from each property line of individual parcels within a contiguous multi-parcel site.

12-319-7.04(e) SANITARY FACILITIES

Adequate information should be provided for the potential agritourism operator to be able to find the applicable requirements.

"AGRITOURISM REGISTRATION PROCESS"

Both Tier 1 and Tier 2 applicants should be required to submit IRS Schedule F or other proof of farm business activity.

Tier 1 applicants should be required to show that the agritourism activity will be operated in such a manner that it is truly accessory to the agricultural uses carried out by the operator.

“1000 FOOT NOTICE RADIUS”

12-319-7.05(b) and 7.08(b) require notices to be sent to all property owners within a 1000 foot radius of the proposed agritourism site.

Conditional Use Permits and similar processes require a 1000 foot radius outside the city limits, but only a 200 foot radius within City Limits. There are already more than one agritourism sites (whether registered or not) that are adjacent to City Limits. Tier 1 and 2 registrations should not be sent to more people than a rezoning or Conditional Use Permit notice; this is an unnecessary expense for the County.

“INTENT AND PURPOSE OF TIER 1 DEFINITION” [12-319-7.05(c)(1)]

If these are to be used as a standard for review, they need to be clearly spelled out.

“COMPATIBLE WITH ADJACENT LAND USES” [12-319-7.05(c)(5)]

In some cases, the screening required under 12-319-7.04(c) and 12-319-7.07(c) may make the agritourism less compatible with adjacent land uses, and may not enhance the rural character of the landscape.

“LIGHTING TRESPASS OR GLARE” [12-319-7.07(d)]

Shielding requirement is more stringent than for any other use. No shielding is required for residences or street/highway lights. This creates a situation where agritourism activities requiring a dark nighttime environment can be impinged upon by others, but agritourism activities may not be able to effectively light their own premises. There is apparently no way to enforce any existing light regulations because inspectors don't work at night and the sheriff says it's a civil matter that they can't do anything about.

PROPOSED ALTERNATIVE REGULATORY SCENARIO

Agritourism regulations should provide a framework that:

- Allows Douglas County farmers to add agritourism enterprises to their farms in a sustainable and incremental manner that is relatively free from additional regulatory restrictions or burdens;
- Provides assurance to neighbors that agritourism activities will not unreasonably interfere with their peaceful enjoyment of their property;
- Protects agritourism operators from unreasonable harassment from neighbors;
- Provides measurable, clearly defined standards so that agritourism operators can properly plan their agritourism enterprises.

- Allows enough County oversight to ensure orderly implementation of agritourism uses, and also
- Spells out clear enforcement criteria and responsibilities, as well as problem-solving strategies for minor disputes and consequences for willful or repeat violations, so that any problems can be solved on a timely basis while respecting property rights of all parties.

The regulations should be as general as possible to apply to a wide range of agritourism activities and encourage innovation. In many cases, the best agritourism operations are well-integrated with actual agricultural enterprises, thus truly connecting farm visitors with a hands-on Kansas agriculture experience. Care should be taken to preserve and encourage this intimate connection, while encouraging farm operators to allow the public onto their farms through support such as the State's Agritourism Liability Waiver.

Agritourism regulations should provide a means of allowing Douglas County farmers to have additional economic enterprises utilizing existing farm resources, while having a reasonably minimal, but not necessarily non-existent, effect on neighbors to the agritourism site.

It must be remembered that in many cases, non-agricultural residential uses were "new" uses in rural Douglas County and impose their own set of nuisances on agricultural neighbors, including many of the same types of nuisances which agritourism regulations attempt to minimize. This means that the regulations must be stated in terms of easily measured criteria, with clear enforcement criteria and consequences for violations. Neither the existing nor proposed regulations adequately achieve this.

12-319-7.01 should include a full range of definitions, including but not limited to:

--Agritourism activities: [definition and list from existing code].

--Agritourism operator(s): the individual(s) with financial and legal responsibility for the agritourism activity. Describe acceptable relationships to farm operation, to landowner, and to land/residential tenants.

--Agritourism site: The physical location of the agritourism activities, i.e., where people will be. This may include one or more parcels owned or leased by the agritourism operator. Parcels need not be contiguous if the agritourism use of non-contiguous parcels would not result in significantly increased adverse effects to neighbors. No minimum size, either implied or express.

--Agritourism hours—include all hours that guests/customers/visitors are present at the farm, but do not include preparation or clean-up times by agritourism operators or their employees, contractors, vendors or volunteers. Hours for overnight guests are considered separately from guests not sleeping at the agritourism site.

--Overnight guests—Paying guests sleeping at the agritourism site. Should not include guests present only for night-time waking activities such as sunrise services, astronomical observations, wildlife experiences, birthing experiences, etc.

--Volunteers—

PRIVATE ACTIVITIES PERMITTED BY RIGHT

Nothing in the agritourism regulations should be construed as restricting the rights of landowners, tenants, family members and personal friends of landowners and tenants to exercise the full range of uses of their agricultural property permitted under the “A” Agricultural District, including the right to hike, hunt, fish, picnic, camp and otherwise enjoy the recreational, educational, natural, spiritual, cultural and agricultural resources of their land, when these opportunities are shared with no charge to people personally known to the landowner or tenant and no site modifications or permanent infrastructure are provided by the landowner/tenant to support the activities. Agritourism registration is not required for the incidental enjoyment of the rural landscape.

Conversely, registration/regulatory oversight is entirely appropriate for private events of certain types and scales. It is very difficult to distinguish between large private events and small agritourism activities. In the past year, a neighbor’s “private event” included an intensive fireworks display on a 4-acre lot with hundreds of attendees and large numbers of vehicles parked unsafely on the street. No sanitary facilities seemed to be provided. Smoke and noise, as well as traffic, caused significant distress to the neighboring agricultural operation. Activities were very close to neighboring residences. Parking was set up in a manner that would not have allowed emergency vehicle access. However, full Tier 2 type agritourism, including a ban on street parking, proper parking and lane layout, etc. was required for the agricultural operation to host its traditional Sheep Shearing Open Farm Day.

Agritourism registration or special event permits should be required for some private events otherwise permitted by right due to potential for adverse effects on neighbors and motorists. Landowners should consult with the Dept. of Zoning and Codes if they are planning a large group event (greater than 30 people expected attendance?) or an event that is likely to generate nuisance to the neighbors or passing motorists.

Landowners/tenants must ensure that:

- The private landowner/tenant event is held entirely on land owned or rented by the host/organizer of the event;
- The private landowner/tenant event does not create nuisance conditions outside of their own property due to dust, noise, or lights impinging on neighbors or on the public road;
- Parking for a private landowner/tenant event does not create or exacerbate unsafe driving conditions due to roadside parking;

- Provisions adequate for the expected attendance are made for sanitation, safe drinking water, fire safety, and emergency vehicle access;
- No more than one event requiring parking of more than 10 cars is held per week.

Private landowner events are not covered by the state agritourism liability waiver.

[This is no more of a restriction on personal freedom than is a building permit for constructing a home or other permitted-by-right improvements.]

AGRICULTURAL EVENTS

State agritourism registration is often used by innovative farmers to allow the public to participate in agricultural activities without incurring liability for personal injuries sustained by guests on the farm. State agritourism has thus significantly helped farmers to access volunteer help for intensive agricultural operations while making agricultural experiences accessible to the public. The County agritourism regulations should enhance this, not discourage farmers from allowing the public to their farm by way of onerous parking screening requirements, Conditional Use Permits, restrictive time frames (i.e.e, daylight hours), etc.

Volunteers who assist with essential farm operations should not be considered agritourism participants, but certain ancillary activities such as a harvest party that is open to families and friends of volunteers as well as the volunteers could be considered an agritourism event. Thus, context of a person's presence on the farm may determine whether their hours count towards a Tier designation in the following scheme. Agritourism registration regulations should never interfere with farmers accepting volunteers to help with their farm business operations.

To better segregate Agritourism into tiers based on potential impact and need for regulatory oversight, I suggest the following divisions:

--TIER 1 AGRITOURISM—defined as agritourism activities limited to:

5 or fewer days per week, less than 4 hours per day, AND/OR
3 or fewer days per week, less than 12 hours per day,

AND with parking provided for 25 or fewer vehicles,

AND no overnight guests,

AND operated as an accessory activity to an existing farm business, as documented by ___ years of IRS Schedule F or other reasonable documentation of a farm business associated with BOTH the agritourism operator and the agritourism site.

This allows weekend and long-weekend all-day events, as well as morning or evening events, reassuring neighbors that inconveniences or minor nuisances will not be

constant. This scale of operation is easily done as an accessory use to a farm within the framework of a farm family or small business operation.

--TIER 2 AGRITOURISM

7 or fewer days per week, less than 4 hours per day, OR
5 or fewer days per week, less than 12 hours per day, OR
3 or fewer days per week, more than 12 hours per day.

AND/OR parking provided for 100 or fewer vehicles at any one time,

AND/OR overnight accommodations consisting of [5] or fewer guest rooms/guest room equivalents.

AND operated as an accessory activity to an existing farm business, as documented by ___ years of IRS Schedule F or other reasonable documentation of a farm business associated with EITHER the agritourism operator or the agritourism site.

This scale allows for a larger, more stand-alone agritourism operation, while still giving neighbors and operators some “days off” from the agritourism operation. More planning and oversight is appropriate for situations with more guests, overnight guests, etc. This level also allows for a looser connection between the farm operation and the agritourism operation, acknowledging that this scale of agritourism might start to become a full-time job for the operator rather than a sideline to farming.

--AGRITOURISM REQUIRING CONDITIONAL USE PERMIT

More than 5 days per week with 4-12 hours per day, OR
More than 3 days per week with more than 12 hours per day.

AND/OR provisions for more than 100 vehicles at any one time,
AND/OR overnight accommodations consist of more than 5 guest rooms/guest room equivalents,

AND/OR agritourism activity is not associated with an existing farm business

AND/OR farm business is not primarily located in Douglas County

AND/OR agritourism operator is not associated with an existing farm business.

[These definitions of the levels prioritize Agritourism as an opportunity for existing farmers to utilize their existing resources in innovative ways, while still allowing new operations not associated with farms to operate agritourism activities through Conditional Use Permits.]

12.319.7.02 REGISTRATION AND APPROVAL PROCESS

Generally as currently promulgated, modified to reflect the “Tier 1” and “Tier 2” designations.

12-319-7.0_ STANDARDS

All agritourism activities must meet the following standards:

- Be registered with the State Agritourism program.
- Be carried out on land zoned “A” Agricultural.
- Complete the appropriate application process for Douglas County agritourism registration.
- Develop and comply with a site- and activity-specific drinking water plan in cooperation with the Douglas County Health Dept.
- Develop and comply with a site- and activity-specific sanitation (wastewater disposal) plan developed in cooperation with the Douglas County Health Dept.
- Develop and comply with a site plan and/or narrative description detailing how any anticipated adverse effects on surrounding properties or residents will be mitigated. Site plan and/or narrative must show, at a minimum:
 - Proposed agritourism use(s). There is no limit to the number of uses that are allowed for a permit, but the most stringent applicable registration level will apply to all uses (Tier 1, Tier 2, or Conditional Use Permit).
 - All structures to be utilized for the agritourism use, including dimensions and distance to the nearest property line, and their status as Ag Exempt buildings if applicable;
 - Areas where the agritourism use will occur and areas where agritourism participants will be allowed.
 - Access and parking areas shown and dimensioned, noting the total number of spaces.
 - Means by which participants will be prevented from parking on public roads;
 - Means by which lights, dust, noise and other potential nuisances to neighbors will be abated to meet neighbor concerns;
 - Proposed hours of operation;
 - Expected attendance.
 -
- Develop and comply with an emergency response plan [in cooperation with ____?].
- Comply with any applicable local, State or Federal regulations, including but not limited to regulations pertaining to Sales and other taxes; Weights and Measures; labor; building codes; food service; overnight accommodations; nuisance ordinances; fire codes; liquor licenses; etc.
- Re-register with both the State and County every time the State requires re-registration.
- Amend State and County agritourism registrations whenever significant changes are made to the agritourism activities; operators; site, water and sanitation plans; etc.

- Notify the County whenever a minor change (days or hours not resulting in a change between Tier 1 and Tier 2;) in agritourism activities might result in additional effects on surrounding property owners, such as increased hours of operation.

Agritourism uses requiring a Conditional Use Permit shall meet all of the above standards as well any other requirements of the Conditional Use Permit.

All documents (registrations, plans, etc.) pertaining to the Agritourism registration shall be a matter of public record and available to the public online or by request at the Douglas County Zoning and Codes office.

On-site burning to dispose of refuse, rubbish or trash from agritourism activities shall not be permitted unless special facilities are constructed consistent with EPA standards. Only normal recreational fires using conventional natural fuels; burning of natural materials as part of an agricultural process; and disposal by burning of normal agricultural waste; are allowed. Waste from agritourism activities must be transported to a licensed landfill for proper disposal.

ENFORCEMENT

Enforcement shall be based on compliance with the plans required by the Agritourism standards.

Unless the complainant can demonstrate a compelling reason not to do so, complainants shall discuss (in person or via phone or email) and attempt to work out resolutions to problems directly with the agritourism operator before bringing complaints to the County Zoning and Codes office.

If a satisfactory resolution can't be reached by the complainant and the agritourism operator, the complainant may file a written complaint, along with documentation of previous attempts to resolve the matter, with the Douglas County Zoning and Codes office. Complaints should clearly specify the standard being violated and the adverse effect on the complainant.

Zoning and Codes office shall determine whether a standard has been violated and specify remedial action as needed, including reasonable deadlines and standards for compliance. Zoning and Codes office will inform both the complainant and the agritourism operator of the determination and any required remedial action. If possible, Zoning and Codes office will meet together with complainant and agritourism operator to work out an acceptable solution to the situation.

If an agritourism operator fails to comply with the request for remedial action within the specified time, or repeatedly violates applicable standards, the County may revoke the Agritourism registration permit. Once the Agritourism registration has been revoked, then

any violations of “A” Agricultural District codes may be addressed according to the means provided for by that code.